

## Comments on Marine Nature Conservation Strategy. June 2010.

### Introduction

Scottish Environment LINK's Marine Task Force (LINK MTF) welcomes the opportunity to comment on the draft Marine Nature Conservation Strategy. We are largely supportive of the draft strategy as presented and we believe that the strategy will provide an excellent framework for our approach to marine nature conservation. However, we have some outstanding concerns and these are set out in the detailed comments below.

### Overarching Comments

**Recovery** - It is vital that a strategic approach to marine nature conservation not only protects valuable features currently present within the marine environment, but recognises the need for recovering areas that have been damaged by human activity. We therefore welcome the recognition in paragraph 60 that conservation objectives for sites will include recovery of damaged or diminished features. Recognition of the need for recovery is also implicit in paragraph 2.5 of the pre-consultation on the draft marine policy statement which states, *'However, many of our habitats and species are shrinking, a number of commercial fish stocks are under pressure and biodiversity is in decline...UK administrations are also committed to allowing damaged ecosystems to recover in order to realise the benefits from the marine environment.'* This is backed up by a recent report from the Scottish Association for Marine Science<sup>1</sup> which states *'It is unlikely that there remain any "pristine" (i.e. completely natural and free from human interference) ecosystems on the Scottish continental shelf'*. LINK would welcome recognition of the need for recovery, throughout the document. Where protection is listed, we would like to see the addition of 'recovery', 'restoration', 'enhancement' or similar.

**Purpose** - The Marine Nature Conservation Strategy should be concerned primarily with marine conservation. The point that improved marine conservation and recovery contributes to social and economic goals should explicitly be recognised as a secondary, positive benefit of a comprehensive marine nature conservation strategy and not the fundamental purpose of the strategy itself. We have suggested a number of amendments in our specific comments below.

**An ecosystem-based approach** - whilst it is recognised that some parts of Scotland's marine environment are unique within a UK context, particularly much of the west coast and western and northern isles, we do not accept that the approach to implementing marine nature conservation measures need always be different simply for the sake of it. LINK support a regional seas approach to sustainable management of UK waters. For example,

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<sup>1</sup> Hughes, D. & Nickell, T. (2009) Recovering Scotland's Marine Environment. Scottish Association for Marine Science Internal Report No. 262.

the east coast of Scotland and much of the east coast of England (within the Northern North Sea regional sea) have more in common than the east and west coasts of Scotland. Similarly, development of an ecologically-coherent network of Marine Protected Areas (MPAs) requires close collaboration between all UK administrations. We therefore strongly support the reference to a coordinated approach in paragraph 1 and the wording in paragraph 4.

### Specific comments

- Executive Summary: Paragraph 1, first sentence: Add 'and, where appropriate, enhancing' after 'protecting'. This is in line with section 3 and part 5 of the Marine (Scotland) Act.
- Executive Summary: Paragraph 1, last sentence: The sentence should be split and edited to read as follows-  
*These include the achievement of Good Environmental Status under the Marine Strategy Framework Directive (MSFD). Important wider benefits of improving marine nature conservation include the promotion of sustainable economic growth and the development of new marine industries.*
- Executive Summary: Paragraph 2, second sentence: Delete 'and to' and insert 'and recover our seas where practicable. Since the environment is the context in which all social and economic activity takes place, this in turn will help'
- Paragraph 10: The final sentence should be reworded to recognise that the planning system is not the only management tool for MPAs:  
*The marine planning system will also provide opportunities to improve the protection of wide-ranging species in the marine environment and **contribute to** the management of marine protected areas.*
- Paragraph 12: It should be noted that the basking shark is currently protected only within the 12 nautical mile limit of Scotland under the Wildlife and Countryside Act 1981, as amended. We believe that this protection should be extended to 200nm, particularly as the basking shark is listed in the International Union for Conservation of Nature (IUCN) Red List of Threatened Species as 'Endangered' in the north-east Atlantic.
- Objective i: 'management' should be amended to 'conservation' to reflect the consensus of the Sustainable Seas Task Force to deliver a three-pillared approach to *marine nature conservation* and not marine biodiversity management, as currently worded. Management should be of human activities *not* biodiversity (see also Page 15).
- Objective iv: Again, marine species should not be 'managed'. Human activities should be managed, where necessary, (as clearly expressed in Objective v) to contribute to the conservation of marine species (see also Page 18).
- Objective v: We welcome the reference to marine planning and licensing here but we note that this objective makes no reference to the use of Marine Conservation Orders, which could also be used to manage pressure on sites. However, this objective should not be limited to mechanisms provided by the Marine (Scotland) Act and should either be expanded to include the use of other legislation (e.g. the Inshore Fishing (Scotland) Act and CFP mechanisms), or a further objective should be added, making clear that these

additional mechanisms may also be employed. This is consistent with the statement by the Cabinet Secretary for Rural Affairs and the Environment at Stage 2 of the Marine (Scotland) Bill process (25<sup>th</sup> November 2009), where he stated: *"The intention is to use the provisions of the 1984 act, where necessary, to control inshore fisheries to prevent damage to MPAs. I can give Robin Harper the assurance that he requires—we will use inshore fisheries legislation as one of the management tools for MPAs"*. In addition, paragraph 73 of Defra's MPA strategy makes clear that beyond 6 nm the appropriate Common Fisheries Policy mechanism will be used, where appropriate, to ensure the features of a site are protected: *"Where the evidence determines that commercial fishing needs to be regulated in MCZs situated more than six nautical miles from baselines, it will also be the Secretary of State's role to seek the necessary measures through the appropriate Common Fisheries Policy mechanism."* Whilst the examples above relate to fisheries, the use of other legislation to manage pressure on sites is not limited to fisheries measures as stated on Page 27 of the draft Marine Nature Conservation strategy.

- Objective vi: The term 'risk based management' must be defined. There appears to be no further explanation as to what this means in paragraphs 42 or 43. Surely a risk based approach would involve an element of precaution where necessary? This should be clearly stated.
- Objective vii: We would suggest the following rewording of this objective in order to recognise that we may never have exhaustive or perfect science:  
*To reduce reliance on the precautionary principle by improving the science and data on which we depend when taking decisions. **There must be recognition however that where data is lacking the precautionary principle should be adopted.***
- Objective x: The purpose of a Marine Nature Conservation Strategy should be the protection and recovery of our marine natural heritage. It is for the Marine Planning system to enable Sustainable Development of the Scottish Marine Area, taking account the needs of the underlying marine ecosystem as set out in the marine nature conservation strategy. As such, the inclusion of this objective in a nature conservation strategy is questionable. If this objective is to remain, we would prefer use of the word 'ensure' in place of 'maximise' and 'appropriate' in place of 'proportionate'. The latter change reflects the fact that the management of activities should be focussed on the feature in question, rather than on potential marine activities. Management of activities as part of a conservation strategy must be appropriate to the feature to be protected, rather than being designed in order to allow socio-economic activities to take place.
- Objective xii: We welcome the commitment to assess the effectiveness of the strategy and the reference to recovery here.
- Paragraph 20, final bullet: Reword to recognise the utility of other management measures should they be necessary:  
*Management phase from 2012 onwards implemented primarily on the marine planning system **but utilising other management measures such as marine conservation orders or other sectoral measures where appropriate to maintain or improve the conservation status of the protected feature within an MPA.***

- Paragraph 34: The first sentence is a concern here and should be removed. The potential for SPA extensions to constrain socio-economic developments should not be considered in any decision on the extension of SPAs, and indeed, taking decisions on this basis would risk the possibility of infraction proceedings. If there is a concern that such developments are not compatible with species receiving international protection, that should be reflected in the planning and licensing of such activities, regardless of designations. We welcome research to establish likely impacts on marine biodiversity and hope that until such research has been completed, licensing of such activities will focus on areas of least environmental sensitivity.
- Paragraph 36: We recognise that Historic MPAs may confer benefits to nature conservation, but if such sites are to contribute to the network of MPAs they must be identified, managed, enforced and monitored as such.
- Paragraph 39: Again, the reference to management should be a reference to management of human activities.
- Paragraph 45: In keeping with our comment on Objective vii, there must be recognition that where data is lacking the precautionary principle should be adopted.
- Paragraph 47: We welcome the focus on sharing of data here. We note however, that data on the environmental effects of marine energy is not currently available. In some instances this appears to be due to industry concerns relating to commercial confidentiality. Therefore, until (and unless) marine energy devices are proven benign, baseline and impact monitoring will be required on a site-by-site basis.
- Paragraph 50: We welcome the statement that the best available science will be used to identify potential MPAs.
- Paragraph 52: We welcome this statement and would seek to emphasise that there are a number of interests involved. The community of locality (local community) and the community of interest (not locational or geographical in nature) must both be engaged by this process.
- Paragraph 53: We would hope that once Marine Scotland has considered these monitoring options that they will be consulted on. We agree that there is value in considering these options, in particular options 1-3, but we would urge against a one-size-fits-all approach. It is clear from the paper that some of these monitoring options require significant investment by local people and they are therefore most appropriate where local people have significant interest in natural resource use. For example, we would expect that MPAs proposed by third parties (previously termed community MPAs) would be more appropriate for local monitoring than MPAs in offshore waters.
- Paragraph 55: LINK warmly welcomes this statement.
- Paragraph 56: As we made clear in our response to the draft MPA selection guidelines, we are concerned that the guidelines are unclear on how stakeholder involvement will work in practise. Without a clearly expressed context, stakeholder engagement has the potential to create confusion and generate unrealistic expectation. This context for the inclusion of socio-economic considerations into the site designation process has been set out by the recommendations of the Sustainable Seas Task Force, as outlined by the Cabinet Secretary

for Rural Affairs and the Environment in his letter to the Rural Affairs and Environment Committee (1 Feb 2010). The MPA selection guidelines should be amended to reflect this. Specifically, it should be re-stated that '*science remains the primary consideration when identifying MPAs for inclusion in the network*' and '*only when it is clear that the ecological requirements of the network can be met, will socio-economic considerations figure in the decision making process*'.

- Paragraph 58: It would be helpful to spell out what is meant by 'mutually compatible'. We would suggest the following rewording: '*...mutually compatible (i.e. such activities do not compromise the stated conservation objectives for that MPA)*, as this exemplifies the key spirit etc...'
- Paragraph 59: We suggested deleting '*...and lessen impacts on economic activity in Scotland's marine environment*'. We support the intention of recognising that there are social and economic benefits to MPA designation but believe the above wording pre-empts the findings of what should be an objective, scientific process to determine the MPAs needed to deliver an ecologically-coherent network. The purpose of the Marine Nature Conservation Strategy should be to deliver primary benefits for marine biodiversity which can have secondary benefits for society and the economy. The selection and designation of sites should not be driven by economic considerations, an impression which the wording in question may unintentionally give.
- Paragraph 60: We warmly welcome the clarification on the range of conservation objectives including recovery of damaged or diminishing features. We believe that this needs to be clearly expressed up front in the document as well.
- Paragraph 61: We strongly welcome the recognition that activities may need to be controlled or excluded in some areas. This is entirely appropriate and consistent with management of sites according to the ecological need of the feature to be protected.
- Paragraph 62: We welcome the commitment to review the strategy around 2012.
- Paragraph 63: An assessment of the socio-economic wealth and value of our sea is welcome, but should not form part of a marine nature conservation strategy. An integral part of such an exercise should be a robust assessment of the economic benefits of our marine biodiversity as detailed in paragraph 55. We would suggest that previous work for Defra<sup>2</sup> would be a good starting point here.

**Scottish Environment LINK is the umbrella body for Scotland's voluntary environmental organisations, representing around 500,000 members.** Scottish Environment LINK's Marine Task Force is supported by:

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<sup>2</sup> Beaumont et al. (2006) *Marine Biodiversity. An economic valuation*. Building the evidence base for the Marine Bill. Defra July 2006. (<http://earthmind.net/marine/docs/uk-marine-valuation.pdf>)

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