



Taking action for a living planet

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Developing a Strategic Framework for Scotland's Marine Environment.

WWF congratulates the Scottish Executive for undertaking this important consultation. As you state in your introductory paragraphs Scotland's seas and coasts are economically and socially important to Scotland as well as home to distinctive and important habitats which support a diverse range of species that we need to protect, conserve and enhance. It is therefore critical that we strike the right balance between social, economic and environmental considerations in our management of this vital resource, something we are currently failing to do.

WWF have reviewed the issue of how we manage our marine resources in considerable detail and our findings reveal the need for an extensive overhaul of the current management system. We have also, in common with others, identified some key issues which are critical if we are to achieve the sustainable management of our seas and coasts. In summary these include:

- 1. A Marine Act for Scotland.** There is a clear need for primary legislation to provide the legal duty of care across all public and private bodies to pay due regard to the sustainable management of our seas. WWF is calling this a Marine Act for Scotland. There will also be the need for a UK Marine Act to take responsibility for reserved marine management while the Scottish Marine Act would specifically address those issues for which Scotland has devolved responsibility.
- 2. A Marine Strategy not a strategic framework.** There is a need to create a clear vision and strategy for the marine environment placing the ecosystem approach at its heart. This should identify clear achievable targets and dates for implementation. It is our view that this will not be achieved through a strategic framework but rather that a Marine Strategy with clear targets and timelines needs to be identified.
- 3. A Lead Marine Body.** The establishment of one marine authority responsible for developing, overseeing the implementation of, and reviewing the marine strategy and ensuring that targets are met and undertaken in a co-ordinated manner.



4. Alignment. Establish a duty on all public authorities to align policies and decisions on marine strategy.

5. Spatial Planning. Establish a broad scale spatial planning system for Scotland's marine environment.

6. Ensure stakeholder involvement. Provide a requirement for active involvement of stakeholders and local communities in the development of local plans and decision making.

7. Financial and political support. There will be the need for substantial financial commitment from the Scottish Executive to facilitate the changes needed to deliver the sustainable management of our seas and coasts. This will only be possible with strong political support.

As you will be aware the Review of Marine Nature Conservation (RMNC) has just been published and there is a great deal in the content that should assist the Scottish Executive, one of the members of the Working Group, in its delivery of sustainable marine management here in Scotland.

Fundamentally there is a recognition that the current system for marine nature conservation is not fit for purpose, and that there is a need to establish strategic goals, objectives, targets and indicators to ensure ecosystem coherence and functionality. The report also recognises that in order to provide some coherence to this Government should finalise and apply an overarching policy framework of strategic goals, objectives, targets and indicators which can apply to all elements of its strategic goals for the marine environment.

They go on to note the need for a system to provide a framework for consistent and coordinated decision making across the sectors. And finally they recognise that there are currently legislative failings and identify the need to introduce measures including policy and legislation as appropriate, to underpin the application of the marine nature conservation framework throughout waters under UK jurisdiction.

WWF commend the RMNC report to the Scottish Executive in the course of their deliberations on a way forward with the strategic and sustainable marine management in Scotland and hope that the outcome will deliver the recommendations made in the RMNC report.

WWF response to the questions posed in section 6 of the consultation document.

WWF supports the views submitted by Scottish Environment LINK Marine Task Force and do not wish to duplicate the answers in that document. We will however run through the questions briefly and seek to provide the most concise answer but augment these where WWF have additional views.

1. *Do you endorse the strategic vision for Scotland's marine environment set out in Annex 2?* WWF supports the vision but does not believe that it will be met by the activities set out in Annex 2. *Are any changes necessary?* Please see the answer given in the LINK MTF response. There is a need for more SMART (specific, measurable, achievable, realistic, timebound) objectives. This is echoed in the recommendation made by the Review of Marine Nature Conservation (July 2004) that "**Government should finalise and**



apply an overarching policy framework of strategic goals, objectives, targets and indicators which can apply to all elements of its strategic goals for the marine environment”.

As the LINK response identifies, one of the key omissions in Annex 2 is the need for legislative change to both underpin the actions necessary to deliver sustainable marine management, and to streamline existing legislation. WWF believes that a Marine Act for Scotland will be an essential part of the delivery mechanism for the future management of our seas – see answer to question 4.

2. *Are there any drivers/pressures on the marine environment that have not yet been addressed in the strategic vision and the key commitments in Annexes 1 and 2?* There is a need for clarity. Please see the answer provided in the LINK response.

3. *Are there any actions that remain to be addressed outside the various existing initiatives and activities in section 4?* Yes. Unfortunately several of the initiatives and activities listed in section 4 have failed to result in conservation action on the ground to improve the way in which we manage the marine environment. This is a fundamental flaw and must be addressed. Missing actions include:

- i) Establishment of marine SPAs beyond LWMS (currently there aren't any);
- ii) Establishment of a comprehensive network of marine protected areas as required under OSPAR and the WSSD (none at present);
- iii) Designation and management of Marine Environment High Risk Areas (have been waiting for years);
- iv) Piloting Marine Spatial Planning (see answer to question 7);
- v) Consideration of nationally important sites within SSMEI. The RMNC is developing criteria for identification of nationally important species, habitats and ecosystems. The SSMEI piloting phase is the ideal opportunity to trial these criteria;
- vi) Establishment of Marine National Parks (see answer to question 10).;
- vii) Overarching legislation to deal with all marine consents, not just offshore renewable energy (currently lacking);
- viii) Measures to address cetacean bycatch as required under Habitats Directive (none currently in place);
- ix) Relocation of inappropriately sited fish farms (still awaiting);
- x) Implementation of the EU Nitrates and Port Reception Facilities Directives (currently no mentions);
- xi) Scottish Executive action on sustainable port management. Ports policy is devolved to the Scottish Executive under the 1999 devolution settlement yet there is no mention of ports or shipping in Section 4.



4. How might current and any additional drivers/pressures on the marine environment best be addressed? Is there a need to:

● *develop strategic goals with clear timescales to achieve the overall vision?* **Yes.** *What might these be?* As noted above these objectives need to be SMART. The RMNC report recommends the need for strategic goals and targets and that “these high level policy goals need to be translated into effective conservation action.” This requires the development of a management structure which can address the ecological requirements of marine wildlife at the appropriate range of spatial and temporal scales. Such a framework should allow us to tackle issues ranging from pollution throughout the wider seas, to addressing the management requirements of habitats and species at specific localities. This represents a shift in thinking on nature conservation management away from the traditional approach focused on particular species and habitats to one focused the implementation of the ecosystem approach.

This will mean an approach which covers the full range of activities that occur in the marine environment from aquaculture and renewable energy production through to wildlife tourism, fishing practices and the status of wildlife populations.

A number of current initiatives such as Biodiversity action plans, the Scottish Coastal Forum’s coastal strategy, already address some of these. As noted by the RMNC what is needed is an overall vision and strategy to bring them together in one document. WWF believe that there is merit in considering that these should be under the control of one body with overall responsibility for developing, implementing and reviewing this strategy.

- *improve knowledge and understanding through research and monitoring?* **Yes.**
- *improve co-ordination and integration between regulators and agencies?* **Yes.**
- *improve management arrangements involving stakeholders?* **Yes.** *How might this best be achieved?* **See below.**
- *review/improve existing legislation?* **Yes.**

WWF believe that there is a clear case for reviewing the current plethora of legislation which pertains to the marine environment with a critical eye to what is needed to **deliver** the actions identified in the marine strategy. Given that there are some 85 legal instruments that impact on activities in the marine environment we believe that there is a need to review and streamline the legislation. We believe that this could be achieved by introducing a piece of primary legislation in the form of a **Marine Act for Scotland**. Measures taken pursuant to this Act shall be formulated and carried out in such a way as to further and promote to the best effect and in the public interest,

- (a) the good stewardship of the marine environment
- (b) the conservation and protection of flora, fauna, geological and physiographic features in the marine environment
- (c) the maintenance of the integrity of marine ecosystems and
- (d) cultural heritage

Section 2 of the Act should set out the legislation for the adoption of regional spatial plans, the need to take into account the national guidance when setting such plans, the requirement for stakeholder involvement and the nature and function of regional spatial plans.



There would be merit in looking at some of the examples around the world where a unifying Marine or Oceans Act has been adopted. Australia provides a good example and we recommend that this is considered by the Executive as there could be some valuable pointers which could avoid duplication of effort.

WWF has contracted a legal firm in Scotland to identify what such a Marine Act for Scotland might look like, taking into account the current legal responsibilities such as the recently adopted Water Environment and Water Service Act (WEWSA) and the Nature Conservation Act. The latter, while placing “a duty on every public body or office holder to further the conservation of biodiversity so far as is consistent with the exercise of those functions” does not mention the marine environment specifically throughout the body of the text. This demonstrates a clear case for developing an equivalent piece of text which places similar duties for purposes of marine conservation but which goes further and addresses the wider issues of marine spatial planning and which is tailored to the more complex issues of the marine environment - a Marine Act for Scotland.

Once we are in receipt of this document we will be happy to let you have a copy and meet with the Executive to discuss how it may help take things forward.

We understand that there may be some initial opposition to the idea of taking forward the concept of a Marine Act given the commitment that this will require in terms of parliamentary time. However we would argue that if one looks through the legislation that the Executive are currently committed to delivering or reforming this is substantial and could be addressed as one piece of consolidating legislation. For example,

- i) The implementation of the Water Environment and Water services Act (WEWSA) will require secondary legislation to deliver commitments under this Act.
- ii) The current review of inshore fisheries will likely require new legislation if Scotland is to meet its commitments to sustainable management of our inshore fisheries.
- iii) The Strategic Framework for Scottish Aquaculture has promised to deliver an Aquaculture Bill.
- iv) There are likely to be legal requirements to implement certain elements of the revised CFP regulation. One example will be the requirement for legislation to address small cetacean bycatch mitigation.
- v) The Scottish biodiversity Strategy may require legal underpinning for some of the recommended actions.
- vi) As might the Scottish sustainable marine environment initiative which is currently piloting regional management options.
- vii) The offshore wind renewables industry is calling for better legislation to enable larger developments further offshore, out into the UK’s EEZ. Legislation is urgently needed for the marine environment to ensure that adverse effects, and indeed, cumulative effects of offshore development do not adversely affect the sustainability of natural and historic environmental resources. We recognise that while renewables is a devolved responsibility some of the infrastructure required for the offshore is a reserved matter. There is a clear need for Scotland and Westminster to work together to remedy this problem area.
- viii) The introduction of Integrated Coastal Zone Management will require statutory underpinning.

Given that each of these will make demands of parliamentary time it could be argued that in the long term it may be a better use of time to address all issues at once in terms of a Marine Act which if properly worded will deliver the comprehensive and co-ordinated legislative basis for the sustainable management of Scotland’s seas and coasts.



5. *How can we measure progress with these? What sort of indicators should be developed to assess progress towards the sustainable development of Scotland's marine environment?*

See LINK MTF answer which refers to the indicators established under the WEWSA and Biodiversity implementation plans.

6. *Are any specific improvements necessary to the following four marine and coastal development consent regimes for which the Scottish Executive has devolved responsibility (see Annex 3);*

- *section 34 of the Coast Protection Act 1949 (Navigational Safety)*
- *harbour orders under sections 14 to 18 of the Harbours Act 1964*
- *section 36 of the Electricity Act 1989*
- *Part II of the Food and Environment Protection Act 1985*

See answer to LINK MTF response.

7. *Should a system of marine spatial planning be established in Scottish waters? Yes. What would the key elements be? How would marine spatial planning work in practice?*

Please see the attached Joint Marine Programme briefing on marine spatial planning¹ which identifies the benefits of Marine Spatial planning, what the key elements would be and how these might be addressed. The main elements would include

- i) an interlinked system of plans, policies and regulations;
- ii) the components of environmental management systems (eg. setting objectives, initial assessment, implementation, monitoring, audit and review);
- iii) and some of the many tools that are already used for land use planning.

Whatever the building blocks, the essential consideration is that they need to work across sectors and give a geographic context in which to make decisions about the use of resources, development and the management of activities in the marine environment.

We also commend the RSPB/RTPI report on Marine Spatial Planning² which provides more details on the implementation on marine spatial planning in Scotland. We have not appended this but trust that our colleagues in RSPB will include it in their response.

8. *The Scottish Executive is committed to developing an ecosystem approach to managing the marine environment but there are various definitions of what this means. Do you agree with the definition contained in the glossary? How should we give effect to an ecosystem approach in the marine environment? Should this be Scotland-wide, regional or local? What might the key components of such an approach be? Do models already exist that we can build on?*

¹ Marine Spatial Planning: A down to earth view of managing the activities taking place in the marine environment for the benefit of humans and wildlife. JMP Marine update 55, September 2003

² Tyldesley, D (2004) Making the case for marine spatial planning in Scotland. A report commissioned by RSPB Scotland and RTPI in Scotland.



Please see answer provided in LINK document which notes agreement with the definition and identifies some key principles agreed by the IUCN that should be given consideration when progressing an ecosystems based approach.

Also attached is a discussion document produced by LINK MTF on the means of introducing an ecosystems based approach towards marine fisheries.

On the important issue of how one would fund such an approach, a recommendation was made by the Prime Ministers Strategy Unit in their report on the future of the UK fishing industry. This was that consideration should be given to establishing a system where all economic users of the marine environment contribute to funding basic understanding and mapping of ecosystems both to improve marine management and reduce duplication of research and assessment.

9. How should the effective stewardship/governance of Scotland's marine environment be achieved? Do you think that the current system is capable of delivering sustainable management of our marine environment? No. If not what are the key issues that need to be addressed to resolve the situation? What sort of mechanism/body is needed to do this?

Effective stewardship should be achieved through not any one action but through a suite of measures including: Legislative reform which will deliver A Marine Act for Scotland, the development of a marine strategy for Scotland, the establishment of a lead marine body which will assist in the development, implementation, monitoring and enforcement of the strategy and the Marine Act, the introduction of a system of marine spatial planning, and the adequate resources and political will, both of which are essential if these initiatives are to succeed.

Through primary legislation in a Marine Act, the lead marine body could have the statutory duties and powers to:

- further the sustainable development, protection, management of Scotland's marine environment
- bring together the expertise of Government departments through integrated working and efficient decision-making by facilitating well-attended inter-departmental meetings and brokering difficult decisions, e.g. planning applications versus conservation;
- ensure protection and recovery of maritime habitats and species that are of international and national importance, through implementation of international conventions and guidelines, EU legislation, a UK and Scottish Marine Act;
- will liaise effectively with the UK equivalent which in so far as UK Government's powers allow, and by demonstrating UK leadership and influencing international bodies, will ensure sustainable use of UK's marine resources out to the boundaries of its jurisdiction, i.e. UK's EEZ or continental shelf boundary;
- where appropriate, aid and promote trans-boundary management of regional seas for UK and international initiatives;
- inform and influence marine policy of international bodies, e.g. OSPAR and development of the EU Strategy;
- where deemed necessary, develop integrated working/rationalised operations of agencies such as the Marine Coastguard Agency and SEPA, to ensure efficient enforcement of regulatory and conservation powers in Scottish waters;
- ensure best value is gained from Government resources by facilitating and promoting the sharing of data, co-operative and efficient decision-making, and



- oversee implementation of integrated planning for UK's maritime environment through Marine Spatial Planning of Scotland's regional seas.

A lead marine body could ensure flexibility by bringing together different authorities and requiring them to focus on a jointly defined set of issues and objectives. Following approval of a marine plan an integrated management team could become involved in monitoring the effectiveness of the plan.

The model used in Canada suggests that collaboration with other authorities may involve the following:

- (i) Decisions to be based on shared information, on consultation with stakeholders, advisory and /or management participation in planning process (ie: need a planning process mechanism)
- (ii) Need for an institutional arrangement that brings together governments, user groups, other interests responsible for resource management, conservation and economic development (at what stage does collaboration take place?)
- (iii) Collaboration leads to stakeholders taking an active part in designing, implementing and monitoring effectiveness of coastal and ocean management plans (both taken together, no separation).
- (iv) An institutional arrangement so that interested parties can enter into agreements on oceans management plans with specific responsibilities, powers and obligations.

10. *Is there a role for marine national parks in managing areas of our marine environment? Yes. If so, what should be the key elements of marine national parks? Should they be entirely marine, or should they encompass part of the coastline? What should be the distinctive role of the park authority?*

Please refer to the LINK MTF response which identifies the key components necessary for the establishment of a marine National Park.

In 2002 WWF produced a report of a Workshop held to discuss marine national parks and their role in the delivery of sustainable marine management³. The conclusions of this report remain valid today and we commend it to the Executive as a starting point from which to take forward the development of marine National Parks. I append this as part of our response.

11. *Would a national coastline park contribute to the sustainable management of the Scottish coast? What would be the distinctive role of the park authority which would avoid the risk of confusion with the responsibilities of other agencies? Would the focus of a national coastline park be primarily directed at the management of the coast and the immediate inshore waters? Or should it include more extensive management of the seas?*

Please refer to LINK MTF response. We believe there is a need to define what exactly is meant by the term coastline park and how this is distinguished from a marine National Park.

³ Report on the Conference on the proposal for Marine National Parks in Scotland,



12. How should the development of a strategic framework for Scotland's marine environment be taken forward in practice – internally by the Scottish Executive with periodic consultation; through a committee/working group of interested parties; other means?

Please refer to LINK MTF response where we advocate that the development of the marine strategy be championed by the lead marine body, reporting to a designated Minister with responsibility for the Marine Environment. Such a lead body should have the responsibility of ensuring adequate consultation with key stakeholders. There are a number of models that could be explored for this process.

13. What form should the strategic framework take – a policy statement/publication; a similar model to the Strategic Framework for Scottish Aquaculture (see Section 4.15)?

Please see the answer provided by LINK MTF – on the basis of the problems currently experienced with the Aquaculture strategic framework we advocate an action orientated marine strategy rather than a strategic framework.

14. How often should the strategic framework for Scotland's marine environment be reviewed?

WWF believe that one of the roles of the lead marine body would be to review on a regular basis the progress of the marine strategy. They would also be responsible for identifying and addressing potential barriers to progress. One of the roles of the marine body could be a brief annual progress report to stakeholders. An official independent review of the strategy could be undertaken on a five yearly basis.

I would like to take this opportunity to point out that it is not just WWF who believe that the time is right for change and radical change at that. There is growing awareness across government departments and agencies as well as stakeholders of the need for change in the way we manage our marine environment. It is acknowledged that this should be for the benefit of not just marine species and habitats but also for the industries that are reliant on a healthy, dynamic marine environment. Social, economic and environmental considerations must be viewed in balance and not allowed to be driven by economic considerations as has so often been the case in the past.

Some other viewpoints which support the need for change include:

1. The **UK Government Environment Committee**, which concluded in 2002 that “the UK has suffered centuries of decisions and actions at national and local levels, that there are inadequacies in the legislation, anomalies in the planning system, a lack of central guidance, and overlapping policies and responsibilities among a host of bodies with poor co-ordination between them”.
2. The **Prime Ministers Strategy Unit** 2004 report on a sustainable and profitable future for UK fishing noted that fisheries could no longer continue to be managed sectorally but rather that they should be viewed within the broader context of other activities in the marine environment. Recommendation 33 notes that the UK government and devolved administrations should consider integrating fisheries management tasks inside a marine environment agency responsible for broader management tasks, if such bodies are established under other legislation (eg possible Marine Acts being considered in different parts of the UK).



3. The **Environment Agency** in their response to the government review on marine nature conservation stated: “Existing arrangements for managing the marine environment are, for historical reasons, over-complicated. There is a lack of clarity of accountability associated with the number of authorities and Government departments involved, together with overlapping responsibilities. We support the view that the current legislative framework and organisational arrangements need to be improved if the Government is to fulfil its obligations towards the marine environment. Better co-ordination and clearer accountability, in particular relating to coastal development and activity is required”.

4. The **Joint Nature Conservation Committee** in their report to the same review stated that “the current state of the marine environment is of considerable concern to the UK's statutory nature conservation agencies. There are examples of decline and widespread damage to the marine ecosystem, as highlighted in the statutory nature conservation agencies responses to the government consultation Seas of Change. It is critical that progress is made in a number of areas if we are to continue to bring the marine environment back to a healthy state. To do this requires not only a more effective approach but also a sense of urgency and recognition of the degree of change needed”. They also expressed concerns at the lack of specific actions needed to deliver the Governments vision for the marine environment, something which should be borne in mind when the Scottish Executive develop their own marine strategy.

5. The **Environment and Rural Affairs Committee** in their 2004 report on the marine environment stated: “Protection of the marine environment has lagged behind that of the terrestrial environment. In view of the increasing demands we place on the seas, it is imperative that urgent action is taken to prevent further decline in the marine environment. The Government needs to show how it will in practice deliver its vision of marine stewardship.

The current legislative and institutional framework governing marine environmental protection is too fragmented and complex, which is to the detriment of both economic development and environmental protection. The Government is reviewing arrangements both for marine nature conservation and for licensing for development, which we welcome. There is a pressing need to update and streamline both and it may be necessary to do so through a wide-ranging Marine Act. A marine spatial planning system may prove necessary in order to manage the wide array of activities at sea.”

6. The **Review of Marine Nature Conservation**, published in July, and which represents a broad range of marine stakeholders states: “The Review’s examination of the current system for marine nature conservation has concluded that it is not fit for purpose. It does not provide the means to apply the ecosystem approach which is central to the marine stewardship process and fundamental to delivering the Government’s vision for the marine environment of “*clean, healthy, safe, productive and biologically diverse oceans and seas*”. Nor will it allow Government to meet its international obligations.”

In conclusion, it is clear that existing governance and legislation is not capable of delivering sustainable management of Scotland’s seas and coasts. What is needed is radical reform. WWF urges the Scottish Executive to be bold in its approach to this reform of marine management and take this opportunity to introduce a Marine Act for Scotland, alongside an action led Marine strategy. A lead marine body will be required to develop, oversee, review, monitor and enforce this strategy and report to a Minister for the



Marine. We believe that a system of marine spatial planning will be central to the strategy as will the ability to engage key stakeholders and secure the appropriate levels of funding needed to underpin the actions.

WWF will do all it can to help deliver this and would welcome meeting with you to explore means of doing this once you are at a stage of taking this consultation to the next stage.

Yours sincerely

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