

MARINE SPATIAL PLANNING – QUESTION TIME: Twenty Questions

Foreword

Like most marine stakeholders, NGOs have a number of questions regarding MSP that need to be answered. Also like most stakeholders, we bring to the table experience in the management of our seas. Here we attempt to answer some of the questions that arose at the MSP Pilot workshop in Liverpool. We hope that you find our answers a useful contribution to the debate and we look forward to further discussion as the pilot progresses. For our more detailed position papers on MSP please see: http://www.wcl.org.uk/marine_campaign.htm

This paper is supported by the following organisations:

- Buglife - The Invertebrate Conservation Trust
- Council for British Archaeology
- Marine Connection
- Marine Conservation Society
- Royal Society for Protection of Birds (RSPB)
- Shark Trust
- The Wildlife Trusts
- Whale & Dolphin Conservation Society
- WWF-UK

Contents

1. What is MSP?
2. What value does MSP add for industries from fisheries to oil & gas?
3. What are the key reasons for MSP?
4. Which activities should have priority over which in MSP?
5. How can the law help? Why does MSP need to be statutory?
6. Couldn't mapping alone deliver everything we want from MSP? What about an SEA?
7. How will cumulative impacts be addressed?
8. What should be the main objectives of MSP?
9. How will MSP interlink with coastal zone management? Or will it replace it?
10. What are the key drivers behind MSP?
11. Will MSP lead to cost savings in the long term?
12. Can we have strict zoning if we don't have the data to back it up?
13. How can MSP reduce bureaucracy?
14. What will be the relationship between MSP and consenting?
15. How do we deal with policy overlap between two plans e.g. RSS & MSP?
16. Will we need to re-write the plan with every new EU Directive?
17. How will we work with devolved countries and other EU Member States?
18. Who will prepare and implement the plan?
19. Will there be a public examination of the MSP?
20. Where should the landward boundary and the offshore boundary be for MSP?

1. What is MSP?

Marine Spatial Planning is “strategic, forward-looking planning for regulating, managing and protecting the marine environment, including through allocation of space, that addresses the multiple, cumulative, and potentially conflicting uses of the sea” (Defra, 2004).

It is seen as a way of improving decision-making and delivering a more ecosystem-based approach¹ to managing marine activities. In essence, it is a planning tool that enables integrated, forward-looking and consistent decision-making on the use of the sea.

The main elements of marine spatial planning include an interlinked system of plans, policies and regulations; the components of environmental management systems (e.g. setting objectives, initial assessment, implementation, monitoring, audit and review); and some of the many tools that are already used for land use planning. Whatever the building blocks, the essential consideration is that they need to work across sectors and give a geographic context in which to make decisions about the use of resources, development, conservation and the management of activities in the marine environment².

2. What value does MSP add for industries from fisheries to oil & gas?

Marine Spatial Planning should result in improved planning and management for industry and conservation and hence a win-win scenario for both, with a more level playing field for all.

As development and activities increase in the marine environment, the present sectoral approach to managing activities is unwieldy and is no longer an option. It results in conflict between sea-users and leaves us unable to assess how activities interact to impact upon our declining marine biodiversity and cultural heritage.

Example for the fishing industry

While the vast majority of our waters are important as fishing grounds for the fishing industry some sites are of greater economic importance than others. So, for example, a sand bank which is important for fish feeding or breeding or a rocky reef that is economically vital for local shellfishers may be of greater importance than other sites. MSP can enable these sites to be taken into account at an early stage of the planning of developments such as offshore wind farms. This will greatly reduce the likelihood of such developments being built in areas of prime importance for the fishing industry. Unfortunately at the project stage, it is often too late to move a proposed development and while compensation may be offered this may not be sufficient for some.

Example for shipping

In 2004 the House of Commons Transport Select Committee (9th report of session 03/04 paper 555) raised concerns that the Department for Transport (DfT) was inadequately consulted by the Department of Trade & Industry (DTI) on shipping during the first two offshore wind farm rounds. Some Round II offshore wind farm locations are in areas of importance for shipping. Since ships must circumnavigate wind farms this is an issue. MSP would ensure debate and joined-up decision-making involving DfT, DTI and other relevant parties at the planning stage, rather than at the project stage, avoiding this confusion and conflict. As it is some Round II offshore windfarm developers are having to change the locations of their windfarms, while the DTI is considering applying to the International Maritime Organisation to move shipping lanes conflicting with some proposed development sites.

¹ The ecosystem approach is the integrated management of human activities based on knowledge of ecosystem dynamics to achieve sustainable use of ecosystem goods and services and maintenance of ecosystem integrity. Key elements include providing and working within clear environmental objectives, more strategic management, taking account of biological diversity in decision-making, developing more focused research and full stakeholder involvement. (Notes for the launch of Charting Progress, Defra 2005).

² Joint Marine Programme Marine Update 55: Marine Spatial Planning: A down to earth view of managing activities in the marine environment for the benefit of humans and wildlife. Based on text by Dr Susan Gubbay

MSP will provide a framework in which to plan for projected regional or local increases in shipping traffic, for example relating to port developments, and should thus help to pre-empt potential future conflicts between shipping and other marine industries or activities.

Example for the marine renewables industry

The situation described above illustrates a difficulty for developers where Strategic Environmental Assessment (SEA) fails to take adequate account of other interests. As a result, some Round II offshore wind farm developers are having to look for alternative locations for their proposed developments, although they have completed an EIA for the original location. Conflicts can also arise with other priority issues – e.g. areas utilised by the MOD, areas of importance for particular species, e.g. common scoter. Forward planning would make this kind of conflict less likely to arise at project stage and hence MSP would help developers to avoid vast expense and legal complications. Likewise, the government might decide that marine renewables should be given priority in some prime locations for a renewables resource, so that MSP could facilitate the sustainable development of this sector.

The other main benefit for the renewables industry, in particular the wave and tidal industry, is commitment to produce a plan and an SEA which would enable their industries to progress to commercial stage. At present the DTI's Energy SEAs cover a different region each year which means that Energy SEAs for some regions will not occur for many years to come.

Example for oil & gas

The oil & gas industry is a mature industry in the UK and the DTI has a well established system of oil & gas licensing rounds preceded by a SEA. Specific advantages for the oil & gas industry within MSP are hence more difficult to envisage than for the newly emerging sectors, particularly given the level of political support for oil and gas. However, with new industries developing in the marine environment and our seas becoming ever more crowded it is possible that conflict could arise, for example, with renewables, offshore fish farms, new oil & gas technologies etc. Link believes that the oil & gas industry would find it advantageous to have a forward plan confirming government support for their industry's continued development at a regional sea scale.

In addition, research commissioned by the RSPB³ suggested that MSP could help oil and gas companies to avoid duplication of effort and costs in terms of compilation of environmental data. It could also bring efficiencies where the industry currently consults bilaterally with other sectors (by allowing stakeholders from all sectors to be involved in discussions) and thus further ease potential conflicts at later stages.

Finally, as the oil & gas industry are more used than any other marine industry to implementing a whole host of conditions and environmental management systems, they are well placed to help lead the way in this new challenge of planning and managing our seas at the ecosystem level. When consulted by Link about MSP, the UK Offshore Operators Association (UKOOA) responded that MSP is "eminently sensible".

Example for conservation

The main benefit for conservation is the integrated and forward planning of all activities, (including conservation), based on the ecosystem approach which will considerably improve the facilitation of sustainable development. In order to properly manage the impact of human activities on marine ecosystems, it is necessary to have an overview of all of the activities taking place in a sea area as well as the conservation needs. This will enable consideration of cumulative and in-combination impacts on the marine environment in the development of the plans' objectives. MSP will also enable government, industry and conservationists to work together to identify suitable locations for development and uses and to identify sites where important assets need safeguarding and where conservation should take precedence. In the context of MSP the planning of marine protected areas can proceed with development planning, instead of development always taking precedent.

³ GHK Consulting and Scott Wilson (2004) *Potential benefits of marine spatial planning to economic activity in the UK*. A report from GHK Consulting Ltd in association with Scott Wilson. The RSPB, Sandy, UK.

MSP is an essential tool in the delivery of the ecosystem approach, and will be most effective if the plans are not confined to geo-political boundaries, but based on marine ecosystems or other meaningful bio-geographical units. A “regional sea” approach, such as that tested through Defra’s Review of Marine Nature Conservation Irish Sea Pilot Study, and now being tested through the MSP Pilot project, is the most appropriate for marine spatial planning (with nested, local plans being important for intensively used areas). The government and devolved administrations must work together for MSP, as they have in Integrated Coastal Zone Management (ICZM), when they took forward the ecosystem approach through the Severn Estuary Partnership and the Solway Firth Partnership.

Example for Marine Recreation

MSP will ensure that the economic and social importance of marine recreation is recognised in a forward plan. At present there is no formal route for marine recreation to be considered, and while increasing efforts are being made to consider the spatial needs and uses of this sector, this seldom occurs at the planning stage (e.g. in recent rounds, recreation was only considered once an offshore wind site was chosen).

In June 2005, Honda organised its Honda Formula Fourstroke Round the Island powerboat race on the Isle of Man. The event had to be cancelled on the day due to the occurrence of basking sharks in the island’s coastal waters. A sub-regional MSP would have highlighted that the region is very important for basking sharks in the summer, particularly June. The plan could have detailed the need for a temporary closed area to motorboat racing from May to July around the island. As it was, the IoM Department of Agriculture, Fisheries and Forestry only heard about this race by chance, though fortunately Honda were responsible enough to quickly act on their advice, undertaking a survey on the day for basking sharks and subsequently cancelling the Round the Island race, replacing it with a race in Douglas Bay.

3. What are the key reasons for Marine Spatial Planning?

There are scores of reasons why a marine planning system is needed and supported by government bodies, industry and NGOs alike – here are some of the main ones:

- To contribute towards delivery of sustainable development objectives in the marine environment.
- To provide a plan-led approach to sea use, rather than the current *ad hoc* arrangements.
- To enable a strategic overview of developments in the coastal and marine environment.
- To help assess the cumulative and in-combination effects of projects and policies.
- To enable government, industry and conservationists to work together to identify suitable locations for development and uses, and to identify sites where important assets need safeguarding and where conservation should take precedence.
- To help reduce complexity and duplication and increase integrated, rather than sectoral management. This would utilise existing data to best effect, identify gaps and ensure that management decisions were based on sound science.
- To implement national objectives on spatial planning, the ecosystem approach and mapping as proposed in the Marine Stewardship Report.
- To deliver international commitments on marine spatial planning and the ecosystem approach, e.g. North Sea Conference Bergen Declaration, EU Marine Strategy, OSPAR Sintra Statement and WSSD Johannesburg Implementation Plan.
- To promote open and transparent governance, *i.e.* a planning process that is clearer, more accountable and more participative.
- To enable a Strategic Environmental Assessment (SEA) of all uses at the ecosystem level rather than the current sectoral SEA approach.
- To inform industry of appropriate development sites and to enable more effective forward planning.
- To allow industry to manage risk by increasing certainty in respect of development proposals.
- To plan for the increasing number and scale of developments in the marine environment e.g. offshore renewables. The sectoral approach is no longer an option.

- To integrate the interests of different stakeholders, such as fishing interests and offshore renewables, and enable strategic conflict resolution, i.e. at a regional, rather than project, level.

4. Which activities should have priority over which in MSP?

Link suggests that it will not be necessary to prioritise one activity over another from the start (as was previously proposed in the Pilot MSP), but that more positive and less controversial ways forward can be found, such as the following: After agreement of the aims of the plan, the first step would be to consider all existing uses of the marine area that result in spatial restrictions. For example, the presence of an oil rig in a particular location means that other activities cannot take place there. Some existing uses will restrict new activities on the sea bed but not the sea surface, or vice versa. Mapping existing restrictions of various types in this way immediately results in a more integrated, less sectoral approach, and avoids pitting one activity against another at the outset, which could result in conflict.

At the same time, the 'resource layer' of information would be developed. This would show the location of all the marine resources - from minerals and waves to nursery grounds and important habitats, species or marine landscapes.

Once an illustration of existing activities, restrictions and resources has been created, the spatial plan, representing policies for a particular sea, can be developed. For example, one policy for a region might state that while at present only 0.001% of seabed is subject to restrictions on certain activities, the target is for 10% of seabed to be protected from all extractive use. Building on the policies, the next step would be to identify zones where certain activities should logically have precedent. So for example, north of Anglesey might be a logical priority zone for marine current technologies, whereas conservation should have priority in the Menai Straits or Pembrokeshire Islands. While neither of these zones may necessarily prohibit other activities they should have precedent, including development objectives for the former and conservation objectives for the latter.

5. How can the law help? Why does MSP need to be statutory?

Link believes that statutory backing is needed to ensure that all relevant authorities and sectors sign up to and implement the MSPs. ICZM has proven that the voluntary approach means that plans and strategies are not adequately adhered to and implemented.

MSP needs statutory underpinning, as currently provided for land use planning through the Planning and Compulsory Purchase Act 2004. This will ensure a robust long-term approach, thus providing some further certainty for developers and conservationists and the best use of resources invested in development of the plans. The statutory framework will need to place a duty on Government to ensure that marine spatial plans are produced for each regional sea. The plans need statutory underpinning, to ensure they meet international commitments and set out the Government's objectives for the marine environment and for managing activities and developments, and that consenting authorities are required to act in accordance with the plans. The plans should also contain all relevant guidance, including reference to international and national policies, plus a statement about the use and management of nationally and internationally important sites and a reasoned justification for the general policies and recommendations contained in the plans.

For more information on Link's opinion on the necessary components of marine spatial planning legislation see www.wcl.org.uk/marine_campaign.htm

6. Couldn't mapping alone deliver everything we want from MSP? What about a multi-sectoral Strategic Environmental Assessment (SEA)?

Mapping will be an extremely useful tool to inform development of marine spatial plans, but alone it cannot deliver what is needed. Marine Spatial Planning is about shaping and delivering policies at the regional sea level, based on national and international policies. Mapped data will help both to provide the basic information required to deliver such policies,

and to express the policies to sea users once they have been agreed. Central to the process of MSP is the involvement of all stakeholders in the development of the regional policies.

An SEA cannot be developed without a plan to assess. A Marine Spatial Plan therefore needs to be developed to enable multi-sectoral SEAs at the regional sea level. It is possible that these could replace sectoral SEAs.

7. How will cumulative impacts be addressed?

If a strategic approach is taken to marine development, it will be much easier to examine the likely cumulative and in-combination impacts of implementing proposals in all industry and conservation sectors. Because MSP can present an overview of proposals for a region, a comprehensive multi-sectoral SEA can be conducted, which will indicate the environmental impacts of implementing the proposals and also take account of current development pressures. At present, SEA activity in the marine environment is limited to the energy sectors. These SEAs attempt to assess the cumulative effects of energy developments in combination with other activities but this is very difficult without all the other sectoral information being readily accessible.

8. What should be the main objectives of MSP?

There is a range of international and national commitments, goals and targets relevant to MSP, from OSPAR targets to strategic goals developed through the Government's Marine Stewardship process, to strategic goals for nature conservation developed through the RMNC. MSP objectives must be set which are consistent with, and further these higher level goals.

The Country Agencies MSP Group has proposed the following key objectives for MSP which are consistent with Link's views:

- to provide a strategic, integrated and forward-looking framework for all uses of the sea to help achieve sustainable development, taking account of environmental as well as social and economic objectives;
- to apply an ecosystem approach to the regulation and management of development and activities in the marine environment by safeguarding ecological processes and overall resilience, to ensure the environment has the capacity to support social and economic benefits (including those benefits derived directly from ecosystems);
- to allocate space in a rational manner which avoids or minimises conflicts of interest and, where possible, maximises synergy between sectors;
- to identify, safeguard, or where necessary and appropriate, recover or restore important components of coastal and marine ecosystems, including natural heritage and nature conservation resources.

Link broadly supports the 'Core principles' detailed in the Irish Sea Marine Spatial Plan (Project) Section 2.1

- To conserve and enhance the overall quality of our seas, their natural processes and their biodiversity;
- To use marine resources in a sustainable and ecologically sensitive manner in order to conserve ecosystems and achieve optimum environmental, social and economic benefit from the marine environment;
- To promote and encourage environmentally sustainable use of natural resources to ensure long term economic benefits and sustainable employment;
- To increase our understanding of the marine environment, its natural processes and our cultural marine heritage and the impact human activities have upon them; and
- To promote public awareness, understanding and appreciation of the value of the marine environment and seek active public participation in the development of new policies.

9. How will MSP interlink with coastal zone management? Or will it replace it?

In some cases, such as the intensively used coastal zone, more detailed sub-regional marine plans will be required. These plans could be drawn up for discrete geographical areas that are intensively used such as estuaries (e.g. the Solent), the western approaches, the Minches, or of particular conservation importance such as seamounts. Integrated coastal zone management (ICZM) strategies try to fill the need for strategic planning using the ecosystem approach in the coastal zone. However, because these plans are non-statutory, they are seldom used as formal guidance or taken into account by consenting bodies when considering development proposals.

Regional MSPs are not expected to provide detailed planning for coastal zones, yet this is where activities and pressures on the marine environment are at their most intense. Each country in the UK is developing its ICZM Strategy, following the EU Recommendation⁴. ICZM initiatives at a local level are well-established in parts of the UK, in spite of scarce and often short-term funding available to them. These voluntary projects have achieved good working relationships between a wide range of stakeholders in the coastal zone, and many have gathered local data, and developed strategies, policies, and action plans.

ICZM projects may provide a ready resource able to play a coordinating role in developing coastal and estuary sub-regional plans nested within a regional planning framework. Sub-regional plans should inform regional marine spatial plans and vice versa. Such sub-regional plans can provide the links with activities on land that affect the sea, such as shoreline development and land-based pollution. In addition, sub-regional plans can provide the link with River Basin Management Plans emerging under the Water Framework Directive.

Link believes that ICZM and estuary projects should be supported through the Marine Bill to provide the resources they require to develop or contribute to sub-regional marine spatial plans. However, this will require new statutory underpinning and guidance that ensures all sub-regional plans are of a similar standard. ICZM projects are currently led by a variety of organisations, such as a Local Authority, or a port authority, depending on location and a willingness to provide resources. This need not change, but MSP policy should ensure that all shore-based and coastal authorities participate in development of sub-regional plans, and that adequate resources are provided. The final draft of such plans should be in line with their Regional Marine Spatial Plans, and approved by their Regional Sea MSP Group.

Sub-regional plans should be written in such a way as to comply with relevant policies and legislation for the coastal zone, and be suitable for transposing into terrestrial plans in the same area, so that land use planning can help implement sub-regional marine spatial plans.

10. What are the key drivers behind MSP?

National policy drivers leading the present interest in MSP include:

- The commitment in the Labour Party General Election Manifesto, through a Marine Act, to *introduce a new framework for the seas, based on marine spatial planning, that balances conservation, energy and resource needs*⁵.
- The Government's vision for the marine environment as set out in the first Marine Stewardship Report⁶.
- The Government's Review of Marine Nature Conservation⁷, particularly the Irish Sea Pilot Project.
- The Government's Regulatory Review of Development in Coastal and Marine Waters.
- The Scottish Executive Strategic Framework for Scotland's Marine Environment.
- CCW report "Analysis of Options for Improving the Planning of the Welsh Territorial Sea".

⁴ Recommendation of the European Parliament and of the Council concerning the implementation of Integrated Coastal Zone Management in Europe (2002/413/EC)

⁵ http://www.labour.org.uk/fileadmin/manifesto_13042005_a3/flash/manifesto_2005.swf

⁶ Defra (2002) Safeguarding our Seas – A strategy for the conservation and sustainable development of our marine environment.

⁷ Defra (2004). Review of Marine Nature Conservation: Working Group Report to Government, July 2004.

- The UK's Sustainable Development Strategy: Securing the Future.

Defra has demonstrated the Government's commitment to MSP by commissioning consultants to undertake the current Marine Spatial Planning Pilot project.

North East Atlantic and European policy drivers include:

- The Bergen Declaration of the 5th North Sea Conference formally endorses ecosystem-based management and includes commitments on spatial planning in the North Sea.
- OSPAR commitments on the ecosystem approach and consideration of spatial planning.
- The development of the Thematic Strategy for the Protection and Conservation of the European Marine Environment (European Marine Strategy) identified Strategic Goals including:
 - *To protect, allow recovery and, where practicable, restore the function and structure of marine ecosystems in order to achieve and maintain good environmental status of these ecosystems*
 - *To control the use of marine services and goods and other activities in marine areas that have or may have a negative impact on status of the marine environment to levels that are sustainable and that do not compromise uses and activities of future generations nor the capacity of marine ecosystems to respond to changes*
 - *To apply the principles of good governance, both within Europe and globally*⁸

The Commission has proposed that the Strategy be implemented through a Marine Framework Directive⁹.

The UK has the opportunity to lead the way on MSP in Europe and the North East Atlantic.

Worldwide

- World Summit on Sustainable Development, 2002 - Commitment to encourage the ecosystem approach in marine management by 2010.
- Beyond Europe a number of countries are starting to implement MSP. For example, Australia is committed to regional marine planning for its oceans. Australia's Ocean Policy states that to achieve the goal of ecologically sustainable oceans management, it is necessary to look at all ocean uses and resources collectively rather than in isolation. A regional marine plan has already been developed for the SE regional sea in Australia, where a large number of marine industries are active, and other regional marine plans are in the process of being developed.
- Canada has a number of marine spatial strategies underway following its Oceans Act in 1996 and New Zealand has developed National Coastal Strategies following its Resource Management Act of 1991, though these are only to 12nm offshore.

11. Will MSP lead to cost savings in the long term? How will MSP deal with existing data copyright issues?

By pulling existing data and mapping tools together for MSP, gaps in current knowledge can be identified. New surveys, data collection, habitat and species mapping and modelling will need to be undertaken. While this will require initial investment, it should lead to savings for industry and regulators in the long term by:

- Providing regional plans where all the relevant data for one sea is brought together. This will prevent data repeatedly being gathered for the same sea by different

⁸ European Commission (2004) Thematic Strategy for the Protection and Conservation of the European Marine Environment. Discussion document for Rotterdam stakeholder conference, November 2004

⁹ European Commission (2005) The European Marine Strategy – Internet Consultation

industries or government bodies. This should utilise Defra's work to establish centres of excellence for data and mapping;

- Precluding the need for industry to gather so much data for each of their Environmental Impact Assessments (EIAs). Individual projects will still require EIAs and Appropriate Assessments, but over time costs to industry of producing Environmental Statements will be reduced because much of the data collection, mapping and scoping of a potential environmental assessment will already have been undertaken as part of MSP development and SEA.
- Facilitating a quicker and more reliable consenting process, with all available information to hand and understood by decision-makers who are involved in the MSP.

There is presently a programme to improve data access and integration issues through MDIP. These issues are much wider than MSP and the Marine Bill but data availability will need to be considerably improved to ensure that MSP maps are fully utilised.

12. Can we have strict zoning if we don't have the data to back it up?

Until we know the extent and nature of any resource it is difficult to plan effectively for sustainable development, appropriate use and effective conservation. Much necessary data is already available but needs to be pulled together through mapping initiatives. For some habitats and species, for example, data is lacking and new surveys will need to be undertaken to fill gaps. However, incomplete data should not prevent an initial marine spatial plan being developed. The Adaptive Management Principle should be applied, which allows plans to change as knowledge and understanding increase over time and in different areas: the 'learn by doing' approach. This approach is used by local planning authorities that regularly review their plans and adapt policies in the light of experience, monitoring and new information – survey, plan, monitor and manage. For example, geological and surface sediment data (used to identify marine 'landscapes') can be used to determine where key habitats are likely to occur until more detailed biotope mapping is possible.

Various types of zoning will be required in MSPs, for example to indicate where certain developments and human activities are possible, or where protection is needed - for example highly protected marine reserves, and spatial or temporal no take zones for fisheries. Safety exclusion zones may also be necessary, for example around wind farm developments. Decisions for most zones will be informed by the best environmental information, but there may be some instances where caution is needed because adequate data is currently not available. For example, indications that a nationally or internationally important conservation feature is most likely present may require 'zoning' as a precautionary measure to provide some temporary protection from human activities. Such zoning will also indicate that further data must be gathered.

13. How can MSP reduce bureaucracy?

Once MSP is established it will bring information efficiencies – the information held in MSPs will not have to be repeatedly collected through sectoral SEA, and as the information resource is built up, it should be the case that less detailed mapping is required for specific EIAs.

MSPs will allow for early identification of potential conflicts – between industries (e.g. windfarms and shipping lanes), between industry plans and important wildlife areas, and so on. Developers will be able to predict where proposals will be likely to gain consents with much greater certainty, thus reducing work and costs that currently arise when conflicts are identified in later stages of the planning process.

14. What will be the relationship between MSP and consenting?

Link expects MSPs to be agreed and used in a similar way to land use plans. Plans should make clear where particular types of development are likely to be suitable or unsuitable, and Link would expect applications to be made in conformity with the plans. Again, as with land use planning, consenting authorities should treat MSPs as the primary material consideration in assessing proposals; their decisions should accord with MSPs unless other material

considerations exceptionally dictate otherwise (e.g. discovery of important wildlife habitat or species in a previously unsurveyed area; reasons of public health or safety; or possibly in some cases other reasons of overriding public interest).

Once sufficient information has been compiled in MSPs, with stakeholder involvement, developers can have additional confidence that applications made in line with the plan are more likely to succeed than some have experienced under the current sectoral system.

15. How do we deal with policy overlap between two plans e.g. RSS & MSP?

There would need to be close co-operation between the MSP planning authority and the land use planning authority regarding developments such as ports that cross the boundary between an MSP and Regional Spatial Strategy (RSS). The Marine Spatial Plan will identify where it would/would not be prudent to provide for port or other developments below High Water, for example, capital dredging or new harbour breakwaters. Therefore there is a need for planning authorities on land to be involved in development of regional MSPs in an advisory capacity, and helping to represent the views and needs of coastal communities. Land planning authorities should be involved in MSP in such a way that allows joint decisions to be made on proposals such as those for port development, dealing with such proposals as one package, and with all the statutory authorities using the land and sea plans to make a joint, single decision. Both land-use plans and MSPs will need to be guided by national policy and strategy. This will result in a more efficient and cost-effective consenting process.

16. Will we need to re-write the plan with every new EU Directive?

MSP will need to be reviewed on a regular basis. However, policies for MSP regional plans will need to be aligned with current high-level international commitments, for example the Convention on Biological Diversity (CBD) and OSPAR commitments, and this will make it less likely that forthcoming Directives will cause major changes in regional MSPs. If necessary, national policy guidance could be issued between MSP reviews if Directives (or other international commitments) required changes to MSPs or to the ways in which certain activities are assessed.

17. How will we work with devolved countries and other EU Member States?

Following devolution, the management of most activities in territorial waters (i.e. 0-12 nm) are devolved in Scotland, Northern Ireland and Wales. Therefore if an ecosystem approach to the management of UK seas is to be achieved it is essential that the four country administrations work closely together. It is probable that the Marine Bill will enable the introduction of Marine Spatial Planning in England and hopefully Wales too. The Scottish and Northern Irish Environment Links are calling for the swift development of a Marine (Scotland) Act and Marine (Northern Ireland) Act. These Acts must provide for a legislative basis for the development of MSP in Scotland and Northern Ireland. It must also enable a joint approach with England and Wales to enable the development of a MSP in some regional seas, such as the Irish Sea, to ensure the ecosystem approach is implemented. The UK can of course only legislate for its own jurisdiction up to 200nm. It is unlikely at present that MSP will occur at the truly international scale as EU Member States naturally want to retain their planning powers. However mechanisms are under development through the EU Marine Strategy (and associated Marine Framework Directive), and regional agreements (e.g. OSPAR) to ensure that neighbouring countries work to a shared vision, share best practice and work together to address cross-border issues.

18. Who will prepare and implement the plan?

It seems likely that a new Marine Agency will lead and co-ordinate development of each regional MSP in England (and possibly Wales too), and that along with other marine competent authorities the new Agency would have some responsibility for implementing the MSPs. Defra is presently working on the possible scope of such an Agency, and Link, like other stakeholders, is keen to see further details on proposals as soon as possible so that we can contribute to discussions. The Marine Agency will need to be a UK Agency in order that it

can develop MSP from beyond territorial waters to the limit of UK jurisdiction. It is important that any new Agency has the power to bring all the responsible authorities to the table to ensure each regional MSP is developed through integrated working. It must act in a diplomatic and committed manner, and a major part of its role should be to facilitate integrated working of government departments and agencies, together with other authorities that have planning and consenting responsibilities, while ensuring that non-statutory stakeholders can participate and contribute information in development of the MSP. This should include work to ensure co-ordination between all devolved administrations and agencies.

19. Will there be a public examination of the MSP?

Link believes that the opportunity to hold some kind of a public review in response to stakeholder concerns prior to formal adoption of an MSP is necessary (this could be delivered through public inquiry, or perhaps through examination in public as provided for land use plans through the Planning and Compulsory Purchase Act 2004 – the appropriate mechanism needs to be considered).

20. Where should the landward boundary and the offshore boundary be for MSP?

Link suggests that MSPs should be developed for each regional sea (*or* appropriate marine ecosystem), from Mean High Water (MHW) in England and Wales (*or* High Water Mean Springs in Scotland) to the limit of UK jurisdiction. Within estuaries (from the bay enclosing line inland) and other busy parts of the coastal zone, sub regional MSPs should be developed that nest in the regional MSP.

As local authorities have a jurisdiction to LWM it will be essential for them to follow the plan in developing their own policies and Local Development Frameworks and vice versa Maintaining strong links between MSP and ICZM systems is hence vital, as the numerous issues that cross the land-sea divide will still need to be addressed, possibly through management initiatives such as ICZM and river basin management plans.