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6th October 2008

The Scottish Government
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Dear Sir

SCOTTISH MARINE BILL CONSULTATION

Further to your invitation to comment on the Scottish Marine Bill consultation document, Sustainable Seas For All, I am pleased to submit a response on behalf of Solway Firth Partnership.

The Partnership acts as a facilitator of holistic integrated management of the Solway Firth with a key function being provision of a link between English and Scottish interests. The Partnership has a Board of ten elected Trustees, nineteen corporate members including agencies, local authorities and sectoral organisations, in addition to a wide membership of individuals. The Partnership's key objective is to secure an environmentally sustainable future for the Solway, fostering economic development while respecting the distinctive character, natural features, wildlife and habitats of the Firth.

CHAPTER 1 - SETTING THE SCENE

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

Yes. A large body of background work and recommendation including that of the Advisory Group on Marine and Coastal Strategy and, more recently, that of the Sustainable Seas Task Force supports this.

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

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

Yes. The current system is widely regarded as disjointed, lacking in clarity and failing to maximise the social, economic and environmental value of the marine resource.

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

Yes. Current systems are recognised as failing to provide adequate environmental protection as demonstrated by global and European policy including the World Summit on Sustainable Development (WSSD) 2002, OSPAR Convention for the Protection of the Marine Environment of the North – East Atlantic 1992 and the European Marine Strategy Framework Directive 2007.

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

Yes. It is widely recognised that the present system requires integration to enable both ease of use by prospective developers and more holistic analysis of proposals by regulators.

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

Yes. Current provisions for enforcement of marine regulations are widely regarded as inadequate. Understanding of the marine environment is recognised as being poor with a lack of scientific data and research on which to base management decisions.

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

Yes. There is currently no single organisation which satisfactorily addresses marine issues. There are a number of organisations who deal with different aspects of marine management in a limited capacity such as FRS, SFPA and to some extent SNH and SEPA. There is merit in pooling resources to enable greater co-ordination of existing effort and a structure which provides scope for further investment of resources.

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

Solway Firth Partnership currently addresses a range of marine and coastal issues including European Marine Site management, fisheries management and provision of environmental education. The Partnership enables stakeholder engagement, provides a means of communication and acts as a neutral broker in conflict resolution. However, the Partnership operates with very limited resources for the geographic and subject areas it attempts to cover. The proposed changes to marine management would significantly support many of the aims of Solway Firth Partnership.

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

Yes. There needs to be a very close and positive relationship between administrations, not just regarding allocation of responsibilities in Scottish waters but in ensuring a truly integrated management approach in and between Scottish waters, Manx waters, UK waters, 'regional seas' such as the Irish Sea and the wider oceans such as the Atlantic. There needs to be a significant mind shift away from the traditional boundary orientated approach which is prevalent in terrestrial policy making and management mechanisms if we are to begin to satisfactorily address major issues such as marine ecosystem health and climate change.

CHAPTER 2 - CREATING STABILITY: MARINE PLANNING AND INTEGRATED COASTAL ZONE MANAGEMENT

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

Yes. Taking an international, national and sub-national approach gives the opportunity to take a wide strategic view as well as a more detailed local perspective.

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

The proposals set out for creation of a National Marine Plan, and the role of Marine Scotland in having responsibility for its creation, are supported. A critical factor which will need to be addressed as the process develops is the emphasis of the Plan in terms of its key objectives and the way in which these align with adjacent and overlapping plans and policies such as the UK National Marine Plan, the EU Marine Strategy Framework Directive and the Water Framework Directive.

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

A key purpose of the Scottish Government cited in the Sustainable Seas document is “increasing sustainable economic growth”. This is an aim which is open to wide interpretation and deciding where the balance lies between factors such as the need for energy generation, economic, social and environmental requirements will be where challenging decisions will need to be made. The five guiding principles as stated provide a good starting point.

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

Solway Firth Partnership believes that the approach to cross border planning must be strengthened and that the suggested “need to consult” with cross border partners is not sufficient. The Partnership continues to call for a **single marine plan** for the Solway Firth. This would require joint working between neighbouring organisations and administrations and agreement from both sides to designation of the Solway Firth as a single marine planning unit. There would need to be agreement to work to the same set of objectives and, currently, the UK high level objectives and those outlined in the Sustainable Seas document do align closely. It is important to successful management of the Solway Firth that these objectives do not start to diverge at a later stage in the process.

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

Yes. The Marine Planning system provides an appropriate mechanism for delivery of MSFD objectives.

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

Solway Firth Partnership is content with the overall approach to Scottish Marine Regions with the proviso that the Solway Firth should be demarcated and managed as a **single cross border Marine Region**. This is in line with the characteristics identified as essential to defining SMRs such as the coherence of the coastal and marine zone, the need for integrated planning and management, and the existence of a local management structure. Solway Firth Partnership will be pleased to work with Marine Scotland, the UK MMO and stakeholders in developing this approach and defining appropriate boundaries. Suggested boundaries would be the Dumfries & Galloway Council local authority boundary to the north, St Bees Head on the Cumbrian Coast to the south and boundaries with the Isle of Man and Irish waters to the west.

The **Solway Marine Region Board** would comprise representatives from both sides of the Firth with the principal stakeholders including existing Partnership members and members of the Solway Area Advisory Group. This proposal supports and complements the Solway River Basin Management Planning process. The Solway Marine Region Board would foster relations with the Isle of Man, Ireland and Marine Regional Boards to the north and south to ensure integration between plans for neighbouring areas, particularly regarding fisheries.

The Solway Marine Region Board also provides a mechanism for integration of the Solway Inshore Fisheries Group and the Cumbria Inshore Fishery and Conservation Authority. Sectoral plans developed by these organisations would be integrated in the Solway Marine Plan. Both fisheries groups are in the early stages of creation (albeit that there is a significant history of fisheries management delivered by Cumbria Sea Fisheries Committee on the south side of the Solway) and the establishment of a Solway marine regional planning system provides a means by which these organisations can develop in a compatible way.

The Solway Marine Region approach would also provide an appropriate framework for integration of the existing Solway Shellfish Management Association within a wider Solway planning context.

Q11 Do you agree that Scottish Marine Regions should be responsible for integrated coastal zone management?

Yes. Although integrated coastal zone management includes terrestrial interests, the relevant factor is their relationship with the coastal and marine environment, therefore delivery of ICZM sits most appropriately with the marine regional boards.

12 Do you agree that Scottish Ministers should place a duty on Scottish Marine Regions to adopt the eight principles defining integrated coastal zone management?

The eight principles of ICZM set out by the EU are entirely compatible with the objectives for marine planning set out by both the UK and Scottish administrations therefore could readily be adopted as a foundation for development of regional marine plans.

Q13 Do you have any other comments on the delivery of integrated coastal zone management alongside marine planning?

Until we have better defined our approach to marine planning we cannot fully address the way in which this will integrate with terrestrial planning systems. However, the coastal and immediate inshore areas, however these are defined, will certainly be subject to the widest range of pressures, a comparatively high level of use and the most complex overlap of

legislation and responsible bodies, therefore will require a significant proportion of overall management effort.

CHAPTER 3 - REDUCING THE BURDEN: LICENSING AND ENFORCEMENT

Q14 Does licensing remain an effective method of delivering both certainty for investment purposes, and protection for the marine environment?

Yes. Solway Firth Partnership supports this approach with the proviso that in order to deliver economic returns the system must be easily accessible by private interests and to deliver environmental protection the system must be adequately monitored and enforced.

Q15 The existing licensing system covers most of the impacts on the seas from existing activities. One area of activity that has potentially large impacts and is not licensed is dredging. Scottish Ministers propose to license all new forms of dredging (i.e. those forms that agitate the sea bed). Do you agree? Are there other activities that should be licensed?

Maintenance dredging of harbours occurs routinely around the Solway, with the disturbed material being allowed to disperse on the tide. Potential mitigating actions may be limited but the activity merits further scrutiny and licensing is an appropriate means of enabling this.

Q16 Scottish Ministers intend to create powers to set out a list of licensable activities in regulations. Do you have any views on this approach?

Setting out a clear list of licensable activities is a logical part of establishing a readily comprehensible system.

Q17 The proposed Marine Scotland should have general responsibility for the delivery of the marine licensing system. Do you agree?

Yes. Establishment of a single point of contact for marine licensing supports the aim of creating a readily accessible system and enables Marine Scotland to take a holistic view of licensable activities. The only exception may be in relation to land based activities which discharge effluents to the marine environment which, for consistency, should remain under CAR as regulated by SEPA. The Solway Tweed Catchment Basin Plan (WFD) will ensure that SEPA and the Environment Agency work in partnership to achieve common objectives with regard to water quality issues and, as this process is already underway, it would seem illogical to implement changes on this matter.

Q18 Scottish Ministers intend to reduce the numbers of marine licences that developers require to get before an activity can take place. There are two ways to reduce the numbers of licences either by creating a single licence for all marine impacts or by creating a single licence for each activity. Which system do you prefer?

The impacts approach appears the more straightforward to implement, causing least disruption to existing allocations of responsibility while still enabling a more streamlined system with appropriate environmental protection.

Q19 Marine Scotland could undertake the licence work itself or operate as a front door coordinating the work of others. Do you have any views on these options?

The proposal for Marine Scotland to operate as an access and co-ordination point seems simplest to establish while continuing to utilise existing expertise.

Q20 Do you agree with the proposed approach to consultation involving local stakeholders? Do you have any further comments?

Solway Firth Partnership welcomes steps to engage local stakeholders further in decisions about their local area. This approach is in line with all best practice guidance and has numerous potential benefits including improving the quality of decision making, avoiding objections at a later stage in the development process and building more positive relations between stakeholders. The contribution of local people, particularly fishermen, should not be underestimated.

Q21 Do you agree that the revised licensing system should incorporate the simplified CAR model throughout, to focus scrutiny on higher risk activities/ impacts and reduce the regulatory burden?

This would seem a reasonable approach, minimising the regulatory burden for small scale works and enabling concentration of valuable resources on higher impact proposals.

Q22 Scottish Ministers intend to provide Marine Scotland with powers to insert conditions into licences. Do you agree with this approach? In particular Scottish Ministers intend to create a standard condition on removal of redundant kit and installations, do you agree?

Yes. Inserting conditions into licenses is an important means of influencing behaviour and promoting co-operation between related interests. A standard condition on removal of redundant installations is a sensible approach.

Q23 Scottish Ministers believe an appeals procedure for those directly involved in the licence application would be a beneficial development. Do you agree?

An independent appeals process, such as that used for CAR, needs to be built into any new system. Great care needs to be taken regarding the function of Marine Scotland who, with a role crossing policy making, regulation and enforcement, could fall into disrepute if not carefully managed.

Q24 To provide an easy and transparent system, do you agree that a scale of charges related to cost recovery is the most appropriate way to recover the costs of assessing, issuing, monitoring and enforcing licences?

This would seem a reasonable starting point for creation of a scale of charges based on a transparent cost recovery model. Assessment would be needed to ensure that charges were not excessively prohibitive to particular sectors or small scale operators.

Q25 The Scottish Government proposes a review of existing licence monitoring and enforcement provisions relating to the marine environment and wishes to consolidate them into a single set of coherent powers and remedies. Marine Scotland should be tasked with ensuring compliance monitoring and enforcement activity is carried out consistently and efficiently. Do you agree?

Yes. Existing marine monitoring and enforcement relating to fisheries on the north Solway is widely regarded as inadequate. There is no point developing more sophisticated methods of regulation without following up with adequate systems of monitoring and enforcement. Marine Scotland is the appropriate body to manage this effort.

Q26 Please provide any further comments you have on the licensing provisions in the consultation paper.

CHAPTER 4 - SECURING THE FUTURE: NATURE CONSERVATION

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

Yes. The three pillar approach provides a comprehensive way in which to tackle marine nature conservation.

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

The principal of establishing Marine Ecosystem Objectives is a logical foundation in building wider marine plans. More background information about the selection of distinctive areas where MEOs might be developed is needed to evaluate these choices.

Q29 Do you agree it would be worthwhile to have a biodiversity duty in the offshore area around Scotland?

The Partnership, as a cross border organisation, does not feel it appropriate to comment on this question.

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

The wider seas aspect of marine nature conservation is very important as it is only by truly integrating environmental policies with wider plans that sustainable systems will be created.

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

Yes. An ongoing process of data gathering and review is required to establish a greater understanding of the need for marine species protection.

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

Marine Scotland needs to work very closely with existing organisations on species conservation. For example an important aspect of any strategy for species conservation would include raising public awareness and understanding of key species, their status, the threats they face and positive management measures which can be taken. SNH has devoted considerable resources to development of best practice guidance on interpretation and environmental education. Marine Scotland should work closely with SNH and local coastal partnerships on these areas. Likewise, the experience of organisations such as RSPB and the Marine Conservation Society need to be given full recognition.

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

Yes. The establishment of new types of Marine Protected Areas to create an ecologically coherent network of sites is in line with Scotland's global biodiversity obligations under WSSD 2002, regional obligation under OSPAR and European directives.

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

The Partnership supports the three requirements for site protection as set out in the Sustainable Seas document which take into account high level policy drivers and local views.

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

Historic and natural environment site protection would both be taken into account in marine planning irrespective of the designation approach preceding this. There is not enough information to evaluate the implications of a "single approach" as described in the Sustainable Seas document.

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

Key aspects of the proposals on how a site protection power will be used include stakeholder engagement to enable a clear understanding of the management implications which will arise from the designation. It is also sensible to allow for boundary change and site deselection as priorities will change over time.

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

A single integrated power has advantages of efficiency of operation but could readily be regarded as biased and lacking in transparency if it is not constituted and managed in the right way. Communication with stakeholders is key to guarding against mistrust and this is a role in which local coastal partnerships can assist.

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

The principles of site management as they are set out are a reasonable starting point. A site by site approach needs to be taken and socio-economic factors need to be addressed alongside conservation requirements.

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

Any new marine planning system will take time to develop and implement and there is a need for progress on MPAs in advance of this to ensure Scotland meets its international environmental obligations. The wider planning system can help to identify areas of intense use and potentially adverse environmental impact which, in the longer term, will assist in the identification of areas of priority for research and MPA designation. Formal management orders or agreements will inevitably be required where voluntary arrangements cannot be reached and this needs to be built into the legislative framework.

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

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

Site protection should include comprehensive legislative provision to address offences and penalties although the Partnership strongly regards recourse to this type of action as a last resort in the event of best attempts to reach voluntary agreements having failed.

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

A great deal more can be done to market the wild marine environment to deliver economic benefits. For example Solway Firth Partnership is developing a World Oceans Week for 2009; a series of events linking environmental education, outdoor activities, local seafood promotion and accommodation packages with support from 16 local and national organisations including the National Trust for Scotland, RSPB and Visit Scotland.

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

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

- a) equal treatment across all sectors (licensing and seal conservation orders);
- b) welfare issues;
- c) the "Netsmen's defence";
- d) reporting and monitoring;

e) relationship with the EU Habitats Directive; and

f) any other comments?

There are no large colonies of seals on the Solway so conflicts with fishermen have not been a major local issue. Seals can be seen in small numbers on quiet parts of the coastline, offshore rocks and islands and the value of these animals as part of the attraction of coastal walks and recreational boat trips needs to be taken into account in evaluation of any proposed control measures.

CHAPTER 5 - UNDERSTANDING OUR SEAS: SCIENCE AND DATA

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

Yes. There needs to be a strategic approach to scientific effort because work must be prioritised based on factors such as species at risk and high impact activities. Research and information needs to be co-ordinated and collated by Marine Scotland to maximise its accessibility by relevant organisations and local stakeholders.

Science and industry need to work much more closely together. More information is needed on the effects of marine management measures in Scottish waters such as closed areas to fisheries. In addition to environmental data, studies need to take into account factors such as the impacts of these measures on local jobs.

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

Language and communication are major barriers to integration of the scientific world with wider interests and this should be recognised and addressed by means such as setting plain English standards for reports intended for public issue.

Local people should be given the opportunity to contribute to marine and coastal research and recording through means such as reporting invasive species eg wireweed, recreational angling catches, marine mammal sightings and WWT WeBS (Wetland Bird Survey) counts.

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

Collation of existing data into one accessible format would be a large but worthwhile task.

The Solway scallop fishing industry is experimenting with 'eco-dredges' and this initiative should be supported as a top priority. Work to evaluate the impacts of alternative dredge types on a range of seabed habitats could enable much greater understanding of appropriate management measures for areas such as SACs and MPAs. Supporting this type of work would also help to develop more positive relationships between fishermen, environmentalists and regulators.

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

Yes. A single body is needed to co-ordinate monitoring and assessment of our seas. In terms of monitoring the Solway, the Environment Agency carry out sampling work in Scottish waters in liaison with SEPA as part of WFD requirements and this type of cross border flexibility and co-operation should be fostered as part of a Solway Marine Region.

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

Yes. GIS is the tool which will enable marine planning to be delivered. It is essential that full consideration is given to compatibility of systems, particularly interoperability of data between organisations in cross border situations.

CHAPTER 6 - MANAGING OUR SEAS: MARINE SCOTLAND

Q49 Scottish Ministers propose to develop Marine Scotland to champion the seas and their use and provide better integrated and streamlined delivery in the marine area. Do you agree?

Yes. Solway Firth Partnership supports the proposal to develop Marine Scotland which, locally, would work closely with the UK MMO to develop and deliver a Solway Marine Region Plan. The need for rationalisation of existing bodies dealing with marine issues is even greater on the Solway where inevitably there are more organisations involved.

Q50 Scottish Ministers propose that Marine Scotland deliver marine planning proposals as set out in Chapter 2. What are your views on this proposal?

Marine Scotland should have responsibility for delivery of marine planning, ensuring close links between science and management measures.

Q51 Do you agree with the approach set out for fisheries and aquaculture management? Do you have any further comments in connection with this approach?

Solway Firth Partnership believes it is essential that fisheries and aquaculture are addressed are part of Marine Scotland's remit and are considered as a fully integral part of marine planning. Any distancing of these sectors would significantly devalue the holistic approach which is central to the Scottish Marine Bill proposals.

Q52 What are your views on the arguments relating to where control for aquaculture should lie?

Given that responsibility for issues such as coast protection and flood prevention will continue to lie primarily with local authorities, it would seem reasonable to leave control of aquaculture with local authorities who would, of course, be working closely with Marine Scotland and other relevant organisations in evaluating plans.

Q53 Do you have any views on the role that FRS should take?

Closer links between marine science, policy and management need to be fostered and integration of FRS into Marine Scotland would seem a sensible proposal although measures clearly need to be taken to protect the integrity of scientific work.

Q54 What are your views on the creation of Marine Scotland and the proposed range of functions it should deliver?

The Partnership supports the creation of Marine Scotland and the proposed range of functions detailed in the Sustainable Seas document.

Q55 Do you have any views on the development of Marine Scotland's role and functions over time?

Q56 Ministers believe Marine Scotland should form part of Scottish Government with appropriate safeguards for science and the appeals process. Do you have any views?

Solway Firth Partnership supports the proposals for establishment of Marine Scotland as described in the Sustainable Seas document.

Solway Firth Partnership can considerably add to the proposed new management structures as an independent, locally based organisation with established cross border links. The Partnership can usefully continue to fulfil many of its functions such as Solway wide communication (delivered through an annual conference, seminars, meetings, newsletters etc), enabling stakeholder engagement, acting as a respected 'honest broker' in conflict resolution, acting as co-ordinator and promoter of marine events such as World Oceans Week, co-ordinator of action on marine and coastal litter, delivering marine environmental education, implementing European Marine Site management schemes and developing marine interpretive projects, all of which can complement the work of Marine Scotland and the UK MMO.

WHAT DO YOU THINK?

Q57 Are there any other aspects of the proposals in this consultation document on which you wish to add your views?

Closing comments

More detailed consideration needs to be given to the way in which cross border marine management will be delivered and Solway Firth Partnership will be pleased to work with the Scottish Government and Defra to gather information and examples which can usefully inform this process.

Yours sincerely

Pam Taylor

Project Manager