

COASTAL AND MARINE NATIONAL PARKS FOR SCOTLAND: A CONTRIBUTION TO THE DEBATE
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Key Points

1. The Scottish Executive's proposal to establish a coastal and marine national park provides ideal opportunity for celebrating Scotland's coastal and marine resources and their sustainable use. Implementation should ensure that an integrated approach is taken on all aspects of the sustainable development of coastal and marine areas, in context of strategic framework for the marine environment.
2. More than one Coastal and Marine National Park should be designated in recognition of high quality and diversity of Scotland's coastal and marine environment, and many high quality coastal areas already in conservation ownership. The Minister's guidance on only one park and the need for accessibility and the lack of remoteness is far too limiting.
3. The new approach should not be restricted to coastal and marine areas. It should be from the sea bed to the mountain top. This is a perfect and unique Scottish opportunity.
4. It is essential to set up formal stakeholder groups to develop the proposals in each locality, rather than the government pre-determining the outcome by a pre-election announcement. International experience as well as experience in developing Scotland's two terrestrial national parks, demonstrated the importance of consensus building. Once parks are established it is vital to ensure that the governance structure formally engages all interests in both advisory and decision-making roles.
5. It is essential to resolve third party activities by reviewing and reforming other legislation.
6. Fisherman should be part of the solution, rather than seen as part of the problem. This as has been achieved in other parts of the world and active engagement with these fishermen from, for example Australia and New Zealand, is an essential next step.
7. A diversity of objectives can be satisfied through an incentive approach and through the use of zoning.
8. Scottish Coastal and Marine National Parks should be an exemplar of best practice by using international experience to inform decisions, especially outcomes from first International Marine Protected Areas Conference 2005 and the World Parks Congress 2003.
9. The recent Scottish Executive consultation was too restricted in time and did not learn lessons from the collaborative approaches used for the two terrestrial national parks. Areas for further consideration should be those identified by SNH through a systematic and objective analysis. In each of these areas formal stakeholder groups should be established to discuss the proposals and make specific recommendations before any statutory processes are begun by the Scottish Executive. This will take time but will lead to more agreement and more durable outcomes.

Introduction

The Scottish Executive's request for advice from SNH and its more recent consultation on the establishment of a Coastal and Marine National Park is excellent. The fact that all interests are not supportive was predictable as there are many vested interests and there has not been a proper process of engagement of all relevant interests in the areas favoured by the government.

This response sets out key issues that should be addressed in the development of the system. It draws on international best practice and the respondent's experience of Scottish and other situations.

The opportunity

Coastal and marine national parks for Scotland are an opportunity to take a more integrated approach to the restoration, management and use of the natural resources of these areas for their own sake, given their international significance and importance, for the national communities of interest, and also to ensure that the local communities benefit. If this can be realised, then the outcome will achieve the 'triple bottom line' benefits for livelihoods, culture and society, and the environment.

It is essential that the Coastal and Marine National Parks designated should meet all of the criteria set down in the National Parks (Scotland) Act 2000 and make a real difference to the areas themselves. They should engender a feeling of national pride in our marine and coastal heritage.

The Scottish Executive's approach is far too limiting in a number of respects. There should not be just one coastal and marine national park. Our heritage in these areas is so rich that it justifies a number of parks. The remoter and less accessible areas should not be excluded from consideration as the Minister stipulates; that was never the intention of the Scottish Parliament in approving the Act of 2000 and the inclusion of the marine national park provisions. The selection of locations for coastal and marine national parks needs to be placed in a broader framework of improved management of the natural resources of our seas and coasts, rather than a 'tick the box' approach in relation to the Scottish Executive Partnership Agreement objectives agreed in 2003..

Equally, there seems to be reluctance by the Scottish Executive to consider more terrestrial national parks. With the passing of the Act of 2000, Scotland has a real opportunity to create an internationally unique solution of sea bed to mountain top national parks. There are countless possibilities which I shall identify later in this paper.

Engaging all of the constituencies of interest

There are many opportunities that coastal and marine national parks can provide for communities. In this context, it is important to recognise that there are many communities of interest in relation to national parks: local, regional, national and international.

The National Parks (Scotland) Act 2000 and its implementation in the terrestrial national parks fails to fully recognise all of these interests, despite the fact that it was borne out of the decision to devolve decision-making and legislative powers to a Scottish Parliament in recognition of the feeling of 'nationhood' in Scotland. So the

focus should not be entirely on local communities, vitally important as they are in the care for our heritage and in the cultural history that they have bequeathed to these areas. Coastal and marine national parks can also provide benefits to the people of Scotland and its visitors. It is vitally important to recognise that national parks, at sea and on land, represent in effect a contract between local and national interests as the real benefit is to the nation as a whole. Local communities should benefit and at the same time help to maintain the resources of these special national places. There is an appropriate definition of this approach in the Confirmation Acts of The National Trust for Scotland ‘...for the benefit of the nation’ which could be used as a fundamental criterion.

Stakeholder groups should be established to argue, debate, discuss and resolve the issues related to the 4 purposes of national parks set out in the Act of 2000. They should represent all of these communities of interests: local, regional, national, and international, and also all sectors. There is an important message as many consider that this ‘broad church’ of interest has not been achieved for the two terrestrial national parks authorities: indeed I have heard them described as ‘Scotland’s parochial parks’ which makes it difficult to see their role in the international and national firmament of protected areas.

For the establishment of Coastal and Marine National Parks, innovative governance structures are needed. There are many constituencies of interest and all of these should be given the opportunity to participate. There are a number of ways of achieving this. The current terrestrial national parks is one model but it fails to fully represent the national and international interest and it does not have formal consultative arrangements and therefore does not meet international best practice. Consideration should therefore be given to the establishment of a Consultative Council for each Park, in addition to the formal Park Authority Board. Its role would be to provide advice and guidance from a broader constituency and also for the authority to sound out wider opinion in an effective manner. It is essential, for example, that those who have traditional rights and also modern licence arrangements are formally involved in the decision-making structures. The governance structure implemented should therefore make sure that truly national interests are appointed by Ministers rather than appointing locally based members to apparently represent those interest.

An open and transparent process

The development of the two terrestrial national parks was an exemplary process. It is widely admired outside Scotland for its inclusive approach of all constituent interests and the use of novel mechanisms for ensuring the inclusion of all groups in society. Well done SNH! The same approach should be adopted by the Scottish Executive for the development of Coastal and Marine National Parks in Scotland rather than the arms length consultation process requested from SNH and then a long silence before a hurried consultation ending early in new year 2007.

Following the end of the consultation period, the process of decision making must be much more transparent than that used by the Scottish Executive for the two terrestrial national parks. For example, the Scottish Executive in defining the boundaries of these parks were not prepared to come clean on the reasons for their decisions and certainly not release the papers explaining the basis of those decisions, which ignored

the advice from its statutory advisers. No wonder the debate on the southern boundary of the Cairngorms national park has been resurrected. So the Scottish Executive must do better this time and the relevant committees of the Scottish Parliament should force its hand.

An integrated approach

The most effective marine protected areas, national parks and other variants, are those where there is an integration of the objectives making sure that all of the components fit together. The key components are sustainable use of the natural resources, pollution reduction, a coordinated combination of top down and bottom up planning of resource use, the development of education and community development programmes, and the realisation of economic opportunities without undermining the sustainability of the natural resources.

The things that need to be fixed

Section 29 of the National Parks (Scotland) Act 2000 reads as rather an afterthought. It is excellent that the provision for the establishment of national parks below the low water mark exists, which is more than can be said for the national parks acts of many other countries, including those south of the Border. But it is a deficient provision, even when taken along with all of the other parts of the Act, including the Schedules. The simple reason for this is that legislation on the marine environment is much more complex than on land, and there are so many more statutes: one estimate is that there are 77 legal acts. A thorough review of the requirements to fully satisfy the provisions of the Act of 2000, and a subsequent assessment of the provisions of all of the other legislation that might obstruct the effectiveness of the new parks are essential. Without it, limited progress will be made.

The bottom line is that there are some third party and other rights, privileges and responsibilities, in relation for example to fisheries, and to navigation, and many other responsibilities in relation for example to dumping at sea, pollution control, and ballast water discharge. All of these must be reviewed in any area selected as a Coastal and Marine National Park in order to ensure that the 4 purposes of the National Parks (Scotland) Act 2000, and the overriding balance in favour of conservation are achieved.

The present powers of administration on behalf of the nation through the Crown Estate, for example, are a case in point. The lack of transparency in dealing with the national civil society interest remains far below what we should expect in the era of transparency and openness of the 21 st century.

Fishing as part of the solution

There are many environmental interests and environmental scientists who consider that the fishing interests in their many and varied guises are a major culprit in the degradation of sea bed habitats and the reduction in the level of exploitable stocks and biomass production of the inshore waters. Evidence from sea bed photography shows the damage that certain types of gear that are dragged over the sea bed can have in not only damaging internationally significant habitats and their dependent species, but also in reducing the natural sustainability of the stocks. It is claimed that bottom trawling and scallop dredging gear create the worst damage. Those fisherman using

this gear inevitably deny such consequences, but there has been a longstanding issue between the fixed gear and the bottom trawling and dredging fishermen about the relative stock and habitats sustainability of these respective methods.

Fishing legislation dating from the earlier decades of the 20th century sought, for example, through the concept of 'bay closing lines' to mediate between the different methods in some inshore waters. But the requirements, for example, of the EU Directives on Birds, and on Habitats and Species, in order to safeguard unique species and habitats means that more rigorous control is now required.

A new approach is needed whereby fisherman and their activities become a key part of the solution for coastal and marine protected areas, rather than the main problem. It is clear from the negative reaction of certain west coast fishing organisations to the recent consultation by the Scottish Executive that they feel threatened by the coastal and marine national park proposals in the Sea of the Hebrides. Far from stopping fishing activity a new approach, commonly called an ecosystem approach, is needed to safeguard the special habitats and to ensure the sustainability of the various fish stocks. It will be necessary therefore to have certain controls in place in the most ecologically important and sensitive parts of any coastal and marine national park on those activities which would be too damaging and destructive of the breeding stock, their habitat, unique or significant natural communities and the marine ecosystem. There are plenty of good international examples of relevant controls which have proved to be effective and have been supported and actively promoted by fishing interests: limits to the areas where bottom trawling and scallop dredging can occur, the protection of spawning and mating areas as refuges where no fishing activity takes place, and the cessation of fishing below a certain level in the water column to protect deeper water species.

The approach taken in many other countries is very instructive. In New Zealand, Australia, and parts of the Mediterranean, for example, fisherman at first were violently opposed to any form of regulation and to any suggestion of 'no go' areas. But after years of argument, the whole situation has changed and the fishermen, for example the prawn fisherman in the Great Australian Bight, are now the greatest proponents of the habitats and stock conservation approach within a marine national park. Indeed, they are often more persuasive with international environmental audiences than the marine conservation lobby because they see and understand the benefits of stock and habitat protection to the financial viability of their own enterprises and to the communities that are dependent on the fishing activities. Therefore the approach to developing the management regime in potential coastal and marine national parks in Scotland is to ensure that fishermen and others see the fishing interest as part of the solution rather than part of the problem. It is vital that arrangements are made in the near future for Scottish fishermen to meet with fishermen operating successfully in coastal and marine national parks in Australia and New Zealand.

Learning the lessons from other parts of the world where the fisherman and the conservationists are now in agreement is an essential step on the road towards collaboration and joint working. Indeed, at the recent first International Marine Protected Conference held in Australia one of the most important outcomes was the unanimous agreement between fisheries representatives and conservationists of 'the

mutual necessity to work collaboratively'. Equally, it is important to recognise and use local and historic knowledge about the coastal and marine environment in the areas that are chosen as candidates. This has proved to be beneficial in other parts of the world: the use of the sea and its resources and also the other connotations related to cultural history and emotional attachment.

It is debateable whether a compensation approach is justified in return for restrictions on fishing activity. Certainly experience on land in Scotland has admirably demonstrated that positive incentive schemes are much more effective way of getting key stakeholders, such as farmer and crofters, on board, are more efficient to administer, and more cost effective for the tax payer.

Zoning is an important mechanism which has been used effectively in other parts of the world. Basically, areas within the coastal and marine national park are defined in terms of theoretical carrying capacity and the level and type of activities which can be permitted to take place.

Identifying the areas

This is inevitably a very contentious issue and needs to be handled with great sensitivity. At the outset the Minister placed restrictions on the choice of area by stating that it should not be too remote, and that it should be accessible. More important is the need to identify more than one area for designation as indicated earlier in this paper, and to ensure that, in addition to the criteria in the Act of 2000, other factors are taken into account such as areas needing ecological restoration, areas requiring more coordinated management, areas in need of an integrated approach where none exists at present, and areas where there is community interest and a degree of entrepreneurial spirit.

SNH has undertaken a systematic and objective approach to identification potential coastal and marine national parks. This should form the basis of further consultation and detailed discussion between interests in the 5 areas identified: Solway, Argyll Islands and coasts, Lochaber and South Skye, Wester Ross and North Skye, and North Uist, Harris and south Lewis.

Which ever areas are chosen, they should be large enough to make sense in terms of environmental management, social benefit and economic development.

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