



MESMA Work Package 6

Celtic Sea Case Study Governance Analysis
Finding Sanctuary and England's Marine Conservation Zone process

Summary and Recommendations

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1 Introduction

1.1 Introduction to this governance analysis

This report presents a summary of the findings of a detailed governance analysis of England's Marine Conservation Zone (MCZ) process, which was conducted over the course of 2012 as a contribution to MESMA, an EU-FP7 project on the monitoring and evaluation of spatially managed marine areas (<http://www.mesma.org/>). The citation and link for the full report that is summarised here is:

Lieberknecht, L. M.; Qiu, W. and Jones, P. J. S. (2013) *Celtic Sea Case Study Governance Analysis - Finding Sanctuary and England's Marine Conservation Zone process*. A report for work package 6 of the MESMA project. 328pp. http://www.geog.ucl.ac.uk/about-the-department/people/research-staff/louise-lieberknecht/2013_01.pdf/view

The analysis focused on the MCZ process in south-west England, i.e. on Finding Sanctuary, a participative stakeholder project that operated within south-west England between 2007 and 2011. Finding Sanctuary was one of four regional MCZ projects tasked with delivering MCZ recommendations to the UK Government. The project was analysed in the context of England's wider, national MCZ process (which was still on-going at the time of writing), in particular covering the period between the end of Finding Sanctuary in the autumn of 2011, and the launch of a national public consultation on MCZ proposals in December 2012.

The governance analysis report was undergoing its final edits at the time the national public consultation on MCZs was launched. The report's publication deadline did not allow time to include an analysis of the consultation documents, so the consultation is referred to in the future tense throughout this document. The analysis essentially took a snapshot of an on-going process. The themes covered (such as conflicts, incentives, evidence and uncertainty) will continue to unfold over time, as will the evolution of the MCZ proposals themselves.

1.2 Positionality, sources, and acknowledgements

University College London (UCL) has played no formal role in the MCZ process at any time. However, prior to taking up her position at UCL in November 2011, the main author worked as Finding Sanctuary's MPA planner (from April 2007 to October 2011).

The analysis draws on the personal experience of the main author, the insights of Peter Jones (who was an independent observer of Finding Sanctuary's stakeholder meetings), as well as a wide range of stakeholder perspectives, gathered through direct observations, Finding Sanctuary's published reports, and interviews conducted over the summer of 2012. It also draws on a long list of grey literature about the MCZ process.

Key references are included in footnotes in this summary document, but readers should refer to the appendices of the full report for a complete description of source materials, including reference lists and full details of the summer 2012 stakeholder interview process.

Thanks are due to Finding Sanctuary's stakeholders and staff for permitting the observation of their work for this research. Particular thanks are due to the 23 former members of the Finding Sanctuary Steering Group who agreed to be interviewed in summer 2012, contributing their time and knowledge to this analysis.

1.3 Overview of the full report

The full report followed a pre-defined structure, designed to facilitate the cross-comparison of specific process elements across multiple European case studies, which are all being analysed within the MESMA project. This pre-defined structure, based on the work carried out by Jones *et al.* (2011)¹ is as follows:

1. *Context*: A description of the process, followed by a description of the socio-economic, political, and policy context for the case study.
2. *Objectives and management measures*: A description of the objectives of Finding Sanctuary and the MCZ process and its legal underpinnings, followed by an overview of existing spatial measures in the region, and the policy context for other relevant sectors and wider marine planning.
3. *Conflicts*: An in-depth analysis of the conflicts emerging during this case study, including a discussion of uncertainty as a driver of multidimensionality and complexity in conflicts.
4. *Governance approach and effectiveness*: An overview of the main governance approach of the process, and its effectiveness in achieving the stated objectives.
5. *Incentives*: An in-depth analysis of the economic, interpretative, knowledge, legal and participative incentives used in the context of the case study.
6. *Cross-cutting themes*: An in-depth analysis of cross-cutting themes within this case study, the most significant being the ways in which the process combines top-down and bottom-up elements, and the impacts of uncertainty within the process.
7. *Conclusion*: A synthesis of the key conclusions of the analysis, followed by a series of recommendations.
8. *Appendices*: Details of the information sources, including the methods and findings of stakeholder interviews.

There are several cross-cutting themes emerging from this case study, which affect virtually every process element. These cross-cutting themes are discussed repeatedly throughout the full report, under different headings, so that the discussion of each process element is complete in itself, and can be extracted for easy cross-comparison with equivalent elements in other case studies. As a result, the full report is a long document (328 pages), and when viewed as a stand-alone report, the repetition may seem superfluous.

In order to avoid repetition, this summary does not follow the same structure. Instead, it presents a brief overview of the process, and summarises the key findings of the analysis. It finishes with a detailed list of recommendations, which are based on the findings of the full analysis.

¹ Jones, PJS, Qiu W, and De Santo EM (2011): *Governing Marine Protected Areas - Getting the Balance Right*. Technical Report, United Nations Environment Programme. ISBN: 978-92-807-3159-0
<http://www.mpag.info>

2. Finding Sanctuary and England’s MCZ process

2.1 The national MCZ process in England

Legal background and objective

Sections 116, 117 and 123 in part 5 of the [Marine and Coastal Access Act \(2009\)](#)² (the Marine Act) require MCZs to be designated in England and Wales, to form a representative network of marine protected areas (MPAs) in conjunction with other types of MPA designation (most significantly, marine *Natura 2000* sites designated under the European [Habitats](#)³ and [Birds](#)⁴ Directives). The Marine Act thereby provides the national legal basis for implementing article 13 (4) of the [EU Marine Strategy Framework Directive](#)⁵ (MSFD), which requires Member States to establish ‘coherent and representative’ MPA networks by 2016.

At the outset of the MCZ process, Government stated a wider aim ‘to develop an ecologically coherent and well-managed network of Marine Protected Areas (MPAs) that is well understood and supported by sea-users and other stakeholders’ (page 4 of [Defra GN1](#)⁶). The definition of the term ‘ecologically coherent’ included the requirement for the network to be representative of the full range of marine flora and fauna present in national waters, thus being consistent with the requirements of the Marine Act and MSFD.

The four regional MCZ projects

Finding Sanctuary was the first of four regional MCZ projects to become established. Put together, they covered England’s territorial and offshore waters, and Welsh offshore waters (separate MPA processes exist for other UK marine areas – these were not the subject of this analysis).

Finding Sanctuary’s planning region encompassed around 95,000 km² of inshore and continental shelf waters off England’s south-west peninsula (see figure 1).

The regional projects were tasked with developing recommendations for MCZ locations, boundaries and conservation objectives. In essence, the planning processes were the same in all four regions. In each

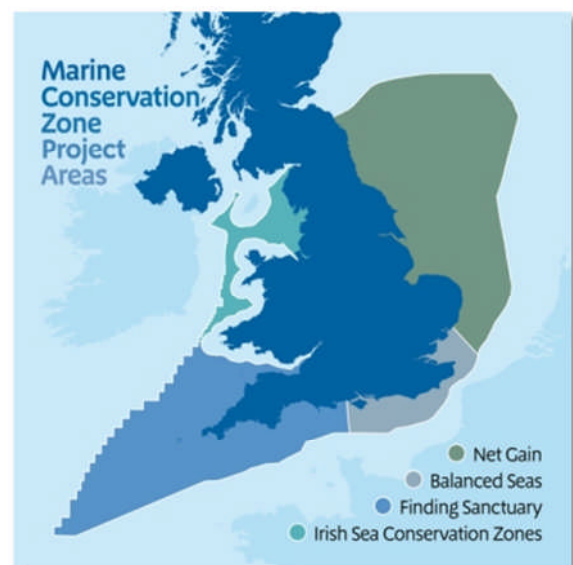


Figure 1 The four regional MCZ planning projects. Map created by the JNCC.

² <http://www.legislation.gov.uk/ukpga/2009/23/contents>

³ http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm

⁴ http://ec.europa.eu/environment/nature/legislation/birdsdirective/index_en.htm

⁵ http://ec.europa.eu/environment/marine/eu-coast-and-marine-policy/marine-strategy-framework-directive/index_en.htm

⁶ Defra (2010) *Guidance on selection and designation of Marine Conservation Zones (Note 1). Guidance on the proposed approach to the selection and designation of Marine Conservation Zones under Part 5 of the Marine and Coastal Access Act* (referred to throughout this analysis as Defra GN1)

<http://archive.defra.gov.uk/environment/biodiversity/marine/documents/guidance-note1.pdf>

regional project, a representative regional stakeholder group was tasked with developing recommendations in line with top-down guidelines (the ENG – see below), with a dedicated project team in place to provide the necessary support.

In September 2011, the regional projects provided their MCZ recommendations to Defra (the Department for Environment, Food and Rural Affairs), and to Defra’s statutory nature conservation bodies (SNCBs – specifically, Natural England and the Joint Nature Conservation Committee or JNCC). The regional projects ceased operating at the end of 2011. The SNCBs reviewed the recommendations and passed their formal MCZ advice to Defra in July 2012, based on the work of the regional projects.

The National Project Board

The National Project Board, responsible for managing the overall process, was initially formed by JNCC, Natural England and Defra, and met for the first time in February 2009. In March 2010, Defra left the National Board and became a ‘critical friend’, leaving the JNCC and Natural England responsible for leading the national MCZ project (these organisations also participated in the project as stakeholders, so these organisations had multiple roles in the process).

The Science Advisory Panel

The Science Advisory Panel (SAP) was established by Defra in 2009, as an independent panel consisting of well-respected scientists. The SAP’s role was to offer objective scientific assessment of site proposals made by the four regional MCZ projects against criteria and guidance provided by the SNCBs, and to provide independent scientific advice to Ministers (full terms of reference for the SAP can be found [here](#)⁷). The SAP’s remit was solely to comment on the achievement of the ecological criteria set out in the ENG (see below), and not on any other issues (e.g. relating to economic or social objectives or governance). There were no economists or social scientists on the panel.

National guidance

Many (in excess of 50) guidance documents were issued by national project partners over the course of the existence of the four regional projects, but for the sake of this analysis, there is a small number of really key ones to be aware of:

- The [Ecological Network Guidance](#)⁸ (referred to throughout this report as the ENG) was particularly important, as it described the ecological criteria that the recommended protected area network configuration had to fulfil. It set out a series of practical ecological design guidelines rooted in best available evidence, e.g. requirements to represent a certain percentage of different habitats within the network.
- The [Conservation Objective Guidance](#)⁹ (COG) was another key guidance document, which prescribed the format for MCZ conservation objectives.
- The [Project Delivery Guidance](#)¹⁰ (PDG) described the national MCZ process in terms of participants, roles, remits and timelines.

⁷ <http://archive.defra.gov.uk/environment/marine/documents/protected/mpasap-tor.pdf>

⁸ JNCC and Natural England (2010a) *Marine Conservation Zone Project - Ecological Network Guidance*. http://jncc.defra.gov.uk/PDF/100705_ENG_v10.pdf

⁹ JNCC and Natural England (2011) *Marine Conservation Zone Project - Conservation Objective Guidance* <http://jncc.defra.gov.uk/PDF/MCZ%20Project%20Conservation%20Objective%20Guidance.pdf>

- Defra produced several overarching policy guidance notes, of which Guidance Note 1 (Defra GN1 – see above) is the most significant in the context of this analysis. It sets out the aims of establishing MCZs, the role of stakeholders in the process, the fundamental network design principles underpinning the ENG, and basic principles underpinning the COG.
- The [draft reference area guidance](#)¹¹ stated that extractive and depositional activities would not be allowed in reference areas, a highly protected type of MCZ, which the ENG stipulated had to form part of the network. The guidance also listed additional ‘potentially damaging or disturbing activities’ that might also face restrictions. The guidance on reference areas was never fully signed off by its authors (JNCC and Natural England).

2.2 Finding Sanctuary

Project timeline and aims

[Finding Sanctuary](#)¹² was the flagship of the four regional projects. It was launched as a pilot project (without any official remit) in 2007, became formalised (with its official role in the MCZ process) over the course of 2009, and delivered its [final report](#)¹³ in September 2011.

Finding Sanctuary’s objectives represented a milestone on the way towards achieving the goal of the wider MCZ process. The project aimed to:

- deliver recommendations for MCZs that would, if implemented, minimise negative socio-economic impacts (whilst meeting the ENG).
- maximise levels of cross-sectoral support for the recommendations.
- ensure the recommended sites are well understood across sectors.

Finding Sanctuary approached MCZ planning at a regional scale (applying systematic reserve network design principles to create a representative MPA network), and aimed to give a significant and meaningful role to a representative cross-section of marine stakeholders within the planning process. These two characteristics set it apart from existing MPA processes in England (e.g. the *Natura 2000* process, established to comply with the EC Habitats and Birds Directives), which are top-down processes with no stakeholder involvement in the initial planning, and are largely carried out on a site-by-site basis, aimed at protecting a limited number of features rather than a representative cross-section of marine biodiversity.

¹⁰ JNCC and Natural England (2010c) *Marine Conservation Zone Project - Delivering the Marine Protected Area Network -Project Delivery Guidance on the process to select Marine Conservation Zones*.

<http://jncc.defra.gov.uk/PDF/Project%20Delivery%20Guidance%20FINAL%20020710%20secure.pdf>

¹¹ JNCC and Natural England (2010b) *Marine Conservation Zone Project - Draft Marine Conservation Zone Reference Area Guidance Document for Regional MCZ Projects*.

http://www.naturalengland.org.uk/Images/MCZ-regional-guidance_tcm6-23451.pdf

¹² http://tna.europarchive.org/*/http://www.finding-sanctuary.org/

¹³ Lieberknecht, L.M.; Hooper, T.E.J.; Mullier, T.M.; Murphy, A.; Neilly, M.; Carr, H.; Haines, R.; Lewin, S.; and Hughes, E. (2011) *Finding Sanctuary final report and recommendations*. A report submitted by the Finding Sanctuary stakeholder project to Defra, the Joint Nature Conservation Committee, and Natural England.

Available to download via a link on: http://tna.europarchive.org/*/http://www.finding-sanctuary.org/ or direct link: http://jncc.defra.gov.uk/PDF/120718_FindingSanctuary_FinalReport_14Sep2011.pdf

Project participants

Finding Sanctuary was managed by a partnership of organisations: Natural England, the Joint Nature Conservation Committee (JNCC), Devon County Council, Cornwall County Council, Dorset County Council, Somerset County Council, South West Food and Drink, the Wildlife Trusts, and the National Trust. These organisations formed a management board that oversaw progress, ensuring that milestones were met on time and on budget.

The above partnership took no active role in formulating the project's recommendations. This task was given to the regional Steering Group, a stakeholder group of 41 members, representing a cross-section of maritime interests in the south-west region:

- commercial fishing (7 representatives from inshore and offshore interests)
- industry (6 representatives, including offshore renewables, ports, and aggregates)
- leisure and tourism (10 representatives from across the range of recreational interests, including leisure boating, scuba diving, and sea angling)
- conservation (5 representatives, including NGOs and statutory bodies)
- land owners (2 representatives)
- academic science (1 representative)
- public sector regulators and enforcers (3 representatives)
- heritage (1 representative)
- military (1 representative)
- local MCZ groups (5 representatives)

In addition, there were five cross-sectoral local MCZ groups (for Dorset, Devon, Somerset, Cornwall, and the Isles of Scilly), who provided feedback to the regional Steering Group on the developing network configuration, and proposed MCZs for their local inshore areas to the regional Steering Group. There was also a set of national and international 'Named Consultative Stakeholders', who had an interest in being kept informed of progress and being given an opportunity to comment, without being full members of the Steering Group.

The stakeholder representatives were supported in their task by a dedicated project team, who provided GIS and planning support, mapped out relevant datasets, explained guidance, liaised with the wider stakeholder community, wrote up meeting reports and mapped out the developing network configuration. The project team worked with professional facilitators ([R K Partnership](#)¹⁴), who provided expert, independent facilitation during regional stakeholder group meetings, and provided advice and support on the detailed planning process design.

The project team also acted as the link with the national MCZ process, writing regular progress reports to the SAP, SNCBs and Defra, as well as liaising with the National Project Board to highlight practical obstacles to progress and suggest solutions to those obstacles. At the end of the project, the project team wrote up the final project report¹³, which included an account of the process and the stakeholders' final MCZ recommendations.

¹⁴ <http://www.rkpartnership.co.uk/>

2.3 Finding Sanctuary's outcomes

The Steering Group's final MCZ recommendations were set out in full detail in part II of Finding Sanctuary's final report. They consisted of 58 recommended MCZs (rMCZs), including 13 recommended reference areas (highly protected MCZs required by the ENG).

Broadly speaking, the recommended configuration of sites met the ENG targets (although the reference areas fell short of the ENG requirements). The recommendations for site boundaries and conservation objectives were accompanied by a detailed narrative on the assumptions and conditions that the recommendations were based on, and the uncertainties that the Steering Group faced in their task.

Each rMCZ put forward by the regional projects came with a list of feature-specific draft conservation objectives, which specified the features that the site would protect if designated, and whether or not each feature was to be

- 'maintained' in 'favourable condition' (for a standard MCZ where the feature is already in favourable condition)
- 'recovered' to 'favourable condition' (for a standard MCZ where the feature is currently in a deteriorated condition)
- 'recovered' to 'reference condition' (for features in reference areas)

This feature-specific format for MCZ conservation objectives was required in the COG, which did not allow conservation objectives to be developed for sites as a whole. This feature-specific approach resulted in a very large number of draft conservation objectives: Finding Sanctuary put forward a total of 587 (and, put together, all four regional projects put forward 1205).

At the end of the project members of the Steering Group felt a significant degree of ownership of the final recommendations. However, because the management of future MCZs remained completely uncertain (see section 3.4), stakeholders strongly felt that the task of planning MCZs remained unfinished. The Steering Group made a joint statement, to accompany their final recommendations, in which they explicitly requested an on-going role within the MCZ process, and a voice in decisions about how MCZs should be managed once designated.

2.4 The national MCZ process between September 2011 and December 2012

Finding Sanctuary's formal phase ended in September 2011, with the delivery of the project's final MCZ recommendations to the SNCBs and Defra. Finding Sanctuary's final Steering Group meeting was in July 2011. The project team ceased to operate at the end of October 2011, with the exception of the project economist and one GIS officer, who remained in post into 2012, in order to deliver a formally required socio-economic Impact Assessment on the project's final recommendations, which was submitted to Defra in July 2012 (along with the SNCB's formal MCZ advice package – see below).

On November 15th, 2011, the Science Advisory Panel published their [final advice](#)¹⁵, which commented on the final recommendations of the four regional projects. The SAP then ceased to

¹⁵ MCZ Science Advisory Panel (2011) *Science Advisory Panel Assessment of the Marine Conservation Zone Regional Projects Final Recommendations*.

Part A <http://www.defra.gov.uk/publications/files/sap-mcz-final-report.pdf>

Part B <http://www.defra.gov.uk/publications/files/sap-mcz-final-report-partb.pdf>

operate. On the same date Environment Minister Richard Benyon released a [Written Ministerial Statement](#)¹⁶ on the MCZ process, outlining the process up until 2013. This essentially stated that a 'first tranche' of MCZs would be designated in the summer of 2013, indicating that the criteria for selecting first tranche sites would be based on levels of supporting scientific evidence. No clear process or timetable was indicated for any subsequent tranches.

Following a series of detailed evidence reviews (see section 3.2), the SNCBs delivered their formal [MCZ advice package](#)¹⁷ (based on the regional project recommendations) to Defra, in July 2012. At the time of writing, there was a lack of certainty over which and how many sites would be implemented in the first tranche of designations. Defra was due to launch a public consultation on how it intended to take forward MCZ proposals in December 2012 (see section 3.9).



Figure 2 Cross-sectoral discussions during the development of MCZ recommendations during a Finding Sanctuary Offshore Working Group meeting. © Peter Jones

¹⁶ <http://www.defra.gov.uk/news/2011/11/15/wms-marine-conservation-zones/>

¹⁷ <http://jncc.defra.gov.uk/page-6229>

3. Main findings of the analysis

3.1 One process, two approaches

The most salient characteristic of the MCZ process is that it consists of a combination of two separate planning approaches:

- Approach 1 is a systematic, broad-scale approach. It focuses on building a biologically representative protected area network, based on the best information currently available. It emphasises transparency, and has strong participative (bottom-up) elements, with cross-sectoral stakeholder platforms given a direct role in the planning process. It also has strong top-down elements, which define the parameters within which the participative process operates, and retain decision-making power. Within approach 1, there would be scope for a strategic, network-scale approach to MCZ management - e.g. implementing the same set of measures across multiple sites, and defining activity restrictions and management measures upfront or as part of the spatial planning process. However, such a strategic approach was not taken within the MCZ process, and MCZ management remains undefined (section 3.4).
- Approach 2 is a more top-down approach, focusing less on the broader regional scale or on the network as a whole. Instead, it targets specific features for protection within MCZs, placing emphasis on obtaining high and detailed levels of evidence on the distribution and condition of individual features at specific locations, to underpin conservation decisions which are made on a case-by-case basis. Planning is characterised by laborious and relatively deterministic pathways, with much weaker participative incentives and a much greater reliance on expert scientific advice from the SNCBs. Stakeholder participation is confined to a public consultation process, with no efforts at incentivising cross-sectoral collaboration. Planning MCZ locations and boundaries is treated as a separate task from planning MCZ management, the latter being left until the final stages of the process.

Finding Sanctuary (and the other regional MCZ projects) set out following approach 1. The ENG provided clear and pragmatic (top-down) guidelines on how to design an ecologically representative and coherent network. These guidelines were anchored in best available data, and incorporated scientifically grounded methods for dealing with uncertainty and data gaps¹⁸.

The participative stakeholder platform provided by the Steering Group incentivised cross-sectoral communication and compromises in the spatial design of the network configuration. The publication of meeting reports and maps of the developing recommendations ensured transparency, which in turn generated feedback from the wider stakeholder community before the recommendations were finalised. Stakeholders involved in the process developed a sense of ownership and understanding of the recommendations.

Over time, however, the wider national MCZ process increasingly shifted from approach 1 to approach 2. The COG (published in early 2011) shifted the focus from building an ecologically coherent network of protected *areas* to the protection of individual species and habitats within the sites, and the end of the regional projects meant an end to transparency in the developing site

¹⁸ Most significantly, by setting targets for including minimum amounts of broad-scale 'surrogate' habitat types in the network – this is explained in more detail in section 6.5.3 of the full report cited in the introduction, as well as within the ENG document itself (see footnote 8 on page 6).

proposals, and an end to participative elements and incentives for cross-sectoral communication within the process.

Within the MCZ process, the two planning approaches have proved to be incompatible. They have clashed and created tensions, rather than interfacing in a seamless manner during the shift between the two. Some of these tensions are explored in the sections below.

3.2 The shift in evidence requirements

Using best available evidence

From the outset of the process, significant efforts were made to ensure that the MCZ process was underpinned by best available information. Several national data gathering contracts were funded by Defra, aimed at delivering consistent, quality assured, best available biophysical and socio-economic information to all four regional projects, focusing in particular on spatial data layers for use in GIS analysis. Their combined cost came over £1.3 million¹⁹. Further spatial datasets were provided by the SNCBs.

Finding Sanctuary project staff also went to a lot of effort to collect regional-scale information for south-west England, not least through collecting and mapping regional stakeholder knowledge ([FisherMap](#)²⁰). Appendix 8 of Finding Sanctuary's final report provides full details of the datasets that were used.

Defra GN1 explicitly acknowledged uncertainty and information gaps, stating that: 'Network design should be based on the best information currently available. Lack of full scientific certainty should not be a reason for postponing proportionate decisions on site selection.' Finding Sanctuary thus proceeded with its task based on the best available data.

Shifting to an 'evidence-based' approach

In May 2011, Natural England and the JNCC published a document referred to as the '[levels of evidence guidance](#)²¹ (the content and timing of which were probably driven by the emerging recommendations from a review of the evidence underpinning new inshore *Natura 2000* sites – see Graham-Bryce, 2011²²). The guidance indicated that at each successive step in the process, higher levels of evidence would be required in order to proceed, with scientific uncertainty and data gaps becoming increasingly less tolerated at each step. MCZ planning ('site identification') would proceed

¹⁹ Details can be found by entering contract codes MB102, MB106, and MB5301 into the search box here:

<http://randd.defra.gov.uk/Default.aspx?Location=None&Module=FilterSearchNewLook&Completed=0>

²⁰ des Clers, S.; Lewin, S.; Edwards, D.; Searle, S.; Lieberknecht, L. and Murphy, D. (2008) *FisherMap – Mapping the Grounds: recording fishermen's use of the seas*. A report published by Finding Sanctuary. http://findingsanctuary.marinemapping.com/06_all%20project%20reports/Fishermap%20report%20November%202008.pdf

²¹ JNCC and Natural England (2011b) *Marine Conservation Zone Project - Levels of evidence required for the identification, designation and management of Marine Conservation Zones* http://www.naturalengland.org.uk/Images/MCZ-evidence_tcm6-26491.pdf

²² Graham-Bryce, I (2011) *Independent review of the evidence process for selecting marine special areas of conservation* <http://www.defra.gov.uk/publications/files/pb13598-graham-bryce-independent-review-marine-sacs-110713.pdf>

based on best available data, but site designation would require higher levels of evidence, and management decisions (left until the end of the process) would require the highest evidence levels.

Thus, pre-defined evidence ‘hurdles’ would have to be overcome before any conservation action is implemented. In essence, what this described is a shift in the MCZ process, away from working with ‘best available evidence’ (as set out in Defra GN1, quoted above) towards what is being referred to as an ‘evidence-based’ approach. This is one aspect of the shift from approach 1 to approach 2.

The ‘levels of evidence guidance’ was only published at the end of the stakeholder process, so not only does it require the raising of the ‘evidence bar’ at each successive step, but the fact that this would happen was not clearly established at the outset – stakeholders were informed, throughout their planning discussions, that MCZs would proceed on the basis of ‘best available’ evidence.

The content of the November 2011 Written Ministerial Statement (part 2.4) further reflected this shift in the process. It emphasised that there had been ‘gaps and limitations in the scientific evidence base supporting the MCZ recommendations’, and that Defra was therefore commissioning an in-depth review of the evidence base for MCZ recommendations.

Evidence reviews

In between the regional projects submitting their recommendations in September 2011, and the SNCBs finalising their MCZ advice package in July 2012, several evidence reviews were carried out on the regional projects’ recommendations.

1. SAP evidence review:

- The SAP reviewed the evidence presented in the final reports of the regional projects.
- Each recommended site was given an ‘evidence score’ on the basis of the number of literature sources cited within the write-up, and the personal knowledge of the SAP members.
- The SAP did not indicate that evidence scores should be taken as a reason not to proceed with site designation, nor as a basis for fast-tracking some sites over others. In sections 7.3. and 8.7 of part A of their final advice¹⁵, they advised that where there is uncertainty in data, larger areas should be protected and the higher end of ENG target ranges met, in order to safeguard the ecological coherence of the network in the face of uncertainty, i.e. a precautionary approach.

2. SNCB evidence review:

- The SNCBs reviewed the evidence underpinning each one of the draft conservation objectives for the rMCZs submitted by the regional projects.
- The results of this review formed part of their July 2012 MCZ advice package to Defra.
- The SNCBs evaluated the existing evidence for each draft conservation objective, following methods set out in published protocols²³ which explicitly valued recent scientific survey data above all other types of evidence. Each draft conservation

²³ JNCC and Natural England (2012a) *SNCB MCZ Advice Project –Assessing the scientific confidence in the presence and extent of features in recommended Marine Conservation Zones (Technical Protocol E)*
http://jncc.defra.gov.uk/pdf/120111_SNCB%20MCZ%20Advice_Protocol_Feature%20Evidence%20V5.0.pdf

JNCC and Natural England (2012b) *SNCBs’ MCZ Advice Project Technical protocol F – Assessing scientific confidence of feature condition*
http://jncc.defra.gov.uk/pdf/120106_SNCBs%20MCZ%20Advice%20protocol%20F_confidence%20in%20feature%20condition_v5%200_FINAL.pdf

objective was given a 'confidence score' for feature presence, feature extent, and feature condition.

- The protocols and the resulting SNCB advice were reviewed by an 'independent expert review group' established by Defra, which consisted of five natural scientists (including 2 former SAP members). Their comments reflected a striving for 'objectivity' in the confidence scores. Socio-economic evidence was explicitly excluded from their remit.
 - Given the reductive, feature-by-feature approach to conservation objectives, and the stringent scientific criteria set out in the protocols, it was not surprising that fewer than half of the draft conservation objectives (41%) were given a 'high' confidence score for 'presence' of the feature, with confidence in 'extent' and condition being much lower. For all but 19 out of 1,205 draft conservation objectives put forward by the four regional projects, confidence in feature condition was scored as 'low'.
3. *ABPmer-led evidence review and data gathering:*
- Defra commissioned a separate, independent evidence review project, which was completed by a consultancy (ABPmer). This project did two things:
 - It conducted another evidence review, creating confidence scores for each draft conservation objective, essentially replicating the SNCB's evidence review.
 - It aimed to 'mop up' any existing evidence that had either been missed by the regional projects, or had been newly collected since the end of the regional projects. Little additional relevant information was found.

In addition to the evidence reviews, new survey work was carried out over the course of 2012, which targeted a small number of areas put forward as offshore MCZs. Defra commissioned new offshore surveys which cost of over £4 million ([Defra contract MB0120²⁴](#)). The results from the 2012 offshore surveys were not analysed and written up in time to be taken into consideration during the MCZ evidence reviews.

Interviews carried out in the summer of 2012 with former Finding Sanctuary Steering Group members highlighted a lack of transparency about what had happened within these evidence reviews, and how they will impact the outcomes of the MCZ process (e.g. the selection of sites for the first tranche of MCZs in summer 2013). From the outside, it was not clear to most people whether or not more than one evidence review had taken place, who had carried out which parts of the work, or what bearing the review process would have on the outcomes of the MCZ process.

Problems related to the shift in evidence requirements

Raising the 'evidence bar' at each step in the MCZ process, as laid out in the 'levels of evidence guidance', effectively means that each step undermines the work carried out in the preceding one. One might reasonably ask what the point is of planning a representative network if only a fraction of that network can subsequently be designated, or what the point is of designating sites if no effective management measures can be put in place within those areas, given the increasingly high evidence requirements to justify proposals and eventual management measures.

²⁴<http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&ProjectID=18221&FromSearch=Y&Publisher=1&SearchText=marine%20conservation%20zones&SortString=ProjectCode&SortOrder=Asc&Paging=10#Description>

The shift towards increased evidence requirements effectively undermined the hard work carried out by the regional projects' stakeholder groups. Stakeholders committed a lot of time and effort to a process wherein they were instructed to proceed based on best available data, even when they raised queries about data gaps. Following the completion of their task, the process (retrospectively) deemed that this evidence was 'not good enough' for underpinning site designation, after all.

The summer 2012 interviews made it clear that this caused a significant degree of frustration amongst a lot of stakeholder representatives, with several interviewees viewing the shift as a 'stalling tactic'. Almost everyone thought that the evidence requirements should have been decided at the outset, and then remained the same. Only a small number of stakeholder representatives openly stated strong support for the shift to an 'evidence-based' approach (during the interviews or elsewhere), and these were opponents of MCZs, including offshore fishing representatives. South-west based mobile gear fishermen had also previously challenged the evidence underpinning the inshore *Natura 2000* process, leading to the review by Graham-Bryce (2011)²².

Hand-in-hand with a shift away from the 'best available evidence approach', there was a shift towards a 'feature-by-feature' approach, with conservation objectives targeted at specific features (rather than at areas), and made dependent on feature condition. This reductive approach (defined in the COG) requires sound evidence to demonstrate presence, extent and condition of individual species and habitats at specific locations, before conservation objectives can be drafted which will stand up to legal challenge: The COG approach directly fuels the need for evidence, by focussing on individual features rather than on areas.

The 'evidence-hungry', feature-based approach leads the process down a path where MCZs can only be designated in areas where good survey data exists can. Detailed marine biological survey information is concentrated around the shoreline, with the spatial density of survey locations decreasing rapidly with increasing distance from the shore. There are large areas of the UK's continental shelf with no recent, detailed biological survey information available - going down the 'evidence-based' route effectively precludes these areas from designation. This means that offshore features could lack representation in the network, jeopardising the achievement of Marine Act section 123 (the requirement for a representative MPA network), and undermining the ecological coherence of the network as defined in Defra GN1 and the ENG.

A related challenge is that the evidence-based approach narrows down the number of potential spatial network configurations. This undermines the flexibility that was inherent within the ENG, which treated widespread broad scale habitats as ecological 'surrogate' features for which quantitative targets were set. Comprehensive broad-scale habitat maps exist for the continental shelf area (through a combination of modelled data, remotely sensed data, and direct survey data), so this approach opened up a large range of potential network configurations which would have met the ENG targets, thus allowing the spatial flexibility for trade-offs and compromises to be reached. If the options for spatial configurations had been narrowed down significantly from the beginning, there would have been a lot less incentive for stakeholders to participate.

If the legal obligations of the Marine Act and MSFD are to be met, the MCZ process will have to be re-designed to adapt to the levels of evidence that currently exist. If the current detailed, feature-specific approach continues to be pursued, it will not be practically feasible to gather sufficient detailed evidence to underpin the designation of a network of protected areas that will genuinely protect a representative cross-section of marine biodiversity and provide for a degree of coherence.

3.3 The 'cliff' in stakeholder engagement

From a stakeholder's perspective, engagement in Finding Sanctuary was hard work, and it demanded a lot of commitment. Nevertheless, almost all interviewees in the summer 2012 stakeholder interviews stated that they had greatly valued the cross-sectoral discussion platform, and that they had had a sense of ownership of the developing recommendations at the time, with genuine influence on them. Finding Sanctuary's stakeholder process was successful in that it delivered a set of recommendations that were in line with national guidelines, and which had considerable (though not unanimous) stakeholder support.

At the final Steering Group meeting, there was a sense of frustration that decisions within the process were increasingly being taken out of the remit of the stakeholder's influence, particularly in relation to how MCZs would be managed in future. The group made a joint statement highlighting their concerns about this, and expressing a clear wish to continue to have a role in the process. This can be seen both as a strong criticism of the shift in the process (towards approach 2), as well as a demonstration of the success of the participative approach: Stakeholders valued the role they played, and wished for it to continue, in order to complete what they saw as an unfinished task (given that management of sites remained undefined – see section 3.4).

However, stakeholder participation ended abruptly with the end of the regional projects. Over the following 16 months, stakeholder engagement by the national MCZ process was ad-hoc and unequal, and the summer 2012 stakeholder interviews revealed a lack of clarity and genuine transparency in the process. There were significant differences between stakeholder representatives, in terms of how much information they had about the process, and the degree to which they had access to national forums or meetings where MCZs were discussed.

One of the most frequent themes to be brought up was the sense of a complete change in the nature of the process, which many described as a 'pause', a 'hiatus', or 'radio silence'. Several interviewees stated that they felt they had had very little information about the MCZ process since the end of Finding Sanctuary's stakeholder meetings, and it was not clear to them why there was such a long time gap between the submission of their final recommendations and the start of the public consultation.

At the time the analysis was being carried out, it was not clear what would be included in the public consultation due for December 2012, and what influence it would have on subsequent decisions. Beyond the public consultation, there was no clear perspective for stakeholders in terms of how they might access the longer-term implementation process for MCZs, or whether they would be asked to take on any specific role.

The abrupt end ('cliff') of the stakeholder process has led to a sense of disillusionment with the process, disengagement from it, and loss of ownership of the site proposals. The cross-sectoral forum, with its specific role and influence, incentivised stakeholders to reach across sectoral divides to discuss trade-offs and reach compromises. These incentives for collaborative work no longer exist. Instead, the public consultation process and ad-hoc (mostly bilateral) stakeholder engagement within the current process incentivises each sector to revert to their own stances, and where there are conflicts, to fight hard for their own sectoral interests.

3.4 'Flying blind': Process-generated uncertainty

One of the most problematic aspects of the MCZ process is the fact that it has been designed as a sequential process, which treats the spatial design of the network and decisions on site management as separate, isolated tasks. The process started with the spatial planning – 'drawing lines on maps', planning site location and boundaries, and defining conservation objectives. This will be followed by decisions on site designation, still pending at the time of this analysis. Decisions on activity restrictions and management measures will only be taken months or years after site designation, following a separate (yet to be fully designed) planning process, which will be the responsibility of a different set of public bodies from those who oversaw the spatial planning process.

Regional projects were only ever tasked only with recommending site boundaries and conservation objectives²⁵. Regional project participants overwhelmingly felt that the task was not 'complete' and meaningful without considering management of the sites, but they were not empowered to address the issue. As a result, stakeholders were faced with the task of developing recommendations for the location and boundaries of MCZs, without knowing how MCZs would impact on their activities of interest – an uncertainty that one stakeholder interviewed in summer 2012 described as 'flying blind'. This uncertainty is referred to as 'process-generated' uncertainty, because (unlike scientific uncertainty and gaps in survey data discussed earlier) it was created by the design of the process, and hence could have been entirely avoided.

Process-generated uncertainty had negative impacts which reverberated around many elements of the planning process, including the following:

- It led to increased complexity within the conflicts that arose during the stakeholder discussions – there was no way of knowing what 'real' conflicts existed between MCZs and human activities, so that stakeholders had to make assumptions. Much of their conflict revolved around disagreements on what assumptions to base the recommendations on, making discussions lengthy and difficult, slowing progress on the network development.
- It was an obstacle to the finding of genuine, meaningful compromises, because trade-offs that were being considered within the stakeholder group were based on assumptions rather than definitive and shared understanding of what costs and benefits of potential sites would consist of.
- It prevented synergies from being identified and realised. Most representatives assumed a precautionary ('worst-case scenario') stance. Because no-one could be certain that MCZs would not have significant negative impacts on their interests, there was a strong push from most commercial (and some recreational) stakeholders to locate sites away from 'their' areas of interest. With clarity on impacts, compatible activities could have been identified and 'co-located' with MCZs by design. This would have allowed for the use of economic incentives, designing sites in such a way as to build in benefits for those carrying out low-impact activities.

²⁵ Late in the process, the regional projects' remit was expanded to include recommendations for 'management measures', i.e. for *how* any activity restrictions ought to be implemented – for example, through a byelaw or voluntary measure. However, this was an unrealistic task, as there was no way of overcoming the uncertainty described, and it made no difference to the fundamental problem summarised here. For details, please refer to the full governance analysis report, cited in the introduction.

- It prevented the achievement of the objective to develop ‘well understood’ sites – whilst people understood where the boundaries were being drawn, they were prevented from understanding what those boundaries would mean in reality.
- It lowered support for MCZs (because people assumed or feared ‘worst-case scenarios’ for their activity)
- It reduced stakeholder buy-in and support for the process. Process-generated uncertainty was raised repeatedly and emphatically as one of their key concerns, but there was no clear push to address and resolve the problem within the wider, national process.
- It prevented the writing of a genuinely meaningful socio-economic impact assessment.

As a result of process-generated uncertainty, stakeholders had to design their network recommendations on the basis of assumptions (or, in some cases, explicit conditions) about how sites would be managed. Assumptions, conditions and uncertainties were written up as a ‘stakeholder narrative’, which was incorporated into Finding Sanctuary’s final report.

There is no indication that, following the submission of the recommendations, the stakeholder narrative had any bearing on the subsequent process, with its focus on scientific evidence reviews. There is a significant risk that the foundation of the stakeholder recommendations will be undermined in future, if the assumptions that the sites were designed on do not hold true.

3.5 Marine protected areas or marine protected features?

The drawbacks of binding MCZ conservation objectives to individual species and habitats have already been highlighted above, in that this approach generates an unrealistic demand for detailed scientific survey data to underpin site designation. However, the drawbacks of this approach run deeper: It fundamentally goes against the principles of ecosystem-based management to try and protect the marine ecosystem by targeting protection measures solely at its individual component features – and yet, this is exactly the approach required by the COG.

Focussing only on ecosystem components not only loses sight of the MPA network and the ecosystem as a whole, but it also leads to a paperwork-heavy and lengthy designation process (the shift to an ‘evidence-based’ process plays a big part in this, as it requires a detailed ‘audit trail’ of the scientific evidence underpinning each feature-specific conservation objective). Bearing in mind that for the Finding Sanctuary region alone the recommendations included over 500 draft conservation objectives, the COG might be described as a veritable red-tape-generator. As any future MCZ management measures will hinge on the conservation objectives, the COG in its current form is not likely to lead to lean, efficient and understandable management measures. Reducing the number of conservation objectives would effectively mean reducing the number of protected features within the network, which would undermine the legal obligation for the network to be representative of the full range of marine biodiversity.

Section 117 of the Marine act requires that MCZ designation orders state ‘a) the protected feature or features’, and ‘b) the conservation objectives for the MCZ.’ There is no requirement for the conservation objectives to be written specifically and individually for each named protected feature.

It would be more consistent with ecosystem-based management principles to treat MPAs as *areas* to be protected, rather than as areas containing *features* to be protected (it would also be more consistent with the term ‘*marine protected area*’).

3.6 Conflicts

The governance analysis carried out a detailed analysis of conflicts within this case study, focussing specifically on the conflicts that were dealt with during Finding Sanctuary's stakeholder process. These were divided into primary conflicts (between human activities and biodiversity conservation), and secondary conflicts (between different human activities).

There was a long list of both primary and secondary conflicts within the case study, which had a significant impact on the spatial configuration of the project's final recommendations. The most intense and spatially wide-ranging primary conflicts were with commercial fishing, marine renewables, and ports (other primary conflicts were also significant at particular locations). The most significant secondary conflicts were intra-sectoral conflicts within the highly diverse commercial fishing sector, and inter-sectoral conflict between commercial fishing and marine renewables.

The most significant conflict triangle that emerged was between MCZs (biodiversity conservation), commercial fishing, and offshore wind farms. All three either do or have the future potential to occupy significant areas of sea. Commercial fishing activities are often excluded from wind farms for safety reasons, and MCZs may restrict fishing activities, so commercial fishermen (particularly those operating towed gears) stand to lose ground to both. Wind farms have negative environmental impacts (as well as positive ones), so may not be compatible with MCZs.

With two offshore wind farms planned within Finding Sanctuary's planning region, this conflict triangle took up significant amounts of time within the stakeholder discussions, and for much of the planning process, it drove the simultaneous development of two alternative network configurations, based on alternative assumptions about compatibility of MCZs and wind farms (see section 3 of the full governance analysis report).

As highlighted above, primary conflicts were both intensified and rendered complex by the process-generated uncertainty about activity restrictions and management measures within MCZs. Another significant driver of conflict was a perceived 'race for space', especially driven by the increasing interest in offshore renewable development, and MPAs.

3.7 Incentives

The governance analysis considered the ways in which the MCZ process has (to date) used a long list of possible incentives in order to achieve its objectives. The analysis considered economic incentives (e.g. providing for economic benefits for low-impact users within sites), interpretative incentives (e.g. promoting awareness of the benefits of protected areas), legal incentives (e.g. legal obligations to implement protected areas), knowledge incentives (e.g. valuing and combining different kinds of knowledge in the process), and participative incentives (e.g. establishing collaborative stakeholder groups and empowering them to influence the process).

The list of 36 specific incentives that was considered in this analysis was adapted from the analysis of 20 real-life MPA case-studies carried out by Jones *et al.* (2011)¹. The incentives are explained in detail in the full governance analysis report, with a description of how each one was (or was not) used within the MCZ process.

There were three main findings of the incentives analysis:

- To date, the MCZ process has only made full use of a relatively small number of incentives, compared to the total number considered in the analysis. There are many incentives that could potentially have been used but weren't.
- The pattern of use of incentives differs markedly between categories. The use of economic incentives was made a practical impossibility by the lack of clarity on which activities will be permissible within MCZs.
- The range and diversity of incentives used has decreased markedly since the end of the regional projects, with the number in use having more than halved. Participative incentives were heavily used during the regional projects, but have since been dropped entirely. Jones *et al.* (2011) concluded that increasing the number and diversity of incentives within an MPA process creates more resilient systems of governance, so the shift in the MCZ process can be seen as a weakening of it.

3.8 Effectiveness of the MCZ process

The stated aim of the MCZ process is 'to develop an ecologically coherent and well-managed network of Marine Protected Areas (MPAs) that is well understood and supported by sea-users and other stakeholders' (see section 2.1). The legal objective defined in the Marine Act was to have a biologically representative network in place by 2012. The MCZ process has not delivered its objective within the planned timescale.

It is too early to say for certain whether the process will meet the stated objective in the medium to long term. Progress is not promising. It is not clear which or how many sites will be included in the first tranche of designations in 2013, but it is highly unlikely that they will all be included. Therefore, the first tranche of MCZs (in combination with existing MPAs such as SACs) will probably fall short of an ecologically coherent network (as defined by the ENG criteria), and it is not clear whether there will be subsequent tranches that will maintain the ENG as a benchmark.

Some of the key criticisms of the process emerging from this analysis have been summarised in the previous sections (additional shortcomings of the process are detailed in the full governance report, e.g. a compression of the regional projects' timescales as a result of delays in key guidance documents).

Despite the negative overall assessment of the governance approach in the MCZ process, the analysis also highlighted that several elements of the process were successful, especially during the earlier stages of the planning process which predominantly followed approach 1:

- All four regional projects delivered MCZ recommendations, on time, that met the ENG guidelines (with the exception of reference areas). Given the difficulties, conflicts and uncertainties faced by the stakeholders, this is a remarkable achievement, and a credit to the commitment and hard work of the stakeholder representatives involved.
- At the end of Finding Sanctuary, stakeholders from across the range of sectors felt that they had had a genuine opportunity in shaping the recommendations (within the possible options defined by the ENG parameters). The Steering Group went as far as issuing a joint statement expressing a wish for a continued role in the process, reflecting the fact that they valued their role within the participative elements of the process.

- The ENG can be seen as a success, and an important early achievement of the process. It passed several rounds of scientific scrutiny, but still contained pragmatic, quantitative design guidelines, which allowed the development of a representative network even in the face of data gaps and scientific uncertainties. Most of these guidelines which were simple enough to be presented to stakeholders in a reasonably straightforward manner. The stakeholders were able to understand the benchmark their work was being assessed against at the time, and the project team were able to provide them with clear, visual feedback on the progress that the group was making towards meeting that benchmark.
- Finding Sanctuary's project team, as a dedicated support structure for the regional stakeholder process, were able to establish trust and working relationships with stakeholders across a wide range of sectors. They provided a point of access for information about all aspects of the on-going process, and were able to respond to stakeholder needs in pragmatic and non-bureaucratic ways. As reflected in feedback from the Steering Group, and in the summer 2012 stakeholder interviews, this support was valued by stakeholders.
- Based on their day-to-day experience at the 'sharp end', the project team were also able to provide practical feedback and advice on the developing process to the national project partners, who were further removed from the stakeholder process.
- The iterative nature of the planning process, despite ending up being very compressed in time, functioned as a way for the SAP to obtain an insight into progress and provide feedback. In addition, it also allowed Defra, SNCB staff, and the wider stakeholder community to do the same.
- The transparency of the process catalysed interest and feedback from the bottom up, where people realised they might be affected by MCZs when the developing network maps were circulated (e.g. in the case of the wind farm developers and the ports sector, amongst many). Although this, in itself, did not resolve any conflicts, it allowed the Steering Group to work towards resolving issues wherever possible, before the recommendations were finalised.
- The bottom-up pressure from regional projects for support in data gathering catalysed a national effort in bringing together existing biological and socio-economic marine spatial datasets, which can now serve as a resource for wider marine planning, as well as having provided a sound basis for the regional MCZ projects to work from.

Approach 1, and the regional project model in particular, should therefore not be dismissed as a workable model for integrating participative and top-down elements in future marine spatial planning processes. Arguably, the process was making significant and timely progress towards meeting the overall objective, once the regional projects had become established, key datasets collated, and the ENG published. The systematic, broad-scale planning approach was consistent with achieving a representative network, and the strong participative incentives served to improve understanding and support, as well as being consistent with the ecosystem-based approach (recognising humans as an integral part of the wider ecosystem).

However, the full realisation of these advantages depended on the consistent implementation of approach 1. With the process increasingly shifting to approach 2, key concerns (such as process-generated uncertainty) remained unresolved, and the increasingly detailed and reductive focus led to delays, with evidence reviews and tranching of sites significantly slowing down progress towards a representative and well-managed network. The cessation of the participative elements of the

process and the lack of recognition of the stakeholder narrative as an integral part of the final recommendations has led to the undermining of stakeholder effort, disengagement from the process, and a loss of the social capital (trust and confidence in the potential for mutual cooperation) that had been generated within the process.

This summary report ends with a detailed series of recommendations on how the current MCZ process could be improved, and on how a regional-project-style stakeholder process could be better implemented in future. This would require a genuine political will for the objective to be achieved, for difficult decisions (on site management) to be taken upfront, and a willingness to change long-established ways of working within the SNCBs and other organisations (e.g. the established methods of the *Natura 2000* process).

3.9 A note on the December 2012 public consultation

As the full report of this governance analysis was in its final editing stages, in December 2012, the public consultation on MCZs was launched by Defra, set to run until March 31st, 2013 (see [here](#)²⁶).

Out of the 127 MCZ recommended by the four regional MCZ projects nationally, 31 were being consulted on for possible designation in 2013 (with fewer than 50% of the conservation objectives that the regional projects had recommended for these sites). No reference areas were included. Fifteen of Finding Sanctuary's 58 recommended MCZs were included. The consultation questions focused on individual sites and conservation objectives, not on the network as a whole.

The consultation materials placed considerable emphasis on scientific evidence underpinning the proposed sites and feature-specific conservation objectives, and little emphasis on any accompanying stakeholder narrative.

No further clarity was provided on likely MCZ management. The impact assessment's management scenarios included in the consultation documents were described as 'illustrative' (despite the fact that 'cost' had served as a criterion for selecting which sites to progress, along with the degree of underpinning evidence, and the degree of risk of ecological damage).

There was no clear roadmap for any future MCZ tranches, nor for a review of the approach to reference areas, nor for a process of implementing the 'tranche 1' sites following designation, other than to say that a reconstitution of the regional stakeholder groups was 'unlikely'.

The fundamental conclusions of the governance analysis were unaffected by the release of the consultation documents, which reflected a continued shift towards approach 2, and a further slowing of progress towards a representative and well-managed network of MPAs. However, a full analysis of the consultation documents, was beyond the scope and timeline of the governance analysis report. At the time of finalising the analysis, the MCZ process clearly has a long way to go yet, and the conflicts, incentives and cross-cutting themes discussed here will continue to unfold over time.

²⁶ <http://www.defra.gov.uk/consult/2012/12/13/marine-conservation-zones-1212/>

4. Recommendations

The following is a detailed list of recommendations by the main author, based on the findings of the analysis. They are primarily aimed at those who (at the time of writing) are responsible for managing the on-going MCZ process. However, many of these recommendations have relevance beyond the MCZ process in England, and may serve as a way of applying lessons learnt from this case study to current or future processes of a similar kind, either in the UK or further afield.

The recommendations are based on the assumption that there is a genuine will and commitment to achieving a representative, well-understood, and well-managed network of protected areas. As such, they boil down to recommendations on how to shift the MCZ process back to 'approach 1' as defined in section 3.1, and on how best to implement elements of approach 1 in this and other processes.

4.1 Improve clarity in the current MCZ process

- **Establish clear responsibilities**, ensuring that all key aspects of the process have a lead person or organisation responsible for delivery.
- Ensure that responsible organisations / individuals have sufficient resource and support to allow them to fulfil their responsibilities. That includes appropriate, timely, and fit-for-purpose advice (e.g. clear and practical advice on appropriate activity restrictions). Identify clear responsibilities for producing such advice.
- **Establish a clear process for amending roles and responsibilities**, and making any other necessary adaptations or amendments to the wider process, in the face of changing circumstances or unforeseen challenges.
- **Map out (and publish) a clear process and timetable for future MCZ tranches.**
- **Map out (and publish) a clear process and timetable for MCZ implementation** (including the development and implementation of management measures).
- **Map out (and publish) a clear process and timetable for MCZ monitoring**, backed up with the necessary resource.
- **Map out (and publish) a clear process and timetable for adaptive management** (MCZ reporting, and future reviews of the network).

4.2 Improve transparency, and ensure equal access to information

- Ensure all of the above is clearly communicated to *all* interested parties (stakeholders).
- **Establish a clear central point of access for comprehensive and up-to-date information** about the MCZ project for stakeholders or any interested members of the public. Make sure it is the first hit on Google.
- **Keep and publish a record of all meetings** between SNCBs and / or Defra, and any interested stakeholders, where the MCZ process has been an agenda item, or any update about the process has been provided by Defra / SNCBs.
 - This should include meetings not organised by Defra / SNCBs.
 - Any information about the MCZ process provided at these meetings should be easily accessible to the wider public, through a central point of access.
 - Full minutes should be published for any meetings chaired / organised by Defra / SNCBs.

- **Strive for maximum transparency, including in substantive issues.**
 - Openly provide answers about progress on substantive issues in response to queries on such matters, e.g. which sites look likely to go forward, which ones look like they will not, and why. Caveat responses as appropriate (e.g. ‘this is work in progress, things might change, but this is where we are currently at’). As far as is reasonably possible, such information should be made available upfront (e.g. online).
 - Make draft documents available on request. Caveat / mark appropriately as work in progress. Highlight whether or not comments or feedback will be listened to, and if yes, indicate when and through what process people should provide it.
 - Create a working culture within the Defra ‘family’ where staff are supported and encouraged to provide such open answers, rather than a working culture that routinely differentiates between ‘internal facing’ and ‘public facing’ information, with the latter requiring lengthy multi-level internal sign-off procedures before any information can be released, thereby preventing swift, simple and straightforward answers to outside questions.
 - Openly share the reasoning behind any significant or potentially controversial decisions (‘show your workings’). This should include evidence relied upon, but should not be limited to scientific data.

4.3 Be pragmatic about evidence and uncertainty

- **Adapt the process to the available evidence, rather than the other way around.** A legal, planning, decision-making, and implementation process can be designed to suit real-world circumstances. Evidence, on the other hand, cannot be designed to fit the specifications of an idealised, pre-determined process.
- Broad-scale knowledge and coarse-scale evidence require a broad-brush process. Only where detailed, fine-scale information exists will a detail-oriented process have any chance of succeeding. Given the broad spatial scope of the MCZ process, a broader approach is more likely to yield success than a fine-scale approach.
- To be consistent with the principles of EBM, and to meet the legal requirement under the Marine Act and MSFD to put in place a biologically representative and coherent MPA network, focus on the system (and network) as a whole, rather than ‘salami-slicing’ the process to the point that all decisions hinge upon individual features (system components), and whatever detailed data is available for these at a limited number of localities.
- **Draw a clear line under the gathering of evidence, and proceed with decision-making and implementation** on the basis of what is known, accepting and acknowledging existing data gaps and scientific uncertainties, and the fact that better information will always be just around the corner. Accept the use of surrogates (broad-scale habitat data), even where there is uncertainty in modelled datasets mapping their expected distribution.
- The previous point is obviously not a recommendation to *stop* scientific research and survey work, or to stop striving for better access to and sharing of existing data. Quite the opposite, this should continue in *parallel* to decision-making and implementation, in order to be able to improve on the network in future reviews.
- As far as possible, **focus basic ecological research effort on data-poor areas**. This research should be viewed as an on-going effort to continuously improve the available evidence base,

rather than as something that has to happen before any decisions can be taken, filling in evidence gaps whilst going through a process where every step has to overcome a higher evidence hurdle than the previous.

- **Design the process to be adaptive**, i.e. map out a process whereby decisions can be revised and updated in the light of newer, better, and more detailed data emerging over time. Whenever a review or new decision-making process takes place, draw together all the best available data at that point in time (see below).

4.4 Develop an alternative, more practical approach to conservation objectives

- There needs to be a significant change in the way that conservation objectives (COs) are drafted and developed for MCZs. This change should focus on several goals:
 1. Reducing front-loaded costs, realising conservation benefits sooner
 2. Streamlining the process, minimising red tape
 3. Consistency with the principles of ecosystem-based management
 4. Adapting COs to the amount and detail of evidence available
 5. Increasing clarity and minimising uncertainty on management at an early stage
- The main recommendation is to separate the list of protected features for each MCZ from the conservation objective(s) for that MCZ. A designation order for an MCZ requires both, but there is no legal requirement for each individual feature to have its very own individually drafted and specific CO, and there is no requirement for each CO to be linked specifically to one individual feature. Thus, **in each designation order, separately state:**
 - **The list of features to be protected in the MCZ**
 - **The conservation objective(s) for the MCZ**
- It is not clear how easy it will be to amend an MCZ designation order, once it is in place. Therefore, it is important to think about a way in which an order can be drafted that is strong enough to base management measures on, but flexible enough to ensure it does not become obsolete with new survey data emerging.
- **Draft a list of features to be protected in each MCZ:**
 - The Marine Act definition of ‘feature’ is broad. When drafting the list of features to be protected in an MCZ, it would be possible to **use a nested approach. Start with broad features** that are known for certain to occur in the site (at the most basic level, that could include ‘seafloor and its associated biodiversity’). Where fine-scale data exist, specific species and habitats (or other ecological features) could be added. The advantage of a nested approach would be that it allows progress despite data gaps, but at the same times allows whatever the best available data is to add to the detail in the order. Here are two hypothetical examples (they are focussed on the seafloor, but this approach could be used for other components that are important for the integrity of the ecosystem, such as food webs – including pelagic elements coupled with particular seafloor environments through benthic-pelagic coupling, or predictable / seasonal aggregations of mobile fauna):
 - data-poor site: ‘The features to be protected in this MCZ are the seafloor, and associated flora, fauna, and geological / geomorphological features.’

- data-rich site: ‘The features to be protected in this MCZ are the seafloor, and associated flora, fauna, and topographical features. This includes species and biotopes a, b, c (...), and geomorphological feature x.’
 - **Separate the list of features in the ENG from the pool of features listed in the site designation order.**
 - There may be strong overlap, but conceptually, the ENG should serve as pragmatic design guidelines on how to put together a coherent and representative network, not as an equivalent of the species and habitats list of the Habitats Directive annexes.
 - The ENG addresses scientific uncertainty, using broad-scale habitat targets as surrogates or proxies, a pragmatic way of maximising the likelihood that the network as a whole will ‘protect a bit of everything’ in the face of an imperfect evidence base. But it makes little sense to include proxy or surrogate broad-scale habitat features on the designation orders’ lists of features to be protected in the site:
 - Over time, a better set of proxies might emerge, e.g. a different broad-scale environmental habitat classification system, and it might be sensible to change the ENG in a future network review process (see below).
 - Over time, improved spatial data will become available to more accurately map out the broad-scale habitat types in the existing classification (or the habitat categories of a new and improved, alternative classification system, should that become available). If new survey work reveals existing broad-scale habitat data to be inaccurate for a specific site, and the habitats are listed on the designation order as features to be protected in the site, the legal validity of the designation order is undermined (raising the likelihood of successful legal challenges of the process).
- **Draft conservation objectives for the *site*, not features:**
 - In line with the principles of EBM, **pitch conservation objectives at the scale of the site, rather than individual features.** Establish marine protected *areas* (as opposed to ‘marine protected features in some areas’). This would reduce the number of COs by an order of magnitude, thereby cutting back the red tape associated with them, simplifying and streamlining the implementation process.
 - **State conservation objectives that address human activities and impacts**, rather than environmental features. We know more about these, and know which cause the most direct impacts on the marine ecosystem. In any case, it is not practically feasible to manage the marine environment (in the same way that the terrestrial environment can be managed, e.g. by planting trees, exterminating rats, or implementing grazing regimes). It is, however, feasible to manage human behaviour at sea. This is where marine conservation action has to be focused, so that is what the COs should focus on.
 - This is in line with advice from the SAP. In paragraph 7.1.4. of their final advice (and repeated in paragraph 8.5.3.), they recommend an alternative approach to setting conservation objectives in the face of uncertainty: ‘[...]

an alternative approach is recommended, where insufficient information is available at present to define the condition of features for which the MCZ is designated: Given that ecological change within rMCZs is inevitable, the stated goal should not be to return these areas to an unknown pre-existing state but to mitigate damaging practices within them.'

- As an example, a CO might state something like 'Conservation objective for this MCZ: to protect this area and the features within it from activities causing significant direct physical impacts, such as x, y and z.'
- This would also have the advantage of allowing site management to be planned in conjunction with the site selection and drafting of conservation objectives, rather than kicking these difficult discussions 'into the long grass', thereby paving the way for a process that reduces or eliminates process-generated uncertainty with all its corrosive impacts.

4.5 Clarify MCZ management – eliminate unnecessary uncertainty

- One of the key findings of this analysis is that on-going uncertainty about MCZ management has been highly damaging within the MCZ process (see section 3.4). This uncertainty is generated by the process, and can therefore be eliminated by altering the design of the process.
- It is important to develop some clear, pragmatic MCZ management principles (i.e. **develop clarity on activity restrictions and management measures that will apply within MCZs**). This could go hand-in-hand with developing COs along the lines suggested in the previous point.
- Consider developing a list of activities *compatible* with MCZs, rather than a list of activities *not* compatible with MCZs. This would prevent loopholes (e.g. by modifying an activity slightly in order for it to be different from one listed as not compatible). This principle should be carried over into the development of byelaws or CFP measures.
- **Be strategic – approach the development of management measures and activity restrictions at the scale of the network.** The upfront approach suggested in the previous point would enable the process of developing and implementing management measures to be more efficient. Rather than develop specific byelaws on a case-by-case basis, measures could be applied to several sites at the same time, thereby reducing the burdens on responsible authorities, and reducing the overall number of regulations in place. The regulatory environment would also be much simpler to navigate and understand for stakeholders.
- Permits should be used in an intelligent way to **support low-impact activities, particularly in inshore sites, in order to encourage a sense of local site ownership and support**, bearing in mind the social, cultural and economic value of certain activities in local areas (e.g. traditional cove fishing in Cornwall). In other words, use the economic incentives that become possible once MCZ management requirements are clarified.
- **Future processes should clarify activity restrictions and management measures upfront, or alongside spatial boundary planning.** Management planning and boundary planning should not be treated as separate, isolated tasks.

- This could be done by pre-defining different types of MPA, with different levels of restriction, and tying ENG-style targets to each type. This would make it possible to ensure that there is sufficient representation of each type of MPA within the network, and that if particular features have particular known sensitivities, these are represented in areas with sufficiently high protection levels.
- Alternatively, restrictions could be suggested through a participative approach, at the same time as planning site location. A mechanism would be needed to ensure that these suggestions meet a sufficient standard (ecologically / environmentally), which could take the form of minimum protection standards being defined upfront, or it could be achieved through an iterative planning process with scientific expert feedback provided at each stage on whether or not the suggested protection levels are sufficient to result in the desired environmental outcomes. The latter approach would depend on the scientific feedback carrying genuine weight in subsequent decision-making.

4.6 Cross-sectoral stakeholder participation: ‘Once More, With Feeling’

- The cross-sectoral platform of the Finding Sanctuary process brought a lot of benefits to the MCZ process. It did not resolve fundamental conflicts and differences in world views, but it created better understanding between sector representatives, established working relationships, and created a forum within which genuine compromises and synergies were sought. In the current process, there is no incentive for stakeholders to seek such compromise. During the public consultation process that is about to start, it is highly likely that each sector will revert to fight exclusively for their own interest, irrespective of whether that is to the detriment of others. Given that no sites are yet designated, and no management has been decided, everyone will still consider that there is everything left to fight for. In the medium to long-term, **the process should seek to re-establish on-going, representative, cross-sectoral dialogue, in order to incentivise co-operation and compromise.**
- The stakeholder process should be genuinely inclusive, representative, and balanced. Bilateral engagement, ad-hoc groups, and public consultation do not incentivise cooperative behaviour.
- Endeavour to integrate with, build on, and support existing local and regional cross-sectoral platforms, where they already exist (e.g. estuary forums, coast forums).
- **Any future stakeholder process should be designed without a ‘cliff’** of the sort experienced in the MCZ process – **there should be continuity** to the use of participative incentives. Stakeholders are not a commodity to be ‘dipped into’ periodically, and establishing trust and relationships takes time. Once a group dissipates, the social capital generated through its existence is at risk. An on-going group (or set of groups) should ideally be established to serve as **a stakeholder platform with a role in wider marine planning, not just MCZs.**
- If a stakeholder group is established as a ‘task-and-finish’ group, then it is important that the task they are given is a complete task from the stakeholders’ perspectives. In the MCZ process, a lot of frustration and loss of engagement was created by the fact that they were asked to ‘draw lines on maps’, with management discussions happening in parallel / left

inconclusive. There was a sense, at the end of Finding Sanctuary, that the ‘important discussions’ were still to be had in future, and the group would have no role in them.

- The stakeholder group has to have a **clear role** (including clear tasks) to focus on, and it has to wield genuine and significant influence. This has to be meaningful from the perspective of the participants, i.e. **there has to be something in it for them**. Otherwise, there is no focus to the group interactions, nor is there any incentive to participate and be constructive. Trying to retain complete control over outcomes from the top down will create tensions, so the courage is required to empower stakeholders to fulfil their remit.
- Ensure that appropriate and **continuous, bespoke support** is provided to any on-going stakeholder process, including the provision of information and data, appropriate (practical) guidance where necessary, facilitation, and open reporting (transparency matters).
- **Continuity of membership** is important to building and maintaining relationships, trust, and group dynamics. The same goes for the people providing support to the stakeholder group – continuity is important in order to build up trust.
- **Manage expectations**. As an example, be careful about using the word ‘consensus’. Realistically, in a process dealing with controversial matters over very large spatial scales, it is very unlikely that stakeholders with fundamentally opposing views will reach genuine ‘consensus’ (there will always be some stakeholders who would prefer MPAs did not exist at all). What *can* realistically be aimed for is a compromise, where people agree to an outcome on the basis that they can ‘live with it’, rather than it being something they would actively want to promote.
- Establish a clear, transparent, and preferably participative process for reviewing and amending the process, e.g. stakeholder group membership and role (i.e. have in place the necessary process elements for being adaptive).
- **Don’t shift the goalposts** from the top down. In the MCZ process, the stakeholder group were given the ENG as the benchmark against which their recommendations were assessed. With the shift to an ‘evidence-based’ approach, this benchmark is falling by the wayside, thereby undermining the work of the stakeholders. If amendments have to be made to the process in the face of changed circumstances, go through a clear and transparent process of adaptation, as defined in the previous point.
- On any matters that fall under the remit of the stakeholder process, **do not let individuals, individual sectors, or lobby groups influence outcomes from outside the stakeholder platform**. That disempowers the group, and is a disincentive to cooperation.

4.7 Diversify the incentives used

- Since the end of the regional MCZ projects, there has been a loss in the number and diversity of incentives used in the MCZ process. Shifting back to approach 2 (as defined in section 3.1) would allow a diversification of incentives used: In addition to the legal and interpretative incentives currently in place, the process should combine economic, knowledge, and participative incentives. A full list and description of possible incentives can be found in section 5 of the full report cited in the introduction.

4.8 Monitor MCZs

- Map out a clear impact monitoring strategy, both for environmental impacts as well as socio-economic impacts.
- If insufficient resource is available to monitor impacts at all sites in detail, monitor the impacts of representative subsets of sites.
- **Monitor activities as well as impacts** (in line with the final SAP advice¹⁵). Automated remote navigation and communication technology makes this a more realistic prospect to achieve for all sites than detailed impact monitoring. Activity monitoring can a) indicate effectiveness of a site (are impacts genuinely being reduced or removed through the designation and management measures?), and b) if done in real-time, form part of enforcement.
- Monitoring cycles should be timed in a way that ties in with any future review timetables, being mindful of the time it takes to process information, analyse it, and share it with the actors involved in the review process.

4.9 Map out an effective review process (adaptive planning and management)

- Over time, new information will emerge from scientific research, offshore surveys, better access to existing information (where data ownership has, to date, proved to be a barrier), and data from MCZ monitoring. It is therefore important to keep the network under review.
- In order to maintain integrity of the network, and consistency with the ecosystem-based approach, **periodically review the network as a whole**, rather than individual sites on a case-by-case basis.
- The review process should consider the network configuration, i.e. location, number, and size of sites. In view of new data, is the network representative? Could it be more efficient?
- The review process should consider levels of protection within the sites. Based on monitoring data, are the levels of protection appropriate to the achievement of conservation objectives?
- The review process should consider management measures and their effectiveness. Are they being adhered to? Are enforcement models working?
- The review process should consider the ENG (as well as the network). Improved data (e.g. a better 'surrogate' habitat classification system, or improved species-area curves) may enable refinement and improvement of the ENG in future, i.e. a better translation of the seven network principles in Defra GN1 into pragmatic, quantitative design guidelines.
- The review process should consider socio-economic developments, especially in view of developing marine plans. Are there new priorities and goals in other sectors that conflict with the network? Can amendments be made to accommodate them without compromising the ecological integrity? Can new synergies be found?
- The review process should give a significant role to a cross-sectoral stakeholder platform (or series of regional platforms).
- **The review process should be an on-going process**, with a timetable for a review every few years. This could integrate with the six-yearly reporting cycle required by the Marine Act.

4.10 Establish multidisciplinary expert advice panels

- The SAP membership in the MCZ process was limited to natural scientists, and the remit of the SAP was limited to providing advice on scientific questions. Because the SAP's expertise and remit were so narrowly defined, the panel could not engage fully in the wider range of practical and socio-economic considerations that led the stakeholder groups and regional project teams to embark on a particular approach or make particular decisions.
- A further disadvantage of the narrow remit of the SAP was that the project staff and stakeholders could only turn to the SAP if they had ecological / scientific questions. There was no equivalent panel of experts for addressing legal, social, economic, governance, or even wider spatial planning questions.
- In future processes of a similar nature, **consider establishing cross-disciplinary expert panels, including natural scientists, spatial planning experts, economists, social scientists with relevant expertise, and legal experts.** This would provide stakeholders and staff with a wider pool of expertise to draw upon, and make it easier for a process to effectively integrate different strands. It would also allow each individual expert to learn about wider aspects and realities of the process they are being asked to provide advice to, thereby enabling cross-disciplinary learning, and making it possible for them to jointly 'reality-check' their input and provide more practical advice. Such a multidisciplinary approach may even act as an incentive for experts to participate.
- **Ensure that the power and remit of any expert panel is clearly defined, transparent, and not undermined** through a process design where the advice carries no weight in decision-making.