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# A description of the marine planning system for England

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# Table of Contents

## **Introduction and Purpose of this Document**

About this document	4
Introduction to the marine planning system for England	5
Learning from other marine planning systems and international guidance	6
Marine Planning and Integrated Coastal Zone Management (ICZM)	7
Impact assessment- an outline	8

## **Chapter 1 Purpose and Benefits of the Marine Planning System**

Purpose of the marine planning system	9
Benefits of the marine planning system	11

## **Chapter 2 Context for the Marine Planning System**

The policy context for Marine Plans	14
Geographical scope of marine planning	18
Working across international borders	19
Recommended Plan area boundaries	21
Marine planning evidence base	23
Strategic scoping exercise	26
Order and timetable for adopting Marine Plans	27

## **Chapter 3 Structure and Content of the Marine Planning System**

Introduction	29
Marine Plans - policy approach	30
Marine Plans - structure and content	32
Plan review arrangements	43
Matters outside the marine planning system	44

<b>Chapter 4</b>	<b>The Marine Planning Process</b>	
	Introduction	45
	Before planning starts	45
	Sustainability Appraisal process	47
	Statement of Public Participation and stakeholder engagement	50
	Organising stakeholder participation	51
	Scope content of Plan	52
	Developing the Plan	56
	Representation period on the draft Plan	57
	Review Plan proposals	57
	Independent investigation	57
	Plan adopted and published	58
	Implement, monitor and review	59
	Technology and tools used in the planning process	60
<b>Chapter 5</b>	<b>Roles and Responsibilities</b>	
	Introduction - engagement and the participatory approach	61
	The MMO and stakeholder engagement	62
	Framework of engagement	63
	Role of Government, regulators and planning organisations	66
	Voluntary agreements	74
	Memoranda of Understanding (MoUs)	75
<b>Chapter 6</b>	<b>Interaction between Terrestrial and Marine Planning</b>	
	The marine planning system and terrestrial planning	76
<b>Chapter 7</b>	<b>Marine Plan Implementation and Decision Making</b>	
	Overview	87
	The marine planning system and the licensing regime	87

Marine licensing decisions following the adoption of Marine Plans	88
Role of National Policy Statements	91
The marine planning system and the enforcement regime	92
Transitional arrangements	94
Authorisations with impacts on other Marine Plan areas	94
Marine Plans under review	95
Marine Plans that are withdrawn	96
<b>Glossary</b>	<b>93</b>

# Introduction and Purpose of this Document

## About this document

This document describes the marine planning system in England for the Marine Management Organisation (MMO) and other interested organisations and persons. It is being handed over to the MMO who will use and develop the guidance as they start to prepare Marine Plans.

The Marine and Coastal Access Act 2009<sup>1</sup>, 'the Act', defines arrangements for a new system of marine management, including the introduction of marine planning, across the UK. The new arrangements provided for the creation of the MMO. The MMO will deliver UK marine policy objectives for English waters through a series of statutory Marine Plans and other measures.

This document considers the following themes on the marine planning system:

- its general purpose and benefits;
- its scope, context, structure and implementation;
- roles and responsibilities within the marine planning system;
- the interaction between terrestrial and marine planning systems; and
- decision making in Marine Plan areas and the transitional arrangements for decision making until the marine planning system has been fully implemented across the whole of England's marine area.

The MMO must develop a system of marine planning which is consistent with the provisions within the Act. These requirements are detailed in this document where appropriate.

The detail on how marine planning could or may be carried out has been developed by Defra with input from experts, other Government departments and stakeholders. It has been updated in the light of stakeholder responses to the public consultation which closed in October 2010, and to reflect the work the MMO already has underway as it prepares to begin marine planning. A summary of the responses to the public consultation on this document and the accompanying Impact Assessment can be found at <http://www.defra.gov.uk/corporate/consult/marine-planning/index.htm>.

It represents current Government understanding of best practice in marine planning. It is provided to the MMO as a document which it can develop further as it

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<sup>1</sup> Available at <http://www.defra.gov.uk/environment/marine/legislation/mcaa/index.htm>

establishes and develops marine planning procedures in practice, as well as to inform others with an interest or stake in marine planning. This document does not constitute statutory guidance.<sup>2</sup>

The cornerstone of the marine planning system in England is the UK Marine Policy Statement (MPS)<sup>3</sup>. The MPS is the framework for preparing Marine Plans and taking decisions affecting the marine area. It sets out the sectoral/activity specific policy objectives which the UK Government, Scottish Government, Welsh Assembly Government and Northern Ireland Executive are seeking to achieve in the UK marine area to secure the UK vision of clean, healthy, safe, productive and biologically diverse oceans and seas. The process of marine planning will integrate delivery of these objectives and contribute to the sustainable development of the UK marine area.

### **Introduction to the marine planning system for England**

The MMO, an executive non-departmental public body (NDPB), will carry out planning functions for English waters. To fulfil this function, the MMO has been delegated most of the Secretary of State's functions as marine plan authority<sup>4</sup> for the English inshore and English offshore regions. The decisions which remain with the Secretary of State<sup>5</sup> are decisions to:

- approve a new or revised Statement of Public Participation (SPP) prior to publication;
- approve a consultation draft of a Marine Plan prior to publication;
- publish a new or revised Marine Plan; and
- adopt or withdraw a Marine Plan.

A series of Marine Plans will be developed by the MMO covering the English inshore and offshore regions. Marine Plans will interpret and present the policies within the MPS at a sub-national level. Marine Plans must be in conformity with the MPS unless relevant considerations indicate otherwise<sup>6</sup>, thereby ensuring a strong link between national policy and local application. The likely general structure of the marine planning system is set out in Figure 1.

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<sup>2</sup> This document has not been issued under section 38 of the Marine and Coastal Access Act 2009.

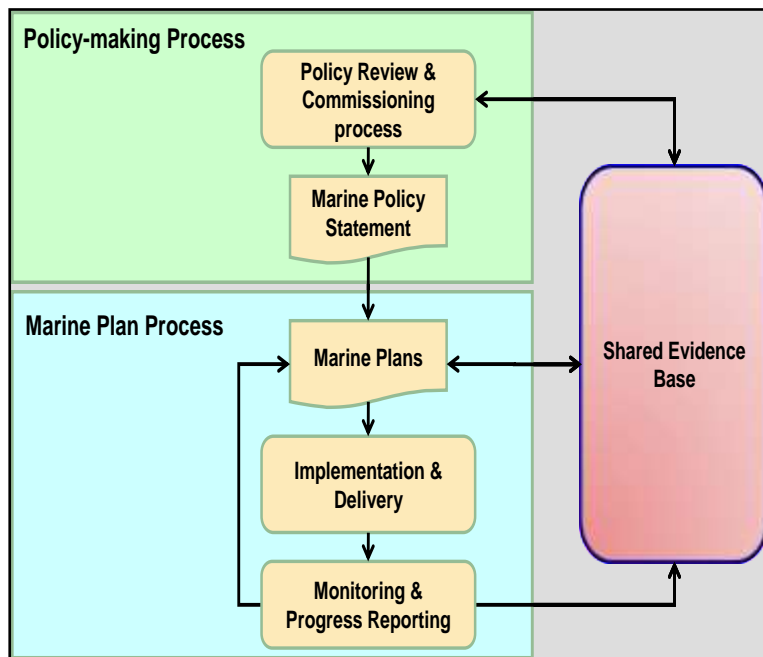
<sup>3</sup> <http://www.defra.gov.uk/environment/marine/legislation/mps-qa.htm>

<sup>4</sup> Section 50 of the Marine and Coastal Access Act 2009

<sup>5</sup> Section 55 of the Marine and Coastal Access Act 2009

<sup>6</sup> Section 51 of the Marine and Coastal Access Act 2009

**Figure 1: Proposed structure for marine planning system**



### **Learning from other marine planning systems and international guidance**

As the marine planning system has developed, the Government has been keen to learn lessons from marine planning implementation across the world. Looking overseas means that we are better able to understand the processes, approaches and issues that successful marine planning in England can emulate, as well as the pitfalls to be avoided. We have gathered and assessed information on marine planning systems in, among other countries, Australia, Belgium, Canada, Germany, the Netherlands and the USA. One particularly useful source is UNESCO's 'Marine Spatial Planning - A Step-by-Step Guide'<sup>7</sup>.

The European Commission adopted the document 'Road Map for Marine Spatial Planning: Achieving common principles in the EU'<sup>8</sup> in 2008. The Road Map is an important product of the EU's new Integrated Maritime Policy. This document has been developed so that the development of Marine Plans is consistent with the ten principles outlined in the Road Map, namely:

- using marine planning according to area and type of activity;

<sup>7</sup> Available at [http://www.unesco-ioc-marinesp.be/msp\\_guide](http://www.unesco-ioc-marinesp.be/msp_guide)

<sup>8</sup> Available at [http://ec.europa.eu/maritimeaffairs/spatial\\_planning\\_en.html](http://ec.europa.eu/maritimeaffairs/spatial_planning_en.html)



- defining objectives to guide marine planning;
- developing marine planning in a transparent manner;
- stakeholder participation;
- coordination within Member States — simplifying decision processes;
- ensuring the legal effect of national marine planning;
- cross-border cooperation and consultation;
- incorporating monitoring and evaluation in the planning process;
- achieving coherence between terrestrial and maritime spatial planning; and
- a strong data and knowledge base.

In addition we have drawn from exercises closer to home, including the conclusions of the Defra-commissioned 2006 Irish Sea Pilot project<sup>9</sup> and lessons learned from other marine planning trials in English and Scottish waters.

### **Marine Planning and Integrated Coastal Zone Management (ICZM)**

The UK Government is committed to ensuring that coastal areas and the activities taking place within them are managed in an integrated and holistic way, in line with the principles of ICZM. The European Parliament and Council agreed a Recommendation in 2002 which included the need for a strategic approach to the management of the coastal zone. It set out eight principles to guide implementation of ICZM in Europe, namely:

- a broad holistic approach;
- taking a long-term perspective;
- adaptive management;
- specific solutions and flexible measures;
- working with natural processes;
- participatory planning;
- support and involvement of all relevant administrative bodies; and
- use of a combination of instruments.

We have taken account of the Recommendation throughout the development of our proposals to ensure that marine planning in England can effectively contribute to the achievement of ICZM.

### Learning from and working with the Devolved Administrations

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<sup>9</sup> Available at [http://www.abpmer.net/mspp/docs/finals/MSPFinal\\_report.pdf](http://www.abpmer.net/mspp/docs/finals/MSPFinal_report.pdf)

As marine planning systems develop across the UK, the MMO should continue to work closely with marine planners in Scotland, Wales and Northern Ireland so that all four administrations might share information and knowledge and continue to learn from one another in the practice and implementation of marine planning.

### **Impact assessment- an outline**

This description of the planning system is accompanied by an Impact Assessment (IA) for the Marine Planning System. The original draft was subject to public consultation along with the marine planning system consultation and built on work to understand the impact of marine planning that had previously been considered, particularly in A Sea Change, a Marine Bill White Paper Partial Regulatory Impact Assessment 2007 and the Marine and Coastal Access Act 2009 Impact Assessment.

Further information was proactively sought from and provided by industry and other stakeholders during the consultation period to provide more robust figures for the final IA. A number of comments were also received in response to the consultation and explanation is provided in the consultation summary on how those were taken into account in revising the assessment.

The IA estimates the costs of setting up and running the marine planning system both to government bodies and to industry and others. The total setting-up costs are estimated to be around £34m and the total running costs are estimated to be around £1m per annum. The IA also includes a tentative initial estimate of the economic benefits once the marine planning system is fully implemented of around £46.8m per annum. The IA provides a qualitative assessment of the environmental impacts but notes the difficulty in monetising the environmental impacts at this stage. These estimates and the methodology used to produce them will be further refined as the individual Marine Plans are developed and accompanied by separate IAs, developed by the MMO.

# Chapter 1 Purpose and Benefits of the Marine Planning System

**This chapter sets out the purpose and benefits of planning in England's marine area.**

## **Purpose of the marine planning system**

- 1.1 England's marine area is becoming increasingly crowded with demands on space for marine activities and designations. Space is particularly in demand near to the coast, in shallow waters and in our estuaries. Technological advances and the demand for resources mean that marine activities are now moving into ever-deeper waters and more remote areas.
- 1.2 We are also facing significant environmental modification. As well as rising sea levels and a changing coastline, we must also respond to rising sea temperatures and ocean acidification. Biodiversity will respond to these changes and human activities will need to adapt to them too.
- 1.3 A well-designed marine planning system will determine the preferred scenario and future direction of any given Marine Plan area by ensuring that rather than reacting separately to each individual project/activity or looking in isolation at sectoral developments, as happens now, all decisions and future implications are made strategically, shaping the area according to a clearly set out vision, policies and objectives. In so doing, it should contribute to conserving and enhancing the value of the marine environment, including its biodiversity, its seascapes<sup>10</sup>, the ecosystem services it provides and the heritage assets it contains.
- 1.4 The aim of the marine planning system is to contribute to the achievement of sustainable development and a Sustainability Appraisal is required for each Marine Plan. Although the overarching policy is set by Government in national framework documents, ultimately it is the planners of the MMO who will have the important and difficult responsibility of making the judgements that will fulfil this aim, in the context of the MPS and based on the most robust evidence

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<sup>10</sup> There is no legal definition for seascape in the UK but the European Landscape Convention (ELC) defines landscape as "an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors". In the context of this document, references to seascape should be taken as meaning landscapes with views of the coast or seas, and coasts and the adjacent marine environment with cultural, historical and archaeological links with each other.

available from scientists, academics, independent experts and other stakeholders.

- 1.5 Activities in the marine area contribute substantially to the UK economy and quality of life. The report 'Charting Progress 2'<sup>11</sup> estimates that the economic contribution of these activities is in the order of £47.3 billion annually in the UK. Important contributors are oil and gas, leisure and recreation, and national defence, with significant contributions being made by ports, fisheries and a range of other activities. It should be noted that Charting Progress 2 is a UK wide document and so the ratio of the above sectoral contributions made to the economy in England will differ from that made to the overall UK economy.
- 1.6 The marine area will also provide an increasing proportion of the UK's energy needs from offshore renewable sources of generation – wind, wave and tidal, and will also need to support the expansion of offshore electricity networks to connect these to shore. The expansion of these industries will support our transition to a low-carbon economy and could bring significant economic benefit to the UK as a whole.
- 1.7 The marine planning system will need to inform and guide marine regulators and users, and clarify the national and local context in which decisions are made. The system should develop with the involvement of a range of stakeholders from an early stage. This will promote more transparency and confidence in decisions that are later made in the context of the Plan and create greater certainty for marine users.
- 1.8 Marine Plans will be given effect by their statutory status and delivered through the decisions made under them. As set out in the Act, all public authorities taking authorisation or enforcement decisions<sup>12</sup> that affect or might affect the UK marine area must do so in accordance with marine policy documents (the MPS and relevant Marine Plans) unless relevant considerations indicate otherwise. Where such decisions are not taken in accordance with marine policy documents the public authority must state its reasons<sup>13</sup>.
- 1.9 An exception to this rule is the Infrastructure Planning Commission (IPC)<sup>14</sup>, who must have regard to marine policy documents (MPS and Marine Plans) when taking decisions that affect or might affect the UK marine area.

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<sup>11</sup> Published by Defra in July 2010.

<sup>12</sup> Examples of such decisions are outlined in chapter 6. These decisions are defined in section 58(4) of the Marine and Coastal Access Act 2009.

<sup>13</sup> Section 58(2) of the Marine and Coastal Access Act 2009.

<sup>14</sup> The Government intends to abolish the IPC, returning decision making to Ministers, but will retain its fast-track processes for major infrastructure projects.

1.10 In addition, public authorities taking decisions which affect or might affect the UK marine area which are not authorisation or enforcement decisions must have regard to the documents<sup>15</sup>. More details on the decision-making process can be found in Chapter 7.

### **Benefits of the marine planning system**

1.11 Marine planning will contribute to the effective management of marine activities and the more sustainable use of our marine resources. It will enable the Government to set a clear direction for managing our seas, to clarify objectives and priorities, and to direct decision-makers, users and stakeholders towards more strategic and efficient use of marine resources.

1.12 It will create the framework for consistent, sustainable and evidence-based decision-making. Through extensive public involvement, it will provide anyone with an interest in our seas and coasts the opportunity to contribute to how their marine area is managed.

1.13 Marine users, including regulators, applicants and interested persons, should find that the new systems of marine licensing and marine planning combined will reduce the regulatory burden due to the streamlining of the application and consent processes and the transparency of policy direction and decisions provided by Plans.

1.14 Marine users should feel confident that licensing decisions will be robust in the face of challenge, as they will be made in accordance with Marine Plans<sup>16</sup>. Marine Plans will be based on the best available technical and scientific evidence and will have been subject to consultation with a wide range of stakeholders, as well as a Sustainability Appraisal<sup>17</sup>.

1.15 It is also envisaged that the new system of marine planning will also provide the following **direct benefits**:

- Marine planning will foster a greater understanding of how activities impact on each other as well as how they impact on the environment, leading to significant long term economic, social and environmental benefits;
- Marine Plan area priorities take into account the socio-economic and environmental dimensions through greater and early involvement of stakeholders, drawing on the wide range of views from coastal and affected communities, individuals, industry and NGOs;

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<sup>15</sup> Section 58(3) of the Marine and Coastal Access Act 2009

<sup>16</sup> Unless relevant considerations indicate otherwise

<sup>17</sup> Sustainability Appraisals will take in the requirement of the EU Directive on strategic environmental assessment (SEA); there is a requirement paragraph 10 of Schedule 6 to the Marine and Coastal Access Act 2009 to undertake a Sustainability Appraisal for each Marine Plan.

- increased capacity to consider future changes, including new and changing activities, emerging technologies and adaptation to climate change;
- cohesion between terrestrial and marine planning with a focus on infrastructure development which takes a holistic view of the built environment, communities and environmental matters across the land/sea boundary leading to improved prospects for integrated and sustainable management in the coastal zone;
- reduced burden for stakeholders due to consolidation and streamlining of existing processes;
- maximising the effectiveness of other strategies covering issues such as energy, flooding and coastal erosion, energy security, food security, waste management and transport;
- decisions taken consistently, in line with national priorities and Plan area objectives for marine resources. More certainty for regulators, applicants and others due to an agreed, assured, accessible evidence base for decision making;
- greater certainty for developers based around compatibility with the agreed area objectives;
- reduction in sectoral conflicts within the marine area due to more strategic planning and the optimisation of benefits from mutual use; and
- assisting in determining the evidence base for, and monitoring of, other strategies.

1.16 The direct benefits from marine planning will build and interact to provide **outcome benefits** that describe the greater changes and benefits that will result. These include:

- sustainable development of the marine area, with sustainable use of marine resources and improved protection and enhancement of the marine environment;
- sustainable economic growth as objectives for marine resources are identified and decisions are taken to help deliver them;
- optimising the potential of environmental resources and ecosystem services to support socially, culturally and economically important activities while living within environmental limits;
- reduced risk of damage to ecosystems, the physical marine environment and the heritage assets; longer term cumulative effects taken into account, including climate change adaptation and mitigation;

- through the participatory approach, marine planning will assist in promoting the appreciation, understanding and a sense of ownership of the diversity of the marine environment, its seascapes and its natural and cultural heritage; and
- improved quality of life for coastal communities through stronger connection between local marine and coastal economies and improved access to, understanding and enjoyment of their marine areas.

# Chapter 2 Context for the Marine Planning System

This chapter sets out the background structures, systems and documents that are either already in place or need to be in place before the MMO can start working on Marine Plans. It considers the policy, geographical and technical context for planning providing and the importance of undertaking a strategic scoping exercise as a first step of the Marine Planning System.

## The policy context for Marine Plans

### The UK Marine Policy Statement

- 2.1 The MPS outlines the national policies for various activities and issues which need to be addressed in marine planning. It provides the framework for the development of Marine Plans and for consistency in decision making.
- 2.2 It is recognised that a wide range of activities take place at sea. The MPS provides the policy context and framework within which Marine Plans will be developed, which in turn will set the direction for marine licensing and other relevant authorisation and enforcement decisions. The MPS will not provide specific guidance on every activity which will take place in, or otherwise affect, UK and/or English waters.
- 2.3 The MPS (and Marine Plans when they are in place) will be a point of reference for planning and licensing decisions. The transitional arrangements in operation until the system matures are dealt with in full in Chapter 7.

### **European obligations in Marine Plans**

As the MPS brings together UK policies on the marine environment, it also reflects European marine policy requirements that apply to the UK. There are a number of European Directives that apply to the marine area. Here we consider the interaction and application of two of the Directives that consider the marine area in whole or in part: the Marine Strategy Framework Directive (MSFD) and the Water Framework Directive (WFD).

The MSFD requires each Member State to put in place measures aimed at achieving Good Environmental Status in its marine waters by 2020. The WFD requires the UK to achieve good chemical and ecological status in inland and coastal waters by 2015.



Both coastal and transitional water bodies as defined by the WFD will be included in Marine Plan areas. Any measures required under the WFD to achieve good ecological and chemical status in these water bodies are set out in the respective statutory River Basin Management Plans published by the Environment Agency. WFD coastal water bodies, which extend out to 1 nautical mile beyond the baseline from which territorial waters are measured, are also covered by the MSFD in terms of those elements of Good Environmental Status not already covered by the WFD (this includes marine litter, noise and certain aspects of biodiversity). The measures required to achieve Good Environmental Status will be set out in the UK's programme of measures for the MSFD which has to be developed by December 2015.

The Government wants to make sure that the way in which these two Directives are implemented in coastal waters is clear and that marine users may easily understand the measures that they put in place. Marine Plans will play an important role here by drawing all the different requirements together and helping to explain to decision makers and marine users how any spatial and temporal measures associated with the two Directives can be implemented in a particular Plan area.

Marine Plans will be one of the tools to help us meet our obligations agreed under these Directives. They will shape activities within the marine area so that the Directive goals, as well as other relevant pieces of EC legislation, can be achieved effectively in the UK. The MMO will need to develop the policies of each Plan area with this in mind.

The Government will need to work with the MMO to align the monitoring arrangements for Marine Plans with other monitoring requirements in the marine and coastal area, particularly the monitoring requirements for Good Environmental Status under the MSFD.

#### Integration and compatibility with other plans and policies

2.4 In developing a Marine Plan, the Act places several duties on the marine plan authorities with respect to other plans (see paragraph 2.11 for further information regarding marine plan authorities).

2.5 It is a requirement for the MMO to take all reasonable steps to ensure that a Marine Plan is compatible with any other Marine Plan for an area in, adjoining, adjacent to, or affected by, the area of that Marine Plan<sup>18</sup>. The MMO should also take all reasonable steps to ensure that any Marine Plan for the English

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<sup>18</sup> Paragraph 3(1) of Schedule 6 to the Marine and Coastal Access Act 2009.

inshore region is compatible with a development plan<sup>19</sup> or Wales Spatial Plan<sup>20</sup> for an area in, adjoining, adjacent to, or affected by, the area of that Marine Plan<sup>21</sup>.

- 2.6 In addition, in developing the Marine Plan, the MMO must have regard to any other type of plan prepared by a public or local authority in connection with the management or use of the sea, the coast, or marine or coastal resources in, adjoining or adjacent to the Marine Plan area<sup>22</sup>. The MMO will also consider relevant National Policy Statements in developing Marine Plans. The considerations set out in the Act are not exhaustive and it may be that there are also other plans that are relevant for the MMO to take into account when developing the Marine Plan<sup>23</sup>.
- 2.7 The purpose of such provisions is to facilitate the integration of Marine Plans with other plans and processes, both statutory and non-statutory, particularly in coastal areas where management arrangements can be complex. This will be particularly crucial for activities and organisations that operate across more than one Marine Plan area in order to minimise burdens for them. Working to ensure the integration of Marine Plans and other plans may reveal areas of duplication between them and, where that happens, ways to remove or address this duplication should be explored.
- 2.8 It should be noted that harmonisation between plans will not be achieved immediately, as different plans in coastal areas are reviewed in different time cycles independently of each other. However, adopting a staged approach will enable planners to consider the content of other plans at each review stage, thereby enabling gradual, progressive and more considered integration.
- 2.9 Integration between marine and terrestrial planning is considered in more detail in Chapters 5 and Chapter 6.

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<sup>19</sup> For the purpose of this document, as defined in the Act, 'Development Plan' has the meaning defined in section 38(2) –(4) of the Planning and Compulsory Purchase Act 2004, for any area in England or Wales, or as defined in section 24 of the Town and Country Planning (Scotland) Act 1997 for an area in Scotland.

<sup>20</sup> For the purpose of this document, as defined in the Act 'Wales Spatial Plan' means the Wales Spatial Plan under section 60 of the Planning and Compulsory Purchase Act 2004.

<sup>21</sup> Paragraph 3(2) of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>22</sup> Paragraph 9(2)(h) of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>23</sup> Identifying other relevant plans is also a requirement of SEA, which will be incorporated into the Sustainability Appraisal process.

## Marine Protected Areas

The marine planning system will support our important duties to conserve and enhance the marine environment, ensuring that the impacts from marine developments are at levels which allow the sustainable use of marine ecosystems.

The marine planning system has links in particular to the establishment of an ecologically coherent network of marine protected areas (MPAs) in UK waters, which will be substantially completed by the end of 2012. The MPA network will primarily consist of Marine Conservation Zones (MCZs) designated under the Act and European marine sites designated under the EC Wild Birds<sup>24</sup> and Habitats Directives<sup>25</sup> (Natura 2000 sites)<sup>26</sup>.

Government policy is to achieve an ecologically-coherent network of MPAs whilst minimising adverse socio-economic impacts of the network and its management. For MCZs, Government will use the provisions in the Act to take into account social and economic impacts in making decisions on designation. However, for European sites, socio-economic factors cannot, as a matter of established case law, be taken into account in the designation procedure.

The MMO has a statutory duty to have regard to the purpose of conserving biodiversity, undertake its functions in a manner that secures compliance with the Wild Birds and Habitats Directives and to exercise its functions in a manner which best furthers or (where this is not possible) least hinders MCZ conservation objectives.

In practice, many MPAs are likely to be designated before marine planning takes place. Marine Plans will therefore take account of proposed and existing designations (including European Marine Sites, Ramsar sites, SSSIs and MCZs) and the feature(s) for which they are designated, and should contain policies which support these designations and the network as a whole. The MMO will also look to the experiences of the MCZ regional projects to inform how stakeholder participation in Marine Plan making might work best. The MMO, regional MCZ projects, Natural England, JNCC and Defra will work together in partnership to align the marine planning and MCZ recommendation process to coordinate sea user and interest group engagement opportunities for stakeholders to take part in both initiatives if they wish.

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<sup>24</sup> Directive 2009/147/EC on the conservation of wild birds.

<sup>25</sup> Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora

<sup>26</sup> The MPA network also includes the marine parts of Ramsar sites and Sites of Special Scientific Interest (SSSIs).

The development of Marine Plans will not re-examine the conclusions of the stakeholder lead process to recommend MCZs, or the process to develop European Marine Sites. However, if new information becomes available through marine planning that provides evidence that management, conservation objectives or boundaries of MPAs may need to be revised, it will be raised with the statutory nature conservation bodies and the Secretary of State, to inform the adaptive management of the MPA network. The decision to change or adopt a new MCZ or European Marine Sites rests with the Secretary of State.

Where Marine Plans are in place before MPA selection they will set out the relative importance of different issues and therefore the context within which new MPAs are selected. New sites will be selected having regard to the Plan, which will reflect the requirements of the Act and Wild Birds and Habitats Directives<sup>27</sup>. Marine Plans are subject to the procedures and requirements under Articles 6(3) and (4) of the Habitats Directive as transposed in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation Regulations (Natural Habitats, &c.) 2010 so may require appropriate assessments.

## **Geographical scope of marine planning**

2.10 The Act divides UK waters into marine planning regions with an inshore region (0-12 nautical miles)<sup>28</sup> and offshore region (12 – c.200 nautical miles) under each of the four Administrations<sup>29</sup> (England, Northern Ireland, Scotland and Wales)<sup>30</sup>.

2.11 The Act refers to ‘marine plan authorities’ who are responsible for planning in each region with the exception of the Scottish<sup>31</sup> and Northern Ireland inshore regions which are/will be covered by separate legislation. In England’s marine area, the Secretary of State has delegated the marine planning function within both the inshore and offshore regions to the MMO.

2.12 Marine Plans will need to represent the three dimensional nature of the marine environment by addressing the seabed and the substrata below it, the whole of water column and the area above it<sup>32</sup>. They should also provide for a temporal

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<sup>27</sup> Note that after the adoption of marine planning documents, the criteria for the designation of sites under the Wild Birds and Habitats Directives will remain the same as now.

<sup>28</sup> As the landward boundary of Marine Plans is mean high water springs, this means that in some locations, Marine Plan areas will extend for some miles inland along the estuaries of tidal rivers.

<sup>29</sup> Section 49 of the Marine and Coastal Access Act 2009

<sup>30</sup> Most relevant legislation divides the UK marine area into inshore and offshore parts. This is because international and EU law usually places different rights and obligations on states in respect of their territorial waters (0-12 nautical miles).

<sup>31</sup> Marine (Scotland) Act: <http://www.scotland.gov.uk/Topics/marine/seamanagement/marineact>

<sup>32</sup> Insofar as this area is relevant to marine activities or designations.

dimension to cover seasonal, occasional, or time-limited activities, uses and designations.

- 2.13 The UK Government is working with the Devolved Administrations to ensure that marine planning operates smoothly and consistently across the administrative boundaries between England, Wales, Scotland and Northern Ireland. Details of our joint arrangements will be set out in cross-administration concordats. The concordats will be publicly available and are likely to set out principles such as joint consultation arrangements (so that plan preparation is co-ordinated across borders), and the use of cross-border bodies where appropriate.
- 2.14 Although there is no legal responsibility for different administrations in the UK to plan jointly or at the same time in areas which cross a planning boundary, the MMO should coordinate timetables where possible.
- 2.15 The Act requires that a marine plan authority which intends to create a Marine Plan next to or relating to the marine region of another marine plan authority (or the Scottish inshore region) must give notice to, among others, that marine plan authority (or the Scottish Ministers in the case of a Marine Plan relating to or next to the Scottish inshore region) before it begins preparation.<sup>33</sup> This is to ensure that each administration has as much notice as possible and can prepare for their involvement, or perhaps decide to plan at the same time. This will be most beneficial in areas that are particularly complex to manage, such as cross-border estuaries and the Irish Sea.
- 2.16 In accordance with the Act, the MMO must also take into account any plan prepared by a public or local authority in connection with the management or use of the sea, coast, marine or coastal resources in the area of the Marine Plan, or any adjoining or adjacent area in England, Wales, Scotland or Northern Ireland<sup>34</sup>. For any Marine Plans that are in, adjacent to, adjoining, or likely to affect any other Marine Plan (including that of another administration), the MMO must take reasonable steps to ensure compatibility with that Plan<sup>35</sup>

### **Working across international borders**

- 2.17 As highlighted in the 'Road Map for Marine Spatial Planning: Achieving common principles in the EU'<sup>36</sup>, where Plans in England's marine area adjoin

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<sup>33</sup> Paragraph 1 of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>34</sup> Paragraph 9(2)(h) of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>35</sup> Paragraph 3(1) of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>36</sup> Available at [http://ec.europa.eu/maritimeaffairs/spatial\\_planning\\_en.html](http://ec.europa.eu/maritimeaffairs/spatial_planning_en.html) and based on the Marine Strategy Framework Directive (2008).

the geographic area of one or more sovereign states<sup>37</sup> or affect in any way the functions for which another state is responsible, it is recommended that governments either side of the border should seek to co-operate with and consult each other. To this end they should notify each other about planning activities so that any possible implications can be considered at an early stage. This would not affect the competence of any state to adopt their respective plans.

2.18 In addition, the Strategic Environmental Assessment (SEA) Directive<sup>38</sup> requires consultation with other EU member states, and by legal agreement European Economic Area states which include Norway, where Marine Plans are likely to have a 'significant effect' on the environment in their territories.

2.19 As well as the MSFD, SEA and WFD Directives discussed above, many other European and international laws, conventions and Directives place requirements and obligations on the management of the marine area, including:

- the OSPAR<sup>39</sup> and UNCLOS<sup>40</sup> Conventions;
- the United Nations Economic Commission for Europe (UNECE) Convention on Environmental Impact Assessments in a trans-boundary context (Espoo Convention) and the Protocol on Strategic Environmental Assessment;
- the International Maritime Organisation's regulatory framework including the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78/97);
- 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Protocol);
- The European Union's Common Fisheries Policy which is designed to manage fisheries in a way which protects the wider marine environment;
- the European Landscape Convention (the Florence Convention), which includes marine areas;
- UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001<sup>41</sup>;

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<sup>37</sup> The seven sovereign states whose waters border England's marine area are Denmark, Germany, the Netherlands, Belgium, France and the Republic of Ireland.

<sup>38</sup> Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SEA Directive).

<sup>39</sup> OSPAR is the mechanism by which the UK and fourteen other Governments of the western coasts and catchments of Europe, together with the European Union, cooperate to protect the marine environment of the North-East Atlantic.

<sup>40</sup> United Nations Convention on the Law of the Sea.

<sup>41</sup> Although the UK is not a signatory to the UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001, we would look to marine planners to take account of the principles set out in its Annex.

- UNECE Convention on Long-Range Transboundary Air Pollution 1979;
- Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora;
- Directive 2009/147/EC on the conservation of wild birds;
- Directive 2009/28/EC on the promotion of the use of energy from renewable sources;
- Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo;
- Directives 76/160/EEC and 2006/7/EC on Bathing Waters;
- Directive 2005/33/EC amending Directive 1999/32/EC as regards the sulphur content of marine fuels;
- Directive 2001/81/EC on national emission ceilings for certain atmospheric pollutants;
- The UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters 1998 (Aarhus Convention); and
- Directive 2003/4/EC on public access to environmental information.

2.20 England's marine area also borders that of the Crown Dependencies<sup>42</sup>. Crown Dependencies legislate for their own territorial waters. The MMO should keep the Crown Dependencies advised of any matters which may either impact on or be of interest to them. There may also be opportunities in consultation with the Crown Dependencies to seek joined up approaches across jurisdictional boundaries.

### **Recommended Plan area boundaries**

2.21 The Marine Plan area boundaries have been identified using information, expert advice and stakeholder views from a number of public consultations, the most recent of which ran from November 2009 to February 2010. This consultation sought views on the proposed Marine Plan area boundaries for English inshore and offshore regions and the criteria for selecting the order in which the MMO should begin planning within those regions. As a result 11 Marine Plan 'areas' were identified.

2.22 Under the Act, Marine Plans are to be prepared within a marine region, either inshore or offshore. However, where appropriate, adjacent Plans in the inshore and offshore regions should be developed at the same time. This approach is particularly recommended for the North West area, through a single process, because here two separate Plan documents adopted at different times would

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<sup>42</sup> The Channel Islands and the Isle of Man.

each cover very small areas and would otherwise each entail a separate process of consultation with Scotland and Wales.

2.23 The full conclusions and summary of consultation responses on the Plan area boundaries can be found in a separate document<sup>43</sup>.

2.24 The MMO may wish to make specific local modifications to boundaries if it is perceived that the proposed boundaries could lead to unnecessary difficulties with either the implementation of the MPS or the integration with planning and management mechanisms on land. This is discussed more fully in Chapter 4.

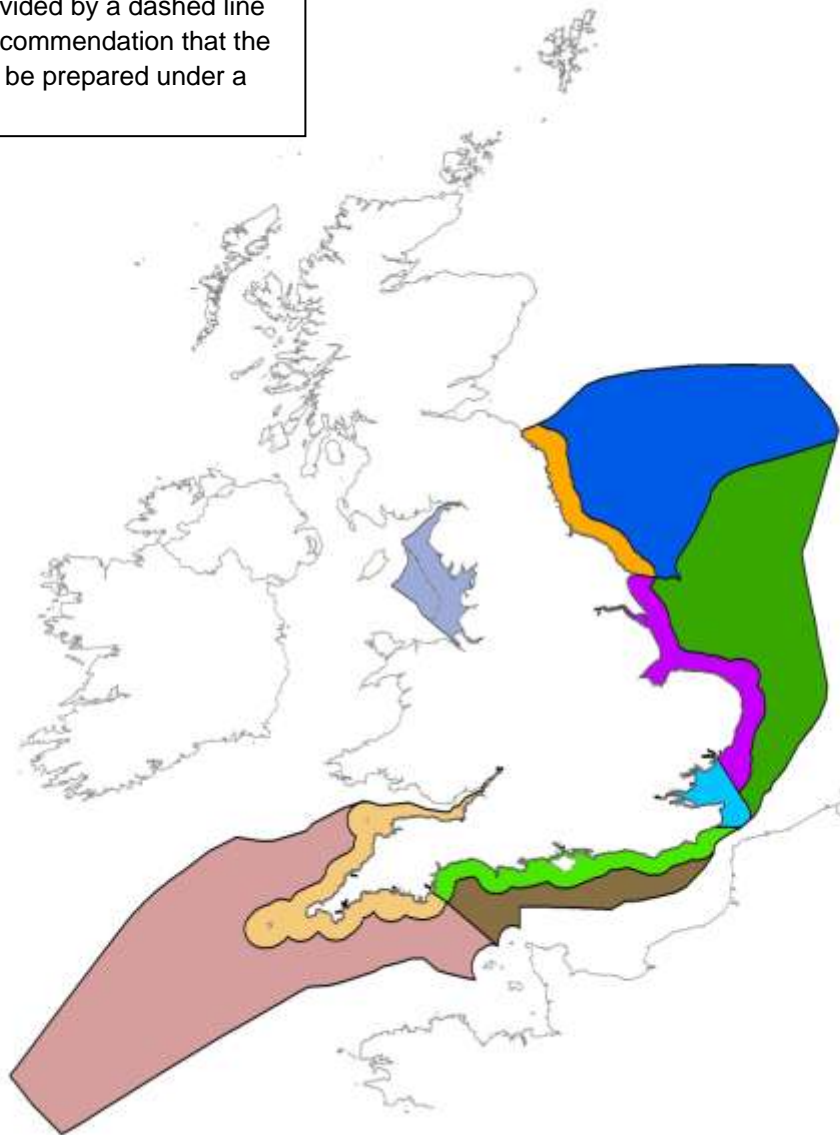
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<sup>43</sup> The full Summary of Responses to the consultation on Marine Plan Areas is available at <http://www.defra.gov.uk/corporate/consult/marine-planning/index.htm>



**Figure 2: Marine Plan areas<sup>44</sup> for England**

The North West area is shown as a single colour divided by a dashed line to reflect the recommendation that the two Plans here be prepared under a single process.



### Marine planning evidence base

2.25 All good planning, on land or at sea, depends upon a robust evidence base. England's marine planning system should base its provisions on appropriate information in order to contribute to the achievement of sustainable development and mediate more effectively between marine stakeholders.

<sup>44</sup> Marine Plan areas illustrated are as follows: East Offshore; South Offshore; South West Offshore; North East Offshore; North West; North East Inshore; East Inshore; South East; South Inshore; and, South West Inshore.

2.26 The evidence base is the collection of socio-economic and environmental information that feeds into the marine planning system. This will include base reference layers (physical data layers such as pipelines, cables, well heads, administrative boundaries, geological maps etc). The components of the evidence base will be many and varied, including (but not limited to):

- Charting Progress 2<sup>45</sup>;
- technical studies;
- spatial datasets (for GIS use);
- maps;
- policy statements;
- matrices of complementarities and conflicts in marine activities;
- policy guidance;
- stakeholder knowledge;
- statutory and non-statutory plans;
- monitoring and survey reports;
- stakeholder surveys/questionnaires;
- scientific evidence;
- research initiatives; and
- characterisation studies.

2.27 A great deal of the evidence base is already in existence (e.g. held by local planning authorities, research councils, Higher Education Institutions (HEIs), marine laboratories, industry etc. Data sharing agreements will be developed between the MMO and key data partners and lessons can be learnt regarding successful engagement strategies through discussion with national and regional projects with marine data management and acquisition aspects.

2.28 However a challenge will lie in the collection, standardisation and quality assurance of existing data. Internal data management processes have been developed by the MMO for incoming and outgoing data. These processes ensure data is compliant with MEDIN metadata standards, is transformed and formatted to a consistent standard, and is quality assured. This information is recorded in a Master Data Register to ensure an audit trail is available for any decision making process.

2.29 In some cases the combination of datasets may present an opportunity for adding value to the evidence base (for example the development of modelled data). These opportunities will be investigated at a Plan area level and any

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<sup>45</sup> <http://chartingprogress.defra.gov.uk/>

decisions to proceed with additional work will be based on an analysis of the costs vs. benefits.

- 2.30 In addition to the existing data there may be some critical gaps that need to be addressed if marine planning is to be effective. The MMO should draw on existing evidence as appropriate during the Plan-making process to identify any gaps in knowledge. Where gaps exist, the MMO or others might consider commissioning new studies or seeking out untapped sources of information once minimum information requirements have been identified. This judgement will need to be made on a case by case basis during Plan making and the MMO will take a precautionary and risk-based approach, in accordance with the sustainable development policies of the UK Administrations, based upon best available information related to each case.
- 2.31 The evidence base will overlap to a great extent with the baseline information required for Sustainability Appraisal, and the MMO should take advantage of synergies and avoid duplication or inconsistency between them.
- 2.32 The MMO can draw information from the evidence base to present at a national level to demonstrate overall progress in delivering Marine Plans. At a Marine Plan area level, it should be used to support local decisions and Plan-specific policies and objectives. For this reason, it should be a shared component of the marine planning process (as illustrated in Figure 1); it will make better use of resources to manage a single, multidimensional and commonly understood evidence base that can be drawn on by all stakeholders rather than two or more separate ones (which may in any case conflict with one another).
- 2.33 The evidence base will be ever-changing as new evidence appears and older components are superseded. Although it is for the MMO to decide the precise methodology for assembling information, it should be updated with logs of licensing decisions, monitoring and implementation reports and other relevant information. Only in this way can the evidence base inform the Plan review process.
- 2.34 It will be important that the MMO feeds back information from the developing evidence base, and in particular the information gained from the monitoring and implementation of Marine Plans, into future iterations of the MPS and other relevant policy documents. It may be appropriate for the MMO to make recommendations on issues to be addressed in the MPS on this basis.
- 2.35 The evidence base should be shared between Defra, other relevant Government departments, the UK marine planning authorities, local authorities, Cefas, Natural England, JNCC, Inshore Fisheries and Conservation Authorities (IFCAs), the Crown Estate, the Environment Agency, English Heritage and

other stakeholders including the general public where this is practicable and appropriate. For this reason, as much of the evidence base as possible should be published or accessible in electronic format.

### **Strategic scoping exercise**

2.36 In order to inform the content of Marine Plans, the MMO will carry out a strategic scoping exercise<sup>46</sup> across England's marine area based on the MPS before Marine Plans start to be developed.

2.37 This exercise is not a policy exercise. It will not state policy nor will it set objectives. Rather, it is a fact-finding and broad-scale mapping exercise informing each Marine Plan's evidence base: it is both derived from and forms part of the evidence base for marine planning. It will include textual analysis of future-oriented projections as well as maps.

2.38 The overall purpose of this exercise would be to establish, for England's marine area before Marine Plans are formulated, how and where marine activities and resources differ by location and the spatial constraints upon them. The particular focus of the exercise will be those policy areas of national importance as set out in the MPS. Conservation designations such as Natura 2000 and Ramsar sites, SSSIs etc will be included in the exercise as uses. The exercise would provide a snapshot of the resource capacity of the English marine area and so provide visibility of the uneven and finite spatial distribution of resources across Plan areas as a whole, i.e. provide a national 'picture'. Collating a more detailed evidence base including information such as habitats and species will be carried out during the planning process for each Plan Area.

2.39 In other words, this exercise forms a tool assisting the MMO in beginning to understand how realistic objectives can be developed in each Marine Plan area with respect to any applicable national targets and assist a consistent England-wide approach.

2.40 The exercise will be a process rather than a single output. It will be kept up to date as more evidence becomes available from a wide range of sources including MMO licensing decisions and as planning progresses for different areas. The exercise will help to secure consistency of approach and compatibility between individual Marine Plans, given that it will become an important component of the evidence base for every Plan area. It will add to our understanding of our seas, inform decision making within the MMO ensure that activities within a Marine Plan contribute to the delivery of the MPS by the MMO.

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<sup>46</sup> The strategic scoping exercise is not contained in provisions with the Act but has been developed by drawing on best practice and input from experts in terrestrial planning.

- 2.41 The extent to which the exercise should and could involve partnership working will be important. Experience from similar exercises in terrestrial planning<sup>47</sup> suggests that given its status as a component of the evidence base rather than a policy document, determining facts rather than opinion will be crucial. This would suggest that partners in this process might include regulators, the Scottish, Welsh and Northern Irish administrations, independent experts and other suitable sources of information.
- 2.42 The exercise should take a broad-brush approach. The benefits of undertaking such an exercise to a great level of detail would be far outweighed by the cost and resources required and the risk of pre-empting the process of preparing individual Marine Plans.
- 2.43 Many stakeholders will have useful information that can inform the strategic scoping exercise and the MMO will consult with and/or work with selected relevant stakeholders in the preparation of and maintenance of the strategic scoping exercise. Much of the information the exercise will rely on already exists within various SEAs and other national assessments that have been carried out by DECC, the Crown Estate and other organisations. This SEA process is ongoing and will provide valuable input into marine planning on a continuous basis.
- 2.44 The strategic scoping exercise outputs will identify known resources and current and potential activities in England's marine area. The exercise will not prioritise activities and is likely to include three sections:
- existing activities, uses and designations applying existing technology in the present day economy;
  - future activities, uses, designations and resources using existing technology in the short to medium term economic future; and
  - future activities using future technology in the long term economic future.

### **Order and timetable for adopting Marine Plans**

- 2.45 MMO will decide the order for developing Plans in each Marine Plan area. The considerations and assumptions that the Government considered should influence those decisions were the subject of a public consultation in 2009-10. The overriding consideration, in line with the MMO's general objective, is to take the action which makes the greatest contribution to the achievement of sustainable development within the UK marine area.

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<sup>47</sup> See, for example, the Appraisal of Sustainable Urban Extensions for Greater Nottingham 2008, which was a strategic scoping exercise involving partnership working with regulators and public sector planners. It informed the local housing capacity and policy of six different local authorities across Nottingham. Available at <http://www.nottinghamshire.gov.uk/appraisalofsustainableurbanexts.pdf>

2.46 The primary considerations identified are as follows:

- existing sustainability of activities/uses and other processes taking place in the area;
- focussing planning effort where it will have the greatest impact on achieving sustainable development;
- integrating management of border areas (including at the coast and cross border working with the devolved marine plan authorities and across international borders);
- contribution to wider Government policy e.g. on air quality, noise pollution etc;
- contribution to climate change adaptation / mitigation; and
- achievement of 'Good Environmental Status'.

2.47 Further factors which might be considered by the MMO include:

- the resources available to the MMO;
- external considerations (such as other planning programmes, other Marine Plans being prepared by the MMO, terrestrial plans and River Basin Management Plans);
- local factors (such as local data availability, complexity and intensity of activity in the area, MCZ and other MPA designations, other projects/developments under consideration, nationally significant and/or other infrastructure projects, preparedness of area);
- the quality and quantity of existing coastal or marine management arrangements; and
- the benefits or otherwise of drawing up plans for the inshore and associated offshore region at the same time.

2.48 The strategic scoping exercise will also provide useful information which the MMO can utilise when choosing the order in which Marine Plans should be developed.

2.49 The MMO is being resourced to be able to develop two Plans at a time. It is estimated that each Marine Plan will take two years to complete and two and a half years if an Independent Investigation is required. This has been calculated on the basis of the development time for terrestrial plans and strategies of similar scope. It may be possible for the MMO to increase the speed at which Marine Plans are prepared as it gains practical production expertise.

2.50 The MMO have chosen the first two Plan areas for which they will develop Marine Plans. These are the East inshore and East offshore Marine Plan areas.

# Chapter 3 Structure and Content of the Marine Planning System

**This chapter outlines the structure of the marine planning system, explaining the relationship between national planning policy, the Plan area evidence base and the components of an individual Marine Plan.**

## Introduction

- 3.1 In England, it is expected that eleven Marine Plans, covering the entire marine area, will be produced at a sub-national level. The decision to create a single tier of Marine Plans for England means that a decision maker need only consult and comply with the relevant Marine Plan(s) and the MPS, thus avoiding the scope for duplication between any tiered plans<sup>48</sup>.
- 3.2 Where more detailed and/or locally specific policy is required in certain locations, for example in particularly busy parts of the inshore region such as ports and estuaries, area-specific policy should appear within the Marine Plan. This avoids the added complication of an additional plan or another tier.

## Marine Plans - policy approach

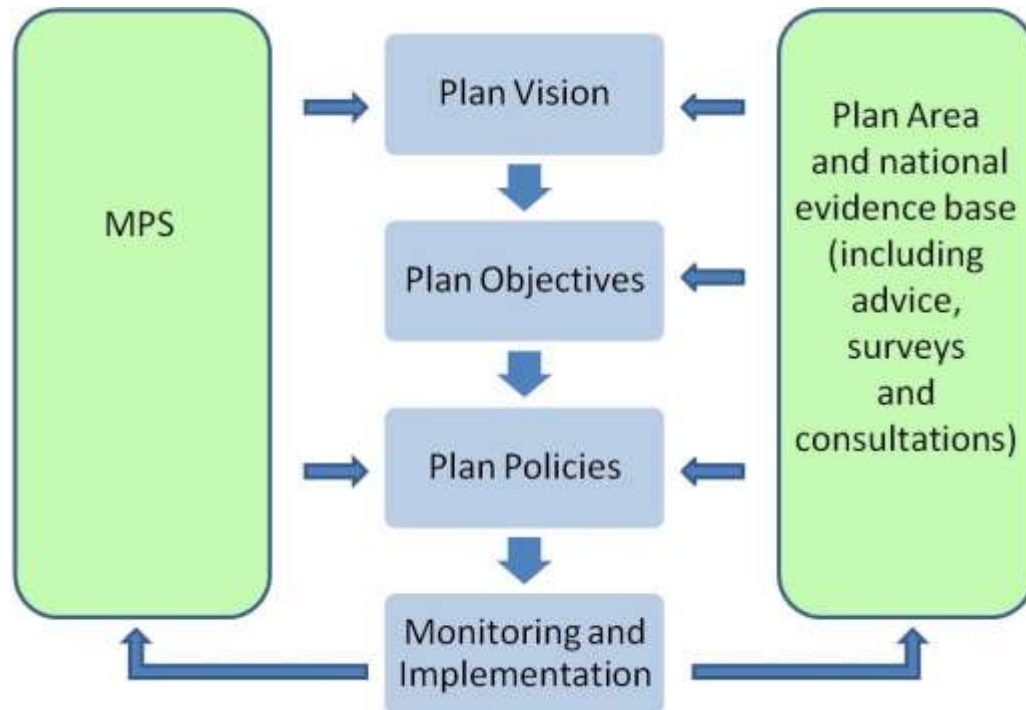
- 3.3 Marine Plans should interpret and present the Government's policies and objectives for UK waters, as set out in the MPS, into a clear, spatial, temporal and locally-relevant expression of policy, implementation and delivery. They should ensure that decisions within a Plan area contribute to the delivery of UK policy, while being heavily informed by the Plan area evidence base and thus ensuring the delivery of area-specific policy objectives. The interactions of policy, evidence base and the decision making process are shown in Figure 3 and discussed in more detail in Chapter 4.
- 3.4 While the MMO has been delegated the task of drawing up the Marine Plans, it works within the framework of Government policy. The draft Statement of Public Participation, draft Marine Plan for consultation and final Marine Plan must be agreed by the Secretary of State. The Secretary of State will seek Cabinet agreement to the draft and final Plan. During plan-making, the MMO

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<sup>48</sup> It should be noted that for Nationally Significant Infrastructure Projects, the decision maker is the Infrastructure Planning Commission until it is abolished who will take decisions in accordance with the relevant National Policy Statement but must have regard to the MPS and appropriate Marine Plan.

will work closely with the policy leads in the relevant Government Departments to ensure that the policy is correctly interpreted in the resulting Plan.

**Figure 3: The interactions of policy, evidence base and the decision making process**



- 3.5 Marine Plans should shape an area by setting out policies and objectives based on a clear vision, which is itself established in the preferred scenario for that Plan area. In this way, marine planning is based on the spatial planning approach that has been introduced in the town and country planning system. It will ensure that the MMO is able to proactively guide the future direction of the marine area rather than responding reactively to resource demands as and when they arise.
- 3.6 Government policy encourages terrestrial plans to be focussed documents that do not repeat or reformulate national policy. The same consideration should apply within Marine Plans. Within them, policies and objectives should be presented in a clear, practical and useable format, not open to interpretation.
- 3.7 Consistency of policy approach between Marine Plans in England will be aided by a single organisation (the MMO) preparing all the Plans. In addition, the draft MPS provides guidance on the approach that all Marine Plans should take.
- 3.8 Any system of planning, on land or at sea, varies in the extent of flexibility of approach. It is up to the MMO in consultation with Government to decide the extent to which marine planning will be spatially and temporally prescriptive. Given the need for integration with the land planning systems and the lessons



learnt throughout the evolution of this system, a flexible approach is likely to be taken.

3.9 In accordance with the requirements of the Marine Policy Statement the approach should:

- be based on best available information;
- be regularly reviewed and updated, i.e. it should be flexible and adaptable;
- not preclude multiple uses in specific areas, seeking to maximise complementarity and minimise conflict between activities;
- seek to further the purposes of designation of areas of significance to nature conservation, landscape, cultural heritage or air quality management;
- facilitate the achievement of all national and European obligations, including the delivery of Good Environmental Status under the MSFD;
- facilitate the licensing and enforcement aspects of the MMO's work as far as reasonably possible, particularly in terms of decision consistency; and
- be designed in consultation with stakeholders.

3.10 Plans should consider, as far as possible, all of the relevant current and future activities in their areas and the impact they may have on each other. This means that it is likely that a Plan will address relevant policy areas not specifically addressed within the MPS. Where the MPS does not explicitly state goals and/or objectives for any given policy area, the MMO will propose relevant Plan-specific goals and objectives, as long as:

- they do not conflict with the MPS;
- reasonable steps are taken to secure compatibility with any terrestrial plans adjacent to the Plan area;
- they are in conformity with the provisions of the Act, the wider legislative context or any relevant Government guidance or policy statements;
- they are based on robust evidence from the Plan area and/or beyond; and
- they have been subject to consultation with Plan area stakeholders.

3.11 Plans should address emerging and future marine uses and technologies as well as current uses. They should anticipate changing economic, commercial and social trends, the wider environmental trends, such as capacity of the marine environment and resource sustainability, alongside the impacts of climate change, as well as incorporating a temporal element in relation to non-continuous or seasonal uses of the marine area.

## **Marine Plans - structure and content**

3.12 The structure and detailed content of Marine Plans is not prescribed by the Act. It will therefore be the MMO's responsibility under the authority delegated to it by the Secretary of State to set out the final structure and content of Marine Plans in England's marine area. If Marine Plans are to fulfil what is expected of them, they may need to be more than a single document; rather, as is the case with most terrestrial plans, they might comprise a folder of linked documents. These linked documents could include:<sup>49</sup>

- a Strategy Document, which sets out Plan policies and objectives linked to each policy;
- a Policy Map, which is the spatial expression of the Strategy Document; and
- a Delivery Framework setting out the Plan's monitoring and implementation regime, and updated by subsequent monitoring reports.

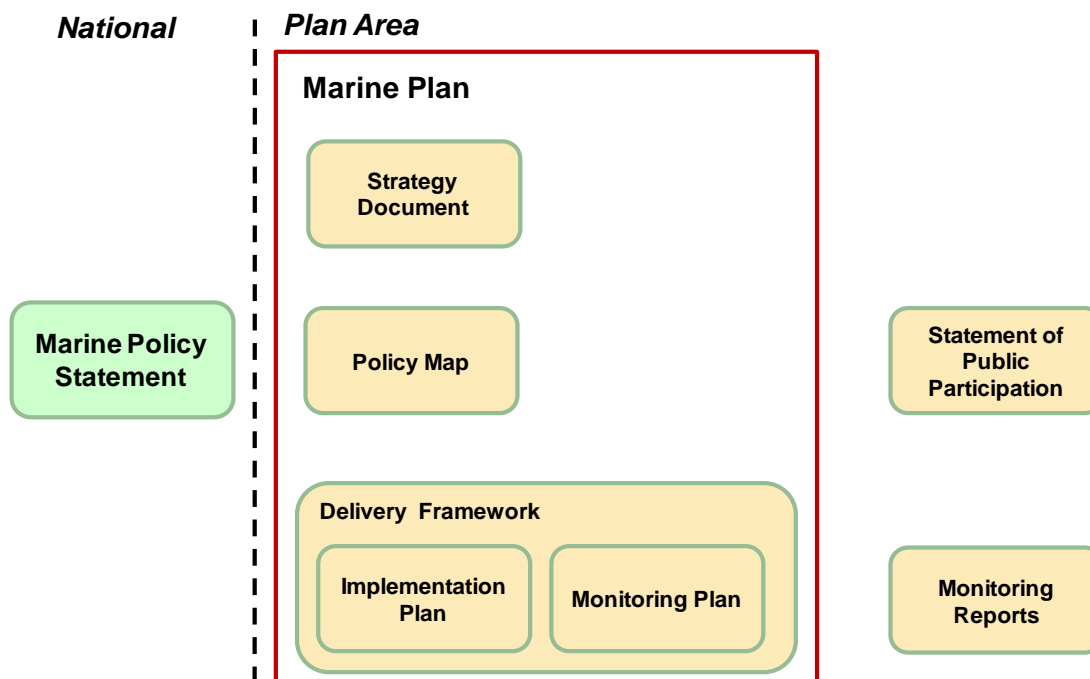
3.13 For each Marine Plan the Act stipulates that a Statement of Public Participation (SPP)<sup>50</sup> will need to be produced and published. The SPP defines the proposed Marine Plan area and sets out how representations on the various plan documents can be made. It also includes a timetable setting out the plan adoption and consultation process. The SPP cannot be published without the Secretary of State's agreement. Once the SPP is published, the MMO must take all reasonable steps to comply with it.

### **Figure 4: A possible structure for a Marine Plan**

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<sup>49</sup> To be determined by the MMO while developing the marine planning process further.

<sup>50</sup> Paragraphs 5 and 6 of Schedule 6 to the Marine and Coastal Access Act 2009.



3.14 This approach resembles the structure of Local Development Frameworks (LDFs) on land. Most obviously, the Marine Plan Strategy Document and Policy Map bear similarities respectively to the Core Strategy and Proposals Map in LDFs.

3.15 One difference between Marine Plans and terrestrial planning documents is the geographic level at which Marine Plans operate. Throughout this document, this sub national geographic level has been referred to as the Plan area.

### The Strategy Document

3.16 The Marine Plan Strategy Document or its equivalent should set out clear Marine Plan area policies and objectives for achieving those policies. Setting clear objectives for the Marine Plan will, among other things, enable the MMO to fulfil its obligation to report on the Marine Plan and keep it under review<sup>51</sup> by reference to such objectives.

3.17 Licensing decision makers will be expected to make decisions in accordance with Plan policies and objectives<sup>52</sup>. Equally, a wide range of marine users and developers will need the Strategy Document to add certainty and transparency to those decisions. As it would be the central document within the Plan, the secondary purpose of the Strategy Document would be to explain, through supporting and accompanying text, the Marine Plan process and context underlying those policies and objectives.

<sup>51</sup> As required by section 61(3) of the Marine and Coastal Access Act 2009.

<sup>52</sup> Unless relevant considerations indicate otherwise.

3.18 A vision statement in the Strategy Document would act as a context and summary of intent for the rest of the document by bringing together national policy with Plan area considerations in a single guiding statement<sup>53</sup>, supported by strategic objectives for the Plan area.

3.19 Like the rest of the Plan, the vision statement should be fully subject to consultation and should be specific to the plan area to the greatest extent possible while still being clearly based on the MPS. As is the case in terrestrial plans<sup>54</sup>, the vision statement should appear alongside supporting text setting out Plan area objectives relating to the vision statement and the evidence upon which the vision statement was based.

3.20 An outline structure for the Strategy Document might comprise:

#### Part A: Scope

A brief introduction to the Plan area which sets the scene, introduces some of the main issues for consideration, and describes the main Plan components.

#### Part B: Context

The relevant policies/objectives from the MPS, to provide a picture of the Government's national aims and objectives, and an outline of the relationship between the plan and other relevant plans or processes at the international, European, national and local levels.

#### Part C: About this Plan

A section outlining the location and timeframe of the Plan, specifying the geographic and temporal extent of its coverage.

#### Part D: Plan Policies

A section describing the proposed impact of the Plan and the changes which the plan could introduce, including:

- the Plan vision statement and supporting Plan objectives;
- policies and objectives for marine uses, activities, assets and designations in the Plan area; and
- supporting text setting out the analysis, evaluation of options and evidence in support of the proposals.

#### Part E: Delivering the Policies

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<sup>53</sup> PPS12 states that terrestrial plans should include 'an overall vision which sets out how the area and the places within it should develop'.

<sup>54</sup> A number of local planning authorities have adopted LDFs, whose core strategies provide examples of a variety of vision statements.

A section introducing the Delivery Framework that accompanies the Strategy Document, and setting out briefly the arrangements for Plan review.

#### Part F: Relationships

A final section outlining the relationships between the Strategy Document and the other components of the Marine Plan, as well as the relationships between it and other relevant marine and terrestrial plans, strategies and policy documents.

- 3.21 As in the terrestrial planning system, it is recommended that policies and objectives in a Marine Plan should be restricted to matters with a clear Plan area dimension. They should be an expression at the level of the Plan area of where national marine policy in the MPS interacts with the Plan area evidence base.
- 3.22 Not every Strategy Document policy would cover the entire Plan area. Some parts of the Plan area, particularly those areas subject to a high intensity of uses or exhibiting special characteristics, may merit area-specific policy or policies and objectives.
- 3.23 Where the MMO judges that area-specific policy and objectives are required, a final policy chapter or chapters should name the area(s) concerned and set out the appropriate policy or policies. These policies and objectives should be in conformity with the MPS while also being derived from the Plan area evidence base and therefore compatible with the application of policy across the wider Plan area.
- 3.24 Area-specific policies and objectives could apply to busy estuaries, ports and harbours where the impact of policies operating across a wider area may become blunter and where additional policies limited in their geographic coverage may facilitate the overall Plan objectives accompanying the vision statement.
- 3.25 Area-specific policy and objectives could be equally useful at the seaward boundaries of Plan areas. For example, a Plan area bordering the waters of either a Devolved Administration or another state or dependency could include area-specific policy for those areas with the aim of coordinating or facilitating cross-border planning of uses, activities and designations.
- 3.26 Well-drafted planning policies and objectives are written in a way that can control and influence, to varying degrees, the form, scale, timeframe and location of designations, uses and developments; each Marine Plan policy should have regard to some or all of these control elements as appropriate.

3.27 Objectives in the Strategy Document should be SMART objectives; i.e. Specific, Measurable, Achievable, Relevant and Time-Bound. Monitoring and evaluating progress toward implementation can only be measured when objectives are specified in this manner.<sup>55</sup>

### The Policy Map

3.28 The Policy Map might illustrate the spatial and temporal extent of policies articulated in the Strategy Document and should accordingly form a key tool in informing licensing decisions. In many parts of the Plan area, it is likely that several policies will cover the same location.

3.29 The form of the Policy Map will be the responsibility of the MMO. One useful way of producing this might be as an electronic publication using colour-coding and/or graphic tools such as shading or hatching in order to illustrate individual uses, activities, natural and historic features and designations. Layers of information corresponding to individual features, uses, activities or designations could be able to be turned on or off at the click of a button.

3.30 Additional temporal layers could be used to show the time-based dimension of relevant Strategy Document policies. Latitude and longitude coordinates should be included throughout. The Policy Map could show:

- A base map showing hydrological, geomorphological and bathymetric data within the Plan area;
- The locations of all activities, uses, designations and proposed activities/designations covered by Strategy Document policy;
- Areas of potential conflict between Plan area activities, uses, designations and assets; and
- Areas of potential complementarities between Plan area activities, uses, designations and assets.

3.31 Given the richness of information illustrated within a Policy Map, there may be a case for presenting it in different ways to allow clearer illustration of the differing uses, activities, designations, features and assets potentially covering a single location.

3.32 It is important to note that the Policy Map makes no judgements or policy decisions of its own. It merely illustrates Strategy Document policies spatially (and temporally) and judgements are instead articulated through the wording of the individual policies.

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<sup>55</sup> Adapted from UNESCO, 2009: 'Marine Spatial Planning: A Step By Step Approach'.

3.33 Not every Strategy Document policy will appear within the Policy Map. Although the vast majority of policies are likely to be mappable, some will not be. As in the terrestrial planning system, there is no statutory requirement to illustrate every policy. It may be beneficial to produce a statement of policies it is not possible to map, to ensure that they are accounted for through other mechanisms.

### Delivery Framework

3.34 The Delivery Framework consists of two separate, but linked documents:

- an Implementation Plan (in effect, a business plan for the Plan area); and
- a Monitoring Plan<sup>56</sup>.

3.35 Effective and targeted monitoring of the marine environment and of the implementation of policies occurring in or related to the sea is central to improving marine regulation. If we do not know the current state of the environment, and the location, nature and scale of the impacts of marine policies, then we cannot plan for future activities or future environmental protection. Likewise, monitoring is an important tool in ensuring compliance with legislation.

3.36 Government monitoring of the marine environment pre-dates the establishment of the MMO. The UK Marine Monitoring and Assessment Strategy (UKMMAS), for example, already permits us to document ecosystem trends. The evidence from monitoring will be fed into the MMO's marine planning evidence base so that it can adjust planning objectives and licensing decisions accordingly. The MMO is working closely with Defra to ensure that, where appropriate, the Marine Strategy Framework Directive and Marine Plans share the same monitoring indicators.

3.37 It is important to remember that the preparation of a Delivery Framework *per se* will not automatically ensure delivery of all policies and objectives – rather, it measures, facilitates and enables implementation. Implementation decisions will often require private or public investment, and favourable conditions for those decisions can never be guaranteed.

3.38 Much of the delivery of the elements of the marine planning system will be through the MMO's own licensing and enforcement regimes. Other decision-making processes, including those of marine regulators, will also facilitate delivery. Many organisations already employ indicators, targets and monitoring regimes in the marine environment, and voluntary management regimes could

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<sup>56</sup> This would help to deliver monitoring and reporting requirements under section 61 of the Marine and Coastal Access Act 2009.

also be a potential mechanism for delivery. Where these can be aligned with the objectives of the marine planning system, the MMO would be encouraged to make use of them to save on resources.

- 3.39 Where this is the case, the Delivery Framework documents should specify roles and responsibilities for those elements of monitoring and implementation that are not the sole responsibility of the MMO.
- 3.40 There may be policy areas where data is incomplete or totally absent; where this is the case they may benefit from further evidence-gathering work, where appropriate.
- 3.41 Monitoring reports on the Delivery Framework will measure the performance of Plan policies against their objectives. Over time, the monitoring reports will update the Plan policies and objectives themselves.

### ***The Implementation Plan***

- 3.42 There are three principal mechanisms through which the policies and objectives of the Marine Plan are likely to be delivered through the Implementation Plan:
- **regulation**, including interventions by the Government or public bodies on the grounds of public policy interest, for example, byelaws created by IFCA's;
  - **management** of the existing assets of the Plan area, including through the licensing and enforcement regime as well as physical interventions; and
  - **investment** in selected interventions (this can also include the prevention of interventions, including, for example, preventing inappropriate development within an MCZ).
- 3.43 Each Strategy Document policy would differ in the extent to which these three mechanisms may be applied to it. For example, policies and objectives covering existing uses are likely to require different delivery mechanisms from those covering future development or change.
- 3.44 A key outcome of these mechanisms should be behavioural change in a number of areas. Such change should be sought as a response to the challenges facing the Plan area in terms of conflicts of use and/or economically, socially and environmentally unsustainable activities.
- 3.45 The Implementation Plan should therefore:
- state how the policies and objectives of the Marine Plan as set out in the Strategy Document may be delivered - what needs to happen and when;



- set out the key agencies, processes and partnerships involved in delivery or security of Plan policies and objectives;
- describe any funding mechanisms that may be applicable to the delivery of Plan policies<sup>57</sup>
- enable stakeholders to monitor whether the plan is being implemented correctly, in line with its main objectives, through appropriate indicators; and
- inform policy review by suggesting the measures to be taken where plan policies are not having the desired effect.

### ***The Monitoring Plan***

3.46 The Monitoring Plan describes the processes by which progress against Plan objectives will be measured, identifying the role of any agencies which will be required to contribute to progress assessments. Importantly, it should also assess whether the marine planning system as a whole is achieving the objectives it set out to achieve.

3.47 The MMO will be responsible for co-ordinating the monitoring processes, working with those organisations contributing relevant monitoring information. The Monitoring Plan should be the mechanism which assists the MMO in its duty to keep the Marine Plan under review.<sup>58</sup>

3.48 Monitoring is also needed to comply with legal obligations. These include requirements under:

- The Marine Strategy Framework Directive (MSFD), to determine our progress towards achieving or maintaining Good Environmental Status (see Chapter 2). A suite of targets and indicators is being developed by Defra and the Devolved Administrations. These will be finalised by mid 2012 and should, where appropriate, be embedded within the monitoring plan for each Plan area; and
- The Strategic Environmental Assessment Directive (SEA), to monitor the significant effects of implementing each Marine Plan and to enable remedial action to be taken where adverse effects are found.

3.49 The Monitoring Plan should set out the sources of data that will be used and should note any existing information gaps which need to be addressed. It is important to keep data collection to the minimum that is required to assess Plan

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<sup>57</sup> It is important to note that this aspect of the Implementation Plan does not imply commitment to funding on the part of government or any other agency or commercial interest.

<sup>58</sup> As required by sections 54 and 61 of the Act.

performance. It may be possible to use data produced as a result of monitoring requirements from other regulations, statutory and non-statutory plans.

- 3.50 The MMO might consider publishing guidance on data sets, data sources, frequency of collection and/or establishing a monitoring advisory group to provide technical advice on the specification, method of collection, analysis and interpretation of monitoring data for each Plan. The group could bring together representatives from key marine data providers including Defra, Cefas, other relevant Government departments, the Environment Agency, Natural England, JNCC, English Heritage, the Maritime and Coastguard Agency, the UK Hydrographic Office and the Crown Estate. The MMO is also fully engaged with the Marine Science Co-Ordination Committee (MSCC), UKMMAS and MEDIN. Discussion on monitoring Marine Plans could take place within these fora. The MMO is a member of the MSCC, Marine Assessment and Reporting Group (MARG) and all evidence groups of UKMMAS and could use participation in these to assist in the effective coordination and alignment of monitoring for marine planning.
- 3.51 The Monitoring Plan might include a commentary on actions undertaken during the monitoring period by key delivery agencies and decision-making agencies (identified in the Implementation Plan) to deliver the Plan's objectives. For each policy, the report might seek to identify possible or actual reasons for under or over-performance against objectives. It may be beneficial to prepare a report giving potential solutions where monitoring detects underperformance. Additionally, external factors affecting monitoring, such as advances in technology, might also be factored in.
- 3.52 The Monitoring Plan should also provide for the monitoring of the area-specific policies included in the Plan. This might comprise presentation and analysis of a consistent set of indicators to be collected at area-specific level, for example in busy estuaries and ports. These indicators will be consistent with data collected to monitor core policies. Stakeholders in the locations covered by area-specific policy might also be encouraged to provide a commentary on the delivery of the strategy over the monitoring period. It is likely that monitoring will take into account metrics across the spectrum of concerns addressed by plans in each individual plan area.
- 3.53 The Monitoring Plan could also provide an overview of the MMO's own performance in carrying out its delegated planning activities, including duties relating to its role as a statutory consultee on nationally significant infrastructure projects with a marine dimension and a progress report on any ongoing reviews of the Marine Plan.

- 3.54 Systematic collection of data on selected indicators will provide plan-makers and stakeholders with measurements of the extent of progress toward the achievement of planning goals and objectives and could be used as a baseline for monitoring and review.
- 3.55 The monitoring plan should therefore set out indicators for assessing progress, including financial indicators, to be identified from the baseline evidence and then monitored afterwards.
- 3.56 Although it is clear that the MMO will have a key role to play in the implementation of aspects of this Directive it is not currently known what additional monitoring will be necessary to meet the requirements of the MSFD. The MMO's exact role will need to be defined as further development of implementation plans for the Directive progresses. Defra will continue to work closely with the MMO on this issue to agree and further define its role, including any financial implications that may arise.
- 3.57 The final selection of indicators would be based upon a thorough review of existing available datasets and funding mechanisms prior to the identification of any additional data or information needing to be collected.
- 3.58 The characteristics of good indicators, as defined by UNESCO<sup>59</sup>, are that they should be:
- **readily measurable:** on the time-scales needed to support management, using existing instruments, monitoring programmes and available analytical tools;
  - **cost-effective:** monitoring resources are usually limited;
  - **concrete:** indicators that are directly observable and measurable (rather than those reflecting abstract properties) are desirable because they are more readily interpretable and accepted by diverse stakeholder groups;
  - **interpretable:** indicators should reflect properties of concern to stakeholders; their meaning should be understood by as wide a range of stakeholders as possible;
  - **grounded in theory:** indicators should be based on well-accepted scientific theory, rather than on inadequately defined or poorly validated theoretical links;
  - **sensitive:** indicators should be sensitive to changes in the properties being monitored (e.g. able to detect trends in the properties or impacts);

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<sup>59</sup> UNESCO, 2009: 'Marine Spatial Planning: A Step By Step Approach'.

- **responsive:** indicators should be able to measure the effects of management actions to provide rapid and reliable feedback on their performance and consequences; and
- **specific:** indicators should respond to the properties they are intended to measure rather than to other factors, i.e. it should be possible to distinguish their effects.

3.59 Not everything can be measured using indicators and not every effect of a policy is predictable. For this reason, the MMO should ensure that systems are in place alongside the indicators to evaluate separately wider trends that may affect the Plan's content or effectiveness, such as environmental trends, changes to biodiversity, the effects of climate change etc. Data from the monitoring process should be used to inform the review cycle of a Plan.

3.60 A proportionate approach should be taken to monitoring in terms of number of indicators to be monitored, scale and frequency of data collection and reporting, as experience from marine planning overseas suggests that monitoring is a particularly resource-intensive activity.

3.61 The MMO's partners and stakeholders should be consulted on the need for any actions arising from the findings of monitoring activity. Potential actions could be identified through the Monitoring Reports and may include any of the following:

- a partial review of one or more Marine Plan policies;
- the need to develop new or improved indicators;
- advocating a change in national marine policy;
- commissioning or undertaking further research;
- working with partner organisations to identify or overcome identified obstacles to delivery;
- providing additional or revised advice on funding mechanisms;
- production of good practice guidance; and/or
- changes in management or decision-making approaches in order to achieve the plan's policies and/or objectives.

## Plan review arrangements

- 3.62 Marine Plans should cover a twenty-year period from their adoption date, but could also look beyond this period as appropriate<sup>60</sup>.
- 3.63 Under the Act the marine plan authority is required to keep the effects and effectiveness of Marine Plans under review and to report on this review not less than every three years after each Plan is adopted. The report produced should include the progress towards achieving any objectives set out for that region in a Marine Plan and the MPS. The report must be published and laid before Parliament. It is required after each report to decide whether or not the Plan needs to be amended or replaced.
- 3.64 The second reporting duty within the Act is the requirement that a marine plan authority must report at least every six years until 2030 on how it has used, and intends to use, its marine planning powers. The report should include details of the Marine Plans they have prepared and adopted and their intentions as to the amendment of existing plans or preparation of additional plans. The report must be published and laid before Parliament.
- 3.65 Such reports must also cover any progress towards achieving any objectives set out in the MPS.
- 3.66 The Act specifies that the marine plan authority must keep under review the following matters relating to any Marine Plan in effect:<sup>61</sup>
- the effects of Plan policy;
  - the effectiveness of those policies in securing the objectives for which the Marine Plan was prepared;
  - the progress being made in securing those objectives; and
  - the progress that Plans are making on securing MPS objectives.
- 3.67 It also specifies that the marine plan authority must keep under review the following matters in respect of the identification of Marine Plan areas and Marine Plans for those areas:<sup>62</sup>
- the physical, environmental, social, cultural and economic characteristics of the authority's region and of the living resources which the region supports;
  - the purpose for which any part of the region is used;
  - the communications, energy and transport systems of the region;
  - any other considerations which may be expected to affect those matters;

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<sup>60</sup> This is not specified in the Act but is an assumption based on good practice in terrestrial planning.

<sup>61</sup> Section 61(3) of the Marine and Coastal Access Act 2009.

<sup>62</sup> Section 54 of the Marine and Coastal Access Act 2009.

- any changes which could reasonably be expected to occur in relation to any such matter; and
- the effect that any such changes may have in relation to the sustainable development of the region, its natural resources, or the living resources dependent on the region.

3.68 Although the MMO has these Plan review functions delegated to it by the Secretary of State, certain functions, such as the decision to withdraw a Marine Plan entirely, cannot be delegated and remain with the Secretary of State.

### **Matters outside the marine planning system**

3.69 The Act does not specify exemptions from the marine planning system in the marine area. Its general approach is to seek to ensure that any or all activities and designations may be planned for. In a similar way, since 2004<sup>63</sup> there have been no organisations or bodies designated as exempt from the planning system on land.

3.70 In cases where an activity or designation is not specifically mentioned in the MPS, it is for the MMO in consultation with Government to decide, based on the Plan area evidence base and the views of relevant stakeholders, whether a policy regulating that activity or designation is justified in a Marine Plan.

3.71 It is difficult to judge before any Marine Plans have been formulated, whether such an issue will arise or not. If a Marine Plan does not specifically mention an activity and that activity is not otherwise covered by the Act, it could be considered as outside the remit of the marine planning system. However, in such cases the MMO should note that it may be required to justify its decisions and/or keep them under review.

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<sup>63</sup> At which point Crown immunity was abolished by the Planning and Compulsory Purchase Act 2004.

# Chapter 4 The Marine Planning Process

This chapter breaks down into steps the process of creating, monitoring and evaluating a Marine Plan from inception, through adoption, to revision.

## Introduction

4.1 This chapter is based on a number of sources, including:

- the Marine and Coastal Access Act 2009;
- the UNESCO document 'Marine Spatial Planning: A Step-by-Step Approach' (2009);
- the Defra document Implementing Marine Planning 2009;
- planning guides and manuals developed and used by terrestrial planners in England;
- the UK Government's 'Practical Guide to the Strategic Environmental Assessment Directive'<sup>64</sup>; and
- discussions and demonstrations of the UK planning process with Government Departments, marine experts, local authority planners and the Local Government Association.

4.2 Figure 5 gives one suggestion for the outline stages of the marine planning process. Each of these outline stages are discussed more fully below.

## Before planning starts

4.3 Schedule 6 of the Act states that before planning, the MMO will have to inform the following bodies of its intention to do so:

- marine planners in Wales and/or Scotland<sup>65</sup> if the Plan area adjoins or is adjacent to their marine plan area;
- Scottish Ministers if the Scottish inshore region adjoins or is adjacent to the Plan area; and
- any local planning authority whose area adjoins or is adjacent to the Plan area.

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<sup>64</sup> ODPM and Devolved Administrations: *A Practical Guide to the SEA Directive*, 2005

<sup>65</sup> Neither the England inshore nor offshore regions border Northern Ireland waters.

4.4 The MMO should also have regard to any obligations<sup>66</sup> including those under European or international law or conventions, to consult or notify other nations which may be affected by or have an interest in the development of English Marine Plans.

#### Establishing reporting areas

4.5 The Act states that a Marine Plan must identify (by means of a map or otherwise) its Marine Plan area<sup>67</sup>. However, it is recommended that before plan-making starts a 'reporting area' is also established. This would consist of the wider areas of analysis required for the Plan.

4.6 In the complex, dynamic marine environment, planners will need to look beyond the immediate boundaries of the Plan area. There are a number of examples where this would be the case and these include:

- riverine or marine inputs to a Plan area from a location outside its boundaries which increases the contaminant loading of that Plan area;
- policies relating to mobile and migratory species passing through it between two other points; and
- where leases/activities cross Plan area boundaries e.g. wind farms and dredging.

4.7 This is an unavoidable stage of analysis, as no Marine Plan area boundary can ever be drawn so as to include all considerations of this nature. A reporting area will not have a defined geographical boundary: rather the area differs depending on the issues being reported.

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<sup>66</sup> For example requirements under Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SEA Directive), transposed by the Environmental Assessment of Plans and Programmes Regulations 2004.

<sup>67</sup> Section 51(5) of the Marine and Coastal Access Act 2009.



Figure 5: The suggested main stages of the marine planning process



### Sustainability Appraisal process

4.8 The Act requires the MMO to carry out a Sustainability Appraisal (SA)<sup>68</sup> during the preparation of each draft Plan. The SA process is based on that of the Strategic Environmental Assessment Directive and Regulations<sup>69</sup>, but it covers social and economic effects of Plans alongside the predominantly environmental topics in the Directive.

4.9 The SA is intended to integrate environmental, social and economic considerations into the plan-making process, and to help ensure the sustainability of Marine Plans. In order to do so, it will need to be carried out in such a way that it can model cumulative impacts of activities and designations. Table 1 sets out the links between a Marine Plan process and the SA process.

<sup>68</sup> Paragraph 10 of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>69</sup> Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SEA Directive), transposed by the Environmental Assessment of Plans and Programmes Regulations 2004.

**Table 1: Stages of preparation of a Marine Plan and Sustainability Appraisal**

<b>Stages of preparation of a Marine Plan and SA</b>		
<b>Stage</b>	<b>Task</b>	<b>SA Stages and Tasks<sup>70</sup></b>
<b>PREPARATION FOR MARINE PLAN</b>	MMO gives notice of its intention to prepare a Marine Plan to each of the related planning authorities <sup>71</sup>	<b>A. Setting the context and objectives, establishing the baseline and deciding on the scope</b> A1. Identify other relevant plans and programmes and sustainability objectives A2. Collect baseline information A3. Identify sustainability problems A4. Develop SA Framework including sustainable development objectives A5. Consult designated SEA Consultation Bodies and other relevant stakeholders on the scope of the SA
	MMO draws up the Statement of Public Participation (SPP) <sup>72</sup>	
<b>DEVELOPING THE PLAN</b>	Following agreement by the Secretary of State, the MMO publishes the SPP	<b>B. Developing and refining alternatives and assessing effects and</b> B1. Test the Marine Plan objectives against the SA objectives B2. Develop strategic alternatives B3. Predict the effects of the Plan, including alternatives B4. Evaluate the effects of the Plan, including alternatives B5. Consider ways to mitigate adverse effects B6. Propose measures to monitor the sustainability effects of Plan implementation  <b>C. Preparing the SA Report (incorporating Environmental Report required by Directive)</b>
	MMO engages stakeholders in line with the SPP	
	MMO develops preferred options (in doing this the MMO may seek expert advice or assistance from any relevant body or person)	
	MMO appraises issues and options (testing impacts through SA) in consultation with stakeholders	
	MMO prepares a draft Delivery Framework	
	MMO finalises the draft Strategy Document and Delivery Framework	
<b>FORMAL CONSULTATION</b>	Following agreement by the Secretary of State, the MMO undertakes statutory consultation on the published draft Marine Plan <sup>73</sup>	<b>D. Consulting on the draft Marine Plan and the SA Report</b> D1. Consulting the public and designated SEA Consultation Bodies on the draft Marine Plan and the SA Report D2. Assessing significant changes D3. Decision making and providing information
	MMO must: <ul style="list-style-type: none"> <li>▪ Consider whether to recommend to the Secretary of State that an Independent Investigation<sup>74</sup> of proposals contained in the draft is required; and</li> <li>▪ Publish any recommendations given by any Independent Investigator and outline the reasons given for them.</li> </ul>	

<sup>70</sup> SA stages and tasks based on the Practical Guide to the SEA Directive, Fig 5 (p24)

<sup>71</sup> Paragraph 1(2) of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>72</sup> Paragraph 11 of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>73</sup> Paragraph 11(1) of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>74</sup> Paragraphs 13-14 of Schedule 6 to The Marine and Coastal Access Act 2009.

<b>FINALISE PLAN REVISIONS</b>	MMO refines the draft Marine Plan in light of: <ul style="list-style-type: none"> <li>the recommendations made following an Independent Investigation if one has taken place; and</li> <li>any other matters that the MMO considers relevant.</li> </ul>	
	Secretary of State considers consultation responses and recommendations from any Independent Investigation before approving final version of the Marine Plan	
	MMO publishes the approved Marine Plan and supporting information <sup>75</sup>	Supporting information will show how sustainability considerations were taken into account
<b>IMPLEMENT AND MONITOR PLAN</b>	MMO monitor achievement of marine plan targets through Delivery Framework <sup>76</sup>	<b>E. Monitoring implementation of the Strategy</b> <ul style="list-style-type: none"> <li>Develop aims and methods for monitoring</li> <li>Make arrangements to respond to adverse effects</li> </ul>

4.10 An SA can incorporate or complement other assessments, where relevant, including an Equality Impact Assessments (EqIA), a legal requirement under race, disability and gender equality legislation, and Habitats Regulations Assessments (HRA) (which includes an Appropriate Assessment) as required under the Habitats Directive. The information and documentation needed for an HRA will often overlap with that needed for SA/SEA<sup>77</sup>. Although each required assessment must be reported on in the appropriate and mandatory format specific to that assessment, the MMO should make use of overlaps in the processes to avoid unnecessary duplication of work.

4.11 The Appraisal of Sustainability (AoS)<sup>78</sup> of the MPS will highlight issues that the MMO may reflect in their own SA processes.

4.12 The SA is a process rather than an output. The SA process should be started as early as possible and integrated into the development of each Marine Plan. The MMO should include key SA stages and milestones in the SPP for a Marine Plan which should also reflect the consultation requirements of the SEA Directive.

4.13 An SA Report, which should meet the SEA Directive's requirement for an Environmental Report, must be published alongside the consultation draft of

<sup>75</sup> Paragraph 15(7) of Schedule 6 to the Marine and Coastal Access Act and SEA Directive Article 9(1)(a).

<sup>76</sup> The meets the requirements of Article 10 of the SEA Directive.

<sup>77</sup> 'A *Practical Guide to the SEA Directive*' sets out stages and tasks for SEA and suggests how reports can be widened to incorporate Sustainability Appraisal: [www.communities.gov.uk/documents/planningandbuilding/pdf/practicalguidesea.pdf](http://www.communities.gov.uk/documents/planningandbuilding/pdf/practicalguidesea.pdf).

<sup>78</sup> The term 'Sustainability Appraisal' has been used in relation to Marine Plans, while the MPS was subject to "appraisal of sustainability" by analogy with National Policy Statements for major infrastructure.

each Marine Plan. The SA Report will be subject to scrutiny at any Independent Investigation that the Secretary of State may decide is needed on the Marine Plan.

### **Statement of Public Participation and stakeholder engagement**

4.14 At the start of the planning process for each Marine Plan, the MMO is required to prepare a Statement of Public Participation (SPP)<sup>79</sup>. Once this has been agreed by the Secretary of State, the MMO will publish the SPP. The aim of the SPP is to set out the MMO's intentions early on, so that stakeholders can plan ahead for their involvement. The Act places a number of obligations on the SPP, including the need:

- to identify (by means of a map or otherwise) the area for which the Plan is being prepared;
- to invite representations on the Plan;
- to make interested persons aware of the SPP's existence;
- for the SPP to include a timetable for the preparation of the Plan;
- to include provisions about the making of representations about the matters to be included in the proposed Marine Plan, and representations about the consultation draft of the Marine Plan. This includes provision about the manner and time in which such representations can be made; and
- to keep the SPP under review.

4.15 Although this is not a legal requirement, it is recommended that the SPP also highlights the potential scope of the reporting area of the Plan. Because the SPP identifies the Marine Plan area, this provides an opportunity for interested persons to comment on any minor local modifications to Plan area boundaries as set out in Chapter 2 above. Given that any boundary amendments that the MMO may choose to make at this stage will impact upon one or more neighbouring Plan areas as well, interested parties from adjacent Plan areas may also wish to comment.

4.16 To prepare the SPP, the MMO should build relationships with stakeholders with a direct interest in planning for each Plan area. The MMO should not develop Marine Plans in isolation, but should work with an extensive range of marine and coastal stakeholders and Government advisors, such as local authorities, local community groups, industries, IFCA's, the Environment Agency, Natural England, JNCC, English Heritage, National Park Authorities, the Crown Estate

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<sup>79</sup> Paragraphs 5-7 of Schedule 6 to the Marine and Coastal Access Act 2009.

and others. It should use existing stakeholder engagement mechanisms such as Coastal Partnerships where appropriate.

4.17 The SPP is intended to be a living document, and the MMO will have a duty to keep it under review<sup>80</sup>. If the MMO considers it necessary or expedient to revise the SPP then it must do so. However, any amendments to the SPP must be agreed to by the Secretary of State before being published<sup>81</sup>.

The SPP should reflect the requirements of the SEA Regulations and Directive relating to consultation with the designated Consultation Bodies on the scope of the SA report (at Stage A, task 5) and for consultation with these bodies and the public on the Draft Plan and SA Report (at Stage D) – see Table 1.

### **Organising stakeholder participation**

4.18 Under the Act, a stakeholder in the marine planning process is defined as ‘any interested person’<sup>82</sup>. An ‘interested person’ may be defined as any person appearing to the MMO to be likely to be interested in, or affected by policies proposed to be included in the Marine Plan, as well as members of the general public. The wording of the Act deliberately sought to include as many people as possible within the process.

4.19 With such a wide definition of stakeholders, organising stakeholder input to the planning process is challenging. Structuring, researching and/or ‘mapping’ local, sub-national and national stakeholders will be crucial in order to understand the relationships and likely view points and perspectives of people affected by decisions made relating to the Plan area. This provides planners with advance notice of those likely to be supportive of or hostile to specific goals and objectives.

4.20 Early involvement of stakeholders does not signify a lack of stakeholder engagement through the rest of the process. Figure 5 makes it quite clear that stakeholders are involved at all stages, so stakeholder consultation is a project-long process than an individual stage or output. This applies as much to the monitoring and review process as to the plan-making process. Publishing the SPP is simply the first step on the journey.

4.21 For this reason, stakeholder involvement will be covered as an integral part of each subsequent Plan stage in this chapter.

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<sup>80</sup> Paragraph 7 of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>81</sup> Paragraph 7 of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>82</sup> Paragraph 5(8) of Schedule 6 to the Marine and Coastal Access Act 2009.

## Drafting and publishing the Statement of Public Participation

- 4.22 The drafting of the SPP should itself be informed by public participation, with Plan area stakeholders invited to submit comments on a draft version. Stakeholder involvement in the draft will help MMO planners ensure that the content reflects the particular geographical, environmental and socio-economic characteristics of each Plan area.
- 4.23 The stages in Table 1 may not always progress in a neat, linear way. For example, there may be a need to iterate stages if there are changes to the Marine Plan sufficient to require further consultation.

### **Scope content of Plan**

- 4.24 The Act requires that the Marine Plan area must be identified by means of a map or otherwise<sup>83</sup>. Therefore scoping should involve a spatial assessment of the Marine Plan area in the light of the strategic scoping exercise and any other relevant evidence to define its exact boundaries. It should also go further to define its physical, biological and chemical characteristics, activities taking place, and other factors relevant to the Plan (which may fall outside the geographical scope of the Marine Plan area but within the reporting area of a Plan).

Scoping the content of the Plan should be undertaken in parallel with the tasks in Sustainability Appraisal Stages A and B – see Table 1.

- 4.25 Once the data/evidence has been collected, it should be used to undertake an analysis of the interaction of activities within the selected marine area. This analysis should address the current situation and scenarios for future development, taking account of relevant policies and appropriate objectives and targets and taking into account stakeholder views which have been sought through the process laid out in the SPP.
- 4.26 It should also include known or generic conflicts between activities, features, designations and assets and how they might be addressed. From this analysis the MMO may build up a picture of what type of proposals can go into the Plan. This may be best presented through a series of maps that identify all of the above, and which highlight where these are or are not compatible with each other, either spatially or temporally.

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<sup>83</sup> Section 51(5) of the Marine and Coastal Access Act 2009.

### Collecting and mapping information about physical ecological, environmental and oceanographic conditions

- 4.27 Within England's marine area, some of this part of the evidence base has already been gathered and assured through the process of defining and creating Marine Protected Areas (MPAs), including Marine Conservation Zones (MCZs), which has been separate from and carried out earlier than the Marine Plan-making process.
- 4.28 The MMO could draw from the UK National Ecosystem Assessment (UK NEA) which is the first analysis of the UK's natural environment in terms of the benefits it provides to society and continuing economic prosperity: an inclusive process involving many government, academic, NGO and private sector institutions<sup>84</sup>.
- 4.29 Many other programmes and processes, including existing SEA work, the UKMMAS's (UK Marine Monitoring and Assessment Strategy), Charting Progress report, work undertaken by MEDIN (Marine Environmental Data and Information Network), as well as data gathered in support of OSPAR goals, will also provide invaluable information, including information regarding Base Reference Layers (physical data layers such as pipelines, cables, well heads, administrative boundaries, geological maps etc).

### Collecting and mapping information about human activities

- 4.30 The complex spatial and temporal patterns of human activities in the marine environment, in particular seasonal activities such as fishing and recreation, have historically been mapped in less detail compared with mapping of environmental information and conditions. Nevertheless, here, too, information will be required. There are many data holders whose input will be useful at this stage, for example The Crown Estate and English Heritage, who both hold socio-economic marine data. Logs of activities and licenses granted and refused in the past may also include supporting information on environmental conditions which could be useful at this stage.

### Identifying current conflicts and complementarities

- 4.31 A key task for marine planners is to facilitate an integrated approach across objectives and sectoral interests. In doing so, they will need to reduce conflict and to maximise complementarity to the greatest possible extent. The MPS and the strategic scoping exercise should be the first reference points for defining conflicts and complementarity between marine activities, processes and designations. However, it is at this information gathering stage that the

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<sup>84</sup> <http://uknea.unep-wcmc.org/>

conflicts and complementarities specific to the area being planned can be mapped for the first time.

- 4.32 The MMO is defining the requirements for decision support tools to assist the planning process and are engaging with other government bodies involved in related work (e.g. on cumulative effects) to build up a better understanding of the methodological approach to the collection, validation and collation of data

#### Define the vision

- 4.33 After the first phase of data-gathering<sup>85</sup>, the next step is to formulate an overarching vision for the Plan area. Although this may sound daunting, in no cases will vision formulation start from a 'blank sheet'. The MPS, strategic scoping exercise, stakeholder consultation, national and local objectives from the terrestrial planning system and advice from scientific and technical experts will all provide context for this task. At this stage, the vision should only be formulated in draft form. It can then be refined and agreed once the preferred scenario for developing the Plan area is agreed. The vision statement should be accompanied by broad Plan objectives relating to the vision that can help inform the drafting of Plan policies.

#### Projecting current trends in human activities

- 4.34 Projecting current trends forward to determine what would happen in the Plan area without any kind of planning intervention acts as a useful baseline to determine the positive difference that the Marine Plan can and should make. Trends can be projected forward by determining future developments and requirements by sector through engagement with Plan area industry representatives and other relevant stakeholders.

#### Estimating requirements for new demands on marine space

- 4.35 It is likely that, allied with new technologies, new demands will be made on marine space during the Plan period. The MPS could be useful here, as it outlines Government policy on emerging technologies (for example, carbon capture and storage and wave and tidal technologies) before their large-scale implementation. Again, engagement with industry and activity representatives will be important. This exercise is likely to reveal that there are more demands for space than physically exists within the Plan area, and might further inform the analysis of conflicts and complementarities.

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<sup>85</sup> The process of data-gathering should be thought of as continuous throughout the marine plan-making cycle.



### Identifying possible alternative futures

4.36 Identifying a range of options (i.e. a set of policies for inclusion) for the Plan area is valuable because without setting out the scenarios and assessing their various pros and cons, it is far more difficult to justify the eventual preferred scenario: and any useful Plan must be based on a preferred scenario/option. Accurate comparison between scenarios will require testing each scenario for spatial implications and effects on a range of agreed criteria or indicators. The required SA process, outlined in the Act<sup>86</sup>, provides an opportunity to explore such scenarios. It draws a comparison between alternative scenarios, assessing which one offers the most suitable approach for the Plan area.

### Selecting the preferred option/scenario

4.37 Selecting the preferred scenario will depend to a significant extent on the Plan area evidence base. It is possible that the preferred scenario may be a hybrid of one or more of the scenarios developed and tested. Plan-makers should ensure that the scenario taken forward reflects the best possible interpretation of the information from the evidence base, together with the provisions of the MPS and the findings of the strategic scoping exercise. However, this is easier said than done, and selecting one among the many scenarios may require difficult but balanced decisions to be taken that may later need to be justified at inquiry.

4.38 It should be made clear that the preferred scenario was chosen after thorough analysis through the SA

4.39 Ideally, the aim for the preferred scenario is one that, on balance, is judged to be the one that contributes most to the achievement of sustainable development, as determined through the testing process. To do this, it is likely to have to be:

- effective (likely to deliver goals, objectives and targets);
- efficient (this delivery achieved with fewer resources); and
- equitable (between different locations, different objectives, and different sectors).

4.40 The preferred scenario should then be refined as the agreed Plan vision statement, accompanied by Plan area objectives referring to it and with supporting information setting out the pros and cons of all scenarios and justifying the choice of the preferred one.

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<sup>86</sup> Paragraph 10 of Schedule 6 to the Marine and Coastal Access Act 2009.

## Developing the Plan

4.41 Once the draft vision, policies, objectives, indicators and implementation agencies have been agreed in consultation with all interested parties, plan-makers will be able to start drafting and mapping the physical plan documents that will form the consultation draft version. This process is not outlined by the Act but may include:

- drafting the Strategy Document, including accompanying text justifying why the draft policies, objectives and vision were selected and, where appropriate, adding diagrams, maps and illustrations;
- designing and drawing the Policy Map, illustrating the temporal as well as the spatial extent of Plan policies; and/or
- drafting the Delivery Framework, including writing up the agreed list of indicators and agencies responsible for policy implementation.

Developing the Plan should be undertaken in parallel with preparation of the Sustainability Appraisal Report at Stage C of Sustainability Appraisal.

4.42 Throughout the process of developing the Marine Plan, the Act requires that the MMO must have regard to the following:

- the requirement for a Marine Plan to be in conformity with any MPS which governs marine planning for the Marine Plan area, unless relevant considerations indicate otherwise;
- the duties imposed with respect to securing compatibility with Marine Plans, development plans or Wales Spatial Plan for areas which are related in, adjacent to, adjoining or affected by the Marine Plan area;
- the effect which any proposal for inclusion in the Plan is likely to have on any area which is in, adjacent to, adjoining or affected by the Marine Plan area;
- the results of any review of the Marine Plan (if the plan has already been published and been subject to such a review);
- the SPP;
- representations from any interested party;
- any advice sought from any person or body in relation to any matter in which that person or body has particular expertise;
- any plans prepared by a public or local authority in connection with the management or use of the sea or the coast, or of marine or coastal resources,

in the Marine Plan area or in any adjoining or adjacent area in England or Wales, Scotland or Northern Ireland;

- the powers and duties of the Crown Estate Commissioners under the Crown Estate Act 1961; and
- such other matters as the MMO considers relevant.

### **Representation period on draft Plan**

4.43 The Act states that a consultation draft Plan must be published and that it must ensure that the proposals in it are brought to the attention of interested persons, to allow public representations to be made on it<sup>87</sup>. The purpose of the representation period is to gather representations on the soundness of the Plan. Under the terms of the MMO's delegation, the draft Plan must be agreed by the Secretary of State prior to consultation.

At consultation stage the Draft Plan will be accompanied by the Sustainability Appraisal Report, incorporating the Environmental Report required by the SEA Directive. This corresponds with Stage D of Sustainability Appraisal, task D1 – see Table 1.

### **Review Plan proposals**

4.44 After the representation period has ended, the representations received must be considered<sup>88</sup> by the MMO.

Consideration of representations corresponds with the assessment of any significant changes at Stage D of Sustainability Appraisal, task D2 – see Table 1.

### **Independent Investigation**

4.45 The Act requires the Secretary of State to consider, after the public consultation and before adopting a Plan, whether there is a need for an Independent Investigation (II) of the Plan to resolve any outstanding issues.<sup>89</sup> The MMO should make recommendations to the Secretary of State as to whether such an

<sup>87</sup> Paragraphs 11-12 of Schedule 6 to The Marine and Coastal Access Act 2009.

<sup>88</sup> Paragraph 12 of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>89</sup> Paragraph 13 of Schedule 6 to the Marine and Coastal Access Act 2009.

investigation is required. Through engagement of and facilitation between stakeholders, it is expected that most issues will be dealt with within the marine planning process. The intention is to avoid the need for an II.

- 4.46 In making the recommendation to the Secretary of State on the need for an II, the MMO must have regard to any representations made in response to the request for representations on the matters to be included in the Marine Plan, any representations on the consultation draft, and the extent to which matters raised by representations on the proposals in the consultation draft have not been resolved and any other matters they consider relevant.
- 4.47 The terrestrial equivalent to an II is the Examination in Public (EiP) and the II process could draw from this process. It is likely that the II will take the format of a single Inspector and perhaps one or two independent experts if needed, as is the case for the EiPs of Development Plan Documents.
- 4.48 It is expected that when an II is required it will focus on specific issues/policies within the Marine Plan, to be defined by the Secretary of State based on the recommendations of the MMO, rather than the whole Plan. It is likely that attendance would be by invitation although it might be appropriate depending on the issues/policies being investigated that there be a public gallery.
- 4.49 In the first instance an investigator might view papers/representations prior to any hearing. It is possible that consultation responses could be utilised here as representations (thus decreasing further burden on stakeholders) if appropriate. If this route is taken it would need to be clear during the Plan consultation that responses could be used at the II stage and that relevant evidence should therefore be included. Dependent on the findings during this stage a hearing may either not be required or the length of a hearing could be shortened.

### **Plan adopted and published**

- 4.50 If an II has been undertaken, the MMO must consider whether to amend the Marine Plan in the light of the independent investigator's report. Regard must be given to any recommendations made as a result of the Independent Investigation and the reasons for those recommendations when finalising the text of a Marine Plan for adoption and publication.
- 4.51 The MMO is required to prepare and arrange for the publication of statements to be published alongside the Plan, setting out the changes made to a Marine Plan between consultation and adoption, reasons for those changes and reasons for not implementing any recommendations by any independent investigator.

The statement of changes and reasons corresponds with Stage D of Sustainability Appraisal, task D3, and should meet the requirement of the SEA Directive to provide information on how environmental considerations have been taken into account – see Table 1.

4.52 A Marine Plan is “adopted” when the marine plan authority has decided to publish the Plan. A Marine Plan may only be adopted by, or with the agreement of, the Secretary of State.

### **Implement, monitor and review**

4.53 The end of the plan-making phase is the start of the implementation phase. Plan implementation should link closely with the licensing and enforcement roles of the MMO, so that Plans can be put into effect through licensing and enforcement action. Although it is for the MMO to decide the precise methodology for assembling information, the evidence base should be updated with logs of licensing decisions, monitoring and implementation reports and other relevant information. Only in this way can the evidence base inform the Plan review process. Before Marine Plans are available, licensing decisions will be made in accordance with the MPS alone (see Chapter 7). Once in place, Marine Plans will be monitored – see Chapter 3 for detail on monitoring and review.

Monitoring of the implementation of the Plan corresponds to Stage E of Sustainability Appraisal – see Table 1. The monitoring arrangements should meet the requirements of the SEA Directive to identify adverse effects and to enable appropriate remedial action to be taken where such effects are found.

### Adapting the process

4.54 It is unlikely that every last detail of the planning process will run smoothly the first time a Marine Plan is created. This means that a system needs to be developed that can ensure planners (and stakeholders) learn from mistakes and improve future Plans. At the end of the plan-making process, any errors or bottlenecks documented as part of this system should be assessed and measures put in place to mitigate them in the next round of plan-making.

## Technology and tools used in the planning process

4.55 The Act does not define the technology and tools to be used in marine planning, but technologies which may be of use to the MMO include:

- websites to support the planning process, including the consultation process and information sharing – both for public information and information exchanged between specific partner organisations;
- an assured, national evidence base (comprising an electronic data store, metadata about the stored data, and an indexing system); and
- geo-referenced database GIS software to analyse, interpret and present data used in Plan development.

4.56 In 2008 Defra commissioned the Centre for Environment, Fisheries and Aquaculture Science (Cefas) to develop a set of GIS-based tools to aid decision-making through the marine planning process. The tools can model the individual and cumulative effects of competing marine activities and designations based on spatial data inputs. The tools can also be used to develop options to test the effects of future development, designations or activities. There are also a number of existing marine planning projects which have used tools and developed possible best practice which the MMO could draw upon and adapted where necessary, including SoMap, C-Scope and the Crown Estate's MaRS work<sup>90</sup>.

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<sup>90</sup> Both C-Scope (Combining Sea and Coastal Planning in Europe) and SoMaP (Towards a Marine Plan for the Solent) will create/have created end-user systems which can spatially represent policies, ecological features and marine activities. MaRS (Marine Resource System) is the Crown Estate's GIS-based decision-support tool.

## Chapter 5 Roles and Responsibilities

**This chapter sets out the roles and responsibilities that the public, regulators, industry and other stakeholders may play in producing and implementing Marine Plans.**

### **Introduction - engagement and the participatory approach**

- 5.1 The involvement of stakeholders will increase the likelihood of adopted documents being based on robust local evidence and accepted by a wide group of people, thus being effectively implemented so as to achieve the objectives of marine planning.
- 5.2 The MMO should instigate appropriate and effective engagement early with the public, industry, local government, regulators, academic bodies<sup>91</sup> and other stakeholder groups in the planning process. This is enabled through the provisions within the Act which require the publication of a consultation draft<sup>92</sup> and the publication of a Statement of Public Participation (SPP)<sup>93</sup>. Offering stakeholders the chance to be involved in the planning process during scoping as well as in the later preparation stages will give all parties a greater sense of ownership of the final Marine Plans.
- 5.3 Participation from the third sector (non-government, not-for-profit bodies) will enable access to alternative sources of data and broad support for Plans. Early and broad consultation, at a stage when any concerns and issues raised can be addressed and reflected in the Plans, would also lead to greater certainty for developers submitting licence applications. At present, developers may often risk significant financial commitment to a project before such concerns are raised.
- 5.4 In addition, a participatory planning approach from an early stage will enable increased public understanding of and engagement with the marine area. This applies as much to the monitoring and review process as to the plan-making process.

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<sup>91</sup> Including Research Councils and Higher Education Institutions

<sup>92</sup> Paragraph 11 of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>93</sup> Paragraphs 5-7 of Schedule 6 to the Marine and Coastal Access Act 2009.

## **The MMO and stakeholder engagement**

- 5.5 No credible Marine Plan can be produced by the MMO in isolation. Marine Plans should be based on the national, strategic and local goals and objectives for the plan area as determined by, among others:
- Plan area communities;
  - scientists, academics and other marine experts;
  - industry and other marine users;
  - other marine regulators; and
  - Government departments.
- 5.6 The MMO will need to work with a wide planning and regulatory community comprising groups of organisations with direct and indirect involvement in marine planning, either at a national or Marine Plan level. Most stages of the plan-making process will require some degree of collaboration between plan-makers and external bodies. The form that collaboration will take will differ across stages, depending on such factors as the information being exchanged, the size of the stakeholder group and the role of each stakeholder within the marine planning system. The wider planning community will complement the role of the MMO by bringing additional skills, knowledge and expertise.
- 5.7 When and how the MMO involves stakeholders in the process of creating a Marine Plan is largely down to the MMO to decide as long as it does so in accordance with the provisions within the Act with regard to the SPP and the consultation draft.
- 5.8 However, just as the MMO should have regard to existing planning and management arrangements within its Plan areas, so it should also have regard to existing consultation arrangements. As well as making best use of existing resources (for both marine and terrestrial planners) doing so should help to align consultation processes and thereby reduce 'consultation fatigue', given that coastal communities will now be consulted on both terrestrial and marine planning. The successful integration between the marine and terrestrial planning systems is of particular importance and is explored more fully in Chapter 6.
- 5.9 This would suggest that assessing the relevant Statement of Community Involvement (SCI) may be a useful first step when first approaching consultation in any given Plan area. SCIs are documents produced by each local authority listing those bodies and individuals involved in the preparation of



coastal Local Development Frameworks. They are therefore likely to be a valuable resource for the MMO.

### Role of the Statement of Public Participation

- 5.10 As set out in Chapter 4, the MMO is required to produce a SPP at the start of the plan-making process. Once it has been approved by the Secretary of State, the SPP will be published. It should consider the nature of the coastal community, marine users and other stakeholders affected in each Plan area and, as required by the Act, set out how the MMO will involve these stakeholders at each stage.
- 5.11 It is important that the MMO is as clear as it can be in the SPP on the realistic extent to which stakeholders will be able to influence a Plan, in order to manage expectations. The MMO will be responsible for publishing each draft Marine Plan for full public consultation in accordance with the SPP as well as co-ordinating responses; publishing a summary of those responses; considering the responses received and making any subsequent amendments to the Plan<sup>94</sup>.

### **Framework of Engagement**

- 5.12 The ideal framework of engagement is one in which stakeholders are permitted the time and freedom to input into the development of a common and shared vision, including goals and objectives, for the Plan area. This process should be facilitated and moderated through the appropriate and timely provision of specialist information on the part of the MMO. This specialist information should be illustrative as well as text-based, in order to facilitate visualisation of Plan goals and objectives and the reconciliation of differing perspectives.
- 5.13 Some organisations and stakeholder groups have already undertaken their own work to prepare themselves for marine planning in their area. Such groups, which include Coastal Partnerships, aim to raise awareness of local and national issues, empower local stakeholders and seek to resolve the numerous conflicts that occur in coastal areas. These groups offer real benefits to the development and implementation of the marine planning system, not least a readily available, established and locally trusted means of engaging with local stakeholders. Wherever appropriate, the MMO should utilise the services of existing mechanisms like these in order to achieve economies of scale and, most importantly, to benefit from the expertise, learning and experience which they can provide.

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<sup>94</sup> Paragraphs 11 – 12 of Schedule 6 to The Marine and Coastal Access Act 2009.

- 5.14 In addition, the Act provides that when preparing a Marine Plan or any proposals for inclusion in a Marine Plan, the marine plan authority may seek advice or assistance from anybody or person in relation to any matter in which the body or person has particular expertise<sup>95</sup>. Accordingly, the MMO may wish to consider seeking advice or assistance from scientific, academic or other bodies in the development of a Marine Plan.
- 5.15 When developing proposals for inclusion in a proposed Marine Plan or any consultation in connection with such proposal, the Act provides that the marine plan authority could convene groups of people for this purpose<sup>96</sup>. The MMO may accordingly wish to consider conducting workshops or other group activities when deciding which proposals to include in a Marine Plan.
- 5.16 As part of this proposed approach, the MMO may find it useful to set up a number of marine planning advisory groups, the precise number, location and nature of which will depend on local circumstances. Such groups, consisting of individuals or organisations with relevant responsibilities and interests, will be particularly important in helping the MMO in coastal areas due to the density of existing plans and governance arrangements.
- 5.17 The main role of the advisory groups would be to advise the MMO and contribute towards the preparation, implementation and monitoring of Marine Plans. The advisory group members could apply their knowledge and expertise of local issues, local planning systems and the way in which they affect local communities. The groups would contribute a balanced viewpoint and consider evidence and help the MMO to resolve conflicts and obstacles identified in the planning process.
- 5.18 Experience from elsewhere suggests that a balance needs to be struck between the range of involvement in the marine planning advisory groups and their added value. If the groups are too large, there is a risk that they may become unwieldy; too small, and there is a risk of under-representation.
- 5.19 The advisory groups would play a valuable role in facilitating public participation in the marine planning process by utilising their experience of stakeholder engagement and contacts within different communities and sectors. The MMO, together with the advisory groups, should make use of existing stakeholder networks and sources of expertise as far as possible.
- 5.20 Table 2 illustrates when in the planning process key stakeholders could be involved and the role which they could play.

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<sup>95</sup> Paragraph 8(1) of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>96</sup> Paragraph 8(2) of Schedule 6 to the Marine and Coastal Access Act 2009.

5.21 As already stated, successful stakeholder engagement depends upon early involvement. As an expert in marine management the MMO also has an important contribution to make in the education and preparation of stakeholders to assist their engagement in the marine planning process. The MMO will work with partners within the planning and marine management fields to achieve this role, for example undertaking regional workshops.

**Table 2: Potential interaction of key stakeholders with the marine planning process**

<b>Stage of Marine Plan</b>	<b>Nature of key stakeholder involvement</b>
Before Marine Planning starts	<ul style="list-style-type: none"> <li>• To sit on a marine planning advisory group and advise the MMO throughout the planning process</li> <li>• To advise the MMO on defining reporting area for each plan</li> </ul>
SPP & Stakeholder engagement	<ul style="list-style-type: none"> <li>• To be consulted on development of Plan SPP</li> </ul>
Scope content of Plan	<ul style="list-style-type: none"> <li>• To advise MMO on the scope of the Sustainability Appraisal Report</li> <li>• To advise MMO on Plan area evidence and data at scoping stage</li> <li>• To advise MMO on understanding future Plan area conditions/defining scenarios</li> <li>• To advise MMO on selecting preferred policy options</li> </ul>
Developing the Plan	<ul style="list-style-type: none"> <li>• To advise MMO on selection of indicators to monitor</li> <li>• To advise MMO on targets to set in the Monitoring Plan</li> <li>• To advise MMO on defining roles and responsibilities in the Implementation Plan</li> <li>• To be involved throughout each Plan's Sustainability Appraisal process</li> </ul>
Representation period on draft Plan	<ul style="list-style-type: none"> <li>• To be consulted on the draft Plan and accompanying Sustainability Appraisal Report</li> </ul>
Independent investigation	<ul style="list-style-type: none"> <li>• To participate in Independent Investigation if one is required</li> </ul>
Implementation and review	<ul style="list-style-type: none"> <li>• To fulfil any monitoring duties as defined in the Delivery Framework</li> <li>• To fulfil any implementation duties as defined in the Delivery Framework</li> <li>• To be a consultee in the Marine Planning system</li> </ul>

## **Role of Government, Regulators and Planning Organisations**

- 5.22 A wide participatory approach should be the aim of the MMO and the early engagement of all stakeholders including marine users, local coastal residents and businesses, tourism operators, land owners, developers etc is important.
- 5.23 It is vital that those organisations that already hold regulatory and advisory roles in, adjacent to, or adjoining the marine area are involved in planning from the earliest stages. These include: Government departments; local authorities; the Environment Agency; Cefas; IFCAs; English Heritage; the IPC; Natural England; JNCC; the Maritime and Coastguard Agency; National Park Authorities; Port and Harbour Authorities; and Trinity House. This is particularly important in ensuring that Marine Plans integrate effectively with other plans and management processes and that plan-led authorisation decisions can be taken by the relevant organisations. However, it is important to note that the decision to allocate time, funding and resources to marine planning is a decision for each organisation.

### Government Departments

- 5.24 Government Departments will have an oversight function throughout the marine planning processes as sponsors of the MMO and as owners of the main relevant Government policies for the marine area in the MPS. In addition to the MPS there are a wide range of other relevant documents, including Planning Policy Statements<sup>97</sup> and National Policy Statements, which set out Government policies for specific activities or areas, including objectives and targets where appropriate, which the MMO is likely to need to consult the relevant Department on. The MMO is also likely to need to consult relevant Departments during the planning process where prioritisation or potential conflict between delivery of national policies at the Plan area level has been identified, and when plan area policies and objectives are being determined. As lead Department for marine planning and through its leadership of the MMO sponsorship group, where appropriate Defra will facilitate cross-departmental discussions.
- 5.25 Government Departments will also have a key role to play in ensuring the engagement of their relevant agencies and regulators in marine planning. In addition, it is Government Departments that should advise the MMO in respect of our existing and emerging obligations at European level.

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<sup>97</sup> One of the key reforms to the terrestrial planning system which the Localism Bill will introduce will be to replace existing Planning Policy Guidance (PPGs) and Planning Policy Statements (PPSs) with a single National Planning Policy Framework

## Local authorities and National Parks (planning authorities)

- 5.26 There are a number of bodies with a statutory responsibility for implementing planning legislation. Local authorities prepare plans and deal with planning applications for their area. National Park Authorities are independent planning authorities for National Parks and under the Environment Act 1995 are required to produce a management plan: an over-arching strategic document for the Park, not simply for the Authority, which sets the vision and objectives to guide the future of the area. The MMO must have regard to any such plan when preparing a Marine Plan if it relates to the management or use of the sea, coast or of marine or coastal resources adjacent or adjoining the relevant Marine Plan area.
- 5.27 Local planning authorities and National Park Authorities also manage beaches and coastlines and their management duties in relation to designated bathing waters have increased recently with the implementation of the EU Bathing Water Directive.
- 5.28 The MMO should work closely with planning authorities to ensure that the policies of each Marine Plan are being implemented in a manner consistent with the various planning authorities' remits. In accordance with the Act the MMO must take all reasonable steps to secure that Marine Plans are compatible with the relevant terrestrial development plan<sup>98</sup>. It is recommended that the MMO takes integration beyond this requirement as there are instances where policies can be included in a Marine Plan that are not only consistent with but also help to deliver goals and aims within the remits of terrestrial planning authorities beyond a development plan.
- 5.29 There are a number of reports, plans and strategies produced by local authorities which the MMO may draw from when building the local evidence base for a Marine Plan. Examples include Statements of Community Involvement (as mentioned above) and Sustainable Community Strategies. Local Development Frameworks are intended to be a spatial expression of Sustainable Community Strategies which set out the strategic vision for a local authority area and so might prove useful as a starting point for the integration of marine and terrestrial planning policy.
- 5.30 Terrestrial planning authorities already encounter the effects of marine development and are involved in the consenting of such projects. For example, new wind farms, even in offshore areas far from the coast, require onshore infrastructure and will therefore straddle the boundary between marine and terrestrial plans in future. With the advent of the marine planning system, local

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<sup>98</sup> Paragraph 3 of Schedule 6 to the Marine and Coastal Access Act 2009.

authorities will be able to engage with the MMO at an early stage on proposals for marine developments that could impact on their area, to ensure that marine and terrestrial plans line up accordingly.

- 5.31 The Government is considering ways to best strengthen the mechanisms for formal engagement between the MMO and local authorities on the consenting of coastal developments, including through guidance and regulatory means.
- 5.32 Local planning authorities (both local authorities and National Park Authorities) also maintain or have access to Historic Environment Records<sup>99</sup>. The MMO is advised to look to such authorities in addition to English Heritage, for information and advice on the historic environment, particularly in relation to locally designated and undesignated heritage assets.

#### Area of Outstanding Natural Beauty (AONB) Conservation Boards

- 5.33 The statutory purpose of Areas of Outstanding Natural Beauty is to conserve and enhance the natural beauty of the area landscape. Many AONBs also fulfil a recreational role but, unlike national parks, this is not a designation criterion. The Countryside and Rights of Way Act 2000 brought in a requirement for AONB Conservation Boards, or, where one is not established, the relevant local authority, to create an AONB Management Plan, which is to be reviewed every five years.
- 5.34 If such a management plan was capable of affecting the UK marine area, then the decision to adopt that plan (by either the local authority or conservation board) would need to be made after having regard to the MPS and any relevant Marine Plan. In accordance with the Marine and Coastal Access Act, the MMO must have regard to any such management plan when preparing a Marine Plan if that management plan is prepared in connection with the management or use of the sea or the coast, or of marine or coastal resources in or around the relevant marine plan area.

#### Environment Agency

- 5.35 Due to its extensive riverine, coastal and marine remits, the Environment Agency (EA) should have involvement in marine planning from the earliest stages. It is also a designated SEA Consultation Body, and as such must be consulted during the Sustainability Appraisal process, as set out in Chapter 4. Its role and the data it holds will be particularly important in ensuring that Marine Plans integrate effectively with other plans and management processes

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<sup>99</sup> Details of HERs in England are available from the Heritage Gateway website at <http://www.heritagegateway.org.uk/Gateway/CHR/>

which will continue to operate. Where relevant the Scottish Environment Protection Agency should also be consulted.

- 5.36 A key issue is the relationship between River Basin Management Plans (RBMPs) and Marine Plans. RBMPs support environmental goals and objectives for estuaries and coastal waters and are required under the Water Framework Directive. They are prepared by the Environment Agency in liaison with stakeholders.
- 5.37 RBMPs set out the pressures that the water environment faces out to one nautical mile from low water. RBMPs set out the state of the water environment and take a holistic 'whole catchment' approach to management. They set out actions that will be taken to address pressures on rivers basins and what improvements are possible by 2015. While some aspects of RBMPs can be implemented separately from the planning system, many measures proposed in the RBMPs will involve activities that properly fall within the planning sphere.
- 5.38 Both terrestrial and Marine Plans may be important in planning for delivery of the targets and aspirations of RBMPs. Marine plan-makers must have regard to RBMPs. Marine Plans will need to cross-reference other measures that have an impact on the Plan area and RBMPs are a good example. Where, for instance, an RBMP places limits on the level of pollutants that can be discharged in a specific river basin, the Plan will have to support this limit. As such, the MMO may consider it appropriate to include references and/or policies<sup>100</sup> relating to the relevant RBMP(s) in a Marine Plan.
- 5.39 Shoreline Management Plans (SMPs) will also be of relevance for inshore Marine Plans. SMPs provide a high level assessment of the physical risks associated with coastal processes and present a long term framework to manage these risks for people and the developed, historic and natural environment in a sustainable manner. The Environment Agency works closely with local authorities through Coastal Groups on the production of SMPs and has the strategic oversight for their production and quality control.
- 5.40 Water quality and migratory fisheries issues in estuaries and coastal waters are generally managed by the EA. In inland areas the EA's role is mainly as a regulator of abstractions and discharges, construction works that are in, on, over or close to watercourses, exploitation of freshwater fisheries, waste and some land affected by contamination, navigation on some rivers and a consultee on development applications<sup>101</sup>.

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<sup>100</sup> Like all Marine Plan policies, such a policy would have to be in conformity with the MPS unless relevant considerations indicate otherwise.

<sup>101</sup> Terrestrial planning policy and guidance make it clear that terrestrial planning processes and the EA's regulatory remits should be separate and not overlap. However, LDF policies nevertheless

5.41 A similar situation prevails in coastal waters and is likely to continue after the introduction of Marine Plans. In coastal and estuarine waters the Environment Agency also gives flood risk consents for construction works. The extent of these depends on local byelaws, the nature of the works and in some instances if the works are on a main river, but are generally within estuaries and close to the flood defences.

Natural England, Joint Nature Conservation Committee, Countryside Council for Wales, and Scottish Natural Heritage

5.42 The MMO should look to Natural England (NE) for advice and data when formulating inshore Marine Plans. Countryside Council for Wales (CCW) and Scottish Natural Heritage are responsible for providing similar advice for Marine Plans bordering or affecting Welsh or Scottish waters. They are also designated SEA Consultation Bodies and as such must be consulted during the Sustainability Appraisal process, as set out in Chapter 4. For offshore Marine Plans, the Joint Nature Conservation Committee (JNCC) should also be consulted. All four organisations may have roles in providing relevant information for a Marine Plan, wherever it lies with regard to administrative boundaries/inshore or offshore regions.

5.43 Natural England and JNCC have a key role in delivering England's commitments to the Marine Strategy Framework Directive and the Birds and Habitats Directives. Both organisations will be able to provide advice on the MPA network, with Natural England also able to advise on seascape considerations. Natural England and JNCC will need to be consulted for both offshore and inshore plans since decisions and planning in offshore Plan areas may have implications for MPAs, in particular, in the inshore area.

5.44 The MMO should have regard to the work being carried out on the future designation of MCZs and European sites including the development of associated management measures for consideration in consenting and planning industry activities, and their input into the conservation of European Protected Species. In addition JNCC provides advice to Government on habitats and species conservation issues arising from the Common Fisheries Policy throughout UK waters. There should be collaboration in these fields between the MMO, Natural England and the JNCC.

Cefas

5.45 The Centre for Environment, Fisheries and Aquaculture Science (Cefas) is an executive agency of Defra and will play an important role in providing a broad

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reflect a wide range of environmental requirements (including water quality, fisheries, habitats etc) and EA does engage in the planning process accordingly.



range of marine science and advisory services to the MMO. It is the repository of a large amount of knowledge and data about the state of the marine environment and the impact of human activities over time. The MMO will need to draw on a range of data, including that currently held by Cefas in delivering its functions. We envisage a two-way exchange of information between the two organisations, particularly in respect of activities relating to the marine planning evidence base.

### English Heritage

5.46 Given its remit as Government's statutory advisor on the terrestrial and marine historic environment, the MMO should look to English Heritage for information and advice when having regard to the desirability of:

- conserving marine heritage assets (both designated and undesignated); and
- contributing to our knowledge and understanding of our past

throughout the formulation and implementation of inshore Marine Plans. English Heritage is also a designated SEA Consultation Body, and as such must be consulted during the Sustainability Appraisal, as set out in Chapter 4. English Heritage may also offer advice on offshore Marine Plans.

5.47 Data sharing with the National Monuments Record and local Historic Environment Records (HERs) will be an important component of the working relationship between the MMO, English Heritage and local planning authorities. English Heritage will also be able to advise the MMO on seascape considerations.

### Infrastructure Planning Commission

5.48 In the marine area in England and Wales, the Infrastructure Planning Commission (IPC) will examine and, where a relevant National Policy Statement (NPS) has effect, determine applications for development consent for nationally significant infrastructure projects (NSIPs) as defined by the Planning Act 2008. In the marine environment such infrastructure could, for example, include electricity generating stations with capacity of over 100MW and nationally significant harbour facilities.

5.49 When the IPC takes a decision on an application for development consent, it must decide in accordance with the relevant NPS, unless certain exceptions apply. It must also have regard to the MPS and Marine Plans as well as other matters.

5.50 The MMO is a statutory consultee for NSIPs which will affect the marine area. The MMO will have an important role in ensuring the project includes

appropriate mitigations for any adverse impact a development may have on the marine environment or other uses of the sea.

- 5.51 The MMO will then be responsible for enforcing the marine parts of development consent orders issued by the IPC. Guidance from the Secretary of State to the MMO made under Section 23 of the Act covers the MMO's role in advising the IPC.
- 5.52 The Government has proposed to abolish the IPC and transfer the decision-making on these types of projects from the IPC to Ministers. These changes will be introduced through the Localism Bill. Until legislative changes are made the IPC will remain and will continue to work with the MMO on nationally significant projects which may affect the marine area. It is proposed that a Major Infrastructure Planning Unit should take over the functions of the IPC, but as part of the Planning Inspectorate and reporting to the Secretary of State. The intention is for the same work arrangements to continue between the MMO and this new unit when it is in place.

#### Inshore Fisheries and Conservation Authorities

- 5.53 Inshore Fisheries and Conservation Authorities (IFCAs) have a duty to cooperate with any public authority that exercises functions relating to the regulation of activities carried on in any part of the sea lying within its district, or enforcement in that part of the sea.
- 5.54 They must also contribute to the achievement of sustainable development, the sustainable management of sea fisheries resources and the conservation of flora or fauna in their districts. Each IFCA is either a committee or joint committee of the local authorities in the district, with elected representatives from each local authority having at least one seat on each Authority. They will deliver responsive and flexible management of fisheries to meet local needs, in line with the legislative and other frameworks set by Central Government and others, including Marine Plans.
- 5.55 The MMO and IFCAs should work closely together to deliver joined-up management of inshore waters. In so doing, they will build on the collaborative working between the Marine and Fisheries Agency (now the MMO) and Sea Fisheries Committees, the predecessor bodies to IFCAs, that has developed significantly over recent years. IFCAs will be able to undertake functions in the marine environment on behalf of the MMO. A seat on each of the IFCA Committees has been assigned to the MMO to facilitate this relationship, and the MMO is responsible for appointing volunteer IFCA members with fishing, angling, marine conservation and other relevant interests.

5.56 IFCA's are a critical repository of long-term knowledge and data on the inshore marine environment and there should be a two-way exchange of data and information between the two organisations. The activities of IFCA's will be guided by Marine Plans and, as such, they should be involved in their development at the earliest stages.

#### Maritime and Coastguard Agency

5.57 The geographic areas of operation of the MMO and the Maritime and Coastguard Agency (MCA) overlap but they have very different functions. It is envisaged that their general relationship is primarily one of mutual cooperation as and when appropriate. The MCA could potentially be a member of the proposed marine planning advisory groups, play a role in the preparation of Marine Plans, and will be a consultee in relation to shipping and navigational issues. The MCA also holds significant data about the marine environment. Consideration should be given as to how the MMO and MCA will work together to maximise the benefit derived from this.

#### The Crown Estate

5.58 The Crown Estate is a public authority under the Marine and Coastal Access Act 2009 and as such must make any authorisation or enforcement decisions that affect or may affect the UK marine area in accordance with Marine Plans and the MPS. Any other decisions affecting this area made by the Crown Estate must be made with regard to these marine policy documents. This status as a public authority also means that when developing Marine Plans the MMO is to have regard to any plan in connection with the management or use of the sea or coast, or of marine or coastal resources prepared by the Crown Estate.

5.59 The Crown Estate has a unique role in marine planning as it owns virtually all the seabed out to the 12 nautical mile territorial limit, including the rights to explore and utilise the natural resources of the UK continental shelf (excluding oil, gas and coal); around 55% of the foreshore and approximately half of the beds of estuaries and tidal rivers in the United Kingdom.

5.60 The Energy Act 2004 vested rights to the Crown Estate to license the generation of renewable energy on the continental shelf within the Renewable Energy Zone out to 200 nautical miles. The Crown Estate does not own the water column or govern public rights such as navigation and marine fisheries, nor do they carry out monitoring within the marine area. The Crown Estate currently carries out resource planning for activities for which they lease out the seabed (e.g. wind farm development and aquaculture). Under the Act, the MMO is required to have regard to the powers and duties of the Crown Estate

Commissioners under the Crown Estate Act 1961 when preparing a Marine Plan<sup>102</sup>.

### Planning Inspectorate

5.61 Appeals against refusal of terrestrial planning permission and inquiries are dealt with by the Planning Inspectorate (PINS). PINS could be involved in Independent Investigations within the marine planning system. If an Independent Investigation is required an investigator or investigators will be appointed to provide advice and recommendations on how issues may be resolved and Plans may be improved. The final format that this investigation will take will be decided by the Secretary of State on the advice of the MMO. Further detail on this process can be found in Chapter 4.

### Harbour Authorities (also known as Port Authorities)

5.62 The powers and responsibilities of harbour authorities derive in the main from specific local legislation, tailored to meet the needs of each harbour. Under these local Acts and regulations, each harbour authority is responsible for administering the harbour and coastal waters within its jurisdiction and maintaining the safety of navigation. In addition harbour authorities have a legal responsibility over the UK marine area as local lighthouse authorities within the meaning of Section 634 of the Merchant Shipping Act 1894. Harbour Authorities are classed as public authorities under the Marine and Coastal Access Act 2009 and as such must make any authorisation or enforcement decisions that affect or may affect the UK marine area in accordance with Marine Plans and the MPS. In addition any other decisions that may affect this area made by these authorities must be made with regard to these marine policy documents. This status as a public authority also means that the MMO should have regard to any plan in connection with the management or use of the sea or coast, or of the marine or coastal resources prepared by a Harbour Authority when developing Marine Plans.

### **Voluntary Agreements**

5.63 In any Plan area, there will be pre-existing marine activities that are not regulated by public bodies (for example, small scale recreational boating). Voluntary initiatives and management schemes are often used to manage such activities. These activities tend to be less regulated because they often cause negligible or no significant damage to the wider marine environment, are well established, or give rise only to limited and manageable interference to other sea users.

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<sup>102</sup> Paragraph 9(2)(i) of Schedule 6 to the Marine and Coastal Access Act 2009.

5.64 Should the MMO judge these activities to have an impact on local areas that are particularly sensitive from a biodiversity point of view, the MMO's powers, including its by-law making powers in respect of MCZs, may be deployed to ensure protection for these locations through the marine planning, licensing and enforcement system.

### **Memoranda of Understanding (MoUs)**

5.65 MoUs will exist between a number of key stakeholders and the MMO. These high-level documents will articulate the nature of the relationship between the two bodies by outlining general principles and methods of joint working and may cover subjects such as data management. It is not envisaged that details with regard to marine planning will be covered by within the main body of the MoUs but that high-level information might be included in the Annexes attached to these documents. Once they have been agreed and signed by both parties the MoUs will be available for the general public to view.

# Chapter 6 Interaction between Terrestrial and Marine Planning

This chapter sets out how the marine planning system will interact with terrestrial planning arrangements, and provides practical detail on how that interaction will occur.

## The marine planning system and terrestrial planning

### The benefits of marine-terrestrial policy integration

- 6.1 Some activities that take place on land can have a significant impact on the marine environment and vice versa. Many marine activities also rely on land-based facilities and infrastructure. This makes joined-up management of coastal areas important. Some sectors are also active both on land and at sea, and developments can have both marine and land based elements. The systems that we introduce for the marine area must therefore accommodate these complex interrelationships.
- 6.2 As Marine Plans will extend up to the level of mean high water spring tides while local authority boundaries generally extend to mean low water spring tides, Marine Plans will physically overlap with terrestrial plans. This is particularly significant in tidal rivers. The overlap ensures that marine and land planning will address the whole of the marine and terrestrial environments respectively, and not be restricted by an artificial boundary at the coast. Indeed the geographic overlap between marine and existing terrestrial plans should encourage different organisations to work effectively together and strive to ensure that sensible harmonisation of plans is achieved. National and local objectives should be reinforced if they are reflected in each of the different plans.

### How marine-terrestrial policy integration could work

- 6.3 Marine planning can only be fully integrated with terrestrial planning if the marine planning system is designed with terrestrial planning in mind. For this reason, while putting together our recommended approach to marine planning, we have tried to reflect within the marine planning system many tried and tested features of the UK's Town and Country planning system as it has developed over the last 60 years. The current terrestrial planning system or parts of it have acted as a guide for the marine system, specifically in respect of:
  - the well-understood hierarchy of plans;

- strict procedures with time limits;
- sound evidence base for decisions;
- planning guidance;
- new processes for stakeholder engagement, and
- openness, democratic accountability and process for public scrutiny or independent inquiries of plans.

6.4 Within the marine planning system, the MMO should act to facilitate the process of land-sea policy integration, both through the legislative provisions of the Act<sup>103</sup> and the development and implementation of Marine Plans. To the greatest reasonable extent, Marine Plans should try to build on and reinforce existing terrestrial policies rather than add to or otherwise complicate them. This is likely to be the easiest and clearest way to deliver the duty of compatibility between Marine Plans and terrestrial development plans as required by the Act.

6.5 For this to happen, planners at the MMO should seek growing understanding of and involvement in the terrestrial planning system<sup>104</sup> while community and local authority involvement in preparing Marine Plans will help increase land-side knowledge of marine planning.

6.6 All public authorities on land or at sea, including the MMO, must take any authorisation or enforcement decision that affects or may affect the marine area in accordance with appropriate marine policy documents unless relevant considerations indicate otherwise. The exception is for decision-makers for nationally significant infrastructure projects (NSIPs), although they must still have regard to these documents.

6.7 Terrestrial planning policy and documents already address coastal and estuarine planning, and should already take into account relevant national policies with a marine dimension. Marine policy guidance and Plans should seek to complement these policies rather than replace them, recognising that both systems may adapt and evolve over time.

6.8 A process of alignment should come about through liaison between respective terrestrial and marine planning authorities through the Plan development, implementation and review stages. This liaison will provide a forum for resolving any identified conflicts between terrestrial policy and the emerging

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<sup>103</sup> For example, Paragraph 1 of Schedule 6 to the Act requires the MMO to give notice to local planning authorities before it begins developing a new Marine Plan.

<sup>104</sup> There are a variety of possible mechanisms to help achieve this, for example through collaborative working, training, tutorials, mentoring, secondments and so on.

Marine Plan<sup>105</sup>. In addition, the evidence base underpinning planning should be shared so as to achieve consistency in the data used in plan-making and decisions on land and at sea. Lessons should be learned from applying and implementing the principles of Integrated Coastal Zone Management.

- 6.9 As well as working with terrestrial planning authorities, the MMO should work closely with the Environment Agency, Natural England, JNCC, English Heritage, IFCA, the Crown Estate, Coastal Partnerships and many other coastal stakeholders to integrate management of the seas with land planning. In all activities which impact on the coast, the MMO and other delivery bodies should work to ensure coastal stakeholders have a say in how their local environment is managed.
- 6.10 As required by the MPS the marine planning system should give careful consideration to the impacts of marine activities on the coast (e.g. pollution, seascape and visual amenity, noise, extra marine or land traffic into ports, cables running into connecting stations on land) and also to terrestrial impacts on the marine environment. The evidence base should be used in establishing these impacts.
- 6.11 The MPS also makes clear the importance of the socio-economic links between what happens at sea and the communities that will be affected by changes to those activities. By placing coastal communities at the interface of two planning systems, marine planning has the potential, where appropriate, to contribute to the transformation of coastal towns from geographically peripheral areas to hubs for sustainable economic growth, based on the shared terrestrial and marine evidence bases.
- 6.12 As noted in Chapter 4, Marine Plans will be subject to a Sustainability Appraisal<sup>106</sup> which will incorporate the requirements of the EU SEA Directive<sup>107</sup>. This will cover relationships with other relevant plans and programmes, and so can be used to establish how far Marine Plans integrate with terrestrial plans.

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<sup>105</sup> It could also help resolve any relevant conflicts between two or more terrestrial plans with which the Marine Plan is attempting to achieve compatibility.

<sup>106</sup> Paragraph 10 of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>107</sup> Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SEA Directive).



## The MPS and terrestrial planning

6.13 The MPS brings together policies which affect, or exist within, the UK marine area. The most fundamental way in which the MPS joins with the terrestrial planning system is that decisions taken by public authorities on land which affect or might affect the marine environment must (if enforcement or authorisation decisions) be in accordance with the MPS unless relevant considerations indicate otherwise. Any other decisions must take account of the MPS.

6.14 The MPS also joins up with terrestrial planning policy through ensuring consistency with the National Policy Statements (NPSs) produced under the Planning Act 2008. The MPS draws on the National Policy Statements (where relevant). It should, however, be remembered that the MPS has a broad scope across the marine area, whereas NPSs focus on individual sectors and the national need for infrastructure development.

## Marine Plans and statutory terrestrial plans

6.15 The Act requires that in preparing or amending a Marine Plan the MMO must take reasonable steps to ensure that the Plan is compatible with any development plan or Wales Spatial Plan for any area which is affected by, or is in, adjoins or is adjacent to the Plan area<sup>108</sup>. Such plans include:

- Development Plan Documents (DPDs) within Local Development Frameworks (LDFs); and
- Spatial Development Strategies (SDSs).<sup>109</sup>

6.16 Local planning authorities should play a key role in the marine planning system and be fully involved throughout. They and the MMO should work closely together to integrate management of the sea with land at the coast. This joined-up approach will be particularly important for creating Marine Plans that are able to provide a clear policy context for licensing developments which affect both sea and land and ensuring appropriate land-based development is in place to support marine activities.

6.17 There is no reciprocal obligation on terrestrial planners with respect to creating compatibility between the development plan or Wales Spatial Plan with the Marine Plan<sup>110</sup>. But when a local planning authority adopts a terrestrial plan that may affect the UK marine area, that authority is required to have regard to the MPS and any relevant Marine Plan<sup>111</sup>.

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<sup>108</sup> Paragraph 3 of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>109</sup> In practice, the only SDS in England comprises the London Plan and/or future Plans for London.

<sup>110</sup> But see paragraph 1.8.

<sup>111</sup> Section 58(3) of the Marine and Coastal Access Act 2009

- 6.18 Provisions within the Act amend the Planning Act 2008 by inserting a reference to the MMO as a body that must be consulted in any case where a proposed nationally significant infrastructure development might affect any area in which the MMO operates<sup>112</sup>. However, this addresses authorisation decisions rather than integration of plans. Marine issues which are material to a development plan document should be taken into account by local authorities to ensure that the plan is sound. Scoping work, options testing, consultation and the examination process all offer opportunities to reflect key issues facing the area.
- 6.19 All Marine Plan areas with a coastal boundary will overlap with the plan areas of several LDFs. As part of scoping the content of a Marine Plan, it is recommended that the relevant LDFs (and, where relevant, River Basin Management Plans and Local Transport Plans) be placed in a Plan area document inventory. Each of their policies that have a marine dimension or impact should then be listed by the MMO. This list of relevant policies from the LDFs may then be assessed alongside all of the other components of the document inventory to form inputs to emerging Marine Plan policy.
- 6.20 All of these inputs should then be cross-referenced with the MPS. If any conflict is found, planners should try to resolve it with reference to the Act, which states that a Marine Plan must be in conformity with the MPS unless relevant considerations indicate otherwise, and also consult with Government Departments if appropriate. In the case of LDF policies within the Plan area, given that the MPS has regard to national (terrestrial) planning policies, and that LDFs base their policies on the same national policies, in theory conflicts are likely to be rare. Marine Plan policies should therefore be able to fulfil both their duties of seeking to take reasonable steps to ensure compatibility with terrestrial policies and of being in conformity with the MPS.
- 6.21 Marine Plans will be larger in geographic scale than LDFs. In theory, this might present problems in achieving compatibility between Plan area considerations in Marine Plans and local considerations in LDFs. In practice, the provision for area-specific policy in Marine Plans (see Chapter 3) could be a useful tool where compatibility is easier to achieve in one place in the Plan area but not elsewhere. Equally, the common-sense application of area-specific policy may be useful in the event that the policies relating to a marine planning matter of two or more LDFs overlapping a single inshore Plan area are in conflict with one another.

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<sup>112</sup> Section 23 of the Marine and Coastal Access Act 2009.

## Marine Plans and other plans prepared by public authorities

6.22 There is also a requirement when preparing a Marine Plan to have regard to any other plan prepared by a public or local authority in connection with the management or use of the sea or coast, or of marine or coastal resources in the area in, adjoining or adjacent to the Marine Plan area<sup>113</sup>.

6.23 Examples of statutory plans drawn up by public authorities that are likely to be relevant are:

- River Basin Management Plans (RBMPs);
- AONB Management Plans;
- National Park Plans;
- Air Quality Action Plans;<sup>114</sup>
- Management schemes for European Marine Sites; and
- Local Transport Plans (LTPs).<sup>115</sup>

6.24 There are also non-statutory plans drawn up by public authorities which should be considered such as:

- Shoreline Management Plans;
- Round 3 offshore wind farm plans
- beach management plans;
- heritage coast plans;
- existing marine planning pilot projects;
- estuary, coastal or coastal habitat management plans;
- sector-specific management plans with a coastal/marine dimension (e.g. port or harbour masterplans); and
- coastal economic regeneration strategies.

6.25 The MMO should build sound relationships with the relevant public authorities at a national and sub-national level to ensure early involvement in the process. This will enable the skills, experience and knowledge of coastal managers and terrestrial planners to feed into Marine Plans.

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<sup>113</sup> Paragraph 9(h) of Schedule 6 to the Marine and Coastal Access Act 2009.

<sup>114</sup> Required in designated Air Quality Management Areas under Section 84 of the Environment Act 1995.

<sup>115</sup> i.e. the statutory Local Transport Plans under section 108 of the Transport Act 2000 as amended by section 9 of the Local Transport Act 2008.

### Other plans that may be relevant

6.26 Many other plans, policies and strategies created by a range of other organisations overlap with Marine Plan areas. Although there is no legal duty for the MMO to have regard to such documents, if the data, evidence and stakeholder consultation suggest benefits from doing so, and conformity with the MPS is not at risk, the MMO may find it useful to consider them to make the Plan more robust.

6.27 Equally, the developers of such plans and strategies may wish to work with the MMO towards ensuring compatibility of their documents with the MPS and Marine Plans, thereby allowing greater integration and continuity of policy objectives into the marine planning system.

### **Best practice in integrating Marine Plans with terrestrial plans**

The ideal situation would be one where all terrestrial/coastal plans and policies have ensured during their policy development the ‘marine-proofing’ of their content: in other words, the implications for the marine space of any terrestrial policy with coastal application or relevance has been considered fully and is set out clearly throughout all text<sup>116</sup>. However, as stated above, there is no obligation for local authorities or other terrestrial bodies to do this.

At the same time, Marine Plans should ensure fully ‘terrestrial-proofed’ policy content: in other words, the implications for the marine space of any policy with terrestrial application or relevance will be considered fully and be set out clearly throughout all text.

With an as yet untested marine planning system, it is too early to state the current extent of land-side ‘marine-proofing’ and of marine-side ‘terrestrial-proofing’ of policies. But marine planning system will be more effective, useful and sustainable if terrestrial and marine planners are aware from the outset that the parallel processes of terrestrial-proofing and marine-proofing are desirable in all land-sea policy interaction.

### Practical examples of integrating Marine Plans with terrestrial plans

6.28 This section provides some hypothetical (and non-exhaustive) examples of specific occasions where the interaction and/or overlap of terrestrial and marine policy and Plans may be particularly important. These examples are provided purely for illustrative purposes. Further guidance and examples may be developed by the MMO in conjunction with terrestrial planning authorities.

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<sup>116</sup> In a similar way, some policies in recent years have been through a ‘rural-proofing’ process to ensure that they take full account of rural issues; the same could happen for marine issues.

## Safeguarding marine characteristics from inappropriate terrestrial interventions

- 6.29 Without a proper appreciation of what lies beneath the water surface, any terrestrial development (even entirely above mean high water) could risk endangering opportunities in the marine area.
- 6.30 One example would be former dockside or port land being converted to waterfront residential use without consideration of deep-water access. If deep-water access for shipping is available only in limited locations within a given terrestrial authority area, and these locations are gradually being developed for non-port related activities without consideration of marine impact, the terrestrial authority might not only be unknowingly undercutting the local socio-economic and environmental benefits of transporting goods by ship, but in addition would be undercutting the socio-economic and environmental benefits at a national level, as set out in the MPS.
- 6.31 This example demonstrates how the establishment of marine planning provides an opportunity for local authorities to better understand the marine impacts of terrestrial development, in conjunction with 'coastal policies' in the terrestrial plan, including how even wholly terrestrial planning permissions that are relatively limited in scale can have substantial implications across an entire Marine Plan area.
- 6.32 This is why authorisation decisions by public authorities must be made in accordance with the MPS and Marine Plans if the decision will or may affect the marine environment, unless relevant considerations indicate otherwise<sup>117</sup>. If, in the example given here, the MPS or the relevant Marine Plan states that deep-water access must be preserved, that will influence the terrestrial authorisation decision.

## Integrating approaches to conservation across the land-sea boundary

- 6.33 Both terrestrial and marine plan-makers should take account of environmental designations on either side of the land-sea boundary and reflect them in their own policies, based on a full understanding of the evidence base behind the designation. This reflects the fact that coastal ecosystems and heritage assets may straddle the land-sea divide.

## Coastal erosion and coastal flooding

- 6.34 Coastal erosion and coastal flooding are currently considered mainly through the terrestrial planning system and the Coastal Change Management Areas identified by local planning authorities drawing on advice from Shoreline

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<sup>117</sup> Section 58 of the Marine and Coastal Access Act 2009.

Management Plans. The majority of issues linked to coastal erosion and coastal flooding, particularly those relating to their socio-economic impacts, are to be found on the landward side of the coast and therefore need to continue to be addressed through coastal policies including the terrestrial planning system.

- 6.35 However, many flood and coastal erosion risk management and flood defence interventions are located below mean high water and therefore will require MMO involvement. Although each individual application will be considered through the licensing rather than the planning systems, in Plan areas where coastal erosion and/or coastal flooding is a known issue, policy support to guide the decision making process, in the context of the MPS and the relevant Shoreline Management Plan, will be important.
- 6.36 Another example of how marine-side decisions may affect the mobility of coasts and/or tidal flood risk is the changes in hydrodynamics (and thus movement of sediments) that might result from marine development or interventions. It is possible that such interventions may not even be located within the same Plan area as the mobile coast or the area of increased tidal flood risk<sup>118</sup>. Here, appropriate policy safeguards and/or licensing conditions should help ensure that development does not cause or exacerbate flood and coastal erosion risk elsewhere.
- 6.37 Despite the many, often intractable, problems associated with coastal erosion and coastal flood risk, the powers of plan-makers on the marine side are limited in mitigating their effects. As in the current situation, it is support from Government and relevant national bodies on the land side rather than from the MMO that will be of most relevance to local authorities affected by coastal erosion or tidal flooding.

Aligning with terrestrial policy on interventions with a physical marine impact

- 6.38 The MMO should seek to align Plan policies with those of terrestrial authorities in respect of terrestrial development and activities with a physical impact on land partially or entirely covered by water. Such developments could range from ports to barrages to recreational infrastructure.
- 6.39 Local plans may give policy support to as-yet unconstructed development or activity with a marine impact (for example, a new bridge or port development<sup>119</sup>) with its proposed location marked on the proposals map. This means, as

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<sup>118</sup> Hence the importance of establishing a reporting area for each Marine Plan.

<sup>119</sup> For the purposes of this example, we shall assume that the port development is smaller than the threshold beyond which NSIP decision-makers would regulate its development. If it were above this threshold, the situation would become simpler, with such decision-makers consulting the MMO on a case-by-case basis, irrespective of whether the development lies within an adopted Marine Plan area.

described above, that when the MMO comes to prepare a Marine Plan for the relevant Plan area, these policies should be taken into account alongside the others that have a marine impact and supported through the Marine Plan unless the MPS or other relevant considerations indicate otherwise.

- 6.40 In this case, relevant considerations might be related to marine characteristics or development that the terrestrial authority is unaware of, such as marine nature designations. Marine issues affecting proposed development that terrestrial planning authorities may have been unaware of would seem most likely to occur in cases where the terrestrial authority's plan was adopted before the MMO came into being.
- 6.41 Conversely, where terrestrial plan policies seek to regulate development (e.g. within coastal conservation designations) the MMO's duty to seek compatibility with terrestrial plans would suggest that it, too, would seek to align its Plan policies in a similar manner in the relevant location.
- 6.42 Sometimes, this two-way process of policy alignment might work the other way around. An example is where marine development (even far offshore) may have a terrestrial planning impact in terms of onshore infrastructure support. In this case, the terrestrial planning authority may find it useful to ensure alignment of policy with the marine side, even though it is under no statutory obligation to do so.

#### Landscape designations

- 6.43 Many landscape designations, such as Areas of Outstanding Natural Beauty (AONBs), the Broads and National Parks, Heritage Coasts, UNESCO World Heritage Sites<sup>120</sup>, may be found on the coast. Where this is the case, Marine Plans should ensure that any nearby development or marine activity is located, designed or managed sensitively. Its potential impact on the designation should be carefully considered and the aim should be to avoid compromising the objectives of designation of these areas, for example as set out in their management plans.
- 6.44 Marine Plan policies will need to reflect the requirement in the MPS to take account of the visual impacts on seascape in coastal areas. Where this is the case, liaison with relevant terrestrial authorities will be important in order to develop a joint understanding of the terrestrial and marine policy framework affecting such designations.

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<sup>120</sup> Some World Heritage Sites are cultural designations rather than landscape designations. In either case, Marine Plans should seek to avoid adverse impacts from nearby marine activity or development on them.

## Promoting general awareness of the divide between marine and terrestrial issues

- 6.45 As may be clear by now from the preceding examples, the MMO will have an educational role to play beyond plan-making in terms of raising awareness of the land-sea policy interface. The MMO is uniquely positioned to do this, given that its competence extends around the entire English coast. It should be able to provide real-life examples and case studies similar to those above in order to inform future iterations of marine and terrestrial plans. The MMO should therefore ensure that it plays its role in the ongoing process of 'marine-proofing' terrestrial policy and decisions and in 'terrestrial-proofing' marine policy and decisions.
- 6.46 A key part of this process will be to work with stakeholders in defining, particularly in cases of development with impacts on both seaward and landward sides, which impacts are terrestrial, which are marine, and which are both. Needless to say, those that are purely terrestrial are beyond the remit of the MMO and should be addressed by the relevant planning authority on land.



# Chapter 7 Plan Implementation and Decision making

**This chapter provides guidance to decision-makers and regulators on how to implement Marine Plans. It also considers the period from the commencement of marine planning through to the adoption of all Marine Plans. It outlines the transitional arrangements for decision making for activities during this period in areas where Marine Plans have not yet been produced.**

## **Overview**

- 7.1 The goals and objectives of the marine planning system will be achieved, in part, through authorisation and enforcement decisions taken by the MMO and other public authorities acting in accordance with Marine Plans and the MPS.
- 7.2 Plan implementation will link closely with the licensing and enforcement roles of the MMO, so that Plans can be put into effect through licensing and enforcement action. The marine planning system has been designed so that authorisation and enforcement decisions undertaken by public authorities are Plan led.
- 7.3 Before Marine Plans are available for all regions, authorisation and enforcement decisions will have to be made in accordance with the MPS and with regard to other emerging relevant considerations as set out under transitional arrangements below.

## **The planning system and the marine licensing regime**

- 7.4 Part 4 of the Act introduces a streamlined marine licensing system which brings together and extends requirements under existing regimes. This will allow the MMO to apply a consistent approach to licensing across a broader range of activities than is currently the case. Part of that approach will be the regard that MMO gives to Marine Plans in considering marine licence applications.
- 7.5 The MMO's planning and licensing teams should both aim toward a consistent understanding of the planning and regulatory issues throughout the cycle of developing, using and reviewing Plans.
- 7.6 As now, decision makers should weigh up the potential beneficial and adverse impacts of any proposal. They should draw on identifiable lines of evidence to consider the impacts of any proposal. The availability of Marine Plans and the

MPS will help this process by allowing decision makers to take decisions in accordance with clear policies so as to achieve specific goals and objectives.

- 7.7 As now, where alternative site selection, design or development and operational processes could mitigate effects, the licensing team will consider this. They should take a risk-based approach that allows for uncertainty, recognising the need to use sound science responsibly as set out in the high level objectives for the marine area.
- 7.8 In determining a marine licence and any conditions attached to it, a marine licensing authority will have regard to:
- any representations made during any consultation process;
  - the need to protect the environment;
  - the need to protect human health;
  - the need to prevent interference with legitimate uses of the sea; and
  - any other relevant matters.<sup>121</sup>
- 7.9 Under the Act, local authorities in whose areas activities are proposed to take place must be notified of relevant marine licence applications. Local planning authorities are a statutory consultee for any project that comes within the scope of the Marine Works (Environmental Impact Assessment) Regulations 2007 and it is expected that the MMO will consult them for other projects where relevant.
- 7.10 Marine Plans will not affect the validity of licences granted before the Plan was drafted.

### **Marine licensing decisions following the adoption of Marine Plans**

- 7.11 The marine planning system will be amongst the main inputs to the consideration of a marine licence application and the decision to grant or refuse a licence because it will give clear direction as to the nature of activities that may be permitted in a given location. The Marine Plan for each area will have drawn on detailed information, expertise and advice in applying the MPS. Each Plan area's vision, objectives and programmes for achieving these will have been appraised for their sustainability. By taking decisions within the framework of the planning system, decision makers will be able to contribute to the delivery of the aims and objectives of the MPS and the achievement of sustainable development

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<sup>121</sup> As required under section 69(1) of the Marine and Coastal Access Act

7.12 Once Marine Plans are adopted, marine licensing and enforcement decisions should, in addition to the considerations highlighted above, also:

- be in accordance with the adopted Marine Plan unless relevant considerations indicate otherwise;
- be in accordance with the objectives of adopted Marine Plans whose areas may be affected by the decision, unless relevant conditions indicate otherwise;
- be conducted in a manner that takes account of other relevant projects, programmes, plans and national policies and guidance; and
- be taken after liaison with relevant terrestrial planning authorities.<sup>122</sup>

7.13 Potential applicants will be able to refer to Marine Plans and/or the MPS when considering whether to make an application for a marine licence. The licensing process provides information which can be drawn on, following determination of applications, to inform the evidence base for future rounds of planning. This includes:

- information collated by the applicant in support of their application;
- information provided by consultees and stakeholders in respect of that application;
- conditions attached to licenses that are granted and the reasons behind these;
- information obtained as a consequence of conditions attached to licenses;
- for applications that are refused, reasons for refusal;
- information on when relevant considerations are used as reasons for not taking licensing decisions in accordance with the MPS or Marine Plan; and
- monitoring and implementation information gathered by the MMO or others in respect of the license.

7.14 Practical experience gained in this way will provide valuable understanding of issues which will feed back into assessment of the effectiveness of the decision made and will provide input to the review cycle of the MPS and Marine Plans.

7.15 Although bodies should act in line with the provisions of the marine planning system, at the time of taking a decision there may be relevant considerations as well as the Marine Plan. For the planning system to be effective, licensing decision makers need to be able to act in a flexible way and depart from the

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<sup>122</sup> As required under Part 4 of the Marine and Coastal Access Act.

Plan if relevant considerations indicate that another course of action is more appropriate.

7.16 In that event, the licensing decision-maker would have to set out clear and convincing reasons for taking this course of action and ensure the decision and reasoning is recorded through the Delivery Framework. This will feed into the evidence base supporting any necessary amendments to Plan specific policies or objectives in future rounds of Plan making.

7.17 This is an approach that is already very familiar on land. Under the Town and Country Planning Act 1990<sup>123</sup>, as amended by the Planning and Compulsory Purchase Act 2004<sup>124</sup>, planning decisions are required to be made in accordance with the development plan unless material considerations indicate otherwise.

7.18 Such an allowance for 'relevant considerations' alongside the provisions of the marine planning system applies to all public authorities making decisions that may have implications for the UK and/or England's marine area. Relevant considerations might include (amongst others):

- the results of any Habitats Regulations Assessment or EIA undertaken as part of the decision making process, which may reveal information additional to or different from relevant Plans;
- the dynamism of and/or changes and/or new discoveries within the marine environment (e.g. oil and gas);
- existing, new, or changed, statutory obligations;
- scientific and significant technological advances;
- other licensing and/or consenting regimes; or
- appropriate and effective ways to respond to emergency situations.

7.19 Those familiar with the terrestrial planning system will appreciate the strong similarity of the non-exhaustive list above to the definition of 'material considerations' on land. However, less is known about the marine environment than the terrestrial environment. The likelihood of new information emerging during the licence decision-making process is therefore perhaps greater for projects at sea than on land.

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<sup>123</sup> Available at <http://www.legislation.gov.uk/ukpga/1990/8/contents>

<sup>124</sup> Available at <http://www.legislation.gov.uk/ukpga/2004/5/contents>

## **Role of National Policy Statements**

- 7.20 Decisions made by the IPC on nationally significant infrastructure projects must be taken in accordance with National Policy Statements and have regard to the MPS and Marine Plans.
- 7.21 Other public authorities, including the MMO, will consider NPSs as relevant or material considerations when taking authorisation or enforcement decisions. NPSs will also help to inform the development of Marine Plans. For infrastructure which is not classed as nationally significant the MPS will be the primary policy document in the UK marine area.

## **The planning system and the enforcement regime**

- 7.22 The new marine planning system, as well as new licensing, conservation and fisheries functions, will be undermined if it is not complemented by effective enforcement.
- 7.23 The MMO and its key partners in each Plan area should work together to enforce these new regimes. Enforcement involves a variety of tools, from inspection and advice to provision of incentives and, as a last resort, penalty regimes to punish non-compliance and remedy harms arising from it. As in monitoring, some enforcement regimes may already exist. Where this is the case, we would encourage the MMO to work with its partners to ensure alignment of such regimes with the objectives of the relevant Plan and/or the MPS.
- 7.24 Enforcement action, or more specifically data relating to it, will be fed back to those engaged in monitoring activity to help ascertain the extent to which policies have been complied with (both through licensing decisions and more generally). This will ensure that impacts of policies on the environment and other uses of the sea are within the limits anticipated by the MMO and other actors in the marine planning system.
- 7.25 The MMO will be responsible for enforcing IPC-consented marine projects. The decisions taken on enforcement by the MMO must be in accordance with the MPS and relevant Marine Plan, unless relevant considerations indicate otherwise.<sup>125</sup> A relevant consideration for the MMO in enforcing such a consent may be that the IPC has not authorised the project in accordance with the Marine Plan.

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<sup>125</sup> Section 58 (4) of the Marine and Coastal Access Act 2009.

## Transitional arrangements

7.26 It will be some time before the first Plans are adopted and there are Plans covering the entire English inshore and offshore regions. Once planning is in progress, decisions will need to be undertaken in the context of the MPS, newly adopted and emerging Marine Plans and other relevant and emerging documents.

7.27 Throughout the development and implementation of Marine Plans there will be a process in which Marine Plans emerge as drafts providing evidence and information.

7.28 Once a consultation draft<sup>126</sup> of the Marine Plan for an area has been published, it forms a relevant consideration to be taken into account in informing authorisation and enforcement decisions made by public authorities in connection with activities that affect or might affect the marine area.

7.29 There are a number of principles that should apply to decision making prior to the adoption of Plans. Though similar to those described above, these look to identify a number of policy issues that will need to be addressed as these will not have already been considered in development of the Marine Plan for the area affected by the decision. It should also be noted that in many cases these principles and processes are a significant step forward in themselves in ensuring the sustainable development of marine resources as a consequences of the Act.

7.30 Authorisation or enforcement decisions should:

- be in accordance with the policies set out in the MPS and draw on the detailed information and advice of that document, unless relevant considerations indicate otherwise;
- take into account the relevant policy objectives of any draft Marine Plans;
- be in accordance with the objectives for the achievement of other Marine Plans and have regard to their impacts on the achievement of objectives of draft Marine Plans, where relevant (see 'Transitional arrangements, above);
- contribute to the achievement of sustainable development;
- be conducted in a manner that meets statutory requirements under UK and EU legislation and is consistent with our obligations under international law;
- be conducted in a manner that takes account of other relevant projects, programmes, plans and national policies and guidance;

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<sup>126</sup> As defined in schedule section 65 of the Marine and Coastal Access Act 2009.

- take account of and be in accordance with existing consents, authorisation and/or licenses;
- be taken (if they are marine licensing decisions) after liaison with relevant terrestrial planning authorities<sup>127</sup> and other regulators, and in consultation with statutory advisors when appropriate;
- be streamlined where possible, making effective use of existing data and in particular the evidence and information available from the strategic scoping exercise;
- be taken using a risk-based approach that allows for uncertainty, recognising the need to use sound science responsibly as set out in the high level objectives for the marine area (including the precautionary principle);
- be sensitive to any potential impacts on sites of particular significance – including sites designated in relation to environmental protection or marine heritage assets, otherwise significant in terms of environmental concerns, or of particular socio-economic interest;
- look to mitigate negative impacts where possible at various stages of development including appropriate conditions in line with legal obligations. Where alternative site selection or design could mitigate effects this should be considered where possible; and
- take account of potential impacts of climate change in individual applications to ensure that any appropriate adaptation measures have been identified.

#### Role of the draft MPS during the transitional period

7.31 Until the adoption of the MPS, public authorities should have regard to the draft MPS in taking decisions and in applying the principles set out above. It has been suggested that during the transitional period additional guidance may be needed to oversee the areas where Marine Plans are not yet in place. However, it is difficult to see how a national plan/ strategy could add value and not be a duplicative layer and constraint on area specific Marine Plans. There would have to be a clear and defined need and certainty that it would not constrain the community based approach to marine planning, particularly in the light of the additional resources that a national level plan would require. However, given that marine planning is a new process, whether any national level policy document (of any type) is needed will be kept under review.

#### Role of other relevant Government policies

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<sup>127</sup> As required under Part 4 of the Marine and Coastal Access Act 2009.

- 7.32 Where the Government has established clear policies for the marine area that do not, for any reason, appear in the MPS, then reference should be made to any other agreed policy documents when taking authorisation or enforcement decisions, in consultation with the relevant department if appropriate.
- 7.33 Decision makers should have full regard to such policies and seek to comply with their objectives where relevant, whilst at the same time acting in accordance with the MPS.

#### Use of evidence and role of the strategic scoping exercise

- 7.34 A robust evidence base should be used to inform decisions to as full an extent as possible, drawing on different, identifiable lines of evidence to consider the different impacts from a proposal. The precise nature of the impact will depend on a number of factors, including the type of activity under consideration, the local marine environment, biodiversity and/or ecosystems, nature conservation policies, local air quality, heritage assets, the local economy, its social effects and compatibility with other activities.
- 7.35 As explained in Chapter 2, before Marine Plans can start to be formulated, the MMO will prepare a strategic scoping exercise to inform all Marine Plans for the English inshore and offshore regions. The strategic scoping exercise will also deliver valuable information that the licensing function of the MMO will use to contribute to a more holistic approach to individual licensing decisions where a Marine Plan is not yet in place. Licensing decisions once taken, and the evidence gathered which underpins them, will also add to the national evidence base.
- 7.36 A support tool is being developed which uses the evidence base to assess pressures, sensitivities and cumulative impacts of multiple uses of the sea.

#### **Authorisations with impacts on other Marine Plan areas**

- 7.37 It is possible that decisions within one Marine Plan area (whether or not it has an adopted Plan) may affect the achievement of the objectives of another Marine Plan area (whether or not it has an adopted Plan). The authorisation or enforcement decision should be taken in accordance with the MPS and with regard to impacts on the achievement of the objectives in both Marine Plan areas.

#### **Marine Plans under review**

- 7.38 Decisions should be taken in accordance with the MPS and adopted Marine Plan for a relevant area even while the Marine Plan for an area is under review.



When a revised draft Plan emerges this will form a relevant consideration, and if there are good reasons, may be cited as a reason for departing from the adopted Plan objectives in decision-making.

### **Marine Plans that are withdrawn**

7.39 If Marine Plans are withdrawn and not replaced, authorisation and enforcement decisions should be taken firstly in accordance with the relevant marine policy documents available (the MPS and other relevant Marine Plans), and secondly in accordance with any other appropriate policy documents and/or evidence as described above.

## **GLOSSARY**

Throughout this document, selected planning terms have been adapted from the UNESCO definitions set out in 'Marine Spatial Planning- A Step-by-Step Guide', as follows:

**GOAL** - A goal is a statement of general direction or intent. They are high-level statements of the desired outcome that you hope to achieve. Goals provide the umbrella for development of all other objectives and reflect the principles upon which subsequent objectives are based.

**INDICATOR** - An indicator is a measure, quantitative or qualitative, of how close we are to achieving what we set out to achieve, i.e., our objectives or outcomes.

**MONITORING** - Monitoring is a continuous management activity that uses the systematic collection of data on selected indicators to provide managers and stakeholders with indications of the extent of progress toward the achievement of management goals and objectives.

**OBJECTIVE** - An objective is a statement of desired outcomes or observable behavioural changes that represent the achievement of a goal. Characteristics of good objectives are that they are Specific, Measurable, Achievable, Relevant, and Time-bound, i.e., SMART.

**TARGET** - Targets are the interim steps on the way to achieving a longer-term outcome.