

Marine Strategy Part Three: UK Programme of Measures

ELUK response - November 2021

EXECUTIVE SUMMARY

Introduction

Wildlife and Countryside Link, Scottish Environment LINK, Wales Environment Link and the Northern Ireland Marine Task Force are voluntary coalitions of environmental organisations working together as Environment Links UK (ELUK) to achieve better protection for marine wildlife and effective management of all UK seas.

Together, we welcome the opportunity to respond to the programme of measures (PoM) consultation, having responded to the preceding 2015 consultation stating that “existing measures are not sufficient to achieve Good Environmental Status (GES)”¹. Our assessment was borne out when the 2019 evaluation found that just 4 out of 15 indicators for healthy seas had been achieved. We urge the UK Governments to avoid another round of the marine strategy process in which insufficient action leads to a repeated failure to achieve GES.

Our judgment on the current programme of measures is that it is again insufficient to achieve GES in the UK’s seas and the current consultation must lead to a strengthening of the strategy. Indeed, in line with UK Government consultation principles that departments must consult “when the development of the policies or plans is at a formative stage”², we hope that suggestions included in this response help ensure that the final PoM sets a credible path towards achieving GES. Furthermore, we welcome the opportunities provided as part of this consultation to look afresh at the scope and delivery of the strategy to improve implementation in forthcoming cycles. We urge that this engagement be the start of a collaborative and inclusive programme that seeks to interrogate and build upon views received from across the UK.

The state of our seas

The UK Government has stated a welcome intention to ground environmental policy in evidence, engaging in the course of action which is best supported by the facts. Taking this into account, all action at sea should be underpinned by a recognition that:

- **The current MPA network is failing to deliver the necessary protections for marine life.** An analysis of the JNCC’s MPA listings found that, of the 73 UK MPAs which are entirely or partially in offshore UK waters, only 5 ‘may be’ moving towards

¹<https://www.wcl.org.uk/docs/Joint%20Links%20MSFD%20POM%20consultation%20response%20April%202015.pdf>

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles_1_.pdf

or achieving their conservation targets.³ In addition, a Joint Nature Conservation Committee (JNCC) assessment of the UK network using OSPAR criteria found that management measures had only been fully implemented in 10% of sites.⁴

- **Our seas are unsustainably fished, affecting ocean health and the fisheries sector itself.** Professor Callum Roberts, a panel member for the Government's Benyon Review, found that "in 1889, more than twice as many bottom fish (cod, haddock, plaice, and the like) were caught in British waters compared to today" despite "a fleet that in the 1880s consisted mostly of sail-powered boats open to the elements".⁵ He notes that overexploitation of stocks means "today's fleet has to work seventeen times harder for the same catch as fishermen in the 1880s". In addition, a recent IPBES report concluded that "in marine systems, fishing has had the most impact on biodiversity (target species, non-target species and habitats) in the past 50 years alongside other significant drivers"⁶.
- **Our seas are polluted by sewage, noise, litter and chemicals.** There has been a public outcry about the lack of Government action to tackle sewage discharges into our rivers and seas. In addition to this pollution making our waters unsafe for humans, chemicals continue to threaten the very existence of some species. A recent autopsy of a UK killer whale found it had accumulated 950mg/kg of polychlorinated biphenyls (PCBs) in its blubber – more than 100 times the 9mg/kg limit considered as safe.⁷

The UKMS process

The Marine Strategy should provide a coherent plan of action to tackle threats to marine life, specifically those identified as impacting negatively on descriptors and indicators within the strategy itself. Following the UK's departure from the EU this is an opportunity for the UK Government to demonstrate the level of ambition promised for the environment post-Brexit.⁸

The Government should set out a PoM which shows international leadership, providing responses to the pressures and impacts of human activities on the sea while protecting marine biodiversity, habitats, and the ecosystems they sustain.

The UKMS process remains an important legal framework for establishing the level of ambition of marine policy (to achieve Good Environmental Status) and the actions needed to achieve that ambition (the Programme of Measures). Now, however, the framework exists only as EU retained law. We note the Government's intention to "amend, replace, or repeal all that retained EU law that is not right for the UK".⁹ The status of the regulations, and the expectation of amendment, risk creating uncertainty about the need for environmental improvement among communities and industry. We would welcome clear reassurances and

³ This is based on the condition of the protected features at the time of initial vulnerability assessments or initial site condition monitoring <https://www.greenpeace.org.uk/wp-content/uploads/2020/09/Bright-Blue-Seas-Greenpeacereport.pdf>

⁴ https://www.wcl.org.uk/docs/assets/uploads/WCL_30x30_in_the_Marine_Environment.pdf

⁵ <https://www.penguin.co.uk/books/179580/ocean-of-life/9781846143953.html>

⁶ IPBES (Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services) https://ipbes.net/sites/default/files/downloads/spm_unedited_advance_for_posting_htn.pdf

⁷ <https://www.orcaweb.org.uk/our-work-orca-news/item/killer-whales-under-threat-from-persistent-pcb-chemicals-yet-emissions-continue>

⁸ <https://www.gov.uk/government/speeches/green-brexit-a-new-era-for-farming-fishing-and-the-environment>

⁹ <https://www.gov.uk/government/speeches/lord-frost-statement-to-the-house-of-lords-16-september-2021>

commitments to non-regression within the scope of the UKMS to ensure that confidence in the strategy is maintained.

A fundamental problem with the proposed PoM is the reliance on the Fisheries Act 2020. The current consultation contains 70 references to the act, demonstrating the importance of this legislation towards achieving GES. Yet the Fisheries Act contains no clear legal obligation to limit catch quotas to sustainable levels, a regression from the EU's Common Fisheries Policy (CFP) aim of setting catch limits in line with Maximum Sustainable Yield (MSY) to a set timeframe.¹⁰ The programme of measures expresses confidence in the Act's ability to achieve healthy fish populations (3.4.4), but goes on immediately to describe why exceptions are likely to be needed. Additional measures should be included to provide reassurance that catch limits will be set at sustainable levels, notwithstanding the need for international cooperation.

In addition, the Joint Fisheries Statement, which will set out how the four nations of the UK meet objectives, is itself another policy framework document, rather than specific measures designed to bring about descriptor GES, and can be disregarded in a wide range of circumstances.

The PoM also suffers from funding constraints, having been developed on the current, insufficient, funding envelope for marine policy.¹¹ This process is entirely back to front; the measures required to achieve GES should be first outlined, with funding then put in place to deliver the programme necessary to achieve change for UK seas. Adequate resourcing of the devolved agencies, IFCA's and the MMO is particularly vital for the successful implementation of MPA measures which would benefit many of the descriptors.

The timelines for the implementation of many of the proposed measures are insufficiently aligned to the goal of meeting GES by 2024. On marine litter, for example, a Deposit Return Scheme is a proposed measure yet is not scheduled to be implemented until 2024 at the earliest in England¹²¹³¹⁴. In addition, while Highly Protected Marine Areas (HPMAs) are identified as helping "contribute to GES", English pilot sites will only be designated in 2022, with no timeline for expanding the programme beyond the circa 5 sites proposed for this first stage. It is therefore highly unlikely they will deliver a meaningful impact on GES by 2024. We welcome the recent Scottish Government commitment to delivering a suite of HPMAs by 2024 in Scottish waters, representing inshore and offshore habitats and including consideration of blue carbon habitats, and to contribute to recovery of our seas.

¹⁰ <https://greenallianceblog.org.uk/2020/11/23/despite-new-government-powers-to-recover-the-oceans-still-nothing-is-guaranteed/>

¹¹ Wildlife and Countryside Link's Comprehensive Spending Review submission called for tens of millions of pounds in increased investment in marine management, monitoring, enforcement and enhancing and restoring coastal and marine habitats, see <https://www.wcl.org.uk/docs/BRIEFING%20-%20A%20CSR%20for%20Nature%20and%20People%2030.09.21.pdf>

¹² <https://www.sas.org.uk/news/breaking-news-deposit-return-scheme-delayed-until-2024/>

¹³ The Scottish Government is currently committed to the introduction of a DRS in 2022, showing a welcome level of ambition on reducing terrestrial sources of waste.

¹⁴ This also relates to our concerns with the exception applied for under marine litter citing the time it will take for measures to effect change. Improvements can be seen quickly following policy interventions, such as the reduction in carrier bags being found on beaches following the carrier bag charge, yet the Government is acting too slowly.

The strategy would also be strengthened by having greater regard for blue carbon.¹⁵ While this is currently viewed as being outside the scope of the strategy, many descriptors could incorporate blue carbon elements. Measures for blue carbon habitat creation, restoration and protection would deliver climate mitigation and adaptation benefits that could help contribute to meeting GES across multiple descriptors. For example, measures to protect, create and restore saltmarsh and seagrass for carbon storage would also tackle water quality issues and provide valuable habitat for fish nurseries with the potential to contribute to GES for benthic habitats, eutrophication and fish/commercial fish descriptors. As such, blue carbon could be integrated as part of the existing mechanisms.

We are concerned at the very limited reference to the particular challenges raised by climate change on achieving GES. In particular there is no consideration of tackling the impact of acidification and warming seas, with the added risk of rising sea levels and the increased possibility of non-indigenous species gaining a foothold. Opportunities for adaptation and mitigation must be considered for this unprecedented threat, with specific measures identified (including those that will help tackle climate change) if GES is to be delivered.

Programme of Measures

Utilising the expertise across the ELUK network and the practical knowledge from organisations engaged in active conservation work, we have identified areas where the strategy must be strengthened, these are outlined in much greater detail in the main body of our consultation response:

Cross-cutting measures

Remote Electronic Monitoring (REM) with cameras is a tool that would help evidence and underpin sustainable practices and benefit numerous descriptors, however, despite some progress in Scotland and Defra's call for evidence closing in November 2020, there is still limited action, with the strategy noting only that "UK Administrations are considering...Remote Electronic Monitoring (REM) on vessels where appropriate"¹⁶.

We understand that Defra are considering how **funding for fisheries** can achieve the goals for the UKMS which is welcome. However, without a legally binding commitment to set fishing limits sustainably, there is a risk that GES for fish will not be achieved or maintained. To achieve GES for commercial fish we must have legally binding commitments to set fishing pressure within ecological limits. And across the UK, urgent action is needed to protect offshore protected areas from damaging fishing practices, beginning with the 4 sites already consulted upon in the English offshore area.¹⁷

The Secretary of State or relevant fisheries authorities should set **fishing limits** below Maximum Sustainable Yield (MSY) and should deliver clear sustainability criteria in relation to fisheries negotiations with the EU and other countries. Fisheries Management Plans

¹⁵ This is particularly urgent given the agreement at COP26 to hold an annual dialogue (starting in June 2022) to "strengthen ocean-based action and to prepare an informal summary report thereon and make it available to the COP".

¹⁶ https://consult.defra.gov.uk/uk-marine-strategy-programme-of-measures-3/uk-marine-strategy-part-3/supporting_documents/UKMS3%20Consultation%20Document.pdf

¹⁷ <https://www.bbc.co.uk/news/science-environment-55894608>

(FMPs) should be introduced for all commercially exploited stocks including stocks that fall below sustainable levels, as well as any other stocks that the relevant authority considers appropriate. We also would welcome clear timeframes for when an FMP must deliver recovery of a stock. Financial assistance should focus on the restoration of marine habitats, effective monitoring and data collection and harnessing innovative technologies to help fishers transition towards using less damaging gear.

England **Biodiversity Net Gain** projects must be secured in perpetuity, deliver benefits for the habitats impacted at sea, and be additional to existing Government commitments. This would have benefits across all descriptors.

Descriptor-specific responses

Cetaceans, Seals (D1, D4):

- The UK Bycatch Mitigation Initiative requires significant improvements in terms of detail, ambition and delivery. Action on gear and closures is needed to achieve legal requirements.
- Management measures that effectively address threats are required for all cetacean MPAs and SACs, as well as new designations for a number of species.

Seals (D1, D4):

- Proactive management and conservation measures to address general population decline, long-term disease issues and regional declines are essential to achieve GES.

Birds (D1, D4):

- Breeding seabirds have not achieved GES (concerningly they are moving away from the target) and the Seabird Conservation Strategies must lead to action as soon as possible. The PoM should include a commitment to funding the detailed actions resulting from the strategies.

Non-Indigenous Species (D2):

- A stronger, more strategic, and adequately resourced approach to biosecurity is needed in order to effectively manage and prevent invasive non-native species. The invasive species biosecurity budget should be tripled to £3 million and a further £3 million should also be provided to form a dedicated invasive species inspectorate.
- The consultation document acknowledges that the UK expects to accede to the Ballast Water Management Convention and introduce domestic legislation in 2022. The convention must be ratified.
- Biosecurity measures should be included within the Seabird Conservation Strategies. Defra and the devolved administrations must deliver the strategic development and resourcing of a UK-wide seabird island biosecurity programme, this is critical for achieving GES of seabird features on island SPAs.

Fish (D1,D3, D4):

- Fisheries Management Plans (FMPs) should be introduced for all commercially exploited stocks with priority given to depleted and data deficient stocks. FMPs

should include harvest control rules, conservation measures, and state clear timelines, with interim targets, for the stock recovery.

- Robust monitoring and enforcement must be underpinned by accurate scientific data. Utilising the advances in Remote Electronic Monitoring (REM) with cameras to achieve full and objectively verifiable documentation of catches, including catch certificates for all vessels fishing in the UK EEZ.
- Financial assistance is needed to modernise the fishing industry towards sustainable fishing. Focussing on better monitoring and data collection and harnessing innovative technologies to help fishers transition towards less damaging gear and increased species selectivities.

Benthic Habitats (D1, D6):

- The UK Government must announce the outcomes of the recent consultation on the protection of the four sites in English offshore waters from bottom trawling gear and move at pace to deliver effective protections in the remaining 36.

Contaminants (D8):

- Additional measures are urgently needed, including an effective monitoring and alert system for emerging contaminants to limit the need for future remediation. There are also insufficient measures proposed to address highly persistent chemicals.

Marine litter (D10):

- Defra must commit to implementing, as a minimum, the equivalent bans on single-use throw away items as those included under the EU Single Use Plastic Directive.
- PAS for pellet handling must be mandatory in all operations utilising plastic pellets.
- New monitoring regimes for macro and microplastics should be established for all pathways and sinks, including terrestrial, freshwater and sediments.

Underwater noise (D11):

- The UK should set target levels for reductions in underwater noise based on monitoring schemes and threshold values for likely impacts.
- Sound limits should be placed on all impulsive noise generating activities so that impacts on sensitive species are minimised. In particular, harbour porpoise SACs should be protected from activities generating impulsive noise.
- The Ministry of Defence should take effective measures to reduce the impacts of its activities in offshore exercise areas.

Conclusions

Given the concerns with the current PoM and the policy options available, we therefore believe that in order to achieve GES, the UK and devolved Governments need to:

- Fully implement existing measures outlined in the consultation, recognising that there is still some time before all existing commitments will be fully developed and implemented.
- Acknowledge that for some descriptors, existing measures are not sufficient to achieve GES and additional measures are needed by UK and devolved Governments if we are to achieve our statutory requirements.

- Review and strengthen the current strategy process, given continued failures to achieve GES and the context of both the UK's departure from the EU and the EU's own intention to review the MSFD by 2023¹⁸.
- The strategy should also be revised as a new 'Ocean Recovery Strategy' running up to 2030 (with ambitious interim targets and policy programmes to move the policy regime to a state of recovery). Such a revision should lay out a clear path to delivering the 2030 State of Nature target, and ensure that at least 30% of UK oceans are fully or highly protected by 2030 (30x30).
- The strategy process should include a comprehensive impact assessment of the measures, quantifying the expected contribution of measures towards achieving GES over the cycle. At present, it is not possible to adequately determine which measures are driving the greatest improvements in our seas, whether the benefits of certain measures have been over/underestimated, or whether the combined measures are delivering a trajectory towards achieving GES for a descriptor.

Given the clear challenges to marine biodiversity referred to above, it is evident that the current approach is not sufficient to achieve GES. We are seriously concerned by the lack of new measures proposed for inclusion in the PoM and additional measures must be incorporated to support the achievement of GES by 2024.

DESCRIPTORS

3.1 - Cetaceans (D1, D4)

1) Are the proposed measures sufficient to achieve and maintain Good Environmental Status (GES)?

Although it has yet to be finalised and implemented, the Dolphin and Porpoise Conservation Strategy is a welcome policy addition since the 2015 PoM. However, while there are positives in the strategy, the current draft does not fully account for the biodiversity and climate crisis and as a result, lacks urgency and ambition, relying too much on research and not enough on management actions. The Strategy doesn't include all cetacean species, despite all cetaceans being offered strict protection. The Strategy should not be seen as a replacement for site-based management of MPAs.

Bycatch and entanglements remain a major threat to cetaceans in UK waters, with welfare implications and potential population level impacts for at least Celtic Sea harbour porpoises, bottlenose dolphins in the southwest and humpback whales in Scottish waters. The UK Bycatch Mitigation Initiative, currently in draft form, lists mitigation measures to reduce bycatch that need to be implemented as soon as possible, with robust independent monitoring and binding timelines to ensure actions are timely and effective.

¹⁸ https://ec.europa.eu/environment/marine/eu-coast-and-marine-policy/marine-strategy-framework-directive/index_en.htm

There is nothing in the current or previous PoM to tackle the serious issue of chemical pollutants and the high levels of PCBs and other contaminants in UK cetaceans. The west coast orca population will be lost due to chemical burdens in the coming decade or two and we have already lost orcas from the North Sea. Harbour porpoise, bottlenose dolphin and other species also have high chemical burdens that impact their daily lives and make them more vulnerable to other human pressures.

Baseline cetacean monitoring must be improved to enable us to understand trends in populations and to assess impacts in a meaningful way. Acoustic monitoring is an important component of baseline cetacean monitoring, including the MarPAMM project. Although this is an important project for improving evidence, it is only operating in NI and a relatively small area of Scottish waters. The geographic scope is small in terms of all UK waters where this type of research is badly needed. Indeed, as well as a general requirement to improve levels of monitoring, monitoring is needed in other data poor areas, including the species-rich Northern Isles and offshore Atlantic waters, where beaked whales and other deep diving species are vulnerable to noise pollution.

Voluntary codes of conduct are not sufficient to monitor and enforce compliance with legislation to protect cetaceans from disturbance. Licensing of commercial wildlife watching operations is required to maintain an overview of numbers of operators and potential hotspots, and should include conditions for monitoring and a requirement for WiSe training. Further measures required to document and prevent disturbance have been identified in WCL's annual Wildlife Crime reports.¹⁹

We welcome the designation of UK SACs for harbour porpoise and Scottish MPAs for minke whale and Risso's dolphin since the 2015 POMs. However, the majority of these MPAs, along with existing bottlenose dolphin SACs, are currently 'paper parks', requiring up to date and robust management plans and measures in place to protect cetaceans from individual and cumulative impacts associated with human activities that may cause harm.

There are severe inconsistencies in the various guidance documents on injury and disturbance to European Protected Species (EPS, Scottish inshore waters only), harbour porpoise (in English, Welsh and Northern Irish SACs only) and marine mammals from noise. They do not take cumulative impacts into account, do not consider individuals of an EPS, but rather focus on areas, and some set spatial thresholds. Spatial thresholds are not applicable, as it is not the area involved that is key to maintaining GES of individuals / populations; it is the quality of the areas involved that is vital to individuals and populations. Arbitrary percentage areas are not ecologically defensible.

The PoM includes the work of Wild Seas Wales, a voluntary consortium of groups focused on sustainable marine recreation. Due to a lack of resources and recent funding – as well as confusion over who bears responsibility for keeping up its work (likely Natural Resources Wales but this is unclear) it has recently done very little.²⁰ Other poorly resourced partnerships, such as the Marine Protected Area Management Steering Group within the Welsh Government (made up of public sector partners) also suffer from this issue. Without full

¹⁹ See https://www.wcl.org.uk/docs/Link_Annual_Wildlife_Crime_Report_06.11.20.pdf

²⁰ Wild Sea Wales is also mentioned as a PoM for Seals where the same concerns are relevant

stakeholder involvement, engagement, transparency, and crucially adequate resources to implement products like the MPA Network Management: Action Plan, it still will not result in any marine restoration. In summary, whilst Wild Seas Wales is a welcome project, it was and will not be a suitable vehicle alone to kickstart ocean recovery in Welsh seas. We need sustainable and long term funded initiatives, with all relevant parties involved, that are enabled to take decisive action that can make a difference to our progress towards GES.

2) If not, what measures are needed? Please provide details and evidence to show how these would contribute towards the achievement or maintenance of the environmental targets as set out in the 2019 update to the UK Marine Strategy Part One.

A solutions-based approach is needed to tackle cetacean bycatch and entanglements, where we identify monitoring and bycatch prevention objectives/goals and detailed timelines. We know which fisheries and areas are the most problematic for different species, so we need to put scientifically robust measures in place to act. Further measures to address the bycatch of cetaceans should include gear limitations, alternative gears, closed areas or closed seasons to enable achievement of legal requirements. Unfortunately, the draft plan does not currently deliver.

The UK Fisheries Act Ecosystem Objective outlines that 'bycatch of sensitive species is minimised and, where possible, eliminated'. Urgent and effective action is now needed to tackle bycatch in high-risk fisheries as a priority, and to improve at-sea monitoring of fishing activity and support delivery of action through targeted programmes of work to address sensitive species bycatch across UK fisheries. The general policy and legislative commitments outlined in the draft Bycatch Mitigation Initiative (BMI) demonstrate that effective action should have already been taken to address sensitive species bycatch and therefore, it is essential that any new initiatives are significantly more ambitious than existing programmes.

Actions that are unaccountable, not time bound and are voluntary will not translate into implementation or deliver reductions in bycatch. Effort is needed to set SMART targets to minimise and where possible eliminate bycatch, improve data collection (coverage and transparency), test, roll out and mandate use of mitigation measures, resource the necessary actions and ensure there are clear stakeholder involvement frameworks.

Efforts to prevent the high levels of PCBs and other contaminants entering the marine environment and subsequently accumulating in UK cetaceans are also urgently needed.

In addition, the measures that ELUK proposed in 2015 remain relevant²¹, particularly with regard to noise pollution, where stronger targets for noise reduction, exclusion and buffer zones and noise mitigation are required. Licensing of commercial wildlife watching operations is also necessary, and a clear education programme for recreational water users, with sufficient funding to support the roll out of both.

²¹ <https://www.wcl.org.uk/docs/Joint%20Links%20MSFD%20POM%20consultation%20response%20April%202015.pdf>

Management measures that effectively address threats are required for all cetacean MPAs and SACs, including new harbour porpoise SACs, minke whale and Risso's dolphin MPAs and existing bottlenose dolphin SACs.

3) Are there any additional existing or planned measures not identified that might also contribute to the achievement of the relevant environmental targets and the achievement or maintenance of GES?

As mentioned above, there is nothing in the current or previous PoM to tackle the serious issue of chemical pollutants and the high levels of PCBs and other contaminants in UK cetaceans. Our recommendations for tackling this issue are set out in the 'contaminants' section below.

ELUK members currently carry out much of the science and monitoring activities and are well equipped to deliver monitoring projects and research in UK waters. However, much of the evidence already being generated by NGO's has not been referenced in the PoM. For example, there is no mention of the Scottish Entanglement Alliance which is providing important information on the extent of entanglement in Scottish waters²² and information on the densities and population demographics generated from long-term monitoring conducted by NGO's in UK waters.

3.2 - Seals (D1, D4)

1) Are the proposed measures sufficient to achieve and maintain Good Environmental Status (GES)?

The proposed new measures are not sufficient to achieve GES for this descriptor. As stated previously in our response to the Marine Strategy Part One consultation, we believe the current population health and status of harbour seals in the UK to be in a worse condition than is indicated by the initial 2019 assessment²³. Therefore, a significantly more robust and targeted suite of measures are needed to address the underlying causes of seal population decline in parts of the UK. These declines include significant harbour seal reductions in Orkney, Sanday and the Firth of Tay since the 1990s of 85%, 95% and 95% respectively²⁴. In addition, the 2019 count in the South-East England Seal Management Unit (SMU) was 27.6% lower than the mean of the previous 5 years²⁵.

At the very least, new measures must address the reasons for which GES has not been achieved, as identified by the Marine Strategy itself²⁶. Unfortunately, this is not the case for the proposed new measures outlined in the current consultation document. There is also no

²² MacIennan et al., 2019; 2020; 2021

²³ [Environment Links UK \(ELUK\) response to the Marine Strategy Part One: UK Updated Assessment and Good Environment Status – pages 4 & 5](#)

²⁴ <http://www.smru.st-andrews.ac.uk/files/2021/06/SCOS-2020.pdf>

²⁵ <http://www.smru.st-andrews.ac.uk/scos/scos-data/august-seal-counts/august-seal-counts-england/>

²⁶ (i) unclear evidence as to the cause of the decline of harbour seals along Scottish coast, (ii) exposure to toxins from harmful algae (iii) interactions with grey seals, (iv) predation from other marine mammals (v) lack of understanding of life history parameters for harbour seals (survival and birth rates) (vi) lack of seal post mortems being carried out, and lastly (vii) lack of expansion of BMP to cover more of the fisheries and regions identified as high risk

indication that steps to address knowledge gaps outlined in the Marine Strategy Part Two have been progressed or used to inform the development of the proposed new measures. Furthermore, it is unclear how the proposed new measures directly relate to the associated criteria and targets for that descriptor identified in the Marine Strategy²⁷ which, taken together, run the risk of again missing the targets and overarching goal of GES for this descriptor.

While ELUK welcome the inclusion of overarching Sustainability and Ecosystem objectives in the Fisheries Act (2020) including the aim to ‘*to minimise, and where possible, eliminate the incidental bycatch of sensitive species*’, it is unclear how such high level legislation will translate into specific and beneficial action to tackle high levels of seal bycatch and, in particular, seal population declines, within the timeframes needed to achieve GES by the next assessment cycle (our concerns over inaction on bycatch are outlined in more detail in the previous descriptor). The Joint Fisheries Statement is yet to be published, and the UK has failed to achieve GES for both grey and harbour seals despite having over 10 years to implement the appropriate measures to realise that aim. It is clear that proactive management and conservation measures, rather than additional high level targets, are what is needed to address population level decline and achieve GES for seals.

Seal rehabilitation programmes and seal disturbance awareness campaigns are critical to the successful conservation of grey and harbour seal populations, and represent an important subsection of measures which are needed on an ongoing basis, whether GES has been achieved previously or not. However, there is now a body of evidence which indicates that voluntary codes of conduct do not always deliver their desired outcomes^{28,29}. Therefore, it is essential that proactive and strategic measures and legislation are needed at regional and UK levels with associated coordination, funding and governmental support, to ensure GES for harbour seals is achieved and maintained for grey seals.

2) If not, what measures are needed? Please provide details and evidence to show how these would contribute towards the achievement or maintenance of the environmental targets as set out in the 2019 update to the UK Marine Strategy Part One.

Proactive and targeted measures are needed at regional and UK levels with associated coordination, funding and governmental support, to ensure GES for harbour seals is achieved and maintained for grey seals.

Comprehensive and UK wide abundance, distribution and bycatch monitoring is needed, as well as a UK wide stranding recording and post-mortem initiative, all of which would inform the development of further new action-based conservation measures for this descriptor. More specifically, new measures should include the following:

²⁷ (i) *The long-term viability of seal populations is not threatened by incidental bycatch*, (ii) *Population abundance and distribution are consistent with favourable conservation status*, (iii) *Grey seal pup production does not decline substantially in the short or long-term*

²⁸ Inman, A., Brooker, E., Dolman, S., McCann, R. and Wilson, A.M.W., 2016. The use of marine wildlife-watching codes and their role in managing activities within marine protected areas in Scotland. *Ocean & coastal management*, 132, pp.132-142.

²⁹ Prior, S (2011) Investigating the use of voluntary marine management in the protection of UK marine biodiversity. Report to Wales Environment Link

- The Cetacean Stranding Investigation Programme (CSIP) must be expanded to include all of the UK including Northern Ireland, to assist with determining the cause of national, regional and local declines. This must also include post mortems of stranded individuals throughout the UK.
- The creation of UK wide programme to proactively address seal bycatch is needed and options such as gear alterations or limitations, closed areas or closed seasons should be considered, especially in high seal fishery interaction areas such as in ICES subarea VII where bycatch totals have been estimated to be high in previous assessments³⁰. Measures to eliminate ghost litter should also be considered, such as recycling schemes to allow fishermen to dispose of unwanted gear in harbour.
- The rollout of UK wide Remote Electronic Monitoring with cameras on fishing vessels would assist in delivering more comprehensive monitoring of bycatch of seals as well as other species.
- Causes of low and variable pup production, long-term disease issues and declines in harbour seal populations in Eastern England should also be further investigated in local breeding populations across the UK.
- MPA designations and effective management for seals in important foraging habitats in offshore waters.

5) Are there any significant human activity-related pressures and associated impacts that are not addressed by the proposed measures?

We believe that the scope of new measures is insufficient to deliver GES for both grey and harbour seals. Issues such as the on-going management of seals at fish farms, depleted food stocks and disease are not addressed, while new measures to address existing shortcomings are underwhelming.

3.3 – Birds (D1, D4)

1) Are the proposed measures sufficient to achieve and maintain Good Environmental Status (GES)?

2) If not, what measures are needed? Please provide details and evidence to show how these would contribute towards the achievement or maintenance of the environmental targets as set out in the 2019 update to the UK Marine Strategy Part One.

We don't believe the proposed measures outlined are sufficient to achieve and maintain GES for birds. Many of the measures included are too high level, are frameworks rather than measures (seabird conservation strategies, bycatch mitigation initiative, OWEAP and OWEC) and fail to provide the detail required for delivery or are yet to be complete; *'A number of the measures referred to in this consultation document are still in the process of being developed so it should be seen as a snapshot in time. Further updates on these*

³⁰ <https://www.ices.dk/sites/pub/Publication%20Reports/Advice/2019/2019/byc.eu.pdf>

measures will be provided in the final published Part Three. As such our response relates to what is presented before us, with the anticipation to help shape future development.

This is highly concerning when covering such a broad range of initiatives that achieving GES is dependent upon, including seabird conservation strategies, UK Fisheries Act, Bycatch Mitigation Initiative and the OWEA project. It is our view that without identification, implementation and funding for robust actions within these mechanisms, they cannot be relied upon as measures in themselves.

Broad frameworks

There has been some welcome initiative in the broad framework for seabirds, however, much is still to do. Firstly, we greatly welcome the commitment to the development of National Seabird Conservation Strategies across the four administrations. However, as there are so few other measures proposed or being undertaken already for seabirds, it is essential that these strategies lead to tangible action as soon as possible if we are to meet proposed targets for GES. It is vital the Programme of Measures includes commitments to funding detailed action plans resulting from the strategies, including those designed to address species declines and additional actions to enhance the resilience of all seabirds in the face of a changing environment, both at the breeding colonies and at sea.

Another major development has been around fisheries management. The framework presented within the Fisheries Act is positive, but there remains no legally binding duty on public authorities to achieve the objectives within a specific timeframe. The Act has yet to deliver the policies required to tackle pressures from fishing activity that directly affect seabirds (notably, bycatch and prey availability (such as sandeel, sprat and herring)). To be transformative and grasp the opportunity ahead of us we need to ensure the Joint Fisheries Statement (JFS) and Fisheries Management Plans (FMPs) are ambitious, implemented well and appropriately resourced to ensure effective delivery to address the pressure fishing activity contributes to the nature and climate emergency. In the case of seabirds, the priorities must be addressing the pressure fishing activity adds to the lack of seabird prey by introducing stronger regulation of industrial sandeel fisheries, tackling bycatch and improving monitoring of fishing activity through the use of Remote Electronic Monitoring (REM) with cameras.

We urge governments to take a holistic approach to fisheries management to minimise the wider impacts on the marine environment, while driving the rapid recovery of depleted stocks, particularly those that are critical in marine food webs. Focus must be given towards rapid recovery of depleted stocks and outlining clear and coherent proposals for recovery of stocks as key to supporting seabird survival. We recognise the need for a phased approach to delivery, but emphasis must be given to stocks in the greatest need rather than quick wins, including sandeel, sprat and herring, all key species to seabird survival.

Specific and existing policies and programmes

Regarding the specifics of the PoM, there are still some major gaps needing to be addressed if GES for birds is to be achieved.

Firstly, the MPA network and its management still falls short of its ambition. The Governments' 2030 goals for the marine environment necessitate action to deliver meaningful protection and recovery. At present management measures have only been fully implemented in 10% of marine sites, and only 13% of sites have full monitoring in place. The Marine Protected Areas Management and Monitoring (MarPAMM) project is a welcome initiative in this sense. However, simply producing a management plan, or a suite of management plans, does not automatically mean GES has been achieved. Management plans must be shown to be effective in meeting the conservation objectives of the sites they are intended to support, and enforcement mechanisms must be in place to secure compliance with those regulations where required.

Furthermore, UK countries need to follow the Scottish example in designating MPAs to protect seabird preys, such as sandeels, including with immediate effect for the Dogger Bank SAC in England. This is a crucial gap in the protection of seabirds that the marine Special Protection Areas (SPAs) network has not addressed. The network is in crucial need of a UK marine SPA sufficiency assessment as it was established in 2016 and still hasn't been delivered.

Another area falling short in delivering GES for seabirds has been tackling sensitive species bycatch. Actions have been continuously delayed despite the urgency. In 2015, the UK Seabird Bycatch Plan of Action was one of only two additional planned measures listed for birds, yet a targeted programme of work to address bycatch has not been delivered. In addition to the general concerns over inaction on bycatch raised above under the Cetaceans descriptor, we recognise that the former Seabird Bycatch Plan of Action (PoA) has been reconstituted as a UK-wide multi taxa bycatch mitigation initiative, however a change in terminology does not negate the need for urgent, strong and effective action to tackle the seabird and other sensitive species bycatch problem across the UK.

In the final PoM, we would also welcome a breakdown of specific measures each country shall introduce to contribute to addressing the changes in forage fishing areas and lower availability of seabird prey species. These should include measures to increase the resilience of seabirds and prey species, in the face of climate change, by minimising and where possible eliminating additional pressures. Our initial suggestions are that these should include:

1. Fisheries Management
2. Protected Areas
3. Marine Spatial Planning and consenting
4. Research

Regarding biosecurity, we are disappointed to see no additional information than that contained within the 2015 consultation has been provided here. It is evident that island biosecurity has not been considered at all, to the extent that the 2015 measures referred to in this section (p.87 of the 2015 PoM) concern aquatic invasives, not relevant to preventing the spread of invasive mammalian predators to seabird islands. We note the 2015 measures noted a gap within this area, which has failed to be addressed (p.64). In light of the above we seek commitment from Defra and the devolved administrations to the strategic development and resourcing of a UK-wide seabird island biosecurity programme as a legacy of the EU LIFE funded Biosecurity for LIFE project (2018-2023). The project is working with

stakeholders to put these measures in place, but long-term investment is required to ensure that the measures are maintained and enhanced into the future. We would welcome the UK Government and devolved administrations taking the lead on maintaining robust biosecurity measures in place on the UK's internationally important seabird islands.

Finally, regarding Climate change measures, there is little information on how climate change impacts on the marine environment are being addressed or researched. There is no information on how climate change impacts on marine birds are being addressed or researched. More specificity in the finalised PoM is needed, particularly given the context of inter-related nature and climate crises.

Q3.) Are there any additional existing or planned measures not identified that might also contribute to the achievement of the relevant environmental targets and the achievement or maintenance of GES?

REM

While Remote Electronic Monitoring (REM) is not a measure in itself, it is a key monitoring and enforcement tool. We believe it is important to recognise its valuable role in the protection and management of activities that impact the delivery of GES. The value of REM is recognised under benthic habitats and commercial fish but we urge governments to ensure that they also acknowledge the vital role it plays for the management and protection of other descriptors such as seabirds and marine mammals. In our part 2 response and in our response to Defra's call for evidence on REM in England, we made a strong case on the value of REM with cameras for seabirds and marine mammals and on the importance of maximising the multiple benefits that it can deliver. Wide rollouts of this modern technology will be essential to help contribute to monitoring and achieving GES targets for the descriptors of the UKMS.

Forage fish

To ensure the effective management of forage fish populations in UK waters, beyond the existing MPA network, the following measures need to be considered:

- Fisheries Management Plans for seabird prey species, including stocks of herring, sprat, sardine, blue whiting and sandeel.
- A ban on commercial sandeel fishing across the UK EEZ (or closure of the Scottish and English parts of the EEZ as a minimum).
- Revision of approach to scientific advice for setting forage fish catch limits to include predator requirements.
- Ensure existing sites for prey species and essential habitats for spawning and juveniles are effectively protected and introduce additional sites where needed, particularly in countries where these are not yet features of protected areas.
- Inclusion of forage fish species in protected species lists where not currently included.
- Minimising the impacts of development on spawning and nursery grounds for forage fish, including through marine planning policies.

- Research programmes to improve understanding and address data limitations on forage fish.
- Research to understand climate-induced impacts on these species.

Island biosecurity and restoration

As noted above, the 2015 MSFD PoM identified island restoration as a gap in the set of measures. The inclusion of such measures is critical to achieving GES of seabird features on SPA islands. Specifically, we would welcome the inclusion of the following measures:

- Ensure that the UK's internationally important seabird islands remain free of mammalian predators through effective preventative, early detection and rapid incursion response measures.
- Enable a coordinated approach to island biosecurity across the UK and support the implementation of measures in the UK countries.
- Promote the adoption of biosecurity measures by key stakeholders.
- Review performance and continue to improve the effectiveness of biosecurity measures in place on seabird islands in the UK.
- Invest in a strategic programme of removal of non-indigenous mammals from priority seabird islands.

Marine Planning

Marine Plans in the UK require greater commitment to deliver an ecosystem-based approach to marine management needs. For these plans to truly support the delivery of GES, clear hierarchy between activities and policies within the marine plan needs to be established, with activities that hinder, or delay, delivery of GES given a lower priority within the marine plan area. Currently the marine plans do not provide a clear hierarchy of policies and appear to operate on a first come first served basis. Further, most marine plans lack a clear spatial vision and are not suited to accommodate the unprecedented level of development from offshore wind farms in our seas. As such, we welcome the adoption of the Sectoral Marine Plan for Offshore Wind Energy in Scotland and urge the other administrations to consider similar measures to ensure these offshore developments benefit from appropriate spatial consideration in relation to their potential impacts on marine ecosystems.

Coastal Habitat Loss

Despite the level of protection in place, we have lost 15% of intertidal habitat, 46% of shingle and 18% of sand dune since 1945 and the current state of many coastal habitats is poor. Sea level rise projections indicate that we will lose another 3000 Ha of coastal habitat by 2050, which will include areas supporting internationally important seabird colonies. Alongside habitat loss and degradation, increasing recreational pressure on the few areas of remaining habitat will put increasing pressure on existing seabird colonies. There is therefore a need for habitat management, restoration and creation to mitigate against predicted losses and provide new safe nesting areas for marine birds across the UK countries.

Disturbance at colonies

While we welcome their inclusion, we note that measures or projects to address disturbance only apply in Wales and Scotland and there is no recognition of governments' intentions to address disturbance issues in a holistic way in each of the countries. A current assessment of pressure on seabird colonies in England highlights disturbance as the most widespread pressure impacting on almost all colonies on land. We believe much more should be done by governments to address the disturbance of wildlife, particularly in light of the recent rise of reported issues as a result of an increase in coastal recreation (such as use of jet-skis) and tourism.

Q4.) Are there any measures proposed that you think are not justified or that will not contribute towards the achievement or maintenance of the environmental targets set out in the UK Marine Strategy Part One?

No, we don't believe there are any measures proposed that are not justified or that will not, when fully implemented, contribute towards the achievement or maintenance of the environmental targets. However, we do believe that more measures will need to be implemented to progress birds towards GES.

We are concerned that many of the measures within the UKMS signpost to other initiatives that are yet to be fully developed (e.g. seabird conservation strategies, UK Fisheries Act, Bycatch Mitigation Initiative and OWEA project) and without identification, implementation and funding for robust actions within them they cannot be relied upon as measures in themselves.

Furthermore, regarding the OWEA Project, though its role is significant in tackling the challenges facing the offshore wind sector and nature, this programme does not represent a 'measure'. As yet, these are initial steps to investigate what measures could look like and are currently lacking in mechanisms for delivery and implementation. We see the programme as playing a vital role in informing measures, however we are concerned that including it as a measure is misleading, placing unrealistic expectations on the outcomes and missing an opportunity to highlight the significance of government action and commitment in this area.

Q5.) – Are there any significant human activity-related pressures and associated impacts that are not addressed by the proposed measures

Light pollution

Nocturnally-active seabirds, such as Manx Shearwater, are often sensitive to light pollution and can become easily disorientated by intense sources of artificial light. At sea, they can be drawn to the lights of boats and structures such as oil platforms and lighthouses. Coastal light pollution can draw these seabirds on land. Measures are needed to minimise the risk to seabirds from light pollution.

Q6.) Do you agree with the justifications provided for the use of exceptions under Regulation 15?

We note the intention to apply for an exception under regulation 15³¹ for a number of descriptors, including Birds, on the grounds of: *action or inaction for which the United Kingdom is not responsible (e) natural conditions which do not allow timely improvement in the status of the marine waters concerned.*

We strongly disagree with the exceptions being applied to marine birds: “*milder winters have affected where waterbirds forage and that the lower availability of small fish has affected breeding seabirds*”. It is accepted that “*we can address some of the impacts of climate change on seabirds directly and we can increase the resilience of seabirds to climate change by reducing the cumulative impacts of other pressures.*” However, this is not reflected in the proposed measures. With the exception of the Scottish Government’s commitment to “consider” additional protections for sandeel and mapping of potential habitat for sandeel in Northern Ireland, there is an alarming absence of proposed actions to address that which is within Governmental control. This is inexcusable, particularly in light of an exception being sought.

An exception has also been proposed under the birds descriptor in part because “*the lower availability of small fish has affected breeding seabirds*”. It is also stated that “*it is possible for the UK to take action that will reduce the impacts of the changing environment on marine birds.*” Nonetheless, the only measure relating to fisheries management of seabird prey species is to “consider additional protections” in Scotland. Whilst we welcome this commitment for Scotland it is essential that it is urgently progressed into a tangible ‘measure’ that translates into management and good outcomes for seabirds. Similar measures to manage and protect vital areas for forage fish are needed in each country.

3.4 – Fish (D1, D4)

1) Are the proposed measures sufficient to achieve and maintain Good Environmental Status (GES)?

No. Our response will focus on three of the proposed measures that must be improved in order to achieve and maintain Good Environmental Status.

Fisheries Act 2020. Whilst we welcome the objectives set out in the Fisheries Act 2020, including the ecosystem, sustainability, bycatch and climate change objectives, there is no legally binding duty on public authorities to achieve the objectives. Instead, there is simply a duty on authorities to ‘have regard’ to a Joint Fisheries Statement, which can be disregarded in a wide range of circumstances. Although the proposed measures state that “implementing measures which contribute to the achievement of the ‘sustainability objective’; the ‘bycatch objective’, the ‘ecosystem objective’ and the ‘climate change objective’ will contribute to delivering the biodiversity fish targets for GES”, it will be vital that authorities implement effective policies that will actually achieve these objectives. In addition, it should be noted that the commitment to setting fishing limits at sustainable levels set out in Article 2 of the Common Fisheries Policy was removed in the Fisheries Act 2020. Without a legally binding

³¹ <https://www.legislation.gov.uk/ukSI/2010/1627/regulation/15/made>

commitment to set fishing limits sustainably, there is a likelihood that GES will not be achieved or maintained.

Highly Protected Marine Areas. The introduction of HPMAs will be vital to ensure the long-term protection and sustainable management of our precious marine environment. As well as the inherent benefits of introducing HPMAs for the habitats and species in those sites, they will also help the UK build an invaluable knowledge base to help improve the effectiveness of the existing marine protected area network, together with supporting and contributing towards the effectiveness of the UK's international 'blue belt' programme. Although we welcome the proposals set out in the review, it will be vital that they are implemented as effectively as possible. We also have concerns around the lack of urgency in implementing both the recommendations and the HPMAs themselves.

2) If not, what measures are needed? Please provide details and evidence to show how these would contribute towards the achievement or maintenance of the environmental targets as set out in the 2019 update to the UK Marine Strategy Part One.

3) Are there any additional existing or planned measures not identified that might also contribute to the achievement of the relevant environmental targets and the achievement or maintenance of GES?

We believe additional measures are necessary to achieve GES and associated environmental targets in relation to the fish sections of the UK Marine Strategy:

Sustainable fishing limits

The Secretary of State and fisheries authorities should commit to setting fishing limits at or below MSY, in line with international best practice. This is vital to protect against short-term political pressure to set catch limits higher than scientific advice, which would lead to overfishing.

Robust monitoring and enforcement

In order to avoid illegal fishing in UK waters, it is vitally important that the UK is able to achieve full and objectively verifiable documentation of catches, including catch certificates. We need accurate scientific data and a true picture of what is being removed from the sea. To achieve a better understanding of where vessels are operating in the UK EEZ vessel monitoring systems should be rolled out on all vessels regardless of size. In order to better understand what is being removed from the sea and how management measures are being complied with Remote Electronic Monitoring with cameras (REM) should be introduced for (a) the over-10m fleet within 2 years and (b) the under-10m fleet on a phased basis according to environmental and social criteria and subject to public consultation. In addition, eradicating illegality in the supply chain is of utmost importance for UK businesses as part of basic due diligence.

Management of shared stocks

The Secretary of State should consider clear sustainability criteria in relation to negotiations with the EU and other countries, including a commitment to agree catch limits that are in line with scientific advice, helping to avoid another “mackerel wars” scenario where continuing disagreements between the EU, Norway, Iceland, Russia, Greenland and the Faroe Islands on the size of catches and quotas led to catches set at 35% above the levels recommended by scientists in 2015.

Robust Joint Fisheries Statement (JFS)

The JFS will set out the policies that the Secretary of State and devolved authorities must follow to achieve the fisheries objectives. The JFS should include effective policies that deliver sustainable fishing and wider marine protection, contributing to the delivery of the fisheries objectives as well as the UK’s domestic and international legal commitments on fishing and the marine environment.

Robust Fisheries Management Plans (FMPs)

FMPs should be introduced for all commercially exploited stocks and stocks that fall below sustainable levels, together with any other stocks that the relevant authority considers appropriate. This reflects the US approach which obliges authorities to implement an FMP for any stock that is identified as being overfished. There should also be additional requirements in FMPs for stocks that fall below sustainable levels, including catch limits and conservation measures. Finally, there should be clear timeframes for when an FMP must deliver recovery of a stock and identify milestones that should be met in order to reach the end target.

Use powers to make secondary legislation effectively

There are a number of powers in the Fisheries Act to make secondary legislation, including for ‘conservation purposes’. The Secretary of State and devolved administrations should use the powers to implement important environmental policies, such as the introduction of REM or the creation of Highly Protected Marine Areas.

Use financial assistance schemes to shape a better and greener fishing industry

Financial assistance can be used to great effect to modernise and help the fishing industry towards sustainable fishing. In particular, financial assistance should focus on the restoration of marine habitats, effective monitoring and data collection and harnessing innovative technologies to help fishers transition towards using less damaging gear and increase species selectivities. It should also support efforts for the catching sector to contribute to net zero through decarbonisation of the fleet and implementation of measures that will restore and protect blue carbon.

Highly Protected Marine Areas

The recommendations set out in the Benyon Review into Highly Protected Marine Areas should be effectively implemented in the areas to which the review applies. In order to

ensure that HPMAs are as effective as possible, the following recommendations should be considered:

- The main objective of any HPMA should be that both the site and its features are restored to their entirely natural state (or as close to this as possible). This would require focussed management on not just particular features of the HPMA, but biodiversity more widely. This objective should not be balanced against socio-economic factors.
- All extractive uses should be banned, including fishing activity. To ensure effective protection, fishing must be banned from HPMA. This will allow for recovery from past damage, and will in fact improve fishery yields in the longer term.
- A precautionary approach should be taken to HPMA management. Given the limited knowledge of the marine environment, pursuing a precautionary approach to the management of HPMA is essential. Where there is a risk of harm to marine biodiversity in a HPMA, authorities must err on the side of caution and base management decisions on the best available scientific advice.
- There should be effective monitoring and enforcement of HPMA. This serves two purposes – firstly, to contribute to vital scientific data to establish the effectiveness of a HPMA, and secondly, to detect and prevent illegal practices. This requires well-trained personnel that have the necessary resources to fulfil their role. This also requires effective, dissuasive and proportionate penalties that genuinely act as a deterrent to non-compliance with the rules.

The welcome Scottish Government commitment to delivering new HPMA that provide full protection for a proportion of Scottish waters by 2026, four years ahead of EU Biodiversity Strategy targets, is welcome and must be adhered to, in tandem with ensuring the existing MPA network is highly protected.

Retained EU law

Retained EU law that relates to sustainable fisheries should not be removed or amended in a way that weakens environmental protections.

Marine protections in Wales

With regards to the effective management of Marine Protected Areas in Wales, which is key to the ability for the UK to achieve GES, the Welsh Government needs to undertake improvements to the implementation of, and priority given to, this area of public policy. We endorse the recommendations of the Welsh Climate Change Committee in November 2019³², in their report on 'Welsh Government's progress on MPA management', which are very much still relevant and will be followed up this winter. The Committee urged the Welsh Government to:

- Urgently bring forward a local and network level strategy for Marine Protected Areas, including strengthening and better managing the approach of the MPA Management Steering Group.³³
- Address resourcing within the Welsh Government.

³² <https://senedd.wales/laid%20documents/cr-ld12871/cr-ld12871%20-e.pdf>

³³ <https://gov.wales/marine-protected-area-management-steering-group>

- To better reflect marine biodiversity in its tourism strategy; we would go further and say marine biodiversity needs to be properly embedded in fisheries policies and any other developments on the coast. We do not think biodiversity is prioritised adequately in how we promote and manage our seas and coasts.
- Make urgent progress on Natural Resources Wales' 'Assessing Welsh Fisheries'³⁴ project, which undertakes assessments of high-risk activities. Some assessments have been done but approaches to tackle them remain lacking
- Address MPA evidence gaps and consider different forms of high protection for MCZs. The Committee suggested that the Welsh Government needs to bring forward proposals by February 2020. However, it is two years after that deadline, and we are still not sure when it will be advanced.
- And to develop a plan for designating mobile species in MCZs within its Task & Finish Group³⁵ (which has been meeting, with stakeholder input, however it is still unclear to even the members of that internal group as to when the overall MCZ work will emerge).

Indeed, in order for the Welsh Government to contribute meaningfully to the achievement of GES in the Celtic Sea Region, they need to act on their continued delay in the identification and designation of Marine Conservation Zones in Wales. In the Wales Environment Link submission to the Senedd's Climate Change, Environment & Infrastructure Committee – back in the committee's last formation, in April 2019 – we outlined that: “the identification, designation and management (including monitoring, surveillance and enforcement) of Marine Conservation Zones (MCZs) under Part 5 of the 2009 Marine and Coastal Access Act, in both the inshore and offshore areas, will undoubtedly be a large area of work and we would hope that the additional resource required for this workload is recognised and reflected in the resources being made available to the Marine Biodiversity Branch in the Marine and Fisheries Division, as well as the relevant teams in NRW [Natural Resources Wales]”. We understand that this resource was not made available and the MCZ process which has already been delayed since the gap analysis in 2016 (and for which powers have been available since 2009), has now been put back again from autumn 2021 to spring 2022. To keep pushing this issue down the road is not consistent with the ambition we would expect to see following the failure to meet the deadline for GES in 2020.

Fleet capacity review

Fisheries administrations should commit to undertaking a comprehensive stock take of fleet capacity and fishing opportunities available to the fleets in light of the UK's departure from the EU. If the fleet is out of balance with available fishing opportunities this will undermine management objectives and ultimately the ability to achieve GES.

4) Are there any measures proposed that you think are not justified or that will not contribute towards the achievement or maintenance of the environmental targets set out in the UK Marine Strategy Part One?

We do not think any of the proposed measures are unjustified. However, in order to contribute towards the achievement or maintenance of GES, the measures must be

³⁴ <https://naturalresources.wales/about-us/our-projects/marine-projects/assessing-welsh-fishing-activities/?lang=en>

³⁵ <https://gov.wales/marine-conservation-zone-task-and-finish-group>

effectively implemented in accordance with the requirements we have set out in our response to question 2 above.

6) Do you agree with the justifications provided for the use of exceptions under Regulation 15?

Action or inaction for which the United Kingdom is not responsible

Although Total Allowable Catches for many stocks will be subject to international negotiations with the EU and other coastal states, the UK must ensure that it cooperates with other parties with a view to ensuring the long-term conservation and sustainable use of marine living resources. Sustainable management of shared stocks will greatly increase their resilience to the impacts of climate change, delivering significant environmental, social and economic benefits to fishing communities. In order to achieve Good Environment Status for fish, the UK must negotiate according to clear sustainability criteria to protect our oceans and coastal communities. In particular, negotiations must aim at ensuring that:

- Fishing mortality is at levels below those which will restore or maintain shared stocks above levels capable of producing maximum sustainable yield.
- The impacts of fishing on the marine environment are avoided or, where avoidance is not possible, demonstrably minimised.

The fact that the UK shares fish stocks with other coastal states should not be used as an excuse for not achieving GES in this area. It is understandable that recovery of fish stocks takes time. However, given that negotiations of TAC among UK, EU and other coastal states take place annually and a number of fish stock status have been assessed by ICES, use of exception is unnecessary. Interim or short-term targets or milestones should be set to ensure the right path has been taken to achieve the GES.

Natural conditions which do not allow timely improvement in the status of the marine waters concerned

Whilst the proposals highlight that certainty is affected by biological and climatic conditions, this means it is more important than ever that the objectives in the Fisheries Act are effectively implemented and achieved. In particular, it will be vital for authorities to consider the climate change objective when making fisheries management decisions in order to take into account climatic conditions.

Pelagic Habitats (D1, D4)

1) Are the proposed measures sufficient to achieve and maintain Good Environmental Status (GES)?

The consultation document notes that “measures taken forward under other descriptors will support the achievement of GES for pelagic habitats”. We have highlighted many concerns with the PoM throughout this document which are therefore also relevant to pelagic habitats.

In addition, noting the strategy's assertion that GES for this descriptor will be aided by "establishing a coherent and representative network of MPAs", we would reiterate that MPAs must have demonstrable and ongoing enforceable rules, monitoring, evaluation, adaptive management and conservation outcomes. Programmes of management should be delivered by appropriately resourced agencies with the purpose of achieving conservation objectives. While the English Government claims that 40% of English seas are protected, only 10% of MPAs in English waters have fully implemented management measures. So, in other words, a maximum of 4% of England's marine environment could be said to be protected for nature. It is vital that the MPA network is strengthened and better monitored to effectively protect marine environments.³⁶

Benthic Habitats (D1, D6)

1) Are the proposed measures sufficient to achieve and maintain Good Environmental Status (GES)?

The proposed new measures are not sufficient to achieve GES for this descriptor. As stated previously in our response to the Marine Strategy Part One consultation, we recognise that many human activities impact the seabed, and agree that the most challenging pressure to manage is the use of mobile demersal fishing gear³⁷. Therefore, the scale of action and scope of change needed within the fishing industry to bring about GES for this descriptor is substantial.

Fisheries Reform

While ELUK welcome the inclusion of overarching Sustainability, Ecosystem and Climate objectives in the Fisheries Act (2020), it remains unclear how such high-level legislation will translate into specific and beneficial action for UK inshore and offshore seabed habitats within the timeframes needed to achieve GES by the next assessment cycle. Furthermore, there is no legally binding duty on public authorities to achieve the objectives. The Joint Fisheries Statement is yet to be published, and it is the responsibility of the devolved public authorities to implement policies that will achieve the objectives of the Fisheries Act 2020 in its entirety, rather than for the achievement of GES specifically. It is clear that strategic and proactive management measures are what is needed to address the already severely degraded and declining status and health of benthic habitats in the UK.

Inside Marine Protected Areas

While proposed measures to prevent the decline or loss of benthic habitats inside MPAs are welcome, particularly regarding implementation of fisheries management measures for England and Scotland's offshore sites, we need to see implementation of the fisheries management measures proposed for NI's inshore sites, as well as the stated intention to introduce HPAs in England and Scotland. HPAs should be designated across all four country jurisdictions of the UK including Wales and Northern Ireland, and should represent

³⁶ For WCL's assessment of the English MPA network see https://www.wcl.org.uk/docs/assets/uploads/WCL_30x30_in_the_Marine_Environment.pdf

³⁷ <https://www.wcl.org.uk/docs/Joint%20Links%20MSFD%20POM%20consultation%20response%20April%202015.pdf>

intertidal, inshore and offshore areas, including areas of high carbon storage potential such as saltmarsh, seagrass beds and kelp forests. Shockingly, a recent report found that bottom trawling is taking place in 98% of the UK's offshore MPAs intended to protect vital seabed habitats, and that between 2015 and 2018, benthic habitats within UK offshore MPAs received 89,894 hours of bottom trawling fishing effort³⁸. Therefore, it is crucial that effective MPA management and implementation is progressed without delay, to prevent the further decline of our benthic habitats. The reasons to manage our MPA network appropriately and properly are not only ecological in nature but also founded on socio-economic grounds. A separate report commissioned by Seas At Risk completed by New Economics Foundation³⁹ found that the value of ecosystem services enhancement to society would provide positive economic benefit from 3 years after the implementation of management measures to close sites to all forms of bottom towed fishing gears⁴⁰.

The effective management of all UK MPAs is one important aspects of benthic habitats, as well as many other descriptors achieving GES and must include; (i) intelligent monitoring - strategically monitoring sentinel sites that will build evidence and understanding of how features and ecosystems respond to cessation of certain activities, thereby informing future management decisions for the rest of the network; (ii) enforcement - including application of iVMS alongside the introduction of REM and (iii) adequate resourcing - so that responsible departments, agencies and regulators can fulfill their statutory duties regarding the long-term management of MPAs within their jurisdiction.

Outside Marine Protected Areas

While proposed measures to improve the health of benthic habitats within MPAs is of course welcome, the UKMS aims to deliver GES across all UK seas, not only within the MPA network. The majority of our benthic habitats in the UK fall outside of MPAs, therefore, a greater focus in this area is needed from the current suite of new measures. ICES recently offered a report that suggested seafloor integrity could be improved by removing 10% effort from the 'least trawled' grounds which would eliminate any trawling footprint from 40% of the seas.⁴¹ Further detail highlighting the need for new measures to achieve GES for Seafloor Integrity can be found in a report commissioned by Scottish Environment LINK.⁴² Such ambitious actions at a regional or whole-seas level are needed in conjunction with local scale MPA measures if GES for this descriptor will be achieved and the health of our seafloor habitats recovered from decades of intense and often destructive activities.

Measures to address intertidal decline

The focus of proposed measures in the current consultation is on seabed benthic habitats, failing to adequately consider new measures for intertidal habitats. It is important not to assume that River Basin management Plans (RBMPs) will automatically deliver GES for intertidal habitats under the MSUK. Strategic and coordinated action which links and

³⁸ <https://www.mcsuk.org/ocean-emergency/marine-protected-areas/marine-unprotected-areas/>

³⁹ <https://seas-at-risk.org/press-releases/benefits-quickly-outweigh-costs-of-banning-bottom-trawling-from-marine-protected-areas-2/>

⁴⁰ <https://www.actu-environnement.com/media/pdf/news-37588-etude-peche-new-economics-foundation.pdf>

⁴¹ ICES trade-offs report <https://www.ices.dk/news-and-events/news-archive/news/Pages/seaflooradvice.aspx>

⁴² [SEL SeafloorIntegrity Report A4 March19-1.pdf \(scotlink.org\)](#)

strengthens measures emanating from the RBMPs needs to be identified where pressures originating in the freshwater environment are impacting negatively on marine benthic habitats.

Human activities have led to the decline of coastal benthic habitats like seagrass beds, saltmarshes and oyster reefs in the UK at an alarming rate of 3% per year. Initiatives like the ReMeMaRe project to restore these important coastal benthic habitats are welcome, but more ambitious targets must be set should the GES is to be achieved than the proposed 15% of restoration by 2040.

2) If not, what measures are needed? Please provide details and evidence to show how these would contribute towards the achievement or maintenance of the environmental targets as set out in 2019 update to the UK Marine Strategy Part One.

Proposed new measures need to detail how sustainable fishing practices will be increasingly supported by respective Governments, through a just transition away from destructive fishing activities and gears in and outside of MPAs, towards sustainable and low impact fishing activities which will not only help deliver GES for benthic habitats (and many other descriptors including fish, cetaceans, food webs, water quality) as well as helping to tackle climate change⁴³. This transition can only happen by working collaboratively with local communities and the fishing industry.

To date, agreeing fisheries management measures for offshore MPAs through an EU consultation and evidence gathering process has been complicated by changing dynamics between other EU member states and the UK. Now, with the powers provided by the Fisheries Act 2020, the UK Governments can act more independently to protect seabed habitats. We need to urgently protect the 4 English offshore sites (consulted on in February 2021) that have mapped large-scale areas that would be closed to bottom trawl fishing. Such measures are proportionate to the legal requirement to protect the features, and integrity of the sites. They are also non-discriminatory as they will affect UK and EU fleets equally, whilst enhancing the seas for all Europe's citizens. They will make an important contribution toward the UK achieving its 30 x 30 ambition to well-managed and effective MPAs. Offshore MPA and SAC management proposals were submitted by the Scottish Government to the Regional Advisory Councils in 2016⁴⁴ and these must be revised to deliver a whole-site approach to site-management and be in place by the deadline of 2024 at the very latest to make a meaningful contribution towards achieving GES.

3) Are there any additional existing or planned measures not identified that might also contribute to the achievement of the relevant environmental targets and the achievement or maintenance of GES?

4) Are there any measures proposed that you think are not justified or that will not contribute towards the achievement or maintenance of the environmental targets set out in the UK Marine Strategy Part One?

⁴³ https://www.wwf.org.uk/sites/default/files/2021-08/Pact_Media_WWF_Climate_Smart_Fisheries_Report_2021_Aug_16_V2.pdf

⁴⁴ [EWG-20170223-Edin-MReport2-1.docx \(live.com\)](#)

5) Are there any significant human activity-related pressures and associated impacts that are not addressed by the proposed measures?

The main pressures on benthic habitats are successfully identified within the Marine Strategy process including Part One, Two and Three. Damaging fishing practices such as bottom trawling, poor water quality, oil and gas development, port dredging (for nearshore habitats) and offshore wind development activity such as cabling, continue to have a significant negative and modifying impacts on our seabed biodiversity and ecosystem services. These pressures will continue to deteriorate the health and biodiversity of UK benthic habitats at a grand scale unless appropriate remedial measures and management are implemented.

Non-Indigenous species (NIS) (D2)

1. Are the proposed measures sufficient to achieve and maintain Good Environmental Status (GES)?

Invasive non-native species (INNS) are animals, plants or other organisms, including pathogens, that have been introduced to places where they do not occur naturally, through deliberate or accidental human actions, causing negative environmental, social and/or economic impacts in those areas. INNS are one of the top five drivers of biodiversity loss and species extinction worldwide, implicated in 58% of the 247 global animal extinctions where the cause of extinction is known.^{45 46}

The proposed measures are insufficient to manage and prevent the introduction and establishment of invasive non-native species, and therefore to achieve and maintain Good Environmental Status. Numbers of invasive marine species in the UK have more than doubled since 1999⁴⁷, with the latest UK Biodiversity Indicators Report showing that the long-term marine and coastal INNS situation is deteriorating.⁴⁸ The Report also shows that the number of INNS established in or along 10% or more of Great Britain's land area of coastline has consistently increased in the marine (plus freshwater and terrestrial) environment since 1960, with significant implications for native biodiversity.

A stronger, more strategic, and adequately resourced approach to biosecurity is needed in order to effectively manage and prevent INNS. As the following section will explain, this requires an increase in INNS biosecurity capacity through greater funding and resources, and a shift in emphasis from managing established INNS to preventing species from arriving in the first place.

2. If not, what measures are needed? Please provide details and evidence to show how these would contribute towards the achievement or maintenance of the

⁴⁵ IPBES Global Assessment, 2019 - <https://ipbes.net/global-assessment-report-biodiversity-ecosystem-services>

⁴⁶ Bellard C, et al. (2016). Alien species as a driver of recent extinctions. *Biology Letters*, 12: 20150623.

⁴⁷ <https://nbn.org.uk/wp-content/uploads/2019/09/State-of-Nature-2019-UK-full-report.pdf>

⁴⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1026593/ukbi2021-summarybooklet-final.pdf

environmental targets as set out in the 2019 update to the UK Marine Strategy Part One.

Most crucial to achieving GES is not necessarily the introduction of new measures, but ensuring that there is adequate funding and resources for existing measures to be effective. The management and prevention of INNS, including those in the marine environment, is woefully underfunded. Government has failed to take the requisite steps to properly resource and modernise UK INNS biosecurity in line with the scale of the threat they pose. INNS are one of the top five drivers of biodiversity loss worldwide, and cost the UK economy at least £2 billion each year.⁴⁹

Invasive species biosecurity is severely under-funded and under-resourced compared to other areas of biosecurity, in 2019 receiving a mere 0.4% (£922k) of the UK biosecurity budget.⁵⁰ Invasive non-native species is the only biosecurity department without a dedicated inspectorate. This chronic underinvestment means we are failing to keep invasive species out, using limited resources on managing species once established rather than preventing their arrival in the first place. As set out in our 2019 report 'Prevention is Better Than Cure'⁵¹, preventing INNS from establishing in the first place is not only more cost and resource efficient, but is more effective, reducing negative impacts on native biodiversity.

Resources and funding for INNS management and biosecurity must be increased if these measures are to be effective in achieving GES. Government should commit to the recommendation made by the Environmental Audit Committee in October 2019, to triple the invasive species biosecurity budget to £3 million. A further £3 million should also be provided to form a dedicated invasive species inspectorate. This investment would also fund approximately 20 inspectors for a dedicated INNS inspectorate, ultimately preventing the establishment of 24 new invasive species, and eradicating 10 established invasive species, by 2040. This is a 50-67% reduction in new introductions, and a 5% reduction in established species, restricting the spread of a further 10%. Crucially, this investment would also save the UK economy a total of £2.7 billion over 20 years - a return on investment of £23 for every £1 spent.⁵²

In addition to increased resources and funding, it is vital that there is clear understanding and agreement of who is responsible for the management and prevention of INNS. Biosecurity plans should be developed in collaboration with local stakeholders, and set out a regional approach to marine biosecurity, to ensure stakeholders are working within the same guidance or framework. A good example of this is the Biosecurity Plan for the Shetland Isles.⁵³ As well as providing a practical and comprehensive guidance framework, such plans can also serve as a repository of best practice for stakeholders.

Horizon scanning exercises to identify potential marine INNS before their introduction or establishment are critical to the effective management and prevention of marine INNS,

⁴⁹ https://www.wcl.org.uk/docs/Prevention_is_Better_than_Cure_Report_2020.pdf

⁵⁰ https://www.wcl.org.uk/docs/Prevention_is_Better_than_Cure_Report_2020.pdf

⁵¹ https://www.wcl.org.uk/docs/Prevention_is_Better_than_Cure_Report_2020.pdf

⁵² https://www.wcl.org.uk/docs/Prevention_is_Better_than_Cure_Report_2020.pdf

⁵³ <https://www.shetland.uhi.ac.uk/research/marine-spatial-planning/non-native-species-and-biosecurity-planning/biosecurity-plan-for-the-shetland-islands/>

allowing early detection and rapid response. As the consultation document acknowledges, 'Once established, marine non-indigenous species are often very challenging to remove in a cost-effective manner and within the timeframes set out by our previous targets'. This is further exacerbated by the risk of climate change, as warmer conditions and ecological disruption will assist species introduction and establishment, and competition with native species. Horizon scanning should feed into the development of prevention, early warning and rapid response programmes to address the introduction of INNS. This could be a task for the aforementioned inspectorate.

Ballast water is identified as a significant pathway for INNS within PAP analysis, yet the UK has yet to ratify the Ballast Water Management Convention.^{54 55} The consultation document acknowledges that the UK *expects* to accede to the Ballast Water Management Convention and introduce domestic legislation in 2022. The convention *must* be ratified, and should be a matter of priority.

Whilst many of the UK's seabird island SPAs are free of mammalian predators, these sites require robust biosecurity measures to reduce the risk of incursions and as outlined above, we would welcome greater ambition in setting out the measures for island biosecurity. On several seabird islands in the UK, established invasive mammalian predators are suppressing seabird productivity and, at some sites, making them unsuitable for breeding and leading to the eventual extirpation of colonies. The consultation document makes no reference to island restoration (i.e. the removal of NIS and instalment of biosecurity measures) which we see as a critical action for achieving GES of seabird features on island SPAs. We would welcome the addition to the measures to protect seabirds from NIS a rolling programme of island restoration

3. Are there any additional existing or planned measures not identified that might also contribute to the achievement of the relevant environmental targets and the achievement or maintenance of GES?

4. Are there any measures proposed that you think are not justified or that will not contribute towards the achievement or maintenance of the environmental targets set out in the UK Marine Strategy Part One?

The measures proposed are justified. However, as discussed, if these are not supported with adequate funding and resourcing, they will not be effective at managing and preventing INNS and therefore achieving GES.

5. Are there any significant human activity-related pressures and associated impacts that are not addressed by the proposed measures?

International trade is the most significant pathway for the movement and introduction of INNS globally, with the globalisation of trade facilitating the rapidly increasing the rates of dispersal, introduction and establishment of invasive species.⁵⁶

⁵⁴ <https://www.gov.uk/guidance/control-and-management-of-ballast-water>

⁵⁵ [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1003522/BW - FAQ - GOV.UK.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1003522/BW_-_FAQ_-_GOV.UK.pdf)

⁵⁶ CABI, 'A new approach to horizon-scanning: Identifying potentially invasive alien species and their introduction pathways' (2017) <https://www.cabi.org/ISC/abstract/20183016948>

Freeports have been identified as particularly high-risk sites for the accelerated introduction and early establishment of INNS.⁵⁷ This is due to the proposed relaxations of the customs process, which weaken the UK's ecological barrier and extend environmental risk beyond the geographic location of the freeport itself. This is further complicated by the changing scale and movement of people and goods across our borders in the wake of Brexit - non-European species are twice as likely to become invasive once established, compared to European species.⁵⁸

These significant pressures are not currently addressed in the proposed measures. Freeports will not only have implications for INNS, but also other areas of environmental concern such as the illegal wildlife trade, the trade of whale meat, and water quality (as a result of diffuse pollution, with subsequent implications for biodiversity).⁵⁹

6. Do you agree with the justifications provided for the use of exceptions under Regulation 15?

The consultation document states that 'The pressure of introductions of non-indigenous species to the UK's waters is beyond our control given the transboundary aspects of introduction' and that 'Additionally, UK seas are subject to transboundary ingress of non-indigenous species due to climate change.'

We acknowledge the difficulty of managing transboundary aspects of INNS, and that climate change massively exacerbates this. However, we do not feel this is sufficient justification for inaction on tackling marine INNS. As discussed, invasive species are a top driver of biodiversity loss, and cost the UK economy in excess of £2 billion each year. Under the CBD, the United Kingdom has an international obligation to address the impacts of invasive non-native species. We argue that the economic and environmental damage caused by invasive species is part of the rationale for strong action on tackling climate change, rather than justification for failure to act.

If INNS biosecurity were better resourced and supported, this would not only build the additional capacity required to detect and prevent INNS from establishing in the first place, but to also better manage established marine INNS. Though the significant scale of the challenge may mean targets are not fully achieved within the given timeframe, this again is not justification for lack of significant progress towards the target. The consultation document acknowledges that marine INNS are particularly difficult and costly to manage, or eliminate, especially if undetected and thus allowed to establish. This is further justification for making as much progress on tackling marine INNS as possible, rather than allowing the situation to continue to deteriorate.

Commercial Fish (D3)

⁵⁷ EDDMapS, Developing a State Invasive Species Program <https://www.eddmaps.org/about/programs.cfm>

⁵⁸ Environmental Audit Committee Supplementary evidence submitted by Defra, 2019
<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/environmental-auditcommittee/invasive-species/written/104755.pdf>

⁵⁹ Further discussion available here: https://www.wcl.org.uk/docs/Link_freeports_consultation_response_July2020FINAL.pdf

- 1) Are the proposed measures sufficient to achieve and maintain Good Environmental Status (GES)?**
- 2) If not, what measures are needed? Please provide details and evidence to show how these would contribute towards the achievement or maintenance of the environmental targets as set out in 2019 update to the UK Marine Strategy Part One.**

The Fisheries Act

While we agree that if and when it is effectively implemented the Fisheries Act should contribute to the delivery of GES, it currently only provides a broad framework for fisheries management which still requires interpretation and implementation by the Devolved Administrations. Therefore, the Joint Fisheries Statement (JFS) and the Fisheries Management Plans (FMP) provide an opportunity to strengthen the currently limited approach to monitoring fishing activity in UK waters and securing the recovery of fish stocks. While it is important to highlight the role of the JFS to deliver GES, in its current format the Fisheries Act is not sufficient to meet the requirements of the high-level objectives for GES for commercial fish (D3).

Part three of the marine strategy consultation document states that “the JFS and FMPs will set out the policies to achieve, or contribute to the achievement of, the fisheries objectives, and will contribute to the achievement of GES”. While in draft form we believe it is still uncertain how effective the JFS in particular will be in contributing to the achievement of GES. In order to enact demonstrable progress towards achieving GES the JFS would have to contain binding commitments from all the fisheries policy authorities to recover all stocks to healthy levels with clear timeframes for delivery and specified milestones that should be met in the interim. There should also be an ambition to ensure that all commercially exploited stocks are featured within an FMP, with a priority to implement FMPs aimed to rapidly recover the biomass of already depleted stocks.

National Cod avoidance plan

While we support the implementation of the National Cod Avoidance plan, there remain concerns around the methods proposed to implement and monitor real time closures (RTCs). Given that not all vessels will have boarding officers present, we are concerned closure will not always occur when necessary. For RTCs to be truly effective, REM with cameras should be incorporated to effectively evidence the process. At sea monitoring would also better evidence the benefits of proposed mesh size changes also introduced under the national cod avoidance plan. Also, given the current status of cod in the North Sea, we do not believe that the implementation of a national avoidance plan should be seen as a justification for agreeing a TAC that exceeds ICES catch advice levels. This plan should be used to support the rapid recovery of cod stocks while ensuring that annual catches do not exceed the scientifically recommended amounts.

We welcome the recognition that there is a role for adopting the use of REM in combination with more selective gear and other measures. Adoption and use of these measures is essential to the delivery of GES and the objectives of the Fisheries Act. However, adoption of these measures across the UK is piecemeal, and not sufficient to meet the delivery of

GES. While enhanced scientific observer cover is welcome, we query if this is realistically deliverable, or affordable, at the scale required. We recommend that the role of electronic monitoring is rapidly progressed within the next cycle.

With around only 1% of at sea monitoring effort in the UK, we currently have little knowledge of the extent of compliance with the landing obligation, making it difficult to assess its current successes and failures. One of the most important lessons that can be learned from the EU landing obligation is the need for effective monitoring and enforcement of the policy itself. Only then would we be able to quantify any future successes or failures and adapt the policy if needed in a way that would benefit the sustainable exploitation of fish stocks and contribute to achieving the goals of the policy itself. While we do note that the implementation of a future catching policy is a devolved issue, seeing commitments made within the JFS (as a legally binding document) regarding the objectives of these policies and measures to ensure they are effectively monitored and enforced would be very welcome.

Remote Electronic Monitoring with cameras (REM) will also play an important role in determining the success of a future catching policy and demonstrating compliance with new and existing laws should play a large part in this. The benefits of REM are widespread and would also contribute to the collection of much needed scientific data to support management decisions in addition to increasing vessel accountability and providing confidence in the supply chain. The timely implementation of REM could also be used to inform any subsequent legislative changes. It is imperative we see a commitment to using REM to support and monitor any future catching policy. Priority should be given to implementing REM on the fleets most at risk of interacting with important bycatch species and those currently responsible for high levels of unwanted catches. REM application should be mandatory for such fleets and for all vessels operating within them regardless of nationality in order to provide a level playing field.

Fisheries Management plans

Full, verifiable documentation of what is being caught in UK waters is a vital step towards understanding the scale of pressure, areas of concern and current legislative gaps within Fisheries management measures. The Fisheries Act does not require all commercially exploited stocks to be covered by an FMP and, without these plans being implemented as robustly and widespread as possible, it is unlikely they will be able to contribute their full potential towards GES. It should also be noted that there are additional benefits of fully documented fisheries as this will help de-risk a fishery and secure its place in supply chains.

We believe FMPs should be more comprehensive than outlined in the Fisheries Act in order to build on current international best practice and contribute to achieving GES. Legally binding commitments must be made to recover all stocks to healthy levels and clearly defined timeframes stated to meet these targets. These timeframes should identify milestones to be met within the process – providing particular benefit for species identified to be unlikely to reach GES by 2024, as setting and achieving interim milestones will help demonstrate a positive recovery trajectory.

Shellfish Management

The requirements of the Marine Strategy Regulations apply to “all Commercially-exploited fish and shellfish”. We welcome the proposed objectives to manage shellfish stocks in England, but note that it is important that similar work is done across all administrations to secure the sustainable management of UK shellfish stocks. This issue is particularly acute from a regional perspective with the recent large crustacean die-offs in the North East of England.

(England only)

Future initiatives to help limit fishing mortality of wild-capture shellfish species:

- review and strengthen current management measures to prevent further increases in effort and make sure current management measures are fit for purpose.
- Look at the fleet structure/permitting to assess whether the current fleet capacity matches the amount of effort that can be put onto those species. This also includes a review of the western waters effort regime that was adopted as retained EU law in the UK.
- On current management (English) shellfish legislation, determine whether it is fit for purpose. We will also need to ensure effective monitoring processes are in place to evaluate the impact of existing measures on stocks status and fishery exploitation levels.

The MSR requires well-managed MPAs as a minimum to deliver on a number of cross cutting targets. Ecosystem based management requires reducing anthropogenic measures to enable recovery of the Marine Environment, including reducing the pressure on food webs, and allowing the recovery in seafloor integrity. The new powers in the UK Fisheries Act enable the management of MPAs in UK Offshore waters, including the reduction or removal of bottom towed fishing gears. We recommend that these new powers are used to deliver fisheries management compatible with achieving GES.

The measures introduced by Sussex IFCAs, namely the nearshore trawling byelaw, is to be lauded and its application repeated around our coasts. This is to ensure that inshore biodiverse, 3-dimensional habitats are allowed to persist and recover. These are essential habitats for the most vulnerable stages of fish populations. Also, there are other ecosystem services associated with allowing such habitats to persist such as shoreline protection and nutrient recycling. The approach, developed with industry stakeholders, demonstrates that good management can deliver for people, economics and biodiversity.

The stated intention to review the Fisheries Act (Northern Ireland) 1966 is welcome. However, if it is to help contribute to the condition and health of fish and commercial fish descriptors (and others) before the next reporting round, the review needs to progress within the Department of Agriculture, Environment and Rural Affairs (DAERA) as a matter of urgency. Importantly, the review also needs to culminate in new Northern Ireland legislation that enshrines the positive elements of the Fisheries Act (2020), but also goes further by including legal obligations to limit catch quotas to sustainable levels.

In Scotland, the roll-out of the Future Fisheries Management (FFM) strategy must deliver the promised ecosystem-based fisheries management, including the welcome commitment to “Where necessary and appropriate...introduce additional measures, for example to protect

vulnerable spawning and juvenile fishing grounds.” We welcome the Scottish Government exploring how to help the Scottish fishing sector address the climate challenge, including looking at emissions, alternative fuels, fishing gear and methods, and impacts on blue carbon. These findings must inform the FFM delivery and FMPs to help deliver climate and nature smart fishing. The proposed cap on inshore fishing effort in the Scottish Government/Scottish Greens agreement must be a ceiling as promised, from which to reduce fishing effort as part of a just transition toward lower impact fishing, most crucially the need to move towards a presumption against the use of mobile gear in a significant part of the inshore area.

3) Are there any additional existing or planned measures not identified that might also contribute to the achievement of the relevant environmental targets and the achievement or maintenance of GES?

There remain a significant number of exploited populations without adequate assessments or harvest control limits in place. This should include not just species exploited for consumption but those also being caught for bait and species being translocated to support other commercial industries such as cleaner fish, e.g. wrasse and lumpsuckers used in the aquaculture sector.

On future catching policies in all the DAs, there is a need for consistency across the UK.

Management of shared stocks

Joint Management of shared shellfish stocks is a requirement under UNCLOS. We firstly need to clarify what constitutes a shared stock (using the formal UNCLOS definition). This is important to improve data collection and the scientific evidence base for wild capture shellfisheries. On stock assessments, work has already been undertaken to incorporate ecosystem information into the single species stock assessment process for the Irish Sea. New stock assessments have been developed for king scallops in selected waters around the English coastline by CEFAS.

Not identified:

- Specialised committee on fisheries and the long-term management strategies that they are responsible for producing with the EU for ‘special stocks’.
- The Trade and Cooperation Agreement (TCA) which outlines measures for the management of shared stocks until 2026. Therefore, although this consultation has highlighted that the UK is now an independent coastal state, its ability to implement management measures is still limited due to existing international commitments.

4) Are there any measures proposed that you think are not justified or that will not contribute towards the achievement or maintenance of the environmental targets set out in the UK Marine Strategy Part One?

Whilst the PoM looks to the Developing Joint Fisheries Statement, and subsequent Fisheries Management Plans to deliver towards GES for (D3) and associated descriptors, at the time

of writing the details of these proposals are not yet publicly available or enacted. Given the slow progress towards GES, and with many descriptors failing, there must be strong measures delivered through the JFS and FMPs.

Further, when we reach important discussions around the real change required to how we manage UK fisheries, there is an apparent lack of clarity on what Ministers wish to achieve beyond the high level objective of sustainability. We believe there is a vital need for each of the devolved nations to set out a strong vision that includes the real actions needed to deliver the recovery of ocean health and a sustainable economic future for fisheries. Whilst Scotland has made some progress in this regard, with its developing Future Fisheries Management, to date no nation has set out a clear roadmap that answers the important questions such as clarity on fleet capacity, ensuring a just transition, ending overfishing or utilising tools such as REM.

5) Are there any significant human activity-related pressures and associated impacts that are not addressed by the proposed measures?

- Measures for the protection of seabass
- Squid management measures (could follow a similar structure to the management strategies for cuttlefish).
- Sharks, skates and ray are covered in the 'fish' section.

6) Do you agree with the justifications provided for the use of exceptions under Regulation 15?

Fish

The UK should be transparent about their starting points in negotiations:

- Need to demonstrate they were pushing for management measures that would contribute to achieving GES and were unable to secure this within the negotiations.
- Agree that different populations will take longer to recover and therefore might not meet the 2024 deadline, however in these cases recovery strategies and interim targets should be set which would allow us to determine whether we were on the right path towards achieving GES. If it is not expected that GES should be achievable by 2024, an alternative year should be suggested and goals set within that timeframe that should be met instead.

Shellfish

- We agree there are challenges in determining sustainable reference points for shellfish stocks and that this might delay some shellfish stocks from achieving GES by 2024. Again, clear interim targets and milestones are needed in the meantime to ensure no additional pressure is placed on these stocks, following a precautionary approach. Furthermore, while a lot of work was highlighted in

England to help identify these reference points, there seems to be a lack of ambition in the other DAs to also achieve this.

Food webs (D4)

We note the consultation document's explanation that for food webs the "main measures to address the targets set in the UK Marine Strategy Part One (2019) have already been outlined elsewhere in the strategy, particularly under Commercial Fisheries and Eutrophication sections although all measures contribute to the high-level objective for Food Web to a greater or lesser degree."

Having therefore covered the relevant measures elsewhere, we would simply reiterate the importance of achieving GES across the descriptors. The health of the marine food web is highly complex with different ecosystems intertwined and co-dependent, meaning GES for food webs is subject to marine life flourishing throughout our seas.

In addition, on marine plans, which are outlined as assisting in achieving targets for food webs, in Wales, whilst there is a Wales National Marine Plan (WNMP), this is not yet spatially explicit. Whilst Strategic Resource Areas, a product of the WNMP, are planned to be implemented, this will not allow for cumulative impacts to be assessed. For that reason, we are still highly concerned that marine planning is currently insufficient in Wales if GES is to be achieved and that it is not keeping pace with the scale of ambition for new development in Welsh waters.

So, while cautious welcome should be given to improvements in fish communities, the problems outlined throughout the 2019 assessment, including the fact that breeding seabird populations are not consistent with GES, are warning signs that our seas are under unprecedented pressures.

Contaminants (D8)

1) Are the proposed measures sufficient to achieve and maintain Good Environmental Status (GES)?

We have serious concerns that there is no accompanying impact assessment of the cumulative impact for the measures. There are no assessments given for the projected impact of the measures being proposed. For instance for marine litter (D10) the Annex 2 on reducing uncertainty none of this resolves the question to what degree the measures described will reduce marine litter. Delays in the programme of implementation of the measures are already being foreseen, with some envisaged to not start until 2024 at the earliest, making it difficult to see how GES will be achieved within the timescale of being by 2024.

Furthermore, there is no consideration of climate emergency or changes in population. For example, this might change the frequency of pollutant discharges from stormwater (D10 +

D8); or PCBs and other legacy pollutants being released from ice sinks in polar regions (D8); or remobilisation of pollutants stored in sediments due to increased storms.

If the impact of the climate emergency is greater than the measures being put in place, then the status of GES will suffer a decline, therefore it is imperative that measures are considered in the context of a changing climate and socioeconomic changes. Impact assessments need to be updated in line with these aforementioned issues.

Unfortunately, GES as it is defined currently is inadequate to truly assess the state of chemical contaminants in the environment. GES is assessed on a very narrow range of generally legacy chemicals and is therefore not representative of the actual impact of chemical pollution on the marine environment. One particular concern regards persistent chemicals.⁶⁰ It is clearly stated in the consultation that 'Projections by ICES show that it may be many decades before some of these chemicals fully degrade from marine sediments in the sea.' However, other equally persistent chemicals (e.g. PFAS) are still being produced, used and emitted into the environment but are still not being sufficiently monitored or prevented.

In terms of the measures laid out in the consultation, we would highlight the following:

- The inclusion of the upcoming UK Chemical Strategy as a measure will only be sufficient provided it strives to protect the environment from hazardous chemicals, including highly persistent chemicals. In order to be effective at protecting the environment from chemical contaminants it is vital that it is published without any further delay. As a minimum, the following points covered in 'The 12 key asks for the UK Chemicals Strategy' should be included in the Chemical Strategy⁶¹:
 - Prioritise prevention and precaution
 - Phase out the most hazardous chemicals from consumer products for all non-essential uses
 - Protect UK citizens and the environment from endocrine disrupting chemicals (EDCs)
 - Phase out the use of PFAS and other very persistent chemicals
 - Speed up regulation of harmful chemicals and avoid regrettable substitution by adopting a grouping approach
 - Address the 'cocktail effect'
 - Ensure a clean circular economy with products that are safe by design
 - Develop an effective monitoring and alert system
 - Stop the continued accumulation of legacy chemicals in the environment
 - Remain aligned with the world-leading chemical regulation EU REACH.

2) If not, what measures are needed? Please provide details and evidence to show how these would contribute towards the achievement or maintenance of the environmental targets as set out in the 2019 update to the UK Marine Strategy Part One.

⁶⁰ "State of play of the impact of chemical pollution on freshwater and" https://chemtrust.org/wp-content/uploads/Chemical-pollution-impact-UK_CHEM-Trust_MCS_May2021-1.pdf. Accessed 10 Nov. 2021.

⁶¹ Further details for these asks and the full list of the 12 asks are given here: <https://chemtrust.org/wp-content/uploads/12-Key-Asks-for-the-UK-Chemical-Strategy.pdf>

The environmental targets set out in part 1 of the UK Marine Strategy were highly unambitious and do not represent the actual threat from chemical pollution. More measures need to be introduced for remediation of current chemical pollution and at the same time ensure that future chemical pollution is prevented.

The Chemical Strategy hasn't yet been released and therefore we have no indication of what extent they will help achieve GES e.g. chemicals included, timescales, voluntary vs mandated commitments. Currently, no assumptions can be made about the ability of the Chemicals Strategy to achieve GES. Therefore, as a minimum until the Chemicals Strategy is defined, separate measures for achievement of GES must be undertaken. These could be then incorporated and form a fundamental component of the Chemicals Strategy as and when it is published. The measures for GES would need to include:

- Addressing the cocktail effect.
- Phasing out PFAS and other very persistent chemicals.
- Stopping the continued accumulation of legacy chemicals in the environment by identifying and eliminating remaining sources of emissions of legacy chemicals.
- Develop an effective monitoring and alert system for emerging contaminants to ensure that they don't have to be remediated in the future.

3) Are there any additional existing or planned measures not identified that might also contribute to the achievement of the relevant environmental targets and the achievement or maintenance of GES?

As mentioned in our answer to D1, D4 cetaceans: there is nothing in the current or previous PoM to tackle the serious issue of chemical pollutants and the high levels of PCBs and other persistent contaminants in UK cetaceans. The UK needs to:

- Prioritise and fund the elimination of contaminated materials.
- Implement a monitoring and reporting programme to measure PCB and other POP's levels from soil to sediment, rivers to sea.
- Adopt a more precautionary approach to waste management to prevent future pollution.
- Increase contributions to the Global Environment Facility to facilitate the eradication of stockpiles in developing countries, which have suffered from a lack of funding for expensive eradication.

4) Are there any measures proposed that you think are not justified or that will not contribute towards the achievement or maintenance of the environmental targets set out in the UK Marine Strategy Part One?

While the measures proposed are likely to contribute towards achieving GES, they are on their own insufficient to achieve GES.

5) Are there any significant human activity-related pressures and associated impacts that are not addressed by the proposed measures?

As it stands currently, highly persistent chemicals are not being addressed by the proposed measures. The measures currently facilitate the build up of persistent chemicals into our environment resulting in poor chemical status. Persistence is not currently recognised as

reason enough to regulate, but without this mandate we have a situation that waits until they reach critical levels where harm is done but at which point we are unable to remove them from the environment. This leads to the current perverse outcome in which exceptions are applied for these highly persistent chemicals.

Measures across the UK need to be implemented to reduce impact of utilising treated sewage sludge. Treated sewage sludge has routinely been spread on agricultural land which, although provides nutrients and organic matter,⁶² also contains the chemicals and microplastics which are captured during the treatment process.⁶³ Despite undergoing treatment, treated sludge still contains a number of different contaminants including chemicals and microplastics.^{64,65} When treated sludge is spread onto agricultural land, the contaminants are re-released into the environment, and may subsequently end up in the ocean. Preventing contaminants from entering wastewater systems must be prioritised, as it is the most effective and sustainable option to reduce contaminants within sludge. However, particularly in the short-term, contaminants entering wastewater systems will be unavoidable due to historic legacy and essential uses. Therefore, regulatory limits that reflect the modern composition of wastewater must be set for a wider range of chemicals and microplastics within treated sludge, if it is applied to agricultural land. This would ensure that contaminants from sludge are not simply transferred to farmland and then ultimately the rivers and ocean. If sludge is too contaminated to meet these new limits, innovation in treatment and alternative uses may be required and should be achieved by remaining as high in the waste hierarchy as possible. It has been demonstrated, for instance, that gasification of sludge could be an alternative route which is higher in the waste hierarchy.⁶⁶

6) Do you agree with the justifications provided for the use of exceptions under Regulation 15?

An exception is to be applied for this descriptor under: (e) natural conditions which do not allow timely improvement in the status of the marine waters concerned.

PCB release is still being permitted and very little is being done to remediate current pollution. This exception should not be used as an excuse for not taking action regarding current and continued PCB pollution, and therefore should have caveats, i.e. no more permits for release, inventory of current PCB stocks, action plan for disposal, and remediation plan for hotspots. It should also be seen as an opportunity to prioritise preventing future pollution, as there are other equally persistent chemicals (e.g. PFAS) that are still being manufactured, used and polluting the marine environment. Measures need to be put in place to ensure a similar scenario to PCBs does not happen again in the future, where lack of action leads to this perverse outcome of then applying for exception due to the challenges of remediation, as outlined in question 5.

⁶² "Assured biosolids." <https://assuredbiosolids.co.uk/>. Accessed 19 Oct. 2021.

⁶³ "Resources - Briefing notes - EurEau." <https://www.eureau.org/resources/briefing-notes>. Accessed 19 Oct. 2021.

⁶⁴ "ANNEX XV RESTRICTION REPORT - ECHA." 22 Aug. 2019, <https://echa.europa.eu/documents/10162/05bd96e3-b969-0a7c-c6d0-441182893720>. Accessed 19 Oct. 2021.

⁶⁵ "Organic contaminants in sewage sludge (biosolids) and their" <https://royalsocietypublishing.org/doi/10.1098/rsta.2009.0154>. Accessed 19 Oct. 2021.

⁶⁶ "Sewage sludge | Ocean emergency | Marine Conservation Society." <https://www.mcsuk.org/ocean-emergency/ocean-pollution/sewage-sludge/>. Accessed 19 Oct. 2021.

Contaminants in Seafood (D9)

1) Are the proposed measures sufficient to achieve and maintain Good Environmental Status (GES)?

We don't agree that GES has been achieved for contaminants in seafood because, as previously stated in our responses, we believe that alongside other contaminants, microplastics should be considered in this descriptor. Consuming seafood is one known pathway for humans to ingest microplastics, particularly when eating fish that are intended to be consumed whole⁶⁷. The health impacts of ingesting microplastics are still not completely understood. However, the WHO have raised concerns and called for more research to be conducted on the effects of microplastics on human health⁶⁸. Researchers have also raised the issue of chemical contaminants that are associated with microplastics, either through toxic additives such as phthalates in the plastic or through the ability of microplastics to accumulate persistent organic pollutants in the environment⁶⁹. Additional concern has been raised on the human health risks of nano-sized plastics (<150µm), and consideration should be given to developing monitoring protocols and measures under this descriptor for these in association with those for microplastics and chemical contaminants⁷⁰.

Marine litter (D10)

1) Are the proposed measures sufficient to achieve and maintain Good Environmental Status (GES)?

We have serious concerns that there is no accompanying impact assessment of the cumulative impact for the measures. There are no assessments given for the projected impact of the measures being proposed. For instance, for marine litter (D10) the Annex 2 on reducing uncertainty. This makes it impossible to judge the degree to which the measures described will reduce marine litter. Delays in the programme of implementation of the measures are already being foreseen, with some not envisaged until 2024 at the earliest, making it difficult to see how GES will be achieved within the timescale of being by 2024.

Furthermore, there is no consideration of the climate emergency or changes in population. For example, this might change the frequency of discharges from stormwater (D10) or PCBs being released from ice that is currently in polar regions (D8). Chemicals contained in sediment that would be released due to increased storms?

67 "Microplastics in Seafood and the Implications for Human Health." 16 Aug. 2018, <https://link.springer.com/article/10.1007/s40572-018-0206-z>. Accessed 27 Oct. 2020.

68 "WHO calls for more research into microplastics and a" <https://www.who.int/news/item/22-08-2019-who-calls-for-more-research-into-microplastics-and-a-crackdown-on-plastic-pollution>. Accessed 27 Oct. 2020.

69 "Microplastics in Seafood and the Implications for Human Health." 16 Aug. 2018, <https://link.springer.com/article/10.1007/s40572-018-0206-z>. Accessed 27 Oct. 2020.

70 "Microplastics in coastal areas and seafood: implications for food safety" April 2019. <https://www.tandfonline.com/doi/full/10.1080/19440049.2019.1585581>. Accessed 6 Nov.2020

If the impact of the climate emergency is greater than the measures being put in place, then the status of GES will suffer a decline and therefore it is imperative that measures are considered under the changing climate and socioeconomic changes. Impact assessments need to be updated in line with these aforementioned issues.

GES under the EU Marine Strategy Framework Directive for marine litter is 20 items per 100m. This was set as it is considered “by experts from the MSFD Technical Group on Marine Litter to reduce harm from beach litter to a sufficiently precautionary level” and contributes to the fulfilment of the United Nations’ Sustainable Development Goal 14.1: to significantly reduce marine pollution by 2025. We would expect that the same GES threshold should be defined within the UK legislation to align with the mandate that the environmental status would not be lower post-EU exit. Furthermore, no objections to this definition of GES were raised by the UK under OSPAR. The UK government under OSPAR’s North-East Atlantic Environment Strategy 2030 have already agreed to a target to reduce marine litter by 50% by 2025 and by 75% by 2030, and the measures outlined are unlikely to be sufficient to achieve this.

There has been no modelling undertaken on the proposed measures with the dates of implementation which could show the date that GES of 20 items per 100m would be achieved for UK seas. The implementation dates of many of these suggested measures are considerably late to achieve GES. Within the consultation document it quotes that the ‘The purpose of the UK Marine Strategy Part Three is to put in place interventions that will help move the marine environment towards the revised objectives and targets set out in the updated UK Marine Strategy Part One, and to help move us in the direction of achieving GES by 2024.’ Therefore any measures proposed should already have had time to be effective. For instance currently a deposit return scheme is being mooted for England, Wales and Northern Ireland for 2024 at the earliest. This would mean that the measure itself would only be implemented at the time that the GES would be achieved. Therefore the proposed measure would not be relevant within the timeframe given and become even less so with any additional delays to the implementation of a DRS.

2) If not, what measures are needed? Please provide details and evidence to show how these would contribute towards the achievement or maintenance of the environmental targets as set out in 2019 update to the UK Marine Strategy Part One.

The UK governments need to commit to the tenets of the EU single use plastic Directive. While some bans (or market restrictions) have been implemented, the EU single use plastic Directive provides a wider suite of measures which aim to tackle 50% of the marine litter found on beaches⁷¹. The lack of implementation of these measures, particularly those which go beyond bans (or proposed bans) means that the UK is likely to fall behind in achieving GES through associated reduction in marine litter.

Furthermore, as outlined in a number of other consultation responses from ELUK with regards to plastic, measures should include improvements to waste management,⁷² plastic

⁷¹ See https://www.google.com/url?q=https://media.mcsuk.org/documents/MCS_Single-use_plastics_briefing_July_2021.pdf&sa=D&source=docs&ust=1635857328219000&usg=AOvVaw2_dhiPeeOBG8LbHE8Dnc_h

⁷² http://www.wcl.org.uk/docs/assets/uploads/WCL_Consistent_Collections_Consultation_1.pdf

tax, Deposit Return Schemes⁷³ and Extended Producer Responsibility.⁷⁴ We also support measures to ensure consumers are given the correct information with regards to Green claims as highlighted by CMA recent published guidelines.⁷⁵

While we welcome the recognition of the new PAS for pellet handling to reduce the amount released into the environment, previous voluntary initiatives, such as operation clean sweep, have failed to address the number of nurdles being released into the environment. In 2016 for example, it was calculated that up to 53 billion nurdles were being released into the environment every year.⁷⁶ Therefore, we call for the PAS for pellet handling to be mandatory in all operations utilising plastic pellets.

The Port Waste Reception Facilities regime in the UK were last updated in 2003. The current UK Port Waste Reception Regime is not adequate. As highlighted in the EU Port Reception Facilities on their pre-2019 revision and on which the existing current UK legislation is based, “discharges of waste at sea still occur at substantial environmental, social and economic costs. This is due to a combination of factors, namely adequate port reception facilities not always being available in ports, enforcement often being insufficient and there being a lack of incentives to deliver the waste onshore.”

The Port Waste Reception Regime therefore needs to be updated and undergo some revision. Revisions should include⁷⁷:

- no exemptions for vessels (e.g. fishing vessels).
- indirect fees.
- separate collection of waste from ships in port to ensure that ship waste can become part of the circular economy.
- ensure any passively collected waste (particularly during fishing) would be covered under the new indirect fee.

While the Extended Producer Responsibility for Fishing and Aquaculture gear is welcome, for this to be relevant to achieving GES by 2024, it would need immediate implementation after consultation and to be extremely robust. In addition, we would like to see stronger measures on lost fishing gear reporting (which is currently up for discussion at the International Maritime Organization) and fishing gear marking (FAO guidelines were adopted in 2018 but remain voluntary in nature so we would welcome a clear plan for the UK to not only transpose them into national policy but also make them mandatory). Work undertaken by FAO, GGGI and others clearly demonstrates that reporting and marking should form part

⁷³ http://www.wcl.org.uk/docs/assets/uploads/WCL_and_WEL_DRS_consultation_response.pdf

⁷⁴ http://www.wcl.org.uk/docs/assets/uploads/ELUK_EPR_Consultation_response_1.pdf

⁷⁵

http://www.wcl.org.uk/docs/assets/uploads/WCL_Draft_CMA_guidance_on_environmental_claims_on_goods_and_services_consultation.pdf

⁷⁶ https://www.nurdlehunt.org.uk/images/Leaflets/Report_briefing.pdf

⁷⁷ ELUK member MCS called for a number of key revisions during the stakeholder engagement in 2021, the full asks and details are available at

https://media.mcsuk.org/documents/Port_Waste_Reception_Facilities_MCS_response_May_2021.pdf&sa=D&source=docs&usq=AOvVaw3UC4U6L4Cv2u2IdS53srqC

of a comprehensive fishing gear management strategy that encompasses the full life cycle of fishing gear.⁷⁸

To monitor the success of measures aimed at reducing inland sources, new monitoring regimes for macro and microplastics should be established for all pathways and sinks, including, terrestrial, freshwater and sediments.

3) Are there any additional existing or planned measures not identified that might also contribute to the achievement of the relevant environmental targets and the achievement or maintenance of GES?

4) Are there any measures proposed that you think are not justified or that will not contribute towards the achievement or maintenance of the environmental targets set out in the UK Marine Strategy Part One?

While the measures proposed are likely to contribute towards achieving GES, they are on their own insufficient to achieve GES.

5) Are there any significant human activity-related pressures and associated impacts that are not addressed by the proposed measures?

Measures across the UK need to be implemented to reduce the impact of utilising treated sewage sludge. Treated sewage sludge has routinely been spread on agricultural land which, although providing nutrients and organic matter,⁷⁹ also contains the chemicals and microplastics which are captured during the treatment process.⁸⁰ Despite undergoing treatment, treated sludge still contains a number of different contaminants including chemicals and microplastics.^{81,82}

When treated sludge is spread onto agricultural land, the contaminants are re-released into the environment, and may subsequently end up in the ocean. Preventing contaminants from entering wastewater systems must be prioritised, as it is the most effective and sustainable option to reduce contaminants within sludge. However, particularly in the short-term, contaminants entering wastewater systems will be unavoidable due to historic legacy and essential uses. Therefore, regulatory limits that reflect the modern composition of wastewater must be set for a wider range of chemicals and microplastics within treated sludge if it is applied to agricultural land. This would ensure that contaminants from sludge are not simply transferred to farmland and then ultimately the rivers and ocean. If sludge is too contaminated to meet these new limits, innovation in treatment and alternative uses may be required in the short-term and should be achieved by remaining as high in the waste

⁷⁸ See Global Ghost Gear Initiative best practice framework, for example <https://www.ghostgear.org/resources> and FAO gear marking guidelines <https://www.fao.org/responsible-fishing/marking-of-fishing-gear/voluntary-guidelines-marking-fishing-gear/en/>.

⁷⁹ "Assured biosolids." <https://assuredbiosolids.co.uk/>. Accessed 19 Oct. 2021.

⁸⁰ "Resources - Briefing notes - EurEau." <https://www.eureau.org/resources/briefing-notes>. Accessed 19 Oct. 2021.

⁸¹ "ANNEX XV RESTRICTION REPORT - ECHA." 22 Aug. 2019, <https://echa.europa.eu/documents/10162/05bd96e3-b969-0a7c-c6d0-441182893720>. Accessed 19 Oct. 2021.

⁸² "Organic contaminants in sewage sludge (biosolids) and their" <https://royalsocietypublishing.org/doi/10.1098/rsta.2009.0154>. Accessed 19 Oct. 2021.

hierarchy as possible. It has been demonstrated, for instance, that gasification of sludge could be an alternative route which is higher in the waste hierarchy.⁸³

6) Do you agree with the justifications provided for the use of exceptions under Regulation 15?

The exception applied for under marine litter is not justified as effective policy can (and should) quickly deliver benefits for the marine environment. For instance, the Marine Conservation Society beachwatch survey results for England in September 2015 showed an average of 14.7 plastic carrier bags per 100m. In October 2015 the 5p carrier bag charge was introduced in England. In September 2016, an average of 6.9 plastic carrier bags per 100m were found. In subsequent years, the numbers found continued to decline with 3.6 plastic carrier bags per 100m in September 2021. This is not unique to carrier bags with a ban on plastic cotton bud sticks reflected in a decrease in number found on our beaches. In October 2020 plastic cotton bud sticks were banned in England. Data from September 2020 shows 13.8 cotton buds per 100m, but this drops to 4.4 by September 2021.⁸⁴

The measures currently listed for this cycle would be taken too late within the strategy cycle and the governments need to learn from this, and ensure that steps are taken at the earliest opportunity e.g. DRS could be implemented in Wales and England earlier than the “earliest 2024”.

Underwater noise (D11)

1) Are the proposed measures sufficient to achieve and maintain Good Environmental Status (GES)?

Research has found that underwater noise produced by ships, recreational boats and other noisy activities at sea increases stress that negatively affects the welfare of individual animals and entire populations, masks sounds that are critical for the survival of marine life (such as communication essential for breeding and feeding), can disorientate marine animals, and can change important predator-prey interactions and community structure. With some of the busiest shipping lanes in the world off the UK’s coast, underwater noise has been increasing over the last 30 years.⁸⁵ Continuous noise generated by shipping dominates the ocean soundscape, and human activities from offshore energy construction and generation also pose a potential noise risk to marine life and there is currently very little information upon which to judge potential projects.

The current proposed measures will not be sufficient to achieve GES. We believe more needs to be done to ensure that the requirements of the Descriptor are adequately met,

⁸³ "Sewage sludge | Ocean emergency | Marine Conservation Society." <https://www.mcsuk.org/ocean-emergency/ocean-pollution/sewage-sludge/>. Accessed 19 Oct. 2021.

⁸⁴ Despite this success we would also like to note that single use carrier bag policy has inadvertently led to the thicker, more durable plastic 'bags for life' being issued in staggering numbers – increasing by 4.5 per cent between 2018-19 to more than 1.5 billion bags – and that's a significant problem. We urge retailers to ensure that plastic 'bags for life' are priced at 70p or higher to incentivise their reuse or, even better, that they be phased out entirely, but to be effective these initiatives need to be supported by Government policy and mandated reporting.

⁸⁵ <https://www.theguardian.com/environment/2017/may/02/seals-deafened-noisy-shipping-lanes-say-scientists>

namely that noise is at levels that do not adversely affect marine ecosystems and animals at the population level.

We are pleased to see that the UK has established a Marine Noise Registry (MNR). For the noise register to be effective it needs to include information about planned noise generating activities so that these can be regulated appropriately. However, as it stands, the MNR is used for data input only, and not by all noise producers nor for all noise sources. For outputs from the MNR, JNCC will publish maps annually presenting the spread of activities across UK seas. Data contained within the MNR are available upon request from JNCC. This is a long-winded process for industry and other stakeholders to obtain data and will not allow real-time information or adaptive decision making.

Guidance and codes of conduct

Voluntary codes of conduct are not sufficient to monitor and enforce compliance with legislation with respect to noise disturbance. Licensing of commercial wildlife watching operations is required to maintain an overview of numbers of operators and potential hotspots, and should include conditions for monitoring and a requirement for WiSe training. Further measures required to document and prevent disturbance have been identified in WCLs annual Wildlife Crime reports.⁸⁶

There are severe inconsistencies in the various guidance documents on injury and disturbance to European Protected Species.⁸⁷ They do not take cumulative impacts into account, do not consider individuals of an EPS, but rather focus on an area-based threshold approach (Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs (England, Wales & Northern Ireland) (May 2020)) or set no thresholds or limits at all (The protection of Marine European Protected Species from injury and disturbance Guidance for Scottish Inshore Waters (July 2020)). The scientific evidence base underpinning this area-based threshold approach is not sound, as it derived from assumptions on the relationship between bycatch and carrying capacity and has no direct link to the Habitats Directive criteria for Favourable Conservation Status. Bycatch cannot be related to noise disturbance. Spatial thresholds are also not applicable, as it is not the area involved that is key to maintaining GES of individuals / populations; it is the quality of the areas involved that is vital to individuals and populations. Arbitrary percentage areas are not ecologically defensible.

2) If not, what measures are needed? Please provide details and evidence to show how these would contribute towards the achievement or maintenance of the environmental targets as set out in 2019 update to the UK Marine Strategy Part One.

⁸⁶ https://www.wcl.org.uk/docs/Link_Annual_Wildlife_Crime_Report_06.11.20.pdf

⁸⁷ EPS, The protection of Marine European Protected Species from injury and disturbance Guidance for Scottish Inshore Waters (July 2020); The protection of marine European Protected Species from injury and disturbance Guidance for the marine area in England and Wales and the UK offshore marine area (June 2010)), harbour porpoise (Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs (England, Wales & Northern Ireland) (May 2020)) and marine mammals from noise (JNCC guidelines for minimising the risk of injury to marine mammals from using explosives (August 2010); JNCC guidelines for minimising the risk of injury to marine mammals from geophysical surveys (August 2017) & Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise (August 2010).

The strategy is lacking strong measures to tackle noise at source. Noise from pile driving, construction, explosions, and seismic surveys must be addressed, with either noise-reducing technologies or bans on these activities in certain instances. It is vital that noise limits relating to these activities are regularly assessed and enforcement action taken where necessary.

Shipping noise should also receive a greater attention, with ship's propellers having been identified as the most widespread cause of underwater noise.⁸⁸ The IMO Guidelines for ship quieting should be promoted and applied, including addressing the IMO recommendation to identify the noisiest vessels that would most benefit from quieting technologies alongside improvements in fuel efficiency. UK Government leadership is required to drive the uptake of ship quieting technologies, including incentive programmes for quieter ships (such as reduced port fees), a UK-wide ports strategy that ensures noise reduction and the implementation of measures for ship speed optimisation and reduction to reduce underwater noise from shipping.⁸⁹ We welcome the UK involvement in the work on underwater noise at IMO and encourage the UK to continue to ensure that this work generates the intended actions to further prevent and reduce underwater radiated noise from shipping.

3) Are there any additional existing or planned measures not identified that might also contribute to the achievement of the relevant environmental targets and the achievement or maintenance of GES?

4) Are there any measures proposed that you think are not justified or that will not contribute towards the achievement or maintenance of the environmental targets set out in the UK Marine Strategy Part One?

5) Are there any significant human activity-related pressures and associated impacts that are not addressed by the proposed measures?

Noise linked to military operations and tests is a well-reported source of mass-strandings of whales. To take one example, strandings of Cuvier's beaked whales and northern bottlenose whales occurred on the west coast of Scotland in unprecedented numbers in 2018, in an area in which the Royal Navy was operating.⁹⁰ It is vital that the Ministry of Defence takes effective action to ensure that all its activities are fit for purpose and do not harm the UK's valuable marine wildlife. In particular, areas of important beaked whale habitat should be identified and avoided for the use of exercises involving high intensity sonar.

On the west coast of Scotland, Acoustic Deterrent Devices (ADDs) constitute a regionally significant and chronic source of underwater noise, which likely has widespread negative consequences, including disturbance and displacement for porpoises across the region (Findlay et al., 2018). ADDs should not be used by the salmon farming industry unless they have been shown to be effective for their stated purpose and to have no negative impacts on other species.

⁸⁸ <https://www.bbc.co.uk/news/uk-england-suffolk-47375006>

⁸⁹

https://www.bund.net/fileadmin/user_upload_bund/publikationen/meere/meere_unterwasserlarm_hintergrundpapier_english.pdf

⁹⁰ <https://www.thetimes.co.uk/article/navy-admits-it-was-in-area-linked-to-stranded-whales-713f8lfpf>

Improvements to the strategy

Publication of this programme of measures completes the second cycle of the UK Marine Strategy. This provides an opportunity to look afresh at how we currently are delivering the strategy, to learn from our experience, to build on and improve the delivery of a UK Marine Strategy for the future, and to support the delivery of good environmental status. We are keen to understand where improvements can be made to enhance and streamline the existing delivery programme and improve implementation of the next cycle and would welcome your views to the following questions.

i. What, if any, improvements do you think could be made to the process and structure of the existing delivery programme in order to enhance and streamline it?

ii. What, if any, improvements do you think could be made to the scope of the existing delivery programme to increase its effectiveness, coherence and relevance across the UK regulatory landscape?

ELUK members will be responding to these questions in individual responses. We have also covered our position on reform of the UKMS in the Executive Summary. In short, the strategy itself should be revised as a new 'Ocean Recovery Strategy'. Such a revision should lay out a clear path to delivering the 2030 State of Nature target, and ensure that at least 30% of UK oceans are fully or highly protected by 2030 (30x30).

Coalition members submitting this response

This response is supported by [Wildlife and Countryside Link](#), [The Northern Ireland Marine Task Force \(NIMTF\)](#), [Scottish Environment LINK's Marine Group](#) and [Wales Environment Link's Marine Working Group](#).

This response is supported by the following organisations:

- Buglife
- Chartered Institute of Ecology and Environmental Management
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- Friends of the Earth England
- Greenpeace UK
- IFAW
- Institute of Fisheries Management
- Marine Conservation Society
- ORCA
- RSPCA
- RSPB
- Whale and Dolphin Conservation
- WWF-UK
- ZSL