

## Wildlife and Countryside Link submission to the Environmental Audit Committee's Marine Protected Areas Revisited inquiry

October 2016

### ***Introduction***

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Wildlife and Countryside Link (Link) brings together 45 voluntary organisations concerned with the conservation and protection of wildlife. Taken together, our members have the support of over 8 million people. The following organisations support this submission:

- ClientEarth
- Environmental Investigation Agency
- Friends of the Earth England
- Greenpeace UK
- Humane Society International – UK
- Institute of Fisheries Management
- Marine Conservation Society
- MARINElife
- ORCA
- Salmon & Trout Conservation UK
- Whale and Dolphin Conservation
- Wildfowl & Wetlands Trust
- The Wildlife Trusts
- WWF – UK
- Zoological Society of London

Link welcomes this inquiry to follow up on the Committee's past recommendations on this important matter. Although progress has been made across the UK towards designating marine protected areas (MPAs), existing measures and current site proposals in English and Secretary of State Waters still fall short of the UK's commitments and the protection that our marine environment needs. The marine environment urgently needs an ambitious set of Marine Conservation Zones (MCZs) to help fill key gaps in the network. We believe that this network is the cornerstone of both biodiversity protection and sustainable use of marine resources. Over 180 MPs and Peers also support Link's call for well-managed, coherent network of MPAs in UK seas through our Marine Charter.<sup>1</sup>

Although we acknowledge the wide scope of this inquiry, our submission here predominantly focuses on the progress undertaken in England and Secretary of State Waters. Supporting references are outlined in [Annex A](#).

### ***1. Is the Government on track to achieving the commitment in the Conservative Party's 2015 manifesto to complete the UK's 'Blue Belt' by the end of the Parliament? What further actions should the Government be taking to meet its commitments?***

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1.1 The Conservatives manifesto commitment to “put in place a ‘blue belt’ to protect precious marine habitats” was welcomed by Link. We translate it as a reaffirmation of Government's commitment to an ecologically coherent and well-managed network of MPAs, which the UK is required to create under various international commitments,<sup>2</sup> and which is well-understood by MPA practitioners.

1.2 **The UK and devolved Governments have the necessary processes in place to complete the “Blue Belt” of MPAs. However, whether these processes achieve the necessary goals depends on political willingness and ambition.** The UK Government has now designated 50 of

the 127 recommended MCZs and is to embark on a consultation for a third tranche in 2017. Further Special Protected Areas (SPAs), Special Areas of Conservation (SACs), and Sites of Community Importance (which are collectively known as European Marine Sites - EMSs) are also being designated across the UK, which we welcome as being essential to achieve the network.

1.3 The network will only be ecologically coherent and well managed if the Government adheres to the following actions:

- Follow **ecological principles in designating sites**
- **Maintain or enhance the protections under European law**, such as the Habitats & Birds Directives
- Provide **effective protection and introduce goal-driven management of plans** for each site and the entire network

1.4 **Ecological principles in designating sites:** To achieve an ecologically coherent network of MPAs scientists both nationally and internationally have identified various principles, such as representativity and connectivity.<sup>3</sup> These principles must be met if the network is to deliver ecological coherence, providing our seas with comprehensive protection and allowing them to recover from past declines.<sup>4</sup> We are concerned that Government is aiming for the minimum of ecological requirements rather than developing more reasonable or ambitious proposals. For example, we have concerns that the network does not provide adequate protection for broadscale habitats at depth. This is of particular concern as it is vital that the network provides sufficient protection to our offshore marine environment.

1.5 **Maintain or enhance protections under European law:** The implications of European law on the network are discussed in section 5 of this submission.

1.6 **Effective protection and management of sites:** The network must be well-managed to be effective in protecting and restoring our seas to former diversity and resilience. However, this is stymied through ineffective management, inadequate funding, poor education, and ineffective regulation of harmful activities, including cumulative impacts. This can be resolved by the following:

- Recognition of the forthcoming designation of additional protected areas and implications for upcoming developments
- Strategic and integrated approaches to designation and management across the whole UK
- Strong proactive conservation objectives combined with effective management measures
- An effective programme of monitoring that informs site management
- Well defined goals to guide measures for recovery and enhancement of sites
- Compliance, and where necessary, enforcement.

1.7 We are particularly **concerned about the approach that the Government is taking to managing fisheries in offshore sites**, where they attempt to reach consensus between fishing and conservation representatives and decisions made can be at the expense of robust protection. It is vital that a proportion of our seas must recover to ensure that UK seas have a sustainable, healthy future. Current measures offered for protection of many sediment habitats won't recover our seas, and will have little impact on restoring the natural ecosystem away from industrial extraction of fish.

## **2. How effective has the Marine and Coastal Access Act (2009) been at achieving its objectives? Are there improvements that could be made to it?**

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2.1 **The designation of MCZs and the formation of a MPA network, core objectives of the Marine and Coastal Access Act 2009 (the Act), remain essential** to help conserve the UK's marine biodiversity, halt damaging activities and allow recovery to support healthy ecosystem functions. However, the fundamental objective of designating a coherent, representative network of MPAs, as articulated in s123(2) and s123(3) of the Act, has not yet been achieved.

2.2 This is not a shortfall of the legal framework of the Act which provides for the creation of a network; the Act itself is a robust basis for the designation and protection of MCZs and does not require improvements. Rather **it is a significant failing of the UK Government to effectively implement the Act**. Link has welcomed the designation of 50 MCZs in addition to other sites of international or national importance, it has been disappointing that Government has made such slow progress in the first two tranches towards achieving the network and has designated less than half of the recommended 127 sites proposed by experts in 2011. In our view, little has changed since Environmental Audit Committee's own conclusions in 2014 that the 'slow pace' of MCZ designation is 'disappointing and suggests a lack of Government commitment to this initiative', as well as being an 'unambitious programme'.<sup>5</sup>

2.3 There remain significant gaps in the network, in particular, implementation currently falls short of achieving the objective in s123(3) for the network to protect the diversity and range of features in UK seas, such as mobile species and offshore deep sea features. Furthermore, **certain processes established by the UK Government have actively hindered the achievement of such objectives**. For example, in May 2016 the Government released a consultation on third-party proposals for highly mobile species MCZs with guidance from the Joint Nature Conservation Committee (JNCC).<sup>6</sup> This consultation created a restricted process with short timeframes and high evidence thresholds that was unreasonable given the timeframes. For example, the standard of data on cetaceans recommended was demonstrated from lengthy and complex projects; access to comparable cetacean surveillance data across English waters was unreasonable to request in the consultation timeframe. We were also frustrated by a lack of access to specific data sets, which would have facilitated the identification of potential sites. The guidance also included principles for MCZ design that were additional to the Ecological Network Guidance,<sup>7</sup> thereby requiring a different standard for nominating mobile species MCZs compared to other MCZs.

## **3. What lessons should the Government be taking from the process of designation, implementation and enforcement of the first two tranches of MCZs? To what extent has it learnt those lessons?**

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3.1 The main lesson we've learnt from the process to date is that while designating the sites with least opposition in the first two tranches has made the process easier, **Government now needs to show leadership and designate important, but controversial, sites or the network will not be achieved**. The process to identify the original set of MCZs was based on a collaborative, stakeholder led process taking into account the views of over a million sea-users, leading to a set of recommended sites in 2011.<sup>8</sup> These sites were based on the best available scientific information, supported by Government guidance on an ecologically coherent network,<sup>9</sup> had consensus across a wide range of stakeholders and were approved by the Government's Science Advisory Panel. The goodwill of some of these stakeholders has however, been gradually eroded since that time. So far, the network fails to adequately provide protection for mobile species - especially pelagic species - which should be addressed in the third tranche. Key gaps also still exist for offshore habitats, particularly deepwater habitats.

3.2. **Lessons should also be learnt from the Government decision to "shift the goalposts" in relation to the level of scientific evidence required** (in the words of the Science and Technology

Committee in its report “Marine Science” (2013)).<sup>10</sup> This evidence bar was higher for environmental datasets than for any information, much of it anecdotal, on the value, often qualitative socio-economic impacts of designation. Many sites also had features removed or were rejected altogether because of a proposed economic impact of as little as £1000, completely failing to consider the evidence on the benefits of MPAs to significantly improve ecosystem services.

**3.3. For those MCZs already designated, implementation and enforcement have been variable.** For inshore waters, progress has been made by Inshore Fisheries and Conservation Authorities (IFCAs) to ensure that fisheries are managed inside some of ‘the ‘high risk’ sites, integrated with the wider revised approach to managing fisheries inside EMSs. We also welcome the work of Natural England in developing comprehensive and interactive conservation advice packages for English inshore MPAs, including some MCZs. We are concerned that fishing still continues within many offshore MCZs at present with progress towards management of these activities very slow.

**3.4. We are also concerned about potential impacts of development on sites recommended as MCZs but not yet under consultation by the Government.** In considering decisions on applications, agencies should be mindful of future likely MCZ designations, future proofing decisions on granting licenses or consents. For example, a recent licence application to dredge an area of the Goodwin Sands for aggregates does not technically have to consider that the area is highly likely to be consulted for designation in the MCZ third tranche. This is despite the fact that the aggregate to be removed is sand, which would be the key designated feature of the site and that the site is likely to be designated during or before the dredge period.

***4. The previous Committee expressed concern about a lack of leadership and resources for the implementation of MCZs. It recommended the Government should set out management plans for individual MCZs and an overall strategy for all MCZs. To what extent has the Government met the previous Committee’s concerns?***

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4.1. In our view, **progress towards addressing the Committee’s previous concerns has been insufficient.** In terms of management, MCZ conservation objectives must be taken into account for activities that require a licence (e.g. dredging). Fisheries management measures should be identified within two years of MCZ designation.<sup>11</sup> In inshore waters, the management of fisheries within MCZs is integrated with equivalent management for EMSs as part of the Revised Approach to fisheries management in MPAs. Currently, for tranche 1 inshore MCZs there are 19 new byelaws and 14 new voluntary measures to complement 25 legacy byelaws. It is expected that fisheries management measures will be identified for tranche 2 MCZ sites by early 2018. Although we welcome progress through these efforts, they still fall short of creating a strategic and integrated approach to management, with clear ecosystem-based management plans for each MCZ.

4.2. Furthermore, **the Committee’s recommendation for the Government to identify ‘a body with a clear lead role for strategy and coordination’ remains unanswered** as there continues to be a lack of clear leadership and central oversight for the management of MCZs. The Government’s response to this recommendation did not outline a clear strategy for the management of MCZs and simply provided information on the current management measures.<sup>12</sup> Furthermore, the Government recently disbanded the DEFRA MPA Project (management) Board, leaving a considerable void in the oversight of this vital process. An effective UK wide network will only be achieved if there is coordination of existing and potential sites within the network across administrations, and a joint strategy on both designation of sites and implementation of site monitoring, protection and management measures.

4.3. In addition, **insufficient funding has been provided to support regulators, such as the Marine Management Organisation (MMO), IFCAs and Environment Agency, and statutory**

**bodies, such as JNCC and Natural England, to undertake their responsibilities effectively.** Austerity measures have stripped these agencies of sufficient resources to perform their duties in an effective and timely manner.<sup>13</sup> For example, the MMO has had over a 25% reduction of funding in the last two years despite an increase in its regulatory burden as additional MCZs are established.<sup>14</sup> In addition, statutory bodies have been subject to review with the intention of identifying additional budget cuts.<sup>15</sup> These agencies are already close to breaking point in terms of their ability to effectively designate, manage and enforce MPAs.

**4.4. The loss of scientific expertise from the ongoing reduction of funding for regulators and statutory bodies is now severely compromising the ability of the Government to effectively fulfil its responsibilities with respect to management.**

#### **5. Some MPAs are designated under the EU Habitats Directive. How should the Government's policy on the Blue Belt take account of the EU referendum result?**

**5.1. A coherent network of MPAs is not possible without these European sites as they make up the majority of the network. We assume the Habitats and Birds Directives will be fully preserved in UK law through the Great Repeal Bill, and would also support a commitment from Government to retain these laws in the long term.**

**5.2. The strong arguments in favour of using spatial measures to protect the vulnerable species and habitats remain relevant, despite the UK's future relationship with the EU.** An ecologically coherent network of MPAs in UK waters relies on wider connectivity with sites elsewhere in Europe, and together, protecting habitats and species of European and national importance, will improve the health of the marine environment as a whole, allowing damaged, degraded areas to recover and build resilience against current and future pressures (across biogeographical ranges).

**5.3. The selection process for EMSs differs from the criteria for MCZs in a number of ways, and the protection afforded by the English network of MPAs is stronger as a result of having a combination of types of MPAs.** The legislation underpinning MCZs requires the network of MCZs to represent the range of marine flora and fauna in UK waters, while the location of EMS must be chosen solely on scientific grounds relating to the presence of relevant habitats or species. Another difference is that EMS selection is not affected by the existing or potential socio-economic uses of an area.

**5.4. The management rules relating to EMSs are also robust, well-understood and have been tested by case law over time, which helps to ensure a high standard of protection while allowing sustainable use.** These levels of protection should be maintained post-Brexit to secure the continued recovery of historically degraded habitats in many EMSs. Significant progress has been made under the Government's "Revised Approach" to management of fisheries with bylaws in place in many EMSs, reducing fishing pressure on marine ecosystems. These achievements should not be abandoned.

**5.5. High level political decisions on the nature of the UK's future relationship with Europe will dictate the necessary legal mechanics for keeping the framework that underpins EMSs in the UK, but this is certainly possible. Keeping EMS alongside other types of MPA within the Blue Belt is essential to protect the bequest of a healthy marine environment for future generations.**

**5.6. Without the protection that the Habitats and Birds Directives currently provide, we would lose the legal framework that guarantees no net loss of the most important places for wildlife. The current MPA network relies to a significant extent on sites designated under and protected by, the various UK Habitats Regulations (which transpose the requirement of the Habitats and Birds Directives). Retention of these laws will be a fundamental foundation for robust legal**

**protection of the marine environment in the UK**, and must be accompanied by the right package of measures and incentives to support and enhance their implementation. Retention of protection consistent with that provided by these Directives is vital not only to the protection of marine biodiversity in UK waters, but is also essential for both sites and species which cross national borders and provides regulatory certainty for marine developers and investors.

**Wildlife and Countryside Link  
October 2016**



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## Supporting References

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<sup>1</sup> <http://www.wcl.org.uk/marinecharter.asp>

<sup>2</sup> Such as:

- the Aichi Biodiversity Targets require that by 2020 MPAs constitute at least 10% of coastal and marine areas under the Convention on Biological Diversity
- The completion, coherence and good management of the OSPAR MPA network by 2016
- Good Environmental Status by 2020 under the EU Marine Strategy Framework Directive
- Good Ecological Status under the EU Water Framework Directive
- EU Biodiversity Strategy 2020, including the commitment to halt the loss of biodiversity by 2020
- Commitment to Natura 2000 sites under the EU Habitats and Birds Directives as our contribution to the Bern Convention Emerald Network of protected sites.

<sup>3</sup> OSPAR Commission, 2006-3: *Guidance on developing an ecologically coherent network of OSPAR Marine Protected Areas*; Natural England and JNCC (2010) [Marine Conservation Zone Project: Ecological Network Guidance](#)

<sup>4</sup> <http://www.wcl.org.uk/docs/ELUK%20ECN%20joint%20position%20statement%20-%20September%202016.pdf>

<sup>5</sup> EAC MPA inquiry 2014, conclusion 2, p27.

<sup>6</sup> <http://jncc.defra.gov.uk/page-7248>

<sup>7</sup> Natural England and JNCC (2010) [Marine Conservation Zone Project: Ecological Network Guidance](#)

<sup>8</sup> <http://jncc.defra.gov.uk/page-6045>

<sup>9</sup> [http://jncc.defra.gov.uk/pdf/100705\\_ENG\\_v10.pdf](http://jncc.defra.gov.uk/pdf/100705_ENG_v10.pdf)

<sup>10</sup> <http://www.parliament.uk/business/committees/committees-a-z/commons-select/science-and-technology-committee/news/marine-science-report/>

<sup>11</sup> Defra, Marine Conservation Zones: [Update](#) (January 2016), p7

<sup>12</sup> <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmenvaud/651/65104.htm>

<sup>13</sup> For example, a 46.9% loss of central funding in 2010/11:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/446310/MMO2015annualreport.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/446310/MMO2015annualreport.pdf)

<sup>14</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/540565/Marine\\_Management\\_Organisation\\_annual\\_report\\_and\\_accounts\\_for\\_the\\_financial\\_year\\_ended\\_31\\_March\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/540565/Marine_Management_Organisation_annual_report_and_accounts_for_the_financial_year_ended_31_March_2016.pdf)

<sup>15</sup> <http://jncc.defra.gov.uk/page-7149>