



## East England Marine Plans

### Consultation response by North Sea Regional Advisory Council (NSRAC)

08 October 2013

*(nb: as the consultation response is online, this is a document version of the NSRAC's response)*

#### Question 1 - Would you like to tell us a bit about your organisation or area of interest?

NSRAC is a membership organization established in 2004 under the auspices of the Common Fisheries Policy to provide greater stakeholder involvement in fisheries management at regional level. It is one of seven Regional Advisory Councils within Europe. The NSRAC prepares and provides advice on the management of fisheries in the North Sea on behalf of its members; fisheries organisations and other stakeholders including environmental organisations. This is done with the general aim of attaining the sustainable management of fisheries, incorporating an ecosystem-based approach and based on the precautionary principle.

#### Question 2 - Do you consider Chapter 1 provides adequate background information on the marine planning process and the East Inshore and Offshore Marine Plan areas?

Yes  No  Don't Know

**Yes.**

Chapter 1 provides an appropriate level of background information, and we welcome that this has become more concise relative to previous drafts. The historical changes to the East plan areas, coastal communities and species populations, provide the marine plan with the necessary context to set a vision that includes restoring the marine environment to improved levels compatible with Good Environmental Status.

Given the stated aim of marine planning to contribute to achieving ‘sustainable development’, Ch 1 should include a clear and consistent definition of this term which clearly sets out the UK Government’s 5 guiding principles as part of its sustainable development strategy *Securing the Future*.<sup>1</sup> This would also consistent with the treatment of sustainable development in the National Planning Policy Framework.

In addition, we have a number of specific concerns:

Para 3: We query whether the current level of knowledge is sufficient to provide a “clear spatial approach” (and the stated need to add a research programme would seem to indicate the contrary).

Para 27, last bullet: “Some nomadic fishing activity” underplays the international use of the plan area, in particular by the Dutch fleet (even if they are technically Anglo-Dutch vessels).

Para 29: We have concerns about the repeated references here and elsewhere in the marine plans, to the use of IROPI (‘imperative reasons of over-riding public interest’), without equivalent attention paid to the preceding steps of the Appropriate Assessment process, in particular the need to avoid environmental impacts before they are assessed at project level, through the strategic guidance provided by spatial planning. IROPI serves as a last resort after all other avenues to minimise or mitigate such adverse impacts have been explored. The role of marine planning in these steps should also be referenced in these plans.

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<sup>1</sup> <https://www.gov.uk/government/publications/securing-the-future-delivering-uk-sustainable-development-strategy>

Para 34: It should be noted that 'best available evidence' does not always correspond to adequate evidence.

### Question 3 - Do you agree with the 20 year Vision (page 15) described for the East Marine Plan areas?

The MMO undertook extensive consultation on the draft Vision and Objectives in 2012.

Yes  No  Dont know

#### **Yes, with amendments.**

We support the high level vision for the plan areas and the strategic objectives, which together provide a strong framework for improving environmental quality, reducing the impacts of climate change, delivering renewable energy sustainably and supporting local communities. We also welcome that the vision applies across both plan areas in line with the principle of joint planning for inshore and offshore regions.

However, the vision has been amended since the MMO's previous consultation in that key references to considering the ecosystem as a whole and living within environmental limits have been removed (replaced by "while protecting the marine ecosystem"). This effectively reduces the scope of the plans' contribution to ensuring sustainable use. Considering the ecosystem as a whole while making decisions on proposals for development should be the context for effective long-term planning.

We also do not believe that the stated support for offshore wind should come before the wider desire for sustainable use of the marine environment in the vision. Rather, our amended vision (below) places the identification of one specific sector within the wider context of sustainable use. The undue emphasis on wind power also needs to be weighed against recognition that schemes in Europe (e.g. Germany) are being scaled back as they are proving too expensive at the current level of subsidy. Currently there is uncertainty about future subsidies and although licences have been sought, delays are seen in the start to actual construction. It has been argued that operational conditions in sites such as Dogger Bank are likely to reduce efficiency further and increase costs.

By contrast with the focus on offshore wind, throughout the vision there is a complete lack of appreciation of the role that the fishing sector has to play in terms of diet, health, well-being and food security (and an allied failure to recognise that sustainably-sourced fish is the most environmentally friendly form of protein). This should be addressed by inserting a new para 42bis recognising the societal contribution of sustainably managed commercial fishing.

**Amended Vision:**

By 2033 the East Inshore and East Offshore marine areas are **being used sustainably, effectively and efficiently, taking the ecosystem as a whole into account**, resulting in economic development **within environmental limits**, and offering local communities new jobs, wealth, improved health and well-being. **These areas are also** providing a substantial part of the electricity generated from offshore wind in the UK as a result of collaboration and integration between sectors.

We have the following comments on specific paragraphs within the vision section of the plan.

Paragraph	Comment
40	We welcome the stated criteria for achievement of the vision (plan areas are in Good Environmental Status, relevant habitats and species are in favourable conservation status, and a well-managed, ecologically coherent MPA network is in place).
41	The “significant amounts of essential infrastructure” should be “with least impact to the environment and fisheries” (see also Paragraph 43).
43	Change “with minimal environmental impact” to “with minimal impact on the environment and fisheries”.
44	We request reintroduction of the sentence, “Those who live or visit the coast and estuaries are living in harmony with the natural environment”, which has been removed from the draft agreed following the public consultation on the vision and objectives.

## Question 4

Do you agree with the Objectives (page 14-16) and consider they contribute effectively to achievement of the Vision?

Yes  No  Dont know

**Yes, with amendments.**

We support the 11 strategic objectives and believe that, when taken as a whole, they contribute towards the achievement of the 2033 vision. We also welcome the simplified nature of the objectives compared to previous drafts.

We do not see strategic support within the plan policies to move towards achieving net gains for biodiversity. The National Planning Policy Framework (NPPF) has as a core principle the transition from a net loss of biodiversity to “achieving net gains for nature” (Paragraph 9, NPPF), and that strategic planning policy should “contribute to conserving and enhancing the natural environment”.

We also would like to see more recognition of the economic and social benefits of a healthy and resilient environment within the non-environmental objectives. This is clearly recognised by local stakeholders, for whom the most important aspects for planning are to maintain the integrity and natural beauty of the marine and coastal environment<sup>2</sup>, much of which provides leisure and tourism opportunities, as well as essential mitigation and adaptation benefits in the face of growing climate-change impacts.

We have the following specific points and suggested amendments:

Objective	Comment	Suggested alternative
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<sup>2</sup> Summary of MMO’s local drop-in sessions, [http://www.marinemanagement.org.uk/marineplanning/documents/drop-in\\_sessions.pdf](http://www.marinemanagement.org.uk/marineplanning/documents/drop-in_sessions.pdf)

4	This objective should acknowledge the role that the contribution of fish protein to diet plays in improving public health.	<b>Amendment: Objective 4:</b> To reduce deprivation and support vibrant, sustainable communities through improving <b>diet</b> , health and social well-being.
5	Para 55 should exemplify “character” with not just “landscape” but also traditional fishing which is also part of the “historic environment”.	<b>Amendment Para 55, 1<sup>st</sup> sentence:</b> This objective relates to the historic environment, including landmarks and features (both manmade and natural) and encompasses <b>consideration of the character of the area such as traditional fishing and</b> landscape.
6	It is not sufficient to state that this objective “should benefit both people and wildlife”, rather it should also be made clear that the marine ecosystem per se includes ‘man’.	Amendment Para 56, 1 <sup>st</sup> sentence; This objective recognises that a healthy functioning ecosystem, <b>including man</b> , is important in its own right,....etc
7	We welcome this objective addressing biodiversity outside and beyond MPAs, particularly for consideration by proposals for wide-ranging, statutorily protected mobile species and important frontal systems, which have not yet been identified for protection.	
8	<p>ENGO members of the NSRAC welcome this objective on supporting the objectives of MPAs, both individually and as part on an ecologically coherent network, noting the UK’s commitments for this network to also be well-managed. The MPS itself outlines the commitment to substantially complete this network by 2012.</p> <p>There is no guidance from the plans, aside from referring to Section 126 of the MCAA 2009 (which is restricted to the duties on public authorities) on how proposals should treat MCZs, either designated or undesignated, in their</p>	

	applications.	
9	<p>We fully support a strategic objective addressing climate change, and the need for action to reduce, mitigate and adapt to climate change impacts. The importance of ensuring that, as well as human development, the marine environment is also resilient, however, is not recognised in the policies that fall underneath this objective. Flood risk management, although not in the direct hands of marine planning, is another notable omission from the context of Objective 9.</p> <p>The strategic drive to reduce, mitigate and adapt to the impacts of climate change is not, however, matched by sectoral policies, in particular the overriding primacy of oil and gas development in all areas.</p>	

## Question 5

The core of the draft East Marine Plans are the plan policies which address the topic and sector activities relating to the sustainable development of the East Inshore and Offshore marine areas. Please set out below your support or/and concerns for the plan policies including any suggested changes.

You will need to cite the specific Policy and paragraph numbers which your comments refer to.

Where you wish to comment on the maps in the draft East marine plans and these comments are best made as a spatial rather than a free text response, you can do so through the Planning Portal <http://planningportal.marinemangement.org.uk/>

Policy	Para	Comment	Suggested alternative
	67	It is not clear from Paragraph 67 or from the plans in general if 'proposals' apply to fisheries regulation and licensing, or whether the designation and management marine protected areas also fall under the term "proposals".	
	73-75	The requirements and obligations under international law, e.g. in relation to EIA, SEA and Appropriate Assessment are critically important, even more so as the plan defers all practical consideration of environmental effects to the project level. However, many references to these processes have been removed from sectoral policies and associated text, such that they only appear in this short section. As such, these sections should be given much greater prominence in the plan.	
	87	The ENGO members of the NSRAC consider this paragraph should include a reference to applying precaution within a risk based approach, as stated in MPS Section 2.3.1.12, when encouraging sustainable development.	
	88	The last sentence does not scan.	
EC1	95	Policy EC1 "suggests that where one project provides more economic benefit than a project of the same type, then the project that provides most economic benefit will be preferred". It should be made explicit that this should apply while comparing two projects of equivalent scale and environmental impact as well as type.	
EC2		We welcome the reference to the role of ecosystem service benefits in Paragraph 97, as reinforced by the MPS, but this is out of kilter with policy EC2 which focuses on "sustainable employment benefits". The importance of the marine ecosystem should be made explicit in policy EC2. To accommodate ecosystem service benefits, we recommend EC2 be amended as shown.	<b>Amendment: EC2</b> Proposals that provide additional sustainable employment benefits <b>in localities close to the marine plan areas, including benefits derived</b>

			<p>from a healthy marine environment, should be supported, <del>particularly where these benefits have the potential to meet employment needs in localities close to the marine plan areas.</del></p>
EC3		<p>The balanced nature of Objective 3 ("to realise sustainably the potential of renewable energy" is not reflected in policy EC3, which makes reference to contributing "substantially" to offshore wind generation but without any reference to doing so sustainably. This is proven by Paragraph 105 of the supporting text, which states that the main role of the policy "is to act to make the links to ambitions for economic development and job creation".</p> <p>Given the vision of the plan to 2033, it is notable that the draft plan does not say anything about any future development of offshore wind beyond Round 3, aside from the general support for offshore wind in EC3. Policies WIND1, WIND2 and WIND3 apply solely to areas already licensed or within Round 3 zones. There does not seem to be an intention for the plan to lead the selection of such zones, or for any forms of energy, in future, and the selection of such zones seems set to continue outside the influence or scope of marine planning. This sets a worryingly ineffectual precedent, which the forthcoming revision of the plan in 3 years time must address. It should be clarified how this policy will be implemented outside of already identified wind farm zones.</p>	<p><b>Amendment: EC3</b> Proposals that will help the East marine plan areas to contribute substantially to offshore wind energy generation <b>in a sustainable manner</b> should be supported.</p>
SOC1	110-113	<p>The justification for SOC1 "Proposals that provide health and social well-being benefits including through maintaining, or enhancing, access to the coast and marine area should be supported", emphasises recreation the</p>	

		natural and historic environment and access but no mentions is made to either cultural fabric of indeed the contribution of seafood to health y populations. Fisheries have important contributions to make to both, as well as forming part of our historic environment and forming part of the attraction of the coastal recreational product and we believe they should be referred to here given their importance to coastal areas and more generally. We believe this broader interpretation is supported in the sustainability appraisal which recommends that “Reference to the multi-faceted nature of health and well-being determinants should also be made within the supporting text.” (p51).	
SOC2/ SOC3	114- 149	We find it strange that with respect to giving consideration to character or heritage no mention is made to the contribution of either traditional or contemporary human uses of the sea. Human use seems to be airbrushed out of existence. We consider that fishing as well as other existing long standing activities have a role in defining the character of an area and should be referred to accordingly. 148 refers to the area’s characterization assessment which makes multiple explicit references to the cultural and fisheries characteristics of the different sub-areas defined in the policy map in figure 3. The document opens by pointing out that “Seascape, like landscape, reflects the relationship between people and place and the part it plays in forming the setting to our everyday lives. It is a product of the interaction of the natural and cultural components of our environment, and how they are understood and experienced by people.”	
	124	There is no Paragraph 124 and Paragraph 125 repeats Paragraph 139.	
ECO1	163- 165	We welcome policy ECO1 encouraging the consideration of cumulative impacts in decision-making, based on existing project-level requirements of project-level decisions (through EIA and SEA processes) . However, we are concerned that this guidance for cumulative impacts only to be “taken into account” in decision making, with no proactive guidance upon either decision-makers or applicants to seek to avoid or minimise these impacts (and no requirements on proposals within ECO1 according to the implementation plan), will be outweighed by the weight of strategic planning support for growing all activities. We therefore urge the policy to	<b>Amendment ECO1:</b> Cumulative <b>and in-combination</b> impacts affecting the ecosystem of the East marine plans and adjacent areas (marine, terrestrial) <b>must</b> be taken into account in decision-making and plan implementation.

		<p>be strengthened. The cumulative impacts of encouraging multiple uses, including in the same location, are likely to increase significantly over the period of the plan.</p> <p>There is also no guidance as to what level of cumulative impact is unsuitable and no indication of how this policy is to be implemented, apart from in statutory project-level processes. The supporting text [to ECO1] should state that, in line with existing SEA and EIA processes, new proposals for development will not be supported where there is evidence that unacceptable adverse cumulative impacts would occur, unless there is evidence that these impacts can be satisfactorily mitigated or as a final option, effectively compensated for.</p> <p>It is unclear whether ECO1 also includes in-combination effects, as well as cumulative effects, which is a requirement of the Habitats Regulations in relation to European Marine Sites and also the EIA regulations.</p>	<p><b>New policy ECO2:</b> Proposals should be considered with all other reasonably foreseeable plans and projects to determine their cumulative impacts.</p>
ECO2	166-167	<p>We welcome policy ECO2 on the risks of hazardous substances from collision risk, but suggest that this policy is widened to include other activities, which create risks of releasing such substances, in particular ship-to-ship transfers, spillages and drill cuttings from oil drilling activities and the legal discharge of non-oil substances. The impact of potential increases in shipping on marine pollution, as well as the impacts of other activities and infrastructure on collision risk, should also highlighted in the justifying text</p>	<p><b>Amendment ECO2:</b> The risk of release of hazardous substances should be taken into account of in proposals that require an authorisation.</p>

<p>ECO3/ 4</p>		<p>There is an urgent need (particularly in relation to ongoing climate change) for specific policies which encourage monitoring of activities and developments and which seek to maintain and enhance the resilience of ecosystems, their component habitats and species and their ecosystem services.</p>	<p><b>New policy ECO3:</b> Proposals for development that incorporate long-term monitoring into environmental effects will be supported.</p> <p><b>New policy ECO4:</b> Proposals that help maintain or enhance the resilience of ecosystems to climate change impacts should be supported, especially where they provide vital ecosystem services such as flood protection and water filtration.</p>
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<p>BIO1</p>	<p>176-177</p>	<p>Paragraph 176 makes it sound as if the UK MPA network might be a fait accompli; this is misleading, given that no MCZs have currently been designated, that there are as yet no offshore SPAs.</p> <p>The meaning of “appropriate weight” in policy BIO1 should be clarified. It states that “appropriate weight” should be determined by reference to the MPS, but the MPS does not in our opinion contain the necessary guidance to make such judgements, instead stating that it is up to the marine plan to provide the necessary detail to make such decisions.</p> <p>The ENGO members of the NSRAC consider that there also needs to be a policy under Objective 7 that requires proposals to consider the impacts of their developments on mobile species specifically, such as “proposals should demonstrate that they will not result in a significant adverse effect on sensitive or important areas for mobile species, especially where these areas are shown to be critical to supporting protected species.”</p> <p>We welcome the identification of evidence gaps in relation to marine biodiversity and the MMO’s commitment to filling many of these. The ENGO members of the NSRAC consider that in the interim, however, marine plans should explicitly identify the requirement to apply precaution (as part of a risk based approach), within planning, as stated in the High Level Marine Objectives and Section 2.6.1.5 of the MPS[1]. This requirement should be made explicit through a policy under Objective 7.</p> <p>The need to access data collected by developers is also critical, but there is no requirement in the plan for developers to share this information with the MMO’s planning team for wider benefit. This was a key</p>	<p><b>New Policy BIO2:</b>  “Allocations of marine space for development should prefer areas of lesser environmental value, where consistent with other policies in this plan.”</p> <p><b>NSRAC ENGO proposed New Policy BIO3:</b>  “Proposals should demonstrate that they will not result in a significant adverse effect on sensitive or important areas for mobile species, especially where these areas are shown to be critical to supporting protected species.”</p>
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		<p>recommendation of the Science and Technology Committee’s recent inquiry into Marine Science, which explicitly recommended that “We recommend that the Government works with the Marine Management Organisation to bring forward proposals that would make sharing of more data collected at sea, particularly seabed and habitat maps, as well as wind data, a licensing condition on commercial activity in UK waters.”[2]</p> <p>[1] “Marine plan authorities should apply precaution within an overall risk-based approach, in accordance with the sustainable development policies of the UK Administrations”</p> <p>[2]  <a href="http://www.publications.parliament.uk/pa/cm201213/cmselect/cmsctech/727/72709.htm">http://www.publications.parliament.uk/pa/cm201213/cmselect/cmsctech/727/72709.htm</a></p>	
MPA1	183	<p>The NSRAC ENGO representatives consider there is no explicit policy to support the objectives of individual MPAs, despite the identification of the different types of protected area in Paragraph 183. This should be inserted, clarifying the role of existing Habitats Regulation Assessments.</p>	<p><b>New Policy MPA1:</b>  Proposals should not hinder, and where possible should support, the achievement of conservation objectives for individual marine protected areas.</p>
MPA1	185-186	<p>The sector members of the NSRAC consider that the risks to implementing a coherent network from existing and future planned activities stems from a failure to plan for MPAs within scope of marine planning where the synergies between planning for human use and conservation can be more effectively realised. If there are significant risks it is likely the network is not coherent in the first place and therefore the locations of some MPAs should be reconsidered.</p>	

CC1	195-197	We believe that mitigation measures should be included in policy CC1, as well as adaptation measures. Policy CC1 is also unclear on its guidance for proposals; while it asks for impacts to be identified on other climate change adaptation measures, it also asks for evidence on how the proposal reduces these impacts.	
	204	Fishing activity should also be referred to with respect to addressing navigational risk.	
CC3		A new policy should be inserted which supports the enhancement of coastal ecosystems, in particular, which provide essential ecosystem services (notably to fisheries) in areas of vulnerability to coastal change impacts. This is referred to in Paragraph 197 in square brackets.	<b>New policy CC3: Proposals which support the provision of essential services provided by coastal ecosystems should be supported, especially in areas of high vulnerability to change.</b>
GOV2		GOV2 – We support the principle of co-existence of activities across the plan area, where the ecosystem can support the collective pressures arising. However, the plan offers no guidance to decision-makers on how to assess or determine the feasibility of co-existence, or of objectively determining if co-existence has been optimised. There is also no onus or responsibility on applicants to assess the potential of co-existence (compared to the requirement under GOV3 to consider displacement impacts) and consider what migration measures may be applied in order to maximise coexistence. Typically at present the application of EIA regulations to proposal planning does not give sufficient consideration to this matter. Specifically, the emphasis on applying mitigation to limit impact is not an equivalent driver to applying mitigation in order to maximise co-existence. The latter places greater emphasis upon the outcomes that materialise from a proposal. Such emphasis is also likely	Amendment GOV2: Opportunities for co-existence should be maximised wherever possible. Proposals should demonstrate the extent to which they will co-exist with other existing or authorised but yet to be implemented activities and how this will be achieved.

	<p>to reduce opposition to proposals at the licensing stage. The degree to which these pressures can be identified, and activities co-locating, must be based on appropriate cumulative impact assessments at a strategic level.</p>	
GOV3	<p>We strongly support consideration of displacement impacts. However, there is no guidance or criteria for applicants on the conditions under which they should demonstrate, in order of preference, a), b) or c), respectively. E.g. there should be stated conditions under which the avoidance of preventing fishing activities on, or access to, fishing grounds should be a <i>sine qua non</i> for the applicant.</p> <p>Also, in (b) there should be a presumption to minimise impacts rather than just mitigate them.</p> <p>In addition, we consider a) and b) in the hierarchy of considerations should be elaborated further to give explicit emphasis to developing proposals through mitigation measures that include location choice as well as proposal design and deployment in order to mitigate or minimise displacement. Location choice will likely have the largest influence in most cases over the degree to which synergies can be achieved between different sectors in marine planning.</p> <p>This would be in keeping with paragraph 103 which states that “optimising the location and methods of deploying wind farms as well as other developments and activities that may affect the development of OWFs, will minimise the adverse effects on both users and the marine</p>	<p><b>Amendment GOV3:</b> Proposals should demonstrate in order of preference:</p> <p>a) that they will avoid displacement of other existing or authorised but yet to be implemented activities</p> <p>b) how, if there are impacts resulting in, <b>or resulting from,</b> displacement by the proposed activity, how they will minimise or mitigate these impacts</p> <p>c) the case for proceeding with the proposal if it is not possible to minimise or mitigate the impacts of displacement.</p>

	<p>environment. It will also help achieve the other objectives in these marine plans.”</p> <p>Without such explicit guidance we do we anticipate that these considerations will not be sufficiently addressed,</p> <p>The requirement to consider authorised but yet to be implemented activities is welcome, the guidance provided by footnote 180 is unhelpful. The latter should clearly direct both decision-makers and applicants to consider all reasonably foreseeable projects in the planning system, not just for displacement purposes but also for cumulative impacts.</p> <p>It is unclear how Paragraph 223, which states that “activities or measures that result in levels of displacement with adverse effects in excess of the benefits gained are unlikely to be supported” will relate in practice to the variety of sectoral policies encouraging development, or how this threshold will be determined.</p> <p>Finally, the impacts of displacement on activities, in terms of costs, are highlighted but not the environmental effects of displacement, for example the displacement of damaging fishing activity by other development into more environmentally sensitive areas (including potentially harmful impacts on fish populations). The plan must require these impacts to be taken into account.</p>	
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OG2		<p>The ENGO members of the NSRC consider that the overriding primacy for oil and gas development is in fundamental contradiction to the high-level vision for a marine environment generating low-carbon energy and where action is being taken to reduce and mitigate the impacts of climate change, as well as against policy CC2 on minimising greenhouse gas emissions.</p>	<p><b>Amendment OG2: –</b> Proposals for new oil and gas activities should <b>demonstrate how they are necessary to facilitate the long-term transition to a low-carbon economy.</b></p>
WIND1		<p>We are very concerned that given the scale of Round 3 lease areas and other potential lease areas that may come forward in the future that this policy will distort the allocation of marine space significantly and undermine synergistic marine planning when taking into account other uses and activities in the planning areas as well as environmental considerations. Round 3 zones for example were designed to provide flexibility in allocating marine space for the development of offshore wind farms recognising in part that in Round 2 the inability for lease holders to have flexibility in the siting of projects led to larger impacts than would otherwise be the case. The zones are considerably larger than required for the deployment of target generating capacity. The risk of this policy is not to allow other development applications choice to realise the most synergistic planning arrangements. For example, when interpreting this policy it may come down to another development activity affecting one part of one wind farm zone where a wind farm project may never conceivably materialise, or whose location may be easily adjusted to accommodate both projects. There seems to be little prospect of being able to deal with such circumstances in a pragmatic way under this policy. This might be improved to a limited extent by obliging zone leaseholders to identify areas that are unlikely to wish to use for development purposes.</p>	
WIND2		<p>This policy is presented in such a way that it has the potential to considerably undermine the purpose of numerous other policies in the plan and undermine the purpose of marine planning as a whole.</p> <p>The process (in particular SEA) for selecting Round 3 zones for offshore</p>	<p><b>New policy WIND3:</b> <b>Proposals should demonstrate how they have sought to avoid sensitive coastal locations in the</b></p>

	<p>wind failed to treat fisheries and the environment as a major consideration or constraint relative to technical opportunity, resulting in sites which include areas of high biological sensitivity to the impacts of large-scale wind energy.</p> <p>WIND2 should also address this with a presumption of renewable energy development in favour of - at best - avoiding, or (if that is not possible) minimising or at the very least mitigating adverse impacts on the fishing industry, and by the same token a presumption of no adverse effect on Natura 2000 sites or on species/habitats of national or international concern.</p> <p>This is also true for associated infrastructure; insufficient mention has been made in the plan to guiding the cabling infrastructure required for offshore wind, with no explicit link made to CAB1 .</p>	<p>connection of supporting infrastructure to the terrestrial grid network.</p>
TIDE1	<p>Policy TIDE1 provides an excellent case study of the failure of the marine plan to consider any environmental considerations at the strategic level, with the potential for considerable cost, delay and uncertainty on the part of the applicant. The area of tidal energy identified for TIDE1 is purely based on technical opportunity, with no consideration of environmental sensitivity.</p>	
PS3	<p>The ENGO members of the NSRAC consider that the justifying text of policy PS3 is extremely concerning in its current form, as it states that proposals for marine protection (i.e. MPA designation and management) must demonstrate that they will not interfere with future opportunity for expansion of ports and harbours. This is confirmed by Paragraph 317. It should be clarified that the legal obligation to designate a network of</p>	

		MPAs must be based on scientific criteria and not subordinated to policy preference for industry expansion.	
AGG1-3		<p>The overlap with other policies affecting aggregate policy areas is not well identified, such as FISH2, where there are potential conflicts. It seems that environmental considerations have not been taken into account in the identification of optimal resource areas (AGG3) for aggregates, as for other resource activities such as tidal energy. There is no overlap with designated sites or any consideration of the impacts of increased aggregate extraction on known important fish, fisheries habitat, nursery or spawning areas or sensitive higher species[1], such as habitat loss, disturbance and increased smothering or turbidity. The optimal resources area considerably overlaps with the largest crab and lobster fishery in the UK extending from the East Yorkshire coast which is highly dependent upon the sand and gravel habitat.</p> <p>[1] For a assessment of sensitive bird species to the impacts of aggregate extraction, see <a href="http://www.cefas.defra.gov.uk/alsf/projects/direct-and-indirect-effects/09p130.aspx">http://www.cefas.defra.gov.uk/alsf/projects/direct-and-indirect-effects/09p130.aspx</a></p>	
AGG1		AGG1 encourages early application of licence in order to safeguard the area from other activities for a period of 5 years, even without activity. On that basis, this may encourage rushed applications based on limited environmental assessment.	
CAB1	366-370	<p>We support policy CAB1 on recommending burial as the preferred method of installation.</p> <p>A crucial linkage with fisheries co-location is the problems arising from the policy implementation of cable burial and applicants reneging on this once they have been granted a licence. The NSRAC looks to the plans</p>	

	<p>to emphasise the importance of up front contingency planning as well as to specify the option for licensing authorities to demand that cables are, in the worst case scenarios, relocated. This should be reflected in paragraph 369. Reference should also be made to avoiding impacts, not just minimising or mitigating.</p> <p>We also recommend a presumption against landfall of cable infrastructure in sensitive habitats, especially within coastal Special Protection Areas, as well as a presumption in favour of connecting to the nearest terrestrial grid link.</p> <p>Paragraph 369 should stress that impacts on seabed habitats should be avoided in the first instance before seeking to minimise or mitigate them.</p>	
FISH1	<p>Figs 20-23 demonstrate that the plan areas are of high importance to fishing (although it would have been helpful if Fig 21 had specified the gears involved). Marine planning provides an opportunity to address both the need for sustainable fish stocks as a long-term food source for both humans and wildlife, in so doing helping to ensure strong local communities with historic links to small-scale fisheries</p> <p>As well as addressing the needs of sustainable fisheries and safeguarding important fish nursery and spawning and other critical habitats, the plan must also address the environmental impacts of fisheries. Paragraph 382, for example, states, “concerns exist as to the potential for new activities to have adverse effects on stock recruitment and the associated fishing grounds through development”,</p> <p>As presented, fisheries are regarded more as a receptor to the growth of other sectors and therefore risks being displaced. Whilst we welcome policies on displacement GOV3 and FISH1 in order to address this, we believe that addressing such issues at project/proposal level planning will limit the extent to which the displacement considerations are dealt with in a strategic manner.</p>	

	<p>FISH1 applies to “areas of fishing activity”, which covers the entire plan area. As such, any proposal in the entirety of the plan areas will be required to demonstrate how they will interact with fisheries in the southern North Sea. But although the impacts of other activities on displacement of fishing activities are considered, the environmental effects of this displacement - or the redistribution of fishing pressures themselves - are not. Given the commitments under the Marine Strategy Framework Directive, we consider this matter to be potentially very significant. Delivering the marine plan as it stands through the high priority it gives to particular economic sectors could undermine the UK’s ability to meet GES targets.</p> <p>We consider that a much more strategic approach to marine planning would for example:</p> <ul style="list-style-type: none"> <li>• place greater emphasis upon safeguarding areas of relatively high fishing activity</li> <li>• recognise that such areas are already likely to be modified habitats, and</li> <li>• give particular attention to areas where significant levels of fishing take place upon relatively resilient marine habitats that are already subject to high levels of natural disturbance.</li> </ul> <p>In FISH1, there is no guidance or criteria for applicants on the conditions under which they should demonstrate, in order of preference, a), b) or c), respectively. E.g. there should be stated conditions under which the avoidance of preventing fishing activities on, or access to, fishing grounds should be a <i>sine qua non</i> for the applicant.</p>	<p><b>New Policy FISH1(b):</b> how, if there are any impacts on the ability to undertake fishing activities and access to fishing grounds, they will seek as a priority to minimise these impacts or, failing that, mitigate them.</p>
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		<p>Also, in (b) there should be a presumption to minimise impacts rather than just mitigate them.</p> <p>Considerations here also apply to GOV3.</p> <p>Paragraph 383 underlines the importance of early engagement with stakeholders. It would helpful to sign-post the reader to the best practice guidance on fisheries liaison [1, 2] and note that an updated version is in preparation by the Fishing Liaison with Wind and Wet Renewables group.</p>	
FISH 1	378 - 379	<p>Whilst we acknowledge that the current evidence base as presented in this plan cannot inform a prescriptive marine plan policy for fisheries at present, we consider that attaining such is justifiable and feasible; sufficient scientific research has already been undertaken in this context to inform a workable technical approach to define such areas.</p> <p>We disagree with the statement in the plan that the inability to predict the future of fisheries is a significant impediment to achieving more specific fisheries policies. Although over time there is significant variation in the distribution of fisheries, within the timeframe of marine planning (6 year cycle) we think that fisheries on the whole remain sufficiently stable to enable the development of specific spatial policies (see for example 3) . Moreover, we are concerned that such text within the plan might be interpreted as a "get-out" clause when considering how to apply FISH1 with respect to project planning processes.</p> <p>[1] BERR (2008) Recommendations For Fisheries Liaison: Best Practice guidance for offshore renewables developers</p> <p>[2] UKOAA (2006) Code of Practice on Interaction With Static Gear Fisheries</p> <p>[3] Stelzenmüller, V., Rogers, S. I., and Mills, C. M. (2008). Spatio-temporal patterns of fishing pressure on UK marine landscapes, and their implications for spatial planning and management. ICES Journal of</p>	

		Marine Science, 65: 1081–1091.	
FISH2	385	<p>We are pleased to see strategic support for safeguarding important fish spawning and habitat areas in the plan through policy FISH2. This is perhaps the one sectoral policy for which the marine plan provides some strong environmental support to deliver consequent economic benefits. As with other policies with this wording, however, there is little guidance, both in the plan and the implementation plan, as to how these criteria (from a to c) will be judged to the satisfaction of decision-makers.</p> <p>Paragraph 385 is deficient in three respects: 1) It leaves too much to the discretion of the applicant on whether to consult early on potential impacts (the fishing sector in particular is routinely wrong-footed by failure to be consulted in a timely way); 2) As in Paragraph 404, it would be helpful to list a major consultee (NSRAC, to be NSAC after Jan 1, 2014) if indeed the implication is that “consultation” should be between the applicant and affected stakeholders rather than between the applicant and the “Regulatory authorities” (this distinction isn’t made clear); 3) There should be a presumption to minimise impacts as a priority rather than just to mitigate them.</p> <p>In FISH2, there is no guidance or criteria for applicants on the conditions under which they should demonstrate, in order of preference, a), b) or c), respectively. E.g. there should be stated conditions under which the avoidance of impact on spawning and nursery areas etc should be a <i>sine qua non</i> for the applicant.</p> <p>Also, in (b) there should be a presumption to minimise impacts rather than just mitigate them.</p>	<p><b>Amendment Para 385:</b> Regulatory authorities will need to ensure that applicants submit supporting information, proportionate to any development proposed, that would illustrate any potential impacts (this <b>should</b> include consultation, <b>including with the North Sea Regional Advisory Council</b>, to identify issues at scoping stage), and suggested measures to <b>at best</b> minimise or <b>at least</b> mitigate them.</p> <p><b>New Policy FISH2(b):</b> how, if there are any impacts on the ability to undertake fishing activities and access to fishing grounds, they will <b>seek as a priority to minimise these impacts or, failing that,</b></p>

	391	<p>Paragraph 391 again leaves too much discretion on the applicant on whether or not to consult, and again should state a presumption to minimise rather than just mitigate potential impacts – as currently worded these are merely equally weighted alternatives. The NSRAC should be a specified consultee (assuming the intent is not just to flag the need for consultation between the “Regulatory authorities” and the “applicants”).</p>	<p>mitigate them.</p> <p><b>Amendment Para 391:</b> Regulatory authorities will need to ensure that applicants submit supporting information, proportionate to any development proposed, that would illustrate any potential impacts (this <b>should</b> include consultation, <b>including with the North Sea RAC</b>, to indentify issues at scoping stage), and suggested measures to <b>at best minimise</b> or <b>at least</b> mitigate them.</p>
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AQ1	395	<p>We disagree with the one-sided view that the “key issue” relating to aquaculture is to enable its growth, without any recognition of the sustainability impacts of large-scale aquaculture. Not all areas will be suitable for aquaculture. However, the plan contains a spatially explicit policy with no spatial information, which is premature and which does not lend any clarity to sea users.</p> <p>In AQ1, there is no guidance or criteria for applicants on the conditions under which they should demonstrate, in order of preference, a), b) or c), respectively. E.g. there should be stated conditions under which the avoidance of impact on spawning and nursery areas etc should be a <i>sine qua non</i> for the applicant.</p> <p>Also, in (b) there should be a presumption to minimise impacts rather than just mitigate them.</p>	<p><b>New Policy AQ1(b):</b> how, if there are impacts on aquaculture development in optimum sites, they will <b>seek as a priority to minimise these impacts</b> or, <b>failing that, mitigate them.</b></p> <p><b>Amendment 404, first sentence:</b> It is expected that proponents of other development or activities would, <b>from early in the scoping stage</b>, consult with others, such as...etc.</p>
	404	<p>In keeping with guidance for other stakeholders (e.g. capture fisheries), the need for consultation to be timely should be emphasized.</p>	

**Question 6 - Do you have any other comments about the draft east marine plans not covered above?**

Yes  No

**Yes, see below**

**Implementation plan**

The implementation plan states that all policy implementation will be through “relevant statutory decision-making processes” or by “the development of statutory and non-statutory plans”. This provides no guidance to applicants, for example, what level of evidence is needed to meet part the requirements of most sectoral policies, particularly those with the three stage process of identifying impacts on other activities or making a case for proceeding in the case of such impacts

There is also no detailed evidence on which monitoring programmes are to be used to measure each policy, or the indicators of the achievement of these policies.

### **Impact assessment/Draft analysis**

The draft analysis of the marine plan is extremely unbalanced, devoting 21 pages to economic analysis. The majority of benefits identified are potential economic benefits, through the plans adding clarity to existing processes and assuming growth in most sectors, but there are no quantified costs or benefits (apart from to the MMO itself) due to the high-level nature of the plan policies and uncertainty about the nature of changes to the business-as-usual scenario.

### **Question 7 – How much do you agree that the Marine Plans adequately provide for the sustainable development of the East Inshore and Offshore marine areas?**

Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly Agree

We acknowledge the significant work of the MMO since the adoption of the UK Marine Policy Statement (MPS) to create this first set of plans. We also acknowledge that these are the first plans in a long-term process to manage our seas more effectively, and that marine planning is a new discipline requiring continued stakeholder support and involvement. We are committed to working with the MMO in future to create a truly plan-led system for the appropriate allocation of space to allow sustainable development.

The draft plans, however, lack clarity overall in terms of their usefulness to decision-makers. Paragraph 65 repeats Defra’s initial marine planning guidance that “marine plans should ensure that the MMO is able to proactively guide the future direction of the marine area rather than responding reactively to resource demands as and when they arise”. The sustainability appraisal (section 2.1.1) further states that marine plans are intended to guide:

- marine users to the most suitable locations for different activities
- the use of marine resources to ensure sustainable levels
- all marine users to ensure everyone with an interest has an opportunity to contribute to marine plans
- a holistic approach to decision-making and consider all the benefits and impacts of all the current and future activities that occur in our marine environment.”

However, it is unclear what value these draft plans will have to either decision-makers or applicants seeking to achieve these strategic aims, and what difference they will make in practice to ensure sustainable development. As drafted, the plans offer little more than a clarification of existing policies and support for ongoing development, with little proactive spatial or temporal guidance for activities (most spatial policies apart from CCS2 and CAB1 are directed to other proposals interacting with that space).

There is little sense of how policies interact spatially and temporally but also more generally for area-wide policies (such as between policies on cumulative impacts, co-existence and displacement). It is clear that encouraging development in all activities is likely to lead to sectoral conflicts, for which policies in the plan will inevitably conflict. The Sustainability Appraisal appears to confirm this in stating “As these are the first marine plans to ever be produced [for England], it is also unclear as to the extent of influence they will have on the implementation of marine activities compared to the situation without them” (Section 4.11.7).

We believe that the plan policies also present an unbalanced interpretation of sustainable development. The sectoral policies also appear to misinterpret the desire for sustainable development as a desire to increase favoured economic activities in general. Most sectoral policies are a “how-to” guide for applicants to achieve consent even where impacts are identified, with little consideration of whether any given activity, alone or in combination with other proposals, is sustainable or not.

More specifically, however, the plans raise concern for the future direction and ambition of marine planning in England, in relation to the unbalanced way in which this draft plan strategically encourages growth of most activities with no equivalent strategic consideration of the environment or steer towards good environmental status, deferring all such environmental assessments to the project level. This misses a fundamental opportunity for planning to actively contribute to the aims of the Water Framework and Marine Strategy Framework Directives.

The SA also concludes that there will at best be “no ecological improvement” as a result of the plan policies, and a strong possibility of further decline to environmental baseline conditions based on the options chosen by the MMO to develop the plan.

Overall, these plans do not inspire confidence in steering the sustainable development of the east inshore and offshore marine areas. It is vital that the evidence gaps, which have led the MMO to avoid setting policies based on environmental sensitivities and compatibilities, are filled as soon as possible.

### **Sustainable development and the ecosystem approach**

#### **1. Do marine plans clearly set out a path towards their long-term vision?**

The NSRAC welcomes the strategic vision of the draft plans, which looks forward beyond 2020 to 2033. With a few exceptions, however, the policies outlined do not provide a clear path towards this vision since they mainly clarify business-as-usual sectoral support for development of activities. No policies specify that development should not take place in environmentally sensitive areas.

#### **2. Do marine plans support conservation measures, in particular an ecologically coherent and well-managed network of Marine Protected Areas?**

Objective 9 seeks to support the conservation objectives of individual MPAs, as well as considering the impacts of proposals on the ecological coherence of the MPA network in general. Recognition is given to the fact that this MPA network is not yet complete, and that there are currently processes ongoing to designate further marine Special Protection Areas (SPAs) and Marine Conservation Zones (MCZs). However, we note that there is no guidance on how proposals should treat MCZs, whether designated in the first tranche or later.

Moreover, the ENGO members of the NSRAC consider that any requirement on MPAs to demonstrate how they are not compromising sectoral development contradicts accepted policy on selecting and managing MPAs, as well as contradicting the MMO’s own high-level support for MPAs, both for individual sites and the wider network, under Objective 8 of the marine plan. This is a concern as the MPA network is incomplete.

We welcome the wider objectives on seeking to reverse biodiversity loss and to ensure healthy and resilient ecosystems. We also support the plan's consideration of important fish spawning areas under policy FISH2.

We agree with the conclusion of the sustainability appraisal that, as currently drafted, "there is no specific policy which relates to how the plans will assist in delivering MSFD and WFD targets (other than in potentially assisting in developing the evidence base through, amongst other things, its strategic Evidence Plan), and it is expected that this may be a consideration of later iterations of the plans" (page 54).

**Do marine plans proactively seek to keep collective human pressures within sustainable levels, through the best use of marine space? (i.e. further than simply requiring project-level environmental assessment).**

We have strong concerns about the precedent that all consideration of the environment, environmental impacts or fisheries displacement is deferred to the project level, whereas most sectoral activities are given strategic encouragement, provided they demonstrate how they will deal with impacts on other activities or resources. This seems extremely unbalanced. There is also no anticipation of what happens if and when activities do not meet project level assessments, or if such assessments identify adverse impacts, leading to future costs..

Steps to deal with impacts should be firstly to avoid impacts before they occur through strategic guidance, which should be a sine qua non for ecosystem-based planning. Subsequent to this, there are key obligations to minimise potential impacts before mitigating or compensating for those impacts that cannot be avoided or minimised. These steps have increasing workloads and resource implications, if the preceding steps have not been undertaken.

It is claimed that the baseline evidence is not at a level that gives the MMO confidence to make such strategic decisions at this stage. Given that other European countries have decided to take such a plan-led approach with equivalent levels of evidence, it is disappointing that these plans do not match that level of ambition.

Furthermore, there are essentially no policies which give direct guidance to particular activities, or guide development or associated infrastructure to preferred locations or times of year; rather, the majority of proposals ask only for activities to consider their impacts on other activities, either in terms of displacement or to avoid compromising resources.

The ENGOs of the NSRAC also highlight that no reference at all to the need to apply precaution in decision-making, within a risk-based approach, as reaffirmed in the MPS section 2.3.1.2<sup>3</sup> and HLMOs<sup>4</sup>.

However, we welcome policy ECO1 which recommends that cumulative impacts should be taken into account in decision-making and plan implementation. That said, there is no obligation or equivalent recommendation on proposals to demonstrate how they have avoided or mitigated cumulative impacts.

### **3. Are marine plans coordinated with neighbouring plans, especially within the same MSFD sub region?**

We welcome the plans' commitment, under Objective 10, to ensure integration with terrestrial planning.

Paragraph 206 states that "proposals will be expected to provide evidence of efforts undertaken to ensure compatibility and integration across the various administrations", but there is no policy to this effect

Marine plan policies which involve associated infrastructure at or near the coast (such as renewable energy) should encourage proposals to avoid the most sensitive coastal locations and times of year when selecting cable landfall. The NSRAC looks to the plans to specify the option for licensing authorities to demand that cables are, in the worst case scenarios, relocated.

### **4. Do marine plans consider ecosystem services in decision-making, as required in the Marine Policy Statement<sup>5</sup>?**

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<sup>3</sup> "Where evidence is inconclusive, decision makers should make reasonable efforts to fill evidence gaps but will also need to apply precaution within an overall risk-based approach<sup>29</sup>, in accordance with the sustainable development policies of the UK Administrations."

<sup>4</sup> "The precautionary principle is applied consistently in accordance with the UK Government and Devolved Administrations' sustainable development policy"

We welcome the MMO's identification of ecosystem services as a priority evidence gap (Paragraph 152) and support efforts to improve knowledge of marine ecosystem services. However, this should not prevent the marine plan from giving support to the protection and restoration of coastal and marine ecosystems known to provide socio-economic benefits, in particular coastal ecosystems which provide essential flood prevention, water filtration and storm protection benefits.

We support, however, the consideration given to protecting important fish spawning and nursery habitats as essential to maintaining - and, as appropriate - restoring healthy and sustainable fish stocks.

In conclusion, we believe that the current draft fails to deliver the ecosystem approach to planning the MMO is committed to delivering through the Marine Policy Statement and High Level Marine Objectives, and therefore risks fostering unsustainable development. We support, however, the MMO's desire to fill the evidence gaps necessary to allow it to develop a more plan-led system for the marine area.

## Question 8

Please indicate your level of agreement with the following statement: "The MMO has taken all reasonable steps to engage with people or groups with an interest in marine planning in the East as outlined in the approved Statement of Public Participation."

Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree

### **Agree**

We are satisfied that the MMO has taken all reasonable steps to engage with stakeholders during the preparation of these plans, particularly in the early stages of issues identification and evidence collation.

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<sup>5</sup> Section 2.5.6: "The marine plan authority should give consideration to the social and economic benefits that the enhancement of marine ecosystems can provide, including to coastal communities."