



## **Environment, Climate Change and Land Reform Committee**

### **Marine Inquiry**

#### **Written submission from Sustainable Inshore Fisheries Trust (SIFT)**

#### **Are the objectives for the establishment of the Scottish Marine Regions still appropriate?**

The overall objective of the marine planning system in Scotland is to promote the sustainable development and the protection and enhancement of the Scottish marine area. To do so, the marine planning system must achieve a balance between the development of new activities in marine areas and the protection of key ecosystem goods and services. However, this balancing process must take place within basic ecological limits so as not to threaten the long-term sustainability and resilience of marine areas. It is even more important to respect such ecological limits in marine areas which are already degraded due to decades of industrialisation and it is appropriate that the planning system prioritises enhancement and restoration of the marine environment over economic development in these circumstances. Yet, at present, these ecological limits are not satisfactorily reflected in the National Marine Plan (NMP), whose vague language suggests that enhancement is a voluntary alternative to the protection of species and habitats. Regional Marine Plans (RMPs) should be a key way of making up for this deficiency and should place more emphasis on the enhancement of the marine environment, taking into account the geographic, ecological, social and economic differences in a particular region. SIFT believes that Scottish Ministers should provide guidance to Marine Planning Partnerships (MPPs) on the types of measures that must be considered in order to give meaningful content to the duty to promote the enhancement of the Scottish marine area.

#### **How effective has the approach to establishing Marine Planning Partnerships been in practice? Are they working as anticipated? What are the opportunities/constraints/barriers to success?**

The processes associated with regional marine planning permit greater local involvement and accountability for policies affecting local coastal communities. This is an important and desirable objective, but requires carefully thought out institutional structures. The current requirements for the establishment of a delegate MPP under the Marine (Scotland) Act 2010 are complex and reportedly led to delays in the establishment of the Clyde and Shetland MPPs. The complexities arose as a result of amendments made during the adoption of the 2010 Act and SIFT believes there is room for further simplification of the legislation in this respect or for clarification of the requirements relating to the establishment of MPPs. SIFT would welcome the Committee revisiting this issue. At the same time, it is important that there is sufficient flexibility to allow MPPs to be designed in a manner that is suitable for their particular regions. SIFT supports a flexible approach to the establishment of MPPs, but given

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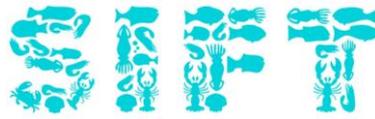


the significance of these bodies in developing planning frameworks, there should be a requirement for public consultation on the composition of a MPP prior to its establishment.

It is critical when designing MPPs that consideration is given to the institutional design of the MPP so that a balance is found between broad stakeholder participation and operational effectiveness. When determining membership, it is important that potential members are eligible whether or not they have been involved in any previous forum. In our view, one of the problems with the constitution of the Clyde MPP under the legislation was what we understand was the assumption that the existing Firth of Clyde Forum Core Group members would have a right to continue as members of the Clyde MPP, and that any new members of the Clyde MPP would have to demonstrate that they could provide significant additional relevant skills or expertise that could not be secured by other means. SIFT is of the view that what we think might be regarded as this preferential treatment for incumbents of antecedent bodies is unfair, and that the selection of members under the legislation should be seen to be based upon a fair and transparent process in which all potential members are treated equally at the outset.

As well as membership, consideration needs to be given to decision-making. Whereas it is desirable that a plan is supported by as many actors as possible, an over-emphasis on consensus means that policies may be watered down in order to avoid disagreements, thus leading to vague or general policies. By definition, marine planning involves the weighing of competing priorities and it may not be possible to accommodate every user of the marine environment in order to achieve the objectives of sustainable development and enhancement and protection of the marine environment. Difficult choices will arise, so clear and robust decision-making processes must be put in place to deal with those scenarios. To that end, SIFT considers that some form of qualified majority voting, ensuring that a range of representative interests are taken into account, would be suitable to promote effective decision-making in these situations.

A particular challenge for the establishment of MPPs is the relationship between the regional planning process and the regional initiatives relating to fisheries management, in particular the relationship with Regional Inshore Fisheries Groups (RIFGs). RIFGs are responsible for developing a Fishery Management Plan (FMP), which should describe the geographical and ecological scope of the local fisheries, as well as their economic significance, and lay down the agreed actions which the RIFG will seek to achieve. However, in order to achieve coordinated and integrated marine management, there is a need to embed RIFGs within the broader framework of the regional marine planning system. There is little express guidance on how MPPs and RIFGs should interact. The NMP anticipates that 'inshore fishing interests should be represented [on MPPs] by Inshore Fisheries Groups whose management plans will inform and reflect the regional plan.' However, RIFGs are only one source of information concerning fisheries issues within the regional marine planning process. Given that RIFGs are largely representative of the fishing industry, it is not appropriate for MPPs to defer solely to RIFGs on fisheries issues. Rather, MPPs should take into account other stakeholders' views on fisheries issues so that the MPPs can develop their own positions in relation to fisheries matters, independently of RIFGs. This does not necessarily mean that MPPs trump RIFGs in developing fisheries policy or that RMPs are a substitute for (regional) FMPs. But a clear relationship requires an



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appreciation of the different roles that are being played by each actor; in the first instance, a FMP may require more frequent updating due to developments in science or technology relating to the fishery. Moreover, a FMP needs to be developed at a stock level, which may cross over the boundaries of Scottish marine regions. It follows that FMPs are the right place to develop policies relating to effort, quota, and technical measures relating to the fishery. Arguably questions concerning conflicts between different modes of fishing should also be addressed through RIFGs where a fuller range of views can be considered and an accommodation between different interests can be sought. Where RMPs do come into the picture and can usefully address fisheries issues is in relation to managing tensions between fishing and the marine environment, particularly seabed habitats, as well as managing conflicts between the fishing sector and other users of the marine environment. In addition, RMPs can also play an important role in ensuring that other sectors take into account the need to protect fish stocks and sustain healthy fisheries for both economic and conservation reasons, as required by the NMP. These three objectives call for integrated spatial management and it is in this regard that marine planning offers advantages over existing tools by allowing a holistic approach to managing marine space at a regional level. SIFT believes that further guidance should be prepared by the Scottish Ministers to clarify how MPPs and RIFGs interact.

### **What progress has been made in the development and implementation of Regional Marine Plans and what are the objectives and priorities for the next 5-10 years?**

Progress on the development and implementation of RMPs has been slow. To date, only the Clyde and the Shetland MPPs have been established and both have only just produced the pre-consultation draft of their respective RMPs. Their experiences tell us that the process of developing a RMP is more time-consuming than may have been anticipated, with delays being introduced at key stages. SIFT believes that the key priority for the next 2-3 years should be in setting up MPPs for all outstanding marine regions, with a view to having RMPs in place for all Scottish Marine Regions by the end of 2025. From that date, reviews of RMPs should be carried out every five years in order to ensure that any developments are reflected in the plan.

### **Is the system of marine planning sufficiently integrated with the terrestrial planning system?**

The involvement of most relevant public and local authorities in the MPP is the main driver for ensuring compatibility with terrestrial planning, although given that no RMPs have been adopted to date, there is no measure of whether this has been achieved in practice. Of equal concern is whether adjacent RMPs will be sufficiently integrated. This concern was expressed by the Rural Affairs, Climate Change and Environment Committee in 2015, when it recommended that guidance be issued in relation to how regional marine areas will be expected to work together to ensure that users operating at a national level do not face inconsistent or conflicting arrangements. SIFT is not aware of any meaningful guidance on this point to date. To the contrary, the sporadic development of RMPs means that there may be little opportunity for active coordination and MPPs responsible for preparing RMPs at a later stage may be presented with a fait accompli in an adjacent region. Such challenges can partly be overcome through better alignment of planning processes. This suggests that future



RMPs should be developed in parallel in order to facilitate interaction between the processes.

**What is required to deliver an effective Marine Planning system under Part 3 of the Marine (Scotland) Act 2010? Is the National Marine Plan capable of delivering sustainable development within Scottish Marine Regions in advance of those areas having an RMP in place?**

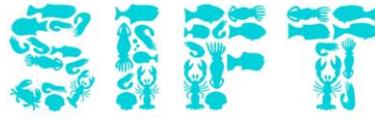
The NMP alone is unlikely to deliver sustainable development within Scottish Marine Regions. Certain parts of the NMP do lay down specific and detailed policies to guide decision-makers (e.g. chapters on Oil and Gas, Carbon Capture and Storage and Offshore Wind and Marine Renewable Energy) but other parts are premised upon more specific guidance being developed at the regional level (e.g. aquaculture, sea-fisheries, recreation and tourism, regionally important ports and harbours, and aggregates). Thus, without RMPs, there is likely to be a lack of detailed guidance for decision-makers in these areas. Yet, if the objectives of the marine planning system are to be met, MPPs will have to take up the opportunities to develop detailed and precise policies that can be used by decision-makers to pursue sustainable development of the marine environment in the planning region. There is little value in a RMP simply explaining the legal requirements that must be satisfied in order for a development to proceed or repeating the prescriptions of the NMP. SIFT is concerned that current evidence indicates that MPPs are shying away from determining a clear-cut policy direction in relation to many important issues. To take one example, the fisheries policies of the Draft Clyde Regional Marine Plan do not explicitly address the need for protection of critical fish habitat (from both fishing and other marine activities), despite this being flagged in the NMP as an issue to be addressed. This is in contrast to marine plans developed in other parts of the United Kingdom, such as the East of England Marine Plan. SIFT believes that MPPs should be required to give much more emphasis to local circumstances, opportunities and challenges, which should be reflected in a regional plan's vision, aims, objectives and policies.

**What funding and support is available for the development of RMPs?**

This is a question for the Scottish Government.

**What duties/requirements are there on local authorities to develop and implement RMPs?**

As a strict matter of law, there is no requirement for RMPs - in contrast to the case for the NMP. Moreover, the power to develop RMPs initially sits with the Scottish Ministers and there are complex requirements for the delegation of those powers, discussed above, which essentially prevent delegation to local authorities by themselves, with the exception of island local authorities. Putting aside the question of the composition of MPPs, perhaps the more relevant question in this context is whether there should be a requirement for RMPs in all 11 Scottish Marine Regions. SIFT's answer to this question is 'yes' for two main reasons. Firstly, as noted above, the NMP by itself is not always sufficient to promote sustainable development and it is often premised upon a further layer of regional planning. Secondly, it would be odd if some or even most marine regions had a fully developed RMP, but there were gaps in one or two other regions. A consequence of this argument is that the Scottish



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Ministers should ensure that steps are taken to develop RMPs, even if it has to lead this process itself, instead of delegating to a MPP (this situation arises because local authorities must consent to being involved in RMP development, so Scottish Ministers could not force local authorities to take action without a change in legislation).

**Is there sufficient marine planning expertise in all Local Authorities for development of RMPs?**

SIFT's experience is that Local Authorities often lack the marine planning expertise required to develop RMPs. This provides a significant obstacle to both effective marine planning and to integrating marine and terrestrial planning. SIFT believes that because regional marine planning is at an early stage in Scotland, it is vital that experience is drawn upon from other parts of the world in which marine planning is more developed in order to identify best practices which could be adopted in the Scottish context.