

Response Planning Scotland's Seas Consultation 2013 – National Marine Plan

by Marine Conservation Society

Date: 29 NOVEMBER 2013 (Extension requested)

Summary

MCS welcome the draft National Marine Plan (NMP) at this crucial and historic opportunity to sustainably guide marine planning in Scotland. However, in its current form we do not believe it will fulfil the legal requirements of the Marine (Scotland) Act 2010, particularly duties to deliver sustainable development and to protect and, where appropriate enhance, the health of the Scottish marine area and to mitigate and adapt to climate change. As a major contributor to and signatory of the Scottish Environment LINK response to the National Marine Plan consultation, MCS would like to take the opportunity to endorse, reinforce and further highlight the following headline comments and recommendations.

Headline comments:

- MCS assert that the NMP as currently drafted will not support sustainable development, mitigation or adaptation to climate change, the delivery of Good Environmental Status, nor the protection or enhancement of Scotland's seas
- MCS have major concerns that the draft NMP is not underpinned by the ecosystem-based management principles and approaches that will be required to achieve the sustainable development, protection and where appropriate enhancement of Scotland's marine resources.
- The draft NMP seriously misrepresents the concept of sustainable development. This must be corrected.
- The NMP presents many policies, but for planning purposes, its value is unclear. There are no guidelines for decision making, resolving conflicts and indeed for achieving the objectives of the NMP.
- National and international environmental objectives are explicitly adopted as the National Marine Plan's strategic objectives, but the sectoral objectives appear to be largely industry wish-lists, failing to reference each sector's potential to contribute to environmental protection and recovery.
- General policies on protection and enhancement of the health of our seas, biodiversity, climate change and research and monitoring all need to be significantly tightened and additional policies added.

MCS recommend that:

- The stated purpose of the NMP should be to protect and, where appropriate, enhance the health of Scotland's seas, ensure that they meet Good Environmental Status, to ensure sustainable development and to mitigate and adapt to climate change;
- That the purpose and structure of the final NMP more clearly meet the duties and requirements directed by the Marine (Scotland) Act 2010, the Climate Change (Scotland) Act 2009 and the Nature Conservation (Scotland) Act 2004. As it stands we are not convinced that those duties will be met;
- General Policies for, in particular, nature conservation, biodiversity and geodiversity; historic environment; landscape/seascape and climate change be strengthened to reflect existing legislative duties and policy commitments;
- New general policies highlighting the key issues of marine ecosystem enhancement, cumulative impacts, marine litter and invasive non-native species are included in the final NMP;
- A separate chapter be introduced in the final NMP to reflect the marine conservation objectives of the strategy, to provide an explanation of how marine ecosystem structure and function will be valued, how the NMP affects the flow of goods and services the sea provides us and how those flows will be enhanced;
- Integrated terrestrial-marine planning should be a shared component of the forthcoming River Basin Management Plans (due 2015) and Regional Marine Plans.

Introduction

The Marine Conservation Society (MCS) is the leading UK charity for the protection of our seas, shores and wildlife. The voice of our seas for over 25 years, MCS champions better protection for marine wildlife, promotion of sustainable fisheries and clean seas and beaches. MCS is a cross-border UK charity registered both in Scotland and in England & Wales.

MCS has operated a dedicated Scotland marine conservation programme established in April 2000 and has since consistently called for improved planning and management of Scotland's seas. MCS is a member of, and convenes, the Scottish Environment LINK Marine Taskforce. As a substantive contributor to and signatory of the LINK response to the 'Planning Scotland's Seas: 2013 – National Marine Plan Consultation', **MCS fully supports and endorses the Scottish Environment LINK response in its entirety**, and will take the opportunity in this consultation response to reinforce collaborative strategic-level contributions and concerns made therein. For detailed comments on sectoral questions, we will refer in full to the Scottish Environment LINK response.

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General Comments

The National Marine Plan and regional marine planning ought to be for the purpose of protecting and, where appropriate, enhancing the health of Scotland's seas, appropriately guiding mitigation of and adaptation to climate change, delivering sustainable development and achieving Good Environmental Status. In keeping with the hierarchical principles of Sustainable Development and the 12 principles of the ecosystem approach as developed under the Convention of Biological Diversity, we would like to take the opportunity to re-assert that the environment is the context in which all social and economic activity happens, whether on land or at sea (see Fig.1).

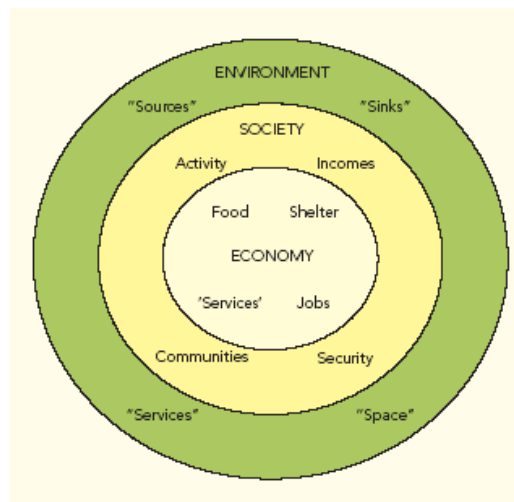


Fig.1 Diagram illustrating the relationship between economy, society and the environment (after European Environment Agency¹).

If we over-reach the carrying capacity of the marine environment, the resulting decline will be social and economic as well as environmental. We believe that Scotland's draft National Marine Plan currently fails to address this core principle.

Furthermore, Scotland's Marine Atlas states *"There are two significant pressures on the Scottish marine area which are widespread:*

- *Human activity contributing to climate change*
- *Fishing, which impacts on the seabed and species"*

The ecological imperative for the emerging new planning framework (including MPAs as part of a three-pillar approach to marine nature conservation) to be developed and managed to help make our seas more resilient to climate change and to help reduce the ecological footprint of damaging fishing activities on the seabed and marine species, therefore couldn't be clearer. Other human activities that cause acute, though less widespread, marine ecological damage must also be appropriately managed to ensure protection and enhancement of Scotland's

¹ <http://www.eea.europa.eu/publications/92-9157-202-0/2.1.pdf>

marine environment, to reverse the decline in marine biodiversity, deliver sustainable development and ensure Scotland's seas achieve Good Environmental Status. Scotland's seas ultimately need an ecosystem-based approach to marine planning and management that will lead to marine ecosystem protection and enhancement, thus also securing and improving the flow of goods and services to society that the sea so generously provides.

Our overarching concerns are further highlighted in the following points:

1. Failure to meet legal duties

The Scottish Government has relevant duties under the Marine (Scotland) Act 2010, Marine and Coastal Access Act 2009, the Marine Strategy Framework Directive (MSFD), the Water Framework Directive (WFD), the EU Birds and Habitats Directives, the Climate Change (Scotland) Act 2009, the Nature Conservation (Scotland) Act 2004 and commitments in the UK Framework for Sustainable Development. In delivering Scotland's NMP, the Scottish Government must meet the requirements of existing international and national legislation.

Chapter 4: General Policies begins with the statement, in bold, that the policies are:

Designed to ensure that all future decisions lead to sustainable economic growth which is sensitive to the environment, other users and the long-term health of the seas.

This General Policy is fundamentally at odds with the legal duty under the Marine (Scotland) Act 2010 for Scottish Ministers and public authorities to:

...further the achievement of sustainable development, including the protection and, where appropriate, enhancement of the health of that area...

Achieving a sustainable economy, along with using sound science responsibly and good governance, is *for the purpose of* achieving a healthy, just society that lives within environmental limits. To suggest sustainable economic growth as the purpose of this or any other plan, policy or project is contradictory to the fundamental purpose of the sustainable development principles (see **3**).

The duty to mitigate and adapt to climate change does not adequately feature. There needs to be an equivalent question for climate change mitigation and adaptation to Question 5 of the NMP:

Are the objectives and policies in the NMP appropriate to ensure they further the achievement of sustainable development, including protection and, where appropriate, enhancement of the health of the sea?

The current inherent contradiction between growth targets for the oil and gas sector and the need to mitigate climate change can only lead to the conclusion that the NMP as drafted will not meet the duty under **s.4** of the Marine (Scotland) Act 2010 to mitigate and adapt to climate change.

It is also unclear how the NMP as drafted will meet the duty to further biodiversity under **s.1** of the Nature Conservation (Scotland) Act 2004:

It is the duty of every public body and office-holder, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions.

The suite of General Policies informing the National Marine Plan as currently drafted would at best serve only to prevent environmental law being broken, rather than encouraging any proactive need to 'further' or enhance, in this instance, *marine* biodiversity. We therefore do not believe that the draft National Marine Plan would encourage and enable public bodies and officer holders with marine and coastal remits to meet their biodiversity duty.

2. Embed ecosystem-based management

The EU Marine Strategy Framework Directive specifies the use of ecosystem-based management approaches to achieve integrated marine management:

General Provisions Article 1(3): Marine strategies shall apply an ecosystem-based approach to the management of human activities, ensuring that the collective pressure of such activities is kept within levels compatible with the achievement of good environmental status and that the capacity of marine ecosystems to respond to human-induced changes is not compromised, while enabling the sustainable use of marine goods and services by present and future generations

The Convention of Biological Diversity outlines the 12 principles of the Ecosystem Approach (see box).

1. The objectives of management of land, water and living resources are a matter of societal choices.
2. Management should be decentralized to the lowest appropriate level.
3. Ecosystem managers should consider the effects (actual or potential) of their activities on adjacent and other ecosystems.
4. Recognizing potential gains from management, there is usually a need to understand and manage the ecosystem in an economic context. Any such ecosystem-management programme should:
 - a. Reduce those market distortions that adversely affect biological diversity;
 - b. Align incentives to promote biodiversity conservation and sustainable use;
 - c. Internalize costs and benefits in the given ecosystem to the extent feasible.
5. Conservation of ecosystem structure and functioning, in order to maintain ecosystem services, should be a priority target of the ecosystem approach
6. Ecosystem must be managed within the limits of their functioning
7. The ecosystem approach should be undertaken at the appropriate spatial and temporal scales

8. Recognizing the varying temporal scales and lag-effects that characterize ecosystem processes, objectives for ecosystem management should be set for the long term
9. Management must recognize the change is inevitable
10. The ecosystem approach should seek the appropriate balance between, and integration of, conservation and use of biological diversity
11. The ecosystem approach should consider all forms of relevant information, including scientific and indigenous and local knowledge, innovations and practices
12. The ecosystem approach should involve all relevant sectors of society and scientific disciplines

By not taking account of the cumulative impacts of activities on one another and the marine environment; failing to properly underpin the sectoral 'wish-list' growth objectives with Marine Ecosystem Objectives; entirely misrepresenting the purpose of marine planning thus "*The Scottish marine planning system should promote development and activities that support sustainable economic growth*" (p.018) - a statement that undermines the shared principles of sustainable development – and demonstrating scant ambition to further or enhance marine biodiversity and ecosystem function, the National Marine Plan as drafted cannot deliver the ecosystem-based approach to marine management required for a sustainable and vibrant future for Scotland's seas and coastal communities. For Article 1(3) of the MSFD to be met, and the guiding principles (particularly principles 5 and 6) adhered to: cumulative impacts must be considered and addressed, Marine Ecosystem Objectives should underpin all sectoral socio-economic objectives, sustainable development should be correctly framed and an additional general policy and chapter needed on enhancing our marine biodiversity, goods and services.

3. Achieving sustainable development

As discussed above, the draft NMP misrepresents the guiding principles of sustainable development. Sustainable development is about moving away from a society where progress is measured in purely economic terms to one with a much broader set of values². We would like to see Sustainable Development correctly framed in the National Marine Plan according to the agreed UK Sustainable Development Principles as set out in Fig.2.

² Scottish Environment LINK. The Environment and the Economy - Helping Scotland to Flourish. <http://www.scotlink.org/files/policy/PositionPapers/MCSHelpingScotlandFlourish.pdf>

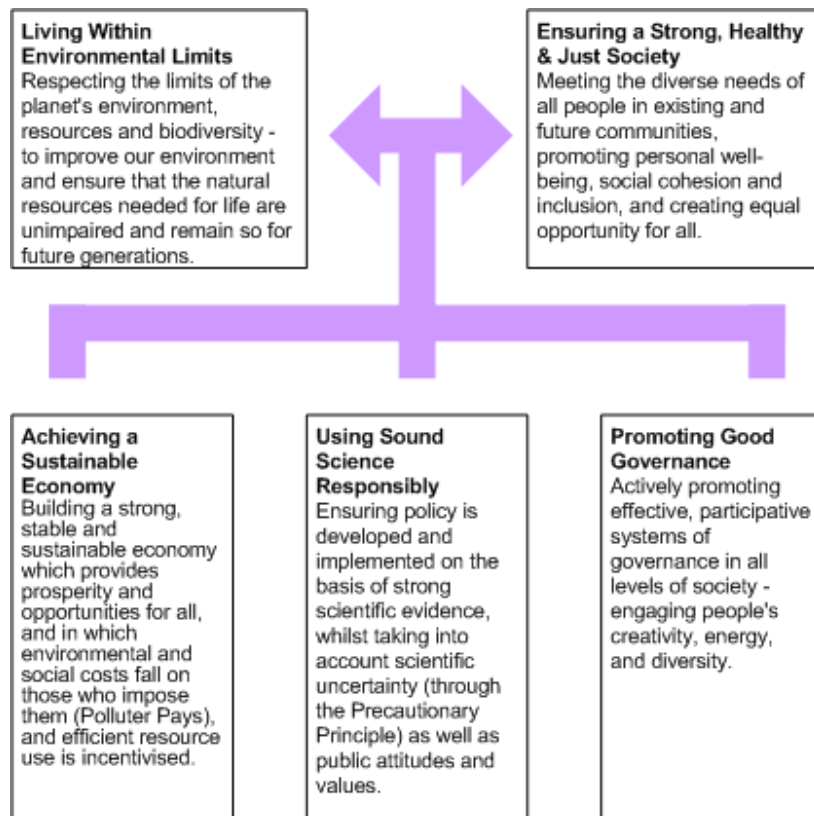


Fig.2 Diagram illustrating the hierarchical flow of the shared UK Sustainable Development principles³.

MCS disagrees with the convoluted and contradictory statement at the start of Chapter 4 “A presumption in favour of sustainable development and use is presented along with the other policies which are considered important in achieving a sustainable approach to sustainable economic growth”. This statement encapsulates the confusion arising from attempting to define sustainable economic growth as the end rather than the means.

Sustainable development is not one of several policies that are important in achieving sustainable economic growth, quite the reverse. As discussed above, achieving a sustainable economy is one of three means, along with using sound science responsibly and good governance, of achieving the ultimate goals of sustainable development: a strong, healthy and just society that lives within environmental limits. MCS would assert that the evidence of marine ecosystem concern and deterioration presented in Scotland’s Marine Atlas makes clear that we are already living beyond the environmental limits of our seas. Due to the profound interconnectedness with socio-economic systems, unless reversed, such declines have knock-on impacts for communities and wider Scottish society.

³ <http://sd.defra.gov.uk/what/principles/>

4. Guidance for dealing with conflicts and cumulative impacts

The draft NMP sets out 19 general policies (hereafter referred to as GEN1, GEN2 and so on) and 65 sectoral policies (hereafter referred to as Transport 1, Transport 2 and so on). There is little, if any, integrated thinking that considers the entire marine ecosystem, linkages across sectors or consideration of cumulative impacts. Inevitable conflicts need to be managed using an ecosystem-based approach which, fundamentally, requires recognition of the environmental limits to growth. The NMP requires the addition of a section specifying how this is to be done.

5. Enhancing marine biodiversity, ecosystem goods and services

The sectoral chapters commence with, often unsustainable, growth objectives, yet the approach in the draft NMP to environmental protection and enhancement is *de minimis*. In order to properly reflect the scope, potential and requirement for the National Marine Plan to meet marine health enhancement and biodiversity duties, we would like to see a new chapter setting out objectives and policies for the enhancement of Scotland's marine biodiversity and marine ecosystem goods and services ('natural capital'). Our marine environment provides us with many goods and services which are difficult to value, but which underpin society and economic activity and which if lost or degraded have significant negative impacts on both the economy and the wellbeing of people in Scotland. We need a fundamental shift away from measuring Gross Domestic Product as the single metric of prosperity and progress, instead measuring the success of a country in terms of human wellbeing and environmental health. (MCS is a signatory to and endorses an important joint position which is also pertinent to the marine environment and how it is managed⁴).

The Scottish Government's "2020 Challenge for Scotland's Biodiversity" contains a chapter on Natural Capital, which should be considered as a starting point for the chapter we advocate here. In particular, reference should be made to the key step of encouraging wide acceptance and use of the Natural Capital Asset Index and the stated intention to produce comparable measures for the marine environment. This index should be used and considered in tandem with measures of the fundamental ecological status/health of marine biodiversity species and habitats for their own intrinsic value and intrinsic functioning.

6. Integrating sectoral objectives

The objectives listed in the sectoral chapters appear to be wish-lists. The process for setting these objectives has not been open. There seems to have been little or no wider stakeholder involvement, consideration of interactions and cumulative effects with other sectors or consideration of climate change. Astonishingly the oil and gas sector appears to consider the threats of climate change to its activities without considering the sector's own effect on the climate.

Stating sectoral aspirations without the context of how they interrelate, how they are underpinned by marine ecosystem objectives or how they can deliver climate change

⁴ ⁴ Scottish Environment MCS. The Environment and the Economy - Helping Scotland to Flourish. <http://www.scotlink.org/files/policy/PositionPapers/MCSHelpingScotlandFlourish.pdf>

objectives, is a major weakness of the NMP and runs counter to the ecosystem-based management methods which should guide the development of a meaningful strategy.

CONSULTATION QUESTIONS

Please identify the main area of interest you identify with :

- | | |
|-------------------------------|-------------------------------------|
| Nature Conservation | <input checked="" type="checkbox"/> |
| Fisheries | <input type="checkbox"/> |
| Industry/Transport | <input type="checkbox"/> |
| Energy | <input type="checkbox"/> |
| Aquaculture | <input type="checkbox"/> |
| Recreation/tourism | <input type="checkbox"/> |
| Academic/scientific | <input type="checkbox"/> |
| Local authority | <input type="checkbox"/> |
| Community group | <input type="checkbox"/> |
| Public sector/Regulatory body | <input type="checkbox"/> |
| Local Coastal Partnership | <input type="checkbox"/> |

Other (Please state)

Comments

Q1. Does the NMP appropriately guide management of Scotland's marine resources?

No.

Clarity of purpose and meeting duties

The objectives and deliverables of the NMP must be clear. The draft NMP fails to appropriately guide management of Scotland's marine resources and fails to implement the duties of the Marine (Scotland) Act 2010 or contribute to the achievement of relevant national and European legislation. The NMP should fulfil the duties directed by the Marine (Scotland) Act 2010 (particularly **s.3** and **s.4**) together with other relevant Scottish, UK and European legislation (e.g. Marine and Coastal Access Act 2009, Climate Change (Scotland) Act 2009, The Nature Conservation (Scotland) Act 2004 (**s.1**), Marine Strategy Framework Directive).

The most conspicuous evidence of the NMP failing to comply with these duties is the frequent substitution of sustainable economic growth for sustainable development, and the failure to properly consider climate change mitigation and

adaptation.

MCS would particularly welcome clarity on how the NMP delivers the marine protection and enhancement duties required by the Marine (Scotland) Act 2010 and the duty to further biodiversity in the Nature Conservation (Scotland) Act 2010.

Ecosystem based management

The NMP requires a shift in focus, away from a compilation of individual sectoral plans to an integrated ecosystem-based approach that fulfils legal duties, delivers sustainable development and good environmental status under MSFD. There is too little integration of the objectives and policies across sectors, or consideration of their cumulative impacts.

Conflicting policy commitments

MCS is concerned the draft NMP sets out to achieve a broad range of conflicting policy commitments and lacks integrated, ecosystem-based thinking.

For example, the policy commitment to maximise oil and gas extraction in the short term is contradictory to policy commitments to mitigate climate change and to the climate change duty on the public sector set out in the Climate Change (Scotland) Act and the Marine (Scotland) Act 2010.

Risk of poor governance systems

Effective governance systems are required to respond to the complexity of dynamic ecosystems and build an adaptive capacity for coping with change and uncertainty (e.g. see Crowder *et al.*⁵, 2006 and Dale *et al.*, 2013⁶). When considering good governance examples, it will be important to review what is already working in Scotland. Shetland may provide an example of good governance where decisions are taken in accordance with the pilot Shetland Marine Spatial Plan and innovative spatial approaches to managing fisheries on an ecosystem basis have been developed.

Long term public interest

The NMP should operate in the long term public interest as, for example, is clearly set out in Scottish Planning Policy. This can only be served when the NMP ensures that marine biodiversity and ecosystems are protected and enhanced, their resilience is maintained or increased, and additional pressures are avoided to enable the environment to shore up resilience to the current and predicted effects of climate change on the natural environment. This approach must be reflected in the NMP rather than a set of industry targets that simply supports increased development and which lacks any anticipatory guidance of what should happen when activities demonstrate cumulative impacts or conflicting pressures.

Q2. Does the NMP appropriately set out the requirement for integration between marine planning and land use planning systems?

⁵ Crowder, L. B., Osherenko, G., Young, O. R., Airame, S., Norse, E. A., Baron, N., Day, J. C., et al. (2006). Sustainability: resolving mismatches in US ocean governance. *Science* 313: 617–618.

⁶ Dale, A.; Vella, K.; Pressey, R.L.; Brodie, J.; Yorkston, H. and Potts, R. (2013). A method for risk analysis across governance systems: a Great Barrier Reef case study. *Environ. Res. Lett.* 8. 16pp

No.

The NMP provides very little steer on how planning practitioners can and should integrate the two planning systems, other than reiterating the relevant legislative context. MCS support the following collaborative LINK recommendations:

- (1) integrated terrestrial-marine planning should be a shared component of the forthcoming River Basin Management Plans (due 2015) and Regional Marine Plans;
- (2) both marine and terrestrial planning domains should use a shared ecosystem-based management approach and operational framework (see for example Álvarez-Romero *et al.*, 2011);
- (3) progress could be jointly steered and evaluated by the River Basin Management Planning National Advisory Group and Marine Strategy Forum (facilitated by Marine Scotland and SEPA); and
- (4) Scottish Ministers and public authorities need to implement, long-term integrated monitoring programmes and protocols to measure and report on the outcomes.

Q3. Does the NMP appropriately guide development of regional marine planning? What, if any, further guidance is required for regional marine planners in terms of implementation and how to interpret the NMP?

No.

There is a fundamental lack of any prescriptive or explicit guidance provided within the NMP to inform the preparation of those regional marine plans. We refer you to the LINK response for detailed suggestions for such guidance. Along with LINK partners, MCS recommend that the final NMP contains more of such guidance for regional planners.

Q4. The Marine Regional Boundaries Consultation proposed that in addition to regional marine planning, further integrated management of key marine areas would be achieved by designating the Pentland Firth; the Minches and the mouth of the Clyde as Strategic Sea Areas.

Should the NMP set out specific marine planning policies for Strategic Sea Areas?

Overarching planning policies that apply to the whole Scottish Marine Region (SMR), if robust, detailed and explicit in the setting out of environmental obligations and requirements, would be sufficient to achieve sustainable management of Scotland's seas, including key marine areas, both within and straddling Strategic Sea Areas (SSAs).

However, we do recognise that where there is sector-specific activity that merits

trans-SMR (Scottish Marine Region) boundary planning and co-operation then it would be helpful to have topic-specific, cross-boundary arrangements that were additional to Regional Marine Plans, such as issue-specific planning guidance. The pilot Pentland Firth and Orkney Waters Marine Spatial Plan, driven by the development and trialling of new marine renewable devices, is one example, straddling proposed SMRs.

Q5. Are the objectives and policies in the NMP appropriate to ensure they further the achievement of sustainable development, including protection and, where appropriate, enhancement of the health of the sea?

No.

The NMP objectives and policies currently misrepresent the guiding principles of sustainable development and do not meet the general duties of the Marine (Scotland) Act 2010, or requirements of MSFD and WFD.

General comments

The Vision for the Marine Environment set out on p.014 is fundamentally flawed. It is incorrect to suggest that *“the five guiding principles of sustainable development...the Scottish Government acknowledges as an important element of increasing sustainable economic growth”*.

Sustainable development or sustainable economic growth

There is an unequivocal statement at the start of Chapter 3 which states that the NMP must *“set out policies for and in connection with the sustainable development of the area to which the plan applies”*. “Sustainable development” is an internationally-recognised term which is frequently misrepresented throughout the entire document. At present, MCS cannot accept that the draft NMP supports the achievement of its own vision.

MCS reject the use of the term ‘sustainable economic growth’ as it (1) has no recognised definition; (2) undermines the hierarchical principles of the term ‘sustainable development’ and (3) we believe a more sustainable economy should be underpinned by new metrics of social and economic wellbeing to complement the traditional, but limited, measure of GDP. In this respect, MCS agree with the recommendation from the Carnegie report⁷ and Scottish Environment LINK’s general concern about the high-level pursuit of economic growth⁸.

The draft NMP sets out a definition of sustainable development on p.019. However, the definition does not follow that set out in, for example, the UK’s shared framework for sustainable development and, most recently, the Scottish Government’s draft Scottish Planning Policy (SPP):

The goal of living within environmental limits and a just society will be achieved

⁷ More than GDP: Measuring What Matters, Carnegie Trust and Sustainable Development Commission, 2011 <http://www.carnegieuktrust.org.uk/getattachment/ad9d0fe0-b76f-49b2-b2af-7455dd912b02/Shifting-the-Dial-in-Scotland.aspx>

⁸ <http://www.scotlink.org/files/policy/ConsultationResponses/RACCEStage1EvidenceMay13.pdf>

by means of a sustainable economy, good governance, and sound science.

The hierarchical principles of Sustainable Development are clearly presented in Fig 2, repeated below.

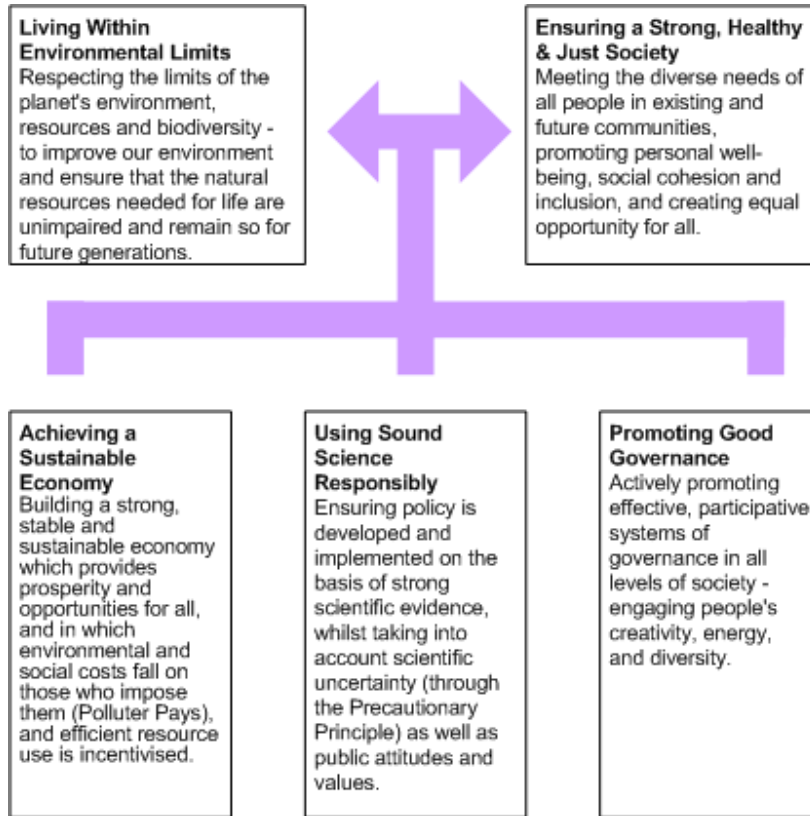


Fig.2 Diagram illustrating the hierarchical flow of the shared UK Sustainable Development principles⁹.

To describe sustainable development as an “*important element of increasing sustainable economic growth*” is at best to misunderstand sustainable development, elevating one of the means into the goal. The NMP should include the accepted definition of sustainable development, together with the Government diagram (see Fig.2) making the relationship between the principles clear.

Science

One of the five key principles of sustainable development is the responsible use of sound science, yet the NMP provides only the briefest mention of science. The NMP needs policies which explicitly support scientific research and monitoring, this is fundamental to sustainable development and an ecosystem-based management approach and will benefit all marine interests.

Ecosystem-based management

The requirement to adopt an ecosystem-based management approach has been discussed in our answer to Question 1 and our overall comments but is also relevant

⁹ <http://sd.defra.gov.uk/what/principles/>

here. The objectives and policies need rebalancing to meet the requirements of an ecosystem-based approach, particularly with respect to linkages across systems, the cumulative impacts of different human sectors, establishing long-term monitoring and research programs, and using flexible, adaptive approaches to learn from management actions.

Strategy for Marine Nature Conservation In Scotland's seas (Three Pillar Approach)

MCS is concerned that the draft NMP makes scant reference to Scotland's 'three pillar approach' to marine conservation which forms the basis of the Strategy for Marine Nature Conservation in Scotland's Seas. The three pillars for marine conservation integrate (1) species conservation; (2) site protection and (3) wider seas policies and measures. This is a particular concern given the context of ecological concern and deterioration highlighted in Scotland's Marine Atlas and elsewhere. It is worth reiterating:

- It is highly likely no 'pristine' ecosystems are left on Scotland's continental shelf¹⁰
- Shallow and shelf subtidal sediments – the majority of Scotland's seabed – are facing some or many concerns.
- The health of virtually every habitat type in Scottish waters is either declining or a matter of concern.
- All of Scotland's 30 species of shark, skate and ray are on the OSPAR threatened and declining list.
- Kittiwake numbers have halved since the mid 1980s, while Arctic skuas declined by 71% between 1986 and 2008.
- Harbour seal numbers are dramatically declining – in some areas by as much as 83%.
- Despite having the highest diversity in Northern European waters, the population status of many of the 20 plus cetacean species (whale, dolphin and porpoise) found in Scottish waters is unknown.

MCS recommend that (1) a separate chapter (also including 'natural capital,' see below) be introduced in the final NMP to reflect the marine conservation objectives of the strategy (2) that the role of the NMP as a key 'wider seas measure' for delivering the Marine Nature Conservation Strategy objectives (including x. To assess the effectiveness of the Strategy in maintaining and, where practicable, promoting recovery of Scotland's marine environment) is affirmed and (3) that the 'three pillar approach' guides the balancing of current policies (Chapters 5 - 16) and informs assessment of cumulative impacts and progress toward Good Environmental Status and sustainable development (particularly 'living within environmental limits').

Ecosystem Goods and Services ("Natural Capital")

MCS are concerned that there is minimal reference and application of the valuation of ecosystem goods and services (also known as "Natural Capital"), linking ecosystems

¹⁰ Recovering Scotland's Marine Environment, David Hughes & Thom Nickell, Scottish Association for Marine Science Internal Report No. 262, 2009
<http://www.scotlink.org/files/policy/PositionPapers/SAMSMCSmtfReportRecover09.pdf>

to the socio-economic benefits they provide to communities. Reference to ecosystem goods and services should be made within the general policies of the NMP, particularly since Scotland's Marine Atlas¹¹ "does not provide an analysis and valuation of ecosystem services".

For example, a report regarded as the best available approach to value transfer, given the very limited evidence and resources available, estimated the benefits arising from a theoretical marine protected area network in Scotland (González-Álvarez 2012¹²) as £6.3 billion - £10 billion. Whilst there are acknowledged difficulties in this piece of value-transfer work, the report highlights that the value provided by marine ecosystem services throughout Scotland's seas is likely to be considerable but needs more accurate quantifying in order to measure status and thereafter trend.

The UK's *National Ecosystem Assessment* and the United Nations *The Economics of Ecosystems and Biodiversity studies* identified that failing to recognise the economic values derived from ecosystems leads to their overexploitation and poor management. Most recently, Potts *et al* (2013)¹³ assigned valuation metrics to UK marine features and their benefit to ecosystem services.

MCS recommend that the final NMP includes a dedicated chapter focused on marine ecosystem structure and function, how it can and will be valued, how it affects the flow of services it provides and how those goods and services can, where appropriate, be enhanced.

Climate Change

While Question 5 asks whether the objectives and policies in the draft NMP meet the first of the duties set out in the Marine (Scotland) Act 2010, there is no equivalent question about the other, equally important, duty for policies to contribute to the mitigation and adaptation to climate change. This serious oversight needs to be rectified and MCS fully supports the LINK comments on this issue.

Q6. Chapter 3 sets out strategic objectives for the National Marine Plan and Chapters 6 – 16 sets out sector specific marine objectives.

Is this the best approach to setting economic, social and marine ecosystem objectives and objectives relating to the mitigation of and, adaptation to climate change?

The approach of setting out strategic objectives and sector-specific marine objectives is reasonable in principle, but the effectiveness of this approach depends entirely on the content of those objectives, which we do not think currently

¹¹ <http://www.scotland.gov.uk/Topics/marine/science/atlas>

¹² González-Álvarez, J. (2012). Valuing the benefits of designating a network of Scottish MPAs in territorial and offshore waters. A report to Scottish Environment MCS. Institute of Natural Resources & Spatial Planning at the University of Oviedo, Spain.

[http://www.scotlink.org/files/publication/MCSReports/Valuing_the_benefits_MPA_Network_Scotland_Report_\(final\).pdf](http://www.scotlink.org/files/publication/MCSReports/Valuing_the_benefits_MPA_Network_Scotland_Report_(final).pdf)

¹³ Potts, T.; Burdon, D.; Jackson, E.; Atkins, J.; Saunders, J.; Hastings, E. and Langmead, O. (2013). Do marine protected areas deliver flows of ecosystem services to support human welfare? Marine Policy: <http://dx.doi.org/10.1016/j.marpol.2013.08.011>

is correct. As applied in the draft NMP, the approach fails to adequately consider, for example, linkages between sectors, cumulative effects of activities on the ecosystem, incompatibilities and conflicts between sectors and between sector-specific and strategic objectives.

We are unclear of the interaction between the UK High Level Marine Objectives (HLMOs) and MSFD descriptors on the one hand and the sector chapter objectives on the other. We are concerned that the sectoral objectives listed at the start of each sector chapter do not fulfil the policy intention of s.5(4)(a)(i) of the Marine (Scotland) Act 2010. A key outcome of marine planning must be a healthy, well-functioning marine environment and clear objectives relating to the health of marine species, habitats and ecosystems (marine ecosystem objectives) are key to meeting this outcome. Effective management of the marine area requires a clear set of objectives against which management actions can be identified, implemented and monitored via the development of indicators and targets. As currently drafted, we do not accept that the objectives against which the marine ecosystem objective logo has been put at the start of each chapter will achieve this. We would urge that the approach recommended in SNH report no 341, 'Scottish Marine Ecosystem Objectives: Scoping study'¹⁴ and subsequently endorsed in 'Report on Social and Economic Objectives for a Scottish Marine Plan' (Mee *et al*, 2010)¹⁵ is adopted.

Marine Ecosystem Standards

MCS recommend that each sector plan should be linked to the marine ecosystem objectives in order to illustrate how the NMP will deliver them. In keeping with the overarching goals of sustainable development, the marine ecosystem objectives should underpin the social and economic objectives. SNH Report 341 (subsequently endorsed by 'Report on Social and Economic Objectives for a Scottish Marine Plan' (Mee *et al*, 2010)) recommended the development of a set of Marine Ecosystem Standards (MES):

Marine Ecosystem Standards (MESs): These will be a 'bottom line' set of targets for Scotland's seas, which will allow us to ensure that we are managing human activities in a way that is not damaging marine ecosystems and the environmental goods and services they provide for Scotland's people, and are making progress in restoring past damage where this is necessary. These will be broadly analogous with the standards that the Scottish Government sets for the education and health services. As with these standards, they will be partly indicators of performance, but they will also contain an active management element, prompting action to fine-tune or amend management prescriptions if evidence shows that these MESs are not being achieved.

Development of a set of MESs would provide all marine stakeholders much-needed clarity, as concrete objectives for the plan would enable planners to measure the collective success - or otherwise - of regional marine planning decisions. Such an approach would also help facilitate measurement of progress toward and therefore ultimate achievement of Good Environmental Status under

¹⁴ Saunders G., Scott M.M. (2010). Scottish marine ecosystem objectives: Scoping study. Scottish Natural Heritage Commissioned Report No. 341 http://www.snh.org.uk/pdfs/publications/commissioned_reports/341.pdf

¹⁵ <http://www.scotland.gov.uk/Resource/Doc/308369/0097119.pdf>

the MSFD.

Climate change approach

MCS supports the statement in Scotland's Marine Atlas that climate change is one of two widespread pressures, along with fisheries, effecting Scotland's seas. The draft NMP references the challenge of climate change, but offers insufficient planning guidance to meet the duty under the Marine (Scotland) Act to "...act in the way best calculated to mitigate, and adapt to, climate change...". MCS agree with LINK that *"It does not adequately address objectives, strategies and risks throughout the document in relation to the potential influence of climate change on both the marine environment and indeed the sustainability of the various marine sectors and their own respective mitigation responsibilities."*

Q7. Do you have any other comments on Chapters 1 – 3?

MCS agree with LINK that a major edit of Chapters 1, 2 and 3 is needed to make clearer (1) that sustainable development, protection and enhancement of the marine environment and mitigation of and adaptation to climate change are core requirements of the NMP; (2) how the NMP complements and contributes to the implementation of the higher order UK and EU Directives; (3) how ecosystem-based management will provide the framework for the delivery of marine planning, (4) how the 3 pillar approach will inform the setting of sector-specific policies, and (5) how decision-making and conflict resolution will be addressed. The Firth of Clyde Marine Spatial Plan¹⁶ provides a good example of clearly visualising policy hierarchies and introducing planning concepts.

Approaches to Marine Planning Policies

As stated earlier, the wording introducing the Approach to Policies is fundamentally flawed. The Scottish marine planning system should promote sustainable development. To achieve this, MCS would like to reiterate and support the LINK recommendations that the NMP includes within the 'Approach to Policies' section:

- A statement on the important and valuable asset that is Scotland's marine natural resource and biodiversity;
- A statement on the importance of marine ecosystem services in underpinning the success of key sectors referred to within the NMP and indeed wider positive benefits that a healthy, biodiverse marine environment provides. In this regard the 'ecosystem approach' should be defined here as the common thread that integrates all elements of the Plan.
- The principles of the MPA network and the role this will play as one of the three pillars for the protection of the Scottish marine environment as set out in the Marine Nature Conservation Strategy for Scotland's seas. Furthermore, a coherent MPA network is a key climate change mitigation and adaptation measure that will increase the integrity of the marine environment making it more resilient to future changes in climate.

¹⁶ <http://www.clydeforum.com/SSMEI-MSP-2010.pdf>

- A contextual paragraph explaining the global importance and value of Scotland's natural marine and coastal assets (e.g. seabirds, cetaceans, fish and habitats). This should then be put in context using a summary of the assessment of Scotland's Marine Atlas (Box A, Page 21 of the NMP), which sets out the main pressures facing the marine environment.

Monitoring and Research

MCS would like to express support for this LINK statement: The NMP makes reference to 'The Future' on page 19, stating how marine planning will be improved by greater understanding. However, no reference is made to the efforts being taken by Marine Scotland and other statutory agencies in facilitating monitoring and research of Scotland's marine environment. This work is crucial to informing marine spatial planning and decision-making and the NMP must make reference to their programmes/ strategies, giving examples of how this information feeds into and informs the planning process. A commitment from the Scottish Government to support and facilitate environmental monitoring and research is required.

General Planning Policies

Q8. Are the general policies in Chapter 4 appropriate to ensure an approach of sustainable development and use of the marine area? Are there alternative policies that you think should be included? Are the policies on integration with other planning systems appropriate? A draft circular on the integration with terrestrial planning has also been published - would further guidance be useful?

This section must be more explicit in stating that all text is planning policy. Policy text within the boxes will automatically be considered the more applicable text and thus potentially misguide users of the NMP.

Policies GEN 1, 2 & 3

MCS welcome and support the inclusion and commitments made within the NMP to the principles of sustainable development. However, as it is such a fundamental point, MCS would like to re-state the LINK recommendation that the first three general policies, GEN 1-3, and supporting text be reviewed and amended to reflect the five guiding principles of sustainable development as set out in the UK's shared framework for sustainable development. Relevant text within the NMP currently suggests support for activities that achieve economic and social objectives over environmental objectives, undermining the very notion of interdependence between these objectives. The NMP also omits a vital reference to any effort to work within marine environmental limits. Consequently, the current approach is contrary to achieving sustainable development and contravenes the duty in **s.3** of the Marine (Scotland) Act. We recommend reference is made to the current draft Scottish Planning Policy (SPP) document as it presents appropriate wording that could be used in this General Policy section (see paragraphs 24 and 25 on page 8 of the SPP). Furthermore, there is no parity between those policies that make provision for - and actively support - developments and activities that offer social and economic benefits (GEN 2 & 3) and those that merely seek assurance that environmental protection law will not be broken, and development and use of the marine environment will not result in "*significant adverse effects*" on features of

conservation concern, as that set out in GEN12. Marine natural resources underpin sectoral use of the sea, therefore we must work within the limits of the environment otherwise we erode its quality and the environmental services it provides.

For the NMP to be compliant with s.3 of the Marine (Scotland) Act 2010 and support European legislation we recommend the inclusion of an additional policy that fully respects the need to live within environmental limits and actively supports the protection and most importantly enhancement of the marine environment. Suggested wording for this additional policy is provided in answer to Q10.

Policy GEN 4

There is no directly equivalent policy in the draft Scottish Planning Policy, and MCS agree with LINK that the detail of GEN 4 would most naturally fit as part of GEN 9 on Engagement.

Policy GEN 5

This policy should include consideration of development proposals within designated natural heritage sites. Co-location of multiple uses may be particularly relevant to marine renewables, fisheries grounds and areas established for nature conservation (MPAs, SACs, SPAs, SSSIs and Ramsar sites) and is important for ensuring compatible projects and activities are sited in the least environmentally-sensitive areas. Establishing clear guidance on which activities may be compatible with which designation will offer greater clarity and environmental protection and greatly help to inform the preparation of Regional Marine Plans.

Policy GEN 6

We support the efforts to integrate marine and terrestrial planning. However, this policy must include an additional criteria that explicitly makes a requirement for consideration of environmental impacts when facilitating appropriate access to the shore and sea.

Policy GEN 7

We strongly support this policy. However, the example of River Basin Management Plans seems misplaced, particularly given the policies for water quality and resource in GEN18. Strategic Development Plans and Local Development Plans would be more appropriate documents to cite as examples here.

Policy GEN 8

MCS support the LINK comments made in relation to GEN 8.

Policy GEN 9

MCS strongly support this policy. Please also note the suggested addition in our comments on GEN 4.

Policy GEN 10

This policy should better reflect - and seek to embed - the precautionary principle within the decision-making process. The precautionary principle is set out well within the draft SPP paragraph 133. This states that authorities should apply the precautionary principle where the impacts of a proposed development on nationally or internationally significant landscape or natural heritage resources are uncertain. If there is any likelihood that damage could occur, modifications to the proposal

which would eliminate the risk must be considered.

Reference here is needed to the efforts and future requirements of Marine Scotland and other statutory agencies in facilitating monitoring and research of Scotland's marine environment. A commitment from the Scottish Government to support and facilitate environmental data collation, monitoring and research is required. In addition, the Scottish Government must better facilitate the dissemination of information to stakeholders. We suggest this would fit better in a separate policy.

Policy GEN 11

MCS strongly support this policy as drafted in the box. However, the explanatory text should be clear that mitigation actions must be both proportionate and ecologically appropriate. Bad mitigation measures are no substitute for a deterioration in environmental status arising from inappropriate development, or even development of over-riding public interest. It is crucial that poor 'biodiversity offsetting' does not become entrenched, thus undermining proper environmental protection in the first instance. Examples of poor mitigation (which could be considered as early examples of ill-informed 'biodiversity offsetting') include the Cardiff Bay Barrage development.

Policy GEN 12

MCS would like to reinforce the following three points in regard to this suggested General Policy:

1. Given the ministerial duty within the Marine (Scotland) Act 2010 to protect, and where appropriate enhance, the health of the marine environment, this General Policy must provide more clarity and robustness over the requirements of environmental nature conservation legislation and policy. Reference to these requirements will provide a clearer steer to marine planning practitioners and will also provide certainty to developers and users of the marine environment, thus reducing risks.

The draft SPP provides suitable description of the various designations and protected species which must be considered when proposing any new activity or development and we recommend a similar approach is taken in the NMP.

The network of marine protected areas is not yet complete and therefore contextual information is required to inform and guide planning practitioners. European marine sites for protection of harbour porpoises and bottlenose dolphins, as well as marine foraging areas for seabirds at sea, are forthcoming and MCS consider further MPA designations are needed for protection of nationally important aggregations of basking sharks, cetaceans, seabirds, common skate, European spiny lobster and other nationally and internationally important species, as well as both nationally important (rare/threatened/declining/of regional significance) and representative habitats not sufficiently covered by current proposals. The fact that the network will be expanding – and management adapting to reflect a research programme on ecological connectivity between MPA

sites - should be referred to within this section.

Reference is made to the national status of ‘*other habitats or population of species of conservation concern*’ (we presume this refers to Priority Marine Features) and the need to take these into account when preparing regional plans and appraising proposals. However, the Marine Scotland guidance on safeguarding these features is not yet available. This paragraph should be strengthened to give a better steer, outlining examples of what measures or considerations will be required at the plan preparation and project appraisal stages, in addition to those measures already required under European Directives, for example to ensure strict protection of European Protected Species. Clarity is also required over which features this relates to and whether “other Priority Marine Features” refers to features already included in MPA, SAC and SPA designations.

2. The potential for cumulative environmental impacts from proposed development and use of the marine area must be stipulated as requiring consideration at the regional marine plan and project levels. It is unclear how the NMP will ensure that existing and future developments are within the carrying capacity of the environment.
3. The policy described in GEN 12 simply repeats the implicit duty of authorities not to break the law regarding protected areas and species, and not to sanction developments that will significantly adversely affect the conservation status of non-protected features of conservation concern. It is regrettable that the Scottish Government’s proactive duty to enhance the marine area (Part 2 Section 3) is not addressed. The policy states that planners should ensure development “does not result in a significant adverse effect on the national conservation status” of species and habitats. This neglects the legislative duty to enhance Scotland’s seas where Scotland’s Marine Atlas indicates this is necessary. Refer also to comments on GEN 1, 2 and 3 above.

We therefore suggest that the text for GEN 12 is re-worded as follows:

“Marine planning and decision-making authorities should ensure that development and use of the marine environment (a) complies with legal requirements for protected areas and protected species; (b) does not result in an adverse effect on the national conservation status of other habitats or populations of species of conservation concern and (c) protects, and where appropriate, enhances the health of marine biodiversity and the wider marine ecosystem.”

This wording would contribute toward the NMP helping fulfil Ministerial and public body duties under **s.3** of the Marine (Scotland) Act 2010 and **s.1** of the Nature Conservation (Scotland) Act 2004.

Policy GEN 13

MCS support the LINK comments made in relation to GEN 13.

Policy GEN 14

MCS support LINK comments made under the specific landscape/seascape,

Question 9 in the collaborative response.

Policy GEN 15

MCS support this general policy.

Policy GEN 16

MCS support the LINK comments made in relation to GEN 16.

Policy GEN 17

MCS support this general policy with the addition of text recognising that:

1. Natural or restored kelp forests and biogenic 'living' reefs (e.g. horse mussel beds and oyster beds) can also play an important role in sustainable coastal defence and;
2. Regional Marine Plans should also consider the scope of sublittoral habitat restoration e.g. biogenic 'living' reefs. This would need to be done sensitively and should not be confused with potentially inappropriate *artificial* reef construction.

Policy GEN 18

MCS support this policy although believe the wording should be strengthened as follows:

“Decision makers should *seek to mitigate against* impacts on the quality of designated bathing and shellfish waters from any proposed development”

Policy GEN 19

MCS agree that this policy should be brought into line with the duties under the Climate Change (Scotland) Act 2009 and Marine (Scotland) Act 2010 and should be amended to read:

“Developers and users of the marine environment should act in a way best calculated to mitigate, and adapt to, climate change.”

The current text is simply too weak as to provide any meaningful guidance to planners, decision makers and those seeking to use Scotland's marine environment. This section and policy should provide support and guidance to planners, decision makers and those responsible for Regional Marine Plan preparation on a topic that is one of the major challenges facing marine and terrestrial planning at Scottish and international levels. MCS fully and strongly support all the LINK comments made on GEN 19.

Q9. Is the marine planning policy for landscape and seascape an appropriate approach?

MCS would refer to the fully-supported LINK answer to this question.

Q10. Are there alternative general policies that you think should be included in Chapter 4?

Priorities

The general policies section must include a description of the priorities both of nature conservation legislation, the hierarchy of protection and the mechanisms for delivering conservation of biodiversity within the marine area.

The draft Scottish Planning Policy¹⁷ (SPP) provides the right framework and general content that is required in the NMP (see Natural Resources section of the draft SPP). This information would provide explicit guidance for Marine Planning Partnerships in the preparation and delivery of Regional Marine Plans.

Additional policies

MCS believe that additional general policies are needed to ensure the NMP achieves its objectives, complies with the duties laid out in the Marine (Scotland) Act 2010, the Marine and Coastal Access Act 2009 and the Climate Change (Scotland) Act 2009 and meets the requirements of the MSFD and other legislation:

1. Enhancement

A policy of explicit support for activities which lead to the protection and enhancement of the health of our seas and biodiversity is required to sit alongside GEN 1-3. This is in addition to the required revision to GEN 12. Possible wording: **GEN X: Sustainable developments and marine activities which provide protection and enhancement of the health of the area and which further marine biodiversity are encouraged.**

This is required to make it clear that there is support for positive measures to assist biodiversity conservation and recovery, above removal of pressures. For example, environmentally sensitive and appropriate habitat restoration.

2. Climate Change

Similarly, GEN 19 is inadequate to meet the climate change duties within the Climate Change (Scotland) Act 2009 and Marine (Scotland) Act 2010, calling only for developers and users to minimise emissions and increase resilience. GEN 19 must be revised to meet the duties and a further policy introduced to give climate change mitigation and adaptation outcomes explicit support:

GEN Y: Sustainable developments and marine activities which provide mitigation of and adaptation to climate change are encouraged.

3. Research and Monitoring

There should be an additional policy giving support to research and long-term monitoring, while acknowledging the work done in this area by Marine Scotland.

4. Cumulative Impacts

¹⁷ <http://www.scotland.gov.uk/Publications/2010/02/03132605/0>

MCS strongly contend that a new General Policy is needed to ensure that cumulative impacts of all planned activities are considered. This is essential to avoid the “*death by a thousand cuts*” of fragile marine and coastal ecosystems that Scotland’s intertidal habitats¹⁸, Firths, estuaries and busier sea lochs in particular are experiencing. The Clyde SSMEI¹⁹ provides a good example of looking at cross-cutting impacts.

5. Marine Litter

Our Beachwatch litter data highlight the rising trend in marine litter (levels have doubled from 1994 to 2012), and this growing problem needs to be addressed across all sectors. The NMP, and subsequent Regional Marine Plans, must therefore closely integrate with the developing Marine Litter Strategy and National Litter Strategy.

6. Invasive Non-Native Species

MCS is concerned about the growing impact of invasive non-native species (INNS) from ballast water, boat hulls and other equipment. In view of the potential socio-economic and environmental impacts of these INNS, this potentially growing pressure merits an additional General Policy.

Guide to Sector Chapters

Q11. Do you have any comments on Chapter 5?

Are there other sectors which you think should be covered by the National Marine Plan?

- 1. Ecosystem goods and services/natural capital:** there is a historic opportunity for Scotland’s National Marine Plan to be world-leading, guiding high-quality, sustainable marine planning and ecosystem-based management and enhancement. MCS therefore strongly recommends inclusion of an additional chapter that accounts for and seeks sustainable opportunities to recover and enhance the natural capital of Scotland’s marine area. Parallels can be drawn with the National Planning Framework, which recognises the importance of a high quality natural environment and actively encourages its protection and enhancement to build on nature’s capital and support future sustainable development. Indeed, the Framework’s Central Scotland Green Network national development is a prime example of the practical measures that can be implemented to support this concept. At sea we should be considering ecologically appropriate biogenic ‘living’ reef restoration, coastal managed realignment, enhancement of natural habitats that provide coastal protection and carbon sequestration and, through cessation of damaging activities, the deliberate re-wilding of intertidal habitats and subtidal seabed habitats, landscapes and

¹⁸ <http://www.scotland.gov.uk/Topics/marine/science/atlas>

¹⁹ <http://www.clydeforum.com/SSMEI-MSP-2010.pdf>

ecosystems. For example, 85% of the world's oyster reefs have been lost globally²⁰, including the millions of native oysters that once swathed the east coast and Firth of Forth seabed. Given the context of ecological decline set out in Scotland's Marine Atlas, a more pro-active approach to marine species population and habitat recovery and restoration is therefore of pressing need in order to meet legislative duties, targets to halt marine biodiversity decline and Good Environmental Status.

This new section would directly support the key duties of the Marine (Scotland) Act 2010 and send a clear message about the Scottish Government's intent for future restorative management of Scotland's seas.

2. **Transmissions sector:** the NMP must include an additional section on transmissions sector and cable laying, other than telecoms and other infrastructure projects. Large infrastructure projects such as these must be supported and guided by appropriate government policy.
3. **Seaweed:** Seaweed needs to given its own sectoral chapter, to acknowledge both seaweed aquaculture and wild seaweed harvesting as distinct sub-sectors and their likely growth.

Sea Fisheries

Q12. Do you have any comments on Sea Fisheries, Chapter 6?

MCS is a substantive contributor to the Scottish Environment LINK answer to this question and would refer to and support the LINK answer to question 12 in full. Please consider this answer as MCS support for all the points raised in the LINK answer. MCS would like to emphasise that "*Fishing, which impacts on the seabed and species*", along with "*Human activity contributing to climate change*" was considered by Scotland's Marine Atlas to be one of "*two significant pressures on the Scottish marine area which are widespread*". The ecological imperative for the emerging new planning framework (including MPAs as part of a three-pillar approach to marine nature conservation) to be developed and managed to help reduce the ecological footprint of damaging fishing activities on the seabed and marine species, therefore couldn't be clearer. Chapter 6 should formally recognise this.

Q13. Are there alternative planning policies that you think should be included in this Chapter?

No comment

²⁰ Beck, Michael W., *et al.* "Oyster reefs at risk and recommendations for conservation, restoration, and management." *Bioscience* 61.2 (2011): 107-116.

Aquaculture

Q14. Does Chapter 7 appropriately set out the relationship between terrestrial and marine planning for Aquaculture? Are there any planning changes which might be included to optimise the future sustainable development of aquaculture?

The NMP does not appropriately set out the relationship between terrestrial and marine planning for aquaculture. MCS is a substantive contributor to the Scottish Environment LINK answer to this question and would refer to and support the LINK answer to question 14 in full. Please consider this answer as MCS support for all the points raised in the LINK answer.

Q15. Do you have any comments on Aquaculture, Chapter 7?

MCS is a substantive contributor to the Scottish Environment LINK answer to this question and would refer to and support the LINK answer to question 15 in full. Please consider this answer as MCS support for all the points raised in the LINK answer. We would particularly draw attention to the fact that the potential environmental impacts of the industry achieving the growth targets set out in Objective 2 have not been made subject to any environmental assessment. It remains to be understood whether these objectives can feasibly be achieved in Scottish waters, not least in a manner which supports the principles of sustainable development.

Q16. Are there alternative planning policies that you think should be included in this Chapter?

There is no policy with regards to Farm Management Areas or agreements, which were given statutory basis by the Aquaculture & Fisheries (Scotland) Act 2013. Given their role in planning and synchronising production in order to reduce and manage risks posed by infectious agents and parasites which can be present in the environment, in wild and farmed fish, and in other naturally occurring biota these are a critical element of marine planning for fish farms.

Wild Salmon and Migratory Fish

Q17. Do you have any comments on Wild Salmon and Migratory Fish, Chapter 8?

MCS is a substantive contributor to the Scottish Environment LINK answer to this question and would refer to and support the LINK answer to question 17 in full. Please consider this answer as MCS support for all the points raised in the LINK answer.

Q18. Are there alternative planning policies that you think should be included in this Chapter?

No comment

Oil & Gas

Q19. Do you have any comments on Oil and Gas, Chapter 9?

MCS is a substantive contributor to the Scottish Environment LINK answer to this question and would refer to and support the LINK answer to question 19 in full. Please consider this answer as MCS support for all the points raised in the LINK answer. We would strongly agree that Objective 1 to 'maximise the recovery of oil and gas reserves' significantly contradicts the Scottish Government's ambition to create a low carbon economy and clearly contradicts the duty under the Climate Change (Scotland) Act that all public bodies are required to act in the way best calculated to contribute to the delivery of the emissions targets in the Act and in a way that it considers most sustainable. There must be recognition in this objective that maximising extraction of oil and gas is incompatible with the need to bring down global carbon emissions, and that there is a need for a transition to a low carbon economy. This is not covered by the use of the term 'minimum environmental cost' which is more likely to be understood as referring to direct environmental impacts. It is not satisfactory to only mention the need to move to a low carbon economy in the background section.

Q20. Are there alternative planning policies that you think should be included in this Chapter?

No comment

Carbon Capture & Storage (CCS)

Q21. Do you have any comments on Carbon Capture and Storage, Chapter 10?

MCS is a substantive contributor to the Scottish Environment LINK answer to this question and would refer to and support the LINK answer to question 21 in full. Please consider this answer as MCS support for all the points raised in the LINK answer.

Q22. Are there alternative planning policies that you think should be included in this Chapter?

Offshore Renewable Energy

Q23. Should the NMP incorporate spatial information for Sectoral Marine Plans?

Reference to the sectoral marine plans will help maintain the consistency of the policy and in due course there is merit in considering the incorporation of sectoral plans within the NMP, not least the need to ensure the system is NMP-led. Had the NMP been in place earlier, then it would have been logical to include the offshore renewable sites within it.

Q24. Do you have any comments on Offshore Renewable Energy, Chapter 11?

MCS is a substantive contributor to the Scottish Environment LINK answer to this question and would refer to and support the LINK answer to question 24 in full. Please consider this answer as MCS support for all the points raised in the LINK answer.

Q25. Are there alternative planning policies that you think should be included in this Chapter?

There is a recognition that coordinated national, regional and project specific environmental monitoring is required to better inform marine spatial planning and decision making. An additional objective encouraging industry-wide monitoring packages that are standardised where appropriate and integrate and coordinate government, industry and project level programmes would provide a driver and focus to prioritise and deliver much needed monitoring.

This monitoring data will ultimately contribute to the sustainable development of the offshore renewables industry by informing decision makers, increasing certainty and reducing risk.

Recreation and Tourism

Q26. Do you have any comments on Recreation and Tourism, Chapter 12?

MCS is a substantive contributor to the Scottish Environment LINK answer to this question and would refer to and support the LINK answer to question 26 in full. Please consider this answer as MCS support for all the points raised in the LINK answer.

Q27. Are there alternative planning policies that you think should be included in this Chapter?

Transport (Shipping, Ports, Harbours & Ferries)

Q28. Should the NMP specifically designate national significant ports/harbours as described in Chapter 13: Marine Planning Policy Transport 2?

The NMP should concur with the designations identified in the National Planning Framework, particularly given ports and harbours fall mainly within terrestrial planning. This issue highlights the need for there to be better integration of terrestrial and marine planning that works in both directions.

Q29. Do you have any comments on Transport, Chapter 13?

MCS is a substantive contributor to the Scottish Environment LINK answer to this question and would refer to and support the LINK answer to question 29 in full. Please consider this answer as MCS support for all the points raised in the LINK answer.

Q30. Are there alternative planning policies that you think should be included in this Chapter?

A big gap here is the omission of reference to Marine Environment High Risk Areas (MEHRAs), which need to have their own Marine Planning Policy.

Suggested Transport 9:

MEHRAs: When planning future transport infrastructure, Marine Environment High Risk Areas (MEHRAs) should be re-assessed and any new recommendations arising applied.

Telecommunication Cables

Q31. Do you have any comments on telecommunications, Chapter 14?

Objectives

Objective 2

We support the objective to reduce risks to the marine environment. Any new telecommunications cables should avoid sensitive seabed features such as, but not limited to, coldwater coral reefs, coldwater coral gardens and deep sea sponge aggregations.

Q32. Are there alternative planning policies that you think should be included in this Chapter?

Defence

Q33. Do you have any comments on Defence, Chapter 15?

MCS supports the Scottish Environment LINK answer to question 29 in full. Please consider this answer as MCS support for all the points raised in the LINK answer.

Q34. Are there alternative planning policies that you think should be include in this Chapter?

Aggregates

Q35. Do you have any comments on Aggregates, Chapter 16?

MCS supports the LINK answer to question 35 in full. Please consider this answer as MCS support for all the points raised in the LINK answer.

Q36. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Business and Regulatory

Q37. Please tell us about any potential economic or regulatory impacts, either positive or negative, that you think any or all of the proposals in this consultation may have.

MCS is a substantive contributor to the Scottish Environment LINK answer to this question and would refer to and support the LINK answer to question 37 in full. However, this is such a fundamental matter, that we would like to re-state the LINK response to this question in full, and from MCS perspective:

The marine environment provides a rich array of ecosystem goods and services – such as fish production, climate regulation, recreational enjoyment and so on, which collectively underpin our economic prosperity. Putting a value on these is an evolving discipline, but González-Álvarez 2012²¹ estimated the benefits arising from a theoretical marine protected area network in Scotland to be £6.3 billion - £10 billion. Notwithstanding the theoretical nature of this value-transfer work, the report highlights that the value provided by marine ecosystem services throughout Scotland's seas is likely to be considerable but needs more accurate quantifying in order to measure status and thereafter trends (whether deteriorating or, with appropriate marine management as we would hope, enhancement). Furthermore, Kenter *et al.* (2013²²) (a report which MCS helped co-produce) demonstrate the

²¹González-Álvarez, J. (2012). Valuing the benefits of designating a network of Scottish MPAs in territorial and offshore waters. A report to Scottish Environment MCS. Institute of Natural Resources & Spatial Planning at the University of Oviedo, Spain.

[http://www.scotlink.org/files/publication/MCSReports/Valuing_the_benefits_MPA_Network_Scotland_Report_\(final\).pdf](http://www.scotlink.org/files/publication/MCSReports/Valuing_the_benefits_MPA_Network_Scotland_Report_(final).pdf)

²² Kenter, J.O., Bryce, R., Davies, A., Jobstvogt, N., Watson, V., Ranger, S., Solandt, J.L., Duncan, C., Christie, M., Crump, H., Irvine, K.N., Pinard, M., Reed, M.S. (2013). The value of potential marine protected areas in the UK to divers and sea anglers. UNEP-WCMC, Cambridge, UK. <http://uknea.unep-wcmc.org/MCSClick.aspx?fileticket=Mb8nUAph%2BY%3D&tabid=82>

potential socio-economic value of marine biodiversity protection to divers and anglers. It is very important that these benefits are properly considered in the setting of objectives and policies in the NMP.

Conversely, the dangers of failing to protect and enhance these ecosystem benefits are material to the Business and Regulatory Impact Assessment (BRIA), as unsustainable development of the marine environment risks the loss of many of these fundamental ecosystems goods and services. The impacts of the loss of ecosystem goods and services has simply not been factored into the costs outlined in either Option 1 or Option 2 of the Business and Regulatory Impact Assessment of the draft NMP ('Do nothing' or 'Development and adoption of a Scottish National Marine Plan' respectively). As currently drafted, MCS agree with the LINK response that the Option 2 ('Development and adoption of a Scottish National Marine Plan') risks many of the ecosystems goods and services upon which many businesses and communities rely and therefore should be explicitly acknowledged as a potential cost of the NMP. If the guidance, policy and objectives of the draft NMP is improved as per LINK recommendations, it would then be important to state the benefits flowing from Option 2 in the BRIA.

Equality

Q38. Do you believe that the creation of a Scottish National Marine Plan discriminates disproportionately between persons defined by age, disability, sexual orientation, gender, race and religion and belief?

Yes No

Q39. If you answered yes to question 23 in what way do you believe that the creation of a Scottish National Marine Plan is discriminatory?

Sustainability Appraisal

Q40. Do have any views/comments on the Sustainability Appraisal carried out for the NMP?

MCS is a substantive contributor to the Scottish Environment LINK answer to this question and would refer to and support the LINK answer to question 37 in full. However, this is such a fundamental matter, that we would like to re-state the LINK response to this question in full and from MCS perspective:

"The general duties of the Marine (Scotland) Act 2010 require the achievement of sustainable development, including the protection and, where appropriate, enhancement of the health of that area. In this context the Sustainability Appraisal (SA) fails to adequately identify, acknowledge and, where necessary, address the

enhancement element of this duty, when assessing the NMP. The SA must 'identify, describe and evaluate the likely significant effects on the environment of implementing the plan' (Section 14 (2)a of the Environmental Assessment (Scotland) Act 2005) and account for the significant effects of a plan or programme, which includes both positive and adverse effects. We recommend that the significant positive impacts of an effectively-implemented enhancement duty as set out in the draft NMP and addressed in the revised NMP are addressed in the SA/ SEA. In doing so, this would effectively provide adequate justification for the changes we have requested to GEN 12 and inclusion of additional policies as set out in answers to Question 8 of this consultation.

The methodology for undertaking the SA is clear in that three alternative approaches were assessed. The first ('do nothing') was rightly dismissed as a non-viable policy option. MCS also supports the second decision to develop a 'high-level strategic plan' instead of a 'high-level spatial plan,' noting that the latter would be best undertaken by Regional Marine Planning Partnerships. The next decision – whether the plan should be economy-, environment-, or sustainable development-focussed – is the most significant. MCS support in principle the decision to develop a NMP that focuses on 'sustainable development,' but note that the SA states:

The benefits of an environmentally focused plan are clearly reflected in the preferred option which largely recognises that sustainable economic development is also reliant on good environmental quality, but does not involve environmental controls which are unnecessarily restrictive to economic activity.

We welcome the acknowledgement that the economy is reliant on good environmental quality, but have some reservations. The views of MCS (and LINK members broadly) on sustainable development are covered in detail in our response to Question 5 of this consultation (in the section entitled 'Sustainable development or sustainable economic growth'). Unfortunately, the crucial concept of 'sustainable development' is confused once more by another contradictory reference in this Sustainability Appraisal, in this case to 'sustainable economic development.' MCS members contend that the principle of 'sustainable development' (as properly-interpreted) is a prerequisite for the delivery of the NMP's objectives and an appropriate guide for sectoral policies. We therefore contest the decision to develop a NMP which focuses on 'sustainable economic development' and argue that this approach attempts to grow all sectors, but risks pleasing none by inadequately resolving conflict between the development aspirations for different sectors and failing to deliver positive environmental benefits that would be experienced by all sectors.

The positive ecosystem services benefits that could flow from the robust implementation of the Marine (Scotland) Act would in fact be threatened by any poorly-coordinated development flowing from the NMP as it is currently drafted, if the recommended amendments to the draft NMP outlined in this consultation response are not implemented, then MCS would continue to have serious concerns about the future direction of the Scottish Government's commitment to the sustainable development of Scotland's inshore and offshore waters. In that regrettable scenario, MCS would contend that the Sustainability Appraisal should

then state the risk of significant adverse impacts to ecosystem services, caused by the inadequately-directed development of the marine environment. By the same token, MCS contend that a fully assessed recognition of the benefits to be lost by unsustainable development would necessitate a revised approach to the NMP and this scenario would therefore not come to pass.

Furthermore, the SA does not consider the environmentally relevant requirements of the Marine Act that relate to the mitigation and adaptation to climate change. Particularly relevant is the wholesale contradiction of the objectives and policies set out within the Oil and Gas chapter, that support maximum recovery of oil and gas reserves in the North Sea and west of Scotland, which are set alongside the duties of the Marine Act and the requirements to reduce emissions as set out in the Climate Change (Scotland) Act 2009. Climate change is a major cause of environmental pressure as stated in Scotland's Marine Atlas and in this regard the absurdity of this contradiction is stark. We recommend this is addressed both within the NMP as stated above and in the SEA/SA.

As mentioned above, there has been no assessment to establish whether the specific, quantified targets to increase finfish production set out in the Aquaculture section would be within the carrying capacity of Scotland's marine environment and therefore should be removed from the NMP altogether.

MCS firmly contend that it is not appropriate for growth targets to be included in a NMP document, until the findings of a project to identify areas of opportunity and constraint for both finfish and shellfish sectors has been concluded and for full SEA to be carried out on subsequent expansion plans.