

Wildlife and Countryside Link response to Defra's consultation on proposals for the designation of Marine Conservation Zones in 2013

March 2013

Wildlife and Countryside Link (Link) brings together 41 voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Our members practise and advocate environmentally sensitive land management, and encourage respect for and enjoyment of natural landscapes and features, the historic and marine environment and biodiversity. Taken together our members have the support of over 8 million people in the UK and manage over 750,000 hectares of land.

This response is supported by the following eleven organisations:

- Environmental Investigation Agency
- International Fund for Animal Welfare
- Marine Conservation Society
- MARINELife
- Plantlife
- Royal Society for the Protection of Birds
- Whale and Dolphin Conservation
- Wildfowl & Wetlands Trust
- The Wildlife Trusts
- WWF – UK
- Zoological Society of London

This response is also supported by the Northern Ireland Marine Task Force (NIMTF), Wales Environment Link (WEL) and Scottish Environment LINK (SEL).¹

General Comments (Consultation Question 9)

- Link supports the swift designation of all 31 Marine Conservation Zones (MCZs) highlighted in the consultation as being suitable for designation in 2013. However, we are disappointed that so many of the other recommended MCZs face an uncertain future.
- Once designated, effective management measures must be quickly implemented for these sites.
- Link would like to see all recommended features reinstated within MCZs as soon as possible, without delaying the current designation timetable for 2013. We believe that the objective of management within each MCZ should be the recovery

¹ SEL recognise the process for selecting MCZs in England is different to that in Scotland, Wales and Northern Ireland, but both the Marine and Coastal Access Act 2009 and the Marine (Scotland) Act 2010 require network coherence at the UK level. So, whilst not having been active stakeholders in the English MCZ process, SEL nonetheless support the purpose of this response in order for the MCZ processes elsewhere in the UK (in this instance England) to contribute to MPA network coherence throughout the UK.

of seabed habitats and species, unless there is clear evidence that a feature is in a favourable condition.

- It is important that the proposed network of sites includes protection for highly mobile species, including seabirds and cetaceans, and a revised suite of reference areas.
- All MCZs awaiting designation should be protected from damage from licensed and unlicensed activities while further evidence is being sought to inform their suitability for inclusion in future tranches.
- Wildlife and Countryside Link and its sister Links in Wales, Scotland and Northern Ireland would like further clarity on Defra's plans to create an Ecologically Coherent Network (ECN) of Marine Protected Areas (MPAs) in UK waters.
- There is an urgent need for the Government to publish a clear timetable for the designation of all remaining MCZs in English inshore waters and UK offshore waters adjacent to England and Wales, with priority given to those identified as high risk. This would ensure that, taken together with forthcoming sites in Scotland, Wales and Northern Ireland, a well-managed ECN can be established by 2016 as required by the Marine Strategy Framework Directive (MSFD) and The Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR).
- Lack of full scientific certainty over the presence, extent and condition of features, and the benefits of the network, should not be a reason for delaying the designation of MCZ sites and features.
- Link is very concerned that the social, economic and environmental benefits of both individual sites, and the network as a whole, are not currently adequately reflected in the Impact Assessments.

Proposals for the first tranche of designations

- Link supports the first tranche of MCZ designations as the next step in the process of delivering an effective and ecologically coherent network of MPAs around UK waters, recognising that new MPAs for Scotland will be consulted on this summer and subsequently for Wales and Northern Ireland.
- Link supports the swift designation of all 31 MCZs highlighted in the consultation as suitable for designation in 2013 but is disappointed that so many of the other recommended MCZs face an uncertain future.
- Once designated, Link would like to see effective management measures rapidly implemented for the 31 sites to ensure they are protected.
- The objective of management within each MCZ should be the recovery of habitats and species. This should be reflected in the setting of conservation objectives to 'recovery' in each case unless there is clear evidence that a feature is in a favourable condition.
- In its assessment of the final recommendations the Science Advisory Panel (SAP) states that the *'removal of the most harmful pressures within MCZs should be a primary goal'* recommending *'that 'maintain' [conservation objective] is only used where best available evidence can be provided in the site descriptions to demonstrate that the level of permitted activities taking place at the rMCZ are not likely to affect favourable conservation status of the habitats and species and other*

*features. In the absence of such information, the precautionary principal should apply, and harmful pressures be removed.*²

- All recommended features should be reinstated within MCZs as soon as possible, without delaying the current designation timetable for 2013.
- Including mobile species within English MCZs is necessary for the UK Government to achieve an ECN of MPAs across UK waters. We note that the Scottish MPA scientific advice includes MPA proposals and MPA search locations for mobile species such as basking shark, black guillemot, minke whale, Risso's dolphin and common skate. In contrast, there are currently no *nationally* important MPAs for mobile species, thus including mobile species as non-Ecological Network Guidance (ENG) features within a national tier of MPAs, including MCZs and SACs, will enable the UK Government to deliver its legislative duties under the EU Birds and Habitats Directives.

Future tranches of sites

- Link believes there is an urgent need for a timetable for the designation of future tranches of MCZs, with priority given to those identified as high risk by the Statutory Nature Conservation Bodies (SNCBs). We strongly request that the Government sets a timetable for this as soon as possible and honours its delivery.
- We still support the SAP and SNCBs' advice and would like to see as many MCZs designated as possible in order to take an important step towards creating an ecologically coherent network.
- The uncertainty over future designations is not only leaving recommended sites vulnerable to further damage and deterioration but also proving very frustrating and costly to industry and other sea users.
- Link does not agree with the judgement that East Meridian, Wight-Barfleur Extension and South of Falmouth are not suitable for designation and call for them to be considered in a future tranche, with priority given to East Meridian and South of Falmouth, identified as at high risk by SNCBs. Designating these sites will represent a low cost to industry and the Government has provided no scientific justification for dropping them from the proposed network.

Protection for sites not designated in the first tranche

- Without effective protection, sites, habitats and species may be subject to further degradation and deterioration.
- Link believes that the Government should provide a strong policy lead on the protection of sites and urges that all recommended MCZs be protected from damage from licensed or unlicensed activities while further evidence is being sought to inform future decisions around designation.
- We are concerned that regulators are being asked to make policy decisions about which sites should be protected. For sites being considered at a later date and for unlicensed activities, responsibility for protection has been passed to regulatory bodies such as the Marine Management Organisation (MMO) and the Inshore Fisheries and Conservation Authorities (IFCAs). We believe that decisions about which sites should be protected are a network-level issue and as a result should

² Science Advisory Panel Assessment of the MCZ Regional Projects Final Recommendations, 15 November 2011, Section 2.4, page 4.

be considered a matter of policy rather than delivery. There is a danger that the Government's failure to provide a strong policy lead in this area will result in inconsistencies in approach to protection between different jurisdictions and geographical regions, resulting in a lack of certainty for conservation and industry stakeholders.

- Scallop dredging has already damaged Holderness Offshore recommended MCZ since it was proposed by stakeholders. Link is concerned that the proposals outlined in this consultation are not sufficient to prevent similar damaging activities occurring within this site and other recommended MCZs in the future.
- All MCZs awaiting designation must be given material consideration in planning to reduce the risks of damage and provide clarity for planners, developers and other marine stakeholders.
- MCZs are a significant, timely and unique opportunity to meet national and international commitments, obligation and responsibilities whilst making much needed progress towards an ECN. With this in mind it will be important for Defra to assess gaps in the existing MPA network, as well as furthering the opportunities for the protection of mobile species based on the Government-approved approach to European sites. For example, designating MCZs as maintenance extensions to SSSI seabird breeding colonies.
- A gap analysis was undertaken by the SNCBs to help inform Regional MCZ Projects about the baseline MPAs and gaps that needed filling. In their advice, Natural England and JNCC noted that *'the current recommendations include some features that, if their presence is confirmed in the evidence assessment, would be seen as gaps within the SAC or SPA network as those features are not currently represented'* (JNCC and Natural England's advice to Defra on recommended MCZs 2012, section 4.1.51, page 132). Therefore it is important that these features are protected through the MCZ network.

Ecological Coherence

- We request further clarity on Defra's plans to create an ECN of MPAs in UK waters.
- The UK Government has several international commitments to protect the marine environment, alongside the current OSPAR recommendation to establish an ECN of well-managed MPAs. These include:
 - OSPAR Recommendation 2003/3 on a Network of Marine Protected Areas
'by 2012 it is ecologically coherent, includes sites representative of all biogeographic regions in the OSPAR maritime area, and is consistent with the CBD target for effectively conserved marine and coastal ecological regions; b. by 2016 it is well managed (i.e. coherent management measures have been set up and are being implemented for such MPAs that have been designated up to 2010).'
 - 2002 World Summit on Sustainable Development (WSSD) Johannesburg Plan of Implementation

'(c) Develop and facilitate the use of diverse approaches and tools, including the ecosystem approach, the elimination of destructive fishing

practices, the establishment of marine protected areas consistent with international law and based on scientific information, including representative networks by 2012 and time/area closures for the protection of nursery grounds and periods, proper coastal land use; and watershed planning and the integration of marine and coastal areas management into key sectors'

○ Convention on Biological Diversity - COP 7 Decision

'18. Adopts the programme of work on protected areas annexed to the present decision with the objective of the establishment and maintenance by 2010 for terrestrial and by 2012 for marine areas of comprehensive, effectively managed, and ecologically representative national and regional systems of protected areas that collectively, inter alia through a global network contribute to achieving the three objectives of the Convention and the 2010 target to significantly reduce the current rate of biodiversity loss'

'19. Urges Parties to achieve fully the goals and targets of the work programme while recognising that Parties should implement the activities of the programme of work on protected areas, as annexed to the present decision, in the context of their nationally determined priorities, capacities and needs...'

○ Marine Strategy Framework Directive

'Establishing such protected areas under this Directive will be an important step towards fulfilling the commitments undertaken at the World Summit on Sustainable Development and in the Convention on Biological Diversity, approved by Council Decision 93/626/EEC (1), and will contribute to the creation of coherent and representative networks of such areas.' And *'4. Programmes of measures established pursuant to this Article shall include spatial protection measures, contributing to coherent and representative networks of marine protected areas, adequately covering the diversity of the constituent ecosystems, such as special areas of conservation pursuant to the Habitats Directive, special protection areas pursuant to the Birds Directive, and marine protected areas as agreed by the Community or Member States concerned in the framework of international or regional agreements to which they are parties.'*

- Although most Contracting Parties (including the UK) have submitted some MPAs to the OSPAR network, progress has been slow and a number of deadlines for the completion of the network have been missed. The OSPAR network is currently far from being comprehensive, ecologically coherent or well-managed and, as it stands, there are very few sites established further offshore or in Areas Beyond National Jurisdiction.
- The Ecological Network Guidance (ENG) for the MCZ project was developed in discussion with Defra and reflected the requirements of the Marine and Coastal Access Act (MCAA) and has strong links to the OSPAR guidance on identifying MPAs and developing an ECN. Indeed the ENG's seven network design principles

and five practical considerations for the design of the MPA network were based on the OSPAR design principles (OSPAR 2006-3).

- A lot of time and effort was put into the development of the ENG and we believe it should continue to be used as an important tool in developing an ECN at a UK level and on a wider scale.
- Although the ENG was based on OSPAR principles, the identification and development of MCZs and their features by regional projects was undertaken with a view to MCZs contributing to a UK ECN of MPAs rather than across an OSPAR biogeographic area. Furthermore, regional stakeholder groups could not consider MCZs outside their project area which in Net Gain was divided into four hubs. With this in mind, Defra needs to be clear about its approach and the contribution MCZs are making to an ECN. A greater focus on OSPAR biogeographic areas at this stage must not be used to justify the designation of a reduced number of MCZs.
- An ECN of MPAs must be well-managed in order to be effective. It is therefore essential that MCZs are designated with effective management measures.
- There must be clear dialogue and partnership working with the devolved administrations to ensure that MCZs and MPAs designated in Welsh, Scottish and Northern Irish waters enhance the UK network.

Reference Area site recommendations

- We agree that the issue of reference areas needs to be reviewed and we support the proposal not to put forward current reference area recommendations at this time. However, Link believes there is a need and a place for reference areas under better guidance and referral.
- A committed timeframe should therefore be provided by Defra in which to determine its approach to Reference Areas. This should include engagement with stakeholders and provide greater clarity on the implications of Reference Areas. However, reconsideration of the approach to Reference Areas should not delay the designation of MCZs in 2013 or in subsequent tranches.
- We consider there to be a case for expanding the boundaries of suitable reference area sites to create stand-alone MCZs, which could be included in future tranches. See The Wildlife Trusts Consultation response for full details.

Sites for highly mobile species

- Including mobile species within MCZs is necessary if the UK Government is to achieve an ECN of MPAs. There are currently no nationally important MPAs for mobile species in English waters, thus including mobile species as protected features within a national tier of MPAs, such as MCZs, will enable the UK Government to contribute to its legislative duties, under the EU Birds and Habitats Directives, MSFD and the OSPAR MPA initiative.
- Spatial protection measures are an appropriate form of protection for highly mobile species, particularly at key parts of their life stages (e.g. breeding, spawning and loafing), and because many are highly site-faithful to foraging grounds. Spatial measures should be one of a suite of measures to protect highly mobile species and should accompany sectoral measures.
- Link does not agree with Defra's policy position on mobile species and MPAs. We have strong concerns that the general conclusions drawn from Defra's report *MB0114: Mobile species and MPAs* do not truly reflect the content of the report.

Furthermore, at the time of writing this consultation response, only the draft version of the report has been made publically available, rather than the final version, which is extremely disappointing and contradicts Defra's own consultation principles. In response to Defra's reaffirmed policy position on mobile species and MPAs, we would like to highlight the fact that there are over 500 MPAs worldwide which aim to contribute to seabird and cetacean conservation, a clear indication that MPAs are internationally recognised as an important tool in protecting highly mobile and wide ranging species. Defra's failure to recognise the value of spatial protection measures for mobile species is also in stark contrast to the situation in Scotland, where the Scottish Government has included mobile species, such as basking shark, black guillemot, minke whale, Risso's dolphin, white-beaked dolphin, sandeel and common skate as MPA search features in MPA proposals and search locations.

- The full range of highly mobile species is not adequately protected within the existing European Marine Site (EMS) network in UK waters. The designation of Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) is behind schedule and will not provide protection for nationally important populations of seabirds and cetaceans. A national tier of MPAs, such as MCZs, are appropriate as a spatial measure to protect bird populations, for example as maintenance extensions for terrestrial seabird breeding colony SSSIs (protecting the waters adjacent to seabird colonies used by large numbers of feeding, moulting and displaying birds).
- MCZs do not replace SACs and SPAs but, equally, these European sites do not rule out the need for MCZs.
- MCZs should be used to help address gaps in the existing network of European sites. In addition, there is no legitimate reason why an MCZ and SPA or SAC could not overlap (as they do on land with SSSIs) to benefit the same and different features. MCZs could be used to protect the waters adjacent to SSSI seabird colonies, applying the same principle to these sites as those already approved by the Government for SPA maintenance extensions. The SNCB advice supported this approach as well as the inclusion of seabirds, basking shark and black bream as non-ENG features of MCZs, covering three different regional projects. Dropping seabirds and other features at this stage undermines stakeholder consensus on the inclusion of mobile species within MCZs, as well as the significant amount of time and resources spent on engaging in this process.
- Link would therefore like to see all recommended features reinstated within MCZs as soon as possible, without delaying the current designation timetable for 2013. Within the 31 sites put forward for designation this year, four previously had seabirds as features:
 - Lundy (guillemot, Manx shearwater, razorbill, puffin)
 - Torbay (guillemot, wintering great northern diver, black-throated diver, black-necked grebe, red-necked grebe, Slavonian grebe)
 - Padstow Bay and Surrounds (fulmar, guillemot, puffin, razorbill and kittiwake)
 - Cumbria Coast (black guillemot)
- The other two sites not being taken forward in the first tranche, but which have had seabirds listed as features, are Land's End (Balearic shearwater) and Bideford to Foreland Point (razorbill and common guillemot).

- Link would also like to see the reinstatement of basking shark within Land's End MCZ and harbour porpoise within Torbay MCZ, Bideford to Foreland MCZ, Mounts Bay MCZ and Cape Bank MCZ. In addition, common dolphin should also be included in East of Celtic Deep MCZ and Celtic Deep MCZ. White-beaked dolphin should be included within Farnes East MCZ.
- In addition, Link would like to see the boundaries of several recommended MCZs expanded to include key areas for highly mobile species. Link supports the extensions proposed by The Wildlife Trusts and the Royal Society for the Protection of Birds in their separate responses to this consultation.

Scientific evidence

- We urge Defra to make immediate use of all the data available. Many MCZs have not been put forward for designation because of 'insufficient data'. In 2012 the Joint Nature Conservation Committee (JNCC) undertook marine surveys to gather data on the presence of features recommended for inclusion in MCZs. We are disappointed to learn that this information, which has taken considerable time and effort to gather, has not been used to inform data certainty of the features in the current consultation. Further to this, other organisations including Centre for Environment, Fisheries & Aquaculture Science (Cefas), Inshore Fisheries and Conservation Authorities (IFCAs), The Wildlife Trusts, the Marine Conservation Society and Natural England also undertook data collection in 2012, none of which appears to have been used by Defra in its site selection. All these data should be used urgently to inform the designation process.
- Lack of full scientific certainty over the presence, extent and condition of features and the benefits of the network should not be a reason for delaying the designation of the majority of MCZs and some of the features of the 31 sites put forward for designation in 2013. The Marine Strategy Framework Directive (MSFD) requires the Government to pay regard to the Precautionary Principle when establishing a network of MPAs. The UK Marine Policy Statement (MPS) also makes clear in its high level marine objectives that the Precautionary Principle should be applied consistently in accordance with the UK Government and Devolved Administrations' sustainable development policy.³ Furthermore, Defra's MPA network design principles states that '*Network design should be based on the best information currently available. Lack of full scientific certainty should not be a reason for postponing proportionate decisions on site selection*'.⁴

Socio-economic data / benefits

- Link recognises the difficult financial climate in which the Government is working to designate MCZs, but the continued delay in their designation (and that of MPAs in general) threatens both the health of the UK marine environment and its sealife, and the continued delivery of ecosystem services, upon which wider society and many marine activities depend.
- Link believes that, throughout the MCZ designation process, supremacy has been given to socio-economic factors. This has significantly undermined the objective of achieving an ECN of MPAs. The Marine and Coastal Access Act 2009 states that the Government *may* take into account socio-economic factors, not that it *must*.

³ UK Marine Policy Statement, 2011, p.12

⁴ Guidance on the selection and designation of MCZs, 2010, p.8

- Link is concerned that the social, economic and environmental benefits of individual sites and the entire network are not currently reflected in the Impact Assessments (IAs). We believe that decisions on which sites should be designated should be based on a balance of cost and benefit, not just cost, with both being subject to the same level of scrutiny. Ecological factors should also be a key feature of decision making, in line with the primary objective of MCZs to protect the marine environment, with priority given to sites most at risk of damage and deterioration.
- Link recognises the difficulties inherent in trying to provide monetary values for the benefits of individual sites and the overall MCZ network. However, we believe it is possible to gain a significant understanding of the benefits of MCZs through research. For example, work carried out by The Wildlife Trusts and the University of Plymouth demonstrates the positive economic value that will accrue from designating MCZs, both at a network level and, perhaps more importantly, at an individual site level. We believe that the results of this study have significant implications for IAs and would like to see them used to inform and support future designation decisions.
- The research project analysed four case study recommended MCZs, including Torbay, Holderness Inshore, Kingmere and North of Celtic Deep. The report discovered that each of the four case study sites provided beneficial ecosystem processes and services that contributed to broader policy issues such as biodiversity conservation, sustainable development, climate change, pollution control, and protection of important cultural heritage. The report concluded that MCZ designation is likely to increase the socio-economic benefits at these sites. It also revealed that failure to designate an effective network of MCZs is likely to result in the deterioration of beneficial ecosystem services, meaning the current levels of economic benefit from the marine environment will not be sustained.
- Scottish Environment LINK (SEL) has also recently commissioned research which evaluates the socio-economic benefits of designating a theoretical MPA network in Scottish waters. SEL's report, which was published in November 2012, clearly outlines the socio-economic benefits that an ECN of well managed MPAs could bring to Scotland. The report states that *'the overall on-site benefits of designating a Scottish network of MPAs range between £6.3 billion and £10 billion'* and *'the undiscounted mean annual benefits range from £566 million to £758 million'* over a twenty year period.⁵
- Link is concerned that the current IA guidance, which has been applied to the MCZ process, does not take into account the full benefits of conservation and the cost of failing to act. While we have no specific costs or benefits to add to the IA, we would like to make it quite clear that, in our opinion, neither the benefits of conservation nor the costs of inaction have been adequately captured in the MCZ IAs. We would also like to make it clear that we do not feel this is because of inadequacies in Defra's MCZ team, but is more about how the IA process has been designed. This is a systemic problem that goes beyond the scope of the MCZ consultation, but this gives us an opportunity to raise the need to take into account the environmental and social elements which are consistently left out of IAs.
- The discount rates used (3.55%) and timeframe given (20 years) are inappropriate for assessing impacts on the marine environment. Recovery of the marine

⁵ Valuing the Benefits of Designating a Scottish Network of MPAs in Territorial and Offshore Waters, Scottish Environment Link, 2012, p.iv <http://www.scotlink.org/public/work/taskforce.php?id=7>

environment, which is one of the main objectives of the MPAs, is often slow and may take decades to show significant change and improvement. The use of such discounts and short timetables encourages short-term thinking and actively discourages investment in the long-term health of our seas. We feel this is wrong and, in doing so, any benefits beyond 20 years will be calculated as zero.

- The IA that was published as part of the MCZ consultation is an integral part of the decision making process. We believe that the current IA does not take into account the cost of not designating these sites, nor does it consider the long-term benefit of the developing network of MPAs. It is our view that each MCZ further develops connectivity in the network, and therefore each additional MCZ will be worth more in societal terms than individual sites seen in isolation.
- Certainty in the socio-economic costs of designating MCZs should be subject to the same scrutiny as the certainty required in the data for presence, extent and condition of recommended features. Those MCZs that have potentially high yet still 'unquantified' costs should not be allowed to hinder the designation of a site, particularly one which is identified as high risk, until these costs have been fully quantified and assessed.