



Scottish Government
Marine Strategy Division
Victoria Quay
Edinburgh
EH6 6QQ

06 October 2008

Dear Sirs

**“Sustainable Seas for All” – Consultation on Scotland’s First Marine Bill
The Moray Firth Partnership Response**

The Moray Firth Partnership welcomes the opportunity to take part in this consultation exercise on proposals for Scotland’s first Marine Bill. We were also pleased to have been able to assist in setting up three public consultation meetings around the Moray Firth area. The response from delegates taking part in these well-attended meetings has been very positive, and the significant effort made by Scottish Government personnel to arrange meetings around the coast has been much appreciated.

As mentioned within the attached response, the Moray Firth Partnership broadly welcomes the proposed new legislation and the unique opportunity presented for such a significant change in the way Scotland’s coastal and marine resources are developed and managed, including the practical implementation of Integrated Coastal Zone Management (ICZM). This would however be subject to the final proposals achieving practical measures that minimise bureaucracy whilst still being inclusive and allowing full consultation, achieving an approach with high level objectives that is consistent across the UK regions and compatible with our EU responsibilities, and subject to a clearer definition of the relationships and interactions between Marine Scotland, SMR’s and other key stakeholders.

With regard to Scottish Marine Regions, we see a potentially significant role for Local Coastal Partnerships where they already have a strong presence, including possibly acting as lead partner. The Moray Firth Partnership (see summary below) has significant experience in bringing together stakeholders and organisations in the Moray Firth area to help build consensus and assist in dispute resolution and would welcome discussing this possible role further with the Scottish Government / Marine Scotland.

We recognise the enormity of the task still ahead, and the short timescale proposed to determine the final shape of the Marine Bill proposals, and offer our support and assistance where appropriate.

Yours faithfully

A handwritten signature in black ink that reads "Sinclair Young".

Sinclair Young
Chair, The Moray Firth Partnership

Notes re Moray Firth Partnership

- The Moray Firth Partnership (MFP) was established in its current format, as a charity and company limited by guarantee, in 1996. Our aim is to promote the integrated and sustainable management of the natural, economic, recreational and cultural resources of the Moray Firth area. We seek to achieve this by providing an effective network that assists integration, co-operation and consensus-building among Moray Firth stakeholders and promoting the integrated and sustainable management of the Moray Firth.
(See www.morayfirth-partnership.org)
- The Partnership is a voluntary coalition of a wide range of organisations and individuals, with over 630 members. Membership is free and open to anyone with an interest in the Firth. Members include local authorities and statutory agencies, fishing interests, port and harbour authorities, oil and other commercial interests, local community and recreation groups and individuals who live, work and have an interest in the Firth.
- Our area of remit includes over 800km of coastline from John O'Groats round to Fraserburgh and the coastal waters out to 12 mile limit, as well as the river systems that feed into the Firth.
- The role of the MFP in supporting change involves promoting the principles of Integrated Coastal Zone management (ICZM); raising awareness and promoting best practice; facilitating involvement and integrated working across organisational and spatial boundaries; enabling sharing of information and ideas; facilitating co-operative planning for the long term; promoting innovative and tangible results through action; conflict resolution; and brokering and monitoring change.

Moray Firth Partnership – Consultation response

‘Sustainable Seas For All’- Scotland’s first Marine Bill

N.B. The following comments reflect the consensus view of the Board of Directors of the Moray Firth Partnership. We have not attempted to reflect the diversity of views held by the over 630 members of the Partnership, all of whom have been encouraged to submit their own response.

Chapter 1 - Setting the Scene

Q1. Do you agree that change is needed to the management and legislative framework for managing Scotland’s seas?

Yes. We need to move from a segregated and sectoral approach to an integrated, strategic system that balances existing and future economic and social use with conservation informed by science and innovation.

To achieve this, we consider it would be essential to have consistency in approach and high level objectives across the UK regions, with a streamlined, integrated process to minimise bureaucracy.

Any legislative changes should adopt a “light touch”, recognising the scope for achieving major change by voluntary means.

It is also essential that the new management framework caters for the long term nature of many of the elements of coastal zone management. The recognised ICZM policy development cycle is 8 – 15 years, meaning that forward planning should look towards a 25 years timeframe. Although short term objectives and outcomes will be achievable, it is vitally important that this work is not tied into unrealistically short -term timetables and that the need for a long term plan and objectives is accepted unilaterally at the outset.

Q2. For each of the following areas, do you agree that Scottish Ministers/ Scottish Parliament should put in place a new legislative & management framework to deliver:

a) a new system of marine planning for the sustainable use of Scotland’s seas;

Yes; as long as it effectively reduces the overall bureaucratic burden and integrates and harmonises with the terrestrial system to create an effective land/sea interface. It should also learn from the problems encountered with the terrestrial planning system and aim to avoid / overcome these. The terrestrial planning system is based on development, whereas the marine plan should be a spatial plan, also taking into account temporal issues.

b) improvements to marine nature conservation to safeguard and protect Scotland’s marine assets;

Yes; we support in principle the proposal to rationalise powers for site and species protection out to 200nm where appropriate, as long as sufficient resources are put in place to achieve this.

Any proposed designations for Marine Protected Areas for nationally important marine species, habitats and other features should be based on valid scientific data and assessment, and follow the precautionary principle, taking wider ecosystems into account.

While socio-economic aspects, including traditional uses, should have due cognisance within the process, these should not take ultimate precedence over sustainably safeguarding Scotland’s marine assets for future use. Further clarification is also needed re the hierarchy of designations, e.g. between Marine Protected areas and Natura sites.

c) a streamlined and modernised marine licensing and consents system;

Yes; as long as it is consistent with the system adopted for the rest of the UK to provide a level playing field for interests and industries that operate in the wider UK and not just Scottish waters; Any new system must link closely with the emerging spatial planning approach, which should be completed in Scotland as a matter of priority.

d) better stewardship backed up by robust science and data;

Yes; as long as there is a national and regional system of objectives, indicators and performance measures to underpin the stewardship

e) a new structure, Marine Scotland, to deliver sustainable seas for all?

Yes; as long as its remit is realistic and clearly laid out, its relationships to other organisations (current and proposed) are well thought through and its timescales and resources are adequate.

Q3. What difference would these changes make to your area of interest?

We see marine planning as one part of a suite of tools to achieve sustainable Integrated Coastal Zone Management and would welcome this being recognised within the Marine Bill. The Moray Firth Partnership (MFP), (and other coastal partnerships) have been working on a voluntary basis for over twelve years to promote integrated working, cooperation and joined up thinking with regards to the management and stewardship of the area's maritime assets. A lot has been achieved in that time, and there is now widespread acceptance of the benefits of such an integrated approach. Although the MFP has had longstanding cooperation and financial support from a wide range of stakeholders, including SNH, local authorities, ports and harbours, oil companies, etc., support from other stakeholders to this voluntary ICZM approach has been mixed, especially where there is any staff time or financial implication. The proposed statutory recognition of the principles of ICZM will help secure the support and cooperation of other stakeholders.

The MFP is inclusive, bringing together and reflecting the interests of a wide range of stakeholders. Our "neutral" status allows us to help achieve conflict resolution, and by providing an open forum for early discussion and sharing of concerns, we can help avoid entrenched positions brought about by lack of information and fear of change. We have developed networks of contacts and act as a forum for the gathering and sharing of information and ideas across local boundaries, and with wider national and international interests. For example, we were instrumental in setting up and facilitating the Moray Firth SAC Management Group (in 1991), as well as the Moray Firth Fisheries Action Group, which is cooperating in setting up a Moray Firth Inshore Fisheries Group which will hopefully be achieved in early 2009.

We see a continuing need and role for organisations such as the Moray Firth Partnership, especially where the proposed drive towards economic development is likely to increase potential conflicts of interest. We offer our services to help Marine Scotland set up the Scottish Marine Region Boards and to develop local plans.

The MFP's 2008/09 work includes gathering further data about the Moray Firth that will be required by organisations involved in marine planning. This includes looking at the potential impacts of increased population, marine recreation and tourism over the next thirty years, and identifying potentially sensitive areas / pressure points / cumulative impacts. We are also working to review local regulations and environmental mitigation measures, and assessing the effectiveness of these, especially voluntary agreements such as the Dolphin Space Programme.

Q4. Scottish Ministers believe there are strong practical reasons for further discussion with the UK Government on the allocation of responsibilities around the seas of Scotland. Do you agree with this approach?

Yes: we consider that both the UK and Scottish Marine Bills should include a pan-UK policy statement. We request that detailed consideration is given to identifying a practical approach and an adaptable mechanism within the eventual bill to enable the resolution of cross border

and other boundary issues within an ecosystem approach that spans administrative jurisdictions. This is already recognised in the development of the Solway-Tweed River Basin District with regard to the Water Framework Directive, which may form an appropriate model for consideration.

Chapter 2 – Creating Stability

▪ Integrated Coastal Zone Management

Q5 Do you agree with the overall 3-tier approach to marine planning in Scotland?

Yes, we consider a three-tier approach is appropriate, although the local level plan will in practice likely require to be broken down into more detailed sub-area plans.

While economic development is a major driving factor, this still has to be done within the context of sound and sustainable environmental limits commensurate with the ecosystem approach. An example of this (although not a devolved matter) is the issue of oil and gas exploration licensing within environmentally sensitive areas, such as the Moray Firth Special Area of Conservation.

Q6 Do you have any comments on the proposals for a National Marine Plan and the role of Marine Scotland in relation to planning at the Scotland level?

A lot remains unclear and requires further detailed consideration – e.g.

-whether the National Marine Plan will be the part of the evolving National Planning Framework that deals with matters beyond the Mean Low Water mark of Spring tides (MLWS) or whether it will be a Plan in its own right, given that it will be fundamentally different from the established terrestrial regime. Either way, there needs to be close integration between the two regimes to allow effective and efficient planning.

- Would Marine Scotland, or the local SMR be the statutory consultee for aquaculture or other planning applications beyond low water mark? Would local planning authorities have to consult with the Scottish Marine Regions when determining planning applications, where applicable?

- climate change and coastal defence issues

Q7 Do you have any comments on the approach to setting out the national objectives for marine planning?

National objectives must fit within a longer term strategy, be flexible and able to be changed if required to reflect dynamic environments and the changing needs of coastal and marine users. These must be proactive, not reactive.

SMR's are unlikely to be set up in time to contribute to setting national priorities, so MS should be responsible for setting high level national planning priorities and objectives that also reflect the international context. These should be holistic in scope and should be based on the guiding principles of sustainable development.

The Scottish Marine Bill must also fully integrate with the provisions envisaged in the Scottish Government's Climate Change and Flooding Bills, which are also to be introduced during the same session of the Holyrood Parliament, as well as proposals for fisheries management and aquaculture.

Q8 Do you agree with the overall approach to planning at the international level beyond Scotland? Do you have any further suggestions or comments to add to the proposed approach, in particular on the UK high level objectives?

Yes. Given the short timescale within which these high level priorities must be set, and in order to help rationalise and simplify cross border and wider international administrative

issues, we hope that there will be close liaison and cooperation between the Scottish and UK government to agree a consistent approach and sign-up to UK wide high level objectives, and to contribute to our wider responsibilities under the Marine Strategy Framework Directive, that also take account of the needs and national legislation of other countries. This should extend to enhancing opportunities for international cooperation and joint projects, and not just focus on the legislative aspects.

Q9 Should Scottish Ministers use the Marine Planning system to deliver Scotland's obligations under the Marine Strategy Framework Directive?

We understand that substantial work is ongoing to establish precisely what Scotland's obligations under the Marine Strategy Framework Directive will be, and how this fits into the wider common EU Maritime Policy. The MSFD makes specific reference to a programme of measures including "spatial protection measures, contributing to coherent and representative networks of marine protected areas, adequately covering the diversity of the constituent ecosystems" to achieve good environmental status. The marine planning system would therefore not be sufficient alone to meet Scotland's obligations under the MSFD, but should provide an ideal tool to help achieve this

Q10 Do you agree with the overall approach and functions for Scottish Marine Regions? Do you have any other comments on the proposed approach to planning at a regional level?

Whilst we agree in principle with the reasons for setting up Scottish Marine Regions and Boards, there are inevitably a number of practical issues that have yet to be addressed regarding how these are constituted and the resources they will require. If the SMR Boards were to have delegated responsibility for plan making and delivery, then presumably they would require to be a legally constituted body, rather than a loose association of existing organisations.

It is also not clear how the local Regional marine plan will fit with the local area Development Plan, especially in terms of issues such as aquaculture, or developments spanning land and sea.

"Stakeholder fatigue" is already an issue for many organisation representatives required to sit on multiple groups, boards etc. We hope that the future discussions to determine the Scottish Marine Region areas and functions will actively seek out opportunities for rationalisation of the amount of representation required, and how existing groups might contribute to SMR work, to avoid yet more pressure on stakeholders' valuable time resources.

The issue re which organisations will be represented on the Boards of Scottish Marine Regions and their relative influence also requires further consideration. The responses to consultation questions on this issue indicate that a significant degree of flexibility is proposed in terms of how SMR's could be set up, and the fact that "one size will not fit all". We agree that this flexibility is required, but this will necessitate very clear guidelines being laid down at the outset, especially with regards to representation of minority interests and establishing means for conflict resolution.

Local Coastal Partnerships (LCPs) have been suggested as having a potential role in acting as lead partner for SMR Boards where they already have a strong presence. The Moray Firth Partnership has significant experience in bringing together stakeholders and organisations in the Moray Firth area to help build consensus and assist in dispute resolution and would welcome discussing this possible role further with the Scottish Government / Marine Scotland.

Q11 Do you agree that the Scottish Marine Regions should be responsible for Integrated Coastal Zone Management?

We agree in principle that Scottish Marine Regions should be responsible and develop a leadership / co-ordinating / facilitating role. However, all relevant Scottish public bodies should have a duty to deliver ICZM, not just Scottish Marine Regions. Other organisations should also be required to participate effectively in the process, otherwise successful integration

across sectors and neighbouring Regions will not be achieved. As has been evidenced by the work of Local Coastal Partnerships, the current non-statutory method of achieving ICZM in Scotland is fundamentally disadvantaged because no authorities have a direct responsibility for carrying it out and for ensuring adequate resources.

SMR's should have a duty to ensure that marine plans are compatible with terrestrial plans, and that there is integration with plans for Inshore Fisheries Groups etc. The IFG plans are likely to be well established in most areas before the Marine local plans are developed, so the hierarchy of these different plans should be established in principle at the outset to minimise any future conflicts. Issues such as marine transport and safety also need to be considered as part of the wider picture.

Q12 Do you agree that Scottish Ministers should place a duty on Scottish Marine Regions to adopt the eight principles of Integrated Coastal Zone Management?

Yes. And these should be incorporated in practice by local planning regimes as well as being enshrined at the national level.

Q13 Do you have any other comments on the delivery of Integrated Coastal Zone Management alongside marine planning?

ICZM has been described as a “zip” to create the necessary interface between marine and terrestrial planning, and is certainly an essential element of an overall marine management system.

It is important that any national plan looks beyond the short-to-medium term and develops an influential vision for the wise use of Scotland's coasts and waters based on a 25-year forward view.

We note that Defra's draft UK Marine Bill identified the need for a representative national stakeholder advisory group, but 'Sustainable Seas For All' does not seem to include a similar provision. We consider that there is likely to be a continuing need for an organisation which can adequately represent the views of external stakeholders to Government and vice versa.

A clear methodology needs to be defined to show how the process can incorporate stakeholder involvement in the setting of objectives and the resolution of conflicts, where these exist. Again, this is an area where the Scottish Coastal Forum and Local Coastal Partnerships might have a role to play. We welcome the undertaking to work through the proposals for marine planning and ensure they will contribute to coastal integration in combination with the proposals for other aspects of management, enforcement and protection where appropriate.

Chapter 3 – Reducing the Burden

▪ Licensing & Enforcement

Q.14 Does licensing remain an effective method of delivering both certainty for investment purposes, and protection for the marine environment?

Yes, we agree licensing is a reasonable method of controlling where and to what extent, operations and activities should take place. However, any system of licensing should:-

- be proportionate to the circumstances involved;
- include registration of small scale activities falling below any “de minimis” licensing threshold, to ensure data is collected to allow monitoring of potential cumulative and combined effects.
- have tenable and justifiable costs attached, based on cost recovery, and which do not differ widely between regions to ensure equality of opportunity across the UK.

We understand that a review is ongoing of the different licences / voluntary schemes in operation/ Some creative thinking is required in order to identify other opportunities for

incorporating mitigating measures other than through separate licensing, e.g. through planning consent conditions.

Q.15 The existing licensing system covers most of the impacts on the seas from existing activities. One area of activity that has potentially large impacts and is not licensed is dredging. Scottish Ministers propose to license all new forms of dredging (i.e. those forms that agitate the sea bed). Do you agree? Are there other activities that should be licensed?

We would in principle support including provision for including agitation and displacement methods of dredging within the scope of licensing, with the proviso that small scale activities could be exempted, subject to local agreement based on an environmental assessment, and subject to these small scale activities still being recorded to allow data to be gathered on potential cumulative effects. The costs and delays for regular small scale maintenance dredging e.g. of harbours, should be minimised.

Q.16 Scottish Ministers intend to create powers to set out a list of licensable activities in regulations. Do you have any views on this approach?

We would support the inclusion of powers to set out a list of licensable activities, although we would hope that such powers would only be used where a voluntary approach had proved ineffective. The list of activities should be created in consultation with stakeholders and should be consistent with the premise of an overall streamlining or reduction in the licensing burden.

Q.17 The proposed Marine Scotland should have general responsibility for the delivery of the marine licensing system. Do you agree?

Yes, in principle. There is general support for the idea of refining the regulatory system to create a “one stop shop” and reduce the numbers of licences for which developers have to apply. However, it is not clear whether Marine Scotland would have the general responsibility for delivering all marine licensing beyond the Mean Low Water Mark. Whichever option is ultimately agreed, the aim must be to create a more streamlined arrangement than currently exists, and also provide a straightforward appeals or referral mechanism.

Q.18 Scottish Ministers intend to reduce the numbers of marine licences that developers require to get before an activity can take place. There are two ways to reduce the numbers of licences; either by creating a single licence for all marine impacts or by creating a single licence for each activity. Which system do you prefer?

We consider that an activities-based approach would provide a clearer and simpler option that adequately takes into account the impacts.

Q.19 Marine Scotland could undertake the licence work itself or operate as a front door co-ordinating the work of others. Do you have any views on these options?

In terms of opportunities for streamlining of licensing, we would favour Marine Scotland being the licensing authority, subject to full consultation with relevant expert bodies and subject to decisions being taken in the context of agreed local plans.

Q.20 Do you agree with the proposed approach to consultation, involving local stakeholders? Do you have any further comments?

Yes, there should be a requirement for local stakeholders’ views to be taken into account, and that an appeals / referral process is created to deal with potential conflicts between local interests.

We note that Defra’s draft UK Marine Bill identified the need for a representative national stakeholder advisory group, but ‘Sustainable Seas For All’ does not include a similar provision.

We consider that there is likely to be a continuing need for an organisation which can adequately represent the views of external stakeholders to Government and vice versa.

Q.21 Do you agree that the revised licensing system should incorporate the simplified CAR model throughout, to focus scrutiny on higher risk activities/impacts and reduce the regulatory burden?

We agree that licensing should focus on higher risk activities, but would recommend that a register is maintained of smaller scale activities to provide sufficient data to assess cumulative and combination impacts. This register of activities should be reviewed by the SMR on an agreed timescale. The licensing provisions should enable future changes to the scale of development requiring licence, allowing for the precautionary approach to be adopted as required.

Q.22 Scottish Ministers intend to provide Marine Scotland with powers to insert conditions into licences. Do you agree with this approach? In particular, Scottish Ministers intend to create a standard condition in removal of redundant kit and installations: do you agree?

We agree with the principle of including powers to insert conditions into licences subject to those conditions being reasonable and justified by evidence. We would query the imposition of a compulsory condition to remove redundant kit and installations and suggest that this should be at the discretion of the local SMR based on a cost-benefit and needs appraisal. For example, some longer term sea-bed installations may effectively have become an artificial reef supporting different species, and should be left in situ unless there was an operational need to remove these.

Q.23 Scottish Ministers believe an appeals procedure for those directly involved in the licence application would be a beneficial development. Do you agree?

Yes. It would be preferable for Marine Scotland to be separate from the Scottish Government to provide the necessary degree of separation between the licensing and appeals procedure.

Q.24 To provide an easy and transparent system, do you agree that a scale of charges related to cost recovery is the most appropriate way to recover the costs of assessing, issuing, monitoring and enforcing licences?

We presume that the proposed system will follow the recommendations of the Marine Strategy Framework Directive, i.e. *“that preventative action should be taken, that environmental damage should, as a priority, be rectified at source, and that the polluter should pay.”*

However, we would not wish to see charges imposed beyond reasonable cost recovery levels in order to provide revenue for the licensing organisation, nor should the charges be significantly different between areas across the UK.

Q.25 The Scottish Government proposes a review of existing licence monitoring and enforcement provisions relating to the marine environment and wishes to consolidate them into a single set of coherent powers and remedies. Marine Scotland should be tasked with ensuring compliance monitoring and enforcement activity is carried out consistently and efficiently. Do you agree?

We agree that there should be an integrated and coherent set of remedies and enforcement powers, but that equal priority should be given to education, involvement and the promotion of voluntary compliance.

Q.26 Please provide any further comments you have on the licensing provisions in the consultation paper.

MS should make provision for the development across all SMR's of a unified data system to record licences, and registering activities, to assist in the gathering of data Scotland / UK wide.

Chapter 4 – Securing the Future

Nature Conservation

Q27 Do you agree that our system of marine nature conservation should be based on the three pillar approach?

Yes

Q28 Please provide your views or comments on the application of Marine Ecosystem Objectives for marine nature conservation.

The multi-use aspect of the marine environment, and the range of factors impacting on species and sites, highlights the current lack of data enabling scientifically based assessments including ecological status, drivers and indicators, or what Ecosystem objectives should be applied. Providing baseline data, and helping understand the range, impacts and interaction of drivers, must be tackled as a priority.

Q29 Do you agree it would be worthwhile to have a biodiversity duty in the offshore area around Scotland? (i.e. area beyond 12 nm)

Yes, but this needs to be strengthened by legislation. In the same way as the current Marine Biodiversity Implementation Plan (out to 12 nm), this could help deliver actions and makes provision for education and the gathering of data to help:-

- establish Marine Ecosystem Objectives
- support public bodies in delivering their Biodiversity Duty
- Develop suitable indicators to assist with marine management
- Provide information resource on marine data sources that will be of use to Marine Scotland and others involved in Marine planning and Integrated Coastal Zone Management

Q30 Do you have any other suggestions for making improvements to Pillar I - wider seas measures?

No comment

Q31 Do you agree with the proposals for a science-based review of whether new marine species need to be added to the existing list of protected species?

Yes

Q32 Do you have any further comments or suggestions for making improvements to Pillar II - species conservation?

More data is required to establish the presence or otherwise of species in certain areas, and to create a priority list of species. Also, provision should be included for dealing with introduced and invasive non native species.

External factors, including depletion of elements of the food chain, such as the commercial fishing of sand eels, also need to be factored into the wider / international plans.

Q33 Do you agree with the overall principle of the introduction of a power to select new types of site?

Yes, there should be a power to select new types of site. However, the proposal to designate a particular location falling within that type should be done in consultation with local stakeholders, and there should be a provision included for review / deselection if appropriate.

Q34 Do you agree with the assessment of the three main types of requirements for site protection? Do you have any further comments on this?

Pillar 1, wider seas measures, is as important as Pillars 2 and 3. Any new designations should be needs driven and agreed objectively, rather than based on a predetermined proposal to have x number of designated sites. It may be appropriate to include provision for highly protected Marine areas, and also to address additional needs for site restoration.

Q35 Do you have any views on whether or not a "single approach" should be taken for marine historic and natural environment site protection?

We would support this in principle. Protecting the historic marine environment should be included within the MS responsibilities and incorporate the findings from the recent, separate, consultation on this subject.

Q36 Do you agree with the proposals on how a new flexible site protection power will be used? Do you have any other comments?

Agree in principle.

Q37 Do you have any views or comments on whether a single integrated power should be used to deliver these proposals?

More consideration is required re how to actively involve stakeholders and communities at an early stage, to achieve "buy in" to the overall process of site designation and setting of management proposals, to avoid the negativity and fear of the unknown that was evident during discussions on setting up Marine National Parks. Needs based, small scale plans, such as the recent development of the community marine reserve at Lamlash Bay, should be looked at as good practice examples. The extra time required in the early stages of such an inclusive process are likely to be more than offset in terms of avoiding later conflicts and in terms of voluntary cooperation and "ownership" / stewarding.

Q38 Do you agree with the proposals for how sites will be managed, including the site by site approach and overall context of sustainable development? Do you have any additional comments?

This approach seems reasonable, with the stated presumption that existing activities, such as fishing can continue unless shown to have unacceptable or unsustainable detrimental effects.

Q39 Please provide us with your views on the role that a wider planning system should have in the identification of Marine Protected Areas?

A wider planning system might allow a more strategic overview, and assist in the creation of the proposed network of MPAs.

Q40 Do you have any other comments or suggestions for making improvements to Pillar III - site protection?

No comment

Q41 Would you agree with the principle that the offence against damage to Natura sites should apply to marine sites? What are your views on whether a similar offence should be introduced for damage to other Marine Protected Areas?

Agreed, although this will be more difficult to monitor / enforce.

Q42 How can we enhance the contribution which the wild marine environment makes to Scotland's economy?

There needs to be increased recognition of the existing and potential future value of special and scenic areas of the marine and coastal environment in terms of both their economic value,

and their societal value for recreation, sport and tourism. There was no obvious mention within the Consultation Document of National Scenic Areas, a significant number of which extend into the marine environment.

The Moray Firth Partnership is currently carrying out research to identify key recreational and tourism activity levels and resources around the Moray Firth, to identify their current economic value, potential for growth etc., as well as to help identify criteria re sustainable usage levels. This data will complement and add to studies previously carried out by SNH, and new survey work on the economic value of Scottish Wildlife proposed by the Scottish Government Enterprise, Energy and Tourism Directorate.

Fisheries is a key sector, intrinsically linked to a healthy and productive marine environment. A sustainable, ecosystem-based approach to marine management as advocated by the North Sea Regional Advisory Council, should help its long term viability.

“Adding value” to the produce of our seas (e.g. through better local marketing or secondary processing rather than direct export) could help the local economy and create more local employment. Better availability of quality local seafood will also help enhance Scotland’s appeal as a holiday destination, both for UK residents and overseas visitors.

APPENDIX TO CHAPTER 4 - SEALS FORUM REVIEW OF THE CONSERVATION OF SEALS ACT 1970

Q43 Do you have any views or comments on the options for improving conservation measures for seals? Do you have any specific comments on:

- a) equal treatment across all sectors (licensing and seal conservation orders);**
- b) welfare issues;**
- c) the "Netsmen's defence";**
- d) reporting and monitoring;**
- e) relationship with the EU Habitats Directive; and**
- f) any other comments?**

We would recommend that any review includes information on best practice from the Moray Firth Seal Management Plan, as well as addressing any current legal anomalies regarding the Netsmen’s Defence.

Chapter 5 – Understanding our Seas

- **Science and Data**

Q44 Do you agree that Scottish Ministers should develop a marine science strategy to focus marine scientific effort, integrate socio-economic considerations, and to create a framework for wider stakeholder input?

Yes, but this should build on work already being done at EU level.

Q45 Do you have views on how to integrate scientific evidence with stakeholder and local knowledge?

More effort is required to “translate” some scientific data into a more readily comprehensible form, and more round table discussions.

More time should be spent on collecting the data available from (and offered by) sectors such as inshore fishermen, divers, anglers etc. But the way in which this data is recorded and collated should be adequately scientifically robust, and in a format that allows the data to be used at a wider EU level.

Q46 What do you think are the potential priorities for further work?

Creating a more comprehensive map of the seabed, species / habitats present etc.

Q47 Scottish Ministers propose that the strategic role for the monitoring and assessment of Scotland's seas lies with Marine Scotland, do you agree?

Yes

Q48 Scottish Ministers propose to instruct Marine Scotland to take forward the development of GIS as a matter of priority. Do you agree?

We agree developing GIS is a matter of priority. More work needs to be done to evaluate the systems currently being developed by various organisations, and to build on these to create a generally compatible system EU wide, rather than necessarily creating a new system.

Chapter 6 – Managing our Seas

- **Marine Scotland**

Q.49 Scottish Ministers propose to develop Marine Scotland to champion the seas and their use and to provide better integrated and streamlined delivery in the marine area. Do you agree?

It has been noted during the public consultation process that the creation of Marine Scotland appears to be a given and that no other model is being actively suggested. The creation of a Scottish marine management organisation is consistent with the proposed arrangements for the rest of the UK as proposed by Defra and, should provide a consistent approach. Subject to MS being open to the views of the different sectors and stakeholders, this could provide a holistic solution.

Q.50 Scottish Ministers propose that Marine Scotland delivers the marine planning proposals as set out in Chapter 2. What are your views on this proposal?

While we agree with this in principle, significant work is still required to flesh out the form and functions of Marine Scotland and its relationships with the other bodies that will be involved. We are concerned re the significant level of detail that still has to be considered, the limited timescale within which this will be agreed and the proposal that this will not be subject to any further process of public consultation. This is a unique opportunity to create a Marine Bill for Scotland that is ground breaking and forward looking, but sufficient time must be allowed for the full proposals to be developed in sufficient detail, to avoid costly errors.

Q.51 Do you agree with the approach set out for fisheries and aquaculture management? Do you have any further comments in connection with this approach?

The integration of fisheries and aquaculture within wider marine management is welcomed in principle, subject to not compromising the valued resource of FRS as an independent scientific advisor.

Q.52 What are your views on the arguments relating to where control for aquaculture should lie?

On the basis of achieving a consistent approach and a reduction in the administrative burden, it would seem appropriate to bring planning arrangements for aquaculture within the remit of Marine Scotland. Local authorities would presumably still be closely involved as part of the

consultation process. However, we would not wish to preclude further consideration of other options which offer a more streamlined and cost effective approach.

Q.53 Do you have any views on the role that FRS should take?

FRS has an enviable reputation for the provision of impartial scientific advice, which is important for the fisheries and other sectors. It is important that this advice and neutrality can continue and not be compromised, therefore we would wish to see separation between the proposed regulatory activities and the provision of independent scientific evidence.

Q.54 What are your views on the creation of Marine Scotland and the proposed range of functions it should deliver?

We agree with the general concept of a marine management organisation, but are unclear as to the optimum extent to which it should take over marine licensing activities below MLWM.

Q.55 Do you have any views on the development of Marine Scotland's functions over time?

We would concur with the suggestion that MS should focus first on achieving a workable system for marine planning before moving on to implementing licensing and enforcement measures. These could be phased in incrementally. An ongoing system of review should be built in, say after five years.

Q.56 Ministers believe Marine Scotland should form part of Scottish Government with appropriate safeguards for science and the appeals process. Do you have any views?

There are good arguments for MS being part of Scottish Government, in terms of democratic accountability. However, on balance, we would propose MS should be a Non-Departmental Public Body, which appears to be consistent with the model intended for the rest of the UK, failing which a Government Agency.

Marine Scotland should be independent of Scottish Ministers to provide the necessary degree of transparency re its discharge of planning functions and in order to have an independent appeals / referrals procedure.

Q.57 Are there any other aspects of the proposals in this consultation document on which you wish to add your views?

Further consideration may need to be given to the overall structure based on ongoing discussions with the UK Government re devolved responsibility, but we consider that the proposals have the opportunity to provide a consistent approach in marine planning and resource management that will benefit all who have an interest in our terrestrial, coastal and marine environments.

Geographical areas of SMR

We would recommend that the Moray Firth area remains as one geographical unit (as currently envisaged for the Inshore Fisheries Group) and becomes one SMR in that it is already accepted as being a workable area. Other areas, such as the Pentland Firth / Orkney Islands may require more detailed consideration.