

5. ISSUE PAPER: **MARINE NATURAL HERITAGE**

Scottish Environment LINK Marine Task Force is calling for fundamental reform of how we manage Scotland's seas.

Scotland's Marine Bounty

Scotland's territory is 53% sea, supporting an estimated 8,000 species of marine plants, invertebrates, fish, birds and mammals which, together with the lower organisms, are believed to account for over 50% of our biodiversity. The varied geology and range of exposures to currents and wave action surrounding Scotland's many thousands of km of coast contribute to one of the most diverse range of marine habitats in the world.

Scotland has 14 nationally and internationally important coastal and marine habitats - including Europe's best serpulid worm reefs and two thirds of the global resource of machair - 32% of the world population of grey seal and 24 cetacean species, including the world's most northerly resident population of bottlenose dolphin. Many human activities impact upon this coastal and marine natural heritage, including commercial fishing, coastal development, pollution and aquaculture.

What's the problem?

Porpoise and bottlenose dolphin populations are threatened by accumulation of pollutants and entanglement in fishing gear. Rare leatherback turtles, ancient summer visitors to Scotland, and whales, such as Cuvier's beaked whale, are choking on a diet of discarded plastic, mistaken for jellyfish. Guillemot, arctic tern, skua and other seabirds are failing to breed due to a sandeel shortage, yet industrial fisheries continue to strip-mine this valuable resource from the sea.

Other marine species and habitats such as seagrass beds, maerl beds, worm reefs and deepwater corals, are vulnerable to trawling and dredging, yet there is simply not enough information to know how healthy they are.

All legislation relating to the marine and coastal environment affects habitats and species in some way. In addition some site and species-specific domestic and international legislation exists solely to protect marine natural heritage features identified as nationally or internationally important.

Sustainable development policy and legislation like the National Parks (Scotland) Act and commitments to Integrated Coastal Zone Management potentially could also provide a framework for managing habitats and species in harmony with economic and social interests.

Yet, through a combination of site-based and regulatory mechanisms most legislation for protecting sites and species was designed for use on land. This approach has largely been extended to the marine environment where it has been problematic.

- there are few property rights;
- there are often multiple uses of one area;
- species are much more mobile and;

- there is no legal basis upon which a network of nationally important areas for wildlife can be designated and managed.

Scotland has no proper Marine Protected Areas, regions of sea and seabed that receive effective protection from damaging activities.

What is the problem?

Marine biodiversity protection suffers from the same basic lack of a sustainable management framework that affects management of the marine environment as a whole.

1. Lack of leadership or a coherent framework for planning - no clear lead body, management strategy or planning framework that addresses the lack of property rights in the sea, taking into account competing sectoral interests and fostering broader marine biodiversity conservation to ensure that our seas remain healthy and productive for future generations

2. Fragmented, conflicting legislation that does not support sustainable resource use - over 85 Acts of Parliament and many separate bodies govern marine activities, Scottish, UK and international competencies are not linked, user groups compete for the same resources. No provision for marine species in the Nature Conservation Act: wildlife is threatened and money wasted

3. Lack of accountability - the current system lacks a means of facilitating equitable participation of interest groups or structures for local 'ownership' and management. The result is poor stewardship of the marine environment.

In addition, there is no legal basis for designating and managing areas for nationally important marine species and habitats. For example:

- SSSIs and National Nature Reserves are designed for land; although 34 of 73 NNRs in the UK are on the coast they do not extend below MLWS
- SSSIs can extend to MLWS, but they cannot extend beyond this. Both SSSIs and NNRs would need a complete overhaul to be applied to the sea.
- Marine Nature Reserves failed – only three were designated in UK with none in Scotland - due to difficulties managing damaging operations, particularly fishing, and the inability of the conservation agency to override the interests of competing authorities.
- Marine Special Areas of Conservation (SACs) can be designated in any part of the UK Continental Shelf (UKCS) from intertidal areas out to 200nm. However they are limited to a narrow range of species and habitats. Furthermore, other users still want 'business as usual' and few powers are provided to influence the activities of other interests or relevant authorities, e.g. conservation byelaws cannot interfere with functions of other relevant authorities.
- Special Protection Areas for birds can extend to territorial waters but none has yet been designated at sea. As with SACs users still want 'business as usual'.
- National Parks can be established at sea as well as on land, and should have an environmental protection focus, balanced with other interests. However, there is no legislative mechanism to ensure that sufficient environmental safeguards can be applied in the sea. Badly managed, marine national parks could have negative environmental impacts on Scotland's coast and islands.

What's the solution?

Biodiversity conservation can only take place within legislative and policy provisions for sustainable management that address the lack of property rights in the marine environment and take account of competing economic and social interests. A site-based/regulatory approach to the protection of key habitats and species would fall within this broader framework and would require changes in legislation to provide more specific site or species based tools.

Specific changes

In addition to the primary framework legislation, a **Marine (Scotland) Act**, to underpin the cross-cutting structural, management and policy changes (as outlined in 'A Future for Our Seas'), a review of marine biodiversity protection legislation, including sites and species is needed.

The duty to further the conservation of biodiversity and Scottish Marine Wildlife Watching Code in the Nature Conservation (Scotland) Act 2004 are a start. However, the Act does not attempt to address site-based marine nature conservation.

The following are urgently needed:

- establish a strong legal framework giving statutory support to biodiversity action planning and link it to other processes
- review existing site and species protection mechanisms and amend legislation as necessary
- establish a network of marine protected areas (MPAs) to conserve a representative range of key ecosystem features, habitats and species. This could include MPAs for fish and shellfish regeneration as well as protection of identified marine species and habitats of natural heritage importance.
- ensure that relevant authorities have the powers, duties and responsibilities to protect and manage these sites and species.
- ensure that protection and management of MPAs, and habitats and species outwith protected sites is integrated with the policies and practices of other interests, e.g. fishing, fish farming, recreation, marine and coastal development and waste disposal.

This paper has been produced by the Scottish Environment LINK Marine Task Force

Scottish Environment LINK (LINK) is the umbrella body for Scotland's voluntary sector environmental organisations which together represent around 500,000 members throughout Scotland. The LINK 'Marine Task Force' consists of the following environmental organisations working on marine issues in Scotland:

British Association of Nature Conservationists (Scotland)	RSPB Scotland
Hebridean Whale and Dolphin Trust	Scottish Wildlife Trust
Marine Conservation Society	WWF Scotland
National Trust for Scotland	Whale and Dolphin Conservation Society

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