

06 December 2005

The Marine Bill

1. The proposed Marine Act represents an historic opportunity to secure the sustainable use and exploitation of our coastal and marine environment. For coastal local authorities this could be the one of the most important pieces of legislation in the past half century.

The Marine Bill – what is it?

2. The Marine Bill will introduce new powers for the protection of the marine environment, in response to UK international obligations under the OSPAR convention. The Government propose to publish the draft Bill in November 2006.
3. Whilst this is the primary driver behind the Bill, it will also be used to 'tidy up' other relevant UK legal mechanisms. So, it will:
 - address the consents process in the marine environment (although currently restricted to those consents operated by Government)
 - the arrangements for managing fisheries
 - put in place measures to enable marine spatial planning
 - It may establish a new 'marine management organisation' to operate these new systems
 - Finally, it could be used as a mechanism to establish a statutory role for ICZM (Integrated Coastal Zone Management).

What is the Local Authority interest?

4. Local Authorities already have many interests in the marine environment. Planning authorities consider applications for consent to undertake various works in the sea (flood defences and coast protection, piers, harbours, tidal barrages, moorings and marinas.....). Local Authorities have other powers and duties to manage coastal water sports (bathing, vessel-based sports...) and passenger vessels (licensing powers), fisheries (extensive powers through the sea fisheries committees), public health (powers to close shellfish beds) and emergency response (oil spill clean-up to one mile offshore), navigation (Harbour Acts and related legislation), and nature (e.g. AONB's, local nature reserves), and as major coastal landowners.
5. The sea provides opportunities and problems for local economic regeneration and its management is of direct interest to local authorities for this reason.
6. Conversely, local authorities though their planning and other powers can play a pivotal role in the exploitation of marine resources, the cumulative impacts of development etc.
7. In the past 25 years local authorities have provided leadership and support to coastal and estuary partnerships that recognised are recognised as best practice nationally and across Europe.
8. Finally, but most importantly, local authorities are the legitimate democratic voice of the coastal population.

“On the Edge” and the Marine Bill

9. To date, the local authority response has been based on the Coastal SIG strategy ‘On the Edge’ which calls for:
 - more support for local government’s role in ICZM. It is a widely held view that the voluntary approach has not delivered a sustainable system of management for the country’s coastal regions.
 - a resolution to the ‘democratic deficit’ in decision-making beyond the low water mark. The system of marine spatial planning and any marine management organisation must have appropriate governance arrangements. No clear proposals have yet been proposed, and Defra seem to be keeping a genuinely open mind over future arrangements. The Bill may remove local authority powers in relation to the management of inshore fisheries.
10. The review of byelaw powers on the coast, which was undertaken by DETR some years ago, and which recommended the rationalisation of powers for managing activities for which no consent was required, has not delivered change. The Good Practice guide produced by DEFRA, whilst useful, was an inadequate response. The fact is that local authorities and others do not have sufficient tools to manage conflicts between recreational users on the coast (Jet skis versus swimmers being perhaps the most persistent example).
11. On all of these issues, and others, the LGA must lobby strongly to bring about outcomes which are in the interest of its members.
12. At present Defra propose two consultation events before releasing a draft Bill in the autumn of 2006. One has been held already and the SIG’s initial views were presented by Brian Shipman of Cornwall County Council.
13. **An ad hoc approach from the LGA will be no match for the other strong lobby interests, including those for nature conservation NGO’s, commercial and port interests, and other Government Departments which are very well resourced and pro-active in pressing for their objectives.**
14. Clearly, given the range of local authority roles in the marine environment, and the potential of the Marine Bill to support or remove these functions, it is imperative that the Coastal SIG engage strongly and pro-actively with the process. This is a once in a lifetime opportunity to bring about a resolution to these many issues.

Local Authority Strategic Recommendations

15. Based on the work to date of the Coastal SIG, “On the Edge”, and the wealth of experience available from coastal local authorities, the following six strategic recommendations are proposed as a basis for detailed discussion.

- i. **Statutory marine spatial planning to be fully integrated with terrestrial spatial planning**

Based on discussions with DEFRA and pilot work underway in the Irish Sea, there is a risk that the proposed marine spatial planning will not reflect the aspirations of the adjoining terrestrial areas and vice versa. At present ODPM who have responsibility for planning appear to have little engagement in the discussions. The possibility of extending the remit of Regional Spatial Strategies and Local Development Frameworks into coastal waters should be investigated.

ii. Designate Priority Coastal and Marine Areas of national, regional and local importance

There is no national strategy for the marine waters of the United Kingdom despite the economic and environmental importance to the UK as a maritime nation of major estuaries such as the Thames, Solent, Severn, Clyde and Forth. The UK's seas are some of the most intensively used in the world for transport, fisheries, mineral extraction and energy.

iii. Statutory duties and powers for local authorities and relevant bodies to promote integrated management and planning

The existing ad hoc, voluntary approach to the management of coastal waters advocated by Governments from the 1980's, with its continual funding problems, is no longer fit for purpose given the increased environmental and economic pressures.

It is proposed therefore that the Marine Bill include statutory duties and powers on local authorities and other relevant bodies with powers in coastal waters to participate in the preparation of Integrated Plans for Priority Coastal Areas. A proven model has been put to Government based on the duties for AONB's in the 2001 Countryside and Rights of Way Act 2001 and the regulations for the preparation of Schemes of Management for Marine Sites under the Habitats Directive.

iv. Extended local authority jurisdiction into inshore waters

For reasons of consistency, transparency and accountability, it is proposed that certain planning and management powers within the 12 mile limit, currently the responsibility of Government Departments or harbour authorities, be vested in the coastal local authority.

v. A 5-year RTD plan for marine research and technology development

The "information gap" between coastal practitioners and the research community in the marine environment is well known. High quality, relevant research and information is vital if coastal local authorities and other agencies are to plan adequately for issues like climate change.

vi. An 'amphibious' foresight agency to support sustainable coastal and marine development

DEFRA are consulting on the need for a single "Marine Management Organisation" (MMO). Options for such an MMO range from full a full regulatory and enforcement body to a purely advisory body.

The former raises serious questions of accountability and risks reinforcing the discontinuity of governance between land and sea. Experience from elsewhere indicates that such powerful bodies become another sectoral rather than integrating force. The prime concern is that decisions taken in the marine environment are taken on the basis of the best available information and in an integrated manner.

The LGA consider therefore that the case for a regulatory MMO is not proven and the need is for highest quality technical and scientific advice, and for improved awareness to support decision making. The LGA would support the establishment of such a body or the widening of the remit of an existing agency.

Recommendations

Establish an LGA Technical Working Group

16. A meeting with Elliot Morley in August provided an opportunity to offer local authority support in the development of the Marine Bill, and specifically to propose the establishment of an LGA technical working group. The rationale for this proposal was to overcome the weakness of an ad hoc and uncoordinated engagement from local authorities, to provide a mechanism for better attracting the interest of local authority officers with relevant skills and experience (recognising that this will be difficult, and so as to get a higher quality input), and as a way of legitimately providing an LGA view with the gravitas that that would bring.
17. The CSIG, in order to lobby effectively, must have a clear strategic position on the Marine Bill, and have detailed proposals to hand with regard to its principle elements.
18. It is proposed that a series of three meetings take place over the coming 9 months, each of which will focus on an aspect of the Bill that is of particular interest to local government.
19. Reports from each event would be delivered to Defra as a positive contribution to the drafting process.
20. This proposal will only work if the CSIG can engage a wide range of officers (and Members) in these events. Members must consider the resources available for this work, and the ability of officers currently supporting the group to cope with the workload imposed.

Financial support for the work of the CSIG

21. The resources available to the CSIG are finite and already stretched, and the Marine Bill will create a workload which will be difficult to sustain. Members must consider at this stage how that workload might be most effectively met.
22. As an interim measure a sum of £2000 previously allocated to a fisheries project within the CSIG budget, has been diverted to support the initial negotiation with DEFRA, liaison with other organisations, and to support CSIG work on the Marine Bill. A contract has been let with Atkins Global consultants for this work. This will enable the CSIG to field a knowledgeable, well-briefed representative at meetings and workshops.
23. It is recommended that Members make provision to extend the Atkins contract in the likely event that this should be necessary. It is proposed that a further £2000 is allocated in this financial year, and that a sum is agreed in the SIG Action Plan for 2006/7.

Endorsement from the LGA Environment Board for this SIG's recommendations and actions.

24. In view of the implications for the statutory powers and duties of local authorities and their maritime boundaries of the Marine Bill, the SIG seek the endorsement of the Environment Board for its recommendations and actions at the earliest opportunity to legitimise its discussions with Government.

Brian Shipman
Cornwall County Council

November 2005

Annex I - ToR Consultancy call-off contract

Marine Bill, ICZM Strategy and Marine Spatial Planning

Brief for the consultant to the LGA Coastal Special Interest Group

Purpose:

The consultant will assist the LGA's Coastal Special Interest Group (SIG) to make an effective input to the current discussions and consultations on the Marine Bill, the ICZM Strategy for England, and the pilot Marine Spatial Planning project that best represents the interests and views of coastal local authorities.

Key Tasks:

This assistance could include:

- i. representing the SIG at key face to face and stakeholder meetings,
- ii. drafting position papers and lobbying material,
- iii. developing the LGA's recommendations to Government.

Timetable:

This contract is for work within the period from the 26th September 2005 to 31st March 2005 subject to a maximum value of £2000, including expenses.

Contracting Authority:

Colchester Borough Council will let and manage this contract on behalf of the SIG.

Supervising Officer:

Alex Midlen, Environmental and Coastal Initiatives Manager of Colchester Borough Council.

Key Contacts:

1. Alan Inder, Coastal Manager, Environment Department, Hampshire County Council
2. Brian Shipman, European Policy & Development Officer, Planning, transportation & Estates Department, Cornwall County Council
3. Other SIG members or experts to be identified.

The Local Authority View

Local Authorities recognise that the proposed Marine Act, the ICZM Strategies and the development of Marine Spatial Planning together represent an historic opportunity to secure the sustainable use and exploitation of our coastal and marine environment. Local authorities are fully committed to this goal, and seek a full and proper recognition by Government of their important role in achieving it.

The LGA's Coastal Strategy 'On the Edge', 2001 and its subsequent 'Review and Update', February 2004 provide the basis of the local authority viewpoint.

To further assist and inform the current discussions, this view has been refined into a series of key 'tests' and specific proposals as set out below.

Local authorities will therefore look for the Marine Act, the ICZM Strategy and Marine Spatial Planning to effectively:

- a. recognise land/sea interrelationship of effects and impacts
- b. identify how far off-shore there is a legitimate local/regional interest
- c. identify the lateral/coastal boundaries (administrative or ecosystem) for planning and management
- d. identify boundaries of responsibility for strategic and regulatory planning
- e. create the capacity to deliver (through skills, information, research and finance) sustainable development in the coastal and marine environment
- f. identify the appropriate legal processes – eg; adoption, public consultation, SEA/SA – to satisfy the public interest
- g. enshrine transparency and democratic accountability in decision making in the coastal and marine environment
- h. identify the key partners (Relevant Authorities) in both the private and public sectors
- i. establish financial and legal means of sustaining local and regional partnerships as vehicles for the planning and management of specific coastal and inshore waters
- j. establish a unified system for consenting activities in the marine environment.

In order to assist the meeting of these tests, the following practical solutions are offered:

- a. Create **statutory marine planning and management partnership mechanisms** involving coastal authorities based on experience of voluntary partnerships for coastal and enclosed waters.
- b. Identify **priority areas** of national importance for coastal and marine areas for integrated management and planning.
- c. Provide **for local authorities to extend their areas of jurisdiction** (and thus planning powers) into inshore waters.
- d. Identify **duties and powers for local authorities and relevant bodies** for these areas along lines of AONB management in CROW Act 2001 and guidance for preparation of Marine SACs, i.e. local authorities given duty to lead production of

Management Plans and input to new Development Framework

- e. Identify **sustainable funding powers** to support this (Competent Environmental/Marine Agency) based on the US 'Federal Conformity' principle.
- f. Identify **the vehicle for central co-ordination** and the exchange of experience and good practice, eg a Marine and Coastal Forum
- g. Establish a **5-year RTD plan** for both environmental research and technology development (e.g. renewables). Ireland has such a system operated by Dept. of the Marine. Its goals should be to provide appropriate research to inform management, and to help 'unlock the economic potential of the coast'.