

**IRISH SEA PILOT PROJECT**

**COASTAL AND MARINE  
SPATIAL PLANNING FRAMEWORK**

**REPORT TO THE  
JOINT NATURE CONSERVATION COMMITTEE**

**BY**

**DAVID TYLDESLEY AND ASSOCIATES**

In Association with  
Paddy Mathews, John Cronin and Associates, Kilkenny, Ireland  
and  
Jonathan McCue, WS Atkins, Warrington, Cheshire, England

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## 1. INTRODUCTION

### The Irish Sea Pilot Project

1.1 The interim Report of the UK Government's Review of Marine Nature Conservation Working Group was submitted to Ministers in March 2001. One of the key recommendations of the Working Group was the promotion of a Pilot Scheme, at the regional sea scale, to test a proposed 'framework' for nature conservation and examine how far the conservation management needed to implement this framework could be delivered through existing legal, administrative and enforcement systems. The Irish Sea was chosen as the area for this Pilot.

1.2 The aims of the Pilot are to:

- i) test the framework proposed by the paper '*An implementation framework for the conservation, protection and management of nationally-important marine wildlife in the UK*' at the scale of the Irish Sea;
- ii) determine the potential of existing regulatory and other systems for delivering effective marine nature conservation; identify any gaps and recommend measures to fill the gaps identified;
- iii) evaluate the efficiency and effectiveness of current governance and enforcement regimes in implementing current legislation relevant to marine nature conservation, and make recommendations for improvements;
- iv) test ways of integrating nature conservation into key sectors (e.g. fisheries, energy, transport, minerals, tourism etc) in order to make an effective contribution to sustainable development on a regional basis.

### Objectives of this Report

1.3 The Joint Nature Conservation Committee commissioned this project report as part of the Irish Sea Pilot Project. Its objectives are to:

- i) Prepare an overview of the current coastal and marine spatial planning framework in place for the Irish Sea;
- ii) Identify and consider the principles and benefits of good coastal and marine spatial planning;
- iii) Evaluate the need and opportunity to improve coastal and marine spatial planning;
- iv) Develop an outline of an improved coastal and marine spatial planning framework and identify practical steps towards implementation.

Given the context of this report, we have used examples and made reference largely to the natural environment, and especially to ecosystems and biodiversity issues when discussing environmental topics. Any new spatial planning system would, of course, include all aspects of the marine environment, including its physical, cultural and historical dimensions.

### **The Irish Sea Pilot Project Area**

1.4 For the purposes of this project, the Irish Sea is bounded in the north by a line between the Mull of Kintyre in Scotland and Fair Head in Northern Ireland and in the south by a line between Linney Head in Wales and Mine Head in Ireland. It therefore includes the administrative jurisdictions of England, Ireland, Northern Ireland, Scotland, Wales and the Isle of Man.

### **Marine Spatial Planning Defined**

1.5 The Department for Environment, Food and Rural Affairs (Defra) has suggested a definition of a marine spatial plan as "*a strategic plan for regulating, managing and protecting the marine environment that addresses the multiple, cumulative and potentially conflicting uses of the sea.*"<sup>1</sup>

1.6 The above definition appears to assume that marine spatial "planning" will include the "management" of ongoing uses or activities. However, other papers that address the potential scope of marine spatial planning prefer to express the scope as "marine spatial planning and management"<sup>2</sup> (Birdlife International 2003).

1.7 The definition and scope of marine spatial planning was further explored in a CoastNet conference in October 2003 and its proceedings will be widely disseminated. The Scottish Coastal Forum (SCF) has defined the purpose of marine spatial planning as "*two fold: (a) to secure sustainable and integrated development which balances and, where appropriate advances, economic, social and environmental objectives, and considers the implications of the ecosystem approach; and (b) to allocate space in inshore waters in a rational manner which minimises conflicts of interest and maximises synergistic relations.*"

1.8 It is clear that in order to fulfil the aspirations of the stakeholders urging that a marine spatial planning system be introduced, it will be necessary for that system to embrace the management of ongoing activities as well as the regulation of proposals for change.

1.9 In that way it would be markedly different from the land use planning system and so the debate about marine spatial planning must continue to include whether the system should regulate ongoing activities as well as proposed changes.

1.10 Furthermore, a marine spatial planning system does not necessarily have to lead to a single system of planning, producing a single plan, or single set of plans. It could be established more as a discipline, or a process, that may result in several plans - expressions of proposals and policies **B** but which are better integrated and their spatial implications are better understood and coordinated. Marine spatial planning does not necessarily have to lead to a single marine spatial plan.

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<sup>1</sup> Canning, R., 2003, "The Elements of Marine Spatial Planning" in Coastnet Conference "Spatial Planning in the Coastal and Marine Environment: Next Steps to Action", 1st October 2003, proceedings in press.

<sup>2</sup> Birdlife International, 2003, "Developing a Framework for Marine Spatial Planning in the North Sea: Principles" presented to the OSPAR Convention for the Protection of the Marine Environment of the North East Atlantic, Meeting of the Commission, 23-27 June 2003 ref OSPAR 03/4/12-E para 11 in press

1.11 Respecting these different visions for a marine spatial planning system, for the purposes of this paper, it needs to include three ongoing processes:

- a) **plan-making** - generating and adopting one or more integrated plans or policy frameworks, which have strong spatial dimensions, for the protection, enhancement and sustainable use and development of the sea and its resources; and
- b) **implementing** the plan enabling change and encouraging improvement and investment by the execution of programmed works, and by the regulation, management and enforcement of proposed changes and ongoing activities in, on, over and under the sea, all in accordance with the plans;
- c) **enforcement, monitoring and performance review** – enforcing regulation, assessing the effectiveness of the plans, their time scales and implementation mechanisms, considering ways in which they need to be improved and establishing review and adaptation procedures.

## **2. OVERVIEW OF THE CURRENT COASTAL AND MARINE SPATIAL PLANNING FRAMEWORK IN THE IRISH SEA**

2.1 As indicated above, the Irish Sea embraces parts of the seas associated with five countries and all the seas of the Isle of Man. It is, therefore, impractical in a report of this length to summarise the full regulatory and planning regimes of all the coasts and sea involved<sup>3</sup>. Rather, we present below a brief analysis of the key elements of the systems that are common to all five countries.

2.2 There is no comprehensive marine planning system operated by any country in the Irish Sea. Nowhere is there an integrated system of planning control or a mechanism for producing a cross-sectoral, comprehensive, forward plan for the sea. There is no system whereby plans have to fit into a marine planning strategy.

2.3 There is, of course, a range of regulatory processes by which licences, consents and other authorisations have to be obtained for specific proposals or activities. There are also regulators that may impose limitations on activities that are not subject to consent but may need to be restrained. These regulatory regimes have evolved over a long period of time, in response to changing forms and patterns of developments in the marine environment; for example, the exploration for and extraction of oil and other minerals, the laying of cables and pipe-lines, the building of ports, bridges, causeways and other infrastructure. Some of these regulatory processes have a spatial dimension in the sense that there are defined areas of sea where particular activities are promoted or restrained.

2.4 The regulatory processes have tended to be related to particular sectors, interests or activities, such as oil and gas, transport, energy, fishing or navigation. Even where a number of the regulatory processes operate under the auspices of a single government department, such as Defra in England, and there is good communication and consultation between the sectors, there is, nevertheless, little evidence of coordinated planning between them. Dispersed, sectoral, decision makers are less able to address the cumulative effects of different types of developments and change. The situation is potentially better in Ireland where all the main regulatory procedures for the marine environment are dealt with by a single government department, the Department of Communications, Marine and Natural Resources.

2.5 Jurisdiction of maritime regulatory processes vary: seaward of mean high water mark they may extend out to 3, 6 or 12 nautical miles or to 200 nautical miles or the limits of UK / Irish marine competency. In Ireland, the 'foreshore' licensing procedure extends over the land and seabed between high water of ordinary or medium tides and the 12 nautical miles (nm) territorial limit. The UK devolved administrations have most powers out to 12nm. In UK, but not in Ireland, there is overlap of land and sea based regulatory regimes on the intertidal. In both UK and Ireland projects that span the marine and terrestrial environments (for example, an offshore windfarm with its grid connection) will need relevant consents from both marine and terrestrial regimes.

2.6 Most regulatory controls at sea are operated by or through central, not local,

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<sup>3</sup> Institute of Estuarine and Coastal Studies, 2003, report to the Irish Sea Pilot Project

government. There is no 'planning authority' for the sea. Indeed, away from the coast, there is no equivalent body to a 'local authority', so there is no common body of local 'ownership' with local accountability, although the English Sea Fisheries Committees partially fill this gap. Whereas, on land, the planning authority prepares plans and regulates proposals for most forms of development, at sea, many forms of development have a specific regulator for that activity.

2.7 The integration of environmental conservation is inadequate. For example, the statutory requirement on decision makers to have regard to the protection / conservation of the natural marine environment is fragmented between a number of Parliamentary Acts all with differing requirements, such as the Environment Act, the Harbours Act, the Sea Fisheries (Wildlife Conservation) Act and the Food and Environment Protection Act<sup>4</sup>. The sectoral controls that have evolved in response to needs over many years are not designed to adapt easily to new pressures for change and they are slow to respond. Further, as projects are increasingly undertaken further off-shore, international interests become greater whilst local, regional and even national interests diminish, as the technical and financial challenges increase with more distant off-shore projects such as wind farms, so too the law becomes more uncertain and complex<sup>5</sup>.

2.8 In UK, ownership of the seabed is generally vested in the Crown, in Ireland it is vested in the State. The Crown Estate in UK legitimately seeks economic benefit from leases and other forms of consent, thus making it difficult to fulfil the role of an independent planning authority for the sea. Mechanisms for co-ordination and consultation, where they exist, are weak or unevenly structured. This is the case in respect of mechanisms operating vertically, between central government, local government and local stakeholders; and horizontally; between regulators, between government departments and even between local interests groups and organisations.

2.9 The differences and tensions between the marine and terrestrial planning and regulatory systems is most apparent on the coast. Integrated Coastal Zone Management (ICZM), itself partially a response to these tensions, has raised the profile of marine spatial planning and the need for better planning for the coast. However, whilst the competition for space and potential for conflict between uses and interests may decrease with increasing distance from the coastal zone, there is a need to take a more holistic approach to regulation and to generate a vision for our seas that can be achieved through integrated, comprehensive forward plans. Policy frameworks could reflect the differing needs of different parts of marine areas.

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<sup>4</sup> S. 48A Harbours Act 1964, S.8 Food and Environment Protection Act 1985, The Sea Fisheries (Wildlife Conservation) Act 1992 and part 1 of the Environment Act 1995

<sup>5</sup> See Plant, G., 2003, *Offshore Wind Energy Development: the Challenges for English Law* in Journal of Planning and Environment Law, 2003, page 939 - 964

### **3. THE NEED FOR MARINE SPATIAL PLANNING**

3.1 For the Irish Sea, and other seas around Ireland and the UK, the sectoral approach to marine regulation has largely evolved in a policy vacuum. There is no obligation on any regulator to prepare a plan that co-ordinates and expresses the spatial implications of various proposals, programmes of investment, developments or other changes. There is no system for providing a framework for consistent and co-ordinated decision making. There is no plan or policy framework against which regulators should check all new proposals for compliance. There is no system through which the various regulators of the marine environment can achieve integrated planning. Local initiatives such as those focused on the Scottish Firths, English Estuaries and Bantry Bay in Ireland, have been successful in bringing stakeholders together, raising awareness of the need for co-ordinated planning and action and in producing the first policy frameworks with a spatial dimension for sub-tidal areas. They are, however, non-statutory, voluntary initiatives of limited duration.

3.2 Although improving, generally, less is known about the use of the sea and the marine environment than is known about the use of the land and the terrestrial environment. There is poor integration, management and dissemination of marine environmental information<sup>6</sup>. There may have been a culture of out-of-sight out-of-mind in respect of the sea=s environmental problems. The sea has been the poor relative of terrestrial conservation, planning and environmental understanding over many years. Although there is comprehensive and detailed mapping in the form of charts, there is as yet no coordination of geographic information or other mapping systems to collate, interpret and use information or to form a basis for spatial planning at sea.

3.3 The sectoral approach to regulating the use of marine areas and resources has tended to create pockets of expertise in respect of particular activities or resources. With the exception of the Marine Consents and Environment Unit, which provides a streamlined facility for dealing with certain types of applications for marine works consents in England and Wales, there is a lack of a coordinated overview of the marine environment, its systems and the way that activities and developments interact with each other and the environment, that is provided by planners on land.

3.4 The sectoral approach to regulation has tended to reduce and dissipate the effect of monitoring and enforcement that, in any event, is more difficult at sea owing to the scale and geographic area involved and the environmental conditions in which monitoring and enforcement have to operate

3.5 Despite the hostile nature and often remote location of the marine environment for construction projects, there is an increase in developments that do not directly rely on the sea as a resource. They are utilising its space and locational advantages, perceived to be less constraining than the land. The sea may become increasingly used by occupiers that do not fully understand and respect its nature and may have less interest in sustaining the sea=s environment than those who depend upon the sustainable harvesting of its natural resources.

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<sup>6</sup> See Hiscock, K., Elliott, M., Laffoley, D., and Rogers, S. 2003. "Data use and information creation: challenges for marine scientists and managers". *Marine Pollution Bulletin* 46: 534-541

3.6 Some activities at sea are subject to international regulation or rights endowed by international law and convention. Increasingly, international conventions and directives are influencing regulatory controls (for example water quality or habitat and species protection) and the assessment of environmental effects at sea as well as on land, but marine regulatory systems are less well adapted to accommodate these changes. A feature of the land use planning system has been the use of spatial designations in which specified policies of restraint or promotion apply. Such designations occur at sea, for example fisheries closures, Particularly Sensitive Sea Areas (PSSAs) and, in due course, Marine Environment High Risk Areas (MEHRAs), but these are much less well developed and extensive in both geographic and policy terms.

3.7 The European Union Spatial Development Perspective has generated a wider debate about spatial planning being needed to aid consistency of economic and environmental initiatives across member states but this will take time and spatial planning frameworks are poorly developed at all levels for the sea. However, in response, the governments in the UK have increased the profile of both national and regional planning frameworks, for example, regional spatial strategies in England and national planning frameworks in Northern Ireland, Scotland and Wales, which have embraced a wider range of forward plans and programmes than those conventionally included in land use development plans in Great Britain. However, few of these yet extend to the marine environment and national and regional planning guidance remains focused on land use and development planning, as do structure plans, local plans and unitary development plans.

3.8 The coastal zone has seen more activity aimed at strategic planning of coastal management issues, in shoreline and estuary management plans but these remain non-statutory and difficult to integrate into statutory plans such as development plans and community strategies. Furthermore, administrative boundaries do not fit well with marine environmental planning, for example, most estuaries are divided between their riparian local authorities with a central boundary splitting a single ecosystem

3.9 A more detailed discussion on the need for marine spatial planning can be found in Tyldesley 2004.<sup>7</sup>

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<sup>7</sup> Tyldesley, D., 2004, '*Making the Case for Marine Spatial Planning in Scotland*' Report commissioned by the Royal Society for the Protection of Birds and Royal Town Planning Institute Scotland

## 4. THE OPPORTUNITY TO IMPROVE COASTAL AND MARINE SPATIAL PLANNING

### Drivers

4.1 After 50 years of a land use and development planning system on land, which has been regarded as broadly successful and essential in the public interest, there is increasing acknowledgement that the sea needs a planning system too. This move towards a marine spatial planning system is likely to be inevitable, because it is motivated and propelled by a range of international and national drivers and an increasingly influential voice from non-governmental bodies. Momentum has been increased by two significant government commitments outlined in the next three paragraphs.

4.2 The UK Government has indicated acceptance of marine spatial planning as a possible approach through the 2002 declaration by Environment Ministers from the North Sea Conference (The Bergen Declaration) making a commitment for marine protected areas in the North Sea by 2010. This agreed to “*the strengthening of cooperation in planning and managing marine activities through spatial planning of the North Sea*”<sup>8</sup>. The Declaration also invites the OSPAR Biodiversity Committee, ‘*to investigate the possibilities for further international cooperation in planning and managing marine activities through spatial planning of the North Sea States taking into account cumulative and transboundary effects*’<sup>9</sup>The Declaration agrees that close cooperation of regional governments, local authorities and other stakeholders, is important for future development of a marine planning system in the North Sea<sup>10</sup>. Similarly, OSPAR’s own work is examining how the role of spatial planning will help to improve co-operation and management of the range of different activities that take place in coastal waters.

4.3 This commitment is mirrored in the UK Marine Stewardship Report *Safeguarding Our Seas* that states, *inter alia*, that the UK Government

*“.....will explore the role of spatial planning for the marine environment .....”*.  
review ‘*the regulatory framework affecting development in the coastal area with a view to simplifying the regulatory system and protecting the marine environment*’;  
examine ‘*how to improve co-ordination of the granting of consents between Government departments for activities that affect the seabed and how the granting of individual consents might be made more efficient*’;  
explore with all UK and devolved stakeholders, ‘*how the European Commission Recommendation on Integrated Coastal Zone Management should be implemented*’.

4.4 In outlining how it intends to achieve delivery of its vision (Chapter 1) the following paragraphs are of particular relevance:

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<sup>8</sup> Ministerial Declaration of the Fifth International Conference on the Protection of the North Sea, Bergen, Norway 20 – 21 March 2002, Section XI, para 76

<sup>9</sup> *ibid.* Section XI, paragraph 77(ii)

<sup>10</sup> *ibid.* Section XI, paragraph 78

*1.18 An ecosystem-based approach also means taking steps to ensure that sectoral actions do not compromise marine ecosystems and their constituent parts. Nature conservation objectives need to be an integral part of our thinking about marine development proposals. This emphasises the importance of integrated assessments based on the environment, marine resources and socio-economics; and planning our use of our marine resources accordingly.*

*1.23 We need to take account of the fact that many activities take place simultaneously in our marine environment. Better integration and more effective management of conflicting pressures and demands placed on the marine environment is a prerequisite for conservation. This is why we need to strengthen co-operation in spatial planning processes for the marine environment.*

### **Role of marine spatial planning in helping to meet international commitments**

4.5 At European and global levels there are a range of goals, decisions and agreements which are of particular relevance to marine nature conservation and sustainable use. A marine spatial planning system is likely to be essential in delivering these objectives and commitments. They include:

- a) The principal obligation of the OSPAR Convention 1992, is given in Article 2(1)(a) and states *“The contracting parties shall, in accordance with the provisions of the Convention, take all possible steps to prevent and eliminate pollution and shall take the necessary measures to protect the maritime area against the effects of human activities so far as to safeguard human health and to conserve marine ecosystems and, when practicable, restore marine areas which have been adversely affected.”* The objective of the OSPAR Convention's Biodiversity Strategy *'to protect and conserve the ecosystems and the biological diversity of the maritime area which are, of could be, affected as a result of human activities, and to restore, where practicable, marine areas which have been adversely affected'*.
- b) The decision by Heads of European Government at the European Summit in Gothenburg in June 2001 to target and halt the decline of biodiversity across the European Union by 2010, subsequently and now adopted by the thirteen candidate countries under the Spanish presidency in July 2002 (The El Teide Declaration). The Habitats Directive is viewed as an important instrument amongst others to deliver this target.
- c) The stated aim of the European Union's 6th Environmental Action Programme (EC, 2001) *'to protect and restore the functioning of natural ecosystems and halt the loss of marine biodiversity in the European Union and globally .....'*. Article 2 of the Programme identifies a key objective in achieving this aim as the *'protection of biological diversity, in line with the Community's biodiversity strategy'*.
- d) The European Community's biodiversity strategy of 1998, which states under the theme of *'conservation and sustainable use of biological diversity'*, that the Community should *'seek the conservation and, where relevant, restoration of ecosystems and populations of species in their natural surroundings'*.

- e) In October 2002, the European Commission published *Towards a strategy to protect and conserve the marine environment*. It embraces the 2010 target to halt the decline in biodiversity as well as embracing a longer-term objective 'to ensure a sustainable biodiversity through the protection and conservation of natural habitats and of wild fauna and flora'. It states "the Commission will address the integration of nature protection measures and the various sectoral activities impacting on the marine environment, including spatial planning. A stakeholder conference to help progress the strategy (December 2002, Copenhagen) concluded that "principles from spatial planning should be considered to establish a good basis for a more integrated approach of the marine area";
- f) Relevant agreements made at the World Summit on Sustainable Development, held in Johannesburg in 2002. These are: to establish a regular United Nations system for marine monitoring by 2004; produce integrated water resources management and efficiency plans by 2005; encourage the ecosystem approach in marine management by 2010; establish representative marine protection networks by 2012; and to restore depleted fish stocks to maximum sustainable yields by 2015 'where possible';
- g) Agreement under the Convention on Biological Diversity (CBD) to the principles of an ecosystem approach, as well as a common interpretation of Article 2 on sustainable use. The ecosystem approach puts the emphasis on management that maintains the core physical, chemical and biological processes that actually support the ecosystem in question. The adoption of an ecosystem approach to management ensures that the health of the ecosystem is maintained and that social values (such as fishing or recreation) can be enjoyed in a sustainable manner. Sustainable use has been defined under Article 2 of the CBD as *'the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations*.
- h) The European Union's Natura 2000 which embraces requirements in the Habitats Directive (1992) to maintain or restore natural habitats and species of wild fauna and flora to a favourable conservation status and to designate special areas of conservation at sea as well as on land
- i) The similar requirements embodied in the 1979 EC Birds Directive that requires Member States to protect and improve the population of wild birds naturally occurring in their areas and to classify the most suitable territory for rare and migratory birds as special protection areas;
- j) The EC Directive on the assessment of the environmental effects of certain plans and programmes, 'the SEA Directive' which *inter alia*, requires all Member States to put in place domestic legislation, by July 2004, to ensure that all statutory forward and spatial plans, and significant amendments thereto, are subject to assessment for their environmental effects and involve procedures for public and transboundary consultation and participation;
- k) The EC 'Water Framework Directive' (2000) which requires Member States to deliver a statutory framework to achieve good ecological status in transitional, estuarine and coastal waters as well as internal river basins. The process requires an integrated assessment of pressures and impacts on water bodies (including nutrients, hazardous

substances, organic enrichment, physical modifications, catchment abstraction, commercial fishing and alien species) and the risk of failing to achieve good status. Integrated River Basin Management Plans (also linking inland management practices and their impact on coastal waters) will need to be produced along with programmes of measures to achieve good status.

4.6 Of particular note is the drive towards Integrated Coastal Zone Management (ICZM), which may well have resulted from the mismatch of land and sea planning systems in Europe, and the lack of marine spatial planning. This should create a framework to facilitate the integration of activities of all those involved in the development, management and use of the coastal zone. It aims to establish sustainable levels of economic and social activity in coastal areas while protecting the environment. The European Union adopted its recommendation on implementing ICZM in Europe on 30 May 2002<sup>11</sup>. This commends Member States to undertake a 'stocktake' of legislation, institutions and stakeholders in the coastal zone and to develop national strategies to deliver ICZM. It highlights the principles of ICZM as follows:-

- taking a long term view;
- a broad holistic approach;
- adaptive management;
- working with natural processes;
- support and involvement of relevant administrative bodies;
- use of a combination of instruments;
- participatory planning;
- reflecting local characteristics.

### **Pressures for marine spatial planning in the UK and Ireland**

4.7 In this context it is interesting to see a range of actions in the UK that are leading inexorably towards the establishment of a marine planning system.

4.8 In Scotland, the results of a Scottish Coastal Forum (SCF) seminar in autumn 2002 suggest that there is support for the extension of planning control to the marine environment. In presenting the findings of the seminar to the Scottish Executive, the SCF concluded that there is a need for marine spatial planning as an important tool for resource management. They noted, however, it still requires to be much better developed by determining how best to deliver it and assess how the extension of aspects of the terrestrial land use planning system could play a part. In November 2002 the Scottish Executive initiated the 'Sustainable Scotland Marine Environment Initiative' to develop new management framework options for the sustainable development of Scotland's marine environment. Its first report was published in November 2003. The Scottish Coastal Forum has published a comprehensive strategy for Scotland's coast and inshore waters. Section 24 of the Water Environment and Water Services (Scotland) Act 2002 makes provision for the Scottish Ministers to extend local authority planning control over marine aquaculture developments in inshore waters (to 3nm).

4.9 In England, *Safeguarding our Seas* the Government's Marine Stewardship Report, gave a commitment to undertake a review of consents which is being implemented by the Department for Transport's Regulatory Review of Development in Coastal and Marine Waters by Ms Penny

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<sup>11</sup> European Commission (2002) *The Communication from the European Commission and the Council of the European Parliament on Integrated Coastal Zone Management: a strategy for Europe*

Brooke. CoastNet held a conference in October 2003 to advance and inform the debate about marine spatial planning and options for the future.

4.10 In 2001, the Countryside Council for Wales published a research project from Cardiff University into the problems of, and the possibilities for, the management of the Welsh territorial seas and their associated resources<sup>12</sup>.

4.11 The House of Commons Environment Select Committee inquiry into Coastal Zone Management in 1992 made some cogent and as yet still unimplemented recommendations with respect to planning in the marine environment, namely:-

- *‘There is a need to establish a national framework for the strategic planning and protection of the UK coast... that sets long-term objectives and guidelines for implementing coastal policy’* (para 35). There is a strong link between this recommendation, the EU recommendation on the development of national coastal zone strategies and the Marine Stewardship Report commitment to progress coastal zone management in general.
- *‘Harmonising the planning systems of below and above the low water mark seems to us to be the basic requisite for an integrated approach to planning in the coastal zone’* (para 49). The Government should give *‘serious consideration to this dichotomy and seek ways of harmonising the two regimes’* (para 51).
- *‘We are content for the [Crown Estate] Commissioners to exercise their rights as landlords, but subject to a planning authority that is concerned with wider issues that affect the environment and the community at large’* (para 54).
- *‘We recommend that Government review the application of procedures for environmental assessment within the coastal zone in order to ensure a more equitable and comprehensive coverage of the requirements’* (para 73).

4.12 The report also included a number of recommendations relating to the Government View Procedure for marine aggregate extraction. The Government committed to place the Government View Procedure on a statutory footing, as reconfirmed in the Marine Stewardship report which states *‘we will shortly replace the non-statutory Government View Procedure with a statutory process with the introduction of the Environmental Impact Assessment and Habitats (Extraction of Minerals by Marine Dredging) Regulations. This will transpose the EIA and Habitats Directives into national law insofar as they relate to marine aggregate dredging’* (para 6.34). In the meantime, current applications for virtually all marine aggregate extraction are required to include environmental impact assessment.

4.13 In the Republic of Ireland, an inter-departmental working group commissioned ‘Coastal Zone Management – A Draft Policy for Ireland’ in 1996, the DoCMNR is aiming to establish a Coordinated Local Aquaculture Management System (CLAMS) for every major aquaculture embayment in Ireland by 2006, as part of the National Development Plan, and the Environmental Protection Agency and the Marine Institute have published a consultation paper

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<sup>12</sup> Ballinger, R., School of Earth, Ocean and Planetary Sciences, Cardiff University, 2001, *The Management of the Welsh Territorial Sea*, CCW Contract Science Report No 428

entitled 'National Environmental Monitoring Programme for Transitional, Coastal and Marine Waters'.

4.14 It is now an appropriate time to consider what a marine spatial planning system for the Irish Sea might be and to consider the alternative ways of shaping it and delivering its potential benefits. In doing so, we need to learn lessons from the evolution of the terrestrial land use planning systems of UK and Ireland<sup>13</sup>.

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<sup>13</sup> For a more detailed analysis of the lessons to be learned from the land use planning system in the establishment of a marine spatial planning system, see Tyldesley, D., Hunt, B., 2003, *Review of how the land use planning system could influence the development of a marine spatial planning system in England* English Nature Research Report number 566.

## 5. THE PRINCIPLES, PROCESSES AND BENEFITS OF GOOD COASTAL AND MARINE SPATIAL PLANNING;

### Basic Principles and Elements of Operation

5.1 An analysis of relevant published and unpublished material, relating to the concept and practice of marine spatial planning, in the UK, Europe and globally, indicates that it should be based on the following principles and elements of operation. They are not prioritised but they are grouped into three broad topic areas, often used in expressing the key components of sustainable development - planning for sustainable economic development, nature and heritage conservation and equity.

5.2 A marine spatial planning system could be founded on the principles of :

#### *Planning for Sustainable Economic Development*

- i. sustainable use and economic development of the sea's resources;
- ii. comprehensive, integrated and coordinated spatial planning, management and regulation;
- iii. a 'plan-led' approach;
- iv. the precautionary principle;
- v. forecasting and planning over short, medium and longer time scales;
- vi. resource efficiency – making and gaining more for less;
- vii. robust science and the better use of scientific knowledge in policy making and project regulation;
- viii. respecting environmental capacity, and limits of acceptable change;

#### *Nature and Heritage Conservation*

- ix. an 'ecosystem' based approach, one that is based on a knowledge of and compatibility with ecosystem dynamics and boundaries, to achieve the sustainable use of ecosystem functions, evolution, products and resources and the maintenance of ecosystem integrity;
- x. the conservation of biological diversity;
- xi. the conservation of the amenity of the sea (its aesthetic, recreational and educational values);
- xii. the conservation of the historic and cultural heritage, include the submerged historic environment;
- xiii. an expectation that all stakeholders will share responsibility for the restoration as well as the conservation and sustainable management of the sea's environment;
- xiv. the monitoring of background, natural and gradual change and potential threats to the marine environment that may not be related to regulated projects or directly influenced by the spatial plans;

#### *Equity*

- xv. the polluter and user pays principles;
- xvi. conflict resolution, finding ways of enabling planned change to deliver mutually compatible economic, social and environmental benefits, through solutions that are not based on conventional approaches which have tried to balance interests and resulted in trade-offs between inevitable gainers and losers;
- xvii. proportionality – by which we mean that planners and regulators should intervene where necessary, to the extent that is required to protect the public environmental, economic and social interests and deliver plans and remedies appropriate and proportionate to the risks posed and the costs and resources required to manage them;
- xviii. social and economic inclusion, equity and stakeholder participation;

- xix. targeted research programmes that will meet multiple needs and add value to planning systems;
- xx. transparent, open, inclusive, accountable planning processes that are subject to scrutiny through audit and monitoring.

### **The Three Main Processes Involved**

5.3 Marine spatial planning will involve three overall processes: plan-making, implementation and enforcement, monitoring and performance review. The key elements of these processes are summarised below<sup>14</sup>.

#### 5.4 *Plan-making:*

- stocktaking, including a survey and analysis of the marine environment and all influences upon it;
- forecasting;
- analysing;
- assessing options;
- consultation;
- sustainability appraisal;
- publicity;
- adoption; and
- compliance

Compliance would require all competent authorities to implement the plan in the exercise of all of their functions and to generate their own plans and programmes in accordance with the plan.

#### 5.5 *Implementation:*

- the five step approach to decision making promoted by the Royal Town Planning Institute in 1999<sup>15</sup>;
- assessing and determining proposals for change in accordance with the plan unless exceptional material considerations indicate otherwise, (including environmental impact assessment, acquisition of further information and power to refuse an application on the grounds of inadequate information);
- meaningful and timely consultation processes that influence decisions and add benefit to the proposals;
- restricting consents by imposing conditions;
- the use of legal agreements;
- regular reviews of consents with power of modification and revocation where necessary;
- managing and, where necessary, regulating ongoing activities e.g. by the use of bylaws or statutory and enforceable Codes of Practice, embracing Best Available Techniques and Best Environmental Practice;
- publicising decisions made and specifying the reasons for consents as well as refusals and how the decision fitted with the policy framework.

<sup>14</sup> A fuller discussion and explanation of these three processes can be found in Tyldesley, D., 2004, '*Making the Case for Marine Spatial Planning in Scotland*' Report commissioned by the Royal Society for the Protection of Birds and Royal Town Planning Institute Scotland

<sup>15</sup> Summarised as 1 acquiring adequate information 2 avoiding harm 3 reducing unavoidable harm to a minimum 4 compensating for residual harm to nature conservation and 5 securing net nature conservation benefit. See further Royal Town Planning Institute, 1999, *Planning for Biodiversity* RTPI, London

### 5.6 *Enforcement, Monitoring and Performance Review:*

- rigorous and effective enforcement of consents, regulations, codes of practice and bylaws;
- systematic environmental monitoring generally, with particular regard to cumulative effects and long term changes;
- validation monitoring of consents;
- procedures for reviewing the results of monitoring and further restricting or revoking consents without compensation;
- assessing the effectiveness of the plan and implementation mechanisms (including monitoring itself), considering ways in which they need to be improved and establishing review and adaptation procedures.

### **The Benefits of a marine spatial planning system**

5.7 A marine spatial planning system as envisaged in this paper would deliver a coordinated, holistic, integrated, pro-active, effective, enforced, forward-looking, plan-led, targeted approach to the use and management of the sea. It would involve the influential participation of all stakeholders at a level that delivers accountability and distinctiveness. It would replace the largely sectoral, reactive, application-led, centralised, remote, regulatory system with ad-hoc planning, extensive duplication, inadequate coordination and integration, and limited information gathering, enforcement and monitoring that characterises the regulation of the marine environment at present.

5.8 By way of example, in order to achieve its objectives, any plan within a marine spatial planning system could identify, explain, analyse and where practical map:

- Biological and physical characteristics of the sea;
- Ecosystems and other natural systems and processes;
- The submerged historic environment;
- Community and cultural values;
- Current uses, activities and pressures for change;
- Future uses and opportunities for all interests and sectors;
- The nature, potential utility and value of marine resources;
- Threats to the natural systems;
- Shared economic, cultural, social and environmental values;
- Existing monitoring and management arrangements and the extent that they will need to be adapted;
- Methods of assessing performance and consistency with the plan

They should also identify new information required, all relevant management and institutional arrangements, stakeholders and regulators that will be involved in implementation and the resources they will need to devote to implementing the plan.<sup>16</sup>

5.9 A marine spatial planning system as envisaged in this paper would

- improve the consistency and compatibility of regulatory decisions;

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<sup>16</sup> Based on Canning, R. 2003, *The Elements of Marine Spatial Planning*, CoastNet Conference Briefing Paper October 2003

- be able to improve on the understanding and consideration of cumulative and combined effects and inter-actions between differing users and developments as well as between them and the environment;
- enable government and agencies to more effectively deliver their commitments to sustainable development;
- provide greater clarity of policy and decision making, more confidence in regulatory processes and more certainty about what changes will be acceptable, promoted or resisted in different areas of the marine environment for the benefit of developers, operators, users and protectors of the sea's resources;
- improve information collection, storage and retrieval, data processing and sharing;
- provide the context for improved management of sensitive areas that require protection and environmental conservation;
- reduce conflict and tensions between sea users and between them and regulators;
- create new working partnerships and communities with a common purpose;
- improve public participation;
- help to avoid trade-off and compromise and build on consensus;
- change the approach to management of the sea from one dominated by regulation and control to an approach that is based on forward planning;
- share the beneficial results of monitoring and reduce the uncertainty of decision making, resulting in a reduced reliance on the precautionary principle; and
- help to reverse the decline in biodiversity and act as a catalyst to restoration of marine ecosystems.

5.10 A marine spatial planning system would deliver substantial economic benefit to government and industry. For example, it could:

- provide greater steer and confidence in future investments;
- enhance the effectiveness of public and private financial and resource investment;
- improve integration and reduce duplication of effort and its associated waste of resources;
- improve the speed, quality, accountability and transparency of decision making enabling the principles of 'Better Regulation' and 'Best Value' to be incorporated into administration so reducing regulatory costs;
- improve the effectiveness and consistency of regulatory compliance, so providing better conditions for fair competition; and
- provide an improved understanding of the implications of sustainable use and development of the marine environment as a component of economic growth.

## 6. GOOD PRACTICE

### **Approach to the selection of good practice examples.**

6.1 Having considered readily available information in respect of elements of the marine spatial planning processes across the World, we have concluded that there is no single, model, comprehensive system in place that provides a template for a new system framework. The emphasis on the need for integrated coastal management has been driven by the fact that almost all countries studied have split terrestrial and marine regulatory and planning mechanisms and thus created the inter-system tensions at their inter-face on the coast. Land and sea systems were not communicating in the way that land-land and sea-sea systems communicated. Consequently, we have pointed to good practice examples in the UK to commend the initiatives taken so far, and identified and briefly described a selection of examples from other countries that may merit further study.

### **Examples of elements of the coastal and marine spatial planning processes in the UK**

6.2 The Irish Sea Pilot Project, established by Defra under the auspices of the JNCC, has rapidly advanced key tools that will potentially underpin a marine spatial planning system including trials of: project establishment and management at regional sea level; data collection and mapping; strategic nature conservation at wider sea and regional sea levels; testing whether marine landscapes derived from geophysical and hydrographical and similar data can act as a surrogate to reflect biodiversity and sensitivity to human activity of marine ecosystems; identifying nationally important habitats and species and considering ways in which they may be conserved and restored and the efficacy of legislative and policy provisions. The JNCC Marine Environmental Resource Mapping and Information Database (MERMAID) is a further example of JNCC contributing to elements of a marine spatial planning system.

6.3 The ‘Integrated Coastal Zone Management UK Stocktake’ project is an early step in moving towards a coastal planning system. As required by the EU recommendation on implementing Integrated Coastal Zone Management, the stocktake covers England, Scotland, Wales and Northern Ireland. The objectives are to:

- i. Describe the environmental, social and economic characteristics and natural resources of the UK’s coastal zone;
- ii. Describe the key laws, institutions and stakeholders that influence the management of the UK’s coast at different scales;
- iii. Analyse how these laws, institutions and stakeholders interact and integrate with each other vertically, horizontally, spatially and temporally; and
- iv. Identify the key gaps, overlaps and inconsistencies in these interactions, which act as obstacles to practical Integrated Coastal Zone Management in the UK.

6.4 The Crown Estate’s WindBase<sup>17</sup> is a GIS inventory to integrate numerous accurate and large-scale spatial data sources and information sets, categorised to present real constraints and opportunities to off-shore windfarm development locations. Used in the allocation of sites for wind energy development.

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<sup>17</sup> Found at [www.crownestates.co.uk/estates/marine/windfarms.shtml](http://www.crownestates.co.uk/estates/marine/windfarms.shtml)

6.5 Since 1999, the Department of Trade and Industry has been undertaking a rolling programme of strategic environmental assessment on the UK Continental Shelf, prior to the release of blocks of oil and gas licences. This has resulted in better consideration of environmental issues at an early stage through a more integrated approach to decision making as well as generating a resource of data not previously collated.

6.6 The Regional Environmental Assessment of the eastern English Channel for aggregate dredging and the Welsh Assembly Government's Marine Aggregates Dredging Policy for the Bristol Channel are other examples of a strategic national or regional approach to planning for marine activities. Defra has commissioned research (in press) to examine the principles and scope of development planning for marine aggregate extraction, drawing on the experience of the terrestrial land use planning system.

6.7 The Centre for Environment, Fisheries and Aquaculture Science (CEFAS) with funding from Defra produce 'Coast map' which reports on the management of marine and coastal data and information following on from the 1999 workshop on 'Integrated mapping of the UK marine and coastal zone – the way forward'<sup>18</sup>. CEFAS are also undertaking a mapping project of the North Sea for OSPAR. Following the Defra / CEFAS workshop in September 2002, '*Delivering Integrated Marine Mapping in the UK*', Defra commissioned IACMST, through its Marine Environmental Action Data Group (MEDAG) to investigate generic issues in current activities; best practice data mapping in UK, Europe and elsewhere; emerging developments that may impact on data collection and use; and themes for a future strategy establishing the principles for an outline business case for greater effort in this area. Further, the concept of a Marine Data Gateway (MDG), which would be a neutral, central resource signposting and providing access to relevant datasets, was accepted by IACMST members in September 2003.

6.8 The creation of the Marine Consents and Environment Unit (MCEU) to streamline consent procedures and integrate environmental factors in decision making processes for marine developments. The MCEU has also launched 'Marine Works GIS', a GIS system freely accessible through the internet<sup>19</sup>, which offers access to consents data in a geographical and temporal form, information about potential environmental sensitivities / constraints and socio-economic inter-actions to underpin the policy of sustainable marine development. It is also intended to build data to assist the assessment of cumulative effects especially under the Habitats and EIA Regulations.

6.9 Various estuary-wide initiatives including the Severn Estuary Partnership, which is an independent, estuary wide project established in 1995 covering English and Welsh jurisdictions and which is now implementing its Strategy of the Severn Estuary completed in 2001<sup>20</sup> and the Humber Estuary Management Plan coordinated by the Environment Agency, which is a good example of delivering an integrated Shoreline Management Plan.

6.10 Research into integrated coastal planning in the North-West Region by Liverpool University commissioned by Defra in 2000.

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<sup>18</sup> Found at [www.cefasc.co.uk/coastmap](http://www.cefasc.co.uk/coastmap)

<sup>19</sup> Found at [www.mceu.gov.uk](http://www.mceu.gov.uk)

<sup>20</sup> Found at [www.severnestuariespartnership.org.uk](http://www.severnestuariespartnership.org.uk)

6.11 The Highland Council in Scotland has pioneered non-statutory aquaculture framework plans since the 1980's and has undertaken a pilot ICZM project on the Isle of Skye. It has also participated in an INTERREG IIC project to develop principles in best practice coastal planning.

6.12 Chichester Harbour Conservancy is a good example of coordination between land and sea based interests integrating socio-economic and environmental management.

### **Examples from other countries**

6.13 Examples of elements of the coastal and marine spatial planning processes, which appear to have been partly or wholly successful and which may provide further lessons to be learned in the establishment of a marine spatial planning system, include the following:

1. New Zealand, where the Resource Management Act of 1991 brought together legislation from over 20 different statutes to create an integrated framework for managing the sustainable development of land, water and air and promote community involvement in decision making. It decentralised many regulatory functions and focused on the effects of activities rather than the sectoral approach to regulating the activities themselves. The Minister for Conservation has overall responsibility and must produce a national coastal policy statement. This and the regional councils' regional policy statements and regional policy plans must extend out to the 12nm limit of territorial waters. The hierarchy of national and consistent regional and local plans is broadly similar to England's national set of planning policy guidance notes, regional planning guidance and development plans. However, the remit of the Resource Management Act has the notable exceptions of fishing and aquaculture.
2. The United States is an example of the implementation of legislation and policy at different tiers, its federal structure being used to pioneer legislation as an instrument of coastal management under the Coastal Zone Management Act of 1972 which identifies ten national policy objectives for coastal management. However, financial incentive, rather than legislation, is used to trigger state and territorial implementation and this has led to incomplete and diverse levels of delivery of Acts and programmes.
3. In Canada, The Oceans Act of 1996 is intended to deliver a national strategy for the management of estuarine, coastal and marine ecosystems in Canadian waters out to the 200nm / Continental shelf in accordance with the United Nations Convention on the Law of the Sea (UNCLOS). It is based on the principles of sustainable development, integrated management of activities that affect as well as occur in the estuaries, coasts and seas of Canada and the precautionary principle. The Act also consolidates all maritime functions under the responsibility of the Minister of Fisheries and Oceans. Canada has developed an Oceans Strategy together with a 'Policy and Operational Framework for Integrated Management of Estuarine, Coastal and Marine Environments in Canada'<sup>21</sup>. Canada also has a number of regional marine spatial planning initiatives underway<sup>22</sup> and the best developed is the Eastern Scotian Shelf Integrated Management Initiative (ESSIM)<sup>23</sup> ESSIM included a survey of international ocean and coastal planning initiatives<sup>24</sup>.

<sup>21</sup> Found at [www.cos-sec.gc.ca/dir/cos-sec\\_e.asp#top](http://www.cos-sec.gc.ca/dir/cos-sec_e.asp#top)

<sup>22</sup> Found at [www.cos-sec.gc.ca/vignettes/vignettes\\_e.asp](http://www.cos-sec.gc.ca/vignettes/vignettes_e.asp)

<sup>23</sup> Found at [www.mar.dfo-mpo.gc.ca/oceans/e/essim/essim-intro-e.html](http://www.mar.dfo-mpo.gc.ca/oceans/e/essim/essim-intro-e.html)

<sup>24</sup> Found at [www.mar.dfo-mpo.gc.ca/oceans/e/essim/essim-reports-survey-e.html](http://www.mar.dfo-mpo.gc.ca/oceans/e/essim/essim-reports-survey-e.html)

4. In Australia, States have jurisdiction out to 3nm and the national government launched its Oceans Policy in 1998. This proposed the establishment of regional marine plans based on large marine eco-systems, which would be binding on the agencies of the Commonwealth. It also provided for the establishment of a National Oceans Ministerial Board, a National Oceans Advisory Group, Regional Marine Plan Steering Committees to oversee the preparation of the regional marine plans. The South East Regional Marine Plan has been underway since 2000 and a draft was published in July 2003<sup>25</sup>. Work on the Northern Regional Marine Plan started in 2003. The Australian Government commissioned a review of the implementation of their Oceans Policy which was published in 2003<sup>26</sup> and it reports some important lessons learnt.
5. In Norway, planning legislation empowers local authorities to extend their planning jurisdiction to sub-tidal waters. For example, the Hordaland and Rogaland County Councils extended their terrestrial planning controls to the marine environment and produced spatial development plans for the coast covering land and sea areas.
6. Ireland has allocated all of the main maritime regulatory processes to a single government department, the Department of Communications, Marine and Natural Resources and a €32m seven-year Irish Seabed Survey is now in its fifth year of data acquisition.
7. In Belgium, work is underway to help in producing a spatial structure plan for sustainable management of the Belgian part of the North Sea (project GAUFRE). This is being done in the context of a recent general 'Law of the Marine Environment' a draft proposal for a cooperation agreement regarding integrated coastal and marine management and a new 'Ministry of the North Sea'.
8. In the Netherlands, the draft Fifth National Policy Document on Spatial Planning, 2002, for the first time, included the North Sea as a topic. It is described as one of the five regions of the country. However, government changes have meant that it was not ratified by the Second Chamber and it will be replaced, in the next few months, by a new draft spatial plan.
9. An example of international cooperation in the planning and management of activities in a regional sea is found in the Wadden Sea Trilateral Coordination Project. Since 1978, The Netherlands, Germany and Denmark have cooperated to secure the harmonisation of policies, measures, projects and actions to protect the Wadden Sea. There is a permanent secretariat based in Wilhelmshaven and, in 1994, common ecological targets were agreed.

6.14 A more comprehensive review of the spatial planning systems of the countries bordering the North Sea, and their influence on marine spatial planning, can be found in the report accompanying Agenda item 2 of the OSPAR Workshop on Spatial Planning in the North Sea (SPINS), London 8 – 9 January 2004 ref SPINS 04/2/1-E.

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<sup>25</sup> Found at [www.oceans.gov.au/se\\_draft\\_plan.jsp](http://www.oceans.gov.au/se_draft_plan.jsp)

<sup>26</sup> Found at [www.oceans.gov.au/Review\\_of%20Oceans\\_Policy\\_Implementation.pdf](http://www.oceans.gov.au/Review_of%20Oceans_Policy_Implementation.pdf)





## 7. OUTLINE OF A POSSIBLE COASTAL AND MARINE SPATIAL PLANNING FRAMEWORK.

7.1 Other projects<sup>27</sup> have defined and explored the options for shaping a marine spatial planning system. Based on that work and a short but useful consultation with some key players, the basic shape of the marine spatial planning system that is most likely to be appropriate in the UK is outlined below.

### **A statutory system with a statutory purpose and duties**

7.2 Marine spatial planning should be introduced as a statutory process embracing both plan making and regulatory controls, explicitly to contribute to sustainable development, in the public interest and explicitly for the protection, restoration, enhancement and sustainable use and economic development of the sea and its resources. It should require all competent authorities to apply the precautionary principle and the principle that where an acute conflict of interest appears to be inevitable, the conservation (and restoration) of the sea's biodiversity and natural physical and ecological systems and the conservation of its historic environment should be given greater weight.

### **Scope, jurisdiction and scale of marine spatial planning**

7.3 Marine spatial planning should cover all forms of physical and spatial development, changes of use and all ongoing or proposed activities, seaward out to 200nm / the UK marine competency. It should operate at national and regional (sea-regions) level and it is unrealistic to anticipate a system that could operate at a local level, where sea-regions are subdivided. A sea-region is envisaged as a large scale maritime ecosystem or sea area with a distinctive character and / or ecological and physical characteristics and processes. As a working proposal, the regional seas defined by JNCC are a good illustration of the scale of planning units appropriate to the system and based on ecological principles (See **Figure 1**). They are an example of biogeographical mapping at regional scale and were derived mainly from information on temperature, depths and currents.

7.4 However, where it is necessary, more detailed local studies and plans could be undertaken, as indeed they have been for Estuary Management Plans, Shoreline Management Plans and Fisheries Management Plans. By contrast, the marine spatial plan(s) outside territorial waters (to 200nm) would need to reflect the limited influence of central and devolved governments, the different spatial scales and development pressures, fewer potential conflicts of use and development pressures and the stronger influence and limitations of international conventions and agreements which the Government has adopted.

7.5 The duplication of control over the intertidal should be ended, by a statutory modification of the town and country planning system, to limit terrestrial planning jurisdiction to highest astronomical tide or, if considered to be more practical, to mean high water mark. HAT or MHW are recommended because above these is a purely terrestrial environment (albeit influenced by the proximity of the sea in the coastal zone). In many parts of Europe the 'Roman Law' has long recognised that land covered even only by the very highest tides is subject to

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<sup>27</sup> Tyldesley, D., 2004, 'Making the Case for Marine Spatial Planning in Scotland' Report commissioned by the Royal Society for the Protection of Birds and Royal Town Planning Institute Scotland and Tyldesley, D., Hunt, B., 2003, *Review of how the land use planning system could influence the development of a marine spatial planning system in England* English Nature Research Report number 566.

marine influences that require different legal and practical approaches. There will always need to be a dividing line between terrestrial and marine systems and no line will perfectly meet the requirements of every function. However, all parts of the sea should be embraced in a single planning and regulatory system. The intertidal areas are far more strongly related to the marine environment, use and activities than terrestrial ones. They are characterised and influenced by the physical, chemical and biological processes of the sea rather than the land.

7.6 The marine spatial planning system should have some flexibility to treat different areas in different ways, recognising spatial variations in the nature and intensity of marine developments and activities and the sensitivity of the marine environment, as explained above; but there should be a last-resort mechanism whereby marine planning bodies could be required to treat particular areas in particular ways where directed to do so by the government.

#### **A possible hierarchy of plan-making**

7.7 There should be a Marine and Coastal Planning Policy Statement which should be a UK-wide expression of national marine planning principles for all the coasts and seas within the UK's competency. These principles could be based on those discussed in section 5 above.

7.8 This would be supported by:

- a] policy statements in a National Planning Framework for England, Scotland, Wales and Northern Ireland; these would follow on from the joint stewardship report of Defra, the Scottish Executive and the National Assembly for Wales;
- b] statutory Marine Spatial Plans for each sea-region; and
- c] where they are necessary, statutory local Maritime / Coastal Area Action Plans
- d] consideration could be given, in due course, as to whether these local plans could ultimately absorb the European Marine Site Management Plans generated under regulation 33 of the Conservation (Natural Habitats &c) Regulations 1994.

7.9 It is not desirable for regulators and other bodies merely to be charged with the duty to prepare a plan for their sector or regime, in consultation with others, in the hope that all sectoral plans will then mesh. This would be unlikely to resolve conflicts because individual sectors will naturally be inclined to give precedence to their own interests.

**Figure 3** (at the end of this report) and **Table 1** (below) are a diagrammatic representation of the marine spatial planning system envisaged in this report.

<b>Table 1 DIAGRAMATIC REPRESENTATION OF THE MARINE SPATIAL PLANNING SYSTEM ENVISAGED IN THIS REPORT</b>				
<b>SCALE</b>	<b>PLAN</b>	<b>STATUS</b>	<b>LOCALE</b>	<b>EQUIVALENT IN LAND USE PLANNING</b>
UK	UK Government Marine and Coastal Spatial Planning Policy	Non statutory policy statement of principles for marine spatial planning	UK wide, all seas in UK competency to 200nm / Continental Shelf*	UK Strategies / White Papers on Sustainable Development, Biodiversity, Climate Change etc
National	National Planning Frameworks and National Marine Policy Guidance for marine spatial planning bodies	Statutorily required to be included in any statutory NPF otherwise included as a matter of policy	England, Northern Ireland, Scotland and Wales	National Planning Frameworks for Northern Ireland, Scotland and Wales Planning Policy Statements / PPGs, MPGs in England Scottish Planning Policy / NPPGs / PANs in Scotland Planning Guidance Wales, TANs
Regional	Marine Spatial Plan	Statutory integrated marine spatial plan each covering whole area HAT/MHWM to 200nm but not necessarily whole area at same scale / detail	Say 10 – 12 ecologically generated sea-regions many of which would be transboundary E-S, E-W, S-NI, NI-E	English RPGs / RSS and RES Regional BAPs
Local	Maritime Action Plans	Statutory framework but only as needed or directed	Estuary, firth, loch, bay, areas under pressure out to say 3nm or <30m CD	Local Development Plans / Documents, Local Transport Plans, Community Strategies, LBAPs etc

\* An example of a strategy produced jointly by devolved governments is Safeguarding our Seas by Defra, Scottish Executive, Welsh Assembly Government 2002

## Planners, regulators and their advisors

7.9 Effective marine spatial planning will require strong political leadership with a single Government Department and Minister responsible for it and able to encourage the engagement of all sectors, even those that may be unfamiliar with planning processes and reluctant to engage with a new system.

7.10 It is noted that in Australia's Oceans Policy (Volume 1 page 11) it is stated that *“management of our oceans on an industry-by-industry basis will not be sustainable in the long-term. Activities such as fishing, shipping, tourism, aquaculture, coastal development, and petroleum production must be collectively managed to be compatible with each other and with the ecological health of the oceans.”*<sup>28</sup> In 1992, the House of Commons Environment Select Committee on Coastal Zone protection and Planning identified that *“much of the problem of a lack of coordination and duplication between agencies with coastal responsibilities could be resolved if there were a stronger government lead; and proposed “a central unit to adopt a national overview of coastal zone policy”*<sup>29</sup>. A long-term goal may therefore need to be the integration of marine planning into a single plan-making and regulatory body. However, at this stage the most effective way of delivering the marine spatial planning system might be to

<sup>28</sup> See [www.oceans.gov.au/oceans.jsp](http://www.oceans.gov.au/oceans.jsp)

<sup>29</sup> House of Commons Select Committee, 1992, Coastal Zone Protection and Planning paras 33 - 35

establish a new single marine spatial planning body to prepare the plans, whilst leaving regulation with the existing regulators for the time being.

7.11 It seems logical that the plan making body would be responsible to a single government department in each country, to which all maritime regulatory functions would be transferred. However, it would be vital in this process to retain the working units of staff, because their knowledge, experience and expertise would take years to replace and its loss or dissipation would be a serious disadvantage to the emerging marine planning system.

7.12 The plan-making body could be drawn from, or at least include, representatives of the regulators; the regulators may need to adapt to fit the sea-region structure of the system, and decentralise as necessary to operate at regional level. The wider the stakeholder membership of the plan-making body the more effective it will be and the wider will be the ownership of the planning outputs. If stakeholder representation becomes too unwieldy on the body itself, there are alternative approaches including participation via ‘planning for real’ type models and structures that may involve topic working groups assisting with the drafting of the plan. Experience in Canada and Australia endorses this approach.

7.13 Self evidently, the structure of delivery is complicated by the transboundary issues of all sea-regions and cannot be fully explored until the scale and nature of the marine spatial planning system is decided. Consequently, proposing major changes to regulatory bodies would be premature even if it were ultimately necessary. Similarly we envisage that whilst the long-term option of a single, specialist marine advisory / consultation body should not be rejected, in practice a system which relies on the existing scope and structure of consultees, extended where necessary to cover a wider maritime area or remit, may be the only option that can be considered to be realistic and necessary until the scale and nature of the marine spatial planning system is decided.

7.14 One of the greatest challenges for marine spatial planning will be how to engage the public and how to make relatively large, regional plan-making and regulatory bodies adequately accountable to the public.

### **Meshing with ICZM and the Water Framework Directive**

7.15 There is a danger of generating too many planning tiers and too many plans and strategies. Careful thought needs to be given as to how ICZM can be meshed with whatever system emerges. At this early stage it is likely that a non-statutory process that could deliver an ICZM strategy to inform the terrestrial and marine planning systems, where necessary, is the best option. We cannot identify any country that has established a separate, third, regulatory or planning system for the coast, in addition to the almost universal separation of land and sea. However, the decision, as to how to mesh ICZM, should be deferred until the shape of any new marine spatial planning system begins to unfold. Similarly the meshing of River Basin Management Plans required under the Water Framework Directive, with the terrestrial and marine spatial planning systems needs to be considered carefully, and in due course because it is unlikely that a marine spatial planning system will be in place in time to deliver the statutory requirements of the Water Framework Directive in the immediate future.

## 8. STEPS IN THE DELIVERY OF A MARINE SPATIAL PLANNING SYSTEM

8.1 It is difficult to predict how the establishment of a marine spatial planning system may progress, because it depends on so many variables and uncertainties. It could progress very quickly if Government (including the devolved Governments) introduced major new legislation and allocated substantial resources to the system in the short term. More realistically, we see a step-by-step approach being likely.

8.2 We have the benefit of lessons to be learned from the evolution of the terrestrial planning system to help get more of the detail right first time. The fundamental shape of the town and country planning system has survived since it was first laid down in the 1947 Act. Governments have experimented with a few new ideas and the system has changed a great deal in detail, but not in its basic concept or broad scope. However, the differences between land and sea planning and messages from the evolution of the planning system, together with the fact that it is difficult to anticipate future spatial planning requirements at sea, makes it seem unrealistic to assume that a marine spatial planning system will be established in one step.

8.3 Furthermore, the likely time scales for considering new statutory provisions in the various legislatures at UK and devolved government levels, means that we probably have time to:

- i. Undertake a research, consultation and pilot project;
- ii. Undertake a non-statutory trial of a model marine spatial planning system, or substantial elements of it in a sea-region of the UK; and
- iii. Phase the introduction of statutory provisions with a non-statutory stage of plan making for all sea regions.

8.4 These would help to test many of the requirements of a marine spatial planning system to inform the preparation of legislation. Consultation and the generation of a broad consensus of what a possible new marine spatial planning system might be, and then a trial to test it, would seem to be the most sensible ways forward.

8.5 The **research, consultation and pilot project** would explore and advance the discussion on the shape of a potential marine spatial planning system, its principles and processes and how they might integrate with the existing systems and existing initiatives. It would include a wide and structured consultation process with all stakeholders and the public generally. Part of the research, consultation and pilot project would be to investigate in detail lessons to be learned from other countries, particularly Australia, Canada, Norway and the United States. It would also be necessary to undertake further analysis of the potential influence of international law and conventions on a marine spatial planning system operating within and beyond the 12nm territorial limit. A broad estimate of time and cost for a research, consultation and pilot project would be 12 – 24 months and about £250K to £500K. Its outputs would be a recommendation for a marine spatial planning system widely supported by stakeholders and sufficiently detailed to enable the commissioning of a trial project.

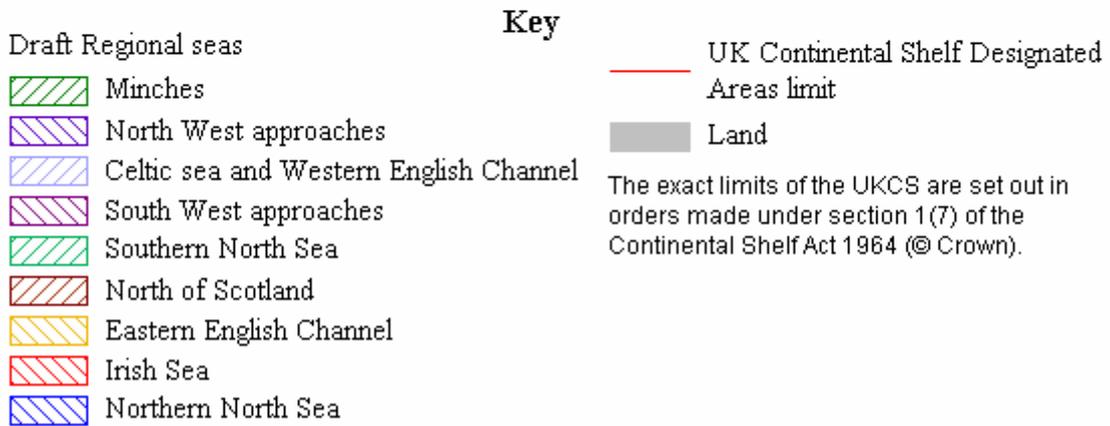
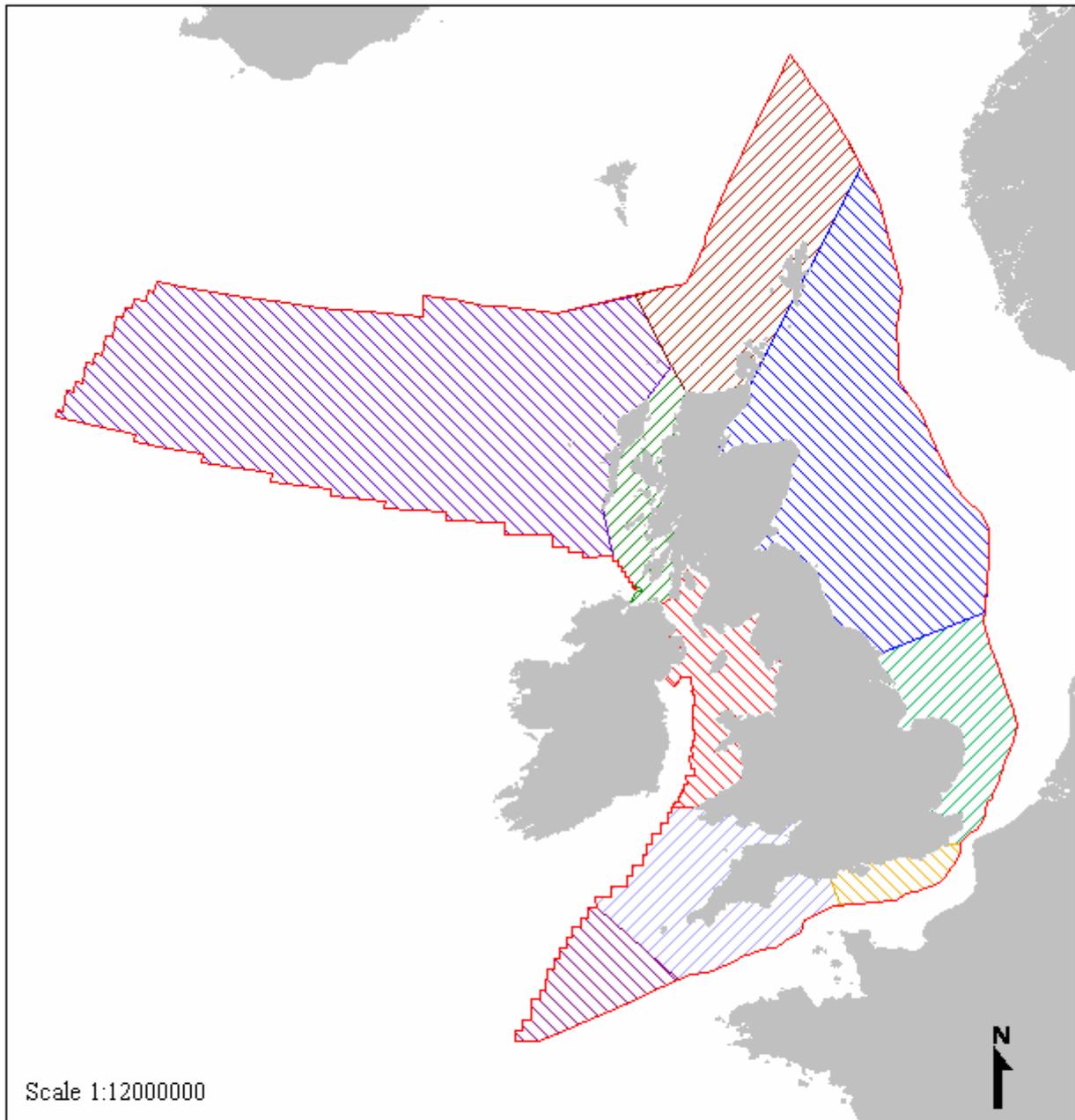
8.6 The **trial project** would need to be established in terms of its organisation, administration and contact networks during the research, consultation and pilot project so that all participants, including other Member States of the EU, would be engaged and prepared. It would involve the fullest trial of the system recommended by the research, consultation and pilot project as it would be possible to undertake on a non-statutory basis. Its outputs would not be binding because the purpose would be to test the process rather than the product. Its main outputs would be a spatial plan or plans for the sea-region consistent with a draft Marine and Coastal Planning Policy Statement (see paragraph 7.8 above) from the Government. It would experiment with different scales and models and planning techniques to produce one or more illustrative plans. The trial might reasonably last two years (after the pilot project), possibly a little longer, and cost about £500K to £900K.

8.7 The Irish Sea is the strongest candidate sea-region for the trial and the cooperation of the Irish government would be essential. It has the advantage of engaging all the administrations of England, Northern Ireland, Scotland and Wales. The statutory and policy framework in Ireland and the non-statutory initiatives being undertaken around the Irish coast indicate that Ireland would be an ideal partner for the project. A further advantage is that a trial in the Irish Sea could embrace international, national and regional scales.

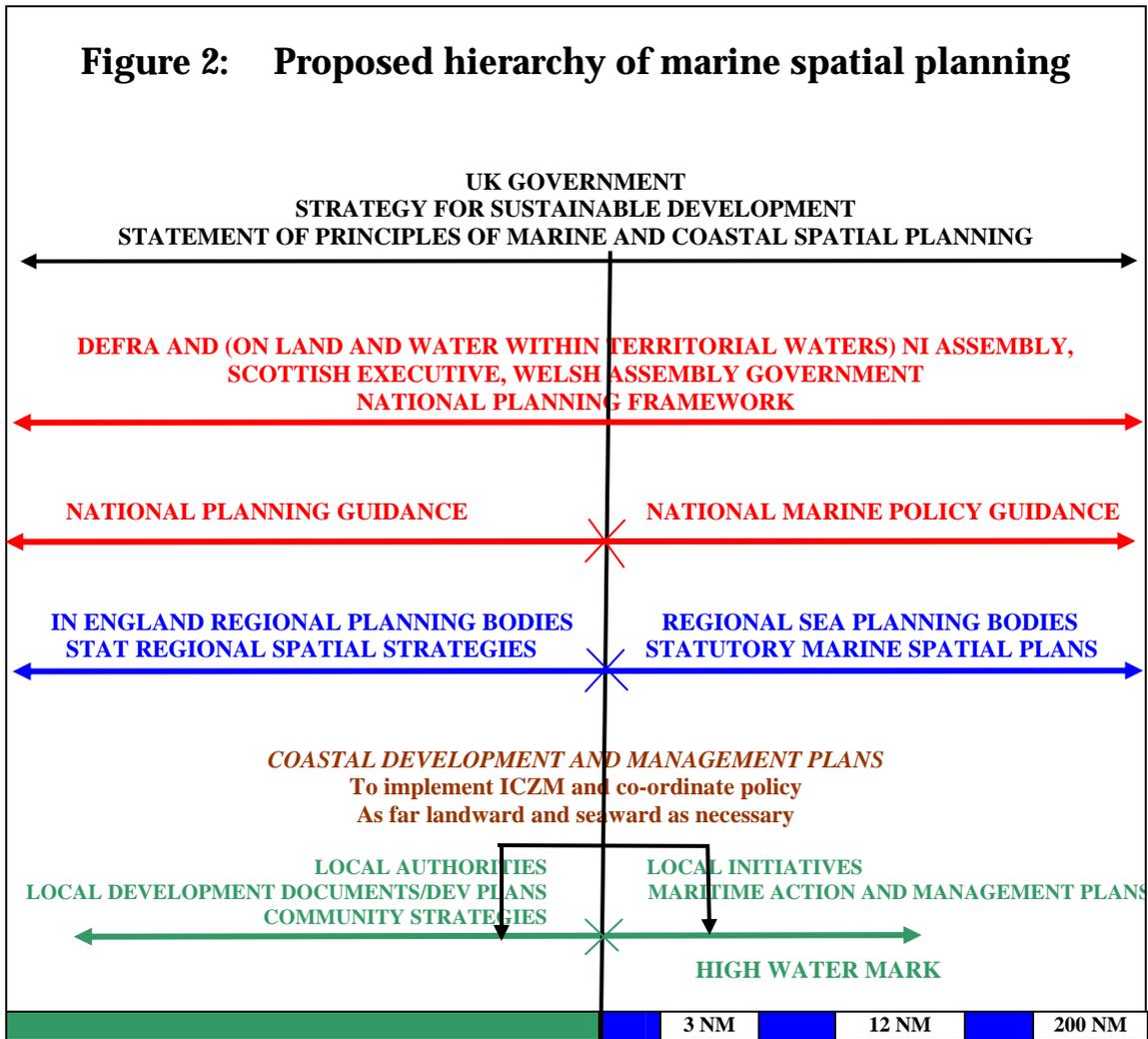
8.8 The pre-legislation **non-statutory plan making stage** would build on the work of the pilot and trial stages and would aim to deliver a non-statutory marine spatial plan for each sea-region in the UK.

8.9 **Figure 3** at the end of this report illustrates an indicative timescale for moving towards a statutory marine spatial planning system by 2010. Achievement of this target would rely on a strong political commitment and the support and full engagement of all stakeholders.

**Figure 1 Draft RMNC regional seas boundaries (October 2001)**



**Figure 2: Proposed hierarchy of marine spatial planning**



**Figure 3 Example of a possible process and timetable to introduce a marine spatial planning system**

Stage	2004	2005	2006	2007	2008	2009	2010	2011	2012
Research, consultation and pilot project									
Preparations for and execution of inter-governmental Irish Sea Trial									
Government consults on a proposed system									
Government proposes establishment of a MSPS and legislative programme, timescales, Departmental responsibilities and roles of regional and other organisations.									
Government issues preliminary policy guidance in form of a marine spatial planning policy statement and a Good Practice Guide for preparation of non-statutory plans for each sea-region									
Government commissions a single public body, existing or new, in respect of each sea-region to commence preparation of a non-statutory marine spatial plan									
Consultation on draft legislation									
Preparation of first round of draft, non-statutory marine spatial plans									
First round of non-statutory marine spatial plans adopted									
Marine spatial planning legislation enacted all competent authorities have a duty to further the aims of the non-statutory marine spatial plans									
Review of first round, non-statutory marine spatial plans under statutory procedures									
Examination of first draft statutory marine spatial plans in public									
Adoption of first statutory marine spatial plans*									
Any statutory changes in regulating and managing the marine environment are introduced to achieve the efficient implementation of the marine spatial plan.**									
Statutory procedures in respect of enforcement, monitoring and review initiated									

\* On adoption of first statutory marine spatial plans all competent authorities have a duty to determine proposals for change in accordance with the plan unless exceptional material considerations indicate otherwise and any plans and programmes of any competent authorities must be in accordance with the marine spatial plan

\*\* This may involve changes required to Departmental responsibilities and the structure of relevant public bodies.