Regulatory Policy Committee

Designation of the third tranche of marine conservation zones

Department of Environment, Food and Rural Affairs (DEFRA)

RPC rating: fit for purpose

Description of proposal

The objective of the policy is to designate a third and final tranche of 'marine conservation zones' (MCZs) in English inshore waters and offshore waters adjacent to England, Wales and Northern Ireland. The Department describes MCZs as an essential component of an ecologically coherent network of marine protected areas (MPAs).

The government has a legal duty to designate MCZs under the Marine and Coastal Access Act 2009 and has already designated 50 MCZs in two previous tranches. This third tranche will designate a further 41 MCZs and add 29 additional nationally important habitats, species and geological features in 12 existing sites designated in the 1st and 2nd tranches.

Impacts of proposal

Business Costs

Overall costs to business are expected to amount to £9.9 million over the 20-year appraisal period. Costs to business are split into two distinct categories:

(a) for features already in a 'favourable' condition, MCZ designation will protect them against the risk of degradation from future human activities. Businesses will need to assess the environmental impact of their activities on newly protected features/zones. Affected sectors are: aggregate extraction; navigational dredging and disposal; oil and gas-related activities; port and harbour developments; cable installation and renewable energy developments. The total additional cost to business for these environmental assessments is £4 million. Familiarisation costs have not been monetised.

(b) In some instances, specific changes need to be made to protect the designated features within the MCZ. Affected sectors are fishing and recreation. Management requirements will be determined on a site-by-site basis; therefore, costs are based on the most likely management scenarios. Ongoing costs are expected to amount to £5.9 million, including lost gross value added (GVA) to commercial fisheries due to restricted access to potential fishing areas (£1.7 million); and potential management requirements for recreation activities due to restrictions on equipment businesses can use or areas in which businesses may operate (£4.2 million). The cost to business of obtaining licences for archaeological activities ('heritage assets') is not monetised, due to a lack of available information about future licensing applications. However, the Department assumes these costs to be small, since impacts will be addressed as part of the licensing system currently in place.

Small and micro businesses

The Department assumes all businesses in the fishing and recreational sectors are small or micro businesses (SMBs), and therefore all costs to these sectors fall on them.

Public costs

The Department estimates costs of £60.7 million to the public sector. This includes one-off transitional costs of £0.2 million and ongoing costs of £0.05 million for national defence, of adjusting and maintaining electronic tools and charts. Other on-going costs include £36.2 million for conducting the ecological survey required for the Department to fulfil its obligation to report on the progress of MPAs. Ongoing site management costs total £24.2 million. Flood and coastal erosion risk management will pose a cost for the government, but due to uncertainty regarding licence applications, the Department is unable to monetise this cost.

Benefits

The Department assumes that people will derive benefits from protecting featured sites even if they do not actually use them. These benefits include the non-use value (value of retaining the possibility of using a site in the future); the bequest value (the value of securing the site for future generations); and existence value (the value of knowing that the site and its sea life is secured regardless of any other benefits). The Department estimates that the non-use value alone of protecting the newly designated sites could benefit society by £262 million. The other two 'value' benefits could not be monetised due to a lack of scientific evidence.

MCZ research and monitoring can contribute to our understanding of marine ecosystems and potential beneficial uses of marine species. This benefit could not be monetised due to information gaps.

Tranche 3 includes several features that are particularly efficient sequesters of carbon. Because MCZs only change the quality of these habitats, rather than complete creation (or loss) of habitat, current studies are insufficient in enabling the Department to monetise these impacts.

The following benefits have not been monetised by the Department. The Department states that this is because no new economic evidence has been considered since tranche 2, and further explains in annex B why monetisation has not been possible for each benefit:

- Habitat and species recovery, which can lead to improvements in populations of fish and shellfish for human consumption;
- Habitats that can provide natural hazard protection in the form of erosion control;
- The protection of a wide range of species and habitats that can increase resilience to natural and human pressures, including climate change; and
- The regulation of pollution (nutrient recycling).

Quality of submission

The RPC welcomes the submission of this de minimis measure, particularly to provide continuity as IAs on earlier tranches were submitted under the previous Better Regulation Framework.

The Department has provided a clear and detailed assessment of the impacts of the proposal, and the RPC particularly commends the extensive research gathered to monetise costs to business. The IA is fit for purpose for informing Ministerial decision-making and proportionate given that it is a de minimis measure under the existing framework. The small and micro business assessment (SaMBA) is sufficient and the business net present value and equivalent annual net direct cost to business (EANDCB) figures are proportionately evidenced.

As with the previous two tranches, the Department assesses impacts over a 20-year period. The RPC is satisfied with this approach under the circumstances of this measure. Costs and benefits of designation are long term in nature and the majority of costs repeat annually or periodically beyond 10 years.

While the overall net present value is only a partial and unrepresentative estimate of the full impacts due to the difficulty of monetising the benefits, the RPC is satisfied that the Department has provided sufficient qualitative analysis of benefits. While the RPC considers the IA fit-for purpose, there are various aspects in the IA that could be improved.

Areas for improvement

1. **Small and micro business assessment.** The SaMBA is considered as just fit for purpose given the relatively low impact of this measure. However, regarding commercial fisheries and recreational sectors, the Department should consider potential mitigation options. For other sectors, despite SMBs only making up a small proportion of businesses, the Department should discuss whether costs falling on that minority are disproportionate. It is also not clear from the IA how the Department plans to help businesses to understand the requirements. SaMBA analysis should start from the default position of exemption. This is clearly set out in the new RPC SaMBA checklist.

2. **Unsupported assumptions.** The Department expects that some fisheries that can no longer carry out their fishing activity in MCZs will shift their activity to other, unrestricted, locations, which the Department describes as 'displacement'. The Department has sufficiently expanded on the fishing activity displacement assumption of 75 per cent since the consultation (paragraph 7.32). The Department also states that this is likely to underestimate the rate of displacement, and, therefore, overestimate the cost to business (paragraph 7.32). However, despite two consultees challenging this assumption, arguing that in their sector costs may be higher, the Department has opted not to adapt cost estimates. Given the heterogeneity of MCZs, and that fisheries experts have expressed concern over the reduction of stocks of certain marine life in these areas, the Department should consider the potential costs in these areas, especially given the assumption that all commercial fisheries are small businesses.

3. **Methodology:**

    a. **Familiarisation costs.** The Department should attempt to monetise familiarisation costs to business or explain why this has not been possible.

b. **Impacts on civil society organisations (CSOs).** The IA should include analysis of the impact of the measures on CSOs that could be affected, for example conservation groups. If impacts are direct, they should be included in the EANDCB

c. **Pass-through.** There appears to be no consideration of whether businesses will pass through costs of this measure to consumers. The Department could consider this possibility if it is proportionate to do so.

d. **Direct/indirect costs.** The Department appears to have calculated the costs associated with the loss of 25 per cent of GVA to commercial fisheries in MCZ areas, and retention of 75 per cent of GVA to these businesses as a result of displacement, as direct impacts. The RPC takes this to mean these costs have been counted towards the EANDCB. The Department could explain why it considers the effects of displacement to be direct, rather than indirect, in line with the RPC's case histories guidance. However, the Department's approach appears proportionate given that the impacts are low and within the de minimis threshold regardless of the treatment of displacement effects.

e. **Use of GVA to measure business impacts.** The IA frequently refers to the IAs for the previous two tranches; broadly similar approaches have been taken in consultation and analysis for this tranche. However, The Department could explain why it considers GVA to be an appropriate measure for business impact target purposes, rather than net profit, taking account of the RPC's guidance in this area. The RPC is happy to discuss this with the Department. In this case, the Department's approach is proportionate since whether GVA or net profit is used the overall impacts on business are small and within the de minimis threshold.

f. **Missing costs.** The Department appears not to have considered costs to the Crown Estate, which owns much of the country's seabed and is both a public body and a statutory commercial business. The IA would benefit from including such an analysis.

4. **Post-implementation review (PIR).** The IA should include a more comprehensive description of the Department's PIR plan for this specific measure. For example, the Department could explain how data will be collected and assessed, although this may change post-consultation with stakeholders.

5. **Testing of assumptions at consultation.** Overall, the assumptions made are realistic and appear to have been adequately tested at consultation. However, in some instances this is unclear. For example, where the Department states that *'…no issues were raised concerning the estimation of costs…'* (paragraph 7.66), it is unclear whether assumptions were explicitly confirmed or rejected by consultees. The Department should clarify this point.

6. **Presentation of methodology.** The IA would be improved if the Department explicitly stated the present value of each cost in the body of the IA, rather than the average annual cost. Additionally, the Department could clearly distinguish between total familiarisation costs, and on-going costs. The Department has included these calculations in annex D, but could helpfully bring them into the main body of the IA.

Departmental assessment

Classification	Non-Qualifying Regulatory Provision
Equivalent Annual Ned Direct Cost to Business (EANDCB)	£0.7 million
Business present value	-£9.9 million
Overall net present value	-£70.6 million

RPC assessment

Classification	Non-Qualifying Regulatory Provision (*de minimis*)
EANDCB – RPC validated	£0.7 million
Small and micro business assessment	Sufficient

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