



**East England Marine Plans
Consultation comments from
The Royal Society for the Protection of Birds
08 October 2013**

(nb: due to the electronic nature of the consultation, this is a document version of the RSPB's response)

Question 1 - Would you like to tell us a bit about your organisation or area of interest?

The RSPB is the country's largest nature conservation charity, inspiring everyone to give nature a home. Together with our partners, we protect threatened birds and wildlife so our towns, coast and countryside will teem with life once again. We play a leading role in BirdLife International, a worldwide partnership of nature conservation organisations.

In addition to our interest in the protection and conservation of the marine environment and its sealife including seabirds, the RSPB is also interested in marine planning from the perspective of coastal landowner and land manager. We have been long supporters of, and campaigners for, a system of marine planning that can guide sustainable development based on environmental compatibility as well as technical resource opportunity. The RSPB is a member of the national Stakeholder Focus Group (SFG) for marine planning and licensing, and also works as part of Wildlife and Countryside Link to promote an ecosystem-based approach to encouraging sustainable development at levels compatible with Good Environmental Status (GES).

Question 2 - Do you consider Chapter 1 provides adequate background information on the marine planning process and the East Inshore and Offshore Marine Plan areas?

Yes No Don't Know

Yes.

Chapter 1 provides an appropriate level of background information, and we welcome that this has become more concise relative to previous drafts. The descriptions on the East Inshore and Offshore regions, while adequately describing the current situation, could, however, be improved by a greater degree of historical context, giving a sense of how the area and sectors have changed in the last 50 years. For example, while shellfisheries comprise the majority of landings to ports in the East plan area, the balance of fisheries landed in the past was much more mixed, including the major herring fisheries along the East coast in the 19th and 20th Centuries, including into Scarborough and Great Yarmouth, and even the Dogger Bank Bluefin tuna recreational fishery in the 1930s (catching tuna that fed on the herring).

The historical changes to the East plan areas, coastal communities and species populations, provide the marine plans with the necessary context to set a vision that includes restoring the marine environment to improved levels compatible with GES. For example, Marine Strategy Framework Directive (MSFD) targets for seabirds are established upon previous population baselines and thus require improvements in current populations, yet there has been a loss of over 40,000 pairs of kittiwakes¹ at Flamborough Head and Bempton Cliffs SPA since the 1980s, and further significant reductions in other species at the same site (now known as Flamborough and Filey pSPA under proposals to extend this site).

We also have concerns about the repeated references in the marine plans, including in Paragraph 29 on the Scope of the plans, to the use of IROPI, without equivalent attention paid to the preceding steps of the Appropriate Assessment process, in particular the need to avoid environmental impacts before they are assessed at project level, through the strategic guidance provided by spatial planning. Given the limited level of spatial detail within the plans, and the restricted Appropriate Assessment of the plans that has been carried out, the weight that the plans carry in justifying no alternative solutions and IROPI arguments will be limited. It is also important to appreciate that IROPI operates as a last resort after all efforts to avoid, minimise or mitigate such adverse impacts have been investigated, and as long as effective functioning compensation can be provided before adverse impacts occur. Given the extensive area covered by these plans, it will be extremely difficult to clearly demonstrate that there are no alternative solutions than to carry out a particular operation in a particular way at a particular location. Even if it is possible to demonstrate that there are no

¹ Since this site achieved SPA status, the national kittiwake population has experienced severe declines (between 1986 and 2011 the UK population fell by 55%, according to the State of the UK's Birds 2012, http://www.rspb.org.uk/Images/SUKB_2012_tcm9-328339.pdf). This has been reflected within the existing Flamborough Head and Bempton Cliffs SPA with a reduction in numbers from the 83,370 breeding pairs upon which classification of the site was based in 1993 (supported by counts of 80,180 pairs in 1979 and 85,395 pairs in 1987) to 37,617 in 2008.

alternative solutions, it is crucial to realise that any plan for which an IROPI argument is proven must be able to provide effective compensation for the damage that it causes. In the marine context, the provision of the necessary compensation is likely to be extremely difficult, hence the emphasis on avoiding adverse effects in the first place.

Finally, a clear and consistent definition of sustainable development should be included in Chapter 1, given the stated aim of marine planning to contribute to its achievement, which clearly sets out the five guiding principles that the UK Government is signed up to as part of its sustainable development strategy *Securing the Future*.² This is also consistent with the treatment of sustainable development in the National Planning Policy Framework (NPPF).

Question 3 - Do you agree with the 20 year Vision (page 15) described for the East Marine Plan areas?

The MMO undertook extensive consultation on the draft Vision and Objectives in 2012.

Yes No Don't know

Yes, with amendments.

We support the high level vision for the plan areas and the strategic objectives, which together provide a strong framework for improving environmental quality, reducing the impacts of climate change, delivering renewable energy sustainably and supporting local communities. We also welcome that the vision applies across both plan areas in line with the principle of joint planning for inshore and offshore regions.

We note, however, that the vision has been amended since the MMO's previous consultation, and that key references to considering the ecosystem as a whole and living within environmental limits have been removed (replaced by "*while protecting the marine ecosystem*"). This, to us, reduces the scope of the plans' contribution to ensuring sustainable use. As we explain in another section

² <https://www.gov.uk/government/publications/securing-the-future-delivering-uk-sustainable-development-strategy>

of our response, protection of the marine environment, while a critical part, is one part of ecosystem-based planning. Considering the ecosystem as a whole while making decisions on proposals for development forms the wider fundamental basis for effective long-term planning.

As MSP is a neutral tool, we also do not believe that the stated support for offshore wind should come before the wider desire for sustainable use of the marine environment in the vision. Our amended vision (below, amended text shown in red) places the identification of one specific sector within the wider context of sustainable use.

Amended Vision:

By 2033, **the East Inshore and East Offshore marine areas** are being used sustainably, effectively and efficiently, **taking the ecosystem as a whole into account**, resulting in economic development **within environmental limits** and offering local communities new jobs, wealth, improved health and well-being. **As part of this, the substantial electricity generated from renewable sources, as a result of collaboration and integration between sectors, is helping to meet the UK’s targets on climate change.**

We have the following specific comments to make to specific paragraphs within the vision section of the plan.

Paragraph	Comment
40	We strongly welcome that the vision identifies that the vision will only be achieved if the plan areas are in GES, that relevant habitats and species are in favourable conservation status, and that the well-managed, ecologically coherent MPA network is in place.
41	It should be made clear that the “ <i>significant amounts of essential infrastructure</i> ” identified in this paragraph should be developed with least impact to the environment, in the same way as for Paragraph 43
43	Change best use “ <i>will</i> ” to best use “ <i>is</i> ” in line with the present tense of other paragraphs.

44	We note that the sentence, “ <i>Those who live or visit the coast and estuaries are living in harmony with the natural environment</i> ” has been removed from the draft previously agreed following the public consultation on the vision and objectives and seek clarity why this was removed.
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Question 4

Do you agree with the Objectives (page 14-16) and consider they contribute effectively to achievement of the Vision?

Yes No Don't know

Yes, with some amendments.

We support the 11 strategic objectives and believe that, when taken as a whole, they contribute towards the achievement of the 2033 vision. We particularly support Objectives 5-8 on the conservation and restoration of the historic and natural environment as a basis for sustainable development, and the support for Marine Protected Areas (MPAs) as part of this, as well as Objective 9 on facilitating action to reduce the impacts of climate change. We also welcome the simplified nature of the objectives compared to previous drafts.

We are increasingly concerned, however, that the MMO is mistakenly restricting its definition of the ecosystem approach to an “ecosystem services approach”. This is shown in other documents, such as the MMO’s recent report into tourism and recreation in the south marine plan areas³. While one important part of the ecosystem approach, the identification and valuation of ecosystem services do not define the requirements of considering ecosystems in all forms of decision-making. Furthermore, the drive to quantify ecosystem services in the marine environment should not prevent the MMO from supporting these ecosystem services (through plan policies) in marine licensing, rather than relying on project-level assessments.

³ <http://www.marinemanagement.org.uk/evidence/1038.htm>

We do not see strategic support within the plan policies to move towards achieving net gains for biodiversity. The NPPF has, as a core principle, the transition from a net loss of biodiversity to “*achieving net gains for nature*” (Paragraph 9, NPPF) and that strategic planning policy should “contribute to conserving and enhancing the natural environment”.

As well as this, the encouragement of proposals based on a consideration of the environment should be a general policy principle. To compare again with current terrestrial planning guidance, applications for terrestrial development in the NPPF development are guided towards areas of lesser environmental value as a general principle, where consistent with other policies (Paragraph 17, NPPF). We see, however, no mention of this principle in the marine plan, leaving all such considerations to the project level.

We also would like to see more recognition of the economic and social benefits of a healthy and resilient environment within the non-environmental objectives, a comment we have made previously during the MMO’s consultation on these objectives. This is clearly recognised by local stakeholders, for whom the most important aspects for planning are to maintain the integrity and natural beauty of the marine and coastal environment⁴, much of which provides leisure and tourism opportunities, as well as essential mitigation and adaptation benefits in the face of growing climate-change impacts.

We have the following specific points and amendments to make

Objective	Comment	Suggested alternative
4	We support the development of vibrant coastal communities, and are keen to stress the importance of objectives on maintaining and restoring marine biodiversity as a mechanism to achieve this (such as increased local-based wildlife watching opportunities and local catering and accommodation)	No suggested alternative

⁴ Summary of MMO’s local drop-in sessions, http://www.marinemangement.org.uk/marineplanning/documents/drop-in_sessions.pdf

5	<p>We fully support the conservation of all heritage assets, not just those that are protected, under Objective 5. We note, however, that Objective 5 has been weakened to remove the reference to “<i>all heritage assets</i>” and advice to “<i>consider the local character</i>” rather than ensure that decisions “are in keeping with the local character”. The removal of “<i>all</i>” in particular goes against the Marine Policy Statement (MPS), and Paragraph 116, which highlights that all heritage assets should be treated as being of equivalent significance as protected heritage sites.</p>	<p>Amendment: Objective 5: To conserve all heritage assets and ensure that decisions are in keeping with the local area.</p>
6	<p>We strongly welcome this objective and have no suggested amendments to its wording. We disagree, however, with the interpretation of the MSFD in Paragraph 151. The MSFD should not simply be seen as an environmental Directive, or seeking to achieve the environmental aspects of sustainable development. It relates more fundamentally to achieving GES of all marine waters, whereby human use is sustainable and occurring at levels compatible with GES. The achievement of GES, despite a lack of ambition in the UK’s MSFD proposals, is a measurable sign that marine plans are ecosystem based, taking into account the collective pressures of human activities and ensuring that these pressures are within levels that ensure that GES can be achieved and maintained by 2020 and beyond.</p> <p>A number of environmental issues relating to the MSFD have been identified as being of importance, but for which there are no marine plan policies or guidance. This includes:</p> <ul style="list-style-type: none"> • Invasive non-indigenous species: Paragraph 160 should also reference the forthcoming EU Directive on Invasive Alien Species and the international Ballast Water Management Convention • Noise: Underwater noise is identified as a key Descriptor of the MSFD, but the MMO states that marine planning is “only one of a range of potential 	<p>No suggested alternative</p>

	<p>measures” and there is no policy at all on considering noise levels.</p> <ul style="list-style-type: none"> • Water quality <p>While we welcome policy ECO1 which highlights the need to consider cumulative effects in making decisions on proposals, it is our opinion that this signposting policy, and a policy on “taking into account” the risk of hazardous substances only from collision (omitting other instances when hazardous substances may be lost into the sea, such as through ship-to-ship transfer), is insufficient to meet the strategic objective of resilient and adaptable marine ecosystems.</p> <p>[1] http://marinemanagement.org.uk/evidence/1038.htm</p>	
7	<p>We strongly welcome this objective addressing biodiversity outside and beyond MPAs, particularly given the ongoing delays in completing the coherent MPA network (including offshore SPAs for foraging seabirds). This objective is especially important for the consideration by proposals for wide-ranging, statutorily protected mobile species and important frontal systems, which have not yet been identified for protection. It is also crucial to note that MSFD targets will apply to <u>all</u> main bird species by 2018, including species not covered by the Birds Directive, and the majority of marine mammals.</p> <p>However, the objective to maintain or recover biodiversity is not likely to be met by policies BIO1 and BIO2, which only recommends “<i>appropriate weight</i>” to be attached to biodiversity, and for proposals to incorporate measures “<i>where appropriate</i>” to enhance biodiversity. Policy BIO1 encourages consideration to be given to evidence on habitats and species when determining the impacts of activities on biodiversity interests, in project-level assessments, but does not go further to encourage these interests to be</p>	No suggested alternative

	<p>enhanced or to create a net gain in biodiversity.</p> <p>A new policy is also required, consistent with the NPPF, which as a general principle guides development towards areas of lesser environmental value. We have made such a suggestion as part of our response to Question 5. This should be underpinned by reference to Section 2.6.1.3 of the MPS, which states that “<i>as a general principle, development should aim to avoid harm to marine ecology, biodiversity and geological conservation interests... including through location, mitigation and consideration of reasonable alternatives</i>”.</p> <p>We welcome mention in Paragraph 170 of the UK commitment to the EU Biodiversity Strategy, which includes the commitment to “<i>protect, value and appropriately restore biodiversity for its intrinsic value and essential contribution to human wellbeing and economic prosperity</i>”.</p> <p>Paragraph 171 also correctly points out that there is a range of habitats and species, which do not occur within designated sites or are subject to statutory protection. This is extremely welcome. However, the seabird species highlighted should be appropriate to the plan area; red-throated diver is not a seabird (but should be highlighted as an important waterbird for consideration) and the arctic skua does not breed in the plan area but may forage in these waters. More appropriate seabird species breeding in or around the plan area include fulmars, kittiwakes and gannets, which forage in areas identified by spatial plan policies in this plan.</p>	
8	<p>We strongly support Objective 8 on supporting the objectives of MPAs, both individually and as part on an ecologically coherent network, while we remind the MMO that the UK’s commitments are for this network to also be well-managed. This network, however, is far from complete, for example due to</p>	<p>No suggested alternative</p>

<p>the lack of offshore SPAs for foraging seabirds and consideration of mobile species in the as-yet-undesignated set of Marine Conservation Zones. The MPS itself outlines the commitment to substantially completing this network by 2012.</p> <p>While the impacts on the network are covered by policy MPA1, which we welcome, there is no specific policy addressing the needs of conservation objectives of individual sites, which is needed to deliver planning support for meeting the individual objectives of designated sites.</p> <p>We welcome much of the context for this objective, which sets out the nature of MPAs, and the value of planning in highlighting the relevance of areas outside of designated sites to the delivery of MPA conservation objectives. More detail could be provided to this context by highlighting the movement of mobile species between such areas identified as being important at different life stages or times of year, and the need to support connectivity between these sites. We note the absence though of Ramsar sites and SSSIs to the list in Paragraph 183, and of potential SPAs (pSPAs) in the list of future SPAs/SACs in Paragraph 183a(iii).</p> <p>Finally, there is no guidance from the plans, aside from referring to Section 126 of the Marine and Coastal Access Act (MCAA) 2009 (which is restricted to the duties on public authorities) on how proposals should treat Marine Conservation Zones (MCZs), either designated or undesignated, in their applications.</p>	
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9	<p>We fully support a strategic objective addressing climate change, and the need for action to reduce, mitigate and adapt to climate change impacts. These impacts are already occurring, for example through changing planktonic compositions leading to reduced prey availability for seabird breeding colonies along the east coast of the UK, in turn contributing to significant declines in species of breeding seabirds, such as kittiwakes, which feed predominantly on sandeels during the breeding season.</p> <p>For the natural environment, the most effective means of providing this resilience (linked to Objectives 6 and 8) is an effective network of marine protected areas, including areas providing vital ecosystem services, such as saltmarsh, wetland, estuarine and sand dune systems. The importance of ensuring that, as well as human development, the marine environment is also resilient, however, is not recognised in the policies that fall underneath this objective. Flood risk management, although not in the direct hands of marine planning, is another notable omission from the context of Objective 9.</p> <p>The strategic drive to reduce, mitigate and adapt to the impacts of climate change are not, however, matched by sectoral policies, in particular the overriding primacy of oil and gas development in all areas. We have made suggested additions and amendments to climate change policies as part of our answer to Question 5.</p>	No suggested alternative
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Question 5

Policy	Para	Comment	Suggested alternative
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n/a	67	<p>It is not clear from Paragraph 67, or from the plans in general, if for the designation and management of MPAs falls under the term “<i>proposals</i>”. While we do not see their inclusion in this paragraph, there is a specific reference to proposals for designating an MPA as part of the requirements of PS3 on Ports and Shipping.</p> <p>The designation and management of MPAs are, and must remain, conservation specific processes based on the location and importance of areas for habitats, species and ecological processes, with a secondary consideration for national MPAs (MCZs in England) to minimise the socio-economic impacts of designation. The RSPB’s answers to Question 7 and policy PS3 provides more detail on the legal obligations in relation to European and national protected areas.</p> <p>We therefore seek urgent clarity on this from the MMO.</p>	
	73-75	<p>The requirements and obligations under international law, e.g. in relation to Environmental Impact Assessment (EIA), Strategic Environmental Assessment (SEA) and Appropriate Assessment are of fundamental importance, even more so as the plan defers all practical consideration of environmental effects to the project level. However, many references to these processes have been removed from sectoral policies and associated text, such that they only appear in this short section. As such, these sections should be given much greater prominence in the plan, as there is a danger that they may be overlooked.</p>	
	88	<p>The last sentence is badly worded, especially the sections “<i>Planning has a role in trying to ensure that economic opportunities are able to be taken advantage of</i>” and “<i>it is desirable that development takes place in or near areas that have the ability to benefit from that activity that is the physical</i></p>	

		<i>infrastructure</i> ".	
EC1	95	Policy EC1 " <i>suggests that where one possible project more economic benefit than a project of the same type, then the project that provides the most economic benefit will be preferred</i> ". It should be made explicit that this should apply while comparing two projects of equivalent scale and environmental impact as well as type.	
EC2	97	We welcome the reference to the role of ecosystem service benefits in Paragraph 97, as reinforced by the MPS, but this is out of place with the current wording of policy EC2, which focuses on sustainable employment benefits. The importance of the marine ecosystem should be made explicit in policy EC2.	Amendment: EC2 Proposals that provide additional sustainable employment benefits in localities close to the marine plan areas, including benefits based on a healthy marine environment , should be supported, particularly where these benefits have the potential to meet employment needs in localities close to the marine plan areas.
EC3	105	The balanced nature of Objective 3 (" <i>to realise sustainably the potential of renewable energy</i> ") is not reflected in policy EC3, which makes reference to contributing " <i>substantially</i> " to offshore wind generation but without any reference to doing so sustainably. This is proven by Paragraph 105 of the supporting text, which states that the main role of the policy " <i>is to act to make the links to ambitions for economic development and job creation</i> ". A reference to generating renewable energy " <i>in a sustainable fashion</i> " should be inserted into the wording of EC3, with supporting text that states that sustainable in this context means the generation of renewable energy with least environmental impact, supporting the marine plans' objectives on wider ecosystem	Amendment: EC3 Proposals that will help the East marine plan areas to contribute substantially to offshore wind energy generation in a sustainable fashion should be supported.

		<p>health and the coherence of the marine protected area network.</p> <p>Given the vision of the plan to 2033, it is notable that the draft plan does not say anything about any future development of offshore wind beyond Round 3, aside from the general support for offshore wind in EC3. Policies WIND1, WIND2 and WIND3 apply solely to areas already licensed or within Round 3 zones. There does not seem to be an intention for the plan to lead the selection of such zones, or for any forms of energy, in future, and the selection of such zones seems set to continue outside the influence or scope of marine planning. This sets a worryingly ineffectual precedent, which the forthcoming revision of the plan in 3 years time must address. It should be clarified how this policy will be implemented outside of already identified wind farm zones.</p>	
EC3	106	Contains the typing error “ <i>cancan</i> ”.	
SOC1	112	In addition to the specific initiatives mentioned in Paragraph 112, we would add “ <i>management of, volunteering at and access to nature reserves</i> ”.	
SOC2	119-125	<p>It is not clear under policy SOC2 what evidence is required to show that adverse impacts on heritage sites have been, firstly, minimised and mitigated, or that there is a case for proceeding. There is also indication, as with other sectoral policies of this type, what conditions are required to satisfy parts a), b) and c) of SOC2, while part b) should be amended to require minimisation of impacts before attempted mitigation, rather than an ‘either/or’ option.</p> <p>A strategic policy should be inserted which states that proposals likely to</p>	<p>New Policy: SOC2 proposals likely to adversely impact designated heritage assets will not be supported within a distance of XX metres from the boundaries of such sites (as identified in Figure 2)</p> <p>Amendment SOC3: Proposals that may affect any heritage asset, both</p>

		<p>adversely impact designated heritage assets should, as a first step, avoid these assets or keep a minimum distance from these sites. This gives strategic support for the presumption in favour of conservation of these sites. This should be followed up by the policy SOC2 (as amended to SOC 3), which deals with all heritage assets, including unprotected assets, in a consistent fashion.</p> <p>There is also no Paragraph 124 and Paragraph 125 repeats Paragraph 139.</p>	<p>designated and unprotected, should demonstrate, in order of preference:</p> <p>a) that they will not compromise the heritage asset</p> <p>b) how, if there are impacts on a heritage asset, they will seek as a priority to minimise these impacts or, failing that, mitigate them.</p> <p>c) the case for proceeding with the proposal if it is not possible to minimise or mitigate the impacts</p>
SOC3	126-144	<p>We do not find it useful to separate out the visual aspects from other aspects of seascape, as defined in the European Landscape Convention (ELC), without any associated policy for visual resource. As such, there are no requirements in policy for planning authorities or applicants to show how they have considered this.</p> <p>Paragraph 132 should also identify Heritage Coasts, which although not statutory, reflect by agreement the need to conserve the most important stretches of undeveloped coastline. Importantly, they are the only seascape-related “designation” to extend into the marine environment. In and around the East Plan area there are three heritage coasts of particular note: Flamborough Head, North Norfolk and Suffolk[1]</p> <p>A specific policy on visual character should be added which at least repeats Section 2.6.5.4 of the MPS, adding heritage coasts to designated</p>	<p>Amendment SOC4 (old SOC3): Proposals should demonstrate how they have minimised or mitigated possible detrimental effects on the terrestrial and marine character of an area.</p>

		<p>areas.</p> <p>Policy SOC 3, which relates to terrestrial and marine character, does not contain a requirement to avoid, minimise or mitigate potential impacts on an area’s character. At the least, the phrase “aim to minimise or mitigate possible detrimental effects”, which is included in Paragraph 146, should be added to the policy.</p> <p>[1] http://www.naturalengland.org.uk/ourwork/conservation/designations/heritagecoasts/</p>	
ECO1	163-165	<p>We welcome policy ECO1 encouraging the consideration of cumulative impacts in strategic decision-making, in part based on existing project-level requirements of project-level decisions. The degree to which these pressures can be identified, and the extent to which activities can co-locate, must be based on appropriate cumulative impact assessments at a strategic level.</p> <p>However, we are concerned that this guidance for cumulative impacts only to be “<i>taken into account</i>” in decision making, with no proactive guidance upon either decision-makers or applicants to seek to avoid or minimise these impacts (and no requirements on proposals within ECO1 according to the implementation plan), will be outweighed by the weight of strategic planning support for growing all activities. We therefore urge the policy to be strengthened. The cumulative impacts of encouraging multiple uses, including in the same location, are likely to increase significantly over the period of the plan.</p>	<p>Amendment ECO1: Cumulative and in-combination impacts affecting the ecosystem of the East marine plans and adjacent areas (marine, terrestrial) must be taken into account in decision-making and plan implementation.</p> <p>New policy ECO2: Proposals should be considered with all other reasonably foreseeable plans and projects in the assessment of their cumulative and in-combination impacts.</p>

	<p>There is also no guidance as to what level of cumulative impact is unsuitable and no indication of how this policy is to be implemented, apart from in statutory project-level processes. The supporting text [to ECO1] should state that, in line with existing SEA and EIA processes, new proposals for development will not be supported where there is evidence that unacceptable adverse cumulative impacts would occur, unless there is evidence that these impacts can be satisfactorily mitigated for or as a final option, effectively compensated for.</p> <p>It is unclear whether ECO1 also includes in-combination effects, as well as cumulative effects, which is a requirement of the Habitats Regulations in relation to European Marine Sites and also the EIA regulations.</p> <p>We welcome the identification in Paragraph 165 of evidence gaps in relation to marine biodiversity, and the MMO's commitment to filling many of these, including the spatial distribution and sensitivity of bird species. Yet huge gaps remain in particular for non-breeding aggregations of birds offshore, for which there is currently no intention to fill. RSPB's Future of the Atlantic Marine Environment (FAME) project, for example, just provides the best available evidence for foraging seabirds during the breeding season.</p> <p>The Marine plan should reference or highlight the RSPB's guidance on using bird data in marine planning, which highlights key datasets and explains how and why birds use the marine environment. This is available at http://www.rspb.org.uk/Images/marine_planning_tcm9-338699.pdf</p>	
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ECO2	166-167	<p>We welcome policy ECO2 on the risks of hazardous substances from collision risk, but suggest that this policy is widened (amended to ECO3) to include other activities, which create risks of releasing such substances, in particular ship-to-ship transfers, spillages and drill cuttings from oil drilling activities and the legal discharge of non-oil substances. The impact of potential increases in shipping on marine pollution, as well as the impacts of other activities and infrastructure on collision risk, should also highlighted in the justifying text.</p>	<p>Amendment ECO3 (old ECO2): The risk of release of hazardous substances should be taken into account of in proposals that require an authorisation.</p>
ECO4/5	new	<p>There is an urgent need for specific policies, which encourage monitoring of activities and developments and which seeks to maintain and enhance the resilience of ecosystems and their component habitats and species, in particular those ecosystems providing ecosystem service benefits. The resilience of natural aspects of the ecosystem to climate-induced changes is of huge importance, as more and more resources are spent</p>	<p>New policy ECO4: Proposals for development that incorporate long-term monitoring into environmental effects will be supported.</p> <p>New policy ECO5: Proposals that help</p>

		on performing similar functions (such as flood and sea defence) artificially in a constrained economic climate.	maintain or enhance the resilience of ecosystems to climate change impacts should be supported, especially where they provide vital ecosystem services such as flood protection and water filtration.
BIO1	176-177	<p>Paragraph 176 paints an overly optimistic picture about the state of the MPA network, given that no MCZs have currently been designated, SACs for cetaceans are incomplete and there are no offshore SPAs for foraging seabirds or other special conservation measures, as required by the Wild Birds Directive.</p> <p>The meaning of “<i>appropriate weight</i>” in policy BIO1 should be clarified. It states that “<i>appropriate weight</i>” should be determined by reference to the MPS, but the MPS does not in our opinion contain the necessary guidance to make such judgements, instead stating that it is up to the marine plan to provide the necessary detail to make such decisions.</p> <p>There also needs to be a policy under Objective 7 that requires proposals to consider the impacts of their developments on mobile species specifically, such as “<i>proposals should demonstrate that they will not result in a significant adverse effect on sensitive or important areas for mobile species, especially where these areas are shown to be critical to supporting protected species</i>”. This could, for example, include offshore areas with functional links to colony sites for protected seabirds. This is especially true given that a previous draft policy under Objective 7 has been removed, which stated that “<i>e) Where locations beyond SPAs are shown to be critical to supporting species that are the reasons for</i></p>	<p>New Policy BIO2: Allocations of marine space for development should prefer areas of lesser environmental value, where consistent with other policies in this plan.</p> <p>New Policy BIO3: Proposals should demonstrate that they will not result in a significant adverse effect on sensitive or important areas for mobile species, especially where these areas are shown to be critical to supporting protected species.</p>

classification of an SPA, they will be subject to the relevant requirements of the Habitats Regulations. For example, in the East plan areas, foraging grounds offshore for a number of species for which the Flamborough Head and Bempton Cliffs Special Protected Area is classified’.

We welcome the maps on pp. 51-54, though we note it is not clear from Figure 5 if the species of conservation importance are also Annex II Habitats Directive species. There is also no map of major breeding bird colonies for species covered by the Birds Directive, and some MPA designations in Figure 7, such as the proposed marine and terrestrial extension of the Bempton Cliffs and Flamborough SPA, have not been included.

The need to access data collected by developers is also critical, but there is no requirement in the plan for developers to share this information with the MMO’s planning team for wider benefit. This was a key recommendation of the Science and Technology Committee’s recent inquiry into Marine Science, which explicitly recommended that “*the Government works with the Marine Management Organisation to bring forward proposals that would make sharing of more data collected at sea, particularly seabed and habitat maps, as well as wind data, a licensing condition on commercial activity in UK waters*”.[1]

[1]

<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmsctech/727/72709.htm>

BIO2	178-179	<p>While we welcome any encouragement of building features which provide biodiversity benefits into development proposals, this should not be judged or balanced against the potential negative impacts which should be assessed as per legal requirements. This is helpfully emphasised in Paragraph 179.</p>	
MPA1	183-186	<p>We note that there is no explicit policy to support the objectives of individual MPAs, despite the identification of the different types of protected area in Paragraph 183. This should be inserted, clarifying the role of existing Habitats Regulation Assessments.</p> <p>We welcome the plan's identification of areas worthy of future protection, in the form of offshore SPAs as identified by JNCC, Paragraph 183 (iii). (the same treatment should also be given to identified-but-undesigned Marine Conservation Zones in Paragraph 183 (iv)). However, until such time as these areas are designated and managed, an extra policy is therefore specifically required to safeguard those areas being identified as forming a future part of a coherent MPA network before they are designated, in particular for mobile species given the ongoing processes to select and manage marine SPAs for seabirds.</p> <p>Paragraph 186 identifies connectivity and replication as two particularly important principles of an ecologically coherent network, without justifying this statement. While important, these should not be prioritised at the expense of other principles, which are required as a whole to satisfy ecological coherence.</p> <p>Figure 8 claims to show seabird foraging ranges aggregated by number of species, but this does not correspond with the mapped metadata</p>	<p>New Policy MPA2: Proposals should not hinder, and where possible support, the achievement of conservation objectives for individual marine protected areas.</p> <p>New policy MPA3: Proposals should avoid areas identified as being of critical importance to the conservation of mobile species, including those outside the boundaries of designated sites, unless compatibility with these species can be satisfactorily demonstrated.</p>

		<p>provided by the RSPB in 2011, which shows concentric concentrations around seabird breeding colonies. Figure 8 does not display these concentric concentrations and fails to depict the importance of several seabird breeding areas including Flamborough and Filey pSPA (also showing a reduced number of species and smaller potential foraging area) and tern colonies along the east England coast. It is not clear how the MMO have used and interpreted the RSPB's metadata and supporting foraging ranges and this figure provides an inaccurate representation of the importance of the plan area for foraging seabirds. The RSPB would be happy to provide further guidance and support on the use of this data and recommends that this figure be corrected.</p>	
CC1	195-197	<p>We believe that mitigation measures should be included in policy CC1, as well as adaptation measures. This is important, for example, in providing support for coastal ecosystems, which mitigate against the coastal effects of climate change.</p> <p>Policy CC1 is also unclear on its guidance for proposals; while it asks proposals to identify their impacts on other climate change adaptation measures, it also asks for evidence on how the proposal reduces detrimental impacts, which appears contradictory.</p>	<p>Amendment CC1: Proposals should demonstrate:</p> <ul style="list-style-type: none"> • how they may be impacted upon by, and respond to, climate change over their lifetime • how they may impact upon climate change adaptation and mitigation measures elsewhere during its lifetime. <p>Where impacts are identified in either case, evidence must be provided as to how the proposal reduces detrimental impacts on climate change adaptation and mitigation measures.</p>

CC2	198-201	CC2: This policy should be amended to follow the recommendations of the Sustainability Appraisal that proposals should minimise as far as possible, rather than as far as practicable. It must always be the case that emissions should be minimised as far as possible, regardless of the nature or scale of development.	Amendment CC2: Proposals for development must minimise as far as possible emissions of greenhouse gases. Mitigation measures will also be encouraged. Consideration should also be given to: <ul style="list-style-type: none"> • emissions from other activities or users affected by the proposal • the impact upon mitigation measures that may be in place related to other activities
CC3 (new)	new	A new policy should be inserted which supports the enhancement of coastal ecosystems, in particular, which provide essential ecosystem services in areas of vulnerability to coastal change impacts. This is referred to in Paragraph 197 in square brackets. These ecosystems provide ecosystem service benefits far in excess of the cost of their management and enhancement.	New policy CC3: Proposals which support the provision of essential services provided by coastal ecosystems should be supported, especially in areas of high vulnerability to change.
GOV2	216-220	The RSPB continues to support the principle of encouraging co-existence of activities across the plan area, where the ecosystem can support the collective pressures of these activities. However, the plans offer no guidance to decision-makers on how to assess or determine the feasibility of co-existence, or no way of objectively determining if co-existence has been maximised. There is also no onus or responsibility on applicants to consider the potential of co-existence (compared to the requirement under GOV3 to consider displacement impacts).	

GOV3	221-224	<p>While we support consideration of displacement impacts, and the requirement to consider authorised but yet to be implemented activities is welcome, but Footnote 180 should clearly direct both decision-makers and applicants to consider all reasonably foreseeable projects in the planning system, not just for displacement purposes but in consideration of cumulative impacts. This is an increasingly accepted principle of cumulative impact assessment in relation to offshore renewable energy. It should also not be the case, as stated in footnote 180, that “<i>such applications [not yet implemented] would carry less weight than applications that have already been determined and authorised. How much weight is given to any undetermined application will vary on a case-by-case basis</i>”.</p> <p>Secondly, the impacts of displacement on activities, in terms of costs, are highlighted but not the environmental effects of displacement, for example the displacement of damaging fishing activity by other development into more environmentally sensitive areas. The plan must require these impacts to be taken into account. Paragraph 223, which states that “<i>activities or measures that result in levels of displacement with adverse effects in excess of the benefits gained are unlikely to be supported</i>”. However, it is not clear how this threshold will be determined.</p> <p>Finally there is no indication, as with other sectoral policies of this type, what conditions are required to satisfy parts a), b) and c) of GOV3, while part b) should be amended to require minimisation of impacts before attempted mitigation, rather than an ‘either/or’ option.</p>	<p>Amendment GOV3: Proposals should demonstrate in order of preference:</p> <ul style="list-style-type: none"> a) that they will avoid displacement of other existing or authorised but yet to be implemented activities b) how, if there are impacts resulting in, or resulting from, displacement by the proposed activity, how they will seek as a priority to minimise these impacts or, failing that, mitigate them. c) the case for proceeding with the proposal if it is not possible to minimise or mitigate the impacts of displacement.
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OG2	246-250	<p>The overriding primacy for oil and gas development, while existing policy, is in fundamental contradiction to the high-level vision for a marine environment generating low-carbon energy and where action is being taken to reduce and mitigate the impacts of climate change. It also runs against policy CC2 on minimising greenhouse gas emissions. No mention is made in Section 3.7, for example, to the effects of continuing use of fossil fuels on the ability of the UK government to meet statutory climate change emission targets[1], or the 2030 target to reduce greenhouse gas emissions by 60% by 2030 (relative to 1990 levels), as recommended by the independent Committee on Climate Change[2]. Indeed the CCC wrote to the Secretary of State for Energy and Climate Change on 13th September 2012 to voice its “<i>great concern</i>” about the ambiguous nature of the Government’s intention that gas will play an important role in the energy mix well beyond 2030.</p> <p>The marine plans’ support for carbon capture and storage is welcome, but this technology is not commercially viable at the present time to provide compensation for continued support for oil and gas. We recognise that gas in particular will continue to have a role in the short term in the transition to a low-carbon future, but given the vision period 2033, there should be some recognition that this time, fossil fuels should not be playing a major role in our energy future.</p> <p>In particular, we are extremely concerned that previous references to the need to fulfilling statutory environmental assessments has been removed from previous wording of policy OG2, as well as from any of the supporting text. There is also little indication of how the plan will alter the business as usual scenario for oil and gas development in any way, and</p>	<p>Amendment OG2: – Proposals for new oil and gas activities should demonstrate how they are necessary to facilitate the long-term transition to a low-carbon economy.</p>
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		<p>no policy encouragement for reducing, over time, our dependence on fossil fuels (both from UK waters and imported gas) to 2033.</p> <p>[1] https://www.gov.uk/government/policies/reducing-the-uk-s-greenhouse-gas-emissions-by-80-by-2050</p> <p>[2] http://archive.theccc.org.uk/aws2/4th%20Budget/4th-Budget_Chapter6.pdf</p>	
WIND2	260-264	<p>RSPB fully encourages strategic support for the generation of low-carbon forms of electricity, recognising that climate change is the greatest threat to the UK's wildlife. The major opportunity of marine planning is to ensure that lessons are learnt from past processes to select sites for offshore renewable energy, and that the environment is considered from the earliest stages. Renewable energy capacity must be maximised in the right places for least environmental impact.</p> <p>The process (in particular the SEA process) for selecting Round 3 zones for offshore wind failed to treat the environment as a major consideration or constraint relative to technical opportunity, resulting in sites which include areas of extremely high biodiversity value for species sensitive to the impacts of large-scale wind energy This is particularly true for the East plan area. The legacy of this is a race for consent, with impacts identified at both project and cumulative level causing huge costs and uncertainty to the industry.</p> <p>WIND2 (along with other sectoral policies) should also be appropriately caveated; legally, there must be no adverse effect on Natura 2000 sites or species of national or international concern in the plans support for sectoral development. This is also true for associated infrastructure;</p>	<p>Amendment WIND2: Proposals for sustainable offshore wind energy development inside Round 3 zones, including relevant supporting projects and infrastructure, should be supported.</p> <p>New policy WIND3: Proposals should demonstrate how they have sought to avoid sensitive coastal locations in the connection of supporting infrastructure to the terrestrial grid network.</p>

		<p>insufficient mention has been made in the plan to guiding the cabling infrastructure required for offshore wind, with no explicit link made to CAB1.</p> <p>We also recommend that a policy is added is added, which requires proposals to demonstrate that they have sought to avoid sensitive coastal locations for supporting infrastructure, especially within coastal SPAs, as well as a presumption in favour of connecting to the nearest terrestrial grid link.</p>	
TIDE1	268-273	<p>Policy TIDE1 provides a case study of the current failure of the marine plans to consider any environmental considerations at the strategic level, with the potential for considerable cost, delay and uncertainty on the part of the applicant. The area of tidal energy identified for TIDE1 is purely based on technical opportunity, with no consideration of environmental sensitivity. Indeed, Paragraph 270 states that <i>“note that in producing the identified areas of tidal stream resource no consideration of other existing users, interests and sensitivities has been undertaken. Assessment of these factors is the responsibility of the applicant”</i>.</p> <p>There is no initial indication of overlap with protected areas, the boundaries of which are well known and available on GIS. In previous communication the MMO has indicated that this inability to make strategic level guidance based on environmental compatibility has been due to a perceived lack of evidence, but protected sites and species are known by the MMO, as well as a list which species are sensitive to wave and tidal stream (in particular diving seabirds).[1]</p> <p>The accompanying justification/text for this policy also says nothing in</p>	<p>Amendment TIDE1: In defined areas of identified tidal stream resource (see figure 14), proposals should demonstrate, in order of preference:</p> <p>a) that they will not prevent potential future development of a tidal stream project</p> <p>b) how, if there are any negative impacts on potential tidal stream deployment, they will seek as a priority to minimise these impacts or, failing that, mitigate them.</p> <p>c) the case for proceeding with the proposal if it is not possible to minimise or mitigate the impacts</p> <p>Figure 14 should include consideration</p>

		<p>relation to the possible impacts of inappropriate wave and tidal development, or the need to consider the high degree of marine protection in and around the area covered by TIDE1.</p> <p>There is also no criteria or stated conditions, as with other sectoral policies of this type, on what is required to satisfy parts a), b) and c) of TIDE1, while part b) should be amended to require minimisation of impacts before attempted mitigation, rather than an 'either/or' option.</p> <p>[1] see for example McCluskie, A.E., Langston, R.H.W. and Wilkinson, N.I. (2012) Birds and wave & tidal stream energy: an ecological review, RSPB Research Report No. 42. http://www.rspb.org.uk/Images/mccluskie_langston_wilkinson_2012_tcm9-307966.pdf</p>	<p>of potentially sensitive species and habitats in its identification of future areas of tidal energy potential.</p>
CCS1	278-284	<p>There is no clarity, as with other sectoral policies of this type, on what conditions are required to satisfy parts a), b) and c) of CCS1, while part b) should be amended to require minimisation of impacts before attempted mitigation, rather than an 'either/or' option.</p>	<p>Amendment CCS1: Within defined areas of potential carbon dioxide storage, (mapped in Figure 15) proposals should demonstrate in order of preference:</p> <p>a) that they will not, wherever possible, prevent carbon dioxide storage</p> <p>b) how, if there are impacts on carbon dioxide storage, they will seek as a priority to minimise these impacts or, failing that, mitigate them.</p>

			c) the case for proceeding with the proposal if it is not possible to minimise or mitigate the impacts
CCS2	285-289	We support policy CCS2, which supports of retrofitting existing structures for CCS in preference to new CCS infrastructure.	
PS1-3	290-306	<p>We recognise the importance of a healthy ports and shipping sector, but this section on ports and shipping contains no requirements on the industry to mitigate the climate change impacts of growth in their sector, while making a large point in Paragraph 291 of promoting the perceived reduction in emissions as a result of shifting freight transport from road to waterborne freight.</p> <p>We are pleased to see the need to consider policies ECO1 and ECO2 are referred to in Paragraph 293, to which we would add the need to avoid impacts on protected sites (MPA1), given that many coastal locations near existing ports are protected by national or international law for their conservation importance. An additional general, area-wide policy should be added which states that in areas where marine wildlife are sensitive to shipping, negative impacts should not be increased by future shipping.</p> <p>We also note that there are large (non-coastal) areas of the plan areas with no specific policy relating to ports and shipping. An indication of how shipping is dealt with as a general policy, including the strategic desire to avoid environmental harm would be very helpful.</p> <p>We are further concerned to see the IROPI process highlighted twice (Paragraphs 315 and 322) as examples of exceptional circumstances,</p>	

		<p>without reference to the earlier stages of the appropriate assessment process under the Habitats Directives. Once again, this gives the impression of highlighting all available ways for development to occur, with no strategic consideration of the environmental impacts of doing so (and misunderstands the reason why IROPI exists as a last resort option in the first place).</p> <p>Finally, Paragraph 290 states that ports and shipping have a major role in the development of renewable energy such as biomass. Large-scale biomass from unsustainable sources is not, however, a renewable source of energy, the reasons for which are clearly articulated in the RSPB's joint report with Greenpeace and Friends of the Earth, "<i>Dirtier than Coal</i>"[1]. This reference to biomass should be removed.</p> <p>[1] http://www.rspb.org.uk/images/biomass_report_tcm9-326672.pdf</p>	
PS1	300-306	<p>While we support the development of a safe, clean and sustainable shipping industry, we are concerned about the implications for MPA proposals by the wording in this section. It should not be the case that MPA designation and management processes are governed by economic activity – the purposes of their designation are to protect the most important areas for a range of habitats and species, and for the coherent network as a whole.</p> <p>On several occasions, such as under PS1 Paragraph 305, the section refers to the designation of management measures "such as for the purposes of habitat conservation" (paragraph 305). This paragraph effectively gives free reign to dredge potentially sensitive sites for larger ships without due course to consider the environmental effects of doing</p>	

		so.	
PS2	307-315	Policy PS2 (c) should clarify that it is not the obligation for marine protected area proposals (identified in footnote 256) to account for cumulative impacts on navigation along with other activities, rather that MPAs are one component to be considered by proposals requiring static sea surface infrastructure.	
PS3	316-322	<p>The justifying text of policy PS3 is extremely concerning in its current form, as it states that proposals for marine protection (i.e. MPA designation and management) must demonstrate that they will not interfere with future opportunity for expansion of ports and harbours. This is confirmed by Paragraph 317, which states that PS3 “<i>seeks to prevent encroachment through development or other activities around ports and harbours that may restrict future growth. Encroachment is most likely to take the form of development... but this policy should also apply to decision-making related to other activities such as designation of an MPA</i>”.</p> <p>It must be clarified that the legal obligation to designate or contribute towards a network of marine protected areas must be based on scientific criteria alone for European Marine Sites under the Habitats and Wild Birds Directives, or as a primary consideration in the case of MCZs, and outweighs policy preference for industry expansion.</p> <p>There is nothing in the legislation for MPAs, both under European and UK legislation, which places a burden of proof on those designating MPAs to show that they are not compromising sectoral interests. Even under the MCAA, section 117(7) states that in designating MCZs, the appropriate authority “<i>may have regard to any economic or social</i></p>	<p>Amendment PS3: Proposals should demonstrate, in order of preference:</p> <p>a) that they will not interfere with future opportunity for expansion of ports and harbours</p> <p>b) how, if the proposal may interfere with future opportunities for expansion, they will seek as a priority to minimise these impacts or, failing that, mitigate them.</p> <p>c) the case for proceeding if it is not possible to minimise or mitigate the impacts</p> <p><i>n.b. This amendment is subject to clarity on the status of MPA processes as “proposals”</i></p>

		<p><i>consequences of doing so</i>". Furthermore, Section 69 of the MCAA clearly states that in determining a marine license, the licensing authority must have regard to the need to protect the environment and human health, as well as interference from other uses.</p> <p>To suggest that MPA processes must first demonstrate how they will avoid impacts on ports expansion, therefore, runs contrary to both legal and policy process, and sets an extremely worrying precedent.</p> <p>Finally, there is also no clarity, as with other sectoral policies of this type, on what conditions are required to satisfy parts a), b) and c) of PS3, while part b) should be amended to require minimisation of impacts before attempted mitigation, rather than an 'either/or' option.</p>	
DD1	329-333	<p>There is also no clarity, as with other sectoral policies of this type, what conditions are required to satisfy parts a), b) and c) of DD1, while part b) should be amended to require minimisation of impacts before attempted mitigation, rather than an 'either/or' option.</p>	<p>Amendment DD1: Proposals within or adjacent to licensed dredging and disposal areas should demonstrate, in order of preference:</p> <p>a) that they will not prevent dredging and disposal activities</p> <p>b) how, if there are impacts on dredging and disposal, they will seek as a priority to minimise these impacts or, failing that, mitigate them.</p> <p>c) the case for proceeding if it is not possible to minimise or mitigate the impacts</p>

AGG1-3	334-341	<p>We note the strong support for aggregates in the marine plan, although we also note that none of the exploration or optimal resource areas overlap with offshore wind zones, which was the basic premise of Option C (of the four planning options) which the MMO claim to have chosen in developing plan policies, along with Option B.</p> <p>The overlap with other policies affecting aggregate policy areas is not well identified, such as with FISH2, where there may be potential conflicts. It seems that environmental considerations have not been taken into account in the identification of optimal resource areas for aggregates, (or for other resource activities such as tidal energy). Once again there is no overlap with designated sites or no consideration of the impacts of increased aggregate extraction on known important fish spawning areas or sensitive higher species [1], such as habitat loss, disturbance and increased smothering or turbidity.</p> <p>[1] For a assessment of sensitive bird species to the impacts of aggregate extraction, see http://www.cefas.defra.gov.uk/alsf/projects/direct-and-indirect-effects/09p130.aspx</p>	
AGG1	342-346	<p>We support policy AGG1, which gives security to licensed aggregate extraction areas. However, we note that it encourages early application of license in order to safeguard the area from other activities for period of 5 years even without activity. On that basis, this may encourage rushed applications based on limited environmental assessment.</p>	

AGG3	352-357	<p>It should be clarified if the requirements under AGG3 apply to MPA designation and management processes, which have the possibility to affect aggregate extraction. MPA selection for European Marine Sites must be based primarily on the ecological need and should not be undermined by the impact upon resource extraction of aggregates or any other activity. Even where social and economic impacts are taken into account, legislation allowing this (such as the MCAA 2009) identifies that this should be done at a secondary stage to select between two sites of equal ecological importance, so as to minimise socio-economic impacts. In fact, if an MPA proposal was required to demonstrate a case for proceeding in the face of all policies which contain this requirement in the marine plan, this process would effectively be reversed and in contradiction of current conservation regulations.</p> <p>We do, however, support the clarity of guidance in Paragraph 357 on the ways in which policy AGG3 may be satisfied, which is the only sectoral policy of this type to provide any such guidance on the conditions by which parts a) to c) will be judged. In addition to showing that avoiding the location is unreasonable on economic grounds, the plan should require proposals to consider if other equivalent areas are of higher environmental value.</p>	<p>Amendment AGG3: Within defined areas of high potential aggregate resource proposals should demonstrate in order of preference:</p> <p>a) that they will not, prevent aggregate extraction</p> <p>b) how, if there are impacts on aggregate extraction, they will seek as a priority to minimise these impacts or, failing that, mitigate them</p> <p>c) the case for proceeding with the application if it is not possible to minimise or mitigate the impacts.</p> <p><i>n.b. This amendment is subject to clarity on the status of MPA processes as “proposals” within marine planning.</i></p>
CAB1	366-370	<p>We support policy CAB1 on recommending burial as the preferred method of installation. Paragraph 369 should stress that impacts on seabed habitats should be avoided in the first instance (not least through effective planning guidance), before seeking to minimise or mitigate them.</p>	

FISH1	381-386	<p>It is clear from Figures 20-23 that the East plan areas are of high importance to fishing (although it would have been helpful if Figure 21 could specify the gears involved). Marine planning provides an opportunity to address both the need for sustainable fish stocks as a long-term food source for both humans and wildlife, in so doing helping to ensure strong local communities with historical links to small scale fisheries. The long-term sustainability of fish stocks and the health of seabed habitats affected by fishing are also both key targets of the MSFD.</p> <p>As well as addressing the needs of sustainable fishermen and safeguarding important fish spawning and habitat areas, therefore, the plan must also address the environmental impacts of fisheries. Paragraph 382, for example, states, “<i>concerns exist as to the potential for new activities to have adverse effects on stock recruitment and the associated fishing grounds through development</i>”, without similar concern to the effects of impacts of fishing activity. As such, we are disappointed to see that there is no strategic guidance targeted towards the fishing industry at all in this plan.</p> <p>FISH1 applies to “<i>areas of fishing activity</i>”, which covers the entire plan area. As such, any proposal in the entirety of the plan areas will be required to demonstrate how they will interact with fisheries in the Southern North Sea. But although the impacts of other activities on displacement of fishing activities is considered, the environmental effects of this displacement (only on the socio-economic impacts for the fishing industry) or the effects of fisheries themselves, e.g. for the impacts on benthic habitats or increasing the sustainability of fish stocks, are not. Links must at least be made to policy GOV3 on displacement (as</p>	<p>Amendment FISH1: Within areas of fishing activity, proposals should demonstrate in order of preference:</p> <p>a) that they will not prevent fishing activities on, or access to, fishing grounds</p> <p>b) how, if there are impacts on the ability to undertake fishing activities and access to fishing grounds, they will seek as a priority to minimise these impacts or, failing that, mitigate them.</p> <p>c) the case for proceeding with their proposal if it is not possible to minimise or mitigate the impacts</p>
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	<p>amended to incorporate the environmental effects of displacement)</p> <p>The plans also lack historical context for the East plan area, highlighting its current predominance of shellfisheries, without the context that historically North Sea ports landed a much more mixed balance of pelagic, demersal and shellfisheries. Scarborough at the northern boundary of the plan area also was a well-known recreational tuna fishing port at one stage. The state of North Sea fisheries is given limited attention, compared to the policy support for maintaining access to North Sea fishing grounds in FISH1.</p> <p>Paragraph 385 should be much stronger on the need to consult the fisheries sector early on potential impacts, by changing “<i>may include consultation</i>” to “<i>should include consultation</i>”. As in Paragraph 404, it would be helpful to list major consultees (such as the North Sea Regional Advisory Council, to be the North Sea Advisory Council after Jan 1, 2014) if indeed the implication is that “<i>consultation</i>” should be between the applicant and affected stakeholders rather than between the applicant and the “regulatory authorities” (this distinction isn’t made clear). It should also clearly direct applicants to “<i>identify issues at scoping stage</i>), and <i>suggested measures to at best minimise or at least mitigate them.</i>”</p> <p>In FISH1, as with many other sectoral policies of this type, there are also no guidance or criteria for applicants on the conditions under which they should demonstrate, in order of preference, a), b) or c), respectively. Conditions should be stated, under which the avoidance of preventing fishing activities on, or access to, fishing grounds should be a <i>sine qua</i></p>	
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		<p><i>non</i> for the applicant.</p> <p>Also, FISH1(b) should be amended to make it clear that there should be a presumption to minimise impacts before attempting to simply mitigate them.</p>	
FISH2	387-391	<p>We are pleased to see strategic support for safeguarding important fish spawning and habitat areas in the plans through policy FISH2. This is perhaps the one sectoral policy, for which the marine plan provides some strong environmental support to deliver consequent economic benefits. As with other policies with this wording, however, there is little guidance, both in the plans and the implementation plan, as to how these criteria (from a to c) will be judged to the satisfaction of decision-makers.</p> <p>In FISH2, there is no guidance or criteria for applicants on the conditions under which they should demonstrate, in order of preference, a), b) or c), respectively. E.g. there should be stated conditions under which the avoidance of impact on spawning and nursery areas etc. should be a <i>sine qua non</i> for the applicant. Also, in (b) there should be a presumption to minimise impacts before attempting to mitigate them.</p> <p>Paragraph 391, like Paragraph 385 again leaves too much discretion on the applicant on whether or not to consult, should be much stronger on the need to consult the fisheries sector early on potential impacts, by changing “<i>may include consultation</i>” to “<i>should include consultation</i>”. It should also list major consultees (such as the North Sea Regional Advisory Council, to be the North Sea Advisory Council after Jan 1, 2014) if indeed the implication is that “<i>consultation</i>” should be between the applicant and affected stakeholders rather than between the applicant</p>	<p>Amendment FISH2: Within and adjacent to spawning and nursery areas and their associated habitat, applications for proposals should demonstrate, in order of preference:</p> <p>a) that they will not have an impact upon spawning and nursery areas and the associated habitat</p> <p>b) how, if there are impacts upon the spawning and nursery areas and the associated habitat, they will seek as a priority to minimise these impacts or, failing that, mitigate them</p> <p>c) the case for proceeding with their proposals if it is not possible to minimise or mitigate the impacts</p>

		and the “regulatory authorities” (this distinction isn’t made clear). It should also clearly direct applicants to “ <i>identify issues at scoping stage), and suggested measures to at best minimise or at least mitigate them.</i> ”	
AQ1	392-406	<p>We disagree with the one-sided view of Paragraph 395 that the “<i>key issue</i>” relating to aquaculture is to enable its growth, without any recognition of the sustainability impacts of large-scale aquaculture. Not all areas will be suitable for aquaculture. However, the plan contains a spatially explicit policy with little spatial information or existing supporting evidence (we note, however, the publication of a policy map for AQ1 during the consultation period).</p> <p>Without giving similar strategic protection for important or “<i>optimum</i>” sites likely to form part of the MPA network in future (see comments on Objective 8), this feels unbalanced in its encouragement of sustainable development.</p> <p>There are also no clarity or stated conditions, as with other sectoral policies of this type, as to what is required to satisfy parts a), b) and c) of AQ1, while part b) should be amended to require minimisation of impacts before attempted mitigation, rather than an ‘either/or’ option.</p> <p>In keeping with guidance on other stakeholders (e.g. Fisheries). The need for consultation to be timely should be emphasised in Paragraph 404.</p>	<p>Amendment AQ1: In optimum sites for aquaculture development (identified through research), proposals unrelated to aquaculture should demonstrate in order of preference:</p> <p>a) that they will avoid compromising potential future aquaculture development in optimum sites by altering either the sea bed or water column in ways which would prevent or interfere with aquaculture productivity or potential</p> <p>b) how, if there are impacts on aquaculture development in optimum sites, they will seek as a priority to minimise these impacts or, failing that, mitigate them</p> <p>c) the case for proceeding with the proposal if it is not possible to minimise or mitigate the impacts</p>

TR1-3	407-411	<p>A healthy tourism, leisure and recreation industry, based on and respecting a healthy marine environment and operating across the entire year rather than with excessive seasonality, is of huge local benefit to the plan area. As such, we welcome policies that give support to allowing recreation to develop in such a sustainable fashion, and welcome the plans' recognition that <i>"tourism and recreation rely on a healthy marine environment including good water quality, clean beaches, abundant wildlife and a healthy ecosystem to attract people"</i> (Paragraph 409).</p>	
TR1	412-416	<p>There are also no clarity or stated conditions, as with other sectoral policies of this type, on what conditions are required to satisfy parts a), b) and c) of TR1, while part b) should be amended to require minimisation of impacts before attempted mitigation, rather than an 'either/or' option.</p> <p>We support the consideration of overwintering mobile species in construction, but would like this to be extended as a general principle beyond this section. This should be required regardless of the impacts on tourism and recreation.</p> <p>Opportunities for wildlife watching should also be added to the list of activities in Paragraph 426.</p>	<p>Amendment: TR1: Proposals for development should demonstrate that during construction, in order of preference:</p> <p>a) they will not disrupt or disturb tourism and recreation activities</p> <p>b) how, if there are impacts on tourism and recreation activities they will seek as a priority to minimise these impacts or, failing that, mitigate them</p> <p>c) the case for proceeding with the proposal if it is not possible to minimise or mitigate the impacts.</p>

TR2	417-423	<p>There are no guidance or criteria, as with other sectoral policies of this type, what conditions are required to satisfy parts a), b) and c) of TR2 on impacts on recreational boating routes, while part b) should be amended to require minimisation of impacts before attempted mitigation, rather than an ‘either/or’ option.</p>	<p>Amendment TR2: Proposals that require static objects in the East marine plan areas, should demonstrate, in order of preference:</p> <ul style="list-style-type: none"> a) that they will not impact on recreational boating routes b) how, if there are impacts on recreational boating routes, they will seek as a priority to minimise these impacts or, failing that, mitigate them c) the case for proceeding with the proposal if it is not possible to minimise or mitigate the impacts
TR3	424-428	<p>We are disappointed to see that the MMO have rejected the recommendations of the sustainability appraisal to encourage the diversification of tourism and recreation to reduce their seasonality. We particularly disagree with Paragraph 413 that reducing seasonality will have negative impacts on small coastal communities, many of which exhibit high levels of social deprivation and unemployment as a result of the lack of business outside the summer season. This is indeed currently contradicted by policy TR3 and Paragraph 425 which highlights the need to diversify the tourism offer. Environmental tourism and recreation form a key part of the off-season potential in many coastal areas, and should be encouraged where it is appropriate to do so.</p>	<p>Amendment TR3: Proposals that deliver sustainable and year-round tourism and recreation-related benefits in communities adjacent to the East marine plan areas should be supported.</p>

TR4	new	We are also disappointed, given the recognition of the sector’s reliance on a healthy environment, that there is no specific policy on seeking to support activities that are likely to maintain or enhance this natural environment, or for encouraging sustainable forms of tourism and recreation over other less environmentally friendly forms.	Additional policy TR4: Proposals for tourism and recreation that incorporate improvements in the quality of the marine environment as a basis for sustainable tourism and recreation should be supported.
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Question 6

Do you have any other comments about the draft east marine plans not covered above?

Yes No

Yes, see below

Habitats Regulations Appraisal

We fundamentally disagree with the conclusions of the Habitats Regulations Appraisal (HRA), which states that any adverse effects of the plan upon European Marine Sites can be mitigated by project level assessment and monitoring. Project-level assessment is a legal obligation (no more or less) and cannot be considered as a form of mitigation for the plan. This approach represents poor quality spatial planning as it offers no scrutiny of whether developers can prove this at the application stage. Given that the impacts on protected sites have not been identified, it is not possible to propose and test appropriate mitigation measures.

The HRA for the Marine Policy Statement⁵, in deferring similar assessment to the plan level, states that “*Both the Marine Plans themselves and any projects will contain more information on location, duration and magnitude of specific activities than was possible at the MPS stage, such that it will be much easier to assess the impacts upon individual European Sites (and, most importantly, their qualifying habitats and species)*”. We are concerned to note that the assessment of these plans has failed to conduct a more detailed assessment than the plans themselves, despite more information being available to it.

The HRA is required to consider the effects of the plans as a whole on the integrity of one or more European Marine Sites. This includes the predicted effect of all policies on sites, not simply a selection of policies from the plans. It is not appropriate to screen out policies for sectors for which HRAs have already been produced, as these HRAs were produced alongside the marine plans and may not employ a consistently thorough and up-to-date evidence base. While we recognise the developing nature of wave, tidal and CCS technologies, evidence is available to make an estimate of potential impacts on features of European Marine Sites. The assessment should be undertaken using the best available information. We are profoundly concerned that no effort to evaluate potential impacts has been taken.

We also disagree with the statement that “*it is not possible at a strategic level to identify specific effects on European sites arising from the implementation of future individual plans or projects*”. A simple overlay of the area covered policy TIDE1 with designated or candidate/potential SACs and SPAs would reveal that policy TIDE1 falls within two such sites (see our answer to Question 7 for a map of this). A similar process would reveal the sites, and features, which fall within the area covered by policy AGG3. RSPB’s data guidance, produced in 2012 has pointed the MMO towards literature on which species are sensitive to both aggregates and wave and tidal energy⁶, which would allow a comparison of which sites would be most affected, depending on the type and sensitivity of the features of the sites concerned.

Implementation plan

⁵ <http://webarchive.nationalarchives.gov.uk/20130123162956/http://www.defra.gov.uk/corporate/consult/marine-policy/100721-marine-policy-hra-report.pdf>

⁶ http://www.rspb.org.uk/Images/marine_planning_tcm9-338699.pdf, Annex 3 – also see McCluskie et al. (2012) for impacts of wave and tidal stream devices at http://www.rspb.org.uk/Images/mccluskie_langston_wilkinson_2012_tcm9-307966.pdf (Appendix I)

The implementation plan states that all policy implementation will be through “*relevant statutory decision-making processes*” or by “*the development of statutory and non-statutory plans*”. This provides no guidance to applicants, for example, what level of evidence is needed to meet part the requirements of most sectoral policies, particularly those with the three stage process of identifying impacts on other activities or making a case for proceeding in the case of such impacts

There is also no detailed evidence on which monitoring programmes are to be used to measure each policy, or the indicators of the achievement of these policies.

Impact assessment/Draft analysis

The draft analysis of the marine plan is extremely unbalanced, devoting 21 pages to economic analysis, compared to one page to environment impacts (which assumes no negative impacts from the growth of most sectors). The majority of benefits identified are potential economic benefits, through the plans adding clarity to existing processes and assuming growth in most sectors, but there are no quantified costs or benefits (apart from to the MMO itself) due to the high-level nature of the plan policies and uncertainty about the nature of changes to the business-as-usual scenario.

Section 6 on environmental impacts suggests that due to policy ECO1, “*It is likely, therefore, that as a result of the plan policy there will be less [sic] cumulative impacts when compared to the baseline*”. It also concluded that, based on ECO1 and ECO2 (a highly specific policy on the risk of hazardous substances): “*It is anticipated that the marine plans therefore contribute to maintaining and in some cases increasing the levels of good and service that the marine environment can sustainably support, with resultant economic benefit*”. Yet, it is difficult to envisage this given the impacts of the future growth in all sectors as predicted in the draft analysis.

There is also no mention of the social and economic benefits of healthy marine and coastal ecosystems (in terms of ecosystem services). These services are difficult to quantify but the benefits of effective marine protection have been clearly demonstrated in a number of studies⁷. The analysis also disagrees with the Sustainability Appraisal, which states that “*the Plans are likely to have*

• ⁷ The Local Value of Seabirds: Estimating spending by visitors to RSPB coastal reserves and associated local economic impact attributable to seabirds, (2010), The RSPB, Sandy, UK. (http://www.rspb.org.uk/Images/seabirds_tcm9-262584.pdf)

significant effects in terms of the ecological integrity of the marine environment” (Page 63) and that “there is no specific policy which relates to how the plans will assist in delivering MSFD and WFD targets” (Page 54).

Question 7 – How much do you agree that the Marine Plans adequately provide for the sustainable development of the East Inshore and Offshore marine areas?

Strongly disagree Disagree Neither agree nor disagree Agree Strongly Agree

We acknowledge the significant work of the MMO since the adoption of the UK MPS to create this first set of plans. We also acknowledge that these are the first plans in a long-term process to manage our seas more effectively, and that marine planning is a new discipline requiring continued stakeholder support and involvement. We are committed to working with the MMO in future to create a truly plan-led system for the appropriate allocation of space to allow sustainable development.

The draft plans, however, lack clarity overall as a document, in terms of its usefulness to decision-makers. Paragraph 65 of the marine plans repeats Defra’s initial marine planning guidance that “*marine plans should ensure that the MMO is able to proactively guide the future direction of the marine area rather than responding reactively to resource demands as and when they arise*”. The sustainability appraisal (section 2.1.1) goes further states that marine plans are intended to guide:

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- Molloy, D., Thomas, S. & Morling, P (2011). Reserves and Local Economies, The RSPB, Sandy, UK. (<http://www.rspb.org.uk/ourwork/policy/economics/casefornature/Economies/localeconomies.aspx>)
 - Natural Foundations: Conservation and Local Employment in the UK, (2011). The RSPB, Sandy, UK. <http://www.rspb.org.uk/ourwork/policy/economics/casefornature/Economies/localeconomies.aspx>
 - Fletcher, S., Rees, S., Gall, S. Jackson, E., Friedrich, L., and Rodwell L. (2012) Securing the benefits of the Marine Conservation Zone Network. A report to The Wildlife Trusts by the Centre for Marine and Coastal Policy Research, Plymouth University. <http://www.wildlifetrusts.org/sites/default/files/Securing%20the%20benefits%20of%20MCZs.pdf>
 - Hussain, S.S., Winrow-Griffin, A., Moran, D., Robinson, L.A., Fofana, A., Paramor, O.A.L., Frid, C.L.J., (2009). An ex ante ecological assessment of the benefits arising from marine protected areas designation in the UK, *Ecological Economics*, 69, 828-838.
 - Potts, T., Burdon, D., Jackson, E., Saunders, J., Atkins, J., Hastings, E. and Langmead, O., (2013). Marine Protected Areas and Ecosystem Services - Linking Conservation and Human Welfare? *Marine Policy*, in press, 22 August 2013

- “marine users to the most suitable locations for different activities
- the use of marine resources to ensure sustainable levels
- all marine users to ensure everyone with an interest has an opportunity to contribute to marine plans
- a holistic approach to decision-making and consider all the benefits and impacts of all the current and future activities that occur in our marine environment”.

However, it is unclear what value these draft plans will have to either decision-makers or applicants, in seeking to achieve these strategic aims, and what difference it will make, in reality, to ensuring that development occurs in a sustainable fashion. For many of the sectoral policies, there are no guidance or criteria, on what conditions are required to satisfy parts a), b) and c) of these policies on dealing with impacts on particular activities (apart from policy AGG3).

As it stands, the plans offer little more than a clarification of existing policies and support for ongoing development, with little proactive spatial or temporal guidance for activities (most spatial policies apart from CCS2 and CAB1 are directed to other proposals interacting with that space).

There is little sense (beyond Table 1 on Page 23 of the plan document) of how policies interact spatially and temporally with each other, both on a spatial and temporal basis but also more generally for area-wide policies (such as between policies on cumulative impacts, co-existence and displacement). No map has been produced, which provides spatial indications of these overlaps or a desired spatial outcome for the period of the vision, even in simplified structural form, as has been done for Germany⁸, Belgium⁹ or the Netherlands¹⁰. It is clear that encouraging development in all activities is likely to lead to sectoral conflicts, for which the plan offers no prioritisation.

The Sustainability Appraisal appears to confirm this by stating “As these are the first marine plans to ever be produced [for England], it is also unclear as to the extent of influence they will have on the implementation of marine activities compared to the situation without them” (Section 4.11.7).

⁸ http://www.bsh.de/en/Marine_uses/Spatial_Planning_in_the_German_EEZ/documents2/MSP_DE_NorthSea.pdf

⁹ http://www.health.belgium.be/filestore/19086901_EN/MSP_ENGLISH.pdf (Page 106)

¹⁰ <http://www.zeeinzicht.nl/docsN2000/IBN2015%20%28EN%29.pdf> (Page 8)

We believe that the plan policies also present an unbalanced interpretation of sustainable development. In our view, the sectoral policies misinterpret the desire for sustainable development as a desire to increasing all activities in general. Most sectoral policies are a “how-to” guide for applicants to achieve consent even where there are impacts identified (even highlighting IROPI on at least three occasions as an exceptional circumstance to allow authorisation), with little consideration of whether that activity, both alone or in combination with other proposals, is sustainable or not.

There is also no definition in the plans for sustainable development, or reference to the five principles of sustainable development, which guide the High Level Marine Objectives, i.e.

- living within environmental limits¹¹;
- ensuring a strong, healthy and just society;
- achieving a sustainable economy;
- promoting good governance; and
- using sound science responsibly.

More specifically, however, we believe the plans sets a worrying precedent for the future direction and ambition of marine planning in England, in relation to the unbalanced way in which this draft plan strategically encourages growth of most activities with no equivalent strategic consideration of the environment, deferring all such environmental assessments to the project level. This misses a fundamental opportunity for planning to actively contribute to the aims of the Water Framework Directive (WFD) and Marine Strategy Framework Directive (MSFD). We cannot agree that these plans will fulfil this purpose, and it appears impossible for the policies as they stand to deliver the strategic objectives and high-level vision of plan areas in good environmental and ecological status.

Page 63 of the sustainability appraisal goes further in stating “*the Plans are likely to have significant effects in terms of the ecological integrity of the marine environment, which in turn has important implications for rates of carbon sequestration by marine organisms*”.

¹¹ References to living within environmental limits have indeed been removed entirely from the plan (in particular from the vision)

The SA also concludes that there will at best be no ecological improvement as a result of the plan policies, and a strong possibility of further decline to environmental baseline conditions based on the options chosen by the MMO to develop the plan.

As such, we cannot agree that the marine plans provide for the sustainable development of the east inshore and offshore marine areas. It is vital that the evidence gaps, which have led the MMO to avoid setting policies based on environmental sensitivities and compatibilities, are filled as soon as possible.

Some sort of electronic spatial expression of the plan policies is also urgently needed. The online marine planning portal provides the most useful mechanism for establishing which policies apply for a given location within the plan areas, and we welcome that the spatial policies have been added as layers to this interface. However, the usability of this portal needs to be improved, for example by allowing users to draw a box as well as a single point. By selecting an area or location, an end user should be able to get a individual pdf copy, targeted based on the nature of their proposal, of all the policies in and around that area (including area-wide policies) based on the marine plan, with simple maps showing necessary information.

A dedicated part of the MMO's website should also be set up to access specific parts of the plan, in a similar way to the approach being taken for the NPPF, which allows users to identify themes and policies directly (<http://planningguidance.planningportal.gov.uk/>).

Sustainable development and the ecosystem approach

Sustainable development cannot, and will not, happen without a healthy marine environment. The RSPB has tested the plan against five criteria we believe are essential to meet the requirements of ecosystem-based planning, which the MMO is committed to under the MPS and High Level Marine Objectives (HLMOs). The ecosystem approach is also about much more than just protecting the environment: considering ecosystems proactively in the strategic planning process can unlock the regulatory regime, avoiding conflict, delay, expense and uncertainty for developers and enabling sustainable development in the right places and at the right times.

These criteria are:

1. A path to a long-term vision for marine space to reach and maintain Good Environmental Status under the MSFD.

2. The conservation of key habitats and species (linked to achieving MSFD state Descriptors)
3. The management of collective human pressures within sustainable levels (linked to achieving MSFD pressure descriptors)
4. Coordinated planning across regions and borders (linked to MSFD coordination requirements)
5. Considering, valuing and ensuring the long-term supply of ecosystem services

1. Do marine plans clearly set out a path towards their long-term vision?

RSPB Verdict

As set out in our answer to Question 3, the RSPB welcomes the strategic vision of the draft plans, which looks forward beyond 2020 to 2033. We support the sustainable use of the marine environment, in particular the transition to low-carbon forms of energy generation, such that the marine area as a whole is in GES and key parts of the ecosystem are protected.

While in some cases, the policies (such as aggregates) look to developing future resources, the majority do not provide a clear path towards this vision. As a whole, the policies primarily only clarify existing “*business as usual scenario*” sectoral support for development in all activities, and most policies have a step by step guide for how to proceed even where there are impacts (including at least 3 references encouraging IROPI). There are no policies saying development should not take place in environmentally sensitive areas.

2. Do marine plans support conservation measures, in particular an ecologically coherent and well-managed network of Marine Protected Areas?

RSPB Verdict:

We strongly support Objective 9, which seeks to support the conservation objectives of individual MPAs, as well as considering the impacts of proposals on the ecological coherence of the MPA network in general. We also welcome recognition that this MPA network is not yet complete, and that there are currently processes ongoing to designate further marine SPAs and MCZs.

We welcome policy MPA1, which addresses the coherence of the network, but we note that there is no explicit policy to meet the needs of individual sites. We are also disappointed that a previous MPA policy, which sought to apply the habitats regulations to unprotected areas shown to be critical for mobile species, has been removed. There is no guidance on how proposals should treat MCZs, both those designated in the first tranche and the remainder, which have no future designation timetable.

We do, however, welcome the wider objectives on seeking to reverse the loss to marine biodiversity and ensure healthy and resilient ecosystems, in addition to marine protected areas. We also support the plan's consideration of important fish spawning areas under policy FISH2. However, we strongly recommend an additional policy under Objective 7, which reflects the intention of this objective to recover biodiversity, rather than just apply "*appropriate weight*" under BIO1. We have made some suggested amendments and additions to policy in our specific comments to each section.

Finally, it is unclear whether the definition of "*proposals*" in the marine plan includes MPA designation or management. Section 3.1.8 of the MPS clearly states that "*Marine plan authorities and decision-makers should take account of the regime for MPAs and comply with obligations imposed in respect of them. This includes the obligation to ensure that the exercise of certain functions contribute to, or at least do not hinder, the achievement of the objectives of a MCZ or MPA (in Scotland). This would also include the obligations in relevant legislation relating to SSSIs and sites designated under the Wild Birds and Habitats Directives.*"

Paragraph 67 states that the term 'proposal' "*encompasses... different terms, such as application, applicant, developer, application for a content, application for the development etc... It can also be taken to include development, activities and management measures unless specified otherwise*". There is a worrying statement, for example, in the ports section, paragraph 317, which states that policy PS3 on requiring proposals to demonstrate that they will not interfere with future ports expansion "*should also apply to decision-making related to other activities such as designation of an MPA*".

The designation of European Marine Sites is legally based on scientific criteria in order to identify and protect the most ecologically important habitats and species, and restore and maintain them to favourable conservation status. Even for nationally designated MPAs, such as MCZs, the consideration of socio-economic impacts should be at a secondary stage to determine between two sites

of equal ecological importance.¹² These legal requirements under the Habitats and Birds Directives and MCAA to create MPAs in the plan area are clear and take precedence over policy decisions relating to the plan.

Applications for development must legally demonstrate that they will not adversely impact the integrity of the site or the achievement of its conservation objectives, or make a case for proceeding where there are impacts. Section 69 of the MCAA further states,

“(1) In determining an application for a marine licence (including the terms on which it is to be granted and what conditions, if any, are to be attached to it), the appropriate licensing authority must have regard to-

- (a) the need to protect the environment,*
 - (b) the need to protect human health,*
 - (c) the need to prevent interference with legitimate uses of the sea,*
- and such other matters as the authority thinks relevant”.*

Any requirement on MPAs to demonstrate how they are not compromising sectoral development contradicts accepted policy on selecting and managing MPAs, as well as contradicting the MMO’s own high-level support for MPAs, both for individual sites and the wider network, under Objective 8 of the marine plan.

This is especially worrying as the MPA network is far from complete – future marine SPAs have not been designated and the number of, and conservation objectives and management measures for, MCZs are still to be determined. NGOs have signed a joint statement with the Sea Bed User and Developer Group (SUDG), calling for the urgent designation of a fully representative and

¹² The Ecological Network Guidance for Marine Conservation Zones states: *“Where multiple areas are identified that equally contribute to achieving the network design principles and further ecological considerations, those features which have been less impacted (or are less likely to have been impacted) by human activities should generally be considered a higher priority for MCZ identification than more degraded examples of the same feature.”*

ecologically coherent MPA network as soon as possible, in order to provide certainty for investment as well as environmental protection¹³.

3. Do marine plans proactively seek to keep collective human pressures within sustainable levels, through the best use of marine space? (i.e. further than simply requiring project-level environmental assessment).

We are extremely concerned by the precedent that all consideration of the environment or environmental impacts is deferred to the project level, whereas most sectoral activities are given strategic encouragement, provided they demonstrate how they will deal with impacts on other activities or resources. This to us seems extremely unbalanced. There is also no anticipation of what happens if and when activities do not meet project level assessments, or if such assessments identify adverse impacts, leading to further costs down the line.

Steps to deal with impacts should firstly avoid impacts before they occur through strategic guidance, which is the key role of ecosystem-based planning from our perspective. Subsequent to this, there are key obligations to minimise potential impacts before mitigating or compensating for those impacts that cannot be avoided or minimised. These steps have increasing workloads and resource implications, if the preceding steps have not been done.

Marine planning is the big strategic chance to take steps to avoid environmental harm at the strategic level, as is the case at (former) regional terrestrial plans, which sought to identify and guide areas for future housing away from vulnerable areas (both environmentally and from coastal change). However, this opportunity has simply not been taken: almost all spatial policies are based on just technical resource opportunity with no consideration of environmental compatibility, in particular for policies identifying resource opportunities.¹⁴ In taking such steps, while at the same time deferring HRA and sustainability appraisal assessments of these policies to the project level, is fundamentally unsound from a spatial planning perspective and does not constitute ecosystem-based planning.

¹³ http://www.wildlifetrusts.org/sites/default/files/joint_sudg_engo_statement.pdf

¹⁴ This is articulated most clearly in policy TIDE1 and AGG3, given no new wind resource areas have been identified.

Section 2.6.1.3 of the MPS further states that “*Marine planning will be a key tool for ensuring that the targets and measures to be determined by the UK for the MSFD can be implemented*”. Yet the conclusion of the sustainability appraisal is that, as the current draft stands, “*there is no specific policy which relates to how the plans will assist in delivering MSFD and WFD targets (other than in potentially assisting in developing the evidence base through, amongst other things, its strategic Evidence Plan), and it is expected that this may be a consideration of later iterations of the plans*” (page 54).

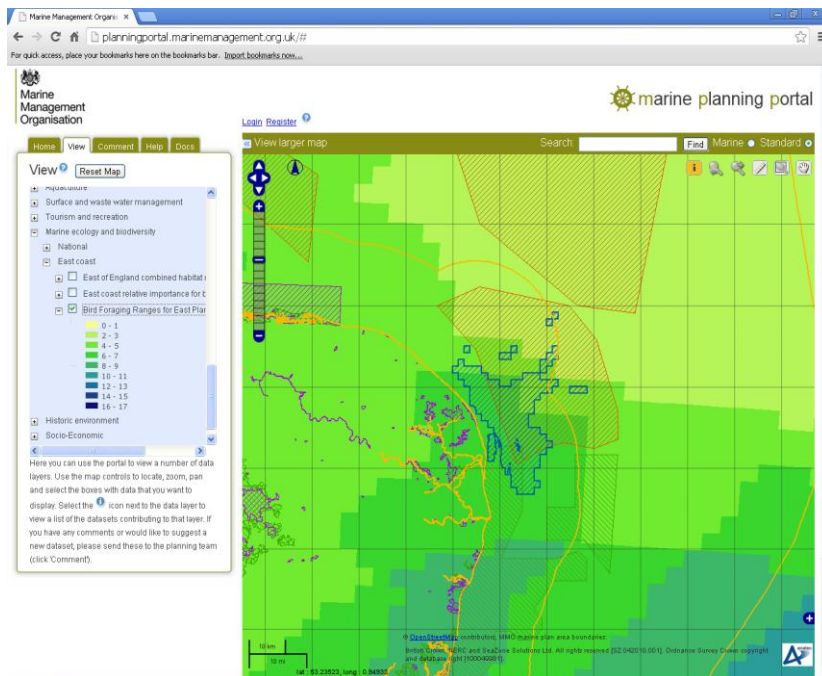


Figure 1. Overlap of policy area TIDE1 with European protected sites and seabird foraging range information, using the MMO's marine planning portal

It is claimed that the baseline evidence is not at a level that gives the MMO confidence to make such strategic decisions at this stage, yet an initial study of the marine planning portal (Figure 1), however, indicates that the area identified for TIDE1 falls within the Haisborough, Hammond and Winterton Site of Community Importance (SCI) and the Outer Thames Estuary SPA, which protects red-throated divers, regarded as highly sensitive to wave and tidal stream development (McCluskie et al. 2012)¹⁵. It is also used by at least 4-5 foraging seabird species, the detail of which species would indicate a relative level of vulnerability.

The continued deferral of such considerations to project level when identifying suitable areas for development is likely to lead to further costs, delays and environmental decline. The MMO must set out a clear desire to move towards a more proactive consideration of environmental risks in future plans, in line with the ecosystem approach.

Given that other European countries have decided to take such a

¹⁵ http://www.rspb.org.uk/Images/mccluskie_langston_wilkinson_2012_tcm9-307966.pdf (pages 29-30, Appendix I)

plan-led approach with equivalent levels of evidence, it is therefore disappointing that the MMO have not chosen to take a more ambitious approach. We hope that the next revision of the plan is able to move towards this more prescriptive end goal.

Furthermore, there are essentially no policies which give direct guidance to particular activities, or guide development or associated infrastructure to preferred locations or times of year; rather, the majority of proposals ask only for activities to consider their impacts on other activities, either in terms of displacement or to avoid compromising potential resource.

There is also no reference at all to the need to apply precaution in decision-making, within a risk-based approach, as reaffirmed in the MPS section 2.3.1.2¹⁶ and HLMOs¹⁷. This fundamental principle has been consistently diluted through the planning process from the HLMOs to the draft plan, such that it has disappeared from plan guidance and must be reinserted.

We do welcome, however, policy ECO1, which recommends that cumulative impacts should be taken into account in decision-making and plan implementation. There is though no obligation or equivalent recommendation on proposals to demonstrate how they have avoided or mitigated cumulative impacts.

4. Are marine plans coordinated with neighbouring plans, especially within the same MSFD sub region?

We welcome the plans' commitment, under Objective 10, to ensure integration with terrestrial planning. The integration of marine considerations in terrestrial plan documents, and the shared use of important coastal documents, such as Shoreline Management Plans and coastal strategies, is extremely important.

Paragraph 206 states that "*proposals will be expected to provide evidence of efforts undertaken to ensure compatibility and integration across the various administrations*", but there is no policy to this effect

¹⁶ "Where evidence is inconclusive, decision makers should make reasonable efforts to fill evidence gaps but will also need to apply precaution within an overall risk-based approach, in accordance with the sustainable development policies of the UK Administrations."

¹⁷ "The precautionary principle is applied consistently in accordance with the UK Government and Devolved Administrations' sustainable development policy"

Marine plan policies which involve associated infrastructure at or near the coast (such as renewable energy) should encourage proposals to avoid the most sensitive coastal locations and times of year when selecting cable landfall.

5. Do marine plans consider ecosystem services in decision-making, as required in the Marine Policy Statement¹⁸?

We welcome the MMO's identification of ecosystem services as a priority evidence gap (Paragraph 152) and support efforts to improve knowledge of marine ecosystem services. A framework for appropriately valuing and safeguarding these services is much needed. In the interim period, however, this should not prevent the marine plan from giving support to the protection and restoration of coastal and marine ecosystems known to provide socio-economic benefits, in particular coastal ecosystems which provide essential flood prevention, water filtration and storm protection benefits, in addition to their importance for mobile species including seabirds and waterbirds.

We support, however, the consideration given to protecting important fish spawning and nursery habitats as essential to maintaining healthy and long-term fish stocks, although responsibility also falls to the fishing industry to ensure that these stocks are restored to sustainable levels with minimal wider environmental damage from fishing activity.

Conclusion

In conclusion, although the plan provides policy support for the coherence of the MPA network and a balanced set of strategic objectives, we do not feel the current draft delivers the ecosystem approach to planning the MMO is committed to delivering through the MPS and HLMOs, and therefore risks creating unsustainable development. We support, however, the MMO's desire to fill the evidence gaps necessary to allow it to develop a more plan-led system for the marine area and will continue to engage at a both a national and regional level to ensure that the best available evidence on seabirds and waterbirds forms an underlying basis for marine planning.

¹⁸ Section 2.5.6: "The marine plan authority should give consideration to the social and economic benefits that the enhancement of marine ecosystems can provide, including to coastal communities."

Question 8

Please indicate your level of agreement with the following statement:

“The MMO has taken all reasonable steps to engage with people or groups with an interest in marine planning in the East as outlined in the approved Statement of Public Participation.”

Strongly disagree Disagree Neither agree nor disagree Agree Strongly agree

Agree

We are satisfied that the MMO has taken all reasonable steps to engage with stakeholders during the preparation of these plans, particularly in the early stages of issues identification and evidence collation.