

**REPORT
ON CONSULTATIONS ABOUT
A WORKSHOP TO REVIEW
THE EFFECTIVENESS OF
STATUTORY REGIMES FOR
MARINE NATURE CONSERVATION**

Report To
**EUROPEAN WILDLIFE DIVISION
DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE
REGIONS AND
REVIEW OF MARINE NATURE CONSERVATION WORKING GROUP**

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We would also wish to record our thanks to Dominic Whitmee of the European Wildlife Division, the Department's Contract Manager, for his prompt response to our queries and his guidance and confidence in the consultancy team which allowed us to undertake the consultations and report on the responses in the timescale available with the minimum of intervention.

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Please Note

This report refers to the discussions at a Workshop held on 7th November 2000. It contains references to the Countryside and Rights of Way Bill and to some reviews and events which have since taken place. To maintain the context of the discussions and the context of the consultations these references have not been updated, even though the Countryside and Rights of Way legislation received Royal Assent during the reporting stages of the project. References to the Countryside and Rights of Way Bill should now be to the Countryside and Rights of Way Act 2000.

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List of Acronyms Used in the Report

CCW	Countryside Council for Wales
DETR	Department of Environment, Transport and the Regions
EIA	Environmental Impact Assessment
EN	English Nature
FEPA	Food and Environment Protection Act, 1985
MNR	Marine Nature Reserve
cSAC	(Candidate) Special Area of Conservation
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest

1. SUMMARY

1.1 The workshop and this report were commissioned on behalf of the Secretary of State by the European Wildlife Division of the Department of Environment, Transport and the Regions (DETR). The objective is to report on consultations carried out, with a wide range of interested bodies, about the outcomes of a workshop held to obtain expert views as to the effectiveness of statutory regimes for marine nature conservation.

[Section 2
Context,
Project Brief
and Method]

1.2 The workshop was held on 7th November 2000. It was hosted by the DETR but independently facilitated and led by David Tyldesley and Associates (DTA), environmental planning consultants with the assistance of Browne Jacobson, Solicitors. The Workshop was attended by 29 people, 23 of whom represented 19 bodies with regulatory or statutory advisory functions in the marine environment. DTA drafted a report of the Workshop discussions, identified a series of 78 comments, points or suggestions and consulted 26 interested bodies as to whether they agreed or disagreed with each of the them. This report summarises the responses from the nine bodies which replied.

1.3 The workshop report was structured around the five basic types of statutory regimes which potentially may affect or deliver marine nature conservation. These are:

- a) Specific Measures for Nature Conservation;
- b) Control of Plans and Projects;
- c) Duties to Have Regard to Nature Conservation;
- d) Discretionary Powers to Help Nature Conservation; and
- e) Protection of Natural Resources.

Section 11 summarised the discussions in respect of opportunities and solutions.

For consistency, this report analyses the consultees= agreement or disagreement under the same headings.

1.4 All but the conservation bodies considered that the specific provisions for management of European Marine Sites have generally been effective. There was general agreement that European Marine Sites Management Schemes had some strengths and could be adapted and extended elsewhere.

Section 5 of
the
Workshop
Report,
Specific
Measures for
Nature
Conservation

There was general agreement that SSSIs are likely to be more effective with new legislation and could be used more below mean low water. All but one respondent disagreed that SSSI have been ineffective and will not work well in the marine environment.

The conservation bodies disagreed but all others agreed that MNRs are a failed initiative.

All agreed that species protection legislation is not effective.

- | | | |
|-----|---|--|
| 1.5 | <p>All but one respondent disagreed that the Habitats Regulations are a very effective control in relation to European Marine Sites. However, all respondents agreed that although there were problems of interpretation in the regulations, their precautionary approach could be more widely adopted in marine environmental controls.</p> <p>There is a very high level of agreement that FEPA controls work well and that EIA is a good provision for nature conservation and the marine environment generally, although it can lack clarity and rigour.</p> <p>All agreed that weaknesses in the regimes include the multiplicity of controls and consenting regimes, the lack of a lead or coordinating regulator and overlapping jurisdictions, but the conservation bodies disagreed that the number of regulators was a weakness.</p> <p>All agreed there can be unnecessary duplication, that there is a lack of an overall framework, or guidance about the marine environment and that there are important gaps in regulatory control.</p> <p>All agreed there is a lack of nature conservation expertise amongst decision makers but the conservation bodies disagreed that there is currently insufficient knowledge about marine ecology and the effects of change.</p> <p>All agreed that sometimes science may not be used appropriately and decisions may not be fully informed.</p> <p>There is a high level of agreement that the legislation is largely reactive and piecemeal, that the UK has taken the Aleast pain approach@ to tackling EU legislation and devolution of government is further complicating the regimes.</p> | <p>Section 6 of the Workshop Report, Controlling Plans and Projects</p> |
| 1.6 | <p>All agreed that the duty to have regard to nature conservation is of limited effectiveness.</p> | <p>Section 7 Workshop Report, Duties to Have Regard to Nature Conservation</p> |
| 1.7 | <p>The conservation bodies all disagreed but others agreed that the discretionary powers to help nature conservation are of limited effectiveness and there are problems with byelaws.</p> | <p>Section 8 Workshop Report, Discretionary Powers to Help Nature Conservation</p> |
| 1.8 | <p>Except for the conservation bodies, all agreed that controls intended to protect natural resources are quite effective in achieving their purposes.</p> | <p>Section 9 Workshop Report, Protection of Natural Resources</p> |
| 1.9 | <p>All agreed that there is a need for a clear vision statement by</p> | <p>Section 11</p> |

government, supported by a strategy and clear national policy guidance about marine nature conservation.

Workshop
Report,
Opportunities
and
Solutions

All agreed that a coordinating body is needed and that it is essential to improve enforcement and policing of statutory regimes at sea.

All agreed that it may be better to bring all the existing legislation together, take away the departmental labels, bring the regulators together, identifying gaps and overlaps and re-sort into one, more effective process.

All agreed that a wider zonal approach or one related to marine ecosystems or processes would be a better approach than one based on area designations alone.

2. CONTEXT, PROJECT BRIEF AND METHOD

Context - the Workshop

- 2.1 The marine environment is governed by an extensive list of statutes and a large number of regulators, including central government, national agencies and statutory undertakers. This complexity, some overlapping of jurisdictions and, in other cases, perceived gaps in legislative controls, have been seen to create confusion, uncertainty and misunderstanding. Moreover, there is concern from a number of bodies that many of the statutes which are either specifically designed for, or may be used for, nature conservation in the marine environment are not being effective in achieving their goals.
- 2.2 The consultation initiated by the Government in 1998, '*Sites of Special Scientific Interest - Better Protection and Management*' [1], contained a proposal to set up a working party to look at options for improving protection of marine nature conservation interests. That Working Group was established in September 1999.
- 2.3 In order to inform the debate of the Working Group, the Department of the Environment, Transport and the Regions, European Wildlife Division has commissioned a number of research projects on behalf of the Secretary of State. One commission involved a workshop to which all the relevant statutory regulators and advisors working in the marine environment were invited. Those attending the Workshop were able to contribute their expertise and experience in reviewing the effectiveness of statutory regimes for marine nature conservation.
- 2.4 The aims and objectives of the workshop were defined as follows:
- At to establish a workshop to evaluate the success of statutory regimes of relevance to nature conservation in the marine environment, either directly or substantially in an indirect way, in delivering their aims.*
- The workshop should:*
- (i) bring together the key bodies with duties or powers relevant to nature conservation in the marine environment;*
 - (ii) evaluate the effectiveness of existing legislation in delivering marine nature conservation; and,*
 - (iii) produce a report to the Review of Marine Nature Conservation Working Group on the outcome of discussions at the workshop. @*
- 2.5 Although the Workshop was hosted by the Department, it was independently organised, facilitated and led by a consultancy team from David Tyldesley and Associates (DTA), environmental planning consultants, with the assistance on the day from Browne Jacobson, Solicitors.
- 2.6 The Workshop was held on 7th November and was attended by 29 people, 23 of whom represented 19 bodies with regulatory or statutory advisory functions in the marine environment.

The brief and method for this project

- 2.7 DTA drafted a report of the workshop discussions. This was circulated to the participants and finalised after comments had been received. However, the Department wished to obtain a wider response to the points raised, views expressed and suggested solutions put forward at the workshop. In order to obtain this wider view, the workshop consultancy team was asked to consult widely on the basis of a structured questionnaire reproduced at Appendix B.
- 2.8 The workshop report identified a series of 78 comments, points or suggestions and these were reformulated into a questionnaire which formed the basis of the wider consultation. This involved 26 interested bodies who were asked whether they agreed or disagreed (with or without reservations) with each of the 78 comments, points or suggestions. This report summarises the responses from the nine bodies which replied.
- 2.9 The nine organisations which responded to the consultation included four nature conservation bodies, two professional institutes, two from local government and one from the marine industry. Most of these responses were quite detailed and there was shown to be a considerable amount of agreement on many issues, although the level of those answering with reservations varied markedly from question to question. The responding bodies are not identified because it would be too easy to identify their views and the consultation was undertaken strictly on a non-attributory basis, in the expectation that a higher proportion of those consulted would respond. However, a list of the 26 bodies which were consulted is reproduced at Appendix A.
- 2.10 The workshop report was structured around the five basic types of statutory regimes which potentially may affect or deliver marine nature conservation. These, with the relevant section in the workshop report indicated in brackets, are:
- a] Specific Measures for Nature Conservation (section 5);
 - b] Control of Plans and Projects (section 6);
 - c] Duties to Have Regard to Nature Conservation (section 7);
 - d] Discretionary Powers to Help Nature Conservation (section 8); and
 - e] Protection of Natural Resources (section 9).

Section 11 summarised the discussions in respect of opportunities and solutions.

For consistency, this report analyses the consultees' agreement or disagreement under the same headings and cross references the sections in the workshop report, in brackets in each sub-heading.

3. PRINCIPAL FINDINGS - AGREEMENT

- 3.1 The following issues were agreed by all of the respondents or, in some cases, all but one of the respondents, who provided an answer to the question.

Specific provisions for marine nature conservation (Section 5)

- 3.2 The following statements were agreed by all respondents:

In respect of European Marine Site Management Schemes: ABringing all relevant authorities together, with a common purpose, and requiring one to take a lead was a valuable contribution to nature conservation @¹ (63% with reservations);

ASSSIs are likely to be a more effective measure if the changes proposed by the Government are enacted @ (43% with reservations);

ASpecies protection legislation is not effective @ (50% with reservations).

- 3.3 The following statements were agreed by all but one of the respondents, with some of the positive responses having reservations:

AThe model of the European Marine Sites Management Schemes could be adapted and extended elsewhere @;

AThe specific provisions for management of European Marine Sites were an imposed burden @;

ASSSIs could be used more below mean low water @.

Control of plans and projects (section 6)

- 3.4 There was agreement by all of the respondents in over half of the issues considered in this section. Again, however, there were varying levels of reservations expressed in relation to the positive responses.

- 3.5 All parties agreed that:

ADifferent bodies interpret the same provisions differently @;

AThe assessment of projects in combination and the consideration of cumulative effects are particularly difficult @ (14% with reservations);

AThe precautionary approach could be more widely adopted in marine environmental controls @ (14% with reservations);

¹

Although this is a record of the discussion it should be noted that the Regulations do not actually require one Relevant Authority to take a lead.

AFEPA controls work well in terms of disposals and constructions at sea @ (86% with reservations);

weaknesses in the existing regimes include:

Athe multiplicity of controls and consenting regimes @ (no reservations)

Athe lack of a lead or coordinating regulator @; (44% with reservations);

Aoverlapping jurisdictions @ (50% with reservations);

AThere can be unnecessary duplication @ of the regulatory regimes;

AThere is a lack of an overall framework, or guidance, in which activities can be assessed and decisions can be made about the marine environment @ (11% with reservations);

AThere are important gaps in regulatory control @ (13% with reservations);

AThere is a lack of nature conservation expertise amongst decision makers @ (71% with reservations);

ASometimes science may not be used correctly or appropriately; or the scientific justification for, say, conditions on consents is irrational, weak or wrong @ (83% with reservations);

AConditions requiring monitoring are being imposed as a substitute for a fully informed decision @ (67% with reservations);

AThe legislation is largely reactive and piecemeal @ (25% with reservations);

AThere is a lack of Integrated Coastal Zone Management @ (25% with reservations);

AThe sea is not well policed and it is inadequately regulated @.

(NB two of the respondents divided the issue into two parts and expressed greater reservation in their agreement with the second part, that the sea is inadequately regulated.

3.6 All but one of the respondents agreed with the following points:

AEIA is a good provision for nature conservation and the marine environment generally @ (some with reservations);

AEIA lacks clarity and rigour in terms of what environmental impact statements should contain and the standards they should meet @ (some with reservations);

AUK has taken the Aleast pain approach @ to tackling EU legislation @ (some with reservations);

Alt can be very difficult to identify what controls apply in particular

circumstances @ (no reservations);

ADevolution of government in Scotland and Wales is further complicating the regimes @ (no reservations).

Duties to have regard to nature conservation (section 7)

3.7 All respondents agreed that:

AThese provisions are considered to be of limited effectiveness for nature conservation probably for the reasons given in the report " (86% with reservations);

ADifferent bodies interpret the requirements differently @ (no reservations);

ASome bodies are not considered to be weighing nature conservation against other issues properly @ (14% with reservations).

Protection of natural resources (section 9)

3.8 There was agreement by all respondents to the questionnaire that:

AThe EC Directives contribute to the health of the seas @ (71% with reservations).

3.9 All five of the nine respondents who commented on this point agreed that:

AIn 2002 changes in the Common Fisheries Policies may help to reduce some present conflicts between fisheries and environmental conservationists @ (but all agreed with reservations).

Opportunities and solutions (section 11)

3.10 All respondents to the questionnaire agreed that:

ANature conservation @ needs to be distinguished from general environmental conservation @ (50% with reservations);

AThere is a need to consider marine biodiversity as a whole, not least because it is an important indicator of the health of the seas @ (13% with reservations);

AThere is a need for a clear vision statement by government, nationally, as to what we are trying to do for nature conservation, a clear vision of what we want to achieve, at what level @ (no reservations);

AThe vision should be supported by a strategy broadly as described in paragraphs 11.7 following @ (63% with reservations);

AThere is a need for a clear national policy guidance about marine nature conservation, perhaps similar to PPG9 but related to the sea @ (56% with reservations);

AA coordinating body is needed broadly along the lines described in ...the report", (67% with reservations);

Alt is essential to improve the poor enforcement and policing of the statutory regimes at sea @ (no reservations);

AA wider zonal approach or one related to marine ecosystems or processes would be a better approach @ (86% with reservations);

Alt may be better to bring all the existing legislation together, take away the departmental labels, bring the regulators together, identifying gaps and overlaps and re-sort into one, more effective process @ (75% with reservations);

3.11 All but one respondent agreed that:

ANature conservation should seek to enhance the existing biodiversity and abundance of life in the seas @.

4. PRINCIPAL FINDINGS - DISAGREEMENT

- 4.1 The following issues were disagreed by all of the respondents or, in some cases, all but one of the respondents, who provided an answer to the question.

Specific provisions for marine nature conservation (section 5)

- 4.2 All but one respondent disagreed that:

ASSSI have been ineffective, and will not work well in the marine environment@

Control of plans and projects (section 6)

- 4.3 The following three statements were all disagreed with by all but one respondent:

AHabitats Regulations are a very effective control in relation to European Marine Sites@

AThe Regulations are over prescriptive and inflexible@ and

AOwnership of the sea bed by the Crown limits effective control@.

Opportunities and solutions (section 11)

- 4.4 Out of the 78 issues that were included within the questionnaire for comment, only two issues were disagreed with by all respondents. Both of these were taken from the opportunities and solutions section of the report, under the sub-section of other points of view. All of the respondents disagreed that:

Alt would be better to have 2 branches of consents: one addressing whether the proposal was fit for purpose; the other looking at impacts on the environment@; (71% disagreed with reservations) and

Alt would be better to have 2 public inquiry systems: one establishing the project=s status in terms of public need and benefits, the other how it can be done in the most environmentally acceptable way@ (14% disagreed with reservations).

- 4.5 All but one respondent disagreed that:

AA geographic area designations approach is not the most appropriate means of achieving nature conservation in the marine environment@,

5. OTHER RESPONSES

5.1 Other responses can be divided into two main categories:

- A] those in which the answers were broadly split between the nature conservation bodies and the other respondents, but with one of the professional institutes sometimes agreeing and sometimes disagreeing with the nature conservation bodies; and
- B] those where the pattern of answers was so diverse that no conclusions could be drawn.

Split between the nature conservation and other bodies

5.2 Although differences occurred in the extent of reservations, generally, the nature conservation bodies who responded gave the same, positive or negative, response, to every question except in the case of only one issue. This was *All measures which contribute to the health and sustainable use and management of the seas is a contribution to the conservation of wild plants and animals* @.

5.3 The issues upon which there was a split between the nature conservation bodies and the other respondents are detailed below. In every case the nature conservation bodies disagreed with the statement, whereas the others agreed with it.

Specific provisions for marine nature conservation (section 5)

5.4 The conservation bodies disagreed but all of the other respondents agreed that:

The specific provisions for management of European Marine Sites have generally been effective (Reg 33 - 34 Habitats Regulations 1994) @ and

AMNRs are a failed initiative @.

5.5 In relation to whether:

AMNRs are over-bureaucratic, too prescriptive and rely on complete consensus which is unrealistic @

the nature conservation bodies distinguished between the two parts of the question, all disagreeing with reservations that MNRs are over bureaucratic and too prescriptive but agreeing, as with the other bodies, that complete consensus is unrealistic.

Control of plans and projects (section 6)

5.6 The nature conservation bodies disagreed, with no reservations, but all of the other respondents agreed with reservations that:

ACCW and EN effectively make the decisions because few competent authorities are going to go against their advice and conclusions @.

- 5.7 Although there was widespread agreement about many of the weaknesses in the present regimes, identified at the Workshop, the conservation bodies disagreed, with reservations, but the other bodies agreed (some expressing reservations) that:

AWeaknesses in the regimes include the number of regulators @,

- 5.8 Whilst the nature conservation bodies had agreed with the other respondents that there is a lack of nature conservation expertise amongst decision makers, they disagree with the other bodies and with the statement that

AThere is currently insufficient knowledge about marine ecology and the effects of natural and induced change @ and

AThere is a lack of a clear and consistent Aboundary @ between the land and the sea @.

Duties to have regard to nature conservation (section 7)

- 5.9 In relation to the duties of statutory bodies to have regard to nature conservation in the exercise of their functions, the nature conservation bodies disagreed, whereas the other bodies agreed, that:

AThe need to take a balanced view is necessary but limited to a very small number of bodies @.

Discretionary powers to help nature conservation (section 8)

- 5.10 The opinions of the respondents in relation to all three of the issues considered regarding discretionary powers to help nature conservation were divided. In relation to the following statements, the conservation bodies all expressed their disagreement, albeit with reservations, whereas the other bodies all agree, with some having reservations that:

AThese provisions are considered to be of limited effectiveness probably for the reasons given ";

ABylaws are uncertain, cumbersome and expensive and difficult to enforce @;
and

AStatutory undertakers cannot reasonably be expected to provide nature conservation projects when most of them can barely meet their statutory duties with available resources @.

Protection of natural resources (section 9)

- 5.11 There was a difference of opinion between the conservation bodies and the other respondents in relation to two issues. The conservation bodies disagreed, all with reservations, whereas the other bodies agreed with no reservations that:

AOn the whole, these controls are considered to be quite effective in achieving their purposes but their effectiveness is limited by difficulties of enforcement at

sea@ and
*AI*nternational shipping law is considered to work relatively well@.

Opportunities and solutions (section 11)

- 5.12 The conservation bodies disagree (with some reservations) and the other bodies agree (with some reservations) that:

*AN*ew legislation may not be necessary if the existing regulators worked more closely together@.

Other Responses

- 5.13 In respect of the following points which emerged from the Workshop, the consultation responses were so diverse that no pattern as to agreement or disagreement could be deduced.

*A*The [European Marine Site management] legislation lacks clarity and it has the potential to seriously interfere with marine activities@.

*AS*ite designation approaches to marine nature conservation are not favoured. Obligations for marine nature conservation should extend throughout the marine environment@.

Species protection in the marine environment *A* ... relies on a level of knowledge that does not exist and on levels of enforcement that are unrealistic@.

*AE*ffectiveness of other [regulatory] regimes [except FEPA licencing] for nature conservation is variable and depends on the effectiveness of EIA@.

*AA*ll measures which contribute to the health and sustainable use and management of the seas is a contribution to the conservation of wild plants and animals@ (NB this is also the statement which produced different responses from the nature conservation bodies).

*AN*ature conservation must *A*fit@ with other activities in the marine environment@.

AA comprehensive review of legislation may result in it being much more specific, and therefore longer and even more complex. Such a change would not be the most productive way forward@.

AA *A*duty of care@ could be introduced for all sea users@.

AA single coordinating *As*uper agency@ is not appropriate@.

*A*We should work with what we have got, and improve the present system@.

APPENDICES

APPENDIX A LIST OF BODIES CONSULTED

Association of Local Government Ecologists
British Marine Aggregate Producers Association
British Marine Industries Federation
Countryside Agency
Department of Culture Media & Sport
Department of the Environment Transport and the Regions: Water Quality
Environment Agency
Friends of the Earth
Greenpeace
Institute of Ecology & Environmental Management
John Bates, Barrister
Local Government Agency
Marine Conservation Society
Maritime and Coastguard Agency
National Federation of Fisherman's Organisations
Planning Officers Society
Royal Yachting Association
Royal Town Planning Institute
Royal Society for the Protection of Birds
The Wildlife Trusts
The Chamber of Shipping
UK Offshore Operators Association
Water UK
Whale and Dolphin Conservation Society
Wildlife and Countryside Link
WWF-UK

APPENDIX B

THE QUESTIONNAIRE

**DEPARTMENT OF THE ENVIRONMENT TRANSPORT AND THE REGIONS
CONSULTATION ON REPORT OF A WORKSHOP ON THE EFFECTIVENESS OF
STATUTORY REGIMES FOR MARINE NATURE CONSERVATION**

Thankyou for taking the time to consider the report and respond to the consultations. Please send this form and any further comments

by
Friday 15th December 2000

to
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A report on the consultation will be compiled on a non-attributable basis. We will report to the Department which bodies responded but will not attribute specific comments to specific organisations (which was the basis of the report itself). Your name, organisation and telephone number are requested in case we need to contact you to clarify any points you make.

Please use this pro forma as far as possible. Hand written answers and annotations are perfectly adequate. If you would like to embellish any points please do so in a covering letter or appended annex, but we are limited in report style and length, so your comments need to be kept as succinct as possible. A bullet point style is simple and appropriate.

It would also assist if you could confine your comments to direct responses on the Report's content that are within your field of interest and knowledge, rather than general points about wider issues.

Within your field of interest and knowledge would you agree or disagree, with or without reservations, with the various points drawn from the Workshop discussion listed below? Please tick the square box next to the statement that most closely reflects your view and add any comments you may wish to in respect of reservations on an attached sheet / annex or in your covering letter.

All references are to the sections, pages and paragraphs in the report

S.5 SPECIFIC PROVISIONS FOR MARINE NATURE CONSERVATION

European Marine Site Management

Paras 5.2 - 5.3

The specific provisions for management of European Marine Sites have generally been effective (Reg 33 - 34 habitats Regulations 1994)

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Bringing all relevant authorities together, with a common purpose, and requiring one to take a lead was a valuable contribution to nature conservation.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The model of the European Marine Sites Management Schemes could be adapted and extended elsewhere.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The specific provisions for management of European Marine Sites were an imposed burden.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The legislation lacks clarity and it has the potential to seriously interfere with marine activities.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Sites of Special Scientific Interest

Para 5.4 - 5.5

SSSIs are likely to be a more effective measure if the changes proposed by the Government are enacted.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

SSSIs could be used more below mean low water.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

SSSI have been ineffective, and will not work well in the marine environment

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Marine Nature Reserves

Paras 5.6 - 5.7

MNRs are a failed initiative	' Agree ' Agree with reservations ' Disagree ' Disagree with reservations ' No view / not relevant to us
MNRs are over-bureaucratic, too prescriptive and rely on complete consensus which is unrealistic	' Agree ' Agree with reservations ' Disagree ' Disagree with reservations ' No view / not relevant to us
Site designation approaches to marine nature conservation are not favoured. Obligations for marine nature conservation should extend throughout the marine environment	' Agree ' Agree with reservations ' Disagree ' Disagree with reservations ' No view / not relevant to us

Species protection

Paras 5.8

Species protection legislation is not effective	' Agree ' Agree with reservations ' Disagree ' Disagree with reservations ' No view / not relevant to us
It relies on a level of knowledge that does not exist and on levels of enforcement that are unrealistic.	' Agree ' Agree with reservations ' Disagree ' Disagree with reservations ' No view / not relevant to us

6 CONTROL OF PLANS AND PROJECTS

The Habitats Regulations

Para 6.4

Habitats Regulations are a very effective control in relation to European Marine Sites.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The Regulations are over prescriptive and inflexible.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Different bodies interpret the same provisions differently.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The assessment of projects in combination and the consideration of cumulative effects are particularly difficult.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

CCW and EN effectively make the decisions because few competent authorities are going to go against their advice and conclusions.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The precautionary approach could be more widely adopted in marine environmental controls.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Other controls

6.6 - 6.7

FEPA controls work well in terms of disposals and constructions at sea.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Effectiveness of other regimes for nature conservation is variable and depends on the effectiveness of EIA

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

EIA is a good provision for nature conservation and the marine environment generally

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

EIA lacks clarity and rigour in terms of what environmental impact statements should contain and the standards they should meet.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Weaknesses in the present regimes

6.8 - 6.

Weaknesses in the regimes include the multiplicity of controls and consenting regimes	' Agree ' Agree with reservations
	' Disagree ' Disagree with reservations
	' No view / not relevant to us
Weaknesses in the regimes include the number of regulators	' Agree ' Agree with reservations
	' Disagree ' Disagree with reservations
	' No view / not relevant to us
Weaknesses in the regimes include the lack of a lead or coordinating regulator	' Agree ' Agree with reservations
	' Disagree ' Disagree with reservations
	' No view / not relevant to us
Weaknesses in the regimes include overlapping jurisdictions	' Agree ' Agree with reservations
	' Disagree ' Disagree with reservations
	' No view / not relevant to us

It can be very difficult to identify what controls apply in particular circumstances.	' Agree ' Agree with reservations
	' Disagree ' Disagree with reservations
	' No view / not relevant to us
There can be unnecessary duplication	' Agree ' Agree with reservations
	' Disagree ' Disagree with reservations
	' No view / not relevant to us
There is currently insufficient knowledge about marine ecology and the effects of natural and induced change.	' Agree ' Agree with reservations
	' Disagree ' Disagree with reservations
	' No view / not relevant to us
There is a lack of an overall framework, or guidance, in which activities can be assessed and decisions can be made about the marine environment.	' Agree ' Agree with reservations
	' Disagree ' Disagree with reservations
	' No view / not relevant to us
There are important gaps in regulatory control	' Agree ' Agree with reservations
	' Disagree ' Disagree with reservations
	' No view / not relevant to us

The gaps are:

There is a lack of nature conservation expertise amongst decision makers.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Sometimes science may not be used correctly or appropriately; or the scientific justification for, say, conditions on consents is irrational, weak or wrong.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Conditions requiring monitoring are being imposed as a substitute for a fully informed decision.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

There is a lack of a clear and consistent Boundary@ between the land and the sea.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The legislation is largely reactive and piecemeal.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

UK has taken the least pain approach@ to tackling EU legislation

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Ownership of the sea bed by the Crown limits effective control

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Devolution of government in Scotland and Wales is further complicating the regimes

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

There is a lack of Integrated Coastal Zone Management.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The sea is not well policed and it is inadequately regulated.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

7. DUTIES TO HAVE REGARD TO NATURE CONSERVATION

Para 7.4

These provisions are considered to be of limited effectiveness for nature conservation probably for the reasons given in the report at 7.4

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Different bodies interpret the requirements differently.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Some bodies are not considered to be weighing nature conservation against other issues properly.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The need to take a balanced view is necessary but limited to a very small number of bodies.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

8. DISCRETIONARY POWERS TO HELP NATURE CONSERVATION

Para 8.2 - 8.6

These provisions are considered to be of limited effectiveness probably for the reasons given in 8.3

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Byelaws are uncertain, cumbersome and expensive and difficult to enforce

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Statutory undertakers cannot reasonably be expected to provide nature conservation projects when most of them can barely meet their statutory duties with available resources.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

9. PROTECTION OF NATURAL RESOURCES

Paras 9.2

On the whole, these controls are considered to be quite effective in achieving their purposes but their effectiveness is limited by difficulties of enforcement at sea

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

International shipping law is considered to work relatively well.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The EC Directives contribute to the health of the seas.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

In 2002 changes in the Common Fisheries Policies may help to reduce some present conflicts between fisheries and environmental conservationists.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

11. OPPORTUNITIES AND SOLUTIONS

Defining what we mean by nature conservation

Paras 10.4

Nature conservation@ needs to be distinguished from general environmental conservation

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

All measures which contribute to the health and sustainable use and management of the seas is a contribution to the conservation of wild plants and animals.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

There is a need to consider marine biodiversity as a whole, not least because it is an important indicator of the health of the seas.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Nature conservation should seek to enhance the existing biodiversity and abundance of life in the seas

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Nature conservation must Afit@ with other activities in the marine environment.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Creating a Vision and Setting Objectives and Producing Guidance

There is a need for a clear vision statement by government, nationally, as to what we are trying to do for nature conservation, a clear vision of what we want to achieve, at what level.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The vision should be supported by a strategy broadly as described in paragraphs 10.7 following

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

There is a need for a clear national policy guidance about marine nature conservation, perhaps similar to PPG9 but related to the sea.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

A comprehensive review of legislation may result in it being much more specific, and therefore longer and even more complex. Such a change would not be the most productive way forward.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

A Duty of care@ could be introduced for all sea users

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The need for coordination - a body with specific duties to fill gaps in the system

Paras 10.12 - 15

A coordinating body is needed broadly along the lines described in paras 10.12 - 10.14

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

It is essential to improve the poor enforcement and policing of the statutory regimes at sea.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

The designations approach

Paras 10.16 - 19

A geographic area designations approach is not the most appropriate means of achieving nature conservation in the marine environment.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

A wider zonal approach or one related to marine ecosystems or processes would be a better approach

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

Other points of view

Paras 10.20 - 21

A single coordinating Asuper agency@ is not appropriate.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

We should work with what we have got, and improve the present system.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

New legislation may not be necessary if the existing regulators worked more closely together

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

It may be better to bring all the existing legislation together, take away the departmental labels, bring the regulators together, identifying gaps and overlaps and re-sort into one, more effective process.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

It would be better to have 2 branches of consents: one addressing whether the proposal was fit for purpose; the other looking at impacts on the environment.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us

It would be better to have 2 public inquiry systems: one establishing the project=s status in terms of public need and benefits, the other how it can be done in the most environmentally acceptable way.

' Agree ' Agree with reservations
' Disagree ' Disagree with reservations
' No view / not relevant to us
