

Evidence presented by **Wildlife and Countryside Link** to the
Joint Committee on the Draft Marine Bill

May 2008

Introduction

- Wildlife and Countryside Link (Link) is a coalition of the UK's major environmental non-governmental organisations (NGOs) concerned with the conservation, enjoyment and protection of wildlife, the countryside and the marine environment. Our members have the support of over eight million people in the UK. Link's evidence to the Committee represents a joint submission by the following organisations:
 - Buglife
 - IFAW - International Fund for Animal Welfare
 - Marine Connection
 - Marine Conservation Society
 - Royal Society for the Protection of Birds
 - Shark Trust
 - The Ramblers' Association
 - The Wildlife Trusts
 - Whale and Dolphin Conservation Society
 - WWF - UK
- Link works closely with sister Link organisations in Scotland, Wales and Northern Ireland who will be submitting supplementary evidence on issues that particularly affect each devolved administration.
- Link welcomes the Government's continuing commitment to a Marine Bill, and the wide-ranging scope of the current draft Bill. This draft Bill proposes an ambitious new approach to managing the marine environment, which must be implemented effectively.
- Whilst we welcome the draft Bill, we believe that it could be stronger and that the Government should seek to fully implement international obligations such as the World Summit on Sustainable Development and OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic as well as new European obligations under the Marine Strategy Directive.
- Link is keen to ensure that the Marine Bill can deliver its aims and objectives. Whilst we support the general thrust and content of the draft Bill, Link has some significant concerns that parts of it, especially Part 4 (Marine Conservation Zones), are weak and, if unaltered, may cause the UK Government to fail to achieve its objectives for marine nature conservation.
- Whilst we welcome pre-legislative scrutiny and further consultation on the draft Bill, because review by stakeholders on such a wide-ranging piece of legislation is important, we hope that this will be the final stage in a long consultation process and that a full Marine Bill will be before Parliament as soon as possible this year. The UK's seas need better protection and management now.

Comments in response to the Committee's Questions

Q1 *The challenge of assessing whether the legislative framework for marine spatial planning set out is fit for purpose in the absence of the government setting out what the objectives for the planning system are (Marine Planning Statement)*

1. Link believes a strategic, spatial, integrated planning regime is vital in seas that are increasingly busy. Strategic planning should reduce conflicts between interests while ensuring space for marine wildlife. We welcome the proposals for an overarching Marine Policy Statement (MPS) to articulate Government's policy for the marine area and sectors, with marine plans applying it at the regional and local scale. We support public authority decisions being taken in accordance with the marine planning system.
2. Government has already consulted on draft High Level Objectives (HLOs), which will form the basis of the MPS. These HLOs reflect key international and national environmental goals as well as the UK's socio-economic goals. We foresee the initial MPS, produced within two years according to the Policy Paper, to primarily reflect existing policies developed by Government departments, but in one integrated document. We accept that the Marine Bill is framework legislation and expect more detail in guidance.
3. Link supports the development of a Marine Planning System, however, we are extremely concerned that the planning system set out in the draft Bill will not fully meet the aspirations detailed in the Policy Paper. We accept that the Marine Bill is framework legislation but our concern is that both the MPS and marine plans will be so high-level that without a commitment in the Bill to producing guidance of a substantive and procedural nature for the preparation of marine plans they will not achieve the objective of steering decision-making. This will make it difficult for decision-makers to demonstrate that their decisions are in accordance with the policy/plan and that planning is achieving its objectives. We also believe that the planning proposals are so focussed on economic and regulatory benefits, that potential environmental benefits (e.g. delivering the ecosystem-based approach) are not regarded equally.
4. Link is seriously concerned that Sch5 (7)(2-3) could undermine the objective of the EU Strategic Environmental Assessment (SEA) Directive. As drafted, the outcomes of the environmental assessments of plans are balanced against those from social or economic assessments. This is not *integrating* environmental considerations into decision making, but the traditional approach of *trading them off against* social or economic considerations. Additionally, the MPS, should also be subject to an SEA, to assess any strategic level environmental impacts.
5. In order for marine management to encompass an ecosystem-based approach it must follow boundaries that make ecological, rather than political, sense. This would require administrations to work together across administrative boundaries, across jurisdictions and also between territorial waters and the offshore area. Link is disappointed that the draft Bill does not contain powers for marine planning authorities to ensure that plans are joined-up across borders and boundaries. Link believes there should be greater integration within and between plans and the ability to establish joint planning arrangements as well as a commitment from all UK Administrations to work together across political boundaries, even where different legislation is used to deliver planning. Furthermore, we would like to see a marine planning purpose that refers to the spatial element of planning and to

integrated management to ensure that plans are more than just statements of policies.

6. There should be a duty to prepare and adopt the MPS and plans and a deadline for completion, otherwise, they may never be developed. We believe that there should be a commitment to produce plans for all UK waters, while accepting that plans will vary considerably in detail. Furthermore, the proposal to have an independent investigation of plans should be mandatory as for the equivalent Examination in Public on land.
7. The draft Bill proposes resolving conflicting policies in favour of the most recently adopted policy. This is often not the case on land, e.g. long-standing Green Belt policies are still considered relevant and considered equally during decision-making. A similar approach at sea would seem logical to avoid a situation where policies are updated just to take precedence.
8. Link would like clarity about the interaction between the MPS and National Policy Statements proposed under the Planning Bill (see response to Q3, paragraph 21).
9. The MPS objective for sustainable development seems weak, and needs to be improved by amending from “contributing to the achievement of...” to “furthering sustainable development” or “promoting...”.
10. We support the MPS being UK-wide (see paragraph 32).

Q2 How well the regulatory framework proposed will operate, given the wide range of responsibilities involved.

11. The draft Bill proposes improving the complex way marine activities are administered and consented. Positive points include removing duplication in existing legislation and ensuring all methods of dredging activities are covered. Also, precautionary and preventative measures can be taken where negative impacts will or would be likely to occur, including the power to stop damaging actions. Proposals which allow licensing authorities to consider not only the construction phase impacts of a project but also the intended use of the structure when determining an application are welcome.
12. We are concerned that in reducing the burden on applicants, the new environmental safeguards are not strong enough. Licensing is one of the main mechanisms for managing human impacts on the marine environment and Marine Conservation Zones, therefore, safeguards are important. There is a duty to have regard to the need to protect the environment when determining applications. However, the term “environment” is defined so broadly that it could result in every project trading off site-specific biodiversity loss against an undefined global environmental gain.
13. Link believes that it would increase complexity and regulatory burden if the Infrastructure Planning Commission (IPC) (proposed under the Planning Bill), and not the MMO, is given responsibility for licensing the largest ports and larger offshore wind farms (see response to Q3, paragraph 21).
14. Where more than one licence is still required, i.e. a Harbours Act or Electricity Act as well as a Marine Act licence, and there is procedural overlap, the intention is to disapply the Marine Act procedures in favour of those in the other Acts. We are

concerned that the proposals to remove duplication are so flexible as to create a loophole where Marine Act procedures (i.e. environmental safeguards or stakeholder consultation, etc) could be ignored. It is not specified in the draft Bill that the modified procedures should be of the same standard as those under the Marine Act. Moreover, as the Marine Act will be the more recent legislation, it would be more logical for its procedures to be applied where there is overlap.

15. When assessing applications it should be mandatory rather than discretionary for the licensing authority to consult experts. For example, the statutory nature conservation agencies should be consulted on all marine applications to provide expert advice on the potential environmental impacts of the project, how to mitigate those impacts, what conditions to put on the licence or whether the project should be rejected on environmental grounds. The licensing authority must have regard to expert advice and where that advice is not followed, should be required to publish its rationale.
16. While licensing exemptions are not ideal, we concede that they would reduce the regulatory burden. However, there is no description of the types of activities that could qualify for exemption. At the very least, it should be mandatory for the licensing authority to be notified every time an exempted activity is carried out, and for them to be included in the proposed 'register of licensed activities'. This would ensure that licensing and planning authorities could base decisions on a complete record of all the (licensable) activities happening in the marine area at any time and allow them to properly determine the cumulative impacts of these activities on the marine environment.
17. The regulatory reforms are not universal throughout UK waters (Scottish territorial waters and functions are not included), therefore operators that work throughout UK waters will be subject to different regimes – requiring a Marine Act licence for projects outside and a FEPA and/or CPA consent within Scottish inshore waters and for devolved functions. This will be even more complex for projects that straddle the boundary. Even where the licensing system is reformed, there are potential administrative complexities. For example, some renewable energy installations in Welsh waters will require a licence from both Welsh Ministers (Marine Act) and the Secretary of State (BERR) (under the Electricity Act, administered by the MMO). It is essential that in such circumstances, the Secretary of State/MMO and Welsh Ministers have a close working relationship.
18. We want a formal commitment from Government that the Environmental Impact Assessment (EIA) Regulations, which require the environmental impacts of projects to be determined, will be updated in secondary legislation.
19. Enforcement can be difficult and potentially resource-intensive. Link is pleased that the draft Bill suggests that the Government is committed to providing effective enforcement arrangements.

Q3. The proposed powers, structure and regulatory role of the Marine Management Organisation.

20. Responsibility for planning and the majority of non-devolved licensing should give the MMO a strategic overview of marine activities. It should become a hub for marine expertise, knowledge and data, able to identify strategic data gaps and get advice from experts on filling those gaps. It will be in an ideal position to ensure that the use of marine space and resources is sustainable and marine wildlife is properly protected.

21. Link is very concerned by the Government's proposal to give the IPC responsibility for licensing the largest ports and larger offshore wind farms. We strongly oppose the IPC (a primarily terrestrial-focussed body) being given this responsibility and support the MMO (an independent body with marine expertise) as the licensing authority for all marine projects in English and offshore waters (for non-devolved issues). This would allow Government to achieve its goal of a more strategic and streamlined approach to managing human activities at sea by bringing planning and licensing responsibilities together in one body. Should the Government reject this view, we want clarification on how the IPC will interact with the MMO and Welsh Ministers. The Planning Act will have to be amended, placing a duty on the IPC to seek and take into account, advice from the MMO for marine projects. We also require clarification on how the MPS will interact with the National Policy Statements, or its status relative to them. Should the IPC be given responsibility for licensing any marine projects, there should be a requirement for its decisions to be made in accordance with the MPS. Again, this may also require possible amendments to the Planning Act.
22. The MMO and its staff must be sufficiently resourced and trained to meet all of its functions and responsibilities, including having access to expert advice and data. We are concerned that there is no concrete timetable for establishing the MMO.
23. To achieve sustainable development in the marine area the 'general objective' (statutory purpose) of the MMO must be more positive and proactive. The current "...objective of making a contribution to the achievement of sustainable development" would be strengthened by replacing it with a more robust phrase, e.g., "...furthering sustainable development".
24. We welcome the introduction of a power for the MMO to manage unregulated activities affecting MCZs, through conservation orders. This is an essential tool to control activities that are not managed through other licensing regimes.
25. While carrying out its functions, whether for licensing, planning or enforcement of nature conservation and fisheries, the MMO must seek and take notice of advice from experts. For example, the MMO should be required to get environmental advice from the statutory nature conservation agencies and other marine experts.
26. The MMO will not undertake any devolved functions in Welsh waters; these will be the responsibility of Welsh Ministers. It is vital that all the powers and functions being given to the MMO are also available for Wales.
27. The Scottish and Northern Irish Administrations are developing their own Marine Bills to cover their waters and we would support them if they decided to create MMO-style bodies to carry out their corresponding functions. To secure the maximum benefits the UK MMO must be designed to facilitate formalised working arrangements with any such organisations or alternatively, the appropriate bodies in those administrations carrying out those functions, as well as with Welsh Ministers. This will assist sharing of information and best practice, and ensure that the UK's seas are managed in a coordinated and coherent manner; essential for adequate ecological management.

Q4. How well the provisions of the Bill will fit with the aims and policies of the devolved assemblies.

28. The devolved administrations are involved to differing extents with the draft Marine Bill. Most parts of the draft Bill apply to Wales, setting out powers for

Welsh Ministers as for the Secretary of State. The most notable exception is that no MMO is being created to undertake devolved functions on behalf of the Welsh Assembly Government. In addition, there are crucial omissions on fisheries management. These matters are discussed in detail in separate evidence supplied by our sister coalition, Wales Environment Link.

29. The territorial waters adjacent to Scotland and Northern Ireland are excluded from the draft Bill. The Scottish Government and the Northern Ireland Executive are developing separate marine legislation to cover their territorial waters, and devolved functions.
30. Link is calling on all four administrations to ensure that these separate pieces of legislation are compatible, and that their implementation delivers comprehensive and coherent protection and management throughout UK seas. We have identified a number of key areas where the draft Bill could be strengthened to secure this aim.
31. **Marine Management Organisation (MMO)** The MMO will deliver reserved marine management functions on behalf of the UK Government, and Welsh Ministers will be responsible for devolved functions in Welsh territorial waters. The Scottish Government is proposing creating a Scottish MMO through its own legislation to undertake devolved functions, while the Northern Ireland Executive is considering various delivery options, including an MMO. It will be crucial that all of these bodies have strong working links, both to manage the interface between reserved and devolved functions, and to secure joined-up management across borders throughout UK seas.
32. **Marine Planning** The draft Bill does not enable different marine planning authorities (either those it identifies, or future authorities that may be created under Scottish and Northern Irish legislation) to produce joint plans – e.g. the situation could arise where at least four separate plans are produced for the Irish Sea. We believe that joined-up marine planning and management at the regional seas scale is the best way to deliver an ecosystem-based approach and ensure sustainable development in the marine environment. We would like to see powers in the Marine Bill for the administrations to prepare joint plans.
33. **The Marine Policy Statement (MPS)** One of our greatest concerns about the draft Marine Bill is that Scottish Ministers are not involved in developing an MPS, in conjunction with the other administrations. We believe that a shared, high level policy statement is essential to secure coherent marine management, and we hope this situation will be reviewed and joint planning taken forward. A further weakness is that the draft Bill does not require the three participating administrations to jointly develop a shared MPS, instead the Bill allows the Secretary of State to act unilaterally. It also allows the administrations to opt out of an existing MPS. The Secretary of State could effectively nullify a shared MPS (by opting out), and institute a replacement to which the other administrations had not signed up. The Marine Bill should include greater safeguards to avoid this eventuality.
34. **Marine Licensing** The updated licensing provisions will not apply in Scottish inshore waters, which means that sea users operating both in this area and elsewhere in UK seas will be subject to different licensing regimes. In addition, applicants seeking licenses in cross-border areas, such as the Severn Estuary, will have to apply to the licensing authority on either side of the border. Provisions to enable authorities to work together in these circumstances could be beneficial

both to sea users and to regulators seeking to ensure joined-up, ecosystem-based management.

35. **Nature Conservation** No body is given the responsibility of enforcing Marine Conservation Zones in the offshore waters adjacent to Scotland, and clarity is needed on this point. In tandem with our sister Link organisations in Scotland and Northern Ireland, we are calling on the Scottish and Northern Ireland administrations to introduce similar provisions to those in the draft Bill (for MCZs) for their inshore waters, and believe that all four administrations will need to work together to ensure the UK as a whole delivers on its international commitments to creating networks of well-managed MPAs by 2012.

Q5. Will the system proposed be sufficient to meet the requirements of the forthcoming European Marine Strategy Directive and achieve 'good environmental status' as defined under the Directive.

36. We believe that the opportunity should be taken to ensure that the Marine Bill enacts as much of the EU Marine Strategy Directive (MSD) as possible and is consistent with the MSD provisions, as described in the Policy Paper.
37. The main aim of the MSD is "*to achieve or maintain good environmental status [GES] in the marine environment*" by 2020, through National Marine (Sub-) Regions. The North-East Atlantic Ocean is one of these Marine Regions, divided into sub-regions including the Greater North Sea (including the English Channel and Kattegat) and the Celtic Seas. The MSD aims "*to ensure the integration of environmental concerns*" into all marine-related policy development and decision-making.
38. To deliver GES, Member States are required to develop targeted programmes of measures within the Marine Strategies to protect and conserve marine biodiversity and ecosystems and prevent pollution. The programmes of measures are to "*apply an ecosystem-based approach to the management of human activities, ensuring that the collective pressure of such activities is kept within levels compatible with the achievement of good environmental status and that the capacity of marine ecosystems to respond to human-induced changes is not compromised, while enabling the sustainable use of marine goods and services by present and future generations*".
39. The requirement for the UK to produce Marine Strategies and programmes of measures that when combined with those from other Member States will result in the GES of the Marine (Sub-) Regions, supports UK Administrations working together on a coherent approach to marine management. In particular, it provides a rationale for promoting a UK-wide MPS and joint planning, involving all UK Administrations. It also supports a biogeographical regional seas approach (i.e. on the scale of the Irish Sea or the northern North Sea) to achieve an ecosystem-based approach to planning – Administrations would plan jointly in areas where there is shared responsibility to produce one plan at the regional sea scale.
40. The MSD also makes specific reference to the programme of measures including "*spatial protection measures, contributing to coherent and representative networks of marine protected areas, adequately covering the diversity of the constituent ecosystems*" to achieve GES. This supports the new MCZ provisions. However, we would be more confident about MCZs meeting the MSD requirement if there was a clear statutory purpose for an ecologically coherent,

representative network of MCZs, together with a duty to designate MCZs in line with this purpose.

41. The MSD also provides a number of milestones apart from the 2020 deadline for GES, that the Marine Bill should be delivering. For example, the Commission will report on protected areas by 2014, while the programme of measures have to be developed by 2015 and operational by 2016 at the latest, in a manner that is coordinated with other Member States to develop a common approach. These deadlines must drive the development of parts of the draft Bill such as the MPS and marine plans and the designation of MCZs.

Q6. Whether the proposed Marine Spatial Plans will be based on adequate scientific data and provide certainty about where activities and developments will be permitted in a given time frame.

42. Link fully supports the proposals in the Policy Paper for greater co-ordination, mapping, pooling and use of marine data and for the MMO to coordinate this.
43. However, there is no Government commitment to investment in new surveys to underpin the marine plans and associated Strategic Environmental Assessments and fill key data gaps in seabed mapping and species data to inform the designation of MCZs. The MMO needs to not only pool data but ensure it is 'fit for purpose' and up to date; and that data gaps continue to be filled to inform planning, management, designation of MCZs and sustainable development of UK seas. Such investment in new surveys is essential, and must be in addition to existing surveys.
44. While acknowledging there are data gaps, Link believes that there is sufficient data to develop initial marine plans, as they will be based on the same data that informs current licensing and marine management decisions. Bringing all existing data together is the first step in developing an integrated approach.
45. We believe that marine planning should help guide developers on where applications are more likely to succeed or fail, thus increasing certainty and reducing risks for investors, offering numerous benefits for industry, Government and marine biodiversity. It will provide an overview of environmental issues and enable potential conflicts between sectors to be identified and resolved at the planning stage, rather than later, when considerable investment has been made in individual projects. Marine planning should facilitate the sustainable development of new technologies, e.g. wave power, by identifying and safeguarding important resource areas. However, at present the draft Bill does not provide a purpose for marine planning which is *spatial* planning, rather than just policy integration. Guidance needs to be produced on how the complex and difficult choices of using the oceans and coastal regions will be determined in a sustainable way.
46. However, we must make clear that marine planning will not replace the need for project-specific EIA, as well as Appropriate Assessments in European Marine Sites. Marine plans and associated SEAs are strategic and will always need to be supplemented with local data.
47. The precautionary approach must be a key principle of marine planning where there is a lack of data, high risk of environmental damage or MCZs have not yet been designated. Monitoring and review of plans to enable future adaptive

management, particularly as new data or experience becomes available, will also be essential.

Q7. Whether improvements to the management and enforcement of inshore marine fisheries can deliver required conservation and sustainable development objectives.

48. Link supports the modernisation and improvement of inshore marine fisheries management (in England and Wales) proposed in the draft Bill, and is pleased to see the retention of the model of local fisheries management, currently delivered by the Sea Fisheries Committees (SFCs), with the creation of the new Inshore Fisheries and Conservation Authorities (IFCAs). Management at the local level benefits from the potential for local decision-making and participative management by people with detailed knowledge and experience of their local fishing grounds.

49. Proposals for IFCAs improve on the existing SFCs in several ways:

- Clearer remit and duties (see below)
- Greater management powers, including emergency byelaw making powers
- More secure funding
- Greater environmental representation on the committees

50. The draft Bill places duties on the IFCAs to manage the exploitation of sea fisheries resources in their district, and to further the conservation of any Marine Conservation Zone (MCZ) falling within their district. We are very pleased to see such a strong duty placed on the IFCAs with regards to protection of MCZs, although we are concerned that it only applies to England and not Wales. However, we are concerned that the wording of the IFCAs' duty to manage sea fisheries resources does not adequately reflect the wording recommended and agreed by a wide variety of stakeholders through Defra's Inshore Fisheries Working Group in 2005, which made reference to the precautionary approach, and maintaining and, where necessary, rebuilding stocks and their supporting ecosystems. It is of the utmost importance that this clause sends the right message to the existing SFCs and their staff, signalling that the IFCAs will not simply be the SFCs under a new name, but entirely new organisations with a different core purpose, broader than merely maximising exploitation.

51. Extensive guidance must be produced for the IFCAs, to make it clear how they will be expected to use their new powers and fulfil their new duties. Amongst other things, we would like to see more clarity on:

- Extension of IFCA responsibilities to cover 6-12nm
- Byelaw making procedure –particularly whether IFCAs will be able to cap effort in a fishery through use of byelaws and permit schemes
- Role of the Association of SFCs - some degree of strategic national coordination will be essential
- EIA and SEA –IFCAs should participate in any sectoral SEA, while EIA should be compulsory for all new inshore fishery projects

52. One key question about the proposals relating to IFCAs is whether they will apply to Wales – while it is currently drafted as such, the Welsh Assembly Government (WAG) is due to consult on whether inshore fisheries management in Wales should continue to be delivered locally, or should be delivered directly by WAG in

the future. If the latter option is chosen, we believe the Marine Bill would have to be used to update WAG's own fisheries management powers and duties. We are urging WAG to take a decision on this matter as swiftly as possible, so that the opportunity is not lost to secure all the necessary powers for modernised inshore fisheries management in Wales through the Marine Bill.

53. The draft Bill contains several amendments to the Sea Fish (Conservation) Act 1967, updating Government's powers to regulate sea fishing (including sea angling) in several positive ways. We welcome that it is now possible for Ministers to regulate sea fishing more effectively e.g. to regulate fishing from the shore not just from boats; and introduce minimum or maximum size limits. However, the draft Bill does not provide for amendment of commercial fishing licences on environmental grounds (which would require amendment to Part 4 of the original 1967 Act). It would be beneficial to sustainable management if Government were able to vary commercial fishing licence conditions for marine nature conservation purposes.
54. Link welcomes the proposals for addressing various issues surrounding the application for and use of several and regulating orders (SROs) for shellfish. We believe that SROs can continue to be very useful tools for promoting sustainable inshore fisheries management, with some changes to their focus and delivery. Some of the reforms to this legislation that we have suggested in the past are reflected in the draft Bill e.g. reducing the obstacles to applying for SROs by reducing the likelihood of a public inquiry. However, there are other adjustments and improvements that we recommend that are not in the draft Bill, e.g. the Bill does not, but should, provide that only IFCA's (where they exist) can be the grantee for Regulating Orders. We believe that these further measures should either be included in the full Bill before it is introduced to Parliament, or at least must be covered in comprehensive guidance for the IFCA's.

Q8. Should there be a statutory requirement on a UK body to ensure that the network of Marine Conservation Zones is created?

55. Link believes that it is necessary to have a statutory requirement to ensure that the network of Marine Conservation Zones (MCZs) is created, as MCZs are the primary measure in the Bill for delivering marine nature conservation and helping to achieve sustainable development. While we are happy to see the power in the Bill to designate MCZs, we fear that the legislation as currently drafted may well fail to deliver a coherent network at the UK level.
56. This is particularly important in the context of the proposed stakeholder-led process for designing the MCZ network in England. In the event of stakeholders being unable to agree on a network design, the onus must be on the designating body to intervene and ensure that a coherent network is achieved.
57. It is critical that the Bill provides for the development of a network of MCZs, rather than individual sites only. While the goal of a network of sites is expressed in the accompanying Policy Paper, the legislation itself as currently drafted makes no provision for this. We believe that the legislation should include a clear statutory purpose for an ecologically coherent, representative network of MCZs, together with a duty to designate MCZs in line with this purpose. Decisions on individual sites would thus be taken in the context of achieving the purpose of the whole network. In order to bring efficiencies and ensure the coherence of the network, the requirement to consult on the designation of MCZs should be expanded to require consultation on individual sites or networks of sites.

Q9. Is there sufficient biological data to identify a potential network of Marine Conservation Zones, especially in offshore areas, and what data will be required to measure their effectiveness? What proportion should be highly protected?

58. There is already ample biological data to start designating MCZs, particularly in inshore areas. It is important not to expect full information, as in the marine environment it will always be necessary to operate with a level of uncertainty. It is vital that the general need for more marine information does not delay the designation of specific sites that are already well described and known to merit protection. There must also be provision for addition or alteration to the network as new information becomes available. This will be particularly relevant in the offshore area, where the state of knowledge could advance rapidly with sufficient investment in data collection.

59. To complete the designation of a network of sites that protects the full range of our marine biodiversity, including in offshore areas, will require more recent and comprehensive marine data than is widely available at present. Such data once collected will have many potential uses, e.g. for better informed planning and licensing decisions. The UK government and devolved administrations must dedicate significantly more resources to collecting new marine data, and using it to establish a comprehensive network of protected areas.

60. Sites must be monitored so that they can be managed adaptively. Link wants a duty on the statutory nature conservation agencies to monitor and report on site condition, achievement of site conservation objectives (including the site's contribution to the coherence of the network) and, on a wider scale, fulfilment of the purposes of the network.

61. It is important that some sites within the protected area network are highly protected. Rather than advocating a specific proportion of the network that is highly protected, Link would rather see the management of all sites dictated by the conservation objectives. The Bill should include a duty on the statutory nature conservation agencies to define a site's conservation objectives prior to designation. Where strict protection would further conservation objectives, we believe that the site should be highly protected. In order to ensure that the required level of protection is achieved (whether highly protected or less so), there should be a duty on public bodies to consult the statutory nature conservation agencies when they consider that exercising their functions – including consenting to any development – might hinder achievement of site objectives.

Q10. Should socio-economic criteria as well as scientific criteria be used in identifying areas to be Marine Conservation Zones? What lessons on the designation of protected areas can be learned from existing SACs and Marine Nature Reserves?

62. MCZs are the primary measures in the draft Bill for delivering marine nature conservation, therefore Link believes that the integrity of a network of MCZs is paramount. We consider that sites should be identified, selected and designated using scientific criteria alone (as is the case for protected areas on land and all Natura 2000 sites), and that the network design must be scientific and rigorous. Link is concerned that, as currently drafted, the legislation has the potential to allow socio-economic factors to override national and international conservation priorities and hinder site designation (particularly for any sites requiring strict

protection). This is likely to result in fewer sites being designated, the most important sites for biodiversity potentially remaining unprotected, and a network that as a whole is neither comprehensive nor ecologically coherent.

63. Experience of designating existing SACs and Marine Nature Reserves (MNRs) holds many important lessons that should inform the development of any new marine protected area designation mechanism. The failure to designate more than three MNRs in over 25 years clearly shows that strong legislation is needed to back up the political will to designate, and that the Bill should specify a time period in which the designating body must take the decision.

Q11. Will the Government's 3GW renewable energy target create a demand for marine sites that have potential as conservation areas?

64. Link fully supports the ambition of the Government's renewable energy targets. While meeting our renewable energy targets, we must ensure that we do not compromise the role that oceans play in mitigating the impacts of climate change, which is equally important. Healthy marine ecosystems are better able to carry out this function and are more resilient to climate change impacts.
65. The creation of an ecologically coherent, representative network of MCZs is fundamental to the recovery of marine biodiversity and ecosystem functioning, and so the achievement of sustainable development. Care must be taken to ensure the siting of individual renewable energy installations does not compromise the coherence of the MCZ network as a whole. Renewable installations, like every other development, have an impact. As such, licensing of renewables must be as stringent and be subject to the same safeguards and processes as other developments.
66. The identification and designation of MCZs is the first step to reducing conflict between development and conservation, and increasing certainty for developers regarding the location of sensitive wildlife sites. Therefore, there is an urgent need to designate sites. The development of marine plans will also facilitate the process, providing developers with greater spatial information.
67. We acknowledge that once constructed, a renewable energy installation may, in some instances, bring incidental conservation benefits through the exclusion of other activities around and/or within the site. However, conservation would not be the primary function of the site, and would not be the main driver behind site selection and management. We could not therefore depend on such sites to make a significant contribution to delivering an ecologically coherent network of marine protected areas. For this reason, conservation benefits from renewables sites should be viewed as incidental to those delivered by the MCZ network, rather than playing an integral role.
68. It should also be noted that contrary to popular opinion, conservation interests are not the only or even most difficult conflict that renewable energy generation experiences. There are greater conflicts with other users, such as fishing, shipping, radar and defence (national security). Marine planning should help alleviate these potential conflicts.
69. The draft Bill currently lacks a procedure whereby the Secretary of State can call in decisions in instances that a public body is minded to authorise an activity that hinders the achievement of MCZ conservation objectives on the grounds of public

interest. We believe that the legislation should include such a procedure, to safeguard protected areas from inappropriate development.

Q12.The suitability of including regulatory issues concerning inland waters within the Marine Bill.

70. Link does not have a view on this particular issue.

Q13.The appropriateness of the measures contained in the draft Bill aimed at creating an English coastal route.

71. Link has recently submitted written evidence to the EFRA committee on this issue. In summary, Link supports the Government's vision for coastal access. In particular, we welcome recognition of the role that the natural environment plays in contributing to the quality of experience enjoyed by the user. We believe the approach put forward can deliver for access whilst providing a sound framework for addressing potential adverse effects on the natural environment.

72. However, we are disappointed that steps to deliver environmental enhancement and habitat restoration programmes, as part of Natural England's Outline Scheme, have not been carried through into the draft Bill or associated documents. We believe there is a strong case for the draft Bill to make provision for the report containing proposals for the coastal route and coastal margin to also include proposals (if any), as Natural England may feel appropriate to enhance the quality of the coastal environment, whether to increase the quality of experience for users or mitigate any adverse impacts of access on wildlife.

Wildlife and Countryside Link
May 2008