



### **Questions and Answers - March 2010**

During our road shows in January our team recorded 600 questions from sea users relating to the purpose of Marine Conservation Zones (MCZs), how they will be recommended and Net Gain's engagement process. Our team is currently in the process of answering each of these questions so that those who attended the road shows have their specific query addressed. Once this process has been completed we will make all the questions available on our website and in hard copy where required, so that all those with an interest in Net Gain can find out more.

It will take a little time before we have worked through all the questions posed. In the mean time we have developed this document to answer some of the more frequently asked questions. We hope that it is useful and look forward to being able to provide you with a comprehensive list of answers to all your queries.

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## **1. Marine Protected Areas general (Policy – signed off by Defra – Simon Crabbe)**

### **1.1 The MPA Network**

#### 1.1.1. What is meant by “MPA”?

A ‘protected area’ is defined by the IUCN as *‘a clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values’*. The term Marine Protected Area (MPA) has been used to describe a wide range of marine areas which have some level of restriction to protect living, non-living, cultural and/or historic resources.

The MPAs that Net Gain is selecting are called Marine Conservation Zones (MCZs), these will provide conservation to marine biodiversity, geology and geomorphological interests.

MCZs are a requirement under the Marine and Coastal Access Act which received Royal Assent on 12<sup>th</sup> November 2009. In the UK, MPAs have primarily been set up to help conserve marine biodiversity, in particular species and habitats of European and national importance. The main types of MPA in the Net Gain project area are Special Areas of Conservation (SACs) for habitats of European importance, Special Protection Areas (SPAs) for birds, Marine Conservation Zones (MCZs) and Sites of Special Scientific Interest (SSSIs) for nationally important habitats and species and Ramsar sites for wetlands of international importance. Together these MPAs will contribute to an ecologically coherent network. There are also a number of voluntary and non-statutory MPAs.

#### 1.1.2. Why do we need more MPAs?

A well managed MPA network can play a crucial role in the conservation of both biodiversity and biological processes and can make a contribution to sustaining wider ecosystem health. A range of legislative measures is already in place to provide protection to important marine species and habitats. Approximately 1.8 million hectares (2% of UK waters) currently benefit from the protection afforded by being designated as marine protected areas either under domestic legislation or under legislation enacted to implement the EC Habitats Directive and EC Birds Directive. However, the former has proved to be limited in its effectiveness and the latter only protects habitats and species considered to be important at the European scale. Part 5 of the Marine and Coastal Access Act 2009 seeks to address these gaps and will enable us to establish an ecologically coherent network of MPAs by 2012 and meet our international conventions.

#### 1.1.3. Who will decide where these MPAs are to be placed?

There are different processes for the identification of Natura 2000 sites and MCZs, based on their different legislative backgrounds, although in both cases it is for the Secretary of State to designate sites.

Natura 2000 sites are identified for a specified range of species and habitats. Their boundaries are selected on a scientific basis using criteria and guidance based on that outlined in the Birds and Habitats Directives and socio-economic factors cannot be taken into account when drawing up site boundaries. Natural England and JNCC consult all stakeholders on the scientific justification for proposing possible Natura 2000 sites and their boundaries, and the socio-economic costs and benefits of these sites. An Impact Assessment will be produced for each site proposal that may add to the scientific evidence base for the site by providing data on the scale and nature of human activities. Information gained from the consultation process may be used to amend the proposed boundaries of sites if new scientific data is provided, or if existing data is shown to be inadequate or out-dated.

In contrast to the designation of European sites, the Net Gain process for designation of MCZs may take account of socio-economic factors. Our aim for the MPA network is to conserve ecosystems and biodiversity and create an ecologically coherent network whilst minimising the economic and social impacts. This can only be achieved through the active participation of stakeholders. Stakeholders will have the opportunity to be involved in identifying potential MCZs and their boundaries and developing the conservation objectives for sites (which will dictate the level of protection afforded to their constituent features). The Statutory Nature Conservation Bodies (SNCBs) will be working with users to identify appropriate management activities to fulfil the conservation objectives for sites.

#### 1.1.4. How will MCZs be designated?

Net Gain is one of four regional MCZ projects have been set up to make MCZ recommendations which will contribute to the wider MPA network. Net Gain will have Regional Hubs and a Stakeholder Advisory Panel comprised of representatives of each sector with an interest in the project area. In autumn 2011, Natural England and JNCC will collate Net Gain's recommendations together with the advice of the Science Advisory Panel and advise Government whether, in their view, the combined recommendations are sufficient to meet the MCZ contribution of an ecologically coherent network and will provide recommended changes they consider necessary. Defra will consider how well the recommendations and advice meet and are consistent with the relevant statutory considerations, national policy objectives and any international commitments before carrying out a public consultation on proposed sites. Following consultation, Ministers will consider (taking account of possible objections and representations) whether to make a designation order to designate the sites. It is intended this process will largely be completed by the end of 2012.

#### 1.1.5. Are the countries operating outside the 6 or 12 nautical mile limits obliged under any form of legislation to build a network like the UK?

Yes other countries are, like the UK, obliged under international conventions and agreements (such as the OSPAR Convention, World Summit on Sustainable Development and Convention on Biological Diversity) to create networks of MPAs as we are doing. It is also a requirement on other Member States of the European Union to achieve Good Environmental Status in our seas by 2020 and the Directive specifically mentions a network of MPAs as being one tool to achieve this.

#### 1.1.6. Network means the boundaries are linked – how can it be a network?

Even though the sites will not all be physically linked, they will be connected as some animals and plants that live in the sea have long larval dispersal distances and so it will be possible for these to travel from one protected area to another. Having multiple sites protecting species and habitats will also increase the resilience of the marine ecosystem as a whole.

## **1.2. Marine Conservation Zones and MPAs**

### 1.2.1. What is an MCZ?

A Marine Conservation Zone is a new type of MPA created by the Marine and Coastal Access Act (2009). They will protect nationally important marine wildlife, habitats, geology and geomorphology.

### 1.2.2. What is the scientific basis for having MCZs when there are already mechanisms for protection?

The current UK MPA mechanisms can only protect specific species and habitats. For example, SSSI's only protect coastal species and habitats and Special Areas of Conservation only protect the species and habitats that are listed on the Habitats Directive. Therefore there are large areas of our seas and a high number of British species and habitats, particularly away from the coast, that do not receive protection. It is these species and habitats that MCZs, identified and recommended by Net Gain, will protect.

#### 1.2.3. Is Net Gain dealing with all types of MPA?

No, Net Gain will only be recommending the location and conservation objectives of MCZs.

Whilst recommendations for MCZs are being considered by Net Gain, additional marine Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) will be identified, consulted on and designated through a separate process. European legislation requires these sites to be identified on a purely scientific basis so the public consultation surrounding these sites will be purely about the science that the site selection is based upon.

The Net Gain Regional Hubs and Stakeholder Advisory Panel will, however, take into account the location of existing and proposed SACs and SPAs when making decisions about where to recommend MCZ features.

#### 1.2.4. When will MCZs be in place?

The majority of Marine Conservation Zones are expected to be designated by 2012 by the Secretary of State for the Environment. We expect the sites to be managed from the time that they are designated. The site recommendations will be drawn up from 2009 to 2011, by Net Gain.

#### 1.2.5. Will MCZs be part of an interconnected network?

Yes, MCZs will form part of the UK MPA network. The MPA network will be a collection of protected areas that work together to provide more benefits than an individual area could on its own. The UK MPA network will consist of existing MPAs (Special Areas of Conservation, Special Protection Areas, Sites of Special Scientific Interest, Areas of Special Scientific Interest and Ramsar sites) along with new types of MPA. In England and Wales MCZs will be the new type of MPA. In Scotland there will be a different type of MPA to be designated under the Scottish Marine Bill. Northern Ireland will be introducing a Marine Bill to the Northern Ireland Assembly by 2012, this will outline proposals for nature conservation in Northern Ireland's territorial waters.

#### 1.2.6. What proportion of our seas will be protected by Marine Conservation Zones?

It is important that we maintain the flexibility to protect the marine environment for years to come. Experts have suggested different figures for the percentage of the sea requiring protection and we do not yet know what the UK ecologically coherent network will look like. We do not therefore want to set a percentage of the sea requiring protection as we want to be able to adapt to changing pressures on the marine environment, such as climate change, in years to come.

#### 1.2.7. Are MCZs a permanent or temporary measure?

Marine Conservation Zones (MCZs) will be set up with the intention of bringing about long term benefits to the marine environment. However MCZs are a flexible mechanism and will be able to take account of change, for example in light of new evidence. It is possible that boundaries may be

amended or conservation objectives altered and any decisions to use these powers will be based on the best available evidence.

## **2. Relationship of MCZs to other types of MPA and spatial management measures (Policy – signed off by Defra – Simon Crabbe)**

### **2.1. Other Protected Areas**

2.1.1. Why are there two different MPA planning processes occurring at the same time (Natura 2000 sites and MCZs)? Why can't they both use the same open, inclusive approach to planning?

The UK is aiming to complete its MPA network by 2012. We have not yet completed our Natura 2000 site series in the marine environment and the European Commission is requesting that we identify additional sites for certain marine habitats and species listed on the Habitats Directive (habitats: sandbanks, reefs, sea caves and submarine structures made by leaking gases; species: bottlenose dolphin, harbour porpoise, grey seal and common seal) and the seabird species listed on the Birds Directive. It is against the law to take socio-economic considerations into account when deciding the location or boundaries of these sites.

The identification work for further Natura 2000 sites must be undertaken by the Statutory Nature Conservation Bodies and does not form part of the work of Net Gain. All new Natura 2000 proposals will have an impact assessment and will be subject to the normal public consultation process. Stakeholders will be able to provide information for the impact assessments and provide comments during the consultation.

Marine Conservation Zones are a new type of MPA established under UK law. Socio-economic considerations may be taken into account when selecting these sites which is why a different approach to identifying sites has been established for Net Gain, to allow a higher level of involvement from the people that use or have an interest in the sea. We are aiming to have designated the majority of MCZs by 2012, therefore MCZs will be identified at the same time as the Natura 2000 site series is completed.

2.1.2. Will existing MPAs be affected by MCZ designation?

MCZs are intended to complement the existing site designation and protection measures of European sites, the European designations and Ramsar sites will not therefore change. However there may be circumstances where MCZ and European designations fully or partially overlap to protect different features.

The English Marine Nature Reserve (at Lundy Island) became an MCZ on 12<sup>th</sup> January 2010 and the management of the site will be reviewed shortly.

For SSSIs with marine components the management will not change. However, the Marine and Coastal Access Act 2009 gives Natural England a new power to de-notify areas within SSSIs where they overlap with a Marine Conservation Zone; this could include areas of SSSIs below mean low water mark, in the intertidal or above the mean high water mark. Defra have issued draft guidance on the relationship between SSSIs and MCZs.<sup>1</sup>

2.1.3. Can MCZs be established within, or overlapping with, existing MPAs (e.g. SACs, SPAs)?

Yes, MCZs can be established within, or overlapping with, existing SACs/SPAs.

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<sup>1</sup> Available at <http://www.defra.gov.uk/environment/marine/protected/mcz/guidance.htm> (Guidance Note 4).

MCZs will not duplicate the purposes of the European Directives. There may be circumstances where MCZ and European designations fully or partially overlap to protect different features for example:

- Designation of an MCZ for a feature within a European designation that does not qualify under the Habitats or Birds Directive criteria. Such co-location of designations could seek efficiencies in the application of management measures and monitoring activities since they will already be planned for the existing site.
- In Welsh inshore waters, the Welsh Assembly Government is planning to establish highly protected sites within existing European sites.

However, any designation deriving from the Net Gain project will not alter the existing management of an SAC, SPA or SSSI – there are already formal processes and regulations in place to effect any necessary changes. Such changes to the management of these sites will have to be pursued through these existing mechanisms.

2.1.4. Will other areas that are currently managed (e.g. fisheries closures, areas used for military practice) be considered as MPAs that contribute to the network?

Such 'managed' or 'closed' areas will not by themselves be considered to form part of the network of Marine Protected Areas described in the Marine and Coastal Access Act. However, when selecting MCZs, Net Gain has been asked to consider (as set out in Guidance note 1) areas that already receive some protection (which is of conservation benefit) through existing spatial measures.

In addition, areas that are currently 'managed' or 'closed' may also contribute to the UK meeting its obligations under international and European commitments such as those under the OSPAR Convention. JNCC is developing criteria to assess whether existing spatial measures can make a contribution to biodiversity protection.

2.1.5. What about the golden mile? That would solve all the problems, is it being considered?

The golden mile would only protect a narrow strip of coastal waters, it would not protect the full range of marine biodiversity and would cover too large an area of certain types of coastal habitat. Therefore this would not help to achieve an ecologically coherent network of MPAs.

2.1.6. How do SSSIs relate to MCZs?

Sites of Special Scientific Interest (SSSI) have been designed to work on land, whilst MCZs are specifically designed for the marine environment. The Marine and Coastal Access Act 2009 makes provision for the interface between land and sea to ensure these two conservation protection mechanisms dovetail neatly together.

In the past some SSSIs have been notified for areas below mean low water mark, the Act will not affect the status or boundaries of these existing SSSIs. In the future it will remain possible to notify SSSIs below mean low water mark, with the Secretary of State's agreement, particularly where SSSIs will provide more appropriate management of an area, but often designating a MCZ will be more appropriate. The Act therefore adopts a pragmatic and flexible approach which will ensure that conservation features are protected through the most appropriate mechanism, whether it be SSSI notification or MCZ designation - or an overlap involving both.

The Act also gives Natural England a new power to de-notify areas within SSSIs where they overlap with a Marine Conservation Zone; this could include areas of SSSIs below mean low water mark, in

the intertidal or above the mean high water mark. Defra have issued draft guidance on the relationship between SSSIs and MCZs.<sup>2</sup>

## **2.2. International Conservation**

2.2.1. I heard that there will also be MCZs in Wales. Why are Welsh waters not covered by the MCZ Project?

Welsh inshore waters are not covered by the MCZ Project. In Wales MCZ selection will be managed by the Welsh Assembly Government in collaboration with the Countryside Council for Wales (CCW) and will engage widely with the public and stakeholder interests. As a significant proportion of Welsh inshore waters are already protected by some form of designation, the Welsh Assembly Government intends to use the MCZ mechanism to designate a small number of highly protected MCZs (these are sites where all damaging and disturbing activities will be excluded). The project aims to recommend sites to the Welsh Assembly Government in 2012. Close links will be maintained with the MCZ Project in England, especially where proposed zones share borders.

2.2.2. How does the work of Net Gain and the other regional projects link up with other conservation initiatives in the UK e.g. Wales and Scotland?

JNCC have a UK wide remit and so as well as being one of the three partner organisations working on the MCZ Project, they are also working in collaboration with Scottish Government and Scottish Natural Heritage on the Scottish MPA Project and will be sitting on the Project Board and Technical Group for the MCZ Project in Wales to ensure that the three different processes are aligned and communication is maintained between them. Once a process is established in Northern Ireland to identify new MPAs they will also ensure that links are maintained here. In addition there are several UK-wide MPA groups, both technical groups and policy groups that meet several times a year to discuss issues relating to the wider UK MPA network.

2.2.3. Will the MCZ Project link in with conservation activities in other countries e.g. Isle of Man, France, Netherlands, Germany etc...?

Yes, we have already been in discussions with our counterparts in all countries neighbouring the Net Gain project area and will ensure that dialogue is maintained throughout the process. In addition, there are a couple of international projects currently being established to aid co-ordination with international stakeholders – one for the western Channel and south-west England which is a collaboration with Portugal, Spain and France and one for the eastern Channel and southern North Sea with France, Belgium, the Netherlands, Germany and Denmark.

## **2.3. Marine Planning**

2.3.1. How do the Marine Planning and MCZ process 'join up'?

Work on the identification and designation of MCZs will largely take place in parallel with the development of the Marine Policy Statement, and in advance of work on developing marine plans. In preparing both the marine policy statement and marine plans, the Secretary of State and the Marine Management Organisation will be able to take account of relevant information gathered to inform decisions on MCZs, including the Impact Assessment. Consultation on the marine policy statement and marine plans will take place because they will have wider objectives and address a much wider

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<sup>2</sup> Available at <http://www.defra.gov.uk/environment/marine/protected/mcz/guidance.htm> (Guidance Note 4).

range of issues. Marine plans will of course identify any MCZs already designated within the plan's area, and policies in the marine plans will also have to take account of the conservation objectives for which the MCZ was designated.

#### 2.3.2. Will the data collected through the Net Gain Project be used for Marine Spatial Planning?

The data collected through the various Defra data contracts that are currently running to gather national datasets for biophysical and socio-economic uses of the sea will be available for use in the Marine Planning process. The data that is collected by the Net Gain liaison officers and via the webGIS system (being developed currently) will be used in accordance with the conditions of use that data sources authorise when they give us the data.

#### 2.3.3. Will Marine Planning areas coincide with MCZs?

No, Marine Planning areas will include MCZs. Marine plans will identify any MCZs already designated within the relevant plan area and the policies in the marine plans will have to take account of the conservation objectives for which the MCZ was designated. Marine plans may also say something about future nature conservation measures.

#### 2.3.4. The Marine Management Organisation (MMO) has a remit to look at socio-economic aspects of marine plans, but their timetable is different from the Net Gain process; how will this work?

Work on the identification and designation of MCZs will largely take place in parallel with the development of the Marine Policy Statement, and in advance of work on developing marine plans. In preparing both the marine policy statement and marine plans, the Secretary of State and the Marine Management Organisation will be able to take account of relevant information gathered to inform decisions on MCZs, including the Impact Assessment. Consultation on the marine policy statement and marine plans will take place because they will have wider objectives and address a much wider range of issues. Marine plans will of course identify any MCZs already designated within the plan's area, and policies in the marine plans will also have to take account of the conservation objectives for which the MCZ was designated.

#### 2.3.5. How will MCZs fit in with windfarms? Could MCZs be designated on wind farms, or will these sites be avoided? Although man-made structures, they generate new habitat that might qualify as an MCZ, and this should not be lost when windfarms are decommissioned.

How MCZs fit in with the natural habitats present around current or future windfarm developments will depend on the conservation objectives set for each MCZ and will need to be considered on a case by case basis. The anticipated impacts, including any potential mutual benefits, from designation of an MCZ on current or identifiable future activities, will be identified in the Impact Assessment prepared and consulted on before a decision is taken on whether to designate an area as an MCZ. As socio-economics may be taken into account in the designation of MCZs, the Impact Assessment could be used to inform the decision on whether to designate the MCZ.

There is no legal barrier to designating an MCZ for a habitat or species living on a man-made structure. However, the ecological network guidance considers the naturalness of features and advises that features that are less impacted by human activities should be preferred. If an MCZ were designated for a feature on a man-made structure then the public authority granting a license for its removal would have to consider the effects on the MCZ under its clause 126 duties. If the structure were removed then it is likely that another MCZ for this feature would need to be designated.

2.3.6. How will the government's obligations to create MCZs fit in with their renewable energy obligations?

The Government is committed to meeting both of these obligations, and will ensure through both the MCZ and marine planning processes that they are taken forward in parallel, in a mutually compatible way. It is important to bear in mind that there is no automatic exclusion of development from MCZs. Indeed it is Government policy that where different interests can co-exist, we should encourage them to do so.

2.3.7. How do MCZs affect areas of the seabed leased from the Crown Estate?

The anticipated impacts from designation of an MCZ through the Net Gain Project on seabed leased from the Crown Estate will be identified in the Impact Assessment prepared and consulted on before a decision is taken on whether to designate an area as an MCZ. As socio-economics may be taken into account in the designation of MCZs, the Impact Assessment could help to inform the decision on whether to designate the MCZ.

#### **2.4. Other initiatives e.g. Water Framework Directive**

2.4.1. How does the Net Gain fit in with other consultations? How do we avoid consultation fatigue and can we bring the processes together? With the WFD, MSFD, more Natura 2000 sites (SACs and SPAs) this is too much for stakeholders to keep up with.

We are conscious of this challenge and will try and work with those implementing other processes to streamline this as best as possible. The Communications Manager and liaison officers for the Net Gain are playing key roles in this. However, we are bound in to fairly rigid timetables, especially with European legislation. We therefore have the choice of consulting when we can or involving stakeholders less. Less involvement would not meet the Government's wish for transparent and inclusive policy-making.

2.4.2. How does the Net Gain Project fit in with the Water Framework Directive (WFD) and work of the Environment Agency, particularly in transitional waters (1 mile seaward) where there is an overlap?

We will need to ensure that the Net Gain and WFD processes work together and complement each other. The Water Framework Directive sets targets for achieving Good Ecological Status of UK waters, and MCZs, together with Natura 2000 sites (SACs and SPAs), SSSIs, Ramsar sites and other measures, will contribute to this. The Environment Agency is looking at how MCZs might contribute towards fulfilling this requirement and is closely involved with the regional project and policy processes.

### **3. Identification of MCZs (Scientific/Site selection – signed off by JNCC – Jon Davies)**

#### **3.1. What will MCZs protect**

3.1.1. What will be protected by MCZs?

MCZs will protect nationally important marine wildlife, habitats, geology and geomorphology.

3.1.2. Is there a list of the habitats and species to be protected in MCZs? Is this list available?

A list of broad-scale habitats and features of conservation importance (FOCI) is being prepared and will be published in the ecological network guidance; a draft list is available but should be considered incomplete at the present time (February 2010). Features of conservation importance will consist of habitats and species listed on the Wildlife and Countryside Act, the UK Biodiversity Action Plan and the OSPAR List of threatened and declining habitats and species. In addition a list of broad-scale habitats that represent the range of seabed biodiversity is being finalised.

### 3.1.3. Are MCZs meant to protect fish stocks, the sea bed or both?

It is not the Government's intention to use the Net Gain Project as a fisheries management tool since other mechanisms exist for that purpose. Fisheries are managed through the UK's Sea Fish Conservation Act 1967 (0-6 nm) and the European Union's Common Fisheries Policy (beyond 6nm).

However, commercial fish species are part of the marine ecosystem and some species have established conservation importance (e.g. those listed on multilateral environmental agreements such as the UK Biodiversity Action Plan). These species should be considered during the Net Gain identification process to offer sufficient protection for the long-term maintenance of the species itself, where such protection is not linked to any commercial stock assessment. MCZs will not aim to restore fish stocks for enhanced commercial exploitation although this may be a consequential benefit. The network of MPAs (including Natura 2000 sites, SSSIs and Ramsar sites) will help conserve and recover the health of the marine environment, which will help ensure the long term sustainability of all marine resources.

### 3.1.4. We already have a Special Area of Conservation here – isn't that enough?

Special Areas of Conservation are designated for species and habitats specified in the EC Habitats Directive (Annexes I & II) that are within their boundaries, not the whole ecosystem inside their boundary. Therefore, there are likely to be species and habitats present within SAC boundaries that are not protected. If these habitats or species could make a contribution to the MPA network, adding an MCZ designation may be more efficient than seeking a new site elsewhere for those extra habitats and species.

## **3.2. Ecological Network Guidance and targets**

### 3.2.1. Who developed the ecological network guidance and how?

The ecological network guidance has been developed by Natural England and JNCC making full use of the available scientific literature, international best practice in designing MPA networks and through commissioning specific pieces of new research. Topics that had not been reviewed in sufficient detail such as connectivity of MPAs were the focus of new research. The guidance has been reviewed by the Chief Scientists of JNCC, Natural England and Defra, and subject to international peer review by the scientific community. The Science Advisory Panel will also provide comments.

### 3.2.2. Will the ecological network guidance be consulted on?

No, the ecological network guidance will not be subject to a formal public consultation. Instead, it will be shared with stakeholders and made available to all from Project Partner websites. Stakeholders will be able to offer comments ahead of its final sign off by JNCC and Natural England. It is important to note that the guidance cannot be finalised until after the Minister has made a

statement to Parliament in March 2010 on the goals of the MPA network. It is expected that the ecological network guidance will be finalised in summer 2010.

3.2.3. Will the ecological network guidance change over the development of the project?

No, the ecological network guidance will be finalised in Summer 2010 following the Minister's statement in March 2010 on the MPA network. Of course, if significant new scientific research is published that helps to clarify any aspects of the guidance, it will be fully considered by JNCC and Natural England, taking advice from the Science Advisory Panel.

3.2.4. Will the ecological network guidance be able to be understood by all stakeholders?

The ecological network guidance will be written using as simple language as possible. However, to provide the level of detail necessary for it to be useful for the stakeholder groups to plan the MCZ locations it will need to be written with a certain amount of technical language. It will be the role of Chiara Polce, our MPA Planner to ensure that all members of the stakeholder group understand and are comfortable with all of the principles laid out in the ecological network guidance. Chiara will also provide support to the stakeholder groups in the application of the guidance.

3.2.5. Will the ecological network guidance be using/linking with UK BAP for priorities for conservation of species/habitats?

Yes, features of conservation importance for the MPA network will consist of habitats and species listed on the Wildlife and Countryside Act, the UK Biodiversity Action Plan and the OSPAR List of threatened and declining habitats and species.

3.2.6. To what extent will the ecological network guidance be following UN guidelines?

The ecological network guidance draws upon several sets of internationally recognised guidelines. These include guidelines and good practice drafted under the Convention on Biological Diversity, the OSPAR Convention, the International Union for the Conservation of Nature (IUCN), and the United Nations Environment Programme (UNEP).

3.2.7. Is there a predetermined % target for MCZ/MPA coverage?

There will be no generic blanket target of sea to be protected within the MPA network. Ecological network guidance is currently being drafted which will outline the scientific framework for an ecologically coherent MPA network, including the features to be protected, biogeographic representation, replication, distance between sites, and size of individual sites.

3.2.8. Will a pre-set portion of a particular habitat have to be met by Net Gain, or the best examples of habitats and species in the Net Gain Project area be selected?

For the MCZ Project area, Defra have outlined their commitment to ensure that the MPA network is ecologically coherent, and part of this coherence is the network must be of adequate size to deliver its ecological objectives. Such adequacy should ensure that the proportion of the total national resource of each feature (habitat and species) included within the MPA network is sufficient to maintain the feature's long-term protection, or recover the feature to the necessary level for its future existence where required. Discussions between JNCC, NE and Defra are still ongoing as to

how this aim can be best delivered. It has not yet been determined whether Net Gain and the other regional projects will have to meet specific numerical criteria for those features listed in the network design guidance, though an approach based on habitat-specific indicative ranges of percentage habitat coverage is currently advocated by JNCC and Natural England.

3.2.9. Will the habitats and species currently protected within European Marine Sites count towards the targets in the ecological network guidance for the MCZ Project?

Yes, designated features protected within European Marine Sites will count towards adequacy targets. However, species and habitats within European Marine Site boundaries that are not currently protected will not count (see question 3.1.4). The Ecological Network Guidance sets out the criteria for the MPA network and existing site designations (SACs, SPAs, SSSIs and Ramsar sites) will all contribute to meeting these criteria.

3.2.10. Some sites may warrant protection but not have any of the species or habitats listed in the ecological network guidance; what happens in this situation?

Whilst the network design guidance will list specific species and habitats to be protected through the MPA network, this will not prevent MCZs being identified for non-listed species and habitats. The Marine and Coastal Access Act allows for the designation of MCZs for *all* marine flora and fauna (i.e. species and habitats). Clause 123 of the Act sets out the conditions for the MPA network and states that 'the features which are protected by the sites comprised in the network represent the range of features present in the UK marine area'. It will be necessary to select common and widely occurring habitats to meet this 'range' condition. The UK marine environment is incredibly diverse, with over 8000 marine species; the ecological network guidance is intended to help identify a subset of these that are of importance and in need of national protection. Regional knowledge of the marine environment and of features of local importance should be considered in site selection.

3.2.11. In the Marine and Coastal Access Act geomorphology and geology are mentioned as reasons for MCZs, so why are only habitats and species being mentioned?

MCZs can be designated for features of geological or geomorphological interest. The revised Defra Draft guidance on selection and designation of Marine Conservation Zones (Note 1) makes specific reference to MCZs for geological and geomorphological features; the ecological network guidance will also include a specific chapter relating to geological and geomorphological features. A project is currently underway to collate spatial information on the distribution of geological and geomorphological features in our waters, and will assess the conservation value of each of these features.

3.2.12. Given that the IUCN MPA definition refers to culture, how will cultural features be addressed as heritage, particularly in the marine environment?

The UK Government and Defra have not adopted the IUCN definition of MPAs. The Marine and Coastal Access Act allows for the designation of MCZs for marine flora and fauna; marine habitats or types of marine habitats; and geological or geomorphological features of interest. The Act does not allow for the designation of MCZs for marine heritage conservation. The primary focus of MCZs is biodiversity conservation. However, cultural heritage is clearly an important element of our marine environment, and where there are synergies between the protection of natural features and marine heritage these should be taken into consideration. A project is currently underway to map the distribution of marine heritage sites in our waters, and will be provided to all four of the regional

MCZ projects as additional information to aid in the decision making process. Such marine heritage information will support any socio-economic considerations over the location of a MCZ.

3.2.13. Will seasonal closures be one of the parameters in the ecological network guidance?

No, not at present. Seasonal closures are generally more useful for mobile species where they aggregate at particular times of year. Mobile species of conservation importance are not currently listed as features for MCZs. However, work is underway to identify whether MCZs are a suitable mechanism for protection for mobile species. MCZs will be permanent although byelaws controlling activities may implement seasonal management.

3.2.14. Will socio-economic factors outweigh the needs of some species for their continued survival?

No. Within the Marine and Coastal Access Act there is a duty to create a network of conservation sites, comprising MCZs and European marine sites, and Clause 117(7) states '*In considering whether it is desirable to designate an area as an MCZ, the appropriate authority may have regard to any economic or social consequences of doing so.*' However, as outlined in the accompanying Explanatory Notes socio economic factors can only be considered where there will be no adverse impacts on the conservation potential of any resulting MPA network.

The accompanying Explanatory Notes explain that:

293. *Subsection (7) allows Ministers to take account of the economic or social consequences of designation. This ensures MCZs can be designated in such a way as to conserve biodiversity and ecosystems whilst minimising any economic and social impacts. Where an area contains features that are rare, threatened or declining, or forms a biodiversity hotspot, greater weight is likely to be attached to ecological considerations. Where there is a choice of alternative areas which are equally suitable on ecological grounds, socio-economic factors could be more significant in deciding which areas may be designated as an MCZ.*

Lord Hunt of Kings Heath (Minister of State for Defra & DECC in House of Lords) has written that "*The clauses around the Marine Conservation Zones were clearly about delivering nature conservation measures, and here there was a very clear remit to look at conservation and then, to take account of socio economic aspects as far as is consistent with our conservation objectives, for example where choices could be made*".

It is likely that the weight attached to socio-economic factors, will depend on a number of issues, and will need to be considered in the light of the particular circumstances that apply in each area (within the constraints of the network design principles).

### **3.3. Maintenance/restoration of species and habitats**

3.3.1. To what extent will MCZs and the Net Gain Project address 'recovery'?

The MPA network will play a crucial role in the recovery of both biodiversity and ecological processes. Reference in the Marine and Coastal Access Act to 'conserving' marine features covers the facilitation of their recovery or increase. For some MCZs, conservation objectives will propose recovery of the designated features. This situation will arise, for example, where the wildlife and/or habitats are degraded or in decline as a result of human activities. Natural recovery will be achieved by reducing or eliminating damaging activities through the site management regime consistent with the conservation objectives.

3.3.2. Can MCZs be set up for creation or restoration of marine habitats? Will only sites that are already in good condition be protected, or will sites that could improve with management be protected as well?

See response to 3.3.1. It will be possible to identify MCZs for the recovery of marine features which have been degraded through human activity. The emphasis will be on allowing recovery of *existing* natural features through the management or elimination of impacting activities. The capacity to artificially create or restore habitat is much more limited in the marine environment than on land, and would have to be evaluated on case by case basis, taking into consideration the likely success of intervention and the associated costs.

3.3.3. Is there a requirement to increase the numbers of some species or is it to maintain numbers at their current level?

Where a population is thought to be healthy then the requirement is likely to be to maintain current numbers. Where there is evidence that species numbers have declined and the population is not healthy then the conservation objective is likely to be for numbers to increase.

3.3.4. Will only native species be considered, or alien species as well? How do you define native species?

Non-native species are those that have established themselves outside their natural range either past or present, with the assistance of man either intentionally or unintentionally. Invasive non-native species are those that have the ability to spread causing damage to the environment, the economy, our health and the way we live. Invasive non-native species are widely accepted to be a major threat to biodiversity, ecosystems and ecosystem services.

Non-native species cannot be representative of the UK's biodiversity and therefore would not be considered as a feature for MCZ designation and have not been included in the ecological network guidance. While the presence of a non-native species in an area should not necessarily preclude the identification of an MCZ, they may need to be actively controlled where they occur within designated MCZs.

### **3.4. Data**

3.4.1. What data will be used to help select where MCZs should be located?

There is a wealth of information available for our marine environment including ecological, physical and socio-economic datasets. Defra have stated that '*the selection of MPAs must be on the best available scientific evidence*' and the assessment of the importance of sites '*should be based on the best available science, expert advice and lay knowledge*'. To help ensure that this is possible Defra, JNCC and NE have commissioned a range of research to collate, and develop where appropriate, ecological data and socio-economic information for the marine environment. All this information will be made directly available to the regional MCZ projects to assist in decision making and site selection.

However, it is our intention that by engaging stakeholders early in the network design process they will be able to contribute local and lay knowledge to help inform decision making and site selection. The Net Gain team is also actively gathering regional evidence, including information from individual stakeholders.

Ecological and physical data layers will primarily be provided at a national scale by Defra, JNCC and Natural England, and through a series of research contracts. Ecological data will include for example:

- Distributions of species and habitats;
- Areas of high diversity;
- Areas of high productivity;
- Important feeding, breeding, moulting, wintering or nesting grounds; and
- Important nursery, juvenile or spawning grounds.

Physical data will include for example:

- Distribution of seabed sediments;
- Distribution of geological and geomorphological features; and
- Bathymetry.

Local and regional knowledge should contribute to these data ensuring that they are as robust and accurate as possible.

Socio-economic data will be provided at national, regional and local levels. For example, national datasets are already available showing the distribution of many human activities. However, the distributions of several activities are not available at a national scale, for example, data showing the distribution of fishing activity (vessels <15m), distribution of sea angling or the distribution of tourism and recreation. Such information will primarily be collated at the regional MCZ project level by the Net Gain team through initiatives similar to the FisherMap Project undertaken by Finding Sanctuary.

#### 3.4.2. Who will look at and judge the quality of the data being gathered?

For the datasets that are being collated nationally, there are quality assurance procedures in place to ensure the contractors deliver high quality data layers. The data that are collected by the regional projects will be quality assessed by the regional project teams before being added to any data layers they are creating. In some cases, external, independent validation may be necessary.

#### 3.4.3. Do JNCC/NE have a national webGIS system?

A UK webGIS is planned to help make appropriate UK-wide marine datasets available to NetGain and the other regional MCZ projects and provide the facilities to capture data from stakeholders. JNCC and NE have GIS facilities through their own corporate websites that provide data and information relevant to MPAs. The Finding Sanctuary project has a webGIS available through their website. Net Gain will launch its own regional webGIS system in the spring.

#### 3.4.4. Could an MCZ be established even if there is inadequate information for this site, and then monitoring undertaken to obtain the missing data (e.g. to allow management measures to be identified)?

At all times, the best available evidence will be used to underpin the MCZ identification process. A lack of detailed information about an area should not prevent its identification as an MCZ if the site is supported by the regional projects. However, some proposed areas may require further survey so that appropriate conservation objectives and management advice can be developed. Any such sites will be identified when submitted. Where evidence on the site and its features is lacking, the best available evidence should be used in the meantime and should not prevent the recommendation of such sites to Government.

### **3.5. Where will MCZs be located**

#### 3.5.1. Where will MCZs be located?

The Marine and Coastal Access Act sets out the formal legal provisions for the designation of MCZs, including the geographic area where these provisions apply. The Marine and Coastal Access Act provides for MCZs to be designated from the Mean High Water Spring tide mark out to the limits of the UK continental shelf or the median line, whichever is appropriate.

The MCZ Project covers the territorial waters of England and UK offshore waters adjacent to England, Wales and Northern Ireland. The aim of Net Gain, as part of the national MCZ Project, is to implement a stakeholder engagement process that will involve all stakeholders in deciding where MCZs should be located. Defra, JNCC and NE will not predetermine where MCZs should be located although the Regional Hubs and the Stakeholder Advisory Panel will be expected to propose sufficient MCZs to meet the ecological criteria set out in formally agreed ecological network guidance. In 2011, Defra are expecting Net Gain to provide recommendations for MCZs to meet the network objectives. If the recommendations are supported by a wide range of stakeholders, and comply with the ecological network guidance, then Government are likely to adopt them and give them legal status.

#### 3.5.2. Why are MCZs inshore and offshore for England but just offshore for Wales?

There will also be MCZs inshore in Wales but these are not covered by the MCZ Project. In Wales MCZ selection will be managed by the Welsh Assembly Government in collaboration with the Countryside Council for Wales (CCW) and will engage widely with the public and stakeholder interests. As a significant proportion of Welsh inshore waters are already protected by some form of designation, the Welsh Assembly Government intends to use the MCZ mechanism to designate a small number of highly protected MCZs (these are sites where all damaging and disturbing activities will be excluded). The project aims to recommend sites to the Welsh Assembly Government in 2012. Close links will be maintained with the MCZ Project in England, especially where proposed zones share borders.

#### 3.5.3. Will MCZs extend beyond the 6 mile limit?

Yes, MCZs can be designated from the Mean High Water Spring mark out to the limits of the UK Marine Area as defined in the Marine and Coastal Access Act. The UK Marine Area extends to the UK sector of the continental shelf or the median line with adjacent countries, whichever is appropriate.

#### 3.5.4. How far up rivers can MCZs extend? What is the landward limit for MCZs?

In the case of watercourses (such as rivers) MCZs will only extend up to the freshwater limit (defined as the place in a watercourse where at low tide and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of seawater<sup>3</sup>).

#### 3.5.5. Can MCZs be established in the intertidal, and/or incorporate intertidal habitat?

Yes, the Marine and Coastal Access Act defines the landward limit for MCZs as:

1. any area submerged at mean high water spring tide, and

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<sup>3</sup> As defined in the OSPAR Convention (Article 1)

2. the waters of every estuary, river or channel, so far as the tide flows at mean high water spring tide.

In some cases MCZ designation may extend landward of mean high water spring tides, for example to include lagoons and pools if they can be defined to be part of the seashore; these areas are described within Clause 42 of the Marine and Coastal Access Act as part of the definition of the UK Marine Area. Therefore MCZs can be identified in the intertidal zone (marked by high and low tide marks) and possibly extended inshore of the mean high water spring tide mark.

#### 3.5.6. How far up beaches will MCZs extend?

MCZs can extend as high as the mean high water spring mark. In some cases MCZ designation may extend landward of mean high water spring tides, for example to include lagoons and pools if they can be defined to be part of the seashore; these areas are described within Clause 42 of the Marine and Coastal Access Act as part of the definition of the UK Marine Area.

#### 3.5.7. What height do MCZs extend to at sea e.g. high water mark or the top of wind turbines?

What height MCZs extend to at sea will depend upon the species or habitats that the site is protecting. If the feature of interest is only attached to the seafloor then activities that purely use the water column and do not interact with the seafloor within that area would still be allowed. If the MCZ was for a species that made full use of the water column then the MCZ would extend to the surface of the water.

#### 3.5.8. Do MCZs include the air space above them e.g. would they limit flight paths overhead?

No.

#### 3.5.9. Could an MCZ be designated for a habitat on an artificial/man made feature e.g. a reef that establishes itself on the base of wind turbines or over cables routes? If an MCZ can be designated for such a habitat what would happen if, for example, the windfarm was decommissioned or the cable removed?

There is no legal barrier to designating a habitat or species living on a man-made structure. However, the ecological network guidance considers the naturalness of features and advises that features that are less impacted by human activities should be preferred. If an MCZ were designated for a feature on a man-made structure then the public authority granting a license for its removal would have to consider the effects on the MCZ under its clause 126 duties. If the structure were removed then it is likely that another MCZ would need to be designated for this feature to maintain the network objectives.

#### 3.5.10. Will MCZs be big enough or will vested interest groups water down recommendations so much that they are not useful?

The final collection of MCZs recommended by Net Gain will have to meet the ecological network guidance otherwise they will not be approved. The guidance will provide recommendations as to the size and spacing of MCZs and therefore the final MCZs will be big enough to function as intended.

#### 3.5.11. How will the fluid nature of the marine environment be taken into account?

The marine environment is dynamic, and inter-connected, changing over time and space. The fluid nature of the marine environment is considered in the network design principles of viability and connectivity, which take into account the size and spacing of MPAs respectively in order to protect and support ecological connections between different areas of the sea (bed).

Specific features within the marine environment are known to be very dynamic and wide ranging, for example highly mobile organisms such as fish and cetaceans. MCZs could be designated for mobile species where there is good evidence that they would benefit from site-based protection measures. Site identification would depend on the species being present in sufficient numbers at predictable locations (e.g. at certain life stages) in order to establish meaningful site boundaries and conservation objectives. For mobile species that range over wide areas, MCZs would most likely only be proposed where there is a clear dependency on a specific site by individuals of the species.

Ecological processes (e.g. ocean currents) can also be particularly dynamic, and it would therefore be inappropriate to identify an MCZ for these processes alone. However, they should be taken into account when identifying MCZs for species and habitats, setting the conservation objectives and considering the management measures required (so that ecological processes will be maintained/conserved where necessary to support a habitat or species).

### **3.6. MCZ boundaries**

3.6.1. Will the new MCZs be able to more closely follow the feature of interest than SACs do where a large boundary with straight edges is drawn around the interest feature encompassing a much larger area than just the feature of interest?

The Regional Hubs and the Stakeholder Advisory Panel will determine the boundaries of MCZs. The ecological network guidance contains good practice in boundary drawing based on experience with SACs. Boundaries must be appropriate to ensure the conservation of the features within them. Management measures will only apply to designated features inside the boundary and not all features.

3.6.2. Will MCZ boundaries have to be made up of straight lines or can they be curved?

Studies have shown that sea users consider straight lines easier to follow than curved ones. Straight lines are also easier for management agencies to enforce. The Regional Hubs and the Stakeholder Advisory Panel will use the Ecological Network Guidance, and take advice from the MMO and IFCAs where necessary, to decide boundaries.

3.6.3. Will MCZs protect the entire ecosystem within its boundary?

Each MCZ will have a list of designated features. In some instances, this may encompass all features within the boundary but for others only some of the habitats and species will be designated. Habitats and species that are not designated but fall within boundaries will not be subject to management measures.

3.6.4. Do zones have to be geographical? Could they be set to control fishing via size or breeding season?

Yes, MCZs have to be geographical. The designating order must identify the boundaries of the area. Byelaws brought in by public authorities such as IFCAs could contain conditions to control fishing via size of species or have time-based restrictions.

3.6.5. Can the boundaries of MCZs be modified or moved once they are designated (i.e. the features to be protected may change or even disappear with time due to natural change or other factors)?

It is intended to designate MCZs, for each region, by late 2012, in order to meet the UK's MPA network commitments under the Convention on Biological Diversity and World Summit on Sustainable Development. It is likely that a small number of MCZs will be designated after this date, for example where issues surrounding designation are particularly complex or controversial, where further survey is required to confirm the site's conservation value, or in order to fill gaps in the coverage of the network. The ecological coherence and condition of the network will also be kept under review after 2012, which may require further sites to be designated from time to time. The EC Marine Strategy Framework Directive sets out obligations on Member States towards attaining Good Environment Status of the marine environment by 2020. MPAs are identified as a possible measure to help achieve this target and therefore further MCZs may be designated ahead of the 2020 deadline if required.

There are provisions in the Marine and Coastal Access Act for Orders to de-designate MCZs if needed, to amend the conservation objectives of MCZs or amend the boundaries of MCZs, for example, in response to a change in the distribution of a protected feature. Defra will produce further guidance on how the identification of MCZs post 2012 will be undertaken before the regional projects complete their work.

### **3.7. Climate Change**

3.7.1. What is the scope for MCZs to change in response to the impacts of climate change?

MCZs are designed to be flexible to take account of future changes including climate change. If species are no longer present in a site due to climate change altering the range of the species then the Secretary of State may remove that species as a feature from the designating order or de-designate the area. To adequately protect the species further MCZs may need to be designated within its new range or new species added within existing MCZs and conservation objectives and management advice updated. The same measures could apply to a coastal habitat where it may have been lost or its extent changed due to sea level rise or coastal change. When drawing boundaries of MCZs, the Regional Hubs and Stakeholder Advisory Panel should take into account information on predicted climate change effects on habitats and species.

JNCC and Natural England will provide advice to Government on how the sites are coping with climate change and what measures may be needed to ensure the network remains ecologically coherent.

3.7.2. Will the recommendations take into account the impacts of coastal flooding?

The Regional Hubs and Stakeholder Advisory Panel may take into account a wide variety of information when forming their recommendations including projected impacts of coastal flooding. European Marine Sites, Sites of Special Scientific Interest and Ramsar sites already protect many intertidal habitats but where there is a need for a MCZ then the Regional Hubs and Stakeholder Advisory Panel should consider the effects of coastal change including flooding when deciding on the preferred location.

## **4. Process for identifying MCZs (Process – signed off by Natural England – Roger Ward)**

### **4.1. Process of site selection**

#### 4.1.1. Who will decide where MCZs will be placed?

It will be the role of the Regional Hubs and the Stakeholder Advisory Panel to recommend where the MCZs should be placed within the Net Gain Project Area. The final decision on which sites to designate will be taken by Ministers, as the legislation requires; but we anticipate that they will follow closely the recommendations of the regional projects, as long as those recommendations meet the criteria outlined in the ecological network guidance.

#### 4.1.2. At what stage will a long list of potential MCZs be prepared?

Net Gain will come up with its final list of recommended MCZs by June 2011.

#### 4.1.3. Couldn't areas that are already used a lot be "sacrificed" in order to protect less used areas?

It will be the role of the Regional Hubs and the Stakeholder Advisory Panel to consider all the available data, both ecological and socio-economic, and use it to make recommendations as to the best places to designate MCZs. It would make sense, where it is an option, for the stakeholder groups to recommend MCZs in areas of the sea that are less heavily used at present. However, that option is not likely to be available in all cases.

#### 4.1.4. How will we ensure there is no bias in decision-making?

The Net Gain recommendations about where MCZs should be located will be made our Regional Hubs and the Stakeholder Advisory Panel. These groups will be made up of representatives of all the different marine user and interest groups within the regional project area, including, for example, recreational sea anglers, commercial fishermen, boaters, divers, the energy sector, aggregate industry and environmental groups.

Net Gain is being guided through an open and transparent decision making process by an independent professional facilitator, whose details are available on request. Their role will be to ensure that no bias is given to a particular sector and that all information and opinions are taken fully into account during the development of the MCZ network recommendations.

As our Regional Hubs and Stakeholder Advisory Panel develop and refine its network recommendations, an independent Science Advisory Panel will provide advice on whether the developing recommendations meet the criteria set out in the ecological network guidance.

#### 4.1.5. What is the relative importance of conservation and socio-economic factors in the selection of sites?

Within the Marine and Coastal Access Act there is a duty to create a network of conservation sites, comprising MCZs and other conservation sites (mainly European marine sites, but also marine SSSIs and Ramsar sites). Clause 117(7) states '*In considering whether it is desirable to designate an area as an MCZ, the appropriate authority may have regard to any economic or social consequences of doing so.*'

The accompanying Explanatory Notes explain that:

293. *Subsection (7)* allows Ministers to take account of the economic or social consequences of designation. This ensures MCZs can be designated in such a way as to conserve biodiversity and ecosystems whilst minimising any economic and social impacts. Where an area contains features that are rare, threatened or declining, or forms a biodiversity hotspot, greater weight is likely to be attached to ecological considerations. Where there is a choice of alternative areas which are equally

suitable on ecological grounds, socio-economic factors could be more significant in deciding which areas may be designated as an MCZ.

Lord Hunt of Kings Heath (Minister of State for Defra & DECC in House of Lords) has written that *"The clauses around the Marine Conservation Zones were clearly about delivering nature conservation measures, and here there was a very clear remit to look at conservation, and then to take account of socio economic aspects as far as is consistent with our conservation objectives, for example where choices could be made"* .

4.1.6. Will sites be selected where there is least conflict, so that less regulation and management will be required?

It will be preferable, where options exist, to select sites where there is minimal activity or where human activities do not conflict with the conservation objectives for MCZ features. However, there may be circumstances where a specific feature is required for the development of an ecologically coherent network, and only one or a few suitable areas exist. In these cases there may be conflict between existing activities and the conservation objectives for the features. Such conflict would be considered in the impact assessment for the proposed site, and be recorded in the dossier recommending the site to the Government.

4.1.7. How will the interests of wildlife be represented in the process of selecting MCZs?

The ecological network guidance is being written to ensure that the MPA network will provide protection to the full range of marine wildlife. On the stakeholder groups Natural England and JNCC will be represented to provide the view of the statutory conservation advisers, and non-governmental organisations such as the Marine Conservation Society or the Wildlife Trusts are also likely to be represented.

4.1.8. Will pollution from land be taken into consideration when selecting MCZ locations?

Not directly. It is quite complicated to map where all of the pollutants are coming from and how they disperse within the water column and therefore this data layer is not being produced. However, there will be a summary sheet available to the regional project stakeholder groups of which coastal and marine activities produce which pollutants and so it will be possible to identify areas where pollution might be a problem. This information will not stretch to land based activities (e.g. farming), though.

4.1.9. Will existing restrictions (e.g. seasonal fishing closures) be taken into consideration when selecting sites?

Yes, so long as the geographical data on seasonal fishing closures has been provided to Net Gain, either through collation in the national data layers or by having been provided directly to liaison officers. In that case, our Regional Hubs and Stakeholder Advisory Panel will be able to take this closure into account when choosing their recommendations on where to locate MCZs. To check whether or not a particular seasonal fishing closure is held within our data sets please contact the relevant regional project and ask to see a copy of their "Regional Profile".

4.1.10. Will existing designated areas be more or less likely to be included within MCZs?

An existing Marine Protected Area will not be included within an MCZ unless there are species or habitats present which need to be protected, but which are not protected through the existing designation.

4.1.11. What will happen if the stakeholder recommendation is for no MCZs, because it is considered that the existing situation provides adequate protection?

Government considers that MCZs are required to fulfil our international marine conservation obligations. The Regional Hubs and Stakeholder Advisory Panel will be provided with ecological network guidance which sets out scientific criteria about what protection is needed. An independent Science Advisory Panel will provide advice on whether the emerging recommendations meet these criteria. If a regional stakeholder group submits a final recommendation that does not satisfy these criteria, JNCC and Natural England will need to identify additional MCZs to meet the shortfall. The full package of recommendations will then be consulted upon in 2012.

4.1.12. How exactly are MCZs in international waters going to be decided (i.e. beyond 12 nautical miles) or is this just another imposition on English fishermen alone?

MCZs in UK offshore waters will be decided in exactly the same way as they will be decided in territorial waters and the recommendations will be made by the regional stakeholder groups in exactly the same way. In terms of introducing management measures in these sites the UK government has the authority to manage MCZs against all activities within UK offshore waters except for fishing activity for which the European Commission provides enforcement. Where there is a need for fishing restrictions within an MCZ beyond 12 nautical miles, the Government will work with the European Commission to deliver any additional fisheries measures that are required.

4.1.13. Which government departments will have the final say?

The Secretary of State for the Environment will have the final say on which MCZs are designated.

4.1.14. What international experience is there and have you capitalised upon it?

We have studied MPA planning processes in California, Australia, the Netherlands, New Zealand and Germany, and have captured best practice from these examples. We have also learnt from the current Natura 2000 experience.

## **4.2. Socio-economics**

4.2.1. Is 'may' have regard for socio-economics the wording from the Marine Act?

Yes, the wording in the Act is "In considering whether it is desirable to designate an area as an MCZ, the appropriate authority [in England, the Secretary of State for the Environment] may have regard to any economic or social consequences of doing so."

4.2.2. Who will undertake the impact assessments?

The impact assessments will be undertaken by the Regional Hubs and the Stakeholder Advisory Panel. We are also recruiting a socio-economist to our team to support this process and the impact assessments will be reviewed by Defra economists prior to public consultation. Following the site

recommendations to Defra in 2011 the impact assessments will then be subject to formal consultation along with Net Gain's recommendations.

4.2.3. Will there be an independent body looking at socio-economics (in the same way as JNCC and NE are providing the science)? Stakeholders are hoping that the social and economic aspects will be brought in this time, and that they will be dealt with more sensitively than with the Habitats Regulations.

The Act makes it clear that socio-economic considerations may be taken into account in the designation process, and Net Gain has been set up in a way which will enable that to happen. Defra has let a contract to ABPmer to provide information on the data available on socio-economic issues, and identify appropriate tools to use this information. Stakeholders will be uniquely placed to provide additional information, especially at a local scale. Socio-economic issues will be at the heart of the impact assessments which the regional projects will prepare as part of their package of recommendations. Our own socio-economist will support this process and, once the package of recommendations has been submitted to the Government, the impact assessments will be subject to formal consultation along with the Net Gain site recommendations.

### **4.3. Timing**

4.3.1. Why, when in the 2007 Marine Bill White Paper it stated that there would be 10-12 years after the Bill was enacted to designate new MPAs, has this been changed in the Marine Act and reduced to the majority of MCZs being designated by 2012?

The Marine Bill White Paper published in 2007 provided the Government's outline for proposed measures to be included in a Marine Bill. Policy has developed since the White Paper as a result of the consultation process and further refining policy proposals.

The White Paper proposed that we would make substantial progress to complete the MPA network in 2012 and complete it by 2020. During the passage of the Bill in Parliament, the Government committed to have an MPA network in place by 2012, to ensure that we will meet our international commitments for establishing a network by 2012 under the World Summit for Sustainable Development and the Convention on Biological Diversity. However we expect to keep this network under review, which may give rise to further sites being needed or existing sites being amended. In Defra's draft MPA strategy (<http://defra.gov.uk/corporate/consult/marine-conservation-zones/index.htm>) it also sets out that the Government envisages a coherent network of well managed MPAs to be established by 2020.

4.3.2. The deadline for data submission is too tight for those working within stakeholder organisations to be able to collate disparate information by, particularly as for recreational activities many of these individuals are volunteers. Is this going to be taken into account?

Our team of liaison officers will work directly with stakeholders to gather data – following a model similar to that which Finding Sanctuary used (FisherMap). As Finding Sanctuary have done, the liaison officers will spend the majority of their time out in the community speaking to stakeholders on an individual basis and will strive to find times and be available when stakeholders are able to participate in the process. Net Gain is also establishing web-based information gathering tools (webGIS) where individuals can submit the detail of how they use a sea area at any time. These tools will be widely promoted and are designed to be simple to use. Ultimately, however, recommendations will need to be made in the light of the best data available at the time to the Regional Hubs and the Stakeholder Advisory Panel.

4.3.3. Is the deadline realistic, and should there not be more emphasis on getting good results rather than meeting deadlines? Is there any flexibility in the timetable?

There is some flexibility in reporting recommendations to JNCC and NE but recommendations to Defra must be made by October 2011 to meet 2012 commitments. There is benefit in having a tight deadline, to focus the effort, but we very much appreciate that this gives everyone a lot of work to do in a short period of time and we will do whatever we can to make it easier for people to engage.

4.3.4. Will all the MCZs be designated at the same time?

It is intended to designate MCZs, for each region, by late 2012, in order to meet the UK's MPA network commitments under the Convention on Biological Diversity and World Summit on Sustainable Development. It is likely that a small number of MCZs will be designated after this date, for example where issues surrounding designation are particularly complex or controversial, where further survey is required to confirm the site's conservation value, or in order to fill gaps in the coverage of the network. The ecological coherence and condition of the network will also be kept under review after 2012, which may require further sites to be designated from time to time. The EC Marine Strategy Framework Directive sets out obligations on Member States towards attaining Good Environment Status of the marine environment by 2020. MPAs are identified as a required measure to help achieve this target and therefore further MCZs may be designated ahead of the 2020 deadline if required.

There are provisions in the Marine and Coastal Access Act for Orders to de-designate MCZs, amend their conservation objectives, or amend their boundaries. Such changes might become necessary, for example, in response to a change in the distribution of a protected feature. Defra will produce further guidance on how the identification of MCZs post 2012 will be undertaken before the regional projects complete their work.

#### **4.4. Role of Regional Projects**

4.4.1. What is the role of the Net Gain Team?

The Net Gain team is responsible for ensuring that as many sea users as possible within our project area know about and engage with the MCZ Project, and that the data on their uses of the sea is gathered and collated to build up a regional profile of the ecological, social and economic aspects of the sea area in this project area. We are also responsible for co-ordinating and hosting the Regional Hub and Stakeholder Advisory Panel meetings and supporting the regional stakeholders throughout the process of developing their MCZ recommendations.

4.4.2. What is the role of the Net Gain Project Board?

The Net Gain Project Board is responsible for ensuring that the Net Gain project is running to time and to budget and is on course to produce the deliverables that are required by summer 2011.

4.4.3. What is the role of the Regional Hubs and the Stakeholder Advisory?

The Regional Hubs and the Stakeholder Advisory Panel are responsible for producing the recommendations on where MCZs within the Net Gain project area should be located, together with the accompanying impact assessment. Members of these groups are also responsible for

communicating the work and the outputs of Net Gain to the other stakeholders in their sector that use the sea within the project area.

#### **4.5. Role of scientists**

##### 4.5.1. What is the role of the national Science Advisory Panel?

The national Science Advisory Panel is responsible for providing advice to the regional stakeholder groups as to whether or not their network iterations meet the ecological network guidance.

##### 4.5.2. What is the role of other scientists? What data are they gathering? Will they be collecting historical data? Are you confident that you have the science to carry out the work and meet the deadlines?

The MCZ Project is engaging with the scientific research community at the international, national and regional level to gather data and information, to undertake new research to answer some of the difficult questions arising, and to use the scientific expertise directly in the MCZ identification process.

There is a wealth of information available for our marine environment including ecological, physical and socio-economic datasets. Defra have stated that 'the selection of MPAs must be on the best available scientific evidence' and the assessment of the importance of sites 'should be based on the best available science, expert advice and lay knowledge'.

To help ensure that this is possible Defra and the conservation agencies have commissioned a range of research to collate and, where appropriate, develop ecological and socio-economic information for the marine environment. All this information will be made directly available to Net Gain to assist in decision making and site selection. The focus is on collating existing data, including historical records where relevant.

We are confident that we have enough information about our marine environment to carry out this work; and that with the support of stakeholders we will be able to meet the 2012 deadline.

##### 4.5.3. Will the science behind site selection be believable science? Local people may have better knowledge, and scientists always give different answers.

Defra have stated that 'the selection of MPAs must be on the best available scientific evidence' and the assessment of the importance of sites 'should be based on the best available science, expert advice and lay knowledge'. To help ensure that this is possible Defra, JNCC and NE have commissioned a range of research to collate and, where appropriate, develop ecological data and socio-economic information for the marine environment. We also welcome and encourage the input of local information into the Net Gain Project, which has liaison officers to gather local information from people that use the marine environment.

The Government has established a Science Advisory Panel made up of respected scientists, who will provide advice on the network iterations that come from the regional stakeholder groups as to whether or not they meet the ecological network guidance. JNCC and Natural England will also provided scientific support to the Net Gain project team if requested.

The ecological network guidance draws from internationally recognised and accepted principles of systematic planning and is supported by international research, published scientific literature and national/local information.

#### **4.6. Role of Natural England and JNCC**

4.6.1. What is the precise role of JNCC and Natural England in the decision making process and how will they remain impartial?

Both JNCC and Natural England will have a seat on each of the four regional stakeholder groups as they represent nature conservation, which is a valid use of the sea. Any decisions or input given by both organisations in this role will, however, not be given weight over those of other interests. In addition to this role, both JNCC and Natural England have led the development of ecological network guidance for the regional projects, to enable the projects to contribute to Government's overall aim of identifying an ecologically coherent network of MPAs; and the development of project delivery guidance, to enable the projects to meet their objectives in a consistent manner and within the required timescale.

4.6.2. Can't Natural England and JNCC just tell us where their preferred zones would be now?

Natural England and JNCC do not have preferred zones. So long as the sites that are recommended by the regional stakeholder groups meet the criteria laid out in the ecological network guidance, Natural England and JNCC will fully support the sites chosen by the stakeholders.

4.6.3. How will the recommendations from the four projects be brought together? What is the role of NE and JNCC in this? How will the four sets of recommendations lead to a national network?

Recommendations will be collated by NE and JNCC but not changed. The Science Advisory Panel will advise on whether the criteria set out in the ecological network guidance have been met through the four sets of recommendations. If not, NE and JNCC will provide advice to the Government on what more needs to be done to meet them. NE and JNCC sit on all stakeholder groups and so will be providing feedback on the recommendations throughout the process. The Science Advisory Panel will also comment on successive network iterations.

Ultimately, the objective of an ecologically coherent network will need to be met at UK level, so the Government will need to assess the results of the MCZ Project together with the results of similar work elsewhere in the UK.

#### **4.7. National Co-ordination**

4.7.1. How will the regional projects work together? National bodies have difficulty engaging in all regional projects – such as attending meetings, providing data etc... We must consider the reality of the workloads over such a short timetable.

All four projects have a similar structure, despite their regional 'identities', which will help stakeholders that have to engage in more than one project. Every effort is being made to co-ordinate meetings. A lot of data is being collected from the national bodies through national data contracts currently underway. While there will be opportunities for national level discussions with Defra, NE and JNCC, the MCZ networks will be shaped through the four regional projects, so stakeholders wishing to influence network recommendations will need to engage at that level.

#### **4.8. Communication**

4.8.1. What measures are being taken to make the science accessible and understandable to stakeholders?

The ecological network guidance will use as simple language as possible. However, to provide the level of detail necessary for it to be useful for the stakeholder groups to plan the MCZ locations, it will need to be written with a certain amount of technical language. It will be the role of Chiara Polce in the Net Gain team to ensure that all members of the stakeholder group understand and are comfortable with all of the principles laid out in the ecological network guidance. Chiara will also provide support to the stakeholder groups in the application of the guidance. Our PR and Communications Manager, Dani Sewell, is also there to ensure scientific information is made accessible to a wider audience; liaison officers to ensure the information is understandable; and technical support officers who will also help in supporting decision making processes.

4.8.2. Will different forms of communication be used for different stakeholders – will information be available via a website?

There will be a wide range of forms of communication as needed for different target audiences – media, displays at events, leaflets etc. PR and Communications Manager, Dani Sewell, is in place to ensure that communications are successful and maintain our website: [www.netgainmcz.org](http://www.netgainmcz.org)

4.8.3. Will the Communications Strategies for the Regional Projects focus on the MCZ process itself and getting people involved, or will it be broader and explain the benefits of MCZs to the general public?

The Communications Strategies for the regional projects focus primarily on the process of MCZ identification, but put this in the context of the Government's policies for Marine Protected Areas and the provisions of the Marine Act.

4.8.4. Once an MCZ is designated, how will it be notified and how will it get onto nautical charts?

When an MCZ is designated by the Secretary of State, notice of the designation will be sent to organisations and individuals who are considered likely to have an interest in, or be affected by, the designation, and a notice will be published in a way most likely to bring it to the attention of such people, for example in a local newspaper. As a public authority, the UK Hydrographic Office will be under a legal duty to further the conservation objectives of MCZs in carrying out its functions. This means that where there is a need to mark an MCZ on Admiralty charts, the Hydrographic Office will have a duty to take the appropriate steps, provided this duty is compatible with its other functions.

#### **4.9. Politics and economics that affect the MCZ Project**

4.9.1. What is the economic viability of MCZs - where will future funds come from, particularly in the light of the economic crisis?

The estimated costs and benefits of identifying and designating MCZs, and the on-going costs of managing and enforcing MCZs in the future, are set out in the Impact Assessment prepared by Defra for the Marine and Coastal Access Bill. The statutory nature conservation bodies, the new Marine Management Organisation (MMO) and the new Inshore Fisheries and Conservation Authorities (IFCAs) will be funded for the additional work they are asked or required to carry out.

4.9.2. Will there be continued funding of the Net Gain Project once the MCZs have been selected?

No, the Net Gain Project is due to finish in October 2011.

#### 4.9.3. How can the regional MCZ projects be independent when they are funded by Defra?

Net Gain and the other regional MCZ projects are operating at arm's length from Defra and are hosted, and the staff employed, by partner organisations. Defra are involved in the project at a national level and have representatives that sit on the national MCZ Project Board. Defra representatives are observers on the Regional Project Boards but do not actively sit on them.

#### 4.9.4. What happens if the Government changes colour?

We cannot speculate on what would happen in the event of a change in Government. However, any incoming Government will inherit the international obligations and domestic legislation which are driving the creation of Marine Protected Areas. And it's worth noting that the broad objectives of the Marine Bill had cross-party support during its passage through Parliament.

### **5. Stakeholder involvement in the identification of MCZs (Process – signed off by Natural England – Roger Ward)**

#### **5.1. Stakeholder data collection**

##### 5.1.1. How will we make sure the activities data provided by different sea users is accurate and valid?

Local data will be an important part of the evidence base on which the Regional Hubs and the Stakeholder Advisory Panel will base their network recommendations, and it is up to the Net Gain team to collate required datasets and satisfy themselves that such data is valid and accurate, in consultation with the stakeholder representatives. In some cases, external, independent validation may be necessary.

Finding Sanctuary have been using a process of group validation for their inshore fisheries data. The inshore fisheries mapping project (FisherMap), whose main aim was to map the nature and extent of fishing activities, was carried out through a process of interviews with individual fishermen. The information was then validated by aggregating the spatial data gathered from individual respondents by home port, and presenting the aggregated information to the local fishing community in group meetings.

##### 5.1.2. How can data be obtained from smaller stakeholder groups, given the costs and labour required in meeting many individuals (e.g. anglers)?

Net Gain liaison officers will work directly with these groups to gather data – following the model that Finding Sanctuary used (FisherMap). We are currently establishing web-based information gathering tools (webGIS) where individuals can submit the detail of how they use a sea area. These tools will be widely promoted and are designed to be simple to use.

##### 5.1.3. How do stakeholders know that the information they provide won't just be used to close the area they use within an MCZ as has been done before with other types of MPA?

When the Government considered the way it could fulfil its international marine conservation commitments it had two choices. It could either:

- continue with the Natura approach where the statutory nature conservation bodies recommend where the sites will be, based exclusively on scientific criteria and irrespective of the activities being undertaken in the area; or

- adopt a new approach that puts sea users at the centre of the process to identify a network of sites that achieve our conservation objectives whilst minimising any adverse impact on human activities.

The Government chose the second of these options. As a result, regional stakeholder groups made up of representatives of all the sea users and interest groups will have the responsibility of recommending MCZ locations. To choose sites that have the least adverse socio-economic impacts, the stakeholder groups will need information on what activities are undertaken where. Each sector will be encouraged to submit its information through their representative(s) on the stakeholder group. The more detailed this information, the better the decisions that the group can make.

5.1.4. Why do you need to know about all of the areas stakeholders use when many of these will not be included within MCZs?

Decisions about where MCZs should be located have not yet been made. In the case of Net Gain, this will be the role of the Regional Hubs and the Stakeholder Advisory Panel. To make sure our marine environment is in good condition and functioning as it should be, MCZs will be selected for common habitats and species as well as for those which are rare, threatened or declining. This means that MCZs could be identified anywhere within the project area. In order to identify sites that would minimise any adverse socio-economic impacts, the stakeholder groups will need comprehensive information on what activities are undertaken where.

5.1.5. Why do you not wait until MCZs are designated and then get the information if stakeholders use that MCZ for anything?

Recommendations about the location and the boundaries of MCZs will be made by the Regional Hubs and the Stakeholder Advisory Panel. These groups will have the responsibility for identifying MCZs that conserve species and habitats without causing unnecessary economic or social impacts. To ensure that group members can consider whether a proposed site may have economic or social impacts they have to know where activities are occurring (e.g. where fishing takes place or bait is dug). Without this information, there is a risk that sites will be recommended for designation as MCZs, with the possibility of restrictions on the activity, where they would not have been recommended if all the information had been available at the outset. It will therefore be in the best interests of stakeholders to ensure that such information is made available to the Regional Hubs and the Stakeholder Advisory Panel, so that it can be taken into account.

5.1.6. Sea anglers are being asked to fill in questionnaires left, right and centre. Why are there so many different surveys, how do they fit together and why should we give our information to you for the Net Gain Project?

Data is being collected in different ways for different types of study. For Net Gain, it is important that data on sea angling locations is submitted so that the Regional Hubs and the Stakeholder Advisory Panel has a complete picture of the activities occurring within the region (e.g. where angling takes place or bait is dug). Without this information, there is a risk that sites will be recommended for designation as MCZs, with the possibility of restrictions on the activity, where they would not have been recommended if all the information had been available at the outset. It will therefore be in the best interests of stakeholders to ensure that such information is made available to these groups, so that it can be taken into account.

5.1.7. I don't want to give away my secret sea angling marks but I still want to submit information. Can my angling activity still be mapped without giving away my marks?

Yes, we can map your activity without giving away your marks; however, the more accurate you can be, the better the Net Gain planning process will be.

5.1.8. Will there be co-ordination between regions on data collection to ensure consistency?

Yes, the liaison officers that work for the regional projects will ensure that they are communicating regularly with each other so that consistency is maintained across the four regional projects. The technical staff that are collating the information into the "Regional Profiles" will also be regularly communicating with one another to ensure consistency in data analysis techniques.

5.1.9. Why do you need to know what fishing gear I am using and what fish I am catching?

Fishing is one of the activities that will need to be managed within MCZs in order to promote the maintenance and/or recovery of the features that they are there to protect. Different types of gear will have different effects on the marine environment. Therefore some types of gear might not be allowed to be used inside a future MCZ whilst others will be, depending on the conservation objectives for the site. Likewise the removal of different fish species from a particular habitat will have knock on consequences throughout the rest of the food chain within that ecosystem. Therefore, for the Regional Hubs and the Stakeholder Advisory Panel to make the most informed choices about where Net Gain's recommendations should go they need to know the types of fishing activity that is occurring and the fish species being caught so that they can work out whether or not that activity is likely to be affected by the presence of an MCZ in that area.

## **5.2. Regional Stakeholder Groups**

5.2.1. Why have we not been contacted about representation on the stakeholder group in our area?

With the exception of Finding Sanctuary in the south-west, the regional projects are still in the process of organising their stakeholder groups. If you have not been contacted and would like to get involved in the project then please contact our Stakeholder Manager, Steve Barnard:

Net Gain – Steve Barnard: [steve@yhsg.co.uk](mailto:steve@yhsg.co.uk)

5.2.2. What ecology training will members of the stakeholder group receive?

Members of the Regional Hubs and the Stakeholder Advisory Panel will be actively supported throughout the site recommendation process by the Net Gain team who will provide support on ecological matters and on the interpretation of the ecological network guidance. The Science Advisory Panel will also be available for use by Net Gain to provide additional support on scientific matters.

5.2.3. How will the scientific side of site selection be harmonised with the stakeholder role in making recommendations?

JNCC and Natural England will provide ecological network guidance to the stakeholder groups as a basis for developing their recommendations. It is within this framework that members will consider how to select MCZs that fulfil the network criteria while minimising potential adverse impacts of MCZs on human activities. An independent Science Advisory Panel has been established and,

through an iterative process of network development, will provide advice to the groups on whether their recommendations satisfy the ecological network guidance.

If the Regional Hubs and the Stakeholder Advisory Panel submits a final package of recommendations which, in the view of the Science Advisory Panel, does not satisfy the guidance, JNCC and Natural England will need to identify additional MCZs to meet the shortfall. The full package of recommendations will then be consulted upon in 2012.

5.2.4. What role will the SFCs/IFCAs and MMO play on the stakeholder groups in the decision making process for MCZ designation?

The primary role of the SFCs/IFCAs and MMO will be to offer impartial advice to the Stakeholder Advisory Panel based on their remit to ensure such factors are properly considered. This will include advice on fisheries, other marine activities (e.g. aggregate dredging, construction) and enforcement. The representatives should ensure that the project groups are engaging satisfactorily with relevant fishing and other marine industry interests, including foreign fishing industry contacts. They should also provide advice to the Regional Hubs on enforcement practicalities. These representatives should not engage in voting on decisions or recommendations to be put forward by the groups.

5.2.5. How will the interests of minority groups be represented on the Regional Hubs and the Stakeholder Advisory Panel- how will there be parity?

It is essential that all relevant and interested parties be identified before the stakeholder group is established, and so, working with local sea users and interest groups, a thorough stakeholder analysis will be undertaken. The art of successful stakeholder engagement is making sure everyone has a say and Net Gain has employed independent, professional facilitators to make this happen.

5.2.6. What happens if there is disagreement about a particular area?

If there is disagreement about an area then a decision will need to be taken as to which sites go forwards. It is likely that there will need to be some give and take from all stakeholders on the regional stakeholder group. Hopefully through a series of professionally facilitated workshops the stakeholder group should come to a common understanding about the objectives of the MPA network and disagreements over individual areas will be kept to a minimum.

5.2.7. When the final decisions are made, will anyone take any notice of what the stakeholders have said?

As long as the recommendations of the Net Gain Project meet the criteria set out in the ecological network guidance, Natural England and JNCC will fully support them. If this is the case, then it is also highly likely that these sites will be the ones that proceed to formal consultation and the ones that are approved by the Secretary of State for designation as MCZs.

### **5.3. Involvement of stakeholders that are not on the Regional Stakeholder Groups**

5.3.1. How do stakeholders get involved?

Stakeholders have the opportunity to participate throughout the MCZ network development process. Net Gain is establishing Regional Hubs and a Stakeholder Advisory Panel composed of representatives of all the sea users and interest groups in the project. The representatives that sit on this group will be selected by their sector. The Net Gain team will support the sectoral

representative to set up a two way process where they can communicate information and developments from the stakeholder group, discuss their implications, and feed back to everyone else within their sector to gather their opinions and ideas.

The Net Gain team are currently out and about in our project area, contacting sea users and interest groups to secure support and participation in the process. However, we recognise that this is a big job and so we are working with existing local forums/networks (e.g. Coastal Partnerships) to help improve our engagement.

5.3.2. How will you ensure that all stakeholders are included in the process and those with the largest resources or that shout the loudest are not given a higher priority than those that are less well resourced?

The Regional Hubs and the Stakeholder Advisory Panel will be made up of representatives of all the different marine user and interest groups within the project area, including, for example, recreational sea anglers, commercial fishermen, boaters, divers, the energy sector, aggregate industry and environmental groups.

Each Regional Hub and the Stakeholder Advisory Panel will be guided through an open and transparent decision making process by an independent professional facilitator. Their role will be to ensure that no bias is given to a particular sector and that all information and opinions are taken fully into account during the development of the MCZ site recommendations.

5.3.3. How can we buy-in to the decision-making process without knowing what the process is and therefore have confidence that it will achieve what it sets out to do?

Full clarity will come when the project delivery guidance is cleared and made public. In the meantime, stakeholders should have confidence that their interests will be better served by participating in the process rather than leaving others to design the network.

5.3.4. How can I be expected to get involved in something when I don't even know what I am getting myself into without the ecological network guidance?

The ecological network guidance should be available in summer 2010. However, it is important that you engage in the project now, initially by submitting your data on the areas that are important to you. This will give the Regional Hubs and Stakeholder Advisory Panel the best opportunity to try and avoid the areas that you use, where at all possible, when making their recommendations.

5.3.5. What involvement do you want from up river stakeholders (e.g. tidal Thames)?

Anyone who expresses an interest in being kept updated on the progress of MCZ selection should be considered a stakeholder. If they are sea or estuarine users and have a particular interest in terms of the location of MCZs then any usage data that they wish to contribute should be collected and they should feel content that there is a representative on the stakeholder groups that is putting forwards their concerns and opinions. (As the MCZs will not extend to the upper tidal reaches of rivers, then it is likely that the majority of these stakeholders might wish to be kept informed of the process, but not actively participate.)

#### **5.4. National and international stakeholders**

5.4.1. Will there be a national level MCZ stakeholder group for organisations with nationwide interest?

There will not be a national level MCZ stakeholder group in the same way that there are regional project stakeholder groups. Any national level stakeholders wishing to influence the MCZ recommendations will need to secure a place, or work through a representative, on each Net Gain Regional Hub and Stakeholder Advisory Panel.

There will be a forum for national and international level stakeholders that meets periodically. However, this will not be an alternative method of influencing the MCZ recommendations, but a two-way information dissemination forum to ensure:

- that national stakeholders are kept up-to-date with MPA developments within the MCZ Project, with the Natura 2000 process, with the MCZ Project in Wales and with the Scottish MPA Project; and
- that relevant national and international information is channelled to the regional MCZ projects.

5.4.2. How will international stakeholders (e.g. shipping industry using UK waters) have an input into the MCZ selection process?

International stakeholders will have the same ability to engage in the MCZ Project as national stakeholders. They will be able to

- actively engage through the regional project stakeholder groups;
- engage through JNCC and/or other national stakeholders; or
- be kept up to date with the progress of the MCZ Project.

International stakeholders were identified through the stakeholder identification and analysis that JNCC contracted ABPmer to undertake. This involved an analysis using UK Government, Devolved Administration and JNCC contact databases to identify national and international stakeholders as well as a gap analysis to identify additional stakeholders not already included within these databases. Following this an invitation letter was sent to national and international stakeholders that outlined the different possible levels of engagement that are available to these stakeholders and they were asked to fill out a questionnaire that will inform us as to how they wish to be engaged.

Due to cost implications for international stakeholders to become actively engaged in each of the regional projects, JNCC (who have an offshore remit and established links with international stakeholders) will be supporting the engagement of international stakeholders through liaison officers, whose role will be to act as a channel for communications between international stakeholders and the Net Gain team.

## **5.5. Public consultation (Policy – signed off by Defra – Simon Crabbe)**

5.5.1. Public consultation has a bad name at the moment, as stakeholder input is often ignored. Will this be real consultation in which people's opinions are taken into account, or consultation just for the sake of it?

The Government's aim for MCZs is to create an ecologically coherent network whilst minimising the economic and social impacts. This can only be achieved through the active participation of

stakeholders. Stakeholders will have the opportunity to input into the identification of potential MCZs, their boundaries and conservation objectives through the Net Gain Project. This is a much greater level of stakeholder involvement than the normal consultative process.

Stakeholders are strongly encouraged to engage in the Net Gain Project in order to help shape the recommendations which are submitted, via Natural England and JNCC, to Ministers. This will be the most effective way for stakeholders to contribute their views and knowledge, and thereby influence the decision-making process.

On receiving recommended MCZs Ministers will consider how well they meet, and are consistent with, the relevant statutory considerations, national policy objectives, the advice of the independent Science Advisory Panel and the SNCBs and any international commitments. Although not bound by the recommendations of the regional MCZ projects or Natural England and JNCC, Ministers will attach considerable weight to them. This will be especially so where recommendations are based on consensus between participating stakeholders. Lack of consensus should not prevent regional projects from submitting recommendations to Natural England and JNCC, nor prevent Ministers designating sites.

After considering the MCZ recommendations, Ministers will draft designation orders and carry out a formal consultation process. If Net Gain and the other regional projects have worked as intended, new issues or objections are unlikely to be raised at this stage – although any formal concerns are likely to be reiterated as formal objections.

5.5.2. Will there be weighting of consultation responses to the formal consultation e.g. how will one letter from Maritime UK (umbrella group representing several industry organisations) be weighted against the same postcard from multiple RSPB members?

The Minister will consider objections and representations received as part of the formal consultation on MCZ proposals. Responses to public consultations do not equate to public ‘votes’ on issues, therefore decisions are unlikely to be based on the number of responses regarding one particular issue, for example through a postcard campaign.

Ministers expect that if Net Gain and the other regional MCZ Projects have worked as intended, new issues or objections are unlikely to be raised at the formal consultation stage – although any formal concerns are likely to be reiterated as formal objections.

## **6. Management of MCZs (Policy – for sign off by Defra – Simon Crabbe)**

### ***6.1. Conservation objectives and management measures***

6.1.1. Who will have the main influence on the setting of conservation objectives? Will stakeholders make recommendations for conservation objectives? How can achievable conservation objectives be set where the science is lacking?

The marine environment poses many challenges in terms of objective setting, but the aim will be to set achievable and clear objectives, based on the best available science. Stakeholders have a key role in this process because whilst Ministers will make the final decision on the conservation objectives for each MCZ it is the regional project stakeholder groups that will be charged with drafting proposed conservation objectives for each MCZ.

Statutory nature conservation bodies will provide advice to the regional projects regarding the structure of conservation objectives as well as generic advice about sensitivities to pressures. A

panel of experts (the Science Advisory Panel) has been established to provide independent scientific advice on MCZ site selection and the setting of conservation objectives.

6.1.2. At what stage will site management be considered, and who is responsible for deciding management measures?

The potential management implications will be considered from an early stage, and before an area is designated as an MCZ especially through the preparation of an Impact Assessment, which will be subject to public consultation before designation. All stakeholders will be encouraged to provide data and information to inform and shape the Impact Assessment.

As part of the Statutory Nature Conservation Bodies statutory powers, they will set out detailed advice on the levels of protection required at MCZs and the management implications for each site. Where possible, information on what constitutes damage or disturbance will be specified in management guidance. This management advice will accompany draft conservation objectives. When MCZs are designated by Ministers, the SNCBs will provide advice to public authorities (including the Marine Management Organisation and Inshore Fisheries and Conservation Authorities) on how to further the conservation objectives through the management of activities occurring on or near the site.

6.1.3. Will MCZs be no take zones?

The levels of restriction of activities within MCZs will depend on the features for which a site is designated and the conservation objectives set. There is no presumption for any MCZ that any particular human activity will be restricted, the management measures will be identified on a site by site basis. It is likely that for some MCZs that existing activities can continue to take place and the Government encourages this where it is possible. However, some MCZs - or parts of MCZs – will need to be closed to damaging activities. This might, for example, be appropriate where an MCZ is designated to conserve a vulnerable habitat or species, or to protect an area with a high level of naturalness. Such sites might play an important role in conserving biodiversity or improving our understanding of the marine environment by providing control areas unaffected by direct human activities.

6.1.4. Will multi-use MCZs undermine the effectiveness of MCZs?

Area protection tools can be used for a number of purposes (e.g. conservation, fisheries management, protection of our cultural heritage) and experience suggests that area protection measures can often be consistent with other uses and activities, and can sometimes even deliver multiple benefits. It is very possible that there will be cases where a site designated for one purpose could have consequent, positive benefits for another.

## **6.2. Management**

6.2.1. Why might levels of restriction need to change over time?

The levels of restriction required to achieve the conservation objectives for a site might change over time for various reasons. For example, in the light of condition monitoring, which could reveal that new or additional measures need to be taken to achieve the conservation objectives, on a permanent or temporary basis. In some cases it might be appropriate to relax the level of restriction in a controlled way, once a degraded site has recovered to a more robust state. Scientific knowledge

of marine wildlife and ecosystems will also develop, which might reveal that some features are more, or less, vulnerable to human impacts than we previously thought.

#### 6.2.2. How do the existing provisions allow for levels of restriction to change over time?

Although conservation objectives for each MCZ will be set out in the designating order (and can only be changed through the making of another order), the management measures needed to achieve the conservation objectives may need to change over time.

The Statutory Nature Conservation Bodies will have powers (section 127) to give advice on the management measures required to achieve the conservation objectives. They will give this advice to public bodies like the Marine Management Organisation and the Inshore Fisheries and Conservation Authorities. It will be used by public authorities to determine the levels of protection and restriction required by the features of the site, including for example the need for any byelaws, or for other management measures to be implemented. The Statutory Nature Conservation Bodies will also have powers to advise on specific decisions or activities for which public authorities are responsible.

These arrangements allow for advice and guidance to be given on the basis of the latest scientific knowledge, and when necessary for existing advice and guidance to be revised in the light of the developing understanding of the marine environment.

#### 6.2.3. Who will manage MCZs?

The potential management implications will be considered from an early stage, and before an area is designated as an MCZ (e.g. through the preparation of an Impact Assessment, which will be subject to public consultation before designation). Once an MCZ is designated, the statutory nature conservation bodies will provide advice to all public authorities who carry out activities or regulate the activities of others (such as the Marine Management Organisation and Inshore Fishery and Conservation Authorities). All public authorities have a legal duty (under the Act) to further the conservation objectives for MCZs in exercising their functions, as far as is consistent with the proper exercise of those functions. Where that is not possible, they will be under a duty to act in a way that least hinders them. The MMO and IFCA will also ensure protection of MCZs will be through the use of byelaws.

This will ensure that MCZs, and the activities which might potentially impact on them, are managed effectively so as to further the conservation objectives set.

#### 6.2.4. What is the role of Inshore Fisheries and Conservation Authorities (IFCAs) in the management of MCZs?

Inshore Fisheries and Conservation Authorities will have an important role to play in managing Marine Conservation Zones. The Act (clause 154) gives them a specific duty to seek to ensure that the conservation objectives of MCZs are furthered, for example by using their byelaw making powers (clauses 155-158) to control or restrict potentially damaging fishing activities within an MCZ. IFCAs will also help to enforce byelaws that the MMO makes to control other activities (e.g. recreational pursuits) which may harm an MCZ.

#### 6.2.5. Will public authorities under the Habitats Directive e.g. Environment Agency, have additional regulatory duties where MCZs overlap with European designations?

Although existing duties in respect of European sites in the marine area are not changed by the new duties in the Act, it does mean that where MCZs overlap with such sites, there will be two sets of

conservation objectives, and two sets of duties on authorising-authorities, in respect of the two site designations. The separate duties will require consideration of different factors and criteria, but this should not result in conflicting priorities or procedures because the new duties under the Act are designed to follow a similar approach to that set out in the Habitats Regulations (with some differences to reflect the different conservation objectives and the more focused and flexible way in which MCZs are intended to operate).

#### 6.2.6. What activities are likely to be licensed within MCZs?

It is not possible to say in advance what activities will be licensed. Activities will be considered case by case, on the basis of their potential impact and the conservation objectives of the site they might affect.

Designation of an MCZ should not generally result in people having to seek additional licences or authorisations beyond those which are required anyway to carry out an activity. However, the Act prevents public authorities from granting a licence or authorisation for an activity that might hinder the achievement of an MCZ's conservation objectives, except where there are no alternatives, the benefit to the public clearly outweighs the damage to the environment and measures of equivalent environmental benefit are secured.

This duty applies to licensing decisions under Part 4 of the Act as well as to decisions under separate consent regimes (e.g. those relating to oil and gas activities under the Petroleum Act 1998, carbon dioxide storage under the Energy Act 2008, and the decisions of planning authorities under terrestrial planning legislation).

#### 6.2.7. How will licences for activities within MCZs be issued and who will stakeholders have to go to get hold of them?

Applications for activities within MCZs will be considered by the same bodies as for applications outside MCZs.

Designation of an MCZ should not generally result in people having to seek additional licences or authorisations beyond those which are required anyway to carry out an activity. The only exception in relation to Part 5 of the Act is where a person requires a permit to do something that would otherwise be a breach of a byelaw made by the MMO (e.g. for scientific research). It is unlikely that such permits will be required very often, because licensable marine activities and sea fishing will not be controlled by MMO byelaws. The MMO will be responsible for issuing permits.

#### 6.2.8. How will displacement of fishing effort or other activities be managed and planned for?

The impacts on fishing, and other interests, will be considered in the Impact Assessment, which will be prepared and consulted on before an MCZ is designated. The involvement of the fishing and other industries in helping to develop the impact assessments is therefore vital.

#### 6.2.9. Will VMS data be used to monitor foreign vessels?

Yes, VMS data will be used to monitor the activity of all vessels over 15 metres operating within UK waters.

6.2.10. How will the impacts on an MCZ, both positive and negative, be managed outside its boundaries? How will the influence of land on the MCZ be addressed, particularly detrimental impacts from land?

The anticipated impact of designation on activities taking place within and beyond a potential MCZ will be identified in the Impact Assessment that will be prepared and consulted on before a decision is taken on whether to designate an area as an MCZ. Once designated all public authorities with responsibilities, on land or at sea, will have a legal duty (under clause 121 of the Act) to further the conservation objectives for MCZs in exercising their functions, as far as is consistent with the proper exercise of those functions. Impacts on an MCZ will be managed through relevant regulatory and licensing regimes, whilst unregulated activities (out to 12 nautical miles) can if necessary be controlled through the making of byelaws by the Marine Management Organisation (which can control activities taking place within and beyond the boundaries of MCZs).

6.2.11. How will MCZs be managed to stop destruction by invasive non-native species?

While the presence of a non-native species in an area should not necessarily preclude the identification of an MCZ, they may need to be actively controlled where they occur within designated MCZs.

6.2.12. How will MCZs take into account that fishermen can't completely control the species they catch?

Likely by-catch will be able to be considered during the designation process and the development of the impact assessment. Where necessary, management measures will be put in place.

6.2.13. Will the UK Hydrographic Office be informed of designations?

Yes. As a public authority, the UK Hydrographic Office will be under a legal duty to further the conservation objectives of MCZs in carrying out its functions. This means that where there is a need to mark an MCZ on Admiralty charts, the Hydrographic Office will have a duty to take appropriate steps, provided it is compatible with its functions.

6.2.14. If there are likely to be different zones and different restrictions will this cause confusion and how will people know what they are allowed to do where?

It will be made clear through the management plan for the site what activities are allowed to occur in which MCZs (or areas of an MCZ) and this information will be clearly communicated to all stakeholders that use that area. Such a zoned system of MPA establishment where different activities are allowed in different areas is practised across the globe in longstanding MPAs such as those in the Florida Keys and the Great Barrier Reef.

6.2.15. How will the public know where MCZs are located?

The provision of public information for local residents and visitors will depend on local circumstances, and will need to be considered on a site-by-site basis. Information will also be made available on the internet and in other appropriate ways, the aim being to ensure that members of the public can easily and quickly obtain information.

Most people will not need to know where MCZs are as their activities are unlikely to have an adverse impact.

#### 6.2.16. What tools do you have to control fishing in UK waters?

Fisheries management throughout UK waters is subject to the Common Fisheries Policy. There are mechanisms for Commission approval for additional measures between 6 and 12 nautical miles set out in Council Regulation (EC) No. 2371/2002. Beyond 12 miles, the CFP rules apply and generally we would need to push for an EC wide measure.

Within 6 miles, Inshore Fisheries and Conservation Authorities will have power to introduce byelaws which go beyond the requirements of the Common Fisheries Policy, including for environmental reasons. In practice this would only affect UK vessels because only UK vessels fish in this part of the sea.

#### 6.2.17. How will MCZs be protected from fisheries activities beyond 6 nm?

Not all MCZs will be vulnerable to fishing activities, but where the conservation objectives for an MCZ located in waters beyond 6 nautical miles depend on the introduction of fisheries restrictions, the Government will use its best endeavours to seek agreement of other Member States to measures through the Common Fisheries Policy. However, agreement will ultimately need to be reached through the Fisheries Council of Ministers.

#### 6.2.18. Are other Member States and/or the Commission likely to agree to fisheries measures to protect UK MCZs?

We cannot guarantee the agreement of other Member States, but our proposals for MCZs follow the grain of the European Commission's own thinking on the marine environment. The Marine Strategy Framework Directive requires the designation of marine sites with specific conservation objectives, as part of coherent network of marine protected areas, by coastal Member States. Other Member States will therefore also need to provide adequate protection for their protected areas if they are to meet their legal obligations. There should therefore be a mutual interest in adopting a more supportive stance towards marine nature conservation in the future.

### **6.3. Enforcement**

#### 6.3.1. How will MCZs be policed? Who will enforce them and how will this enforcement be paid for?

By involving stakeholders in the selection and designation of the Marine Conservation Zones (MCZs), we hope to achieve a high level of support and compliance for any management measures that might be required to achieve the conservation objectives. However, all types of Marine Protected Area will be protected by law, and the Marine and Coastal Access Act includes a suite of enforcement powers which can be used by officers enforcing this legislation. The new Inshore Fisheries and Conservation Authorities (IFCAs), the Marine Management Organisation (MMO) and the Royal Navy will undertake most enforcement work, although the Act allows for officers from other organisations to be warranted for this purpose. The Impact Assessment prepared by Defra for the Marine and Coastal Access Bill estimated the additional costs of enforcement of MCZs at up to £1million per year. The relevant organisations will receive appropriate funding for the new work they have been given under the Act.

#### 6.3.2. How well will the MMO be able to enforce nature conservation offences in the Act?

The MMO will be able to enforce the Act effectively. Its enforcement officers will make use of a new suite of enforcement powers to implement a flexible, risk assessed enforcement regime. It will coordinate its actions with other agencies, such as Inshore Fisheries and Conservation Authorities and the Environment Agency to make best use of available resources. Relevant staff in the various agencies with enforcement responsibilities are already working on this coordination.

#### 6.3.3. How will the public know of the existence of MMO byelaws?

Before making a byelaw (except in urgent cases) section 130 of the Act requires the MMO to publish notice of its intention to make a byelaw and to display a copy of the draft byelaw in a location where it is likely to be seen by interested persons. The MMO will take account of any representations before deciding whether to make the byelaw, and the Secretary of State will have regard to any unresolved objections before deciding whether to confirm it. As soon as practicable after the confirmation of a byelaw the MMO must also publish notice of the making of the byelaw in a way likely to come to the attention of those that will be affected by it. Depending on the circumstances, we would also expect information on MCZs and any relevant byelaws to be publicised by other means, such as on public notice boards and GPS systems and charts used by mariners.

#### 6.3.4. How will the Act improve the enforcement of nature conservation legislation?

The Act means that marine enforcement officers will have access to a unified set of enforcement powers whether enforcing a breach of an MCZ byelaw, offences under the Wildlife and Countryside Act 1981, or under the 1994 and 2007 Habitats Regulations. Indeed, the same powers will be used to enforce the marine licensing provisions in the Act, meaning that the legislation will be a lot easier for enforcement officers on the ground to work with. Inshore Fisheries and Conservation officers will also have enforcement powers (under the Act for MCZ breaches; under existing legislation for other nature conservation enforcement) within 0-6nm.

The Act also makes provision for civil sanctions as an alternative to prosecution for a breach of an MMO byelaw. It does not need to make any such provision in respect of nature conservation offences under existing legislation because they are already included in the Regulatory and Enforcement Sanctions Act 2008.

#### 6.3.5. In the MCZs that extend beyond the 6nm limit, will foreign fishing vessels be governed by the same legislation?

Not all MCZs will be vulnerable to fishing activities, although achieving the conservation objectives for some MCZs may depend on restricting damaging fishing activities. Where a need for additional fisheries measures is identified for MCZs between 6 and 12 nautical miles, the Government will work with other Member States and the European Commission to seek their agreement to measures, so that they apply to all fishing vessels regardless of nationality. Beyond 12 nautical miles the Government will work with the European Commission through the Common Fisheries Policy to deliver any additional fisheries measures that are required.

#### 6.3.6. Do Net Gain and the other regional projects have any authority in terms of enforcement beyond 12 nautical miles after designation?

Government has the authority to manage all activities within MCZs in UK offshore waters except for fishing activity for which the European Commission provides the rules. Where there is a need for

fishing restrictions within an MCZ beyond 12 nautical miles, the Government will work with the European Commission to deliver any additional fisheries measures that are required.

#### **6.4. Impact of MCZs on stakeholders**

##### 6.4.1. What activities will be restricted and by how much?

The activities that are restricted will vary from one MCZ to another and will be dependent upon the conservation objectives for the site. It is therefore impossible to say at present which precise activities will be restricted in which areas and to what degree. It is, however, likely that most uses of the marine environment around the UK will be restricted in some cases by the introduction of MCZs.

##### 6.4.2. Who is most likely to be affected by MCZs?

Each MCZ will have a specific set of conservation objectives and these will inform what management measures are necessary to ensure these objectives are met and who might be affected. Different sites will require different levels of management and therefore affect different sea users. For example a particular MCZ might exclude bottom trawling and aggregate dredging, whilst creating new opportunities for other activities such as commercial and recreational angling and scallop diving. For some MCZs existing activities may not prevent the site's conservation objectives being met so they will be able to continue, whilst for other MCZs it could be necessary to exclude all removal of living and non-living resources. Whilst through careful planning many benefits may be realised it is acknowledged that in establishing the network some sea users will face negative socio-economic impacts and there may be particular impacts for those who derive some or all of their living from the marine area. It is vital, therefore, that these sea users are engaged from the beginning to minimise any negative impacts and maximise the benefits.

##### 6.4.3. Will inshore fishermen lose out by having greater restrictions placed on them simply because it will be easier to control fishing in this area compared with further offshore?

The Government has no intention of penalising the inshore fishing fleet. The areas that are selected for designation will be based on the scientific evidence supporting them, and on consideration of any relevant social and economic consequences of designation. Moreover, it is clear that our EU and international commitments to create an ecologically coherent network of sites would not be satisfied by a bias towards inshore waters.

##### 6.4.3. Will professional line fishermen and scallop divers be affected?

Where line fishing or scallop diving may prevent an MCZ's conservation objectives being met some management of these activities may be necessary. That is why it is important that all sea users have a chance to fully engage with Net Gain and the other regional projects and that they are aware of the recommendations on site location and conservation objectives that are coming out of the regional stakeholder groups. This level of representation is what Net Gain will try to achieve.

##### 6.4.4. What will be the impact on maintenance dredging for ports?

It is not possible to give a single answer to this question. How maintenance dredging will be affected will be dependent on many variables including the dredging, the conservation objectives of the site and the sensitivity of the features in it. Regulation of maintenance dredging in an MCZ will be considered case by case, like all other activities.

6.4.5. What will the potential impact be on round three windfarms?

It is not possible to give a single answer to this question. How wind farm construction and operation will be affected will be dependent on many variables including the wind farm, the conservation objectives of the site and the sensitivity of the features in it. Regulation of wind farm construction and operation in an MCZ will be considered case by case, like all other activities.

6.4.6. Will compensation be offered in any circumstances for loss in earnings due to MCZs?

No. The Government has never compensated people when it has created marine protected areas, and this remains its policy.

6.4.7. Will rod and line anglers be banned from no take zones?

It is not possible to give a single answer to this question. How angling will be affected will be dependent on many variables including the type and frequency of angling, the conservation objectives of the site and the sensitivity of the features in it. Regulation of angling in an MCZ will be considered case by case, like all other activities.

6.4.8. With a no take zone could a rod and line angler fish there on a catch and release basis?

It is not possible to give a single answer to this question. The regulation of angling in any MCZ will be considered case by case, like all other activities.

6.4.9. Will rod and line anglers be able to fish in areas adjacent to no take zones?

It is not possible to give a single answer to this question. The regulation of angling in any MCZ will be considered case by case, like all other activities.

6.4.10. What will MCZs mean for inland activities such as farming?

It is not possible to give a single answer to this question. How farming will be affected will be dependent on many variables including the type of farming, the conservation objectives of the site and the sensitivity of the features in it.

## **6.5. Join up with MPAs outside MCZ Project area**

6.5.1. The Solway Firth has a border running through it with different legislation on each side (Marine and Coastal Access Act and Marine (Scotland) Bill) – how will this work?

The UK and Scottish Government's will seek to work together to find sensible and pragmatic conservation outcomes for the Solway Firth. If they decided that a single area which spanned the border needed to be designated, then there is nothing to prevent the two administrations designating the portions in their respective areas in a coordinated way and we would wish to see this approach taken.

6.5.2. How will you ensure that the MCZs in the Net Gain region are managed consistently with other protected areas outside of the project area e.g. Wales, Scotland, Isle of Man so that they make up one coherent network?

Net Gain and the other MCZ Regional Projects will be actively engaging with the relevant groups/authorities around the UK to ensure a joined-up approach to selecting and managing MPAs. This process will be managed by JNCC.

## **6.6. Monitoring**

6.6.1. Will management include monitoring? Who will monitor MCZs?

Yes. Natural England and the Joint Nature Conservation Committee (JNCC) will carry out monitoring of MCZs on behalf of the Secretary of State. The results of this monitoring will be used for various purposes, including the preparation and review of management advice and in preparing the report to Parliament, which the Secretary of State will be required to submit every six years.

6.6.2. How long before the designated sites are reviewed to see whether they have worked?

The Secretary of State is required to report on progress towards the network's goals every six years.

## **7.1. Net Gain specific questions**

7.1.1 Will any expenses be paid for attendance at regional hub or Stakeholder Advisory Panel meetings (mileage, rail fares, hotels, etc.)?

Net Gain recognises that Regional Hub and Stakeholder Advisory Panel representatives from some organisations will attend meetings as part of their role within the organisation and in so doing their travel expenses will be covered. However this does not apply to all sectors, particularly those that are largely made up of small associations or individuals.

Net Gain has a policy for those representatives who stand to lose earnings through attending our events, such as the self employed or those who are attended due to their recreational rather than business interests. This is assessed on a case by case basis and we ask that you contact the team to discuss this.

If agreed, Net Gain will reimburse your travel, meals and accommodation costs (in line with our Travel and subsistence policy), and in addition pay you a £75 fee for attending as a gesture of thanks for giving up your time to get involved.

7.1.2 Will the Regional hubs and Stakeholder Advisory Panel be representative of all marine interests?

Net Gain will establish four Regional Hubs based in the Northeast, Yorkshire and Humber, Lincolnshire and East of England. The precise boundaries and meeting locations are yet to be determined, and will be defined after stakeholder input at the Large Group Meeting on the 11th February.

It is important that each regional hub has representation from each of our stakeholder sectors so that all sectors have a voice in decision making; just as the hubs will not have a bias toward conservation organisations, nor will they have a bias toward other interests such as commercial fishing. However we do recognise that some sectors are more diverse than others and we will aim to take this into account when establishing the membership of the hubs.

There is no predetermined limit on the size of each hub and it may be appropriate for them to have different numbers of representatives in each. We anticipate that the hubs will have around 30-40 members to facilitate planning and decision making while bringing in all interests. The Stakeholder Advisory Panel will be smaller, probably around 15 to 20 representatives.

#### 7.1.3. Who decides who sits on the regional Hubs?

You are responsible for deciding who you wish to represent you at the regional hubs (whether it is you or a nominated individual). Net Gain has asked for nominations/expressions of interest at the roadshows, through informal sector meetings, and also in the run up to the large group meeting. Following the Large Group meeting if our independent facilitators feel we are missing fair representation from any sector we will proactively contact that sector for a nomination.

The representative needs to be knowledgeable about your sector, other sectors, be able to commit time, be able to work proactively toward consensus and you must be able to trust and respect your representative. Appointment will be done through our independent facilitators.

#### 7.1.4 What is the remit of the regional hubs and the stakeholder advisory panel?

The regional hubs will undertake planning work, developing recommendations for MCZs within their hub area. The recommendations from the 4 hubs will then be passed to the Stakeholder Advisory Panel to collate at each draft stage.

The Regional hubs will be responsible for recommendations on MCZs to include the location, boundaries, size, and conservation objectives for each site (i.e. what is it we are protecting and what form that protection should take)

#### 7.1.5 What sort of time commitment is required to attend meetings?

Net Gain is working to a challenging timetable, and will need to hold a number of meetings over the next 18 months to ensure that the planning process is a success. At present we anticipate that our Regional hubs and Stakeholder Advisory Panel will meet every two months. It is possible that these meetings will take place over two days at a time. We are happy to take our lead from you; if you would rather have more (but shorter) meetings or fewer (longer) meetings.

#### 7.1.6 How will you link up with Balanced Seas (the southeast MCZ project)?

Net Gain is working with Balanced Seas and the other Regional Projects to ensure join up in our approaches. Where appropriate we have adopted the same approach (e.g. development of

questionnaires) to prevent duplication of effort. It will be particularly important for Net Gain to work with Balanced Seas as we share a common boundary and some of our stakeholders will have an interest in both Regional projects. Our teams regularly meet to facilitate join up, and our East England Liaison Officer, Tammy Stamford, is in close contact with Balanced Seas Liaison Officers to prevent repetition.

#### 7.1.7 Who funds Net Gain?

Net Gains Regional Project Board is made up of our project partners The Deep, The Yorkshire and Humber Seafood Group (our host), Natural England and the Joint Nature Conservation Committee. Net Gain is funded by Defra (The Department for Environment, Food and Rural Affairs). We also have in kind contributions from The Deep.

#### 7.1.8 How do you appoint the Science Advisory Group? Who are they?

The Science Advisory Panel is an independent body comprised of expert marine scientists, which has been appointed by Defra to support the four regional projects in the MCZ selection process by offering objective scientific assessment of site proposals, and independent advice to Ministers.

The SAP will advise the regional stakeholder groups as to whether or not their network iterations meet the ecological network guidance. Panel members have been drawn from a diverse range of marine scientific disciplines in order to ensure a balanced and comprehensive skill set. To see who is on the panel please visit:

<http://www.defra.gov.uk/environment/marine/protected/mcz/mcz-sap.htm>

#### 7.1.9 Do the scientists get their input after the regional panel has finished their input?

Would it not be more effective to have the science advisory panel's opinions first as their information should inform the process?

The Science Advisory Panel has been established to advise the regional stakeholder groups as to whether or not their network iterations meet the criteria in the ecological network guidance. They are not there to recommend any sites and cannot be involved in the regional stakeholder groups as that would be a conflict of interest.

#### 7.1.10 How can qualified and currently practising scientists be involved at a regional/hub/SAP level?

Net Gain will (following feedback from stakeholders at our roadshows and large group meeting) seek representatives from the scientific community to sit on each of our regional hubs. In particular we will look for input from scientists who have undertaken research within the Net Gain project area.

Scientists may also get involved by providing data to Net Gain from the work they have undertaken.

#### 7.1.11 Can MCZs be seasonal?

It is the intention that MCZs are permanent features once designated. However, it may be that to achieve the conservation objectives for a given site that a seasonal restriction on a particular activity is more appropriate than a complete ban.

7.1.12 Will data collection continue throughout the process, is there a cut off time for new data?

Data collection will continue though out the process, however, we will need to stop collecting data before we hold our final planning meetings so that our team has time to integrate the new information into our regional profile.

Currently we anticipate a cut off point for new information of October 2010.

7.1.13 Has there been representation from heavy industry, eg oil and gas?

Net Gain is working with a wide range of stakeholders including the commercial industrial interests for both data provision and representation on our stakeholder groups.

7.1.14 Who is representing the interests of recreational sea/coast users?

Net Gain is working with a number of recreational sectors from local sea angling, dive and leisure boating clubs to larger organisations such as the Angling Trust, RYA and BSAC. We are also engaging individuals from the recreational sector through our participatory mapping exercise.

7.1.14 Can the same organisation have representatives on the hubs and the Stakeholder Advisory Panel?

In some cases, organisations will be represented on both the hubs and the StAP, for example, where there are regional and also national interests. Each hub will also be asked to nominate a representative to sit on the StAP for transparency and accountability; in which case that person would attend both meetings.

7.1.15 How are the Net Gain staff appointed?

The Net Gain team are appointed by the Yorkshire and Humber Seafood Group (as the host organisation for Net Gain). Each member of staff has been through a recruitment and interview process.

7.1.16 How have the Regional hub boundaries been decided?

The regional hub boundaries have been based on a number of factors.

- We have asked for guidance from our stakeholders at our roadshow and Large Group Meeting event
- We have taken account of activities that take place in the different regions
- We have tried where appropriate to keep distinct geographical features in different regional hubs, for example, The Wash and The Humber.

7.1.17 Will regional hubs have cross over to suggest sites in adjacent hubs?

Each regional hub will work on MCZ recommendations within their own area. It will be the role of the Stakeholder Advisory Panel to maintain an overview of the work of the four hubs and provide feedback to each hub on how their sites may compliment those in the adjacent hub.

#### 7.1.18 How is this team qualified to make recommendations on MCZs?

The Net Gain team will not be making any recommendations for MCZ sites. This is the job of our stakeholders through our regional hubs. Our team is here to support the hubs by providing technical and facilitation support.

#### 7.1.19 What does Net Gain stand for?

The name Net Gain was chosen by the projects Regional Project Board. It alludes to the benefits which may be realised by the introduction of MCZs.

#### 7.1.20 What conservation measures are recognised thus far as possibilities?

The management measures recommended by the regional stakeholder group will take account of the habitat and species being protected within each site, the activities which take place there and how compatible the two are.

#### 7.1.21 Will data be displayed?

The work undertaken by the regional stakeholder groups will be available on our web site (maps, minutes and reports).

#### 7.1.22 Can sites be suggested that we do not want as MCZs?

In the planning process, where there is more than one site option for a given habitat or species stakeholders will be able to take account of socio-economic factors. In this way the recommendations will be able to take account of any preferences there are for putting a site forward. It is unlikely that we will ask stakeholders where they do not want sites as this could make the process more convoluted.

#### 7.1.23 Do people have knowledge of places that might be chosen? Is it pre-done? Have areas already been decided?

No.

#### 7.1.24 Are the Crown Estate involved?

The Crown Estate has provided information to the regional projects through national data contracts. They will also be asked to participate in our regional stakeholder group meetings.

#### 7.1.25 Are National Representative Bodies being consulted?

Net Gain is working with local, regional, national and international stakeholders in the recommendation process. It is important to get as wide a range of sea users involved as possible to ensure we deliver a well supported network of marine protected areas.

7.1.26 If you have 2 site options to protect the same species in different regional hubs will the decision making always be an either/or decision?

No. The regional hubs would need to take the criteria in the Ecological Network Guidance into consideration in deciding whether to put forward one or both sites. It would depend on factors such as if the target for that species was fulfilled by the one site, or if two sites would offer better protection or better connectivity for example.

7.1.27 Are any areas designated now?

When the Marine and Coastal Access Act was passed, the first (and only to date) MCZ was created when Lundy Marine Nature Reserve was redesignated as Lundy MCZ.

7.1.28 Why have European Marine Sites been omitted?

Net Gain will only work with stakeholders to make recommendations on MCZs. However, when planning possible locations for MCZs the stakeholders groups will be able to take into account the location of any existing or proposed EMS and to what extent these existing sites contribute to our targets.

7.1.29 How will the consultation be organised?

Please refer to our stakeholder engagement process diagram at .....

7.1.30 Is CCTV/stronger monitoring an option?

As many of the sites will be away from shore it is unlikely that CCTV will be an option for management.

7.1.31 When the MCZs are designated, will the stakeholder groups be kept going? Will there be ongoing stakeholder engagement once MCZs have been agreed? i.e. will the regional hubs be kept going?

At present we are unsure as to what, if any, role there will be for the stakeholder groups post-recommendation. Net Gain would like to build on the social capital developed throughout the planning process and are in the process of making suggestions on the possibility of the stakeholder groups evolving into management or advisory groups.

7.1.32 Can any Hub member/stakeholder ask for a review of an MCZ?

It will be preferable, where options exist, to select sites where there is minimal activity or where human activities do not conflict with the conservation objectives for MCZ features. However, there may be circumstances where a specific feature is required for the development of an ecologically coherent network, and only one or a few suitable areas exist. In these cases there may be conflict between existing activities and the conservation objectives for the features. Such conflict would be considered in the impact assessment for the proposed site, and be recorded in the dossier recommending the site to the Government.

Once designated there will be an ongoing monitoring and review process. Through this, any new evidence which may affect the designation may be considered.

7.1.33 Will there be a final workshop to present and discuss project recommendations?

Net Gain plans to hold another Large Group Meeting to present the recommendations from our regional hubs back to the wider stakeholder interest in the Net Gain area.

7.1.34 To what extent do Net Gain remain involved post designation?

Net Gain is a short term project and currently no role has been identified for Net Gain once the recommendations are passed to JNCC and Natural England in June 2011.

7.1.35 Why are fishermen not involved in set up?

Commercial fishing interests will be represented on each of our regional hubs and also on our Stakeholder Advisory Panel, that way, fishermen will be able to have an input in planning MCZs. Net Gains liaison team will also be interviewing individual fishermen throughout the project area so that their activities can be taken into account when the regional hubs are looking at options for sites. Are local authorities deemed to be stakeholders? What is the expectation of contribution from local authorities?

Local authorities are deemed to be stakeholders and will be approached to see if there is a suitable representative to sit on each of our regional hubs.

7.1.36 Can we have a split between inshore and larger commercial fisheries (on the stakeholder groups)?

In establishing our regional hubs Net Gain has taken account of feedback at our roadshows and large group meeting. We aim to have representation on our groups from both inshore and offshore commercial fishing interests. Where possible we have also aimed to gain representation from those who fish with different gear types, from different ports.

7.1.37 Will the data you collect be public? How transparent is the data that the project is using? How is information from stakeholders protected? Is the data gathered (fishermap/Web GIS) going to be available to all stakeholders (this would be an advantage to those involved)?

Much of the data we are using is already in the public domain.

When individuals take part in our participatory mapping exercise, they are asked to complete a consent form to advise us on how we can use the information. Information collected in through the exercise is presented to the regional stakeholder groups in an aggregated format – that is, the maps provide by a number of individuals are grouped into one so the individuals data is not attributed, and no personal information is displayed.

MCZ Project partners want to reassure fishermen that all data collected by the regional MCZ projects are owned by the individual or organisation providing it and the data owner can determine the terms and conditions of its use by others. We fully understand that fisheries data are sensitive and their use needs to be restricted to protect key information about your grounds. As data owners you are free to choose the necessary restrictions and we want to work in partnership to give you this control.

Data will be required for two components on the MCZ designation process and used differently in each stage:

a. It will be considered during the development of MCZ recommendations (May 2010 – November 2011);

b. It will be required to inform the formal designation of an MCZ (December 2011 – December 2012). All data used in the development of MCZ recommendations may be considered confidential or be restricted to use by the regional hubs in the identification process and destroyed at the end if requested by the data owners. In contrast, data that is essential to the designation of the site, particularly material that justifies site boundaries or the presence of site features, must be publicly available (for the public consultation) and will need to be stored into the future in case it is challenged. This data will also be required by Natural England and JNCC to support future monitoring and management.

7.1.38 Which groups have the remit to cover areas further offshore >12nm? – if all contributing, who manages the increasingly blurred boundaries?

Each of the regional hubs will be asked to consider sites in offshore waters. It will be the role of the Stakeholder Advisory Panel to provide feedback to the hubs on how well the offshore sites fit with those of the adjacent hubs and to prevent duplication of effort.

7.1.39 How is the sampling system going to be managed and set up?

Net Gain will not be undertaking any new scientific research.

7.1.40 Are votes/opinions of reps at meetings weighted in any way – should someone wanting to preserve plant species have the same power as a man representing many full-time fisherman?

Members of the regional hubs will not vote on sites being proposed by other members; they will be expected to work proactively together toward consensus for the recommendations being put forward.

Within the Marine and Coastal Access Act there is a duty to create a network of conservation sites, comprising MCZs and European marine sites, and Clause 117(7) states '*In considering whether it is desirable to designate an area as an MCZ, the appropriate authority may have regard to any economic or social consequences of doing so.*' However, as outlined in the accompanying Explanatory Notes socio economic factors can only be considered where there will be no adverse impacts on the conservation potential of any resulting MPA network.

The accompanying Explanatory Notes explain that:

293. *Subsection (7) allows Ministers to take account of the economic or social consequences of designation. This ensures MCZs can be designated in such a way as to conserve biodiversity and ecosystems whilst minimising any economic and social impacts. Where an area contains features that are rare, threatened or declining, or forms a biodiversity hotspot, greater weight is likely to be attached to ecological considerations. Where there is a choice of alternative areas which are equally suitable on ecological grounds, socio-economic factors could be more significant in deciding which areas may be designated as an MCZ.*

Lord Hunt of Kings Heath (Minister of State for Defra & DECC in House of Lords) has written that "*The clauses around the Marine Conservation Zones were clearly about delivering nature conservation measures, and here there was a very clear remit to look at conservation and then, to take account of socio economic aspects as far as is consistent with our conservation objectives, for example where choices could be made*" .

It is likely that the weight attached to socio-economic factors, will depend on a number of issues, and will need to be considered in the light of the particular circumstances that apply in each area (within the constraints of the network design principles).

#### 7.1.41 How will it affect beach access?

MCZs can extend as high as the mean high water spring mark. In some cases MCZ designation may extend landward of mean high water spring tides, for example to include lagoons and pools if they can be defined to be part of the seashore; these areas are described within Clause 42 of the Marine and Coastal Access Act as part of the definition of the UK Marine Area.

When looking at MCZ site options, the stakeholder group will assess if any activities taking place would be detrimental to the conservation objectives, and the impact assessment will take account of how the designation could affect the activities taking place there.

#### 7.1.42 How will priority be given to sustainable fishing?

Not all MCZs will be vulnerable to fishing activities. Different types of gear will have different effects on the marine environment. Therefore some types of gear might not be allowed to be used inside a future MCZ whilst others will be, depending on the conservation objectives for the site. Likewise the removal of different fish species from a particular habitat will have knock on consequences throughout the rest of the food chain within that ecosystem. Therefore, for the Regional Hubs and the Stakeholder Advisory Panel to make the most informed choices about where Net Gain's recommendations should go they need to know the types of fishing activity that is occurring and the fish species being caught so that they can work out whether or not that activity is likely to be affected by the presence of an MCZ in that area.

#### 7.1.43 Will the MCZs impact on proposed nuclear power stations? If MCZ is put in place are existing oil and gas platforms going to be removed or is this just aimed at fishermen?

It will be preferable, where options exist, to select sites where there is minimal activity or where human activities do not conflict with the conservation objectives for MCZ features. However, there may be circumstances where a specific feature is required for the development of an ecologically coherent network, and only one or a few suitable areas exist. In these cases there may be conflict between existing activities and the conservation objectives for the features. Such conflict would be considered in the impact assessment for the proposed site, and be recorded in the dossier recommending the site to the Government

The anticipated impacts, including any potential mutual benefits, from designation of an MCZ on current or identifiable future activities, will be identified in the Impact Assessment prepared and consulted on before a decision is taken on whether to designate an area as an MCZ. As socio-economics may be taken into account in the designation of MCZs, the Impact Assessment could be used to inform the decision on whether to designate the MCZ.

#### 7.1.44 Dredging – will this be part of the Crown jurisdiction? Can e.g. aggregate sector override MCZ designation by for example secure a Crown Estate licence?

The anticipated impacts from designation of an MCZ through the Net Gain Project on seabed leased from the Crown Estate will be identified in the Impact Assessment prepared and consulted on before a decision is taken on whether to designate an area as an MCZ. As socio-economics may be taken into account in the designation of MCZs, the Impact Assessment could help to inform the decision on whether to designate the MCZ.

#### 7.1.45 What buy in are Net Gain expecting to receive from government?

Net Gain was set up by Government to work with stakeholders to recommend MCZs. Much time and resource has been put into the four regional projects and the stakeholder led approach. In 2011, Defra are expecting Net Gain to provide recommendations for MCZs to meet the network objectives. If the recommendations are supported by a wide range of stakeholders, and comply with the ecological network guidance, then Government are likely to adopt them and give them legal status. The Secretary of State for the Environment will have the final say on which MCZs are designated.