

## **Devon Maritime Forum's Response to Defra's Marine Bill Consultation Document**

June 2006

This document is a response to Defra's Marine Bill Consultation Document. It is a summary of the comments and opinions expressed at the Devon Maritime Forum Marine Bill Consultation Day on 23<sup>rd</sup> May 2006. It represents some of the different 'voices' of Devon', and is not a single consensus view from the Forum, nor does it reflect the views of any one organisation.

Many established coastal / marine / estuary forums have demonstrated the benefits to ICZM when a distinctive area is chosen to address issues. The Devon Maritime Forum has fulfilled a key role since its instigation in 2005. Coastal forums have an ability to engage with local stakeholders and national bodies in constructive discussion. Many of these forums are hosted by local authorities. Recognising the existence and value of these forums, through new legislation, would represent a major advance for England in the sphere of ICZM and good stewardship of the marine environment. The Devon Maritime Forum urges you to put in place effective mechanisms for engaging local stakeholders as part of the Marine Bill.

### **Section 8 – Planning in the Marine Environment**

#### **1. Is it appropriate for the UK Government to consider creating a new system of marine spatial planning?**

- Yes

#### **2. If so, should Government consider statutory provisions within the Marine Bill in order to implement a new system of marine spatial planning, or should alternative methods be considered?**

- A new, national, statutory system with local input and flexibility
- Marine Management Organisation to set national strategy and regional plans via Regional Assembly. Implementation to be carried out at a local level, but this will need a formal structure which is recognised in national policy
- Existing resources should be rationalised and the savings must be invested in into new structures
- A new approach is recommended to be able to pick up and resolve local issues / conflicts

#### **3. Do you have any views on the broad objectives of marine spatial planning?**

A marine spatial planning system must be

- Simple
- Logical
- Competent

#### **4. What are your views on marine spatial planning as a context or framework for decision-making?**

#### **6. Do you have any views on the broad underlying principles for marine spatial planning?**

The Marine Bill must:

- Clarify roles and responsibilities in the planning process
- Be a framework that provides coherence between local and national strategies for maritime activities
- Identify key stakeholders, use them as a source of information and have a local focal point for ensuring local issues are raised and addressed
- Enable not just restrict

- Be consistent
- Be coherent between local and national issues
- Be competent at delivering sub sectoral planning policy statements
- Use the value of features in other levels such as tourism
- A central organisation and all Defra, Environment Agency, Maritime and Coastguard Agency, etc. inspectors should be combined into one Marine Management Organisation
- Use a system of multiple levels e.g. Marine Management Organisation, Regional and Local agencies
- Planning decisions should be taken at the appropriate level of the impact it is likely to have
- The focus must be on front line delivery
- How will a Marine Management Organisation address ports, shipping, and ecology, nationally as well as locally? There is a risk of it falling over due to breadth of issues
- Could a new policy tackle complicated issues such as multiple uses and conflicting interests, the historic Ports Act, ancient powers, Crown Estate powers, etc.? Could it be simplified by recognising navigation powers?
- Any organisation leading marine spatial planning must be democratic and accountable

**8. Do you have any views on the geographical application of any new system of marine spatial planning?**

**15. What are your views on the scale, location and possible boundaries of the areas used for spatial plans?**

**17. What are your views on the need for planning at sub-regional or local level?**

- Regional seas – the South West is unique because of its coast and special interest
- Local sea area
- A devolved administration (Regional England) could provide a regional coast plan
- Should a system for Devon cover the north and south coast separately, or combine them under one system?
- Issue of cascading policy and keeping integration
- The Marine Bill needs to clarify the land / water limit
- There must be a statutory Marine Management Organisation, but should it be strategic or operational?
- Lead organisation should provide guidelines and clarify the roles of the overlapping marine and terrestrial spatial planning agencies and respective systems
- Some limits change with issues e.g. diffuse pollution, marine protected areas
- Artificial boundaries should be considered as there is value of thinking about 'buffer zones'
- Recognition of the continuity of ecology is essential when considering boundaries as ecosystems etc. are wider than land boundaries
- There is a need for active engagement and adequate, secure funding
- Can marine, coastal or estuary related organisations and partnerships work with Local Authorities, and exercise powers and duties out to 1 nautical mile?
- The Marine Bill is expected to put disproportionate responsibility on Harbour Authorities
- Existing boundaries tend to be physical or institutional
- How can delivery for cross-institutional responsibilities ensured?

**9. Do you have any views on ways in which regulatory efficiency could be improved in the intertidal zone, if a new system of marine spatial planning were created?**

- Consistent use of an inclusive consultation process
- A mechanism to identify and share available resources
- Strengthening of 'regional' forums
- Understanding and developing relationships between the relevant competent authorities
- Acknowledging that maritime issues and interests do not and can not sit in isolation
- Regional accountability
- If it is to reflect land based system then it must allow local participation

**11. Are there particular aspects of, or experience gained from the terrestrial or any other planning system, which should be considered when developing a marine planning system?**

**31. Do you have any views on how UK Government can ensure marine spatial planning works effectively with other planning systems, particularly in the coastal zone, in order to achieve the aim of integrated coastal zone management?**

- Marine spatial planning should be like the County Structure Plans – with mechanisms in place to resolve major / local issues and issue consents
- There must be an overlap with terrestrial planning especially in the face of the predicted timescale for sea level rise
- The system must recognise the value of (existing) local structures e.g. Government of the South West, Estuary Management Partnerships which could be adapted and developed to carry out coastal management

**14. What are your views on the nature and role of the planning body which would undertake the development of spatial plans?**

**16. Do you think that Marine Spatial Planning should apply in the same way in all parts of UK waters?**

- National functions should extend to 200 nautical miles (National functions could possibly be the responsibility of a Marine Management Organisation)
- The South West is unique because of its coast and special interest
- Local sea area
- There must be a national policy statement
- The southwest should have a 12 nautical mile limit in order to enable local decision making at the lowest appropriate level. Provide framework for local participation c.f. Irish Sea.
- At a local level marine spatial planning should be co-ordinated by Local Authorities and relevant partners to provide expertise i.e. build on best practice already demonstrated
- Coastal Assembly structure to have representation and accountability
- A Marine Management Organisation will have an important role as a catalyst and co-ordinator among sectoral interests
- All bodies involved in a marine spatial planning system need to be competent and accountable

**22. How should conflicting demands on marine space be addressed in the development of spatial plans?**

In order to manage conflicts of interest the Marine Bill must:

- Be clear on who will make decisions at appropriate level

- Include a mechanism to understand and anticipate a plan for change in future activity (i.e. ports)
- Ensure the marine spatial planning decision-making process is fully accountable
- Incorporate the marine heritage interests of Devon's coast and seas
- Include a protected 'seascapes' network
- Marine spatial planning requires statement of community involvement

**29. Do you have any views on the implementation, monitoring and review of plans?**

**30. Do you have views on how the duration of time for which plans should apply and how often plans should be formally reviewed or modified outside of such reviews?**

- The plans should be reviewed regularly

### **Section 9 – Licensing Marine Activities**

**32. Do you have any views on whether it is appropriate to use the Marine Bill to simplify and streamline the licensing system for marine activities?**

The Marine Bill must:

- Clarify and rationalise the current system, especially between Mean High Water and Mean Low Water
- Encourage better integration between coast and land consent systems
- Encourage better integration with existing coastal management / managers
- Provide clarity
- Provide consistency of interpretation

**35. Do you have any views on improvements that might be made to the process and administrative aspects of marine licensing, which UK Government could consider throughout the development of proposals for the draft Marine Bill?**

- Improve the end user interface
- Improve consultation
- Provide appropriate guidance
- Clarify responsibilities and processes including Local Planning Authorities, Crown Estates, Duchy and Environment Agency, etc.
- Improve quality of service
- Do not merge FEPA & CPA

**38. Are there any other key principles that should be considered as part of any changes to the regulatory system?**

The Marine Bill must:

- Clarify and rationalise existing marine consents responsibilities and processes, and support them with clear guidance
- Introduce a new system and provide improved quality of service
- Be integrated with the Water Framework Directive, and land based planning and coastal issues
- The Marine Bill must bring consistency and clarification to the complicated existing systems
- At a regional level, enforcement might get local support
- Rules and guidance should be issued at a national level but implemented locally
- Describing the scale for enforcement may be not be relevant in all cases

- Fishing industry needs new legislation
- Coastguard could carry out all enforcement, or the Environment Agency's remit could be widened to cover more marine issues
- Cross-warranting is needed e.g. MOD water police
- There are lots of loopholes in the existing systems
- More effective recreation legislation – Harbour Authorities are not consistent
- Planning due process and framework
- There is a lack of people with enforcement skills. Competent people must be resourced
- Confusion exists between enforcement powers at high and low water
- Rationalisation of enforcement responsibilities through a 'one stop shop', which could be the Marine Management Organisation. Delegated powers could be used to enable on the spot fining.
- Communication between all relevant organisations must be improved

**43. Would Option 2 address the objectives and key underlying principles for an updated licensing system?**

- Do not merge. Not Option 2.

**Section 10 Protecting the Marine Environment**

**53. Should the consideration of objectives be required through policy guidance, changes to management regimes or a statutory duty?**

- Provide institutional and legislation changes, although a change of will rather than legislation is a priority
- Include statutory marine conservation through marine spatial planning

**56. Which of the purposes listed should the new mechanism cover? Are there any others that should be considered?**

- a, b, c - Acknowledge that a variety of habitats & species is crucial for biodiversity and therefore sustainability and restore (as well as maintain) ecosystems through marine spatial planning
- g - Proactive sustainable fisheries management
- h - Protect reference / control areas (areas with no human disturbance) which can be used as a comparison with sites where activities occur

**58. Do you agree that, where options exist, a range of factors including social and economic considerations should be taken into account in choosing between sites?**

- Acknowledge that there may be situations where it is not possible to gain socio-economic as well as environmental benefits and prioritise environmental sustainability
- Need a mechanism in which wildlife takes priority
- Be prepared to act without all the information – Precautionary approach
- Need to introduce more marine protected areas and create a coherent network protected sites

**73. What do you think are the most important improvements that the Government could make to the prevention of marine nature conservation offences and the enforcement of relevant legislation?**

- Stakeholder involvement actively supported
- Local enforcement actively supported

- Be enforceable rather than simply issue guidelines otherwise there will not be secure funding for it
- Be prepared to act without all the information – Precautionary approach
- Stop practices which damage habitats
- Address the difficulties of managing mobile stocks
- Protect reference / control areas (areas with no human disturbance) which can be used as a comparison with sites where activities occur
- Deal with the issue of ownership (Tragedy of the Commons)
- Address the lack of information about where habitats & species exist
- Include strong legislation that imposes duties and enforces compliance
- Be adequately resourced
- Improve education and awareness of issues, leading to increased pressure to manage sustainably
- Clarify conservation priorities, which are currently very vague
- Allow for consensus management
- Enable the Government to make decisions where local level consensus can not be found

### **Section 11 The Potential for a Marine Management Organisation**

**77. Have we correctly identified the functions that are 'core' to deciding whether to create an MMO?**

**78. Are there other functions that you consider 'core' to an MMO? Why?**

- Set national policy and guidelines
- Have clear objectives
- Set boundaries of responsibilities
- Hold a national database of all environmental knowledge
- Set an over-arching framework for local participation (to be compulsory working in both directions)
- Use and develop existing organisations
- Clarify marine legislation for more effective use at a local level
- Streamline marine spatial planning
- Set national guidance for local management
- Improve and make easier the process for local enforcement of byelaws
- Control pollution
- License the energy industry
- Lay down guidelines for estuary management
- Make clear provision for consultation
- Manage conflicts of interest by simplifying marine legislation

**88. Do you have views on the most appropriate status for an MMO?**

- Function with two levels of decision-making – National and Local
- Be at a Ministry level i.e. overriding authority

**89. Do you have views on the nature of the relationship that an MMO would need with other bodies?**

- Reconsider the value of existing partnerships and organisations
- Set up one organisation for the co-ordination of marine spatial planning
- Ensure a Marine Management Organisation replaces but not duplicates existing Government
- Deal with devolved issues

**91. Are there any other comments you want to make regarding the potential creation of an MMO and ICZM in the UK?**

- It should support one consultative body in each area / region
- It should focus on moving marine issues up the political agenda

The Marine Bill must:

- Be cross-sectoral and cross-institutional as the main impediment of the existing system is the sectoral approach
- Encourage partnerships at a local level – as a statutory obligation
- Define the role and status of a Marine Management Organisation - is it plan-making and strategic or operational? Where does licensing fit in?
- Clarify the land and sea boundary for controls to reinforce attention to coastal zone and its multiple overlapping uses
- Include a clear structure and terms of reference, and define linkages between local, regional and national levels
- Set statutory duties and resource allocation
- Clarify responsibilities and resolve overlaps and unused historic power
- Use ICZM

In order to ensure sustainable use of Devon's marine and coastal environment the Marine Bill must:

- Adopt an ecosystem approach and use ICZM
- Address the concern that a Marine Management Organisation might be too focussed on marine issues
- Clarify if the Marine Management Organisation could have a full ICZM role
- Create a statutory role for Local Authorities
- Define the roles and relevant agencies' responsibilities
- Acknowledge the impact of economic and industrial activities on coastal communities
- Clearly define its boundaries
- Have flexible boundaries which allow for issues such as diffuse sources of pollution
- Address how land management will link to coastal control and planning
- Introduce uniform controls and regulations e.g. for archaeology
- Provide a stronger voice for water based activities e.g. fisheries
- Provide evidence, data and justification for all of its decisions
- Address estuary forums' concerns by being less top down, and encouraging more local stakeholder input
- Address concern for 'coastal squeeze' between land & sea controls, reconciling multiple uses
- Clarify roles & responsibilities for all land and sea activities
- Simplify existing multi-agency divided roles as diffuse roles prevent effective decision making

In order to manage conflicts of interest the Marine Bill must:

- Be aware that Shoreline Management Plan policy options may conflict with other objectives
- Include coastal partnerships as there is little reference to them in the consultation document
- Acknowledge that grass roots contacts are essential. Do funding limitations make this difficult?
- Provide a framework for effective marine spatial planning
- Answer the question - Should Government fund Coastal Partnerships?

- Use stakeholder management in order to resolve conflict
- Build on successful working e.g. Tamar EMP
- Have clear structures to resolve uncertainties and problems, local to regional to national (Marine Management Organisation)
- Exercise enforcement powers e.g. to protect Marine Protected Areas
- Acknowledge that voluntary approaches to resolve recreational user conflicts are not enough. Statutory and national powers are necessary, but they need funds and resources to deliver better controls
- Facilitate users to fund the regulatory process
- Use a democratic process to get better input to controls
- Clearly define roles because the existing voluntary basis to coastal management may be under threat with the introduction of more controlled legislative approach

Management of marine resources in Devon could be improved through:

- Increased use of estuary forums and coastal partnerships
- Each estuary having an agreed management strategy – some do not in the SW
- Addressing the problems of marine / land integration
- Addressing the current ad hoc, personality driven, voluntary nature of coastal management in Devon
- Campaigning for best practice to be recognised
- Creation of linked and integrated Terms of Reference of each coastal partnership or estuary organisation
- Supporting the Devon Maritime Forum which can embrace local forums and activities and send key messages upwards
- Setting terms of reference for local groups
- Starting to map (spatial and organisational) coastal marine areas
- Supporting ICZM activity