



February 2009

## Parliamentary Briefing

# Marine and Coastal Access Bill Amendment

### Duties to designate a network of Marine Conservation Zones (Clauses 113 and 119)

The organisations listed above are all members of Wildlife and Countryside Link's Marine Task Force<sup>1</sup>, which has been campaigning for several years for improvements in marine conservation and better management of the marine area. We have been closely engaged in the Marine & Coastal Access Bill process from the outset.

#### Background

The purpose of these amendments to Clauses 113 and 119 is to ensure that there is a requirement to designate Marine Conservation Zones and, in so doing, contribute to the creation of an ecologically coherent network of marine protected areas, including highly protected sites.

#### Duty to designate MCZs

The designation of Marine Conservation Zones (MCZs) is the prime delivery mechanism in the Bill for achieving protection and recovery of marine wildlife, habitats and ecosystems. The organisations listed above believe it fundamentally important that there is a *duty* to designate MCZs, and not merely a power. The Command Paper of September 2008 stated, at para 3.4.1: "*We therefore propose to confer a duty on the Secretary of State and the Welsh Ministers to designate MCZs in order to contribute to an ecologically coherent network of sites which will include highly protected sites.*"

However, the Bill is ambiguous about this. Clause 113, which introduces MCZs and in light of which the subsequent clauses must be read, merely gives a *power* to designate. Thus the mandatory wording in clause 119 can be read as merely an aspect of the way in which the power is to be exercised.

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<sup>1</sup> Wildlife and Countryside Link is a coalition of the UK's major environmental organisations working together for the conservation and protection of wildlife, the countryside and the marine environment.

Ambiguity is in nobody's interests and in light of the clear recommendations of the Joint Committee that led to the equally clear wording of the Command Paper, we believe that it is appropriate for clause 113 to be made much clearer – with the word “shall” replacing “may” (see annex to this briefing).

#### Duty to designate an ecologically coherent network

Protection of marine flora, fauna, habitats and ecosystems cannot be achieved through the designation of stand-alone sites. Rather, a network of sites is required, adhering to the following principles:

- Representation. The network should include examples of the full range of marine features (flora and fauna, habitats and ecosystems) present in the marine area.
- Replication. Each feature should be represented in multiple sites, which are of adequate size and quality, within and across regional seas, to protect against accidental loss, spread the risk of damaging events and long-term changes, and to ensure the natural variation of the feature is covered.
- Connectivity. To protect species throughout their lifecycle, to maintain genetic diversity in populations, and to allow natural dispersal and migration and climate change driven adaptation, sites within the network should be located so as to allow for the movement of flora and fauna (i.e. different life stages including spores, eggs, larvae, juveniles and/or adults, as appropriate) between sites.

Applied together, these principles (while not exhaustive and needing further definition) enable the development of an *ecologically coherent* network, greater than the sum of its parts, which supports the conservation and recovery of the wider marine environment beyond the protected sites. An ecologically coherent network is resilient and allows sustained ecological functioning. The UK is committed under the OSPAR Convention to developing an ecologically coherent network of marine protected areas, and international definitions and guidance have been developed. The EU Marine Strategy Framework Directive also makes specific reference to the development of “coherent and representative networks of marine protected areas.”

In order to achieve an ecologically coherent network, it is vital that the Bill makes explicit provision for the three principles outlined above. As currently drafted, the Bill requires the network to be representative (119 (3)(b)), and to include replication (119 (3)(c)) but does not provide for connectivity between sites. As such, it may not provide for an ecologically coherent network. This is despite an assurance in the Government's Command Paper (see above).

For these reasons, we are also very concerned about amendment 110, which seeks to remove 119(3)(b).

The annex below includes amendments dealing with ecological coherence and connectivity.

#### Highly protected sites.

The network of marine protected areas should include highly protected sites (often called marine reserves), from which all potentially damaging activities are excluded. These sites offer the highest level of protection to vulnerable features. They also act as benchmarks, allowing comparison of these ‘near-natural’ locations with sites where activities are less restricted. This precautionary measure will be essential for

understanding the marine environment and measuring progress towards sustainable management of the marine area.

The Joint Committee recognised the importance of highly protected sites and, in response to the Committee's recommendations, the Government made a commitment to include reference to such sites in the Bill (see para 3.4.1 from the Command Paper, quoted above). In spite of this, there is no mention of highly protected sites on the face of the Bill. The annex below includes an amendment to address this important omission.

#### Types of sites to be included in the network.

As currently drafted, the list of types of sites to be included in the network is incomplete. At present, the list includes Marine Conservation Zones and any European marine sites (i.e. Natura 2000 sites that have been designated in the marine area). However, the list omits Ramsar sites (sites protected under the Ramsar Convention on Wetlands) and Sites of Special Scientific Interest in the marine area. All such sites should be considered within the ecologically coherent network of marine protected areas.

#### "Improvement" of the marine environment

We welcome the requirement in Clause 119(4), when designating MCZs, to have regard to any obligations under EU or international law that relate to the conservation of the marine environment. However, the clause also refers to obligations relating to the "improvement" of the marine environment. "Improvement" is also mentioned in 119 (3)(a). We feel that the word "improvement" is too ambiguous and open to broad interpretation (potentially including, for example, improvements for interests other than conservation). For this reason we suggest "recovery" as a preferred alternative.

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## Annex – Amendments

### Marine & Coastal Access Bill

House of Lords Committee Stage, February 2009

Clause	Clause 113 – Marine conservation zones
	<p>Page 67, line 34: Replace “may” with “shall”.</p> <p>Page 67, line 34: Leave out “any”.</p> <p>Page 67, line 34: Leave out “area” and insert “areas”.</p> <p>Page 67, line 35: Leave out “zone (an “MCZ”).” and insert “zones (“MCZs”).”</p> <p>Page 67, line 36: Leave out “an order” and insert “orders”.</p>

Clause	Clause 119 – Creation of network of conservation sites
<b>Amendment</b>	<p>Page 71, line 17: Leave out “power” and insert “duty”.</p> <p>Page 71, line 18: Leave out “power” and insert “duty”.</p> <p>Page 71, line 22: Insert after “European marine sites”, “, Ramsar sites and Sites of Special Scientific Interest”</p> <p>Page 71, line 22: Leave out “a network” and insert “an ecologically coherent network”.</p> <p>Page 71, line 25: Leave out “improvement” and insert “recovery”.</p> <p>Page 71, line 30: Leave out “more than one site” and insert “multiple sites, and that the sites are of adequate size and quality.”</p> <p>Page 71, line 31: Insert 2 new subsections to 119(3) as follows:  “d) that the location of designated sites reflects the fact that the conservation of a feature may require that flora and fauna are able to move between protected areas”.  “e) that the network includes highly protected sites.”</p> <p>Page 71, line 35: Leave out “improvement” and insert “recovery”.</p>