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Delivering the UK's wind, wave and tidal energy

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Dear Sir or Madam,

BWEA MPA Draft Strategy Consultation Response

BWEA is the leading UK renewable energy trade association. With over 490 corporate members BWEA represents the large majority of the wind, wave and tidal energy companies in the UK. BWEA is informed by an established and active network of working groups consisting of leading experts in the offshore wind, wave & tidal industry and is therefore suitably placed to comment on the MPA draft strategy

BWEA has always been a supporter of the Marine Bill. We welcome a coordinated approach towards the conservation of marine biodiversity and would underline our support for the creation of a network of conservation sites.

BWEA believe that a high level target of these documents should be to tackle climate change, through both the conservation of the ecosystem and facilitation of sustainable development in the Marine Environment. In other policy document, such as the high level objectives of the Marine Policy Statement, a clear statement of the need to combat climate change is made. However more stress of the importance of mitigating climate change could be made in this document and also how the climate change objectives and conservation objectives will be delivered simultaneously. It is in the details of guidance where the expansion of renewable energy either becomes a reality or remains a possibility. As one of the central reference points in determining new conservation zones, consideration of all government policies will add to the usefulness of the document.

The desire to see coexistence of marine renewable energy is an often repeated goal, but in order to make this possible the objective of deploying increased marine renewable energy should be more reflected in the guidelines. Whilst conservation is crucial to the

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health of the marine environment, there are other factors that are important and BWEA feel these issues are not adequately represented in this document. Whilst the document is a conservation strategy that addresses EU policy and hence obligations, this could be achieved by including more reference detailing how sustainable economic activities will be permitted.

Our specific points follow in the attached document. General points we would like you to consider include the resourcing of the regional stakeholder group staff. BWEA is keen to see staff members with socio-economic and engineering knowledge, who understand what industry can realistically accommodate and what impacts environmental decisions will have on the ability of projects to deliver. The job descriptions currently being placed for the regional team members should include this aspect.

There has been some confusion over whether the scientific advisory panel will include socio-economic or engineering expertise. BWEA believe this is imperative to ensure the coexistence of renewable energy and MCZ designations. Without this advice there will be a tendency towards preventing development by making sites unappealing, even when this is not the directive objective of a designation.

There needs to be process by which the Government's socio-economic objectives for the marine area are included in the overall consideration of the network. BWEA would seek reassurance on how the regional panels will consider socio-economic issues and what controls are in place to ensure this is considered.

The process should consider what happens when regional stakeholders are unable to agree. While the guidance states that parties should submit what the disagreement is to Secretary of State, there is no set process for the analysis and decision making process of a disagreement other than by the SoS.

BWEA would like to see a formal statutory role for the MMO in advising on the socio-economic impact of designation. This would allow the organisation with responsibility for delivering the full range of Government objectives for the marine area to formally input into the designation process.

BWEA hope that our consultation response is useful and constructive. BWEA are fully committed to working with the Government to further our mutual ambitions for maximising renewable energy generation and volunteer the advice of our network of industry working groups.

Please do not hesitate to contact me should you have any questions.

Yours faithfully

Duncan Ayling
BWEA
Head of Offshore Renewables

Individual Sections

1. Aim

Climate change is already in action as its impacts, hence the subsequent loss of marine biodiversity as a result of climate change can not be “halted”. BWEA advise that this wording be changed to better reflect the nature of biological processes, e.g. “*loss of our marine biodiversity is reduced as much as possible and where achievable returned to its previous state*”.

2. The Process

BWEA would like to express interest in attending the series of workshops for stake holders to discuss how to build the MPA network.

3. Scope

BWEA feel that it should be noted that climate change poses the most damaging long-term threat to conservation of the marine environment. Energy generation from renewable energy provides a long-term solution and this role should be reflected in the scope of the document.

BWEA believe that sites with particularly strong tidal and wave resources should be subject to a separate assessment process, due to the high energy potential and limited availability of these sites.

4. Importance and policy framework for MPAs

BWEA would like to draw attention to the fact that the instillation of offshore wind and marine renewable energy could lead to an investment in UK plc to the order of £39bn ([Bain and co](#)) for Wind and £4bn for wave and tidal (Entec /Carbon Trust), along with an estimated 57,000 jobs ([Bain and co](#)). It is important that at this crucial stage for industry development that, conservation objectives do not paralyse the industry and prevent it from meeting its potential.

6. International commitments

In the light of International Commitments it is crucial that goals and binding policy for carbon reduction and renewable energy generation are not jeopardised. The need to integrate the full range of policies should be referenced in the guidance.

9. The Marine Strategy Framework Directive (MSFD)

BWEA would like to state that Marine Renewables can help achieve GES; via reduced CO₂ emissions, recovery of commercial fish stocks and potential new habitat creation. While this document does not implement the MSFD, there is a potential role of renewable energy deployment in designated areas to help fulfill the MSFD objectives and this should be considered.

14. National Sites

It is important to note that Tidal devices have already been successfully deployed in two, out of three of the Marine Nature Reserves. As the designation of sites will change from MNRs to MCZs, it will be essential for the Marine Renewables Industry to fully understand the differences

that this re-designation entails and ensuring there is a robust process for consenting. Natural England has publicly supported new renewable technologies being tested in sensitive areas, such as MNRs. BWEA would like this support followed through into written guidance via a statement that such testing is desirable, where appropriate, would be of great help.

BWEA believe that whilst biodiversity benefits maybe “incidental” while designating MPAs, this does not mean that they are not beneficial. Hence their net positive impact should be drawn into, and taken account of, whilst developing this overarching conservation strategy.

15. What do we want to achieve

We welcome the statement that “*Protective measures will be proportionately, efficiently and effectively enforced*”, as this recognises the practicalities of the marine environment. However the strategy would benefit from expanding on what is proportionate, efficient and effective and how these factors will be tested.

BWEA welcome the flexibility of this definition that recognises protected features will often be mobile or subject to change over time. Coexistence of deployment and new device trials should be an aim of MCZs where possible and more could be added here on this potential. As currently worded it seems to suggest that only choices between alternative sites will consider socio-economic activities.

16. The value of Marine Protected Areas

BWEA welcomes that MCZs will be designated in a manner that minimises their socio-economic impacts. It should also be noted that they will negatively impact on the UK’s ability to deploy renewable energy and so limit the UK’s ability to combat climate change. This negative impact should also be minimised.

A process of rezoning MPAs will be necessary to follow the movement of species in relation to climate change. Similarly the natural movement of species or the loss of species due to natural processes will need to be accommodated. BWEA are concerned that rezoning conservation boundaries will make it very difficult to manage marine renewable projects, potentially damaging confidence within the industry. Instances could occur where a project has obtained consent, only to find an MCZ is moved and the project can no longer be undertaken. This would be a very negative for the industry and BWEA seeks to avoid this, during the designation and design of the MCZ conservation plan.

BWEA strongly welcomes the statement that the deployment of Renewable energy can create synergies with conservation measures. However BWEA would like to emphasis that the example could, and should, be extended to wind, wave and tidal energy. However as assessment on an individual basis, this will lengthen the already arduous consenting process. BWEA would like to propose that a set of guidelines for deploying marine renewable devices is created, due to the synergies between projects.

17. Costs and benefits

The designation of the MPA network has the potential to be highly detrimental to the deployment of renewable energy. The current work being undertaken (SEA for Wave and Tidal in England and Wales) will aid this designation by highlighting areas of maximum resource and

development potential, BWEA urges the SNCBs to use this information whilst collating a final MPA plan.

BWEA would like to state that the Economic Benefits are not stated as a net Economic effect. BWEA feel that the true economic benefit should be stated, with the costs of establishing and maintaining an MPA, along with the negative economic impacts associated, e.g. with delayed deployment of renewable energy.

BWEA are concerned that the MPA network does not include fisheries management, as they are a major stakeholder and have major impact upon the marine environment.

19. How the network will take shape

BWEA request that the positive impacts associated with the deployment of marine renewables (i.e. the establishment of no take zones) be taken into account when developing technical and governance guidance. E.g. state a level of conservation that will facilitate the development of marine renewables and is designed to incorporate marine renewables deployment. (This could work by suggesting an area within a sub region that is designated for deployment).

20. Network design principles

BWEA believe that the banding system suggested for protection levels should be highly transparent and have clear designation/outlines for renewable energy deployment.

BWEA believe that lack of full scientific certainty should equally not be a reason to exclude marine renewables developments.

BWEA would suggest a new network design principle:

“Coexistence – Wherever possible, the MPA network should maximise the coexistence with other marine activities and ensure unnecessary barriers to coexistence are not created.”

This design principle will ensure that the unnecessary barriers to socio-economic activities are not created and constraints are targeted to those activities seen as harmful. If activities are seen as permissible in an MPA, it must be made completely clear how that activity may be allowed to be performed.

22. Working together

This is greatly welcome stakeholder participation in identifying MCZs and BWEA looks forward to being able to represent the views of its members and advice as to the location of MCZs in relation to renewable energy development.

23. Establishment of a Scientific Advisory Panel

Assurance has previously been given that the Scientific Advisory Panel will include socio-economic expertise, as well as the conservation knowledge that will obviously be required. Knowledge of engineering and the practical requirements of engineering projects will also be fundamentally important.

24. Processes for identifying and designating more marine sites

BWEA greatly welcomes this new approach to marine management and protection, and encourage a robust and representative stakeholder consultation.

The establishment of a National Stakeholder Group Stakeholder Advisory Group is also welcomed and BWEA would look to be actively involved in the group. BWEA could bring the added value of ensuring economic data for renewable energy is available for the designation of MCZ.

BWEA would seek to be involved in this process of identifying a regional MCZ network, as they will be able to draw on information from individual stake holders in the regions.

27. Research and development

We welcome the research that is underway and urge Defra to contact the BWEA, in order to assist in the passage of information to the studies, to facilitate better understanding of the socio-economic impact for MCZs for renewable energy.

29. Roles and responsibilities

Reference is made to the MMO identifying socio-economic implications for MCZ designations. Pending the passage of the Marine and Coastal Access Bill, BWEA expects that the MMO will become a truly holistic body for the marine environment. It should make representation on environmental social and economic issues for all marine policy functions. The MMO should make a judgement as to whether the MPA network is compatible with the Government's other policy objectives for the marine area.

32. MCZs

It will be crucial that it is clear how detrimental measures can be mitigated against in relation to *guidance for regulators and developers*.

Guidance Note 1

3. Involvement of stakeholders

In point 3.2 BWEA believe that the four aims for identifying and recommending MCZs should include “to mitigate and adapt to climate change”, as one of its aims.

Point 3.3 reads “*These projects will identify and recommend a series of MCZs in a manner that will deliver alongside other MPAs (see paragraph 1.7 above) an ecologically coherent network, while minimising social and economic impacts.*”

BWEA believe that the above paragraph should finish with this statement, “*and maximising the mitigation of climate change*”.

BWEA believe that the current SEA processes and vision of developers will be key to establishing the areas that are of key importance for renewable energy deployment.

“Impact Assessments will be an important tool to inform the evolving thinking on sites to be selected, summarising the available evidence on impacts of a range of potential networks.”

Impact Assessments should be used to influence site selection. Consideration of the impacts on coexistence will only be productive if it is made across the designation process rather than tacked on at the end.

“Protection – the MPA network is likely to include a range of protection levels.”

BWEA would appreciate clarity on what levels of protection will be used.

*“**Best available evidence** – Network design should be based on the best information currently available. Lack of full scientific certainty should not be a reason for postponing decisions on site selection.”*

BWEA are concerned that lack of scientific certainty is not being used as a reason for postponing decisions. While obviously there will be a need to designate with some uncertainty, there must be limits on when evidence is adequate. The precautionary principle if interpreted in its purist form would require all activities to cease. A realistic interpretation of what is and isn't acceptable should be used.

5. Principles for identification and selection of MCZs

Ecological considerations in identification and selection of individual MCZs

BWEA are keen to understand how renewables can be deployed whilst working in parallel with these goals. Where possible these guidelines should seek to facilitate the coexistence of renewable energy and so maximise the mitigation of climate change. We would encourage the establishment of specific guidance referring to how renewables can coexist with these ecological objectives.

BWEA would question what is meant by “naturalness”. Terms used should have specific meanings if they are to be considered useful.

All the terms referred to in 5.3 should have a measurable index associated with them; otherwise it will be impossible to set conservation objectives and to assess achievement of those objectives.

5.15 should also make reference to the fact that existing marine renewable sites should be accommodated by any new designations, as it would be unfair to place new conditions onto an already existing marine renewable site.

BWEA believe that this section should include a paragraph detailing the need to fulfil other government targets, e.g. Kyoto and government targets; stating that these are of significant importance.

Point 5.23 describes the situation for the expansion of an MCZ boundary to accommodate changes. BWEA recognises the need to rezone MCZs to reflect the natural movement of the location of species. Even species that are presumed to be fixed will move over time. 5.23 does not adequately reflect the complexities of designating to accommodate the movement of features.

We recommend that all MCZs are required to include a monitoring and audit process to determine the effectiveness of a designation. This should include an annual audit, a periodic audit of 3-5 years and a 10-yearly audit.

Following the outcome of auditing MCZs should be resized as necessary and through this process an MCZ could be rezoned to reflect the movement of the conservation feature. As currently drafted there is no provision for the reduction in size or removal of an MCZ if the conservation feature is found to no longer exist.

If an MCZ is resized or rezoned the resultant impact on socio-economic activities must be reassessed, BWEA are concerned that if the boundaries of an MPA change, a developer who previously enjoyed no restrictions, may suddenly find their activities constrained. This uncertainty could damage industry confidence and so limit UK renewable energy deployment. A clear process for consulting with developers on the movement or revision of MCZs should be created.

7. Conservation objectives for MCZs

BWEA believe that the global ecological process of climate change should be taken into account within the conservation objectives.

Point 7.4 places a requirement for clarity on management implications and this is appreciated. BWEA believe this will be very important as the management implications will govern the interaction with socio-economic uses. Further guidelines on permissible activities should be produced as soon as possible and consulted upon extensively.

Section 7.5 does not make clear how the impacts of climate change upon a feature will be managed. For example, who will the difference between the impact of climate change and a human activity be determined. It is unclear what the grounds are for designating for recovery; this seems to be left as a loose catch-all term. A separate section addressing how the impacts of climate change are addressed would be helpful.

Section 7.6 should include tackling climate change as an objective.

In section 7.7, BWEA is concerned that SNCBs will only give advice on the management of activities in an MCZ *after* it is designated. If a network of MCZs is designated to have a minimum impact on socio-economic activities, then it is vital that the management principles are made at the beginning of the process. Engagement with industry representatives during designation will only be fruitful if an understanding of the impacts of designation is achieved. Management plans that are unveiled late in the process are likely to cause formal objections to designation.

Hypothetical example Conservation Objectives

The conservation objective put forward in the hypothetical example is worryingly brief. It states human activities that cause pressures will need to be managed. How will the pressures be measured? How will activities be managed in relation to this pressure? How will a human activity prove that it can coexist satisfactorily with this objective?

The reasons why the management of a feature will need to be changed over time is clearly explained in section 7.10. However in order to permit the coexistence of a renewable energy project these changes will need to be communicated clearly and expectations managed. BWEA would like to see a set of guidelines that smoothes the way for coexistence wherever possible, while at the same time maintaining the levels of protection needed.

In section 7.11, it is not satisfactory to leave out measurable targets from conservation objectives. There are legally binding requirements on activities to assess whether they interfere with these objectives and if there are no measurements then it will be impossible to state whether those activities are being affected. This lack of robustness will affect not only projects within an MCZ, but also any project that is in the surrounding area. Potentially this would make huge areas of the seabed sterile to marine renewable energy unnecessarily.

In the suit of management tools, there should be a set of standardised survey methodologies for quantifying the achievement of conservation objectives.

8. Role of Ministers in designating MCZs

BWEA will actively engage with all regional projects. However it should be noted in the guidance that regional groups should consider other national policy objectives in their recommendation.

BWEA strongly believe that the staff facilitating the regional groups should be required to include individuals with socio-economic expertise, to ensure they have an adequate understanding of the needs of industry and what can reasonably be accommodated by an engineering project.

In section 8.13 and as stated previously, the Impact Assessment should be performed as a process throughout the designation consultation and not only considered at the end of the process.

Designation orders and timetable

BWEA is concerned that the timetable is over ambitious. When compared with the time taken to consider the small number of marine designations already in place, it seems unrealistic to attempt to perform an assessment of the entire UK continental shelf in a similar timetable. Would the consideration of candidate MCZs allow international obligations to be fulfilled, while at the same time giving adequate time to consider all the issues involved? A poorly made network designation could destroy confidence in the process with all parties involved.

Guidance Note 2

5. The duty on authorising-authorities

BWEA believe section 5.12 should include deployment of renewable energy as a potential benefit to the public that outweighs the damage to “the environment”. BWEA welcome Point 2 in this section, which outlines why it is so important that the wider objective and vision for the MPA should be to tackle the negative impacts of climate change.

BWEA welcome that statement that the “term ‘equivalent environmental benefit’ should be applied in a reasonable and proportionate way” in section 5.15, and believe an excellent example of this are measures which reduce carbon emissions and prevent acidification of the seas.

Guidance Note 3

4. Purpose of conservation orders

BWEA are concerned that the designation of interim orders could lead to unnecessary designation, hindering the deployment of renewable energy.

7. Ensuring proportionality

BWEA believe ensuring proportionality will be an issue of concern for areas with high tidal stream energy, as protection will need to be proportional, however in order to obtain maximum amounts of renewable energy from the resource, over proportionate deployment of renewable energy will be required. Due to the overriding public interest that the deployment of renewable energy offers; BWEA believe that separate guidelines that address this imbalance should be created for such instances.

Sub section 7.6

BWEA believe prohibiting or restricting “activities to deliver the conservation objectives” of a site even though there may be “little or no evidence to show that a particular activity is damaging in that particular location” is of major concern for the deployment of renewable energy; especially for wave and tidal stream devices. As there is currently little or no evidence available regarding the effects of these devices have on the environment. BWEA believes that scientific evidence should be required and that synergies with previous deployments should be taken into account to streamline this process.

9. Content of orders

BWEA welcomes the statement that “conservation orders should clearly state as far as possible what is being controlled and the manner in which it is controlled” as it provides clarity. However before these controls are stated, full account of the impacts of deployment of renewable energy should be understood and accommodate into these guidelines.

10. Stakeholder involvement

BWEA believe this section 10.2 should include the line “to affect the deployment of renewable energy to tackle climate change; regulators will need to discuss this with relevant industry and trade associations.”

Guidance Note 4

1. Background

BWEA feel that 21 days is insufficient time to allow stakeholders to be made aware of this intention and to be able to feed in concerns and responses to declaration.

2. Notifying SSSIs which include land below Mean Low Water Mark or beyond the seaward limits of estuarial waters

BWEA are concerned about how robust and scientifically rigorous this testing will be. Hence BWEA feel it is important to understand the direct impact of near shore marine devices on individual areas of concern, notably in regards to seals, birds and geological areas of interest.

BWEA are concerned that physical processes required to support geomorphological sites may be included in MPA designation, as the nature of tidal stream technology is to be deployed in areas with high currents.

4. Denotification of an SSI following designation of an overlapping MCZ

BWEA are concerned that overlapping of designations could lead to developments having to satisfy two sets of criteria, working with both terrestrial and marine consenting bodies, in turn convoluting the process for renewable energy deployment.

Overall BWEA are concerned about the impact this guidance note will have for grid access and connection.