

MPA Network Consultation
Scottish Government
Marine Planning and Policy Division
Area 1-A South
Victoria Quay
Edinburgh
EH66QQ

13 November 2013

Dear Sirs/Madam,

Marine Protected Areas Network Consultation Response

Introduction

Scottish Renewables is a member organisation, with 330 members working across all renewable energy technologies, dedicated to strengthening business relationships and securing the best possible environment for the growth of renewable energy in Scotland. Our shared ambition is to harness Scotland's abundant natural resources to secure a future that will deliver on jobs, investment, energy security and climate change. We work with our members to lead the debate and present a clear and united voice to decision makers and government.

Renewable energy has a clear role to play in any strategy aimed at the protection and enhancement of our marine environment. However, while Scottish Renewables supports the principle of this strategy and recognises the Scottish Government's domestic and international commitments to create a network of Marine Protected Areas. We have voiced concerns throughout the network development process relating to the site identification and development of management measures. Our concerns include, but are not limited to;

- The National Marine Plan recognises projects with existing leases, many of which have already submitted planning applications, are 'planned development at the licensing stage' and Renewables Policy 1 contains a presumption in favour of adopted Plan Options. This must be recognised in the MPA network.
- We believe it would be inappropriate and misleading to remove the SPA/SAC/SSSI/NC MPA label and refer to all sites as an MPA.
- Nature Conservation MPAs are not SPAs or SACs and this distinction must be clear throughout
- It is very important that potential data bias is recognised and the economic consequences are properly factored into designation and management decisions
- We would encourage Marine Scotland to carry out further analysis quantifying the potential socio-economic costs of individual proposed designations and the proposed network as a whole specifically with regard to the potential effects on project delay, restrictions or failure to proceed.
- If the network is determined to be 'ecologically coherent' following adoption of the NC MPAs, no further amendments must occur to the network out with the statutory

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review process.

We have outlined our concerns in greater detail throughout the attached consultation response, and we hope that this submission will help support the proportionate development of an appropriate network of Nature Conservation MPA's.

Should you require any further information or wish to discuss further, please do not hesitate to get in touch.

Best regards,

Lindsay Leask

Senior Policy Manager – Offshore

DRAFT

Introduction

The scale of offshore renewable energy resource in Scottish waters is vast. Utilising this resource will bring jobs and investment to communities throughout Scotland, and will help to secure the delivery of the Scottish Government's climate change and energy decarbonisation targets. The UK Government's Offshore Wind Industrial Strategy sets a pathway for the creation of 30,000 FTE jobs and delivery of £7 billion GVA to the UK economy by 2020 through a strong growth delivery scenario. As Baringa's Scottish Islands Renewable Project report for the UK and Scottish Government showed, renewable energy projects on the Western Isles, Orkney and Shetland can deliver almost 40,000 jobs throughout Scotland and the rest of the UK by 2030. Importantly, many of those jobs - almost 11,000 - will be created on the Western Isles, Orkney and Shetland, providing huge opportunities in some of our most fragile communities.

Wave and tidal energy have a crucial role to play if we are to achieve this level of job creation from island renewables. The report itself states '...the large numbers of jobs created on Orkney are associated with wave and tidal generation which would be labour intensive in the early years, providing the opportunity to develop local supply chains with the capability to export expertise if the industry takes off'. Altogether, the marine energy industry could create as many as 6,500 direct jobs on Shetland, Orkney and the Western Isles by 2030.

Importantly, in addition to delivering jobs and investment, the development of offshore renewable energy will help the Scottish Government meet its renewable energy and climate change targets. The Scottish Government's Marine Atlas notes one of the most widespread threats to the marine environment is climate change. The Atlas and the Marine Climate Change Impacts Partnership highlight the significant fall in breeding success and survival rates of Scottish seabirds driven by decreased food availability, thought to be a result of climate change. Likewise the increasing acidity of Scotland's seas is forecast to have a devastating impact on the whole marine ecosystem.

Statistics published by DECC show that in 2012 (the most recent year for which statistics are available) renewable energy in Scotland displaced over ten million tonnes of CO₂. This is the equivalent of removing 99.1 per cent of carbon emissions generated from every car, bus, and lorry and train journey in Scotland. We estimate that 5GW of offshore wind alone could displace roughly 7 million tonnes of CO₂ from our electricity supply every year. This clearly shows the vital role offshore renewables have to play in tackling one of the greatest threats to the health of our marine environment, climate change. Renewable energy has a vital role to play in any strategy aimed at the protection and enhancement of our marine environment.

1. The case to develop a network of MPAs

Scottish Renewables supports the principle of the development of a network of Marine Protected Areas and recognises the Scottish Government's domestic and international commitments to create a network. However, we have voiced concerns throughout the network development process relating to the site identification and development of

management measures. Our remaining concerns are outlined below.

It is important to note that, as a licensed activity, the offshore renewables sector (including offshore wind, wave and tidal) is already heavily regulated. Developers are required to comply with both EIA and HRA requirements. Through these processes, significant adverse environmental impacts are required to be mitigated. The existing sites in planning (the current adopted plan options) have already been subject to exhaustive SEA/EIA/HRA in their selection and in support of consent applications. Therefore, the introduction of any further management measures deemed to be necessary in order to achieve the conservation objectives of a nature conservation MPA designated under the Marine (Scotland) Act 2010 (from here on 'NC MPA') should be done through the normal licensing process for future offshore renewable energy developments and not through retrospective application.

The consultation states that the Scottish Government's aim, once a completed, well managed MPA network is in place, is that every site in Scotland offering some sort of spatial protection to species, habitats or geology, be it an SAC, SPA or SSSI or NC MPA, will be known as an MPA. We do not believe this is appropriate. SACs, SPAs, SSSIs and NC MPAs are designated under different legislation and are therefore subject to varying degrees of legal protection, some being more strict than others. Furthermore, we urge that regulators avoid adopting the specific language associated with SAC/SPA management and with the HRA process in relation to MPA management.

The implications of a NC MPA designation on management and activities within a site are not, and should not be the same as those applied to an SAC, SPA or SSSI. While 'marine protected area' is a well understood generic term for areas of spatial protection in the marine environment, the exact nature and legislative origin of each designation must be clearly understood. Therefore it would be inappropriate and misleading to remove the SPA/SAC/SSSI/NC MPA label and only refer to a site as an MPA.

We request further information on how the MPA network will be reviewed and what the implications for the management of activities within designated areas will be. The ability to amend a consent in light of NC MPA designation and monitoring, as outlined in the draft management handbook, is clearly a very important issue for licenced activities as it introduces uncertainty to a consent. The management handbook states there is no 'duty' to undertake a review of existing consents. We believe earlier iterations of the handbook were clearer on this issue, stating categorically that existing consents would not be reviewed due to new NC MPA designations. We therefore request this section is redrafted in order to be absolutely clear that existing consents will not be reviewed due to a new NC MPA designation. The handbook also states outputs from MPA monitoring may, in exceptional circumstances, necessitate a review of existing consents to ensure that they are not hindering the achievement of the conservation objectives. Given the potential implications of this on licensed activities, the handbook must contain further detail on the process and authority for reviewing existing consents in light of monitoring and provide guidance on 'exceptional circumstances'.

The document *'The Scottish Marine Protected Area Project – Developing the Evidence Base for Impact Assessments and the Sustainability Appraisal'* states:

"Marine Scotland has indicated that its policy presumption is that there will be no review of

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existing spatially-based consents and licences on the basis that the impacts of such activities are already manifesting in the condition of the sites being proposed for designation. This assumption is subject to future monitoring by the Statutory Nature Conservation Bodies (SNCBs) confirming that such activities are not giving rise to new impacts within sites. As a result, no cost impacts have been identified for existing activities with spatially-based consents or licences, except where such activities are expected to apply for new consents or licences within the assessment period;”

Given the above text we have two primary concerns:

- This statement provides no certainty that existing consents and licenses will be re-visited and amended in the future.
- No socio-economic impact assessment has been carried out to quantify what the effect of such amendments might be.

The draft sectoral marine plan’s SEA also highlights that, as the location and extent of final MPA boundaries are yet to be finalised, and there is uncertainty over the extent of overlaps between proposed MPA and Draft Plan Options, there is a need to revisit the relationship between the two designations after the end of the consultation period. This does not seem to be recognised in the MPA consultation documents.

2. The case for designation for each of the pMPAs

Whilst we accept the principle that the ‘best available scientific evidence’ will be used to select and manage NC MPAs, we note that this has the potential to mean data-rich areas (such as those surveyed for development purposes) attract designation, in the absence of comprehensive data sets of the marine area. We acknowledge the survey work which SNH and Marine Scotland have carried out in order to address this and urge the continuation of such survey programmes.

We recognise it is Marine Scotland’s policy that s68(8) of the Marine (Scotland) Act 2010 will only be used where two sites of equivalent ecological value have been identified. However, it is very important to our members that this potential data bias is recognised, and the economic consequences are properly factored into designation and management decisions.

Please see our comments in section 4 below relating to science based alternatives.

3. Preferred management options for each of the pMPAs

We note the management options papers currently only identify the Firth of Forth Banks and Clyde Sea Sill pMPAs as potentially requiring management measures to address potential impacts from renewable energy devices. However, there are eight pMPAs which overlap with existing, planned or potential future offshore renewables developments within the proposed site boundary or within 5km of the site boundary. In particular, the SEA identifies five pMPAs which may require management relating to renewable energy infrastructure. To ensure consistency, it would be useful if the draft management options papers highlighted future projects, as identified in the SEA that may require management, I.e.. If it contained the following extra information:

Clyde Sea Sill	Small overlap with tidal	Remove/avoid (black
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	plan option TW2	guillemot) Reduce/limit (fronts)
Moussa to Boddam	Future export power cables	Remove/avoid (sand eels)
Noss Head	Future cable infrastructure	Remove/avoid (horse mussel beds) management would need to be applied across most, if not the entire, pMPA
North West Orkney	Overlap with OWN1, WN2 and TN4	It has been assumed that it will be possible to avoid features through micro-siting, so that no displacement from the offshore energy areas will occur

The socio-economic assessment states SNH/JNCC advice is that intermediate management scenarios will probably be most suitable for renewable energy developments, yet it is unclear what is involved in an intermediate scenario. Specifically the report – ‘Developing the Evidence Base for Impact Assessments and the Sustainability Appraisal’ states ‘...it should be noted that SNH and JNCC’s current advice is that the intermediate scenario represents their best view on potential management requirements.’ The report outlines low and high management scenarios in Appendix C, but we are yet to find an outline of the intermediate scenario, bar in relation to the Firth of Forth Banks pMPA.

Please also see our comments below on the draft management handbook and the socio-economic assessment.

4. Preferences with regards to science based alternatives

We support the alternatives to the Firth of Forth pMPA site being designated. This is in light of the potentially very significant socio-economic impact of designation of the Firth of Forth pMPA if the development of the Firth of Forth Round 3 zone projects did not proceed.

We are pleased to see the alternative proposals (Turbot Bank and Norwegian Boundary Sediment Plain pMPAs) recognised as meeting the Guidelines for consideration as NC MPAs, as together these possible MPAs provide an adequate alternative for the representation of the features. We note JNCC believe there is a lesser evidence-base for the two alternatives and therefore do not recognise them as ecological equivalents. However, we reiterate our position above in relation to data bias.

Use of the principle of ‘best available scientific evidence’ to select and manage NC MPAs, has the potential to mean data-rich areas (such as those surveyed for

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development purposes) attract designation, in the absence of consistent and comprehensive data sets of the entire marine area. It is very important to our members that this potential data bias is recognised, and the full economic consequences are properly factored into designation and management decisions.

As recognised in the report 'Developing the Evidence Base for Impact Assessments and the Sustainability Appraisal', SeaGreen estimate that the first phase of the Firth of Forth Round 3 Offshore Wind Farm (1GW capacity across two wind farms) could inject £315m - £788m to the Scottish economy. Additional ongoing economic benefits would arise over the 25 year operating life of the wind farms. Development of an additional 2.5GW generation capacity in the later phases of the Firth of Forth Zone would have a further very significant contribution to the Scottish economy. It has been made very clear by the developers of this site that designation of the Firth of Forth Banks pMPA will put this investment at risk.

The Halcrow report itself states '...the additional costs and delays arising from management measures could potentially render some [offshore renewable energy] projects economically unviable and/or lead to a loss in investor confidence particularly in the upper [management] scenario.' We urge that the alternative sites included in the consultation are taken forward to avoid the potential loss of offshore wind development of such significant magnitude and economic value.

5. The potential environmental and socio-economic impacts of individual MPAs

While we recognise the sectoral plan options do not identify generation targets for each of the draft plan option areas and that the management proposals for renewables tend to focus on relocation rather than removal, we believe it is important that the SEA recognises that, were NC MPA management options to result in an offshore renewable development not proceeding, there may be implications on the government's ability to meet its climate change targets.

The impact on the government's ability to meet its climate change targets is recognised in the Halcrow report for the socio-economic impact assessment. In particular it states there could be possible negative impacts in relation to climate change and the ability of the Scottish Government to meet its 2020 renewables targets, decarbonisation targets and climate change targets, were offshore renewable energy developments adversely impacted. It also highlights the consequent financial implications of climate change impacts.

In relation to socio-economic impacts, we support the identification of uncertainties in relation to the scale of future offshore renewable energy deployment and therefore the conclusion that confidence in the quantified estimates is assessed as low.

We welcome the acknowledgment that if additional costs arising from management measures restricted developments (current, planned, or future) or meant that developers did not proceed with projects, there could be impacts on future GVA and employment in this sector with knock-on effects on this sector's supply chains and the wider Scottish economy, and the inclusion of this risk in the social impact analysis.

We agree that costs to the sector from MPA designation and management could include:

- Additional assessment and survey costs associated with consent applications;

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- Additional mitigation measures for new developments to support achievement of site conservation objectives;
- Costs associated with delays during the consenting process; and
- Loss of investor confidence (developments do not proceed).

However, we stress the finding in the Halcrow report that 'It has not been possible to fully quantify the potential costs associated with possible mitigation measures in the energy generation (offshore renewables) sector **but these are potentially significant ...and could render some future development projects unviable**'.

Further, the report finds it has not been possible to estimate the costs associated with potential delays or the impact of designation on investment decisions which could be significant.

If designation rendered projects unviable or restricted or deterred investment in development projects (existing, planned or future), this would have potentially more significant socio-economic impacts; not only would it reduce the contribution these sectors make to future levels of GVA and employment but it could have indirect effects on their supply chains and the wider Scottish economy.'

Indicative project values can be estimated by multiplying individual project rated capacity (MW) with the normalised cost (£M/MW). Industry standard mean normalised cost values for offshore wind are £3.2M/MW, £6.9M/MW for wave and £6.5M/MW for tidal. We request this information is included in the socio-economic assessment.

The report states the renewables industry as a whole supports 11,136 FTE jobs, with 943 of those in offshore wind energy and 521 in the wave and tidal energy. It then compares it with a total for the energy sector as a whole (including water supply) of 42,000 people in 2008. However, it must be recognised these jobs have been created in the absence of any operational commercial scale developments and our figures only account for direct jobs, they do not account for indirect or induced jobs.

It should be noted that additional survey costs for cables at £5k per km² for arrays or £5k per linear km (cables) (based on ABPmer, 2011) as identified in the assessment, equates to £5,000,000 for the Firth of Forth Round 3 Zone.

Scottish Renewables is concerned that in Section 7 of the Sustainability Appraisal with regard to placing a monetary value on the MPA network. Paragraph 7.5.1 describes the 'Value Transfer for Non-User Benefits of MPA Network' process which is based on extrapolating analysis from a report (McVitie and Moran 2008) done for MCZ valuation. The outcome of this analysis has been to state that the average Scottish household in 2014 money places the value of marine conservation measures at £16.18 or a total of £24.32M for all Scottish households. Discounting this over 20 years (2014-2034) gives a marine conservation value of £355M.

We find it quite alarming that a single study has been used in this manner without a correlating study being undertaken to quantify the overall potential effects for either individual proposed MPAs or the proposed network as a whole. Overall, we would strongly encourage Marine Scotland to carry out further analysis to quantifying the potential socio-

economic costs of individual proposed designations and the proposed network as a whole.

In addition, we remain concerned with the lack of information surrounding how the management options have been developed to enable the socio-economic assessment to take place. No consultation that we are aware of was undertaken with industry which would have enabled a fuller understanding of impacts and associated costs. Further development of management options must involve input from an engineering perspective to ensure they are feasible and the implications are fully understood. We also again request sight of the 'Scottish MPA Sensitivity Matrix'.

6. Do the addition of these pMPAs, plus the 4 search locations, to existing protected areas constitute an ecologically coherent network?

We make no comment on whether or not the addition of pMPAs, plus the 4 search locations constitute an ecologically coherent network. We repeat the request the alternatives to the Firth of Forth Banks pMPA are taken forward. However, if it is deemed that together, these sites deliver an ecologically coherent network, changes to the network by way of site boundary alterations or addition/removal of sites, should only happen in line with the statutory six year review process. A clear statement from the Scottish Government should be made, indicating whether or not, in its view, an ecologically coherent network has been achieved.

If, following the designation of MPAs, Marine Scotland deem an ecologically coherent network has not been achieved, a clear statement of gaps and programmes to address those gaps, including timetables for implementation, must be made.

Management Handbook

It remains unclear as to exactly how developers should take proposed MPAs, MPA proposals and designated MPAs into account in their EIAs. JNCC and Natural England 'Advice on the impacts of MCZs on information provision and decisions in relation to marine licensing proposals' states that it can be expected a similar level of information and analysis would be required from operators in relation to MCZs as to that required for European protected sites. We strongly believe this level of assessment is not appropriate or necessary for such national level designations. We therefore continue to request Marine Scotland produce their own advice on the impacts of the various MPA designations on information provision in relation to marine licensing proposals.

It may be that the sensitivity matrix referred to in Appendix 3, can help developers take proper account of NC MPAs in their EIAs. We therefore request further detail as to the public availability of the sensitivity matrix. Given the role of the sensitivity matrix in developing potential management options, its public availability is even more important.

We welcome the commitment to developing management options and measures in conjunction with stakeholders, and urge that these are addressed at an early stage in order to reduce uncertainty about what MPA designation may mean to all development activities. As we have previously noted, this uncertainty in itself is proving a potential consenting and investment risk to projects. It is extremely important to our members that the measures are practical and take full consideration of the potential economic implications for their developments. We therefore urge that management measures are, at all

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times, proportionate to any potential impact on the NC MPA protected features and introduced as the result of an evidenced impact pathway.

Identification of impact pathways is vital to the successful management of a NC MPA. We welcome the further detail that has been added to the handbook in relation to the definitions of 'insignificant' and 'significant' impacts. In particular we welcome the clarity that in deciding whether an activity is 'capable of affecting' a feature, capability that is both remote (in terms of likelihood of occurrence) and hypothetical should not be the basis of a conclusion that further assessment is required.

We maintain our position that further guidance is required on the interpretation of the tests set out in s83(4)(b)(i)-(iii) of the Act which introduces new legal language. We remain happy to work with Marine Scotland to establish appropriate guidance notes for the Act's tests of no alternatives, public benefit and measures of equivalent environmental benefit. The latter is an area of particular concern, as there are ongoing debates around mitigation and compensation under EIA and Habitats Directive requirements which highlight the difficulty of identifying, and effectively establishing, measures of 'equivalent environmental benefit'. Debates on what these measures may constitute will require significant input from nature conservation bodies and industry representatives to develop acceptable solutions, and we are concerned that this test be applied to MPAs without full understanding of its potential impact.