

Marine Spatial Planning – a thought paper

Introduction: Marine Spatial Planning (MSP) is a system by which people decide what activities should happen where in the sea and when, thereby allowing a structure to be put in place to ensure that this is the case. Such a system should bring together various sectors and issues in one plan, integrating them so that conflicts are avoided and synergies optimised, resulting in the core purpose of protection, restoration and enhancement of the marine environment. MSP would therefore be of benefit to both economic and environmental interests, and should result in greater certainty and speed of decision making in the planning process.

Recommendations of the Advisory Group on Marine and Coastal Strategy (AGMACS)

- 5.3.1** There should be a system of Marine Spatial Planning;
- 5.3.2** The planning system needs a statutory basis, though potentially with a variable control (e.g. the flexibility to incorporate a non-statutory framework of local stakeholder engagement and planning).
- 5.3.3** The system should be based on 3 tiers: the top level should be UK level, ensuring connection to regional seas; the middle level should be “Scotland” in some sense; and the bottom level should be local. The options for the local and “Scotland” level tiers need further exploration.

The three tiers of MSP

1. UK level: This tier requires joint planning between all 4 administrations, and the administrations should work together to produce a UK framework for MSP. An excellent precedent for such a coordinated approach was set in the UK’s shared framework for sustainable development¹. It should be noted that there will be a division of jurisdictions regardless of boundaries. For example fishing is devolved out to 200nm in Scotland whereas oil and gas are reserved from 0-200nm. There are also geographical areas such as the Solway Firth or the Tweed basin which will require close coordination. It is therefore vital that there is a means of jointly agreeing plans for the division of responsibilities throughout UK waters. This tier should be a relatively short policy approach stating the overarching aims of MSP and setting a framework for middle level plans, and local plans that will contain more detail. All discussions at this level should be set in the context of international commitments (i.e. the forthcoming Marine Strategy Directive, OSPAR commitments, Common Fisheries Policy, The Wild Birds and Habitats Directives). Whilst the UK cannot bind foreign governments to a UK plan, those responsible for the plan should initiate a discussion with governments responsible for adjacent parts of the sea in an attempt to achieve close cooperation.

2. Middle level: This plan should be consistent with the high level strategic framework set out at a UK level. Thought should be given as to what this plan should cover (e.g. Scotland in a national sense, or UK Regional Seas (JNCC) in a biogeographic sense).

3. Local level: Scottish Environment LINK’s Marine Task Force believe that this level is the most important, as it is at the local level that there is most scope for conflict between marine users. Effective planning at the local level would ensure synergy and avoid cumulative impacts arising from multiple uses. These plans should be consistent with both the UK and Scottish/regional seas plans. The table below sets out a possible process for local planning to proceed in Scotland. It is however, important to distinguish between a framework which is put in statute, and the

¹ One Future – different paths. The UK’s shared framework for sustainable development. Available from <http://www.sustainable-development.gov.uk/publications/uk-strategy/framework-for-sd.htm>

implementation of a plan, which refers to how officials should use a statutory framework for plan delivery.

What Scottish Environment LINK's Marine Task Force believe MSP should deliver

An acceptable system of MSP will be one which helps to safeguard and improve the health (and thereby the productivity) of the marine ecosystem, and manages human activities in ways that deliver economic and social benefits without compromising the health of this underlying resource.

In order to achieve this it is important that:

- **Ecosystem health is firmly enshrined in the purpose and measured outputs of the planning system** (*for example - statutory purpose and guidance for MSP, Scottish Policy Statement commits to ecosystem approach, Plan areas reviewed against marine ecosystem objectives*)
- **There is compliance with relevant Plans by as many sea users as possible, and scope for negotiation on issues that do not fall within Scottish jurisdiction.** *Therefore all interests, including reserved interests, should be considered in each Plan, and Plans must have statutory force.*
- **There is detailed Plan coverage of intensively-used sea areas and areas of special interest, thereby providing consistency across Scotland.** *This would relate to the three tiers of MSP covered above, linking to UK and Scottish policy statements.*
- **Local compliance with Plans and local benefits are maximised.** *(Local stakeholders and communities should be engaged in the preparation and implementation of Local Plans, with input to relevant coastal sections of terrestrial plans. Decisions in relation to the plan should be taken at a local level)*
- **Plans are effectively implemented and enforced.** *(ultimate responsibility for implementation is vested in a lead body existing in law)*

Plan-Making and Implementation at a local level in Scotland

The table and flow diagrams below illustrate possible roles and responsibilities in relation to MSP in Scotland. The table attempts to identify the generic roles LINK believes are required for local delivery, rather than ascribing roles to specific existing organisations. However, we believe that in the case of the Local Planning Agent, there are three main options:

Option 1 – SEPA:

SEPA are already responsible for delivering the river basin management planning process out to three nautical miles under the Water Environment and Water Services (Scotland) Act 2003. It may be felt appropriate for SEPA to take on further responsibility for marine spatial planning at a local level. As Area Advisory Group boundaries under the WEWS Act are catchment based, there may be some advantage in using these biogeographic boundaries as local planning areas. In addition, under the WEWS Act, SEPA are required to work together with the Environment Agency to produce RBMPs for cross-border districts under the Solway-Tweed RBMP. As detailed above, such cross-border coordination will be vital in these areas. Under all three of these options the MMO would still have overall national responsibility for planning.

Option 2 – Local Authorities:

Local authorities are responsible for terrestrial planning and therefore might be considered as good candidates for the local planning agents for local MSP. However, careful thought would have to be given to the boundaries for local planning areas. For example, the Firth of Clyde has 7 local authorities and the Firth of Forth 9 Local Authorities, and these areas would require careful coordination of effort. Such a system would also have to be flexible enough to deal with any future changes in local authority boundaries.

Option 3 – Marine Management Organisation:

Depending on the final make up of an MMO, this organisation could take responsibility for planning at a local level. However, in a statutory system of MSP the 'delivery agent' must exist as an agent in law, and must be invested with clear roles, responsibilities, powers and duties. It is unlikely that

a loose partnership between existing bodies (a virtual SMMP) could exist in law as required. If an SMMP was to be considered as the local planning agent, one organisation would have to exist as the lead body responsible for delivery of MSP, and this body would be accountable for all decisions.

Plan Making	Plan Implementation
Scottish Ministers:	
<ul style="list-style-type: none"> • Approve Scottish Policy Statement (ensuring alignment, if appropriate, with UK policy statement) • Approve Regional Seas plans relating to Scotland (jointly with UK). • Final approval of local MSPs (with SMMO). 	<ul style="list-style-type: none"> • Negotiate with UK in relation to reserved issues. • Final appeals role on Regional Seas and Local Plans and on decisions relating to those plans.
<p>Scottish Marine Management Organisation (SMMO): Scottish Environment LINK's Marine Task Force believe that Plan making should be a core function of the SMMO. However, there would appear to be two main options in terms of plan implementation depending on final decisions as to the role of the organisation. Either the SMMO would be responsible for plan making and licensing or the SMMO could be the plan making body, but existing bodies approve licences. The roles detailed below under plan implementation should therefore be viewed as examples of possible roles.</p>	
<ul style="list-style-type: none"> • Co-ordinates Scottish Policy Statement. • Leads on preparation and implementation of Middle Level Plans relating to Scotland • Provides national planning guidance. • Sets policy framework for Local Plans to ensure Local Plans in different areas are comparable in scope, but allowing flexibility for local issues and priorities. • Approves (with Scottish Ministers) Local Plans. 	<ul style="list-style-type: none"> • Co-ordinates work of local planning bodies/partnerships. • Decision-making role on national issues arising from Local Plans and on deviations from Local Plans. • Administers Planning process and leads on planning, licensing, data management, fisheries management, enforcement and monitoring. • Co-ordinates with UKMMO with regard to reserved issues and cross-border regional seas MSPs.
<p>National Stakeholder Advisory Group: It may be appropriate (as with the WEWS Act) to ensure national-level stakeholders are involved in plan-making and implementation by formalising a national representative group to play an advisory role to the SMMO. Its membership should be selected from all marine users and should include fisheries groups.</p>	
<ul style="list-style-type: none"> • Advisory role to SMMO at a national level on its various Plan-making roles 	<ul style="list-style-type: none"> • Assists others in monitoring and review of Plan areas against marine ecosystem objectives
<p>Local Planning Agent: Please see options set out above for Local Planning Agent. This is a role for a locally based 'lead body' with statutory responsibilities, able to co-ordinate day-to-day negotiations on local development or activity proposals, and to submit contentious or national/reserved issues to the SMMO for decision. We believe that a Local Plan could not be effectively or coherently administered by a national consenting body (SMMO) in conjunction with the existing disparate range of local regulators in the absence of a local 'lead agent'.</p>	
<ul style="list-style-type: none"> • Statutory locally-based 'agent' • Oversees Local Plan preparation by Local Stakeholder Advisory Group, ensuring compliance with national policy framework • Submits final Local Plan for ministerial/SMMO approval 	<ul style="list-style-type: none"> • Day-to-day management of development proposals in line with UK Level and Middle Level Plans. • Local gatekeeper for compliance breaches • Refers to SMMO/Scottish ministers for national/reserved issues, deviation from Local Plan, irresolvable conflicts of interest.

	<ul style="list-style-type: none"> • Local gatekeeper for monitoring and review of Local Plan • Data management, strategies to fill data gaps
<p>Local Stakeholder Advisory Group: In the interests of maximising local involvement in plan-making and implementation it is desirable to have a Local Advisory Group composed of key local marine interests. The existing bodies which most closely resemble this sort of grouping are the Local Coastal Partnerships, though it is important to ensure that they are fit-for-purpose.</p>	
<ul style="list-style-type: none"> • Locally based groups for identified biogeographical areas (e.g. Inshore Fishing Group Boundaries, WFD Area Advisory Group boundaries or 11 Coastal Areas as identified in AGMACS ICZM workstream) • Co-ordinates preparation of Local Plan(s) with support from Local Planning 'agent' • Provides co-ordination between land and sea planning and other plans e.g. river basin management plans. • Facilitation, consultation, networking, conflict resolution role • Draws together data and information, identifies data gaps 	<ul style="list-style-type: none"> • Role in conflict resolution in relation to Local Plan compliance • Work in relation to monitoring and review of Local Plan • Awareness-raising, community education etc.
<p>Advisor on Marine Ecosystem Health: LINK is of the view that ecosystem health is a prerequisite for economic productivity. If this is fully accepted, it follows that there is a need for an independent advisor to the SMMO on how best to achieve and measure ecosystem health. If this role were given to SNH, it might preclude SNH involvement in the SMMO. It would strengthen the role of this body if there were a duty on public bodies to have regard to its advice.</p>	
<ul style="list-style-type: none"> • Independent role as advisor on ecosystem health and biodiversity issues • Advises on marine nature conservation within MSP • Sets criteria for marine protected areas and biodiversity interests 	<ul style="list-style-type: none"> • Leads on monitoring plans against MEOs • Advises SMMO/Scottish ministers on changes to plans required to meet ecosystem objectives

Other Issues

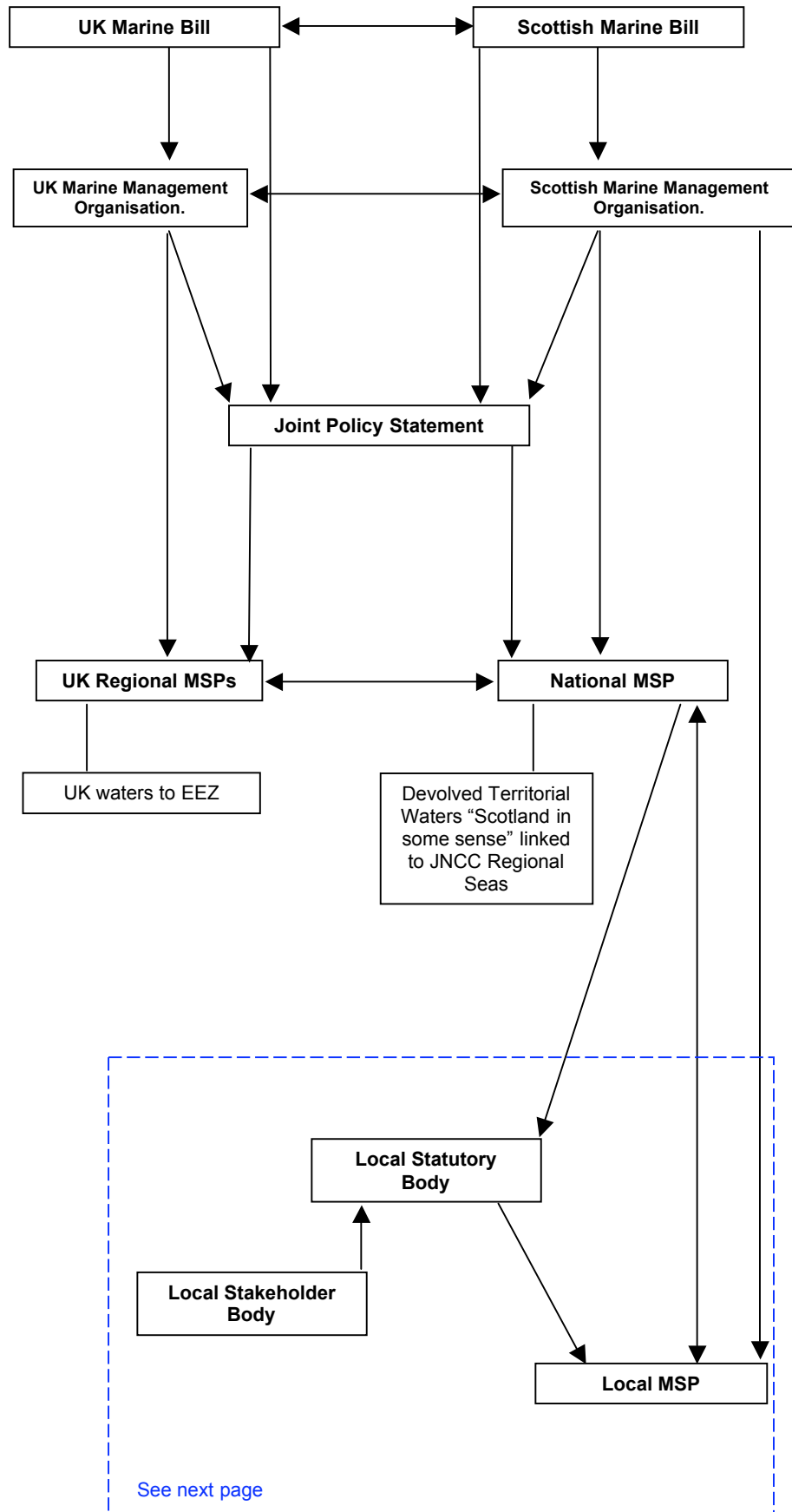
UK & Scottish Bills

The precise relationship between the UK MMO and the SMMO is uncertain as the draft UK Marine Bill is not expected until April 2008. Scottish Environment LINK's Marine Task Force believes that agreement of both bodies to a joint UK Policy Statement would be desirable, as reflected in the flow diagram (see below). This UK Policy Statement as illustrated provides an indirect link between the SMMO and UK Regional Plans. We would prefer to see a direct link between the SMMO and UK Regional Planning, representing joint responsibility for planning in the offshore area adjacent to Scotland (12-200 nm). This would mean joint responsibility for producing the UK Regional MSP between 12-200nm. Other issues requiring discussion include the role of bodies administered by Westminster in Scottish Marine Planning.

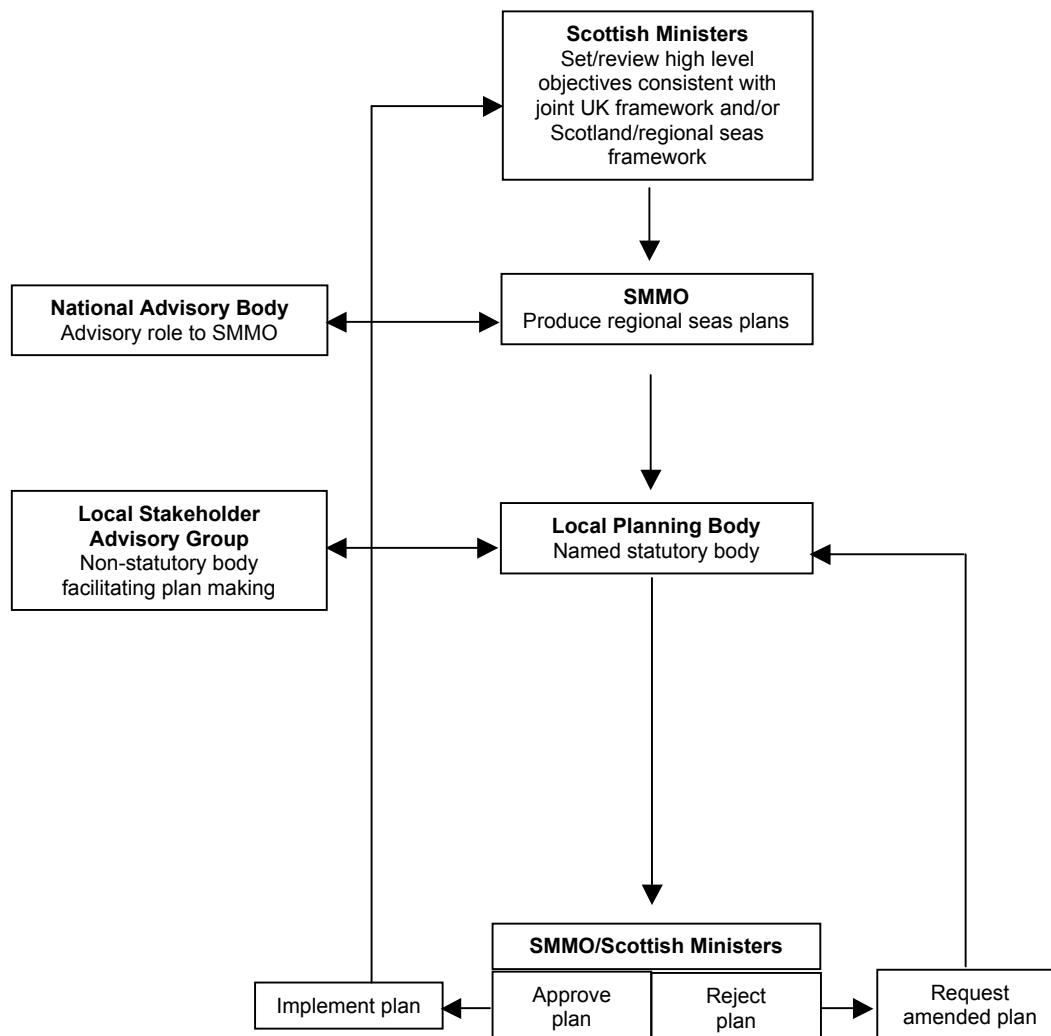
Fisheries and Marine Planning

LINK believes it is imperative that fisheries, like other commercial marine users, take a full role in the marine planning system. The relevant statutory tools in the Marine Bill could achieve this.

Marine Spatial Planning



Flow diagram of plan making process for local MSP



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 a Scottish Marine Bill is supported by:

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

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