



Wildlife and Countryside Link response to Defra's draft Strategy for Marine Protected Areas and Guidance Note 1 (Selection and designation of Marine Conservation Zones)

July 2009

Introduction

Wildlife and Countryside Link (Link) is a coalition of the UK's major voluntary organisations concerned with the conservation, enjoyment and protection of wildlife, the countryside and the marine environment. Taken together, our members have the support of over 8 million people in the UK.

This response is supported by the following member organisations:

- Buglife – The Invertebrate Conservation Trust
- International Fund for Animal Welfare
- Marine Conservation Society
- Plantlife International
- Royal Society for the Protection of Birds
- The Wildlife Trusts
- Whale and Dolphin Conservation Society
- WWF-UK
- Zoological Society of London

Link welcomes the publication of Defra's draft Strategy for marine protected areas (MPAs). The publication of this document is timely as the Marine and Coastal Access Bill enters the final stages of the parliamentary process. Defra's 10 year vision for developing the MPA network for the UK is a very useful accompaniment to the discussions on the MPA provisions of the Bill. We welcome the fact that the publication of this draft Strategy signals a clear commitment to building the UK network of MPAs over the coming years.

Link is also very keen to see and comment on new versions of the four guidance notes that Defra have committed to publishing to sit alongside the nature conservation part of the Marine and Coastal Access Bill. The strategy document predicted that these would be published in May 2009, but in fact only an updated version of Note 1 and a new Note 4 have been published so far. We would welcome more information on the timetable for publishing updated versions of Notes 2 and 3, and whether (as we believe is the case) all four guidance notes will be republished in draft form over the summer, to reflect the changes in the legislation to date. Once all four guidance notes have been published Link expects to provide more detailed comments on the complete package of guidance. Some comments on the re-published Guidance Note 1 are provided in this document in the interim. We also welcome the news that there will be formal public consultation on the guidance that will be provided by JNCC/NE for the regional projects. This guidance will be key in shaping the way that the regional projects operate to select and

recommend sites for designation, and as such Link recognises that it is of paramount importance.

Link's position on MCZs in the Marine and Coastal Access Bill - summary

Link is very pleased that the Marine and Coastal Access Bill proposes a new mechanism for MPA designation, Marine Conservation Zones (MCZs). While we welcome the new designation and the commitment in the legislation to designating sites to contribute towards a UK network of sites, there are still some areas of the legislation that we would like to see strengthened before the Bill is passed. We believe that the Bill would be improved by:

- The removal of clause 117(7), which states that the designating authority may take the economic or social consequences of designation into account when making the decision on whether or not to designate a site. We feel that the retention of this subclause in the Bill could have serious consequences for site designation, potentially allowing economic and social factors to override ecological information and conservation priorities in designation, and compromising the achievement of an ecologically coherent network of sites for the UK. If this clause cannot be removed from the Bill, it should at least be made clear that economic and social factors should only be considered when designating representative sites, where there is a choice of two or more sites that are of equal ecological merit, and where the omission of one or more of these sites would not compromise the achievement of the ecologically coherent network.
- We were disappointed to see that the Bill does not mention highly protected sites and the commitment to establishing some such sites as part of the overall network. We believe it is vital that some sites are highly protected, and while Government have made it clear that the MCZ mechanism is capable of creating highly protected sites, they have not made their commitment to designating some of these sites clear in the legislation.
- We also have some comments on site management provisions in the Bill, surrounding the use of a general offence for reckless or intentional damage to a site or its features. We believe that the scope of this general offence should be broadened to include disturbance to marine animals protected as features of the MCZ. We would also like to see the blanket defence for any activity connected with sea fishing removed.

Link comments on draft Strategy for marine protected areas

Vision and aims

Link welcomes the vision set out at the beginning of the draft Strategy for marine protected areas (pg5). We were pleased to see the reference to the Government's commitment to build an ecologically coherent network of MPAs, as well as the explicit link made between the vision for MPAs and the Government's overarching vision for the marine environment ("*Clean, safe, healthy, productive and biologically diverse ocean and seas*"). We were similarly pleased to see reference to a "*strong, ecologically coherent and well managed*" MPA network in the stated aim, the use of the MPA

network to deliver recovery of marine biodiversity, and the upfront and detailed acknowledgement of the importance of marine biodiversity (pg 9).

However, we were disappointed to find that the language used throughout the draft Strategy is rarely as ambitious or positive as the language of the vision and aims. The vision for what will be achieved by 2020 (pg 21) is significantly weaker, with references to "*proportionate*" protection only from "*unacceptable*" damage. We were also concerned by the penultimate bullet point of the vision for 2020, which suggests that existing MCZs might be de-designated and/or site boundaries changed, based on socio-economic data. Link does not support the suggestion that MCZs could be removed from the network as new socio-economic data comes to light. We agree that the site network should be reviewed by 2020, but feel that sites should only be de-designated if they can no longer be effective in protecting the features they were set up to protect (e.g. if the feature is no longer found in the site and will not return (i.e. recover) in the future even if the site is still protected).

We found it strange that the aims for 2010 and 2020 set out on pgs 20-21 made no reference to the stated Government aim of completing the initial UK MPA network by 2012. Link believes that the development of the ecologically coherent network of MPAs should be completed by 2012 in line with international commitments, and that this deadline should not be allowed to slip further. Although we recognise that there will probably be a need to designate further sites as part of the network beyond 2012 as new data come to light, the focus beyond 2012 should be on ensuring that the individual sites and the network as a whole are well-managed, and where necessary undertaking reviews of sites or the network.

Socioeconomic considerations

We also found that some of the wording on how socio-economics are to be taken into account is at odds with statements made by the Government on how these factors will be considered. Link has opposed the consideration of socio-economic factors during the identification of sites for designation, as we believe that sites should be selected based on best available scientific knowledge and conservation priorities. Government has stated repeatedly (i.e. by Defra and Ministerial statements during the passage of the Marine and Coastal Access Bill through Parliament) that economic and social factors would be secondary considerations that would not be taken into account for all site designation decisions, and that for some sites (e.g. those protecting rare and/or threatened features) it would not be appropriate to take socio-economics into account. Link has been assured that the guidance would support these statements and make it clear in what circumstances and how socio-economic factors would be considered and was therefore extremely concerned to see the statement that socio-economic factors "*have to be taken into account in developing the MCZ network*" (pg 37). This also seems to be at odds with the legislation that currently states that these factors 'may' be taken into account.

Highly protected sites

Furthermore, we were disappointed to note that very little reference is made in the draft Strategy document to the establishment of highly protected sites as part of the MCZ network. The draft Strategy does refer to the fact that, for some sites, appropriate management "*might include closure to all extractive activities*", and does go on to

recognise that these sites are important for recovery of biodiversity, and can be useful as benchmark or control areas to help monitoring efforts. However, we feel that overall the document lacks the strong commitment from the Government to setting up highly protected sites as part of the MCZ network. Again, this is something that we had been assured by Government that the guidance would clarify and therefore would like to see expanded upon in the Strategy.

Network design

The draft Strategy document sets out clearly the Government's intentions regarding the process for developing the MCZ network. Link supports the decision not to specify a size or overall percentage target for the MPA network in the Strategy (pgs 6, 31) and agrees that it is more important to first establish the framework, criteria and principles for selecting and designating the network. We welcome the focus on areas that are designated solely for nature conservation purposes, rather than those established for other reasons with some incidental benefits for nature conservation (pgs 7, 15). While we recognise that there are potential synergies with other uses of the marine environment, we think it is very important that the UK network of MPAs is made up of sites the principle purpose of which is nature conservation.

However, while we support the stated design principles for an ecologically coherent network we do have some comments on the descriptions of these principles on pg 30. With respect to **representivity**, the principle should ensure that representivity encompasses representative samples of all biodiversity and not just that which is captured by the protection of major habitat types and the associated biological communities. The aim should be to capture all known elements of biodiversity within the network of MPAs. **Replication** should not refer only to all major habitats, but to all habitats. Finally, **adequacy** is frequently taken to have a broader meaning than that outlined here, including the size of the network, the size of individual sites, configuration, replication, and level of protection. It also refers to the ability of the network to ensure ecological viability, and allow sufficient levels of connectivity between populations, species and habitats and safeguard the integrity of ecological processes. Link feels that this should be reflected in the explanatory text on pg 30.

Stakeholder involvement

Link also has some concerns with the overall process for site designation outlined - especially with the omission of nature conservation interests from the "wide range" of stakeholders identified as having an interest in the development of the MCZ network (pg 31). In particular, we have concerns about the management of the active participation of stakeholders in site selection and designation. It must be clear that such participation in decision-making must be well within the bounds of achieving the ecologically coherent network. Link does not believe that stakeholders should be left to identify the conservation objectives and management measures for sites (pg 32), as we believe these decisions require expert input, and should be guided by the statutory nature conservation bodies.

Regulating international activities

The draft Strategy is misleading in implying that the UK Government has no ability to regulate shipping (pg 43). Notwithstanding the international freedoms that fall under the Law of the Sea Convention (UNCLOS), which need to be adhered to, as both a flag

state and a port state, the UK Government is able to regulate and enforce regulation of international shipping. The UK Government is responsible for identifying the necessary action required to appropriately regulate shipping in waters under UK jurisdiction, it can regulate (with some restrictions) ships within 12nm, it can regulate ships flying a UK flag, and it can work within the appropriate international frameworks (the IMO) to try to secure the necessary regulation for waters under its jurisdiction and beyond 12nm.

Monitoring

Link believes that the commitment to monitoring needs to be stronger (pg 50) in order to signal that it is of key importance in the ongoing effective management of the MPA network. We are very concerned that funding for marine monitoring has in some cases been reduced recently. The chosen timescale for monitoring must be relevant to the species involved, rather than convenience for those carrying out the monitoring. For example, for long-lived species like dolphins, a six yearly snap shot will not tell us much about the health of the population, nor alert us in time when things are going wrong.

Link comments on Guidance Note 1 (Selection and designation of MCZs)

Link feels that it is very important to submit comments on this Guidance Note and the others that will be published in the near future, as we understand that the guidance will be crucial to the way that the UK network of sites is selected, designated and managed. We provided quite comprehensive comments on the initial drafts of Guidance Notes 1-3 last year, and we intend to submit similarly detailed comments on Guidance Notes 1-4 once they are published this year¹. We have provided some initial comments on Guidance Note 1 in this document.

Highly protected sites

Our principal concern with Guidance Note 1 is the lack of reference to highly protected sites. When compared with the first draft of Guidance Note 1 from May 2008, it can be seen that most of the references to highly protected sites have been removed from the document. This is at odds with Government's stated commitment to setting up highly protected sites as part of the network (see paragraph 3.4.1 of the Command Paper, September 2008) and comments made by Minsiters, particularly during Committee Stage in the Commons by Huw Irranca-Davies MP. This guidance note should contain more detail on how and when to designate highly protected sites to be included in the network. We would like to see the Government's commitment to setting up highly protected sites spelt out more clearly on the face of the Marine and Coastal Access Bill, and are concerned that the removal of text concerning highly protected sites from this guidance document seems like further evidence that the Government is withdrawing from its previously clearly stated commitment to setting up some highly protected sites as part of the overall network.

¹ We understand that the full set of Guidance Notes 1-4 will be published again in July, to take account of changes to the legislation that are brought about through discussions in the House of Commons.

Language and tone

Link was also very concerned to see that the language used throughout the document is apologetic on behalf of nature conservation, with the focus on minimising economic or social impacts rather than on achieving the best possible outcome for nature conservation. We oppose the suggestion that site boundaries should always be drawn, and conservation objectives set, so as to avoid incompatibility with ongoing activities. We would rather see the emphasis on making sure that conservation objectives are relevant to the interest features of the site, and ambitious enough to help move towards the overall aim of achieving an ecologically coherent network of well managed sites. If the MCZ network is set up with the primary concern being to minimise inconvenience to developers, then it will be compromised from the outset, and unlikely to be able to deliver the overarching vision and aim for the network set out at the start of the document.

Conclusion

While Link welcomes the publication of the draft Strategy for MPAs, and the opportunity to comment on this and the guidance that has been published so far, we want to see these documents revised and improved before the provisions of the Marine and Coastal Access Bill are implemented. In particular, we believe that the language used in both the Strategy and guidance should be strengthened to provide a more robust and effective delivery of nature conservation priorities. We would also welcome a more explicit commitment to the establishment of highly protected sites as part of the MCZ network in both documents.