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12 December 2009

Dear Julia,

**Consultation on *Protecting Welsh Seas; a draft strategy for marine protected areas in Wales***

Thank you for the opportunity to respond to the Assembly Government's consultation on 'Protecting Welsh Seas: a strategy for Marine Protected Areas in Wales.' Together with the underpinning Marine and Coastal Access Act recently granted royal assent, I hope that it will provide the basis for an ecologically coherent, well managed, suite of MPAs, including Highly Protected Marine Conservation Zones, and for enhancing the nature conservation of the Skomer Marine Nature Reserve (MNR).

I provide my credentials for making comment below, followed firstly by general responses and then specific comments regarding the future management of Skomer MNR.

**Credentials**

I am a professional marine scientist and conservationist with 25 years of unparalleled experience of attempting to implement UK marine nature conservation legislation. Prior to the dissolution of the Nature Conservancy Council and the creation of the country conservation agencies in 1990, I was responsible for steering the Skomer MNR through its protracted pre-designation public consultation and slow conversion from voluntary reserve to statutory MNR, and for designing and managing impact assessments to inform the justification of new management measures. I was manager of Skomer MNR, one of only three MNRs in the UK, and certainly the most actively managed and monitored of the three, from the time of its designation in 1990 until 1998.

From 1998 until early retirement from the Countryside Council for Wales in 2006 I was a senior marine conservation officer with responsibilities for delivering CCW's obligations for European marine sites, for marine Sites of Special Scientific Interest and for providing advice and consultation responses across the full range of development and other proposals in the marine environment of SW Wales, whilst retaining professional responsibility for the management of the Skomer MNR.

I have substantial experience in development and implementation of marine biological and environmental monitoring, and in design and implementation of impact assessments, particularly in the fields of fisheries and navigational dredging.

Since taking early retirement from CCW I have continued to work in both the development of European Marine Sites and as an independent consultant specialising in marine environmental monitoring. I am currently the Carmarthen Bay & Estuaries European Marine Site Officer and

recently completed a year as maternity cover for the Pembrokeshire Marine SAC Officer. I retain a strong interest in the conservation and management of Skomer MNR; I am an independent member of the Reserve's Advisory Committee, an Honorary Warden and a volunteer dive team member.

The combination of my first hand experience in actually delivering the UK's marine nature conservation legislation at a practical level is, I claim unreservedly, unique.

*Despite currently working as an EMS officer, I make it explicitly clear that this consultation response is undertaken in my private capacity.*

## **General comments**

I welcome WAG's aim "to contribute to the development of an ecologically coherent UK network of *well managed* MPAs" (my emphasis), commensurate with, *inter alia*, the UK's OSPAR convention obligation for a network of well managed MPAs. I particularly welcome and commend WAG's express intent to focus on the designation of a series of Highly Protected MCZs. I further note the consultation document's recognition of the IUCN definition of a protected area as one "managed, through legal or other *effective* means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values" (my emphasis).

It is clear from MPA management globally that effective and directed management mechanisms, a lead responsible authority, and effective, resourced, "day-to-day" management (*inter alia* the implementation and advising of rules and regulations – *ie* the preventative end of the enforcement spectrum; activity surveillance; proactive and reactive provision of advice, information and interpretation; provision and maintenance of management infrastructures) are critical to the achievement of the objectives of MPAs, particularly highly protected MPAs<sup>1</sup>.

The consultation document rightly draws attention to the existing designations that already contribute to the suite of MPAs as it currently stands. However, it glosses over how effective – or not – they are in delivering marine environmental conservation or safeguard. It is critical that the effectiveness of current European marine site (EMS) and intertidal SSSI management be critically appraised and weaknesses addressed.

The collaborative, consensus approach to management is undeniably superficially attractive, equitable and logical given the range of authorities with duties and responsibilities in the marine environment; it is also arguably the most appropriate approach for multi-sectoral, multi-use MPA management. Nevertheless, it is very difficult to implement; at real risk from conflicts of interest, sluggishness and poor response to changing pressures and threats. EMS management schemes produced to date show the difficulty or impossibility of obtaining necessary consensus, 'buy-in' and commitment to minimum necessary action. EMS and marine SSSI management would undoubtedly be far more effective with clearer legal duties to further conservation or, in the absence of such enhanced duties, robust ministerial direction.

A further major shortcoming of the current MPA framework is the paucity of appropriate monitoring and surveillance – and the resources to carry it out. Critically, not only are the resources

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<sup>1</sup> See, for example: R.V. Salm, John Clark, and Erkki Siirila (2000). *Marine and Coastal Protected Areas: A guide for planners and managers*. IUCN. Washington DC. xxi + 371pp; U.S. Coral Reef Task Force Working Group on Ecosystem Science and Conservation. 2000. *Coral reef protected areas: A guide for management*. U.S. Coral Reef Task Force, Department of the Interior, Washington, D.C. 14 pp; Kelleher, G. (1999). *Guidelines for Marine Protected Areas*. IUCN, Gland, Switzerland and Cambridge, UK. xxiv +107pp; WCPA/IUCN (2007). *Establishing networks of marine protected areas: A guide for developing national and regional capacity for building MPA networks*. Non-technical summary report; Roberts, C.M. and J.P. Hawkins. 2000. *Fully-protected marine reserves: a guide*. WWF Endangered Seas Campaign, 1250 24th Street, NW, Washington, DC 20037, USA and Environment Department, University of York, York, YO10 5DD, UK; GBRMPA 2009. *Annual Report of the Great Barrier Reef Marine Park Authority 2009*. Commonwealth of Australia. ISSN: 0155-8072

for biological and habitat monitoring insufficient, but the resources for and the commitment to activity surveillance and compliance monitoring fall short. To ensure sufficient information to inform adaptive management, these shortcomings must to be addressed in the MPA strategy.

It will also be critical for the management and monitoring of the full suite of MPAs to be well integrated to maximise efficacy, data quality, efficiency and value for money. However, there do not appear to be any proposals in the strategy for a mechanism to deliver such integration.

Whilst not surprising for a high level strategic document, there is little in the way of detail in the consultation document concerning MCZ management. In the absence of detail, it is necessary to judge the outline proposals at face value.

The broad proposals for MCZ management appear to be based on the EMS management model and to assume that this model is effective. Whether or not the model is effective for EMSs, there is no reason to suppose it would be sufficiently robust for delivery of the objectives of MCZs, particularly for Highly Protected MCZs, since, *inter alia*, their objectives are quite different; in fact the likelihood is that, for reasons given below, it will not be fit for purpose or sufficiently robust.

Critical omissions from the consultation proposals are that there is no provision, or apparently even consideration of the need, for:

- day-to-day management of MCZs;
- any habitat or feature monitoring capable of providing the information required to deliver the objectives for well managed MPAs identified in the document;
- any organisation or agency responsible for delivering or leading on delivery of such day-to-day management, or for resourcing the management of MCZs.

Assigning management as the joint and several responsibility of multiple bodies simply by placing a “duty on all public authorities ... to undertake their functions in a way that will further or where that is not possible, to least hinder the achievement of site conservation objectives” is far from adequate. Critically:

- this fails to identify, or to task any authority with taking the lead and having responsibility to the responsibility to make management happen;
- it leaves significant gaps and allows for ‘wriggle-room’ through which those authorities could escape undertaking necessary management actions because of the (supposed) ambiguity of which authority’s responsibilities have primacy;
- it creates a very real risk that each will tend to absolve themselves of maintaining the necessary management resource investments, on the basis that the other agencies have greater or clearer responsibilities.

If WAG is serious about delivering ‘well managed’ MPAs, it is essential that day-to-day MPA management is assigned to an effective, committed, and adequately resourced lead responsible authority.

As noted above, the management of MPAs necessary to deliver their objectives consists of far more than simply enforcement; indeed, a goal of day-to-day management is essentially to eliminate the need for enforcement. Nevertheless, accepting that enforcement will be an essential part of the management tool-kit, enforcement staff must be appropriately knowledgeable, experienced and committed to the task. Not only will significant training and considerably extra resources be required to enable the WAG’s Marine Enforcement Team undertake this task but, crucially, it will also require a monumental and fundamental cultural shift for fisheries officers to recognise and accept the inherent importance of marine biodiversity and habitat conservation and the management to deliver those conservation goals, rather than solely policing fisheries. Further, Roberts & Hawkins (2000) *op cit*, comment that, world-wide, fisheries managers “are poor at managing

activities other than fishing that may impact reserves.”

### **Skomer MNR**

Whilst the future management of the Skomer MNR may have been thought through, there is no evidence of this in the consultation document; the lack of detail about the future management of and protection for Skomer MNR is of considerable concern. The broad proposals for MCZ management imply quite a different management regime to that of the last 18 years. Any dilution of the management will risk undoing a substantial part of the achievements that the MNR has made.

I therefore welcomed the Minister, Jane Davidson’s commitment in her speech to the Wildlife Environment Link’s Marine Act celebratory event in Cardiff on 24th November, 2009 to ensure “that there is no fall in the level of protection afforded to Skomer.” I also very much appreciated your attending the joint Pembrokeshire Coastal Forum / Skomer MNR Advisory Committee meeting on 3 December and clarifying many of the issues of concern.

The Skomer MNR has been demonstrably and remarkably successful in achieving the conservation and scientific goals of its 1990 designation Order, in spite the limited statutory protection that it has been afforded by the weak Wildlife & Countryside Act provisions. These achievements are primarily attributable to the MNR having relevantly qualified and experienced staff on site, carrying out day-to-day management to ensure compliance with existing management measures: activity surveillance and recording; biological and physico-chemical monitoring; public facing presence delivering information and advice; reporting; working closely with relevant enforcement agencies.

Whilst I welcome the commitment of both WAG and CCW to an interim ‘business as usual’ in maintaining the current level of protection and resourcing for the MNR until the designation of the series of new HPM CZs in 2012, I remain concerned about the long term prospects for the MNR.

Whilst the justifications for designation as an MNR in the 1980s remain standing, the conservation gains and scientific advances since designation in 1990 have added significantly to those justifications. Adding thirty-three years of conservation safeguard, 14 as a voluntary reserve and 19 as an MNR, the wealth of marine biodiversity in this small area and its contribution to raising public awareness of the marine environment, the case for designation of the MNR as an HPM CZ is unassailable.

As stressed above in my general comments, the responsibility for management of the MNR, just as for all HPM CZs, must be vested in a single lead authority.

Whether Skomer MNR ultimately becomes an HPM CZ in part or in its entirety, the wealth of staff experience; biological, physico-chemical and activity data; academic and public sector research interest; public and stakeholder support and goodwill; and the biodiversity gains that have been achieved both prior to and since designation, must not be compromised. The continuity of long-term protection and resourcing of Skomer MNR when it is transposed to an MCZ, *ie* its continuity of management, monitoring, staffing and infrastructure, must be assured by the Assembly Government, whether managed directly or delegated to another body, such as CCW continuing with the responsibility.

Yours sincerely,

A handwritten signature in black ink, reading 'Blaise Bullimore'. The signature is fluid and cursive, with the first name 'Blaise' written in a larger, more prominent script than the surname 'Bullimore'.

Blaise Bullimore



essential materials  
sustainable solutions

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16<sup>th</sup> December 2009

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Dear Sir/Madam

Protecting Welsh Seas

A draft strategy for marine protected areas in Wales

1. Background

1.1 The British Marine Aggregate Producers Association (BMAPA) is the representative trade body for the British marine aggregate sector. The association represents 11 member companies who collectively produce around 90% of the 21.5 million tonnes of marine sand and gravel dredged from licensed areas in the waters around England and Wales each year.

1.2 Marine dredged sand and gravel is principally used by the construction industry, and the marine contribution provides 20% of overall sand and gravel demand in England and Wales and 90% of fine aggregate demand in South Wales. Marine dredged sand and gravel also provide a strategic role in supplying large scale coast defence and beach replenishment projects – over 25 million tonnes being used for this purpose since the mid 1990's. With the growing threats posed by sea level rise and increased storminess, the use of marine sand and gravel for coast protection purposes will become increasingly important.

1.3 In both cases, the marine aggregate sector is dependant upon identifying and licensing economically viable sand and gravel deposits to secure sufficient reserves to maintain long term supply to existing and well established markets. The location of such deposits is extremely localised around the waters of England and Wales, restricted to their geological distribution and their geographical position related to the markets location.

BMAPA is part of the Mineral Products Association, the trade association for the aggregates, asphalt, cement, concrete, lime, mortar and silica sand industries

Registered in England as Mineral Products Association Limited No. 1634996  
Registered at the above address

1.4 At present 1278km<sup>2</sup> of seabed is licensed for marine aggregate extraction, of which around 138km<sup>2</sup> is dredged in a typical year. This represents around 0.15% and 0.016% of the total UK continental shelf area (867,000km<sup>2</sup>) respectively. A further 1931 km<sup>2</sup> of seabed is currently under application or covered by prospecting licence. In this respect, the marine aggregate sector is responsible for managing a significant area of the UK seabed.

## 2. Overview

2.1 As previously stated in our various responses during the Marine Bill development, the marine aggregate sector remains supportive of the proposal to create a network of sites of national nature conservation interest. We also support the intention that such designations would have to take into account socio-economic interests. Given the desire to deliver a more consistent and coherent approach to management and assessment across UK seas, it is essential that proposals for designation be bound by the same robust, evidence-led approach required for marine development licensing.

2.2 The marine aggregate sector welcomes the opportunity to constructively participate in the development of the MPA network. The spatial extent of the sectors interests along with the high resolution data held mean that the industry should be able to make a significant contribution to the successful delivery of the MPA network. However it is essential that the objectives, associated processes and timescales necessary to deliver these are robust, transparent and above all realistic.

2.3 Given the challenge of delivering a coherent network at a regional seas scale, it will be important for the Welsh strategy and approach to coordinate closely with those networks developing in adjacent waters, such as the Bristol Channel and Irish Sea. The strategy approach and process being proposed for Welsh waters is very different to that being adopted elsewhere, and without careful thought about the integration between the two parallel processes there is the very real potential for inconsistency and incompatibility in approach. As an example, a policy or strategy decision in one national area could end up having very profound impacts on adjacent national waters in the regional sea, particularly resulting from the displacement of activities or development pressure. The same applies to the pressure to designate (or not) particular features or habitat types that typify a region. While the policy strategy references the need to adopt a joined-up approach with the English MCZ projects, personal exposure to the Finding Sanctuary project has not indicated much evidence of this taking place to date.

## 3. Comments

3.1 An inevitable constraint to the MPA process will be the extent and resolution of baseline data available to identify sites with a high degree of certainty. The designation process has to be evidence led and underpinned by sound science. This not only relates to the site specific information, but also the justification as to how an individual site fits into the regional/national context, in terms of its significance, sensitivity and risk.

3.2 Given this very practical constraint, the design principles of the network currently make no reference to the need for flexibility. We would suggest that this is essential, to allow an adaptive approach to site and feature selection and management drawing on developments in knowledge and understanding over time.

3.3 We note that the governance approach being proposed to deliver the strategy represents a combination of national top-down and national bottom-up processes, which we welcome. As a sector with interests in Welsh waters, we also welcome an opportunity to participate in the stakeholder process. While the initial objectives defined by the strategy include using MCZ designations to identify more highly protected sights within existing areas of protection rather than identifying new sites outright, we would nevertheless suggest that the timescales in place to deliver the recommended solutions remain challenging. It is important that the site selection and agreement process is undertaken correctly, and in the event that the timescales become compressed we would further suggest that it would be better to take a little longer and complete the task properly rather than rushing through with a potentially compromised solution.

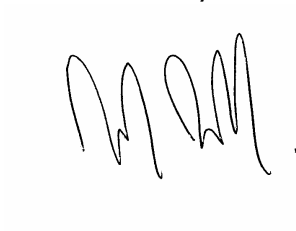
3.4 While we understand the proposed site selection process is intended to involve a wide range of stakeholders through the national stakeholder group, it is important to also recognise that the time and resources available to many stakeholder interests will be constrained – particularly where stakeholders have interests across multiple regions at a UK scale, such as the marine aggregate sector. While the various national and regional project teams may have significant additional resources to deliver to the project deadlines defined, local and national stakeholders are unlikely to be in the same position to provide data and to contribute to the various processes.

3.5 The experience of the marine aggregate sector in engaging with the nearshore English SAC process over the last 6 months has flagged up some useful lessons in the practicalities of site identification and feature boundary definition. Although the sites in question were already defined, a significant amount of time has been spent by the marine aggregate sector re-examining the evidence used to develop the initial Site Assessment Dossiers, and contributing and considering new sources of data and evidence to refine feature extents and boundary limits so they are based on the most robust and up to date scientific evidence. In this respect, industry stakeholders can make a positive and constructive contribution to the wider process.

3.6 In terms of surveillance and monitoring of MPA sites, we would strongly encourage sufficient and realistic resources be allocated to allow this to occur in a meaningful and effective way. The concept of adaptive management, outlined under point 3.2 above, relies upon appropriate scales and resolution of data to monitor changes in the extent and integrity of site features over time. Without this, it will be impossible to determine whether the site objectives are being met. Reference should be made to the intensity and robustness of monitoring effort required to demonstrate compliance with conditions attached to consents for development activities.

3.7 We trust that you find these comments of interest. If you require any further information on any of the points raised above please do not hesitate to contact the undersigned.

Yours faithfully

A handwritten signature in black ink, appearing to read 'M Russell', is enclosed within a thin black rectangular border.

Mark Russell  
Director BMAPA

Welsh Assembly Government Consultation on a Strategy for Marine Protected Areas in Wales:  
'Protecting Welsh Seas'

The British Ecological Society  
*"advancing ecology and making it count"*  
December 2009

## INTRODUCTION

- The British Ecological Society (BES) welcomes the opportunity to contribute to the Welsh Assembly Government's Consultation on a draft Strategy for Marine Protected Areas (MPAs) in Wales. The BES strongly supports the designation of MPAs in Welsh seas, especially the proposed creation of highly protected Marine Conservation Zones (MCZs).
- The British Ecological Society is the UK's Learned Society for ecology. Established in 1913 and with 4,000 members worldwide, our mission is to 'Advance ecology and make it count'. The BES Policy Team works to ensure that policy-making is based on sound scientific evidence.
- This response has been written in consultation with the BES Marine Advisory Group and other members of the Society with expertise in the ecology of the marine environment.
- Questions about this submission should be addressed to Ceri Margerison, Policy Officer, British Ecological Society ([Ceri@britishecologicalsociety.org](mailto:Ceri@britishecologicalsociety.org)).

## RECOMMENDATIONS

- A stronger commitment to improving the protection of existing European marine sites is required.
- Highly Protected Marine Conservation Zones must be of a sufficient size to deliver the whole range of possible biodiversity and ecosystem benefits.
- Site selection must be driven by scientific data if the network is to meet its nature conservation objective.
- Given our lack of knowledge surrounding the marine environment, a precautionary approach, based on competing risks, should be employed in the management of MPAs.

## COMMENTS

### 1. INTRODUCTION (P. 1)

#### Purpose of this Strategy

The BES welcomes the definition of MPA as an area where there is some level of restriction (p. 2). This correctly places the emphasis on the fact that we are managing human activity in the area, not the marine ecosystems, which are able to look after themselves if left undamaged.<sup>1</sup>

### **Aim**

The BES strongly supports the aim of the strategy to 'contribute to the development of an ecologically coherent UK network of well managed MPAs' (p. 3). The inclusion of a commitment to an 'ecologically coherent' network is extremely important, for ecological coherence is essential if the overall conservation objectives of MPAs are to be met. Whilst for some species, populations will be viable at the level of individual MPAs, more mobile and widely dispersing species can only be protected by achieving viability across the sum of protected areas making up the network. Individual, isolated MPAs may be unable to function as reserves for certain species, and an ecologically coherent network is therefore essential if populations in different MPAs are to be able to interact and be mutually supporting.<sup>2</sup>

## **2. INTERNATIONAL AND LEGISLATIVE MEASURES (P. 6)**

### **Marine Conservation Zones (MCZs)**

The commencement order for Skomer Marine Nature Reserve is welcomed. The work of the Countryside Council for Wales (CCW) at this site provides an excellent example of marine conservation in action and has been successful due to sustained liaison with the local community and stakeholder groups.

## **3. DEVELOPING THE MPA NETWORK (P. 9)**

### **Design Principles of the MPA Network**

The BES warmly welcomes the design principles for the network as taken from OSPAR and IUCN guidance on developing an ecologically coherent network of MPAs.

### **Existing Sites**

Whilst the map on page 12 appears to show that Welsh seas are already extensively protected, this is not yet the case. Existing designations give little real protection to marine biodiversity and are under almost constant threat from activities such as scallop dredging and oil and gas exploration.<sup>3</sup> As these existing MPA designations are being retained as part of the new network, they must be made to afford real protection if they are going to successfully play their role in the UK network. Designating areas within existing MPAs as highly-protected marine reserves is therefore welcome.

### **Improving the Management and Coherence of the MPA Network**

The BES supports the four proposals on page 13 to develop a coherent and well managed network of MPAs in Wales. The proposal to have highly protected sites in the MPA network is particularly welcome; we believe that the evidence thus far available points to the significant value of highly protected MPAs over and above MPAs which only offer partial protection from extractive activities. It is important however that these new highly-protected sites are large enough to protect core areas for wider-ranging species and not be limited to protecting small sites for fixed habitats and species. The most successful MPA schemes, including those referred to in the document from New Zealand, have designated very large areas as conservation zones where all extractive activities are prohibited. It would be beneficial to as far as possible follow New Zealand's lead and create large highly protected sites- the given example of Leigh Marine Reserve for instance covers over five square kilometres.

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<sup>1</sup> Green, M. 2009. Wild Oceans- managing our own activities and not the sea (2009) *Wilder Horizons* 1/1

<sup>2</sup> Jones G., Srinivasan M., Almany G. 2007. Population Connectivity and Conservation of Marine Biodiversity. *Oceanography* 20:100-11.

<sup>3</sup> Green, M. 2006. SACs of Promise?- Marine SAC Protection. *ECOS* 27/2.

The BES welcomes the fact that ‘the primary aim of the network will be nature conservation’ (p. 13).

#### **Selection of Additional MPAs**

In order to create an ecologically coherent network the selection of Marine Conservation Zones must be done primarily on the basis of scientific data. Ecological evidence should drive site selection if the primary nature conservation objective of the network is to be achieved, whilst socioeconomic factors should be considered at a later stage in the designation and management process.

Designating Marine Conservation Zones, and, in the first instance, Highly Protected Marine Conservation Zones, within existing European Marine Sites is likely to avoid any conflict with socio-economic considerations, given that EMS are designated on the basis of scientific criteria alone. The consultation document and Annex state that ecological and socio-economic data will be used for site selection, but not at what stage each will be considered. In seeking to designate sites outside EMS the WAG must ensure that site selection is driven by science first and socioeconomic information second.

As mentioned above, these sites should be of a sufficient size to deliver the whole range of possible biodiversity and ecosystem benefits.

#### **4. MANAGING THE MPA NETWORK**

The BES is concerned that the draft strategy retains the status quo on European Marine Sites, with the minimalist approach of identifying a few features and ‘managing’ them. This is not an ecosystem approach and is unlikely to lead to ecological coherence. It has also been shown that it does not afford protection in any meaningful sense. Whilst the management proposed for MCZs is also based on protection of identified features and not ecosystems, the BES welcomes the fact that conservation objectives will also be outlined for each MCZ ‘as part of the ecologically coherent UK MPA network’ (p. 18).

Given our lack of knowledge on the impacts of many activities it should be clearly stated that a precautionary approach will be taken to the management of MCZs, particularly in relation to the activities deemed likely to be compatible with Highly Protected Marine Conservation Zones. The proposal for Conservation Orders is welcome.

#### **Surveillance and Monitoring**

The BES welcomes the recognition that surveillance and monitoring of both MPAs and the wider marine environment is crucial. This recognition does however need to come with funding commitments for a properly designed long term monitoring plan.

#### **Enforcement**

The BES welcomes the idea of a Marine Enforcement Team – this should be visible, proactive and at sea, not an office in WAG. Whilst the draft strategy states that Marine Enforcement Officers will have the power to serve orders and that fixed monetary penalties will ensue, it does not state what the magnitude of such penalties will be. The BES hopes that these penalties will be sufficiently severe as to provide an appropriate deterrent. It would also be useful to have an idea of the number of Marine Enforcement Officers available, given the amount of coastline to be covered, and whether this is going to be sufficient to fulfil requirements.

Regarding the Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009 (p. 20), the English orders appear to cover English Waters and all continental shelf waters (except Wales), whilst the Welsh orders only apply to the sea out to one nautical mile. The BES would welcome clarification on whether the other 11 miles of Welsh waters are protected.

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15 December 2009

Julia Williams  
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Dear Julia

**Consultation on a Strategy For Marine Protected Areas in Wales: Protecting Welsh Seas.**

Thank you for consulting us on the new strategy.

The identification of new MCZs is an important process which will add to the formidable array of sites which currently receive high levels of environmental protection through the MPA network in Wales.

We are, of course, particularly interested in the impact of designation on commercial maritime activity. Ports in Wales account for 10% of UK cargo throughput and 13% of all passenger movements; bearing in mind that the UK has the largest ports industry in the EU, these are substantial totals which have enormous significance for the Welsh and UK economies. Ports in Wales also have a special significance because of the links to Ireland and the role of the energy sector with developing markets in LNG and offshore renewables.

In broad terms, the strategy in its current form does not appear to pose issues beyond those we have already encountered with other parts of the MPA network. These centre on the compatibility of high levels of protection with commercial activity and development. However, mindful of the extensive area of Welsh coast already designated for protection (for example, 79% of sandy shores) the end result could be one of the most heavily designated areas in Europe. The Marine and Coastal Access Act, as the strategy acknowledges, requires full consideration to be given to social and economic criteria in the designation process and this provides a real opportunity to designate in ways which are sympathetic to environmental and commercial objectives. We do not regard these as in any way mutually exclusive.

These objectives can only be delivered if the consultation and dialogue that precede designation are conducted efficiently and fairly. We are encouraged that a stakeholder group has already been set up and appears to be making good progress with a clear approach to representation (or certainly what appears to be a clearer approach than its English counterparts). There also appears to have been some welcome consideration of longer term strategy and methodology before plunging in with early site identification.

On this theme, we also believe that the national marine policy statement and progress with marine plans will be vital factors in coming to decisions; neither has yet appeared and we do question whether much genuine progress can be made before their publication. Another important factor will be the resources available to the stakeholder group to examine and interpret new data, particularly if, as we understand it, priority will be given to the identification of highly protected areas.

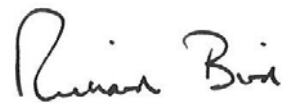
Nevertheless, the final regime as applied in Wales will need to take account of competition issues so that marine activity is not affected in an inequable way around the UK coast; ports are ultimately commercial entities and in competition with each other. Integration therefore with the Finding Sanctuary and Irish Sea Conservation Zone projects is essential to avoid duplication, keeping to the principle of establishing a national network and not a series of self contained, uncoordinated areas.

In summary, we are broadly content with the draft strategy. Much will depend on the output and effectiveness of the stakeholder group and we look forward to playing our part in it.

Yours Sincerely,

A handwritten signature in blue ink that reads "David Whitehead". The script is cursive and fluid.

David Whitehead  
Director, BPA

A handwritten signature in blue ink that reads "Richard Bird". The script is cursive and fluid.

Richard Bird  
Executive Director, UKMPG

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Dear Helen

### **Consultation on a Strategy for Marine Protected Areas in Wales: Protecting Welsh Seas**

BWEA welcomes the opportunity to respond to this consultation on the strategy for marine protected areas in Wales.

The British Wind Energy Association (BWEA) is the leading UK renewable energy trade association. With over 500 corporate members BWEA represents the large majority of the wind, wave and tidal energy companies in the UK.

BWEA is informed by an established and active network of working groups consisting of leading experts in the wave & tidal industry. BWEA has received multiple individual contributions on the consultation from member companies. BWEA is therefore suitably well placed to comment on a strategy for marine protected areas in Wales. Overall comments are made below, with individual section assessments on the following pages.

BWEA welcomes this coordinated approach towards conservation of Marine Biodiversity, and would urge that it is undertaken with a focus on sustainable development. In line with this BWEA would greatly appreciate being involved in all consultation and workshop opportunities where possible, in order for the voice of offshore renewables industry to be justly heard.

As this is an overarching strategy for conservation, and given the current energy crisis and dangers faced from climate change, there should be an overarching strategy for sustainable marine development. Whilst conservation is crucial to the health of the marine environment, there are other factors that are important and BWEA feel these

issues are not justly represented in this document. Whilst the document is a conservation strategy that addresses EU policy and hence obligations, this could be achieved with the inclusion of a sustainable development strategy.

BWEA believe that a high level target of this document should be to tackle climate change; through both the conservation of the ecosystem and facilitation of sustainable development of the Marine Environment.

BWEA hope that our consultation response is useful and constructive in forming the Government's decision statement. BWEA are fully committed to working with the Government to further our mutual ambitions for maximising offshore renewable energy generation and volunteer the use of our network of industry working groups.

Please do not hesitate to contact me should you have any questions.

Yours sincerely,

**Duncan Ayling**  
**Head of Offshore**  
**BWEA**



## **Time Frame**

It will be critical that government understands that establishing a coherent marine protected area network by 2012 is an extremely challenging deadline. It is important that during this process there is maximum stakeholder engagement and that the stakeholder group should include members with industry knowledge of marine renewables.

## **Developing the MPA Network**

### **Design Principles of the MPA Network**

BWEA believe that whilst network design should be based on the best information currently available and that lack of full scientific certainty should not be a reason for postponing decisions on site selection. This should also not be used as a reason to prevent the deployment of novel technologies. Marine renewable energy is a relatively new marine activity and while many of its features benefit from oil and gas technology, it often seeks to place novel devices in new situations. This is true of wave and tidal devices and also new offshore wind turbines. The industry is working hard to gather the data needed to provide greater understanding of the environmental impacts of these devices. BWEA feel it is imperative that if and when new evidence relating to the impact of renewable devices in the marine environment arises, it can be used to redefine the guidance notes for instillation and development with MCZs. Hence allowing the most up-to-date knowledge and understanding to be utilised, preventing serialisation of the sea bed and paralysis of the renewables industry, whilst also facilitating European conservation measures.

BWEA welcome the need to incorporate climate change adaptation as an integral part of the process; however how this is implemented will have to be clearly defined. The potential contribution that offshore renewables (wind, wave and tidal) can make to the fight against climate change is well documented. To aid guidance on how to incorporate climate change adaptation in the MPA network, BWEA suggest that clear reference to national renewable energy targets and the maximum contribution that each marine area could contribute to this, without conservation restrictions, is highlighted.

## **Improving the Management and Coherence of the MPA Network**

*"coordination of management of MPAs to deliver site-level and network-level objectives as well as broader biodiversity targets. The existing management schemes on many of the marine SACs in Wales have established coordination between statutory authorities and wider stakeholders in relation to MPA management at the site level. Improved coordination of this work would help to maximise the benefits of site management for the network as a whole."*

*"The primary aim of the network will be nature conservation and not to protect or restore commercially important fish stocks for enhanced commercial exploitation"*

BWEA believe that greater reference should be made to the need to address climate change impacts and actions that can be taken to mitigate these measures, e.g. through the deployment of offshore renewables.

### **Selection of Additional MPAs**

Whilst establishing MCZ's it will be fundamental that clear guidance is provided as to what activities will be permitted, this will be fundamental in Highly Protected Marine Conservation Zones. It will also be essential to revisit this guidance as new scientific evidence relating to the impact of activities upon the marine environment becomes available, e.g. developed learning of the impacts of marine renewable devices. This will facilitate the desired protection of the marine environment, whilst allowing for sustainable development of the sea bed and the ability to harness the power of the seas to help fight climate change.

BWEA believe that the incorporation of ecological and socio-economic information will only be obtainable through extensive stakeholder dialog. Considering the tight time frame offered for this project, the designation of Welsh MCZ will have to be highly coordinated and focused. To ensure this approach is adopted, BWEA would like to express interest in attending any events intended to determine how the MPA network is built.

### **Guidance for Identifying, Selecting and Designating MCZs**

BWEA will respond to the associated guidance documents in due course.

### **Managing the MPA Network**

*"Plans or projects will generally not be licensed/permitted if appropriate assessments cannot conclude that operations would not have an adverse effect on the integrity of the site. The exception is where, in the absence of an alternative, the plan or project is declared to be of overriding public interest. In these cases, compensatory packages must be developed to offset damage to the site."*

Appropriate assessment may pose an issue for the wave and tidal industry as currently there is little information on the impact of these devices. Management Schemes are integral to engaging with stakeholders; hence it will be important that these schemes are well informed about the impacts and benefits of marine renewables. Guidelines for compensation should also be drafted.

## **Marine Conservation Zone - proposed management regime**

*"This will mean different things for different bodies but could include requirements:*

- to introduce restrictions on activities, wherever they take place, that would otherwise result in the objectives of a site not being achieved; and*
- to take positive measures to control damaging activities, such as taking action to mitigate impacts, where they have the powers to do so."*

The restrictions and actions required for MCZ management will need to be clearly defined. Consideration should be given to new scientific evidence, to allow previous prohibited activities. Deployment of renewable energy mitigates climate change, reducing carbon emission and subsequent acidification of oceans.

*"Public authorities will also be under a duty in relation to certain decision making functions. Where necessary, we will prepare guidance for decision makers on the factors which may be relevant to the decisions on applications to carry out activities which may be capable of affecting a feature of an MCZ or a process on which a feature depends. It is important that decision makers are fully aware of the impacts of activities, which have a net benefit in reducing carbon emission and reducing acidification of the marine environment, e.g. deployment of marine renewables.*

*The CCW is working to consider the activities that are likely to be compatible with an MCZ afforded a high level of protection."*

BWEA strongly welcomes the consideration of net benefit activities that reduce carbon emissions. The implementation of this thinking will be difficult and hence should be rely on a joined up approach, working with other regional MCZ projects. Industry and government should both invest in establishing the ecological benefits of deploying marine renewables.

## **Surveillance and Monitoring**

*"Relevant authorities are responsible for exercising their duties to secure compliance with SAC and SPA objectives; this includes undertaking appropriate assessments on plans or projects that are deemed to have a "significant effect" on site features and making sure that activities that are under their management do not have an adverse effect on these sites. These assessments will be informed by the Regulation 33 package and should ensure that any mitigation action is identified to prevent operations having an 'adverse effect on site integrity'."*

It will be essential that a coherent methodology is used through the monitoring process, to take account for climatic and environmental fluctuations; hence long term monitoring programmes are required to fully assess the benefits and impacts of an MPA network. Additional monitoring of novel offshore renewable energy devices should also be promoted and the designation of experimental test sites should be a priority.

## **Enforcement**

The Marine Enforcement Team should liaise closely with the Marine Management Organisation, to ensure that the Marine Bill is implemented in a similar manner. This will enhance continuity between Wales and England, preventing confusion and infringement, whilst providing a clear understanding and interpretation of the legislation.



# Cyngor Cefn Gwlad Cymru Countryside Council for Wales

CADEIRYDD/CHAIRMAN: JOHN LLOYD JONES OBE

PRIF WEITHREDWR/CHIEF EXECUTIVE: ROGER THOMAS

Anfonwch eich ateb at/Please reply to:

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Vivienne Collins  
Marine Branch,  
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Dec 16<sup>th</sup> 2009

Dear Vivienne,

## **Protecting Welsh Seas: A draft Strategy for Marine Protected Areas in Wales**

### **Consultation response by the Countryside Council for Wales**

The Countryside Council for Wales welcomes the publication of this consultation document Marine Protected Areas (MPAs) in Wales. CCW champions the environment and landscapes of Wales and its coastal waters as sources of natural and cultural riches, as a foundation for economic and social activity, and as a place for leisure and learning opportunities. We aim to make the environment a valued part of everyone's life in Wales.

The publication of this document is timely and sets out the way in which the Welsh Assembly Government intends to deliver its commitments to an ecologically coherent network of well-managed MPAs in Welsh waters. We particularly welcome the commitment from WAG to use the new Marine Conservation Zone designation tool created through the Marine and Coastal Access Act (2009) to establish some highly protected sites in Wales. These sites will help deliver ecosystem resilience and recovery, and strengthen the existing network of MPAs in Welsh waters.

Marine Protected Areas (MPAs) are recognised globally as one important tool in the protection of marine species, habitats and ecosystems, and as such make an important contribution to delivering an Ecosystem Approach to management of the marine environment. A growing number of statutory drivers exist for MPAs including under the Wildlife and Countryside Act, Habitats and Birds Directives, and most recently under the Marine and Coastal Access Act (2009) (MACA) and as part of the European Marine Strategy Framework Directive. These instruments establish a statutory requirement to protect rare and scarce, and representative species and habitats to underpin the resilience of marine ecosystems as a whole. The designation and effective management of Marine Protected Areas also helps to fulfil statutory

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Prif Swyddfa/Headquarters

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requirements under the Natural Environment and Rural Communities (NERC) Act 2006, where there is a duty on all public authorities to have regard to conserving biodiversity.

The draft consultation document sets out WAG's broad aspirations and intentions in relation to the delivery and management of a network of MPAs. Our consultation response, at the end of this letter, highlights some areas in the Strategy where we feel further detail would be useful, in particular in relation to:

- The current condition of existing MPAs
- The relationship between existing and future MPAs
- Skomer Marine Nature Reserve
- MPA management and enforcement requirements
- MPA Monitoring and surveillance requirements
- Links with wider UK MPA work
- Reviewing the Strategy

Yours sincerely,

Dr John Hamer  
Head of Maritime Policy, Countryside Council for Wales



## Current condition and management of existing Marine Protected Areas

The Strategy usefully sets out the MPAs that currently exist in Welsh waters, and the need to deliver more effective management of these sites. A summary of the condition of these sites would help to provide a more holistic picture of the existing network, and would help to illustrate and focus the need for more effective management. The Strategy could also refer to the Reg 33 packages for marine SACs and provide links to CCW's website where these can be downloaded.

The document could further emphasise the work being undertaken under the Wales Environment Strategy Outcome 21<sup>1</sup> and the CCW Special Sites Project. This project will play an important role in identifying impacts within MPAs and engaging Relevant Authorities in the management measures needed to address these. The strategy provides a useful opportunity to emphasise and raise awareness of this important work. The Strategy could also emphasise its role in delivering other WES targets, including in particular Outcome 19 'The loss of biodiversity has been halted and we can see a definite recovery in the number, range and genetic diversity of species, including those species that need very specific conditions to survive' which will be supported by the effective management of existing MPAs and the designation of future highly protected MCZs.

## The relationship between existing and future MPAs

There are a number of MPAs already designated in Wales, currently covering some 32% of Welsh inshore waters. These are identified within the Strategy as making a significant contribution to the overall MPA network. CCW has advised that the role of highly protected MCZs is to deliver ecosystem recovery and resilience, and that these new sites are likely to primarily be within SACs.

CCW provided this advice on the need for highly protected sites as part of an overall framework for delivering an Ecosystem Approach to management of the marine environment in Welsh waters in 2006<sup>2</sup>. Section 123 of the MACA Act has now put in place a statutory requirement for the designation of a representative network of conservation sites. We strongly support the process for highly protected MCZ selection being put in place by the Welsh Assembly government that will consider the selection of highly protected MCZs in Welsh waters, alongside wider domestic and international work to establish an ecologically coherent network of MPAs. We envisage that this is likely to result in MCZs being proposed in areas that are both within and beyond the boundaries of existing MPAs.

It is important to note that there are a number of management-related benefits that could arise from the nesting of highly protected MCZs within existing sites. These include the potential to integrate the monitoring, protection and enforcement of the sites with that of EMS, the generally higher level of public awareness of the nature conservation value of existing sites leading to stronger public support, and the establishment of better understanding and awareness of conservation issues amongst sea users and public

<sup>1</sup> Wales Environment Strategy Outcome 21 'Sites of international, Welsh and local importance are in favourable condition to support the species and habitats for which they have been identified'. Wales Environment Strategy, Welsh Assembly Government (2008).

<sup>2</sup> Dernie, K.M, Ramsay, K., Jones, R.E, Wyn, G.C., Hill, A.S., & Hamer, J.P. (2006) Implementing the Ecosystem Approach in Wales: current status of the maritime environment and recommendations for management CCW Policy Research Report 06/09.

bodies within these areas. In addition, existing MPAs broadly represent the range and variation of marine biodiversity in Welsh waters, and are therefore likely to coincide with areas appropriate for designation as highly protected sites. Nevertheless, we agree that there may be a need to establish highly protected MCZs outside of existing sites depending upon the requirements of the MACA Act supplemented by Government's statement on establishing an ecologically coherent network of MPAs alongside criteria developed by the TAG.

## Skomer Marine Nature Reserve

Skomer Marine Nature Reserve is an important and valued part of the Welsh MPA network. Under the Marine and Coastal Access Act, Skomer will become a Marine Conservation Zone (MCZ). Lundy, the only other MNR in England and Wales will also become an MCZ.

The Strategy as currently written has the potential to create some confusion regarding the future status of Skomer Nature Reserve. The document states that MCZs in Welsh waters will be highly protected, and also that Skomer will become the first MCZ in Welsh waters. The Strategy could be clearer regarding the process for transition of the reserve into an MCZ, and its role in the wider process to select new MCZs.

CCW has advised WAG that Skomer should retain the current level of protection that is afforded to it. Currently, protection is achieved through the Skomer MNR byelaw and Sea Fisheries Committee byelaws. This protection will be transferred and maintained following the Marine Act. This legal protection is supported by on the ground staff who are able to monitor the condition of the site along with the level of human activities that may damage the site. The demonstrable success of current protection at Skomer is in large part attributable to having staff who are also able to monitor and, by working closely with relevant enforcement agencies, ensure compliance.

The Welsh MCZ Project will identify highly protected MCZs in Welsh waters. CCW has advised that the role of Skomer is considered in the context of a future series of Marine Conservation Zones, through the MCZ Project Wales.

## MPA Management and enforcement requirements

The UK is committed to establishing 'an ecologically coherent network of well-managed sites by 2012'. CCW has advised government that it is critical that we focus not only on the designation but also the management of MPAs in order to meet the commitment and is working through its Special Sites Project to meet the Wales Environment Strategy target.

Effective management of MPAs is critical to their ability to deliver their stated objectives. Whilst the strategy document sets out the broad management framework for MPAs, including new MCZs, it would help to clarify exactly how the management responsibilities of public authorities should be discharged, particularly with respect to new sites.

The high level of protection sought within new MCZs in Welsh waters means that decisions relating to the management of the sites could be relatively straightforward in comparison to that of other sites where many activities can co-exist at some level with conservation objectives. In addition, the Defra/WAG draft guidance note on the duties of public authorities in relation to MCZs sets out further information on this

area. For example, it states that 'public authorities will be free to convene management/liaison groups, or to develop management schemes for MCZs, with other regulators where they wish to cooperate in managing current or future impacts on the site'.

We suggest that it would be helpful if guidance was issued by WAG to ensure the relevant steps are taken to ensure that effective site management is delivered, and this should be informed by a better understanding of the strengths and weaknesses of current MPA management. In particular it should reflect:

- How the management of new MCZs could/should be integrated with that of EMS
- The need to assess the effectiveness of current management frameworks across all MPAs, and in particular the role of EMS Officers in supporting site management
- The resource requirements (in particular staffing) required to underpin effective management and enforcement of highly protected MCZs and other MPAs
- How the WAG Marine Enforcement Team will interact with other statutory bodies with responsibilities for EMS & MCZs

We look forward to working closely with the Welsh Assembly Government through the MCZ project Wales to scope out both effective management of new highly protected MCZs and improvement of the management of existing sites.

#### Relevant Authority Groups for Special Areas of Conservation

One specific issue relating to site management is particularly relevant currently. Under the Habitats Regulations, the Sea Fisheries Committees are Relevant Authorities (RAs), and as such input to the Relevant Authority Groups (RAGs) for each existing marine SAC. Under the Marine and Coastal Access Act (2009), the Welsh Assembly Government will take on fisheries management powers and are expected to take the functions of the existing SFCs from April 2010.

It is our understanding that WAG can not be a RA under the current drafting of the UK Regulations, although the Habitats Directive is clear that any authority having local powers or functions that have, or could have, an impact within or adjacent to a European Marine Site should be a Relevant Authority. We strongly emphasise the importance of continued engagement of fisheries managers in discussions regarding the management of European marine sites. We wish to see WAG clearly commit through the MPA Strategy to engaging fully with the RAGs to continue to develop effective management approaches in SACs, as part of their duties under the Habitats Directive.

#### **MPA monitoring and Surveillance requirements**

The management of MPAs must be supported by robust evidence and we welcome the emphasis in the document on the need to develop and implement a rolling programme of surveillance and monitoring. However, it says little about whose responsibility this monitoring falls to. The Technical Advisory Group, set up to inform the highly protected MCZ selection process, will have a key role in determining the monitoring requirements of highly protected sites.

CCW is closely involved in the UKMMAS process and recognises the importance of engaging with these wider monitoring initiatives to bring together relevant data and information to support management of the marine environment. We are also working with JNCC on their Defra-funded surveillance project which will look at the monitoring needs for MCZs. CCW already undertakes a programme of monitoring and surveillance to support reporting requirements under the Habitats and Birds Directives. Given our existing monitoring programmes and expertise in this field, it is likely that CCW would have a role in delivering monitoring for new MCZs. However, additional resources would be required to undertake this work.

The Marine and Coastal Access Act (2009) introduces a duty on Welsh Ministers to report on the extent to which a representative network of MPAs has been created. Monitoring of Welsh MPAs and an understanding of their condition will be critical to meaningful reporting. As the requirement is to report on the MPA network, consideration must be given at an early stage in the MCZ selection process to the scale(s) at which the ecological coherence of the network will be assessed as well as reported. This has implications for the criteria for replication and representivity that should be included in the Welsh MCZ project.

### **Links with wider UK MPA work**

The focus of the strategy is on activity within Welsh waters. However, it would be helpful if the document reflected more clearly Welsh MPAs in the wider UK context. In particular:

The Welsh Assembly Government are part of the UK MPA Policy Group, which is addressing policy issues across the whole UK MPA network with an overall objective of achieving a joined up approach and better consistency to delivery of Governments MPA policy. The strategy could mention this group, setting out clearly how it works and additionally what mechanisms are in place to ensure a joined up approach to MCZ selection across England and Wales. In particular, reference could be made in relation to the regional MCZ projects occurring in waters adjacent to Wales (i.e. the Finding Sanctuary Project in the SW of England and the Irish Sea MCZ project in the NW and offshore Welsh waters).

The MACA Act puts a duty on Welsh Ministers to prepare a statement setting out the principles of it's approach to achieving a representative network of conservation sites. Again, it would be useful to set out in the strategy the process, including timescales, for developing this statement alongside others produced in accordance with the Act.

### **Reviewing the MPA Strategy**

Finally, we would like to see a commitment to reviewing this strategy at regular stages into the future, potentially following each statutory reporting period.



## ENVIRONMENT AGENCY WALES RESPONSE TO WELSH ASSEMBLY GOVERNMENT CONSULTATION

### *Protecting Welsh Seas – A draft strategy for Marine Protected Areas in Wales*

#### **SUMMARY**

We are pleased to be given the opportunity to submit our views on the Welsh Assembly Government's draft strategy for Marine Protected Areas (MPAs) in Wales.

- We support the aims of the draft strategy and recognise the important role that MPAs will contribute to achieving Good Ecological Status and climate change adaptation.
- We will continue to work with the Welsh Assembly Government and Countryside Council for Wales to help identify appropriate sites that will contribute to the development of an ecologically coherent UK network of well managed MPAs.
- To achieve Welsh Assembly Government's aim of improving co-ordination of managing European Marine Site (EMS), it will be necessary to introduce a secure funding mechanism to ensure that there is a SAC Relevant Authorities Group (Co-ordinating) Officer for each EMS.
- We believe that the draft should better reflect the benefits Marine Conservation Zones (MCZs) can provide for protecting fish.
- We have commented on the draft guidance for identifying, selecting and designating MCZs in the annex to this response.

#### **1.0 INTRODUCTION**

Environment Agency Wales' (EAW) job is to look after the environment and make Wales a better place. We provide support to meet the objectives within the Welsh Assembly Government's Environment and Integrated Coastal Zone Management Strategies.

We have a major role in the sustainable management of estuaries and coastal waters around England and Wales, including controlling polluting discharges up to 3 nautical miles and from land-based sources; flood risk management activities and coastal erosion; management of migratory fisheries (to 6 nautical miles and acting as sea fisheries committee in a number of estuaries); protecting and enhancing biodiversity; and being the competent authority for the Water Framework Directive (WFD) (to 1 nautical mile).

We have published a Marine Strategy that sets out what we are doing to protect the marine environment, and presents our vision for the future. We are working to deliver our Marine Strategy with other regulators, businesses and coastal communities.

#### **2.0 GENERAL COMMENTS ON THE DRAFT STRATEGY**

We support the aims of the draft strategy to contribute to the development of an ecologically coherent UK network of well managed MPAs and are pleased to be represented on the steering group, technical advisory group and stakeholder advisory group.

We welcome the references within the draft strategy to the important role MPAs will play in enabling marine biodiversity to become more resilient and adapt to climate change. This network of MPAs will need to be future proofed as far as practicable using best available evidence and judgment.

We support Welsh Assembly Government participation in the Irish Sea Conservation Zone and the Finding Sanctuary projects. This will be important to ensure that cross-border areas such as the Dee and Severn are fully considered so that the network protects marine ecology whether it is within Welsh, English or UK waters.

## **2.1 Links to Water Framework Directive**

We are pleased that the draft strategy recognises the role that MPAs will contribute to achieving Good Ecological Status in waters covered by the WFD.

We will be able to bring the experience we have gained from WFD implementation to the MCZ process in Wales, including the availability of data, information and technical expertise, and the established processes of engaging stakeholders.

The Environment Agency is the competent authority for the WFD in England and Wales, not the UK as stated on page 7.

## **2.2 Developing the MPA Network**

### **2.2.1 Improved co-ordination**

The draft strategy recognises that there is a need for improved coordination of MPAs to maximise the benefits of site management for the network as a whole.

At present, not all of the European Marine sites have a SAC Relevant Authorities Group (co-ordinating) Officer in post. Those that exist are currently funded by contributions from some, not all, of the Relevant Authorities who sit on the management groups. (EAW contribute £14k pa to fund posts at 4 sites). SAC Relevant Authorities Group Officer officers that are in place meet together at the Group of European Marine Sites (GEMS) where they aim to improve the co-ordination the management of these sites.

If Welsh Assembly Government see these posts as key to improving co-ordination and management of the MPA network, the funding mechanism needs to be more secure.

### **2.2.2 Links to fisheries management**

The draft strategy refers to the indirect benefits to fish populations such as protection for juvenile fish nursery grounds. We have published work in this area and can provide relevant evidence which establishes that estuaries and salt-marshes are critically important nurseries for marine fish as well as providing important pathways for migratory fish. It is important that we protect our fragile estuarine habitat from damage, which is an important component of the sustainable management of marine and migratory fish.

Some of the fish protected include those with conservation importance such as smelt and shad. MPAs may also perform a role in the future for species such as Sturgeon which may return to our waters.

## **2.3 Selection of additional MPAs**

As designated MPAs already cover a significant proportion of the coastline and sea area in Wales, we support the proposed approach to complement the existing MPA network with Highly Protected Marine Conservation Zones (HPMCZ). Careful thought needs to be applied to how species will be given effective protection outside of the boundary of a HPMCZ, for example through the use of buffer zones.

**2.3.1** Comments on the draft guidance for identifying, selecting and designating MCZs are included in the annex to this response.

## **2.4 Managing the MPA network**

### **2.4.1 Proposed management regime**

As a public authority, we will be under a duty to undertake our duties/functions in a manner that will further, or if that is not possible, least hinder the achievement of the site conservation objectives, for example, having regard to our duties as Statutory Harbour Authority in the Dee Estuary. Here we endeavour to further conservation but may need to undertake an activity (e.g. dredging) where we would limit our impact. We would need to ensure that this does not affect licensed salmon orders. It is important the conservation objectives are clear so they provide clarity to enable us to take appropriate management decisions and identify those activities or permits that might affect the MPA.

It would be useful if public authorities were included in any development of guidance to ensure that conflicts of duties can be avoided.

### **2.4.2 Surveillance and monitoring**

The draft strategy highlights the statutory requirement for surveillance and monitoring including for the Water Framework Directive. To ensure we are not duplicating effort and that monitoring is carried out in the most efficient manner, we would like to be involved with the development of any surveillance and monitoring programme for the MPA network.

## **FURTHER INFORMATION**

Further information or background to this response can be obtained from  
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Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP  
02920 466150  
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## **ANNEX: COMMENTS ON DRAFT GUIDANCE FOR IDENTIFYING, SELECTING AND DESIGNATING MCZs**

### ***Note 1 Draft guidance on selection and designation of Marine Conservation Zones***

- The guidance will now need to be updated to reflect the changes that were made to the Marine and Coastal Access Act as it went through parliament.
- The guidance needs to give instruction as to how the network will be considered at the UK level. In particular it would be helpful to know:
  - At what point the networks with English/Welsh/Scottish & UK waters will be considered as a whole.
  - How the projects around the UK will work together to ensure an ecologically coherent network of MPAs, particularly important in cross-border situations such as the Dee Estuary. It is important that estuarine waters are considered as one water body.
  - What contingency arrangements are there in place if a regional project does not deliver?
- The process does not describe how other government departments feed in. It is important that views are collected from these at an early stage to avoid putting the process at risk.
- It would be useful to have a short explanation about how the process will continue past 2012.
- Section 6.5 indicates that MCZs should only be proposed for EC Habitats and Birds Directives under exceptional circumstances. We are concerned that this may reduce the flexibility of MCZs. It is important that the guidance gives better consideration to climate change so that in future these types of habitats and species may benefit from protection through an MCZ. As species move in reaction to a changing climate the MCZ process could provide a useful additional tool to help those species and habitats that are in part protected by Habitats and Birds Directives.
- As part of the regional projects we would want to propose some intertidal areas or fish species such as shad, lamprey and sturgeon for inclusion within the network. The Habitats Directive indicates that protection for habitats and species should not rely on designation of European sites. In some cases protection would be more appropriate through the MCZ network.
- MCZ's will have an important role in contributing to Good Ecological Status as required by the Water Framework Directive. We are continuing to improve our data and information for WFD and it would be useful if the MCZ process were flexible enough to take it into account. For example, information on salt-marsh or mud-flat or fish that do not need full Habitats Directive protection but are important sites for that habitat or species of conservation concern at a national level.
- Within the mobile species section, we would expect there to be consideration of the role that MCZs could have in the conservation of nationally important fish species, particularly in estuaries. Most current measures to enhance fish populations focus on the open sea but estuaries play a major part in their lifecycle.
- Conservation objectives must be developed so that they are as clear as possible to enable us to make the appropriate management decisions and identify those activities or permits that might affect the MCZ.
- The draft guidance does recognise that mobile biodiversity will not respect man-made boundaries. For some marine species the range may be extremely big.

We may protect them in a designated area but how will this protect them when they move out?

- The draft guidance states that boundaries should encompass as much area as necessary to protect the species. This could be addressed through the use of "buffer zones". It may be more acceptable to have a smaller designated site surrounded by a buffer zone

***Note 2 Draft guidance on the duties on public authorities in relation to Marine Conservation Zones***

- The guidance will now need to be updated to reflect the changes that were made to the Marine and Coastal Access Act as it went through Parliament.
- Sections 5.2 and 5.5 appear to repeat themselves.
- Sections 5.7-5.17 tend to use Habitats Directive terminology in sections when the wording in the relevant section of Marine & Coastal Access Act [s126(7)] is different i.e. it does not mention "alternative solutions" or "compensatory measures". The guidance should therefore use the terminology of the Act not Habitats Directive.
- Section 6.2 states "The carrying out of any activity at disproportionate or unreasonable cost, would clearly be inconsistent with the proper exercise of its functions." This is not necessarily always true and depends on whether the public authority exercising functions has a cost benefit duty imposed on it (as the Environment Agency does) and what that duty says.
- Section 9.2 suggests that a protocol could be agreed between public authority and the statutory nature conservation body. We would support this approach and look to agree protocols with CCW and NE.

***Note 3 Draft guidance on conservation order for Marine Conservation Zones***

- The guidance will now need to be updated to reflect the changes that were made to the Marine and Coastal Access Act as it went through Parliament.
- Section 6.5 (Fisheries) needs to be updated with details on how fisheries in Wales will be managed.

***Note 4 Draft guidance on SSSIs and National Nature Reserves in the subtidal area***

- Section 1.5 should refer to Welsh Assembly Government's draft Marine Protected Area strategy.



Marine Branch  
Nature, Marine and Access Unit  
Department for Environment, Sustainability, and Housing  
Welsh Assembly Government  
Cathays Park  
Cardiff  
CF10 3NQ

16<sup>th</sup> December 2009

Dear Julia,

**Protecting Welsh Seas: A draft Strategy for Marine Protected Areas in Wales consultation response by the Marine Conservation Society (MCS)**

MCS welcomes the commitment from the Welsh Assembly Government to *'the development of an ecologically coherent UK network of well-managed MPAs'* and for the opportunity to comment on these proposals.

MCS is the UK charity dedicated to the protection of the marine environment and its wildlife. One of our key aims is the protection of marine biodiversity and the implementation of well-managed marine protected areas.

MCS welcomes the proposal that WAG intends 'to enhance the existing suite of protected sites' but we also believe there will be some sites that need designation out with the existing protected sites. We also accept that MPAs will be **'one'** of the tools available to help protect and improve ecosystems in Welsh Waters' (emphasis added), but in MCS' view it is the key to halting biodiversity decline.

*I hope you find our comments useful, please do not hesitate to get in touch should you require clarification on any points.*

*Yours sincerely*

Gill Bell  
MCS Welsh Officer

.....  
Caring for our seas, shores and wildlife - now and for future generations.

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# **Protecting Welsh Seas: A draft Strategy for Marine Protected Areas in Wales**

## **Consultation response by the Marine Conservation Society December 2009**

### **Introduction**

The Marine Conservation Society welcomes the publication of this consultation on Marine Protected Areas (MPAs) in Wales and its focus on WAG's vision for Wales' marine environment. We recognise that this is a high level strategy and as such does not contain specifics. However, we would like to request further details on certain points within the draft consultation.

### **Purpose of this strategy**

MCS is pleased that WAG acknowledge their role in fulfilling international and legal obligations and that they are one of the tools to '*help protect and improve ecosystems in Welsh waters*'. We would welcome details of other 'tools' WAG intend to use and how they will complement the MPA network.

We would also like further details on how the measures will be enhanced, in the wider context, by the new provisions for marine planning within the Marine and Coastal Access Act (MCAA).

MCS welcomes the statement '*This strategy focuses on MPAs that have been or will be established for the purpose of conserving and protecting biodiversity*'. However, as most of the current MPA network is not deemed to be in favourable conservation status, the new sites should seek to strengthen the existing network to allow the ecosystem to recover and provide the means for resilience.

We are concerned over the paragraph relating to success of MPAs in which priority is given to '*the biology of the species living there*'. Although biology is important, there are many other factors that contribute to the success of MPAs.

There will likely be new habitats and species that occur in some MPAs when management measures are put in place to prevent potentially damaging fishing activities. Restoration of MPAs has to take into account the possibility that the benthic communities may become more diverse, and support a greater biomass of benthic species (e.g. Georges Bank, USA)<sup>1</sup>. It is therefore self-defeating to suggest that the sites should all preserve current biology – especially those sites for which the objective is recovery from mechanical impact from bottom trawling. As such, a more relevant objective would be '*recovery to an alternative, more diverse benthic community, dominated by sessile epibenthic species*'.

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<sup>1</sup> [http://seagrant.gso.uri.edu/research/georges\\_bank/Assets/Collieetal2004.pdf](http://seagrant.gso.uri.edu/research/georges_bank/Assets/Collieetal2004.pdf)

These factors are all underpinned by the criteria used for site selection and the features named within conservation objectives. However, these are ineffective without a well thought out management plan for the sites, understanding and compliance with the duties placed on the regulating authorities, and monitoring of sites.

Although MCS acknowledges that MPAs can '*help to secure the goods and services that we expect from the marine environment*', we are keen for reassurances that the MPA network will primarily be established for the ecologically coherent network, not based on socio-economic criteria.

Furthermore, there is a subjective assessment of 'goods and services' currently provided for by the marine environment. UK seas are currently not providing the mass of goods and services (particularly living resources such as fisheries) that they did in the past. The creation of MPAs has to have at its core the principle aim of returning Welsh Seas to a more productive state.

## **Aims**

MCS welcomes WAG's commitment to contribute to '*the development of an ecologically coherent UK network of well managed MPAs*' and to enhance biodiversity and ecosystems.

MCS would like further information on the set of marine objectives and how these relate to High Level Marine Objectives.

As set out below, MCS would like further details of the broad steps outlined to manage the network.

## **Time frame**

MCS welcomes WAG's intention to contribute to establishing an ecologically coherent UK network of MPAs by 2012.

We are both pleased and concerned about the statement '*the extent of any further action needed in order to meet this objective*' (*a network of UK MPAs*). MCS would like clarification that this is a commitment from WAG to further the network and that it does not infer that WAG may fail to comply with the 2012 deadline.

We hope the statement of further action will make commitments to establishing an ecologically coherent network by 2012, and will detail how the network will be managed beyond this time frame. We hope that the statement will also outline how WAG intends to commit to the Marine Strategy Framework Directive to deliver a coherent and representative network of MPAs by 2016.

## **International and legislative measures**

Marine Conservation Zones

MCS is pleased that WAG have committed to use the new MCZ designation and that the use of the new measures includes a range of features which allows for ecosystem resilience and recovery, through a network of representative and ecologically coherent sites, in addition to '*nationally important, rare or threatened marine habitats, species and ecosystems*'.

MCS is gravely concerned over that statement the MCAB '*allows for Welsh Ministers to take account of social and economic criteria*'. MCS would highlight that the MCA Act states that economic or social **consequences** may be taken into account. However, Welsh Ministers are not required to do so. MCS feels that this has been given undue importance, which could undermine the whole MPA process within Wales. MCS would therefore like clarification from WAG that socio-economic *consequences* are not *criteria* and as such cannot be used as one of the criteria involved in site selection and designation. We have already received such clarification from the UK Government and would like to receive similar from WAG. Please see Appendix I for a copy of a letter regarding MCZs that was sent by the Minister, Huw Irranca-Davies MP, to Wildlife and Countryside Link on 22 October and which was referred to during the recent debate on the Marine & Coastal Access Bill in the House of Commons (26 October, Report Stage, Column 121), and placed in the House of Commons Library. The Minister provided Link with this open letter to clarify the Government's position regarding MCZs and how they should be selected, designated and protected. The Minister gave us permission to share this letter with other interested parties.

In summary, the letter provides important clarification from Government that:

- Science is absolutely fundamental and will be the first consideration in the designation of MCZs;
- It is Government policy to designate an 'ecologically coherent network' of MPAs by 2012;
- Only when the ecological requirements of the network would be met will the Regional Projects be able to consider whether to factor socio- economic considerations into the MCZ decision-making process;
- There are expected to be a number of sites where the conservation objectives will require high levels of protection and hence the exclusion of all damaging activities;

The letter also states that the final versions of the MCZ Guidance Notes and MPA Strategy for English and UK waters will be made consistent with the commitments the Government has made on the record in Parliament. In addition, it states that the Ministerial Statement for MPAs will include the principles for creating an ecologically coherent network and will state that science is the primary consideration in the designation of MCZs.

We need to ensure that a wide enough range of habitat features are included in the network. Then, once these technical design guidelines are achieved – based on the

best available science<sup>2</sup> - then socio-economics could be considered where replicate overall designs of the MPA network are made available to stakeholders.

MCS welcomes that Skomer will become Wales' first MCZ, but are concerned over the lack of detail as to the process by which this will happen. MCS welcomes the confirmation by The Minister, Jane Davidson, through a speech to Wales Environment Link's Marine Act celebratory event in Cardiff on 24th November 2009 "that there is no fall in the level of protection afforded to Skomer". This assurance was also repeated by WAG at the joint Pembrokeshire Coastal Forum / Skomer MNR Advisory Committee meeting on 3 December. However, we would like some further details on protection and management of Skomer after 2012.

MCS would urge WAG to consider that Skomer not only retains its current level of protection but is designated a Highly Protected MCZ, benefitting from the full protection this will provide.

MCS would also like clarification on who will be responsible for policing, monitoring and management at Skomer, and would strongly urge WAG to ensure there is no decrease in resources currently allocated to the Skomer MNR team.

### **Developing the MPA network**

MCS welcomes the outline of the design principles for the MPA network and the inclusion of highly protected sites under the '*protection*' principle paragraph, which we understand to be an intention from WAG to designate highly protected MCZs within the MPA network.

We welcome the '*Best Available Evidence*' paragraph, which alludes to WAG following the precautionary principle for the network design. MCS would like to see clarification and confirmation that the precautionary principle will be used, based on current information, and '*lack of full scientific certainty*' **will not** be a '*reason for postponing nor rejection of selection of sites*'.

### **Existing sites**

MCS acknowledges that Wales already has a network of MPAs; however we would like to raise the issue that although 32% of Welsh territorial seas receive some protection, at present there are no fully protected MPAs within Wales. The protection afforded the current network has been demonstrated, in some instances, not to protect those features named within the conservation objectives and sites are of unfavourable conservation status.<sup>3</sup>

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<sup>2</sup> Guidance on the size and spacing of Marine Protected Areas in England (2009). Roberts C.M., Haewkins, J.P., Fletcher, J., Hands, S., Raab, K. and S Ward. University of York report to Natural England.

<sup>3</sup> WEL report, 'Protecting Nationally Important Marine Biodiversity in Wales'. This reports highlights failings of the competent authorities to carry out their duties as laid out in the Habitat Regulations, leading to sites becoming in an unfavourable condition.

We would therefore strongly suggest all existing sites need to be assessed and reviewed across the whole of Welsh waters. The new sites should fill any gaps identified within the review and strengthen the network as a whole.

This assessment is key to the Technical Advisory Group (TAG) in their consideration of site selection criteria.

### **Improving the management and coherence of the MPA network**

MCS is pleased that the WAG has detailed some of the plans for the improvement of current and new networks and for the commitment to include areas of highly protected MCZ.

However, in order for WAG to improve the MPA network, it would seem wise to carry out an assessment of the current condition of existing sites.

The WEL report<sup>3</sup> undertook research to determine if the current Habitats Directive Special Areas of Conservation (SAC) sites around Wales provide adequate protection for the nationally important habitats and species listed in the Conservation Objectives for the sites, and if protection measures undertaken within these sites actually deliver protection to the specified species or habitats. Unfortunately, it appears that even those habitats and species listed in Conservation Objectives (which may account for only 20% of the nationally important species occurring within the site – see below) have been damaged by permitted activities.

The last CCW report into the status of SACs found 60% were at an ‘unfavourable status’. Both of these report back the need for an urgent review of the existing sites and the current status and management of those sites. This information will be vital to the TAG.

Although we welcome the commitment to improve coordination between statutory authorities and stakeholders, we are concerned that WAG intends to apply the existing management tools used for the SAC network for the new MPA network. In the opinion of MCS, the current management and protection of existing sites is not effective and cannot be used as a basis for effective coherent and well-managed network.

The current MPA sites in Wales suffer from a failure by Welsh authorities to carry out their duties under Article 6(2) and 6(3) of the Habitats Directive to restrict potentially damaging activities (including fishing activities). MCS has written to the Marine Fisheries Agency Wales (and their equivalents for all four UK devolved administrations) to remind them of their legal duties – as competent authorities – with regard to managing damaging fisheries in SACs.

A simple solution would be for the general fishing license issued by MFA Wales to include a list of Welsh SACs, and to mention which fishing activity has to carry out

an appropriate assessment in specific Welsh SACs, based on the regulation 33 advice from CCW. Fishers would then be familiar with which sites would require an appropriate assessment before carrying out fishing within them. This would be particularly relevant to bottom-towed fishing gears in SACs with Annex 1 reefs and/or sandbanks listed as the qualifying features.

In your last paragraph, the consultation states that commercially important fish stocks may indirectly benefit from MPAs. MCS would seek reassurance that enhancing commercial fish stocks will not be used as a primary criterion for an MPA (unless for a rare, threatened and/or declining<sup>4</sup> species) but may be an additional benefit. It is more important for an ecologically representative suite of habitats and species to be considered within the network design, and thereafter to consider one site over another – where there is a choice available – which may more likely benefit local fisheries for more sedentary species (e.g. flatfish, scallops and lobster).

### **Selection of Additional MPAs**

#### **Marine Conservation Zones**

MCS welcomes commitment from WAG to implement a number of Highly Protected MCZs in Welsh waters. We would welcome the WAG setting out a definition for the purpose and role of the highly protected MCZ<sup>5</sup>.

We would seek clarification as to *‘in the first instance, establish a number of MCZs that will be afforded a higher level of protection’* as to what WAG means by in the *‘first instance’* and if this affects their commitment to the 2012 deadline. We also require further clarification if all MCZs will be HPMCZs or, as detailed under p8 under the MCZ section of Obligation under UK Legislation, whether there will be *‘varying levels of protection’*. If WAG intends to have levels of protection for sites, we would like clarification on what criteria will be used to determine the varying levels of protection.

MCS would once again question the prominence of ‘socio-economic information’ in the criteria for identification and selection of MCZs. We would hope that ecological information based on the guidance available for selecting sites would be the main driver for the design and management of MPZs, in order to achieve a coherent ecological network. Socio-economic information should only be taken into account where there are two sites of equal ecological importance, or where options exist to choose between two or more network designs, where the ecological benchmarks of restoration are met.

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<sup>4</sup> E.g. OSPAR threatened and/or declining species and habitat list, BAP,

<sup>5</sup> MCS has a position paper on highly protected marine reserves and spatial protection measures, including a definition for Highly Protected Marine Reserves. This paper also states our position of the management of bottom-towed fishing gears in Special Areas of Conservation (Page 9). - [http://test.mcsuk.org/downloads/fisheries/MCS%20policy%20&%20position%20papers/MCS%20bottom%20towed%20fishing%20gear%20position%20statement%20and%20background%20\(November%202008\).pdf](http://test.mcsuk.org/downloads/fisheries/MCS%20policy%20&%20position%20papers/MCS%20bottom%20towed%20fishing%20gear%20position%20statement%20and%20background%20(November%202008).pdf).

MCS welcomes the acknowledgement that all new MCZs may not be within the existing MPA network and '*where necessary and appropriate to design these sites outside existing EMS*'. MCS would like clarification on when such measures would become necessary and appropriate, and would remind WAG of the findings of the WEL report <sup>3</sup>, which found that 10% of all nationally important species are not recorded within the boundaries of the current EMSs.

## **Managing the MPA network**

### Marine Conservation Zones

MCS welcomes WAG's proposal to set out new conservation orders (COs) and would seek clarification on these COs, how they will be defined and if they will be accompanied by the production of clear guidelines to facilitate well managed sites.

MCS would ask WAG to consider the WEL report <sup>3</sup> which found that although 80% of nationally important habitats and species occur within current Welsh SAC sites, they are not listed within the CO, therefore are not considered when granting permits for activities. This gap in protection has led to habitats or species, not listed in COs, being damaged by activities that have been deemed to be legal. It is worth highlighting that this applies to the majority of the 80% of nationally important habitats and species around Wales. We would hope the new CO would address these issues.

MCS welcomes the acknowledgement that '*there will be a duty on the regulating authorities*' and further welcomes the commitment to '*prepare guidance for decision making on factors which may be relevant*'. However, we are concerned that various Regulating Authorities Groups (RAGs) are not undertaking their current duties, and may fail to take on additional duties (see WEL report <sup>3</sup> which found that '*there is some confusion among competent authorities as to the requirements of the Habitats Regulation*').

We would strongly advise WAG to heed the recommendations in the WEL report for '*the urgent need for guidance and training for competent authorities*' and produce best practice guidance for all RA. Within this report, several authorities were found to have failed in their duties (such as Pembrokeshire Coast National Park Authority, Milford Haven Port Authority, Environment Agency Wales and Pembrokeshire County Council), and would benefit from best practice guidance and training.

As mentioned before, responsibility for the issuing of advice to fishing interests should come contained within the fishing license. Fishing vessels operating in Welsh waters would immediately know if they require an appropriate assessment before carrying out their activities in current SACs, where they may be deemed potentially damaging to the bottom features of the site by CCW. This responsibility lies with the MFA Wales, and WAG.

MCS is concerned that WAG failed to name a **single lead competent authority** overseeing the MPA network, as recommended in the IUCN guidance on MPA management (e.g. Defra, England / GBRMPA, NE Australia / French MPA Agency, France). MCS would ask that WAG consider tasking a Regulating Authority (RA) as the lead competent authority, to ensure that multi-consent projects do not continue to damage and destroy marine features or to set down clear guidance for each RA

Under the new MCAA, WAG will take on fisheries management. However, we would like clarification on what measures WAG will put in place so that it can be an effective RA under current drafting of the MCAA and the role of local fisheries management authorities (IFCAs), with regard to the management of current SACs and fisheries in future MCZs.

MCS welcomes the acknowledgement that WAG may seek Commission approval in circumstances where their ability to manage activities is limited by international law, such as fisheries operating between 6 and 12 nautical miles offshore.

### **Surveillance and Monitoring**

MCS strongly welcomes the acknowledgment that *‘effective surveillance and monitoring of individual and the wider marine environment will be crucial’* and the commitment to *‘a rolling programme of surveillance and monitoring’*.

MCS would like clarification of who will undertake this surveillance and monitoring and reassurance that adequate resources to undertake this programme will be provided.

We would also suggest that WAG looks to the model of monitoring and surveillance currently undertaken at Skomer MNR, the level of staff expertise, data collection and public engagement. The range of data collected is essential to demonstrate to stakeholders the benefit of MPAs to themselves and the wider community, as well as the biodiversity benefits.

The data collected by Skomer MNR team will be invaluable to the TAG group and will be necessary for WAG to demonstrate it has fulfilled its legal national and international duties.

## **Enforcement**

MCS welcomes that under the MCA Act '*Marine Enforcement Officers will have access to a unified set of common powers*', and that there will be a lead team within WAG comprising the Marine Enforcement Team.

We would seek more information and clarification as who will make up the new enforcement team, their remit, their training and resourcing.

We would strongly recommend that this team works at regional locations and works with stakeholders to ensure good working relations between the community and the enforcement officers, which will result in greater understanding of site management and better compliance.

MCS would recommend that Welsh vessels are fitted with Vessel Monitoring Scheme satellite transmitters to ensure compliance, and to get a better picture of vessel movement. Furthermore, we would recommend that WAG ensures that the transmission rate of signals from the devices on the vessels is at least once every 20 minutes, to ensure vessels are not encroaching into sites.

16 December 2009

Dear Sir

### **Welsh Assembly Government Consultation response**

### **Protecting Welsh Sea – A draft strategy for Marine protected areas in Wales**

We welcome the opportunity to respond and make comment to the consultation on the draft strategy for Marine protected areas within Wales. I am writing in response on behalf of my fellow members of the Bangor Mussel Producers Association. I would like to initially make some points of general issue and then latterly focus on specific parts of the document.

The International, European and national legislative drivers for the development of an ecologically coherent network of marine protected areas are well established. Both the Oslo and Paris convention on marine pollution (OSPAR) and the World Summit on Sustainable development element of the Convention on Biological diversity (WSSD – CBD) place an obligation on signatory states – of which the UK is one - to establish networks of marine protected areas within a defined timeframe, be this 2010 or 2012. No specific coverage of nation states territorial areas are prescribed and that this lack of prescription is likewise maintained within the consultation document is welcomed. In terms of compliance with existing European mechanisms, such as the Habitats and Birds Directives, Wales already has significant parts of its coastline accommodated within the coverage procedures. This is of course set to increase on approval of the Liverpool Bay SPA. Whilst the document mentions the roll out and implication of the Marine Framework Strategy Directive (MFSD) and the Water Frame Directive, indeed MFSD provides in paragraphs 6-9<sup>1</sup> of the preamble an additional legislative connect for an MPA

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<sup>1</sup> (6) The establishment of marine protected areas, including areas already designated or to be designated under Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (5) (hereinafter referred to as the 'Habitats Directive'), Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (6) (hereinafter referred to as the 'Birds Directive'), and under international or regional agreements to which the European Community or Member States concerned are Parties, is an important contribution to the achievement of good environmental status under this Directive

(7) Establishing such protected areas under this Directive will be an important step towards fulfilling the commitments undertaken at the World Summit on Sustainable Development and in the Convention on Biological Diversity, approved by Council Decision 93/626/EEC (1), and will contribute to the creation of coherent and representative networks of such areas.

(8) By applying an ecosystem-based approach to the management of human activities while enabling a sustainable use of marine goods and services, priority should be given to achieving or maintaining good environmental status in the Community's marine environment, to continuing its protection and preservation, and to preventing subsequent deterioration.

network, both these directives also make note of the need to develop more holistic approaches, through the mechanism of ecosystem based approaches, to the methodology for allocating 'use' of areas. This recognition is additionally reflected within national legislation, in the Marine and Coastal Access Act 2009, where sections of the requirements to develop marine conservation zones potentially run in conjunction with the creation of a more integrated system of marine use, through the updated approach to marine planning described within part III of the Act. Central to this is the concept of marine spatial planning which itself is entirely rooted in the principles of the ecosystems based approach. Our confusion to some extent here may be semantic, but why is there a system of marine use at one level which takes account of the needs of the ecosystem to achieve the objectives of 'sustainable use of marine goods and services', but having a 'priority should be given to achieving or maintaining good environmental status in the Community's marine environment, to continuing its protection and preservation, and to preventing subsequent deterioration' (as described by Paragraph 8 of the MFSD preamble); and the level, sort of running parallel to this, are the requirements to develop ecologically coherent networks of marine protected areas. Similarly with reference to the national legislation, it is envisaged that a system of marine spatial planning will be in place in Welsh and UK waters by 2013/2014. In order to comply with international obligations, the network of MPA's will be in place prior to this date. Doesn't this conflicting timeframe then run some risk of running counter to wider social objectives such as the need for both food and energy security, where the potential use of additional marine areas may significantly contribute to achieving any set national objectives in this regard? Wouldn't it make a great deal more sense for ensuring compliance within the MSP timeframe to be primary objectives of this process?

As a second major point, there needs to be some realistic clarity as to what the objectives of the Welsh Marine protected areas are to be. As the document makes clear, given the existing extensive coverage of Welsh waters via EU MPA's designations, new Welsh MPA's will be of the highly protected variant and primarily be found within the existing Welsh 'network'. However the point must be more clearly made that preventing direct human impact on this sites, by restricting site access by marine shipping, fisheries, aggregate dredging and other such activities – the sites will somehow be protected from 'all other damaging and disturbing activities (p 14 of consultation document) is not realistic. Whilst the general move toward compliance with the need to achieve good ecological status is within the Water framework directive, inherently affecting the issue of diffuse pollution impacts, this is unlikely to occur for some time if at all in the more highly industrialised river basin district areas. Thus there will remain the possibility the despite the highest level of protection being established within these sites that human caused degradation remains as a possibility. Likewise the profound impacts of climate change in coastal and near shore areas must be accounted for. Whilst these are of course issues that need to be and are being tackled on through wider geopolitical mechanisms, it must be pertinent in the selection process to be undertaken for MPA sites in Wales that risk based factors such as these are accommodated.

In addition to this matter of externalities, the matter of ecological resilience and baseline status needs to be more fully detailed and described. If one of the outlying drivers for HPMCZ's it to future proof ecosystems from the likely impacts of climate change then this needs to be done in a well considered manner. Are the WAG's statutory advisers clear that this objective necessarily be achieved via a mechanism of non intervention, or will the systems of management control and study put in place be adaptable enough to accommodate the potential of a changing agenda

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(9) In order to achieve those objectives, a transparent and coherent legislative framework is required. This framework should contribute to coherence between different policies and foster the integration of environmental concerns into other policies, such as the Common Fisheries Policy, the Common Agricultural Policy and other relevant Community policies. The legislative framework should provide an overall framework for action and enable the action taken to be coordinated, consistent and properly integrated with action under other Community legislation and international agreements. Official Journal of the European Union 25.6.2008 [L164 /27]

if some of the predicted impacts (sea water temperature rise, extreme weather events) become manifest.

As a criticism of the document, I must question the validity of the example used to described on Page 13 – that refers to ecological balance and symmetry in the Leigh Marine reserve. There is no contextual information here that can properly enable a meaningful comparison in the context of Wales. IN this sense this information is nothing more than a shallow attempt at promotion that effectively undermines much of the balance that is evident elsewhere within the document.

Whilst Figure 2 – Map of current MPA in Wales provides a largely accurate representation of this, a visual representation of the proposed joint CCW/NE Liverpool Bay Special Protected Area would have been of value – as would representation of Fig 1 and fig 2 in combination to provide a clearer spatial consideration in the context of Welsh Waters. An integrated GIS view that included areas that might have sensitive habitats or species that might be subject to spatial restriction – such as sites that lie within the boundaries of existing or proposed offshore wind-farms would also be of great value in this process of accurate visualization.

I would also like to make one further point on stakeholder representation within this process. The Wales Coastal and Maritime forum, whilst having a wide membership must not being seen as analogous as having a full membership. There are a significant number of marine users whose views are not directly and sometime even indirectly represented within the membership of this body. It would be of great value should WAG seek a way in which to capture the wider stakeholder mass within this process.

Yours Faithfully

James Wilson

## **Protecting Welsh Seas – a draft strategy for Marine Protected Areas in Wales**

### **Comments – Gwynedd Council Biodiversity Unit 16.12.09**

Gwynedd Council welcomes the opportunity to comment on the draft strategy for marine protected areas in Wales 'Protecting Welsh Seas'. We have been very active in supporting our marine SAC's, and have been a funding partner and host for the Pen Llyn a Sarnau SAC Officer for over 5 years. In Gwynedd we have beautiful and varied coast and marine habitats which are alive with an exciting variety of species. We fully intend on safeguarding these ecosystems for our future generations. However in recent years it has become much harder to source funding in order to continue with the excellent work of the SAC Officers.

We have the following comments to make:

**1. Designating MCZ's:**

It will not be possible to designate MCZ for species and habitats listed under the habitats directive, i.e. the list that is used to designate SACs. SACs cannot therefore become MCZs. There may therefore be an overlap if there are other features of interest within the SAC that are not designated. What criteria will be used to designate MCZ's?

**2. Conservation orders:**

How will the management of the two differ? You will be able to protect the MCZs using marine conservation orders to limit or ban activities e.g. no take zones etc. I am correct in assuming that the marine bill will have provisions to enable us to use these orders within the SACs as well?

**3. Level of protection:**

Which will have the highest level of protection – SACs or MCZs? If the same level of protection is afforded to both designations why not have SACs or MCZs?

**4. Social and economic criteria:**

MCZ's will allow ministers to take into account of social and economic criteria when designating – could this work against us by taking the focus away from biodiversity?

**5. Planning applications:**

Will planning applications have to take account of MCZs? Will they be considered in the same way as European Sites by undertaking tests of likely significance, and Appropriate Assessments, etc??

**6. Ecosystem approach:**

The idea is that MCZ protect the environment as a whole, as this is a downside to SACs and SPAs (where you can only protect the features for which the site was designated). However, MCZs will also have to be

designated for habitats, species, geological features, spawning areas etc – i.e. specific “features” – how will this lead to an ecosystem approach?

**7. Fisheries management:**

MCZs will not be seen as a tool for fisheries management, but this is one of the biggest threats to many sites. The document also mentions that MCZs could include no take zones – is this for commercially caught fish and shellfish? Is this not classed as fisheries management? Or will no take zones just be designated for nursery grounds etc?

**8. Stakeholder involvement:**

Will stakeholders be involved in choosing MCZs or will they just get a chance to comment on them once they have been selected? Who decides on the level of protection given to areas within a MCZ? Will stakeholders be involved in this decision?

**9. Site management:**

How will sites be managed? Who will be responsible for ‘managing’ the MCZ? SACs have relevant authorities groups and many also have liaison groups and management plans. There is no onus on anyone authority to take the lead. Will MCZ follow a similar pattern or will this be a WAG or CCW project to implement, manage and monitor?

**10. Monitoring:**

How will the sites be monitored? For example how will you check that the targets you set are being achieved? Also who sets the targets / management objectives? What type of targets will be set – we lack baseline information for many habitats and species?

**11. Baseline data for designating:**

The document mentioned that you will designate an area based on best scientific and stakeholder knowledge. What if there are gaps in our knowledge? It is likely that important areas will be overlooked as we don’t have the baseline information for many habitats and species. Will there be provisions to improve our knowledge e.g. to survey areas to find out what is there before we decide to designate? Can you add MCZs to the MPA network at a latter date when this information becomes available?

**12. Funding:**

LA’s and other stakeholders are struggling to fund SAC posts and work programme in Wales – how do you propose to fund another designation effectively if the financial needs of the current European Sites cannot be met?

**13. Member states:**

You mentioned WAG may have difficulty in managing MCZ due to interaction of other member states in those areas – are other Member States following a similar management regime? Securing agreement from other Member States could become a major obstruction to the effectiveness of WAG’s powers.

In conclusion, we welcome this additional level of protection for marine sites. However, could these new designating orders be used to further expand and strengthen our current marine sites (in particular European Sites) which could still provide a network of well managed Marine Protected Areas and improve ecosystems in our Welsh waters? Our fear is that we are struggling to properly manage/fund our current marine SAC's and SPA's, and adding another layer of designation could well dilute this further. These 'no-take' zones could be integrated as part of the current marine sites. There is also a danger of the people using, living and working in these areas becoming more confused and disinterested in the MPA's with various levels of designations. We have built a very good relationship with our local liaison group, however another designation could undue this good work.

**SASHA.W. DAVIES** BA. (Hons), DipM, A.C.I.M  
Pennaeth Gwasanaeth - Datblygu Economaidd  
Head of Service - Economic Development

CYNGOR SIR YNYS MÔN  
ISLE OF ANGLESEY COUNTY COUNCIL  
Canolfan Fusnes Môn • Anglesey Business Centre  
Parc Busnes Bryn Cefni • Bryn Cefni Business Park  
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Gofynnwch am / Please ask for: Christian Branch  
E-bost / Email: [clbpl@anglesey.gov.uk](mailto:clbpl@anglesey.gov.uk)  
Ein Cyf / Our Ref: CLB/814.10  
Eich Cyf / Your Ref:

Dyddiad / Date: 15<sup>th</sup> December 2009

Helena Towers  
Marine Branch  
Nature, Marine and Access Unit  
Department for Environment, Sustainability and  
Housing  
Welsh Assembly Government  
2<sup>nd</sup> Floor  
Cathays Park  
Cardiff  
CF10 3NQ

Dear Ms Towers,

**Re: Response to the Consultation on a Strategy for Marine Protected Areas in Wales:  
Protecting Welsh Seas**

The following response to the Welsh Assembly Government's draft Strategy for Marine Protected Areas in Wales is submitted by the Isle of Anglesey County Council's Economic Development Unit. The consultation document provides an informative overview of how the Welsh Assembly Government intends to enhance Marine Protected Areas in Wales, and our response is submitted in a constructive manner with the sole intention of improving the content and impact of the final version of the Strategy.

Given the geography, physical characteristics and location of the Isle of Anglesey, the County Council welcomes and supports the development of the Strategy. As an Island, the 201 km coastline underpins many key economic, social and environmental attributes and activities that have a significant impact upon the well being and quality of life of the Island's communities. The coastline is protected by a plethora of National and European designations for ecology, landscape, history and culture. Recreation and tourism contribute significantly towards the local economy as the natural environment and coastline are integral to the appeal of the Anglesey. The coastline is renowned for its scenery, beaches, wildlife, the opportunities for terrestrial and maritime activities (including walking, sailing, wind surfing, diving and fishing) as well as the peace and tranquillity it offers.

The County Council's Economic Development Unit is fully aware that Wales' marine environment needs to be valued, understood and respected. We strongly believe that is imperative that the coastline is safeguarded and appreciated; managed responsibly and sustainably; and thriving both economically and socially.

Our response represents a broad statement of support for the aim, scope and proposals outlined in the consultation document. We believe that the Strategy for Marine Protected Areas in Wales should:

- Promote the strategic and sustainable management of Wales' marine and coastal environment;
- Enable economic, social and environmental objectives to be delivered and achieved;
- Improve the facilitation and delivery of maritime policies, at a national, regional and local level;

- Enable sustainable economic activities to maximise the potential of the coastline and sea;
- Assist with the integration and the management of conflicting coastal activities;
- Improve the “quality” of the country’s marine environment.

However, with particular reference to the purpose of the Strategy; the selection of additional marine protected areas; and the management of the Marine Protected Area network, we would like to outline a number of issues which we feel the Welsh Assembly Government needs to give further consideration, together with a number of amendments/ improvements to the draft Strategy.

The Welsh Assembly Government’s vision for the Welsh marine environment requires greater emphasis and recognition within the current structure of the draft document - as does its strategic relationship with the Integrated Coastal Zone Management Strategy for Wales and the Welsh Coastal Tourism Strategy. It is imperative that this synergy and integration is evident to ensure that the vision is achievable and deliverable; and to highlight that the Strategy has not been prepared in isolation.

Central to the successful implementation of the Strategy and the designation of additional Marine Protected Areas in Wales is the need to raise awareness and improve understanding of the purpose of the designations; as well as the principles of the selection and notification process. All opportunities need to be capitalised upon to improve understanding throughout each sector at a national, regional and local level.

The overall Strategy gives little recognition to the economic value and importance of the Welsh marine environment, which is particularly disappointing given the current global economic downturn. It is imperative that Wales capitalises upon and maximises any competitive advantages which it possesses, including its coastal environment. We believe that there is a need and requirement to highlight the positive impacts of both social and economic activities of the coast and marine environment within the final version of the Strategy.

The selection criteria for designating Marine Conservation Zones must be sufficiently broad and consider all relevant issues (rather than purely focus upon environmental qualities). Clarification is required as to the process for identifying, selecting and designating these protected areas, and the views of Local Authorities should be integral to this process. It is also unrealistic and unfair to expect stakeholders to refer to separate guidance notes for any additional information regarding the selection process – this specific information must be included in the final Strategy.

We strongly believe that the formulation and use of sufficiently robust and appropriate social and economic criteria must be integral to the designation of any new Marine Conservation Zones in Wales.

Clarification is also required as to the anticipated role of Local Authorities in the management, monitoring and enforcement of any Marine Conservation Zones, in particular in relation to increasing financial restrictions on the Public Sector.

Further information regarding the definition of “damaging activities” is needed to ensure that there is consistency and clarity throughout Wales. Such definitions could be considered subjective given the likely variety of opinions and interests of stakeholders throughout Wales.

It is disappointing that the Governance Process outlined for identifying marine conservation zones in Wales does not appear to involve organisations with a detailed understanding of the socio-economic importance of the Country’s coastline. This is concerning and could cause disquiet amongst stakeholders who may question the transparency and openness of the whole process.



The inclusion of examples of marine protected area best practice is welcomed; however, additional examples are required to further strengthen the final Strategy and improve its overall impact and

influence.

We are keen to ensure that that the designation of any new Marine Protected Areas will not restrict the Isle of Anglesey County Council's activities (be it now or in the future) to regenerate the island's economic vibrancy – activities which are currently focused upon the unrivalled economic potential of our spectacular coastline.

I hope that you will find these comments useful in helping to shape the final version of the strategy.

If you wish to discuss any related issue further, please do not hesitate to contact Christian Branch, Development Officer (Coastal Environment Project):

 01248 752491  
 clbpl@anglesey.gov.uk

Yours sincerely,

**Sasha W. Davies**

Head of Service - Economic Development

Copy to:

Jim Woodcock	Head of Planning Service, Isle of Anglesey County Council
Mike Barton	Head of Property Service, Isle of Anglesey County Council
Duncan Brown	Maritime Officer, Isle of Anglesey County Council

From: Jenny Swainston  
Sent: 15 December 2009 18:21  
To: Marine  
Subject: Protecting Welsh Seas - draft strategy comments

I feel the document is a good one overall.

There are four main issues which need to be resolved which were not fully addressed in this document:

- Management of Fisheries and how a decision is made as to what will and will not be allowed
  - A forum for stakeholders views and opinions to be taken into account. This is sadly missing from the Marine and Coastal Access Bill but was in the earlier consultation.
  - The management of new and existing gas or petroleum exploration areas - which gets priority biodiversity or gas?
  - The existing marine areas really need to come into one standard of protection. So if they are SSSI or RAMSAR or SPA, they all need to become MCZ's with the highest level of protection.
- This will then enable a single management level to be applied over the whole area

There is one other factor which is not brought out enough and which needs urgent action. In many cases the current level of research on individual species is simply not there. Therefore, any decisions are going to be taken without that research. For example, photo id has been taken as a method of identifying dolphins in Cardigan Bay. This is however flawed for several reasons 1) a dolphin could stay on the database even if it is not seen for several years 2) the dolphin may only have been passing through to say the Isle of Man - therefore was in transit 3) No satellite tagging has been done on the female with calves to find out are they resident all year, do they just use Cardigan Bay as a nursery area - similarly where do all the males go?

I use the above a very valid example of what is needed for one large species, the same or more would be true of many fish species and marine invertebrates.

Without these details deciding what to preserve and where and how many miles out will be missing the point. Dolphins for example have been known to go from New Quay and to have been seen off Anglesey the next day. With a cruising speed of 13 miles per hour this is perfectly doable. So where do we protect them, in the SAC's such as Cardigan Bay or all along an area to Anglesey? We don't know the route they took to get there so we can't be sure if it was in in-shore or seaward route. Did they go through the Menai Straits or round the top of Anglesey via Holyhead?

I use these as illustrations of the issues and what worries me unless we do a blanket 12 mile limit as per the diagram in the report we will not be adequately protecting an already protected species.

But then there comes the economic arguments which need to be fitted in. If we decide to exclude the known gas fields then we will leave holes - just as was done with Blaenau Festiniog and the Snowdonia National Park. Can't we learn from that mistake and somehow come up with an intelligent answer - more a moveable feast? The gas field won't be there for ever and many gas and oil platforms have become artificial reef in other parts of the world once their economic use has finished. So if Area A is a known gas field today and is about to end, but Area B is a new gas field found but not yet exploited could Area A not come back into the protected area and become some sort of artificial reef and Area B becomes the new gas field. A similar strategy could be employed with off-shore wind farms too.

Regards

Jenny Swainston

# Ymgyrch Diogelu Cymru Wledig Campaign for the Protection of Rural Wales



Llywydd	President	Glyn Davies
Cadeirydd	Chairman	Dr Jean Rosenfeld
Cyfarwyddwr	Director	Peter Ogden

Ms Helena Towers  
Marine Branch  
Nature Marine and Access Unit  
Department of Environment, Sustainability and Housing  
Welsh Assembly Government,  
Cathays Park,  
CARDIFF.  
CF10 3NQ

December 18<sup>th</sup> 2009

Dear Ms Towers,

**Protecting Welsh Seas  
A Draft Strategy for Marine Protected Areas in Wales  
Response from the Campaign for the Protection of Rural Wales (CPRW)**

Please find enclosed the observations of the Campaign for the Protection of Rural Wales (CPRW), on this important consultation document.

CPRW supports in principle many of the dimensions of this document and believes that with further refinement and the inclusion of the points which we commend, the document will be richer and more wholesome. I trust that our response to the content of the existing document proves helpful in this respect.

CPRW confirms that its views can be made available to other parties should WAG so wish. Likewise should there be any matters which require further clarification then CPRW will gladly do so upon request.

I would be grateful for your acknowledgement of receipt of these comments and that in due course welcome receipt of a synopsis of the responses received during this consultation and the Assembly Government's response to them.

Yours Sincerely,

Peter Ogden  
Director



## Protecting Welsh Seas A Draft Strategy for Marine Protected Areas in Wales

### Observations and comments by the Campaign for the Protection of Rural Wales (CPRW)

#### 1. General comment

1.1 As one of Wales' foremost countryside charities, CPRW welcomes the opportunity to comment on this important consultation document. We trust that its publication and subsequent implementation will have a significant, positive and lasting influence upon the interests of marine areas which surround Wales and the communities which depend on them.

1.2 We welcome the underlying principles and synergy that the document not only recognises but seeks to achieve. We fully support the need for an ambitious and challenging policy statement about our marine environment and in particular the need to ensure the connectivity of planning and stewardship of various elements of the proposed network. We trust that this current Strategy statement is converted quickly into a meaning action plan for the designation of a network of Marine policy areas and their corresponding management. CPRW looks to the Welsh Assembly Government in conjunction with its statutory advisors the Countryside Council for Wales to show innovative leadership in this respect.

1.3 CPRW believes however that there remains a significant gap between the public's knowledge and understanding of the need for a more sustainable approach to development on land, to that which exists towards the marine environment. That being the case greater attention must therefore be given to making Welsh people recognise the true role, function and contribution that all the dimensions of the marine environment provide, be it the high quality of the Welsh seascapes, the sea's inherent wildlife value, or the traditional and cultural heritage associated with life at sea. The winning of both heart and minds will not be achieved merely through the preparation of this strategy but by those actions which make a difference and balance the needs of our future with the decisive stewardship of all those elements of our marine heritage which are valued today. Whilst we recognise that this strategy has been devised in respect of one dimension of the conservation of marine biodiversity, we believe that the final version of this document should not overlook or under state the importance of many of the other dimensions and fully reflect a strategy for the overall diversity of the marine areas around Wales. These other issues are critical if the sustainability stewardship of our seas is to be achieved in a holistic manner.

1.4 We note in particular that para 5 on page 2 describes MPAs as ...” *a wide range of marine areas which have some level of restriction to protect living, non living, cultural and/ or historic resources*” At present we see no evidence of any consideration of the, **non living , cultural and/ or historic resources** elements of this definition properly accounted for in this draft document. We believe this is a major omission which needs to be rectified so that the MPA network reflects the IUCN objective in relation to conserving the integrity and sustainable stewardship of all important landscapes **and seascapes**.

1.5. Subject to the above, CPRW supports in principle the approach that the strategy proposes for the identification of a network of Marine Protected Areas outlined from Page 9 onwards. In addition we support the proposed use of Marine Conservation Orders to manage

unregulated activities, especially leisure based activities which incompatible with the conservation aims of these areas.

1.6 CPRW is however concerned that insufficient attention has been given in the strategy to the functional connectivity which exists between the land and its adjacent marine areas and vice versa. The management of this connectivity will be crucial to the manner in which the conservation objectives of managing any MPAs and in particular MCZs will be achieved. We contend that further consideration must be given to this matter in the strategy.

1.7 In recommending this latter point, CPRW believes that further work should be undertaken to consider the geographical relationships which exist between the “special qualities” of the suite of Wales’ coastal Protected Landscapes, across their seaward boundaries. We contend that many of the special qualities (tangible and intangible) of these coastal areas are a product of the values which arise from the marine areas adjoining them. Joined up and sustainable approaches are especially important if the purposes of designation and the agenda for the sustainable use of coastal areas and indeed any proposed Marine conservation areas are to be achieved. This relationship has not been recognised nor captured in this Strategy, a matter which we believes needs addressing.

1.8 Given the rapidly changing context for the management of coastal and marine environments, extending the existing staregy to consider this matter is not only appropriate but timely and provides an important means of registering the significance of the marine dimension of Protected Landscapes. Broadening and integrating the strategic role and area of interest of Protected Landscapes into the marine environment should also improve the effectiveness of the management arrangements associated with the coastal dimension of existing Protected Landscapes.

1.9 Adopting this wider approach will not only achieve the ambitions of the European Landscape Convention by integrating policy development for all landscapes be they on land or in marine areas, but will also fulfil the aims of the new EU Directive on Marine Protected Areas and the Marine Bill in promoting a more comprehensive and integrated approach to the planning and management of the marine environment. These new circumstances likewise provide a significant opportunity for Protected Landscape Authorities to engage and recast the approaches of others who are responsible for the planning and management of the seascapes, namely those involved in Shoreline Management Planning and Integrated Coastal Zone Management (ICZM).

1.10 If such an approach was developed then this would also avoid the problem of the planning and management of marine areas being defined in the context of different planning and management mentalities and regimes. We earnestly trust that this matter is considered carefully not just in the context of defining an appropriate network of MPAs but also in respect of the broader issues associated with the preparation of future Marine Planning Policy statement, as it affects Welsh waters.

1.11 CPRW is also conscious that the statement makes no reference to the weight which will be afforded to this Strategy statement in the context of the work of the Infrastructure Planning Commission. A statement explaining if and how buffer zones surrounding any proposed MPAs will be defined and operate would be useful.

## **Conclusion**

2.1 CPRW welcomes in principle the range and nature of most of approaches being suggested in this consultation. In supporting the positive and defining role that this Strategy should have we however believe that a number of the important dimensions we suggest should be embedded in it.

2.2 To achieve this, greater and more direct recognition must be given to some wider stewardship principles we suggest especially those which will help deliver the aims of the European Landscape Convention.

Peter Ogden  
Director  
December 16<sup>th</sup> 2009

**From: Marine Ecosystem Group**  
**To: Helena Towers, Marine Branch, Welsh Assembly Government**  
**Date: 16 December 2009**

Dear Helena,

**Consultation on a Strategy for Marine Protected Areas in Wales: Protecting Welsh Seas**

Responsibility for the delivery of BAP commitments lies with the Wales Biodiversity Partnership (WBP), and ultimately the Welsh Assembly Government. The Marine Ecosystem Group is one of a series of Wales-level groups established by the Wales Biodiversity Partnership to contribute towards delivering Biodiversity Action Plan (BAP) commitments in Wales. A framework for delivering BAP commitments in Wales can be found at: <http://www.biodiversitywales.org.uk/content/uploads/documents/SG%20Meetings/TaskFinish/WBP%20Future%20of%20BAP%20BAP%20Mechanism%20030809.pdf>

The Marine Ecosystem Group has identified a series of points in relation to the proposed draft Strategy for Marine Protected Areas (MPAs) in Wales:

1. The strategy identifies goods and services that the marine environment delivers e.g. jobs, food, recreation and relaxation. Whilst all these identified 'goods' and benefits are correct, it is important that the Assembly promotes how critical the marine environment is to our very survival, and that we utterly depend on our seas being healthy e.g. carbon cycling and therefore climate regulation; nutrient recycling etc. Biodiversity underpins the provision of these goods, benefits and essential services that the marine environment provides.

2. The strategy mentions that MPAs are to be one of the tools 'to help protect and improve ecosystems', and later identifies that MPAs help the purpose of 'conserving and protecting biodiversity'. It is good to see both these aspirations, but the strategy needs to identify how it intends to link both these aspirations i.e. that MPAs are to address the conservation and protection of biodiversity through ecosystem approach principles (i.e. the wider structure and function of the marine environment).

3. The strategy identifies international and national legislative commitments and obligations that relate to the protection of marine biodiversity. However it fails to mention the Natural Environment and Rural Communities (NERC) Act 2006, whereby there is a duty on all public authorities to have regard to 'conserving biodiversity', and where conserving biodiversity includes 'restoring or enhancing' that biodiversity.

This Act also requires the Assembly, in particular, to take steps to 'further the conservation' of habitats and species listed for Section 42 of the same Act. There are many marine habitats and species listed for Section 42 of the NERC Act, i.e. those habitats and species in Wales considered 'of principal importance for the purpose of conserving biodiversity'. Annex 1 provides a list of all the marine habitats and species listed for Section 42 of the NERC Act. Ecological selection criteria for Marine Conservation Zones (MCZs) need to consider relevant habitats and species, particularly in the contexts of their restoration and further protection.

4. The strategy also fails to mention how MPAs contribute towards fulfilling the UK's Biodiversity Action Plan (BAP) commitments.

Responsibility for implementing our UK BAP commitments is now devolved to individual country administrations. The Wales Biodiversity Partnership and the Welsh Assembly Government have committed themselves to halting and ultimately reversing biodiversity loss in Wales. The approach identified to achieve this aim is through addressing biodiversity through the protection of the wider marine environment.

Designated sites, and in this case MPAs, are identified in the biodiversity framework for BAP as having an important contribution to make to the protection and recovery of biodiversity in Wales. As well the development of MCZs in Wales, it is essential that any strategy for protecting Welsh seas through MPAs also addresses ongoing loss of biodiversity in existing MPAs (e.g. SACs, SPAs and SSSIs). The CCW Special Sites Project in response to the Wales Environment

Strategy Outcome 21 will go some way towards addressing management measures required by Relevant Authorities.

However, there are fundamental underlying issues which need to be addressed in a strategy for protecting Welsh seas through MPAs. One of the key issues is lack of appropriate implementation of Habitats Directive/Regulations with regards to the marine environment in Wales, more specifically:

- failure to understand the meaning of terms such as “likely significant effect”, what constitutes a ‘plan or project’ and ‘Appropriate Assessment’,
- Appropriate Assessment not being undertaken, despite being required,
- lack of appropriate consideration of ‘in combination’ effects,
- confusion over Regulations 49 and 53 - imperative reasons of overriding public interest, and compensation requirements
- Lack of implementation of Article 6(2) by competent authorities i.e. to prevent deterioration of European Marine Sites

Further development of this strategy needs to address inadequate implementation of existing legislation. The Marine Ecosystem Group has identified a series of issues and proposed action which relate to the furthering of biodiversity conservation in Wales. These have been brought to the attention of the Welsh Assembly Government via the Wales Biodiversity Policy group (another Wales-level BAP group).

5. Further development of a strategy for the MPAs in Wales needs to include more detail about management, securing compliance, monitoring and surveillance. The detail of how routine management, in particular, is to operate is critical if the aspiration to meaningfully protect Welsh marine biodiversity is to be realised.

We warmly welcome the commitment to designate Highly Protected Marine Conservation Zones (HPMCZs). Although it is not clearly expressed in the strategy, we believe that HPMCZs are intended to play a specific role in Wales' MPA network related to ecosystem function and resilience and would therefore welcome a clear statement of the intended function of HPMCZ in the final MPA Strategy.

We strongly support the suggestion that the Minister's report in 2012 may identify the need for further action beyond completion of the HPMCZ project, including further designations if Wales' important biodiversity is not sufficiently protected.

In conclusion, the Marine Act 2009 brings new powers and new opportunities for the protection and management of our seas. It is important that implementation of this new legislation supports delivery of biodiversity targets in Wales (i.e. Wales Environment Strategy, Outcomes 19-21), the requirements of the NERC Act 2006 to restore and enhance (marine) biodiversity, and also the devolved BAP process in Wales.

The Marine Ecosystem Group request that it is included in future consultations which pertain to implementation of the Marine Act 2006 e.g. ecological selection criteria for MCZs, further developments to this strategy etc.

Regards

**Marine Ecosystem Group**  
(Aethne Cooke, secretariat)

## Annex 1

### MARINE species and habitats listed for Section 42 of the Natural Environment and Rural Communities (NERC) Act 2006

For full list (i.e. including non-marine priorities), see <http://www.biodiversitywales.org.uk>

Marine species	
<i>Alkmaria romijni</i>	Tentacled Lagoon Worm
<i>Ammodytes marinus</i>	Sandeel
<i>Anotrichium barbatum</i>	Bearded Red Seaweed
<i>Arctica islandica</i>	Icelandic Cyprine or Ocean Quahog
<i>Atrina fragilis</i>	Fan Mussel
<i>Balaenoptera acutorostrata</i>	Minke Whale
<i>Balaenoptera physalus</i>	Fin Whale
<i>Caretta caretta</i>	Loggerhead Turtle
<i>Cetorhinus maximus</i>	Basking Shark
<i>Clupea harengus</i>	Herring
<i>Cruoria cruoriaeformis</i>	A Red Seaweed
<i>Delphinus delphis</i>	Common Dolphin
<i>Dermochelys coriacea</i>	Leatherback Turtle
<i>Dermocorynus montagnei</i>	A Red Seaweed
<i>Dipturus batis</i>	Common Skate
<i>Edwardsia timida</i>	Burrowing Anemone
<i>Eunicella verrucosa</i>	Pink Sea -fan
<i>Gadus morhua</i>	Cod
<i>Galeorhinus galeus</i>	Tope Shark
<i>Globicephala melas</i>	Long-finned Pilot Whale
<i>Grampus griseus</i>	Risso's Dolphin
<i>Haliclystus auricula</i>	A Stalked Jellyfish
<i>Hippocampus guttulatus</i>	Long Snouted Seahorse
<i>Hyperodon ampullatus</i>	Northern Bottlenose Whale
<i>Lagenorhynchus acutus</i>	Atlantic White-sided Dolphin
<i>Lagenorhynchus albirostris</i>	White-Beaked Dolphin
<i>Lamna nasus</i>	Porbeagle Shark
<i>Lithothamnion coralloides</i>	Coral Maerl
<i>Lophius piscatorius</i>	Sea Monkfish
<i>Lucernariopsis campanulata</i>	A Stalked Jellyfish
<i>Megaptera novaeangliae</i>	Humpback Whale
<i>Merlangius merlangus</i>	Whiting
<i>Merluccius merluccius</i>	European Hake
<i>Molva molva</i>	Ling
<i>Orcinus orca</i>	Killer Whale
<i>Ostrea edulis</i>	Native Oyster
<i>Padina pavonica</i>	Peacock's Tail
<i>Palinurus elephas</i>	Crayfish, Crawfish or Spiny Lobster
<i>Phocoena phocoena</i>	Harbour Porpoise
<i>Phymatolithon calcareum</i>	Common Maerl
<i>Pleuronectes platessa</i>	Plaice
<i>Prionace glauca</i>	Blue Shark

<i>Raja brachyura</i>	Blonde Ray
<i>Raja clavata</i>	Thornback Ray
<i>Raja undulata</i>	Undulate Ray
<i>Rostroraja alba</i>	White or Bottlenosed Skate
<i>Scomber scombrus</i>	Mackerel
<i>Solea vulgaris</i>	Sole
<i>Squalus acanthias</i>	Spiny Dogfish
<i>Squatina squatina</i>	Angel Shark
<i>Stenella coeruleoalba</i>	Striped Dolphin
<i>Tenellia adspersa</i>	Lagoon Sea Slug
<i>Trachurus trachurus</i>	Horse Mackerel
<i>Tursiops truncatus</i>	Bottlenose Dolphin
<i>Ziphius cavirostris</i>	Cuvier's Beaked Whale

Habitats/Cynefin	Priority Habitats/Cynefin sy'n Flaenoriaeth
Littoral Rock	Intertidal boulder communities
	<i>Sabellaria alveolata</i> reefs
	Estuarine rocky habitats
Littoral sediment	Coastal saltmarsh
	Intertidal mudflats
	Seagrass beds
	Sheltered muddy gravels
	Peat and clay exposures
Sublittoral rock	Tideswept channels
	Fragile sponge & anthozoan communities on subtidal rocky habitats
Sublittoral sediment	Subtidal sands and gravels
	Subtidal mixed muddy sediments
	Mud habitats in deep water
	<i>Musculus discors</i> beds
	Blue mussel beds
	Horse mussel beds
	Maerl beds
	Carbonate reefs
	Saline lagoons

# Marloes & St. Bridges Community Council

Lower Mullock Farm Marloes Haverfordwest Pembrokeshire SA62 3AR  
Tel No 01646 636251

Marine Branch, Nature, Marine & Access Unit  
Dept. for Environment, Sustainability & Housing  
Welsh Assembly Government  
2<sup>nd</sup> Floor, Cathays Park  
Cardiff  
CF10 1AT

15<sup>th</sup> December 2009

Dear Julia Williams,

## **Re: Protecting Welsh Seas – Draft Strategy Consultation**

My Council has been involved with the Marine Reserve at Skomer from the very early days of the Voluntary Reserve, and council members attend the yearly meeting of the Advisory Committee. The Council supports the work undertaken by the Countryside Council for Wales over the years to protect the area around Skomer, and to undertake significant monitoring work which adds to the knowledge of the wonderful wildlife under the water. They appreciate that to maintain this work requires a dedicated budget, and that they have the necessary staffing levels to undertake this work. It is essential that this work continues into the future.

My Council has always sought to achieve a balance in that the rights of local fishermen to pot in the Reserve is protected, and that line fishing either on the water or from the cliffs also continues. A significant portion of the Marloes coast forms part of the Reserve boundary. My Council welcomes the change in the Marine and Coastal Access bill that “allows for Welsh Ministers to take account of social and economic criteria when deciding to designate an area as an MCZ.” They consider that in the future there should be an option that allows for a Marine Conservation Zone to be split to allow for a “no take area” as part of the larger area.

The Strategy does refer to varying levels of protection. The Council is also concerned about the problems with displacement, as exclusions can have negative as well as positive effects.

My Council considers it essential that the most local tier of government is involved directly in all consultation processes, and that when individual areas are being considered around the Welsh coastline then all relevant community councils are directly involved in the discussions. I attended the meeting at Pembroke Dock on behalf of my Council, and you agreed that a timetable for action will be made available in the New Year. At present community councils are not being consulted directly or indirectly, and it is essential that a clear method of consultation is established utilising One Voice Wales.

Yours sincerely,

Mrs. Y. C. Evans  
Clerk to the Council

E-mail copy sent to [marine@wales.qsi.gov.uk](mailto:marine@wales.qsi.gov.uk)



## **COMMENTS ON THE DRAFT STRATEGY FOR MARINE PROTECTED AREAS IN WALES: PROTECTING WELSH SEAS**

### **Introduction**

The Welsh Assembly Government has opened a consultation on its draft Strategy for Marine Protected Areas in Wales: Protecting Welsh Seas and has invited comments from Stakeholders.

The NFFO is the representative body for fishermen in England, Wales and Northern Ireland. Our member vessels range from 40 metre stern trawlers operating at North Norway and Greenland to small, under 10metre vessels, beach launched and with limited range. The Federation holds seats on the EC Advisory Committee for Fisheries and Aquaculture, and the North Sea, North West Waters, Pelagic and Long Distance regional advisory councils. The NFFO is also a member of Europeche, the European trade federation for the fishing industry.

The designation of Marine Protected Areas, MPAs, is of critical importance to the NFFO and its members since their location, objectives and management measures will inevitably affect their livelihoods. Such proposals will affect not only its members based in Wales, but also its wider membership.

### **Comments on the Draft Strategy**

The draft strategy focuses on *MPAs that have been or will be established for the purpose of conserving biodiversity.*

It has the aim to contribute *to development of an ecologically coherent UK network of well managed MPAs.*

At the same time it underlines that the UK has a number of international obligations regarding marine conservation in terms of the protection and recovery of both species and habitats.

The challenge is to ensure that MPAs and MCZs meet these objectives whilst respecting the interests of other users, and, in particular, the sustainable use of marine resources.

### ***Scale***

It has become convenient to base such decisions upon the seven principles outlined by OSPAR and their criteria regarding the number of sites necessary to meet these objectives. There is a danger, however, in applying such criteria without any reference to the scale involved. Welsh waters do not exist in a vacuum but instead form part of a series of sub-regional and regional waters in which other parties have an interest. Although reference is made to this problem in *Wales Fisheries Strategy 2008*, nowhere does it appear in the draft strategy which appears – by default- to only concern the inshore waters whereas Wales has jurisdiction beyond this point.

Much of the inshore area is already protected (75% of the coastline and 32% of territorial seas). So, unless the offshore area is included, it is difficult to see where any additional MPAs or MCZs would be located. Greater attention should be given to this issue.

### ***Criteria Adopted***

There is an underlying tension between two underlying concepts that is not clearly articulated. The relationship between sustainable development and conservation is not explored but it is assumed that the two will co-exist without too much difficulty in the future. It is hard to see how this will happen when emphasis is on an ecosystem approach that excludes human activity. Man is part of the ecosystem, being its top predator, and failure to factor in such activities will lead to an imbalance in the system. There is a need for human factors to be integrated into the scientific assessment.

It should also be remembered that where designations are aimed at achieving an ecologically coherent network, there remains significant debate within the scientific community as to whether it is scientifically possible to design such a network given the lack of data, knowledge and understanding of marine ecosystem processes<sup>1</sup>. Although fast and frugal heuristics are being developed by scientists to meet these shortcomings within the limited time span available, they are constructed within a vacuum which does not relate to the existing status quo, nor to its contribution to achieving the Marine Strategy Framework Directive's Good Environmental Status by 2020. In the light of these reservations, it is hardly surprising that the notion of best available evidence is not reassuring since it will be perfectly possible for a very sub-optimum selection of MPAs to be made on the basis of existing best available evidence.

Of particular concern to the fishing industry is the absence of any serious consideration of the impact of the displacement of effort in the event that MPAs become highly protected marine parks and are closed to fishing activity. The diversion of effort that this may cause to other areas and other species may result in a negative overall impact on the environment offsetting the benefits that are meant to be derived from MPAs.

In addition, the setting of the boundaries of MPAs or MCZs is a cause for concern. There is scope for provision for climate change to result in the inflation of sites beyond their natural boundaries. It would appear that there is no provision for the de-designation of sites should it transpire that they are no longer appropriate.

Furthermore, although reference is made to taking social and economic factors into consideration, which is very welcome, there is no mention made of the cumulative impact of measures. The assignment of High Protected status to MCZs has the potential to have a very negative effect upon inshore fisheries when regarded on a cumulative basis.

For all these reasons, the NFFO urges caution in the application of the principles and a willingness to consider other factors.

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<sup>1</sup> Jones, P. J. S. and Carpenter, A. Crossing the divide. The challenges of designing an ecologically coherent and representative network of MPAs for the UK, *Marine Policy* 33 (5): 737-743

## ***Process***

### *Process of Designation*

The NFFO welcomes the emphasis which is placed on stakeholder involvement and the search for consensus in the designation process. In addition, the ability to take socio-economic factors into consideration when designating MPAs or MCZs introduces a welcome flexibility into the process, although it is noticeable that there is no question of compensation for those whose livelihoods are adversely affected by the designation of sites and their management. In this respect, it is important to underline the importance of undertaking valid Impact Assessments taking into account both direct and indirect costs and benefits.

The NFFO, however, has reservations concerning the role assigned to the Wales Marine and Coastal Partnership. The first reservation relates to its membership which gives little representation to the shellfish and commercial fisheries. The Sea Fisheries Committees are being abolished and the WAG has decided to take these functions “in house” instead of replacing them with an IFCA. At the present time there are large parts of the industry which do not belong to the WFFA, and offshore interests are hardly catered for. Provision should be made for greater representation of commercial fisheries: it is not enough to say that all interests may make representations.

The second reservation relates to the resources currently at the disposal of the WMCP. These would hardly appear to be sufficient to fulfil all the tasks that its expanded role would imply. In the current financial climate funding is unlikely to be forthcoming in adequate amounts.

### *Process of Management*

At this stage there is very little detail on how the chosen sites are to be managed. Obviously the measures involved will vary according to the objectives that are set for the sites at the time of their designation. Inevitably the concerns of the fishing industry centre on the extent to which Highly Protected Marine Parks are created from which its activities are excluded.

It is perhaps worth mentioning that in Scotland it is anticipated that management measures will be voluntary.

### *Process of Assessment and Implementation*

In view of the significance attached to the creation of MPAs/MCZs, it is important to discover whether or not they are being both properly implemented and are having the desired effect. It remains to be seen whether the enforcement institutions will have sufficient resources to undertake all the additional duties that will be involved.

The fishing industry has two major concerns in this area. The first relates to the monitoring and enforcement aspects of MPAs – both inshore where there are historic rights for other nations, and offshore where other nations are regularly active. It is a matter of prime concern to the UK industry that it should not find itself discriminated against in comparison with vessels from other nations. To avoid this happening it is highly desirable that greater efforts should be made to designate MPAs/MCZs in conjunction with the other regional nations. This is particularly relevant since offshore MPAs/MCZs will have to be designated using the CFP and going through the Council of Ministers. Unilateralism is unlikely to be popular.

The other concern relates to the assessment of the effectiveness of the MPAs/MCZs. Whilst a certain amount of time is necessary in order to identify progress, in the initial years, particularly for Highly Protected Marine Parks, frequent assessments are desirable (particularly in the light of climate change) in order to establish whether the area designated does offer a reasonable prospect of fulfilling objectives or whether the boundaries require modification. The unnecessary exclusion of fishing activities from sites will inevitably affect the legitimacy of the MPAs/MCZs.

### ***Weaknesses***

#### *Time Frame*

Whilst it is understood that Wales, as part of the UK, has international obligations to declare MPAs by 2012, such a timeframe is totally unrealistic for the creation of a well designed network. Although it is hoped to remedy some of the information deficiencies through stakeholder engagement, effectively engaging stakeholder groups on a location by location basis will require a greater period of time than is allowed.

### *Pre-emptions*

To a certain extent a number of decisions will already have been taken before the designation of MPAs/MCZs. Decisions relating to wind farms, pipelines, gas storage and cables have been taken, and continue to be taken, which impact upon the ability to designate sites, reducing the options. Although it is intended that there will be a Marine Plan, it will not necessarily cover the whole marine area, nor will it be introduced until after a number of important decisions have been taken by other Departments.

### *Absence of Baselines*

The lack of reliable information relating to marine areas is well known with estimates that only 15% of UK waters have been properly mapped. One of the difficulties that this situation creates is that there is no baseline against which progress, or the lack thereof, may be measured. Although best efforts will be made to remedy this deficiency, it effectively means that the sites adopted are unlikely to represent the optimum.

### *Impact Assessments*

Whilst it is desirable to undertake Impact Assessments, IAs, for each site taking into account, ideally, all the direct and indirect costs and benefits, unfortunately there is, once again, a lack of detailed information particularly in so far as socio-economic costs are concerned. It is also interesting to wonder how far the indirect costs will be taken into account. Will the impact of reduced fishing opportunities in UK waters include the diversion of demand to other, often over-exploited, fisheries in the Pacific and the consequent costs?

## **SUMMARY**

Whilst the NFFO finds the stress on stakeholder participation and the acceptance of the importance of socio-economic factors welcome, there are, inevitably, certain areas where it has some concerns.

These concerns relate to:

- The need to recognise the regional scale of UK waters and the importance of working in conjunction with other nations;

- The shakiness of much of the scientific evidence on which the seven principles are to be based and the consequent need for flexibility in their interpretation;
- The composition of the Wales Marine and Coastal Partnership inadequately reflects the importance of the shellfish and commercial fisheries;
- Whilst the process of designation recognises stakeholder interests and is to be welcomed, the processes of management are only lightly sketched whilst the process of implementation and assessment (in particular assessment) should be given greater attention;
- The time scale attached to the designation of MPAs by 2012 is totally inadequate, and in addition many options will be vitiated by the decision previously taken by other departments.

16/12/2009

The National Federation of Fishermen's Organisations

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# YR YMDDIRIEDOLAETH GENEDLAETHOL CYMRU THE NATIONAL TRUST WALES

## **Protecting Welsh Seas: A draft strategy for Marine Protected Areas in Wales**

Response from the National Trust

December 2009

### **1. Summary**

- 1.1. The National Trust welcomes the draft strategy for Marine Protected Areas (MPAs) as the foundation on which to build a representative network of MPAs.
- 1.2. The National Trust has considerable interests in the marine environment, including Marine Nature Reserves (MNR) such as Skomer. The Trust aspires to deliver Integrated Coastal Zone Management (ICZM) within its site management and its advocacy, at local, regional and national levels.
- 1.3. Based upon our experience we believe the strategy would be improved if it:
  - had a specific section on public communication and awareness-raising on marine conservation;
  - more explicitly adopted a 'ecosystem approach' or large scale approach to marine conservation;
  - promoted a specific work stream to ensure institutional arrangements for terrestrial and marine protected area management respect ecosystems and the needs of species that span both environments
  - included detail on how MPAs can contribute to conservation of the historic environment.

### **2. The Trust and the coastal and marine environment**

- 2.1. The National Trust is one of Europe's leading conservation charities, with over 3.6 million members and 50,000 volunteers. We own and actively manage more than one sixth of the Welsh coastline - 230km - for nature conservation, landscape, cultural heritage and public access. We are committed to finding solutions for the sustainable management of the coast and seas. Our Coastal Policy is set out in Annex One.
- 2.2. The Trust's perspective on the issues raised in the draft strategy is based on:
  - Our statutory purpose of conserving and promoting access to the nation's natural and cultural heritage in perpetuity – we are a steward of special and fragile places for ever, with decisions taken for long term public benefit. We are actively involved in the management of all three statutory Marine Nature Reserves in the UK: Strangford Lough, Skomer and Lundy, and the major owner of two of them.
  - Our significant experience of coastal management and use – we have decades of expertise in understanding and managing risks and undertaking our conservation work through the 'management of change', working with natural processes wherever possible.

- Our public communications and engagement at local, regional and national levels, indirectly through the media and directly through interpretation and events at our sites – we have the potential to reach millions of people and promote greater understanding of the importance of a high quality marine and coastal environment.
- Our partnerships, with local communities, neighbouring coast/land owners other organisations and agencies – we actively want to learn from others and share our own experience and to manage our sites within their wider coast and marine context.

### **3. Developing the MPA Network**

- 3.1. The National Trust welcomes the approach described in the draft strategy and recognises how the establishment of a representative network of MPAs, comprising of both European and national marine sites, will contribute to the protected area element of the emerging marine spatial planning system.
- 3.2. We believe, however, that there needs to be a step change in promoting a better society-wide understanding of coast and marine environments and the importance of their conservation. The Trust believes the strategy would benefit from a specific section on public communication and awareness-raising. This should be part of a broader programme of work to raise public awareness of marine conservation.
- 3.3. Since 2005, the National Trust has contributed to the development of the Finding Sanctuary project and is represented on the project board. We support the roll out of the Finding Sanctuary model and are particularly supportive of the stakeholder-led approach, proven from experience around the world to offer the best chance of success.
- 3.4. We are concerned that the creation of Highly Protected Marine Conservation Zones (HPMCZs) should not exclude sustainable fishing activity which will not negatively affect marine ecosystems. Failure to account for such fisheries risks alienating this sector and undermining their support for marine conservation.
- 3.5. The National Trust has been working with a group of fishermen - the Llŷn Pot Fishermen's Association- to find ways of adding value to their catch and establishing new markets for the high-value shell-fish. This will help support the favourable conservation status of the SAC and enable the fishermen to earn a viable living whilst ensuring better management of the fisheries. This is exemplar sustainable fishery recognises that business is dependent on a healthy marine environment. They use low-impact, traditional methods which avoid depleting fish stocks and is compatible with marine conservation.
- 3.6. We recommend a stakeholder led approach to the development of HPMCZs in order to maintain widespread support for this activity.
- 3.7. We are disappointed that the Strategy focuses on MPAs as a tool for the conservation of biodiversity. During the development of the Marine and Coastal Access Bill we argued that the public interest could be strengthened

considerably if the cultural heritage of the coast and seas was given due recognition and protection together with the natural heritage. Whilst the measures linked to the management of MPAs to protect biodiversity will also intrinsically confer protection to any heritage assets within the site, the ascribed role for MPAs could be strengthened to ensure conservation of our marine cultural inheritance. In the absence of new heritage protection legislation this is particularly important.

- 3.8. Ideally the scope of MPAs should be extended to cover historic environment objectives. If however, MPAs are created solely on the basis of protecting biodiversity, we would welcome steps to ensure that they still confer benefits for the historic environment. For example, shipwrecks form ideal habitats for marine biodiversity and those protected under the Protection of Wrecks Act 1973 (which confers restricted access) are a unique feature of the UK's coastal environment. Research and assessment of the contribution of sites such as ship wrecks towards biodiversity conservation would be much welcomed.
- 3.9. Management of MPAs will be a crucial factor in their success and we would welcome further information on the proposed management regime for MPAs. We are concerned that the creation of MPAs should not be detrimental to the management of existing MNRs such as Skomer. We would welcome assurance that transitional arrangements and future management will maintain continuity of the current successful management of Skomer MNR.

#### **4. Selection of additional MPAs**

- 4.1. With so little of the seabed unaffected by direct human activities, we believe the MPA network will need to include substantial degraded areas where recovery of biodiversity and ecological function can take place.
- 4.2. The development of MPAs based on offering protection to a narrowly focused set of rare and/or endangered species will not deliver a representative network. Size and scale of MPAs will matter, both in terms of individual sites and when taken cumulatively.
- 4.3. The MPA network should draw from the experience of land based conservation and avoid the pitfall of defining small, isolated and fragmented 'reserves'. On land these are proving vulnerable and increasingly difficult to manage to deliver enhanced biodiversity. These sites are acting more as refuges with an increasingly uncertain future, particularly in the face of climate change.
- 4.4. To this end the strategy would benefit from testing against the thinking that informed the 2004 recommendations of the Royal Commission on Environmental Pollution. The Commission found that positive steps need to be taken to allow the marine environment to recover, and recommended that marine reserves should be created to protect 30% of the seas around the UK,

stating that intervention on this scale would be necessary to preserve important marine ecosystems<sup>1</sup>.

- 4.5. On land the trend now is towards 'landscape scale' conservation. We should learn from the experience of terrestrial conservation and embrace an approach to MPA selection based on a large-scale ecosystem function approach.
- 4.6. To ensure that MCZs contribute to conservation of marine heritage, we recommend that the selection criteria give due regard to the socio-economic and ecological benefits of historic features of the marine environment. Additional guidance<sup>2</sup> should be provided to ensure that opportunities to conserve marine heritage are fully considered during the setting of conservation objectives.

## Linking Land and Sea

- 5.1. Coastal management decisions often impact beyond their immediate location. The relationship between terrestrial, intertidal and marine species and ecosystems is fundamental to the Trust's management of and policies for the coastal zone.
- 5.2. The Trust has been an active participant in a Europarc Atlantic Isles led initiative to promote 'Linking Land and Sea' in protected area management. The report accompanying this response '*Making the connection between land and sea*' provides a clear insight into this approach.
- 5.3. Coastal ecosystems function along a continuum that spans both the terrestrial and marine. Puffins nesting on cliffs and feeding at sea, and seals hauled out on beaches and feeding in adjacent waters, being just two iconic examples. The draft MPA Strategy fails to take account of the close relationship between the current network of terrestrial coastal protected areas and the prospective network of marine protected areas.
- 5.4. A recent report '*Planning at the Coast*' 2005, commissioned by the Environment Agency, Natural England, the National Trust and Countryside Council for Wales stresses the importance of ensuring that valuation of ecological interest features and management prescriptions are consistent across the two planning systems (marine and terrestrial). This is highly relevant to planning for protected area management. A copy of the report summary is attached.
- 5.5. The Trust would like to see the draft MPA strategy promote a specific work stream to ensure institutional arrangements for managing terrestrial and marine protected areas respect ecosystems and the needs of species that span both environments. We believe this may best be achieved in the future by defining a suite of coastal protected areas that include both terrestrial and marine elements.

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<sup>1</sup> Royal Commission On Environmental Pollution (2004) Turning The Tide: Addressing The Impact Of Fisheries On The Marine Environment - <http://www.rcep.org.uk/reports/25-marine/documents/Turningthetide.pdf>

<sup>2</sup> <http://www.defra.gov.uk/environment/quality/biodiversity/marine/documents/guidance-note1.pdf>

## **6. Further information**

- 6.1. The National Trust, with more than 100 years experience of coastal management, would welcome the opportunity to contribute further to the development of a representative network of Marine Protected Areas.

## **Annex 1**

# **COASTAL AND MARINE ISSUES GROUP**

## **NATIONAL TRUST COAST & MARINE POLICY - March 2006**

### **The Trust's approach**

The Trust will take a long-term and strategic approach to the promotion of the Trust's interests in the coastal zone including the marine environment. The Trust aspires to deliver Integrated Coastal Zone Management (ICZM) within its site management and its advocacy, at local, regional and national levels. The Trust's decision-making process will be based on:

- Recognising social, cultural, historic, economic and environmental assets,
- Understanding the processes that affect those assets and the scales at which they operate,
- Delivering legal responsibilities and duty of care to others
- Assessing the vulnerabilities and the risks,
- Identifying the options,
- Involving the local community and other stakeholders in the decision-making process
- Finding a sustainable way forward,
- Ensuring sufficient resources are available,
- Communicating the way forward and demonstrating the benefits of the agreed approach,
- Carrying out the works,
- Recording what has been done,
- Reviewing in the light of outcomes.

The Trust has considerable interests in the marine environment, including Marine Nature Reserves such as Lundy and Strangford Lough. Our coastal land management interests and the marine environment are connected e.g. marine issues that impact on the coastal zone (e.g. oil pollution), marine development (e.g. offshore wind turbines), and decline of marine species upon which terrestrial species depend (e.g. sand eels); likewise land management issues that impact on the marine environment, e.g. pollution from land, erosion, recreation etc. We will seek new marine legislation which extends protected areas to the marine environment and supports marine spatial planning.

### **Our management principles**

1. The Trust accepts that the coast is dynamic and changing and will work with the natural processes of coastal erosion and accretion wherever possible.
2. The Trust will take a long-term view and will adopt or support flexible management solutions which can enable, or adapt to, the processes of coastal change.

3. The Trust will plan in the context of projected sea level rise and will favour coastal realignment wherever this can reasonably be accommodated.
4. The Trust will only support interference with natural coastal processes where it believes there is an overriding benefit to society in social, economic or environmental terms. This will usually be 'buying some time' in order for a longer term adaptive solution to be negotiated with other parties.
5. Valued habitats and species of the coastal zone will be conserved and enhanced as far as practicable, accepting that they will develop or adapt in response to coastal, oceanic and climate change. The Trust accepts that some habitats and species will be lost or replaced through natural processes and we will attempt substitution of losses elsewhere. The relationship between terrestrial, intertidal and marine species and ecosystems will be fundamental to the Trust's management of and policies for the coastal zone.
6. Valued cultural features in the coastal zone will be conserved and enhanced as far as practicable, whilst not necessarily seeking to protect them indefinitely. The Trust will ensure such features are properly recorded before they are lost or will consider relocation if that can be justified. The relationship between landscape and seascape and the full meaning of the maritime historic environment will be fundamental to the Trust's management.
7. The Trust will actively promote public access to the coastal zone, subject to conservation and safety considerations, in order to provide public enjoyment, recreational opportunities and to develop understanding of the coast and marine environments.
8. Coastal management decisions often impact beyond their immediate location. The Trust will work with other managers, organisations and communities to share experience and knowledge, to secure beneficial outcomes, to promote solutions on the basis of our experience, and to ensure a shared understanding is achieved.
9. The Trust will only support development in the coastal zone which has taken proper account of coastal change and sea level rise as well as environmental, cultural and landscape considerations. The Trust will contribute to components of the terrestrial and marine spatial planning systems to ensure its interests are fully reflected in plans and policies.
10. The Trust will consider the acquisition of land and property where it is the best option to support these principles. This can include land on the present coast, land to be managed as future coast, land in intertidal areas and land as seabed - as freehold or leasehold.



## National Oceanography Centre, Southampton

UNIVERSITY OF SOUTHAMPTON AND  
NATURAL ENVIRONMENT RESEARCH COUNCIL

### **WAG Consultation on 'Protecting Welsh Seas – A Draft Strategy for Marine Protected Areas in Wales'**

Response from the  
National Oceanography Centre, Southampton.  
European Way, Southampton SO14 3ZH  
<http://www.noc.soton.ac.uk>

1. The National Oceanography Centre, Southampton (hereafter referred to as NOCS), welcomes the opportunity to respond to the Welsh Assembly Government's consultation on 'Protecting Welsh Seas – A draft Strategy for Marine Protected Areas in Wales'. NOCS is one of the world's top five oceanographic research institutions combining the NERC Strategic Research Division and University of Southampton School of Ocean and Earth Sciences. We host the Royal Research Ships RRS *James Cook* and RRS *Discovery* and have a pan-UK remit to deliver excellent ocean and earth science in a broad range of disciplines.
2. NOCS supports the use of Marine Protected Areas as a valuable tool in protection and improvement of marine ecosystems, especially in areas where a lack of protection would lead to serious damage from trawling, aggregate extraction or other invasive activity such as loud underwater noise generation. We agree that there is good evidence that MPAs work well in a number of global trial areas.
3. Fully-protected marine conservation zones are also likely to be of great benefit to marine ecosystems. However it is essential that any such areas are selected using high quality scientific advice because there may be economic or social negative consequences in the short term such as loss of livelihood for local fishers. Stakeholder engagement at an early stage is essential and it may be necessary to compensate some individuals for loss of earnings. In the longer term the positive benefits of the fully-protected MCZ such as increased fish stocks which 'spill out' into the adjacent areas could far exceed the short-term loss of economic activity caused by fully-protected status.
4. We would encourage a high degree of collaboration between the Welsh Assembly Government, Defra, the Marine Management Organisation and other Devolved Administrations to ensure that policies and systems are closely aligned, subject to any special local issues – for example in Wales the tourism

and leisure sector is a major contributor to the economy and it make sense for Welsh marine policy and location of MPA's/MCZ's to reflect this fact.

5. Likewise there are special cultural and heritage issues that pertain to Wales which may require slightly different measures to those suitable for England, Scotland and Northern Ireland.

6. In order to make best use of the available UK science knowledge base we hope that WAG will be willing to work with institutions and universities inside and outside Wales to ensure that sound scientific knowledge informs decisions, and to fully participate in the sharing of data for mutual benefit.

7. We believe that the Marine and Coastal Access Act 2009 and the European Marine Framework Directive offer effective vehicles for enabling the achievement of good environmental status, and welcome WAG's participation in the application of these new pieces of legislation.

8. It is important that marine environmental data is gathered and shared effectively so that the governance of neighbouring waters can be informed by sound knowledge.

9. NOCS is able to offer world-class expertise if required to help inform planning in Welsh Waters.

Stephen Hall, National Marine Coordination Office, NOCS December 2009

15th December 2009

Dear Helena

,

**RE: Pembrokeshire Coastal Forum response to Protecting Our Welsh Seas – A draft Strategy for Marine Protected Areas in Wales consultation September 2009**

Pembrokeshire Coastal Forum (PCF) was established in 2000 following concerns over the lack of integration between the wide range of competing interests in the coastal and maritime environment and the need for a more joined up approach to future planning, use, management and development.

PCF is an independent partnership of over 900 members made up of individuals as well as public private and voluntary sector bodies with an interest in the maritime environment. PCF's impartiality enables it to provide a unique role, where no single organisation has overall responsibility. It is viewed nationally as leading the way in local delivery of integrated coastal zone management (ICZM) and plays an active role on the Wales Coastal Maritime Partnership in providing the Welsh Assembly Government with advice on maritime policy. PCF's activities are varied and range from running debates and workshops on topical issues through to development of specific projects to address management issues and stakeholder engagement workshops and surgeries in coastal communities.

PCF fully support the vision and aims of WAG in protecting our marine environment and are pleased to have the opportunity to respond to the MPA consultation issued by Welsh Assembly Government in September 2009. The views provided below were drawn from a broad range of individuals representing economic, environmental and socio-cultural interests who attended a Forum MPA Consultation Event held in Pembrokeshire on 3<sup>rd</sup> December 2009. Stakeholders were invited to meet with Julia Williams, Head of Marine Branch, WAG who provided them with an update on the Marine Act, joint working arrangements between England and Wales and an overview of the MPA consultation. In addition to this summary of the meeting, stakeholders will be making their own individual responses.

**General concerns**

The WAG Integrated Coastal Zone Management (ICZM) Strategy 'Making the Most of Wales' Coast' (2007) placed great emphasis on integrated or partnership working on the coast by the different interests, including local communities. However the Marine and Coastal Access Act are significantly light on integrated working. It is hoped that through the forthcoming marine spatial planning process we can begin to address this and that there will be proper integration between terrestrial and marine spatial planning systems, in particular because of regionality of terrestrial planning.

Of particular concern with the MPA designation process is that existing effective structures for partnership working, networking and community engagement, such as the PCF will not be used for Stakeholder Public Engagement Group (SPEG) and wider stakeholder networking because WAG is putting the emphasis is on sectoral representation. The PCF is ideally placed for public and community engagement as a neutral

organisation with a wide membership network representing the spectrum of coastal and marine interests at all levels. PCF hopes that there is sufficient awareness-raising and a robust, inclusive well-resourced public consultation process to ensure coastal and marine stakeholders are able to make an informed contribution and it seeks to be included in this process.

PCF hopes that an ecologically coherent MPA network for Wales will also be ecologically coherent on a larger scale for the UK as a whole. There is some apprehension that Wales may be under-resourced compared with England and displacement effects from MPA's sited in other areas of the UK may impact on Welsh sites. With regard to monitoring and enforcement within MPA's, there is concern that there will not be appropriate Fisheries tools available, although this depends to a degree on the Review of the Common Fisheries Policy, in particular management of foreign vessels within 6-12 mile limits.

### Skomer

There are concerns over the transitional arrangements regarding the management of Skomer MNR until 2012 when the designation of Highly Protected Marine Areas occurs, so that the existing level of management is not lost. But also there are longer-term concerns over the future prospects of Skomer MNR in terms of potential loss of experienced staff, research datasets and relationships built up with relevant stakeholders, local community and the general public. Representatives consider that Skomer might be used as management model for other areas and there is some concern that the multi-agency SAC style model that appears to be advocated by the Draft Strategy has not been critically examined.

We hope that the comments are helpful for incorporation within the next phase of the development of Marine Protected Areas in Wales. Pembrokeshire Coastal Forum would be pleased to contribute further as the process develops to include joining the SPEG and would be grateful if you could keep us informed so that we can continue to update our Forum members.

Yours sincerely

Tonia Forsyth  
Network Manager  
Pembrokeshire Coastal Forum

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The Forum is a partnership of individuals and organisations from the public, private and voluntary sector, who are working together to promote a sustainable approach to the planning, management, use and development of the Pembrokeshire Coastal Zone.

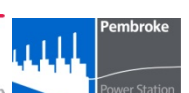
Mae'r fforwm yn bartneriaeth o unigolion a chyrff o'r cyhoedd, y sector breifat a'r sector wirfoddol, sy'n gweithio gyda'i gilydd i hyrwyddo agwedd gynaliadwy i gynllunio, rheolaeth, defnydd a datblygiad Ardal Arfordir Sir Benfro.



ASiantaeth yr  
AMGYLCHEDD CYMRU  
ENVIRONMENT  
AGENCY WALES



RWE Group





# Pembrokeshire Friends of the earth

[www.foepembrokeshire.co.uk](http://www.foepembrokeshire.co.uk)

16/12/09

Julia Williams  
Marine Branch  
Nature, Marine and Access Unit  
Department for the Environment, Sustainability and Housing  
Welsh Assembly Government  
2nd Floor Cathays Park  
Cardiff CF10 3NQ

Dear Ms Williams

**Response to the Welsh Assembly Government's consultation  
'Protecting Welsh Seas: a Strategy for Marine Protected Areas in  
Wales'**

We would like to begin by welcoming the principle of establishing Marine Conservation Zones. We believe experience here in Pembrokeshire and throughout the world has shown the great value of protected areas to the biodiversity of the marine environment. This is an environment which suffers from being "out of sight, out of mind" and which, all too often, is seen purely as a resource for man to exploit. At a time of unprecedented threats from pollution, dredging, shipping, oil and gas drilling, and, most importantly, exploitation by over-fishing, this has never been more urgent.

We believe that the most sensitive areas such as the Skomer Marine Reserve should become no-take zones set within wider areas where fishing is controlled and harmful activities such as the dumping of dredging spoil and scallop dredging is prevented.

We would also like to see the study of the marine reserve at Skomer continued into the future. This work and the experience the team has gained over the last 20 years has contributed enormously to this debate;

and with the background of the changes likely to occur due to climate change, longitudinal and prospective research of this kind is invaluable. This experience has shown there is no substitute for people on the spot to encourage and, where necessary, enforce protection and to engage with the users of the sea.

We understand that it is not the intention of the draft document to weaken the protection around Skomer, but without adequate leadership and resources this may be an unintended consequence. In the final document we would like to see one body with overall responsibility and, where other bodies such as local authorities are involved, their role and responsibilities should be clearly defined. We are concerned that the SAC-approach which places “a duty on all public authorities ... to undertake their functions in a way that will further ... the achievement of site conservation objectives” is not appropriate. There is a considerable danger that the cracks between the different bodies and their areas of responsibility will be exploited by those who are pursuing profit with no regard for conservation.

The success of Skomer has been due in large part to the clear leadership of CCW and their team. Clearly this model cannot be resourced across all the MCZ's but we urge that the final document does look at this model for selected areas (ie HPMCZ's) and clarifies the responsibility and mechanisms for enforcement in the wider areas.

Yours sincerely

Rebecca Cadbury  
Pembrokeshire Friends of the Earth

From: Nicholas Davies

Sent: 15 December 2009 19:50

To: Marine

Subject: Consultation on a Strategy for Marine Protected Areas in Wales

For the attention of Julie Williams, Head of Marine Legislation and Policy.

Marine Protected Areas in Wales particularly Skomer.

My name is Nic Davies, I make my living by fishing for lobsters and crab around Skomer Island, this I have been doing for more than 25 years.

I agree wholeheartedly with this area becoming marine conservation zone, however I am against it becoming a highly protected zone ( i.e. a no take zone).

Obviously I would lose my livelihood and be out of work. A HPMCZ should be in place to protect sensitive areas from damaging activities such as beam trawling or scalloping, potting is neither of these.

Potting is the most passive form of fishing in the world, all non target species that are caught are returned alive and unharmed to the sea, there are no damaging effects on the seabed. Skomer Island has been fished using lobster pots for hundreds of years yet its environmental value is still high.

Skomer Marine Nature Reserve was established 20 years ago not only because of its high environmental value but also to protect it from the increasing number of divers that were collecting curios for their mantelpieces and for sale. This has been successful. I have all the minutes of the Skomer advisory committee at its time of inception and it was repeated many times that potting was not a problem and at no time would they be seeking to ban potting. Otherwise permission for the establishment for the reserve would not have been given. Even CCW's own research shows that potting has no detrimental environmental effects on the benthos.

Personally I would find it galling to lose my living (especially in time of recession) simply because some people want the place for themselves.

With regard to the Marine Conservation Society's results (99% voted for Skomer to be a no-take zone), if I conducted a poll in Welsh coastal village it would probably be 99% the other way.

I think the people of Wales would be appalled and outraged if fishermen would be deprived of their living in this way.

Yours truly,

Nic Davies



## **SIR BENFRO FOROL PEMBROKESHIRE MARINE**

**Ardal Cadwraeth Arbennig Special Area of Conservation**  
**Grwp Awdurdodau Perthnasol Relevant Authorities Group**  
<http://www.PembrokeshireMarineSAC.org.uk>

Ms Helena Towers  
Marine Branch  
Nature, Access and Marine Unit,  
Department for Environment, Sustainability and Housing  
Welsh Assembly Government  
2nd Floor  
Cathays Park  
Cardiff, CF10 3NQ

16 December 2009

Dear Helena,

### **Consultation on a Strategy for Marine Protected Areas in Wales: Protecting Welsh Seas**

The Pembrokeshire Marine Special Area of Conservation Relevant Authorities Group (RAG) welcomes this opportunity to comment on the Assembly's MPA strategy. Although individual members of the RAG will no doubt be making their own specific organisational responses, we feel it important, as an MPA partnership that has been in operation now for a decade, to share our collective experience and consensus views in relation to this consultation. These points represent the majority view and are not the views of particular authorities.

There are several points that we wish to raise as follows (in no particular order of priority):

1. Improvements are essential in the management of fisheries particularly between 6-12nm in order to introduce consistency between management of UK and EU fishing vessels; fisheries management will not be successful without common rules that apply to all. Global experience shows us that successful fisheries management is essential for successful MPA management.
2. Whilst the RAG can recognise the benefit of a bottom-up approach to consultation, we also know from our own experience that unless there is something on the table, stakeholders can be difficult to engage with and responses can be apathetic; views are more forthcoming and discussions more productive (both in terms of content and the time taken) when there is a meaningful starting point. Marine conservation can be a vague arena, due in part to the paucity of immediately relevant information, and this causes frustration to all stakeholders. The RAG are concerned that the lack at this stage of the agreed criteria for site selection causes unnecessary delay to the whole process and that any achievements by the end of 2012 will be reduced as a consequence.
3. There is much talk of a 'well managed' network of MPA's. Marine European Marine Sites will form part of that network. The RAG are concerned that after more than a decade from EMS site selection, many features are not in favourable condition and resources to manage the sites are still inadequate. Resources not only include the

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Cyngor Cefn Gwlad Cymru	Countryside Council for Wales
Asiantaeth yr Amgylchedd Cymru	Environment Agency Wales
Awdurdod Porthladd Aberdaugleddau	Milford Haven Port Authority
Gwasanaethau Goleudy Trinity House	Trinity House Lighthouse Service
Dwr Cymru	Welsh Water
Pwyllgor Pysgodfeydd Mor de Cymru	South Wales Sea Fisheries Committee

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necessary funds, but importantly staff time and informed input. The Pembrokeshire Marine SAC RAG joint fund the SAC Officer for the site; we see this post as essential for current management implementation. Many organisations are facing financial cuts however and the future looks uncertain. The Welsh Assembly Government will be looked upon to play its part in the near future and fully contribute to the partnership both as a relevant and competent authority.

There is a view that EMSs will not be 'well managed' until they reach favourable condition. This will require considerably more time, effort and commitment than can currently be spared. Further designations will undoubtedly cause additional strain. The MCZ Project over the next couple of years will also divert attention from the ongoing management of our existing MPAs.

4. The RAG acknowledges that the current consultation describes high level strategic proposals, but remains concerned about the level of detail to come; practical management implementation, education and awareness, monitoring and surveillance, and information gathering all play a fundamental part in future MPA management. Such resource heavy considerations need to be in the picture from the outset.

5. The future of the Skomer Marine Nature Reserve is of particular relevance to the RAG as this UK designation lies within the Pembrokeshire Marine SAC. Ministerial commitment (Jane Davidson, Cardiff, 24th November 2009) confirmed that Skomer would not lose its current level of protection. The RAG recognise that Skomer MNR has a continuing essential role in Welsh and UK marine conservation. One of the actions within the agreed Pembrokeshire Marine SAC management scheme is to seek to secure a 'control site' (a site as 'natural' as possible) against which the effects of human activity can be measured. A logical and desirable outcome (given the invaluable monitoring time series of data gathered within the MNR) would be for at least some areas within the MNR to become part of the suite of HPMCs.

The Marine Act 2009 brings new powers and new opportunities for the protection and management of our seas. It is important that implementation of this new legislation compliments and adds to the current network of marine designations in Wales and does not impede current progress in fulfilling our statutory biodiversity European obligations.

Yours faithfully,

Stephen Hurr (Chair) Pembrokeshire Marine SAC RAG

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## Consultation: Protecting Welsh Seas – a draft strategy for marine protected areas in Wales

### Response from The Crown Estate

December, 2009

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#### Summary

- The Crown Estate is committed to working with the Welsh Assembly Government and all stakeholders to help ensure that the aspirations of the UK for coastal and marine management are realised.
- The Crown Estate is the major seabed and foreshore owner in Wales and we wish to be fully involved in the MPA designation process.
- We believe it is essential that the decisions made in the designation process are robust and an evidence based approach is also essential. It is important that MCZs have clearly defined interest features and conservation objectives.
- The designation of MPAs must effectively balance conservation and socio-economic needs with the necessity to achieve the Government's low-carbon energy commitments and ensure that multiple use of the marine environment is managed in a robust, transparent and consistent manner.
- Socio-economic activity and conservation are not mutually exclusive and multiple uses can co-exist in the marine environment. A wide variety of businesses and organisations conduct economic and conservation activities across our Marine Estate, with an estimated total value of some £46 billion providing almost 890,000 jobs. Over 20% of our coastal estate is leased out to conservation bodies.
- There is excellent potential within Welsh waters for marine renewable energy deployment to help mitigate the effects of climate change and assist in the security of energy supply.
- The Crown Estate can bring to bear a high level of knowledge and expertise on issues relating to management of the foreshore, the territorial seabed and continental shelf. Our Marine Estate comprises virtually the entire UK seabed out to the 12 nautical mile territorial limit, in addition to the sovereign rights to explore and make use of the natural resources of the UK continental shelf, with the exception of oil, coal and gas. We own approximately 55

per cent of the foreshore and around half the beds of estuaries and tidal rivers in the United Kingdom.

## **1.0 The Crown Estate**

The diverse portfolio of The Crown Estate comprises marine, rural and urban properties across the whole of the United Kingdom valued in total at over £7 billion (2006/07 figures). Under the 1961 Crown Estate Act, The Crown Estate is charged with maintaining and enhancing both the value of the property and the revenue from it consistent with the requirements of good management. We are a commercial organisation guided by our core values of commercialism, integrity and stewardship. The Crown Estate's entire revenue surplus is paid directly to HM Treasury for the benefit of all UK taxpayers; in 2006/07 this amounted to around £200 million.

### **1.1 The Marine Estate**

Our Marine Estate comprises virtually the entire UK seabed out to the 12 nautical mile territorial limit, in addition to the sovereign rights to explore and make use of the natural resources of the UK continental shelf, with the exception of oil, coal and gas. We own approximately 60 per cent of the foreshore around Wales.

The Crown Estate manages its marine assets on a commercial basis, guided by the principles of sustainable development and social responsibility. We take a consistent approach to the management of our activities around the UK, whilst retaining flexibility to take local factors into account whenever necessary. The Crown Estate can bring to bear an unparalleled level of knowledge and expertise on issues relating to management of the foreshore, the territorial seabed and continental shelf. We have a strong understanding of the needs of a broad range of sea users, as commercial partners, customers and stakeholders.

## **2.0 Introduction and context**

The Crown Estate welcomes the Welsh Assembly Government's consultation. This response is informed by The Crown Estate's extensive experience of managing activities within the marine environment and, within its core remit, of balancing economic activity with stewardship of natural resources for future generations to use and enjoy. We are committed to working with government departments, stakeholders and industry in helping to manage the marine environment.

The Crown Estate can bring to bear unparalleled high level of knowledge and expertise on issues relating to management of the foreshore, the territorial seabed and continental shelf. This knowledge includes marine resource management (e.g. marine aggregate extraction, marine renewable energy installations, seabed infrastructure, aquaculture and new activities such as gas storage and carbon capture and storage) and its interplay with other marine activities such as

defence, energy, navigation and marine safety. We have a strong understanding of the needs of a broad range of sea users, as commercial partners, customers and stakeholders.

### **3.0 The Crown Estate response to the consultation**

In responding to the many issues discussed in the consultation document we wish the following comments to be taken into consideration:

- The Crown Estate welcomes this Strategy from the Welsh Assembly Government and the associated Marine & Coastal Access Act and has been strongly supportive of the development of a draft Bill and Government's vision for the sustainable management and protection of the marine environment. We agreed that new legislation was needed to provide greater clarity and consistency on marine issues, enabling the management of the marine environment to be more effective.
- The marine economy accounts for 2.9 per cent of the UK workforce (890,000 jobs) and generates 4.2 per cent of GDP<sup>i</sup>. Given this significant contribution to 'UK plc' it is imperative that implementation of the new legislation includes a strong commitment to sustainable development. The provisions in the Act and the designation of MPAs must effectively balance conservation and socio-economic needs with the necessity to achieve the Government's low-carbon energy commitments and ensure that multiple use of the marine environment is managed in a robust, transparent and consistent manner.
- Except for some aspects of fisheries management, the majority of activities and initiatives which fall within the scope of the Marine & Coastal Access Act require the involvement of The Crown Estate as the landholder and therefore we have a strong involvement in the MPA process.
- We believe that timeliness in the designation process is essential and that decisions are robust and an evidence based approach is also essential. It is important that MCZs have clearly defined interest features and conservation objectives.
- The designation process should enable socio-economic factors and interests to be considered alongside requirements for improved nature conservation. We are pleased to see that socio-economic factors are a consideration in the designation process.
- The Crown Estate's marine planning tool, MaRS (Marine Resource System), will help us to input to the Welsh Assembly Government MPA projects and act as a guide for our decision making process. We are happy to work in partnership with Government and to invite discussions regarding MaRS and its use.
- It is important that the UK's ability to reduce CO<sub>2</sub> levels, and hence contribute to EU and international targets to combat climate change by the combined use of renewable energy

and carbon capture and storage, are not severely affected by designations. Similarly, the UK's energy security of supply, through the development of marine renewable energy sources and gas storage, should not be compromised.

- Socio-economic activity and conservation are not mutually exclusive and multiple uses can co-exist in the marine environment. Marine dredged sand and gravel supports the delivery of various Government policies including coastal protection and aggregate supply for the construction industry. In certain areas it is essential; for example, the marine contribution provides 90% of fine natural aggregate (sand) demand in south Wales.
- There are also potential synergies between sea use and conservation; for example, offshore wind farms can act as a new area of productivity for biodiversity due to certain activities being unable to take place within the boundaries of the development.
- Page 20 of the draft strategy makes references to duties of all public authorities: *"Once sites have been designated, there will be a duty on all public authorities (e.g. the Welsh Assembly Government, UK Government, local authorities, Government agencies) wherever they operate, to undertake their functions in a way that will further or where that is not possible, to at least hinder the achievement of site conservation objectives. This will mean different things for different bodies but could include requirements:*
  - *to introduce restrictions on activities, wherever they take place, that would otherwise result in the objectives of a site not being achieved; and*
  - *to take positive measures to control damaging activities, such as taking action to mitigate impacts, where they have the powers to do so*". We would like to discuss this issue further with the Welsh Assembly Government and obtain clarity on The Crown Estate's role, if any, in this context. Most foreshore and seabed is subject to the public rights of fishing and navigation. The duties – mentioned above - which may or may not be placed on The Crown Estate (whose land is subject to these rights), need careful consideration as management disparities could arise as a result of any of these overriding public rights.
- The Crown Estate is currently going through a seabed leasing round for offshore wind energy projects in the 'Round 3' zones and in Scottish Territorial Waters. These, together with Rounds 1 and 2, could deliver nearly 40GW of energy to the UK by 2020, representing about 30% of the UK's electricity demand. This will be important to the UK's security of energy supply, make a significant contribution to achieving climate change targets and secure jobs and investment across the UK. Getting the MPA designation process right will be crucial to the success of these projects and a number of these already exist or are proposed in Wales.
- Whilst we agree with the principles of delivering an ecologically coherent network of marine protected areas, incorporating both marine conservation zones and European marine sites, clarity is needed on how this will be implemented. MCZs have the capacity to severely impact upon The Crown Estate's activities; as landlord we have a statutory duty to obtain a return for the use of our land therefore rental is due for areas of foreshore and seabed used for commercial purposes.

- We accept the need for Highly Protected Marine Conservation Zones in certain instances, within which all activity will be prohibited. We hope that the number of these will be kept to the appropriate level to achieve the conservation objectives, due to the severe impact on economic users of the sea.
- We think it is imperative that MCZs have a minimum socio-economic impact, especially given that European sites do not take this aspect into account.
- Once selected, sites should also be efficiently and effectively monitored in order to reassess their designation if necessary. Climate change may result in ecological changes such that MPA protection is no longer appropriate, therefore de-designation is an important consideration and should be included in any strategy. Similarly, if further data/research reveals a certain habitat type to be more prevalent than first thought, for example, some flexibility is needed in designation.
- Also, it is very desirable to know the details of the management regime when a site is proposed.

## Conclusion

We trust that you will find these comments constructive. We would be very willing to provide Government with additional information on any of the points we have raised above and be very please to discuss these matters with you further. All of this response may be put into the public domain and there is no part of it that should be treated as confidential.

## Contact:

Dermot Grimson, Head of External Affairs  
 The Crown Estate  
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<sup>i</sup> 'Socio-economic indicators of marine-related activity in the UK economy', David Pugh (2008). Published by The Crown Estate on behalf of the Marine Estate.

## **Response to the *Consultation on a Strategy for Marine Protected Areas in Wales: Protecting Welsh Seas***

On behalf of RWE npower we would like to thank the Welsh Assembly Government for providing us the opportunity to respond to the *Consultation on a Strategy for Marine Protected Areas in Wales: Protecting Welsh Seas* ([www.wales.gov.uk/consultations/](http://www.wales.gov.uk/consultations/) or [www.cymru.gov.uk/ymgyngoriadau](http://www.cymru.gov.uk/ymgyngoriadau) ).

RWE npower, part of the RWE Group, is a leading integrated UK energy company. Through our retail business, we are one of the UK's largest energy suppliers. We have over 10,000 MW of generation capacity in the UK from our diverse portfolio of generation assets including renewable, both onshore and offshore, coal, gas and oil fired power stations located in England and Wales. The RWE Group also includes an interest in Horizon Nuclear Power, which aims to be a major player in the UK nuclear market.

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We have reviewed this consultation and have provided comments below for which recommendations/requests are given in italics within each sub-section.

We would also welcome any further opportunities to engage in dialogue on these matters for Welsh Seas and if appropriate we would be very much interested in providing representation on the Stakeholder Group.

## Summary

This consultation outlines the strategy being proposed by the Welsh Assembly Government to enhance the existing marine protected areas (MPA) in Wales and contribute towards a coherent network of MPA's in the U.K. The core focus of this strategy document concerns the designation and management of marine conservation zones (MCZ) for protecting and conserving biodiversity. MCZ's are a new protection measure introduced by the Marine and Coastal Access Bill (November 2009) and will complement European Marine Sites, Special Areas of Conservation and Special Protection Areas in developing the MPA network.

The governance structure set out in this MPA strategy by the Welsh Assembly Government appears to be reasonable with the core operations being dependent on the assembling and cohesive functioning of the three management groups (Steering Group, Technical Advisory Group, and Stakeholder Group). Further the overall approach with the various phases (preparatory, site selection, consultation, designation) seems appropriate and timelines are consistent with other MCZ projects.

However, beyond this broad structure we have concerns with some areas of this proposed strategy which we believe requires additional clarification and possible modification. Specifically these areas are:

- Timeframes
- MCZ and HPMCZ Designations
- Technical Advisory Group (TAG) Recommendations
- Data Synthesis, Modelling and Monitoring
- Management Schemes and Surveillance
- Conservation Objectives
- Stakeholder Representation
- OSPAR Design principles
- Boundary Interfaces

### 1.0 Timeframes

We have concern that the proposed deadline for MCZ site submission (winter 2012) may be unrealistic and force inappropriate decisions on site designation. We are aware there are national and international obligations but if meeting these timescales would result in taking decisions with an insecure understanding of the ecosystem functioning then this could be detrimental to the long term ecological objectives. Further, such decisions could unnecessarily restrict coastal & offshore developments with very significant adverse economic consequences which would impact on ability to meet commitments under other regulatory drivers (e.g., renewables development etc). Comments on the Wales Coastal Maritime Partnership (WCMP) website following a recent meeting also express concern on this timeline.

It is unclear if MCZ designation status can change beyond the proposed deadline and whether implementation of the proposed sites will be in a phased manner with requirements for other directives such as the Marine Strategy Framework Directive (MSFD) and Water Framework Directive (WFD).

*Recommendations:*

*R1- We suggest that a review be conducted listing available resources with realistic timescales for delivery of the overall objectives. The review should detail specifics on assembling the management groups and appropriate scientific interpretation for defining the site objectives.*

*R2- Clear timeframes on when Highly Protected-MCZ (HPMCZ)/ MCZ's and the MPA network will likely be implemented with new conservation objectives and protection measures would be very useful for informing all sea users. It would also be welcomed if clarity on the timeline integration with the MSFD and WFD were also provided.*

*R3- A statement on how site designation continues after this planned period would be useful for all sea-users. For example, if post designation monitoring reveals a shift in baseline conditions then will there be a formal review process to establish whether the protection level will be raised or relaxed ...?*

## **2.0 MCZ and HPMCZ Designations**

The area of greatest concern is the lack of clarity on the possible scope and extent of HPMCZ's in Welsh waters. It seems clear that designating HPMCZ's in Wales will be a core focus for the MPA network and further these sites will have the highest level of protection, essentially 'no-take' zones. However, we find it difficult to understand how such a site can be effectively managed in regions of strong flows where substantial transport of living and non-living matter exists. Delineating these highly protected sites and defining resident biota communities within dynamic environments seems fraught with difficulty.

Given that tidal excursions in Welsh waters are of order 15-25km it can be seen that activities at considerable distances from a HPMCZ could have an influence on the site, but not necessarily 'significant' using appropriate assessment. To this point, it is unclear how appropriate assessment as currently practiced, is to be applied to HPMCZ's given the definition in this WAG document as "an area protected from the extraction and deposition of living and non-living matters, and all other damaging or disturbing activities". Defining 'damaging' and 'disturbing' in a non subjective manner that lends itself to appropriate assessment is also likely to be difficult.

*Recommendations:*

*R4-Given there is likely to be no socio-economic considerations on HPMCZ designations, it would be reassuring to sea-users of Welsh waters particularly for future developments if statements on length scales and possible zones of influence could be made early in this campaign. Clear statements on how socio-economics can influence MCZ and possibly HPMCZ designations would be welcomed.*

*R5-Statements on how developers/sea-users are to assess the potential impact of their activities on HPMCZ's also needs to be explicit. Until more clarification on HPMCZ's is provided it could be difficult for Welsh sea-users to consider future activities/developments which for example, could be very restrictive for offshore renewable and new nuclear obligations under the National Policy Statement.*

*R6-We would like to recommend consideration of an option for existing or recently consented developments (i.e., Environmental Impact Assessments demonstrating no significant impact) to establish exclusion zones in the vicinity of their locations that prevent HPMCZ site designation.*

*R7- Given that the Skomer Marine Nature Reserve will be declared as the first MCZ in Welsh waters, we request details on whether the conservation objectives and spatial characteristics will alter for this protected site...?*

*R8- With regard to European Marine Site (EMS) designations we suggest further information should be provided on how new EMS designations will continue to evolve post this 2012 MPA deadline ...?*

### **3.0 Technical Advisory Group (TAG) Recommendations**

A key role for the Technical Advisory Group will be to develop site options for MCZ/HPMCZ's based on data analyses which will be reviewed by the stakeholder group – Wales Coastal Maritime Partnership (WCMP).

*Recommendations:*

*R9-Given the importance of the designation process in balancing conservations, economic and other regulatory drivers such as renewables, we are concerned that the peer review process should be comprehensive. To that end we suggest that the WCMP review should be complemented by an appropriate marine science review.*

### **4.0 Data Synthesis, Modelling and Monitoring**

It is assumed that a critical component of the both the initial site designations and long term management of the MPA network will be robust data syntheses. We respect that this current strategy document is not relevant for a detailed description on data types and analyses. However, we would like to have the ability to review the proposed road map for data analyses and importantly assurance that the available resources

(data, computing infrastructure, personnel) are adequate for providing quantitative results. We believe the importance of thorough data synthesis and long term observations are paramount for sustainable use of Welsh seas and have the following recommendations (assuming not currently in place).

*Recommendations:*

*R10-We would welcome broader free access for all sea-users to the same data that the TAG will be working with.*

*R11-We recommend and request access to detailed studies of long term variability for many relevant ecosystem parameters and metrics which hopefully can identify (i) baseline seasonality (ii) response to natural episodic events and (iii) any sustained change due to anthropogenic stresses. Emphasis should be placed on understanding the Welsh seas in the context of an integrated ecosystem subject to large scale influence from the Irish and Celtic Seas. Such analyses will allow for a better appreciation of the true variance to help the assessment process and better inform stakeholders on the scale of other stresses in relation to non-local stresses.*

*R12- The largest threats to biodiversity are climate change and invasive species for which MCZ's are likely to be limited in tackling either of these issues. Hence, we reiterate the importance of thorough data synthesis since inappropriate MCZ designation could help promote climate change by excluding the development of offshore renewables.*

*R13-There is no mention of modelling activities within this MPA strategy and we suggest that ecosystem modelling (coupled physical-chemical-ecological) should be considered as an integral component during the early stages of this MPA process.*

*R14-We suggest consideration should be given for establishing a Welsh Seas Observatory (regionalised through the Welsh universities) which dynamically integrates modelling and observational data to benefit the understanding of the MPA network and the broader ecosystem.*

*R15-Consideration for an unrestricted national marine data policy should be proposed to help facilitate open dialogue and collaborative research (academic, governmental and private) which can feed directly into the MPA network and the long term goal of protecting Welsh seas in a sustainable manner. Further, such a resource could prove extremely useful for future ecological impact assessments and help streamline the consents process for marine related developments.*

*R16- This current proposal for MPA's is about "Protecting Welsh Seas", which we believe could greatly benefit from a sustained integrated modelling and observational framework. Effective MPA management can only be achieved and demonstrated through better understanding of ecosystem variability which requires appropriate*

*observations and data assimilation. Although HPMCZ/MCZ's will play an important role in helping secure certain habitats, the process and reasons for these designations should be considered from a broader ecosystem perspective in addition to the local biological communities.*

## **5.0 Management Schemes and Surveillance**

As mentioned above it is clear that effective management and observations are vital for the long term sustainability of any MPA network. We assume that an implicit requirement of this strategy will be for management schemes and surveillance to be intricately linked such that these activities mutually benefit each other.

*Recommendations:*

*R17-We would like to see evidence that the management and surveillance structure is devised in a comprehensive manner. It should facilitate appropriate data synthesis of ecological and water quality parameters since this will likely be paramount in helping provide useable metrics of the ecosystem state.*

*R18-We would like to see evidence of how the UK Marine Monitoring and Assessment Strategy (UKMMAS) will effectively coordinate these monitoring programs and more importantly how MPA design/strategy will be explicitly linked to the UKMMAS strategy. An MPA network without effective monitoring for the full ecosystem could prove very inadequate and costly (both ecological and sea-use functioning).*

## **6.0 Conservation Objectives**

It is stated in this strategy document that the level of protection of a MCZ will be set by the conservation objectives but it is not clear how these objectives will be formalised.

*Recommendations:*

*R19-We request that this process must allow adequate opportunities for appropriate reviews and consultation with stakeholders on the formulation of conservation objectives. Additionally, we also recommend a scientific 'peer-review' be put in place for these conservation objectives*

## **7.0 Stakeholder Representation**

Another area of concern is the lack of industry membership on the WCMP - Stakeholder Group. As with many of the regional MCZ projects current stakeholder membership (WCMP) appears biased with fishers and tourist type activities.

*Recommendations:*

*R20-Given the national commitment (National Policy Statement) towards new cleaner and more efficient energy technologies (wind, wave, tidal stream, new nuclear, closed cycle gas turbines) that will reside or require access to coastal waters we request WCMP should actively seek a more balanced representation from these industries. Further, as discussed above (R12), climate change is a serious threat to biodiversity and it is imperative there is sufficient industry representation on the Stakeholder Group such that proper regard is given to the National Policy Statements in relation to the importance of a new (low carbon) energy infrastructure.*

*R21-Assumption of a wide representation on the stakeholder group likely implies a wide range of potentially conflicting interests among this group. Although appropriate, we would like details on how the management structure will resolve cases where agreement cannot be reached amongst the Stakeholder group.*

*R22-It is entirely possible that the public view will not reflect the need for new energy infrastructure and thus we suggest there should be effective communication with the Steering Group and Stakeholder Group to ensure the public's response is not given more weight than the government policy.*

*R23-We understand that members of the Stakeholder Group preferably represent the interest of specific industries/sectors. However, we would like to request that consideration also be given to individual companies especially those that have appreciable commitments in Welsh waters.*

## **8.0 OSPAR Design Principles**

The MPA network will be designed using the OSPAR guidance although we feel that some of these criteria are vague and could be open for much subjective interpretation. In particular, the criteria we have concern with are *connectivity* and *Best Available Evidence*. For connectivity, it is not clear if this could refer to all locations for which a specific species may reside in, say over a seasonal cycle (e.g., feeding, spawning and nursery grounds). The guidance for *Best Available Evidence* states that “lack of full scientific certainty should not be a reason for postponing decisions on site selection”, which could possibly undermine site selection on a scientific basis.

### *Recommendations:*

*R24-We would like to request more explicit information on how this OSPAR guidance will be adopted and employed for designing the Welsh Seas MPA network.*

*R25- We would welcome clarification on ‘connectivity’ since at some level all of the Welsh seas could be considered as connected (affording some level of protection) which may be appropriate as long as it does not exclude vital activities such as renewable developments.*

*R26-We recommend the statement on Best Available Evidence should be used with caution in that decisions without quantitative scientific data will be difficult to justify and possibly incorrect.*

## **9.0 Boundary Interfaces**

Within the strategy document it states that there will be appropriate communication with the other regional MCZ projects but the document fails to detail how this MPA network will function at boundary interfaces. It is assumed that conservation objectives will not be hindered by a regional boundary allowing for continuity in protection and management schemes at these interfaces. Lack of continuity across these boundaries could also prove very restrictive for coastal and offshore developments.

### *Recommendations:*

*R27-Clarification on how MPA connectivity across regional boundaries will be managed would be useful particularly for sea-users where their activities occupy multiple regions. Information on how conservation objectives will be implemented across boundaries would also be appreciated.*

*R28-We request further details on how the interfacing of waters covered under the WrFD (1nm) will link in a seamless manner (objectives and management) with the MPA network.*



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15<sup>th</sup> December 2009

Dear Helena

### **Consultation on draft strategy for Protecting Welsh Seas**

We refer to the Assembly Government's consultation in relation to the above. We set out below our response to the Consultation Paper.

The RYA is the national body for all forms of recreational and competitive boating. It represents dinghy and yacht racing, motor and sail cruising, RIBs and sportsboats, powerboat racing, windsurfing, inland cruising and personal watercraft. The RYA manages the British sailing team and Great Britain was the top sailing nation at the 2000, 2004 and 2008 Olympic Games.

The RYA is recognised by all government offices as being the negotiating body for the activities it represents. The RYA currently has over 100,000 personal members, the majority of whom choose to go afloat for purely recreational non-competitive pleasure on coastal and inland waters. There are an estimated further 500,000 boat owners nationally who are members of over 1,500 RYA affiliated clubs and class associations.

The RYA also sets and maintains an international standard for recreational boat training through a network of over 2,200 RYA Recognised Training Centres in 20 countries. On average, approximately 160,000 people per year complete RYA

training courses. RYA training courses form the basis for the small craft training of lifeboat crews, police officers and the Royal Navy and are also adopted as a template for training in many other countries throughout the world.

The RYA welcomes this opportunity to comment on the Welsh Assembly Government's draft Strategy

- In setting out the aim of the strategy, it is stated that the process to identify and select any additional MPAs to complete the network in Welsh waters will be explained. Does this mean that the network will be seen by the Welsh Assembly Government to be complete after this round of MPAs has been designated, or will there be provision made for further MPAs to be designated in future?
- Under the "Timeframe" section, it is unclear whether additional MPAs will have been designated by 2012. The current wording says that a report will be laid before the National Assembly for Wales but does not provide any firm commitment for such a network to be in place by this time. Is there a firm deadline by which these MPAs will have been designated?
- It is stated on page 13 that there are currently no MPAs in Wales where the full range of biodiversity benefits from protection from all damaging activities. The RYA would like more information on the definition of a "damaging activity" and who is making the call as to whether an activity is damaging.
- Also on page 13 it is stated that Nature Conservation Orders may be used to manage currently unregulated activities such as recreational activities within MCZs and EMS *where they are having a negative impact on the feature of the site*. The RYA would like assurances that such Conservation Orders will be used proportionately and where there is sound evidence that such activities are indeed having a negative impact on the site's protected features. We are concerned that blanket restrictions on all recreational activity may be imposed without substantive evidence that such restrictions are necessary.
- On page 14, the strategy introduces Highly Protected Marine Conservation Zones and states that these areas will be protected from damaging or disturbing activities. This builds on the statement about damaging activities on page 13 and now introduces the concept of "disturbing activities". The RYA would like clarification as to how a disturbing activity is being defined and by whom.
- On page 17 it is stated that Welsh Ministers will be able make conservation orders to protect EMS within Welsh territorial waters and that the intention is to use these powers to manage activities that are harmful to EMS that would otherwise be left unregulated, such as recreational activity. The RYA questions the broad statement that recreational activity is harmful to EMS and would like further detail and evidence as to the damage caused to EMS by recreational activity – especially if such damage is being caused by recreational boating.

- Under the proposed management regime for MCZs, the CCW will be considering the activities that are likely to be compatible with an MCZ afforded a high level of protection. The RYA questions how such a decision can be taken when this must depend to a large extent on the habitats and species being protected. The RYA would expect that such decisions would need to be made on a case by case basis depending on the protected features of that particular site.
- In terms of the governance process for identifying MCZs in Wales, as outlined in the Annex, the RYA is concerned at limited stakeholder representation on the Steering Group- particularly as this group will make the final decisions on site selection criteria, site recommendations and management measures. Although the stakeholder group will be able to feed into the steering group, with only one seat on the Steering Group, the RYA questions how much of a voice the very disparate stakeholders will have.
- The strategy does not say how the plans for protecting Welsh waters will relate to the National Marine Policy Statement which is currently being drafted, nor is it set out how the strategy will integrate with Marine Planning in Wales. The RYA would like to see more information given in the strategy as to how the plans for protecting Welsh waters will link to the MPS, to marine planning and to ICZM in Wales.

Please do not hesitate to contact me if you have any questions or queries arising from our response. On behalf of the RYA, I would be pleased to be involved in any future consultations or discussions

Yours faithfully,



Kate Moore  
RYA Planning and Environmental Advisor

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OurRef: R&D/WAG/MPA1/2009

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16<sup>th</sup> December 2009

Dear Helena

## **Comments on Welsh Assembly's Strategy for Marine Protected Areas: Protecting Welsh Seas**

Thank you for the opportunity to comment on your draft strategy for Marine Protected Areas. Here is our contribution.

### **Introduction**

Seafish is a non-departmental public body that provides support to all sectors of the seafood industry. It has no official role in resource or environmental management but has an obvious interest in the outcomes of the management processes. Seafish has a publicly stated commitment to "the sustainable and efficient harvesting of those resources on which the UK seafood industry depends, the protection of marine ecosystems, and the development of marine aquaculture based on sustainable resource utilisation and best environmental practice".

We have identified and we will comment on the following 5 key areas of interest to Seafish:

1. Stakeholder engagement
2. Flexible planning
3. Socio-economic considerations
4. Conservation objectives
5. Site management

## 1. Stakeholder engagement

We welcome the Welsh Assembly Government's (WAG) commitment to engage with all stakeholders in the delivery of an MPA network and in particular the designation of MCZs:

*p3: We want the network to be well understood and supported by sea users and other stakeholders, to make a major contribution to the protection and recovery of the richness of our marine environment.*

However a single fishing industry representative on the Stakeholder Group (Welsh Coastal Management Partnership - WCMP) does not reflect the importance of the commercial fishing and aquaculture sectors in Wales.

Wales supports a diverse fishing industry, comprising a multitude of inshore fisheries targeting a variety of species in different areas, at different times of the year using a variety of gear, for example bass are targeted using long lines, nets and trawls. Wales also supports an offshore fleet targeting scallops and demersal fish, a substantial aquaculture industry and a number of inter-tidal hand gathering fisheries. In addition to the Welsh fishing industry, Scottish and English boats fish in Welsh waters and Belgium and French fishing fleets have historical rights to fish in the Welsh 6 -12nm zone.

We object to the proposal to appoint the WCMP as the Stakeholder Group in the MCZ process as the group membership (total of 30) does not provide proportionate representation according to socio-economic value, distribution, intensity, knowledge and vulnerability. For example, one third of the membership is local Government / Regulators, there are two land farming representatives and only five marine industry representatives, only one of which represents the fishing and aquaculture industry. In its present form the WCMP will not achieve WAG's stated aim that is:

*Annex: 'The Stakeholder Group will ensure that all relevant stakeholder interests are represented in order to inform the site selection criteria and decisions regarding the location of MCZs'*

The wide range of fishing interests in Welsh waters clearly requires more than one representative and we strongly encourage WAG to follow the Regional MCZ model in England to ensure such diversity is adequately represented.

Stakeholder participation is critical to the success of marine conservation policy, particularly in the marine environment where there are inherent enforcement difficulties and an incomplete scientific understanding of the marine ecosystem. Moreover, we include as stakeholders, not only fishermen's representatives, but also fishing communities and fishermen<sup>1</sup> themselves.

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<sup>1</sup> The term fishermen includes shellfish and finfish farmers

The Wales Fisheries Strategy<sup>2</sup> acknowledges the need stakeholder support to achieve its aim for sustainable (environmentally, socially and economically) fisheries

*'It will be difficult to achieve this aim without the active support and participation of stakeholders and partner organisations' (Foreword by Elin Jones AM Minister for Rural Affairs. Wales Fisheries Strategy 2008)*

Fishermen probably know more about the seabed conditions around Wales than most scientists. Probably less than 5% of the Welsh seabed (BGS data 2009) has been properly mapped in respect of ground conditions, habitat types and species assemblages. This work is urgently required in order to provide a sound basis for marine planning and site designations.

Such valuable contributions, however, will only be made if fishermen believe WAG's MPA policy is fair, proportionate and inclusive. Building trust is very hard to create but very easy to destroy, and developing meaningful engagement with fishermen takes time. Trust is founded on transparency, understanding, appreciation, respect and collaboration.

The following initiatives may help build up trust, and in some cases help to rebuild trust:

- Extensive communication with industry (not just industry representatives) on the need to protect marine biodiversity, including the potential benefits afforded by MPAs to commercial species. This could involve Countryside Council for Wales (CCW) making presentations on local marine biodiversity interests to local fishermen's groups;
- A commitment by WAG and CCW to proactively consider how existing and future fisheries can continue in MPAs, and to encourage industry initiatives to safeguard marine biodiversity - initiatives of the kind that we have seen in fisheries management to great effect (eg real-time closure agreements to protect cod and juvenile whitefish);
- A commitment to compensate those fishermen who lose fishing opportunities as a result of designation of MPAs, by financial assistance, training to diversify, and involvement in the management of MPAs, such as fisheries and environmental monitoring work.

We would welcome the opportunity to discuss these trust-building and communication activities and look forward to develop further initiatives to improve stakeholder engagement with WAG and CCW.

## **2. Flexible planning**

The distribution of species and some habitats, such as biogenic reefs will change in

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<sup>2</sup> Welsh Assembly Government's Wales Fisheries Strategy published in 2008

response to rising sea temperatures and ocean acidification. The spatial and temporal nature of fishing constantly alters in response to many factors, including fishing regulations, markets for new species, new markets for existing species, development of new gear, and first sale value.

Versatility, in particular the ability to alternate between commercial species and different fishing methods, is key to the survival of the Welsh inshore fishing fleet. Seafish is very concerned that a rigid marine spatial planning system could seriously disadvantage the fishing industry and we call for as much flexibility as possible in the siting and managing of MPAs.

Because so little of the Welsh seabed is adequately mapped, it is highly likely that we will not have a comprehensive map of the Welsh seabed by 2012, and therefore habitats and species that qualify for MPA designation will undoubtedly be discovered following the designation of MPAs. Alternative MPAs may therefore be beneficial for both marine biodiversity and fisheries interests.

Because we believe the designation and management of MPAs must be flexible to take account of future knowledge, we urge WAG to clearly set out a de-designation process. We note that such a process has been established by Defra for MPAs designated in English and UK offshore waters. We hope that Seafish and the industry would be consulted and involved in the development of guidance on such de-designations.

We would like to see a presumption in favour of existing and future fishing and aquaculture activities that are compatible with MPA conservation objectives to ensure that the development of new fisheries and aquaculture is not unnecessarily constrained in MPAs. Such a system exists in the Australian Great Barrier Reef (GBR), where the emphasis is on providing a spectrum of zones with differing objectives, which then clarify what activities are appropriate in the zone. Also, there is also a special “catch-all” permit provision in the GBR Zoning Plan (“*any other purpose consistent with the objective of the zone...*”) that provides for permission to use new technology or activities that were not known when the Zoning Plan was approved but which are compatible with its conservation objectives (Day, 2008).

### **3. Socio-economic considerations**

We are encouraged by WAG’s commitment to support ‘*vibrant marine economies*’ (WAG’s vision for Wales’ marine environment) and take account of economic activity in the MCZ designation process to minimise conflict with existing marine users:

*p14: Criteria for the identification and selection of MCZs in Welsh waters will be developed, agreed and used through a robust site selection process, incorporating ecological information, socio-economic information and stakeholder dialogue. This will ensure that sites are chosen to maximise ecological and socio-economic benefits while minimising any conflicts with different uses of the sea as far as possible.*

Taking adequate account of socio-economic information in the MCZ designation and selection process will require a comprehensive survey of fishing activity in Welsh waters. However, socio-economic fishery assessments are notoriously difficult because data is not readily available; the assessments may depend on a number of scenarios driven by a variety of complex factors such as the ability to diversify; there are many onshore costs to consider; and problems arise from the spatial nature of fishing and the constant fluctuations in economic circumstances.

To deal with some of these difficulties, below are some suggestions on how to ensure socio-economic information is comprehensive, accurate and respected. Note that the reliability of socio-economic information will very much depend on the involvement of industry.

#### *A consistent approach*

In May 2009, Seafish identified a number of initiatives that were collecting information from the fishing industry to inform the Regional MCZ projects in England, European Marine Site work and for the purposes of spatial planning. The key programmes were believed to be: Finding Sanctuary (SW England), Natural England's Regional MCZ work, CEFAS VMS project, Sea Fisheries Committee Observation mapping, as well as some industry initiatives.

Seafish was concerned that an uncoordinated and disjointed effort to collect data could lead to costly and unnecessary duplication of effort and a missed opportunity to standardise approaches. To that end, Seafish initiated a review of those current initiatives to help bring some cohesion to those efforts and to ensure that industry engages more positively. The review took the form of a workshop hosted by Defra on the 28<sup>th</sup> July 2009 bringing together all relevant parties to discuss the following issues:

- Who is doing what and how are they doing it?
- What questions do we want to answer with this information?
- Are we missing opportunities to collect additional information?
- Can we agree a MOU whereby all parties share the data?
- Can we agree a common means of standardising methodology and data presentation?

Of the above initiatives to collect information from the fishing industry, Finding Sanctuary's (FS) FisherMap survey was the most prominent and was the model that would be rolled out to the other England MCZ regions. As our contacts with the fishing industry suggested that FS's approach had some shortcomings either for reasons of perception of FS (as a 'green' focussed entity) or because of the substance of some of the approaches that FS had adopted) we asked experts to peer review the published 'FisherMap' protocol in May 2009. The purpose of the peer review was not to undermine the current efforts of FS, but to determine whether the FS approach was robust and whether there were any shortcomings. The three experts identified both positive and negative attributes, suggesting how the approach could be improved and the results of

the peer review were discussed at the workshop Seafish organised with support from Defra on the 28<sup>th</sup> July 2009.

In September 2009, Seafish commissioned Sophie Des Clers (who developed FisherMap for Finding Sanctuary) to revise the FisherMap protocol in light of comments from the peer review; following a second workshop in October 2009; and, following feedback thereafter. The revised questionnaire is currently being subject to a second peer review and a final methodology is expected to be released in early January 2010.

We recommend that a similar mapping exercise to the one being carried out in England to inform the regional MCZ projects is undertaken in Wales and suggest using the revised and independently assessed FisherMap protocol for consistency and credibility.

#### *Social-economic expertise on the Technical Advisory Group*

Ecosystem based management underpins the objectives for marine spatial planning; for sustainable fisheries and aquaculture in Wales; and, the reform of the Common Fisheries Policy. Ecosystem-Based Management (EBM) is a management approach that:

- Integrates ecological, social, and economic goals and recognizes humans as key components of the ecosystem.
- Considers ecological- not just political- boundaries.
- Addresses the complexity of natural processes and social systems and uses an adaptive management approach in the face of resulting uncertainties.
- Engages multiple stakeholders in a collaborative process to define problems and find solutions.
- Incorporates understanding of ecosystem processes and how ecosystems respond to environmental perturbations.
- Is concerned with the ecological integrity of coastal-marine systems and the sustainability of both human and ecological systems.

The MCZ Technical Advisory Group must comprise at least one social scientist and an economist to comply with the objectives laid down for the MCZs and other marine policies in Wales that will be integrate with the MCZ approach.

#### *Continual monitoring*

Given that the spatial and temporal nature of UK fishing can change frequently, for the reasons outlined above, then the corresponding spatial change in socio-economic value needs to be monitored. Up-to-date information will be required by WAG for accurate assessments, management and licensing decisions.

## **4. Conservation objectives**

The management of activities within and close by an MPA will be driven by the site's conservation objectives. We assume that the conservation objectives for MCZs will be

similar to those set for current European marine sites. That is, the nature conservation aspirations for a site will be expressed in terms of the desired conservation status (i.e. favourable) for each feature for which a site is designated.

These conservation objectives must be clear, measurable and reasonable for the reasons outlined below.

*Objectives must be clear*

As stated in the strategy, the success of an MPA in terms of increasing the biomass and diversity of marine species, including commercial species depends on a number of factors including the location and size of an MPA.

We therefore believe that the key objectives for MPAs should not incorporate uncertain outcomes, but acknowledge from the onset that, for example, the protection of an area deemed to be an important spawning and / or nursery area for commercial shellfish and / or finfish species, may not necessarily lead to an increase in population size. Unlike tropical waters where finfish tend to be more territorial, most commercial finfish targeted by UK fishermen in temperate waters are highly mobile. So MPAs covering spawning and nursery areas, whilst a good thing, would not necessarily increase the spawning stock biomass. A recent study by Polunin 2009 found no effect of protection (*through an MPA*) on finfish abundance off the Yorkshire coast.

There was no evidence in any of the studies reported in a special issue of the ICES Journal of Marine Science in 2009 that reported on a European Symposium on Marine Protected Areas as a Tool for Fisheries Management and Ecosystem Conservation (Vol 66, No. 1, January 2009) to demonstrate that MPAs benefited finfish populations in temperate waters. Similarly, the authors of a Defra study on MPAs for management of temperate North Atlantic fisheries in 2005 concluded '*evidence for benefits to temperate finfish inside MPAs is inconsistent*' and '*in no case examined has spill over compensated for loss of fishing area*' (Sweeting & Polunin 2005).

Even for more sessile species such as scallops there is evidence to suggest that protection through MPAs can lead to mass mortality of old cohorts. For example, a study of the scallop population in an MPA near Georges Bank found that scallop density had declined by 50% (in a 500km<sup>2</sup> area) between 2004 & 2005 following the closure of the area in 1994, and that the scallops that perished were large and probably old, as 80% had shell heights greater than 130mm (Stokesbury 2007). Anecdotal reports from Lundy Marine Nature Reserve suggest that the local lobster populations could be suffering from over crowding.

*Objectives must be measurable*

Conservation objectives must be measurable to be able to determine whether favourable conservation status is being achieved. Global environmental influence such as rising sea temperature may, for example, prevent a site feature attaining Favourable Conservation Status (FCS) and we need to be able to identify whether this is the case or not.

### *Objectives must be reasonable*

The nature conservation aspirations for a site which will determine a site's FCS, need to be reasonable and take account of past economic activity. There needs to be clear benchmarks and reference points to describe the desired status of MPAs. For example, will the favoured population size of a particular species or extent of a habitat be set at levels known to have occurred before the industrial revolution? Or after the second world war? It must be remembered that marine ecosystems may have been fundamentally altered in structure by fishing, making a return to pre-closure conditions impossible (Sweeting & Polunin 2005).

The fishing industry has experienced inadequate advice and management within UK European marine sites as a result of unreasonable conservation objectives. For example, designated as features of the Wash SAC and SPA, the conservation objectives first set for cockles and mussels were unrealistic. Pressure from the local fisheries management body (Eastern Sea Fisheries Committee) and local fishermen led to a series of workshops with Natural England to re-evaluate the conservation objectives and determine how best to manage both stocks. The management policy took several years to agree (but it was agreed!).

A 2005 report of a Wildlife and Countryside Link workshop (supported by NGOs such as RSPB, WWF-UK and The Wildlife Trusts) stated, with respect to the UK, that *'There remains some uncertainty, for example, as to the reference point for defining favourable conservation status and hence a baseline against which to identify and monitor areas in need of restoration and recovery'*.

The lessons learnt from the Wash and other UK European marine sites are that conservation objectives and site management plans need to be developed with stakeholders to stand the best chance of being accepted and ensure they reflect what is happening on the ground. Fishermen are best placed to observe seasonal and annual trends in the distribution, size and behaviour of habitats and species of conservation interest. Seafish could help facilitate such discussion and collaboration.

## **5. Site management**

Many fishery and aquaculture management decisions in UK European marine sites over the past five years have ended acrimoniously and led to fishing and aquaculture restrictions, including unacceptable delays and sometimes refusal to grant aquaculture authorizations, and Prohibition Orders on capture fisheries that have discouraged the fishermen from taking any further part in biodiversity protection, probably for many years to come. As mentioned under Stakeholder Engagement, support and compliance from the fishing industry is critical for the success of WAG MPA policy

Demonstrating proportionate use of the precautionary principle, adopting adaptive management techniques, taking account of vessel displacement, and considering how best to mitigate the impact of MPAs on current fishing activities, could improve the

current level of support and involvement from fishermen. These four are described in more detail below:

#### *Proportionate use of the Precautionary Principle*

Advice from the European Court of Justice (C-127/02, September 2004) has provided a very precautionary interpretation of Article 6 of the EC Habitat's Directive, for example on deciding when an Appropriate Assessment is required and the level of certainty required before permitting certain activities following appropriate assessment.

The need to demonstrate 'certainty' that there will be no adverse effect on the integrity of a site, and 'no reasonable scientific doubt' of adverse effect, means that fishery and aquaculture authorities must be 'convinced' that there will not be an adverse effect, and that where any doubt remains as to the absence of adverse effects, the activity must not be authorised. But providing certainty of no adverse effect (proving a negative) can be extremely onerous and even impossible given our current understanding of the marine environment. It has led to obscure concerns being raised by the UK's Statutory Nature Conservation Bodies (SNCB) in EMS which the fishing industry have sometimes found (a) too difficult to answer owing to a lack of information on site features and on the potential impacts, or (b) to have incurred disproportionate time and cost, and as a result has led to good proposals being abandoned.

A 2006 survey of fishing and aquaculture activities subject to environmental Appropriate Assessments in UK European marine sites found 75% of existing fishing and cultivation activities were restricted and 87.5% of proposed activities were restricted or prevented (Lake 2006). A 2007 survey of shellfish farm environmental impact assessments in UK European marine sites (Appropriate Assessments) and SSSIs (for SSSI consent) found environmental information shortfalls incurred time delays of over 2 years for 60% of shellfish farm proposals and delays exceeded 4 years in 20% of cases (Woolmer 2007).

We hope management of Welsh MCZs will be not be hampered by such extreme precaution and draconian regulation, but will ensure that environmental concerns are based on sound judgement and bear scientific or expert scrutiny, adopting a more proportionate use of the precautionary principle based on internationally recognised management techniques such as adaptive management.

#### *Adaptive management*

Given the dynamic and resilient nature of the marine environment, an adaptive approach to managing fisheries and shellfish cultivation, for example agreeing monitoring programs and allowing experimental fisheries under strict guidelines, would be a more reasonable way of interpreting the precautionary principle. At present we do not have (and we may never have) a complete understanding of the marine environment - how it functions and how it copes with anthropogenic effects.

Ecosystem based management advocates an adaptive management approach when faced with uncertainties of both a natural and social nature.

Preventing sustainable fisheries and shellfish cultivation in European sites on grounds of less than perfect knowledge, contravenes European, UK Government and Welsh Assembly Government policies on sustainable development, which is a concept that accepts the need for reasonable trade-offs between environmental and economic goods.

#### *Vessel displacement*

Displacing fishing activity from MPAs could negate the ecological benefits afforded by an MPA network. The effects of fishing pressure displacement can be assessed by combining (i) information on habitat distribution; (ii) predicted change in the spatial distribution of effort following management action; and (iii) predicted impact of fishing on habitat (Jennings 2008).

Jennings (2008) reported on modelling work to assess the effect of MPA designs on biomass, production and species richness of benthic communities at the scale of the management region (which included MPAs and unprotected areas) undertaken by Hiddink *et al* (2006), which demonstrated that '*MPA closures of different sizes and in different locations could have positive or negative effects on the aggregate state of benthic communities*'. In the absence of fishing effort control, Hiddink predicted that the use of MPAs in lightly fished areas would lead to the largest increases in biomass, production and species richness.

The potential consequences of fishing effort displacement highlights the need for a holistic consideration of the benefits and ramifications of MPA designation and management in regional management systems, such as the one proposed in the MCZ project. MPAs that meet local management objectives may not contribute to meeting objectives set at a regional scale (Jennings 2008).

Fishermen's response to fishing effort restrictions in MPAs and knowledge of fishing intensity in a management region are two critical areas of information that can be provided by the fishing industry. Seafish has assisted in the revision of the 'FisherMap' project described above, to help gather such information for the regional MCZ projects in England.

#### *Mitigation measures*

We are encouraged by WAG's commitment to minimise '*any conflicts with different uses of the sea as far as possible* (p14) caused by the designation of MCZs

We believe, where there is good reason to restrict or even curtail current fishing activities following adequate consideration of the socio-economic and wider ecological impacts of doing so, WAGs' assistance in helping fishermen to diversify, and in using fishermen and their vessels for surveying and monitoring sites, should be encouraged.

Diversification is often presented as a viable alternative when an existing fishery is being challenged in an MPA. The ability of fishermen (in terms of skill and cost), the capability of vessels, marketing opportunities and regulations are just some of the issues facing

those considering diversification. Government assistance in shouldering the financial burden of training and guidance on how to deal with novel forms of fishing and aquaculture would make diversification a real option.

Using fishermen and their fishing vessels to collect environmental information in UK MPAs is becoming increasingly popular. Fishermen are working with Natural England to monitor the effects of a no-take zone off Flamborough Head, and Seafish has developed guidelines with the SNCBs on how industry can collect environmental information to inform environmental assessments, particularly in European marine sites where an absence of data can cause delays (as described above).

The Seafish 'environmental data gathering' guidelines were successfully trialled with industry during 2008, informing current proposals for shellfish farm development and management plans for mobile gear fisheries, and are now used by industry and encouraged by the sea fisheries committees. The guidelines are part of the 'Environmental Toolkit' that Seafish has developed for industry. For more information go to: <http://www.seafish.org/b2b/subject.asp?p=326>

Using fishermen in MPAs surveys and monitoring work will ultimately save money by avoiding high vessel chartering costs and photography, and drop-down video techniques assures data quality. It would also help to instill a sense of ownership and responsibility.

## **Conclusion**

Fishermen will be an integral part of both MPA designation and management. Meaningful engagement and information flow is imperative to the success of WAG's MPA policy and objectives. Seafish is currently helping the UK industry to collaborate with MPA work, but in order to ensure that marine biodiversity receives the best level of protection, the fishing communities and fishermen themselves have to be committed to the cause.

Winning the hearts and minds of fishermen will take time, but by nurturing industry's green endeavours and avoiding acrimonious fishing / environmental disputes that have tarnished relations and led to disillusionment and distrust, then our task of delivering WAG's vision for the marine environment: *'Our seas will be clean, support vibrant economies and healthy and functioning ecosystems* will be made easier.

We hope that these comments are useful and we look forward to continuing working with WAG and CCW on MPA policy, designation and management, and helping the industry engage and support this unprecedented plan to protect marine biodiversity. Should you have any questions please do not hesitate to contact either Phil MacMullen or Mark Gray.

Yours sincerely



Mark Gray

(Environmental Assessment Support Officer)

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24 November 2009

Helena Towers  
Marine Branch  
Nature, Marine and Access Unit,  
Department for Environment, Sustainability, and Housing  
Welsh Assembly Government  
Second Floor Cathays Park  
Cardiff  
CF10 3NQ

Dear Ms Towers

### **Consultation on a Strategy for Marine Protected Areas in Wales: Protecting Welsh Seas**

The Severn Estuary Partnership is pleased to see the draft strategy on Welsh MPAs. The Partnership fully supports the Welsh Assembly Government's vision for the marine environment in Wales, as stated in the consultation document. Given our geographic remit our primary interest is in the Severn Estuary European Marine Site. Since we have an active role in the management of a cross-border estuary we also welcome the commitment in the Strategy to work with the Finding Sanctuary project, which covers the English side of the Severn Estuary. The Partnership will also commit to playing its part in the Stakeholder Group to be chaired by the Wales Coastal and Maritime Partnership, contributing experience and advice as necessary, to assist in identifying Marine Conservation Zones in Wales.

In relation to the structure and detailed content of the Strategy though, the Partnership's Management Group feels that the document could go much further. While it states that it identifies the broad steps that the Assembly intends to take and the roles and responsibilities of various organisations it is not clear how the vision will be delivered. (Given our work on the Severn Estuary European Marine Site we understand the legislative process.) Having said that the marine environment will be *valued, understood and respected* it would help if there were indications of the outcomes which the Assembly is seeking in these three areas, as well as actions, milestones, and measures of progress or success. Similar comments apply to the need for targets for *clean seas, vibrant economies and healthy and functioning ecosystems*. While some of these aspects will be delivered through other strategies it is important to set out the overall approach clearly, as MPAs should contribute to all these aspirations.

In many respects the vision seems isolated from the rest of the document, which mainly provides information on procedures. This will render it difficult to monitor the implementation and accomplishments of the Strategy. The Partnership would therefore urge you to look again at this aspect and set out clearly the high level activities and outcomes which the Assembly wants to see, particularly, in this case, in relation to the delivery of its vision for healthy and functioning ecosystems;

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University, Main Building, Park Place, CARDIFF, CF10 3YE  
Tel: 0292098 4713 Email: [xxxxxx@xxxxxx.xx.xx](mailto:xxxxxx@xxxxxx.xx.xx)

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which as stated earlier the Partnership supports. We feel that this is critically important, especially in relation to the guiding role the document should have. As a Partnership we are currently finalising a five year Strategic Business Plan, but in its current form the Assembly's Strategy needs further development if it is to influence our activities and the outcomes we intend to deliver over the lifetime of the plan.

The Severn Estuary Partnership is willing to discuss these issues further should you find it helpful to do so.

Yours sincerely

Jonathan Mullard  
Manager  
Severn Estuary Partnership

## **Response to the consultation on Protecting Welsh Seas – A Draft Strategy for Marine Protected Areas in Wales (Sep 2009)**

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TEL welcomes the opportunity to respond to the consultation on a strategy for Marine Protected Areas in Wales.

TEL is the developer of the DeltaStream tidal stream turbine technology. DeltaStream is a lightweight, gravity based device which has been designed with the environment in mind. TEL has been developing marine renewables for 8 years and is currently awaiting determination of offshore consents for our prototype demonstration site at Ramsey Sound, Pembrokeshire, South Wales.

The potential for climate change and the current energy supply crisis has acknowledged the need for renewables throughout the UK including Wales. Recent policy documents published by the Welsh Assembly Government such as the Wales Renewable Energy Routemap and the Ministerial Policy Statement on Marine Energy in Wales identify that marine renewables should play a significant role in meeting the Assembly's targets for reduction in greenhouse gases and in renewable energy generation to lead Wales on the path to 2025.

TEL supports the recent response to this consultation by BWEA and agrees that the longer term conservation of our seas should acknowledge the current dangers from climate change and there should be an overarching strategy for the sustainable development of marine renewable energy projects.

Much work has been completed (or is ongoing) around the Welsh Coastline regarding the tidal resource that is suitable for marine renewable energy generation. Such documents include the Wales Marine Energy Site Selection (31<sup>st</sup> March 2006), which identifies a number of potential sites for tidal and wave technologies. Commercially available tidal stream resource has been identified around Pembrokeshire, Anglesey, Llyn Peninsula and the Bristol Channel. These sites correlate with those identified in Figure 2 Map of Current Marine Protected Areas in Wales.

TEL considers it important to ensure that the renewable energy generation capability of these areas is considered in the identification process of Marine Protected Areas in Wales and that the environmental and economic benefits of marine renewable technology are considered in the establishment of further environmental designation. The Welsh Assembly Government has identified an aspiration of 1 GigaWatt of marine renewable energy by 2025 (equivalent to over 800 DeltaStream devices). To achieve this it is likely that much of this resource will need to be harnessed from areas which have some degree of environmental sensitivity.

The Environmental Statement for the DeltaStream Prototype in Pembrokeshire identifies that the deployment of the device can coexist with the environmental designation as the device has been designed to reduce its environmental footprint. This being said, TEL would like to see that the development of renewable energy in areas already designated or potentially designated as future MCZ, is considered in the methodologies for management of the sites.

TEL is a Welsh based company and is keen to continue its sustainable business development in Wales, developing sites with significant tidal energy resource around the Welsh coastline.

From: tom.piper  
Sent: 15 December 2009 15:05  
To: Marine  
Subject: Consultation - Marine Protected Areas

Dear Sir/Madam

Consultation on a Strategy for Marine Protected Areas in Wales: Protecting Welsh Seas

This response is on behalf of KIMO UK (Local Authorities International Environmental Organisation). KIMO has no objection to this response being made public.

We fully support the creation of Marine Protected Areas and have long called for their creation to help sustain biological diversity in our seas. We think that the Welsh Governments vision for the Marine Environment could give higher priority to the protection of marine ecosystems, at present higher priority seems to be given to the social and economic value of the resource, perhaps the vision could more closely reflect the ICUN idea of protected areas.

The design principles as detailed in the consultation are good, however we hope that the use of best available evidence will not be used as an excuse to make weak decisions. There are areas of marine pollution such as litter where it is known that there is a major impact but the research and science is in its infancy, this is not an excuse to do nothing about a known problem.

As we are primarily concerned with marine pollution we hope that all available legislative tools we be utilised so that protected areas are free from pollution and that ecosystems are able to thrive in a clean environment.

It is hoped that the MCZ status is used in a robust manner rather than used to claim an area is designated without actually limiting any activities in a protected area. There is a worry that the MCZ designation is not going to be an effective tool.

KIMO are pleased to note that the primary aim of MPA's in Welsh waters will be nature conservation.

KIMO UK is a constituent network of KIMO International, an organisation that consists of 152 coastal local authorities in 14 countries in Northern Europe.

The organisation holds observer status at OSPAR and HELCOM and at IMO (as part of the WWF delegation).

We hope that you can add KIMO to your list of consultees for future consultations regarding marine matters.

Yours sincerely

Tom Piper  
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KIMO UK  
c/o Aberdeenshire Council  
Alford Area Office,  
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AB33 8TY



## Protecting Welsh Seas A draft strategy for marine protected areas in Wales

A response from  
Wales Environment Link

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### 1. Overview

Wales Environment Link (WEL) is a network of environmental and countryside Non-Governmental Organisations in Wales, most of whom have an all-Wales remit. WEL is officially designated the intermediary body between the government and the environmental NGO sector in Wales. It has 30 member organisations, which in turn represent 247,000 subscribing members in Wales. WEL's vision is to increase the effectiveness of the environmental sector in its ability to protect and improve the environment through facilitating and articulating the voice of the sector.

WEL has been campaigning for many years for new legislation to safeguard our seas and are delighted at the passing of the Marine and Coastal Access Act. The Act will provide some long-awaited clarity for the management of Wales' marine environment. We therefore value the opportunity to take part in this important consultation. This response is submitted on behalf of the WEL Marine Working Group, which includes WWF Cymru, RSPB Cymru, Wildlife Trusts Wales, National Trust Wales and the Marine Conservation Society.

### 2. Summary of response

WEL considers that the MPAs discussed in this strategy document will be of central importance for the protection and recovery of Wales' and the UK's marine biodiversity. We therefore welcome the publication of this draft strategy for Marine Protected Areas (MPAs) and are grateful for the opportunity to respond.

We welcome the commitments to building an ecologically coherent network of MPAs which are described in the Strategy. The Strategy provides information about these commitments and the legislation behind the various MPA designations and their management. However, we are disappointed that it does not provide more information on the specific actions to be

taken by the Assembly Government in order to improve the management of existing MPAs and secure robust management of future sites. Greater clarity is also needed on the process to identify Highly Protected Marine Conservation Zones.

We warmly welcome the commitment to designate Highly Protected Marine Conservation Zones (HPMCZs). Although it is not clearly expressed in the strategy, we believe that HPMCZs are intended to play a specific role in Wales' MPA network related to ecosystem function and resilience and would therefore welcome a clear statement of the intended function of HPMCZ in the final MPA Strategy. We believe that the objective of ensuring all of Wales' nationally important biodiversity is adequately protected is equally important, and suggest that further MCZs may need to be designated to achieve this..

### **3. Introduction**

3.1 WEL are pleased to see that the importance of the marine environment is acknowledged at the start of this strategy document, and welcomes the recognition of the important goods and services provided by the marine environment, however we feel this point could have been expanded upon further. We would point out that as well as direct and indirect use values there are also non-use values and option values to consider. Non-use value is the value people will place on knowing something exists, whether or not they use it, and option values are important to demonstrate the need to conserve something for its future use or its value to future generations, including enjoyment. It is important to consider the whole picture and not just focus on those elements that have monetary value.

3.2 WEL strongly supports the Environment Strategy vision for the marine environment of *"...healthy functioning ecosystems that are biologically diverse, productive and resilient, while being sensitively used and responsibly managed."* We also welcome the acknowledgment that the seas around Wales are home to a rich a variety of habitats and species, as this emphasises the central importance of conserving the marine environment and its biodiversity. However, we were surprised to see this referenced so late in the introductory section of this draft Strategy.

### **4. Purpose of This Strategy**

4.1 We welcome acknowledgment of the role that MPAs will play in meeting international and legal obligations.

4.2 This section states the variety of measures that can be used to achieve healthy ecosystems, most notably marine planning. However, little information on what the Assembly Government hopes to achieve through the new marine planning provisions has been made available, therefore it is difficult to see this in the wider context and so difficult to assess how and what marine planning will deliver for wildlife. As such, clarity over the Welsh Assembly Governments (WAG) ambitions in this area would be

welcome. WEL is looking forward to working with the Assembly Government in the development of these plans.

- 4.3 We strongly welcome the recognition (on page 02) of the role that MPAs can play in assisting our marine biodiversity to adjust to changing climatic conditions. It is vital that the important role of a comprehensive and coherent network of MPAs in building the resilience of our marine ecosystems to future climate change is recognised.
- 4.4 We question the sentence, in the penultimate paragraph on page 02, relating to the success of an MPA, which states that the success of an MPA will depend on its *“location, size, level of protection, compliance and most importantly the biology of the species living there”*. We do not agree that the most important factor will be the biology of the species that the MPA is trying to protect –furthermore it should be pointed out that appropriate conservation objectives and effective management will be key factors in influencing the success of MPAs. We welcome the recognition that MPAs may also, incidentally, protect areas of cultural, spiritual and historic value, such as wrecks.
- 4.5 We warmly welcome recognition of the goods and services that we expect from the marine environment, underpinning the many economic and social uses of the coast and sea. It is crucial that the Assembly Government communicate this aspect of the value of MPAs as it takes forward the delivery of this strategy. It is of vital importance to the Welsh economy that we maintain a productive and sustainable marine environment, though as before, we would like to see a clearer list of all of these goods and services.

## 5. Aim

- 5.1 WEL strongly supports the commitment to establish an *“ecologically coherent”* network of well-managed sites, now underpinned by the Marine and Coastal Access Act 2009, along with the recognition of the need to allow recovery of marine biodiversity and ecosystems. However, we believe it would be more appropriate to refer to the network *‘allowing biodiversity and ecosystems to recover’* rather than to *‘enhance biodiversity and ecosystems’* as recovery in the marine environment is likely to be due to natural processes rather than human intervention.
- 5.2 We share the view of the Assembly Government, that the network should be well understood and supported by all stakeholders. We would like to seek clarity over the ‘marine objectives’ mentioned. If these are distinct from the High Level Marine Objectives, then further information on how and when they will be developed would be welcome.

## 6. Scope

- 6.1 The Assembly Government’s commitment to working closely with the UK Government, statutory advisors and non-statutory stakeholders is warmly welcomed, as is the participation of the WAG in the Finding Sanctuary Project and the Irish Sea

Conservation Zone Project. We would welcome a commitment to the development of Memoranda of Understanding between the different bodies and the publication of these documents.

- 6.2 We note that there is no reference to the recently published Defra Draft Strategy for Marine Protected Areas, and feel it would be useful to set out how this document relates to that strategy.

## **7. Timeframe**

- 7.1 WEL welcomes the acknowledgment of the international and national-level commitment to establish an ecologically coherent UK network of MPAs by 2012, and the requirement to report on progress, in 2012, to the National Assembly for Wales. We welcome the commitment under OSPAR to designate an ecologically coherent network of well-managed sites by 2010, although note the absence of mention of this date from the consultation document, along with the WSSD commitment to establish a network of sites by 2012. However, we note that the acknowledgement (on page 05) that further site designation may be necessary beyond 2012, would suggest that the Assembly Government are unlikely to meet the WSSD target date fully. We feel that the tone of language used in this section is unambitious and WAG should be making every effort to meet the full extent of international obligations.
- 7.2 We appreciate that the identification and designation of sites is only the start of the process - success of the network will depend on sustained effective management. Although a well-managed network should be in place by 2012, we believe it is very important to recognise that 2012 should not be an absolute cut-off date beyond which all work on the MPA network should cease, as new information is likely to become available after this date. However, this should not detract from the urgent need to get a network in place by 2012 on the basis of best available information. We strongly support the suggestion that the Minister's report in 2012 may identify the need for further action beyond completion of the HPMCZ project, including further designations if Wales' important biodiversity is not sufficiently protected, and if this is the case we hope these designations will be progressed with urgency. In particular, we believe the project to identify HPMCZs might gather information that indicates the need for further designations of MCZs.
- 7.3 We anticipate that new information and data will be become available in the following years that might make it possible or necessary to extend the network to include new sites. Therefore, adaptive management should be an important feature of the network. In addition, as mentioned previously, in section 4.3, this ongoing review and associated changes in management will be vital to climate change adaptation measures. Climate change adaptation must also be built into the characteristics of the network, e.g. through connectivity and the distance between sites.

## 8. International and Legislative Measure

- 8.0.1 As mentioned in section 7.1 of this response, WEL has welcomed the UK's international commitments in relation to MPAs [OSPAR 2010, WSSD 2012]. As noted previously, we believe the wording of the strategy signifies a lack of ambition from the Assembly Government that we do not expect to see in an MPA strategy document.
- 8.0.2 The strategy identifies international and national legislative commitments and obligations that relate to the protection of marine biodiversity. However it fails to mention the Natural Environment and Rural Communities (NERC) Act 2006, whereby there is a duty on WAG to further the conservation of biodiversity, and on all public authorities to have regard to the purpose of 'conserving biodiversity', and where conserving biodiversity includes 'restoring or enhancing' that biodiversity. We see the MPA network as a clear mechanism for WAG to deliver its biodiversity commitments, and believe this should be reflected in the Strategy.

### 8.1 Marine Strategy Framework Directive (MSFD)

- 8.1.1 We would question this section of the strategy. The current consultation on the MSFD<sup>1</sup> states that this article requires the Secretary of State, the Scottish and Welsh Ministers and DoE in Northern Ireland to publish, by 31 December 2015, separate programmes of measures to achieve or maintain GES. Regulation 15(3) implements a specific requirement of the Directive that the measures should include the establishment of marine spatial protection measures, which the UK expects to implement through the Marine Conservation Zones proposed in the Marine and Coastal Access Bill and the Marine (Scotland) Bill, via the proposed Northern Ireland Marine Bill and via Natura 2000 sites designated under the Habitats and Birds Directives. Information about spatial protection measures must be made available by the relevant competent authority by 31 December **2013**. We suggest this section should be amended to reflect this.

### 8.2 Marine Conservation Zones (MCZs)

- 8.2.1 WEL is very pleased that the Marine and Coastal Access Act 2009 has introduced MCZs. However, we are concerned at the reference to them as a tool to protect "*nationally important, rare or threatened marine habitats or species*". We would point out that the duty to designate MCZs is not just to protect rare or threatened species and habitats, but rather to create an ecologically coherent network, composed of well connected sites that represent the range of features in our seas. This section should be amended accordingly, to include the term 'representative' to accurately reflect the wording of the Marine Act, as reflected in the list of network principles.

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<sup>1</sup> Defra, 2009, *Consultation on the Marine Strategy Framework Directive: Putting in place the legal framework for implementation*

- 8.2.2 WEL notes that the strategy document states clearly that MCZs can be established with “*varying levels of protection*”. While we agree that it is appropriate for different levels of restriction to apply to different activities at different sites, based on the conservation objectives for the site, we believe that there should be a presumption for every site that any or all activities that might damage the site or hinder the achievement of conservation objectives, should be appropriately managed to ensure that all the features for which the site is designated will be protected.
- 8.2.3 We welcome that the strategy reflects the wording of the Marine Act, which allows rather than requires Welsh ministers to take account of socio-economic criteria [when choosing to designate MCZs]. We note that the Marine Act refers to socio-economic *consequences* rather than *criteria* and we believe the strategy should be amended to accurately reflect this wording. We firmly believe that this power should only be used when deciding between sites of equal ecological importance. The wording of this section of the Act was much debated in passage through the Houses of Parliament, and strong assurances were received from the UK Government that science would be the primary consideration in designation of MCZs. In a letter to WEL’s sister body Wildlife and Countryside Link (WCL – appended to this response) the Defra Minister Huw Irranca-Davies stated, “...*science will be the first consideration in the selection process. When considering potential MCZs, only when the ecological requirements of the network would be met in such considerations, will the Regional Projects be able to consider whether, and if so how, to factor in socio-economic considerations to their decision making process*”. This letter has been deposited in the House of Commons library. We would request a similar commitment and level of clarity from WAG.
- 8.2.4 We strongly welcome the confirmation (on page 08) that Skomer will become Wales’ first MCZ, and would seek assurances that the continual monitoring of this site will remain and that the level of protection afforded to the site will be maintained or improved. We would welcome clarification as to when this will happen and confirmation as to who will be responsible for the management, policing and monitoring of this important site once it has been designated as an MCZ.

## **9. Developing the MPA network**

### **9.1 Design Principles of the MPA Network**

- 9.1.1 We welcome the section setting out the network design principles that will underpin the creation of an ecologically coherent network of sites. We note that it will be important to measure how far the network meets each of these principles and we would welcome WAG’s views on how this will be achieved.
- 9.1.2 In particular, we welcome the point on protection, which states that the network should include a range of protection levels, including “...*highly protected sites...*”. We therefore welcome the commitment throughout this draft strategy to designate some highly protected sites as a key part of the MPA network. We believe WAG’s

ambitions should be to designate as many highly protected sites as are needed to deliver an ecologically-coherent and well-managed network of MPAs.

- 9.1.3 Furthermore, we were pleased to see the point on best available evidence with its implicit reference to the precautionary approach stating that a lack of scientific certainty “*should not be a reason for postponing decisions on site selection*”. Nevertheless, we would like to see this implicit reference expanded upon, and the precautionary principle included as an essential principle underpinning the designation of the network.
- 9.1.4 The design principle ‘replication’ currently only applies to ‘major habitats’. We believe this should be amended to apply to **all** habitats.

## 9.2 Improving Management and Coherence of the MPA Network

- 9.2.1 We are pleased that the strategy document has identified some of the steps that WAG sees as necessary to improve the management of existing and new sites. However, we see the fact that the strategy does not reflect on the condition of existing sites, or Wales’ biodiversity more widely, as a key omission. CCWs 2006 report ‘Implementing the ecosystem approach in Wales’<sup>2</sup> indicated that roughly 60% of features in marine sites are likely to be considered as in unfavorable conservation status, which was largely attributed to the insufficient level of control over damaging human activities. Acknowledgment of this is necessary to accurately represent the current situation in Welsh waters and thereby make the case for actions to improve management or for further designations (including designation of highly protected MCZs). This in turn will help to improve understanding among stakeholders and manage expectations.
- 9.2.2 The first bullet point on page 13 identifies that existing MPAs (mainly EMSs) are limited in terms of the species, habitats and areas that they can protect. We agree this is a crucial point but suggest it is clearly distinct from the second bullet point which commits WAG to adding some HPMCZs to the network. WEL strongly welcomes WAG’s commitment to HPMCZs. However, we believe there is a risk that the focus on HPMCZs may mean that the first bullet point is not fully addressed. While EMSs may represent the most important areas for biodiversity in Welsh waters, if they do not provide protection for all of the biodiversity that occurs within them, MCZ designations (potentially overlapping with EMSs) may be required to address these gaps. WEL commissioned a report by MarLIN ‘Protecting Nationally Important Marine Biodiversity in Wales’<sup>3</sup> to investigate whether nationally important biodiversity does in fact benefit from occurring within EMSs, even if not explicitly a qualifying feature. Unfortunately, the report could not answer this question and

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<sup>2</sup> Dernie, K.M, Ramsay, K., Jones, R.E, Wyn, G.C., Hill, A.S., & Hamer, J.P. 2006. *Implementing the Ecosystem Approach in Wales: Current status of the maritime environment and recommendations for management*

<sup>3</sup> Jackson, E.L., Langmead, O., Evans, J., Ellis, R. & Tyler-Walters, H. 2008. Protecting nationally important marine biodiversity in Wales. *Report to the Wales Environment Link from the Marine Life Information Network (MARLIN)*. Plymouth: Marine Biological Association of the UK

instead detailed some worrying case studies where EMS management was failing to protect even the qualifying features. We suggest WAG needs to look into this question, as part of more work to identify the protection needs of Wales' nationally important marine biodiversity and ensure the MPA network can deliver these needs.

- 9.2.3 Although it is not very clearly expressed in the strategy, WEL believes that HPM CZs are intended to play a specific role in Wales' MPA network related to ecosystem function and resilience - thus they may not, on their own, address the first bullet point. We would welcome a clear statement of the intended function of HPM CZ in the final MPA Strategy. Furthermore, we seek a commitment that WAG will use the data gathered for the HPM CZ project to help identify further protective needs and designate further MCZs if/where necessary.
- 9.2.4 Notwithstanding the comments above, we would re-emphasise that we **strongly welcome and support WAG's commitment to designate a number of HPM CZs**. We agree that HPM CZs can offer considerable benefits, such as those noted, and are a vital component of a successful MPA network. Again, we feel it would be useful to detail clearly within this strategy document the intended role of HPM CZs, otherwise it is difficult to understand how they will contribute over and above the existing EMSs.
- 9.2.5 WEL welcomes the acknowledgement of the need to improve the coordination of management of MPAs in order to deliver both site and network level objectives as well as broader biodiversity targets. However, in order for these steps to be effective it is essential that WAG addresses the fact that management of these sites is currently not always effective.
- 9.2.6 We also welcome the commitment to better application of existing legislation and new tools. We would suggest that this should be strengthened to a **clear commitment to improve** the management of MPAs on a site-by-site as well as on a network level. While the strategy identifies the new tool of Conservation Orders, WEL believes that better application of existing legislation is key. The recent MARLIN report, 'Protecting Nationally Important Marine Biodiversity in Wales'<sup>4</sup>, commissioned by WEL, looked at a number of case studies which highlighted instances where the Habitat Regulations had apparently not been applied correctly by some of the competent authorities concerned. For example, the report highlighted a number of instances where there was disagreement between a competent authority and CCW over the application of the Regulations, often due to differing interpretations of terms and responsibilities, or where there was apparent confusion over the requirements of the Regulations. As a result of the Regulations not being applied properly, damage to site features had occurred without adequate assessment or consideration of potential compensatory measures. The report recommended that WAG should urgently provide guidance and training for competent authorities on

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<sup>4</sup> Jackson, E.L., Langmead, O., Evans, J., Ellis, R. & Tyler-Walters, H. 2008. Protecting nationally important marine biodiversity in Wales. *Report to the Wales Environment Link from the Marine Life Information Network (MARLIN)*. Plymouth: Marine Biological Association of the UK

many aspects of the Habitat Regulations – a recommendation which has recently been repeated by the Marine Ecosystem Group established under the Welsh Biodiversity process. Among other things, this training should promote co-ordination between competent authorities to ensure the full impacts of developments can be considered, especially where projects span the marine/terrestrial divide.

- 9.2.7 We welcome the affirmation that the primary aim of the network will be nature conservation, and not to protect or restore commercially important fish stocks for enhanced commercial exploitation, although we agree that an operative MPA network may have indirect benefits on spawning and nursery grounds and that commercially important fish stocks form an important part of an ecosystem as a whole.

### 9.3 Selection of Additional MPAs

#### 9.3.1 Marine Conservation Zones

- 9.3.1.1 As mentioned previously throughout this response we applaud the commitment to designate a number of HPMCZs.

- 9.3.1.2 It is stated that HPMCZs will be protected from the extraction and deposition of living and non-living matters and all other damaging or disturbing activities. We would welcome further information on what will be classed as damaging and disturbing activities.

- 9.3.1.3 Page 15 of the strategy states that it is likely that most HPMCZs will be found within existing EMSs. We would stress the importance of ensuring that the network design principles are met. It may be that achieving, for example, connectivity in the network requires the designation of sites outside of the existing EMSs - it is vital that this is not pre-judged.

- 9.3.1.4 WEL would caution that HPMCZs must not be used to mask failure in implementation of the Habitats Directive to protect EMS qualifying features. The Habitats Regulations should provide the tools to achieve this, and if they do not it is doubtful that super-imposing another designation will solve the problem (particularly as public bodies' legal responsibilities in relation to MCZs are similar to those relating to EMSs). A better explanation in the Strategy of the intended purpose of HPMCZs would help set our minds at rest on this point.

### 9.4. Guidance for Identifying, Selecting and Designating MCZs

- 9.3.2 This section states that WAG has been working with Defra to prepare a range of joint guidance documents. We believe that the publication of draft guidance to sit alongside the Marine Act is very useful, however only three of the four documents that have been published are mentioned here. We look forward to providing full

comments on all four guidance notes when they are republished. We have attached our initial comments on this guidance in ANNEX 1 of this response.

- 9.3.3 We note that the second version of Guidance Note 1 (published earlier this year) made less mention of HPMCZs than the original, and would ask whether WAG is content that the guidance is up to the job of supporting designation and management of HPMCZs.

## 10. Managing the MPA Network

- 10.0.1 WEL strongly supports the Wales Environment Strategy target that sites of international, Welsh and local importance will be in favourable condition by 2026. It is essential that this is applied to MPAs in addition to terrestrial sites. We would note that the creation of an ecologically coherent network of MPAs should also contribute to the Environment Strategy target that the recovery of biodiversity will be underway by 2026.

### 10.1 European Marine Sites

- 10.1.1 We welcome the commitment that “plans or projects will generally not be licensed or permitted if appropriate assessments cannot conclude that operations would have an adverse effect on the integrity of the site.” However, we would suggest that the second sentence should be amended to read “The exception is where in the absence of an alternative, the plan or project, is declared to be necessary for imperative reasons of overriding public interest. In these case, compensatory packages must be developed to offset damage to the site and to ensure the coherence of the Natura 2000 network.” (emphasis added)
- 10.1.2 Article 6(2) of the Habitats Directive requires Member States to take steps to avoid, in SACs and SPAs, the deterioration of habitats and the disturbance of species for which the areas have been designated. Guidance published by the European Commission<sup>5</sup> makes the following points:
- It is not acceptable for Member States to wait for deterioration or disturbance to occur before taking action;
  - Member States should take all the appropriate actions which may reasonably be expected to ensure there is no significant deterioration or disturbance;
  - These requirements apply to activities which do not require prior authorisation (i.e. not *plans or projects* to which Article 6(3) applies), and to past, present or future activities.
- The requirements of Article 6(2) should be made clear in the final MPA Strategy.
- 10.1.3 WEL welcomes the introduction of conservation orders, under the Marine and Coastal Access Act, to manage harmful activities that would otherwise be

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<sup>5</sup> European Communities, 2000. Managing Natura 2000 sites – the provisions of Article 6 of the “Habitats” Directive 92/43/EEC

unregulated, but it must be recognised that this is only one small aspect of ensuring sites are managed appropriately, and the strategy should also take account of other regulatory measures such as fishery orders, licensing, Habitat Regulations etc. We would reiterate our point in section 9.2.6. of this response, regarding the urgent need for proper application of the Habitats Directive in all existing and new EMSs.

## 10.2. Sites of Special Scientific Interest

- 10.2.1 WEL welcomes the fact that coastal and intertidal SSSIs are included as part of the MPA network. Coastal ecosystems function along a continuum that spans both the terrestrial and marine environments. Puffins nesting on cliffs and feeding at sea, and seals hauled out on beaches and feeding in adjacent waters, being just two iconic examples. A recent report '*Planning at the Coast*' 2005, commissioned by the Environment Agency, Natural England, the National Trust and Countryside Council for Wales stresses the importance of ensuring that valuation of ecological interest features and management prescriptions are consistent across the two planning systems (marine and terrestrial). This is highly relevant to planning for protected area management.

## 10.3. Marine Conservation Zones – proposed Management Regime

- 10.3.1. The second paragraph of this section states that the relevant authorities will have a duty to undertake their functions in a way that will "*further...site conservation objectives*". We would suggest that this should be amended to read "*best further...site conservation objectives*" (emphasis added) as per the wording of the Marine Act.
- 10.3.2. We welcome the recognition in paragraph 3 that bodies will need to take positive measures to control damaging activities as well as introducing restrictions on activities. The Strategy should make it more clear that public bodies will be required to take proactive steps to avoid damage to MCZs, and should better reflect some the tools they will have to use to achieve this, e.g. fishery orders, conservation orders refusing consents or attaching conditions to consented plans or projects. The letter from Huw Irranca-Davies MP to WCL, appended to this response, provides some explanation of how byelaws (equivalent to conservation orders and fishery orders in Wales) should be used proactively by the Marine Management Organisation and the Inshore Fisheries and Conservation Authorities to protect MCZs in English waters. It would be helpful if WAG could provide equivalent information in this Strategy.
- 10.3.3. The text in the fourth paragraph of this section states that guidance will be prepared to assist decision makers when considering applications for potentially damaging activities. We would emphasise that decisions about acceptable impacts must be taken very carefully and always with care not to undermine conservation objectives for the network as a whole. We would be grateful for clarity over who will prepare this guidance - will it be WAG or CCW?
- 10.3.4. The penultimate paragraph on page 18 states that CCW is considering how conservation orders may be used to achieve appropriate management within an

MCZ. We welcome this consideration of the use of conservation orders but would reiterate our previous point (section 10.1.3) that conservation orders apply only to otherwise unregulated activities and are therefore just one tool out of several that could and should be used to achieve effective site management. The contribution that other measures such as licensing, fishery orders etc will make to achieve appropriate management within an MCZ must also be acknowledged.

- 10.3.5. We welcome the WAG commitment to pursue introduction of fisheries management measures in areas where foreign vessels have historic rights, as well as the commitment to work closely with other European Member States or the European Commission itself concerning these matters. It will also be important for WAG to work with the UK Government to secure appropriate fisheries management in MCZs in Welsh offshore waters through the EU.

### 10.3. Surveillance and Monitoring

- 10.3.1. WEL welcomes the reference to the contribution “*effective surveillance and monitoring*” can make to the aim of providing an “*ecologically coherent and well managed*” UK network of MPAs.
- 10.3.2. Monitoring will be key to assessing and adapting management necessary and to demonstrating biodiversity benefits of protecting MCZs. More information would be welcome on the rolling programme of monitoring and surveillance for all sites current and future in Welsh waters– how and when will this be developed and implemented? And who will be responsible for this?

### 10.4. Enforcement

- 10.4.1. WEL welcomes the recognition of the need for a more stream-lined approach to enforcement in the marine area, we therefore welcome the introduction of Marine Enforcement Officers who will have access to a unified set of common powers. It is stated (on pg 20) that this Marine Enforcement Team will sit within the Welsh Assembly Government, and we would welcome more information on this Team and current plans for resourcing it. It is unclear whether this Team will be developed within the Assembly’s current resources or whether additional resources will be made available. We would see adequate resourcing, both in terms of staff and budget as key to its success.
- 10.4.2. We would welcome further information on whether this Team will also enforce licensing conditions, fishery orders and so on, which are equally as crucial to the protection of MCZs and the wider marine environment.
- 10.4.3. We note that the first paragraph of page 20 states that Marine Enforcement Officers will be the primary enforcers of conservation orders and of the general offence of “*deliberately*” damaging protected features of an MCZ. This should be amended to “*intentionally or recklessly*” to accurately reflect the final wording of the Marine Act.

11. **Annex – Governance Process for \identifying Marine Conservation Zones (MCZs) in Wales**

- 11.1.1 It is not clear why the information on the process for identifying HPMCZs has been provided as an annex rather than as part of the main strategy document. We see this process as core to the delivery of the strategy, and are disappointed that this consultation does not represent a formal opportunity to comment on it.
- 11.1.2 Key to the success of the MPA strategy – including the HPMCZ process - will be development of a suitable public engagement strategy, as a significant challenge remains to ensure that all relevant members of the public are engaged. We therefore believe the Strategy would benefit from a specific section on public communication and awareness-raising. This should be part of a broader programme of work to raise public awareness of marine conservation.
- 11.1.3 We note that the Annex is ambiguous in terms of the role of the stakeholder group in the process. While this role has been clarified to some extent through meetings of the WCMP sub-group, it is imperative that this be communicated more clearly to the wider stakeholder community and the public.

**ANNEX 1: Wildlife and Countryside Link & Wales Environment Link response to draft guidance notes on MCZs – September 2008**

Please see e-mail attachment

**ANNEX 2: Letter to Wildlife and Countryside Link from Huw Irranca-Davies MP – October 2009**

Please see e-mail attachment

## **WILDLIFE AND COUNTRYSIDE LINK AND WALES ENVIRONMENT LINK RESPONSE TO THE DRAFT GUIDANCE NOTES FOR MARINE CONSERVATION ZONES**

**SEPTEMBER 2008**

### **Introduction**

The Wildlife and Countryside Link (Link) Marine Task Force<sup>1</sup> and Wales Environment Link (WEL) Marine Working Group<sup>2</sup> are coalitions of environmental voluntary organisations, united by their common interest in the conservation and enjoyment of wildlife, the countryside and the marine environment.

Link and WEL welcome the publication of the three draft guidance notes for Marine Conservation Zones (MCZs) by DEFRA and the Welsh Assembly Government (WAG). Since they were published quite far into the consultation period for the draft Marine Bill, we were unable to take full account of their content in our response to the draft Bill consultation. We would therefore like to take this opportunity to comment in more detail on the published guidance<sup>3</sup>.

We were pleased to see many positive principles included in these guidance notes, including firm commitment to an ecologically coherent network of Marine Protected Areas (MPAs), including European Marine Sites (EMSs) and MCZs; and also the inclusion of highly protected sites within the network, and good principles for network design. It was also encouraging to see recognition of the concept of managing in the face of uncertainty, and the precautionary principle. However, we were concerned by the lack of ambition for protection of MCZs implied by the language used in places throughout these guidance notes. In particular, repetition of the intention to avoid placing a burden on public authorities raises concerns about the strength of the imperative to protect MCZs.

We believe that detailed guidance on the implementation of Part 4 of the Marine Bill is essential to fill in gaps and answer questions raised by the Bill itself. It is vital that the processes of selection, designation and management of sites are explained clearly, leaving no confusion about what is required. We feel that, at present, the guidance notes do not go far enough towards providing this detailed guidance, and that much more information must be included before they can fulfil their role of guiding the implementation of Part 4 of the forthcoming Marine Act. We hope that it is Defra/WAG's

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<sup>1</sup> This response is supported by the following members of the Wildlife and Countryside Link Marine Task Force: Buglife – The Invertebrate Conservation Trust, Marine Conservation Society, RSPB, The Wildlife Trusts, Whale and Dolphin Conservation Society and WWF – UK.

<sup>2</sup> Wales Environment Link Marine Working Group includes the following member organisations: Marine Conservation Society, RSPB–Cymru, The National Trust, Wildlife Trusts Wales and WWF–Cymru.

<sup>3</sup> In addition, we would like to suggest that guidance notes would be particularly useful for some other areas of the Bill such as Part 2 on the development of Marine Plans.

intention to work on these guidance notes to provide that further detail before it becomes necessary, and would welcome any further information about the plans for the future development and use of these documents.

### **Comments relating to amendments to the draft Marine Bill**

Some of our comments on the guidance reflect the changes that we would like to see made to the Bill itself, as amendment to the Bill would require redrafting of these guidance notes. Key points are as follows:

- Site selection and designation – we would like the Bill to include a duty to designate sites in line with a clear statutory purpose for the overall network of sites. We believe that sites should be identified on the basis of scientific evidence only, and that socio-economic factors should not be considered at the identification stage of the process;
- Public authority duties - We would like to see the role of the statutory nature conservation bodies (SNCBs) increased so that the public authorities are required to consult SNCBs when making decisions about their own activities' effects on MCZs, or the effects of any decision they might make;
- Conservation orders – we believe that it should be possible to use conservation orders to protect any MCZ, not just those within 12nm of the shore. We would also like breach of a conservation order to be an automatic offence, rather than this having to be stipulated in each order. We also believe there should be a general offence of damaging a MCZ.
- We believe that there should be a statutory duty on the SNCBs to monitor and report on site condition, achievement of site conservation objectives (including the site's contribution to the coherence of the overall network) and, on a wider scale, fulfilment of the purposes of the network.
- We believe that clause 143 of the Bill should apply to Wales and therefore the guidance provided should also apply to Wales.

Please see our response to the draft Bill consultation for any further detail on these points and others.

It is essential that appropriate revisions are made to the guidance notes following any changes which are addressed in the Marine Bill as adopted by Parliament, such as recommendations from the Joint Committee or representations from consultees.

### **Comments relating to the need for additional guidance/information**

The guidance documents themselves mention several other guidance documents and research reports that we are told will become available to the public. It would be useful to see a summary of further documents that Defra/WAG expect, and when these products might be available. We feel that it would be helpful to ensure that all related guidance is collated, so that public authorities and individuals find it easier to access and use. Specific examples include:

- Note 1 suggests that Defra and WAG will arrange for relevant physical, biological, and socio-economic data to be collated and made available to the regional MPA selection projects and the Welsh national Highly Protected Marine Reserve (HPMR) project (via the SNCBs – 5.7). We would be interested to know

how Defra/WAG plan to deliver this work, and what datasets will be used in the compilation of this information.

- The guidance goes on to say that “appropriate criteria and measures of success” will be defined for the MPA network, so that it will be possible to assess whether or not Government is succeeding in working towards the overarching vision. This is welcome news, but we would like confirmation of when these criteria and measures of success will be defined, and by whom.
- It is stated that the SNCBs are expected to issue further guidance to the individual regional projects on how to determine which sites might justify being highly protected sites (Note 1, 5.15). This is welcome, and particularly important in Wales where the initial focus will be on identifying HPMRs. We would recommend including this information in an amended version of the present guidance note so as to reduce confusion.
- Note 1 also refers to separate draft guidance on overlap between MCZs and terrestrial sites. To the best of our knowledge this is not yet available, and we would welcome information on its current status and intended publication details.
- Note 2 does not deal with the duty of IFCAs to further the conservation objectives of MCZs (clause 143) – with the implication being that the application of this duty would be covered in specific guidance for the IFCAs (2.3). However, we feel that it would be more useful to refer to the duty in this guidance note, to provide full and coherent guidance on how duties affecting public bodies will contribute to the protection of MCZs.
- Note 2 also suggests that further guidance will be issued by the SNCBs on the general duty (clause 109) on public bodies and circumstances in which they might be required to notify the SNCB of potential damage to an MCZ (4.5). We would again argue that it would be useful to collect all this guidance in one place so that authorities do not have to refer to a plethora of different documents in order to carry out their duties towards MCZs.
- One general point that applies across the three guidance documents is the level of detail provided, and the proposed future development of these documents. We would query what the lifetime of these documents is planned to be. If they are going to exist beyond the consultation on the draft Marine Bill to form the guidance for future years for implementation of the network, then they need much more detail than they offer at the moment. They do not yet contain enough detail to allow them to be used in conjunction with the new legislation, to work as guidance for the whole MCZ designation and implementation process.

### **Detailed comments on the draft guidance notes**

#### **Note 1 – points of support**

- We are pleased to see the reference to a vision of a “strong, ecologically coherent and well managed” UK MPA network (2.1-2.2) comprising both EMSs and MCZs. We believe that the vision should be “a strong, representative, ecologically coherent and well managed” UK MPA network. We recognise that representativity is included as a principle for the design of a MPA network. However, if the intention is to provide some level of protection for the full range of biodiversity in UK waters, as we believe it should be, then it is important to include “representative” in the description of the network as “ecologically coherent” does not automatically cover protection of the full range of biodiversity.

- We welcome the principles for network design set out in section 4, and the outline of ecological considerations in the identification and selection of individual MCZs (5.3 – 5.7). However, we would argue that there needs to be much more detailed treatment of these principles and considerations before this guidance is useful in the implementation of MCZs.
- We also welcome the principle of progressing with site designation even in the absence of scientific certainty and comprehensive knowledge of the marine environment. We agree that broadscale habitat representativity is an important basis for setting up a viable network in the absence of large amounts of detailed data. Research has shown that broad habitat types can be surrogates for wider biodiversity, and can be used in MPA planning. This does not preclude the inclusion of specific habitats, species or sites where the data is available to justify their inclusion in the network. Note 1 acknowledges that more data than is currently available will be necessary in order to identify the full network and set appropriate conservation objectives for each site (5.5, 5.6) and that further survey work might be necessary to deliver these data. It is also noted that such survey work “may not always be practicable within the timescales of the regional projects”, and that best available evidence should be used in the absence of full knowledge. Whilst we believe that the UK government and devolved administrations must dedicate significantly more resources to collecting new marine data, we support the approach put forward here as we would not like to see the designation of sites held up by a lack of data.
- We welcome the recognition of the need for regional approaches to the identification of MCZs and the development of the MPA network (3.4 – 3.6). Inevitably a number of MCZs will span administrative boundaries and particular care should be taken to ensure a seamless approach.
- In relation to the development of detailed guidance on what is meant by an ecologically coherent network (3.3) and further development of the principles for the design of the MPA network (section 4), it would be advisable to review the BALANCE Project being undertaken in the Baltic Sea (funded by EU Interreg III). In particular, Interim Report No. 25 “Towards an Assessment of Ecological Coherence of the Marine Protected Areas Network in the Baltic Sea Region. Piekainen, H, and Korpinen, S. (eds), 2008. We note that OSPAR has also done some work towards identifying how to assess network coherence.
- We particularly welcome the recognition of the need to develop a resilient network (4.3) respecting the need of the ecosystem to be able to respond to climate change and other stresses and to optimise the management of carbon in the marine environment.
- The principles set out in section 5 for the identification and selection of MCZs are fundamental to the delivery of international commitments as well as to the development of an ecologically representative network.
- We welcome the mention in 5.4 of the OSPAR, BAP, NERC, Wildlife and Countryside Act and NIMF lists, and further welcome the fact that “important species and habitats” will not be limited to these lists only (as, for example, the NIMF list does not represent seabirds). We would welcome further information on the role these lists will play in informing design of the network, and assessing when it is “comprehensive”.
- We welcome the recognition (5.5) that lay knowledge is of value alongside best available science and expert advice.

- We are encouraged to see the many references made in Note 1 to highly protected sites (or HPMRs – 5.12 – 5.15). We believe that it is essential that any MPA network contains some highly protected sites where marine biodiversity can recover. We agree with the statement (7.12) that highly protected sites will be useful in providing a benchmark of what habitat/feature condition might be in the absence of damaging human activity, and will therefore act as “critical reference areas” that will help judge whether or not Government policy delivers true sustainable development.
- We are pleased that WAG has committed to a network of HPMRs in Wales. Although 32% of Welsh Territorial Seas are protected, many of these sites are deteriorating and the management is focused on qualifying features, thus excluding much nationally important biodiversity. We believe that HPMRs are an important first step to securing benefits for marine biodiversity in Wales but that other management tools will be required. Therefore, we welcome the statement (5.14) that the initial focus on HPMRs in Wales will not preclude the selection of MCZs with other levels of protection. We consider it essential that the MCZ mechanism is used as comprehensively as necessary to protect Wales' nationally important biodiversity.
- We are pleased to see the recognition given to the need to draw boundaries wide enough to encompass future changes in features, allowing the migration of mobile features / habitats, and the recognition that boundaries might need to be revised in future years (5.30).
- We strongly welcome the reference to the identification of management implications for MCZs (7.13).
- We welcome the recognition in 7.22 that monitoring of sites will be necessary to assess the overall condition of the site and the network and ensure that conservation objectives are appropriate.

#### **Note 1 – points of concern**

- In the Vision for the UK MPA network (paragraph 2.1), care should be taken to ensure that the guidance does not imply that the recovery and protection of the richness of our marine wildlife and environment will be delivered solely through the MPA network. While this is an absolutely fundamental component of recovery and protection, other conservation measures will still be needed beyond the MPA network.
- Paragraph 2.2 refers to the need to “improve” biodiversity. We would suggest that reference should instead be made to the “recovery” of biodiversity.
- As mentioned above, we are pleased with the commitment to achieve an ecologically coherent network across the UK and that Defra and the Devolved Administrations are working with SNCBs to produce guidance on this (3.3). However, it would seem illogical to produce regional guidance on MCZs when the consultation recognises that the detailed guidance on what is meant by a UK ecologically coherent network has yet to be developed. We believe that Defra and the Devolved Administrations should publish guidance on this as soon as possible to direct the guidance of regional and national MPA projects.
- Paragraphs 3.4 and 3.5 explain that regional projects to identify potential MCZs are and will be taken forward for English and adjacent offshore waters, and separately in Welsh territorial waters. We urge WAG and CCW to work closely with the other agencies to ensure Welsh territorial waters are not considered in

complete isolation from adjacent waters, which could jeopardise wider coherence.

- While we appreciate the importance of the stakeholder-focused regional projects, we are concerned that these paragraphs say very little about leadership and quality control. We believe that scientific input to initial site selection, assessment of stakeholder proposals against network principles, and a clear indication of how matters will be resolved where consensus cannot be achieved are essential elements of guidance that appear to be lacking at present.
- While we recognise the value of meeting the aims laid out in section 3, it is essential that it is recognised that the identification of potential MCZs within the MPA network is based on scientific criteria. The primary consideration in the selection of sites for designation should be their role in supporting ecosystem function and protecting biodiversity and establishing the coherence and connectivity of the ecologically representative network or contributing to wider ecological coherence. It is vital that the overall coherence of the network is not compromised.
- We urge caution over the commitment to a consensus approach (3.7) as this approach has had mixed success in the past. In some cases it has led to stalling of initiatives, failure to complete the network originally envisaged and failure to meet the objectives of the network. On occasion tough decisions will need to be made and designation without consensus will be necessary.
- The language used throughout Note 1 offers some cause for concern, in particular the repetition of the statement that MCZs must be selected without causing unnecessary economic or social impacts (e.g. 5.18). Similarly, we cannot agree with the suggestion that conservation objectives should be set, and site boundaries drawn, so as to reduce conflicts and avoid incompatibility with ongoing activities (5.20). It is our opinion that the emphasis should be on drafting ambitious and relevant conservation objectives, and designating sites that contribute to the achievement of an ecologically coherent network, rather than minimising inconvenience for developers. We are concerned that there is no reference in the guidance note to the provision of buffer zones to protect MCZ features from impacts.
- We are concerned about the way that “wider benefits for society” are referred to (e.g. 5.21). Defra/WAG seem to be using the phrase to mean that socio-economic costs resulting from the designation of MCZs must be minimised. Any decisions that are made regarding MCZs must not be short term, short sighted and biased towards economic gain for the few rather than enjoyment of, and benefit from, the marine environment for the many.
- We believe that in addition to the designating orders for MCZs including a description of the feature(s) of interest and conservation objectives / desired outcome, mention should be made of the role of the site within the wider MPA network (paragraph 7.2).
- In paragraph 7.11, it could also be recognised that the future state of a site might change (improve) due to changes elsewhere in the network e.g. improved recruitment of adults because spawning and nursery areas beyond the site are better protected.
- We believe that there should be a clear statement at the beginning of Section 7 that the SNCBs will develop the conservation objectives for MCZs.
- It is helpful that Note 1 provides examples of possible conservation objectives (7.14), both for highly protected sites and for sites where compatible activities

can continue subject to management. The suggested objective for the highly protected site begins *"achieve recovery of habitats..."*, recognising that the desired outcome entails an improvement on the site's initial condition, but also that it is not possible to predict the end-point of this improvement. This seems sensible. However, we are concerned that the suggested objective for a non-highly protected site begins *"Achieve sustainable use..."* - a term that is likely to be subject to wide interpretation. Further, the objective here appears to be to achieve a certain level of human activity, rather than achieving the desired nature conservation outcome. We suggest that the conservation objective itself should simply state *"the communities representative of the [subtidal sandbank] are maintained (or recovered)..."*. The management component could then indicate that some level of use was likely to be appropriate at the site, but we would caution against assuming that the level of activity occurring at the time of designation is necessarily, or will be in the future, compatible with the conservation objective.

- We are concerned that while paragraph 7.14 states that *"the SNCBs will identify proposed conservation objectives for the MCZs"* which we strongly support, it goes on to say *"...based on the outcomes of the regional MPA projects"*. Link has concerns that this could result in the MPA projects determining the conservation objectives, whereas we believe this should be solely the responsibility of the SNCBs.
- We would like to see further examples of conservation objectives for different types of MCZs (7.14 – 7.21) included in the guidance.
- It is not clear if once sites are identified as potential MCZs, they will be treated as protected areas even if designation might take a year or more to follow (Section 8). While the timetable for completing the network is clearly ambitious and very welcome, to prevent further degradation to sites identified through the regional seas project over the coming 4 years, particularly if sites are already degraded or actively being degraded, there would be value in encouraging protection of sites as soon as they are identified by the regional projects.

## **Note 2 – points of support**

- We are pleased to see reference to the need to base decisions on the best available evidence, and to the application of the precautionary principle where uncertainty cannot be resolved (7.1-7.2).
- We welcome the clarification (5.9) that, in order to allow an activity to proceed on the grounds of public benefit even when it might damage an MCZ, the public benefit must clearly outweigh any environmental damage caused, and must accrue to the public and not just to a small number of private individuals. This is welcome clarification, as we are particularly concerned that weaknesses in the drafting of the duty in clause 110 might lead to damaging activities being consented within/around MCZs, thus compromising individual sites and, potentially, the coherence and protection of the network as a whole.
- We are also pleased to see explicit mention of the fact that an activity does not have to be located within an MCZ for it to have significant effect on that site – and that such effects may occur even if the activity is some distance from the MCZ (8.2).

## **Note 2 – points of concern**

- A general concern across all three guidance notes but of particular relevance to Note 2, is the minimal recognition of the potential threat to the whole network of MPAs. The focus is currently on the potential for damage to individual MCZs and, while this is obviously very important, it should be recognised throughout that each MCZ will form an intrinsically important component of a network (i.e. coherence) and damage to one MCZ might also have implications for a) other MCZs which are linked in some way e.g. protecting different stages of a life-cycle, and/or b) the network as a whole.
- As currently drafted, Note 2 does not provide adequate guidance for public authorities on the application of their duties – particularly the duty under clause 110 of the draft Marine Bill. For example, 5.15 states that “equivalent environmental benefit” must be applied in a reasonable and proportionate way, but gives no guidance on how to apply it or who should make the decision.
- We also note the apologetic tone of the language used throughout Note 2. We feel that there is excessive emphasis of the fact that MCZ protection must be “proportionate”, and must not disproportionately impact on or place too much of a burden on public authorities, or prevent necessary development (e.g. 2.3, 6.2). MCZs require adequate protection, and in some cases this will place an additional burden on certain public authorities as they have to fulfil their role in protecting the marine environment, and stopping damaging activities where necessary. The current wording suggests that the duty on “authorising-authorities” has been designed specifically to be weak enough that they hardly notice it.
- Specifically, we are interested to know how the guidance on disproportionate or unreasonable burdens on public authorities (4.3) gels with international commitments to protect biodiversity. We would like clarification of how conflicts of interest will be resolved.
- We are concerned that the guidance for a public authority when undertaking actions which hinder achievement of the conservation objectives of an MCZ is not sufficiently strong. Paragraph 4.4 refers to the need to inform the appropriate SNCB, but we believe that the onus should be on consulting the SNCB with the aim of identifying a solution and avoiding compromising the conservation objectives of a MCZ.
- We are also concerned that the guidance on when the SNCB should be informed of small adverse effects is not sufficiently detailed. We recognise that the system must not be overly onerous, but it will be essential for the SNCB to know and foresee the full extent of impact on a MCZ, group of MCZs or the MPA network. This will mean that the SNCB needs to have a good understanding of the impact of an activity and the cumulative and synergistic impacts of a range of activities, which might all be having a relatively minor impact, but which together constitute a major threat. We believe more emphasis should be placed on the need for SNCBs to be informed *before* activities commence – it will be impossible for SNCBs to take a proactive role in ensuring conservation objectives are delivered, if they are only informed of impacts after the event. Clearly there needs to be some level of ongoing coordination. In addition, not only will the SNCB require this oversight of impact, so will the MMO /WAG, which have a responsibility to deliver the network of MPAs and ensure the delivery of marine plans.

- We would caution against use of the term "small" or "minor adverse effect" (paragraphs 4.5 and 9.2), which is not used in the draft legislation (which refers to actions that "significantly hinder" achievement of objectives - but see our comment on this term below). Experience with Natura 2000 sites has highlighted that terms such as "significant" and "adverse" can be open to differing interpretations and the utmost care should be taken to alleviate, rather than potentially exacerbating, such confusion through guidance.
- We believe that public authorities should have a responsibility to inform the conservation body where achievement of the conservation objectives will be hindered, not just significantly hindered (4.6, 3<sup>rd</sup> bullet). The SNCBs should advise on whether the impact is likely to be significant.
- We suspect that the IMO and management of international shipping should also be included in paragraph 4.7. This is a vitally important paragraph, particularly for MCZs beyond 12nm, and it is essential that the requirement on the UK Government is as strong as possible, within the limitations of the system. While the UK does not have competency, there is much that can be done by working collaboratively with others in the appropriate international arenas. Indeed, some of the international non-governmental organisations may be allies in achieving action in these arenas.
- While the Bill does not specifically refer to the potential for effects on multiple MCZs or the MPA network (resulting from effects on a single or number of MCZs), it will be important to recognise this in the guidance (see 5.1, 5.2 and many other places throughout Note 2).
- We believe that public authorities should be required to seek advice from SNCBs as to whether an activity is likely to pose a significant risk of hindering the achievement of conservation objectives (we made this point, suggesting an amendment to s110 in our response to the draft Marine Bill).
- We believe that the applicant for consent should be required (or at least guided) to seek the advice and guidance of the SNCB (paragraph 5.4).
- In considering mitigation measures to reduce or remove the potential for adverse impact, consultation should be undertaken with the SNCB and also the MMO/WAG since mitigation measures could have implications beyond the MCZ or the MPA network e.g. for marine plans being developed and delivered by the MMO/WAG (5.7).
- In considering the economic benefit to the public, the direct use of the resource must not be the only consideration. Indirect use values, option values and non-use values must also be included in the consideration (5.9 and 5.11). We welcome the guidance that public benefit must accrue to the public and not simply a small number of individuals. When considering whether the benefit to the public outweighs the damage to the environment, we welcome the recognition that the impact could be on the wider objectives and vision for the MPA network at a regional and / or national level (5.12). However, consideration should also be given to the fact that the damage might also compromise the wider marine plan's ability to deliver sustainable development of the marine environment.
- In relation to compensatory measures, judgements on what measures might be appropriate and equivalent in value should be based on the extent and ways in which the conservation objective of the MCZ will be hindered (5.16). Guidance should also include consideration of the conservation objectives of a group of

MCZs, the MPA network and sustainable development of the marine environment.

- We believe that the presumption “*must be*” for like for like measures (5.16), rather than merely “*should be*”. In addition, while monitoring is essential, time consuming and costly, it should not be accepted, on its own, as a suitable compensatory measure.
- The guidance offered to authorising authorities by paragraph 5.18 in relation to overall cumulative effects should be applied to individual MCZs, the wider MPA network and the sustainable development of the marine environment.
- We believe that it will be essential for SNCBs to agree a protocol setting out procedures with public authorities for notification of minor adverse effects (9.2), particularly since it will not only be cumulative effects that will be of concern but also the cumulative and synergistic impact of multiple activities – some of which public authorities may not be aware or have responsibility for managing. Further, the MMO / WAG may need to be aware of cumulative / synergistic impacts as part of the responsibility for delivering a MPA network and marine plans for sustainable development. Again we would caution against using terms (such as adverse) which are not used in the legislation and could lead to confusion.
- In relation to paragraph 9.4, we believe that the SNCB should be required to provide advice or guidance to assist public authorities in interpreting and understanding the conservation objectives and possible impact of activities on them (and not simply “*usually*” provide such advice). In addition, the SNCB should be able to provide advice or guidance on the implications of activities on the MPA network as a whole as well as on individual MCZs.
- Section 10 introduces a new range of guidance in relation to ongoing management of MCZs. As stated in our response to the draft Bill, we feel that it will be necessary for MCZs to have well developed management schemes. At the least, we would like to see this advised here as the favoured approach to site management (10.1). We also believe that further guidance on who should lead such initiatives must be provided.
- We believe that public authorities should be required to provide activity monitoring reports at the same time interval as the SNCBs provide reports on the nature conservation status of the sites, in order to inform SNCBs of any potential cumulative impacts of activities in each site (10.6).

### **Note 3 – points of support**

- We welcome the guidance on incidental activities and future users or uses (6.3). However, Section 6 would benefit from recognition of the need for (and further guidance on) coordination between the respective bodies, particularly between harbour authorities and the MMO/WAG (6.5) and between the MMO, WAG, IFCAs, and the EA (6.5 – 6.8). In both cases, guidance on the relationship of responsibilities in relation to marine plans would be useful.
- We are happy to see mention of the need to take a more precautionary approach when considering impacts (7.1 – 7.6) and particularly for highly protected sites. Further guidance will be necessary on what is acceptable, and presumably this will be done on a case by case basis by the appropriate SNCB.
- The recognition of cumulative impacts (7.3 - 7.4) is very welcome, however the guidance should refer to the “*likely*” need for suitable controls rather than the “*possible*” need since the guidance is referring to significant cumulative impacts

which are or may become likely. Clarification is also needed in respect to 7.5, in which it is proposed that controls be introduced in a pilot area where it is not clear if an activity will or is likely to hinder a site's conservation objectives. While we understand the intention of this guidance, care should be taken to ensure that action remains precautionary – this might mean that a pilot area covers the larger part of the site to ensure protection until it is clear whether or not such action is beneficial in terms of the activities being undertaken.

- We are pleased to see that although regulators are advised to consider the possible role of voluntary measures in controlling unregulated activities, there is no suggestion that the regulator must show that use of voluntary measures has failed before conservation orders can be used (7.7). This is welcome as there will be cases where damage is occurring to a site and action must be taken swiftly – trialling voluntary controls could just delay the introduction of effective management of the damaging activity, and therefore allow further damage to the site that could otherwise have been prevented.
- We welcome the recognition that the area to which a Conservation Order applies may need to extend beyond the MCZ to control a potentially damaging activity (9.4).
- We are encouraged to see other positive and proactive measures, such as a firm commitment to the principle that the existence of objections to a proposed conservation or interim order will not preclude that order being made or submitted to the Minister for consideration (10.2). This is essential if conservation orders are to be a useful and practical tool for protecting MCZs. If single objections could halt the progress of these management measures then they would be far less likely to be used in any sites.

### **Note 3 – need for further information**

- Guidance Note 3 on conservation orders provides information on certain aspects for England and offshore waters only. We would welcome further information on how conservation orders will be delivered in Wales, for instance:
  - We would welcome information on the types of circumstances in which Welsh Ministers will hold hearings on conservation orders (11.4)
  - It would be helpful to understand whether an urgent Welsh conservation order will have to be subject to consultation at any stage, or whether it may simply be continued indefinitely (13.6).
  - We would also welcome clarity as to whether WAG intends that it will be possible to extend a Welsh interim order indefinitely, or whether Welsh Ministers would expect to take a decision within a standardised timeframe as to whether the area subject to the interim order should be designated as a MCZ (13.12).

## **Consultation response to the Draft Strategy for Marine Protected Areas in Wales by the Welsh Federation of Fishermen's Associations Limited.**

The two Welsh Assembly Government 'Visions' of relevance to this response are:

"The marine environment around Wales will be valued by all, understood and respected for what it contains and provides. Our seas will be clean support vibrant economies and healthy and functioning ecosystems that are biologically diverse productive and resilient while being sensitively used and responsibly managed)."

And:

"Support the development of a viable and sustainable fishing industry in Wales as an integral part of coherent policies for safeguarding the environment".

The Welsh inshore commercial fishing industry, through the Welsh Federation of Fishermen's Associations supports the Visions above.

Summary of response to the Imposition of Highly Protected Marine Conservation Zones in inshore Welsh waters:

- The vast majority of the Welsh inshore fleet fish with static gear (nets, pots and lines) that has little, if any impact on the wider marine environment in most cases
- Will potentially result in a massive reduction in fishing opportunities and therefore income for both fishermen and the allied industries that support them
- The industry is a 'wealth creator' as well as a buffer in terms of long term food security
- Visit Wales recognises the commercial fishing sector in Wales as an inherent part of the 'tourist experience'.
- Many small and vulnerable coastal communities have fishing at their economic and cultural heart
- No effective evidence that process will result in meaningful benefits
- Effects of displacement will be serious and could counter many potential benefits of process
- No evidence that majority of small scale effort of indigenous vessels causes harm
- Skomer Marine Nature Reserve example (equally relevant on a pan Wales basis);
- Most species stable or increasing
- CCW state that there is an: "amazing range of marine life" within the Reserve.
- Previous potting ban byelaw failed for lack of evidence
- CCW has previously stated to SMNR Advisory Committee that potting will never ever be in contention around SMNR
- Fishermen implemented voluntary netting ban in area
- Statutory dredging ban in place, supported by fishermen
- Global comparisons are disingenuous

- Lundy ban doesn't show range of benefits that many environmental interests claimed would occur
- Insufficient data and other information on which to base such a draconian policy
- Far more research is necessary in order to identify the appropriate balance between human use and conservation ideals
- The timescale for the process is both too short and too rushed to be able to gather the necessary information and make sensible and pragmatic decisions
- Fishermen consider that the process is akin to using a sledgehammer to crack a nut
- Welsh inshore fishing sector supports the implementation of effective effort management for static gears
- 70% of Welsh coast and 32% of territorial waters already have serious environmental designations
- Marine SAC Management Plans only now becoming operational and should be given time to work
- Majority of Welsh inshore fisheries soon to go through Marine Stewardship Council Accreditation (MSC) process
- No specific and complete 'no take' international pressure or legal requirement
- Resilience to what? Sea Empress was a major ecological disaster and local area, and MNR have now fully recovered
- The current and probable immediate future economic situation provides no realistic alternative employment opportunities for the many fishermen and allied industry employees that will lose their livelihoods as a result of closures
- Embarrassingly little preparatory work been done compared to England etc. may question their quality and approach but does underline need for evidence based approach, not favoured theories of a few
- Really need to give deeper and more holistic consideration before jumping in. Many possible effects, environmental and socio economic will be irreversible.
- There are alternative approaches that will provide a range of benefits from all perspectives, given the opportunity.

The Welsh Federation of Fishermen's Associations response to the draft Strategy for Marine Protected Areas in Wales reflects the very significant concerns of the inshore fishing industry in Wales with respect to the MCZ process and its potential to reduce or remove entirely the limited fishing opportunities available to many of the small scale fleet of Wales.

The vast majority of these vessels work static gear and fish, and have fished in the coastal waters of Wales, including those areas recognised to be of environmental interest, for many years. Their efforts have not resulted in significant damage or disturbance to the flora and fauna therein otherwise there would be little left to protect.

Despite much discussion, both formal and informal, with proponents of the HPMCZ process, the Federation has not yet identified any meaningful rationale for the complete cessation of fishing within these proposed Zones. The main argument seems to be to provide for an element of 'resilience' in the event of some imaginary environmental

catastrophe. With due respect, that is hardly sufficient reason to close traditionally fished areas, worked sustainably by local vessels for many years. In addition, the proof of existing resilience was proven conclusively with the Sea Empress disaster and the subsequent full recovery of many important marine sites that were thought to have been irreversibly damaged. We suggest that the absence of commercial fishing would have made no difference to that resilience and in fact would have resulted in the loss of a range of knowledge and skills that proved important in the response to the disaster.

There has been much said in support of the possible benefits of these proposed (but yet to be identified) sites to the marine environment, much of which is based on experiences in areas of the world that do not compare with Welsh waters.

We are particularly concerned that the use of global comparisons of the suggested benefits of MPA's is not comparing like with like, that the effects in tropical and warmer waters cannot in most instances be used in relation to our own more temperate waters and that the only comparable site, at Lundy Island, has failed to provide support for such a draconian process with only an increase in the number and size of lobsters and little else being observed to date, hardly surprising with a complete ban on extraction, but of little environmental benefit across the board.

In purely spatial terms, the inshore waters of Wales are limited in size when compared with other MPA's around the world (Great Barrier Reef at 18000 square miles) that have been quoted as examples of the benefits of the proposals and the impact of ejecting commercial activity from a proportion of our waters will only result in much increased activity and pressures being moved elsewhere through this displacement.

Any such move will be counter productive in both environmental as well as socio economic terms with unidentified yet significant impacts on other marine areas.

Importantly, the indigenous Welsh fleet is made up mainly of under 10 metre vessels that simply do not have the capacity to move elsewhere to fish in the event that their traditional grounds are closed to them. They are of course also far more susceptible to sea conditions and displacement will only push them to fish in more dangerous conditions than is already the case.

Commercial fishing already ranks as the most dangerous occupation in the world and adding to those risks for as yet unproven and wishful environmental aspirations is entirely unacceptable.

Whilst we are pleased that socio economic aspects will be considered within the designation process we remain concerned that the design of the proposed network will owe more to the dogmatic desires and aspirations of a few, rather than the needs and requirements of the many. There is undoubtedly a lack of information, data and understanding of marine ecological processes with regard to the MPA process and although some might then advocate the precautionary principle, history and clear evidence shows us that this is not necessary.

Taking the Marine Reserve at Skomer as an example, this area has been extensively fished by commercial vessels for decades. The Wildlife Trust refers to it as an "untouched wilderness", CCW Reserve staff freely admit that it has "an amazing range of marine life.....a huge diversity of shapes and colours and a range of over 70 species, from tiny and colourful sea slugs to the graceful and slow growing seafans". All this is

there, with many of the important species either stable or increasing in many instances, in spite of the commercial activity therein.

In fact, when CCW attempted to introduce a byelaw to outlaw potting within the Skomer Marine Nature Reserve, it failed not least because they could provide no evidence that the activity posed a real threat to the Reserve or its marine inhabitants.

The local fishing boats that fish there have few alternative areas to move to in the event that the area is closed and this displacement would have serious effects on the wider environment as well as on the socio economic and cultural aspects of the industry.

The Skomer example is equally relevant to many of the other inshore areas around the coast of Wales and the same arguments will apply.

In addition, it should be noted that the fishermen local to Skomer supported a voluntary ban on netting within the reserve as well as the statutory ban on dredging. This approach is equally common around Wales with local fishermen, from north to south, keen to support sensible and viable environmental protections but preferably in partnership with their sustainable practices, not in isolation.

In support of this more inclusive approach, the Federation has already had MSC pre accreditation reports produced, on a pan Wales basis, for the majority of the species fished by our vessels. This process was completed in partnership with WWF Cymru who funded the reports.

Building on this initiative, the Federation has attracted very significant match funding from the Co-Operative Group to pursue full MSC Accreditation for the Lobster, Brown Crab, Sea Bass, Sprat, Prawn and handline Mackerel fisheries in inshore Welsh waters and a further pre accreditation exercise for scalloping during 2010.

The MSC methodology is based firmly on their 3 Principles and no fishery will achieve accreditation unless it can be shown to meet these strict requirements. At the same time, if a fishery fails to meet the Standards then the Report provides a blueprint, a fisheries management plan for both industry and Government to work to in order to meet the criteria within a given time frame.

“At the centre of the MSC is a set of *Principles and Criteria for Sustainable Fishing* which are used as a standard in a third party, independent and voluntary certification programme. These were developed by means of an extensive, international consultative process through which the views of stakeholders in fisheries were gathered.

These Principles reflect a recognition that a sustainable fishery should be based upon:

The maintenance and re-establishment of healthy populations of targeted species;

The maintenance of the integrity of ecosystems;

The development and maintenance of effective fisheries management systems, taking into account all relevant biological, technological, economic, social, environmental and commercial aspects; and

Compliance with relevant local and national local laws and standards and international understandings and agreements

The Principles and Criteria are further designed to recognise and emphasise that management efforts are most likely to be successful in accomplishing the goals of conservation and sustainable use of marine resources when there is full co-operation among the full range of fisheries stakeholders, including those who are dependent on fishing for their food and livelihood”.

The Federation and its members support these Principles and their application in Welsh waters. At the same time, the Federation has been at the forefront in advocating a Co-

Management approach to fisheries in Wales. This initiative is based on a truly inclusive approach to the holistic management of inshore waters, incorporating environmental, economic and social aspects.

This process is defined as:

- A management framework where responsibility for resource management is shared between the Government, commercial fishermen and processors and other relevant stakeholders including non Governmental organisations and scientific advisors (*Woolmer 2009*)

And is recognised by the FAO as:

- Co – Management is a key delivery mechanism of the Ecosystem Approach to Fisheries (FAO 2003 / WWF 2002)

The combination of adherence to the MSC Principles and the Co-Management approach defined above will provide a real and meaningful opportunity for the collective management of Welsh inshore waters, to the benefit of all concerned and without the very significant damage that the imposition of the current and somewhat idealistic HPMCZ approach will cause.

At the same time, Wales already has significant marine environmental safeguards in place in the shape of Marine Special Areas of Conservation and other designations. 70% of the coastline and 32% of our territorial seas are covered by these protections. The management plans related to these designations are only now coming into effective operation and together with what will be onerous requirements embodied within the Water Framework Directive and the Marine Strategy Framework Directive, will add further significant regulations and controls on activities within the marine area. The Welsh commercial fishing industry is in danger of being swamped by this weight of legislation and there is a need for regulators to take a more pragmatic and holistic view than appears to be the present case.

In terms of alternatives to the proposals within the consultation, there are a number of Fisheries MPA's being designated around Europe where a more collective approach has been pursued than is the case in the proposed Welsh policy. The benefit of this more inclusive, rather than exclusive approach is that compliance is much improved, where fishermen have been an integral part of the process and that the design is able to incorporate and achieve the majority of aspirations of the many, rather than all of the aims of a single group. All sectors and interests have rights within the marine environment and the Federation is concerned that the Technical Group is made up, with one exception, of natural scientists, rather than having a broader base of social and economic scientific interests.

In years past, the Welsh fishing industry was centred in the main ports of Swansea, Milford Haven and Holyhead, with larger trawling vessels working mid and offshore waters. This has of course all changed and the current Welsh industry is now made up of some 435 licensed and registered fishing vessels, about 400 of which are under 10 metres in length and work nets, pots or lines from the plethora of small harbours, bays and inlets around the Welsh coast.

They play a vital social, cultural and economic role within those small coastal communities and create, rather than only circulate wealth within them. Whilst one cannot eat the scenery, Visit Wales recognises that the sight and activities of these vessels contributes to the overall tourist experience for visitors to Wales, as well as providing an increasing amount of food of the highest quality to local service suppliers and the burgeoning food tourism of the country.

There is of course some limited opportunities for diversification into marine environmental trips, dolphin watching etc but this element is limited and cannot take the place of the traditional activities of the indigenous fleet.

The fishing industry in Wales is also now beginning to reap the benefits of some European funding, with support from the Assembly Government. Based on the aforementioned efforts to ensure long term sustainable fishing practices, the sector will increasingly be able to contribute to the overall food security of the country. This aspect will undoubtedly become more important with time and not only will the industry need access to the coastal waters in order to be able to fish sustainably to provide what is again, becoming recognised as what is required by the population for a healthy diet but also so that the vital knowledge and skills inherent within the sector can be maintained and passed on. The imposition of a network of closed areas will undermine what is necessary to provide the benefits that the Welsh inshore fishing sector can and does provide to and for the country.

In terms of sustainable fishing practices, in a recent survey of the Welsh fleet, almost all respondents were supportive of the introduction of effective effort management controls as well as more meaningful penalties, clearly illustrating the commitment of Welsh fishermen to long term sustainable fisheries.

The Federation is also concerned that, as ever, there is little or no comparison with our terrestrial cousins in terms of the approach by Government.

There has been in the region of a 50% reduction in terrestrial biodiversity in recent times. The reaction by Government is to provide very significant payments to farmers to become “environmental stewards” and reward them accordingly. The Single Farm Payment Scheme, together with the provision of financial support for less favoured areas, Tir Gofal, Set Aside and a host of other provisions now allow many farmers not to farm at all but instead live on these payments and rent their land out.

Fishermen in Wales have never had a compensation culture and have struggled to fish in a sustainable way, without the benefit of any meaningful financial schemes for many years, especially in comparison to Welsh agricultural subsidies. The imposition of closed areas would be undoubtedly a step too far for many of them and the Assembly Government must consider how they will provide financial and other compensatory elements in the event that the current initiative goes ahead. Fishermen have and will continue to act in a stewardship role but only if they are fairly compensated for doing so.

The loss of access to traditional grounds must also trigger fair and equitable compensation, as well as other support mechanisms if closures or other restrictions on the rights to fish that Welsh fishermen are entitled to are implemented

It has become clear in recent times that we do not hold sufficient information on the marine environment around Wales. There is a rush to gather more data to inform management decisions in the wake of the Habitats Regulations and this will and should equally be the case in relation to the HPMCZ process. The Federation is concerned that the recognised need for research and data collection will be subsumed by the desires of some to get closures in place without delay and certainly in the absence of proper research. Only about 5% of the Welsh seabed has been effectively surveyed and it is therefore impossible to clearly identify and therefore designate HPMCZ's on the basis of current knowledge.

There are now opportunities to access European fisheries funds in support of the necessary research and bearing in mind the comments quoted previously by CCW and others in relation to the current overall state of the inshore areas in parts of Wales, there is no need to promote the precautionary principle in the absence of the knowledge required. It is also worth considering that fishermen tend to know far more than others with regard to the seabed and marine environment and they should be included in any processes, not only for their knowledge and expertise but also because a far more inclusive system will reap benefits and buy in that will be missing otherwise.

The Federation has recognised and promoted the need for coastal seminars and face to face meetings with the range of coastal stakeholders, including of course commercial fishermen. There will be a need for a detailed level of engagement, at the outset, in order to obtain the level of feedback and input if the process is going to be genuinely transparent and accountable.

Whilst the Federation will strive to engage with, cascade information to and provide feedback from the commercial sector during the process, it will be imperative that fishermen, including aquaculture, inter tidal and hand gathering interests have sufficient opportunities to receive and respond directly to the process through a number of means. In a similar regard to the collection of environmental data, socio economic information is also scarce and there will be a requirement to put in place a robust system to clearly identify the socio economic impacts of designation. Not only will this be vital for compensatory purposes but also in terms of accurately assessing the impact of displacement, diversification and current and future economic benefits with regard to the inshore sector.

In conclusion, short of trying to take Wales back to some perceived former marine environmental idyll, the practical needs of the country, in environmental, social, economic and ecological terms can largely be met, not by the imposition of unproven and idealistic management techniques based largely on simplistic area closures but rather through a meaningful co-management approach based on relevant research on a local , not global basis.

The Federation remains concerned that there does not appear to be any conclusive scientific evidence to support the approach suggested within the consultation and

therefore whether it is indeed possible to design and implement a coherent network of highly protected sites without the knowledge, information and data that is so lacking. Implementing a network of closed zones therefore appears to owe more to political expediency than proper science and is clearly insufficient reason to cause serious economic, cultural and social harm to Wales in general and the inshore fishing sector in particular.

Jeremy Percy  
Chief Executive  
16.12.09



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## **CONSULTATION ON A STRATEGY FOR MARINE PROTECTED AREAS IN WALES: PROTECTING WELSH SEAS**

### **Consultation Response by WWF Cymru**

**December 2009**

#### **Introduction**

WWF-UK welcomes the publication of the Consultation on a Strategy for Marine Protected Areas (MPAs) in Wales. WWF is pleased to see that the Strategy contains a strong commitment to developing an ecologically coherent network of MPAs, i.e. a network that can, in its integrity, deliver greater conservation benefits than the individual component sites on their own. WWF, as an organisation, has been involved in the design and/or assessment of efforts to develop networks of MPAs in many regions. Lessons derived from this experience have informed our response to this consultation and are summarised in the attached briefing on building MPA networks.

WWF's specific comments on sections of the Strategy are laid out below. We have focused our response largely on the design principles of the network. This response should be read in conjunction with the response from Wales Environment Link, which we also contributed to. We would be happy to elaborate further on both the WWF briefing and this response, if this would be helpful.

#### **Purpose, Aim and Scope**

WWF welcomes the stated aim that the network will make a major contribution to the protection and recovery of the richness of our marine environment and that the network will conserve rare, threatened and representative species and habitats. WWF urges that, in line with the precautionary approach, representative samples of all habitats and species including those that are rare or threatened should be protected from activities that have the potential to result in unacceptable levels of environmental damage. WWF welcomes the recognition that within the network there should be highly protected sites with no extractive, depositional or other damaging activities allowed.

We welcome WAG's commitment to work closely with regional Marine Conservation Zone (MCZ) projects that have been established by Defra, Natural England and JNCC in English territorial and UK/offshore waters adjacent to England and Wales. This is imperative in seeking to deliver a truly ecologically coherent network which transcends political and administrative boundaries (see section on design principles).



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VAT number 733 761821. Printed on recycled paper

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Chair: Ed Smith

Chief Executive: David Nussbaum

We agree that the Strategy needs to be seen within the wider planning provisions of the Marine and Coastal Access Act. As such we are concerned at the apparent lack of progress in this regard and would welcome further clarification on how WAG intends the planning provisions in the Act to deliver benefits for biodiversity.

## **Timeframe**

WWF urges that the development of the ecologically coherent network of MPAs be completed by 2012 in line with international commitments, and that this deadline not be allowed to slip further. We are concerned that the wording of this section of the consultation document suggests that WAG's contribution to, and therefore the UK network as a whole, may not be completed by 2012. In particular, the requirement to report merely on "the extent to which Wales has contributed towards a UK network" and the "extent of any further action needed in order to meet this objective" suggests an acknowledgement that this deadline is unachievable.

Whilst we acknowledge that WAG can only deliver the Welsh component of the UK network, the UK network itself must be in place by 2012. It should therefore be clear that WAG is contributing to the achievement of the objective of designating an ecologically-coherent network by 2012.

The focus beyond 2012 should be ensuring that the individual sites and the network as a whole are well-managed and, where necessary, undertaking reviews of sites or the network. While it is recognised that a review process is necessary, particularly in light of the uncertainty of the future in the face of climate change, it is imperative that any modifications to the network beyond 2012 remain on the basis of the scientific evidence, with socio-economic considerations taken into account only when there is a choice between sites or between options for modification and when the overall integrity of the network will not be compromised.

## **International and Legislative Measures**

It is worth noting (although it was not included in the consultation document) that the OSPAR target for a well-managed network of MPAs is 2010. This target will not be achieved and we believe it is important to recognise this but strive to ensure that the remaining targets are met.

The consultation document suggests that an MPA network is required under the Marine Strategy Framework Directive by 2016. However, the wording in the UK consultation on the Regulations for the transposition of the MSFD suggests that the designation process will need to be completed by 2013:

*"Regulation 15(3) implements a specific requirement of the Directive that the measures should include the establishment of marine spatial protection measures, which the UK expects to implement through the Marine Conservation Zones proposed in the Marine and Coastal Access Bill and the Marine (Scotland) Bill, via the proposed Northern Ireland Marine Bill and via Natura 2000 sites designated under the Habitats and Birds Directives. Information about spatial protection measures must be made available by the relevant competent authority by 31 December 2013."*

WWF would welcome further clarification of WAG's interpretation of this deadline.

## **Design Principles of the MPA network**

WWF is pleased that the Strategy intends to use, as a basis, the network principles that have been developed by OSPAR and IUCN, which we consider to be the most relevant and comprehensive. However, we question the rationale behind the selection of these principles, as we believe that additional key principles should be included (e.g. comprehensiveness). We also believe the principles listed require further elaboration. We refer you to the attached WWF briefing for a detailed analysis of the key principles of an ecologically coherent network. In summary, WWF's 10 key recommendations for an ecologically coherent network are:

1. A bioregional overview is necessary to ensure delivery of a truly ecologically coherent UK-wide network.
2. Greater detail and further guidance (see recommendations in Table 1 of the briefing) should be provided on the principles and sub-principles of a comprehensive, adequate and representative approach, and all the principles identified by existing systems (outlined in Table 1) should be encompassed.
3. A stronger commitment to the role of highly protected sites is fundamental to the success of the network.
4. All vulnerable marine ecosystems (VMEs) should be identified and considered for inclusion in the network.
5. Inclusion of sufficient carbon-rich habitats and habitats which act as carbon sinks, in particular saltmarshes and seagrass beds, should be a high priority.
6. Significant opportunities should be identified for including sites where carbon-sink habitats can be restored.
7. In the absence of full scientific certainty, a precautionary approach should be adopted. It should be recognised that where scientific information or data is lacking, larger rather than smaller MPAs are most likely to meet biodiversity conservation objectives and deliver the most effective network.
8. Guidance should be developed for assessing the ecological coherence of the network, and for periodic assessment involving monitoring and evaluation. This will ensure that marine conservation objectives are being delivered, and allow for adaptive management.
9. From the start, the process of developing an ecologically coherent network of MPAs should be clearly communicated; the role and influence of stakeholders in the process should be clearly articulated; and the guiding principles, including comprehensiveness, adequacy and representativeness, for the design of the MPA network should be identified. Every effort should be taken to ensure that the process is understood and that expectations are clear.
10. The duties, responsibilities, and accountability of the various bodies – including the statutory nature conservation bodies, the Welsh Assembly Government, and the Minister (or Ministers) – should be clearly elaborated. Financial commitment and strong leadership should be demonstrated throughout the process of developing and delivering the first truly ecologically representative network of MPAs in European waters.

Specific points on the principles mentioned in the Strategy:

1. *Representativity*: the principle should ensure that representivity encompasses representative samples of all biodiversity and not just that which is captured by the protection of major habitat types and the associated biological communities. Some systems designed for developing ecological coherent networks of MPAs use “comprehensive” as a criterion where the requirement is to capture all known elements of biodiversity within the network of MPAs.
2. *Replication* should not refer only to all *major* habitats, but to all habitats.
3. *Adequacy* is frequently taken to have a broader meaning than that outlined in the Strategy, including the size of the network, the size of individual sites, configuration, replication and level of protection. It also refers to the ability of the network to ensure ecological viability, and allow sufficient levels of connectivity between populations, species and habitats and safeguard the integrity of ecological processes.
4. *Best available science*: we strongly support the recognition that network design should be based on the best information available and that, in line with the precautionary principle, lack of full scientific certainty should not be a reason for postponing decisions on site selection.

## **Existing sites**

WWF is aware that a large proportion of Welsh seas is designated as MPAs, however we believe it would be useful to indicate the predicted size of the network and the area covered by highly protected sites in order to manage stakeholder expectations. The scientific literature frequently refers to 30 – 50% of each habitat type or ecosystem needing to be protected in each bioregion, with particular features requiring much higher targets, up to and including 100%. It is interesting to note that in some regions, the discussion centres around establishing a network of highly protected sites for representative examples of all habitats, and much of the scientific literature centres on the design and implementation of highly protected areas to achieve this.

It is also important to note that current measures to protect Welsh seas have not been successful in halting biodiversity loss. Research by CCW (*Implementing the ecosystem approach in Wales*, 2006) has shown that 60% of features in marine sites are in an unfavourable conservation status and a recent update of the WWF Marine Health Check report (2009) shows that many UK species and habitats are still in decline, including examples in Welsh waters. WWF believes that WAG's MPA Strategy should be explicit on this point in order to strengthen the case for improving the management and coherence of the network. We believe this is vital to ensure stakeholder buy-in to the process of designating an ecologically coherent network.

WWF welcomes the fact that some SSSIs with marine components will also be considered to contribute to the ecologically coherent network, and believes that this will be particularly appropriate where there is a direct relationship/linkage between the terrestrial and marine environments. The boundary between land and sea is an interface across which many processes move and interact with one another.

## **Selection of Additional MPAs**

### **Marine Conservation Zones**

WWF is pleased that WAG intends to use the provisions in the Marine and Coastal Access Act to designate Highly Protected Marine Conservation Zones. However we are concerned

by the suggestion in the Strategy that they will only protect “nationally important, rare or threatened marine habitats and species” (p.8). The duty to designate MCZs contained in the Marine Act is broader than this and includes ‘representative’ habitats and species. We suggest the wording is amended to reflect the wording of the primary legislation.

WWF welcomes the recognition that sites will be chosen to maximise ecological and socio-economic benefits as far as possible (or perhaps even provide synergies). However, we would point out that the primary purpose of the network is to achieve conservation benefits and to protect biodiversity. Consequently, WWF is very concerned at the reference to an ecologically coherent network that takes account of socio-economic interests in the context of MCZs. Whilst we recognise that socio-economic factors can be positive factors in the development of MPAs, it is imperative that socio-economic interests must not undermine the integrity of the ecologically coherent network.

WWF is particularly concerned that this section of the Strategy puts best available science and socio-economic data on an equal footing in terms of the designation of MCZs. The UK Minister made it clear that scientific evidence should be the primary consideration while socio-economic consequences should be secondary factors in the designation of MCZs. In a letter to Wildlife and Countryside Link the Defra Minister Huw Irranca-Davies stated: “...science will be the first consideration in the selection process. When considering potential MCZs, only when the ecological requirements of the network would be met in such considerations, will the Regional Projects be able to consider whether, and if so how, to factor in socio-economic considerations to their decision making process”. This letter has been deposited in the House of Commons library (<http://deposits.parliament.uk/>). We request that WAG echoes these commitments in order to effectively implement the UK Marine Act.

WWF is pleased to see acknowledgement of the need to incorporate climate change adaptation as an integral part of the process. However, it is important to recognise that the network will only enable adaptation if it is purposefully designed with this in mind, e.g. ensuring boundaries of MPAs are set wide enough, or two complementary sites are close enough to allow migration of temperature-sensitive species.

WWF is also pleased that the Strategy recognises that there may be a need for sites to be designated outwith the current EMS sites. We believe that site selection should be based on science and should not be restricted by the existence of other designations.

## **Contact**

*For further information on this response, please contact Dr. Iwan Ball, Senior Marine Policy Officer, WWF Cymru on 029 20 454970 or [iball@wwf.org.uk](mailto:iball@wwf.org.uk)*

# Protecting Welsh Seas

## A draft strategy for marine protected areas in Wales



### Response from RSPB Cymru

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#### 1. Overview

The Royal Society for the Protection of Birds (the RSPB) is Europe's largest wildlife charity with over one million members; over 50,000 of them live in Wales. The Society manages one of the largest conservation estates in the UK, covering more than 140,000 hectares, of which approximately 17,000 are in Wales. We work to protect and enhance habitats for birds and other wildlife through land management on our reserves, provision of advice to farmers and land managers and through advocating environmentally beneficial policies to government. We also undertake scientific research into the health of bird populations and the causes of species declines and promote solutions to government, partners and stakeholders.

We have been campaigning for a number of years for new legislation to properly protect marine biodiversity and ecosystems, of which seabirds are a key component dependent on healthy, functioning marine ecosystems to survive. We are therefore very pleased at the passing of the UK Marine and Coastal Access Act. We welcome the publication of this draft strategy document, which sets out aims for a Welsh Marine Protected Area (MPA) network over the next 10 years, and are grateful for the opportunity to respond.

The RSPB, as part of Wales Environment Links (WEL) Marine Working Group, has contributed to the WEL response to this consultation. This response therefore will have distinct similarities. However there are some parts where this response goes into greater detail in relation to our key interests, in particular our comments on section 9.3.1 (European marine sites), section 10.2.2 (identifying nationally important seabird colonies as part of the MCZ process) and section 10.4.1 (surveillance and monitoring).

#### 2. Summary of response

The RSPB considers that the MPAs discussed in this strategy document will be of central importance for the protection and recovery of Wales' and the UK's marine biodiversity, including seabirds. We therefore welcome the publication of this draft strategy for MPAs and are grateful for the opportunity to respond.

We welcome the commitments to building an ecologically coherent network of MPAs which are described in the Strategy. The Strategy provides information about these commitments and the legislation behind the various MPA designations and their management. However, we are disappointed that it does not provide more information on the specific actions to be

taken by the Assembly Government in order to improve the management of existing MPAs and secure robust management of future sites. Greater clarity is also needed on the process to identify Highly Protected Marine Conservation Zones.

We warmly welcome the commitment to designate Highly Protected Marine Conservation Zones (HPMCZs). Although it is not clearly expressed in the strategy, we believe that HPMCZs are intended to play a specific role in Wales' MPA network related to ecosystem function and resilience and would therefore welcome a clear statement of the intended function of HPMCZ in the final MPA Strategy. We believe that the objective of ensuring all of Wales' nationally important biodiversity is adequately protected is equally important, and suggest that further MCZs may need to be designated to achieve this.

### **3. Introduction**

3.1 The RSPB was pleased to see that the importance of the marine environment is acknowledged at the start of this Strategy document. The RSPB welcomes the recognition of the important goods and services provided by the marine environment, however we feel this point could have been expanded upon further. We would point out that as well as direct and indirect use values there are also non-use values and option values to consider. Non-use value is the value people will place on knowing something exists, whether or not they use it, and option values are important to demonstrate the need to conserve something for its future use or its value to future generations, including enjoyment. It is important to consider the whole picture and not just focus on those elements that have monetary value.

3.2 The RSPB strongly supports the Environment Strategy vision for the marine environment of “...*healthy functioning ecosystems that are biologically diverse, productive and resilient, while being sensitively used and responsibly managed.*” We also welcome the acknowledgment that the seas around Wales are home to a rich variety of habitats and species, as this emphasises the central importance of conserving the marine environment and its biodiversity. However, we were surprised to see this referenced so late in the introductory section of this draft Strategy.

### **4. Purpose of This Strategy**

4.1 We welcome acknowledgment of the role that MPAs will play in meeting international and legal obligations.

4.2 This section states the variety of measures that can be used to achieve healthy ecosystems, most notably marine planning. However, little information on what the Assembly Government hopes to achieve through the new marine planning provisions has been made available, therefore it is difficult to see this in the wider context and so difficult to assess how and what marine planning will deliver for wildlife. As such, clarity over the Welsh Assembly Government's (WAG) ambitions in this area would be welcome.

- 4.3 We strongly welcome the recognition (on page 02) of the role that MPAs can play in assisting our marine biodiversity to adjust to climate change in the future. It is vital that the important role of a comprehensive and coherent network of MPAs in building the resilience of our marine ecosystems to future climate change is recognised.
- 4.4 We question the sentence, in the penultimate paragraph on page 02, relating to the success of an MPA which states that the success of an MPA will depend on its *“location, size, level of protection, compliance and most importantly the biology of the species living there”*. We do not agree that the most important factor will be the biology of the species that the MPA is trying to protect – and furthermore it should be pointed out that appropriate conservation objectives and effective management will be key factors in influencing the success of MPAs.
- 4.5 We warmly welcome recognition of the goods and services that we expect from the marine environment, underpinning the many economic and social uses of the coast and sea. It is crucial that the Assembly Government communicate this aspect of the value of MPAs as it takes forward the delivery of this strategy. It is of vital importance to the Welsh economy that we maintain a productive and sustainable marine environment, though as before, we would like to see a clearer list of all of these goods and services.

## 5 Aim

- 5.1 The RSPB strongly supports the commitment to establish an *“ecologically coherent”* network of well-managed sites, now underpinned by the Marine and Coastal Access Act 2009, along with the recognition of the need to allow recovery of marine biodiversity and ecosystems. However, we believe it would be more appropriate to refer to the network *‘allowing biodiversity and ecosystems to recover’* rather than to *‘enhance biodiversity and ecosystems’*, as recovery in the marine environment is likely to be due to natural processes rather than human intervention.
- 5.2 We share the view of the Assembly Government, that the network should be well understood and supported by all stakeholders. We would like to seek clarity over the ‘marine objectives’ mentioned. If these are distinct from the High Level Marine Objectives, then further information on how and when they will be developed would be welcome.

## **6 Scope**

- 6.1 The Assembly Government's commitment to working closely with the UK Government, statutory advisors and non-statutory stakeholders is warmly welcomed, as is the participation of the WAG in the Finding Sanctuary Project and the Irish Sea Conservation Zone Project. We would welcome further information on how this will be achieved.
- 6.2 We note that there is no reference to the recently published Defra Draft Strategy for Marine Protected Areas, and feel it would be useful to set out how this document relates to that strategy.

## **7 Timeframe**

- 7.1 The RSPB welcomes the acknowledgment of the international and national-level commitment to establish an ecologically coherent UK network of MPAs by 2012, and the requirement to report on progress, in 2012, to the National Assembly for Wales. We welcome the commitment under OSPAR to designate an ecologically coherent network of well-managed sites by 2010, although note the absence of mention of this date from the consultation document, along with the WSSD commitment to establish a network of sites by 2012. However, we note that the acknowledgement (on page 05) that further site designation may be necessary beyond 2012, would suggest that the Assembly Government are unlikely to meet the WSSD target date fully. We feel that the tone of language used in this section is unambitious and WAG should be making every effort to meet the full extent of international obligations.
- 7.2 We appreciate that the identification and designation of sites is only the start of the process - success of the network will depend on sustained effective management. Although a well-managed network should be in place by 2012, we believe it is very important to recognise that 2012 should not be an absolute cut-off date beyond which all work on the MPA network should cease, as new information is likely to become available after this date. However, this should not detract from the urgent need to get a network in place by 2012 on the basis of best available information.
- 7.3 We strongly support the suggestion that the Minister's report in 2012 may identify the need for further action beyond completion of the Highly Protected Marine Conservation Zone (HPMCZ) project, including further designations if Wales' important biodiversity is not sufficiently protected, and if this is the case we hope these designations will be progressed with urgency. In particular, we believe the project to identify HPMCZs might gather information that indicates the need for further designations of MCZs.
- 7.4 We anticipate that new information and data will become available in the following years that might make it possible or necessary to extend the network to include new sites. Therefore, adaptive management should be an important feature of the network. In addition, as mentioned previously, in section 4.3, this ongoing review and associated changes in management will be vital to climate change adaptation measures. Climate

change adaptation must also be built into the characteristics of the network, e.g. through connectivity and the distance between sites.

## **8 International and Legislative Measure**

- 8.0.1 As mentioned in section 7.1 of this response, WEL has welcomed the UK's international commitments in relation to MPAs [OSPAR 2010, WSSD 2012]. As noted previously, we believe the wording of the strategy signifies a lack of ambition from the Assembly Government that we not do expect to see in an MPA strategy document.
- 8.0.2 The strategy identifies international and national legislative commitments and obligations that relate to the protection of marine biodiversity. However it fails to mention the Natural Environment and Rural Communities (NERC) Act 2006, whereby there is a duty on WAG to further the conservation of biodiversity, and on all public authorities to have regard to the purpose of 'conserving biodiversity', and where conserving biodiversity includes 'restoring or enhancing' that biodiversity. We see the MPA network as a clear mechanism for WAG to deliver its biodiversity commitments, and believe this should be reflected in the Strategy.

### **8.1 Marine Strategy Framework Directive (MSFD)**

- 8.1.1 We would question this section of the strategy. The current consultation on the MSFD<sup>1</sup> states that this article requires the Secretary of State, the Scottish and Welsh Ministers and DoE in Northern Ireland to publish, by 31 December 2015, separate programmes of measures to achieve or maintain GES. Regulation 15(3) implements a specific requirement of the Directive that the measures should include the establishment of marine spatial protection measures, which the UK expects to implement through the Marine Conservation Zones proposed in the Marine and Coastal Access Bill and the Marine (Scotland) Bill, via the proposed Northern Ireland Marine Bill and via Natura 2000 sites designated under the Habitats and Birds Directives. Information about spatial protection measures must be made available by the relevant competent authority by 31 December 2013. We suggest this section should be amended to reflect this.

### **8.2 Marine Conservation Zones (MCZs)**

- 8.2.1 The RSPB is very pleased that the Marine and Coastal Access Act 2009 has introduced MCZs. However, we are concerned at the reference to them as a tool to protect "*nationally important, rare or threatened marine habitats or species*". We would point out that the duty to designate MCZs is not just to protect rare or threatened species and habitats, but rather to create an ecologically coherent network, composed of well connected sites that represent the range of features in our seas.

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<sup>1</sup> Defra, 2009, *Consultation on the Marine Strategy Framework Directive: Putting in place the legal framework for implementation*

This section should be amended accordingly, to include the term ‘representative’ to accurately reflect the wording of the Marine Act, as reflected in the list of network principles.

- 8.2.2 We note that the strategy document states clearly that MCZs can be established with “*varying levels of protection*”. While we agree that it is appropriate for different levels of restriction to apply to different activities at different sites, based on the conservation objectives for the site, we believe that there should be a presumption for every site that any or all activities that might damage the site or hinder the achievement of conservation objectives, should be appropriately managed to ensure that all the features for which the site is designated will be protected. It is important that all sea users understand that every site is designated for the purpose of nature conservation.
- 8.2.3 We welcome that the strategy reflects the wording of the Marine Act, which allows rather than requires Welsh ministers to take account of socio-economic criteria [when choosing to designate MCZs]. We note that the Marine Act refers to socio-economic *consequences* rather than *criteria* and we believe the Strategy should be amended to accurately reflect this wording. We firmly believe that this power should only be used when deciding between sites of equal ecological importance. The wording of this section of the Act was much debated in passage through the Houses of Parliament, and strong assurances were received from the UK Government that science would be the primary consideration in designation of MCZs. In a letter to WEL’s sister body Wildlife and Countryside Link (WCL – appended to this response) the Defra Minister Huw Irranca-Davies stated, “...*science will be the first consideration in the selection process. When considering potential MCZs, only when the ecological requirements of the network would be met in such considerations, will the Regional Projects be able to consider whether, and if so how, to factor in socio-economic considerations to their decision making process*”. This letter has been deposited in the House of Commons library. We would request a similar commitment and level of clarity from WAG.
- 8.2.4 We strongly welcome the confirmation (on page 08) that Skomer will become Wales’ first MCZ, and would seek assurances that the continual monitoring of this site will remain and that the level of protection afforded to the site will be maintained or improved. We would welcome clarification as to when this will happen and confirmation as to who will be responsible for the management, policing and monitoring of this important site once it has been designated as an MCZ.

## **9 Developing the MPA network**

### **9.1 Design Principles of the MPA Network**

- 9.1.1 We welcome the section setting out the network design principles that will underpin the creation of an ecologically coherent network of sites. We note that it will be

important to measure how far the network meets each of these principles and we would welcome WAG's views on how this will be achieved.

- 9.1.2 In particular, we welcome the point on protection, which states that the network should include a range of protection levels, including "...*highly protected sites...*". We therefore welcome the commitment throughout this draft strategy to designate some highly protected sites as a key part of the MPA network. We believe WAG's ambitions should be to designate as many highly protected sites, along with other MCZs, as are needed to deliver an ecologically-coherent and well-managed network of MPAs.
- 9.1.3 Furthermore, we were pleased to see the point on best available evidence with its implicit reference to the precautionary approach stating that a lack of scientific certainty "*should not be a reason for postponing decisions on site selection*". Nevertheless, we would like to see this implicit reference expanded upon, and the precautionary principle included as an essential principle underpinning the designation of the network.
- 9.1.4 The design principle 'replication' currently only applies to 'major habitats'. We believe this should be amended to apply to **all** habitats.

## 9.2 Improving Management and Coherence of the MPA Network

- 9.2.1 We are pleased that the strategy document has identified some of the steps that WAG sees as necessary to improve the management of existing and new sites. However, we see the fact that the strategy does not reflect on the condition of existing sites, or Wales' biodiversity more widely, as a key omission. CCWs 2006 report 'Implementing the ecosystem approach in Wales'<sup>2</sup> indicated that roughly 60% of features in marine sites are likely to be considered as in unfavorable conservation status, which was largely attributed to the insufficient level of control over damaging human activities. Acknowledgment of this is necessary to accurately represent the current situation in Welsh waters and thereby make the case for actions to improve management or for further designations (including designation of highly protected MCZs). This in turn will help to improve understanding among stakeholders and manage expectations.
- 9.2.2 The first bullet point on page 13 identifies that existing MPAs (mainly EMSs) are limited in terms of the species, habitats and areas that they can protect. We agree this is a crucial point but suggest it is clearly distinct from the second bullet point which commits WAG to adding some HPMCZs to the network. **The RSPB strongly welcomes WAG's commitment to HPMCZs.** However, we believe there is a risk that the focus on HPMCZs may mean that the first bullet point is not fully addressed. While EMSs may represent the most important areas for biodiversity in

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<sup>2</sup> Dernie, K.M, Ramsay, K., Jones, R.E, Wyn, G.C., Hill, A.S., & Hamer, J.P. 2006. *Implementing the Ecosystem Approach in Wales: Current status of the maritime environment and recommendations for management*

Welsh waters, if they do not provide protection for all of the biodiversity that occurs within them, MCZ designations (potentially overlapping with EMSs) may be required to address these gaps. WEL commissioned a report by MarLIN 'Protecting Nationally Important Marine Biodiversity in Wales'<sup>3</sup> to investigate whether nationally important biodiversity does in fact benefit from occurring within EMSs, even if not explicitly a qualifying feature. Unfortunately, the report could not answer this question and instead detailed some worrying case studies where EMS management was failing to protect even the qualifying features. We suggest WAG needs to look into this question, as part of more work to identify the protection needs of Wales' nationally important marine biodiversity and ensure the MPA network can deliver these needs.

- 9.2.3 Although it is not very clearly expressed in the strategy, the RSPB believes that HPMCZs are intended to play a specific role in Wales' MPA network related to ecosystem function and resilience - thus they may not, on their own, address the first bullet point. We would welcome a clear statement of the intended function of HPMCZ in the final MPA Strategy. Furthermore, we seek a commitment that WAG will use the data gathered for the HPMCZ project to help identify further protective needs and designate further MCZs if/where necessary.
- 9.2.4 Notwithstanding the comments above, we would re-emphasise that **we strongly welcome and support WAG's commitment to designate a number of HPMCZs**. We agree that HPMCZs can offer considerable benefits, such as those noted, and are a vital component of a successful MPA network. Again, we feel it would be useful to detail clearly within this strategy document the intended role of HPMCZs within the network, otherwise it is not clear how they are expected to contribute over and above the existing EMSs.
- 9.2.5 The RSPB welcomes the acknowledgement of the need to improve the coordination of management of MPAs in order to deliver both site and network level objectives as well as broader biodiversity targets. However, in order for these steps to be effective it is essential that WAG address the fact that management of these sites is currently not always effective.
- 9.2.6 We also welcome the commitment to better application of existing legislation and new tools. We would suggest that this should be strengthened to a clear **commitment to improve** the management of MPAs on a site-by-site as well as on a network level. While the strategy identifies the new tool of Conservation Orders, we believe that better application of existing legislation is key. The recent MarLIN report, 'Protecting Nationally Important Marine Biodiversity in Wales'<sup>4</sup>, commissioned by WEL, looked at a number of case studies which highlighted

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<sup>3</sup> Jackson, E.L., Langmead, O., Evans, J., Ellis, R. & Tyler-Walters, H. 2008. Protecting nationally important marine biodiversity in Wales. *Report to the Wales Environment Link from the Marine Life Information Network (MARLIN)*. Plymouth: Marine Biological Association of the UK

<sup>4</sup> Jackson, E.L., Langmead, O., Evans, J., Ellis, R. & Tyler-Walters, H. 2008. Protecting nationally important marine biodiversity in Wales. *Report to the Wales Environment Link from the Marine Life Information Network (MARLIN)*. Plymouth: Marine Biological Association of the UK

instances where the Habitat Regulations had apparently not been applied correctly by some of the competent authorities concerned. For example, the report highlighted a number of instances where there was disagreement between a competent authority and CCW over the application of the Regulations, often due to differing interpretations of terms and responsibilities, or where there was apparent confusion over the requirements of the Regulations. As a result of the Regulations not being applied properly, damage to site features had occurred without adequate assessment or consideration of potential compensatory measures. The report recommended that WAG should urgently provide guidance and training for competent authorities on many aspects of the Habitat Regulations – a recommendation which has recently been repeated by the Marine Ecosystem Group established under the Welsh Biodiversity process. Among other things, this training should promote co-ordination between competent authorities to ensure the full impacts of developments can be considered, especially where projects span the marine/terrestrial divide.

- 9.2.7 We welcome the affirmation that the primary aim of the network will be nature conservation, and not to protect or restore commercially important fish stocks for enhanced commercial exploitation, although we agree that an operative MPA network may have indirect benefits on spawning and nursery grounds and that commercially important fish stocks form an important part of an ecosystem as a whole.

### 9.3 Selection of Additional MPAs

#### 9.3.1. European Marine Sites

- 9.3.1.1 The RSPB has long criticised the slow progress in identifying marine SPAs throughout UK waters. We therefore welcome the announcement that additional sites are currently being considered for marine bird species including marine extensions to existing terrestrial seabird breeding colony SPAs. We warmly welcome the launch of the formal consultation on Marine Special Areas of Conservation and Special Protection Areas, and the inclusion of Liverpool Bay as a proposed marine SPA for common scoter and red throated diver. However, we are disappointed that the consultation document on Liverpool Bay makes no mention of many other species of birds which rely on the areas at other times of year, most notably little gull and cormorant, and fails to properly take account of the sheer numbers and diversity of seabirds that rely on this area on migration and through the winter months. For further information please see the RSPBs response to the informal phase, which is appended to this response.

#### 9.3.2 Marine Conservation Zones

- 9.3.2.1 As mentioned previously throughout this response we applaud the commitment to designate a number of HPM CZs.

- 9.3.2.2 It is stated that HPMCZs will be protected from the extraction and deposition of living and non-living matters and all other damaging or disturbing activities. We would welcome further information on what will be classed as damaging and disturbing activities.
- 9.3.2.3 Page 15 of the strategy states that it is likely that most HPMCZs will be found within existing EMSs. We would stress the importance of ensuring that the network design principles are met. It may be that achieving, for example, connectivity in the network requires the designation of sites outside of the existing EMSs - it is vital that this is not pre-judged.
- 9.3.2.4 The RSPB would caution that HPMCZs must not be used to mask failure in implementation of the Habitats Directive to protect EMS qualifying features. The Habitats Regulations should provide the tools to achieve this, and if they do not it is doubtful that super-imposing another designation will solve the problem (particularly as public bodies' legal responsibilities in relation to MCZs are similar to those relating to EMSs). A better explanation in the Strategy of the intended purpose of HPMCZs would help set our minds at rest on this point.

#### 9.4. Guidance for Identifying, Selecting and Designating MCZs

- 9.3.3 This section states that WAG has been working with Defra to prepare a range of joint guidance documents. We believe that the publication of draft guidance to sit alongside the Marine Act is very useful, however only three of the four documents that have been published are mentioned here. The RSPB provided comments on the initial versions of the guidance documents in 2008, and on the revised Guidance Note 1 and the new Guidance Note 4 earlier this year. We look forward to providing full comments on the revised versions of the remaining notes when they are published. We have attached the comments referred to above in ANNEX 1 of this response.
- 9.3.4 We were disappointed to note that the second version of Guidance Note 1 (published earlier this year) made less mention of HPMCZs than the original, and would ask whether WAG is content that the guidance is up to the job of supporting designation and management of HPMCZs.

### 10. Managing the MPA Network

- 10.0.1 We strongly support the Wales Environment Strategy target that sites of international, Welsh and local importance will be in favourable condition by 2026. It is essential that this is applied to MPAs in addition to terrestrial sites. We would note that the creation of an ecologically coherent network of MPAs should also contribute to the Environment Strategy target that the recovery of biodiversity will be underway by 2026, and it would therefore also be relevant to mention this target in the Strategy.

## 10.1 European Marine Sites

10.1.1 We welcome the commitment that “plans or projects will generally not be licensed or permitted if appropriate assessments cannot conclude that operations would have an adverse effect on the integrity of the site.” However, we would suggest that the second sentence should be amended to read “The exception is where in the absence of an alternative, the plan or project, is declared to be necessary for imperative reasons of overriding public interest. In these case, compensatory packages must be developed to offset damage to the site and to ensure the coherence of the Natura 2000 network.” (emphasis added).

10.1.2 Article 6(2) of the Habitats Directive requires Member States to take steps to avoid, in SACs and SPAs, the deterioration of habitats and the disturbance of species for which the areas have been designated. Guidance published by the European Commission<sup>5</sup> makes the following points:

- It is not acceptable for Member States to wait for deterioration or disturbance to occur before taking action;
- Member States should take all the appropriate actions which may reasonably be expected to ensure there is no significant deterioration or disturbance;
- These requirements apply to activities which do not require prior authorisation (i.e. not *plans or projects* to which Article 6(3) applies), and to past, present or future activities.

The requirements of Article 6(2) should be made clear in the final MPA Strategy.

10.1.3 The RSPB welcomes the introduction of conservation orders, under the Marine and Coastal Access Act, to manage harmful activities that would otherwise be unregulated, but it must be recognised that this is only one small aspect of ensuring sites are managed appropriately, and the strategy should also take account of other regulatory measures such as fishery orders, licensing, Habitat Regulations etc. We would reiterate our point in section 9.2.6. of this response, regarding the urgent need for proper application of the Habitats Directive in all existing and new EMSs.

## 10.2. Sites of Special Scientific Interest

10.2.1 We welcome the fact that coastal and intertidal SSSIs are included as part of the MPA network. Coastal ecosystems function along a continuum that spans both the terrestrial and marine environments. Puffins nesting on cliffs and feeding at sea, and seals hauled out on beaches and feeding in adjacent waters, being just two iconic examples.

10.2.2 The RSPB has published a report ‘Safeguarding Our Seabirds: Marine Protected Areas for the UK’s Seabirds’<sup>6</sup>, identifying nationally important seabird colonies around the UK, for which the terrestrial breeding sites are protected (through SSSI

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<sup>5</sup> European Communities, 2000. Managing Natura 2000 sites – the provisions of Article 6 of the “Habitats” Directive 92/43/EEC

<sup>6</sup> Tanner, K., Campbell, C. and Dodd, A 2008, Safeguarding Our Seabirds: Marine Protected Areas for the UK’s Seabirds. The RSPB, Sandy, UK [http://www.rspb.org.uk/Images/Safeguardourseabirds\\_tcm9-185543.pdf](http://www.rspb.org.uk/Images/Safeguardourseabirds_tcm9-185543.pdf)

designation), but key marine areas – e.g. the sea immediately adjacent to the breeding colony, where birds raft and undertake maintenance behaviours such as preening, are not protected. Eleven of these sites are in Wales. We expect these areas to be considered by WAG in the completion of the MPA network in Wales

### 10.3. Marine Conservation Zones – proposed Management Regime

- 10.3.1. The second paragraph of this section states that the relevant authorities will have a duty to undertake their functions in a way that will “*further...site conservation objectives*”. We would suggest that this should be amended to read “*best further...site conservation objectives*” (emphasis added) as per the wording of the Marine Act.
- 10.3.2. We welcome the recognition in paragraph 3 that bodies will need to take positive measures to control damaging activities as well as introducing restrictions on activities. The Strategy should make it more clear that public bodies will be required to take *proactive* steps to avoid damage to MCZs, and should better reflect some of the tools they will have to use to achieve this, e.g. fishery orders, conservation orders refusing consents or attaching conditions to consented plans or projects. The letter from Huw Irranca-Davies MP to WCL, appended to this response, provides some explanation of how byelaws (equivalent to conservation orders and fishery orders in Wales) should be used proactively by the Marine Management Organisation and the Inshore Fisheries and Conservation Authorities to protect MCZs in English waters. It would be helpful if WAG could provide equivalent information in this Strategy.
- 10.3.3. The text in the fourth paragraph of this section states that guidance will be prepared to assist decision makers when considering applications for potentially damaging activities. We would emphasise that decisions about acceptable impacts must be taken very carefully and always with care not to undermine conservation objectives for the network as a whole. We would be grateful for clarity over who will prepare this guidance - will it be WAG or CCW?
- 10.3.4. The penultimate paragraph on page 18 states that CCW is considering how conservation orders may be used to achieve appropriate management within an MCZ. We welcome this consideration of the use of conservation orders but would reiterate our previous point (section 10.1.3) that conservation orders apply only to otherwise unregulated activities and are therefore just one tool out of several that could and should be used to achieve effective site management. The contribution that other measures such as licensing, fishery orders etc will make to achieve appropriate management within an MCZ must also be acknowledged.
- 10.3.5. We welcome the WAG commitment to pursue introduction of fisheries management measures in areas where foreign vessels have historic rights, as well as the commitment to work closely with other European Member States or the European Commission itself concerning these matters. It will also be important for WAG to work with the UK Government to secure appropriate fisheries management in MCZs in Welsh offshore waters through the EU.

#### 10.4 Surveillance and Monitoring

- 10.4.1 The RSPB welcomes the reference to the contribution that *“effective surveillance and monitoring”* can make to the aim of providing an *“ecologically coherent and well managed”* UK network of MPAs. The RSPB argues that the Assembly Government is also required to monitor the condition of SPAs (and other protected areas) arising from the Birds Directive. Given the core objective of the Birds Directive to maintain the population of all wild birds, and the special role of SPAs in achieving that goal for bird species of European importance (Annex I and migratory species), it is apparent that the Government must carry out the appropriate monitoring and surveillance to ensure it can meet that core objective.
- 10.4.2 Monitoring will be key to assessing and adapting management necessary and to demonstrating biodiversity benefits of protecting MCZs. More information would be welcome on the rolling programme of monitoring and surveillance for all sites current and future in Welsh waters– how and when will this be developed and implemented? And who will be responsible for this?

#### 10.5 Enforcement

- 10.5.1 The RSPB welcomes the recognition of the need for a more stream-lined approach to enforcement in the marine area, we therefore welcome the introduction of Marine Enforcement Officers who will have access to a unified set of common powers. It is stated (on pg 20) that this Marine Enforcement Team will sit within the Welsh Assembly Government, and we would welcome more information on this Team and current plans for resourcing it. It is unclear whether this Team will be developed within the Assembly’s current resources or whether additional resources will be made available. We would see adequate resourcing, both in terms of staff and budget as key to its success.
- 10.5.2 We would welcome further information on whether this Team will also enforce licensing conditions, fishery orders and so on, which are equally as crucial to the protection of MCZs and the wider marine environment.
- 10.5.3 We note that the first paragraph of page 20 states that Marine Enforcement Officers will be the primary enforcers of conservation orders and of the general offence of *“deliberately”* damaging protected features of an MCZ. This should be amended to *“intentionally or recklessly”* to accurately reflect the final wording of the Marine Act.

#### 11. Annex – Governance Process for identifying Marine Conservation Zones (MCZs) in Wales

- 11.1.1 It is not clear why the information on the process for identifying HPM CZs has been provided as an annex rather than as part of the main strategy document. We see this

process as core to the delivery of the strategy, and are disappointed that this consultation does not represent a formal opportunity to comment on it.

- 11.1.2 Key to the success of the MPA strategy – including the HPMCZ process - will be development of a suitable public engagement strategy, as a significant challenge remains to ensure that all relevant members of the public are engaged. We therefore believe the Strategy would benefit from a specific section on public communication and awareness-raising. This should be part of a broader programme of work to raise public awareness of marine conservation.
- 11.1.3 We note that the Annex is ambiguous in terms of the role of the stakeholder group in the process. While this role has been clarified to some extent through meetings of the WCMP sub-group, it is imperative that this be communicated more clearly to the wider stakeholder community and the public.
- 11.1.4 The RSPB, as a member of WEL, is looking forward to participating in the HPMCZ process. At a UK level, we are compiling information about seabirds that we will be keen to contribute to inform the identification of these sites.

**ANNEX 1: RSPB response to Draft guidance notes – September 08; and response to revised guidance note 1 and new guidance note 4, 2009**

Please see e-mail attachment

**ANNEX 2: Letter to Wildlife and Countryside Link from Huw Irranca-Davies MP**

Please see e-mail attachment

**ANNEX 3: RSPB response to informal consultation on marine Natura 200 sites**

Please see e-mail attachment

**Draft guidance on selection and designation of  
Marine Conservation Zones (Note 1); &  
Draft guidance on SSSIs and National Nature  
Reserves in the subtidal area (Note 4)**



Comments from  
**The Royal Society for the Protection of Birds**  
10 September 2009

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## **1. Introduction**

1.1 The Royal Society for the Protection of Birds (the RSPB) is the UK charity working to secure a healthy environment for birds and wildlife. We have been campaigning for a number of years for new legislation to properly protect marine biodiversity and ecosystems, of which seabirds are a key component dependent on healthy, functioning marine ecosystems to survive. We are therefore very pleased that we finally have the Marine and Coastal Access Bill in Parliament, and we look forward to this becoming legislation within the year.

1.2 We understand that the current versions of the four Defra guidance notes accompanying Part 5 of the Marine and Coastal Access Bill are in draft form only and as such are subject to change – particularly in response to any changes made to the provisions of the Bill as it makes its way through Parliament. The RSPB recognises the tremendous importance of the guidance in translating the terms of the Bill into action, and we are therefore very pleased to have been given the opportunity to submit comments on the draft guidance.

1.3 As Guidance Notes 2 and 3 have not changed since we last supplied comments in 2008, we have not included further comments on these two guidance notes in this response (please refer to our original comments submitted on 15 August 2008). This document contains our comments on Guidance Notes 1 and 4, as Guidance Note 1 has been re-written since we last gave full comments, and Note 4 is entirely new.

1.4 Our comments on these documents should be taken alongside our consultation response to Defra's MPA Strategy consultation (submitted 13 July 2009), and also our response to and various briefings on aspects of the current draft of the Marine and Coastal Access Bill.

## **2. The RSPB's position on the Marine and Coastal Access Bill**

2.1 The Marine and Coastal Access Bill is currently making its way through Parliament and the RSPB is working to effect changes in the legislation to deliver a

strong Marine Act. In particular, we are seeking amendments to the nature conservation section that would impact on the content of Guidance Note 1:

- We are calling for the removal of subclause 117(7) from the Marine and Coastal Access Bill, as we do not believe that social and economic factors should be taken into account at the site designation stage. At the very least we would like this clause to be further qualified, to restrict the consideration of economic and social factors to certain situations only e.g. where there is a choice between two or more sites of equal ecological value, and omitting one or more of these sites from the network would not compromise the achievement of ecological coherence for the whole network.
- We are calling for the inclusion of a commitment to “highly protected sites” as an integral part of the overall MPA network on the face of the Bill. We believe it is essential that the MCZ network contains some highly protected sites, for recovery and resilience of the network.

2.2 In relation to the future implementation of the legislation in the identification and selection of MCZs, a major concern has been the lack of clarity in guidance and communications on whether sites will be designated to protect seabirds (please see Annex III for our legal note on the inclusion of seabirds as recognised features protected by the MCZ network). However, we have recently received confirmation from the Secretary of State’s Office that MCZs can be designated for seabirds (see Annex IV for a copy of the RSPB’s letter to the Minister with regards to this assurance).

2.3 In addition, we do not support the new procedural arrangements introduced by the Bill, which give Ministers a statutory role in relation to the notification of SSSIs in the subtidal zone. We are concerned about the consequences of these new arrangements, and the inconsistencies that they introduce.

### **3. Summary of RSPB Comments on Guidance Notes 1 and 4**

3.1 The RSPB welcomes the inclusion of the new MCZ mechanism in the Marine and Coastal Access Bill. However, the legislation contains only the high level provisions for site designation and management, and further guidance on implementation is vital. Therefore, we welcome the publication of the four Defra guidance notes, and the further guidance on network design and regional projects that will come from JNCC/NE later in the year. We recognise that Guidance Note 1 is of particular importance in translating the provisions of the Bill into guidelines for action on the selection and designation of sites, and the achievement of the coherent overall network of MPAs. Therefore, Guidance Note 1 will be particularly influential during the regional stakeholder projects to identify networks of MPAs.

3.2 Guidance Note 1 was one of three guidance notes originally published in draft form in 2008, to accompany the draft Bill. The RSPB submitted full comments on this document and the other two guidance notes that were published alongside it at the time. Our original comments on Guidance Note 1 broadly welcomed the vision and

the principles set out for designating an ecologically coherent network, but asked for more detail on how to implement the MCZ provisions.

3.3 We were encouraged to see the many references to highly protected sites in the first draft of Guidance Note 1, and it is therefore dismaying to see that most of these references to and the detail around the designation of highly protected sites have been removed from this updated version of the document. We would welcome further information on why this has happened, as it implies a weakening of Government's commitment to the establishment of highly protected sites as part of the ecologically coherent network (the commitment originally stated in the Government's Command Paper, 2008, paragraph 3.4.1). We would like to see the commitments to and detail around highly protected sites re-incorporated into the document where possible. It is important that this guidance reflects the commitment from Government to include highly protected sites in the network that is evident in statements made by the Minister, Huw Irranca-Davies, to the House of Commons: *"There will be sites that will, in effect, be highly restricted"* [House of Commons Marine & Coastal Access Bill Committee, 30 June 2009: Column 55]; and *"The intention [to designate highly protected sites] is clear, and it is clear that we have the capacity. We must now use that framework and get on and do it"* [House of Commons Marine & Coastal Access Bill Committee, 30 June 2009: Column 77].

3.4 Our principle concern on reading the first draft of Guidance Note 1 was that the language used throughout was apologetic on behalf of nature conservation, repeatedly stating that MCZs must always be selected without causing economic or social impacts. We were opposed to the suggestion that site boundaries should be drawn, and conservation objectives set, to avoid incompatibility with ongoing activities. Therefore, we are disappointed that this has not changed between drafts. We feel that the emphasis should be on drafting ambitious and relevant conservation objectives, and designating sites that contribute to the achievement of an ecologically coherent network, rather than minimising inconvenience for sea users. If the MCZ network is set up in the way described in the guidance, there is a danger that it will be compromised from the outset, and unlikely to deliver the overarching vision set out in Section 2. Furthermore, as currently drafted, Guidance Note 1 does not reflect the verbal assurances given by Ministers to date on the Marine and Coastal Access Bill as it progresses through Parliament. For more detail of our comments on the current draft of Guidance Note 1, please see Annex I to this document.

3.5 Guidance Note 4 is a new addition to the set of guidance notes, and we welcome the further clarification of the relationship between the new MCZs and the existing SSSIs and NNRs. Our concerns about Guidance Note 4 relate mainly to the fact that we do not agree with the addition of the new call-in power related to the statutory nature conservation bodies' (SNCBs') designation of subtidal SSSIs or NNRs. We do not feel this call-in power is necessary, and furthermore we are concerned about the possibility for this to introduce a consideration of socio-economic factors at the point of designation for SSSIs and NNRs which we believe would be wrong, and would contravene the requirements of the Wildlife and Countryside Act 1981 (as amended).

For more detail of our comments on Guidance Note 4, please see Annex II to this document.

#### **4. Conclusions**

4.1 Guidance Note 1 is of key importance in steering the selection and designation of MCZs. As such, we believe that it should be much stronger and clearer on the importance of conservation and ecological requirements in site designation. Greater clarity is needed on how and when socio-economic factors can be taken into account for site designation decisions (if subclause 117(7) is to remain in the Bill), and in particular on the relationship between socio-economic considerations and a prospective MCZ's conservation objectives. Redrafted guidance notes must include the clarification from Ministerial statements to the House of Lords and House of Commons on the relative importance of scientific considerations *versus* socio-economic considerations at site designation. We would also like to see the firm commitments to highly protected sites made by Ministers translated into this guidance document.

4.2 We welcome the further detail in Guidance Note 4 on the relationship between new MCZs and existing SSSIs and NNRs. However we do not support the introduction in the Bill of the new procedural arrangements which give Ministers a statutory role in relation to the notification of SSSIs in the subtidal zone. We are concerned about the consequences of these new arrangements. At the very least, if these new arrangements are retained, the legislation and the accompanying guidance must be drafted very carefully to ensure that they do not introduce new delays and obstacles to the designation of subtidal SSSIs and NNRs.

4.3 We understand that all four guidance notes are currently being redrafted, and we look forward to providing further comments on the updated drafts of all guidance notes. We want our comments, provided here, to be taken into account during the redrafting process. It is vitally important that the guidance gives a firm steer on how to implement the provisions of the Bill for the designation and management of MCZs.

## Annex I: Detailed Comments on Guidance Note 1

2. The aim for the MPA network	
2.1	The RSPB welcomes the stated aim for the MPA network. In particular we welcome the fact that the aim is for the MPA network to be ecologically coherent and well-managed. This is in accordance with the conditions laid out by OSPAR in their recommendation to Member States on designation of a network of MPAs for the OSPAR maritime area.
2.2	The description of the network in the Bill is now broader after amendment 123(4), and does not just comprise European sites and MCZs but also other protected areas (SSSIs and Ramsar sites). The clause numbers quoted in this paragraph also need updating following amendment of the Bill. The last sentence of this paragraph should specify that the aim of clause 123 is to ensure the creation of an “ecologically coherent” network, as even though that precise wording is not on the face of the Bill itself, the principles of ecological coherence are outlined in subclause 123(3) and further detail on the principles of ecological coherence is given in the explanatory notes to that subclause.
Measures of success	
2.3	We believe that any measures of success should be based on the criteria and principles for an ecologically coherent network alongside some measurement of how well sites are being managed. Reference should be made to the OSPAR principles for an ecologically coherent network. It would be useful to see an estimated timescale for when the measures of success will be put in place. Assessment of whether and to what extent individual MPAs and the network are delivering conservation objectives and biodiversity targets will also be required.
3. Involvement of stakeholders	
Principles for stakeholder engagement	
3.1	We welcome the clear statement of these principles. In particular we think that the second principle – that there must be clarity over Government objectives and over what decisions stakeholders can make within this context – is very important. If this principle is not adhered to, there is a danger that stakeholders involved in the regional projects will be unclear about the parameters within which decision making power has been devolved to them. It is vitally important to be very clear on this point in order to avoid any later disappointment or feelings of disenfranchisement on the behalf of the stakeholders involved in the regional projects.
3.2	We are pleased to see the four aims clearly stated in this paragraph. In particular we welcome the acknowledgement of the importance of the UK government’s international commitment to establish an ecologically coherent network of MPAs. However, we believe this point should also make clear that the network must be comprehensive, i.e. represent all

	marine biodiversity. We also welcome the aim of meeting the needs of society as a whole (rather than merely satisfying the needs of a small and limited group of sea users).
3.4	We note that nature conservation interests are not mentioned on the list of stakeholders that might be involved in the regional projects. This is an important omission as clearly those interested in the conservation of our marine environment will have a keen interest in the development of the MCZ network, and should be represented on the regional MCZ projects. As an active proponent and participant in the development of the Bill to date as well as wider marine conservation and site protection measures, the RSPB would obviously expect to be included on each of the regional stakeholder projects.
3.5	We urge caution on the 'aim' of minimising the social and economic impacts of the MPA network, which is often repeated throughout this document and Defra's MPAs strategy. While it may sound reasonable, it must be made very clear that this cannot take place at the expense of achieving a comprehensive, ecologically coherent and well protected network of sites. Consideration of socio-economic factors must not result in damage to or the loss of rare, scarce or threatened species or habitats or in only substandard representative features being protected.
3.7	The RSPB has strong concerns about the approach to site selection outlined in this paragraph. We do not agree with the inclusion of social and economic factors in the site designation decisions, affecting site selection, boundary identification and the conservation objectives set for the site (see later, more detailed comments below). We also query whether the regional project stakeholder groups are going to be well equipped and experienced enough to be able to write satisfactory Impact Assessments.
3.9	We welcome the further detail in this paragraph on the decision-making process once the regional projects have reported with network recommendations. We are very glad to see that the network project recommendations will be peer reviewed by the Science Advisory Panel. We believe that this is vital if we are to be given the best chance of creating an ecologically coherent network of well-managed sites. Note: the clause numbers quoted in this paragraph for the Marine and Coastal Access Bill require updating after recent amendments.
<b>4. Principles for design of the Marine Protected Area network</b>	
4.1	We welcome the inclusion of these principles (taken from those developed for OSPAR) and we look forward to seeing more detail on the practicalities of how to apply these principles in the forthcoming guidance from JNCC/NE.  We note that these principles are also outlined in Defra's draft MPA Strategy, though some of the principles are worded slightly differently. We recommend using the same wording for both the MPA Strategy and

	<p>this document, to eliminate confusion. The wording for the sections on representativity, adequacy, and best available evidence is already the same across the two documents. For the remaining sections, we would recommend that the wording used in Guidance Note 1 should be retained for the sections on replication, viability and connectivity (and this wording should replace that currently used in the MPA Strategy); and for the section on protection, both documents should use the wording currently used in the MPA Strategy, which states that: <i>“the MPA network should include a range of protection levels from highly protected sites where no extractive, depositional or other damaging activities are allowed, to areas with only minimal restrictions on activities that are needed to protect the features”</i>.</p>
5. Principles for identification and selection of MCZs	
Ecological considerations in identification and selection of individual MCZs	
5.3	<p>We would like to see the section on <i>“Important species and habitats”</i> make reference to the list of Nationally Important Marine Features (NIMF) for the UK.</p> <p>We welcome the fact that the language of the paragraph on <i>“Ecological significance”</i> hints that seabirds will be a valuable part of any MCZ network by mentioning moulting and wintering areas for example. However, following our recent confirmation from the Secretary of State’s Office, we would welcome a specific reference to the inclusion of seabirds in the MCZ network (see also Annex III, our note on the application of Article 3 of the Birds Directive).</p>
Mobile species	
5.6 - 5.7	<p>Establishing a full marine Natura 2000 network will not discharge all the UK’s requirements for the protection of wild birds under the Birds Directive, and therefore the network should also contain MCZs for seabirds (for more detail, please see Annex III, the RSPB’s note on the application of Article 3 of the Birds Directive). Important marine foraging areas used by seabirds would meet the requirements set in 5.7 for: <i>“a clearly identifiable area representing the physical and biological factors essential to their life and reproduction”</i>.</p>
Practical considerations	
5.12	<p>Though this list of practical considerations is based on the practical criteria developed for OSPAR, there are some important differences. This was not the case in the first draft of this Guidance Note produced last year, which reproduced the OSPAR List of practical considerations without alteration. We question why the alterations have been made, as we do not feel that they have improved the list – in fact the opposite, resulting in gaps, adding confusion and uncertainty, and producing inconsistencies with the OSPAR criteria.</p> <p>The first bullet point, <i>“Synergies with other sectors”</i> states that it will be preferable to designate areas that already have a degree of protection for</p>

	<p>other purposes e.g. already designated as a European site, already subject to restriction of other activities, already providing conservation benefits through safety exclusions or danger areas. This is not in the OSPAR list of practical criteria and moreover may contradict paragraph 6.4/6.5 (on the relationship of MCZs to other site-based nature conservation designations). We would therefore be interested to know why this has been included since the first draft of the guidance was published.</p> <p>We are also concerned about the significance of this being the first bullet point. It should be clearly stated that not all sites in the network should be selected on the basis of synergies with other sectoral uses. If this is the primary practical consideration then we are likely to end up with a network of sites that are all defined by their usefulness to or compatibility with other sectors, rather than primarily for their nature conservation importance. We strongly believe that the primary rationale behind site designation must be the conservation case for designation, and if sites are to be designated primarily for synergies with other sectors then this imperative becomes diluted and side-tracked. It should also be very clear that, if this criterion is included at all, that it applies to situations where installations are already in place and potential conservation benefits from designating the area are identified. There should be no assumption that this kind of potential synergy should be used as an argument to locate an installation within a designated MCZ in the future – any proposed project affecting a MCZ must be carefully assessed against conservation objectives.</p> <p>One practical consideration that was included in the initial draft of this guidance note (and is in the OSPAR list) but has been excluded from this draft of the guidance is “<i>Potential damage to the area by human activities: it is an area where significant damage by human activity may happen in the short term</i>”. We feel that it would be appropriate to include this practical consideration as it was suggested by the OSPAR Convention, to which the UK are signatories, and it would enable the protection of areas that would otherwise be damaged or destroyed in the short term by human activities. It would also meet the requirements of the precautionary principle and the Government’s view that preventive measures can be taken to protect marine biodiversity. We wish to have this criterion reinstated and would welcome an explanation from Defra of why this consideration was left out of this draft.</p>
Taking account of social and economic factors in site selection	
5.13	<p>We were pleased to see the statement that the existence of socio-economic interests would not preclude the designation of any area as an MCZ. We were also pleased to see confirmation that socio-economic factors will not be permitted to compromise the setting of site conservation objectives. We believe that this commitment is vital if the UK are to achieve their stated</p>

	<p>objective of an ecologically coherent and well-managed network of sites. However, we would welcome further detail on how this can be achieved if the stakeholder groups participating in the regional projects are to set the site Conservation Objectives. Furthermore, this statement is apparently contradicted by paragraph 5.17, which suggests that one way in which socio-economic factors might be taken into account would be to designate an MCZ <i>“with conservation objectives that minimise the socio-economic impacts on the marine environment while maintaining the conservation of the features”</i>, which seems to suggest that socio-economic factors could be used as a reason to set weaker, or less ambitious conservation objectives for sites. We would like to see the conflicting statement removed from paragraph 5.17.</p> <p>Furthermore, we would like this paragraph to be amended to make it very clear that economic and social factors are of secondary importance when compared to the scientific and ecological case for designation. This has been made clear on the record by the Minister, Lord Hunt, in discussions in the House of Lords on the Marine and Coastal Access Bill, when he confirmed that, <i>“Social and economic factors are optional secondary considerations”</i>, and that designation decisions must be <i>“based primarily on scientific evidence”</i> [Hansard 12.05.09: Column 1032]. The Minister, Huw Irranca-Davies went further in his statement to the House of Commons, stating that: <i>“Failure to make a designation decision on the basis of scientific evidence would mean, first, that the designating authority did not take account of reasonable considerations; secondly, that it would therefore have acted unreasonably; and thirdly, that the decision could then be considered for judicial review”</i> [Hansard 30 June 2009: Column 44]. We believe that this clarification is very useful and it is essential that it is translated into the guidance so that all are aware of the Government’s position.</p>
5.14	<p>We believe that Government should give firmer assurance here that where the designation decisions concern rare or threatened species or habitats, or biological hotspots, then social and economic concerns will not be able to compromise the site designation decision.</p> <p>Although this paragraph states that socio-economic factors are <i>“likely”</i> to carry increased weight where there is a choice of alternative and comparably suitable areas for designation, we would like to see this taken further, with the consideration of socio-economic factors restricted to these circumstances only. While we advocate setting out very specific conditions on where, when and how socio-economic factors can be considered, at the very least, the wording must be changed to reflect the Minister’s statement that <i>“where an area contains features that are rare, threatened or declining, or forms a biodiversity hotspot, greater weight is <u>expected</u> to be attached to ecological considerations”</i> [Hansard, 30 June 2009: Column 54]. We would also like to see it made clear here that sites must</p>

	<p>be “<i>comparably suitable</i>” on ecological and/or conservation grounds e.g. rather than saying “<i>alternative (and comparably suitable areas)</i>” the text could be amended to refer instead to “<i>alternative areas which are equally suitable on ecological grounds</i>” (the language that is used in the Explanatory Notes to the Bill).</p> <p>We welcome the stated constraint that the incorporation of socio-economic factors in designation decisions must still abide by the network design principles and the conservation objectives for sites. However, again we feel that this last statement (that the site conservation objectives will constrain the consideration of socio-economic factors) contradicts statements elsewhere in the guidance e.g. 5.17 which suggests that the conservation objectives could be set around the consideration of socio-economic impacts. It is vitally important that this ambiguity is cleared up for the final draft of this guidance note – it must be clear how the regional projects are expected to balance the achievement of site conservation objectives and the delivery of an ecologically coherent network with socio-economic factors, if at all.</p>
5.15	<p>We are concerned by the statement in this paragraph that it will be desirable to avoid designating MCZs that would be incompatible with planned socio-economic activities, though we recognise the addition of the caveat that this must be providing that it does not cause conflict with achieving an ecologically coherent network. It is vital that the consideration of socio-economic factors, if allowed to take place at the site designation stage, cannot compromise the designation of the ecologically coherent network.</p> <p>There should be some presumption that the socio-economic activities will consider looking for alternative and equally suitable sites that are not of conservation importance – whereas the assumption here is that the conservation designation will have to consider alternative sites.</p>
5.17	<p>This paragraph, outlining some of the network and site adaptations that might be expected to occur as a result of taking socio-economic factors into account, is of concern as it goes beyond the ways in which it has previously been suggested that socio-economic factors might be considered. While our preferred view is that socio-economic considerations should not be included at all, we are more comfortable with the first bullet point – that social and economic costs could help contribute to the decision between alternative areas that would represent comparably suitable contribution to the overall network on conservation grounds – we cannot agree with bullet points 2-4.</p> <p>We would like to see a further safeguard incorporated into the first bullet point: that the omission from the network of one or other of the alternative sites being compared using socio-economic criteria would not risk compromising the comprehensive nature or ecological coherence of</p>

	<p>the network as a whole.</p> <p>We disagree with the second bullet point, which suggests that an MCZ's boundary could be amended to exclude areas of critical economic or social importance. It should be the conservation importance of the area that dictates where the boundary of the site is drawn, and then the management of the site can pick up whether there are any critically important economic or social activities going on. The site management would not prevent any economic or social activities if it could be shown that they were of overriding importance, therefore there is no need to exclude these from the site in the first place. If the economic or social activity of concern is not of overriding importance, then it would not warrant amending the MCZ boundary to exclude it from the MCZ in the first place.</p> <p>We feel that the language of the 3rd bullet point is misleading, and contradicts previous statements (e.g. 5.13, 5.14) about the relationship between site conservation objectives and economic and social factors. We believe it is very important that site conservation objectives should not be set by taking socio-economic impacts into account, but should concentrate on how best to protect the conservation interest of the site.</p> <p>The last bullet point, that MCZs should be designated with an early review of conservation objectives, boundaries or site management is a concern. We feel that this fundamentally weakens the MCZ mechanism, by suggesting that sites are designated on a temporary, changeable basis. We are concerned that this will encourage stakeholders to think that any protection the site enjoys initially may be weakened as conservation objectives or site boundaries or management measures are altered to accommodate socio-economic interests.</p>
5.18	<p>We welcome the statement that Impact Assessments should incorporate indirect use values as well as direct use values. We feel that it is important that, should socio-economic interests be included, the economic benefits of site designation (e.g. value of conserving the wildlife) should be included in any Impact Assessment.</p>
Drawing of site boundaries	
5.19	<p>We welcome the statement that boundaries should encompass as much area as is necessary to protect the features of interest at the site, rather than saying (as previously) that they should aim to encompass the minimum area necessary. This would also appear to contradict the unhelpful suggestion in paragraph 5.17 that boundaries could be drawn taking account of socio-economic activities. For some features, this may be relatively small area, but for other features, this will require a large area to be designated to be sure of the conservation of the feature and any associated features/habitats upon which the feature is dependant.</p>
5.22	<p>We welcome the statement that the best available scientific methodology</p>

	and information should be used to delineate boundaries. Again, this seems to contradict the unconstructive suggestion in 5.17 (second bullet point) that MCZ boundaries could be set to exclude areas of social or economic importance.
5.23	We agree that site boundaries need to be wide enough to encompass future changes in features, especially with climate change effects.
Identification and description of interest features	
5.24-5.26	The original draft of Guidance Note 1 contained a useful paragraph on features for highly protected sites which has now been removed. We would like to see information regarding highly protected sites reinstated in the document.
Ecological processes and other site based designations: Taking account of ecological processes	
6.2	We suggest a text amendment: <i>“so that processes will be maintained/restored where necessary...”</i>
Relationship to other site-based nature conservation designations	
6.5	While we agree that MCZs should complement the existing site designation and protection measures for European marine sites, rather than duplicating the system, we do not agree that this logically means that MCZs should only be proposed for habitats and species which are protected under the EC Directives in exceptional circumstances. There will still be a need to designate nationally important sites (MCZs) to protect nationally important concentrations of species, even if those species are listed as features on the European Directives and should therefore be well represented in the Natura 2000 network. The SPA network will not satisfy all of the conservation requirements for wild birds under the EC Bird Directive even when complete (see Annex III for more details), therefore MCZs for seabirds will be required to meet the UK's European obligations.
6.6	We welcome the acknowledgement that there will be some circumstances where geographical overlap between MCZs and European marine sites (EMSs) will be desirable. We suggest that more explanation is required of the statement that <i>“this may offer a higher level of protection than the existing designation imparts”</i> . This would be the case perhaps where the MCZ provided protection for a wider range of features than the EMS, or where the conservation objectives were different for the MCZ, e.g. requiring management to enable recovery of all features and build resilience (therefore likely creation of a highly protected MCZ, as proposed in Wales). We support the designation of MCZs for these reasons. However, it is important that MCZs are not seen as a means of shoring up EMSs if their management is failing – rather, any failures should be addressed through management of the EMS itself.

Fisheries	
6.7	We note that the first sentence of this paragraph is repeated twice. We are pleased to see that Government do not intend to use MCZs explicitly as a fisheries management tool, as we consider they are a nature conservation tool first and foremost. That said, it will be essential that fisheries management tools are used to contribute to achievement of MCZ conservation objectives where applicable.
7. Conservation objectives for MCZs	
7.3	We would rather use the word “ <i>recover</i> ” (as used in the example Conservation Objective on Page 23) than “ <i>enhance</i> ” as we feel it is a more appropriate term for application to the marine environment.
7.4	We agree that it would be helpful to draft the conservation objectives in a way that makes likely management implications clear. This section should refer to the need for highly protected sites – where conservation objectives indicate that all extractive and otherwise damaging activities should be excluded from the site.
Suggested example of conservation objectives for MCZ features	
7.6	We are concerned that the stakeholders involved in the regional projects will be identifying the draft conservation objectives for the MCZs that they put forward for designation. We feel this should be left to the experts – the statutory nature conservation bodies.
7.7	We welcome the change between the suggested conservation objective in the current version of the guidance, and that presented in the previous version (published in 2008). In the earlier version, we were concerned that the conservation objective was to “ <i>achieve sustainable use</i> ” (a term open to subjective interpretation) rather than to attain a conservation outcome. The separation of the objective itself from the management implications (confirmed in paragraph 7.11) is helpful and important. We welcome the statement that conservation objectives will be developed for Highly Protected MCZs in Wales, and that these will focus on the role these sites should play in the Welsh (and UK) MPA network and wider approach to recovery of the marine environment in Wales. The RSPB has been assured by WAG that, following the initial project will focus on identification of HPMCZs by 2012, there will be consideration of whether further MCZs are required to complete the network as part of the wider approach to protection and recovery of the marine environment. We look forward to responding to WAG’s MPA strategy later this year.
7.8	There may not be any presumption for any MCZ that any particular activity will be restricted, but there should be a presumption that for any MCZ, any/all potentially damaging activities will be restricted. Such a presumption would be more consistent with the welcome recognition that the sensitivity of features may change over time, and thus that pressures which are not currently deemed to have negative effects, may do so in the

	future (7.10)
7.9	This paragraph refers to sites that might be closed to all extractive, depositional and otherwise damaging or disturbing activities – in other words, to highly protected sites. We have been disappointed to note that most of the references to and detailed guidance on highly protected sites has been removed from this draft of the guidance note. We are pleased to see the inclusion at least of this paragraph – but we feel that there needs to be much more of a commitment (from Defra) to setting up highly protected sites as part of the network. There also needs to be more detailed guidance to the regional projects on how such sites could be selected and designated, and for what purposes.
Impact assessment	
8.12	While a range of both national and regional stakeholders (including the RSPB) will have valuable information to contribute to the Impact Assessment process, we have concerns about the Impact Assessments in the marine area that Defra is responsible for being prepared by the Regional projects. We would welcome further clarity on whether this means it will be prepared by the regional project staff, or by the stakeholders.
Designation orders and timetable	
8.14	While we welcome the ambitious timetable of designating a network by 2012, and we are glad to see the process moving, we are concerned that this paragraph states that only a “ <i>small number</i> ” of complex or controversial sites will be designated after 2012. We anticipate that there will be much more data available going forward after 2012 especially for features such as foraging seabirds offshore, which might bring to light the requirement for more sites, especially further offshore, for these species. While there is acknowledgement that there may be gaps in the network that need filling, the implication is that these will only be small gaps and we believe that there is a significant chance of this being an underestimate.
Annex: Hypothetical example of conservation objectives	
1. Maintain or recover	We are concerned about the assumption in this paragraph that if a feature is not degraded, “ <i>existing activities do not adversely affect the feature and can continue at current levels using current methods/technologies</i> ”. While this at first seems reasonable, experience with European Marine Sites has shown that it is not this simple. There is an issue with lag times between effect and evidence (i.e. existing activities may be causing harm which has not yet reached detectable levels), lack of knowledge/data (there may be effects which are evident – but we have not managed to identify), cumulative effects of different activities, and (as noted at 7.10) sensitivities change, and what is not impacting a site now may have negative impacts in the future. We believe that it is vital to undertake a case by case

	<p>assessment and regular review of impacts for designated sites.</p> <p>It should also be noted that our understanding of the extent to which features have been degraded is often based on our experience of an already degraded environment. As such, our understanding of the condition of features, and of the relative effects of natural <i>versus</i> anthropogenic change are likely to evolve over time. There should therefore be facility to review Conservation Objectives where appropriate to reflect this.</p>
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## Annex II: Detailed comments on Guidance Note 4

Background	
2.1	<p>This paragraph states that the Bill introduces new procedural arrangements which give Ministers a statutory role in relation to the notification of SSSIs in the subtidal zone. This is not a change that we support and we are concerned about the consequences of these new arrangements.</p> <p>There is a clear duty in the Wildlife &amp; Countryside Act 1981 (as amended) to notify 'land' that is of special interest, and the statutory nature conservation bodies are the Government's advisors on nature conservation. As such, it is right that decisions relating to the special interest should be made by them (as informed by consultation with, amongst others, Ministers).</p> <p>We do not think that the new arrangements proposed in the Bill are necessary, and are concerned that their only purpose would be to compromise the clear scientific basis for decision making in respect of the notification and confirmation of SSSIs, which is incompatible with the legal duty to notify.</p> <p>The footnote clarifies that this new arrangement will not apply in Scotland – which suggests also that there will be inconsistency between the countries (as well as between the process for notification and confirmation of SSSIs on land and the process in the marine environment).</p>
2.3	<p>This paragraph clarifies that the SNCB will be required to give the appropriate Minister at least 21 days notice of their intention to confirm a subtidal SSSI notification, and that the Minister may extend this period. There seems to be no limit to the extension that the Minister can grant, and we wonder whether the implications of this have been properly thought through. This could create a significant delay in the designation process for subtidal SSSI, or for subtidal parts of SSSIs.</p>
2.4	<p>We question whether the reasons for the change given in this paragraph justify making the change. The same flexibility (albeit limited by the duty to notify) could be achieved through the consultation of Ministers (amongst others), which is a statutory requirement of the notification process.</p>
A) To include an entire intertidal biological community	
3.5	<p>For clarity, it should be noted here that 'intertidal biological communities' include not only the benthic fauna but also the bird populations that feed upon them.</p>
D) To reduce disturbance to bird colonies	
	<p>We would suggest rewording the title of this section to read <i>"To protect areas essential to birds and reduce disturbance to bird populations"</i> to reflect</p>

	that a) there is an ecological imperative as well as a need to secure effective management through boundary setting and b) that the text below refers to a range of bird populations in different seasons, with only the second paragraph being specific to colonies.
3.9-3.10	See comments above re 3.5. For example, some wading bird species (for example black and bar-tailed godwits) regularly feed in shallow water, and therefore feed below MLW at low tide, and many others follow the tide line (which on large tides will fall below MLW). Therefore notification of SSSIs to Lowest Astronomical Tide (LAT) is appropriate.
5. Denotification of an SSSI following designation of an overlapping MCZ	
5.1	We welcome the assurance that there is no presumption that an SSSI should be denotified or its boundaries redrawn automatically if it is overlapped by a new MCZ designation. We seek assurance that the power to denotify would only ever be considered where all features of the SSSI are also features of the MCZ. Without this assurance, there is a real risk that features of national importance would be left unprotected following denotification of an SSSI.
6. The Role of Ministers	
6.2	See comments above with regard to section 2.1.

## Annex III

### **Marine conservation zones, seabirds and the EU Birds Directive<sup>1</sup>** **A note by the RSPB**

#### **Summary**

The EU Birds Directive requires the UK Government to implement measures to conserve the habitats of wild birds. The need to transpose this requirement into UK law resulted directly in the current terrestrial system of European Special Protection Areas (SPAs) for birds and is responsible, in large part, for the modern system of national (SSSI/ASSI) protected areas.

Specifically, member states are required to establish systems of protected areas under Article 3 for all wild birds and specially protected areas under Article 4 for Annex I and migratory species. The same obligations apply to the conservation of habitats of wild birds dependent on the marine environment under the UK's jurisdiction or where it exercises sovereign rights e.g. the exclusive economic zone out to 200 nautical miles.<sup>2</sup> This note summarises those obligations.

#### **The EU Birds Directive: purpose and obligations to conserve the habitats of wild birds**

The Birds Directive applies to all naturally occurring species of wild bird in the UK <sup>(Article 1)</sup> in both the terrestrial and marine environments. It was adopted in the context of ongoing declines in the populations of Europe's wild birds.<sup>3</sup> Consequently, under Article 2, Member States are required to:

*“take the requisite measures to maintain the population of the species referred to in Article 1 at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level.”*

The European Commission<sup>4</sup> equates this duty to the achievement of favourable conservation status required under the EU Habitats Directive<sup>5</sup> for habitats and species of Community importance. Both the Birds and Habitats Directives adopt a twin track approach to achieve their objectives:

- Habitat protection and management
- Species protection

The requirement for systems of protected areas for birds stems from the habitat and protection management measures required by Articles 3 and 4 of the Birds Directive.

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<sup>1</sup> Council Directive 79/409/EEC on the Conservation of Wild Birds

<sup>2</sup> For example, see (i) R. v Secretary of State for Trade and Industry, ex p. Greenpeace [2000] Env. L. R. 221; (ii) paragraph 117 of European Court of Justice judgment in Case C-6/04 *Commission vs. United Kingdom* and (iii) section 2.6 in EC (2007) *Guidelines for the establishment of the Natura 2000 network in the marine environment. Application of the Habitats and Birds Directive*.

<sup>3</sup> See paragraph 6 in the preamble of the Birds Directive.

<sup>4</sup> See paragraph 2.4.14 in EC (2004) *Guidance Document on Hunting under Council Directive 79/409/EEC on the Conservation of Wild Birds: the Birds Directive*.

<sup>5</sup> Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora

### **Article 3 and protected areas**

Article 3(1) requires member states, in light of the requirements of Article 2, to:

*“take the requisite measures to preserve, maintain or re-establish a sufficient diversity and area of habitats for all the species of birds referred to in Article 1.”*  
(emphasis added)

The achievement of this “shall include, primarily, the following measures:

- a. creation of protected areas;
- b. *upkeep and management in accordance with the ecological needs of habitats inside and outside the protected zones;*
- c. *re-establishment of destroyed biotopes;*
- d. *creation of biotopes.”*

(Emphasis added)

This mandatory requirement for protected areas led directly to the strengthened SSSI system that emerged from the Wildlife and Countryside Act 1981.<sup>6</sup> The old SSSI system, under the National Parks and Access to the Countryside Act 1949, was too weak to transpose the requirements of Article 3 to preserve and maintain the habitats of wild birds. It was subsequently found necessary to strengthen the system further by introducing positive management powers under the Countryside and Rights of Way Act 2000.<sup>7</sup> This ensures the current SSSI system better meets the requirements of Article 3, as well as the requirements of Article 4 (see below) and relevant requirements of the Habitats Directive.

It is important to note that the Article 3 requirement applies to all wild birds, including those that are also to be the subject of special conservation measures under Article 4 (see below).

### **Article 4 and Special Protection Areas**

Article 4 takes this a step further by requiring special conservation measures, in respect of their habitat, for rare and threatened birds on Annex I and regularly occurring migratory species. This is to ensure their survival and reproduction in their area of distribution. In particular, member states are required to designate SPAs.

### **Application of Articles 3 and 4 in the marine environment**

It is clear that the UK Government is under an obligation to establish two, complementary, protected area networks to conserve the habitats of wild birds dependent on the marine environment during their life cycle in order to maintain their populations at a favourable level:

- a general system of protected areas under Article 3 for all wild birds; and
- a network of Special Protection Areas under Article 4 for Annex I and regularly migratory species.

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<sup>6</sup> In Northern Ireland, the equivalent was Areas of Special Scientific Interest, created under the Nature Conservation and Amenity Lands Order 1985.

<sup>7</sup> In Northern Ireland, similar powers were created by the Environment (Northern Ireland) Order 2002 in respect of ASSIs.

The UK has a well-established network of terrestrial SSSIs/ASSIs and SPAs for birds dependent on the marine environment: what is missing is the marine component. The RSPB's own analysis in respect of breeding seabirds,<sup>8</sup> demonstrates how the current SSSI/ASSI network conserves the terrestrial habitat of a significant number of breeding seabird colonies outside the SPA network: some 71 sites. The majority of the seabirds protected by these sites are either Annex I or migratory species, but their populations do not meet SPA designation thresholds. This highlights the important complementary role of the SSSI and SPA networks in delivering the Birds Directive aims of conserving the habitats of wild birds in order to maintain their populations, both in terms of numbers and distribution.

The same logic applies in the marine environment. Therefore, the UK Government is under an obligation to ensure it has the necessary powers and appropriate site selection and designation guidance in place to designate marine protected areas for seabirds outside of the (as yet largely incomplete) marine SPA network, where these are necessary to comply with the obligations under Articles 2 and 3 of the Birds Directive. To do otherwise would place the Government at risk of breaching the requirements of the Birds Directive.

In the RSPB's view, the initial area of search for such sites must, at a minimum, include the foraging areas used by breeding seabirds at colonies currently protected under the SSSI/ASSI networks and which are not SPAs. It should also extend to consider areas of importance for non-breeding seabirds that do not meet the thresholds for SPA designation.

**RSPB  
July 2009**

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<sup>8</sup> Tanner, K, Campbell, C and Dodd, A (2008) Safeguarding Our Seabirds: Marine Protected Areas for the UK's seabirds. RSPB, Sandy.

## **Annex IV: RSPB Letter to the Minister**

Huw Irranca-Davies MP  
Parliamentary Under-Secretary of State  
Department for Environment, Food and Rural Affairs  
Nobel House  
17 Smith Square  
London  
SW1P 3JR

20 August 2009

Dear Minister

### **Re: Marine Conservation Zones to protect seabirds**

The RSPB has been campaigning for many years for better protection for seabirds and other marine wildlife and strongly welcomes that the Marine & Coastal Access Bill will soon be on the statute books.

We are also currently very active on the Board and Steering Group of the only operational regional stakeholder Marine Protected Areas (MPAs) project, Finding Sanctuary, in the south-west. As part of our engagement with the Finding Sanctuary process, we have been actively feeding in data and expert advice on important seabird populations in the region and commenting on methodologies for identifying important areas at sea for seabirds and other marine wildlife. We would hope to be as actively engaged with all the other MPA regional stakeholder projects in due course and strongly expect to be invited to join them in the near future.

We have however, been concerned for some time about the suggestion that Marine Conservation Zones (MCZs) should not be designated for seabirds. The basis for that exclusion was the recommendation that no MCZs should be sought for the protection of features already covered by the European Marine Site network. All wild bird species are protected under the EU Birds Directive, and that Directive already contains a requirement to protect habitats important for wild birds named in Annex I of the Directive and for migratory species. Such areas are to be classified as Special Protection Areas (SPAs). As very nearly all of our seabirds qualify as either Annex I or migratory species, and therefore should be protected by our marine SPA network once completed,

it was suggested that further sites (MCZs) would not be required for their protection in addition to the completed marine SPA network.

However, a failure to consider the requirements of seabirds in development of the MCZ network would ignore those wild birds which are not Annex I or migratory species but which also require protection under the Directive; as well as those populations/congregations of seabirds which do not meet the threshold numbers for designation as an SPA but which are still of national importance. The RSPB has produced a short legal note which is appended to this letter (see Appendix 1), in support of our view that MCZs for seabirds are actually essential if the UK is to meet all of its obligations under the EU Birds Directive. In much the same way, the need to meet the mandatory requirement for protected areas for all wild birds (under Article 3 of the Directive) is a key reason behind the strengthened SSSI system that emerged from the Wildlife & Countryside Act 1981 and the subsequent Countryside & Rights of Way Act 2000.

We therefore warmly welcome the confirmation from the Secretary of State's Office *via* e-mail to the RSPB on the 5 July 2009 that MCZs can be designated for seabirds.

*"Marine Conservation Zones can be designated to protect wild birds. Clause 117 of the Bill allows ministers to designate MCZs for the conservation of marine flora and fauna, which includes birds. For example, it may be appropriate to designate areas as MCZs for species of birds which are not covered by the site protection aspects of the Wild Birds Directive. They could be used to protect offshore areas used for feeding by species such as the black guillemot. ... In short, yes, MCZs can be designated to protect areas which are not already protected through our primary means of European legislation."*

We would emphasise that, while black guillemot may be the only species of UK breeding seabird which cannot benefit from SPA protection – being neither considered migratory in the UK nor listed on Annex I – it is not the only species we would expect to benefit from MCZs. As mentioned above, populations or congregations of other seabird species may merit protection at national level where they do not reach the threshold levels applied in SPA designation.

During the second day of the Marine & Coastal Access Bill Commons Committee (morning session, 2 July 2009), you discussed examples of management measures for MCZs designated for seabirds and migratory species including birdlife. We take your comments as further confirmation that MCZs can be designated to protect birds at sea and their associated marine habitats.

We therefore believe that we now have clarification from Government that MCZs can be designated for seabirds. To dispel any further confusion regarding this matter, we

thought it helpful to share this position with all concerned in the process of producing further, detailed guidance on site selection and network design, and eventually designating MCZs and the MPA network.

We look forward to working constructively through the regional stakeholder projects in England to deliver MCZs for seabirds and other marine wildlife which will contribute to an ecologically coherent network of well-managed MPAs.

Yours sincerely,

Dr. Mark Avery  
Director, Conservation



Marine Branch  
Nature Access & Marine Unit  
Dept for Environment, Sustainability & Housing  
Welsh Assembly Government  
2nd Floor  
Cathays Park  
Cardiff  
CF10 3NQ

21st November 2009

Dear Sirs,

**International Sea Kayak Association response to the Consultation on  
a Strategy for Marine Protected Areas in Wales: Protecting Welsh Seas**

Thank you for the opportunity of commenting on this strategy.

**General**

The proposals put forward have the potential to be used for good or for ill. It is essential that the final say on any action is with people who are well informed and hold neutral positions.

Inland waters in Wales are the most repressively controlled of any country in the world and there is no apparent need for this approach. New powers being vested under the Marine & Coastal Access Act will be given to some of the very same bodies responsible for the situation inland. Those bodies need to have their voices heard, along with everyone else, but they must not be the final arbiters.

You wish your policies to be 'valued, understood and respected'. They are not inland and there is great concern that the sea could deteriorate in the same way.

The Brudtland definition of sustainability calls for meeting the needs of the present without compromising the ability of future generations to meet their own needs. That is not just the wildlife needs or even wildlife's assumed needs. Inland waters of Wales are not managed sustainably and the seas could suffer in the same way.

**Protecting Welsh Seas**

The subtitle 'Protecting Welsh Seas' assumes they need protecting. No restrictions should be placed on any group unless there is a clear proven scientific need, not just because environmental enthusiasts think that wildlife might like it better if people were expelled. This does not read as a balanced document.

P1. The positive comments relate to an existing vibrant Welsh coastline which is generally free of restrictions. Restrictions inland mean that much recreational activity has to take place outside the law or that potential participants need to go elsewhere, taking important revenue with them and

sometimes significantly increasing their carbon footprints. Many canoeists have been forced onto the sea because of the situation inland. Resolving the problem inland would reduce numbers on the sea.

P7. Scientific evidence must be incontrovertible, not just well-meaning hunches. The historical record of evidence available to environmental bodies in Wales, especially to those not actually on the water, has not been good.

The term 'stakeholders' is misleading and has overtones of 'supplicants' rather than those who are currently present with the present wildlife.

Clean water is a two-edged sword although it is something which humans would like. For example, a sewage outfall might provide nutrients which attract fish which then attract dolphins, as at Aberystwyth. Varied conditions around the Welsh coast attract varied wildlife. Very clean water (eg Loch Ness) significantly restricts wildlife and would only suit the species which like clean water in each location, a reduction in biodiversity. There is opposition to mud being stirred up by dredging yet mudflats in the Dee and Severn estuaries are seen as prime locations for birds.

P8. No class of vessel should be banned from any area unless there is clear proof that there is a significant repeating problem that cannot be resolved by adequate education. When there is shown to be an undisputable need for a ban it should be reviewed at frequent intervals, not more than 5 years, in the presence of those being banned and any such ban should be reversible.

P9. 'Damaging activities' must be clearly proved and consistent, not just assumed or considered to have happened in an exceptional case or at another location.

P10. 'Lack of full scientific certainty' should not be a blank cheque for damaging others' interests. Incontrovertible evidence should exist rather than hunches before restrictions are placed on other users.

P11. Skomer is the only Marine Nature Reserve so far. Parts of its coast are closed at various times such that there is now no time in the year when it is totally unrestricted. Even before, when one month was allowed, it was the month when there was little wildlife present, infuriating to those who use sea kayaks as the least disturbing way of watching wildlife. The restricted areas go out to sea for a distance which is not marked. The reason for the restrictions on sea kayaks on Skomer are said to be to avoid disturbance of seals and seabirds yet seals and seabirds often choose to approach within a couple of metres of a sea kayak, sometimes even closer. Although people on foot cause more disturbance than people in boats to wildlife, pedestrians are encouraged to pay to come to the island to watch the wildlife.

P18. The principle of the interests of wildlife (even when proven) to be placed above those of human beings is not accepted per se. Birds and animals are not couch potatoes and need to be observant of other creatures around them even if humans are not present, subject to killing of wildlife being prevented. There is no reason for the existing balance not to continue.

P19. Many people take to the sea to get away from the enforcement which is so prevalent inland and in other aspects of life. This country is already notorious for its excessive surveillance and control of ordinary people. Yet more control will not be welcome, especially amongst tourists who have the ability to go elsewhere instead. Criminal prosecutions will not enhance our recreation. Surveillance vessels should not be more disruptive than the vessels being surveyed, eg powered craft should not be used to pursue unpowered craft.

P25. For their Catchment Management Plans the National Rivers Authority were obliged to

undertake public consultation but did not need to take any notice of what was said, a policy which they (as the Environment Agency) were obliged to change for their Local EA Plans. Any consultation must be meaningful.

## Annex

P1/2. 'Commitment to stakeholder engagement' has an air of reluctance about it, the minimum we need to do.

The Steering Group should be neutral and members of the Technical Advisory Group should not outnumber or take precedence over those of the Stakeholder Group. When it is proposed to restrict the activities of a special interest group they should be as fully represented as are members of the Technical Advisory Group. It should be recognized that many members of special interest groups come from outside Wales and these also should be fully represented. It is also not unknown for them to be better informed about the wildlife and its habits.

## CCW Policy Research Report 08/17

Px. 'Understanding of marine ecosystems' is poor. New species are frequently being discovered. Even large colonies of common species are sometimes discovered, completely changing the implications of the viability of a species.

This page stops short of saying that many people are present specifically to view the wildlife, something which can be done by boat with much less disturbance than by people on foot.

Pxi - 9. Drawing lines on a map may be simple. Recognizing that area from the sea may be another matter, even for those carrying the map, as one section of cliff can look much like another. On some sections of Welsh coast it is possible to travel several kilometres without seeing a definite landmark. Scale can be deceptive. It is not unusual for a person standing on a beach in the distance to prove to be a bird much closer. Even an inlet in the cliffs might be confused with a larger bight shown on a chart. There may be no way of telling how far out to sea one is obliged to go. No thought has been given to offsetting the extra dangers introduced to users in small craft.

- 11. The most powerful vested interest group are environmentalists.
- 12. There is widespread suspicion that the process is not fair and that much of it is unnecessary.
- 14. Views should not only be heard but acted upon.

Pxii. Many stakeholders come from outside Wales and it is not up to them to find out about decisions being taken against their interests.

P1. Who decides what is a damaging level? The inland situation in Wales provides little confidence of valid decisions. There is no reason to believe that wildlife on inland waters in Wales is more susceptible to disturbance than in any other country in the world. 'Opportunities for recreation' has overtones of 'reservations' but needs to recognize that some interests do not want set areas like football pitches but the ability to explore freely and quietly, as for walkers in open country. Some people relish the opportunity to get away from everyone else and be alone.

This workshop was heavily attended by environmentalists and academics with little stakeholder presence, causing concern about what might happen at future consultations.

P8 - 3. This sounds like forcing through ideas for which there is little support.

- 5. Again, this could be promoting the interests of a minority in the face of public opposition.

- 7. Manageable by the environmentalists?

-8 Lack of adequate representation is more likely to be the problem. The International Sea Kayak Association has attended two workshops in north Wales on this issue but found few other stakeholders attending. There was apparently at least one other workshop about which we did not learn.

- 12. There is widespread suspicion, some of which could be dispelled if environmentalists were less secretive about their proposals.

P12 - 1. How would this website be advised? The workshop promoters were not even able to say whether there were websites for corresponding groups around other parts of the British coast.

- 3. No, the Steering Committee must not contain Agencies and Academia. They are a vested interest and should be part of the Technical Advisory Group only. The Steering Committee must be neutral and must be prepared to stop any designations which are not essential. Recreation and tourism are conspicuously absent from the proposed list of interests but wildlife enthusiasts are well represented. For from giving confidence, the proposals in this note are alarming and unacceptable.

P13 - 3. Any committee where those being restricted are outnumbered by those doing the restricting will be subject to suspicion from the start.

P14 - 4/5, P17 - 10. Public communications and outreach has not worked for workshops held so far.

P15. Is the intention to restrict activity which is taking place or to place bans on areas where there is no apparent interest? Some users deliberately go to places where there is nobody else rather than to crowded honeypot venues. Should a threatened activity draw attention to its use of an area or should it not do so?

P34. Public health should include public safety, for which there will be adverse implications if restrictions are placed on where people can go.

All Wesh waters can be used for public recreation (although many may not be permitted), some being more popular than others. This clause is vague and threatening. Excluding recreation *will* be controversial, not just in local communities. Wales is already the worst country in the world for inland access and closing down the sea will be no more acceptable.

P35. Making further activities illegal will only lead to greater anger.

Putting lives at risk is not a question of totting up scores. Alternative rescue resources will need to be put in place. The issues here do not appear to be understood by the promoters.

If recreation is adverse to wildlife, why are researchers, visitors, students, management and patrols not a problem? This sounds like one rule for them and another for us. It ignores the fact that some people in recreational craft go specifically to view the wildlife without causing disturbance. It is galling to be forbidden to land on an island because of the wildlife and then pass a line of people with long lenses and tripods over their shoulders as they stroll along the top of it.

P36. Scoring is irrelevant. Either it is essential that a site needs protection or it is not.

P41. No other country has an inland waters situation as bad as Wales, not even England.

P42. Florida Keys encourage recreational boating.

P44. Australia's coast is open to boats.

P45. The Californian coast is open to boats.

P91. Despite the fact that the great majority of those present were environmentalists or academics there was significant support for the claim that the Countryside Council for Wales are not seen as honest brokers. The last five paragraphs on this page and the first on P92 were from the International Sea Kayak Association.

P103. The best people to decide on the dangers of currents, submerged obstacles, waves and crumbling cliffs are recreational users, not environmentalists.

P104. If management and enforcement are the overriding criteria for selecting a Highly Protected Marine Reserve it is questionable whether it should be designated at all.

P105. It is unclear how having no-go sites will increase an area's value to tourism. Once again this seems to be promoting the interests of environmentalists in the face of the interests of everyone else.

The environmentalists have new powers and are looking for somewhere to try them out regardless of the consequences, rather than having specific problems to be addressed by the least intrusive methods.

Contrast the complexity of Skomer with South Stack on Anglesey, where a voluntary agreement means that climbers have agreed not to use certain pitches during the bird nesting season.

It may be that canoeists are concerned unnecessarily about threats on the sea but nobody has attempted to allay those concerns in a country where the situation on inland waters is the worst in the world as the result of policies promoted by bodies which will have significant say in what happens on the sea.

So far there has been goodwill and co-operation between canoeists and those with environmental concerns about the sea. Abuse of power under the new act could make the situation as acrimonious as it is inland.

Yours faithfully



Stuart Fisher

International Sea Kayak Association

21 November 2009.

**From:** Mick Green [  
**Sent:** 11 December 2009 20:29  
**To:** Marine  
**Cc:** Evans, Stuart (RA - FMDD); WILLIAMS, Mark  
**Subject:** MPA Consultation

Following my suggestion that all Welsh waters be treated as a conservation zone, with appropriate zoning in my submission to the MPA consultation, I would like to add the attached paper in support of such a move. This clearly shows that restricting certain activities can be beneficial to all parties involved.

Mick Green.

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# Beyond Marine Reserves: Exploring the Approach of Selecting Areas where Fishing Is Permitted, Rather than Prohibited

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## Abstract

**Background:** Marine populations have been declining at a worrying rate, due in large part to fishing pressures. The challenge is to secure a future for marine life while minimizing impacts on fishers and fishing communities.

**Methods and Principal Findings:** Rather than selecting areas where fishing is banned – as is usually the case with spatial management – we assess the concept of designating areas where fishing is permitted. We use spatial catch statistics for thirteen commercial fisheries on Canada's west coast to determine the minimum area that would be needed to maintain a pre-scribed target percentage of current catches. We found that small reductions in fisheries yields, if strategically allocated, could result in large unfished areas that are representative of biophysical regions and habitat types, and have the potential to achieve remarkable conservation gains.

**Conclusions:** Our approach of selecting fishing areas instead of reserves could help redirect debate about the relative values that society places on conservation and extraction, in a framework that could gain much by losing little. Our ideas are intended to promote discussions about the current status quo in fisheries management, rather than providing a definitive solution.

**Citation:** Ban NC, Vincent ACJ (2009) Beyond Marine Reserves: Exploring the Approach of Selecting Areas where Fishing Is Permitted, Rather than Prohibited. PLoS ONE 4(7): e6258. doi:10.1371/journal.pone.0006258

**Editor:** Ross Thompson, Monash University, Australia

**Received:** February 3, 2009; **Accepted:** June 2, 2009; **Published:** July 22, 2009

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**Funding:** NB was supported by The Canon National Parks Science Scholars Program and NSERC. We also appreciated support from the John G. Shedd Aquarium and Chocolaterie Guylian through their partnerships for marine conservation with Project Seahorse. The funders had no role in study design, data collection and analysis, decision to publish, or preparation of the manuscript.

**Competing Interests:** The authors have declared that no competing interests exist.

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## Introduction

The oceans have suffered declines in faunal biomass and biodiversity [1,2,3], with fisheries constituting the single biggest human-induced pressure on marine life [4]. Marine reserves (no-fishing zones) have been widely hailed as providing one powerful tool – but not a panacea – for halting the decline of overexploited fish and invertebrate populations [5,6,7,8,9]. The evidence that they increase biomass, abundance, and average size of exploited organisms within their boundaries [5,6] has prompted international commitments to establish marine protected areas (including reserves) under the Convention on Biological Diversity and at the World Summit on Sustainable Development [10,11]. Nevertheless, and despite this accord on the value of marine reserves, they are being implemented far too slowly to meet agreed targets for marine protection [10]. Their impacts on fisheries remain uncertain, and the extent of fisheries benefits, if any, varies [9,12].

Given the slow accumulation of marine reserves relative to international targets, we turn the problem on its head [e.g., 13]. We embrace the challenge of presuming that the entire ocean is initially protected from fishing rather than open to fishing [14,15,16]. At present, fisheries exploitation is specifically excluded (i.e., areas are protected) in less than 1% of the oceans [10]. Given

biodiversity concerns and the challenging task of managing fisheries with limited data, it is increasingly vital to explore ways to restrict fisheries spatially while respecting their socioeconomic and nutritional contributions. Such restrictions should, ideally, also meet systematic conservation planning criteria of representation and persistence [17].

Conceptually the approach of selecting fishing areas is very similar to using fisheries as a “cost” to represent economic losses to fisheries in marine reserve selection [18,19]. “Cost” in this context refers to the socio-economic or political cost of adding an area to a marine reserve [20]. The typical approach in marine reserve selection is to ensure representation of biodiversity features whilst minimize the cost to fisheries. By treating fisheries as a cost, marine reserve selection tools require that they be summarized in one layer – this often involves adding or averaging the catches, effort, or catch-per-unit-effort of fisheries for each area [20]. By targeting fisheries instead of treating them as a cost, we select the most productive fishing regions while minimizing the area fished. The main advantage of this approach is that each fishery can be selected for individually, thereby ensuring that all fisheries would be able to continue.

The goal of our research was to explore the possible conservation gains that might accrue from different hypothetical levels of restriction on fisheries. We use data from the Pacific coast

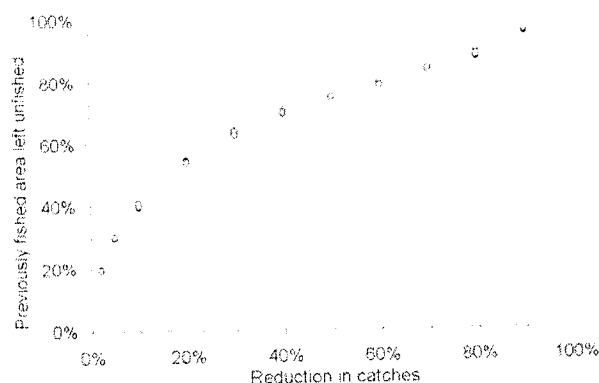
of British Columbia, Canada (approximately 49°N to 54°N latitude) for this initial foray. Our purpose is not to provide a definitive answer to fisheries management or reserve selection. Rather, we seek to promote discussion about the current status quo of our ocean management approaches.

## Results

Our analyses show that very small reductions in fisheries yields – if allocated in a strategic manner across space – can offer promising conservation benefits in both space and composition. For example, catch reductions of only 2%–5% could result in no-fishing areas constituting 20% or 30% of previously fished areas (Fig. 1). Every subsequent reduction in target catches yielded yet larger no-fishing areas (Fig. 1 and Fig. 2). Moreover, for each scenario, the multiple solutions that released the greatest area from fishing (Fig. 2) described no-fishing areas that included representation from all twelve ecoregions in British Columbia (Table 1); these ecoregions delineate marine regions based on physical criteria. Maintaining catches at 95% of recent levels (or more, depending on the fishery) resulted in no-fishing areas that protected at least 17%, and an average of 55%, of each physical and habitat feature (Table 2). In this scenario the total area protected would be 30% in exchange for a mean 4.6% reduction in catches (Table 3).

Estimates of the direct losses for the 2%, 5%, and 10% reduction scenarios based on ex-vessel prices [21] revealed that the combined cost to fisheries ranges from US\$2.3 million per year to US\$11 million per year for the above scenarios (Table 3). While this is less than one percent of British Columbia's seafood industry – which is valued at \$1.4 billion annually – and an even smaller portion of British Columbia's oceans economy – valued at \$11.4 billion annually [22] – it could be significant for some fisheries. In addition, the approach we cite would result in spin-off losses (e.g., job losses in the seafood processing industry).

The approach we employed for selecting permitted fishing areas used catches averaged over multiple years as the input, yet the result of the 5% reduction scenario also performed well when analyzed using documented annual catches for geoduck, green urchin, red urchin and sea cucumber fisheries (Table 4). As expected, we found some inherent spatial and temporal variability



**Figure 1. Decreases in areas fished resulting from reductions of catches for 13 commercial marine fisheries (British Columbia, Canada).** Each of 11 scenarios was repeated 10 times, with 100 runs of one million iterations each (11,000 runs). The result requiring the least area of each of the 10 repetitions per scenarios is graphed (i.e., there are 10 data points per scenario; some overlap closely and appear as one). doi:10.1371/journal.pone.0006258.g001

in the proportion of catches that would fall within the permitted fishing areas each year. The greatest range for a target of 95% of catches retained across all fisheries was a 2–12% reduction in sea cucumber catches, depending on the year.

## Discussion

### Potential conservation and fisheries benefits of permitted fishing areas

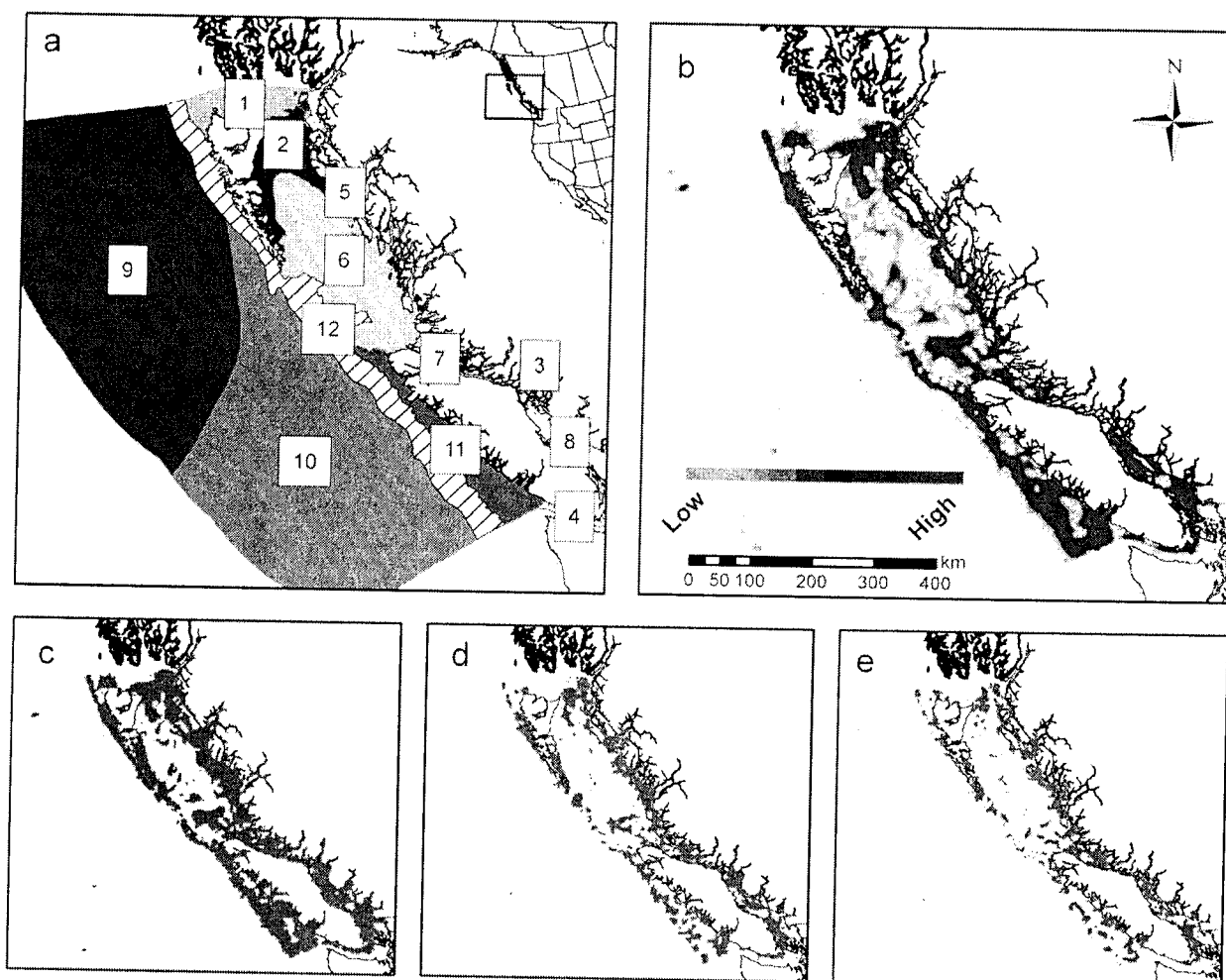
The practical approach used in this study allows for explicit analyses of trade-offs between small reductions in fisheries – in a spatially strategic manner – and large gains for marine conservation through spatial protection. Managing marine environments by selecting permitted fishing areas rather than marine reserves would represent a much-needed paradigm shift in areas where little headway is being made in marine reserve establishment. Instead of debating the merit of each potential marine reserve, the discourse could focus on analyses of the ecological benefits of small reductions in fishing.

This approach has the potential to offer real conservation benefits. At a minimum, the approach outlined here would protect the same proportion of fished populations as the target reduction in catches, assuming even catchability in space. Because we suggest reducing quotas by the target percentage used for the spatial selection of permitted fishing areas, effort within these areas would not increase. Therefore any alterations to source-sink dynamics would already have occurred with previous fishing patterns. Even small marine reserves that protect only a fraction of populations have been shown to increase the size, number, and diversity of fish within their boundaries [5,23,24]. Given the usually exponential increase in fecundity of fishes that grow larger within protected areas, protecting even a small proportion of the population could greatly enhance numbers in areas that continue to be fished. By changing the reserve to fished ratio, recruitment effects could be significantly greater than anything seen to date. For larger species, fisheries yields may respond to no-fishing areas with a response that exceeds the results of conventional fisheries management by 60% [25]. However, fecundity has not increased in all closed areas [26], and hence the effects of marine reserves can be unpredictable.

Even though ecological goals were not included *a priori* in the designation of the permitted fishing areas, the areas that fell outside permitted fishing areas included good representativeness across ecoregions [27] (Table 1). Further detailed analysis of the scenario with 5% catch reduction showed that the areas outside the permitted fishing area represented key physical and habitat features (Table 2).

Even while protecting large (and representative) tracts of ocean, the proposed approach of designating permitted fishing areas could reasonably be expected also to strengthen fisheries in three ways if the experience in some marine reserves holds [e.g., 6,23,28]. First, the removal of destructive fishing gear from the areas outside the permitted fishing areas should promote improved habitat quality [29], while also reducing bycatch [30]. Second, given the benefits of even small reserves for population recovery [28], the areas outside the permitted fishing areas could be enhanced by fish populations within permitted fishing areas [6,31]. Third, many fisheries around the world are operating unsustainably [32], such that reductions in catch while setting permitted fishing areas could also move these fisheries closer to desired biological reference points for sound management [33]. Such changes might well offset catch reductions over the long run.

We are well aware that the actual effects of permitted fishing areas are untested and hence uncertain. Clearly and importantly,



**Figure 2. Marine ecosections in British Columbia and selected permitted fishing area solutions.** The marine ecosections (a) are 1 = Dixon Entrance; 2 = Hecate Strait; 3 = Johnstone Strait; 4 = Juan de Fuca Strait; 5 = North Coast Fjords; 6 = Queen Charlotte Sound; 7 = Queen Charlotte Strait; 8 = Strait of Georgia; 9 = Subarctic Pacific; 10 = Transitional Pacific; 11 = Vancouver Island Shelf; 12 = Continental Slope. The selection frequency map (b) shows the importance of areas to commercial fisheries based on the summed solution results from Marxan. The permitted fishing area solutions (in blue) are for a sample of the scenarios that minimize the area fished with the corresponding percent reduction in commercial fishing catches: (c) 5%, (d) 20%, (e) 40%.

doi:10.1371/journal.pone.0006258.g002

our estimates of direct losses to fisheries need refinement to achieve greater realism. Our approach is simplistic in that we currently use ex-vessel prices and production, and hence assume that productivity is proportional to profitability. Models of fishing behaviour, and analyses of current allocation rights and dependencies, should be developed to provide better estimates of the potential costs to fisheries, such that they can be incorporated into the analysis of conservation benefits. A more advanced version of our analyses would also incorporate other commercial fisheries, recreational fisheries, timing of fishing effort, and more detail on ecologically important areas. Ironically, launching the assessment process we propose – in a consultative fashion – might be a particularly effective way of eliciting or prompting the collection of just such important data, which are seldom available (or at least publicly accessible) in even the best resourced management jurisdictions.

The flexibility of the approach used here could help to enhance societal acceptance of and compliance with spatial planning,

particularly among fishers. The decision support tool we used – Marxan – facilitates decision-making, without making decisions. Indeed, because it offers multiple solutions that may differ only slightly in their efficiency, the exact choice of permitted fishing areas can be adjusted for social acceptability and ecological viability [34]. Fishers' input will be important in setting commercial catch targets by fishery, verifying formal data [35], mapping and scaling fisheries that lack formal spatial data, and in agreeing to the permitted fishing areas. By using Marxan to set catches as targets instead of as a cost – the common approach in reserve selection – each fishery is targeted the same way, and therefore (under the assumptions of this approach) would incur a loss proportional to that fishery. In contrast, when all fisheries are combined into one cost, some fisheries may be disproportionately affected.

The approach of selecting permitted fishing areas would be expected to yield useful results in other geographic areas. Gear types used in British Columbia are typical of commercial fisheries

**Table 1.** Gap analysis by ecoregion for the most spatially limited result for each scenario.

	Area of ecoregion (ha * 1000)	% of area fished	Percent reduction in catches ( <i>italics</i> ), resulting in percent protected (plain, in %)										
			2%	5%	10%	20%	30%	40%	50%	60%	70%	80%	90%
Continental Slope	3,330	53.8	55.3	60.0	64.8	74.5	78.6	79.2	84.5	88.5	91.9	89.6	97.2
Dixon Entrance	1,089	55.4	57.8	64.8	72.0	79.1	83.0	90.8	86.9	89.9	95.3	93.6	98.1
Hecate Strait	1,280	77.0	36.5	43.0	50.0	57.6	64.9	70.9	74.5	82.7	91.7	85.5	95.5
Johnstone Strait	239	98.0	11.4	19.2	24.1	46.3	58.1	65.1	98.0	73.0	81.7	81.8	96.1
Juan de Fuca Strait	150	90.8	15.5	27.0	67.4	56.7	74.6	72.8	69.5	96.6	100	97.7	100
North Coast Fjords	958	91.9	23.6	33.9	46.9	59.6	68.7	72.8	80.5	83.3	91.3	85.2	96.4
Queen Charlotte Sound	3,642	55.7	60.7	68.1	75.9	82.5	87.5	89.1	89.8	90.1	97.4	94.2	99.2
Queen Charlotte Strait	220	94.5	7.9	18.1	33.2	46.2	45.6	69.4	66.4	56.8	93.2	74.6	86.0
Strait of Georgia	815	94.8	7.9	63.0	14.6	27.3	31.2	51.7	50.7	64.5	79.4	77.8	92.7
Subarctic Pacific	17,098	0.3	99.8	99.9	99.9	99.9	99.9	100	99.6	100	100	100	100
Transitional Pacific	14,850	0.1	100	100	100	100	100	100	100	100	100	100	100
Vancouver Island Shelf	1,670	89.2	17.8	24.4	30.9	42.2	56.3	66.8	70.7	76.4	87.9	75.5	93.8

doi:10.1371/journal.pone.0006258.t001

elsewhere – trawl, hook and line, gillnet, seine, trap, and dive – and bioeconomic models suggest consistency in fisher behavior across locations [36]. Moreover, modeling has previously shown that optimal harvesting strategies always include marine reserves for populations with sedentary adults, even before consequent improvements in habitat recovery are considered [37]. Trials of this approach must, however, be taken elsewhere to determine whether, for example, the resultant no-fishing zones are generally ecologically representative.

### Assessing the costs and benefits

While optimistic about the potential of our approach, we are well aware that many challenges remain to be resolved. First, we would benefit from knowing more about the connectedness of the fished and unfished area over space and time, in order to understand responses to spatial management; this is also true of MPA design and conventional management tools. Second, some fisheries in the portfolio that already operate sustainably might gain few benefits from the spatial management we propose, and would essentially be making concessions for other fisheries and/or for broader conservation principles. Third, our approach focuses only on fisheries (and only commercial fisheries in this trial study), whereas other marine and terrestrial uses also significantly affect the ocean. Fishing, however, is the main threat, and hence a tangible starting place for making conservation gains. Fourth, the large no-fishing zones arising from our approach, might lead to claims that no further areas need be protected, whatever their claims for conservation. Fifth, it remains to be determined whether the areas protected through this approach would provide the same conservation benefits conventional marine reserve selection. We do, however, know that both approaches tend to lead to protection for areas that are less valuable economically.

As ever, no single management measure will achieve all goals. The effectiveness of our approach in terms in accelerating protection will depend, in large measure, on the extent to which fishers gain yields in proportion to the benefits they cede in the no-fishing zones. Some conflict is still likely if, for example, the best fishing grounds – and hence the areas most likely to be included in permitted fishing areas – are also (a) the most sensitive habitats with the highest fish densities

or (b) the most sensitive habitats even if they do not have high fish densities. These areas would ideally be protected in no-fishing zones, to the annoyance of fishers. Worse, however, would be to leave them in the permitted fishing areas, where they might come under more concentrated fishing unless quotas were reduced commensurate with the spatial contraction of the fishery. In terms of spatial management, the best approach is likely to combine the selection of permitted fishing areas with the identification and protection of sensitive habitats, whilst respecting the needs of fishers with limited ranges, such as small-scale fishing fleets or anglers. In addition, conventional fisheries management approaches will continue to be essential to managing fisheries within fished areas, especially to reduce the race to fish, realign incentives to reduce bycatch and habitat damage, and promote profitable fisheries; these are some of the roots of fisheries management failures [9].

The availability of fishing data will influence the completeness of the selection of permitted fishing areas. In particular, historical fishing data are rarely available. In some regions, the areas receiving less fishing effort – areas more likely to fall outside of permitted fishing areas – might be depleted through past fishing. Some marine reserves sited in degraded and depleted areas have shown remarkable recovery [38], and therefore such areas likely have the capacity to recover. In the case of British Columbia, areas that have been fished the most historically – those close to population centers – are still among the most heavily fished, and hence sequential exhaustion of past fishing sites is less likely to be an issue than in other regions. In regions where spatial fishing data are not available – such as most small-scale fisheries – interviews with fishers could be used to collect such data.

Approaches such as ours are unlikely to succeed without strong community and political support. Given that selecting permitted fishing areas would restrict fishers' flexibility in where to fish, support for the concept is not guaranteed. However, many fisheries are continuing to decline, and some scientists are calling for large reductions in catches [39]. By specifying targets for each fishery based on sustainability estimates and permitting all fisheries in the same areas, ecological benefits may be greater than by managing each fishery independently.

The designation of permitted fishing areas will face many of the same obstacles as in the selection of marine reserves. First, there

**Table 2.** Detailed analysis of the result of the 5% catch reduction scenario that produced the greatest area unfished, indicating ecosystem components that would be protected.

		Total area (ha) of each ecological feature	% outside permitted fishing areas
Depth	Shallow (0–20 m)	743,853	40.6
	Photic (20–50 m)	1,521,555	42.9
	Mid-depth (50–200 m)	60,400,258	94.3
	Deep (200–1000 m)	3,469,678	43.9
	Abyssal (>1000 m)	33,627,695	99.7
Temperature (summer at seabed bottom)	Warm (9–15°C)	2,438,557	32.9
	Cool (<9°C)	42,820,022	88.0
Slope	Flat (0–5%)	40,556,889	87.2
	Sloping (5–20%)	4,737,411	67.4
	Steep (>20%)	42,749	43.0
Current	High (>3 knots)	212,713	39.0
	Low (<3 knots)	45,162,974	85.3
Substrate	Mud	2,295,529	27.6
	Sand	4,852,577	47.7
	Hard	3,631,788	53.5
Exposure	High	42,616,399	89.0
	Moderate	1,287,192	17.4
	Low	1,470,964	30.4
Relief	High	206,158	17.6
	Moderate	20,839,047	93.9
	Low	43,040,993	87.7
Salinity (annual average at surface)	Mesohaline (5–18ppt)	147,957	22.1
	Polyhaline (18–28 ppt)	11,279,517	91.7
	Euhaline (28–33 ppt)	43,945,636	87.0
Stratification	Mixed	4,931,996	36.8
	Weakly-mixed	2,083,666	42.3
	Stratified	37,823,783	94.4
Kelp		79,806	19.5
Eelgrass		10,449	28.7
Clam		18,978	22.5
Herring spawn		99,737	22.3
Sponge reefs		69,733	85.0

doi:10.1371/journal.pone.0006258.t002

are data availability issues and knowledge gaps. In both cases, we usually lack spatial data for at least some fisheries, biological and range data for at least some species, and an appropriate understanding of dispersal and connectivity [40]. Given this lack of spatially structured data, specific modeling of the anticipated increases and decreases in species and ecosystem dynamics may be a challenge. Second, similar implementation and management issues might arise for permitted fishing areas and marine reserves. Enforcement would still be a challenge, and the political will to proceed with establishment has to exist for advances to be made.

## Conclusion

Given the dismal state of many fisheries, time is ripe to debate alternative approaches. We have little to lose – and much to gain – in trying a new approach in areas where marine conservation advances have been inadequate. It appears, *ab initio*, that large areas that are representative of ecoregions and habitats might be

protected at a small cost to fisheries (although particularly sensitive areas may have to be included *a priori*). Moreover, the dependency of the approach on explicit commercial catch targets for each fishery forces us to define the trade-offs we are willing to make to ensure a healthy ocean. The alternative to the approach described here seems to be the continuation of the *status quo*, which has resulted in the sequential collapse of fisheries [1,41] with only a small proportion of the ocean protected by marine reserves. At a minimum, a debate about management assumptions is much needed, if innovative approaches are to emerge.

## Methods

### Selection of Permitted Fishing Areas: The decision support program used

We applied Marxan [42,43], a decision support tool that has commonly been used to plan reserves, to spatial catch statistics for

**Table 3.** Actual catch reductions and estimated direct financial impact for each fishery under the scenario that (a) reduced overall catch by 2%, 5% and 10% and (b) produced the greatest area unfished at that level.

Commercial fishery	Actual catch reduction (%)			Estimated direct impact (US\$)*		
	2% catch reduction scenario	5% catch reduction scenario	10% catch reduction scenario	2% catch reduction scenario	5% catch reduction scenario	10% catch reduction scenario
Crab	2.0	5.0	10.0	665,624	1,664,103	3,327,551
Geoduck	2.0	5.0	10.0	113,128	282,906	565,828
Green urchin	2.0	5.0	10.0	5,021	12,512	25,122
Groundfish trawl	2.0	5.0	10.0	470,332	1,175,818	2,351,668
Krill	1.9	4.7	9.9	NA	NA	NA
Prawn	2.0	5.0	10.0	234,238	585,538	1,171,154
Red urchin	2.0	5.0	10.0	186,231	465,469	932,242
Sablefish longline	1.2	1.5	3.4	35,061	42,496	95,713
Sablefish trap	2.0	5.0	10.0	266,145	665,345	1,330,782
Schedule two	2.0	5.0	10.0	19,455	48,632	97,280
Sea cucumber	2.0	4.7	10.0	35,661	83,147	178,338
Shrimp trawl	2.0	4.2	7.2	207,272	430,335	748,438
ZN catch	2.0	5.0	10.0	17,223	43,057	86,118
Total				2,255,391	5,499,359	10,910,233

\*Ex-vessel data obtained from the Sea Around Us online database ([www.seaaroundus.org](http://www.seaaroundus.org)) [21]. We used mean annual prices from 2000 to 2004 in the reporting units of US\$. At the time of writing the Canadian and US currencies were about par.

NA = ex-vessel data not available.

doi:10.1371/journal.pone.0006258.t003

13 commercial marine fisheries in British Columbia, Canada. Marxan tries to find the least expensive solution to the following objective function, using a simulated annealing algorithm [44]:

$$\text{Total score} = \sum \text{planning unit cost} + (\text{boundary length modifier} * \sum \text{boundary cost}) + \text{feature penalty}$$

We created a grid of 2 km by 2 km cells (with each cell considered to be one planning unit), to cover the study area, populated it with the spatial catch data, and then ran scenarios to select fishing areas. As spatial catch data were not available for recreational fisheries, our analysis is limited to commercial fisheries. We set the boundary length modifier – which controls the boundary to area ratio of the Marxan output – high enough so that the results were spatially compact. We pre-specified targets for commercial catches (kg) for each fishery, then set the penalty factor high enough to ensure that were met. Marxan provides a good approximation to an optimal solution by incorporating a random component to adding and removing planning units. Rather than settling on a single outcome, Marxan produces many solutions for any target that is proposed. The frequency with which particular

planning units are chosen across different solutions is a measure of how important those planning units are for meeting the commercial catch targets efficiently.

#### The data

We obtained spatial catch data from Fisheries and Ocean Canada for 13 commercial fisheries in British Columbia, Canada. The scale of analysis – the province of British Columbia – matches the scale of management. For confidentiality reasons, eight sets of data had been summarized in 4 km by 4 km grids: ZN fishery (hook and line inshore rockfish), shrimp trawl, schedule 2 (hook and line, other species), sablefish trap, sablefish longline, prawn trap, groundfish trawl, and crab. Similarly, the other five sets of data had been grouped into 10 km by 10 km grids: sea cucumber, red urchin, krill, green urchin, and geoduck. Many of the commercial fisheries have a high percentage of observer coverage and have vessel monitoring systems; we therefore believe that the data are as reliable as catch data can be. If fishing data are to be used for the purpose of selecting fishing areas, workshops with

**Table 4.** Proportion of annual commercial fisheries catches that fall within the permitted fishing area result of the 95% target scenario.

Fishery	Annual data	Average	Standard deviation	Minimum	Maximum
Geoduck	2002–2004	95.04%	1.91%	92.96%	96.73%
Green urchin	1998–2003	94.29%	2.89%	90.49%	97.05%
Red urchin	1997–2003	95.07%	0.39%	94.72%	95.82%
Sea cucumber	1997–2004	94.81%	3.07%	88.25%	97.97%

doi:10.1371/journal.pone.0006258.t004

managers and fishers could be used to assess the reliability of the data. Also, if the fishing industry knows that the data could be used for such a purpose, reliability of the data may improve.

We normalized all data to the average annual catch (kg) for each planning unit. Data were averaged per annum over the temporal duration of spatial data collection, which extended between 3 and 12 years for any given fishery (1993–2004). We used 2 km by 2 km planning units that assumed even spatial distribution of catches for each original 4 km by 4 km or 10 km by 10 km grid.

### The scenarios and analyses

We set each of 11 scenarios to maintain a particular target level of recent mean annual commercial catches (kg), from 98% to 10%; the targeted yield reductions thus ranged from 2% to 90%. We repeated each scenario ten times, with 100 runs of one million iterations each. The results for each scenario integrated all 13 fisheries, with each fishery maintaining at least that target catch.

We carried out a detailed assessment of the run with a target of a 5% reduction in catches (in all fisheries) by examining the proportion of different habitat types or surrogates that fell within the areas where fishing was allowed to continue (permitted fishing areas). Our intention was to determine which features would be protected by selecting permitted fishing areas, and which would remain unprotected. The habitat types were described by depth,

exposure, relief, slope, current, temperature, substrate, salinity and stratification. In addition, limited spatial information was available for the distribution of kelp, eelgrass, herring spawn areas, and clam beds.

We further assessed the performance of the run with targeted 5% reduction in catches on annual spatial catch data for the four commercial fisheries for which we had annual data: geoduck, green urchin, red urchin and sea cucumber. Furthermore, we took the scenarios for the 2%, 5% and 10% reduction that resulted in the least area fished, and assessed the predicted reduction in catches, and the expected losses based on ex-vessel prices, for all 13 fisheries.

### Acknowledgments

This is a contribution from Project Seahorse. We thank I. Cote, S. Palumbi, L. Kaufman, C. Roberts, and an anonymous reviewer for comments.

### Author Contributions

Conceived and designed the experiments: NCB ACV. Performed the experiments: NCB. Analyzed the data: NCB. Contributed reagents/materials/analysis tools: NCB ACV. Wrote the paper: NCB ACV.

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8 December 2009

Dear Julia,

The Pembrokeshire MCS local group welcomes the opportunity to respond to the Assembly Government's consultation on 'Protecting Welsh Seas: a strategy for Marine Protected Areas in Wales.' We look forward to the strategy providing the basis for an ecologically coherent suite of well-managed MCZs, particularly HPM CZs, in Wales, including Pembrokeshire. We also look forward to it securing and enhancing the future conservation of Skomer Marine Nature Reserve.

We acknowledge that the consultation document describes the Assembly Government's high level strategic proposals but we are concerned that the provisions for management of new MCZs as outlined will not be adequate or robust enough. We are particularly concerned about the lack of commitment for the future management and protection of Skomer MNR in the document. We were therefore very relieved to learn that the Minister, Jane Davidson, made a commitment in her speech to a Wildlife Environment Link's Marine Act event in Cardiff on 24th November to ensure "that there is no fall in the level of protection afforded to Skomer." We also thank you for attending the Pembrokeshire Coastal Forum / Skomer MNR Advisory Committee meeting in Pembroke Dock on 3 December and addressing several of our key concerns.

As a MCS local group we have considerable knowledge of Pembrokeshire's marine environment and, because of the decades of wide geographic experience of Pembrokeshire-based professional marine ecologists / surveyors / monitoring scientists, we also understand it's importance in a UK context. We therefore look forward to being afforded the opportunity to contribute to the MCZ selection process through the Stakeholder and Public Engagement Group that you described.

As far as MCZ management is concerned, we believe that the SAC-approach of placing a "duty on all public authorities ... to undertake their functions in a way that will further ... the achievement of site conservation objectives" is inappropriate. It is

essential that one specific authority is given the responsibility of taking the lead. No leadership but a shared duty equates to no clear, accountable, responsibility and the risk of each authority deflecting responsibility to the others. MPA management guidance produced by IUCN and others makes it clear that without a lead responsible authority and active 'hands-on' management it will be impossible to deliver the strategy's objective of well managed MCZs.

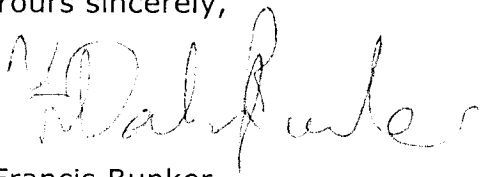
We are concerned that the only management activity that the consultation document focuses on in any detail is enforcement, and that this will be the duty of the Assembly's Marine Enforcement Team, presumably consisting primarily or exclusively of current fisheries enforcement staff. Firstly, management is far more than simply enforcement; much more effort is required for disseminating information about management measures in order to prevent the contraventions that result in enforcement being needed. Surveillance, monitoring and engagement with the public are also required. Secondly, management staff need to understand the ecosystems they are protecting; IUCN guidance is also clear on this requirement. Very few fisheries enforcement officers are likely to have either the knowledge or expertise necessary.

We understand that WAG and CCW have made a commitment to maintaining the current degree of protection and level of resources for Skomer MNR until the designation of the series of new HPMCZs, probably in 2012. While we welcome this commitment as a interim measure, it is not adequate for the long term and our concerns about the enduring protection and management of the MNR still remain.

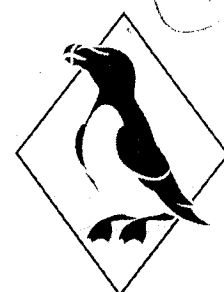
Whilst we also acknowledge the intention to undertake a systematic assessment to identify the suite of HPMCZs, we cannot believe that Skomer MNR will not be selected in that process: the reasons it was selected as an MNR in the 1980s still stand, it's conservation status has improved since designation despite weak legal protection and it is one of the most well studied and without doubt the best monitored inshore area in Wales, and probably the UK. We therefore believe that the importance of building on the conservation gains of 14 years as a voluntary reserve and 19 as an MNR should be recognised and that Skomer MNR should be made a special case for fast-tracking to HPMCZ designation. To that end, at the Wales Environment Link event mentioned above we presented Jane Davidson with a petition with over 7350 signatories for the designation of Skomer MNR as an HPMCZ.

Whether or not Skomer MNR does eventually become an HPMCZ, we believe that the experience of the current team, the monitoring programmes, academic interest for research and public support must not be threatened or lost. We therefore ask the Assembly Government to commit to the long-term protection of the MNR, and ensuring that its resourcing, staffing and monitoring programmes are maintained, whether directly by the Assembly Government or delegated to another authority such as CCW.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Francis Bunker', written in a cursive style.

Francis Bunker  
Chairman, Pembrokeshire MCS Local Group



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*Groesawn ahebiacth  
yn Gymraeg a Saesneg*  
*We welcome correspondence  
in English and Welsh*

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8th December, 2009

Dear Sir/Madam

**CONSULTATION ON A STRATEGY FOR MARINE PROTECTED  
AREAS IN WALES: PROTECTING WELSH SEAS**

Thank you for the opportunity to comment on this draft document.

The Pembrokeshire Coast National Park boundary extends to mean low water mark. However, marine-based factors affect the state of the Park and people's enjoyment and experience of it. Land-based issues and activities taking place across the Park boundary affect the state of the marine environment. The NPA has relevant authority and advisory roles relating to marine conservation designations, and has other relevant roles e.g. in pollution contingency planning and response. Pembrokeshire Coast is therefore a maritime National Park.

We fully support the strategy but have a number of comments to make.

These are as follows:

- i. There must be sufficient resourcing, in terms of personnel, material and powers, to allow credible and timely enforcement of marine conservation orders. Enforcement within Marine Protected Areas will also be critical to achievement of Good Environmental Status in the wider marine environment as required by the Marine Strategy Framework Directive. In particular, but not exclusively, MPA management will be relevant to the following GES descriptors: 1 - Maintenance of biological diversity; 3 - Maintenance of sustainable population dynamics of commercially exploited finfish and shellfish; 4 - Long term health of marine ecosystems; 6 - Sea floor integrity, and 11 - Management of introduced anthropogenic energy, including noise.
- ii. Of at least equal importance is the need for adequate resourcing of active preventive management measures (e.g. surveillance, information and advice) together with the infrastructure and clearly identified responsibilities necessary to deliver such measures. Relatively under-resourced enforcement may encourage extractive effort into Wales' inshore waters from other marine planning areas.

- iii. Related to (i.), we urge that Wales seizes opportunities to benefit from economies of scale (as well as, of course, the necessary cross-boundary working) through joint operations with UK and devolved governments. At the same time we are pleased that Wales will be able to take autonomous decisions.

On (i.) to (iii.) above we were heartened to receive reassurances during the very useful discussion meeting organised by the Pembrokeshire Coastal Forum on 3<sup>rd</sup> December 2009. We were also pleased to learn more about the process whereby potential MCZs will be identified.

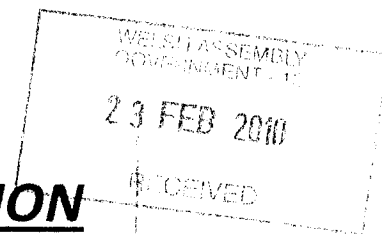
- iv. Management of the nature and scale of fishing effort is critical to improving the state of the designated and non-designated marine environment, to achieving of conservation objectives and to achieving the vision set out in the Wales Fisheries Strategy 2008. We welcome the draft MPA Strategy's recognition of the need to pursue control of other Member States' fishing effort in the 6-12 nm zone.
- v. We support the primary focus of the MPA network on nature conservation, as opposed to restoration of commercially-important stocks. However, as we note at (iv.), control of fishing effort is an essential conservation tool, and the MPA network should also recognise or anticipate the need to protect "commercial species" as a fundamental, but at-risk, component of marine ecosystems – as well as for their own intrinsic value. Furthermore we can expect that today's non-target species may in future become targets of fishing effort. Fishing effort is therefore an integral input to MCZ selection as well as management. We anticipate that the Technical Advisory Group of the Welsh MCZ Project may be able to advise on any changes necessary to ensure that fisheries management tools are fit for the purpose of management of MPAs.
- vi. Communicating the social and economic benefits of conservation measures to stakeholders (e.g. benefits of the No Take Zone at Lundy Marine Nature Reserve; adoption of low-carbon/low-bycatch fishing methods, etc) will be an important part of gaining public support and industry support for/acceptance of MPAs and the conservation orders necessary to protect them. Accordingly, the MCZ identification process could be used as a way of communicating the current state of protected marine sites (knowledge of which owes much to voluntary survey and monitoring effort).
- vii. We are pleased to have received verbal reassurances regarding the continuity of legal protection of Skomer MNR after MCZs are designated. However we are concerned that legal protection is of very limited value if there is no means of enforcement. Resourcing for management of Skomer and its surroundings must therefore also continue to cover the essential and complementary management tools of enforcement, monitoring and awareness-raising (whether or not Skomer is selected as, or included in, a Highly Protected MCZ). Indeed, we suggest that elements of the highly efficient Skomer MNR management model could be adopted as the basis of MCZ management.
- viii. Finally, we support the design principles of the MPA network, and would urge a bold approach to designation of MCZs: the likely effects of climate change on the marine environment, and unknown in-combination and feedback effects with other factors, emphasise the need to take a proactive and precautionary approach to (a.) site selection, and (b.) to the management of the more direct human impacts affecting the wider marine environment.

We hope that these comments are of use; if I can clarify please do not hesitate to contact me.

Yours faithfully,

**Michel Regelous**  
**Management Plan Officer**

14-9



# **FLINT AND DEESIDE FLUKERS ASSOCIATION**

N J Kinnair

## **HIGHLY PROTECTED MARINE CONSERVATION ZONES**

Dear Sir/Madam

In response to the consultation on the proposed Highly Protected Marine Conservation Zones it would not be in the interest of the River Dee Estuary to make it one.

The River Dee Estuary has 30 By-Laws protecting it, rigorously enforced by the Environment Agency's Bailiffs. The River is divided into four Areas, **Area 1** From Chester Weir To the footbridge at Saltney Ferry, That is a no fishing Area for nets. **Area 2** From the Footbridge at Saltney Ferry to the Flint Light, This is restricted to 2 hours either side of high water from 31<sup>st</sup> August to 1<sup>st</sup> February only.

**Area 3** From the Flint Light to a line drawn from the Fun Ship to a point at Latitude 53 Degrees 20.80' North, Longitude 3 Degrees 11.58' West Hence to Sally's Cottage. This Area is restricted to 3 Hours before high tide and 3 Hours after high tide only. **Area 4** From the Fun ship to a point mid River hence to Sally's Cottage hence down stream of Area 3. National restrictions apply

These By-Laws are currently under review and the no fishing Area 1 is destined to be made larger.

The River Dee Estuary is already a SITE OF SPECIAL SCIENTIFIC INTEREST (S.S.S.I.), SPECIAL AREA OF CONSERVATION (S.A.C), SPECIAL PROTECTED AREAS (S.P.A) and a RAMSAR SITE.

The River Dee Estuary Fishery Area is well Monitored by the Welsh Environment Agency which is the governing body of the fishery.

The area is also monitored by the Dee Estuary Conservation Group which comprises of 25 full organisations and 10 Observers =

Cheshire and Wirral Ornithologists Society, Cheshire Wild Life Trust, Cheshire and District Ornithologists Society, Clwyd Ornithological Society, Dee Estuary Voluntary Wardens, Dee

Wildfowlers and Wetland Management Club , Deeside Naturalists Society, Dyserth Field Club, Flint and Deeside Flukers Association, FRIENDS OF Hilbre, Hilbre Bird Observatory, Liverpool Bay Wader Study Group, Liverpool Ornithologists Club, Mammal Society, Marine Conservation Association, Merseyside Naturalists Association, Merseyside Ringing Group, North East Wales Wildlife, North Wales Wildlife Trust, Royal Society for the Protection of Birds, WildFowl and Wetlands Trust, Wirral Bird Club, Wirral Society **OBSERVERS** British Trust for Ornithology, Countryside Council for Wales, Dee Estuary Strategy, Defence Estates, Environment Agency, Flintshire Countryside Service, Mersey Estuary Conservation Group, Natural England, North Wales and North west Sea Fisheries Committee, Wirral Borough Council Ranger Service.

There is also the ( Dee Estuary Users Group) this is the industrial side

The welsh side of the River Dee Estuary is made up of a Special loading dock at Saltney Ferry to transport the Wings for Airbus to the Port Of Mostyn for transport to Europe. Further down River at Connahs Quay we have commercial and recreational fishing and boating there is also a marine engineering firm that maintains the buoys and markers on the Estuary, there are also commercial and recreational fishing and boating at Flint, Bagillt and Greenfield .

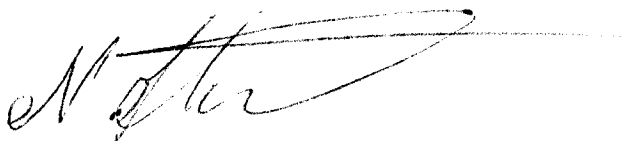
Its at Greenfield that the Welsh side of the cockle industry is mostly based , The cockle Industry on the Dee Estuary as recently obtained a regulating order limiting it to 50 licences and is highly regulated ,it took us 20 years to get this regulating order and all the organisations are determined to make it work. This means there are thousands of jobs depending on this not becoming a (H.P.M.C.Z).

All these Organisations over the years have learned to work together and trust each other and to fetch in a no take zone such as an (H.P.M.C.Z ) or an (M.C.Z. )would ruin it all ,the trust will disappear.

The Flint and Deeside Flukers Association know the value of conservation and treasure it.

Conserve it and it will be there tomorrow

Yours sincerely

A handwritten signature in black ink, appearing to read 'N J Kinnair', with a long horizontal flourish extending to the right.

N J Kinnair

Secretary

Flint and Deeside Flukers association

(4)

# Save Our Sea Achubwch Ein Môr

## Response to Protecting Welsh Seas A draft Strategy for Marine Protected Areas in Wales September 2009

Submitted by:  
Cardigan Bay Save Our Sea (SOS) Group

Contact names:  
Lorraine Hills (Chair)

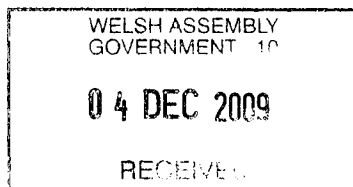
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Report author:  
Elly Foster (Spokesperson)



Our overall response to this draft strategy is a positive one. There are a few points on which we seek clarification. Furthermore, we would like to take this opportunity to put across our vision, which relates particularly to Cardigan Bay.

## **INTRODUCTION**

Your introductory paragraph would benefit from the addition of a simple sentence to the effect that our marine environment is important in its own right. The emphasis on goods and services to *Homo Sapiens* is misplaced in our opinion.

We concur with the Welsh Assembly Government (WAG)'s vision of Wales's marine environment.

We support the purpose of this draft strategy, in particular the strategy focus on Marine Protected Areas (MPAs) and "their purpose of conserving and protecting biodiversity."

We think that your aim "to contribute to the development of an ecologically coherent UK network of well managed MPAs" is too limiting. A network with too many spaces in between fails to deliver. On page 8 of this draft strategy connectivity is one of the design principles listed. We would like to see connectivity as one of your main aims. As a minimum this could involve joining up for instance the Special Areas of Conservation (SACs) in Cardigan Bay, or, preferably, the creation of much larger MPAs into a biosphere in line with current conservation thinking.

Your other stated aims sound reasonable but on further reading of the document we find that your explanation of "the process to identify, and select any additional MPAs" merely refers us to another document where our comments on yet further draft guidances are welcomed. It would have been very useful if these guidances had been included in this draft strategy as stated in your aim.

## **INTERNATIONAL AND LEGISLATIVE MEASURES**

We are aware of the current international commitments and legal obligations. The new Marine Conservation Zones (MCZs) are of particular interest to us. We welcome the fact that "conservation objectives will be used to set the level of protection required for a particular site" despite the fact that social and economic criteria can be taken into account in the designation decision.

## **DEVELOPING THE MPA NETWORK**

This draft strategy has fine design principles and we totally agree with the examples you offer on page 13 of the New Zealand experience. We particularly agree with your primary aim in the last paragraph on page 13 where you argue: "The primary aim of the network will be nature conservation and not to protect or restore commercially important fish stocks for enhanced commercial exploitation. Nevertheless, MPAs may

indirectly benefit fish populations particularly where they include areas important for reproduction (spawning or nursery grounds, etc.).”

## **SELECTION OF ADDITIONAL MPAs**

We welcome the fact that you will be looking at the need for further European sites. You state that you will take “into account the advice of statutory services.” May we ask that you also listen to conservation organisations such as ourselves.

Closer examination of your guidance for identifying, selecting and designating MCZs reveals a major gap in this draft strategy. The web-site to which you refer the reader leads to a Defra consultation document that does not include Welsh waters (up to 12 nautical miles) with which we thought this draft strategy was concerned. The Defra document explicitly excludes this region of waters but includes the waters in the Irish Sea beyond 12 nautical miles where in fact a regional project, known as the Irish Sea MCZ, has been set up. It would be very helpful if the final strategy clarifies the situation. Welsh organisations such as ourselves and Friends of Cardigan Bay have not been consulted by Defra and their consultation has closed some time ago.

Looking at the bigger picture it appears that the outcome could be conservation status to different degrees in Cardigan Bay, where the logical next step would be to close the few remaining gaps and create one whole MCZ for the whole of Cardigan Bay. The SACs could still be afforded higher status level of conservation. For instance these could be clear no-take zones. SOS held a meeting with stakeholders in December 2008 in Aberystwyth and would be very willing to submit our feedback to those officers and politicians involved in the selection process.

## **MANAGING THE MPA NETWORK**

This section requires further clarification in the light of the confusing amount of bodies responsible even at this stage of consultation.

When the strategy is in its final version it should be clear to members of the public, professionals and NGOs alike which body is responsible for what. Overlap of responsibilities leads to negation of responsibilities. Our experience in trying to get the damaging excessive scallop dredging controlled in Cardigan Bay SAC is a brilliant example of how existing bodies do not co-operate.

The draft strategy makes it clear that complications regarding fisheries can arise between 6 and 12 nautical miles, precisely in the SACs. This is one of our main concerns. **Clarification is needed on what powers WAG will have should there be a clash between the aims of an MCZ and fishing activities.** Moreover, the final strategy needs to address the same issue with regards to SACs.

We welcome the “rolling programme of surveillance and monitoring” but would like to read in the final strategy how this is to be funded and by whom. We are well aware that research funding has been cut in Cardigan Bay.

We also welcome the introduction of Marine Enforcement Officers. It is not entirely clear who will be employing them. Neither is it clear to whom the Royal Navy will be answerable, even if Welsh Ministers are able to delegate responsibilities to them. Clarification on these points is vital.

In our experience some skippers will ignore conservation measures in pursuit of maximum profit. We would like to see added to the final strategy that all commercially active boats carry universal electronic tagging. We believe the tasks of the officers enforcing the law will be made easier and more cost effective by such measures.

It needs to be made clear at this stage who the prosecuting body will be. Any loopholes will surely be exploited by those who do not care about conservation and sustainability issues.

## **CONCLUSION**

We welcome the overall aims of this draft strategy. We wish to see clarification on certain points, in particular on the responsibilities of the various bodies involved. We would like to be involved at every stage of the selection process for MPAs. We urge you to consider creating an MCZ of the whole of Cardigan Bay.



LC1 12/11/10 (2)

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14<sup>th</sup> December 2009

Ms H Towers  
Marine Branch  
Nature, Marine and Access Unit  
Department for Environment, Sustainability and Housing  
Welsh Assembly Government  
2<sup>nd</sup> Floor  
Cathays Park  
Cardiff  
CF10 3NQ

Dear Ms Towers

**Consultation on a Strategy for Marine Protected Areas in Wales: Protecting Welsh Seas**

Thank you for the opportunity to take part in the above consultation.

Having reviewed the document, the South and West Wales Fishermen's Association (SWWFC), support the goal of a sustainable fishery within Wales which is conducive to producing a diverse and healthy marine ecosystem throughout the Welsh territorial sea.

The use of Marine Protected Areas to achieve this would be fully supported by the industry where stake holders have genuine consultation and influence on the decision making process. In relation to restriction on fishing activity, it is clear that the main burden of this decision will be felt by the commercial fishing industry. It is therefore crucial that the decision makers have available all the facts, in relation to effectiveness of the range of restriction available to achieving the conservation objectives, through to the socio economic effect on the fishing industry and other associated local businesses to optimize the fit. To this end the collating of all fishing activity, detailing location, method and intensity as well as effective collation of sea bed habitats as part of this process is essential. This will then allow a full and open evaluation of the effect of fishing activity and how best to optimize the siting of MPA's/ MPZ's to maximize the environmental and socio economic gains.

Fishing intensity evaluation is an area that clearly requires development, given the limitations of the proposed model being put forward by CCW. This model clearly does not take into account the actual fishing operation on the ground in relation to several sectors i.e. Otter Trawling, where due to obstructions on sea beds etc many areas are protected from this activity and this should be factored into the decision making process.

Currently the make up of the protected waters in Wales which accounts for 32% of total Welsh sea, is predominately within the inshore waters, which places an unnecessary burden on the Welsh Fleet (which supports the Welsh economy), in that bulk of the vessels operating are >10 M and

*Funded by the European Fisheries Fund and the Welsh Assembly Government*

President John Allen-Mirehouse, DL JP  
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predominately operate within the 0 - 4 mile zone. Clearly work needs to be done to evaluate waters outside this range to share the burden of the socio economic effect of this activity but still achieving the environmental goals. It is understood in the industry that commercially important species are being heavily targeted by larger vessels in the 6 to 12 mile zone and the very high intensity of these operations would be having a significant impact on the eco systems in these locations which need protection. Although protection of commercial fish stocks is not a singular objective of MPA, it is the nature of this fishing activities interaction with the sea bed and the targeting of susceptible species I.E. Skate and ray, on an intensive scale which can tip the balance. The SWWFC would support further work in these regions to map and identify significant sites for adoption of MPA status.

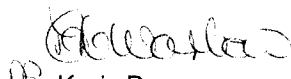
The nature of the fishing industry within the SWWFC district is clearly conducive in its make up to operate in a manner to achieve its goals of supporting a sustainable and healthy marine environment. It is not the intension of the fishermen members of this association to destroy the environment that they rely on so heavily to support their incomes and provide employment and a way of life for future generations. It is therefore essential that this strategy takes into account all the socio economic effects of its actions prior to implementing restrictions and burdens on an already sustainable fishing fleet. The significance of fishing activity and the presence of fishermen and fishing vessels in small ports and harbors throughout our region plays a significant role in relation to points of interest for local visitors and tourist alike contributing to a successful coastal tourist industry in Wales as well providing traditional jobs for local people in areas where employment is hard to come by.

Finally, we have a number of concerns with the representation process in relation to stake holder involvement in the MPA selection process. Our understanding is that the fishery sector should be represented through the platform of the Marine and Coastal forum group. Our current understanding is that Fishermen of the SWWFC association are not represented at the group at present. True representation from the fishing industry would be achieved by a representation from each individual fisherman's association in Wales as well a fishery sector representatives to provide the best contribution from the industry.

The Welsh Federation of Fishermen currently sits on this forum, however this organization does not represent the views of all the Fishing industry in Wales and certainly does not represent the view s of the SWWFC Association.

We have contacted Mr. Stuart Evans of WAG Fisheries policy, to advise him that we wish to have influence in the decision making process, therefore being appointed as full consultants within the process would be essential. We seek that the WAG Marine Policy Unit, now aware of our issues takes steps to resolve and address our concerns in relation to acceptable representation level within this strategy decision making process.

Yours sincerely  
on behalf of SWWFC Ltd

  
PP Kevin Denman  
Chairman

(14)

# R & R Johnson

15th DECEMBER 2009

RE. DRAFT STRATEGY FOR MARINE PROTECTION AREA IN WALES

DEAR SIR,

I AM A LOBBER AND CRAB FISHMAN. MY BOAT IS 21 FEET LONG AND HAVE BEEN FISHING INSIDE IN THE MILFORD HAVEN AREA FOR MANY YEARS.

MARINE CONSERVATION IS VERY MUCH IN MY INTEREST AS I EARN MY LIVING FROM THE SEA.

HOWEVER TO MAKE THIS AREA A NO TAKE ZONE WOULD PUT ME OUT OF BUSINESS AS MY BOAT IS NOT BIG ENOUGH TO WORK WAY OFF SHORE

MY ANNUAL CATCHES OVER THE LAST 10 YEARS VARY BUT IF ANYTHING, HAVE GONE UP AND HAVE ONLY GONE DOWN DURING PERIODS OF BAD WEATHER. I THEREFORE BELIEVE MY TYPE OF FISHING IS TOTALLY SUSTAINABLE.

MY VIEWS ON MARINE CONSERVATION ARE VERY MUCH THE SAME AS THOSE OF THE WALSH FEDERATION OF FISHERMEN'S ASSOCIATIONS

YOURS FAITHFULLY

R & R Johnson

**From:** Tony Molloy  
**Sent:** 07 December 2009 19:18  
**To:** Collins, Vivienne (DESH)  
**Cc:** andrewcampbell@liverpoolecho.co.uk  
**Subject:** The Wales Marine Conservaytion Area and Sea Angling

Hello Vivienne,  
I wrote to  
Dr Kirsty Dernie  
Swyddog Polisi Arforol/ Maritime Policy Officer  
Cyngor Cefn Gwlad Cymru/Countryside Council for Wales  
regarding the interests of Sea Anglers in the proposed Marine Conservation Areas and she has responded to  
make me aware you are going to be responsible for the full consultation process as the regulations develop.  
I am keenly interested in ensuring sea angling as a leisure pastime does get a full hearing and would be  
grateful to be kept informed about any proposals which could effect sea angling and anglers access etc.  
You will be aware of the Wales Tourist Board's program to promote the Welsh Coastline as an area of  
excellent angling opportunity and the Marine conservation regulations should work in partnership with the  
Wales Tourist Board own recreational activities promotions.  
Thank you for reading this email and I look forward to being kept up to date,  
regards  
Tony Molloy  
tel [REDACTED]

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