

**Evidence presented to the
House of Commons Joint committee – June 2008**

Draft UK Marine Bill

Introduction

- **Scottish Environment LINK is the umbrella body for Scotland's voluntary environmental organisations, representing around 500,000 members.**

Scottish Environment LINK's Marine Task Force and its campaign for UK and Scottish Marine Bills is supported by:

Hebridean Whale and Dolphin Trust
Marine Conservation Society
National Trust for Scotland
RSPB Scotland
Scottish Wildlife Trust
WWF Scotland
Whale and Dolphin Conservation Society

- Scottish Environment LINK's Marine Task Force want to see protection for all of the UK's Seas. We welcome the opportunity to contribute to the pre-legislative scrutiny of the draft UK Marine Bill, but due to the mix of devolved and reserved matters both within and beyond 12nm we also recognise the vital importance of parallel marine legislation being developed in Scotland and Northern Ireland. We therefore strongly welcome the Scottish Government's proposal to develop a Scottish Marine Bill. Scottish Environment LINK's Marine Task Force is calling on all four administrations to ensure that these separate pieces of legislation are compatible, and that their implementation delivers comprehensive and coherent protection and management throughout UK seas.
- In responding to this consultation we have placed an emphasis on issues that relate to Scotland. For this reason we have not responded to questions 7, 11, 12 or 13. Scottish Environment LINK works closely with sister Link organisations in England, Wales and Northern Ireland who will also be submitting evidence and we support the issues put forward by these organisations. Some members of Scottish Environment LINK's Marine Task Force are also represented on our sister Link organisations and we further support the evidence of these member bodies.

Comments in response to the Committee's Questions

Q1 *The challenge of assessing whether the legislative framework for marine spatial planning set out is fit for purpose in the absence of the government setting out what the objectives for the planning system are (Marine Planning Statement)*

1. In order to implement an ecosystem approach, as required by the Marine Strategy Directive and signed up to by all four administrations¹, marine management for UK seas must be based on biogeographical rather than political boundaries and therefore we believe that marine management on a regional seas scale is the most coherent approach. Regional seas have been defined as areas of distinct physical, geological or biological characteristics such as the Northern North Sea or Irish Sea. A Marine Policy Statement should be developed and agreed jointly by all four administrations and we therefore urge the UK Government to work with Scottish Ministers, and *vice versa*, to ensure full participation in the joint UK-wide Marine Policy Statement. Additionally, we would want to see high level objectives which deliver the ecosystem approach forming the basis of such a marine policy statement. We would refer the committee to the Wildlife & Countryside Link response to the DEFRA consultation on high level objectives and also the work by the Advisory Group on Marine and Coastal Strategy/Sustainable Seas Task Force on marine objectives and desired state. We believe that a shared, high level policy statement, based on ecosystem objectives is essential to secure coherent, ecosystem-scale marine management across UK waters.
2. In order to implement an ecosystem approach, marine management for UK seas should follow ecological rather than political boundaries. It is clear that the draft bill does not contain a proposed system of marine planning that is consistent with joint planning across administrative boundaries. Scottish Environment LINK is disappointed that the draft bill does not contain powers for marine planning authorities to ensure that plans are joined-up across borders. We believe that there should be greater integration of plans and the ability to establish joint planning arrangements as well as a commitment from all UK Administrations to work together across political boundaries, even where different legislation is used to deliver planning. There should also be a duty to consult on cross border issues as well as across devolved/reserved issues.

Q2 *How well the regulatory framework proposed will operate, given the wide range of responsibilities involved.*

3. There would appear to be some confusion about the role of the IPC in Scottish Waters. We share the concerns of our sister organisations with regard to the IPC and believe that the MMO is the logical body to licence marine projects for reserved matters, irrespective of their size. We would like to seek clarification of the role of the IPC in Scottish waters and in particular that the provisions of the Planning Bill, currently before the Westminster Parliament, appear to extend only to Scotland insofar as required for the purpose of the construction of an oil or gas cross-country pipe-line, one end of which is in England or Wales, and the other end of which is in Scotland (Clause 198).

¹ Safeguarding Our Seas: A Strategy for the Conservation and Sustainable Development of our Marine Environment; Review of Marine Nature Conservation (2004)

Q3. The proposed powers, structure and regulatory role of the Marine Management Organisation.

4. The duty on the MMO to take into account guidance from the Secretary of State on achieving the overall objective of “making a contribution to the achievement of sustainable development” is weak. The role of the MMO should be made stronger by identifying the task as one of achieving sustainable development rather than contributing to it. If the MMO is to be seen as leading the task of delivery sustainable use and conservation of marine resources then the Draft Bill does not adequately reflect such a role. The Draft Bill should be amended to refer to a duty to further sustainable development and also a clear conservation duty on the MMO in carrying out all of its functions.
5. To secure the maximum benefits for the marine environment the UK MMO must be designed to facilitate formalised working arrangements with the Scottish MMO, Welsh Ministers, potential Northern Irish MMO or any such organisations or appropriate bodies in the devolved administrations carrying out such functions and *vice versa*. Whilst we recognise that amendment(s) to the draft UK Bill could be seen as premature, at a point at which there are no specific proposals in place to create a Scottish or Northern Irish MMO, we believe that an appropriate amendment could be worded in such a way as to cover e.g. any bodies set up by the devolved administrations that have substantially the same objectives as the UK MMO. The most logical place for such an amendment would appear to be in section 24. Such formalised working arrangements will assist sharing of information and best practice, and ensure that the UK’s seas are managed in a coordinated and coherent manner resulting in adequate ecological management.

Q4. How well the provisions of the Bill will fit with the aims and policies of the devolved assemblies.

6. We have identified a number of key areas where the draft Bill could be strengthened to deliver comprehensive and coherent protection and management throughout UK seas
7. **Marine Management Organisation (MMO)** The MMO will deliver reserved marine management functions on behalf of the UK Government, and Welsh Ministers will be responsible for devolved functions in Welsh territorial waters. The Scottish Government’s Sustainable Seas Task Force has been discussing the likely proposal to create a Scottish MMO through its own legislation to undertake devolved functions, while the Northern Ireland Executive is considering various delivery options, including an MMO. As detailed above, it is crucial that the UK Marine Bill facilitates strong working links between all of these bodies, both to manage the interface between reserved and devolved functions, and to secure joined-up management across borders throughout UK seas.
8. **Marine Planning** We believe that joined-up marine planning and management at the regional seas scale is the best way to deliver an ecosystem-based approach and ensure sustainable development in the marine environment. We are concerned that the draft Bill does not enable different marine planning authorities (either those it identifies, or future authorities that may be created under Scottish and Northern Irish legislation)

to produce joint plans – e.g. the situation could arise where at least four separate plans are produced for the Irish Sea. We would like to see powers included in the Marine Bill for the administrations to prepare joint plans.

9. **The Marine Policy Statement (MPS)** As stated above, we believe that a shared, high level policy statement, based on ecosystem objectives is essential to secure coherent, ecosystem-scale marine management across UK waters. We believe that a Marine Policy Statement should be developed and agreed jointly by all four administrations and we therefore urge the UK Government to work with Scottish Ministers, and *vice versa*, to ensure full participation in the joint UK-wide Marine Policy Statement.
10. **Marine Licensing** There are a number of confusions with regard to the licensing provisions in the Bill which need clarification which we intend to follow up with officials from the Scottish Government and DEFRA.

Q5. Will the system proposed be sufficient to meet the requirements of the forthcoming European Marine Strategy Directive and achieve 'good environmental status' as defined under the Directive.

11. The main aim of the Marine Strategy Directive is "*to achieve or maintain good environmental status in the marine environment*" by 2020. Should provisions be included in the UK Marine Bill to allow devolved administrations to produce joint plans with the UK MMO at the regional seas level it would be much more likely that good environmental status can be achieved. Given that Scottish waters (territorial waters and offshore areas adjacent to Scotland) make up approximately 60% of UK seas the importance of joint planning at the regional seas level is clearly critical in achieving good environmental status.
12. It is also critical that the provisions in the Bill for MCZs are strong enough to meet good environmental status by 2020. We believe that the Bill should provide for the development of a network of MCZs rather than individual sites only and there should be a clear duty to designate sites in order to achieve an ecologically coherent and representative network of MCZs.

Q6. Whether the proposed Marine Spatial Plans will be based on adequate scientific data and provide certainty about where activities and developments will be permitted in a given time frame.

13. There is no Government commitment to investment in new surveys to underpin the marine plans and associated Strategic Environmental Assessments and fill key data gaps in seabed mapping and species data to inform the designation of MCZs. The MMO needs to not only pool data but ensure it is 'fit for purpose' and up to date; and that data gaps continue to be filled to inform planning, management, designation of MCZs and the sustainable development and exploitation of UK seas. Such investment in new surveys is essential, and must be in addition to existing surveys.
14. While acknowledging there are data gaps, Scottish Environment LINK's Marine Task Force believes that there is sufficient data to develop initial marine plans, as they will be based on the same data that informs current licensing and marine management decisions. Bringing all existing data together is the first step in developing an integrated approach.

15. The precautionary approach must be a key principle of marine planning where there is a lack of data, high risk of environmental damage or MCZs have not yet been designated. Monitoring and review of plans to enable future adaptive management, particularly as new data or experience becomes available, will also be essential.

Q8. Should there be a statutory requirement on a UK body to ensure that the network of Marine Conservation Zones is created?

16. Initial conclusions from the Sustainable Seas Task Force, the stakeholder group set up by the Scottish Government to develop proposals for Scottish Marine legislation and form the basis for consultation, indicate that the Scottish Marine Bill will include a three pillar approach to marine nature conservation including a network of marine protected areas currently labelled Nationally Important Marine Areas (NIMAs). Under the current devolution arrangements these NIMAs could only apply out to 12 nm. The Scottish Government has also stated the intention to seek devolution of marine nature conservation powers out to 200 nm. Scottish Environment LINK believe that devolution of marine nature conservation duties/powers beyond 12 nm around Scotland should be further considered as this would ensure that conservation delivery is integrated with accountability for action e.g. designation and enforcement of marine protected areas should be linked, particularly as in the Scottish Fisheries Zone the Scottish Fisheries Protection Agency is responsible for fisheries enforcement. We note in the draft Marine Bill that no body is given the responsibility of enforcing Marine Conservation Zones in the offshore waters adjacent to Scotland.
17. The UK and Scottish Governments should ensure that NIMAs, MCZs and Natura sites deliver a coherent and representative network of Marine Protected Areas throughout UK waters. This is vital if the UK Government is to meet its commitments under OSPAR, World Summit on Sustainable Development and the Marine Strategy Directive.
18. We note that the only proposal for marine nature conservation in the Draft Bill is a network of marine protected areas, with no specific proposals for further species protection or a Biodiversity Duty beyond 12 nm. We would refer the committee to the Nature Conservation paper from the Sustainable Seas Task Force. In the absence of further devolution of marine nature conservation we would want to ensure that any proposals for the Scottish Offshore Zone were at least as strong as those proposed in this paper. These proposals include extension of Part One of the Wildlife and Countryside Act 1981 beyond 12nm and the Biodiversity duty as per the Nature Conservation (Scotland) Act 2004, extended to 200nm. In particular we note that, as proposed by the Sustainable Seas Task Force, designation of marine protected areas would be on purely scientific grounds and socio-economic factors would only be taken into account in the future management of sites.

Q9. Is there sufficient biological data to identify a potential network of Marine Conservation Zones, especially in offshore areas, and what data will be required to measure their effectiveness? What proportion should be highly protected?

19. In the marine environment it will always be necessary to operate with a level of uncertainty. Would the committee envisage a situation where we would delay the designation of, for example, important SSSI's or National Nature

Reserves on land on the basis that we don't know everything about terrestrial biology, ecology and geology? It is vital that the general need for more marine information does not delay the designation of specific sites that are already well described and known to merit protection. Indeed, a great deal of data is already available, particularly for inshore sites and sea lochs in particular. There must also be provision for addition or alteration to the network as new information becomes available. This will be particularly relevant in the offshore area, where the state of knowledge could advance rapidly with sufficient investment in data collection. The UK government and devolved administrations must dedicate significantly more resources to collecting new marine data, and use it to establish a comprehensive network of protected areas.

20. Sites must be monitored in order that they can be managed effectively. There should be a duty on the relevant conservation authority to produce and review a management plan for each area and report on site condition, achievement of site conservation objectives and, on a wider scale, fulfilment of the purposes of the network.
21. Rather than advocating a specific proportion of the network that is highly protected, Scottish Environment LINK's Marine Task Force would rather see the management of all sites dictated by the conservation objectives. The Bill should include a duty on the statutory nature conservation agencies to define a site's conservation objectives prior to designation. In order to ensure that the required level of protection is achieved (whether highly protected or less so), there should be a duty on public bodies to consult the statutory nature conservation agencies when they consider that exercising their functions – including consenting to any development – might hinder achievement of site objectives.

Q10. *Should socio-economic criteria as well as scientific criteria be used in identifying areas to be Marine Conservation Zones? What lessons on the designation of protected areas can be learned from existing SACs and Marine Nature Reserves?*

22. Scottish Environment LINK consider that sites (MCZs and NIMAs) should be identified, selected and designated using scientific criteria alone. We are concerned that, as currently drafted, the legislation has the potential to allow socio-economic factors to override national and international conservation priorities and hinder site designation. This is likely to result in fewer sites being designated, the most important sites for biodiversity potentially remaining unprotected, and a network that as a whole is neither comprehensive nor ecologically coherent.

Scottish Environment LINK Marine Task Force
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