CONSULTATION QUESTIONS

Please identify the main area of interest you identify with :

Nature Conservation	☐
Fisheries	☐
Industry/Transport	☐
Energy	☐
Aquaculture	☐
Recreation/tourism	☐
Academic/scientific	√☐
Local authority	☐
Community group	☐
Public sector/Regulatory body	☐
Local Coastal Partnership	☐

Other (Please state)

Q1. Does the NMP appropriately guide management of Scotland's marine resources?

"*It will aim to ensure sustainable economic growth of marine industries, while taking the environmental into account, and will set out policies including economic, social and marine ecosystem objectives."* This statement from the Executive Summary to the NMP does not appear to comply with the Marine Policy Statement. Surely it should be the ecosystem approach that is driving policy, rather than economic growth?[1] The MPS, to which Scotland is a signatory, takes its lead from the MSFD, which requires '*an ecosystem-based approach to the management of human activities… an approach which ensures that the collective pressure of human activities is kept within the levels compatible with the achievement of good environmental status; that does not compromise the capacity of marine ecosystems to respond to human-induced changes; and that enables the sustainable use of*

[1] **The MSFD aims to protect, preserve and where practicable, restore the marine environment by applying an ecosystem-based approach and putting in place measures in order to 'achieve or maintain good environmental status' (GES) by 2020. There are 11 qualitative descriptors to guide the achievement of GES on which Scottish marine ecosystem objectives delivered through the Marine (Scotland) Act 2010 will be based.**

marine goods and services'. Merely 'taking the environment into account" does not put the environment at the heart of decision-making. This statement should be re-written to comply with the MSFD and the MPS.

Q2. Does the NMP appropriately set out the requirement for integration between marine planning and land use planning systems?

ICZM doesn't get much coverage.

Q3. Does the NMP appropriately guide development of regional marine planning? What, if any, further guidance is required for regional marine planners in terms of implementation and how to interpret the NMP?

Can regional planning decisions be overruled if national policies have to be followed? There are issues of environmental justice and distributive equity, which need clarification.

Q4. The Marine Regional Boundaries Consultation proposed that in addition to regional marine planning, further integrated management of key marine areas would be achieved by designating the Pentland Firth; the Minches and the mouth of the Clyde as Strategic Sea Areas.

Should the NMP set out specific marine planning policies for Strategic Sea Areas?

Where there are wildlife corridors – eg known routes taken by cetaceans, priorities need to be clear. Policy Gen 10: "*Decision makers may also need to apply precaution within an overall risk-based approach*" does not describe the approach required when dealing with habitats and species protected by Natura 2000 legislation and case law. Pentland Firth – will there be any limit imposed for the amount of energy removed from the tide?

Q5. Are the objectives and policies in the NMP appropriate to ensure they further the achievement of sustainable development, including protection and, where appropriate, enhancement of the health of the sea?

The NMP is strong on rhetoric and weaker on substance, a little like the concept of 'sustainable development' itself– a fragile notion but one, which now prefaces nearly every political statement. It is disappointing that the term has been adopted so widely when what is really needed is a firm commitment that growth must be determined entirely by the state of the biosphere.

A "win win" outcome is envisaged, where environmental problems can be resolved by technical innovation. But where is the evidence underpinning that assumption? The EU failed to reach its biodiversity targets in 2010 and has been subject to UN criticism of its reliance on "traditional consumption-oriented economic policies".[2] It is disappointing therefore that the government has not

[2] UN, 'Global Environmental Outlook -5' (*United Nations Environment Programme*) <www.unep.org/geo/geo5.asp>

attempted to re-evaluate its economic policies to demonstrate that they are on a sustainable path. GNP is a meaningless and sometimes misleading statistic. How much are we in the red environmentally? A measure such as ANS (Adjusted Net Savings) proposed by economists such as Heal seems a better way of measuring whether we are on a sustainable path.[3] Stiglitz et al consider that sustainability is about measuring whether global assets / stock – or components of it, are evolving positively or negatively i.e. a computation of the current rates of change.[4] So is Scotland going to be able to pass on sufficient assets to future generations that matter for well-being? Unless we have the data on environmental positives and negatives, we can't make the right choices and even then we have to be clear on what we want to achieve.

As the provisioning and regulating services of Scotland's marine environment are in a state of decline, the presumption in favour of development, including within the Natura 2000 network appears to ignore that any economy has to remain attached to its ecological roots.[5] Development can only be sustainable if the resilience of marine ecosystems is understood -i.e the magnitude of disturbance that can be absorbed without system collapse. Given their overall state of decline and the amount of research still underway, a precautionary approach should be practised. – it is investment in marine ecosystems that will most benefit economic enterprise and the enhancement of all our marine area should be a priority. Unless underpinned by data and a better understanding of marine processes and species, the notion of "sustainable development" has little meaning or legal basis and future human well-being and even survival is threatened.

Q6. Chapter 3 sets out strategic objectives for the National Marine Plan and Chapters 6 – 16 sets out sector specific marine objectives.

Is this the best approach to setting economic, social and marine ecosystem objectives and objectives relating to the mitigation of and, adaptation to climate change?

Whilst acknowledging the poor state of some of our marine area – loss of species, pollution, over-fishing etc and the fact that little is still known about species behaviour and ecosystem tipping points, the emphasis remains on economic development. It would seem more prudent, given the importance of the ocean in regulating climate, to concentrate on restoring marine health, before continuing to exploit natural capital. Adaptive management might work for small-scale operations, where change is possible. How will it work for large -scale industrial installations, which have cost millions to install in a very difficult environment? Survival is more dependent on a healthy marine system than on energy. There is a

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"…a lack of environmental data, insufficient resources from public and private investors in tackling key environmental issues, combined with the persistence of traditional, consumption-oriented economic policies."

[3] Geoffrey Heal, 'Reflections-Defining and Measuring Sustainability' (2012) 6 Review of Environmental Economics and Policy 147

[4] Joseph Stiglitz, Amartya Sen and Jean-Paul Fitoussi, 'The Measurement of Economic Performance and Social Progress Revisited - Reflections and Overview' (Commission on the Measurement of Economic Performance and Social Progress, Paris, September 2009)

[5] ***UK National Ecosystem Assessment: Technical Report; Chapter 19: Status and Changes inthe UK Ecosystems and their Services to Society: Scotland' Fig. 19.52*** **(2011)**

greater likelihood of a win-win situation if we invest in our seas, rather than tamper with precious naturally regulating 'assets' of limited substitutability.[6] Half the CC problem is sequestration – let's invest in our oceanic sinks and benefit from their economic dividends eg. 'blue carbon'.

Q7. Do you have any other comments on Chapters 1 – 3?

Increasing economic growth and wealth is incompatible with the need to reduce production and consumption. Isn't growth fuelled by consumption? The UK is already importing 40% of its food and estimates indicate that global demand for food will rise by 50% by 2050. To quote Stephen Tromans QC: "Preserving the country's future ability to feed itself is about as fundamental an aspect of sustainability as one could find, along with preserving clean water and healthy ecological systems."

General Planning Policies

Q8. Are the general policies in Chapter 4 appropriate to ensure an approach of sustainable development and use of the marine area? Are there alternative policies that you think should be included? Are the policies on integration with other planning systems appropriate? A draft circular on the integration with terrestrial planning has also been published - would further guidance be useful?

At the very least there should be a presumption against development in marine SACs and SPAs, as required by the Habitats Directive.

Q9. Is the marine planning policy for landscape and seascape an appropriate approach?

Yes, but the importance of all of Scotland's coastal landscapes for health and well-being should not be under-estimated – whether designated or not. Seascape might well include what is below the sea surface. A marine SAC might have equivalent or superior seascape value to a National Scenic Area if you are a diver!

Q10. Are there alternative general policies that you think should be included in Chapter 4?

There must be a fairer distribution of the outcomes of development. Environmental Justice – the location of waste and pollution, should be better incorporated into

[6] Henrik Stahl, *Current Status and Knowledge about Potential Sequestration Capacity for 'Blue Carbon' Sinks in Scotland* (Scottish Association for Marine Science, 2012) *"Saltmarshes, seagrass beds and kelp forests are potentially quantitatively important 'blue' carbon sinks in Scotland…Undoubtedly, best practices management of these habitats is needed to maintain and possibly enhance their capacity as 'blue' carbon sinks. (*This*) will most likely also have positive effects on other ecosystem goods and services… including biodiversity, secondary production and structural stability of coastlines and shallow sediments."*

planning policy.

Guide to Sector Chapters

Q11. Do you have any comments on Chapter 5?

Are there other sectors which you think should be covered by the National Marine Plan?

Food security – the importance of the marine ecosystem in providing truly, naturally sustainable food supplies for the nation.

Sea Fisheries

Q12. Do you have any comments on Sea Fisheries, Chapter 6?

Is it no the case that MSY as originally expressed is no longer acceptable as a conservation objective because it fails to take into account species inter-relationships, habitats, pollution, disease, temperature changes etc?

Q13. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Aquaculture

Q14. Does Chapter 7 appropriately set out the relationship between terrestrial and marine planning for Aquaculture? Are there any planning changes which might be included to optimise the future sustainable development of aquaculture?

Aquaculture is a quick fix response to the demise of fisheries. It is ecologically inefficient and environmentally destructive. Local food security is a pressing issue and it is in the interests of communities to protect and restore biodiversity. Should we not be building up marine biodiversity as a matter of urgency?

Q15. Do you have any comments on Aquaculture, Chapter 7?

Farmed salmon is Scotland's most valuable food export. Exports continue to grow as the demand for high quality Scottish farmed salmon continues to increase, reaching 55 countries worldwide in 2012.
Waste pollution and biodiversity loss; large amounts of feed, disproportionate to the quantity of 'finished product' sourced at vast distance from the place of production and marketed at an equally vast distance. Are externalities being calculated? This is a market led approach and the worry is that loss of fisheries and ecosystem resilience are being compromised.
Aquaculture also makes an important contribution to food security in the context of

an increasing global demand for seafood - with its capacity to promote health - and a limited or decreasing wild catch resource. The global demand is for a commodity, not a need and is hardly carbon friendly. It depletes the quantities of fish from poorer countries and leads to food insecurity in those areas. Is this really a healthy product? Artificial colouring? Antibiotics added to fight diseases, which seem increasingly prevalent? These issues need to be addressed before any expansion of salmon farming is considered. The future is likely to be about local food production, lower food miles, less waste and equable sharing of the resource. Aquaculture merely increases the metabolic rift that exists between people and nature. Coastal habitats must be protected to restore natural fisheries.

Q16. Are there alternative planning policies that you think should be included in this Chapter?

Coastal communities should have the right to reject planning applications where GES is threatened and consequent viability of more sustainable fishing practices. Individual communities cannot be sustainable if their traditional fishing practices are compromised by pollution from aquaculture, particularly where nursery grounds for juvenile fish are affected.

Wild Salmon and Migratory Fish

Q17. Do you have any comments on Wild Salmon and Migratory Fish, Chapter 8?

Q18. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Oil & Gas

Q19. Do you have any comments on Oil and Gas, Chapter 9?

Comments

Q20. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Carbon Capture & Storage (CCS)

Q21. Do you have any comments on Carbon Capture and Storage, Chapter 10?

Comments

Q22. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Offshore Renewable Energy

Q23. Should the NMP incorporate spatial information for Sectoral Marine Plans?

Spatial planning for tidal energy requires a lot more thought, not just in terms of how one development and design impacts upon another, but also in terms of flow and tide effects on coastal communities. See below.

Q24. Do you have any comments on Offshore Renewable Energy, Chapter 11?

The proposed growth of offshore renewables will change the parameters of natural systems that are already so poorly understood. At the very least, clarity should be given to developers and there should be regulated planning of offshore renewables. Engineers have warned that the consequences of a 30% change in tidal currents in the Pentland Firth must be acceptable environmentally. [7] In terms of engineering, the point is made that any one design cannot be assessed in isolation as "*where fatigue is critical to the structural design, a small change in the current a turbine encounters can lead to a very significant change to the design life.*" This suggests that the current practice of granting leases to different developers in the same area is not logical. High-energy environments are those with the richest biodiversity and are often protected areas. Reducing this energy by 30% is a significant change. The policy of applying "precaution within an overall risk based approach" appears very biased toward the latter.

The government has not taken a protective stance on the Natura 2000 network, There are surely advantages in adopting a clear-cut approach, not least that it puts Marine (and terrestrial) conservation at the heart of policy-making, thus reducing the 'reputational risk' (and liability risk) of governments and developers, should damage occur. The Habitats Directive tries to ensure that habitats, which come under Article 6 are *not* significantly affected by plans or projects and will normally not be authorised (Article 6(3). The provisions of Article 6(4), which provide for compensatory measures, constitute an exception to those of Article 6(3) and must therefore be interpreted restrictively.[8]

[7] T.A.A. Adcock and others, 'The Available Power from Tidal Stream Turbines in the Pentland Firth' [2013] Proc R Soc A 469; 20130072

[8] "*Only in exceptional cases is an adverse effect permissible under Art. 6(4) for imperative reasons of overriding public*

Q25. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Recreation and Tourism

Q26. Do you have any comments on Recreation and Tourism, Chapter 12?

The loss to the West Cost economy from sailing tourism could be considerable if navigation is restricted by offshore renewable developments in restricted channels. Also a considerable amount comes into the economy from wildlife watching. The value of wild land and scenery, darkness and silence both to the economy and health and well-being must be an important factor in planning decisions in the marine environment.

Q27. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Transport (Shipping, Ports, Harbours & Ferries)

Q28. Should the NMP specifically designate national significant ports/harbours as described in Chapter 13: Marine Planning Policy Transport 2?

Comments

Q29. Do you have any comments on Transport, Chapter 13?

Comments

Q30. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Telecommunication Cables

Q31. Do you have any comments on telecommunications, Chapter 14?

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interest, including those of a social or economic nature, if no alternative solution is available. In these circumstances all necessary compensatory measures must be taken to ensure that the overall coherence of Natura 2000 is safeguarded. Thus the protection provisions have a practical effect even when applied to procedures that are already under way." Advocate General, Commission v Austria 2006

Comments

Q32. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Defence

Q33. Do you have any comments on Defence, Chapter 15?

Comments

Q34. Are there alternative planning policies that you think should be include in this Chapter?

Comments

Aggregates

Q35. Do you have any comments on Aggregates, Chapter 16?

Comments

Q36. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Business and Regulatory

Q37. Please tell us about any potential economic or regulatory impacts, either positive or negative, that you think any or all of the proposals in this consultation may have.

There will be confusion in pubic bodies and planning departments if they all have to adhere to the policy of increasing sustainable economic growth. It is not clearly defined and therefore difficult to impose as a legal obligation. For example does this mean that it is sustainable economically or environmentally? One could argue that the former is entirely dependent on the latter. There are many tensions and compromises involved in planning for such a complex environment and the use of

plain language would greatly improve the clarity of this plan.

Equality

Q38. Do you believe that the creation of a Scottish National Marine Plan discriminates disproportionately between persons defined by age, disability, sexual orientation, gender, race and religion and belief?

Yes ☐ No √☐

Q39. If you answered yes to question 23 in what way do you believe that the creation of a Scottish National Marine Plan is discriminatory?

Comments

Sustainability Appraisal

Q40. Do have any views/comments on the Sustainability Appraisal carried out for the NMP?

***UK National Ecosystem Assessment: Technical Report; Chapter 19: Status and Changes inthe UK Ecosystems and their Services to Society: Scotland' Fig. 19.52* (2011)**
Adcock TAA and others, 'The Available Power from Tidal Stream Turbines in the Pentland Firth' [2013] Proc R Soc A 469; 20130072
Heal G, 'Reflections-Defining and Measuring Sustainability' (2012) 6 Review of Environmental Economics and Policy 147
Stahl H, *Current Status and Knowledge about Potential Sequestration Capacity for 'Blue Carbon' Sinks in Scotland* (Scottish Association for Marine Science, 2012)
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UN, 'Global Environmental Outlook -5' (*United Nations Environment Programme*) <www.unep.org/geo/geo5.asp>