**The North Sea Advisory Council**

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**Ecosystem Working Group**

**Marine Scotland, Edinburgh**

**23rd February, 2017**

**Rapporteur: L Duguid Draft (2)**

1. **Welcome and Introductions**   
   1. The Chairman Euan Dunn welcomed all to the meeting and thanked Marine Scotland for hosting. Representatives from the Netherlands were delayed but would join the meeting later. The meeting agenda was adopted with no changes.
2. **Minutes of Previous Meeting**

2.1 The report of the meeting held on 4th July 2016 was approved.

1. **Matters Arising / Action Points**

3.1 Lorna Duguid updated the actions from the previous meeting. All had been achieved.

3.2 Euan highlighted the advice submitted on Article 11 protocol. The paper had been presented to the Scheveningen HLG and was well received, we would wait for a formal reply. The engagement process with the Member States and regional group continues to need clarification at each point, the role of the NSAC is still not clearly defined and can differ between Member States since the approach for a consultation process is not set out in the CFP. This would be discussed further during the meeting.

1. **Management measures for Scottish SACs and MPAs**  **- informal consultation by Marine Scotland**
   1. Michael McLeod of Marine Scotland presented the latest information on proposed management measures. The proposal had been circulated last year and Marine Scotland had discussed it with NSAC and also at two stakeholder workshops. Euan asked for a summary of what type of feedback was required at this stage of the process. Michael explained that the formal process commences at the point where the member states consider that they have gathered sufficient information. However, there is no guidance within the CFP stating when Member States must consult with ACs and he would take guidance from the AC on when to ask for their feedback. Marine Scotland were continuing to gather information and a timeline for achieving sufficient information would be outlined.
   2. Michael gave an overview of the sites. He explained that the Scottish approach is founded on scientific advice and risk assessment based on feature sensitivity. It had considered areas where fisheries take place and a recognition of sensitive sites. All documents for the North Sea are listed on their [website](http://www.gov.scot/Topics/marine/marine-environment/mpanetwork/SACmanagement/Offshore2017). There are two documents: the proposal, and an audit (details of how proposals have evolved together with feedback and advice from JNCC).
   3. Stakeholder workshops for these areas had commenced in 2014. The proposals were being revised and would be issued in April subject to there being agreement that sufficient information had been gathered; Marine Scotland was just awaiting economic data from the Member States. Following this the formal consultation process would run from April to October with a view of adoption in October 2017.
   4. Michael highlighted changes that had been made to the proposals since our last meeting and asked attendees for their views. In the two Pockmark sites, which were very small, there was a proposal to extend measures outside the site boundary of the Braemar Pockmark, i.e. from 5-11 kilometers2 to incorporate an escaping gas site. This will require amendment of the site designation. Kenny Coull and Calum Duncan noted that this had been discussed at a previous stakeholder meeting and they considered it to be a reasonable proposal.
   5. On the second site (Scanner Pockmark) the proposal was the expansion from 3.3 to 6.7 sq. km to reinstate a buffer to protect a gas site with a build-up of carbonate. Management in the buffer zone would be the same as the core area. Kenny Coull thought that the measures were reasonable and asked if additional VMS monitoring in area would be required. Michael replied that monitoring every 10 mins would be required which would be about 1-2 times for a vessel steaming through. Discussions with the Member States would be ongoing to agree if VMS was the correct way to monitor the site.
   6. Pim Visser asked if the NSAC could we give advice on control and enforcement in these kinds of MPAs. Tailor-made solutions could lead to lower costs. The Netherlands had an agreement for a black box system that monitored every minute. He thought that there was a lack of alignment between MS that could lead to gaps in information. Under the current control and enforcement arrangement, any Member State that didn’t like it could block it. Michael said they would welcome such a discussion in NSAC.
   7. Pim noted that a new system was not required, current systems could be used with 4G rather than satellite which would make it less expensive. Euan asked if there was anything preventing MS sharing VMS information. Pim thought that under the 2 hour regime information could be shared as all Member States agreed to that, but 10 minute tracking may be an issue. He would investigate how it would apply in the case of 10-minute tracking. If the information could not be shared by Member States the industry might consider self-regulation. Frederike understood that shared VMS data was only available in aggregated form and not for individual vessels. Pim confirmed that in the Dutch coastal zone there’s no privacy in that the data is available for individual vessels (signed over to the PO) but published jointly to protect privacy and commercially sensitive information. Privacy is then only an issue in public reports. Jip asked if privacy also applies inter-country. Pim replied that It was noted that Member States can share information and, where vessels are in the EEZ of another nation, providing the information in real time is compulsory. Sander asked what the cost was of this. Pim said they were using French CMS – it was the same cost as before but there was a subscription fee. Euan agreed that the NSAC should develop advice on this subject.

4.8 Michael McLeod continued to inform attendees of proposed amendments. In the Pobie Bank (900 km2) there was an amendment to include an ‘orphan area’ of the site in the overall site boundary, and a channel for boats to go through had been re-established. Attendees of the meeting agreed that this was a reasonable amendment.

4.9 The Central Fladden (MPA for burrowed mud) there had been amendment to swap two areas in response to a request from Denmark. The MPA was not in the same area but in a slightly different location. Calum Duncan asked if this change would provide enough protection of the sedimentary feature and his organisation (MCS) still had some concerns about this. Michael said that JNCC had advised Marine Scotland that it was a sufficient area to manage the feature. Declan Tobin noted that the percentage of the area proposed for protection was consistent with other areas, and they had based it on the 30% applied in the Dogger Bank. Calum supported the measures but was concerned that there had been no change reflecting his earlier concerns and they were not comparing the same thing as the MPA was not a full functional unit. Euan, noted that he would not like to see the Dogger Bank used as a format to base future decisions as it set a dangerous precedent. Pim agreed with Euan. We had learned much from the Dogger Bank experience and if applied those lessons we would present a better solution. Declan said that what they had learned the Dogger Bank was more a case of how to deal with uncertainty. Michael noted that from the map of fishing activity presented, the most important part of the site was still available. Kenny Coull was satisfied that the Central Fladen consultation process had been good and would be concerned if the stakeholder process were to be re-opened.

4.10 Michael continued with the Firth of Forth Banks. There was a proposal to change to the Montrose Bank which had originally included a prohibition on all mobile demersal gears. However, it was noted that if they did this they would not be able to conduct sampling to get scientific information for sand eel. They had therefore amended the proposal to have a derogation for allow this scientific sampling to continue. There had been a slight change with 2 areas removed but 60 % of the site would remain closed to mobile gear other than seine nets. In response to a question from Jip, Michael said that seine fishing was permitted as the effort was very small and it was agreed that the effect on gravel was minimal. Michael clarified, however, that seines are prohibited in Central Fladen.

4.11 Michael explained that the proposals in many sites had not changed. He listed these as: Turbot Bank, Norwegian boundary sediment plain, E of Gannet and Montrose Fields, NE Faroe-Shetland Channel, Faroe-Shetland Sponge Belt. In regard to any projected change in the fishing footprint, not much fishing area was removed by these sites. Michael was asked if there was any impact expected due to effort displacement. Based on the fishing grounds he thought that displacement of effort would be minimal and not be detrimental to the environment in other areas.

4.12 Euan thanked Michael McLeod for his presentation, he noted that a lot of work and due diligence has been undertaken. Changes were relatively minor and had the approval of industry. He asked to group to consider if the NSAC should provide a formal response to the Marine Scotland proposals?

4.13 Pim asked how Marine Scotland had approached the Socio-Economic analysis of the proposed measures. He was informed that Marine Scotland had started with fishing effort for gear type and value of landings over the previous 5 years for each country. Pim was concerned with this approach as it gave results at a macro level and did not account identify the potential impact for individual fishers. He thought that studies should identify the impact at community level and also account for displacement within the fleet, especially where there was an impact on rural economies that offered few alternatives to fishing. He added that under Natura 2000, provisions were less stringent on this than under the Marine Strategy Framework Directive. Michael noted that catch value data was not available for individual vessels, but they had VMS data to at least assess the impact on at individual metier level and could calculate pro rata individual vessels that were likely to be more impacted due to the proposed changes. This information could be discussed with relevant Member States.

4.14 Pim said we’re going through this because of Brexit and thought that consideration should also be given to the cumulative impact of other developments in the sea such as wind energy and other projects that reduce the area available for fishing. Euan noted that this was a horizontal issue that applied to every site. Pim was concerned that Member States were looking at each area in isolation rather than the entire picture. He would prefer that they considered a North Sea plan, highlighting all developments, rather than a plan for each area. Euan thought that this subject should be discussed at the Executive Committee. Frederike said it would be interesting to have this discussion to see what the economic effects are and how the Government can compensate for them. It was agreed that Pim and Heather Hamilton would draft a discussion paper for the NSAC Executive Committee meeting in June. Heather and Pim agreed, however, that as other industries were involved, a wider forum was needed for this than just the EWG.

4.15 Calum Duncan noted that the consultation process with Marine Scotland had been constructive, he thought that the NSAC should recognise the work that had been done and learn from the process that had been undertaken. The inshore process provided options for consultation for offshore but it hasn’t been possible to say a particular offshore site is the best compromise. Euan asked Calum if he would write a reflection piece. However, there was some concern expressed by Kenny Coull that if we did that we would be revisiting issues that had already been discussed. It was stressed by Calum that this was not the intention but could be constructive reflection on the question marks.

4.16 A discussion followed, initiated by Heather, about the role of the NSAC in consultations in the light of how we respond to the Article 11 process. It was agreed that it is difficult for the NSAC to provide advice given the range of diverse opinions but it was felt that we needed to discuss each case and if appropriate provide a response. Euan noted that there was a significant diversity in how different Member States approached consultation with the NSAC. There is no legal requirement stating the point at which the MSs must consult with an AC. It is discretionary and the NSAC can be excluded from all discussions during the final consultation.

4.17 Returning to the Marine Scotland proposals, Dale asked what exactly we were being consulted on: this presentation today or this plus the JNCC risk assessments, and what is the timescale? Michael informed the group that all amended proposals including risk assessments and reports from JNCC would soon be available on the website. A notification would be sent to all involved Member States asking if they agreed that sufficient information had been provided. He was happy for NSAC to respond and recommended that if NSAC wanted to submit any comments then they should do so prior to the decision on sufficient information being made.

4.18 Dale noted that on the southern North Sea sites (Defra consultation) there had been an opportunity for individual stakeholders to contribute, and it might be hard for NSAC to collectively agree on a response. Heather Hamilton proposed that the NSAC make clear statement to the Member State of our expectations during the formal 6mth consultation period. Michael replied that the formal process is mainly for officials in MS to complete any legal process required to implement the recommendations, they were not expecting further changes at that point. It was recognised by the group that there were varying levels of consultation between Member States. Euan suggested that drawing on our experiences of the Dogger Bank the group should pull together a response for the Scheveningen Group, which builds on the Art 11 letter already sent expressing concern at the lack of continuity on consultations related to the formal consultations.

4.19 It was agreed that the NSAC would not provide a formal response to the Marine Scotland proposals but wished the following remarks, prepared by Kenny Coull and Calum Duncan to be noted in the report of the meeting:

The North Sea AC Ecosystem Working Group recognises the extensive stakeholder engagement to date that has been very thorough, underpinned by excellent scientific support from Marine Scotland Science and JNCC. Whilst this has led to the evolution of management measure proposals for the designated MPAs and SACs in Scottish waters, clearly there remains differences in views on general issues such as:

- the percentage of habitat requiring protection, particularly sedimentary features

- the level of restriction on particular gear types that are required to meet conservation objectives

- the most appropriate depth limit set to protect deep water sites

However, there is a consensus that the AC Ecosystem Working Group provides general support for the proposals to go forward providing an ongoing process can be developed to address and/or answer some of the outstanding issues during the review periods as part of a process of adaptive management.

1. **Update on fisheries management measures for Dogger Bank, Frisian Front, Central Oyster Grounds, Cleaver Bank**

5.1 Euan welcomed Bas Weenink and Anne-Marie Svoboda from the Netherlands who were to present the Dutch Government’s latest proposals for management measures. Bas gave an update on the Frisian Front and the Central Oyster Grounds. He informed the group that the proposals being presented had not been agreed by the Dutch Parliament so they could change.

5.2 He recapped on the characteristics of the 4 areas in question. The legal basis is the Marine Strategy Framework Directive, the habitats in the north are not under the Habitats Directive. The aim was to preserve 10-15% of seabed whilst at same time protect the economy. The NGOs had proposed total closure but this was rejected as it did not meet our principles, exceeding the area we wanted to close. Bas explained that the process had commenced in 2013 with a stakeholder consultation and a socio-economic assessment in 2015. In 2016, proposals had been sent to the Parliament and they had yet to receive a response. As the Parliament session was to close for elections the following day there would be no response until after the election but stakeholder consultation would continue throughout this period.

5.3 Bas explained that they had defined spatial and economic principles which were to be met when defining the areas. Proposals offered by fishing or environmental organisations did not meet the principles and the Member State had set out a proposal which was the one currently sitting with the Parliament. It was estimated that the impact to the Dutch fleet would range between €0.7m - €2.5m a year. Dale Rodmell asked if they had considered displacement of fishing from these areas. Bas said 3 economic impact scenarios had been presented; ranging from total displacement to no displacement used. He would provide a link to the reports.

5.4 Frederike asked Bas if he could confirm that the management measures will exclude all towed gears, including seines and pulse, Bas replied affirmative. Antony Vierra had concerns about the measure that restricted fishing activity to 6 knots and below. Was there a risk that this measure could become a generic measure. This was a concern to vessels operating both pelagic and demersal gears and it would be unfair if pelagic boats (which by definition were not impacting the seabed) could not exceed 6 knots. Bas said this point didn’t come up in discussion but it was unlikely that boats will use 2 gears. Pim said you need to distinguish fishing from steaming speed and that is resolved by the black box. Also this area may be important for the French pelagic fleet at certain times of year.

5.5 Pim raised the issue of cumulative impact, suggesting two possibilities; firstly that with a lot of enforcement, measures will happen and fishermen will oppose them whenever they can. Or alternatively we have an imposition of the measures over an incremental 5-year period. He suggested that an incremental approach, testing new ideas and changing based on results would be more acceptable to fishermen. Bas noted this but environmental improvements or changes to the ecology would take too long to assess. Applying measures to larger areas with a good monitoring programme in place to assess habitats on 6-year cycle would provide good assessment information.

5.6 Declan said it was interesting that usually sites are designated and management measures developed to meet objectives, but in this (Dutch) case you have management measures but what are the objectives? Bas replied that they are MSFD-driven, and implementation gives the possibility to create sites for users other than fishing.

5.7 Frederike said the NGOs wanted the Frisian Front completely protected because of its ecological importance and nutrient recycling. Scientists supported this as well as NGOs. This would have protected 11% of the Dutch EEZ, well on the way to the 15% goal for the North Sea, whereas only 1.4% was protected. They would welcome open discussions with industry, given that the socio-economic impact was quite small and there was the possibility of government compensation to appease industry anger. Pim said, however, that a lot of industry wasn’t prepared to have that discussion. Frederike then asked if the measures would be in place for only 6 years? Bas clarified that after 6 years they will be reviewed but they will still be in place. Frederike said they would like to be involved in the review process.

5.8 Anne-Marie Svoboda presented proposed measures for the Cleaver Bank, a geogenic reef (H1170). The proposed closure was 70,282ha (45.7%). The Cleaver Bank had high levels of biodiversity. She presented the results of an economic assessment, fishing intensity had been measured, and economic value assessed. For the Frisian Front it was proposed to closures from 1 June till 30 Nov for all gillnet code boats. Gillnet fishing effort was low and there was no marked seasonality, landings yielding only about 17,000 Euros per year. Anne-Marie outlined the timetable, the final draft of the Joint Recommendation and Background documents was scheduled to be published by spring 2017, an Ad Hoc meeting of the Scheveningen Group would be held before summer 2017 with a view to start the formal procedure and the 2nd half of 2017. The Joint Recommendation would be presented to the EC by the end of 2017. They would like to send the final documents to the Scheveningen Group and NSAC at the same time.

5.9 Euan thanked Anne-Marie for her presentation, this was the first time these proposals had been seen by the group and questions were invited. For the Cleaver bank, Pim said the Botney Cut had been agreed earlier as not part of the Natura 2000 feature so it was always out of scope. Jip queried why in all the draft documents the gear code for pulse trawl was never mentioned. Anne-Marie confirmed that the measures were applicable to pulse trawls. Jip also noted that only the stony areas are covered whereas the Background document said the other areas were interesting as well. Anne-Marie responded that it the proposed closure was based on as much area as possible that they had biodiversity data for, i.e. areas where, with their monitoring limitations, we can be sure of the possibility of biogenic reef. Pim said that the Dutch government had invested heavily in monitoring and it was a great achievement. Declan asked if there were some qualifying reef sites outside the closed areas. Anne-Marie replied yes, the Borkum reef, but it was a small area. Frederike asked if they were consulting with the UK on the adjacent Markam’s Triangle. Declan replied that it was not yet designated. It was agreed that the Ecosystem Working Group would take time to consider the proposals prior to responding.

**6.0 Other Updates**

6.1 Euan provided an update on the Dogger Bank. As a group we needed to express concerns about the seining experiment. We would do this when the group was duly consulted.

6.2 At the ad hoc meeting of the Scheveningen Group on 17th Jan meeting it was announced that there would be a special meeting hosted by the Danish Member State to discuss lessons learned in Dogger Bank process. The NSAC were not to be included in meeting. It was agreed that the group would challenge this decision and would write to the Scheveningen Group with Dogger Bank steering group.

6.3 Pim Visser gave an update on progress with the German MPA process. He had recently attended a meeting where the German MS presented their proposals, however, the other MSs were not ready to enter a formal process and further consultation was required. A report of the meeting was available and members wishing a copy should contact Euan.

6.4 Euan informed the group that DEFRA had announced the start of the formal negotiation stage for the Southern North Sea sites the previous day and had issued a letter to all MS with an interest. The secretariat would circulate a copy of the letter.

1. **Presentation on DISCLOSE project (vulnerable benthic communities in the North Sea)** 
   1. Jip Vrooman of the North Sea Foundation (NSF) provided an update on the 4-year DISCLOSE project on behalf of Christiaan van Sluis who was unable to attend the meeting. The aim of the project is to develop high resolution seafloor habitat maps.
   2. The project team were combining existing and new data, using different sampling methods at different spatial scales and integrating them. This included acoustic data, VMS and video and box core sampling in sediment. The project team had not yet decided which geographic areas they would focus on. They were restricted in what they could do as they relied on trips and activity planned by others as they did not have the resources to commission their own ship.
   3. NSF were responsible for dissemination of the project. Any further questions were to be directed to Christiaan van Sluis and a link to the project website would be circulated once available.Dale asked if this was new or existing data. Jip said both. Anne-Marie asked if they had decided areas yet and was informed that they had not been.

1. **Revised JNCC (UK) approach to conservation advice for SACs**

8.1 Laura Cornick explained the JNCC (UK) new approach to conservation advice for offshore MPAs. The new approach had been developed following feedback from users. As a result, they had separated advice elements and now provide a background document that explains what it is about then directs the user to other areas of interest. The [website](http://jncc.defra.gov.uk/page-6900) will be constantly updated as information becomes available. The new process had been applied to the Dogger Bank draft advice. They would include site maps, download packages and updates on operations.

8.2 JNCC was considering a subscription service to allow alerts to be issued when changes were made to the information on the website. They were testing this approach with a view to rolling out to other offshore MPAs.

8.3 Euan Dunn asked if the system could be applied across Member States. Michael McLeod told the group that there were mechanisms through the EC Marine Expert Group to promote good practice. It was noted that information from the windfarm developers in the Dogger Bank including risk assessments and sensitivity recoverability matrix evolved over the years were included.

1. **Listing prohibited species under CFP**
   1. Irene Kingma gave a presentation on the use of Article 12 in the 2017 TAC and quota regulation. She asked why we have the list as there is no basis in the CFP for Art 12 – it’s just there. Irene had asked the Commission that if the prohibited species list is the last resort for preventing extinction, how can a species be included in the list and then dropped again? Irene proposed that what we needed was:

* Clear criteria for lists
* Member States need to make proposals on up listing well before the Dec Council
* ICES/STECF need to evaluate if a listing complies with criteria
* Need re-evaluation after a period of time

9.2 Irene noted that under the MSC, all prohibited species are considered ETP species. She would like the NSAC to write a letter to the Commission raising this issue. Pim asked what the risks were if we don’t do anything or if we did highlight this issue would we be opening a process that we could not stop?  Irene thought that the only risk would be lack of interest from the Commission. A safe approach might be to get the Commission to ask ICES to come up with criteria for a listing process.  Pim then asked who our partner was in this discussion.  Irene replied the Commission and Member States.  There is a clear danger that with the Landing Obligation, more MSs will use the prohibited list as a dumping ground for potential choke species.   Heather said we could point out that there are certain species that come from international conventions that aren’t listed, as well as some on the list.

**10.0 AOB**

10.1 Euan had suggested that, although it was in our annual workplan, the EWG did not have the capacity to audit the performance of Member States in implementing measures under the MSFD. Dale agreed on not chasing down MSFD obligations but we should not rule out addressing any MFSD issues and just limit ourselves to fisheries management measures for MPAs which are just the priority issue at the moment. Other issues we could potentially consider in the future were litter, micro plastics and noise.

**Attendees**

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| **Name** | **Organisation** |
| Laura Cornick | JNCC |
| Kenny Coull | SFF |
| Lorna Duguid | NSAC |
| Calum Duncan | MCS/NSF |
| Euan Dunn | Birdlife International |
| Heather Hamilton | Client Earth |
| Irene Kingma | Dutch Elasmobranch Society |
| Michael McLeod | Marine Scotland |
| Sander Meyns | Rederscentrale |
| Dale Rodmell | NFFO |
| Anne-Marie Svoboda | Ministry of Infrastructure and Environment |
| Declan Tobin | JNCC |
| Wouter van Broekhoven | Visned |
| Antony Viera | CNPMEM |
| Pim Visser | VisNed |
| Frederike Vlek | Greenpeace |
| Jip Vrooman | The North Sea Foundation |
| Bas Weenink | Ministry of Infrastructure and Environment |

**Actions**

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| **Action** | **Responsibility** |
| 1. NSAC to consider preparing advice on systems for control and enforcement in MPA’s. (4.7) | Secretariat  EWG Members |
| 1. Draft a discussion paper for the Ex Com on how to consider the impact of all projects and users on the socio-economic performance of fishing (4.14) | Pim Visser  Heather Hamilton |
| 1. Building on previous Art. 11 advice draft a letter for the Sch Group regarding different approaches being applied by MSs at formal consultation phase (4.18) | Euan Dunn |
| 1. Provide a link to displacement scenario reports (5.3) | Bas Weenink |
| 1. Write a letter to Sch Group regarding exclusion of NSAC in the Dogger Bank lessons learned meeting (6.2) | Euan Dunn |
| 1. Circulate the letter from DEFRA announcing the start of the formal process for the Southern North Sea (6.4) | Secretariat |
| 1. Provide a link to the DISCLOSE project website (7.3) | Secretariat  Jip Vrooman |
| 1. Draft a letter for the Commission, to be considered by EWG and Ex Com, noting that under the MSC, all prohibited species are considered ETP species and there is a risk that MSs will use the prohibited list as a dumping ground for potential choke species (9.2) | Irene Kingma  Secretariat |
| 1. Litter, micro plastics and noise would be considered as future agenda items for the EWG (10.1) | Euan Dunn  Secretariat |