



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 24 April 2013

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RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE
14th Meeting 2013, Session 4

CONVENER

*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

DEPUTY CONVENER

*Graeme Dey (Angus South) (SNP)

COMMITTEE MEMBERS

*Jayne Baxter (Mid Scotland and Fife) (Lab)

*Claudia Beamish (South Scotland) (Lab)

*Nigel Don (Angus North and Mearns) (SNP)

*Alex Fergusson (Galloway and West Dumfries) (Con)

*Jim Hume (South Scotland) (LD)

*Richard Lyle (Central Scotland) (SNP)

*Angus MacDonald (Falkirk East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Anna Donald (Scottish Government)

Phil Gilmour (Scottish Government)

David Mallon (Scottish Government)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

Committee Room 6

Scottish Parliament

Rural Affairs, Climate Change and Environment Committee

Wednesday 24 April 2013

[The Convener *opened the meeting at 10:00*]

Decision on Taking Business in Private

The Convener (Rob Gibson): Good morning and welcome to the 14th meeting in 2013 of the Rural Affairs, Climate Change and Environment Committee. I ask all members and the public to turn off their mobile phones, BlackBerrys et cetera, please, as leaving them in flight mode or on silent will affect the broadcasting system.

Agenda item 1 is a decision on taking in private items 3 and 4, on regulatory reform and European Union legislation, respectively; the former item deals with an approach paper and the latter deals with legal advice. Do members agree to take those items in private?

Members *indicated agreement.*

Marine Issues

10:01

The Convener: Agenda item 2 is an evidence session on marine issues. In consideration of its work programme last week, the committee agreed to take evidence on marine issues from Marine Scotland, stakeholders and the minister or cabinet secretary before writing to the Scottish Government with our views ahead of the Government's planned consultations in summer 2013. Today, we will hear from Marine Scotland witnesses—good morning. I invite each of you to introduce yourself and say what area you cover, then the committee will ask questions.

Phil, do you want to start?

Phil Gilmour (Scottish Government): Anna is going to start.

Anna Donald (Scottish Government): I am the head of the marine planning and strategy branch in Marine Scotland. If it is okay, I will give the committee a run-through of the background to the national marine plan aspect of the consultation, then hand over to my colleagues. This is just a quick overview to give the committee a bit of context for the consultation on the national marine plan.

As you will be aware, the requirement to develop the plan stems from an extensive focus by Government and stakeholders on how to improve the management of Scotland's seas, culminating in legislation in the United Kingdom Parliament in 2009 and in the Marine (Scotland) Act 2010. The need for both UK and Scottish legislation reflects the relatively complex issues at play around the marine environment; the desire to have a plan that could incorporate all of those, covering both Scottish territorial waters and offshore waters from 12 to 200 nautical miles, which are under UK jurisdiction; and the mixture of activities and functions that are executively devolved or reserved.

In order to have a plan that covers the range of issues, we need agreement from UK ministers for elements relating to offshore waters beyond 12 nautical miles and the reserved elements of the plan, including at the consultation stage. Presently, we are seeking that agreement from UK ministers.

The 2010 act sets out the broad framework of what the plan should contain and the process that we need to undertake to arrive at the plan. The content focuses on policies for sustainable development and it requires that we include social, economic, marine ecosystem and climate change objectives. The process aspect of the legislation

focuses on the need for assessment; engagement around the development of the plan; the formal consultation process, which we are entering into later this year; and the on-going need for monitoring and review.

On the consultation version, we are building directly on the pre-consultation version that was published in March 2011 and the responses that we received to that exercise, and the evidence base that we set out in “Scotland’s Marine Atlas: Information for The National Marine Plan”, which was published at the same time. The plan will also be accompanied by an appraisal of sustainability and impact assessments around equality and of the impact on business and regulatory functions. We must also comply with a UK marine policy statement that was agreed by all UK Administrations in 2011.

Once adopted, the plan is binding on all decisions of public authorities that affect the marine environment, so it has the potential to shape and influence a wide range of decisions and activities. However, it is focused on areas in which planning policies can make the most impact, in the context of addressing economic growth and environmental issues and looking at the interactions between marine users, with a view to ensuring that the human impact on the ecosystem is properly managed.

As you know, we are planning to hold the public consultation later this year, which will include work on marine protected areas and renewables. David Mallon will talk about the work on marine protected areas.

David Mallon (Scottish Government): I am head of the marine environment branch in Marine Scotland. I will expand a little on marine protected areas, if that is all right, to provide some context.

As the committee will be aware, the Marine (Scotland) Act 2010 and the Marine and Coastal Access Act 2009 include a duty on the Scottish ministers to designate MPAs and contribute to an MPA network, which protects biodiversity and geodiversity. Since the 2010 act received royal assent, we have been working with Scottish Natural Heritage and the Joint Nature Conservation Committee to identify MPA proposals for inclusion in the network.

In line with the marine acts, ministers prepared a report to the Parliament in December 2012 on progress on developing an MPA network. The report was based on advice from SNH and the JNCC and covered inshore and offshore waters. Additional work was outlined and existing components of the network were set out—principally, special protection areas for birds, special areas of conservation for other species and habitats that are protected under European

Union legislation, and sites of special scientific interest that had been notified previously by SNH.

The report to the Parliament also included 33 nature conservation MPA proposals. Over and above those proposals, four search locations are under consideration by SNH. The report outlined further work that is required in the marine environment to meet our EU obligations under the birds and habitats directives.

SNH’s and the JNCC’s scientific advice is that 29 to 33 of the MPA proposals are needed and that some features—principally, whale and dolphin species and basking shark—are not adequately represented by the 33 locations, so further work is required in that regard. The four search locations are being considered in the context of representing key habitat for those species.

At an early stage after the 2010 act received royal assent, we invited proposals from third parties for nature conservation MPAs. In total, 27 proposals were received, of which 12 met the scientific criteria and contributed to the development of eight of the MPA proposals that were included in the report to the Parliament. A further three third-party proposals contributed to the development of the MPA search locations.

The initial search locations that SNH and the JNCC identified were presented and discussed at a series of national stakeholder workshops before SNH and the JNCC finalised their advice to ministers, towards the end of last year.

As Anna Donald said, the summer consultation will cover the MPA network proposals as well as the national marine plan and renewables. We are preparing management options for each proposal and we are developing a sustainability appraisal, which includes a strategic environmental assessment and an impact assessment of the estimated cost and benefits of the MPA proposals. We envisage that those documents will be included in the consultation, to provide additional information for consultees.

Phil Gilmour will cover the background on renewables.

Phil Gilmour: I work for Marine Scotland, heading up the branch that deals with marine renewables and offshore wind energy development.

I will give the committee a brief history. The Scottish Government published a strategic environmental assessment that covered wave and tidal energy in 2007. We followed that up by producing regional locational guidance, to give a spatial context to SEAs in support of the saltire prize and with regard to the Pentland Firth strategic area.

We produced “Blue Seas—Green Energy: A Sectoral Marine Plan for Offshore Wind Energy in Scottish Territorial Waters” in 2011, following intensive statutory consultation, which included 24 workshops in communities and workshops with relevant sectors. We received more than 800 responses, all of which, including the summaries of the meetings, were included in the consultation analysis publication, the draft of which we shared with stakeholders. We revisited areas in which there were—shall we say—contentious issues and sought to ensure that we had a proper and accurate consultation analysis.

I turn to what we propose to do over the summer. We are producing a set of offshore wind, wave and tidal energy plans. That requires us to review the offshore wind plan in “Blue Seas—Green Energy”, which is already in the public domain. We will produce separate wave and tidal plans. We have changed our timescale on non-statutory consultation, especially with the fishing sector, which has requested that we consider the cumulative and in-combination effects of all three plans that we propose to do. It wants to know what the overall effect on it will be, as do other stakeholders.

We have already undertaken statutory consultation to scope and build the plan options. From July, we will undertake statutory consultation in parallel with the work on the national marine plan and marine protected areas, which have already been discussed. We will hold 31 separate community workshops around Scotland. We have produced an offshore renewable sectoral engagement strategy, which we will share with the main sectors and environmental non-governmental organisations to ensure that they have a certain level of service in what will be a pretty intensive consultation period.

Our sectoral stakeholder engagement has already identified nine sectoral organisation groups with key interests. The fishing sector, for example, has at least 10 representative bodies, and that does not include their regional or local groups. We will undertake the statutory consultation workshops with the sectors, relevant groups and communities, produce a consultation analysis, and seek to ensure that we engage so that that consultation is accurate and can underpin advice that goes to ministers on the wave, wind and tidal plans.

The Convener: I thank you very much for those guidelines for discussion.

Obviously, we have been used to designations on land for decades. I noted the processes that you talk about going through to achieve the new designations in the seas, and am interested that you talked about the last phase of activity, once marine protected areas, for example, are in place,

being the monitoring process. I presume that the monitoring process has not been dreamed up. Have you borrowed ideas about it from how SNH and others have dealt with designations on land?

David Mallon: Yes, we have looked at the experience on land. There is a system in which site condition monitoring happens for existing protected areas. Once every six years, there is an assessment of the extent to which the sites meet their conservation objectives, and it is envisaged that we will follow a similar system, in which, every six years, a report will be required to go to Parliament on the MPA network and the condition of the sites. We would plan to undertake surveys where they are required to obtain information on the condition of sites and to work with the science base where scientists are undertaking surveys in those locations. We would look at information in the marine plan on economic uses of the sea to see whether that also provided information on the extent to which the sites are fulfilling their requirements and aims.

Phil Gilmour: Marine Scotland has undertaken a review of the existing strategic monitoring around the seas. We are following that up with an additional set of strategic monitoring proposals such as aerial surveys and passive acoustic monitoring that might allow us to understand better, and almost in real time, what could be going on in our seas.

10:15

Anna Donald: We are also working towards developing a monitoring programme as required by the marine strategy framework directive. That programme, which is required to be in place by 2014, will use descriptors of good environmental status as defined by the directive. The programme will help to provide a wide base for our marine monitoring, which might serve the specific purposes that we are discussing today and a range of other purposes.

The Convener: Graeme Dey wants to follow up on that.

Graeme Dey (Angus South) (SNP): Taking a little step back, I think that it would be useful if the witnesses could tell the committee how robust the scientific evidence is that forms the assertions on biodiversity and geodiversity features that have been made in relation to the nature conservation MPA proposals and the MPA search locations. How in practice was that evidence obtained and who was involved in the process?

David Mallon: So far, we have followed a science-based approach. Initially, that involved a review of the existing evidence on the biodiversity and geodiversity features and their distribution within our seas. We participated in two contracts

with the Department for Environment, Food and Rural Affairs and the other UK Administrations. The first involved bringing together all the existing information that was held by public bodies and partners on the biodiversity and geodiversity features of our seas. That was the key input to SNH and the JNCC in building the proposals for Scottish inshore and offshore waters. The second piece of work also involved bringing together existing data, but this time on the socioeconomic use of our seas.

Those two products were taken up by SNH and the JNCC and reviewed, and extra information that had been collected in the meantime was added. In addition, we have funded a series of surveys in locations as advised by SNH and the JNCC to try to verify or build upon the existing evidence base.

Graeme Dey: Are you satisfied that the information is pretty up to date?

David Mallon: Well, there is a mixture of data. The contracts involved bringing together all the information that was held. The surveys that I mentioned focused on verifying historical records of biodiversity features. So I would not like to say that everything is bang up to date and one or two years old. There is a mixture of data sets. However, we are confident that the proposals are founded on sound science and evidence. One set of documents that we plan to include in the consultation will be a summary of the evidence and SNH's and the JNCC's assessment of it. That will, we hope, allow consultees to form their own opinion on it.

Angus MacDonald (Falkirk East) (SNP): Do you see an opportunity for further scientific research, considering the announcement last Friday on days at sea, which provides the opportunity for scientific research on the west coast, or at least the north-west coast? Can that opportunity be used in the run-up to and during the consultation period?

David Mallon: Where there are planned survey works for this year, we are considering the means by which those can be used. Colleagues who are involved in fisheries are leading on that, but we are looking for opportunities to arrive at a win-win situation. However, we do not have any firm proposals as yet.

Anna Donald: In general, we have a collect once, use many times approach to all our marine research and data. As David Mallon says, we would look for opportunities to use data that is being collected for one purpose to inform the work that we are carrying out.

On the underlying evidence base for the plan, as I said in my introduction, the marine atlas pulled together a lot of the data that was held and published at the time in 2011. We are now

developing an electronic version of that called the national marine plan interactive, which will enable spatial data to be fed into an electronic system that people can access publicly.

Phil Gilmour: A set of agreements is also in place with other public bodies that own vessels, especially research vessels, whereby we require information and data from them. It makes sense for those bodies to collect the information on our behalf, and the agreement means that that happens.

Jim Hume (South Scotland) (LD): I have two or three wee points to make. I am glad to hear that there will be 31 community workshops, but there seems to be a bit of concern about the science basis. Will there be plans to make available the scientific basis of the management options before those community workshops?

Phil Gilmour: With regard to the wave, wind and tidal plans, we will publish a strategic environmental assessment; we will publish a set of other assessment documents; and we will publish a draft plan. The draft plan will be in a form that we imagine the public would welcome, and we will provide what we call a sustainability appraisal, which will pull together the main aspects. In other words, we will seek to have a non-technical summary that helps the public to engage.

The point of the sectoral workshops is for us to explain issues as clearly as we can. We will put a lot of effort into the community workshops.

Jim Hume: So that would be before the consultation.

Phil Gilmour: We will publish documents before the consultation starts.

Jim Hume: To continue on the point about the scientific basis, the Mull and Skye area was designated on previous maps. The Firth of Forth banks complex was a whole area, but it has now been divided up into much smaller plots. Those are important areas. Sand eels are prevalent there, for example, and they are important not just for the environment but for the fishing industry. It would be interesting to find out why those changes were made.

There has been some criticism from elsewhere because of maps changing at quite a late date. Is there any chance of the existing maps changing before the consultation, or is their present state the way that they will remain?

David Mallon: Starting with your previous question, the management options will hopefully be a feature of the public consultation. Since the national stakeholder workshops that I mentioned, we have been maintaining an informal engagement with sectoral groups. Where we can, we hope to let them see the management options,

at least in draft, before the main consultation begins.

As regards boundaries, the guidelines that SNH and the JNCC helped us to develop after the relevant acts were passed outlined some principles for the setting of boundaries for marine protected areas. Those were based on an attempt to delineate features as closely as possible.

The changes that you describe are really a function of the refinement and development of the proposals by SNH and the JNCC. It involves looking more closely at individual sites from a designation perspective, rather than a search location perspective. We understand that, with advances in technology, mariners are better able to work with less straight-line boundaries for protected areas. The current proposals are our best estimate for delineating the features for which the sites are designated.

Phil Gilmour: I can give a little bit of reassurance. We are not just thinking, "Here is the area for development" or, "Here is the area for designation." We are engaged in a process called Scotmap, which is focused on the fishing sector. We will consider other approaches for other sectors, but the Scotmap approach involves a vessel monitoring system, which tracks fishing vessels that are larger than 15m in length.

We have undertaken a Scotmap exercise in which we have interviewed the owners and skippers of the smaller vessels, and we now have what is called Scotmap heat sensitivity mapping. We are undertaking 10 workshops with the fishing sector, on a non-statutory basis, to ensure that we have heat sensitivity mapping inshore to match the information that we have for the larger offshore vessels.

Jim Hume: I have one small point—or perhaps it is not a small point. When will the management plans for the 33 proposed areas be published?

David Mallon: For the summer consultation, we hope to publish the draft management options for each of the proposals. After that consultation has run and final decisions are made on designation, we hope to be in a good position to introduce management plans quite quickly after the designation of the areas to which ministers finally agree.

There is one complication with regard to the offshore marine protected areas where, for example, fisheries may need to be managed. That would involve a process through the common fisheries policy. We could outline our plans soon after designation, but there would have to be time for other member states to consider the proposals that we set out.

Angus MacDonald: A couple of environmental groups have voiced concerns to me that some of the 33 proposed sites in the consultation may be dropped. Will you guarantee that all 33 proposed sites will be included in the consultation this summer?

David Mallon: The report to Parliament included all 33 proposals. SNH's advice is that 29 to 33 require designation. We are trying to create a network, so we envisage that the consultation will include all 33 proposals. That is the basis on which we are working at present, but ministers need to make final decisions about that.

Angus MacDonald: As far as you are aware, there will be 33.

David Mallon: Yes. We are designing the impact assessment that I described and the strategic environmental assessment. They are founded upon the 33 proposals. The information on sites that we are developing, including the evidence summaries, is also being developed for all 33 sites. However, ministers need to take a final decision on which set of proposals to take forward for consultation in the summer.

Alex Fergusson (Galloway and West Dumfries) (Con): Mr MacDonald's point was part of my question—

Angus MacDonald: Sorry about that.

Alex Fergusson: Not at all. It proves that I had a good point.

Mr Mallon, will you confirm whether each proposal will be presented individually in the consultation or the whole thing will be presented as a complete package?

David Mallon: I confirm that the plan is to outline information on individual marine protected areas. However, it is a little bit of both, because we also want to describe the way in which those areas fit into an overall network. There are four search locations on which SNH continues to undertake work. They will not be in a position to be included in the consultation as propositions for designation but, because of the network approach, we want to describe and provide information on those proposals as they stand.

Alex Fergusson: I fully understand and agree with the need to incorporate the whole into a network. That is totally sensible. However, I ask for final clarification that there will be opportunities to comment and make submissions on individual proposals as well as on the whole network.

David Mallon: Yes, there will.

Claudia Beamish (South Scotland) (Lab): I will continue the line of questioning on the MPAs. Can you shed any light on the possibility of an alternative site for the Firth of Forth banks

complex? I think Marine Scotland had floated that as an idea. Will that specific site, which is important for a range of species and habitats, be in the proposals that will be in the consultation?

David Mallon: As I outlined earlier, the current plan is that all 33 proposals will be available for comment during the consultation. SNH has advised that 29 to 33 proposals are needed because it has provided some alternatives and choices. That stems back to the network attempting to represent the biodiversity in our seas. Features such as shelf banks and mounds are found in the Firth of Forth but there are two alternative locations—Turbot bank and the Norwegian boundary sediment plain—that also contain mixtures of those features. There is a choice of how best to represent those features in the network and we envisage that that will be a feature of the consultation.

10:30

Claudia Beamish: In relation to the Marine (Scotland) Act 2010, can you comment on the obligation to enhance our marine habitat where possible? Can you shed any light on how the science and the work that your department and others have done has helped to contribute to the coherence of the network?

David Mallon: On the first point, I am not a lawyer so I cannot provide legal advice on the terms of the 2010 act, but my understanding—

Claudia Beamish: I will clarify what I am asking. I do not see the words “enhance” or “to enhance the habitat” coming up very often. I am a layperson, so perhaps I have missed that.

David Mallon: From a layperson and policy perspective, the act requires management and enhancement duties to be fulfilled. We have been working with SNH and the JNCC to identify what the conservation objectives should be for each site in the marine protected area proposals. I hope that we will have a description of the features and location and the draft conservation objectives and management options, as well as an appraisal of the social and economic benefits. The conservation objectives consider whether there are opportunities to maintain or enhance the features and that will again, I hope, be a feature of the consultation.

Claudia Beamish: Can you comment on how work is developing on the coherence of the network?

David Mallon: Yes. As I am sure you will be aware, the concept of coherence stems from the Convention for the Protection of the Marine Environment of the North-East Atlantic—the OSPAR convention. Discussions under that treaty

resulted in some guidance for countries in the north-east Atlantic on how to contribute towards the ecological coherence of that network at the wider scale. We have taken up that guidance and have been applying it to the identification of the proposals, and the principles are outlined in the MPA guidelines. Broadly speaking, it is about representation and replication of features and those are concepts that we have built into the design of the proposals that were reported to Parliament.

Claudia Beamish: Finally, RSPB Scotland and others have expressed concern about the lack of commitment to seabird hotspot feeding grounds in the marine environment. More broadly, I know that black guillemot are being considered. Can you comment on those concerns and shed any light on that?

David Mallon: We are aware of those concerns. We have a fairly significant programme of work that SNH and the JNCC are leading to identify locations that merit designation as special protected areas under the birds directive in the marine environment. When we talk about the protected area requirements, the birds directive covers all bird species except black guillemot. We consider that the special protected area proposals will deliver added protection for seabirds when it comes to feeding areas and such like. Black guillemot was a gap that we identified and in the interests of coherence and representation of features we specifically sought to identify proposals for that bird species, which is included in the MPA proposals reported to Parliament.

In addition, we are taking an ecosystem approach. Habitats for sand eels, for example, are vital for the survival of bird species, so we have sand eel proposals in the network and proposals for other habitats that our seabirds use. We believe that the 33 proposals, in combination with special protected area proposals under the birds directive in the marine environment, will provide sufficient protection for seabird species more generally.

Anna Donald: On the question of enhancement, the legislative requirement reads across into the national marine plan, so beyond the specific work on marine protected areas and other activities specifically designed to protect the marine environment, the national marine plan will roll the general duty through into the planning and regulatory framework. We will make statements about the need for marine planning and other decision making by public bodies to consider opportunities to fulfil the duty to enhance the health of the Scottish marine area.

David Mallon: In response to the earlier question, I forgot to mention that the work on the birds directive in the marine environment will come

through later this year, and I hope that it will result in consultations on proposals. However, the MPA network concept is about regular review, so for the next review and report to Parliament in 2018, we recognise that we need to take stock of the extent to which the proposals as reported to Parliament will do the job. Our current position is that we think that they will.

The Convener: Does Nigel Don have a question on this point?

Nigel Don (Angus North and Mearns) (SNP): I think that my point is an extension of the discussion, convener.

The Convener: Fine. I think that Dick Lyle wants to lead on marine renewables and similar matters.

Nigel Don: Right. Perhaps I will gently take him there.

Good morning, panel. I have been listening while you have been talking about the issue for about half an hour, but those who are not skilled in the art would still not have a clue what we are talking about. If you were talking about a site of special scientific interest, we would recognise that that would be a patch of land on which you would probably not want me to build an oil refinery; you might think twice about whether I could build a house there; you would not want a quarry there; and we might think about how we would farm that land.

For a marine protected area, what are the management options? What are we actually talking about? Presumably, it is about how the area is fished, because that is what you do with the water, or about whether you might put an oil rig there, for example, which is one thing that would disturb the environment. Perhaps you could elaborate on those aspects. Are there other things that are affected by the protected area?

David Mallon: We hope that the management options will deliver protection of the area's features: the options are designed on a feature-by-feature basis. However, under the principle of sustainable use, we have a policy of trying to protect the marine environment. That is the aim, rather than to prevent activities from taking place. The policy is sustainable use where the conservation objectives can be met. It involves consideration of all the pressures that can be brought to bear on a habitat or species, and of the activities that can cause such pressures. It then involves thinking about whether the activities are already present or whether there are any plans for them to be there. It is about trying to think on a sectoral basis with fine-enough grain, especially when it comes to fishing. It has lots of different gear types, and we must try to distinguish between the activities involved. We want to be aware up

front of the sensitivities and of whether existing or planned future activities will result in sensitivities in particular locations.

There is a link to marine planning and licensing processes, because the original proposals and legislation are about trying to look at things from a joined-up perspective. We very much take the view that a lot of activities already have a due process for considering whether they should happen in a certain place. There would be a reliance on such processes where they are considered to be fit for purpose. There are some unlicensed activities, for which we would consider the powers that are contained in the 2010 act for marine conservation orders or alternatives to design management that protect features under the principle of sustainable use.

Nigel Don: Forgive me—I do not mean this critically, but you are still using all kinds of process words. I understand why, but what kind of activities are we talking about? Clearly, fishing is one, and there are times when the sea bed is disturbed. Renewable energy is another, and I know that Dick Lyle will ask about that. What else do we do at sea? Do we dredge any of these areas?

David Mallon: Not for aggregate. This is part of a process, but we can think through each activity. The answer is any activity at sea, but we need to take things on a case-by-case basis. Other examples would be the placing of a sewage outlet pipe, which is to do with water quality, and ensuring that scientific research is done in a responsible way. The list is endless. It is also important to ensure that aquaculture practices are compatible with the broader interest features.

That is the theoretical aspect, but it comes down to which activities are taking place here and now in the areas and which activities are planned. That is where the two projects that I mentioned at the beginning come in, because they help us, but time has marched on and we are also taking a fresh look and considering which activities are taking place on each of the sites and what the management options are. That informs a socioeconomic impact assessment of where benefits could flow to a particular industry sector and where there could be costs in terms of differences in management. I hope that, in that document, we will be able to be clearer about which activities cause particular pressures at a site level.

Anna Donald: It might be helpful if I comment on the more general picture across all the seas rather than just marine protected areas. The national marine plan will look at fisheries, aquaculture, impacts on freshwater salmon fishing from a marine base, oil and gas, carbon capture and storage, renewables, recreation and tourism,

transport, telecommunications and cabling, defence activities and the limited aggregates work—I do not think that any such work is taking place at present, but a site is designated for it.

That is the span of the activities. The national marine plan is looking at each of those in terms of potential for economic growth of the sector, but also the potential environmental impacts of the sector and the impacts between sectors including potential conflicts about space, impacts of oil and gas development on fishing and so on. The national marine plan will attempt to set a general framework for how those environmental impacts should be addressed and how sustainable economic growth can be supported. It will set a framework within which conflicts can be looked at and addressed.

I suppose that the MPA proposals are a microcosm of that process because they look only at a part of the sea, and as David Mallon said, they look only at the particular features for which the site is protected. However, it is the same type of process in that it looks at what activities are taking place or are planned and it involves considering whether they have an impact on the feature and deriving management options from that assessment.

Nigel Don: Thank you. That list was helpful.

Richard Lyle (Central Scotland) (SNP): I thank Nigel Don for leading us into the questions that I am going to ask, which are mainly for Phil Gilmour. Sorry if I am going to put you under pressure, Phil. Basically, the situation is that what you are going to do within this important plan is going to impact on what both Anna Donald and David Mallon are going to do. When local authorities make a plan, they stick to it, but there are always people who want to test it by asking to put in more sites.

Regarding the sites that you are looking at for renewables, how many years are you planning ahead for? Nigel Don asked whether putting in the sites will protect and enhance the areas. If we put a wreck in the sea and we go back 10 years later, we find that the marine environment has improved. We put in oil rigs that are 300 miles away and people cannot see them, but if we put a wind turbine or whatever in the sea, it might be only a mile off the coast. What are you doing to ensure that we both protect and improve the environment, and are you going to stick rigidly to the areas that you are looking at? Sorry to go on and on, but are the areas that you are looking at areas that are not very good environmentally just now and which you are going to improve?

10:45

Phil Gilmour: We have been working away for four years on trying to introduce a proper, thorough spatial marine planning approach. When we started the process, we looked to see what the best tools available to us were to look at the issues with respect to conflict avoidance. We chose three main tools: strategic environmental assessment, which is often used by countries that are doing plans as a test; we started to use strategic habitat regulation appraisal, which takes account of a lot of the issues that David Mallon talked about; and we also undertook socioeconomic assessments, which were very much focused on impacts on other sectors.

Our approach is based on trying to avoid conflicts with the important environmental areas and the important economic zones that are currently being exploited. We took advantage of the Crown Estate, which had produced a geographic information system that could be interrogated in a smart way and would produce scoping documents. Those scoping documents seek to identify areas in which the issues are minimised. From there, we go through a process of non-statutory consultation; we seek to populate our scoping approach with more and more information, so that we can then produce what we call regional locational guidance. That guidance identifies the plan options, which are then subject to assessments; those assessments are then subject to public consultation.

A plan option tells you only so much. It is only once you have done the assessments and the consultation that you have enough information to be able to go to ministers and say, “Are you content that this is the adopted plan?” Plan options can be dropped. For “Blue Seas—Green Energy”, we started with a set of plan options that were put forward by the Crown Estate and by the industry. There were 10 plan options. We ended up dropping three, and one was withdrawn by the developers. The process works to ensure that we try to identify the best areas for development while seeking to minimise conflict.

We are currently coming up with a set of plans that will show areas, but we are setting out a clear assumption that we expect that only between 10 and 25 per cent of those areas will be subject to development. A plan takes you only so far—it allows you to look at a strategic level. Ministers can consider all the information and then decide which plan option to go forward with, but those plan options only open the door for the developers who are looking for an area within the plan option where they can take forward the necessary licence application. Plan options only get us to that position.

On timescales, our first “Blue Seas—Green Energy” plan was for 2020 and beyond. When you do marine planning, you should be looking at far time horizons. We are trying to put in place a system that plans and uses the information that we have but then has a review process that allows us to understand the gaps in our knowledge, to seek to undertake the research to fill those gaps, and to keep refining the information, so that we can get better and better plans to put in front of ministers and Parliament. We can say that we think that these are the best areas for development, but with the caveat that the areas always have to be taken through a licensing process.

Richard Lyle: I totally agree with you and understand the point that you make. The three of you are going to ensure that the seas around Scotland improve. However, developers need to know where they can develop. Once we have laid down the plan, are we going to stick to it? There will be people who take you to the edge and say, “That area is good, but there’s a better area further up the coast,” although developing that area could lead to environmental problems. Are we going to stick to the plan that we lay out? As a politician I have found that, all too often, people have put the plans that have been laid in a cupboard or have changed them a year later. Are we going to ensure that what we set out improves the environment around Scotland’s seashore?

Phil Gilmour: These are Scottish ministers’ plans. They are non-statutory, but they can be made statutory through the national marine plan process. However, a non-statutory plan is owned by Scottish ministers. There is nothing to prevent someone from coming forward with a licence application outwith a plan area, but Scottish ministers are the licensing authority. Therefore, the policing of the plan and the responsibility for ensuring that it is stuck to are very much in the bailiwick of the Scottish ministers.

Anna Donald: The national marine plan is a statutory plan. As I said in my introduction, it goes through a consultation process and a series of agreements must be reached with UK ministers before it can be adopted by Scottish ministers. However, once it has been adopted it has formal weight within the system and, by statute, public authorities’ enforcement and authorisation decisions, including licensing decisions, need to be taken in accordance with the plan. We are bringing the three processes together so that what is in the national marine plan and has statutory weight reflects the planning process that Phil Gilmour has described as well as the work that is being done on marine protected areas.

Alex Fergusson: I have a question arising from the last two discussions prompted by Nigel Don

and Richard Lyle. It is about the conflict avoidance that Mr Gilmour has spoken about. Particularly when it comes to marine protected areas and proposals for offshore wind, I find it difficult to believe that there have not been occasions when, during internal discussions, there has been conflict or potential conflict in drawing up the plans that are to be put out for consultation. In those circumstances, what takes priority—the marine protected area or the offshore wind proposals? It is quite important that we know that.

Phil Gilmour: You are saying that people take different approaches to these things. I focus on wave, wind and tidal energy; David Mallon focuses on environmental protection; and Anna Donald focuses on how we pull those things together so that they make sense. In my work, I use strategic habitat regulation appraisal, which seeks to take account of the issues that are important to David Mallon’s policy area. Where habitat regulation appraisal is not suitable, the other issues are caught within the strategic environmental assessment. We use those tests as planning tools and seek to take account of what is going on. However, right at the start, we seek to use the scoping exercise with respect to the marine resource system—MARS—model and other consultations along with the bringing in of other data to inform regional locational guidance and the identification of the plan option. It is an information-based approach that can then allow assessment to ensure that we understand the issues and that a coherent set of advice can be given to ministers.

Alex Fergusson: I am grateful for the explanation, which I think I understand. However, let me put it simply: has there been an instance of somebody saying that they want an area for wind energy development and another division saying that it is a really important marine protected area? If that has happened, who has won the day? It seems to me that the two approaches are rarely going to be compatible.

Phil Gilmour: When it comes down to an issue like that, we would both make our cases and there would, I hope, be some overlap so that we could rationalise. However, if we could not do that, the information would have to go to the ministers because they are the decision makers.

Alex Fergusson: Okay. I just wanted to understand the process. Thank you.

Graeme Dey: My question is for Phil Gilmour. You suggest that only 10 to 25 per cent of an area that is designated for renewable energy development will be utilised. Have I picked that up correctly?

Phil Gilmour: In our current plan options, which will be in the draft plans that go out for

consultation, we make it clear that we believe that only between 15 and 25 or 26 per cent of the areas will be developed. At a strategic level, we can identify a zone that we will assess, but we make it clear that only a certain area within that zone will be subject to development.

Graeme Dey: What is the rationale behind that thinking? If that is the direction in which we go, will that in any way inhibit Scotland's ability to get where it needs to go in generating energy from offshore sources?

Phil Gilmour: There is only so much that can be done at the strategic level. When the developer goes into the area and decides where their development footprint is, they will have to make decisions on the basis of their own site survey. We are leaving room for fine tuning according to a more detailed site survey and more detailed assessment. At this stage, we are planning to ensure that we have sustainable development and that the developers can have access to other sites. Those sites will have to go through a licensing process and they need some flexibility within that process.

The Convener: There is a lot of science involved in undertaking the various strategic environmental and habitat-based assessments, and firms that apply for a licence will have to do the same. Is there not an awful lot of overlap in that work? In an area close to the constituency that I represent, in the Moray Firth, a lot of work has been done by Moray Offshore Renewables Ltd, Beatrice Offshore Windfarm Ltd and so on in order to make their applications. What science are they calling on—public science or their own work? Is there no overlap in what we do?

Phil Gilmour: The overlap is minimised. When we undertake a strategic environmental assessment, a habitats regulations appraisal or research, we park all our information and data in Marine Scotland interactive. If we have undertaken sea bed mapping, the developer can access the regional environmental database that we have used, which allows them a head start. The environmental information, the science, the research and the modelling that Marine Scotland has done are all there and the developer can focus on any issues. In that way, the screening and scoping at the licensing stage refer back to the plan-making process so that planning and licensing merge together and we minimise doubled activity.

Graeme Dey: What about the reverse of that? If a developer came to you and said that they had carried out two years of seabird assessment, which was fairly extensive and looked credible to you, would you utilise that or would you repeat the exercise?

Phil Gilmour: Fergus Ewing set up a licensing group to consider how we could maximise efficiency and ensure that the licensing that is carried out by Marine Scotland is fit for purpose. Within that, there was an agreement with developers that we would seek to share environmental information and, in our review of our offshore wind, wave and tidal plan, we are looking at what information is already available from the developers themselves.

11:00

The Convener: I have another point, but I will let Jim Hume in first.

Jim Hume: We have identified areas, which have been highlighted. However, the designation is not there. Are there any safeguards in place for those areas in the interim period between identification and designation?

Phil Gilmour: We will take account of any work that is going on. We can get access to the science within the SEA and habitats regulations appraisal process that we are adopting.

The Convener: Given that nobody else has mentioned the protection of wrecks, I think that I am the appropriate person to do that. I am not looking at anyone in particular.

Phil Gilmour: I would be the appropriate person to answer.

The Convener: I have seen on the Scottish Hydro Electric Transmission map the assessment of the route for the electricity cable from Shetland down to Moray. That is one of the points that I can remember—it is probably in the marine atlas as well. I want to range forward from wrecks and existing structures in the sea with regard to species. We have not talked a lot about species in this evidence session. Do you have evidence about how oil rigs and wrecks encourage the development of various species that live in those habitats?

Phil Gilmour: We know that there is the potential for colonisation to take place. Certain things could be done with respect to colonisation, but not a lot has been done on my side. We are involved in discussions with the Concrete Society Scotland and we will have a conference with it in the autumn. We have proposed that if it is going to promote its product, it could look at enhancing colonisation so that, although there will be impacts, there could also be environmental benefits. However, we have not done enough on that to be able to report to you accurately.

David Mallon: In our marine protected areas work we have been co-ordinating with Historic Scotland, which has been considering how best to use the powers for historic MPAs in the Marine

Scotland Act 2010. In the build-up to finalising the report to Parliament in December 2012 on MPAs we were in dialogue with Historic Scotland and SNH about the extent to which the proposals that they were considering were important in biodiversity terms to species or habitats. That discussion is on-going. The proposals that they had at that time were not thought to have sufficient biodiversity value to merit areas being identified as a nature conservation MPA as well as a historic MPA. I understand that Historic Scotland is looking at the management of wrecks or other historic features and we are in dialogue with it on the extent to which such management can also deliver benefit for the natural environment.

Anna Donald: On the wider planning scale, the UK “Marine Policy Statement”, which applies to all Administrations recognises that

“the benefits of development may include benefits for marine ecology, biodiversity and ... Development proposals may provide ... opportunities for building-in beneficial features for ... biodiversity”.

It is explicitly recognised in the statement that we might want to look at that in the planning process.

Richard Lyle: I said in the preamble to my previous question that wrecks enhance the environmental situation. I am interested in what you said about the concrete companies finding ways to improve the consistency and the environmental situation in our seas.

In the past 20 minutes, you have spoken about mapping and so on. As you said, Historic Scotland is identifying and assessing all underwater wrecks. Will you be including those in your mapping exercise?

Phil Gilmour: Yes, the wrecks are covered. There is a fundamental base data layer with respect to assessments, and we seek to ensure that we identify wrecks at that level. There is a good database in that regard.

Richard Lyle: You said to Graeme Dey that possibly only 25 per cent of the areas might be taken up. Have we any idea how many sites around the coastline of Scotland will be suitable for wind farms?

Phil Gilmour: At present, we have six identified sites, and a number of other options are being discussed—perhaps another six.

Richard Lyle: Is that around the whole coastline of Scotland?

Phil Gilmour: Yes. Those are the sites that we have identified as being other potential sites for offshore wind, wave and tidal projects.

The Convener: I was pleased to observe for a few quiet moments seven or eight black guillemots in Portpatrick harbour a couple of weekends ago. I

have seen them in a number of places. I notice that there is particular mention of them in the Monach Isles and other places in the Hebrides. Is there a particular problem about why they have been missed? I heard you mention the issue earlier, but I see them in various places when I go around the coast.

David Mallon: It is really just a feature of the provisions of the birds directive. There is a requirement to protect migratory species, and black guillemots are not a migratory species. There is a list of non-migratory species that need to be protected, under the directive, and they are not featured on that list, with regard to protected area provisions.

The Convener: Since I mentioned Portpatrick, we will now hear from the member who represents Portpatrick.

Alex Fergusson: I am glad that you were able to enjoy that part of the world during the recess, convener.

The question that the convener asked absolutely encapsulates what I was trying to get at in my question about conflict and potential conflict. It is difficult for me and others living in the south-west of Scotland not to come to the conclusion that the important wildlife colonies that exist at Drummole have not been given a protected status because of their close proximity to an area that has been zoned for offshore wind farm development. Can you persuade me that that is not the case? I am not cynical by nature, but I have become cynical since going into politics.

David Mallon: The approach that we followed in identifying the MPA proposals has been led by SNH and the JNCC, who are the experts on our biodiversity. We have outlined a science-led approach. They have identified proposals that have been assessed on science-based criteria. We have not deliberately excluded the site that you mention. We have proposals that have been identified to represent the features, and that is where the choices lie. However, science has been the basis for selection. We have not used socioeconomics. Under the Marine (Scotland) Act 2010, ministers have a power to take account of socioeconomics when it comes to designation, but we have not reached that point.

Claudia Beamish: Can you talk more broadly about the quite fast-moving effects of climate change on marine habitats and species and say what assessments have been done and will be done on that matter?

Anna Donald: I will talk about that in the context of the broad base of the national marine plan. In producing the pre-consultation draft, we were required to develop objectives that related to climate change mitigation and adaptation. A

number of separate processes are running in the context of the Scottish Government's broader adaptation framework, which required us to look at adaptation.

For each sector that we look at in the plan, we have tried to develop appropriate planning policies, which will help us to address the situation that is leading to climate change, where that is possible, and to adapt to the developing situation. From a broad planning perspective, that is how the issue has been taken into account.

The evidence base that feeds most directly into the plan is the marine atlas, which has a chapter on climate change and tries to draw together the current evidence base for our knowledge of climate change impacts on the marine environment.

David Mallon: We hope that the marine protected area network can contribute to the resilience of marine biodiversity and therefore help to meet the challenge of climate change. By controlling anthropogenic activities—man-made impacts—that are damaging to a feature in a protected area, I hope that we will give the natural environment a better chance of making the transition.

The MPA concept includes the flexibility to adapt to change. At one level, the climate change adaptation plan involves measures such as the MPA network; at another level, it is understood that our natural environment will probably change considerably as climate change takes effect over a longer time horizon. That is where the flexibility in the concept of the MPA network should enable us to react to and try to manage change and to protect the natural environment, in ways that we cannot foresee.

Phil Gilmour: Wave, wind and tidal energy, if they are developed sustainably, should mitigate climate change. We must ensure that development happens with regard to the various strategic assessments that we use. At the licensing stage in particular, we must put effort into ensuring that the population trends of key species are sustainable.

The Convener: If there are no more questions from members, I will ask about cetaceans. There is concern about how they will be dealt with in the context of MPAs and so on. The Skye to Mull area is particularly important for a couple of whale species. Will the designation process be developed with regard to cetaceans?

David Mallon: Yes. The four search locations, which are additional to the 33 proposed MPAs, are for such features—whales, dolphins and, in the case of the Skye to Mull search location, basking sharks. SNH wants to do more research and to model key habitats for those features. There is

also exciting tagging work on basking sharks, which tries to reach out to schools and elsewhere, to increase people's interest in protecting the species.

The advice that we received was to include the four areas as search locations, rather than MPA proposals, but SNH is completing its work and we hope that it will come to a final view on whether the locations merit consideration as MPA proposals. We hope that that will happen in 2014. If the search locations do not become MPA proposals, we will want to consider other potential key locations, so that the features that we are talking about can be represented in the network.

The Convener: I think that we have reached an appropriate point at which to conclude our discussions. You have given us a lot of information, which I hope will enable us to come up with good questions for our next witnesses. Thank you.

The committee will move into private.

11:15

Meeting continued in private until 11:40.

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