

Linda Rosborough  
Director,  
Marine Scotland,  
Scottish Government,  
Victoria Quay,  
Edinburgh,

May 15<sup>th</sup> 2013

Dear Dr Rosborough,

Scottish Environment LINK's Marine Taskforce remains keenly interested in the Scottish Government's work to identify and designate a network of Marine Protected Areas. We believe the creation of this network is the single most important conservation measure in the history of Scottish seas and we are therefore keen that the proposals appropriately meet the objectives set out in the Marine (Scotland) Act 2010 (hereafter 'the Act') and Marine and Coastal Access Act 2009. We would like to take this opportunity to elaborate on some of the points we raised in our letter to the Cabinet Secretary for Rural Affairs and the Environment of March 12<sup>th</sup> (cc'd to you) and that follow on from the marine planning evidence provided to the Scottish Parliament's Rural Affairs, Climate Change and Environment committee<sup>1</sup>.

### ***Protecting the best***

The SNH and JNCC advice to Government stated that "as a result of concern from the renewables [and fishing] sector, Marine Scotland requested that JNCC identify science-based alternatives for the representation of those features for which the Firth of Forth Banks Complex [and Central Fladden] are being considered."<sup>2</sup> JNCC failed to identify ecologically equivalent alternatives and have therefore presented substitute areas as 'science-based alternatives'. These should not be presented or considered in the consultation as substitutes of equal value. This is not only our view, the SNH and JNCC advice itself states "JNCC concluded from assessment of the evidence that [the science-based alternatives] do not make equivalent contributions to the network to that made by the Firth of Forth Banks Complex."<sup>3</sup>


### ***Commitment to completing the network***

Although we acknowledge the progress made to date in identifying a coherent MPA network, the currently proposed network is i) incomplete, ii) will not achieve ecological coherence, and iii) will fail to meet obligations under the OSPAR convention and the EU Birds and Habitats Directives. Even when considered alongside existing European Marine Sites and existing fisheries measures, the proposed network of sites fails to include and protect a representative range of Scottish marine species and habitats. This is not our contention alone; the SNH and JNCC advice and the report to Parliament clearly indicate these gaps remain.

<sup>1</sup> RACCE, May 8<sup>th</sup>, 2012

<sup>2</sup> SNH & JNCC, 2012; SNH Report No. 547 - Table A4.1.

<sup>3</sup> SNH & JNCC, 2012; SNH Report No. 547 - Page 37.

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Based on the most recent proposals, four areas remain as ‘MPA search locations’ that have not been progressed to formal site proposals whilst further research is being carried out. These sites are needed for adequate protection of minke whale, Risso’s dolphin, white-beaked dolphin and basking shark. Enough data exists to progress designations for these species, especially when considering the guiding principle of ‘best available evidence’, so we welcome the commitment made by the Cabinet Secretary Richard Lochhead during his evidence to the Rural Affairs, Climate Change and Environment Committee at the Scottish Parliament, for all four search areas to be progressed but ask for a clear timeline and deadline for their designation.

We also remain concerned that the proposals may still be insufficient to provide required protection, noting that key areas provided as third party proposals have been ignored, and that some features, such as common skate, are only protected in a single site.

Four features which were previously identified by the Scottish Government as MPA search features have been dropped entirely (spiny lobster, burrowing sea anemone aggregations, native oyster aggregations and heart cockle aggregations). That data are lacking for these species does not mean that they are no longer in need of protection and sets a poor precedent. We ask that these features remain as MPA search features and are included in future iterations of MPA proposals.

The contribution of existing measures, which includes Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) as well as fisheries management areas, to the developing network will also currently fail to adequately protect the Scottish marine area for the wider range of species and habitats present in Scotland’s seas. SPAs have been designated for seabird populations of European importance along Scotland’s coastline but these ignore seabird species and populations that are of national (but not international) importance, and also ignore at-sea feeding ‘hotspots’ for all seabirds. A report recently commissioned by Defra indicated that *“to effectively protect [UK seabird species] MPAs need to cover different aspects of their annual life throughout their biogeographic range including nesting sites and feeding areas associated with breeding colonies”*<sup>4</sup>. We support this statement and note that progress needs to be made in identifying at-sea foraging sites for seabirds before the proposed wider network of MPAs is capable of adequately protecting and recovering Scotland’s seas.

We note that JNCC is currently commissioning a piece of work to identify Special Areas of Conservation for harbour porpoise and offshore bottlenose dolphin in UK waters and we welcome this, particularly when considering that Scotland contains some of the highest densities of harbour porpoises in Europe. These areas will also need to be designated before the wider network may be considered complete.

Work relating to site connectivity for a range of features is still underway and we note that the results from this will also have a bearing on determining overall network coherence. We reserve comment on the connectivity of the network, and therefore related aspects of network coherence

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<sup>4</sup> Ross-Smith et al, 2013. Defra project code MB0114

such as replication and viability, until this is made available and suggest that this connectivity is fundamental to the network's ability to meet its conservation objectives.

## Establishing appropriate management

If the network of Marine Protected Areas is to meet the objectives set out in section 79.3 of the Act, it is vital that effective management measures are established for the entire network, including existing European Marine Sites, many of which are still lacking management measures. Appropriate management measures must be established for the network to be of use to Scotland's seas. We believe that activities that do not damage the features and ecological function of a site may be permitted and that there is no reason to suppose that activities and MPAs could not co-exist; this view is supported by the conclusions in the "Managing MPAs: Getting it right for Scotland" report. However, we are concerned that the management options being drafted will not manage all activities in MPAs in ways that protect and recover its constituent species, habitats and ecosystem function. As a result, we wish to seek clarity and raise some concerns regarding MPA management:

### 1. Protecting Scotland's Species and Habitats

The second draft version of the management handbook states that *"Some protected features of ncMPA may not require site-specific management measures due to other approaches being taken."*<sup>5</sup> This is mirrored by a statement in the Impact Assessment methods paper published by ABPmer that suggests *"The level of protection afforded to some features under the OSPAR convention or Biodiversity Action Plans (OSPAR/BAP features) may potentially avoid or reduce the need for additional management measures to support achievement of NC MPA conservation objectives"*<sup>6</sup>. We strongly disagree with these views, and we are concerned that some MPA search features may now be overlooked. Ignoring these species and habitats' management would make the MPA process meaningless and would fail to achieve the project's aims. We ask that the intended meaning of these statements is clarified.

MPA search features were identified in the MPA Guidelines because they were *"considered likely to be representative of a wider range of features which would also benefit from spatial protection and inclusion in the network"*. While we acknowledge the addition of six other biological features (circalittoral sand and coarse sediment communities, circalittoral muddy sand communities, serpulid aggregations, white cluster anemone, ocean quahog and herring spawning grounds) as protected features, we believe that a *"wider range of features"* must consider many more species and habitats in poor status in Scotland's seas if the network is to achieve its full potential and help protect and recover the health of Scotland's seas overall. We believe that the present proposals could provide protection and benefits to a much wider group of species and habitats, if those were included in the management options currently being developed. As an example, we have evidence showing the importance of the Firth of Forth Banks Complex for sandeels, kittiwake, guillemot, gannet, puffin and some cetacean species. If management options were established for these, the network would also address some of the concerns raised above. We believe that management options must account for

<sup>5</sup> Marine Scotland, 2013; Section 2 – Page 2

<sup>6</sup> ABPmer, 2013; Section 2.3.2 – Page 10

each site's ecological function so that its protection and possible enhancement may contribute to the overall health of Scotland's seas.

## 2. Conservation Objectives

It is our understanding that management options are currently being produced based on the conservation objectives set for each site's features. In the most recently available iteration of these (those made available in the SNH and JNCC advice) we noted that most features were set as 'uncertain, conserve' and that very few were set to 'recover' despite scientific knowledge that would suggest otherwise. We believe that proper use of the precautionary principle would set all 'uncertain' features to 'recover' and that some of these categorisations need revisiting e.g. common skate was set at 'conserve' despite suffering well known severe population declines<sup>78</sup>. We also strongly recommend that conservation objectives are set with consideration of the species' overall status rather than the site based population. The Sound of Canna fan mussel bed in the Small Isles MPA proposal, for example, is singularly in good condition and is set as 'conserve'. However, the species itself is in overall poor condition in Scotland's seas and needs strong management measures in this site as well as elsewhere for its recovery in Scotland's seas. We ask that the precautionary principle be applied for 'uncertain' conservation objectives so that those features without sufficient information are set at 'recover', that consideration of the status of the feature throughout Scotland's seas is used to determine the objective, and that the entire list is made public with references so that categorisations may be justified.

## 3. Sensitivity Matrix

We note that the definition of management options will rely heavily on the sensitivity matrix indicating sensitivities between protected feature and activity. We have yet to see a final version of this and are keen to ensure it accounts for all sensitivities and is supported by best available evidence. This matrix needs to be made publicly available now so that the assumptions made within it may be checked and so that, should there be outstanding evidence that we are aware of, we may input it at this stage before it is overlooked (we first made this request during a bilateral meeting with Marine Scotland on November 20<sup>th</sup> 2012).

## Managing Activities

The management handbook indicates the process for defining management options will be based on the risk current activities place on a site's protected features - "*Management options will be developed by considering the risk of not achieving the conservation objectives of the protected features by looking at the likely interaction between protected features and activities*". It is unclear how this will account for i) activities that may increase in intensity in the future, ii) new activities that may expand into a site in the future but that do not need licensing and iii) increased overlap that may occur if the habitat expands once properly protected. We would like these considered as part of

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<sup>7</sup> Walker & Hislop, 1998

<sup>8</sup> OSPAR, 2010

each site's management plans, particularly given that the sectoral ambitions indicated in the National Marine Plan pre-consultation document will increase pressures on the marine environment either directly or indirectly through the displacement of other activities.

The second draft of the management handbook cites the first 5 of the 'general principles' identified in the MPA selection Guidelines. However, we note nine exist in the original guidelines and urge that the 9<sup>th</sup> principle ("Activities which are not compatible with the conservation objectives of a nature conservation MPA will be restricted"<sup>9</sup>) is a key consideration as management options are drafted. This is particularly pertinent based on comments made by Cabinet Secretary Richard Lochhead stating "the number one priority to be protecting the marine environment"<sup>10</sup>.

We welcome consideration of zonal management following the recommendation in our response to the first draft management handbook. However, we would emphasise that zonal management should not be used to allow an activity to operate up to the absolute limit of a protected feature's geographic extent, since the network's ability to meet the enhancement duty set out in the Marine Act may be inhibited by such a *de minimis* approach. In particular, utilising zonal management in this parsimonious way may fail to diminish pressures on the feature, will prevent its geographical recovery, and will make management difficult to establish and costly to enforce.

We remain keen to support this process and provide input into the development of management options that will ensure that the network of MPAs is 'well-managed' by 2016. We have a scheduled bilateral meeting with your staff on May 22<sup>nd</sup> and are happy to elaborate on any of the points raised above during that meeting.

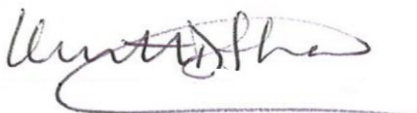
Yours sincerely,



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Marine Biodiversity Officer  
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Sam Gardener  
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<sup>9</sup> Marine Protected Areas in Scotland's Seas; Guidelines on the selection of MPAs and development of the MPA network, 2011 – para 2.5.i

<sup>10</sup> RACCE transcript, May 8<sup>th</sup>, 2013.

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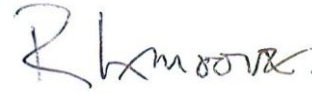


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