

23rd March 2011
Scarborough

**Yorkshire & Humber
Regional Hub Meeting 5
WORKSHOP REPORT ver 2.0**



Document version control tables

Build status

Version	Date	Author	Reason / comments	Amended sections
1.0	17 th May 2011	Steve Barnard	Original release – report of plenary session not finalised	All
2.0	21 st June 2011	Steve Barnard	Revision of plenary session notes to more structured narratives	Section 3

Amendments in this release

Section title	Amendment summary
Section 3 Plenary session	Incorporation of minor additions and corrections into the plenary text, with conversion of plenary notes to more structured site narratives. Fundamental elements covered remain unaltered from the original.

Distribution

Copy	Version	Issue date	Issued to
Electronic	1.0	17 th May 2011	Net Gain website
Electronic	2.0	21 st June 2011	Net Gain website

1. INTRODUCTION

This is the report of the Yorkshire & Humber Regional Hub workshop held in Scarborough on 23rd March 2011. This was the fifth meeting for this particular Hub, and was the second of four that were held during March to cover the whole of Net Gain's East coast area. Further Regional Hub meetings will be held as work proceeds towards detailed recommendations to Government for the location of Marine Conservation Zones (MCZs) in the Net Gain area.

The overall format for the meeting was developed by Net Gain and incorporated feedback offered by participants at earlier rounds of Regional Hub and Stakeholder Advisory Panel meetings (StAP). The Regional Hub event included:

- **Welcome and introductions**
- **Plenary discussions on Reference Areas**
- **Plenary discussions on amendments to dMCZ site boundaries**
- **Presentations by the MMO and by Net Gain**
- **Next stages**

2. PRESENTATIONS

The purpose of this round of Regional Hubs was to refine the dMCZs from the 2nd iteration, making amendments required to meet the ENG and consider feedback received from the last meeting. It was essential that at the end of this meeting site location, boundaries and features was agreeable so that we could move onto the task of management at the next round of hubs.

After a brief introduction to the day, Steve Barnard (Stakeholder Manager for the Net Gain project) led the first of two plenary sessions. The group began the first plenary session with a brief discussion on the Reference Areas that are currently proposed in the Yorkshire & Humber Regional Hub before moving onto a more general discussion on existing sites. Notes from these discussions, together with copies of the accompanying charts, are presented below (Section 3).

Following these discussions Steve introduced the first of the day's presentations. This was given by Martyn Youell (Senior Marine Planner with the Marine Management Organisation), whose presentation covered the MMO's Marine Planning work and provided an introduction and overview to Marine Planning. It also included what the MMO have done so far, next steps and how stakeholders can be involved in the process. A copy of his slides is available as Annex 1 to this report.

Steve Barnard then introduced and facilitated a question and answer session. A full copy of the questions (together with responses provided by the MMO) is provided as Annex 2. Note that, for information, these questions and answers have been augmented with questions from the other three regional hub meetings and are not restricted solely to those discussed in Scarborough.

Following this Steve gave a brief presentation on the Impact Assessment that will accompany Net Gain's final report. Slides from his presentation are presented as Annex 3.

Jan Lupton (MMO Byelaws Officer) then gave a presentation which provided an introduction to MMO management measures, processes and possible management options. A copy of Jan's slides are presented as Annex 4.

A final Q&A session then followed; the outputs of this have been combined with questions from the other three hubs to produce the document 'MMO Management measures for Marine Conservation Zones (MCZs): Questions and Answers' (produced by the MMO May 2011). This Q&A document is provided as Annex 5.

3. PLENARY SESSION

Steve Barnard led the first of two plenary sessions. The group began the first plenary session with a brief discussion on the Reference Areas that are currently proposed in the North East Regional Hub before moving onto a more general discussion on existing sites.

Questions

- How long will they be reference areas for? Response: they will be part of the network, they can be moved in the future. The group was reminded that the MCZ process is subject to a six-yearly review.
- Who will monitor them? Response: the SNCBS.

Comment: It appears that this is just a back door entry to a no take zone.

Comment: Are we going to be using the compatibility matrices alone or is common sense involved? Common sense should play large part of the deliberations, not just technology.

Natural England noted that reference areas will be a no activity zone, as stated in the Ecological Network Guidance. The reason for having reference areas as part of the overall MCZ network is to provide examples of sites that can be monitored in their most natural state. They will be in place for scientific reasons, for more information.

The NFFO made the following statement:

“The fishing industry representatives are adamantly opposed to the legal policy to include reference areas as part of the MCZ network and there is no legal requirement for reference areas until the Marine and Coastal Access Act (2009). We believe that it is a disproportionate measure and unnecessary for monitoring the ecological performance of MCZs and is a policy that has a careless disregard for the peoples’ livelihoods.

There is also insufficient time and information available to the regional projects to make robust selections of sites. Fishing industry representatives are therefore not proactively identifying sites, though we are responding to discussions in terms of highlighting what harm selections may cause.”

One of the group commented that it seemed that the goal posts had moved, the group were not aware of ‘no activity’ zones at the beginning of this process. Net Gain pointed out that reference areas actually need to cover only a relatively small portion of the overall project area (<1%) and reminded the group that it is Net Gain’s remit to try and recommend reference areas. Again, a stakeholder noted that there needs to be a clear and specific reason for reference areas, not just because it seems like a good idea.

One stakeholder suggested that international cables beyond the 12 nautical mile limit should be avoided when identifying possible locations for reference areas. It was noted that the (international) legislation that allows cable operators to work on cables outside of 12nm would overrule any restrictions put in place under the Marine and Coastal Access Act.

In response to a query from the group Net Gain noted that, in the interests of fairness and transparency, the work that has been completed at each of the hubs will not be shared as the project moves down the coast. In this way, the same demands and level of urgency would be placed on stakeholders in the last of the four planned meetings as were placed on those in the first meeting.

Reference areas discussion

Within NG8

It was suggested by the Wildlife Trust that, as the (inshore) Holderness Coast draft MCZ already has an existing no trawl regulation in place anywhere within the site could be considered as providing a good location for a reference area for the subtidal coarse sediment Broad Scale Habitat type.

In subsequent discussion it was noted that other activities take place in the area (e.g. recreational angling, cable and pipeline landfall, and cable and pipeline transit through the site); stakeholders suggested that it might be appropriate to avoid these activities when discussing reference areas. Forewind in particular are likely to have landfalls in the general area; they are not able to be more specific about exact locations yet and so are not able to support the suggestion of locating a reference area within the site. There are existing agreements with the National Grid on these landfalls, and it will be the National Grid who will have the main input on exact landfall sites.

The NFFO noted that this area is at the heart of the largest crab and lobster fishery in the UK. Whilst The Binks (subtidal) GCR feature at the mouth of the Humber is currently included within the original site boundary, this would not be a great issue for the NFFO. The NFFO representative queried whether the reference area (should it be agreed) would come right inshore; in response Net Gain said that this was not necessarily the case, as the site is currently designated for its subtidal BSH features. One stakeholder noted that, if it does not come inshore to include the intertidal, it would not be covering two habitats successfully.

The Sea Fisheries Committee representative echoed the comments of the NFFO. The shellfishery in the area is of national importance. Whilst there is limited effort toward the south end of this site, any reference area within this site would crucially need significant dialogue with the wider fishing industry.

It was commented that spatial squeeze on fishing activity is already happening, and that the grip is getting tighter due to the offshore renewables industry.

The Crown Estate representative also commented that The Crown Estate would not support any reference areas here. Cables for three large windfarms are currently in the planning and consents process, and the current unknowns mean that The Crown Estate must take a precautionary stance.

This is a nationally significant area for recreational sea angling hosting at least two major competitions as well as supporting extensive local (shore and boat-based) activity. Many recreational boats beach launch from Withernsea and upwards of 200 anglers attend matches in this area.

ABP felt that they could not support a reference area around the mouth of the Humber; much more consideration would be required.

MCS commented that, in accordance with the ENG, the group needs to look at conservation, not just socio-economic concerns. Habitats will otherwise be sacrificed over time; a risk that cannot be ignored.

A representative from the recreational angling sector believed there was no appetite to carry any reference areas forward. He recognised it as the most difficult part of the process, adding that there would always be massive objections.

The Crown Estate suggested that, within the Yorkshire and Humber Regional Hub, this was the site that seemed to attract the highest levels of contention.

Conclusion

The group concluded that it could not support a reference area within site NG 8.

Natural England suggested that the group look at the site next to it to see if the issues are the same, noting that the adjacent site (NG9) has similar habitats and directed discussion to this site. The Crown Estate asked whether, if the group had hit the targets for one of the main habitats in this site, there was a need to retain the site at its current size. Net Gain replied that, once the outputs from all four hubs could be compiled and reviewed, there may be more options.

The MCS noted that there are two potential reference areas off Flamborough Head and that there is a small example of the 'orange' habitat (subtidal coarse sediment) there. There was a brief discussion on these sites during which it was noted that the small reference areas there protect the feature, but allows activities around them to continue.

The Wildlife Trusts commented that Filey Brigg was notable for its ecology, and that intertidal underboulder communities (habitat FOCI) are present on the Brigg. In response, a representative from the recreational angling sector pointed out that there is high angling activity here as well as pressure from high levels of general public access (tourism). The Wildlife Trusts suggested that if this is the only example of that particular feature the group should recommend it even if it was highly contentious. Net Gain noted that high tourism could potentially compromise the protection of reference areas, and the recreational angling sector suggested that would be entirely unfeasible to stop people going onto The Brigg.

The Crown Estate noted that two international cables come ashore in the general vicinity of Filey Brigg – one into Filey Bay and the other south of Hunmanby Gap.

The Sea Fisheries Committee noted that there are areas to the north and west of Filey Brigg that are barely trodden, although they are important to anglers (who, in some instances, may fish from the cliffs). They suggested that it might be possible to find a site for a reference area along this stretch of coast site but that the group would need to be mindful of the importance of the area for anglers. Just as commercial fishing should be considered when considering the location of reference areas, so too should angling.

The Wildlife Trusts commented that, wherever reference areas are suggested, there is likely to be contention across the board. Again the recreational angling sector suggested that Filey Brigg would be wildly impractical as a reference area; there is high tourism, children rock pooling, etc. and management would be a huge issue. The commercial fishing sector echoed the Wildlife Trusts, saying that wherever a reference site was located, someone would object to it.

The recreational angling sector reiterated that the intertidal area is important for anglers and for bait diggers.

The Crown Estates suggested that the group could look at where there are other examples of these intertidal habitats and could try to find a better solution.

The commercial fishing sector noted that the Flamborough lifeboats launch from one of the reference areas that is being optioned at Flamborough Head.

The recreational angling sector again raised the point that there are large areas of the coastline that are already effectively protected by their remoteness and questioned the need for there to be additional (formal) protection put in place.

Within NG9

Discussion then moved to NG9 which, the commercial fishing sector pointed out, is a very important commercial fishing area. In terms of the option of locating a reference area within the MCZ the recreational angling sector noted that a reference area for the broad scale habitat at the site would only need be 5km x5km, and would not cover the whole MCZ.

The Wildlife Trusts pointed out that the inshore area (NG8) has an existing no trawl area. Consequently the ecological quality of NG8 might be expected to be higher and the site

would be likely to be less contentious – this is why the Wildlife Trusts had originally suggested NG8 (ahead of NG9) as a possible search location for a reference area.

The NFFO pointed out that the area within NG9 has been a potting area for decades and it still falls within a highly important commercial fishing area. The commercial fishing sector suggested that it is important to note that offshore vessels are bigger and so are more flexible in their working (given that they are able to access a wider range, and larger number of, possible fishing grounds); there is therefore potentially less impact on the fleet overall the further offshore the MCZs and/or reference areas are located. The NFFO suggested that the area of NG9 was a bad area for selection across the board.

The group reviewed the available fishing data using the GIS. The offshore renewables sector noted that cables and windfarms were present within or adjacent to the site and did not feel able to support the proposal of a reference area in this area. Infrastructure relating to the oil and gas industries and to windfarms and telecommunications (cables) were all seen to be present within NG9.

Moving on, recreational angling questioned the status of the reference areas that had been previously agreed by the group (YH 2, 3 and 4) and wanted to know whether the group could confirm that was happy to move forward with them. Net Gain reminded the group that these sites formed part of the formal 3rd iteration submission and that feedback has been requested on them; it was assumed that they were moving forward. However, The Crown Estate reiterated that cables run through these areas and so they do not think there is a general consensus; given the potential problems associated with future cable management falling outside of any controls that the Marine and Coastal Access Act would require means that the inclusion of these sites as reference areas is not an option - it is not common sense to include them without further consideration.

Natural England suggested that the group should consider the range of FOCI that are present in the proposed reference areas. They commented that, at the previous StAP meeting, it was suggested that if sites weren't formally ruled out at this hub meeting then the suggestions may come back in subsequent meetings.

The Crown Estate again suggested that the process should be target driven, based on the ENG targets, and that the group should be provided with the appropriate information in order to proceed; the group should see which FOCI and which BSH are present in the area – this information is needed on the table in order to proceed with discussions on reference areas.

Net Gain reminded the group of those features that were found only in the Yorkshire & Humber Regional Hub (and therefore for which the Yorkshire & Humber Hub would need to find reference areas). Net Gain then suggested drawing a line under the discussions on reference areas and reporting the hubs outputs back to the StAP.

The commercial fishing sector added that it was unrealistic for Flamborough Head to have a reference area (for a broad scale habitat) of 5km x 5km. This would not only impact on the under-10m commercial fishing fleet, but also on tourism, coastal communities and the society in this area.

The final comment recorded during this part of the discussion was from the MCS who (in relation to the suitability of area around Flamborough head to provide a useful reference area and to the feedback received by the MCS Your Seas Your Voice campaign) suggested that the group should look at, and take on board, the information that has been provided by the general public.

Site Boundary discussions

At the start of the discussions, the Wildlife Trusts noted that the group was still waiting for the feedback on the 3rd iteration report from the SAP and the SNCBs. The RSPB also made

the point that boundary changes are critical and that ecology, not the socio-economic impact, must be at the centre of discussions. The first layers of information considered should be the ecological data layers; sites should be chosen on their ecological value. The offshore renewables sector questioned whether it would be more practical to have discussions on site boundary changes after the group had received further guidance on reference areas.

Natural England noted that the group risked taking a precautionary approach; the NFFO suggested that the group did not have consensus on boundaries and that it was important to continue the discussions.

The MCS noted that they would like the Flamborough Front to be included within the boundaries of an MCZ.

Site NG6

Site NG6 was being discussed in detail by the Lincolnshire and The Wash Regional Hub, but the site was commented on by some stakeholders.

The NFFO acknowledged that the site had been originally chosen for its broad scale habitats and the central geological feature (the Inner Silver Pit) but felt it was important to note it is a critical trawling area. Net Gain reminded the group that this discussion would be picked up in full within the Lincolnshire and The Wash Regional Hub meeting. It was also noted that this particular geological feature is not specifically identified within the ENG.

Natural England reminded the group that MCZs would not to be designated for AAEl alone, but would also require BSH presence. The Crown Estate added to this, suggesting to the group that the conservation objectives for sites would be based on the BSH and FOCI, with everything else effectively being an 'add on'.

It was noted by the NFFO that one of the main broad scale habitat types within NG6, subtidal coarse sediment, is also captured within NG9.

Site NG7

NFFO commented that this site, which lies alongside the Outer Silver Pit, had its origins in discussions held in the Lincolnshire and The Wash Regional Hub. They would prefer to see the northern most tip shaved off to avoid conflict with the commercial fishing sector; this is a very important trawling area. The offshore renewables sector also commented that the Yorkshire and Humber regional Hub had 'inherited' the site from another hub, and pointed out that the project was over-subscribed as regards the BSH types it presented. This view was echoed by The Crown Estate.

It was noted that this site clips the southern edge of the Outer Silver Pit; advice from the SAP says that geological features do not need to be protected in their entirety but that it may be sufficient to protect portions of such features.

The Wildlife Trusts representative commented that the SAP (in response to the 2nd iteration submission) had suggested that it might be possible to substitute the site and maybe this was something that could be returned to.

The Crown Estate noted that the site was coincident with a licensed aggregate area.

Site NG8

There was a brief discussion on the location of the southern boundary for the site. The SFC supported the view that there should be a gap across the Humber Mouth; survey work has

shown that the ecology of the area is impoverished. Net Gain reminded the group that the StAP had advised that this gap should be carried forward.

Notwithstanding this, there were no further specific discussions regarding boundary changes to site NG8, other than those noted (above) in the discussions on the suitability of the site for providing a location for one or more reference areas.

The Humber INCA noted that, at the previous meeting, further data had been requested on nursery and juvenile areas for smelt and eel. It was important that the group understood the management of the estuary; existing designations are likely to afford these habitats (and hence species) protection, but it would be good for the group to have more information on the implications of an MCZ in the Humber estuary. The recreational angling sector pointed out that this is a major angling area, and that these species are already covered by legislation. Within the Humber estuary, SAC, SPA and Ramsar sites together form the Humber Estuary European Marine Site. Natural England noted that there had been an 'offline' meeting specifically about the Humber. This meeting had endeavoured to find out whether an MCZ would provide additional benefit in this area or not. As Humber INCA had suggested, it had been agreed that more information on these species is needed. When more information becomes available, discussions can continue. A stakeholder added that the group would require more understanding of the implications regarding spawning in the site, although it was suggested that (given the Humber estuary's existing designations) any ongoing activities in the Humber that may affect spawning are likely to be covered by an existing need for an Environmental Impact Assessment.

Site NG9

The commercial fishing sector commented that this site represented a 'liveable solution' given that potting activity was able to be continued at existing levels. It was noted that the sector's support for all of the sites being discussed was contingent on such caveats.

The group asked for clarification on the opportunities that were left to the group left to amend site boundaries and on the point of having feedback if there is not the opportunity to subsequently make use of it in (potentially) amending boundaries. Net Gain explained that the site boundaries would need to be finalised before the next (draft final) submission to the SAP at the end of May as the available time in the next round of meetings would be needed to address vulnerability assessments for each feature at each site (which would inform both the development of conservation objectives and the identification of potential where management measures might be required).

Net Gain commented that the main BSH type in this area is in surplus (i.e. exceeding adequacy targets) across the network as a whole. With this in mind it was suggested that the group may wish to consider taking the opportunity to refine the site boundaries.

MCS wanted to know, out of the allocation of this BSH type across the whole of the Net Gain area, how many sites had contention; commented that the group should consider the whole of the network. The Wildlife Trusts commented that the group was in danger of cutting every zone on the grounds of potential proposals for windfarms. RSPB commented that AAEl data should be looked at, as well as an overview of the whole project area.

In response Net Gain pointed out that, overall, the network was over-target on many BSH types. The group may consider that reducing the size of sites is reasonable way forward.

The offshore renewables sector suggested that it was hard to make any decisions without knowing the management measures that might be imposed. In general terms though, they would prefer some of the boundaries to be clipped. In particular there was a call for the site to have a regular 1km wide buffer around the Westernmost Rough site. The RSPB representative was content, subject to confirmation that the key ecological features would

not be sacrificed in the pursuit of boundary reductions. It was noted that clipping the boundary of site NG 9 might potentially make navigation easier.

The NFFO also commented that locating sites offshore would lead to the displacement of the fishing fleet. The suggested that if this area were to be located inshore instead it would be likely to present less of an issue as regards displacement.

Following discussions there was consensus within the group to reduce the site area by removing a portion of the north east corner of the site (which was coincident with an offshore windfarm development area) and to realign the sites eastern boundary. The boundary buffer around the Westernmost Rough site (which was already in place following earlier meetings) would also be refined to a 1km wide strip. It was agreed that these modifications would be implemented on the proviso that the degree to which the network as a whole met the BSH adequacy targets was not unduly compromised.

Natural England made the general point that the group appeared to be confusing and mixing AAEI and 'additional features'. The ENG says that, whilst sites should not be identified on the basis of AAEI data alone, the group could designate an MCZ for additional species of regional and national importance. It is not possible to set conservation objectives for AAEI, the conservation objectives would need to be in place for the supporting/underlying habitat features.

Site NG10

There were no specific discussions regarding boundary changes to site NG10.

Site NG11

The NFFO requested that the site be amended to encompass the no-trawl zone and to remove the north-west section of it. The southern boundary is not aligned fully with the no-trawl zone and needs to be amended (in practical terms, where it currently lies roughly NW it needs to be re-oriented more to NNW).

The Wildlife Trusts representative noted that part of the driver behind recommending this site was the presence of high and moderate energy infralittoral rock and that these should not be lost.

The NFFO representative responded that local knowledge of this area would suggest that these broad scale habitat types would still be covered if this site were amended as suggested.

The Natural England representative reported that, following a meeting with Cleveland Potash at Boulby, the Cleveland Potash mine company would be happy to support this zone being designated should it be aligned with the existing no-trawl zone.

The RSPB representative requested more information on the ecology of this area, and the MCS representative pointed out that the group were looking for the best example of habitats, not just an example. The RSPB representative suggested that the group did not know which part of the site was the most valuable, and indicated that the group should understand more about the ecological quality of the example. In turn, the Natural England representative reminded the group that all of the ENG criteria should be considered.

The MCS representative stated that they would want to see a good buffer around any reference areas. The commercial fishing sector responded by stating that a reference area in this location would have a huge impact on commercial fishing.

Steve Barnard summarised the discussion for Net Gain: there was a proposal to trim the site boundary so that is in line with the existing no-trawl zone. The proposal should maintain compliance with the principles of the ENG, and would minimise potential socio-economic

impact (e.g. on the commercial fishing sector) whilst maintaining a good 'mosaic' of habitat within the site which should help underpin the sites ecological importance. Consensus around this proposal was achieved within the group.

There was a subsequent joint comment recorded from the representatives from the Marine Conservation Society, the North Yorkshire Moors National Park, the RSPB and the Wildlife Trusts: they were all concerned about any cuts to site and felt that it was not appropriate to be making decisions on socio-economics alone.

Site NG12

The NFFO representative proposed shaving off the eastern extremity of the site, losing some of the broad scale habitat (moderate energy circalittoral rock) for which the project is overscribed (the minimum target for this broad scale habitat type has been met). This is an important trawling area and the NFFO would prefer to clip the site back further to more closely follow where the moderate energy circalittoral rock habitat is located. One stakeholder questioned whether other regional projects with more reliable data had found this habitat, as underlying confidence in the habitat data in this area is low.

The representative from The Crown Estate highlighted the fact that two international telecommunications cables run through the site. This, together with the fact that there is generally low confidence in the underlying data, might suggest that a reference area should not be located here. This was supported by the representative from Forewind who noted that cables would likely be located in soft sediment, rather than rocky habitats. There was a suggestion that we should double check that the moderate energy infralittoral rock is actually there, before recommending a reference area for this habitat.

The representative from the Wildlife Trusts would like it to be noted that this area was already clipped back at the last meeting.

The offshore renewables representative commented that reference areas should not be put over cables and that the proposed location of the reference area should be revised in relation to the cable routes.

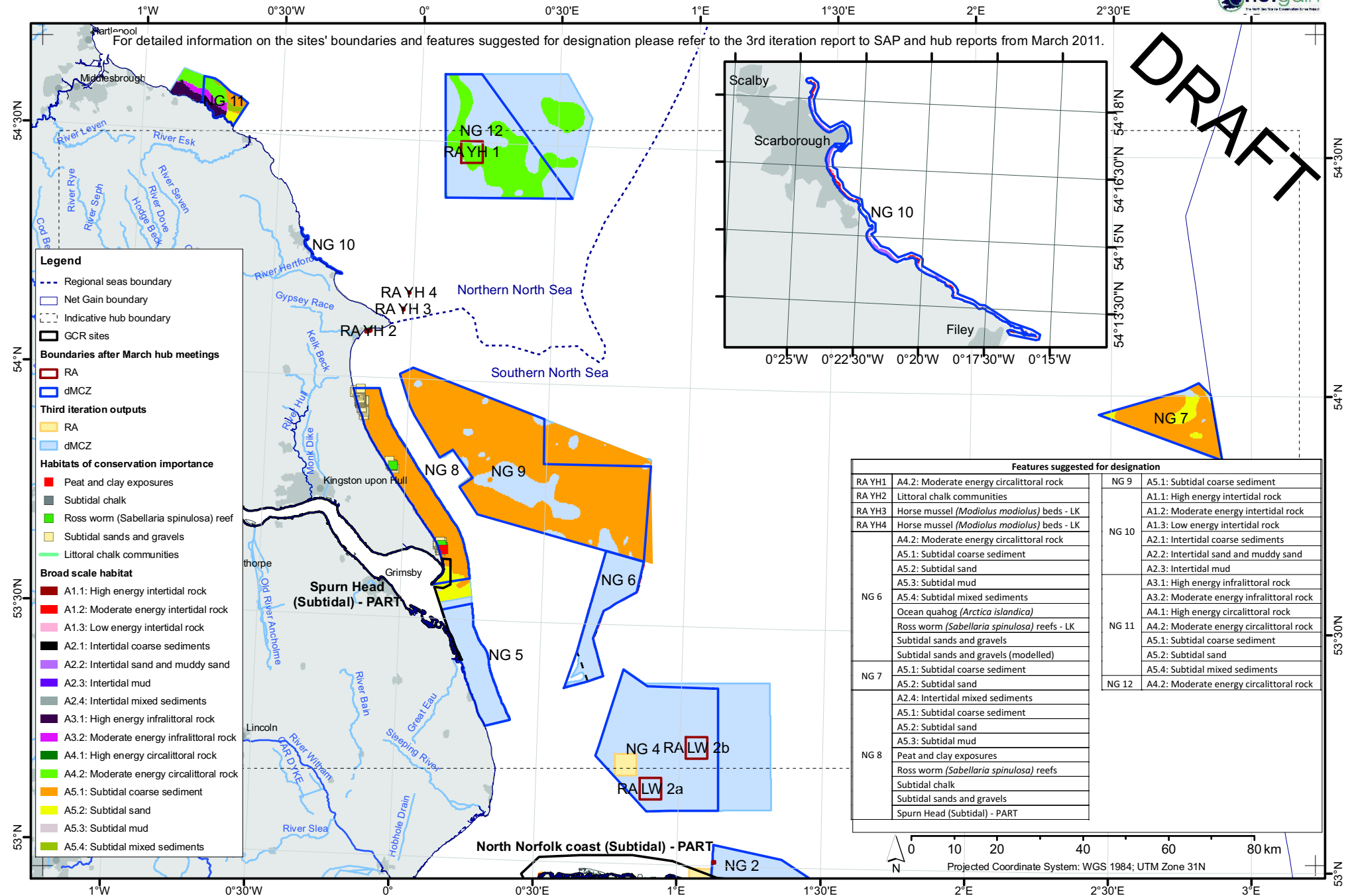
Consensus was achieved across the group that site NG12 should be trimmed as discussed, losing the north eastern corner, and that reference area RA YH1 should be relocated to avoid the known cable routes.

The Wildlife Trusts representative suggested that, alongside the consensus proposal, the group should consider the SAP feedback when it becomes available.

In addition, the aggregates sector representative reminded the group that his sector had requested a buffer zone around all aggregate areas where MCZs lie adjacent.

MCS requested that it be recorded that they would like the site relocating so as to include a portion of the Flamborough Front feature.

Yorkshire and Humber Hub - Outputs following March 2011 Net Gain hub meetings



4. NEXT STAGES

The Hub members were informed that, following the full round of Regional Hub meetings, reports for each meeting would be prepared and made available to members as soon as possible.

The next round of hubs (in April or May) is going to be slightly different as we will need to shift the focus onto management options for the proposed sites. We will be working on a site by site basis to review the features, look at existing management and see what else may be needed depending on what activities occur at the site. To facilitate that work, we will go away and develop a 'vulnerability assessment' for each site – using the features you have defined for the site, and what activities occur at the site we will cross reference with the PRISM database to see which may or may not need management.

UPDATE

Since the Regional Hub meeting the dates for the next round of two day meetings to be held have been confirmed as follows:

- Yorkshire & Humber Regional Hub – 12th & 13th April;
- North East Regional Hub – 4th & 5th May;
- East of England Regional Hub – 10th & 11th May; and
- Lincolnshire & The Wash Regional Hub – 12th & 13th May.

PARTICIPANTS

The list below shows all invitees, including those who sent apologies.

Name	Sector	Notes
David Adamson	Kayak Anglers	
Sophie Barrell	Forewind	
John Beech	North York Moors National Park	
Sally Bradley	MMO	
Richard Brewer	Whitby Trawlers	Unable to attend this meeting
Robert Briggs	Filey Against Dredging	Unable to attend this meeting
Emma Brown	Natural England	
Daryl Burdon	Hull University	
Bob Coates	Commercial static fishing	
Kirk Crimlisk	Commercial inshore fishing	
Tania Davey	Humber Mgmt Scheme & INCA	
Andrew Finlay	Crown Estate	
John Hall	Commercial fishing	
Rachel Hanbury	MMO	
Geoffrey Hill	Royal Yachting Association	Unable to attend this meeting
Paul Huteson	Ocean Blue Seafood	Unable to attend this meeting
Chris Jenner	RPS	
Tom Jeynes	ABP	
Paul Lane	NESFC	
Victor Leppington	Commercial fishing	Unable to attend this meeting
Adrian Lester	British Chamber of Shipping	Unable to attend this meeting
Michelle Lindsay	RSPB	
Jan Lupton	MMO	
Stacey Mayer	MMO	
Robin Neale	Recreational angling	
Carrie Pillow	MCS	
Nigel Proctor	Recreational angling	Unable to attend this meeting
Dale Rodmell	NFFO	
Graham Singleton	CEMEX UK Marine Ltd	
Kirsten Smith	Wildlife Trust	
David Swift	Yorkshire Region Angling Trust	
Jon Whitton	Whitby Charter Skippers Assoc	
Martyn Youell	MMO	

In addition to the invited Hub members, the following members of Net Gain staff were present:

- Steve Barnard – Stakeholder Manager
- Dani Sewell – PR & Communications Manager
- Chiara Polce – GIS Planner
- Ian Rowe – Senior Liaison Officer
- Pete Hansell – Liaison Officer
- Dan Davis – Liaison Officer
- James Lawson – GIS Data Officer



APPENDIX 1



MMO Planning Presentation

The following pages show the slides that accompanied the MMO's presentation to the Regional Hub meeting.



Marine Planning An Overview



marine
management
organisation

Martyn Youell
Senior Marine Planner
Plan Making

Benefits of Marine Planning

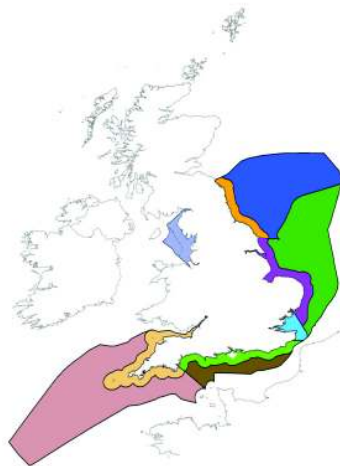
- Early Stakeholder involvement
- Strategic approach to integrate economic, social & environmental objectives
- Consistency and transparency in decision making
- Best available & commonly understood evidence base
- More certainty to investors/developers
- More joined up planning at the coast
- Plan for new activities & emerging technologies
- Improved basis for addressing cumulative effects

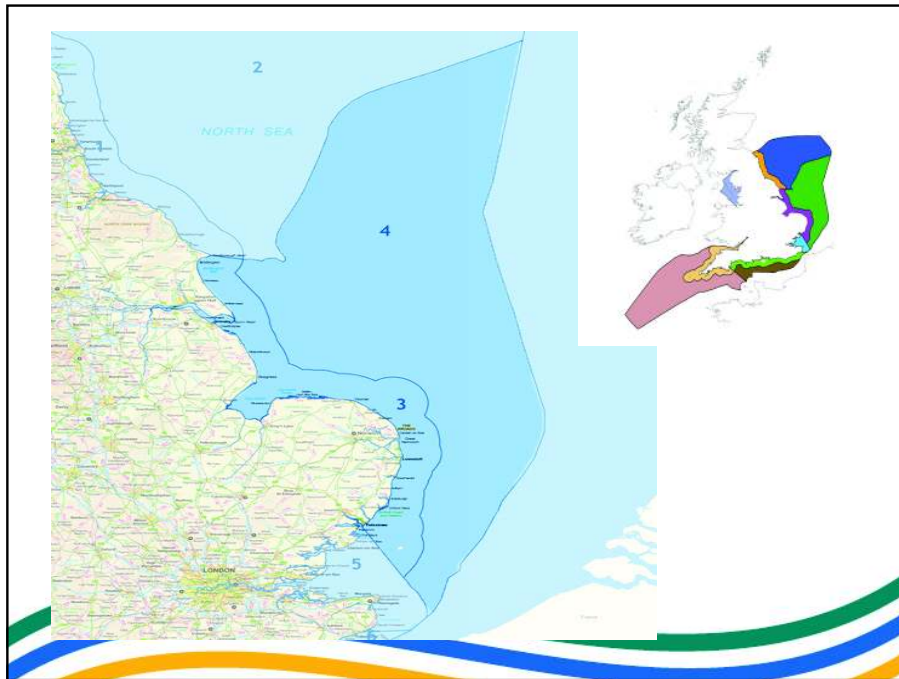
The requirement for Marine Planning

- Marine & Coastal Access Act provides legislative basis for a marine planning system
- Marine Policy Statement (MPS) will be the overarching policy framework for the UK marine area (SoS)
- Marine Plans will translate the MPS into detailed policy and spatial guidance for each Marine Plan area (MMO)
 - informed by a common, integrated evidence base
 - working closely with stakeholders throughout the process
 - guide and direct decision makers, **including Licensing**
- Aim - contribute to and help deliver sustainable development

Preparing for plan making – where

- **The Marine Plan Areas**
- **11 Areas, 10 Marine Plans**

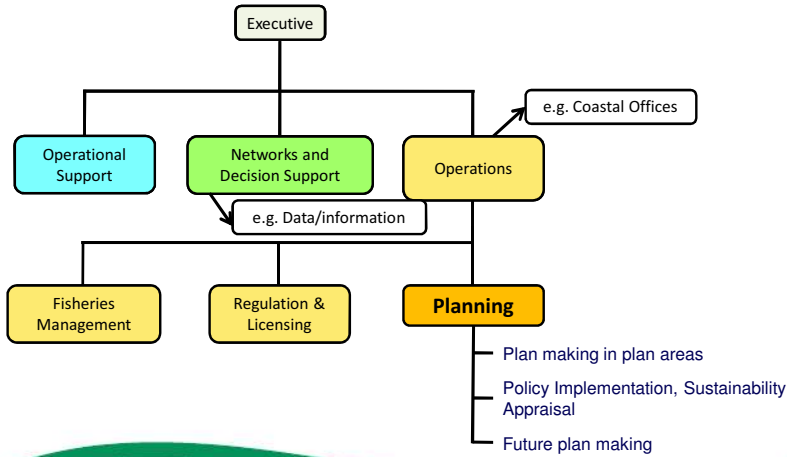




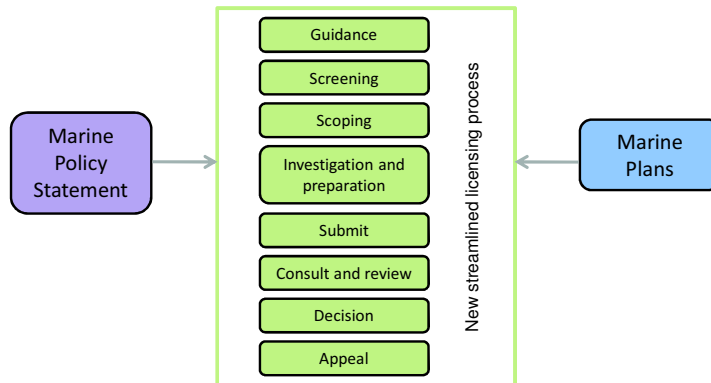
East Inshore and Offshore, Why?

- Unique boundary of area
- Relates to at least two, if not three inshore areas (North East, East and South East)
- Therefore, planning East Offshore could benefit entire east coast from Kent to Scottish border
- Dogger Bank development serviced from Teesside and Tyneside
- No other plan area offers such a spread-ambitious

Capacity building - marine planning at the MMO



Marine planning and licensing

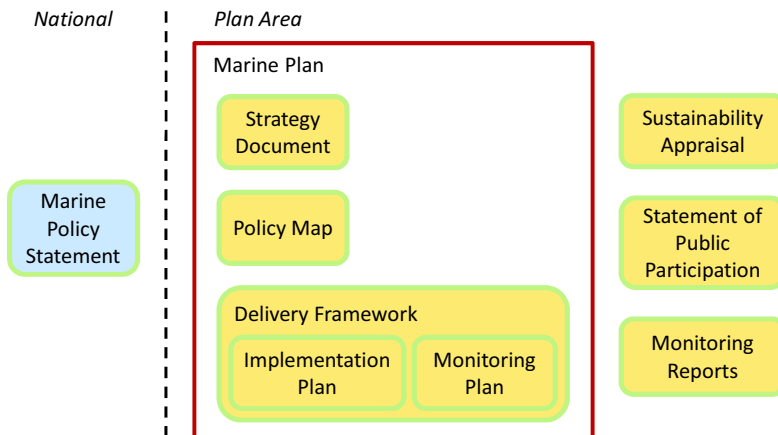


- Transitional arrangements will be in place for the period when marine plans are still in development

Preparation for Planning: Supporting Information

- Description of marine planning system ('guidance')
 - drawn on experience and lessons from elsewhere
 - terrestrial planning and marine projects in England
 - (to be published in near future)
- Describe how marine plans will be produced
 - Planning process
 - 2 (2.5) years for each plans (all plans by 2021)
 - 20 year horizon
 - shape and content of plans

Marine Planning System



Stakeholder engagement / SPP

- Nationwide stakeholder engagement, e.g.
 - Government departments, Public service bodies
 - Sector representative bodies, relevant fora
- Local stakeholder engagement
 - Links with Marine Conservation Zone projects, R3 wind development
 - Work with existing partnerships
 - Individual interests and groups
- Statements of Public Participation (SPP)
 - will inform people of how and when they can become involved, engagement opportunities, and what we will do with responses
 - draft out to consultation, publish April 2011
 - signed off by Government (Secretary of State, Defra)

SPP Contents

- The purpose of producing the Marine Plan
- What the Marine Plan making process looks like
- The plan area*
- Timetable for Plan production*
- When will we be carrying out stakeholder engagement*
- Who will we engage with*
- How will we carry out engagement*
- Informing you of the outcomes*

* Required as part of the Marine and Coastal Access Act

Summary

- First marine areas to be planned have been identified
- MMO capacity building continues on track
- SPPs are being developed - SoS to adopt April
- Data management procedures and tools being developed
- Contracts are being put in place for Sustainability Appraisal
- Links are being made with MCZ projects, R3 developers, LPA's
- On track to commence development of first English Marine Plans from April 2011
- Liaison Officers on ground from April 2011



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APPENDIX 2



MMO Planning Q&As

The following pages provide a consolidated set of Q&As arising from discussions and questions following the MMO's presentation.

How will MMO quality assure existing data?**Where will data be held and how will duplication be avoided?**

Answer – Data will be to Marine Environmental Data Information Network (MEDIN) standards and has been categorised using the categories in the Marine Policy Statement. The MMO has a Data and Evidence Team that quality assures data and which should eliminate duplication. Data will be held securely and used to populate the web portal which uses GIS mapping techniques to identify sensitivities/a range of planning options. All stakeholders will be able to access this to see the effect of activities and pressures. In order to standardise the format of data from disparate sources, all incoming datasets are transformed to the European Terrestrial Reference System 1989 (ETRS89) datum. This is because ETRS 89 data has been developed for use in high accuracy surveys. It is used by the Ordnance Survey and offshore energy companies and has also been adopted by the European Union for publication of spatial data under the INSPIRE directive. Also, the positional accuracy of our data does not deteriorate over time. It is easy to convert for data publishing purposes.

How much data access will there be to datasets?

Answer – This will have to be looked into.

Can data provision be a condition of consent for a licence, as it is with town and country planning?

Answer – This will have to be looked into.

Where will data be held and how will it be streamlined with other data-holders?

Answer – As above, data will be held securely to populate the web portal. The Data and Evidence team in the MMO will ensure that data is streamlined and to MEDIN standards. We are happy to receive other data, but it is likely to be used as soft intelligence. If there is a lack of data in a specific area then data not to metadata standards will be considered but it is likely that a greater confidence interval will be placed on this and this would be taken into account when planning. The Marine Planning Team is happy to provide advice on how to improve data collection so that it is to metadata standards.

How will the plan move with new data?

Answer – As the plan is being developed new data would be taken into account. The plan is also subject to formal review, and it is expected that any data issues could also be picked up at this stage. Data would be updated on the web portal, allowing users to undertake a wide variety of scenario planning.

How will MPs take account of lesser quantifiable activities, such as recreational benefits / ecosystem services?

Answer – The MMO recognises that there are a number of less quantifiable activities and it is likely that data will be held for these activities. We would expect data to be to metadata standards and would welcome dialogue with interested parties to assist in this process. The Data and Evidence Team will assign confidence levels to the data received and this will help inform the planning team as to how to make best use of the data.

What evidence is going to be used to determine future areas for activities e.g. renewable?

Answer – This will be looked into.

Why should developers collect the data and not the MMO?

Answer – There are a number of useful data sources that are readily available, to agreed standards and which can be used to inform the marine planning process. Some of this data is from DEFRA and other data has been provided by stakeholders. This saves time and resource and helps to accelerate the planning process.

It is unclear how the data that has been gathered translates into legislation. Are the MMO arbitrators before disputes occur; are the MMO pushing through legislation on behalf of Government?

Answer - The MMO is a regulator and is driven by Government policy through the Marine Policy Statement. Its role is to support sustainable development within the marine environment in with a view on the longer term, with an obligation to monitor, regulate and enforce within its areas of responsibility.

The MCZs appear to exploit ‘doubtful data’ will the MMO review them?

Answer - Defra will approve the outcomes of the MCZ projects and it will return the MCZs ultimately to the MMO. The MMO could revise data in certain instances should serious flaws or new evidence arise however there are some difficulties with data sharing which we are working to overcome. The MMO will be asking those providing data to strengthen and verify it.

Is the MMO responsible for data gathering?

Answer - Yes – but not for MCZs

Will the MMO fill data gaps left by MCZs?

Answer - Yes – to some extent, however the gaps will be prioritised according to policy need. Not all gaps may be filled in the short term.

Do you have resource to manage this data work?

Answer - Yes – however we don’t want to reinvent the wheel on data gathering and will use existing sources of data that meet our data standard wherever possible.

Will the MMO ‘ground truth’ data?

Answer - Not necessarily - it depends on the policy priorities. The MMO intends to gather data from other organisations subject to the required data standard being met (MEDIN) wherever possible. Where opportunities exist to go and ‘ground truth’ data, it is an option the MMO may consider, subject to available resource and opportunities with partners.

What is the status of the Marine Policy Statement (MPS) and is it subject to public consultation?

Answer – The MPS was formally launched by DEFRA on 18 March 2011. It was subject to public consultation (the consultation was launched in July 2010). A Statement of Public Participation (SPP) has been produced detailing how the public have been involved in shaping the MPS. This has included three workshops in the plan area. Further SPPs will be developed for each marine plan area. Engagement will also continue as plans are being developed so there have been and will continue to be a number of opportunities for the public to engage in the process.

Is marine planning a stakeholder led process like Netgain?

Answer - It is similar but with some specific differences. The MCZ process is more bottom up with marine planning not a pure top down process. Marine planning is somewhere in the middle. Marine planning takes its overarching principles from the Marine Policy Statement with stakeholder engagement very much at its core. There will continue to be gatherings with interested stakeholders to inform the marine planning process in various forms be they in formal meetings, drop in opportunities or in piggybacking other events.

The audience were asked to feed back to the MMO as to how they would like to engage once the MCZ/Netgain process concludes later in the year and there was a positive response for the group continuing to influence the process in a similar format to the current MCZ Hub meetings.

Will those with interests solely in the inshore plan area be consulted separately to those with interests solely in the offshore plan area?

Answer - An on line questionnaire was conducted in advance of the release of the draft Statement of Public Participation as to whether stakeholders had an interest specifically in the inshore or offshore areas, with the overwhelming majority of respondents stating that they had an interest in both areas. With this in mind the marine planning team is looking into whether we should adopt the use of specific stakeholder advisory groups and whether we should adopt this approach to take forward marine planning. Should the MMO pursue such an approach it could be a geographically based (dividing the plan area into north and south for example) or a sectoral based approach such as fisheries, conservation groups or industry interests. However, there are also a number of parties with an interest in both plan areas for example, an offshore energy company would need to route the cable through the inshore plan area to land the transmission cabling. Certain groups such as some recreational users are generally less interested in the offshore areas. Ultimately, it is about striking a balance, no one is excluded and we will try to include everyone in the optimum way.

As an individual's time is important, not to mention resourcing issues, will there be the opportunity to have one meeting to put forward viewpoints rather than a multitude of meetings?

Answer - The Coastal Liaison Officers may be the first point of contact for many interested stakeholders and are active within the plan area. The MMO seeks to maximise the use of both their own and other parties' resources and would seek opportunities to deliver information and consult with stakeholders through a variety of means for example including joint attendance at events with other organisational partners

Has there been public participation in decisions about renewable locations on a national basis like Marine Scotland?

Answer – Not by the MMO to date.

What policy statement is driving the sustainability appraisal and how do stakeholders feed into this?

Answer – Sustainable Development is a key outcome of marine planning and, consequently, the MPS is driving this forward. Stakeholder engagement will be key to this to ensure that outcomes will be met.

Will the approach be top down or bottom up?

Answer – The approach is a mixture of the two which is why we are engaging with stakeholders and seeking their views. That said, marine plans have got to take into account Government priorities and to that extent there will be some top down elements of the approach.

Is there a timetable for the other marine plan areas?

Answer – The next areas have not been selected yet. It is expected that all marine plans will be completed by spring 2021. A two year timetable is being set for developing two plans as it was found to make sense to plan inshore and offshore areas together so as to minimise the potential for duplication of effort when engaging stakeholders.

Why a 20-year time horizon?**How often will reviews be held?****How will change be incorporated i.e. changes in legislation, government, evidence?**

Answer – Marine planning is a tool for protecting ecosystems, achieving sustainable development and adding value to existing management activity in the marine environment. A 20 year time horizon was decided upon as this was viewed as the appropriate timeframe for stability of each plan area. There is a formal requirement to review plans every six years but it is expected that the MMO will review plans more regularly than this. The Marine Policy Statement will be reviewed when the relevant policy authorities (the Secretary of State in conjunction with Devolved Authorities) consider it appropriate to do so. This is likely to be when there has been a significant change in the evidence underpinning the policies set out in the MPS, whether relevant new policies have been introduced that need to be reflected in the MPS and whether the policy objectives in the MPS need to be amended. Any revisions to the content of the MPS could impact on plan making and plans would need to be amended accordingly. The MMO will be in early dialogue with all interested parties about this. The MMO will respond to changes in Government although there is currently a real commitment to marine planning from all main political parties. Any changes in evidence will be taken forward as part of the review process for existing plans or as part of the planning process for areas where plans are being developed.

How are the plan areas picked / prioritised?**Rough timescale for which areas?****When is Scotland starting the plan for the overlap areas?**

Answer – The first plan areas (East Inshore and East Offshore) were picked due to the wide range of marine activities, and the potential for future sustainable development and its contribution to the national economy. In addition, major wind farms are planned for the region. This provides an ideal opportunity to sustainably manage the competing uses of this area prior to a key development. It has a range of communities, including less well off areas that will benefit from economic confidence in sustainable development. Furthermore, planning the East Inshore and Offshore areas together will deliver the greatest sustainable development gain due to the step change in marine activity in the offshore area and the impacts this will have in terms of pressure on other uses and the natural environment. It will be up to the devolved administration in Scotland to decide on what areas of the territorial seas to plan first. Marine Scotland are meeting with the MMO next month and we should have a clearer idea of their intentions following this meeting. The next plan areas have not yet been identified.

When are you coming north to Flamborough?

Answer – The current plan area boundaries are from Flamborough Head to Felixstowe. It has not yet been decided when we will plan the area north of Flamborough. It is, however, recognised that there will be a number of stakeholders north of Flamborough Head within the “reporting area” for the current plan area. This refers to interested parties who are not within the current plan area but whose activities impact on the current plan area. The MMO will ensure that there is opportunity for these parties to influence the process.

The marine planning concept and background – where is this information?

Answer - There is information available on both the MMO and DEFRA websites including copies of relevant policy documents.

Why did marine planning come about / why did the Government decide on marine planning?

Answer – The marine area is becoming increasingly crowded with increasing demands on space, especially in the inshore areas. By planning for the marine area it will assist in considering all activities and sectors in a coherent manner rather than on an individual basis. Marine planning will contribute to achieving sustainable development and assist in meeting top level Government priorities on economic and environmental targets.

More clarity of what ‘transitional arrangements’ will look like?

Answer – This is being developed.

The plans are to be cross sectoral – will it include physical landscape and geology?

Answer – Yes, although the level of detail is to be established.

Is it a roadmap or is it the 10 commandments and will IROPI come into play?

Answer – It is not a list of the 10 commandments. Marine planning is a participatory process. It is recognised that Government priorities will have to be factored in. The degree of prescription in plan policies is yet to be determined.

Where do the conservation team fit in – they appear forgotten – who is providing that advice?

Answer – As the process develops we will be working with colleagues within the MMO to ensure plans adequately reflect conservation concerns and the network of Marine Protected Areas. Representatives from conservation groups will also contribute to the planning process.

How has the boundary at Flamborough been worked?

What are the implications for an activity which straddles plan areas?

Will they be working to different policy / plans on each side?

Answer – This is based on the Flamborough front, a geographical boundary. It is recognised that certain activities will straddle plan areas. Those outside of the current plan area (but who have an interest in it) are being consulted as part of the wider “reporting area” for the plan. Any information provided will be retained on record to avoid duplication of effort when planning starts for the adjacent area. They will be impacted on by different plans but, pragmatism will be used to ensure sustainable development is not compromised.

What might the sustainability appraisal look like?

Answer – The sustainability appraisal should consider the integration of potential environmental, social and economic issues in respect of the proposed marine plans. It should mention how sustainability objectives are turned into sustainable planning policies, reflect concerns of interested parties and form an integral part of all stages of plan preparation. It should also specify the further assessment of the identified impacts and subsequent re-design or mitigation measures.

What are the main priorities for the MMO e.g. fisheries, windfarms, aggregates, oil and gas?

Answer – The MMO will look across all sectors to develop plan policies. The marine planning process is a real positive opportunity for all those with an interest in the marine environment to influence the outcome.

Is the offshore industry more important than fishing as fishing was only mentioned once in the presentation?

Answer - The presentations have a wide ranging focus with a number of sectors to cover and limited time to do so. No single sector has priority over any other although some are acknowledged as having a particularly important role to play, such as defence. The fishing sector has the potential to make a significant and positive contribution to the marine planning process in a number of areas not just those of a simply economic nature but in social and cultural terms too. Research has been commissioned by the MMO to look specifically at the socio economic benefits of marine planning this will include all coastal communities including those in which fishing has an important role. The fishing sector is one of many sectors we are working with and is very much part of the marine planning process and is far from forgotten.

What's the reasoning behind the 20-year horizon for marine plans – why not more or less?

Answer – A 20 year time horizon was decided upon as this was viewed as the appropriate timeframe for stability of each plan area.

How will marine plans add value to existing plans?

Answer – Marine plans are not going to ignore existing plans. The policies of existing plans and strategies will be incorporated into marine plans. Marine plans will permit a co-ordinated approach to activity in each plan area.

Enforcement and policing - conspicuous by its absence – i.e. international engagement – classification needed.

Answer – The MMO do have enforcement officers and May be able to develop partnerships in enforcement.

Would the MMO introduce new tiers of legislation e.g. DEFRA is in charge of scallop fishing in Lyme Bay? Would new legislation be brought in, for example a national policy on scallop dredging?

Answer - This area of interest potentially links in to the work of the MCZ projects. Should such a management measure be proposed as part of the MCZ process at local level it may then go forward to Defra for consideration and wider public consultation? If such a measure was proposed and found acceptable to Defra and be implemented then the MMO inherit it as part of the outcomes of the whole MCZ process to be integrated within the production of marine plans... It is important to remember that the MCZ process is driven by its stakeholders.

The Dorset C-Scope project is similar to marine planning in many ways but without the statutory powers. It has been able to suggest management measures for current activities and look to the future and possible activities resulting in more effective management of the marine resource.

In terms of national fisheries legislation it would not be the role of marine planning to introduce specific fisheries legislation at national level such as that described. However, the marine planning team would pass on any fisheries related issues to the appropriate department. If necessary, activity specific restrictions could be a product of fisheries management within MCZ's and would be subject of discussion between the industry the MMO and IFCAS where appropriate.

Within the marine plan it should include any fishing caveats and agreements already put forward by the fishing industry through the MCZ – require confirmation and clarity of what the plan could mean to the fishing industry.

Answer - Response to be confirmed.

How will marine planning affect / benefit statutory consultees in licensing applications?

Answer - By giving clear policies to guide the decision on an individual case.

Why hasn't there been a link between Net Gain and planning – why is it happening separately, at different times?

Answer – In an ideal world, these would have run in sync. However, the Marine and Coastal Access Act as statute had to receive Royal Assent. In addition, resource has had to be placed into the planning function within the MMO which has also caused some delay. The work that Net Gain have carried out has proven a positive in terms of assisting marine planning through collection of data and stakeholder engagement.

Government targets for renewables are always going to be a top priority so how will all other activities be considered on an equal basis?

Answer - Information received from stakeholders, data and evidence will inform the planning process to ensure all activities will be taken into account, meeting sustainable development priorities.



APPENDIX 3



Net Gain presentation

The following pages show the slides that accompanied Net Gain's presentation to the Regional Hub meeting outlining the role of the Impact Assessment work.



netgain
The North Sea Marine Conservation Zones Project

Yorkshire & Humber Regional Hub
March 23rd 2011



**Welcome,
housekeeping & introductions**

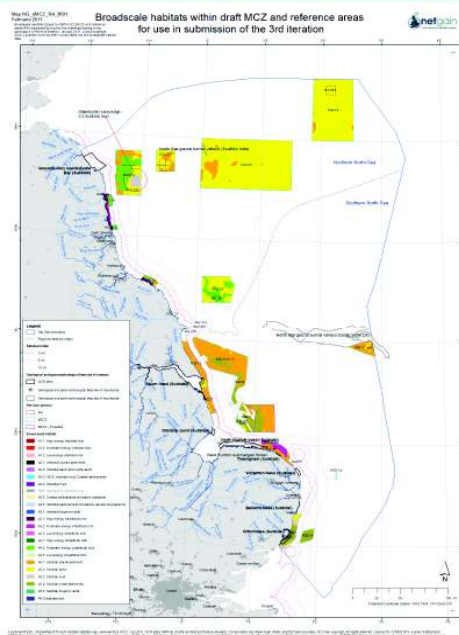
Welcome
Housekeeping
Introductions

- Net Gain
- MMO Staff
 - Martyn Youell (Senior Marine Planner)
 - Jan Lupton (Byelaw officer)

Running Order

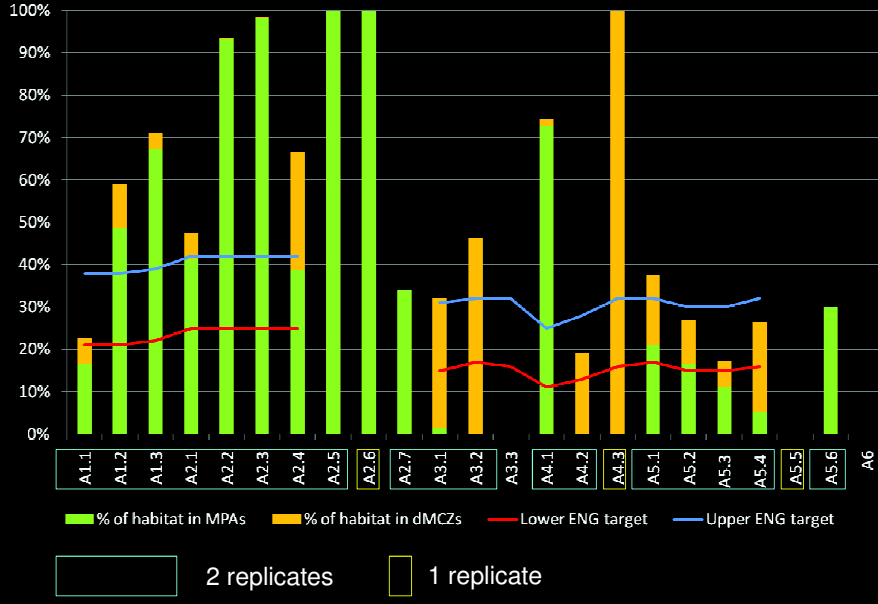


- Morning
 - Plenary
 - Review of progress
 - Reference Areas
 - Site refinements
- Afternoon
 - Presentations and Q&A sessions
 - Overview of Marine Planning (MMO)
 - Impact Assessment and the role of Public Authorities (Net Gain)
 - Management Measures & the process for their development (MMO)



Broad scale habitats within dMCZ and Reference Areas

BSH Adequacy and Replication



Species FOCI	Repls. MPA	Repls. dMCZ	Total repls.	Assessment (≥3)
<i>Alkmaria romijni</i> Tentacled Lagoon-Worm	0	1	1	At least 1 more repl. ⁽¹⁾
<i>Arctica islandica</i> Ocean quahog	0	2	2	Nearly met ⁽²⁾
<i>Cruoria cruoriaeformis</i> Burgundy maerl paint weed	0	0	0	Single record
<i>Gammarus insensibilis</i> Lagoon sand shrimp	3	2 (local knowl.)	≥3	Met
<i>Gitanopsis bispinosa</i> Amphipod shrimp	0	1	1	Not met ⁽³⁾
<i>Haliclystus auricula</i> Stalked jellyfish	0	1	1	Single record
<i>Hippocampus hippocampus</i> Short snouted seahorse	-	-	-	Single record ⁽⁴⁾
<i>Nematostella vectensis</i> Starlet sea anemone	2	1	3	Met
<i>Ostrea edulis</i> Native oyster	0	1	1	Not met ⁽⁵⁾
<i>Palinurus elephas</i> Spiny lobster	0	0	0	Single record
<i>Phymatolithon calcareum</i> Common maerl	0	1	1	3 repls; low precision ⁽⁶⁾
<i>Tenellia adspersa</i> Lagoon sea slug	0	0	0	No records

Habitat FOCI	Repls. MPA	Repls. dMCZ	Total repls.	Assessment (≥3)
Blue Mussel beds	2	2**	4	Met
Estuarine rocky habitats	4	2	6	Met
Horse mussel (<i>M. modiolus</i>) beds	0	RA only	2 possible (LK)	Not met ⁽¹⁾
Intertidal underboulder communities	3	1**	4	Met
Littoral chalk communities	1	3	4	Met
Mud habitats in deep water	1	0	1	Not met ⁽²⁾
Peat and clay exposures	0	4**	4	Met ⁽³⁾
Ross worm (<i>S. spinulosa</i>) reefs	4	3	>5	Met
Seagrass beds	3	0	0	Met
Sea-pen and burrowing megafauna communities	1	0	1	Not met ⁽⁴⁾
Sheltered muddy gravels	2	1	3	Met
Subtidal chalk	1	3***	4	Met
Subtidal sands and gravels	>5	7	>5	Met
Tide-swept channels	1	2***	3	Met

Reference Area suggestions



- Ideas and thoughts on reference areas
- Annotate chart on walls – 10 mins
- Discussion to remove those that are not acceptable – 15 mins
- Remaining list to go to StAP for consolidation with other three Hub outputs
- Returned to next Hub meeting

Feature	Ref area?	Possible locations
A1.3: Low energy intertidal rock		within MPA (NE; YH)
A2.1: Intertidal coarse sediment		within MPA (YH ; LW; EE)
A2.2: Intertidal sand and muddy sand		within MPA (NE; YH ; LW; EE)
A2.3: Intertidal mud		within MPA (NE; YH ; LW; EE)
A2.4: Intertidal mixed sediments		within MPA (NE; YH ; EE)
A2.5: Coastal saltmarshes and saline reedbeds		within MPA (NE; YH ; LW; EE)
A2.6: Intertidal sediments dom ^{td} by aq angiosperms		within MPA (NE: spatial; all others: non-spatial)
A3.1: High energy infralittoral rock		within MPA (YH)
A3.2: Moderate energy infralittoral rock		NE coast; Flamborough Head ; off the N-Norfolk Coast
A3.3: Low energy infralittoral rock		NE / YH (VERY LITTLE)
A4.1: High energy circalittoral rock		within MPA (YH)
A4.2: Moderate energy circalittoral rock	RA NE3; RA YH1	
A5.6: Subtidal biogenic reefs		LW (within MPA); YH
Horse mussel (<i>Modiolus modiolus</i>) beds	RA YH3; RA YH4	
Intertidal underboulder communities		within MPA (NE; YH)
Littoral chalk communities	RA YH2	
Seagrass beds		within MPA (NE; YH ; LW)
Sheltered muddy gravels		within MPA (YH ; LW)
Subtidal sands and gravels		within MPA (NE; YH ; LW)
Tide swept channels		within MPA (YH)



Plenary



The North Sea Marine Conservation Zones Project

MCZ changes



- Effectively final opportunity to revise sites – next meeting will be looking at management measures for each site so sites must be finalised before then
- NG 7 – ? Position in relation to Dutch SAC site (Cleaver Bank)
- Can NG 11 be reduced in size - (feedback) – what are the implications?
- NG 9 – extent?

BSH	Extent	Revised			Replication	Target met?	
		Min	Max				
A1.1: High energy intertidal rock	1.46	0.06	0.31	>2	Min met;	short of max by 0.22km ²	
A1.2: Moderate energy intertidal rock	8.38	Met	Met	>2	Max met;	surplus of 1.76km ²	
A1.3: Low energy intertidal rock	2.12	Met	Met	>2	Max met;	surplus of 0.68km ²	
A2.1: Intertidal coarse sediment	4.27	Met	0.03	>2	Max met;	surplus of 0.23km ²	
A2.2: Intertidal sand and muddy sand	179.99	Met	Met	>2	Max met;	surplus of 92.86km ²	
A2.3: Intertidal mud	241.76	Met	Met	>2	Max met;	surplus of 135.93km ²	
A2.4: Intertidal mixed sediments	7.31	Met	0.23	>2	Max met	surplus of 1.8km ²	
A2.5: Coastal saltmarshes and saline reedbeds	20.28	n/a	n/a	>2	n/a		
A2.6: Intertidal sediments dom ^{id} by aq angiosperms	6.26	n/a	n/a	1	n/a		
A2.7: Intertidal biogenic reefs	2.51	n/a	n/a	2	n/a		
A3.1: High energy infralittoral rock	339.47	46.17	100.48	>2	Max met;	surplus of 3.43km ²	
A3.2: Moderate energy infralittoral rock	451.33	76.73	144.43	>2	Max met	surplus of 64.08km ²	
A3.3: Low energy infralittoral rock	5.04	0.81	1.61	0	Min met;	short of max by 1.61km ²	
A4.1: High energy circalittoral rock	13.47	Met	Met	2	Max met;	surplus of 6.66km ²	
A4.2: Moderate energy circalittoral rock	5061.36	657.98	1417.2	>2	Min met;	short of max by 446.8km ²	
A4.3: Low energy circalittoral rock	20.34	3.25	6.51	1	Max met;	surplus of 13.83km ²	
A5.1: Subtidal coarse sediment	18761.06	Met	2045	>2	Max met;	surplus of 1054.25km ²	
A5.2: Subtidal sand	81895.59	Met	11138	>2	Min met;	short of max by 2647.97km ²	
A5.3: Subtidal mud	938.18	36.59	177.32	>2	Min met;	short of max by 119.02km ²	
A5.4: Subtidal mixed sediments	3786.3	412.71	1018.5	>2	Min met;	short of max by 212.95km ²	
A5.5: Subtidal macrophyte dom ^{msd} sediment	Spatial data not available	n/a	n/a	1	n/a		
A5.6: Subtidal biogenic reefs	299.89	n/a	n/a	2	n/a		
A6: Deep-sea bed	4.69	n/a	n/a	0	n/a		

An overview of Marine Planning

Martyn Youell

Senior Marine Planner - MMO

Q & A process

- Work in groups to generate questions (10 minutes)
- Identify top three – copy to Post-It notes (5 minutes)
- Collation/clustering
- Response to questions (30 minutes)
- Remaining questions carried forwards (FAQ)
- Coffee

Impact Assessment and the role of the Public Authorities in developing Management Measures

Steve Barnard
Stakeholder Manager – Net Gain

Background – why are we doing this?



Marine and Coastal Access Act 2009

'...may have regard to any economic or social consequences of doing so'

- Meeting the ENG in ways that have lowest socio economic impact.
- Socio-economics should not prevent an area being considered as an MCZ, nor compromise the achievement of an ecologically coherent MPA network.
- Environmental and socio-economic information integrated - best available evidence base for Ministers to make decisions.
- Socio-economics taken into account where alternative ways of meeting the scientific requirements of the network

What are Impact Assessments?

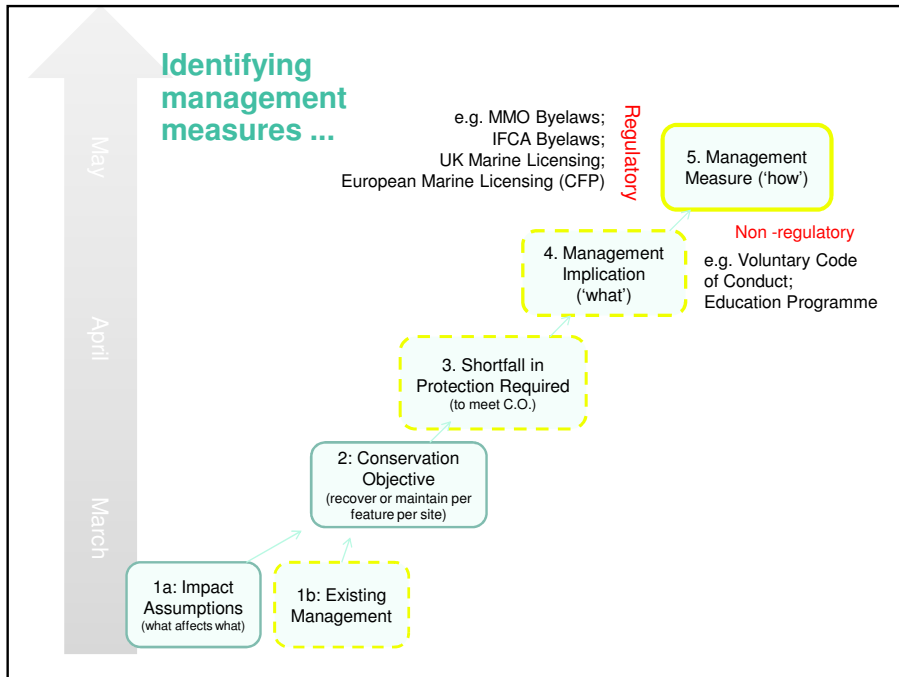


- Required by Government to assess and present likely costs and benefits (monetised as far as possible) and the associated risks of a proposal that might have an impact on the public, private or civil society organisations.
- Assessing impacts of MPAs is more challenging and benefits are difficult to assess.
- Contain a comparison of what is likely to happen if MCZs are designated compared to what would happen if they are not designated (the baseline scenario)

Information expected by Government in the IAs



- Information from stakeholders and published information
- Current and planned human activities in the baseline scenario within the sites
- Possible impacts of displacing activities
- Assessment of alternative measures to achieve management of activities
- Identification of the preferred measure to manage activities (if possible)
- The costs of the measures
- Assessment of the benefits of the sites
- Risks, uncertainties, unknowns and unintended circumstances



Examples of measures

- Area closures
- Gear type restrictions
- Raising awareness
- Educational programmes
- Cross compliance
- Codes of conduct
- Consents
- MSC accreditation
- Historic wrecks Act, 1973
- Coastal wardens
- Restricted access on land (e.g. fencing)
- Licensed activities
- Byelaws

Management measures in the Impact Assessment ...



The possible management measures identified by the regional projects may include:

- **Management measures** put forward by stakeholders.
- **Recommended measures** if a consensus is reached amongst stakeholders that they prefer particular management measure(s).
- **Illustrative measures** where no measures can be identified by stakeholders, these can be identified by regional project teams in order to inform their IAs.

Government policy on management



- Both regulatory and non-regulatory measures should be investigated.
- Measures with the least social and economic impact should be implemented.
- Management should be proportionate to the conservation objectives.



Duties of Public Authorities



The Marine Act 2009 requires Public Authorities to:

1. Exercise their functions in a manner that furthers (or least doesn't hinder) the conservation objectives of MCZs
2. Consider the effect of proposed activities on conservation objectives of MCZs.
3. Restricts the authorisation of activities that pose a significant risk to the objectives of sites (s125 and s126 of Act).



Public Authorities ... some examples



- Association of Drainage Authorities
- British Port Association
- CEFAS
- DEFRA
- Department for Communities and Local Government
- Department for Culture Media and Sport
- Department for Energy and Climate Change
- Department for Transport
- English Heritage
- Environment Agency
- Foreign and Commonwealth Office
- Forestry Commission
- Infrastructure Planning Commission
- Inshore Fisheries and Conservation Authorities
- International Cable Protection Committee
- Local Government Association Coastal Issues Group
- Marine Management Organisation
- Maritime and Coastguard Agency
- Ministry of Defence
- Police: Wildlife Unit
- RSPB
- The Crown Estate
- Trinity House
- The National Trust
- The Wildlife Trust

New powers for public authorities



The Marine Act 2009 also enables the **Marine Management Organisation** and **Inshore Fisheries and Conservation Authorities** to create **bylaws** for the protection of MCZs.

MMO Management Measures processes and options

Jan Lupton



Q & A process



- Work in groups to generate questions (10 minutes)
- Identify top three – copy to Post-It notes (5 minutes)
- Collation/clustering
- Response to questions (30 minutes)
- Remaining questions carried forwards (FAQ)

3rd iteration 28 /02

3rd IA 11/03

- 8 - 9 March – Public authority workshop
- 16 March – Pressures/assumptions workshop (team)
- w/c 21 & 30 March - MMO management measure meetings
- 31 March SAP feedback due
- 6 April StAP meeting
- 12-13 April – YH hub meetings for site specific management
- 4-13 May - NE, LW, EE hub meetings for site sp mgmnt
- 25 May StAP

Draft final recs 1/06

Draft final IA 15/06

- 30 June SAP feedback due
- 19 – 20 July - Large group meeting
- Site specific Impact Assessment

Final recs 31/08

Final IA 30/09

- 30 September - Regional Project closure
- 30 November - SNCB collate cumulative network and IA
- Spring 2012 - Formal public consultation on sites

Next steps



- Reporting
- Next meeting (2-day)
 - 12th & 13th April – Scarborough
- Review of Reference Area feedback from StAP
- Review of vulnerability assessments (confirmation of Conservation Objectives)
- Suggested options for Management Measures



APPENDIX 4



MMO Byelaws presentation

The following pages show the slides that accompanied the MMO's presentation to the Regional Hub meeting.



MMO Management Measures for MCZs

Marine Conservation and Enforcement Team (MCET)



marine
management
organisation


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Aims

- The role of the MMO
 - Statutory management measures:
 - Byelaws
 - Fishing licence conditions
 - Marine licences
 - Non-statutory management measures:
 - Voluntary agreements
 - Education/awareness
 - Enforcement
- 

The role of the MMO

- One of a number of public authorities with responsibilities in the marine environment
- No role in decisions regarding MCZ selection submitted to DEFRA

During MCZ recommendation stage:


- Provide impartial advice based on MMO's remit – fisheries, marine activities (e.g. construction), enforcement
 - Feasibility, practicalities and effectiveness of MMO management measures
- 

The role of the MMO

October 2011 – designation

- Implement possible interim measures based on risk and advice of SNCBs

Upon site designation

- Use recommendations and IAs to develop, implement and enforce regulatory measures
 - Ensure that authorised activities within remit e.g. construction, do not impact on protected features
- 

MMO byelaws

Principally for unregulated activities out to 12nm

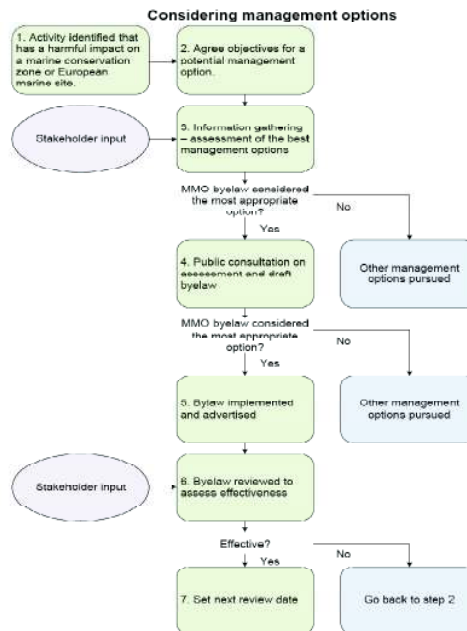
- Prohibiting/restricting entry into or within MCZ by persons or animals or vessels
- Prohibiting/restricting speed or anchoring
- Prohibiting/restricting killing, taking, destruction, molestation or disturbance of animals or plants or anything which could damage/destroy an object or interfere with the seabed

- On seashore, seasonally, different parts of MCZ
- Can issue permits with conditions



MMO byelaws

- Emergency byelaw – 6 weeks
- Interim byelaw (for potential sites) – 6 weeks
- Permanent byelaw- 12 months



MMO byelaws

- A new function for the MMO
- Sends a clear and robust message about protection
- Maximum fine for contravention of a byelaw £5,000
- Effectiveness will increase with stakeholder support and awareness




Fishing licence conditions

Management measures for fishing activity:


- **0-6 miles – IFCA byelaws** (fishing licence condition (s.4 SFCA '67), prohibition order (s.5A SFCA'67, **MMO byelaws**)
- **6-12 miles – prohibition order** (e.g. s5A SFCA '67), Common Fisheries Policy (CFP) regulation, **fishing licence condition** (s.4 SFCA '67), **MMO byelaw**)
- **>12miles to 200miles/median line** – CFP regulation




Fishing licence conditions

- A function already undertaken by the MMO
 - Can be used to prohibit or restrict access to areas
 - At the moment, long licences make this cumbersome
 - Prosecution can lead to a maximum fine of £50,000
 - Enforcement and surveillance undertaken in the same way as byelaws
- 

Marine licences

- A function already undertaken by the MMO
 - The most appropriate option to manage activities which require marine licences:
 - Offshore renewables
 - Cables/pipelines
 - Dredging/disposal
 - Construction etc
 - Conditions and mitigation required to ensure that activities not impacting on protected features – Section 125
- 

Voluntary agreement

- MMO could assist in development but would probably be led on a local level
 - Recreational activities often led by local group so could lead voluntary agreement e.g. dive club, yachting association
 - More likely to achieve local support
 - Proportional to level of risk and threat
 - No direct consequences of contravention, could be initial option replaced by a byelaw if necessary
- 

Education/awareness

- MMO could assist in development but would be led on a local level
 - Can help to reduce impacts
 - Local involvement and ownership
 - Opportunity for wider involvement of other organisations and stakeholders
- 

The role of the MMO - enforcement

- Enforcement of management measures within our remit:
 - MMO byelaws, marine licences, wildlife licences fishing licences, fishery legislation, prohibition orders.
- Enforcement of the general offence (Section 140)
- Joint working relationships with IFCA's
- 6-12nm could potentially cross-warrant IFCA's
- Outside 12nm navy patrol vessels

Summary

- We are advisors in the process
- We are one of several public authorities with management responsibilities in MCZs
- We already manage and enforce existing management measures
- Byelaws are a new function which we will be enforcing along with the general offence
- Byelaws are considered after all other measures have also been explored



APPENDIX 5



MMO Byelaws Q&As

The following pages provide a consolidated set of Q&As arising from discussions and questions following the MMO's presentation.

MMO Management measures for Marine Conservation Zones (MCZs): Questions and Answers

The Marine Management Organisation (MMO) is one of a number of public authorities with a management remit within the marine environment. The MMO can implement the following management measures to further the conservation objectives of MCZs:

MMO byelaws (under Part 5 Chapter 1 of the Marine and Coastal Access Act 2009).

This is a new function for the MMO and can be made principally for unregulated activities out to 12 nautical miles.

Fishing licence conditions (under section 4 of the Sea Fish (Conservation) Act 1967)

This is an existing function within the MMO. This is one potential option for managing fishing activities within MCZs but there may be other more appropriate options such as inshore fisheries conservation authorities (IFCAs) byelaws and Defra prohibition orders.

Marine licences (under Part 4 of the Marine and Coastal Access Act 2009)

This is an existing function within the MMO. Impacts of activities requiring a marine licence will be managed through this system. Mitigation and conditions will be imposed to ensure that conservation objectives are not hindered.

Voluntary agreements or education

There are a number of non-statutory options which could be locally led by appropriate groups with MMO assistance. Such arrangements need to demonstrate that they afford the necessary protection to protected features.

The MMO is responsible for enforcing the general offence of damaging an MCZ as well as management measures that the MMO are responsible for enforcing.

BYELAWS

1. How will the requirement for a byelaw be triggered?

The need for management measures for MCZs is most likely to be identified through stakeholder engagement during site selection (through the Regional MCZ Projects) and post designation. If the MMO is approached to investigate the requirement for a management measure, it will decide whether or not we are the most appropriate regulator to take forward an investigation into the management options for the particular activity. If not, this will be directed to the more appropriate authority to take forward.

2. What level of evidence is required to instigate the byelaw process?

The MMO will usually begin the process of investigating potential management options for a site when there is evidence that suggests that there is a risk to the conservation objectives through damage caused by a particular activity. The level of evidence available will vary on a case by case basis. The MMO would look to gather enough evidence to make a decision as to whether investigation into management options is required. However, in some instances we may put in place byelaws based on a precautionary principle (for example where a protected feature is particularly rare and vulnerable). We will make these decisions on a case by case basis but with consistency between cases which are similar in nature.

3. Would the gathering evidence stage include the collection of additional scientific data as well as socio-economic data?

Decisions will be based on the best available evidence, however, the collection of additional scientific data and site verification could be included in the evidence-gathering stage. The decision on whether new evidence will be gathered will be made on a case by case basis.

4. For what activities are MMO byelaws used to prohibit or restrict?

The MMO can make byelaws to prohibit or restrict any activity to further the conservation objectives of a site. However, in practise MMO byelaws will usually be the preferred option for unregulated activities. Other more appropriate forms of regulation exist for many activities, and this existing regulation would be the route through which these activities are managed in the first instance. All consenting authorities for regulated activities should assess applications for projects in MCZs to ensure that there will not be any damage to the protected features of the site. Upon designation of a new site, existing consents should be reviewed to ensure those activities are not damaging the protected features of the site. Mitigation and conditions may be added if appropriate to ensure there is no impact. Fishing activities including sea angling and sports fishing will be regulated primarily by IFCA's within their district of 0 – 6nm. From 6 – 12nm there are number of different options available including prohibition orders under The Sea Fish (Conservation) Act 1967, MMO byelaws and regulations through the Common Fisheries Policy. Beyond 12nm regulation is through the Common Fisheries Policy.

5. What can an MMO byelaw prohibit and/or restrict?

The MMO can use byelaws to prohibit or restrict activities, including the following which is outlined in Section 12 (3):

- entry into, or any movement or other activity within, the MCZ by persons or animals;
- entry into, or any movement or other activity within, the MCZ by vessels or vehicles;
- speed of any vessel,
- anchoring of any vessel within the MCZ ;
- killing, taking, destruction, molestation or disturbance of animals or plants of any description in the MCZ;
- the doing of anything in the MCZ which would interfere with the sea bed or damage or disturb any object in the MCZ.

Byelaws can be used at different times of year, for different areas with a protected site and for different methods or means of carrying out an activity. Byelaws can also be used to restrict activities on the seashore. The MMO can make a byelaw to prohibit or restrict any activity if it was the most appropriate authority to do so and a byelaw was the most appropriate regulation to apply.

6. Can MMO byelaws be used to protect wrecks or other underwater structures?

Section 129 (3) (f) states that the MMO can make a byelaw to prohibit or restrict any activity which would damage or disturb any object in the MCZ. So yes we could restrict or protect an activity to prevent damage to a wreck. However, the byelaw must be for the purpose of furthering the conservation objectives of the site. Therefore, there would have to be a link between the wreck and its accompanying habitat which meant that its protection furthered the conservation objectives.

7. How will byelaws be implemented for sites that cross boundaries between the devolved administrations?

We will work with the relevant authorities and our counterparts within these organisations to gather evidence on the best available options, develop impact assessments, and co-ordinate the implementation of management measures.

8. How will the MMO make cross-boundary byelaws e.g. across the 6 nautical mile boundary.

The MMO will work with IFCA to agree an efficient and effective approach to decision making and management for sites with cross the 6nm boundary. There are several options for how this could work, for example the appropriate IFCA could establish a byelaw within the 6nm and the MMO establish a mirror byelaw outside the 6nm, or an MMO byelaw could be established for the whole site. . This will be considered on a case by case basis and the most appropriate option will be considered as part of the impact assessment.

9. What is the difference between a permanent byelaw and an emergency byelaw?

To place an emergency or interim byelaw on a site, the MMO has to be satisfied that the site requires urgent protection. This is based on evidence about the level of damage and risk to the site. Decisions are made on a case by case basis. An emergency byelaw may be identified to be the best option when a damaging activity develops in a site that hasn't been carried out in that location previously and requires urgent action to ensure the conservation objectives can be achieved.

10. How will byelaws be implemented once potential MCZs have been identified?

Section 140 of the Marine Act dictates a general offence for damaging an MCZ which can be enforced as soon as the site is designated. Therefore, Section 140 of the Marine Act affords immediate general protection to all of the MCZs and this can be enforced. If sites require further management measures, Natural England, DEFRA and the MMO are currently working on how this will be managed and implemented. There have been a number of options put forward as to how this will work with the favoured option being that byelaws are implemented in sites on a risk based approach so that the most damaging activities are managed first. This may be the most effective method based on resources.

11. At what point of the MCZ site designation process can the MMO make interim byelaws?

The Marine Act is not restrictive on when MMO can make interim byelaws. The MMO will consider each case on its merits and if there is a clear risk to a conservation feature which has been identified, within the processes set up, for a possible conservation objective for a MCZ site, then early action could be considered. This could be at the time proposals are submitted to the Secretary of State or even before. In general, the MMO will be looking to match byelaws with the timing of designation whenever appropriate.

12. How will the MMO make decisions about socio-economic and conservation considerations when implementing a byelaw?

We would look at this on a case by case basis but ensure we have consistency between similar situations. The Impact Assessment will put together the best available information on both the socioeconomic impacts and the environmental impacts in order to inform the decision.

13. Where will information about byelaws and MCZs be available from?

Information about the location of MCZs and the associated byelaws or restrictions in place will be available to download from the MMO website. Byelaws are also advertised appropriately to ensure that anyone affected by the byelaw is made aware of its implementation.

14. How is a byelaw worded?

The byelaw will be worded so that it states the following: the powers under which the byelaw is made, details of the site, details of the activity being prohibited/restricted, permits, penalties and the. It will also state the conservation objectives of the site. Background information about the byelaw and the reasons for its implementation may be included in an additional explanatory note.

15. Will the impact assessments (IAs) developed by the MMO for MCZ management measures be based on the impact assessments developed by the MCZ regional project groups?

Yes, we would hope to base our IAs on those put forward by the projects. The projects will have already gathered evidence and looked at the economic impacts of different management scenarios so this is invaluable information that we will need to use to develop our own IAs. We also want to be able to provide advice throughout the process on potential management measures in order to assist the regional projects in developing these IAs.

16. Can the MMO make byelaws to protect features which are not listed in the conservation objectives?

The MMO should make byelaws to further the conservation objectives of a site (as outlined in Section 129 (1) of the Act). We are able to prohibit or restrict activities impacting on non-listed features of a site as long as we have the evidence to prove that by doing so we will further the conservation objectives. For example, a designated feature of a European Marine Site may be migrating brent geese which feed on eelgrass. Eelgrass is not a designated feature in its own right but the conservation objectives are to maintain sand and mudflat habitats and the brent geese population. Therefore, we can make a byelaw to protect eelgrass as it is linked to the protection of the designated features. These decisions will be based on evidence and guidance from SNCBs. This same approach will apply for MCZs.

17. Are byelaws site specific or can the MMO make blanket ones?

Byelaws will be site specific and made on a case by case basis. The process of developing a byelaw requires an impact assessment, extensive gathering of evidence, and stakeholder engagement which is specific to the site and activity under consideration. NB: A byelaw may not be the most appropriate option in all locations, and other management measures will be considered as part of this process for each site.

18. Do byelaws have to follow the government's '1 in 1 out' policy?

No, MMO (and IFCA) byelaws are not covered by the Government's '1 in 1 out' policy, however, the MMO will be following the approach set out in the principles of better regulation to implement statutory regulation only on an appropriate and proportionate basis. Individual byelaws are reviewed on a regular basis to ensure they are still effective, and may be revoked or replaced by more suitable measures on a case by case basis.

19. Can we implement a byelaw that interferes with the right of way under the coastal access act?

Our initial understanding is that we will not be able to impose a byelaw where there are existing public rights of way. However, we are seeking clarification on this.

20. Can pollutants from outfalls/pipes be covered by a byelaw?

To be confirmed.

21. How long does it take to implement an MMO byelaw?

Based on developed guidance within the MMO and policy requirements from DEFRA it is deemed that a permanent byelaw will take around 12 months to implement. Emergency byelaws may take around 6 weeks. However, this will very much depend on the individual byelaw and are guidelines only. An emergency byelaw can only be in place for 12 months and has to be replaced by a permanent byelaw or revoked after this period. Therefore, in this circumstance, the permanent byelaw process has to meet this 12 month deadline if it is to replace an emergency byelaw. However, in certain circumstances emergency protection may be extended by the making of a further byelaw for a maximum of 6 more months (18 months in total) if necessary.

22. What is the review process for byelaws once they are in place?

The date and frequency for review of the byelaw will be decided and consulted upon during the development of the impact assessment and public consultation process. The review is carried out to ensure that the byelaw is working effectively and as intended. This is a process to check the byelaw rather than reactive to a byelaw not working. However, reviews could be triggered sooner if information was received that it was not effective or there was a change in the situation. The review process will cover any changes in circumstances and new evidence, the enforcement activity, whether the byelaw has been communicated effectively with stakeholders and whether any amendments may be required. The amount of time and resource put into a byelaw review should be proportionate to the byelaw. For example, reviews will take longer and will require more resources depending on different factors such as the amount of feedback from stakeholders, whether there is a high impact on a particular sector or it is particularly contentious. The review should form the decision to keep the byelaw, amend the byelaw, replace with another byelaw or revoke completely/replace with a different management measure.

23. Is there a Right of Appeal for MMO byelaws?

A person affected by the making of a byelaw may make representations to the Secretary of State who has the power to revoke a byelaw. Permanent byelaws are reviewed on a regular basis and the review period is dictated as part of the impact assessment. The MMO must keep under review the need for an emergency byelaw to remain in force before replacing it with a permanent byelaw or more appropriate option. Information on how to appeal and the review process will be published along with any byelaw.

24. How do you revoke a byelaw?

The decision to revoke a byelaw may be taken as the most appropriate option after a comprehensive review of the effectiveness and suitability of the byelaw. A byelaw has to be revoked through the making of a 'revocation' byelaw. This would likely take a similar amount of time to draft as a normal byelaw, and it is dependent on the availability of the drafting lawyer.

25. What happens if an emergency MMO byelaw becomes a permanent IFCA byelaw or if a byelaw is reviewed and it is deemed that an IFCA byelaw would be more appropriate? Does the process have to start again from the beginning?

The MMO may make byelaws for fisheries activities at the moment as the IFCAs have not yet been formed. We will work closely with the SFCs on any cases to develop joint impact assessments/public consultation so that the handover/transfer to a permanent IFCA byelaw when these come into place will be simplified.

Once IFCAs are in place it is deemed that it will be very unlikely that an MMO byelaw will be reviewed and replaced by an IFCA byelaw as all fisheries management will be developed by IFCAs in the first instance. The most appropriate measure is always identified during the evidence gathering and impact assessment stages.

26. How will byelaw permits work?

A permit authorises anything which would, apart from such a permit, be unlawful under the byelaw. The MMO may attach to a permit any condition which the MMO thinks appropriate to attach to that permit. Whether or not the opportunity to apply for a permit will be included in the byelaw will form part of the impact assessment and will be examined on a case by case basis.

GENERAL MANAGEMENT MEASURES

27. Has the MMO the extra resources to implement management measures?

The MMO currently has three officers in post specifically recruited to work on the implementation of management measures for MCZs.

28. Do other public authorities have the resources to implement and enforce management measures?

Each authority needs to judge how best to use its resources to fulfil its duties under the Marine Act and in line with Better Regulation principles. For further information on public authority duties see *Defra Guidance Note 2: the duties on public authorities in relation to MCZs* at <http://www.defra.gov.uk/environment/marine/protect/mcz> .

29. How will management measures get disseminated to users including non-nationals?

It is the statutory responsibility of the MMO to publicise management measures to those affected by them. The extent to which we will distribute notices and write to individuals affected will be proportionate to the activity and the extent of the measure. This could include notices in foreign publications.

30. There are concerns that inshore sites will be protected and offshore sites will not, due to time taken to implement through the CFP, how will this be addressed?

The time it takes to implement fisheries management measures through the CFP is dependent on many factors, some of which are outside Defra control. However, Defra and JNCC will work with the Commission and other Member States to ensure the implementation of appropriate CFP measures required for an ecologically-coherent MPA network that contributes to achieving Good Environmental Status under the Marine Strategy Framework Directive. We understand the concerns of inshore fishermen that the MCZ burden may fall disproportionately on them. The Impact Assessment information that will accompany the Regional Project site recommendations will quantify the economic and social burden on both inshore and offshore fishermen. This will be considered by the Minister when deciding sites to take forward for public consultation in 2012 and designation. All stakeholders will have another opportunity to comment through the formal consultation process in 2012.

31. How much assistance could be given with a voluntary agreement?

Where an activity requires management to meet the conservation objectives of a site, and the MMO is the appropriate regulator for that activity, then we would explore management options including the possibility of a voluntary agreement as part of our duty to further the objectives. We would look at this on a case by case basis and work with partners and stakeholders to develop the most appropriate and effective management options. Where a voluntary agreement is appropriate experience to date shows that this requires close working with stakeholders in order to ensure that it is effective.

32. If NGOs are to be involved in considering voluntary measures to manage sites, how would the MMO work with them?

In developing different management options through the gathering evidence and impact assessment stage, we would work with NGOs and other stakeholders to identify and agree upon the most appropriate lead to take forward a voluntary measure. Consideration would be taken into account about the cost of developing any management measure and this would be balanced with assessing the appropriateness of an option in terms of proportion to the risk and the effectiveness in managing an activity.

33. Will the MMO provide financial assistance when setting up voluntary measures or to compensate any loss of earnings?

The MMO is not funded to provide any form of financial assistance. The MMO will look to provide assistance to establish voluntary measures in the form of advice on a case by case basis.

34. Where do the 'powers' to make management measures for reference sites come from?

JNCC and NE's *Ecological Network Guidance* states that to create an ecologically-coherent network of marine protected areas each broad-scale habitat type and FOCI should have at least one viable MCZ within each of the four regional MCZ project areas where all extraction, deposition or human-derived disturbance is removed or prevented. These have been termed 'reference areas'. Section 129 of the Marine and Coastal Access Act 2009 allows the MMO to make byelaws to achieve the conservation objectives of any MCZ within its remit and the parameters established in the Act. The MMO can therefore implement byelaws to achieve the conservation objectives of 'reference area' MCZs.

35. How will scientific research be managed in the case of reference areas?

If a byelaw is in place that prohibits the extraction of samples, the MMO will consider issuing a permit to allow the scientific activity or any other appropriate activity to be carried out on a case by case basis.

36. Will there be anchorage restrictions in reference sites and if so, will vessels in distress be able to anchor in an emergency?

There may be anchorage restrictions in some sites, depending on the conservation objectives of the site and the feature being protected, however vessels in distress will always be able to anchor in an emergency. Section 141 of the Marine Act applies states that a person is not guilty of contravening a byelaw if it was necessary for securing the safety of a vessel.

37. How will vulnerable sites be monitored?

Responsibility for monitoring the ecological vulnerability of sites will be carried out by the relevant SNCB. Responsibility for monitoring the human activity taking place in sites will fall to the appropriate regulator.

38. How will measures be applied to sites that overlap the 12nm limit?

We will work closely with other authorities such as DEFRA to ensure an agreed approach to decision making and management measures being taken forward across the 12nm limit. For activities requiring management across the 12nm boundary, the most appropriate option may be a tool which can be applied out to 200nm and therefore would provide a consistent approach to management.

39. Outside 12nm, how will unlicensed activities be regulated? e.g. recreational sailing

Activities only need to be managed specifically through extra regulation if the activity will have an impact on the conservation objectives of the site. It is considered unlikely that any unregulated activities taking place outside 12nm would require management. The MMO does not have powers to make byelaws outside 12nm, but voluntary agreements and codes of conduct could be implemented to ensure that damage to MCZs is not occurring.

40. How will international fisheries be managed? Would measures through CFP regulation, eventually lead to a byelaw?

The CFP provides a framework for making EC fisheries regulations to manage and control fishing activity. Article 9 of the CFP regulation allows member states to make non-discriminatory measures to manage commercial fishing activity for the management of fish stocks and protection of marine ecosystems. Given that certain member states vessels have access rights between 6 and 12 nautical miles of the coast of the UK the most likely option to manage fisheries for nature conservation purposes in this area would be a national prohibition order applicable to all member states or specific CFP regulation. The only mechanism available outside 12nm is to make a fisheries regulation through the CFP e.g. prohibition of a type of gear in a given area.

41. Is there going to be a 'common licence' to restrict fishing in MCZs (such as reference sites) throughout UK waters?

Any decisions to restrict fishing activity within MCZs will be taken on a case by case basis and implemented by the appropriate regulator namely IFCAs (0-6nm), Defra or MMO (6-12nm) and Defra through CFP outside 12nm.

ENFORCEMENT

42. What is the general offence for damaging an MCZ and how will this be enforced?

Section 140 of the Marine Act makes it an offence for any person to intentionally or recklessly damage the protected features of an MCZ in a way that has, or may, significantly hinder the achievement of the conservation objectives stated for the MCZ. For activities requiring Marine Licences, it is a duty of public authorities (see Section 125 of the Marine Act) to ensure that activities which they have the responsibility for authorising do not impact on the conservation objectives of an MCZ.

It is only an offence to damage the protected features of an MCZ. This does not include any additional features not included in the designation order itself.

A person is not guilty of committing an offence under Section 140 if:

- a) it was done in accordance with an authorisation granted by a public authority. Activities not carried out in accordance with an authorisation from a public authority will be subject to the general offence (section 140). However, an offence is only committed if the act carried out significantly hindered, or may significantly hinder the achievement of the conservation objectives stated for the MCZ.
- b) this was done for the purpose of securing the safety of any vessel or for the purpose of saving life i.e. in the case of an emergency.

c) it was done in the interests of national security or for the prevention or detection of a crime.

The general offence, which applies to MCZs only, can be enforced both by the MMO and IFCA within their districts (see Table 1). The MMO will build on existing close working arrangements that exist with a number of authorities, including the IFCA, EA, Police and others. This can include undertaking joint patrols and the gathering and sharing of evidence. Enforcement is carried out by applying a risk based approach to ensure that available resources are applied most effectively. The general offence to damaging an MCZ carries a maximum penalty of £50,000. The IFCA and MMO can both take on prosecutions for contravening the general offence within their remit areas.

Table 1 - Enforcement of the general offence (section 140 of the Marine and Coastal Access Act 2009)

	0-6 nm	6-12nm	12-200nm
General offence for damaging an MCZ (140) due to a fishing activity – note the “fisheries defence” in section 141(4) which excludes all lawful fishing from the scope of the general duty.	Can be enforced by IFCOs (Inshore Fisheries and Conservation Officers) or MEOs (Marine Enforcement Officers) on all fishing vessels*.	Can be enforced by MEOs on UK fishing vessels*. Can be enforced by MEOs on EU fishing vessels if approved by the Commission and affected EU Member States (Article 9 CFP).	Does not apply in this zone to fishing activities.
General offence for damaging an MCZ (140) – due to a non-fishing activity.	Can be enforced by IFCOs or MEOs on all vessels*.	Can be enforced by MEOs on all vessels*.	Can be enforced by MEOs on all vessels*#.

*Under section 237(9) of the MCAA, the powers of an MEO for the purposes of enforcing MMO byelaws or section 140 **may not** be exercised in relation to:

- (a) a non-EU member state third country vessel;
- (b) a warship that is being used by the government of a State other than the United Kingdom;
- (c) any other vessel that is being used by such a government for any non-commercial purpose.

unless—

- (i) in the case of a non-EU member state third country vessel, other than a vessel falling within paragraph (b) or (c), the United Kingdom is entitled under international law to exercise those powers without the consent of the flag state, or
- (ii) the Commissioners for Her Majesty's Revenue and Customs have given authority to exercise those powers in accordance with the Act.

Under section 141(6), offence does not apply to any non-EU member state third country vessel until EEZ order made.

43. How will byelaws in MCZs be enforced on UK and foreign vessels?

Byelaws can be enforced both by the MMO and IFCA within their districts. The MMO will build on existing close working arrangements that exist with a number of authorities, including the IFCA, EA, Police and others. This can include undertaking joint patrols and the gathering and sharing of evidence. Enforcement is carried out by applying a risk based approach to ensure that available resources are applied most effectively. The offence of contravening an MMO nature conservation byelaw is carries a maximum penalty of £5000 (Section 139 of Marine Act). This fine for contravention of a byelaw is based on the offence committed i.e. the act of contravening the byelaw rather than per species individual (or habitat) that is damaged. The IFCA and MMO can both take on prosecutions for contravening the general offence within their remit areas.

Byelaws for foreign non-fishing vessels can be enforced by Marine Enforcement Officers if approved by the Commission and affected EU Member States (Article 9 CFP) (see table 2). The MMO can only make byelaws out to 12nm and other regulatory alternatives may be more appropriate where there is foreign fishing activity that needs to be managed between 6 and 12 nm, such as national fishing prohibition orders or CFP regulations.

Table 2. Enforcement of byelaws

	0-6 nm	6-12nm	12-200nm
Fisheries byelaws	IFCA byelaws can be enforced by IFCOs on all fishing vessels. MMO byelaws can be enforced by MEOs or IFCOs on all fishing vessels*.	MMO byelaws can be enforced by MEOs on UK fishing vessels*. MMO byelaws can be enforced by MEOs on EU fishing vessels if approved by the Commission and affected EU Member States (Article 9 CFP).	No byelaw making power.
Non-fisheries MMO byelaws e.g. anchoring by French yachts	Can be enforced by MEOs or IFCOs on all vessels*.	Can be enforced by MEOs on all vessels*.	No byelaw making power.

*Under section 237(9) of the MCAA, the powers of an MEO for the purposes of enforcing MMO byelaws or section 140 **may not** be exercised in relation to:

- (a) a non-EU member state third country vessel;
- (b) a warship that is being used by the government of a State other than the United Kingdom;
- (c) any other vessel that is being used by such a government for any non-commercial purpose.

unless—

- (i) in the case of a non-EU member state third country vessel, other than a vessel falling within paragraph (b) or (c), the United Kingdom is entitled under international law to exercise those powers without the consent of the flag state, or
- (ii) the Commissioners for Her Majesty's Revenue and Customs have given authority to exercise those powers in accordance with the Act.

Under section 141(6), offence does not apply to any non-EU member state third country vessel until EEZ order made.

44. What resources does the MMO have available for additional enforcement of management measures?

The MMO operates a risk based approach to its enforcement responsibilities in order to ensure that it can make best use of its resources and target inspection activity at those areas identified as being subject to the highest risk of non-compliance with the regulations. The MMO draws on its experience of inspecting fishing vessel activity from land, sea and air, as well as its experience of undertaking investigations that can lead to prosecution. Further work is being undertaken to develop our risk based approach, including the use of intelligence modelling, and to factor in the enforcement of marine nature conservation provisions.

The MMO can call upon its aerial and maritime surveillance contracts/agreements to support the work of its coastal office and HQ based Marine Enforcement Officers. The MMO's HQ operations room oversees the tasking of its aerial surveillance and at sea assets to monitor and inspect those areas and activities identified as high risk. Currently the MMO draws upon the use of one surveillance aircraft and three Royal Navy Fishery Protection Squadron vessels. It also hosts a Fisheries Monitoring Centre for fishing vessels >15m in length that are equipped with satellite Vessel Monitoring Systems.

The MMO also works increasingly closely with a range of other authorities to co-operate on enforcement, including Inshore Fisheries and Conservation Authorities, the Environment Agency, the Police, Vehicle and Operator Services agency and others. Whilst enforcement resources are always likely to be under pressure, the use of a risk based approach, an effective intelligence system and co-operation between regulators helps to counter any difficulties.

45. The MMO would not put a byelaw in place that was not enforceable. What do we mean by enforceable?

Regulatory measures introduced will only be effective if they can be enforced by the regulator in the event of non-compliance occurring. Therefore, the measures need to be framed in such a way, that the regulators can apply their enforcement resources confident that they can gather robust evidence that supports potential prosecution action. In relation to byelaws, enforceable has two components. Firstly, byelaws will be clearly written so that there is no room for misinterpretation, making them fully enforceable in a legal sense. Secondly, enforcement of the byelaw will be achievable in practice taking into consideration the resources available and the logistics of the site. Essentially it is something that we are able to manage effectively. During the MMO Impact Assessment process for byelaws, enforcement measures will be discussed at length with the SFCs/IFCAs and the MMO coastal offices to ensure that the most appropriate measure and associated enforcement can be met.

46. Will there be fixed penalties for specific byelaw offences?

There is currently no system of fixed monetary penalties in place for contravening a MMO byelaw or the general offence provisions, although section 142 to 144 of the Marine and Coastal Access Act 2009 do allow the Secretary of State to make regulations to introduce such a system. The use of civil sanctions by all departments is currently undergoing a wider government review.

47. What are the maximum fines for breaching a marine licence?

It is an offence to contravene section 65(1) of the Marine and Coastal Access Act 2009 (i.e. not having a licence, or breaching a condition of a licence). The penalties imposed on summary conviction are a fine not exceeding £50,000 and, on conviction on indictment, a fine or imprisonment for a term not exceeding two years or both. The MMO can impose Statutory Notices including compliance, remediation and stop notices among others.