

CAMPAIGNING FOR A SEA CHANGE

A joint NGO response
to the Marine Bill White Paper

Wildlife and Countryside Link Marine Task Force; Wales Environment Link Marine Working Group;
Scottish Environment Link Marine Task Force and the Northern Ireland Marine Task Force

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Introduction

The Wildlife and Countryside Link Marine Task Force, the Scottish Environment Link Marine Task Force, the Wales Environment Link Marine Working Group and the Northern Ireland Marine Task Force (hereafter known collectively as 'the MTFs') have been campaigning for many years for comprehensive legislation to achieve better protection for marine wildlife and effective management of our seas. The UK's marine environment is extraordinarily rich in wildlife, but it is poorly protected compared to terrestrial wildlife and is under increasing pressure as offshore activities proliferate and climate change disturbs the marine ecosystem. The Marine Bill is a

The Wildlife and Countryside Link Marine Task Force, the Scottish Environment Link Marine Task Force, the Wales Environment Link Marine Working Group and the Northern Ireland Marine Task Force work together to promote new, effective marine legislation for all UK seas. Each is a coalition of environmental voluntary organisations, united by their common interest in the conservation and enjoyment of wildlife, the countryside and the marine environment.

A list of organisations supporting this document can be found on page 19.

Cover pictures- St Abbs shallows
Right- Loch Carron, Dahlia anemone, brittlestars & rich animal life



long overdue opportunity to bridge the gap between the protection of wildlife on land and at sea, and to bring greater coherence to the planning of the many activities which take place in the marine environment.

We have warmly welcomed the publication of '*A Sea Change*', the Marine Bill White Paper, as an important step on the way to such legislation. We are encouraged that the White Paper outlines proposals for a wide-ranging Marine Bill that will address nature conservation as well as the management of human activities. We now call on the UK Government to ensure that the Marine Bill comes before Parliament during the next (2007-08) Session, in order to secure delivery of its commitment to a UK Marine Act during this Parliament. We recognise that discussion and deliberation by stakeholders on such a wide-ranging piece of legislation is important, but the consultation process relating to marine legislation has been ongoing for many years, and we hope

that following consultation on the White Paper the UK Government will be ready to act. We urge the devolved administrations to engage fully with the development of the UK Marine Bill, and to introduce integrated, parallel measures where appropriate, at the earliest opportunity. The UK's seas need better protection and management, now.

We wish to commend the UK Government, and Defra in particular, for the extensive consultation that has been carried out, and the vast amount of work that has gone into developing the White Paper. While we are broadly supportive of the proposals outlined, it is inevitable that those points about which we have concerns receive more attention in our response than do areas of agreement. We hope that our response will serve as constructive input to the final deliberations on the content of the Marine Bill.



Overarching Comments



Rock cod cleaning Ballan wrasse

Aims for the Marine Bill

We broadly support the Aims for the Marine Bill, set out on page 7 of the White Paper. In particular, we welcome the recognition of the role of planning in ensuring protection of marine resources (though we would welcome a reference to biodiversity here), and the need for new tools for conservation and recovery of biodiversity. We are delighted that the White Paper includes a commitment to a network of effectively managed Marine Conservation Zones (MCZs) and recognises the important role of Highly Protected Marine Reserves. However, we are concerned that the Government's commitment to biodiversity conservation and recovery is undermined by the frequent references to proportionality throughout the White Paper, which could be used as a way to justify business as usual.

We recognise that the new framework (that will be put in place by the introduction of marine planning and the reform of the licensing regimes) has an important role to play in improving the regulatory environment for sea users in line with the UK Government's 'Better Regulation' agenda. We believe better regulation is about reducing regulatory burdens by removing duplication and modernising out-dated regimes, but we would stress that the resulting reforms must in no way weaken or undermine the objective of regulation; we support the objective set out in the Licensing section of the White Paper - to '*regulate activities to protect the environment and the interests of other users of the sea*' (5.13¹). We also wish to emphasise the importance of a strong nature conservation framework, including early designation of a coherent, representative network of MCZs, in improving regulatory certainty.

Sustainable development

We welcome the statement (1.15) that Sustainable Development is at the heart of the White Paper proposals and that the purpose of this guiding principle is described as '*to enable us to satisfy our basic needs and enjoy a better quality of life without compromising the quality of life for future generations*'. We consider the conservation and recovery of biodiversity, to ensure healthy, resilient ecosystems continue to underpin the many goods and services we derive from them, to be central to achieving this aim.

We believe that an ecosystem-based approach to managing activities will be essential to ensure sustainable development is delivered - in particular, to ensure that we live within environmental limits, or within the carrying capacity of the marine ecosystems from which we derive goods and services. We are thus disappointed that the

1. Numbers in brackets refer to paragraph numbers (or, where prefaced with 'p', page numbers) in Defra (2007). A Sea Change – A Marine Bill White Paper

ecosystem-based approach, as committed to in 'Safeguarding our Seas'² is not given more prominence in the White Paper. We are also concerned about the frequent references, throughout the White Paper, to 'balancing' various needs, which hints at trade-offs between the social, economic, and environmental 'pillars' of sustainable development. Integration is the approach used in the UK's Sustainable Development Strategy³ and is, we believe, more appropriate if we are to achieve genuine sustainability in the long-term.

One of the greatest challenges in achieving sustainability - and one which has perhaps not received the prominence it deserves in the White Paper - will be managing the cumulative and combined effects of activities. While many activities may individually be of insignificant impact, the cumulative effect on ecosystems can be devastating and should be adequately considered.

Proportionality and the Precautionary Principle

The White Paper contains a large number of references to proportionality. We understand that, as part of the 'Better Regulation' agenda, the UK Government wishes to ensure that unnecessary burdens are not

placed upon sea users. However we wish to emphasise that the starting point must be to ensure that the appropriate controls are in place to ensure the environment is properly protected, in line with the vision of 'clean, healthy, safe, productive and biologically diverse oceans and seas'⁴. We are concerned that the heavy emphasis placed on proportionality (in particular reference to 'proportionate nature conservation' (8.4)) undermines the Government's commitment to the protection and recovery of the marine environment.

In contrast to proportionality, we note that the precautionary principle receives very little mention in the White Paper. While the Government may consider the precautionary principle to be a 'given' we are not convinced it is widely accepted as such, and would welcome a reassertion of its importance as a guiding principle in relation to our management of the marine environment. As acknowledged in 'Safeguarding Our Seas', our knowledge and understanding of marine ecosystems is incomplete and sometimes it is essential to 'sensibly err on the side of caution'.

We also suggest that the preventive principle and the polluter-pays principle (also guiding principles stated in the EC Treaty⁵) could be given more prominence. With regard to the former, we refer to the sustainable development principle

that protecting environmental resources and services and avoiding or preventing environmental damage is more cost effective than either reversing damage or dealing with its consequences. This concept was recognised by Stern in his review of the economics of climate change and its impacts⁶. In addition, Annex 3 of the Regulatory Impact Assessment accompanying the Marine Bill White Paper gives adequate arguments in support of the need and urgency for biodiversity and ecosystem protection and conservation.

Timescale

While we recognise that the new measures introduced by the Marine Bill will take time to implement, we are concerned about elements of the illustrative timeline on page 9 of the White Paper; in particular, the projected timescales for completion of the Marine Protected Area (MPA) network and the full suite of marine plans. The projected date for completion of the MPA network is well beyond the target dates set by OSPAR and the World Summit on Sustainable Development (WSSD). We want to see more urgency with regard to site designation and management, so that marine resources and biodiversity are safeguarded and ecosystems continue to deliver goods and services. Developing marine plans will of course be a long term process and we welcome the commitment to produce plans first where they are most urgently needed. However, we would urge the UK Government and devolved administrations to ensure that the relevant planning bodies have the capacity to develop the full suite of plans as quickly as possible, and in particular we suggest that more than one plan should be under development at any one time. This will allow

Prawn with lobster



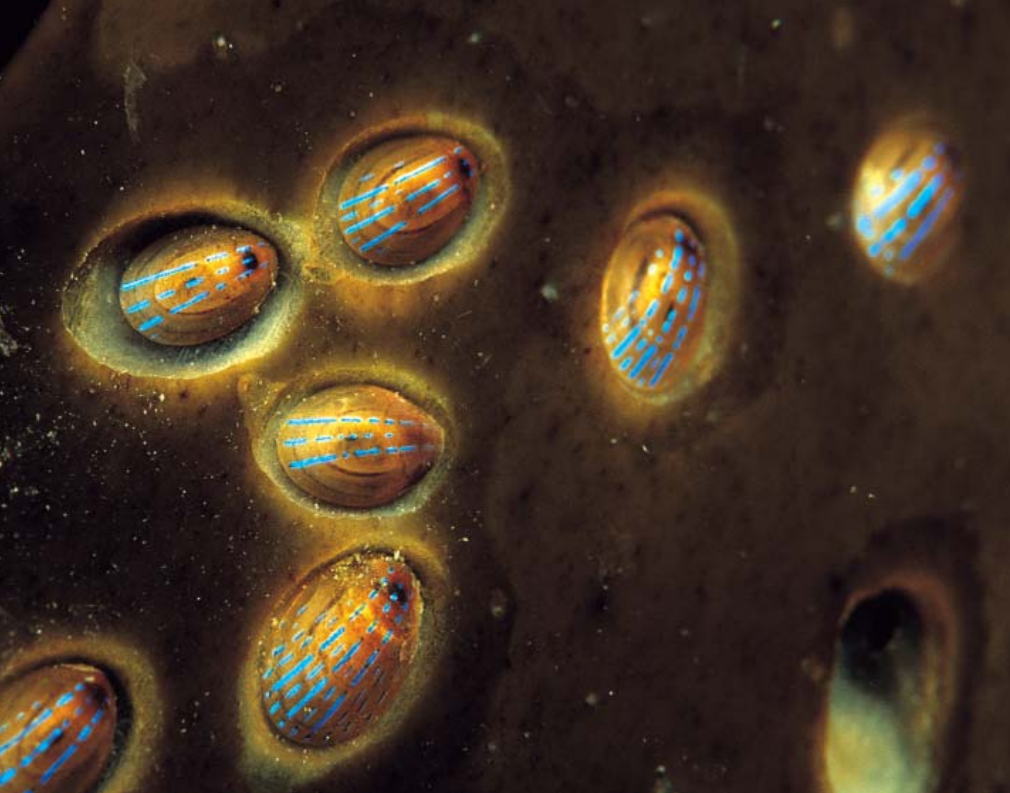
2. Defra 2002. Safeguarding Our Seas – A Strategy for the Conservation and Sustainable Development of our Marine Environment.

3. Securing the Future, The UK Government Sustainable Development Strategy, March 2005

4. Defra 2002. Safeguarding Our Seas – A Strategy for the Conservation and Sustainable Development of our Marine Environment.

5. Consolidated version of the Treaty establishing the European Community, Official Journal C325, 24 December 2002 http://europa.eu.int/eur-lex/en/treaties/dat/EC_consol.html

6. Stern Review on the Economics of Climate Change http://www.hm-treasury.gov.uk/independent_reviews/stern_review_economics_climate_change/stern_review_report.cfm



Blue-rayed limpets

experience to be developed more quickly, particularly if opportunities for building experience are maximised by focusing on contrasting areas concurrently.

Working Together

The MTFs are calling for a joined-up approach to managing UK seas, through a comprehensive UK Marine Bill and parallel, country-specific legislation where this is required for Scotland, Wales and Northern Ireland. We therefore welcome the statement on page 2 of the White Paper that the UK Government and the devolved administrations are working together to manage the marine environment around the UK in a coherent way.

However, where proposals relate to matters for which responsibility has been devolved, whether and how they will apply will be determined by the devolved administrations. We are disappointed that the White Paper provides very little information in relation to this. For example, the White Paper states that setting up a Marine Management Organisation (MMO) would not be right for Wales yet provides no indication of how the Welsh Assembly Government intends to take forward marine management and policy in Wales. The MTFs

believe that the devolved administrations should make their intentions clear on which of the proposals in the White Paper they intend to take forward and how those proposals will be delivered at the country level. The UK Government and the devolved administrations should work together to seek solutions on how best to deliver consistency for marine legislation and policies.

Delivering a joined-up approach to marine planning will be perhaps the greatest challenge for the four administrations, and we are very pleased that the White Paper contains a commitment to produce a shared UK Marine Policy Statement to provide the basis for planning and regulation. While we accept that the responsibility for developing and implementing marine plans will fall to the different administrations depending upon where they have competence to act, we strongly believe that marine planning is most likely to enable an ecosystem-based approach to management if it is based on marine ecosystems, as per the biogeographic Regional Seas defined by JNCC⁷, rather than on political boundaries. We therefore urge the administrations to work together to implement regional marine plans for areas such as the Irish Sea. This approach has been taken in the past e.g. through the Irish Sea Pilot Project⁸.

To achieve a joined-up approach there must be sufficient political will, momentum and resources across the board. In this context, we welcome the recent announcement that there will be a Scottish Marine Bill that we hope will implement the recommendations of the Advisory Group on Marine and Coastal Strategy (AGMACS) and the Scottish Parliament Environment and Rural Development Committee Marine Inquiry.

The MTFs hope that the Northern Ireland Assembly will not opt out of signing up to the Marine Bill. If it does, it could face major delays in introducing new legislation and streamlined management processes, which would be detrimental to the marine environment and the people that depend upon it. We are concerned that the ambitious timetable outlined in the Northern Ireland Sustainable Development Strategy, to develop a policy and legislative framework for protecting the marine environment by 2008, will not be met.

We call on the UK Government and the devolved administrations to continue to work together to deliver joined-up solutions and equal benefits, both for biodiversity and for sea users, throughout UK seas.

Marine Vision

The White Paper states that the UK Government and devolved administrations now wish to elaborate on the vision of '*clean, healthy, safe, productive and biologically diverse oceans and seas*' and to build upon the existing strategic goals. Connected to this, marine objectives are being identified which will feed into the development of the UK Marine Policy Statement. We are encouraged that work has already commenced on both this and development of a more detailed marine vision that will elaborate on how the management of UK seas will look in the future. The MTFs see these complementary processes as an opportunity for full involvement of marine stakeholders at an early stage and would urge the Government to ensure fair representation of marine interests. However,

we wish to see these processes go forward in tandem with the development of the Marine Bill itself. We urge the Government to ensure these processes are not allowed to delay the development of the Bill or its introduction into Parliament. New tools to protect marine biodiversity are needed urgently, and we believe that unless the Bill is delivered during the next (2007-08) session the Government may miss its goal of enacting the legislation during this parliament. It is essential that the devolved administrations invest time and resources now, to be fully involved in the progress of the Bill and associated policy development including the UK Marine Policy Statement.

The MTFs wish to see Government's commitment to sustainable development and the ecosystem approach set out clearly in the purpose of the Marine Bill, backed up by clear objectives for management of the marine environment. This will ensure in legislation that the vision of 'clean, healthy, safe, productive and biologically diverse oceans and seas' can be achieved, while bringing certainty for nature conservation and sustainable development. The purpose(s) of the Marine Bill must be linked with clearly stated duties for delivery. Not everything can be left safely to the Marine Policy Statement.

Climate change

The MTFs consider climate change to be one of the most serious threats to biodiversity in UK waters. In combination with pressure from over-fishing and the current mismanagement of our seas, it has the potential to push the marine ecosystem beyond its capacity to adapt or recover. It is essential that we manage our marine environment in a more sustainable manner, in order to make marine ecosystems more resilient to the effects of climate change and more able to adapt as the climate changes. Resilient marine ecosystems are themselves a key factor in mitigating climate change

impacts. The oceans' phytoplankton is estimated to absorb about half of the CO₂ generated by humans, making our seas as important as rainforests in mitigating climate change impacts. The oceans' phytoplankton is estimated to absorb about half of the CO₂ generated by humans, making our seas as important as rainforests in mitigating climate change impacts. Thus, we strongly believe that climate change makes the protection of marine biodiversity even more critical. We note that that the IUCN has recently identified MPAs in general, and (Highly Protected) Marine Reserves in particular, as a vital tool in enabling marine species

and communities to adapt geographically as the environment changes. A minimalist approach to the MCZ network (e.g. covering 'as small an area as necessary' (p70)) is likely to hinder adaptation. The new, strategic management framework that the Marine Bill will put in place will facilitate the sustainable development of renewable energy in the marine environment, avoiding conflicts with sites of high importance for biodiversity.

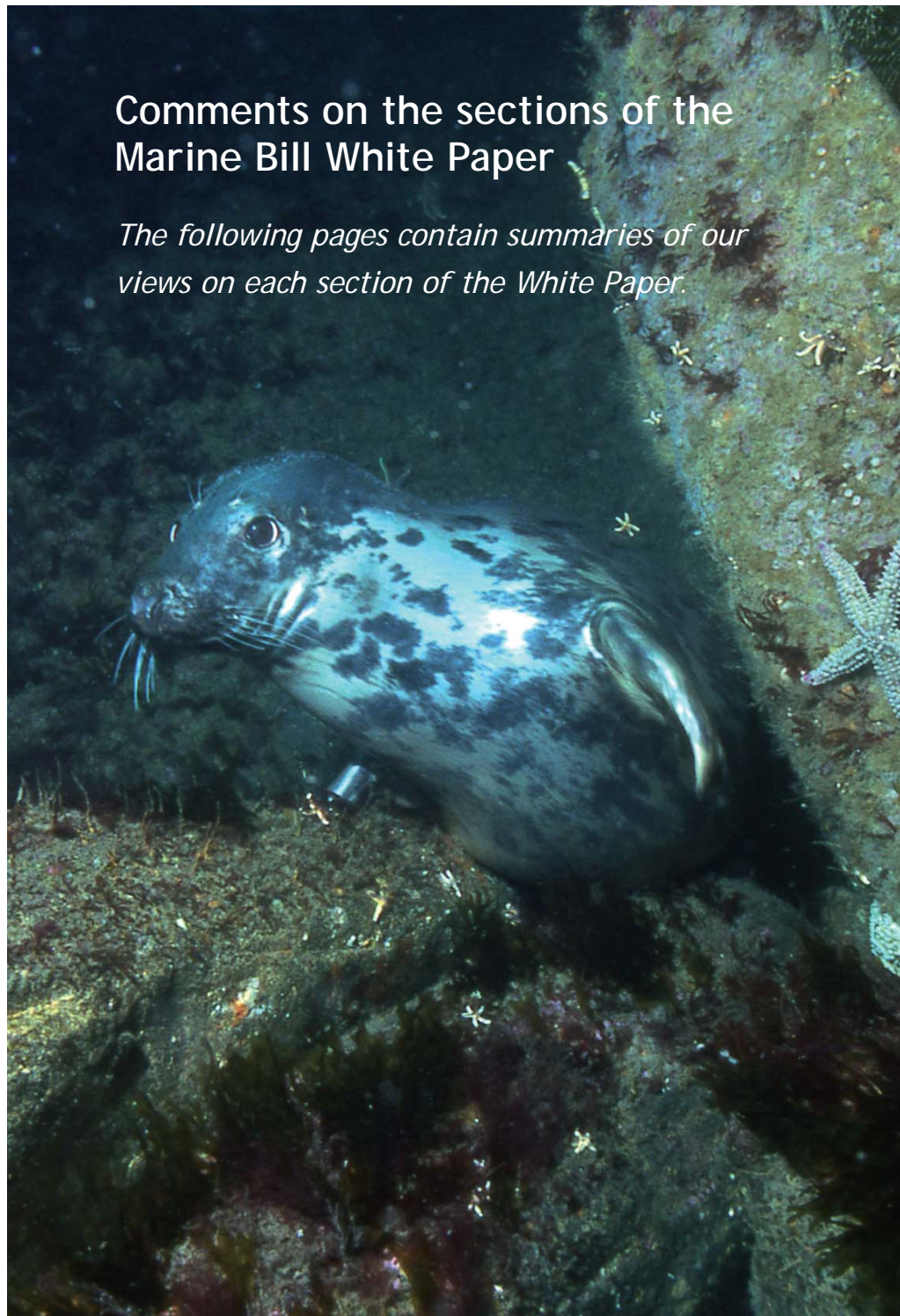
Grey seal

Comments on the sections of the Marine Bill White Paper

The following pages contain summaries of our views on each section of the White Paper.

7. Defra 2004. Review of Marine Nature Conservation Working Group Report to Government, July 2004.

8. Vincent, M.A., Atkins, S.M., Lumb, C.M., Golding, N., Lieberknecht, L.M. and Webster, M. (2004). Marine nature conservation and sustainable development – the Irish Sea Pilot. Report to Defra by the Joint Nature Conservation Committee, Peterborough.



Marine Planning



Wembury, Devon, at sunrise

The four MTFs have campaigned for the introduction of Marine Planning as a tool to deliver sustainable use and protection of our precious marine resources and space through an ecosystem-based approach to the planning and management of activities in UK seas.

We therefore welcome the proposals for a new marine planning system, which we hope will improve the transparency, accountability and co-ordination of marine activities and development, in seas that are increasingly busy. We look to marine planning to increase the sustainability of development, and to reduce conflict between different interests by helping to identify areas most appropriate for particular activities while ensuring protection of our cultural heritage and nature conservation. We also believe that planning must be based on an explicit recognition that a healthy marine ecosystem is essential for many of the economic and social benefits that are derived from the sea, and that it should be underpinned by the precautionary principle.

We endorse marine planning that covers all marine activities, and provides the primary consideration for regulatory decisions in the marine area. We believe that all public bodies with functions relating to marine planning and licensing should have a robust duty to deliver sustainable development.

We welcome the commitment of the UK Government and the devolved administrations to create a UK Marine Policy Statement, setting out their joint vision and objectives for the marine environment. It appears that much weight is to be placed on the UK Marine Policy Statement, and we therefore expect to see a strong, detailed Policy Statement, backed up by guidance, which will provide a comprehensive basis

for forward planning. We call on the UK Government and devolved administrations to ensure that the UK Marine Policy Statement gives full consideration to the crucial role planning has to play in securing the protection and recovery of marine biodiversity and the protection of our cultural heritage. Planning must also recognise the importance of clean, attractive and biologically diverse seas to people's wellbeing, as well as to marine industries and coastal economies.

We note that work is underway to elaborate the vision of '*clean, healthy, safe, productive and biologically diverse oceans and seas*', and that objectives are being developed not only for the marine environment, but for all marine sectors, which will feed into the development of the UK Marine Policy Statement. We expect environmental, or ecosystem, objectives to ensure that the UK meets its international commitments relating to the marine

environment and its biodiversity, and also to ensure that marine activities are managed within the carrying capacity of the marine ecosystem, i.e. 'within environmental limits'. This is in accordance with the UK Sustainable Development Strategy which highlights that environmental sustainability is essential if the UK is to achieve social and economic sustainability. We caution against generic high level priority setting between objectives, and suggest that the UK Marine Policy Statement will need to create a robust framework for decisions affecting the marine environment.

The MTFs believe that the benefits of marine planning are likely to be greatest if it is implemented in accordance with biogeographic 'Regional Seas', such as the Irish Sea. We urge the UK Government and devolved administrations to commit to working together across political boundaries to deliver plans for regional seas that will best deliver an ecosystem-based approach to marine management. We believe that the Marine Bill should provide for sub-regional plans to be developed where needed within the wider marine regions (i.e. for more detailed plans to be nested within strategic, less detailed, plans), and that it should allow for the use of tools such as habitat mapping, sensitivity mapping and zoning, to provide guidance to sea users.

Furthermore, it is essential that marine plans integrate well with other plans and planning processes (e.g. terrestrial planning system, Shoreline Management Planning, River Basin Management Planning). This is particularly the case in coastal areas where a number of plans may overlap. Whilst we hope that the UK Marine Policy Statement will contain sufficient detail and contribute towards reconciling these different policies, we also feel that additional, more direct, mechanisms are needed to ensure joined-up thinking at all plan boundaries, particularly

in cross-border estuaries such as the Severn Estuary and the Solway Firth.

We welcome the proposal to create fit for purpose 'marine planning steering groups' to secure stakeholder involvement in planning at a smaller scale. For Scotland, we support the Advisory Group on Marine and Coastal Strategy (AGMACS) recommendations that an equivalent grouping may be served by coastal partnerships if they were given greater geographic coverage, since not all the coastline is currently represented. In addition we would like to see the incorporation of regional planning steering groups.

We would like to see Strategic Environmental Assessment (SEA) undertaken as part of the process of developing the UK Marine Policy Statement and each marine plan. Although we favour SEA only, to ensure proper consideration of the environment, SEA should be a separate and distinct element of any broader Sustainability Appraisal (SA) where such an SA is carried out. In addition, Appropriate Assessment will be required where plans may affect coastal and marine Natura 2000 sites.

We believe that each marine plan should be subject to examination (e.g. through a process akin to Examination in Public carried out for Regional Spatial Strategies in England), to ensure its soundness and improve the confidence of sea users in the plan itself, and the planning process.

We agree with the Government that marine planning will 'front-load' the debate on potentially conflicting uses of the marine environment, and as such should improve certainty for sea users. We consider the swift designation of a network of Marine Conservation Zones (MCZs) (which we expect to be robustly protected through the planning and licensing regimes) to be an important element of the framework to

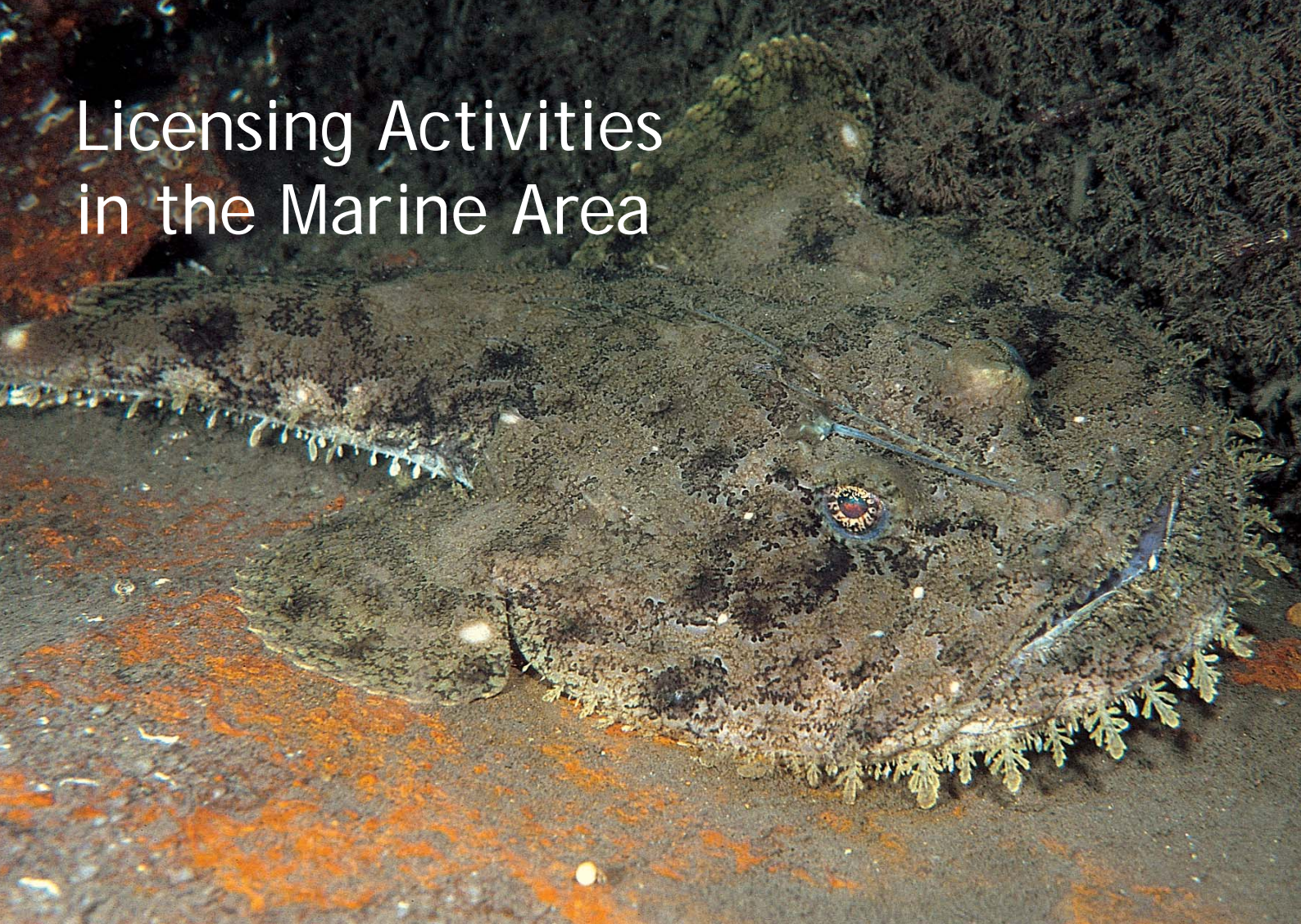
achieve this. The clear designation of MCZs will be beneficial in helping developers to identify which areas they should avoid in identifying locations for their projects. We would emphasise, however, the continued importance of project specific Environmental Impact Assessments (EIAs) and Appropriate Assessments where required.

Finally, we note that the Government envisages it may take 20 years for the full suite of marine plans to be drawn up. We appreciate that developing marine plans will be a time consuming process, and we welcome the commitment to produce plans first for areas where they are most urgently needed. However, we would urge the UK Government and devolved administrations to ensure that the relevant planning bodies have the capacity to develop the full suite of plans as quickly as possible, and in particular we suggest that more than one plan should be under development at any one time. This will allow experience to be developed more quickly, particularly if opportunities for building experience are maximised by focusing on contrasting areas concurrently.

Loch Melfort, starfish, urchin, brittlestars and anemones



Licensing Activities in the Marine Area



Angler fish or monkfish

The MTFs support the decision to reform the existing assortment of regimes that control licensing of marine activities. We agree that the current system is confusing and lacks clarity and transparency. We would also agree that in many cases there is overlap and duplication of regimes and on the other hand, there are gaps amongst the tools available to manage activities adequately. We welcome the Government's intention to produce a reformed system that delivers greater transparency and consistency and fully enables stakeholder engagement, and the fact that all licensing decisions will be made within the context of the UK Marine Policy Statement and marine plans.

However, our support is conditional on a new regime which in practice ensures that decision making on marine licences delivers a system that protects marine biodiversity, assets and resources and the rights of other users, including society in general, in an equitable way. We endorse the objective for licensing put forward in this chapter: *'to regulate activities to protect the environment and the interests of other users of the sea'*, and we believe that this should be explicitly stated in the Marine Bill and any secondary legislation that follows.

While we can see the logic in theory behind terms such as *'proportionality'*; *'risk-based approach'*; *'targeted approach'*; *'only regulating where necessary'*, we have concerns about how they will be applied in practice. Any reduction of regulatory burden must not compromise the objective of protecting the environment and other users' interests. The risks of not properly protecting the environment, or the costs resulting from damaging it (or of rectifying that environmental damage) must be included in the assessment of risk – this is in line with the sustainable development principle that

prevention is better than cure and usually cheaper, easier and more effective. The benefits of nature conservation to society as a whole, now and in the future, as well as the requirements to meet biodiversity objectives, must also be fully considered when determining costs, benefits, risks and proportionate action. 'Better' regulation must not compromise 'good' regulation; to deliver long-term solutions and efficiency we believe that proactive nature conservation is paramount to achieving the environmental sustainability underpinning sustainable development.

In this vein, we emphasise that the success of the proposed tools for *'lighter touch licensing'* (exemptions; general permissions; phased activities) is dependent on their ability to achieve the aim of reducing regulation while still safeguarding the environment and the rights of other users of the sea including the public. We reserve our full support of such tools until it can be

shown that they will deliver such safeguards in practice. We would reject a system where exemptions and other lighter burden licensing provisions are automatically applicable in Marine Protected Areas including Marine Conservation Zones - it must be acknowledged that by their very nature these are important areas, potentially more sensitive and therefore at greater risk from human impact. Where 'lighter touch' regimes are used, there must be notification, monitoring and review processes to ensure that the regulator(s) are fully aware of all activities taking place and can keep track of cumulative impacts and react if necessary where conditions change. All lighter touch licensing, including exemptions, must be carried out in accordance with the UK Marine Policy Statement and marine plan(s).

We would like to see a clear requirement for licensing regulators to consult with the appropriate statutory advisor on specific issues, such as the statutory nature conservation agencies with regards to environmental issues, the national heritage advisor with regards to marine heritage and the Maritime and Coastguard Agency with regards to shipping issues, etc. These requirements should apply for all licences, not only the new 'Marine Act regime'.

A key concern relating to the proposed licensing reform is the licensing authority. We support the Marine Management Organisation (MMO) as the licensing body for England and for reserved matters (including those beyond territorial waters), with a locally accountable Northern Ireland MMO responsible for devolved issues. We are deeply concerned by the prospect of a separate, primarily terrestrially focused, body - the new infrastructure planning commission proposed in the Planning White Paper - being responsible for determining some of the biggest, potentially most significant projects, including wind farms with outputs greater than 100MW and ports. We believe that these projects should also be licensed by the MMO, a body that will have a knowledge and understanding of marine issues and an overview of what is happening at sea. The Government risks undermining the benefits sought through the licensing

reforms - including reduced complexity for users - by introducing two new systems rather than one.

We believe the benefits of licensing reforms to sea users will be greater the more analogous the regulatory systems throughout UK waters. We therefore welcome the statement that the four UK administrations are aiming for licensing regimes throughout UK waters which will be identical wherever possible and where not, at least similar. The four MTFs are respectively urging the UK, Scottish, Welsh and Northern Irish administrations to commit to working together to deliver a coherent, ecosystem-based approach to management of human activities in UK seas, which we believe will bring the greatest benefit not only for marine ecosystems but also to sea users undertaking licensed activities.

We are concerned that the benefits set out in this section of the White Paper may not be achieved equally throughout the UK. The White Paper states that, where marine licensing matters have been devolved, responsibility for deciding on the 'scope and nature' of reform has also been devolved. This suggests that there could be significant differences not only between *delivery* of the reformed marine licensing regime between different administrations, but also

in the *scope* and *nature* of the proposals. Whilst we recognise the need for licensing reform to respect devolution arrangements, this approach seems contradictory to the Government's vision for a licensing regime that is consistent throughout the UK.

For example, it is unclear how the UK Government's aspiration for one body to be responsible for the '*effective and consistent delivery of the whole chain from the concept of marine planning...through licensing to monitoring and enforcement*' (5.121) will be delivered in Wales. Licensing is currently only partially devolved to Wales, therefore delivery of the licensing function will continue to vary between Wales and other administrations, with potentially up to four licensing authorities operating in Welsh waters⁹. We do not consider this to be a satisfactory arrangement, as this would add to the complexity of licensing and raises questions over cost effectiveness, efficiency and quality of service. We urge the UK Government and devolved administrations to work together to seek solutions on how to deliver consistency for devolved licensing functions.

9. These would be the Welsh Assembly Government, Marine Management Organisation (on delivery of functions that are not devolved), Department of Trade and Industry (oil and gas) and the proposed Infrastructure Planning Commission.

Lesser sandeel



Marine Nature Conservation



Kelp forest and inhabitants

The four MTFs fully support the Government’s aim ‘to introduce new tools for conservation of marine wildlife that together with existing ones can: halt the deterioration in the state of the UK’s marine biodiversity and promote recovery where practicable, support healthy functioning and resilient marine ecosystems, ensure environmental considerations are at the heart of decision-making processes, and provide mechanisms that can deliver current and future European and international conservation obligations.’

We welcome the Government’s recognition of the need for new mechanisms to protect nationally important biodiversity (this has also been identified in Scotland through the AGMACS process). We will consider the Marine Bill to have failed if it does not provide for the designation of a network of nationally important marine sites, including Highly Protected Marine Reserves (HPMRs). We therefore warmly welcome the commitment to a network of effectively managed Marine Conservation Zones (MCZs), and we are also delighted that the Government has recognised the role of HPMRs, where all extractive, additive and

otherwise damaging activities are excluded. We welcome the purposes put forward for MCZs and believe these should be included in the Marine Bill.

We also strongly support the introduction of new powers to regulate unlicensed activities to protect wildlife, including by-laws and interim measures. We consider the latter to be crucial to ensure action can be taken before biodiversity is damaged, as can happen in the time taken to enact a by-law. We are pleased that the Sea Fisheries Committees (SFCs) in England are also to have improved responsibilities and powers

to use such tools to protect biodiversity from fisheries impacts.

However, for reasons stated below we are concerned that the package of conservation measures, as currently described, is not strong enough to achieve the Government’s aim.

The White Paper is peppered with phrases that undermine some otherwise strong statements, such as assertions that: MCZs should cover ‘as small an area as necessary’ (p70), that they should not result in ‘inappropriate economic or social impacts, where possible’, that we should ‘avoid damaging [the marine ecosystem] to the point that it can no longer provide essential services’ (p66), amongst others. We are also concerned about the frequent references to ‘[balancing] ecological, social and economic considerations’. Together, these phrases paint a picture in which conservation takes place only where it does not impinge upon economic activity. We are concerned this reflects a lack of Government commitment

and political will to deliver the robust conservation measures we urgently need.

The MTFs wish to emphasise the importance of marine biodiversity in underpinning long-term economic and social sustainability. A recent study (Worm et al (2006)¹⁰) analysed local experiments, long-term regional experiments, and global fisheries data to test how biodiversity loss affects marine ecosystem services. It found that *'overall, rates of resource collapse increased and recovery potential, stability, and water quality decreased exponentially with declining diversity. Restoration of biodiversity, in contrast, increased productivity fourfold and decreased variability by 21% on average'*. The paper concluded that *'marine biodiversity loss is increasingly impairing the ocean's capacity to provide food, maintain water quality, and recover from perturbations'*. It also stated that available data suggest that trends are still reversible, if addressed by urgent and effective action.

While we strongly welcome the proposed purposes for MCZs, we regret that we do not see significant improvements in the proposed mechanism for site designation to that which has allowed almost total failure to designate Marine Nature Reserves under the Wildlife and Countryside Act (1981) and the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985. While we recognise that the policy and political environment has moved on since the 1980s, we fear that the weaknesses in the proposed approach to site designation (and management – see below) would likely prevent the Government from achieving its objectives for a well-managed network of MCZs. The timetable set out in the White Paper already indicates that international

commitments and targets relating to MPA networks (i.e. OSPAR and WSSD) will not be met. In particular, we are concerned that the White Paper places a great deal of emphasis on MCZs not being designated where they would conflict with other interests - we fear this could critically undermine site selection for nature conservation, setting a harmful precedent whereby the only sites protected would be the 'leftovers', unimportant to all other sectors.

The MTFs believe that the UK Marine Bill should contain a duty for the Government to designate a comprehensive, representative network of MCZs, within a specified timetable and with regular reporting requirements. This duty should be linked to the purposes for MCZs outlined in the White Paper, which we believe should be included in the Marine Bill. In addition, we believe the statutory nature conservation agencies (SNCA) should have a duty to undertake the process of designating MCZs (including site selection, consultation and confirmation). We believe the designation process should include the opportunity for appeals. Sites should be selected based on criteria developed in accordance with the purposes set out in the White Paper, drawing upon existing criteria such as those developed during the Review of Marine Nature Conservation (RMNC) process. We support the setting of objectives for each site by the appropriate SNCA, which will establish the nature conservation outcomes to be delivered by the site. Site objectives will be critical to the success of the individual sites and the network as a whole.

The proposed management framework for MCZs relies upon reactive, indirect and piecemeal controls, delivered by a range of authorities for which conservation is not the main function. This strongly resembles the UK's existing MPA mechanisms, which have been beset with problems. In particular,

we are concerned that this predominantly indirect approach would make it very difficult to create highly protected sites, as one would have to jump through many hoops to effect complete protection; we seek reassurance that where an SNCA identifies that a site should be highly protected this will be achievable. We believe that the SNCAs will need to play a very proactive role in guiding all authorities (including the MMO, other licensing bodies and the SFCs, where applicable) if well-managed sites, capable of meeting their biodiversity objectives, are to be achieved. Where there is uncertainty over the future role of the MMO and SFCs - e.g. in Welsh territorial waters - we would welcome clarification as to how crucial proposals for by-law making powers and interim measures will be taken forward.

We welcome the commitment to impact assessment in relation to proposed activities affecting MCZs, and also the statement that advice and guidance will be provided to businesses on where activities may be of concern. However, we are concerned that the set of proposals on licensing activities on MCZs imply that, generally, projects will be permitted rather than refused. In particular, the proposals that interpret 'in the public interest' need to be considerably strengthened. With the proposals as set out, we anticipate it would be very hard to defend an MCZ against potentially damaging activities.

The White Paper makes frequent reference to habitats and species that are *'rare', 'threatened', 'globally or regionally significant', 'important', 'of national value'* and *'representative'* without explaining how these might be determined - for example whether it refers to Nationally Important Marine Features (NIMFs), Biodiversity Action Plan (BAP) habitats and species, OSPAR priorities or a combination of these. The interpretation of these terms has enormous

10. Worm, B., Barbier, E.B., Beaumont, N., Duffy, J.E., Folke, C., Halpern, B.S., Jackson, J.B.C., Lotze, H.K., Micheli, F., Palumbi, S.R., Sala, E., Selkoe, K.A., Stachowicz, J.J., Watson, R. (2006). Impacts of Biodiversity Loss on Ocean Ecosystem Services. *Science* 314:5800, pp 787-790.

implications for the efficacy of the measures suggested, thus it is imperative that further clarification is provided. The MTFs believe that each of the aforementioned categories will be important, and recommend that the SNCAs are given a duty to refer to these (and possibly other) lists in developing proposals for MCZs and other nature conservation tools. We urge Defra to ensure the list of NIMFs is completed to provide a sensible basis for use of these tools.

The imperative for robust protection of marine biodiversity, within an improved framework for sustainable management of activities in the wider sea, is increased by the threat of climate change. We are already witnessing changes in the marine environment arising from climate change,

and further changes are expected. The new marine nature conservation measures must provide strong protection for marine habitats and wildlife to enable adaptation to climate change without loss of biodiversity. We are concerned that the crucial role of biodiversity in the mitigation and buffering of climate change impacts has not been appreciated. As part of our strategy to mitigate climate change we need to ensure that the ecosystem continues to function as the largest sink for carbon via marine primary production, and as an essential element of climate regulation in the UK. Ecosystems with high biodiversity and those that maintain structural components are thought to recover more easily from climatic disturbances and so continue to provide society with ecosystem goods and services.

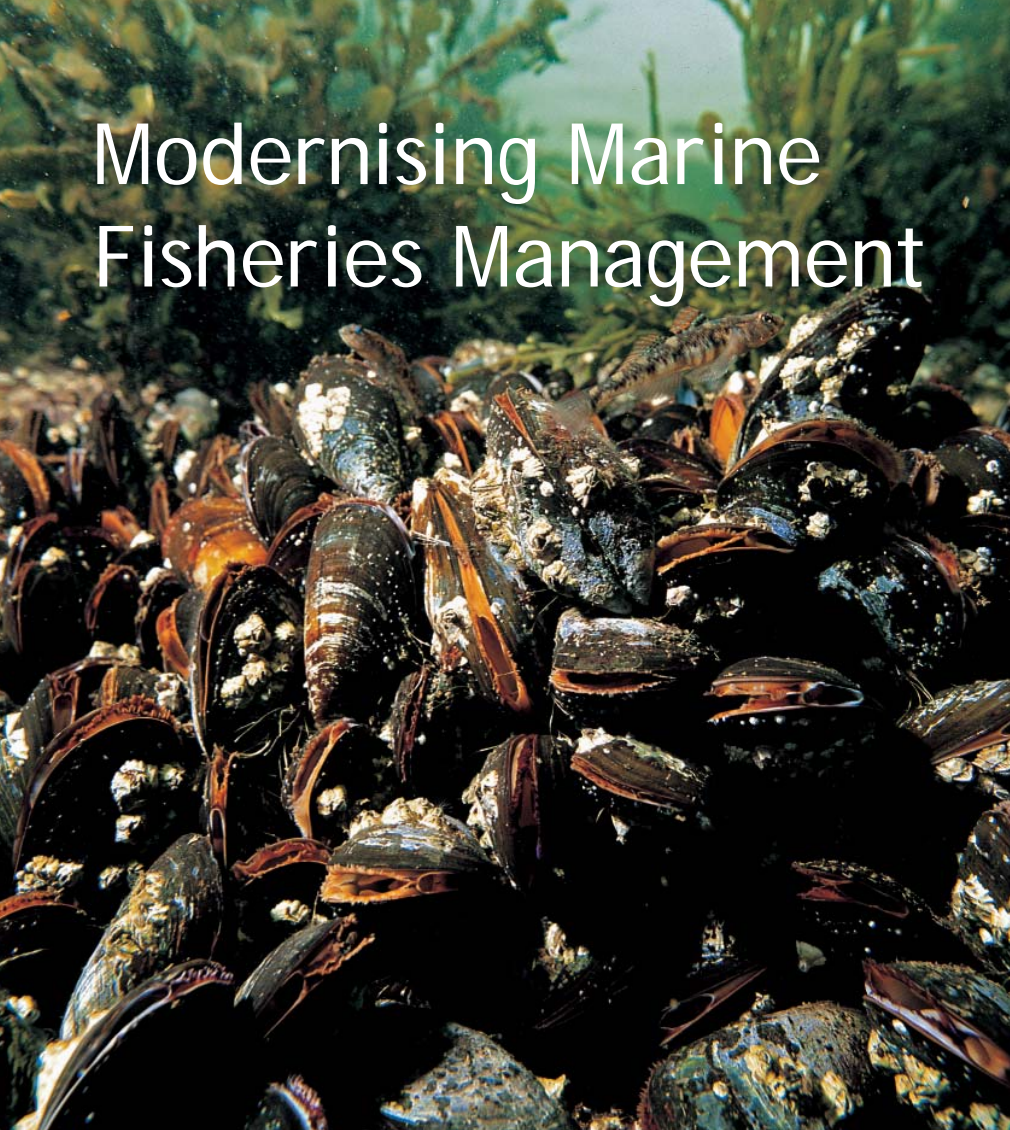
The IUCN has recently identified Marine Protected Areas in general, and (Highly Protected) Marine Reserves in particular, as a vital tool in adaptation to climate change.

Marine and coastal waters are continuously being exposed to increasing human pressures through activities such as fisheries, energy production, trade and waste disposal. The effects of climate change are difficult to disentangle from direct human impacts, and indeed the individual and cumulative effects of these direct impacts reduce the resilience of marine and coastal systems, making them more vulnerable to stresses of climate change. The removal of other stresses is a common theme in climate change adaptation for biodiversity.

Common dolphins



Modernising Marine Fisheries Management



Common mussels

The MTFs welcome Defra's aim to 'strengthen fisheries and environmental management arrangements so that more effective action can be taken to conserve marine ecosystems' (p 98). We support many of the proposals set out in the White Paper for modernising marine fisheries management.

The current legislation for managing inshore fisheries originates from the 1960s, and reflects the management necessary for commercial fisheries in the mid to late 19th Century. There is a widely held perception that this legislation is not relevant, enforceable or appropriate for the effective management of today's inshore fisheries, which are characterised by a highly dynamic, diverse and competitive industry, intensively exploited stocks, widespread environmental damage and conflict with other users/activities. Managers have now also realised the need to take an ecosystem-based approach towards fisheries management, rather than the single species approach of the past. We believe that new legislation is required to provide today's

fisheries managers with the necessary powers, flexibility and adaptability to deliver true sustainable management of our inshore fisheries.

The MTFs welcome the overhaul and modernisation of the Sea Fisheries Committees (SFCs) in England that are proposed in the White Paper, but believe that in order to see real improvements, there must be a corresponding and fundamental change in SFC culture. It is our view that the modernised management of inshore fisheries by SFCs must include use of Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA) as well as assessment and mitigation of the environmental impacts of existing fisheries,

and the routine collection of fishing effort data.

We look forward to seeing the same principles of modernisation and improved environmental management arrangements applied in the forthcoming consultation on inshore fisheries management in Wales promised by the Welsh Assembly Government, and in Northern Ireland by the Northern Ireland Assembly while implementing the recommendations of the Review of Inshore Fisheries. We welcome the work done to date by the Scottish Inshore Fisheries Advisory Group (SIFAG) toward establishing Inshore Fisheries Groups that will be advised by environmental experts, but urge that these must be established soon to help deliver sustainable, well-managed fisheries around Scotland's coast. It is essential that the UK Government and devolved administrations share good practice in sustainable fisheries management and work together on cross-border issues and areas, if an equitable, ecosystem-based approach is to be achieved. We believe that integration of fisheries interests, and the participation of fisheries managers and stakeholders, within the marine planning process will be key to achieving this.

We support reform of the legislation governing the use of Several and Regulating Orders (SROs) for shellfish (in England and Wales), as we consider it to be outdated and not suitable for the purpose of managing today's inshore shellfisheries.

We warmly welcome the introduction of a chargeable licensing regime for recreational sea angling in England and Wales, and measures to tackle hitherto unregulated fisheries.

A New Marine Management Organisation

Common sea urchins and soft corals in gully, St Abbs

The four MTFs welcome and support the creation of a Marine Management Organisation (MMO) that is to be a 'professional and proactive marine manager, trusted by all stakeholders to contribute to sustainable development of the marine area'. We broadly support the proposed functions for the MMO, relating to planning, licensing, fisheries management, enforcement, monitoring and data management. However, we consider further clarity is needed regarding its proposed nature conservation functions, and its relationship with the statutory nature conservation agencies (SNCA)s.

We believe the MMO must have a strong duty to further sustainable development, set out in the Marine Bill. Because it is proposed that the MMO will be responsible for some of the new tools provided for nature conservation (development of by-laws and interim measures), the MMO must also have a duty to further the protection and recovery of biodiversity, based on advice from the SNCA)s (in addition to its duty to further the delivery of Marine Conservation Zone objectives).

As mentioned earlier, we support the proposed role of the MMO in delivering

marine planning and licensing, and we support the Government's rationale for these two, closely linked functions to rest with the same body. We are deeply concerned by the prospect of a terrestrially focused body - the Infrastructure Planning Commission (IPC) - being responsible for determining applications for certain large projects in the marine environment.

The MMO has a number of proposed roles in relation to nature conservation, including in relation to Marine Conservation Zones (MCZs), and the development of by-laws

and interim measures to control unlicensed activities (within and outwith MCZs). With regard to the by-laws and interim measures, the MMO must rely upon the expertise of the SNCA)s on where and what measures are needed. We believe the Marine Bill should place a duty on the SNCA)s to advise the MMO as to where by-laws and interim measures are required, and a contingent duty on the MMO to take account of this advice in order to protect, and allow recovery of, marine biodiversity. We are concerned that the White Paper does not clearly set out the nature of the relationship between the MMO and the SNCA)s as regards these matters.

We welcome the creation of an MMO as an opportunity to look at the complexity of current enforcement mechanisms, and to bring together modernised enforcement functions into one body. This section of the White Paper notes that this will bring benefits, clarity, predictability and proportionality as well as a risk-based

approach. Any such approach must consider the risks of not protecting marine biodiversity and marine resources, as well as the costs of damaging beneficial ecosystem services, the financial losses to those who use these resources sustainably and the costs of rectifying any damage. Proportionate regulation and enforcement must consider the proportionate benefits of nature conservation to society as a whole, now and in the future, as well as the UK's requirements to meet biodiversity objectives (and the consequences of not meeting those objectives, such as fines). We expect the MMO's enforcement responsibilities to be set out in the Marine Bill in relation to its duties to achieve sustainable development and to protect marine ecosystems and biodiversity.

We agree with the Government that effective and targeted monitoring of the marine environment and of activities is central to improving and future-proofing marine regulation. Data on activities and impacts on the marine environment must be brought together with environmental data in order to assess whether management tools are working successfully and to plan for the future. As far as possible, planning and regulation should be proactive in order to avoid adverse pressures and impacts rather than deal with them once marine wildlife is already declining and under pressure - rectifying damage or the consequences of damage are likely to be more costly than initial protection.

We note the MMO's proposed functions include 'assisting' with improving the system that can coordinate monitoring across the marine environment by academia, industry and government. We believe that 'best use of data' and 'availability of data' are key to the success of marine planning and the MMO's other roles. We wish to see the MMO take a lead and assume responsibility for delivering an improved system that coordinates data

and makes it publicly available. This does not necessarily mean the MMO will do the data gathering or compiling, but it should have a strategic overview and ensure the system is 'fit for purpose'. In this position the MMO should be able to commission or direct new data collection or acquisition to fill the gaps for the main purpose of informing planning, management and sustainable development of UK seas.

We call on the UK Government and devolved administrations to work together, to deliver a joined up approach to the governance of UK seas through the Marine Bill and parallel devolved legislation. The UK Government and the devolved

administrations will need to ensure a level playing field throughout UK waters if the same or similar services or functions are being delivered by a range of different types of bodies across the UK. The UK Government's MMO will have a critical role to play in delivering this joined-up approach, and will need to work closely with any bodies charged with delivering devolved marine management functions, including planning and management.

We welcome the proposal for a regional MMO office in Northern Ireland. We hope that the recently reinstated Northern Ireland Assembly will also support a Northern Ireland MMO. The NI MMO should work

Basking shark





Cuttlefish



Sponges, anemones, bryozoans and Shore crab

closely with the relevant bodies in the Republic of Ireland to ensure effective cross border implementation of all the relevant marine and coastal issues. We believe it is essential that this body is accountable to Northern Ireland ministers, and able to draw on the expertise of the UK MMO. We look forward to inputting further to the creation of such a body.

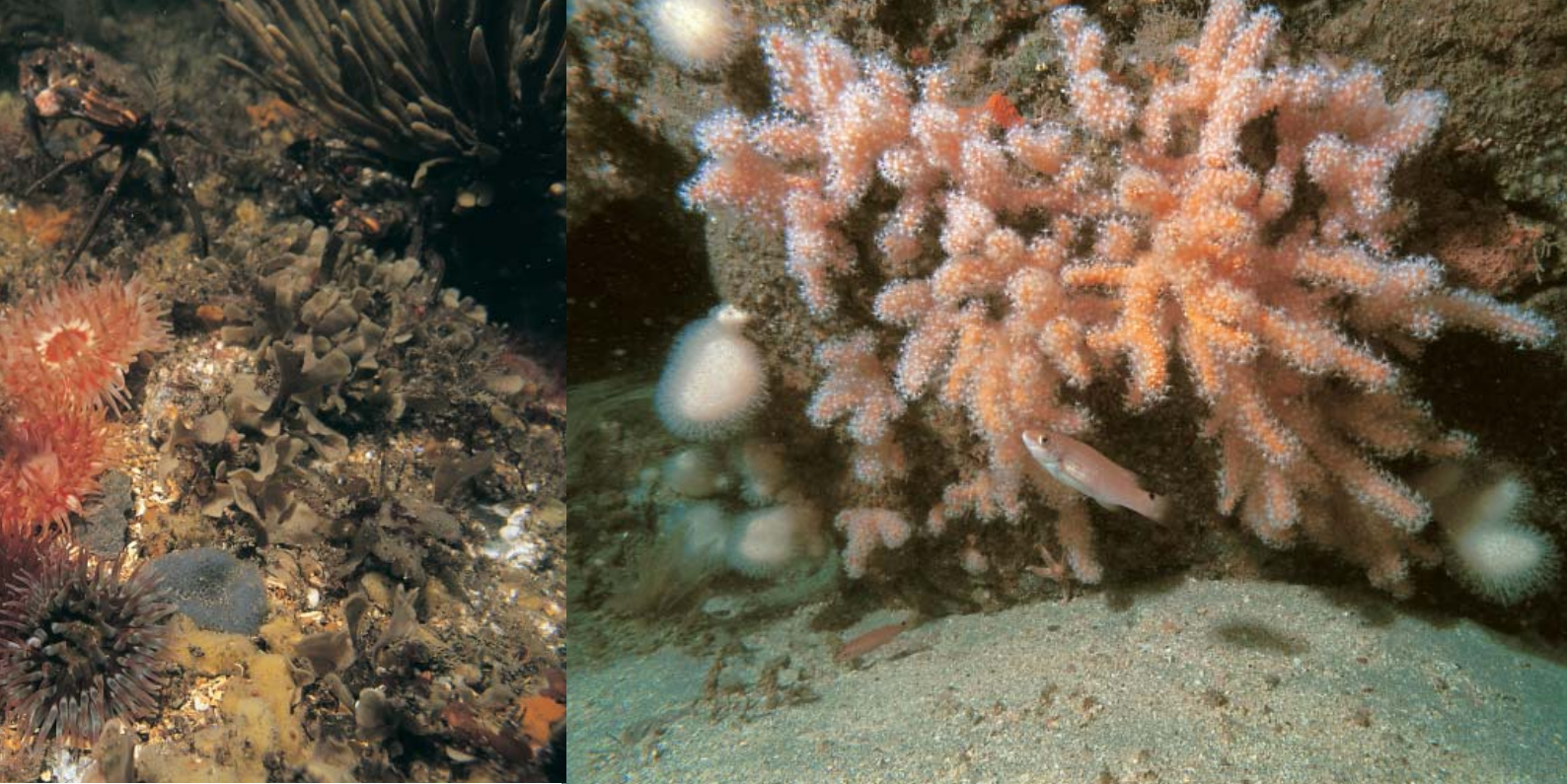
We also welcome the Advisory Group on Marine and Coastal Strategy (AGMACS recommendations to create a Scottish MMO for planning, licensing and enforcement related to devolved activities. A Scottish MMO should provide the primary point of liaison with the UK MMO. It should also represent the main body of marine expertise and the first port of call for marine stakeholders for Scottish purposes.

It is not yet clear what delivery arrangements the Welsh Assembly Government will put in place for marine management in Wales. However, the MMO will play a significant role in the delivery of non-devolved licensing functions in Welsh territorial waters and will need to collaborate with the relevant Welsh marine management body to ensure integration across administrative and political boundaries. We hope that the Welsh Assembly Government will consult fully on delivery options for

Wales, giving due consideration to the recommendations of the Wales Coastal and Maritime Partnership (WCMP) on marine planning¹¹. There has not been a debate on the Welsh Assembly Government's position that setting up an MMO would not be right for Wales and no detailed explanation has been provided as to why this approach has been rejected. We would welcome the opportunity to share our views with the Assembly Government on this matter, through consultation on the appropriateness of different delivery options for Wales. We hope that they will ultimately ensure that the arrangements decided upon are based on the principles of good governance, efficiently integrated with those in the rest of the UK.

It is essential that the bodies responsible for marine management work closely together to address the UK marine environment as a whole at the same time as taking account of the complex devolution settlements and relationships with other countries. Furthermore, the governance arrangements must be appropriate for the management of human activities in the marine environment from the perspective of the needs of that environment, i.e. an ecosystem approach delivered at the scale of biogeographic regional seas.

11. WCMP (2007) Wales Coastal and Maritime Partnership Advice to the Welsh Assembly Government on the Practical Aspects of Marine Spatial Planning for Wales. April 2007. Available at: http://www.walescoastalpartnership.org.uk/images_client/resource/WCMP%20MSP%20Advice%20FINAL%2025_04_07.pdf



Soft corals & goldsinny

The MTFs each responded in detail to the consultation on the Marine Bill White Paper. Their full responses can be obtained from:

Wildlife and Countryside Link, www.wcl.org.uk,
contact Joanna Crouch (joanna@wcl.org.uk)

Wales Environment Link, www.waleslink.org,
contact Iwan Ball (iball@wwf.org.uk)

Scottish Environment Link, www.scotlink.org,
contact Calum Duncan (scotland@mcsuk.org)

Northern Ireland Marine Task Force,
www.nienvironmentlink.org,
contact Melanie Gomes (melanie.gomes@ulsterwildlifetrust.org)

The Wildlife and Countryside Link Marine Task Force, the Scottish Environment Link Marine Task Force, the Wales Environment Link Marine Working Group and the Northern Ireland Marine Task Force work together to promote new, effective marine legislation for all UK seas. Each is a coalition of environmental voluntary organisations, united by their common interest in the conservation and enjoyment of wildlife, the countryside and the marine environment.

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