



Department  
for Environment  
Food & Rural Affairs

[www.defra.gov.uk](http://www.defra.gov.uk)

# **Marine Conservation Zones: Consultation on proposals for designation in 2013**

**December 2012**

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## Ministerial Foreword



The diversity of life in the seas that surrounds our shores is something we should celebrate. The importance of fish as a healthy food source is well-recognised, but there is a vast array of other life in our waters and on the seabed: seahorses in seagrass meadows; blue mussel beds supporting seaweeds, barnacles, sea snails, and crabs; cold-water coral reefs with starfish, anemones and sponges; and deep water mud habitats with cockles, sea urchins, brittlestars and scampi, to name just a few.

Our knowledge of seabed habitats and species has improved much over recent years and is still growing. We do know however that the marine environment is coming under pressure from human activity and there is a risk that much will be lost before we understand and fully appreciate what is there. Marine conservation is much less advanced than protection of the environment on land but, as our collective awareness of the underwater environment grows, so too does our desire to protect it. Marine Conservation Zones are the next step in securing a future for our marine biodiversity.

The identification of potential MCZs has been led by four Regional Projects across England: Balanced Seas, Finding Sanctuary, Irish Sea and Net Gain. These Projects brought together a wide range of stakeholders - conservationists, fishermen and other sea users - to develop proposals for where Marine Conservation Zones should be. We are well aware that there are still contentious issues, but the progress stakeholders achieved in building relationships and developing consensus has been impressive and I am grateful to all those who contributed.

All the Regional MCZ Projects' recommendations are described in this consultation. Defra has considered them all, along with the advice from the Statutory Nature Conservation Bodies - Natural England and the Joint Nature Conservation Committee - and this consultation sets out our proposals for which MCZs we think are suitable for designation in 2013. We anticipate additional MCZs to be designated in the future.

A key aspect in formulating our plans has been the quality of the evidence base. Where there are significant data quality issues, we propose that the MCZs concerned require further consideration ahead of possible designation at a later stage. Data uncertainty issues have not been used to exclude an MCZ from eventual inclusion in the network, but do affect whether the MCZ is ready for designation in 2013.

Through this consultation we want people's views on whether our proposals are right, or if changes need to be made, and particularly if there is any new relevant evidence that was not previously available. We are keen to hear the views of those that have already had some involvement in this process, those who are directly affected and also those who may have less of a direct connection with our seas but who still care about the marine environment and coastal communities.

Only after we have analysed all the consultation responses will final decisions be made on which MCZs to establish in 2013. We look forward to hearing your views.

A handwritten signature in blue ink that reads "Richard Benyon." The signature is written in a cursive style with a period at the end.

**Richard Benyon MP**  
Minister for Natural Environment and Fisheries



## Contents

Ministerial Foreword .....	3
Executive Summary .....	1
Marine Conservation Zones: Consultation on proposals for designation in 2013. ....	1
1. Marine Conservation Zones: Development of proposals .....	1
2. Proposals for the First Tranche .....	2
3. Consultation Questions .....	3
Part 1. Purpose and Process .....	5
1.1 Purpose of the Consultation .....	5
1.2 Consultation Process .....	5
Part 2. Background .....	8
2.1 Why do we need a Marine Protected Areas network?.....	8
2.2 National, European and International Commitments .....	8
2.3 Existing Marine Protected Areas .....	9
2.4 Other Spatial Measures.....	13
2.5. Marine Conservation Zones .....	13
2.6 MCZs in Scotland, Wales and Northern Ireland .....	14
2.7 An Ecologically Coherent Network of Marine Protected Areas (MPAs).....	16
2.8 Evidence .....	19
2.9 Amendments to Legislation .....	22
2.10 Reference Areas .....	23
2.11 Managing MCZs .....	24
2.12 Hearings .....	28
2.13 Sectoral Issues.....	28
Part 3. Identifying Possible Sites for MCZs.....	29
3.1 Regional MCZ Projects .....	29

3.2 The Science Advisory Panel .....	34
3.3 The Regional MCZ Project Impact Assessment.....	35
3.4 Formal Advice to Ministers from SNCBs .....	38
Part 4. Selecting Sites for Designation .....	39
4.1 Selection Process for the proposed 2013 Tranche.....	39
4.2 Proposals for 2013 Tranche .....	45
Part 5. Summary of Questions.....	49
5.1 Site Questions.....	49
General Comments.....	50
Part 6. Site Summaries and Maps .....	50
6.1 Site Summaries.....	50

## **Annexes**

Annex A.1 – Sites proposed for designation in 2013

Annex A.2 – Irish Sea Conservation Zone sites requiring further consideration

Annex A.3 – Balanced Seas sites requiring further consideration

Annex A.4 – Net Gain sites requiring further consideration

Annex A.5 – Finding Sanctuary sites requiring further consideration

Annex A.6 – Sites not suitable for designation

Annex B – Consultation site summary explanatory note

Annex C – Cost Quartile distribution of sites

Annex D – Marine protected areas

Annex E – Sector Issues

Annex F – Commentary on SNCB Advice

Annex G – Example designation order

Annex H – Consultation response form and data submission form

Annex I – Glossary

## Maps

Map Number	Title	Page Number
Map.1	Map showing all MCZs recommended by Regional MCZ Projects, MCZs proposed for designation in 2013, Special Areas of Conservation (with marine component) and Special Protection Areas (with marine component).	12
Map. 2	Map showing all MCZs recommended by Regional MCZ Projects, and MCZs proposed for designation in 2013.	30

## Figures

Figure Number	Title	Page Number
Fig.1	Procedure in S.126 MCAA09	43-44
Fig.2	Sites and total sea area proposed for designation in 2013.	45
Fig.3	Sites with features proposed for designation in 2013	45-47
Fig.4	Sectoral cost ranges and best estimates	47-48



# Executive Summary

## Marine Conservation Zones: Consultation on proposals for designation in 2013.

### 1. Marine Conservation Zones: Development of proposals

1.1 This consultation seeks views on proposals for designation of Marine Conservation Zones (MCZs) in English inshore, and English and Welsh offshore waters.

1.2 To help deliver the vision of 'clean, healthy, safe, productive and biologically diverse oceans and seas' the Government and Devolved Administrations have committed to a UK contribution to an ecologically coherent network. The Marine and Coastal Access Act 2009 (MCAA09) requires Government to designate MCZs as part of a network of conservation sites to protect areas covering the representative habitats and species which exist in our seas, being large enough and close enough together to support functioning communities of wildlife. As permitted under MCAA09, Ministers decided to take account of social and economic factors in considering proposals for designation of MCZs.

1.3 An ambitious stakeholder-led approach was used to recommend possible sites to Government. Four stakeholder-led Regional MCZ Projects were established: Irish Sea Conservation Zones (Irish Sea); Finding Sanctuary (South West waters); Balanced Seas (South East waters); and Net Gain (North Sea). This process was managed by the Statutory Nature Conservation Bodies (the SNCBs: Natural England and the Joint Nature Conservation Committee). The Regional MCZ Projects brought together stakeholders with interests in marine industries, marine ecology and conservation, recreation and the regulators. In developing their proposals the Regional MCZ Projects worked to guidance from the SNCBs which provided a detailed set of targets on conservation features for inclusion in the network. The Regional MCZ Projects took potential economic and social impacts into account. In many cases boundaries were adjusted, or heavily used areas avoided if alternative locations for a feature could be found to minimise the impact upon sea users. For more information on the Regional MCZ Projects and development of their MCZ recommendations to Government see section 3.1.

1.4 As well as the recommendations from the Regional MCZ Projects Defra considered the following information and advice in deciding which sites are ready for designation in 2013:

- the Regional MCZ Project Impact Assessment of costs and benefits (section 3.3);
- Marine Protected Areas Science Advisory Panel Assessment (section 3.2);

- the formal SNCB advice which provided: an overview of the Regional MCZ Project process advice on how the recommendations from the Regional MCZ Projects met the requirements of the guidance provided to them an assessment of the available scientific evidence supporting the recommendations an assessment of the MCZs recommended by the Regional MCZ Projects that should receive priority protection; and the SNCBs' overall view of the Regional MCZ Projects' recommendations (section 3.4); and
- some additional evidence which has become available since the SNCBs completed their advice. Section 2.8 describes how evidence was treated in the MCZ selection process.

1.5 Defra has assessed all this information and this consultation contains proposals for which of the sites we consider are suitable for designation in 2013. Our aim has been to find the right balance between the strength of the conservation advantages an MCZ offers, relative to the socio-economic implications of its likely designation. Whether an MCZ, and all of its features, are suitable for designation in the 2013 tranche depends on the levels of confidence in the scientific evidence and the balance between the site's conservation advantages and the socio-economic costs. For more information on the decision making process see section 4.1.

1.6 Reference Areas were the most controversial aspect of the Regional MCZ Projects' recommendations. The SNCB advice was that these did not meet the requirements in the guidance to the Projects and recommended that the approach to realising the benefits of high levels of protection should be reviewed. Defra accepts this advice and Reference Area site recommendations have not been considered for inclusion in the first tranche. A review will be undertaken. For more information on Reference Areas see section 2.10.

1.7 Defra expects to designate future tranches of sites to contribute to a UK contribution to an ecologically coherent network of marine protected areas. Site recommended to Government by the Regional MCZ Projects that are not being proposed for designation in the first tranche may be included in later tranches. For more information on future tranches see section 4.1.

## **2. Proposals for the First Tranche**

2.1 Defra is proposing that up to 31 sites are good candidates for designation in 2013.

2.2 Within the Irish Seas Conservation Zones regional project area - four sites are proposed for designation in 2013: Cumbria Coast; Fylde Offshore; Hilbre Island Group; North of Celtic Deep.

2.3 Within the Finding Sanctuary regional project area - fifteen sites are proposed for designation in 2013: East of Haig Fras; Southwest Deeps (West); The Canyons; Lundy; Padstow Bay and Surrounds; Isles of Scilly; The Manacles; Upper Fowey and Pont Pill;

Whitsand and Looe Bay; Tamar Estuary; Skerries Bank and Surround; Torbay; Chesil Beach and Stennis Ledges; South of Dorset; Poole Rocks.

2.4 Within the Balanced Seas regional project area - nine sites are proposed for designation in 2013: Stour and Orwell Estuaries; Blackwater, Crouch, Roach and Colne Estuaries; Medway Estuary; Thanet Coast; Folkestone Pomerania; Hythe Bay; Beachy Head West; Kingmere; Pagham Harbour.

2.5 Within the Net Gain regional project area - three sites are proposed for designation in 2013: Aln Estuary; Swallow Sands; Rock Unique.

2.6 For more information on these sites and all other recommended MCZs see the individual site summaries in Annex A1-6.

2.7 The Impact Assessment accompanying this consultation describes the costs and benefits of these sites. For more information on the costs and benefits of the proposed first tranche see section 4.2.

### **3. Consultation Questions**

3.1 This consultation is seeking to engage with everyone who has an interest in the marine environment and coastal communities. This consultation is the primary opportunity for people to have their say and influence the decisions on how many MCZs are designated, where they are designated and for what features.

3.2 Information and comments submitted through the consultation will be used to inform the decision on which sites will be designated in the first tranche in 2013. Information gathered at this stage will also be used as part of the decision making process for determining the designation of sites in future tranches.

3.3 As part of the consultation process please consider the questions below. When responding to a site-specific question please state clearly which site(s) you are referring to. A template response form can be found in Annex H.

3.4 Although we are only specifically requesting information and responses in respect of those MCZs proposed for designation in 2013, we would welcome your responses to Q.2-8 in respect of all other sites. Any responses or information provided will assist us in decisions and on future MCZ designations which will be subject to full public consultation.

#### **For sites and features proposed in the 2013 tranche**

For each recommended MCZ proposed for designation in 2013 please consider the following questions.

Q1. Do you agree that this site and specified features should be designated in the first tranche? Please explain and provide evidence to support your views as necessary.

Q.2 Are there any additional features (not recommended by the Regional MCZ Projects) located within this site that should be protected? Please explain and provide evidence to support your views as necessary.

Q.3 Do you have any comments on the proposed conservation objective(s)? Please provide evidence to support your comments as necessary.

Q.4 Are there any significant reasons for alteration of this site's boundary? Please explain and provide evidence to support your views as necessary.

Q.5 Is there any additional evidence to improve data certainty for features within this site? If yes, please provide evidence.

Q.6 Are there any additional activities (that may have an impact on the recommended features) occurring within this site that have not been captured within the Impact Assessment? Please provide evidence to support your views.

Q.7 Do you have any new information on costs to industry not covered in the Impact Assessment, that would be directly attributable to MCZs as opposed to costs stemming from existing regulatory requirements, or evidence that suggests the need for changes to the methodologies or assumptions used in estimating costs (including in relation to fishing displacement)? If yes please provide evidence.

Q.8 Do you have any new information that was not available or used in the Impact Assessment to inform or quantify the value the benefits of MCZs?

## **General Comments**

Q.9 You may wish to provide comments on other aspects of this consultation such as evidence requirements, identification and treatment of high risk sites. Where you disagree with the approach taken please provide evidence to support your views.

# Part 1. Purpose and Process

## 1.1 Purpose of the Consultation

1.1.1 The purpose of this consultation is to seek your views on the proposed treatment of the Marine Conservation Zone (MCZ) site recommendations made by four stakeholder-led Regional MCZ Projects to contribute to a network of marine protected areas under the requirements of Part 5 of the Marine and Coastal Access Act (2009)<sup>1</sup> MCAA09.

1.1.2 This is your opportunity to feed into the process and tell us what you think about the sites proposed for designation in 2013 and provide any additional evidence that might help improve the knowledge base for all the sites recommended by the Regional MCZ Projects. There are a series of questions within Part 5 of this document and we ask that you take the time to consider these and reply before midnight on the 31st<sup>th</sup> of March 2013.

## 1.2 Consultation Process

1.2.1 At the end of the consultation period we will summarise the responses and place this summary on our website at [www.defra.gov.uk/consult](http://www.defra.gov.uk/consult). In line with Government practice on consultations we expect to respond to the consultation within 12 weeks of the consultation closing. This summary will include a list of names of organisations that responded but not people's personal names, addresses or other contact details.

1.2.2 We will also put a copy of the responses in the Defra library at Information Resources Centre, Ergon House, 17 Smith Square, London, SW1P 3JR ([defra.library@defra.gsi.gov.uk](mailto:defra.library@defra.gsi.gov.uk)). Members of the public can also view hard copies of consultations and any responses between 10am and 4pm, Monday to Friday, provided they give 24 hours notice. There is a charge for photocopying and postage. Also, members of the public may ask for a copy of responses under freedom of information legislation.

### How to respond?

1.2.3 Responses by email should be submitted to:

[MCZ@defra.gsi.gov.uk](mailto:MCZ@defra.gsi.gov.uk)

1.2.4 Postal responses should be submitted to:

MCZ Team  
C/O Post Room  
Nobel House  
17 Smith Square  
London SW1P 3JR

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2009/23/part/5>

1.2.5 Evidence provided as part of consultation responses should meet Defra's definition of Evidence as defined by Defra's Evidence Investment Strategy<sup>2</sup> and be 'reliable and accurate information that Defra can use to support decisions in developing implementing and evaluating policy'. Therefore it is important that all evidence provided should be able to be independently scrutinised and verified.

## Complaints Procedure

1.2.6 All complaints about the consultation process should be submitted to the Consultation Coordinator at the following address:

Area 2D, Ergon House  
Horseferry Road  
London, SW1P 2AL

1.2.7 Or alternatively by email to:

[consultation.coordinator@defra.gsi.gov.uk](mailto:consultation.coordinator@defra.gsi.gov.uk).

1.2.8 To meet with Defra's service standard, all complaints will be dealt with within 15 days of receipt.

## Confidentiality

1.2.9 In line with Defra's policy of openness, at the end of the consultation period copies of the responses we receive may be made publicly available through the Defra Information Resource Centre. If you do not want your response - including your name, contact details and any other personal information – to be publicly available, please say so clearly in writing when you send your response to the consultation. Please note, if your computer automatically includes a confidentiality disclaimer, this will not be treated as a confidentiality request.

1.2.10 Please explain why you need to keep details confidential. We will take your reasons into account, but you should be aware that there may be circumstances in which Defra will be required to disclose this information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations. Please be aware that Defra may share any information provided as part of the consultation response with the Statutory Nature Conservation Bodies, (the SNCBs: Natural England and the Joint Nature Conservation Committee), Marine Management Organisation (MMO), Inshore Fisheries and Conservation Authorities (IFCAs) and Centre for Environment, Fisheries and Aquaculture Science (Cefas). Where you have a particular issue with this please explain in your consultation response.

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<sup>2</sup> <http://www.defra.gov.uk/publications/2011/04/27/pb13471-evidence-investment-strategy/>

## **Compliance with code of practice for consultation**

1.2.11 This consultation is in line with the Government's Consultation Principles. These can be found at: <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

## **Part 2. Background**

### **2.1 Why do we need a Marine Protected Areas network?**

2.1.1 With a coastline of over 12,000 km the UK has a large marine area, rich in life and natural resources. As an island nation we are never more than 70 miles from the sea. Although it may not always be immediately obvious the seas around our coast are home to some of the best marine wildlife in Europe, with a wide diversity of underwater landscapes habitats and species. Over 8,000 species are found within these waters including many of national and European importance, from corals and jellyfish to seahorses and kelp forests.

2.1.2 The geology of the seabed around England is rich and diverse ranging from intertidal rock to deep sea bed. It is this variety of seabed type, coupled with the influence of both colder and warmer waters around our shores that results in the diverse range of marine species and habitats in our seas.

2.1.3 Our seas are not just places of important biological diversity, they also provide us with a variety of goods and services including food, building materials, recreation opportunities, transport, oil, gas, renewable energy, potential carbon capture and pollution control. This makes the marine environment key to social, economic and environmental well-being and provides significant opportunities for the future that should be protected.

2.1.4 However, at present the marine environment is coming under pressure from unsustainable human activity which is damaging marine ecosystems. In comparison to terrestrial conservation, marine conservation is less well developed and it is important that appropriate additional conservation is introduced in order to protect our marine resources before it is too late. By protecting our marine environment now, we can ensure that our seas, which are a common resource, will continue to contribute to our society for generations to come.

2.1.5 The linking of marine protected areas together into a network, supported by management measures, is important to promoting the recovery and conservation of marine ecosystems. This is because a network of sites can achieve benefits more effectively than unrelated individual marine protected areas can alone. More information on the benefits of a network can be found in section 2.7.

### **2.2 National, European and International Commitments**

2.2.1 In order to protect the marine environment, the Government has signed up to and made a number of commitments on marine protected areas at a national and international level. These include:



- Marine Policy Statement (MPS)<sup>3</sup>: in this the Government re-stated its vision for ‘clean, healthy, safe, productive and biologically diverse oceans and seas’. To help deliver this vision the Government with Devolved Administrations has committed to creating an ecologically coherent network of marine protected areas;
- Biodiversity 2020 – a priority action for the England Biodiversity Strategy is to establish and effectively manage an ecologically coherent network of marine protected areas which covers in excess of 25% of English waters by the end of 2016, and which contributes to the UK’s achievement of Good Environmental Status under the Marine Strategy Framework Directive;
- Marine Strategy Framework Directive (MSFD)<sup>4</sup>: the Government has committed to contributing to achieving the Good Environmental Status of Europe’s seas by 2020. This will involve protecting the marine environment, preventing deterioration and restoring where practical, while using marine resources sustainably. The MSFD specifically requires spatial protection measures, that contribute to a coherent and representative network of marine protected areas, to be established<sup>5</sup> and for their management to be in place by 2016;
- Oslo and Paris Convention<sup>6</sup> (OSPAR): through this convention, the countries bordering the North-East Atlantic, including the UK, have agreed to establish an ecologically coherent network of marine protected areas in the North-East Atlantic by 2012 and ensure it is well-managed by 2016;
- Convention on Biological Diversity<sup>7</sup>: in 2010 parties to the convention made a commitment<sup>8</sup> that “by 2020 . . . . 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well-connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscape and seascape”.

## 2.3 Existing Marine Protected Areas

2.3.1 National and international commitments highlight the importance that the marine environment has both nationally and globally, as well as contributing to the economy and providing social and recreational activities, including the potential for future expansion of these. In recognition of this there are already a variety of different marine protected areas

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<sup>3</sup> <http://www.defra.gov.uk/news/2011/03/18/marine-policy-statement/>

<sup>4</sup> <http://www.defra.gov.uk/environment/marine/msfd/>

<sup>5</sup> Article 13(4) of Directive 2008/56/EC

<sup>6</sup> [www.ospar.org](http://www.ospar.org)

<sup>7</sup> <http://www.cbd.int/>

<sup>8</sup> [www.cbd.int/doc/strategic-plan/2011-2020/Aichi-Targets-en.pdf](http://www.cbd.int/doc/strategic-plan/2011-2020/Aichi-Targets-en.pdf)

that have been put in place to protect elements of the marine environment from degradation. Existing marine protected areas have been established either under European legislation to protect habitats and species of international importance, or under domestic legislation for features of national importance. When combined these different types of marine protected areas help to protect a broad range of habitats and species. It is intended that MCZs will complement this protection, and will not duplicate the protection of features in existing marine protected areas. Where there are potentially overlapping designations we will ensure there is a comprehensive and straightforward approach to conservation of various features. The types of marine protected areas currently established are described in the paragraphs below:

## European Marine Sites<sup>9</sup> (EMS)

2.3.2 The UK is committed to designating European Marine Sites under the EU Habitats and Wild Birds Directives. These Directives together require the creation of a coherent European ecological network of protected areas for important or threatened wildlife habitats and species across the European Union known as 'Natura 2000' sites.

2.3.3 European Marine sites include:

- Special Areas of Conservation<sup>10</sup> (SACs) which protect specific habitats (listed on Annex I to the Habitats Directive<sup>11</sup>) such as reefs, shallow sandbanks and intertidal mudflats and specific species (listed on Annex II to the Habitats Directive), such as seals; and
- Special Protection Areas (SPAs) for migratory birds and/or those listed on Annex I to the Birds Directive<sup>12</sup>, such as puffins, sandwich tern and common scoter.

2.3.4 The UK has made good progress in submitting SACs to the European Commission in 2012. On current available evidence the SAC network for Marine Annex I habitats in inshore and UK offshore waters is now considered substantially complete.

2.3.5 Defra and the Devolved Administrations plan to complete the identification of SPAs for birds in the UK marine area by the end of 2015. In 2012, Natural England began informal consultation on two sites – Falmouth Bay to St Austell Bay SPA and an extension to the existing Flamborough Head and Bempton Cliffs SPA.

2.3.6 In the UK, there are now 107 SACs and 107 SPAs with marine components. Together, these cover 8.4% of the UK sea area. Tables explaining their distribution are provided in Annex D.

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<sup>9</sup> <http://www.defra.gov.uk/environment/marine/protect/mpa/european-marine-sites/>

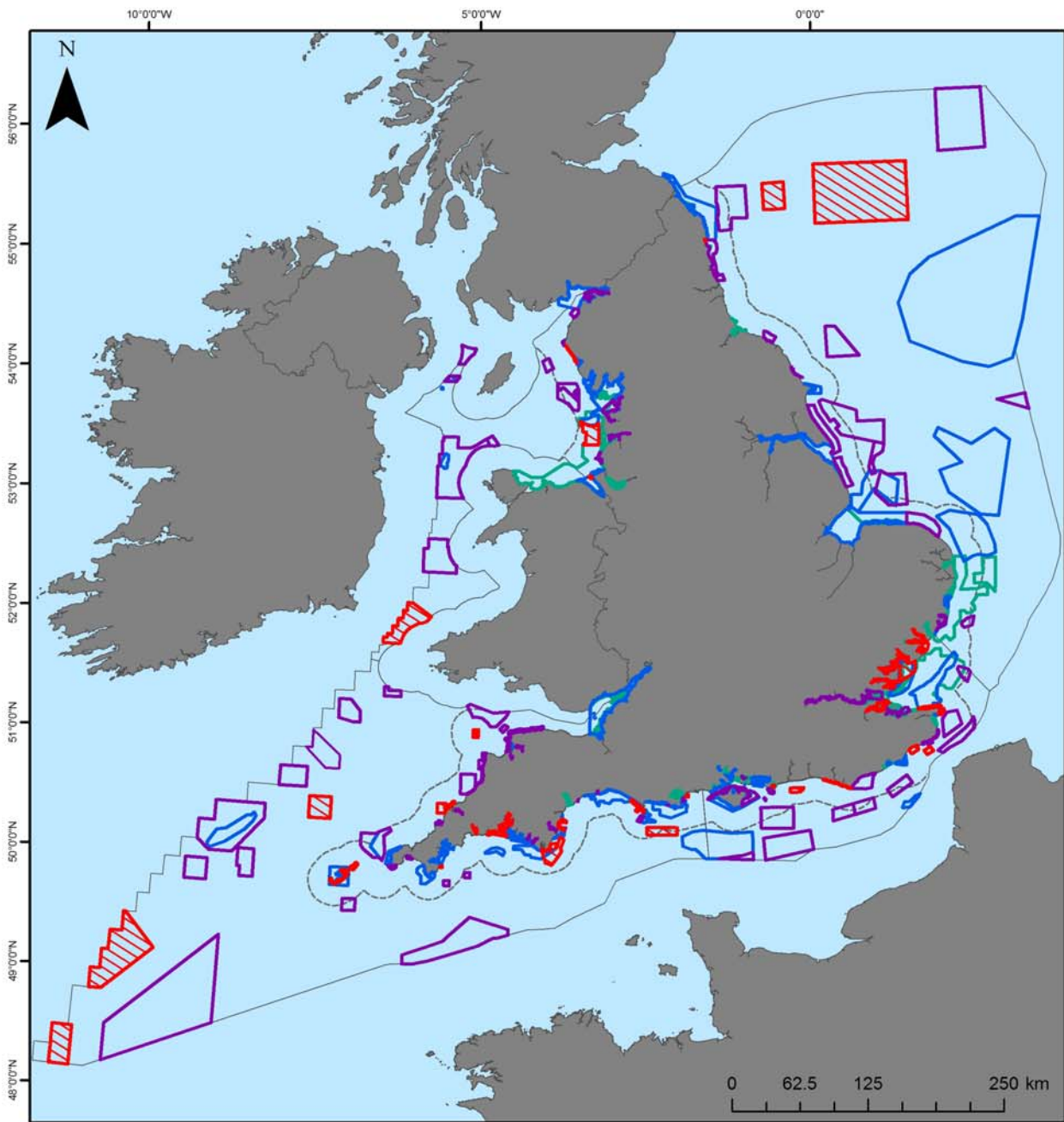
<sup>10</sup> SAC relates to any site referred to in Regulation 8(1)(a-c) or (e) of the SI 2010/490 (as amended) or Regulation 17 (a-c) or (e) of SI 2007/1842

<sup>11</sup> Council Directive 92/43/EEC

<sup>12</sup> Directive 2009/147/EC

2.3.7 In English inshore waters, there are 37 SACs and 42 SPAs with marine components. Over 23% of English inshore waters now fall within European Marine Sites.

**Map.1 Map showing all MCZs recommended by Regional MCZ Projects, MCZs proposed for designation in 2013, Special Areas of Conservation (with marine component) and Special Protection Areas (with marine component).**



**Sites overview**

-  rMCZs put forward for designation in 2013
-  Recommended MCZ
-  SACs with Marine Components
-  SPAs with Marine Components
-  Regional MCZ project area
-  12nM Territorial Seas Limit
-  Land

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## Sites of Special Scientific Interest<sup>13</sup> (SSSIs)

2.3.8 These are sites that have been notified under the Wildlife and Countryside Act 1981 by Natural England to protect coastal marine features, primarily inter-tidal habitats. Tables explaining their distribution are provided in Annex D.

## Ramsar Sites<sup>14</sup>

2.3.9 Ramsar sites are wetlands of international importance, designated under the Ramsar convention. Wetlands are defined as areas of marsh, fen, peatland or water whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres. The majority of Ramsar sites are also notified as SSSIs.

## 2.4 Other Spatial Measures

2.4.1 Although not generally considered as marine protected areas, there are a number of other spatial restrictions and measures which can contribute to conserving and improving the marine environment. These include restrictions and closures to fishing grounds to maintain healthy fish stocks and can be temporary, for example to protect spawning and nursery grounds or when stocks are under particularly high pressure or quotas are close to or have been exceeded. Further detail of these closures can be found on the Marine Management Organisation<sup>15</sup> and Inshore Fisheries and Conservation Authority<sup>16</sup> websites.

## 2.5. Marine Conservation Zones

2.5.1 Under section 123 of the MCAA09, the appropriate authority must designate MCZs under section 116 in order to contribute to a network of conservation sites that satisfies the following conditions:

- that the network contributes to the conservation or improvement of the marine environment in the UK marine area;
- that the features which are protected by the sites comprising the network represent the range of features present in the UK marine area; and
- that the designation of sites comprising the network reflects the fact that the conservation of a feature may require the designation of more than one site.

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<sup>13</sup> <http://www.defra.gov.uk/rural/protected/nationally/sssi/>

<sup>14</sup> <http://www.defra.gov.uk/rural/protected/internationally-designated-sites/>

<sup>15</sup> <http://www.marinemangement.org.uk/>

<sup>16</sup> <http://www.association-ifca.org.uk/>

2.5.2 To complement the existing types of marine protected areas and contribute to forming the network of marine protected areas the MCAA09 provides powers to designate by order an area as a Marine Conservation Zone, for the purpose of conserving:

- marine flora and fauna
- marine habitats or types of marine habitats; and
- features of geological or geomorphological interest

2.5.3 MCZs are intended to protect areas covering the representative habitats and species which exist in our seas. They should be both large enough, and close enough to each other and to other conservation sites, to support functioning communities of marine wildlife and protect areas that are important to conserve the diversity of nationally rare, threatened and representative habitats and species. In deciding on the designation of an MCZ the MCAA09 permits Ministers to take account of the economic and social consequences of doing so. Ministers have decided to make use of this provision and include consideration of social and economic factors in making their decisions.

2.5.4 The MCAA09 requires that Designation Orders for MCZs specify the location of the area designated, the species and habitats that will be protected and the conservation objectives for the site (for more information on conservation objectives see paragraphs 2.11.2 – 2.11.15). An example Designation Order is provided in Annex G.

2.5.5 When an MCZ is designated it does not automatically mean that economic or recreational activities in that site will be restricted. Restrictions on an activity will depend on the sensitivity of species, habitats and geological/geomorphological features (for which a site is designated) to the activities taking place in that area and on the conservation objectives for those features. Once the site has been designated it will be the duty of the appropriate public authority to determine what management measures if any will be required to protect the features within the MCZ (for more information on management measures see section 2.11).

## **2.6 MCZs in Scotland<sup>17</sup>, Wales and Northern Ireland**

2.6.1 Each Administration in the UK has responsibility for designating MCZs in their territorial waters out to 12 nautical miles. There is also executive devolution of responsibility to the Scottish Government for offshore waters adjacent to Scotland. Each Administration has used the OSPAR principles<sup>18</sup> for designating a network of marine protected areas as the basis for this work but each is taking a different approach to identifying and designating MCZs. These are described in more detail below.

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<sup>17</sup> Known as marine protected areas in Scotland

<sup>18</sup> Oslo and Paris Commission (Ospar) Guidance on Developing an Ecologically Coherent Network of Ospamarine Protected Areas, (Reference number 2006-3)

## **Marine Protected Areas in Scotland**

2.6.2 Work to identify marine protected areas in Scottish inshore and offshore waters adjacent to Scotland extends from the Scottish coast to the median line, and aims to contribute to an ecologically coherent network across OSPAR sub-regions. Identification of Nature Conservation marine protected areas is science led, but socio-economic data can be considered when designating areas likely to be least impacted and assessing possible management measures. To better inform the marine protected areas selection process, additional data from stakeholders helps ensure the use of the best available information on marine features. The marine protected areas network will be to safeguard natural features in Scottish waters based on the principle of sustainable use.

2.6.3 Information has been collected on the presence of important marine habitats and species, marine geology and undersea landforms. This has been used to identify potential Nature Conservation<sup>19</sup> marine protected areas. Where possible, preference has been given to sites which include multiple features and this has enabled a large number of features to be represented. A small number of areas are likely to remain as search locations, as more evidence is required to complete their assessment.

2.6.4 The Scottish Marine Protected Areas Project will report to the Scottish Parliament on progress in developing the network by the end of 2012. Thereafter, site proposal documents and an associated Sustainability Appraisal will be drawn up and consulted upon. Consultation is expected to begin in 2013.

## **Marine Conservation Zones in Wales**

2.6.5 Earlier this year, the Welsh Government started a staged public engagement and consultation process on MCZs setting out the science behind 10 potential highly protected site options. They received almost 7000 responses to the consultation, providing a wealth of information about the social, cultural and economic make up of local coastal communities across Wales, the potential implications for them and strong and different views about how best to take forward MCZs in Wales.

2.6.6 On the 5<sup>th</sup> November the Welsh Government announced a period of additional work to reflect on and fully explore all the information received. This additional work is in line with their planned staged approach to listen to feedback at each stage, respond and then seek further views from all interested parties before deciding on next steps.

2.6.7 A Task and Finish Team has been established within the Welsh Government. The job of this cross-cutting Team will be to advise and make recommendations on how to take forward MCZs in Wales in order to contribute to a wider network of marine protected areas. Key considerations for the Team will include the responses to the consultation, the areas emerging from the MCZ projects in the other UK administrations and the Welsh

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<sup>19</sup> The Marine (Scotland) Act 2010 provides for establishing three types of Marine Protected Areas: for nature conservation, protecting historic assets and for demonstrations and research of sustainable management purposes.

Government's commitment to sustainable development, communities and jobs, as well as biodiversity. The Task and Finish Team will work alongside stakeholders who will come together as a new Stakeholder Focus Group which will contribute to and provide challenge to the work of the team, testing ideas and advising on practical solutions. Peter Davies, Wales' Commissioner for Sustainable Futures, will chair the new stakeholder group.

2.6.8 The expectation is that the Team will report to their Ministers by the end of April 2013. There will be further consultation, especially with local communities, on the outcome of this work to inform how to proceed with MCZs in Wales.

## **Marine Conservation Zones in Northern Ireland**

2.6.9 The Northern Ireland Marine Bill was introduced in February 2012 and is currently being considered by the Northern Ireland Assembly. The Bill allows the Northern Ireland Executive to designate areas as MCZs. It also provides the Department of the Environment with enforcement powers in the marine environment. Designation may be carried out for conserving species of marine flora and fauna and geological/geomorphological features, taking fully into account any economic or social consequences of designation. The Bill will also allow the Northern Ireland Executive to make byelaws for the protection of MCZs. These byelaws will be subject to the Secretary of State's approval and will be brought to the attention of those individuals or organisations affected

2.6.10 When an MCZ is designated it does not automatically mean that economic or recreational activities in that site will be restricted. Restrictions on an activity will depend on the sensitivity of species, habitats and geological/geomorphological features (for which a site is designated) to the activities taking place in that area and on the conservation objectives for those features.

2.6.11 The first MCZ to be considered for designation will be the Strangford Lough which is currently a Marine Nature Reserve (MNR). Similar to other parts of the UK, MNR legislation is being repealed.

## **2.7 An Ecologically Coherent Network of Marine Protected Areas (MPAs)**

2.7.1 Defra is under a duty to contribute to a network of conservation sites that should: contribute to conservation or improvement of the marine environment in the UK marine area; represent the range of features present in the UK marine area; and that the conservation of a feature may require the designation of more than one site<sup>20</sup>.

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<sup>20</sup> Section 123(1)-(3) of the MCAA09.



2.7.2 When complying with this duty, Defra must also have regard to any obligations under EU or international law<sup>21</sup>. UK Administrations have committed to establishing marine protected areas and to achieving a UK contribution to an ecologically coherent network of marine protected areas including through a number of international agreements (paragraph 2.2).

2.7.3 Linking marine protected areas together into an ecologically coherent network, supported by wider environmental management measures will achieve benefits more effectively than individual marine protected areas can alone. A well designed network to protect biodiversity will contain ecologically viable marine protected areas of different sizes containing different habitats and species, connected by movements of adults and larvae, with a range of protection levels, to protect biodiversity.

2.7.4 Together our existing marine protected areas<sup>22</sup> make a significant contribution to the marine protected areas network. We recognised though that some important species are not covered in existing sites and that sites may not be well connected. The designation of MCZs provides an important tool to build on this and complete a network of marine protected areas in the UK and contribute to our international and national commitments.

2.7.5 The concept of an ecologically coherent network of marine protected areas is still evolving but is underpinned by the OSPAR Commission guidance (OSPAR 2006<sup>23</sup>) on developing an ecologically coherent network of MPAs. Defra identified seven marine protected area network design principles (Defra 2010<sup>24</sup>) based upon the OSPAR Commission guidance (see box 1). These, along with Defra's additional ecological and practical considerations were used by the SNCBs to develop the Ecological Network Guidance<sup>25</sup> (ENG) to provide practical guidelines to support MCZ selection. Together the application of these established network design principles were used by the Regional MCZ Projects for the selection of recommended MCZs.

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<sup>21</sup> Section 123(5) of the MCAA09.

<sup>22</sup> See section 2.3.

<sup>23</sup> OSPAR (2006) Guidance on developing an ecologically coherent network of OSPAR marine protected areas (Reference number 2006-3)

<sup>24</sup> Defra (2010) Guidance on selection and designation of Marine Conservation Zones (Note 1), Department for Environment, Food and Rural Affairs.

<sup>25</sup> Natural England and the Joint Nature Conservation Committee (2010), The Marine Conservation Zone Project: Ecological Network Guidance. Sheffield and Peterborough, UK

### Box 1 - Defra MPA network design principles

- **Representativity** – the marine protected area network should represent the range of marine habitats and species through protecting all major habitat types and associated biological communities present in our marine area.
- **Replication** – all major habitats should be replicated and distributed throughout the network. The amount of replication will depend on the extent and distribution of features within our seas.
- **Viability** – the marine protected area network should incorporate self-sustaining, geographically dispersed component sites of sufficient size to ensure species' and habitats' persistence through natural cycles of variation.
- **Adequacy** – the marine protected area network should be of adequate size to deliver its ecological objectives and ensure the ecological viability and integrity of populations, species and communities (the proportion of each feature included within the marine protected area network should be sufficient to enable its long-term protection and/or recovery).
- **Connectivity** – the MPA network should seek to maximise and enhance the linkages among individual MPAs using the best current science. For certain species this will mean that sites should be distributed in a manner to ensure protection at different stages in their life cycles.
- **Protection** – the marine protected area network is likely to include a range of protection levels. Ranging from highly protected sites or parts of sites where no extractive, depositional or other damaging activities are allowed, to areas with only minimal restrictions on activities that are needed to protect the features.
- **Best available evidence** - Network design should be based on the best information currently available. Lack of full scientific certainty should not be a reason for postponing proportionate decisions on site selection.

2.7.6 We need to consider the most appropriate method to assess the completion of the network and our contribution to it. This will need to link to both our network commitments under the MCAA09 and the wider OSPAR network. In line with OSPAR guidance, the UK is contributing to the development of methodologies through OSPAR, and we are actively working across the UK administrations to agree on an approach which links all marine protected area programmes in the UK. There is a strong scientific case for an assessment of a marine protected area network to be based on biogeographic regions<sup>26</sup>, rather than administrative regions. Defra considers that this should provide the basis for future designation of MCZs. As the network continues to develop, effective management will also remain a key factor in assessing an ecologically coherent marine protected area network, and further links to international commitments under OSPAR.

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<sup>26</sup> Biogeography is the study of the geographic distribution of plants and animals; this can be applied to define geographic areas of biological communities that have similar or shared characteristics known as biogeographic regions.

## 2.8 Evidence

2.8.1 A robust and comprehensive evidence base supports and should inform policy development at each stage from identification of key policy issues to implementation and evaluation of the policy.

2.8.2 Evidence as defined by Defra's Evidence Investment Strategy is:

Reliable and accurate information that Defra can use to support sound decisions in developing, implementing and evaluating policy.

2.8.3 The Coalition Government places great emphasis on making informed policy decisions based on the best possible evidence and Defra is committed to developing evidence-based policy.

### Evidence base for the MCZ project

2.8.4 Evidence (both ecological data and information on socio-economics) has been an integral part of the selection of MCZ sites and the availability of evidence to show that a site meets the requirements of the MCAA09 is key to the designation process.

2.8.5 However, our understanding of the marine environment and the processes within it is often limited and so characterised by uncertainty. The weaknesses in the marine evidence base have been a longstanding issue and are of particular relevance to marine protected area selection processes. For example, only around 10% of the UK seabed has been mapped in detail and the UK National Ecosystem Assessment<sup>27</sup> noted that the "characteristics and biodiversity of a large proportion of the UK subtidal marine habitats is still unknown and not mapped". This uncertainty is further compounded by an uncertainty in socio-economic data such as the distribution and intensity of inshore fishing and recreational activities.

2.8.6 Defra and the SNCBs have acknowledged gaps in marine evidence and the effects they could have on the selection of MCZs. Defra's [Guidance Note](#) 1 to the SNCBs and Regional MCZ Projects for selecting MCZ states:

*"Network design should be based on the best information currently available. Lack of full scientific certainty should not be a reason for postponing proportionate decisions on site selection"*

2.8.7 Our approach to dealing with the weaknesses and addressing the uncertainties this presents can be broadly described as:

- commissioning additional research and evidence gathering to support the designation process;

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<sup>27</sup> UK National Ecosystem Assessment, published October 2011. <http://uknea.unep-wcmc.org/Resources/tabid/82/Default.aspx>

- establishing independent expert groups to challenge, support and provide advice to the different phases of the process; and
- establishing peer review processes to challenge and examine both the scientific and economic information feeding into ministerial decision making on site recommendations to take forward to designation.

2.8.8 We also made use of the precautionary principle to identify MCZs to take forward for designation in 2013. The precautionary principle states that where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

## Evidence use in MCZ selection

2.8.9 For the first phase of the MCZ selection process stakeholder-led Regional MCZ Projects made use of a wide range of information to address some of the gaps in current scientific knowledge. That included information provided by Defra, the SNCBs<sup>28</sup> (e.g. location of habitats, sensitivity of features to human pressures, etc.) other public bodies (Cefas and Environment Agency) and information from a range of other sources including national, regional and local stakeholders, online resources and other grey literature<sup>29</sup>, peer-reviewed publications, and licensed data packages.

2.8.10 Although that approach facilitated greater use of data, it also combined information that had undergone different levels of quality assurance. The use of such information as well as the way the information was combined could have implications for the robustness of the recommendations. An independent Marine Protected Areas Science Advisory Panel (SAP) was established to provide expert scientific knowledge, advice, and judgement necessary to the Regional MCZ Projects in recommending sites and working to consistent standards. The SAP also provided a scientific review of the evidence cited by the Regional MCZ Projects to support their site recommendations, and provided advice to Ministers on the Regional MCZ Projects' final recommendations to Government. The outcome of the SAP review indicated that additional work was needed to ensure that all site summaries met acceptable scientific standards and the Panel recommended an in-depth review of the literature sources used.

2.8.11 In response to this advice and issues regarding the timetable for provision of the formal advice from the SNCBs, Richard Benyon the Minister for Natural Environment, Water and Rural Affairs issued a Written Ministerial Statement<sup>30</sup> in November 2011 announcing:

- that designation of MCZs would be undertaken in tranches with the best evidenced sites being designated first;

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<sup>28</sup> Statutory Nature Conservation Bodies, which in this context are Natural England and the Joint Nature Conservation Committee.

<sup>29</sup> Grey Literature is a term for the mass of information that falls outside the mainstream of published journal and monograph literature.

<sup>30</sup> <http://www.defra.gov.uk/news/2011/11/15/wms-marine-conservation-zones/>

- a revised timetable for MCZ designation with formal consultation planned for December 2012 and designation of first tranche sites in summer 2013; and
- additional funding for evidence gathering to support the MCZ designation process, including an in depth review of the evidence base for all the Regional MCZ Projects proposals for sites and carrying out seabed and habitat monitoring.

2.8.12 In response to the SAP recommendations and the above Written Ministerial Statement, Defra commissioned the following additional work:

- survey work (seabed and habitat mapping) to increase the quality and amount of evidence available for recommended sites. During 2012, 38 sites were surveyed and work is planned to undertake further survey work during 2013. Data are currently being analysed for reporting and site reports are available for East Celtic Deep, Beachy Head East, North St. Georges Channel and Farnes East from the Defra Website<sup>31</sup>;
- an in-depth review of the evidence base to deliver a comprehensive review of the Regional MCZ Projects' evidence and any additional information<sup>32</sup>. In addition to reviewing and ensuring that all evidence was appropriately used and documented, this work compiled additional evidence (not part of the evidence base used by the Regional MCZ Projects) to extend the MCZ evidence base. As part of this in-depth review there has been further engagement with the private sector to identify and obtain access to data sources that were not available to the Regional MCZ Projects or SNCBs. The project has developed a comprehensive list of data sources (both data that are available and data that are potentially relevant but access is restricted i.e. private sector). The report will describe the information available for each of the recommended MCZs so it will provide an up-to-date picture of the evidence base available for each site. In addition to addressing the SAP's recommendation to look at the evidence base for the Regional MCZ Project recommendations, the results of this project will support future work on MCZs. Work to complete the analysis of the evidence base is ongoing and will be published once it is complete;
- evidence gathering work to assess the potential of the network of marine protected areas to protect highly mobile species (fish, birds, cetaceans, and other marine mammals)<sup>33</sup>.

2.8.13 After the Regional MCZ Projects had recommended MCZs based on the evidence they had collated, the SNCBs provided advice to Defra on these recommendations. That advice included describing the contribution of MCZs to meeting the Government's aim of creating an ecologically coherent network of marine protected areas, their assessment of

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<sup>31</sup> Final survey reports are available via the [Defra website](#), and additional reports will be published on this site as they are completed.

<sup>32</sup> The Final report, to be delivered early next year, will detail the review of all sites and features and will be available for download via the [Defra website](#).

<sup>33</sup> The Final report will be available for download via the [Defra website](#) in the New Year.

the available scientific evidence supporting the regional projects' recommendations and of their confidence in the evidence used to support the presence, extent and condition of features.

2.8.14 The SNCB advice was developed to be consistent with the Government's Chief Scientific Adviser's guidelines for preparing scientific advice, and the recommendations of the report that reviewed the evidence process for selecting marine SACs. The SNCB assessments followed published, peer reviewed protocols, used the best available evidence, and were subject to internal peer review and an independent external review by a group established by Defra.

## Mobile Species

2.8.15 Although the mobile species smelt and eel were identified as features of conservation interest (FOCI) in the ENG and sites for these recommended by the Regional MCZ Projects, additional evidence gathering was required to consider benefits of spatial protection measures for a wider mobile species range. This work focused on highly mobile species (marine mammals, fish, cetaceans, and birds) and aimed to assess the potential of the recommended MCZs to protect such species. The report<sup>34</sup> from the project highlighted that paucity of data makes it difficult to assess the effectiveness of defined area for such species. Nevertheless, it showed that some of the MCZs recommended by the Regional MCZ Projects include area considered important to highly mobile species i.e. breeding, spawning and nursery grounds meaning MCZs could provide a valuable contribution to the protection of areas important for key life stages. The study also indicated that, due to their highly mobile nature and the kind of threats and pressures that impact upon them (e.g. commercial fisheries, litter, underwater noise etc), marine protected areas in isolation might not be the most effective way of protecting highly migratory species.

2.8.16 Based on the outcome of this project, Defra is maintaining its position that "sectoral measures (such as fisheries management, by-catch mitigation measures and protected species licensing) are likely to be the most effective tools in conserving very widely dispersed and mobile species"<sup>35</sup>. However, MCZs for such species will be considered if there is clear evidence that the conservation of a highly mobile species would benefit from site-based protection measures.

## 2.9 Amendments to Legislation

2.9.1 Amendments made in August 2012 to the *Conservation of Habitats and Species Regulations 2010*<sup>36</sup> and *The Offshore Marine Conservation (Natural Habitats, &c.)*

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<sup>34</sup>The Final report will be available for download via the [Defra website](#) in the New Year.

<sup>35</sup> Guidance on selection and designation of Marine Conservation Zones (Note 1), Defra, 2010

<sup>36</sup> These regulations apply to England, Wales and their respective inshore areas, and to other parts of the UK in relation to certain reserved matters. They have been amended by the Conservation of Habitats and Species (Amendment) Regulations 2012 (SI 2012/1927).

*Regulations 2007*<sup>37</sup> clarify the role of MCZs in delivering the requirements of Article 3 of the Wild Birds Directive<sup>38</sup>.

2.9.2 Under section 123 of the MCAA09 the Secretary of State must designate MCZs to contribute to a network which satisfies certain conditions. The network must contribute to “the conservation or improvement of the marine environment”. The amending regulations:

- clarify that “conservation or improvement of the marine environment” includes the objective of preserving, maintaining and re-establishing a sufficient diversity and area of habitat for wild birds in the UK (“the Article 3 objective”); and
- provide that the Secretary of State must take steps which he considers appropriate to secure the Article 3 objective.

2.9.3 In considering whether it is appropriate to designate MCZs to achieve the Article 3 objective, due consideration will be given to the protection afforded to bird habitat by the existing and proposed SPA network, other marine protected areas, such as SACs, SSSIs and any other measures contributing to the delivery of Article 3 of the Wild Birds Directive.

2.9.4 The periodic assessment of the extent to which the objective of the marine protected areas network has been achieved, as required under section 124 of the MCAA09, will also provide ongoing opportunities for considering whether any gaps in the marine protected areas network exist with respect to protecting important bird habitats. It will also help inform future decisions on whether additional MCZs are required to deliver our obligations under the Wild Birds Directive.

## 2.10 Reference Areas

2.10.1 The protection principle (see Box 1) for a marine protected areas network is that a network is likely to include a variety of protection levels ranging from highly protected sites or areas within sites where no extractive, depositional or damaging activities are allowed, to sites or areas where only minimal restrictions on activities are needed to protect the features. The ENG provided to the Regional MCZ Project by the SNCBs translated this principle into requirements for the Projects to identify a ‘Reference Area’ for each feature within their project area. Reference areas were the most controversial aspect of the Regional MCZ Projects’ recommendations with differing levels of stakeholder engagement within in each Project. The Projects recommended 65 Reference Areas in total. The SAP concluded that these did not meet the requirements of the ENG and that Defra and SNCBs would need to return to the design of the Reference Area network. In their formal advice, the SNCBs concluded that the Regional MCZ projects’ recommendations on Reference Areas were inadequate and failed to meet the protection principle for the network and

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<sup>37</sup> These regulations apply to the UK offshore marine area. They have been amended by the Offshore Marine Conservation (Natural Habitats, &c.)(Amendment) Regulations 2012 (SI 2012/1928).

<sup>38</sup> Article 3 requires Member States to take requisite measures (in light of Article 2) to preserve, maintain or re-establish a sufficient diversity and area of habitats for wild birds protected under the Directive, using various measures.

recommended that the approach to realising the benefits of high levels of protection should be reviewed.

2.10.2 Defra has considered this advice and accepts the SNCBs' conclusions. Reference Area recommendations have therefore not been considered for inclusion in the first tranche. Defra also accepts the recommendation for a review of the approach to realising the benefits of high levels of protection and notes the SNCBs suggestions that this should be done in light of the experience of the Regional MCZ Projects, existing literature evidence and the experience of other countries. We anticipate that the review will take a fresh look at requirements for Reference Areas including size, number, location and management measures particularly in relation to long standing non-commercial traditional activities. Consultees should therefore assume that the Regional MCZ Project recommendations for Reference Areas will not be taken forward in their current form. Where recommended Reference Areas fall within MCZs, the features in the Reference Area will be included in the proposed designation with the same conservation objectives as for the feature falling outside the proposed Reference Area. Further information on how the review will be carried out will be provided shortly.

## 2.11 Managing MCZs

### Management measures within this consultation

2.11.1 The management measures noted in this consultation and the Impact Assessment are for illustrative purposes and to allow for the calculation of a range of potential cost implications for each site. Management measures for MCZs are not being consulted on at this stage.

### Responsibility for management

2.11.2 A public authority is under a general duty; to exercise any function which may affect an MCZ in a manner which furthers the conservation objectives stated for the MCZ<sup>39</sup>; not to undertake or give any consent to any activity that would have an adverse effect on achieving the conservation objectives for an MCZ<sup>40</sup>

2.11.3 The Marine Management Organisation and Inshore Fisheries and Conservation Authorities are also under specific duties to use their byelaw making powers where necessary to achieve the conservation objectives of MCZs. It is an offence to contravene a byelaw<sup>41</sup>. Byelaws will be used to control or prohibit those activities which are potentially harmful to protected features in an MCZ and which would otherwise be left unregulated.

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<sup>39</sup> Section 125 of the MCAA09.

<sup>40</sup> Section 126 of the MCAA09

<sup>41</sup> Section 139 of the MCAA09.



2.11.4 More information can be found with regard to duties on public authorities in relation to MCZs in the Defra Guidance Note 2<sup>42</sup> and draft guidance on the byelaw and order making powers and general offence under part 5 of the MCAA09 in Note 3<sup>43</sup>. For illustrative purposes a draft designation order can be found at Annex G.

2.11.5 In accordance with Hampton principles<sup>44</sup> on reducing administrative burdens on public authorities will also consider if voluntary measures can contribute to achieving conservation objectives.

### **Offence of damaging protected features of MCZs**

2.11.6 The MCAA09 also provides that it is an offence to damage a protected feature of an MCZ<sup>45</sup>. This provides additional protection in cases where byelaws – and penalties for breaching them – may not be adequate.

### **Marine Management Organisation (MMO)**

2.11.7 The MMO is the UK Government's principal marine regulator, and plays a significant role in delivering the UK Government's conservation aims for marine biodiversity. It will do this when carrying out its full range of functions such as those connected with marine planning and marine licensing, for example by taking account of the general duties on public authorities to conserve biodiversity and to protect European Marine Sites, as well as the new duties under the MCAA09 to contribute to the achievement of sustainable development and further MCZ conservation objectives. In addition to its general duties (which apply to all public authorities) the MMO will have specific statutory functions for nature conservation that include powers of inspection and enforcement, making byelaws and issuing licenses.

### **Inshore Fisheries and Conservation Authorities (IFCA)**

2.11.8 The MCAA09 modernises inshore fisheries management arrangements in England and Wales. In England it replaced Sea Fisheries Committees (SFCs) with IFCAs, whose purpose it is to manage sustainably the exploitation of sea fisheries resources in their districts. IFCAs are under a clear duty to protect the marine environment from the impact of fishing on marine ecosystems.

2.11.9 IFCAs have the powers of inspection and enforcement as well as strengthened byelaw-making powers (for inshore fisheries activities) to ensure more effective management of marine habitats in the inshore area. This includes activities such as bait digging and seaweed gathering which were not regulated by SFCs.

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<sup>42</sup> <http://archive.defra.gov.uk/environment/biodiversity/marine/documents/guidance-note2.pdf>

<sup>43</sup> <http://archive.defra.gov.uk/environment/biodiversity/marine/documents/guidance-note3.pdf>

<sup>44</sup> [Hampton Report](#)

<sup>45</sup> Section 140 of the MCAA09.

2.11.10 Under MCAA09 IFCA's have a duty to further the conservation objectives of MCZs and will be expected to introduce byelaws regulating fishing activity where necessary<sup>46</sup>. IFCA's also enforce MMO nature conservation byelaws within the 6nm limit and have powers to regulate several fisheries and other private fishing rights in nature conservation sites.

## Environment Agency

2.11.11 The Environment Agency, like all public authorities to which sections 125 and 126 of the MCAA09 apply, will have responsibilities in relation to MCZs. The principal aims of the Environment Agency are to protect and improve the environment, and to promote sustainable development. It has a role in the management of the coasts and estuaries of England and Wales, including responsibility for managing the fishing of migratory and freshwater fish out to 6 nautical miles. This includes a byelaw for making power under the Water Resources Act 1991.

## Department for Energy and Climate Change

2.11.12 The Department for Energy and Climate Change (DECC) is responsible for licensing, exploration and regulating oil and gas developments on the UK continental shelf, working with the oil and gas supply chain, and regulating the environmental aspects of the industry including decommissioning. They aim to maximise the economic recovery of oil and gas from the UK's oil and gas reserves, taking full account of environmental, social and economic objectives. DECC is also responsible for regulation of the Carbon Capture and Storage and Gas Unloading and Storage industries.

## Conservation Objectives

2.11.13 A conservation objective is a statement of the action needed to achieve the desired ecological/geological state of a feature for which an MCZ is designated. A feature is one of the habitats, species or geological features that MCZs are intended to conserve; there will be a conservation objective for each protected feature in each MCZ.

2.11.14 The conservation objective is framed in terms of whether or not the feature is currently in a favourable condition. If the feature is already in this state then the conservation objective is that the feature should be *maintained at favourable condition*. If the feature is currently in a degraded state then the conservation objective should be that the feature is to *recover to favourable condition*.

2.11.15 Ideally, recent survey data would be available to assess the current condition of features however detailed data on the seabed is limited. Where survey and monitoring data are not available for an MCZ it has been necessary to determine feature condition indirectly. This is undertaken through an assessment of vulnerability which identifies whether there are any human activities currently occurring that are likely to have caused

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<sup>46</sup> Section 154 of the MCAA09.

damage to the feature. This assessment follows existing approaches for marine protected areas which consider information on the sensitivity of features to pressures, combined with evidence (including local knowledge and information) of current exposure to activities exerting those pressures. The feature's vulnerability is a proxy indicator of its likely condition and based on our current understanding of the impact of activities on the feature. The SNCBs have coarsely assessed the degree of certainty that the conservation objectives proposed for MCZ are appropriate, taking into account all available evidence on activity<sup>47</sup>.

2.11.16 Conservation objectives describe the ecological ambitions for each feature within each MCZ. This provides the framework for the identification of appropriate management measures to achieve favourable condition. A recover objective does not automatically mean that any activities will be restricted, but highlights that pressures may be occurring that need further investigation and possibly management by the appropriate authority. Activities that are likely to result in pressures that impact the features would require management action to enable the feature to meet its conservation objective. Conversely, just because a feature is considered to be in favourable condition, it does not mean that existing activities can continue to occur at current levels or that no management will be required. However it will only be activities that adversely affect the condition of a feature that will be managed, activities where there is no evidence of adverse effect to a features condition will not require any restrictive management.

### **How will management measures be decided?**

2.11.17 Once a site has been designated as an MCZ by Government, SNCBs will provide advice under S.127 of the MCAA09 to the appropriate regulators and public authorities advising them of the sensitivity to pressures of the features included within the designation order to activities. The appropriate authority will then identify any activity that is currently occurring or may occur in the future that will negatively impact on the conservation objectives of that site. The public authority will then, where necessary undertake a public consultation on appropriate management measures, and then implement them accordingly.

2.11.18 Where another marine protected area or other spatial management measure overlaps an MCZ the appropriate regulator will take pre-existing management measures associated with these existing areas into account and only add additional management measures to protect the features designated within the MCZ as appropriate.

### **Who will management measures affect?**

2.11.19 Any restrictions to activities within an MCZ will vary from site to site, depending on factors such as the feature(s) being protected, the type and level of activity being

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<sup>47</sup> SNCB Certainty of Conservation Objectives: <http://publications.naturalengland.org.uk/category/1725455>

managed, and the overall conservation objectives for the features on the site. Only activities that will hinder the achievement of the conservation objectives of the features within designated MCZs will be subject to possible restrictions. It should be noted that management measures outside the boundary of an MCZ might be required in order to deliver the conservation objectives of its feature(s).

## 2.12 Hearings

### Purpose of hearings

2.12.1 Section 121 of the MCAA09 confers powers on Ministers to give to any person the opportunity of being heard by an appointed person before Ministers decide whether to designate an area as an MCZ under the Act. The appointed person must make a report to Ministers of any oral or written representation made to them.

2.12.2 It is likely that hearings will only be held in exceptional circumstances. When they are needed, the primary purpose of hearings will be to gather more information or to analyse existing information to help inform Ministers' decisions. They could be an opportunity to look at very complex cases in more detail. Hearings will not be an appeal, nor will they form any kind of judgment - their purpose will be limited to the gathering of further information required by Ministers. If Ministers decide that a hearing should be held on a specific site, it will only be the issue(s) on which the Minister has specifically requested further information/evidence that will be open to discussion, no other aspects of the site will be reviewed. As such, nobody should rely on hearings as a final opportunity to make representations. If stakeholders want to make absolutely sure that their views are taken into consideration before Ministers make their final decisions they should respond in full to the public consultation.

## 2.13 Sectoral Issues

2.13.1 During the process of Regional MCZs Projects identifying potential sites to Government there have understandably been issues and concerns that have been flagged up by stakeholders and representatives of different sectors. Throughout this process Defra has been proactive in engaging with these issues, and attempting to provide clarity and solutions. More information on sector issues and Defra's approach can be found in Annex E.

## Part 3. Identifying Possible Sites for MCZs

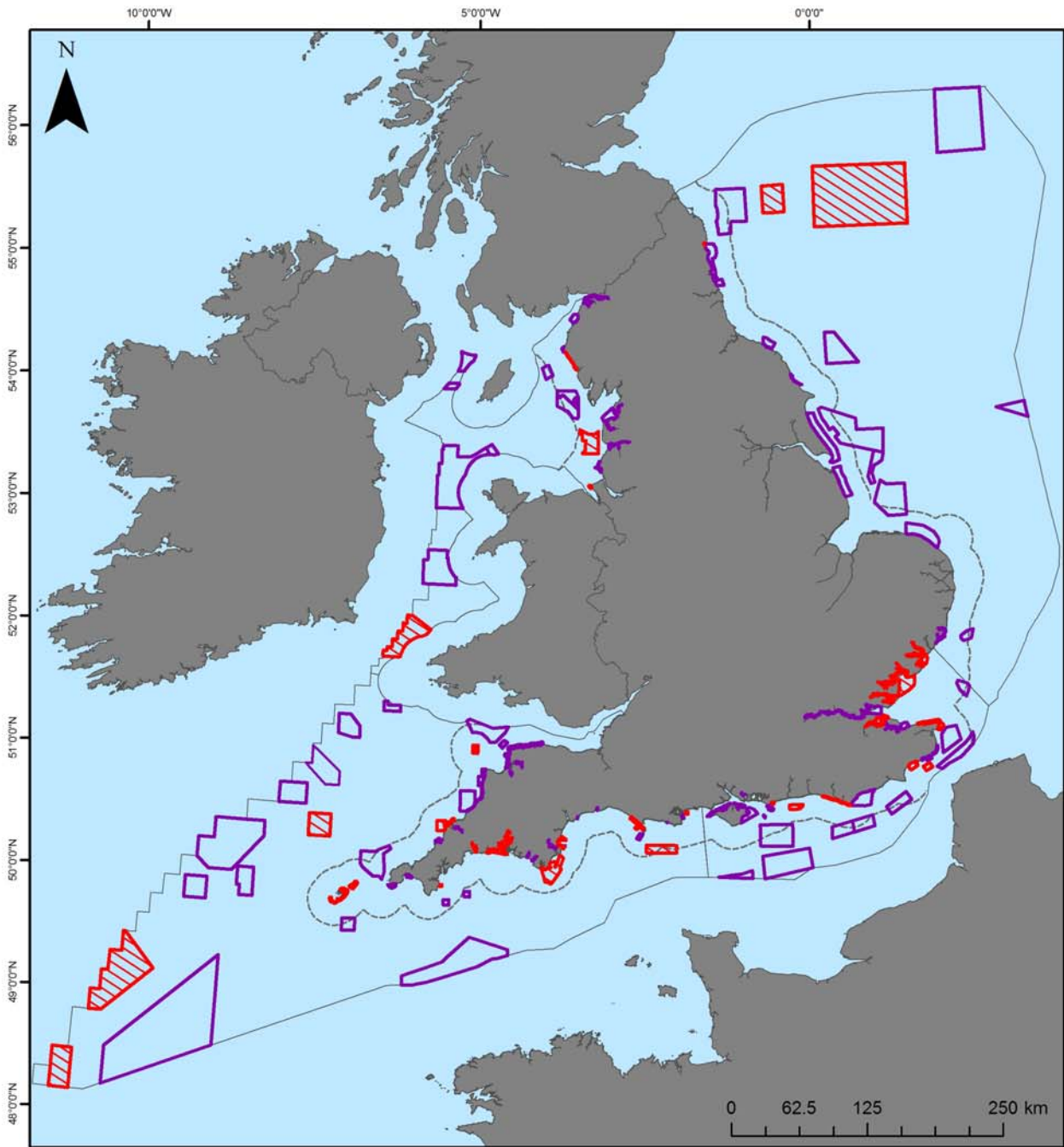
### 3.1 Regional MCZ Projects

#### A stakeholder-led approach






3.1.1 For other types of marine protected areas, such as those designated in accordance with the EU Habitat and Wild Birds Directives, the initial site selection is done on entirely scientific grounds by the SNCBs, and then stakeholders have the opportunity to comment on proposed sites through consultation. For MCZs an ambitious stakeholder-led approach was used to recommend to Government possible sites and conservation objectives for these. To deliver this SNCBs established four stakeholder-led Regional MCZ Projects; Irish Sea Conservation Zones (Irish Sea), Finding Sanctuary (South West), Balanced Seas (South East) and Net Gain (North Sea). These projects covered the area for which the Secretary of State has responsibility for designating MCZs including the English inshore region and, beyond the UK's 12 nautical mile territorial boundary, the sea bed or subsoil within the limits of the UK sector of the continental shelf (excluding the offshore waters adjacent to Scotland).

3.1.2 The potential for restrictions on how our seas are used to protect the marine environment and its resources evoked strong views from those affected. Stakeholders worked together to build consensus on the best approach to protecting the marine environment and resources for future generations, while allowing those that currently work on the seas to continue doing so. Although there are still some areas of disagreement, the progress stakeholders made in reaching a common understanding of their shared interests was impressive. Defra is very grateful for the enormous effort put into developing the recommendations for MCZs.

**Map.2 Map showing all MCZs recommended by Regional MCZ Projects, and MCZs proposed for designation in 2013.**



**Sites overview**

-  rMCZs put forward for designation in 2013
-  Recommended MCZ
-  Regional MCZ project area
-  12Nautical Miles Territorial Seas Limit
-  Land

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## Stakeholder membership and governance structures

3.1.3 In each of the Regional MCZ Projects a stakeholder oversight group<sup>48</sup> was created with the responsibility for agreeing the MCZ recommendations to Government for their region. Stakeholder analysis was used as a basis to ensure appropriate cross-sector representation including a wide range of representatives.

3.1.4 Regional variations across the four projects meant that the exact membership of the oversight groups differed, although each typically brought together stakeholders from the leisure sector (e.g. diving, yachting, recreational sea angling etc), marine ecology and conservation (e.g. RSPB, Wildlife Trust, SNCBs etc) industry (e.g. ports, shipping, fishing, energy etc) and the regulatory sector (e.g. Environment Agency, IFCA, MMO etc). Links to the Regional MCZ Projects Final Reports can be found in section 3.1.17.

3.1.5 One of the roles of the representatives on these oversight groups was to feed information and views to and from the sectors they represented. In addition there were local groups and other stakeholders involved at various stages of the process.

3.1.6 A project team supported the groups, providing professional support in project management, marine protected area planning, marine ecology and science, Geographic Information Systems, stakeholder liaison, economics, social science and communications.

## Stakeholder engagement

3.1.7 The Regional MCZ Projects made impressive progress in building consensus among those with often strongly contrasting views. However we are aware that not all those with an interest had the opportunity to be involved with the Regional MCZ Projects and some aspects of the MCZ recommendations to Government remained unresolved and contentious. In the SNCB advice<sup>49</sup> it is highlighted that 'There was significant variation in the extent to which members of the regional stakeholder groups liaised with their constituents to ensure sector wide views were considered during MCZ planning meetings' SNCBs also highlighted that a number of stakeholders had suggested that their views had not been reflected in recommendations. Therefore, Government intends that this consultation should allow all stakeholders to put their views across on the MCZs recommended for designation and associated Impact Assessment, to ensure that all views are considered before these MCZs are designated.

3.1.8 As we move on from the stakeholder-led Regional MCZ Project process this consultation also seeks to engage those with less of a direct link to the marine environment, but who may still care deeply about the marine environment and coastal communities. This consultation is the primary opportunity for members of the general public to have their say on MCZ designations.

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<sup>48</sup> These were called Regional Stakeholder Groups, during the original process of selecting and recommending sites to Government.

<sup>49</sup> JNCC and Natural England's Advice on recommended Marine Conservation Zones report. July 2012.  
<http://publications.naturalengland.org.uk/publication/2030218?category=1723382>

3.1.9 Information and comments submitted through the consultation will be used to inform the decision on which sites will be designated in the first tranche in 2013. For sites proposed for designation in 2013, where there is significant conflicting evidence or a need for change to the site, then it may be necessary for these sites to be removed from the first tranche and be re-consulted on at a later stage.

3.1.10 Information gathered at this stage for sites that have been highlighted as requiring further evidence will be used, alongside information received on any other site as part of the decision making process for determining the designation of any future sites.

## Development of MCZ recommendations

3.1.11 The SNCBs provided the Regional Projects with Ecological Network Guidance<sup>50</sup> (ENG) setting out criteria for developing their MCZ recommendations, based on the Defra marine protected areas network design principles and further considerations, including lists of habitats and species to be protected, numbers and size of proposed sites and distances apart. The SNCBs also provided Project Delivery Guidance<sup>51</sup> setting out ways in which the projects should work including requirements for the report making site recommendations and the Impact Assessment. Further guidance on other issues e.g. setting conservation objectives<sup>52</sup> for sites was also provided.

3.1.12 As well as the advice produced by the SNCBs for the projects, Defra also prepared guidance notes to help with the delivery of recommendations. These guidance notes dealt specifically with:

- Guidance on the selection and designation of Marine Conservation Zones<sup>53</sup> (Note 1)
- Guidance note on SSSIs and National Nature Reserves in the subtidal area<sup>54</sup> (Note 4).

3.1.13 The Regional MCZ Projects were also provided with a base set of evidence to support their deliberations. This included national data providing information on the location of habitats and species the location and intensity of activities in the marine environment e.g. fishing, possible areas for wind farm developments, shipping lanes, wrecks, areas for military use and a sensitivity matrix to provide information on the likely sensitivity of conservation features to pressures associated with human activities. The Regional MCZ Projects also collected information from a range of sources including

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<sup>50</sup> Natural England & JNCC Marine Conservation Zone Project Ecological Network Guidance, June 2010  
[http://jncc.defra.gov.uk/PDF/100705\\_ENG\\_v10.pdf](http://jncc.defra.gov.uk/PDF/100705_ENG_v10.pdf)

<sup>51</sup> Natural England and JNCC Project Delivery Guidance on the process to select Marine Conservation Zones. July 2010. <http://jncc.defra.gov.uk/PDF/Project%20Delivery%20Guidance%20FINAL%20020710%20secure.pdf>

<sup>52</sup> Natural England and JNCC Conservation Objective Guidance. August 2011

[http://www.naturalengland.org.uk/Images/conservation-objective-guidance\\_tcm6-24853.pdf](http://www.naturalengland.org.uk/Images/conservation-objective-guidance_tcm6-24853.pdf)

<sup>53</sup> <http://archive.defra.gov.uk/environment/biodiversity/marine/documents/guidance-note1.pdf>

<sup>54</sup> <http://archive.defra.gov.uk/environment/biodiversity/marine/documents/guidance-note4.pdf>



national, regional and local stakeholders, online resources, publications, licensed data packages and through their own data gathering. Stakeholders made local decisions about how this information was used.

3.1.14 The Regional MCZ Projects made recommendations for possible locations of MCZs in September 2011 consisting of site location, boundaries, features to be protected (i.e. the species and habitats and geological features) and their conservation objectives. Each Regional MCZ Project also contributed to the impact assessment<sup>55</sup> that identifies the potential social and economic impacts of the management measures that are likely to be needed for each of the sites. This was presented to Defra by the SNCBs in July 2012, alongside the formal advice of the SNCBs on the Regional MCZ Project recommendations (see section 3.4).

3.1.15 In accordance with the MCAA09, Ministers have decided to include consideration of social and economic factors when designating MCZs. It is worth noting that economic and social considerations were part of the Regional MCZ Stakeholder Groups' deliberations from the start. As a consequence, the Regional MCZ Projects recommendations already represent a compromise between conservation and socio-economic interests.

3.1.16 In total the Regional MCZ Projects made 173 recommendations, including 65 Reference Areas in 127 locations (in some of these locations proposals for Reference Areas overlap with less highly protected MCZs).

3.1.17 Full details of how each of the Regional MCZ Projects operated and their final recommendations to Government are contained in their final reports below.

#### Finding Sanctuary

- The final report including the Regional MCZ Projects recommendations can be found at: <http://publications.naturalengland.org.uk/publication/1561560>

#### Balanced Seas

- The final report can be found at: <http://publications.naturalengland.org.uk/publication/1463173>
- Site specific information on the recommendations can be found at: <http://webarchive.nationalarchives.gov.uk/20120502155440/http://www.balancedseas.org/page/RSG%20Resources.html>

#### Net Gain

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<sup>55</sup> <http://publications.naturalengland.org.uk/publication/2071071?category=1730361>

- The final report including the Regional MCZ Projects recommendations can be found at: <http://publications.naturalengland.org.uk/publication/1466980>

### Irish Sea Conservation Zones

- The final report including the Regional MCZ Projects recommendations can be found at: <http://publications.naturalengland.org.uk/publication/1562384>

## 3.2 The Science Advisory Panel

3.2.1 The Marine Protected Areas Science Advisory Panel (SAP) was appointed by the then Secretary of State in November 2009. The purpose of the Panel was to provide the Regional MCZ Projects with independent scientific advice throughout the site selection process, ensuring that they followed the Ecological Network Guidance towards making their final recommendations on MCZ sites. The SAP also offered Ministers formal advice on the Regional MCZ Project final recommendations<sup>56</sup>.

3.2.2 The SAP included members with a broad range of scientific expertise to allow consideration of the wide range of issues in the marine environment. The SAP provided advice at key stages of the process culminating in a final report to SNCBs and Government in October 2011. Membership of the SAP can be found on Defra's website.

### Formal Advice to SNCBs and Ministers

3.2.3 The SAP concluded that:

- work undertaken by the Regional Stakeholder Groups provides a strong basis from which a network of marine protected areas can be delivered;
- the ENG contains practical guidelines to identify and protect MCZs that will contribute to an ecologically coherent network;
- the majority of targets that were set to achieve an ecologically coherent network of marine protected areas as set out in the ENG have been met with the full suite of recommendations;
- there remain gaps in both adequate coverage of ENG features and information on the site characteristics;
- removal of the most harmful pressures within MCZs should be a primary goal;
- SNCBs and organisations responsible for management measures will need to resolve the uncertainties over Conservation Objectives; and

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<sup>56</sup> <http://www.defra.gov.uk/publications/2011/11/15/pb13680-sap-mcz-assessment/>

- there are significant gaps in the scientific evidence for some sites that need addressing.

## 3.3 The Regional MCZ Project Impact Assessment

### Incorporating socio-economic impacts

3.3.1 Section 117(7) of the MCAA09 specifically makes provision for the socio-economic impacts of designating an MCZ to be taken in to account when deciding upon which sites to designate:

*“In considering whether it is desirable to designate an area as an MCZ, the appropriate authority may have regard to any economic or social consequences of doing so”.*

3.3.2 Before putting forward MCZ recommendations to Government the Regional MCZ Projects took potential economic and social impacts in to account by asking sea users of the likely impact that an MCZ in a particular location would have on them. In many cases boundaries were adjusted, or heavily used sea areas avoided if alternative locations for a feature could be found to minimise the impact upon the sea user.

3.3.3 To accompany their Regional MCZ Project recommendations, economists in each of the regional project areas were asked to produce an Impact Assessment to highlight the benefits and costs that could arise from designating the MCZ recommended to Government.

3.3.4 This Impact Assessment<sup>57</sup> was submitted to Defra on the 18<sup>th</sup> July 2012 and has been used by Defra to help inform decisions upon which sites to designate in the first tranche. It presents the benefits and costs of designating all 173 recommended MCZs including Reference Areas.

3.3.5 Defra has drawn heavily on this document to develop the Impact Assessment which accompanies this consultation. This includes the option of designating all the recommended sites from the Regional MCZ Projects (option 1) and additionally the benefits and costs of designating the first tranche of MCZs outlined in this consultation (known as Option 2 in the Consultation Impact Assessment). This allows the consultees to compare the two options available to Government against a baseline of no MCZs. The Consultation Impact Assessment can be found at:

[www.defra.gov.uk/environment/marine/protect/mpa/mcz/](http://www.defra.gov.uk/environment/marine/protect/mpa/mcz/)

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<sup>57</sup> Impact Assessment materials in support of the Regional Marine Conservation Zone Projects' Recommendations (Finding Sanctuary, Irish Seas Conservation Zones, Net Gain and Balanced Seas) (July 2012)

## Scrutiny and Quality Assurance

3.3.6 Presenting accurate costs and benefits is difficult because in many cases the exact impacts are unknown. To ensure that the costs and benefits presented are based on the best available evidence the Impact Assessment document has been subjected to a range of scrutiny as it was developed by the Regional MCZ Projects and Defra. Firstly, as regional project economists developed the analysis the material was reviewed by stakeholders and Government departments as well as being peer reviewed by external academic economists to ensure it best reflected potential impacts. Where stakeholders have had concerns these have been reflected in the evidence base and sector method papers<sup>58</sup>. After Defra had updated the consultation Impact Assessment it was reviewed by the Defra chief economist and sent to the Regulatory Policy Committee for their formal opinion. The consultation process will provide another opportunity for stakeholders to provide further input.

3.3.7 We are in discussion with the Regulatory Policy Committee and Better Regulation Executive around the concern raised over whether MCZs are subject to the 'One-in, One-out' rules designed to streamline the regulatory burden on industry.

## Calculating the Costs

3.3.8 Both the Regional MCZ Project Impact Assessments and the Impact Assessment produced by Defra to support this consultation provide illustrative examples of potential costs of designating MCZs to the main sectors that use the sea. Not all industry and recreational sectors are operating in each MCZ so impacts have only been assessed where the activity is believed to be currently occurring or there is clear evidence that the activity is expected to occur in the future. Activities known to take place within the site that will not be affected are listed but no assessment of impacts is provided.

3.3.9 The exact management measures required for each site will not be known until after designation when the public authorities set the management required to meet the conservation objectives (details of how MCZs will be managed is provided in section 2.11). Therefore some assumptions had to be made for the purposes of the Impact Assessment. Where a feature is considered to be currently in favourable condition (and so the conservation objective is to 'maintain the feature in favorable condition) it is assumed that the current level of activity in the MCZ is sustainable and will not need to be managed and so additional costs are not included in the Impact Assessment. Where a feature is considered to be currently in unfavourable condition (and so the conservation objective is to 'recover the feature to favourable condition) an assumption has been made that the activity causing the impact would need to be managed and the costs from this management have been included in the Impact Assessment. However, it is important to note that in reality a 'recover' or 'maintain' conservation objective does not automatically mean that an activity will or will not be managed in an MCZ; but for the purposes of the Impact Assessment the assumptions above have been used. Please note that MCZs

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<sup>58</sup> <http://publications.naturalengland.org.uk/publication/1940011>

typically contain a number of features each of which will have a conservation objective of either 'maintain' or 'recover' to favourable condition.

3.3.10 Costs have been estimated for the sectors below. However, for some sectors it has not been possible to quantify costs because the necessary information to do so was not available. In these cases, a qualitative description has been provided:

- Aggregate Extraction
- Aquaculture
- Archaeology
- Cables (Power and Telecommunications Cables excluding cables for renewable developments)
- Commercial Fishing
- Flood and Coastal Erosion Risk Management
- National Defence
- Oil and gas exploration and production, gas interconnectors and gas storage (including carbon capture and storage)
- Ports, Harbours and Commercial Shipping
- Recreation (including boating and sea angling)
- Renewable Energy (wind, wave and tidal)
- Costs to Government (implementing management measures and ecological surveys)

3.3.11 Detailed methodology papers that accompany the Impact Assessment explain the way impacts upon these sectors have been calculated and assessed against the baseline (e.g. no MCZs designated). Due to the uncertainty around what management may be required to achieve the conservation objective, scenarios have been produced that show a range of possible costs. For most sectors and sites a low cost, high cost and best estimate cost has been provided.

## **Calculating the Benefits**

3.3.12 The Regional MCZ Impact Assessment considered the following benefits that designating MCZs would create:

- maintenance or improvement in condition of the features being protected;
- providing fish and shellfish for human consumption;
- recreation (angling, diving, wildlife watching, sailing, coastal walking etc);
- research and education;
- regulating services such as:
  - regulation of pollution e.g. breaking down of pollutants through micro-organism metabolism and sequestration of carbon;
  - environmental resilience e.g. the features of the site contribute to the resilience and continued regeneration of marine ecosystems;

- natural hazard protection e.g. the features may provide protection against local flooding and storms;
- non use value - Some people will gain satisfaction from knowing that the habitats and species are being conserved (their existence value). They may also gain a value from knowing that habitats and species are being conserved for use by others in the current generation (the altruistic value) or future generations (the bequest value); and
- option value – by protecting the features from the risk of degradation, we retain option over benefits that these features may provide in to the future.

3.3.13 Benefits were assessed qualitatively using an ecosystem services approach. Additionally, following the submission of the Regional MCZ Projects Impact Assessment, Defra updated the Impact Assessment to include the contribution of the MCZ to the Ecological Network Guidance based on the formal advice given by the SNCBs.

3.3.14 It has not been possible to monetise the benefits of designating the sites because these benefits cannot be readily quantified and the majority of the benefits do not have market values. This is a market failure because no monetary price is attached to many goods and services provided by the marine environment which has led to resource depletion and environmental degradation, including biodiversity loss and pollution. Even for those goods that are traded (such as wild fish), market prices often do not reflect the true cost, which end up being borne by the environment, other individuals and society. MCZs will help us increase our environmental capital – enabling it to recover and so grow. Sustainable use of the marine environment means living off ever increasing interest rather than continuing to eat into our environmental capital.

## 3.4 Formal Advice to Ministers from SNCBs

3.4.1 The formal advice to Ministers from the SNCBs was a key element of the evidence package that Defra has used to make decisions on which recommended MCZs to put forward for designation in 2013. Defra asked SNCBs to provide advice covering the following:

- an overview of the Regional MCZ Projects process that recommended possible MCZs to Government;
- an assessment of the available scientific evidence supporting the Regional MCZ Projects' recommendations;
- an assessment of the MCZs recommended by the Regional MCZ Projects most at risk of damage from human activities which, together with any other reasons, suggest any MCZs receive priority protection;
- advice on the contribution of MCZs towards meeting the Government's aim of creating an ecologically coherent network of marine protected areas; and

- JNCC and Natural England's overall view of the Regional MCZ Projects recommendations.

3.4.2 The formal advice<sup>59</sup> was presented to Defra on 18<sup>th</sup> July 2012. The SNCBs concluded that:

- of the 1,199<sup>60</sup> features included in the Regional MCZ Project site recommendations they had high confidence for presence of 38% of features and low confidence for 41%. In terms of feature extent, they had high confidence for 17% of the assessments and low confidence for 58%. In terms of feature condition they had low confidence in all but 19 features;
- 33 inshore, 15 offshore and 11 joint MCZs recommended by the Regional MCZ Projects were at higher risk due to prevailing pressures from human activities;
- the Regional MCZ Projects' recommendations, when combined with existing MPAs mostly met the network design principles set out in the Ecological Network Guidance; and
- there were differences in the engagement and structure in the Regional MCZ Projects, however they believe that overall this did not materially affect the development of the their recommendations.

3.4.3 The SNCBs also undertook a detailed individual assessment of each site assessing the contribution of features to meeting the Ecological Network Guidance, the scientific confidence in the presence and extent of each feature, the condition of those features and how well each MCZ recommended by the Regional MCZ Projects contributed towards the ENG. A detailed commentary on the SNCB advice is provided in Annex F.

## Part 4. Selecting Sites for Designation

### 4.1 Selection Process for the proposed 2013 Tranche

4.1.1 The decisions on which sites are being proposed for designation in the first tranche were based on the evidence provided in:

- the Regional MCZ Projects site recommendations and impact assessment;
- the Science Advisory Panel Assessment;
- the formal SNCB advice; and

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<sup>59</sup> JNCC and Natural England's Advice on recommended Marine Conservation Zones report. July 2012. <http://publications.naturalengland.org.uk/publication/2030218?category=1723382>

<sup>60</sup> Corrected from 1205

- some additional evidence which has become available since the SNCBs completed their advice.

4.1.2 The power to take into account economic or social costs when designating an area as an MCZ<sup>61</sup> is relevant to the creation of a network of sites. For example a site with low economic or social costs may be chosen in preference to another which offers the same ecological benefits but carries higher cost.

4.1.3 Our aim has been to find the right balance between the strength of the conservation advantages an MCZ offers, relative to the economic and social implications of its likely designation. Where a site's conservation advantages were considered to outweigh the economic and social costs then the MCZ was considered appropriate for possible designation at some point. Whether an MCZ, and all of its features, are ready for designation in the 2013 tranche depends on the levels of confidence in the scientific evidence.

4.1.4 Weighing up conservation advantages against socio-economic costs can be a difficult exercise because some of the economic impacts are expressed in monetary terms while the ecological benefits are expressed in qualitative terms and have no monetary value assigned to them. Further complexity stems from the wide range of ecological targets<sup>62</sup> to which each site contributes to differently; the SNCB advice includes a detailed assessment of these. The approach we adopted to determining which recommended MCZs should be taken forward for designation in 2013 is set out in the following paragraphs.

## **The most expensive sites**

4.1.5 MCZs recommended by the Regional MCZ Projects were divided into quartiles by cost. For those in the top quartile of costs we considered that these needed to provide a greater ecological contribution to outweigh their high socio-economic costs. An MCZ recommended by the Regional MCZ Projects in the top quartile was considered suitable for inclusion in the network only if it provides:

- a feature for which there are limited opportunities to protect it nationally;
- a feature that is the best example of the feature nationally;
- multiple features for which there are limited opportunities to protect regionally; and
- multiple features that are the best examples of the features regionally.

A full list of sites and their quartile rankings can be found in Annex C.

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<sup>61</sup> Section 117(7) of the Act.

<sup>62</sup> The Ecological Network Guidance: [http://jncc.defra.gov.uk/pdf/100608\\_ENG\\_v10.pdf](http://jncc.defra.gov.uk/pdf/100608_ENG_v10.pdf)



## Sites with potential high unquantified costs

4.1.6 Where there was a potential for high unquantified costs for an MCZ recommended by the Regional MCZ Projects we considered that it should be subject to further assessment and clarification of costs before being considered for designation at a later date. This also applied where quantified cost predictions for a site span a very wide range and further reasonable efforts are needed to assess realistically likely costs more precisely. An example of this is the non-UK fisheries sector, where for some sites it has not been possible to quantify the potential costs to non-UK fleets of designating the sites. Another example was the aquaculture sector, where for two sites it was not been possible to quantify the costs to the aquaculture businesses present.

## Data certainty

4.1.7 The current state of knowledge of seabed characteristics is limited in some areas. This creates uncertainty around whether the species or habitats are present at the site in question, their extent (important for setting the MCZ boundaries) and their current condition (which influences how their conservation objectives should be framed). Where there are significant data quality or quantity issues, we propose that the MCZs concerned require further consideration ahead of possible designation in a later tranche pending clarifications in the evidence. Data uncertainty issues were not used to exclude an MCZ (or its component features) from inclusion in the network eventually, but did influence our consideration of whether the MCZ is ready for designation in 2013.

4.1.8 We have tried to strike an appropriate balance between being sufficiently sure of a feature's presence, extent and condition, whilst not setting data requirements that are unreasonable given current (and likely future) data availability on seabed characteristics. The approach has been relatively cautious in terms of not designating features where there is significant uncertainty. An exception has been made for specific features in sites identified by the SNCBs as being at higher risk. In these circumstances we are proposing designation of the relevant features even when the data quality would not otherwise be considered sufficient (in accordance with the Precautionary Principle see paragraph 2.8.8)<sup>63</sup>.

## Features for designation in 2013

4.1.9 For most of the MCZs proposed for designation in 2013 not all of the features recommended by the Regional MCZ Projects are currently being included for designation in 2013. Where there is insufficient confidence in the data for a particular recommended feature we are not proposing designation of that feature (except where they have been specifically identified as being at higher risk in that site). Generally, where less than 50% of

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<sup>63</sup> With the exception that where data quality is poor for all features in a site, or where there are high unquantified socio-economic costs that need clarifying, then we are proposing that these issues are resolved ahead of the MCZ's designation in a later tranche.

the features in an MCZ recommendation are ready for designation in 2013 we propose not to designate the site in the first tranche.

4.1.10 It should be noted that the process for MCZ designation under the MCAA09 requires conservation objectives for features to be included in the designation order. This means that the evidence requirements for MCZ designations appear initially higher than for designation of European Marine Sites where conservation objectives are confirmed after designation when more information has been gathered.

4.1.11 Details of why individual MCZs are or are not being proposed for the 2013 tranche are contained in each MCZ's site summary in Annex A1-6.

### **Making final decisions on sites to be designated in 2013**

4.1.12 There is ongoing work to improve the evidence base including the in depth review and additional survey work. Due to timing issues it has not always been possible to use these in making decisions about which sites to propose for designation in the first tranche however these and any new data and analysis will be factored into consideration following the consultation. Final decisions on which sites are designated in 2013 will be based on available evidence, including any new evidence submitted through this consultation. Where new evidence indicates that the proposals for a site should change substantially then we may consult further ahead of potential designation in a later tranche.

4.1.13 There may be recommended features that we do not include within sites proposed for designation in 2013. However, if new data becomes available that improves the evidence confidence assessments for these features, including ongoing surveys or data provided by stakeholders in responses to this consultation, then we may add those features to the MCZs being designated in 2013. In such a case we will issue a public statement that we are adding the feature to the MCZ being designated. We do not propose to consult further on these individual features prior to the designation of the MCZ. Where an assessment of new data shows that a feature's conservation objective should be different to that proposed, we would aim to adjust the consultation objective as appropriate for designation in 2013. In such cases we will issue a public statement on the revised conservation objective. We do not propose to consult further on such a change prior to the designation of the MCZ unless the change would substantially affect the likely management and costs associated with the MCZ.

4.1.14 Information gathered at this stage for a site that has been highlighted as requiring further evidence, will be used as part of the decision making process for determining the designation of a second tranche of sites.

4.1.15 Final decisions on which MCZs to designate in 2013 will only be made following analysis of the responses to the consultation.

### **Future Tranches**

4.1.16 The sites proposed for designation in the first tranche are those which appear to Defra to provide good ecological benefits that outweigh the costs of these sites and where

there is adequate supporting evidence for the presence and extent of the features proposed for designation and reasonable certainty in their conservation objectives. Defra expects to designate future sites to contribute to the objective of a UK contribution to an ecologically coherent network of marine protected areas (see section 2.7). In selecting sites and features for designation in future tranches Defra, working with SNCBs, will be considering:

- the responses to this consultation including any suggestions for alternative sites for MCZs;
- the contribution needed to achieve the UK’s obligation towards establishing ecologically coherent networks taking account of sites designated by neighbouring UK administrations and neighbouring EU member states;
- the review of Reference Areas and;
- costs of sites to both industry and the public sector.

4.1.17 We will engage stakeholders in discussions on potential sites for future tranches. The exact mechanisms by which this will be done are currently being considered but this is not expected to include reconstitution of the Regional MCZ Projects.

### **Sites not suitable for designation**

4.1.18 Where a site’s conservation advantages were considered not to outweigh the socio-economic costs then the MCZ was not considered appropriate for designation. This could be due either to the site having minimal ecological value, or it not providing the greater ecological contribution necessary for MCZs with higher socio-economic costs (see section 4.1.5). The MCZ recommendations that we do not consider appropriate for designation are: East Meridian (Balanced Seas); Wight-Barfleur Extension (Balanced Seas) and South of Falmouth (Finding Sanctuary).

### **Proposed treatment of sites and features in licensing decisions**

4.1.19 This consultation document sets out which MCZ sites are proposed for designation in the first tranche, which are candidates for future tranches and which sites will not be pursued any further. Defra considers it is wise to adopt the following approach to marine licensing following the publication of this consultation document. Final decisions will rest with the relevant regulator.

**Fig1. Procedure in s.126 MCAA09**

<b>Status of site recommendation</b>	<b>Procedure in s.126</b>
<b>Sites proposed for designation in 2013 under s.119 of the MCAA09</b>	The regulator should follow the procedure set out in s.126 in relation to the authorisation of any act that is capable of affecting (other than insignificantly) any features or process

	of a kind mentioned in s.126(1)(b). This should apply in relation to a site which is proposed for designation as an MCZ through this consultation but which has not been designated at the date of the application for authorisation of the act.
<b>Sites for possible designation in future tranches not yet proposed for designation under s.119 of the Act and for which further evidence will be gathered.</b>	The regulator should not follow the procedure in s.126 of the Act. Recognising the ongoing evidence gathering process, the regulator will take a judgement on the level of precaution it applies to its decision for such sites using an assessment based on and including; the level of uncertainty associated with any supporting evidence; the plausibility of risk associated with any proposed activity; and the likelihood of future designation as a MCZ.
<b>Sites not being pursued</b>	The regulator should not follow the procedure in s.126 of the Act.

4.1.20 Following consideration of the responses to this consultation Ministers will make final decisions on which sites to designate in 2013 which is expected to be communicated in the Government Response. Designation is expected to occur at the same time or shortly afterwards so there may be a gap between publication of the Government Response and the making of Designation Orders. Where it is highly likely that a site will be designated as an MCZ, but the site is not eventually designated by Defra, the s.126 procedure may apply for a short period notwithstanding that the site is not eventually designated.

4.1.21 With regard to unlicensed activities, the MMO has powers in s.132 of the Act to make a byelaw or byelaws for the purpose of protecting any feature in an area in England if it thinks there may be reasons for the Secretary of State to designate the area as an MCZ and there is an urgent need to protect the feature. The MMO will consider whether this applies to any of the sites proposed in the first tranche of sites. In the context of advice from Defra and SNCBs, the MMO will also consider whether there is an urgent need to protect the features in any of the sites that are subject to further evidence gathering. This information will feed into discussions on further tranches of MCZs but there may be exceptions where MMO may decide that byelaws are required sooner. IFCA's have powers to take management actions anywhere within their districts for the purposes of a making a contribution to the achievement of sustainable development. We expect this to include consideration of the need to protect the environment, or promote its recovery, from the effects of exploitation of sea fisheries resources.

## 4.2 Proposals for 2013 Tranche

### 2013 Tranche

4.2.1 Defra is proposing that up to 31 sites are good candidates for designation in 2013. The breakdown of sites and total sea area being proposed for designation is summarised in the Fig.2

**Fig.2 Sites and total sea area proposed for designation in 2013.**

Regional Project	Number of sites	Total sea area km <sup>2</sup>
Net Gain (NE waters)	3	5,200
Balanced Seas (SE waters)	9	700
Finding Sanctuary (SW waters)	15	4,100
Irish Seas Conservation Zones	4	900
<i>Total</i>	<i>31</i>	<i>10,900</i>

4.2.2 Of the total 10,900 km<sup>2</sup> of MCZs being proposed for designation in 2013, 8,800 km<sup>2</sup> is located offshore, with the remaining 2,100 km<sup>2</sup> found inshore. It is worth noting that although there are only 3 sites being proposed for the Net Gain project area for the 2013 tranche, one of these is by far the largest MCZ being proposed in 2013, at just under 5,000 km<sup>2</sup> (Swallow Sands MCZ).

4.2.3 Fig.3 shows the full list of sites that are being proposed for designation in the 2013 tranche. Further information on individual sites can be found in the site summaries in Annex A1-6.

**Fig.3 Sites with features proposed for designation in 2013**

Name of Site	Regional Project
Stour and Orwell Estuaries	Balanced Seas
Blackwater, Crouch, Roach and Colne Estuaries	Balanced Seas

Medway Estuary	Balanced Seas
Thanet Coast	Balanced Seas
Folkstone Pomerania	Balanced Seas
Hythe Bay	Balanced Seas
Beachy Head West	Balanced Seas
Kingmere	Balanced Seas
Pagham Harbour	Balanced Seas
East of Haig Fras	Finding Sanctuary
Southwest Deeps (West)	Finding Sanctuary
The Canyons	Finding Sanctuary
Lundy <sup>64</sup>	Finding Sanctuary
Padstow Bay and Surrounds	Finding Sanctuary
Isles of Scilly	Finding Sanctuary
The Manacles	Finding Sanctuary
Upper Fowey and Pont Pill	Finding Sanctuary
Whitsand and Looe Bay	Finding Sanctuary
Tamar Estuary	Finding Sanctuary
Skerries Bank and Surround	Finding Sanctuary
Torbay	Finding Sanctuary
Chesil Beach and Stennis Ledges	Finding Sanctuary

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<sup>64</sup> The Lundy Marine Nature Reserve was created in 1986. With the passage of the Marine and Coastal Access Act (2009) this site became the Lundy MCZ in 2010. As this MCZ is already in existence, this consultation is only on whether the features proposed are appropriate for designation.

South of Dorset	Finding Sanctuary
Poole Rocks	Finding Sanctuary
Cumbria Coast	Irish Sea Conservation Zones
Fylde Offshore	Irish Sea Conservation Zones
Hilbre Island Group	Irish Sea Conservation Zones
North of Celtic Deep	Irish Sea Conservation Zones
Aln Estuary	Net Gain
Swallow Sand	Net Gain
Rock Unique	Net Gain

## Cost Analysis

4.2.4 The proposal for the 2013 tranche that up to 31 sites are initially designated, as opposed to designating all 108 rMCZs and 65 Reference Areas, means that the initial quantified economic impacts will be smaller. The quantified economic impacts are show in Figure 4

**Fig.4 Sectoral cost ranges and best estimates**

Sector	Range of Cost £/year	Best Estimate £/year
Aggregate	10,000 – 1,030,000	10,000
Cables	1,000 – 3,000	2,000
Commercial Fisheries	5,000 – 2,040,000	210,000
Flood and Coastal Erosion Risk Management	-	1,000
National Defence	-	8,000
Oil and Gas	40,000 – 60,000	50,000
Ports, Harbours, Commercial Shipping and disposal sites	70,000 – 180,000	180,000
Recreation	-	No Cost
Renewable Energy	3,000 – 610,000	90,000

Public Sector Management Costs	810,000 – 870,000	840,000
Ecological Surveys	-	1,600,000

#### 4.2.5 The unquantified aspects are:

- where future industry activity is highly uncertain or as yet unknown, costs have not always been quantified. This may apply to future projects in archaeology, oil and gas, ports, harbours, shipping and disposal sites. However, there is low certainty that these costs could arise;
- in both the high and low cost scenarios, impacts of MCZs on navigational dredges and on a designated shipping anchorage are assessed in terms of the cost of compensation for the effect on the sites' features where appropriate mitigation is not feasible and the activities are deemed to be of economic or national importance;
- unknown one-off costs to vessels to purchase updated charts and Sailing Directions with MCZ locations and management requirements;
- in addition, social and economic impacts on local communities from effects on fisheries have not been costed. There may also be impacts on some businesses and local economies through restrictions on certain fishing and recreational activities;
- there will be unquantified costs to the public sector to inform users of the marine environment about MCZs. Also there will be costs to the SNCBs to advise public authorities on impacts of proposed licensed activities to MCZs, and costs to the public authorities in considering the impacts to MCZs when licensing activities.

## Benefit Analysis

4.2.6 Benefits of designating the site have not been monetised. This is because the benefits cannot be readily quantified and the majority of benefits are not traded and so cannot be easily valued.

4.2.7 It is however possible to look at the non-monetised benefits for the 31 sites being proposed for designation. These include:

- a combined area of 10,900 km<sup>2</sup> being protected by designation of MCZs and 179<sup>65</sup> features (habitats, species and geological and geomorphological features) will be conserved for current and future generations;
- this is likely to result in an increase in final ecosystem services (benefits) such as an increase (or anticipated slower decline) in provisioning, regulating and cultural services;

<sup>65</sup> If all features included within the 31 sites proposed for the first tranche are designated this number will rise to 379.



- fish populations and the condition of marine habitat and species generally will benefit from greater protection and reduction in sea bed disturbance;
- nature based recreation activities (diving, angling, bird watching etc) can benefit from enhanced user experience;
- protection of marine resources will benefit research and education;
- some features will contribute to key regulating services such as the breaking down of pollutants, sequestration of carbon and continued regeneration of marine ecosystems.

## Part 5. Summary of Questions

### 5.1 Site Questions

5.1.1 As part of the consultation process please consider the questions below. When responding to a site-specific question please state clearly which site(s) you are referring to. A template response form and data submission form can be found in Annex H.

5.1.2 Although we are only specifically requesting information and responses in respect of those MCZs proposed for designation in 2013, we would welcome your responses to Q2-8 in respect of all other sites. Any responses or information provided will assist us in decisions and on future MCZ designations which will be subject to full public consultation.

#### For sites and features proposed in the 2013 tranche

Q1. Do you agree that this site and specified features should be designated in the first tranche? Please explain and provide evidence to support your views as necessary.

Q.2 Are there any additional features (not recommended by the Regional MCZ Projects) located within this site that should be protected? Please explain and provide evidence to support your views as necessary.

Q.3 Do you have any comments on the proposed conservation objective(s)? Please provide evidence to support your comments as necessary.

Q.4 Are there any significant reasons for alteration of this site's boundary? Please explain and provide evidence to support your views as necessary.

Q.5 Is there any additional evidence to improve data certainty for features within this site? If yes, please provide evidence.

Q.6 Are there any additional activities (that may have an impact on the recommended features) occurring within this site that have not been captured within the Impact Assessment? Please provide evidence to support your views.

Q.7 Do you have any new information on costs to industry not covered in the Impact Assessment, that would be directly attributable to MCZs as opposed to costs stemming from existing regulatory requirements, or evidence that suggests the need for changes to the methodologies or assumptions used in estimating costs (including in relation to fishing displacement)? If yes please provide evidence.

Q.8 Do you have any new information that was not available or used in the Impact Assessment to inform or quantify the value the benefits of MCZs?

## General Comments

Q.9 You may wish to provide comments on other aspects of this consultation such as evidence requirements, identification and treatment of high risk sites. Where you disagree with the approach taken please provide evidence to support your views.

# Part 6. Site Summaries and Maps

## 6.1 Site Summaries

6.1.1 In Annex A1-6 site summaries can be found for all 108 MCZs proposed by the Regional MCZ Projects apart from Reference Areas. These site summaries are a compilation of the Regional MCZ Project recommendations, SNCB advice and data from the Impact Assessment. The purpose of these site summaries is to provide the reader with a concise overview of each site and explain the rationale for our proposals for each site. Therefore further information on individual sites can be found in the Regional Projects Final Report, SNCB Advice and the Impact Assessment.

6.1.2 Each Site Summary provides the following information:

- A map of the site
- A map of features proposed for designation (2013 tranche sites only)<sup>66</sup>
- A table of basic information about the site
- A table of all the recommended features, their feature type, area/number of recordings and their conservation objectives
- A table of the sectors that would be impacted if the site was designated and the best estimate costs

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<sup>66</sup> Note that the boundaries of the site are as recommended by the Regional MCZ Projects, but only the features being put forward in 2013 are shown. The boundaries of features are not indicative of where management measures will be applied related to a site. Once a site has been designated as an MCZ by Defra, it is the responsibility of the appropriate regulator to introduce suitable management measures for that site.

- A table stating how we propose to treat each site, the ecological advantages of the site, the socio-economic implications and benefits and the data certainty associated with the site
- A table of the features proposed for designation and those requiring further work (2013 tranche sites only)

6.1.3 Further explanatory information on the site summaries can be found in Annex B.

6.1.4 Information on the recommended sites and an interactive map will also be made available on the updated MCZ Interactive Map - <http://www.mczmapping.org/>