

Wildlife & Countryside Link is calling for comprehensive legislation to achieve better protection for marine wildlife and effective management of our seas

Wildlife and
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Marine Bill Bulletin

A Future for Our Seas: Response to the Marine Bill consultation

Bulletin No: 8 Date: 8 September 2006

Wildlife and Countryside Link (Link) is calling for comprehensive legislation to achieve better protection for marine wildlife and effective management of our seas. In June, Link submitted a response to Defra's consultation on a new Marine Bill. This bulletin provides an overview of Link's response to the consultation, including general comments and a summary of each of the five main themes proposed for the Marine Bill:

1. Managing marine fisheries.
2. Planning in the marine area.
3. Licensing marine activities.
4. Improving marine nature conservation.
5. The potential for a new marine management organisation.

The full Link response can be viewed at www.wcl.org.uk/marine_campaign.htm.

General comments on the Marine Bill

The UK's marine environment is extraordinarily rich in wildlife, harbouring many thousands of animal and plant species. But these species, and their habitats, are poorly protected compared to terrestrial wildlife and are under increasing pressure as offshore activities proliferate and climate change disturbs the marine ecosystem.

The Marine Bill is a 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 and management of the many activities which take place in the marine environment.

Broadly speaking, Link believes the five themes proposed for the Marine Bill are the right ones and if all are fully addressed in the final Bill it should be an effective and coherent piece of legislation.

Ecosystem approach

The marine environment is not sustainably managed at present. The need for a new approach is urgent - "business as usual" is not an option. Link would like to see the ecosystem approach enshrined in the Marine Bill as the key to ensuring long-term sustainable use of marine resources.

Sustainable Development

Link has some concerns about the consultation's emphasis on balancing the three pillars of sustainable development. We support sustainable development, but strong nature conservation measures are essential to achieving it - "balance" and trade-offs will not always be possible. Nature conservation should not be seen as the Bill's secondary goal, to be delivered as long as it does not affect development and resource use. Equally, there should not be an assumption that negative impacts on the environment can be balanced against economic and social benefits. The Bill should provide a framework to integrate objectives, and should support truly sustainable development providing win-win solutions.

Link believes that the Bill will be a wasted opportunity if it does not provide a strong marine nature conservation framework.

Biodiversity Duty and enforcement

Link believes all maritime competent authorities should have a statutory duty to further the conservation of marine biodiversity. This would require them to take the conservation needs of biodiversity into account in exercising their functions. Competent authorities should also have a duty to further the conservation objectives of Marine Protected Areas, and Marine Ecosystem Objectives (see below).

Link would like to see a duty to enforce wildlife protection measures placed on the appropriate competent marine authorities, whether they be existing authorities, such as the Royal Navy, the Maritime and Coastguard Agency and the Marine Fisheries Agency, or a new Marine Management Organisation (see below).

Data

We agree with Defra's statement that "*central to the success of many of the UK's policies will be the collection, management and availability of marine data and information.*" (Defra (2006) A Marine Bill: A consultation document). Marine governance must take into account the relative lack of information and understanding about the marine environment and the effects of development

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upon it. Whilst every effort must be made to minimise the burden of data collection, data requirements must be explored, and data access should be managed and facilitated centrally and to common standards.

Devolution

Activities in UK waters are managed through a complex mix of reserved and devolved powers. Together with sister organisations in Scotland, Wales and Northern Ireland, Link believes that an ecosystem-based approach to management requires marine planning to take place at the scale of the UK regional seas, defined according to marine ecosystems rather than political boundaries. Planning according to political boundaries could lead to duplication and contradiction, and produce a greater regulatory burden on industry. Moreover, without a joined-up approach, Link is concerned that there may be an imbalance of human activities, leading to cumulative impacts and loss of biodiversity; for example, there is a risk that the permitted developments will be beyond the ecological carrying capacity of the wider UK seas ecosystem. Therefore, Link's sister organisations are calling on the devolved administrations to co-operate with Defra in the development of the Marine Bill, and to develop parallel devolved legislation to ensure benefits are delivered equally throughout UK seas.

Managing marine fisheries

Link was disappointed to see that the Marine Bill consultation contained little on fisheries. The Government justified this exclusion by referring to the number of specific fisheries consultations in recent years, but Link believes that fisheries considerations need to be reviewed alongside the changes being proposed by the Marine Bill. Therefore, Link is calling for fisheries provisions to be included in any future stages of consultation on the Marine Bill.

In the absence of explicit consultation questions on fisheries Link focused a response on four areas where we believe primary legislation through the Marine Bill is required.

i) Inshore fisheries management reform

A new legislative framework for inshore fisheries is required. This framework must clarify the aims and objectives of Sea Fisheries Committees (SFCs). Link believes that it is only with the repeal of existing outdated

and ineffective Acts and regulations, and their replacement with new legislation, that fisheries managers will be provided with the necessary powers, flexibility and adaptability to deliver true sustainable management of inshore fisheries.

We think that inshore fisheries management should be incorporated into the framework of marine spatial planning (see below) to allow the adoption of an ecosystem-based approach. Thus, SFCs should be involved in the development of any marine spatial plans.

ii) Enforcement

Inshore fisheries managers should be given improved enforcement powers, and better resources, to complement their broader remit. Provisions for the enforcement of any licence conditions will be essential, as will provisions for enforcing other stock conservation and environmental protection measures such as restrictions on fishing seasons, methods and gears, the establishment of low or no-take zones, and management of catch levels. Inshore fisheries managers should also be able to enforce emergency regulations.

iii) Managing recreational fisheries

Link would support the introduction of a licensing scheme for recreational sea anglers, along with measures such as 'bag limits' and powers to charge anglers if necessary.

iv) Charging

Link supports the principle that the fishing industry should be charged for its share of the cost of monitoring, regulatory and enforcement activities.

With regard to the offshore industry, we note that the undesirability of charging UK vessels alone, and issues about affordability in the light of cumulative burdens, may preclude charging at present. However, a charging regime should be initiated at a time when the offshore industry is viewed as "profitable". We acknowledge that this concept raises major issues of acceptability if charging for offshore fishing were not introduced at the same time as charging for inshore fisheries.

Planning in the marine area

Link welcomes the proposed new planning system, which we hope will bring more transparency and

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accountability to the regulation of marine development.

Marine Spatial Planning (MSP) is urgently needed to deliver an ecosystem-based approach to planning activities at sea and to ensure sustainable use of precious marine resources. It is key to improving the planning and management of all activities and has the potential to reduce conflict between different sea users. Additionally, it will help the Government to deliver on international and EU obligations. Link's consultation response emphasised the environmental benefits MSP should deliver, and urged the Government not to lose focus on these benefits in favour of economic and regulatory factors.

MSP must be statutory to ensure that plans are produced and have the necessary weight in the decision-making process. Link believes that decision-makers must be required to act in accordance with plans, unless there are clear justifications for departure. MSP will require strong commitment from across government and stakeholders, and Link agrees with Defra that a new "Marine Management Organisation" will be required to deliver it (see below).

Link supports the proposals for a National Strategic Marine Planning Policy Statement to provide context for regional marine spatial plans. The Strategic Marine Planning Policy Statement will need to contain clear policy guidance, refer to overarching international and national marine policies, and assist in the integration of sectoral policies. We also support the proposals for sectoral marine planning policy statements, particularly since some marine industries do not have established policy documents.

As MSP is such a new proposal, we believe the possibility for adaptive management must be built-in to allow aspects of plans to change over time in response to improvements of our knowledge and the dynamic nature of the marine environment: the "learn by doing" approach.

Licensing marine activities

Link welcomes the opportunity the Marine Bill provides to introduce a new, integrated licensing regime for marine industries in UK waters and at the coast. We consider it essential that marine licensing should operate within the context of a marine spatial planning system.

A new regime would present an excellent opportunity to improve regulation in the marine environment, addressing the shortcomings of current systems and improving transparency, clarity and consistency in the way the range of marine industries are regulated. We are concerned that the proposed integrated option excludes oil and gas related licensing. A truly integrated approach should cover all areas, including oil and gas and renewables, and any future activities (e.g. Carbon Capture and Storage). While we understand the Government's commitment to energy security, we cannot see how the integration of oil and gas regulation into a new regime would jeopardise this, and therefore do not believe it is justified to rule it out at this stage. Link would argue strongly against a purely sectoral approach to marine licensing, which we fear would undermine the integration MSP should move us towards.

Finally, Link believes that securing protection of the marine environment must be a core objective of any marine licensing regime.

Improving marine nature conservation

Marine ecosystem objectives

Link welcomes the development of thinking on Marine Ecosystem Objectives (MEOs) and the undertaking in "*Safeguarding Sea Life*" (Defra 2005) to integrate consideration of MEOs into marine management processes. Whilst we recognise the role of people within marine ecosystems, it is essential that MEOs should relate specifically to the state of marine ecosystems (including species, habitats and processes), reflecting that healthy marine ecosystems underpin a wide range of goods and services. This should be reflected in the relationship between MEOs and socio-economic objectives. MEOs should also focus effort on improving the condition of marine ecosystems, rather than simply maintaining them in their current state.

We also stress that MEOs are not a substitute for measures to manage activities directly. They have a role in steering and focusing management effort, but the Marine Bill should also introduce relevant tools, including Marine Protected Areas, and measures to protect biodiversity in the wider sea, which will be necessary to deliver MEOs.

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Marine Protected Areas

We welcome proposals for the designation and protection of Marine Protected Areas (MPAs), and call for a representative network of Nationally Important Marine Sites (NIMSSs) which must include a suite of Highly Protected Marine Reserves (HPMRs). These are pre-requisites for the sustainable management of the UK's marine environment and will also be an essential contribution to the delivery of UK commitments on MPAs under the OSPAR Convention and the World Summit on Sustainable Development.

Link advocates a gradual, progressive and adaptive approach to the building of the protected area network, responding to new information and new understanding of marine ecosystem functioning and network design. The Bill must provide for the designation of new protected areas but must not prescribe limits.

The new MPA mechanism should be statutory rather than voluntary, and the primary purpose of these sites should be to support the recovery and conservation of biodiversity and ecosystem processes.

Link believes that the Statutory Nature Conservation Organisations (SNCOs) will need new duties and powers for the identification, designation and effective management of MPAs. Link also believes that the SNCOs must retain their independent nature conservation advisory role in relation to all aspects of marine management.

Link will consider the Marine Bill to have failed if it does not provide a mechanism for delivering effectively-managed MPAs for biodiversity conservation and recovery.

Species protection measures

Link welcomed Defra's stated commitment to protecting marine species that are vulnerable to human impacts. We look to the Marine Bill to introduce wide-ranging measures to support the protection, conservation and recovery of biodiversity, throughout waters where the UK has jurisdiction and responsibility and we believe that species protection measures are an essential part of the toolkit. The current 12nm limit of the species protection provisions in the Wildlife and Countryside Act means nothing to marine wildlife, and it (or similar new legislation) should be extended to the limit of

UK jurisdiction (noting that the devolved administrations have responsibility for nature conservation to 12nm). While we recognise that there are limited resources to enforce more extensive legislation at sea, we believe the Marine Bill should provide the opportunity to prosecute individuals who intentionally or negligently impact upon protected species anywhere in UK seas.

The potential for a new Marine Management Organisation (MMO)

Link believes a new body (the MMO) will be required to deliver MSP and a new, integrated licensing regime. The MMO should have a duty to implement ecosystem-based management to achieve sustainable development and use of marine resources. It must have enough power to facilitate cross-departmental working in government in relation to MSP, as well as bringing marine stakeholders to the table. It must also have clear lines of responsibility to government, so that disputed decisions (relating to MSP or licence applications) can be resolved at a higher level where necessary.

Closing remarks

Link welcomes the Government's commitment to a Marine Bill. We hope it will be followed, as soon as possible, by a full Bill before Parliament. We recognise that discussion by stakeholders on such a wide-ranging Bill is important, but consultation on what is needed from marine legislation has been ongoing for many years, and we hope it is now nearing its conclusion.

We believe that the Bill will be a wasted opportunity if it does not provide for a strong marine nature conservation framework, which we consider key to ensuring the long term sustainable use of our marine resources.

The UK's seas need better protection and management now. Link will continue to press to ensure that our common objectives are achieved, and that the UK's forgotten underwater wildernesses are finally afforded the protection they deserve, and so desperately need.

For more information on Link's marine campaign please log on to our website www.wcl.org.uk/marine_campaign.htm or contact Link on 020 7820 8600 or enquiry@wcl.org.uk