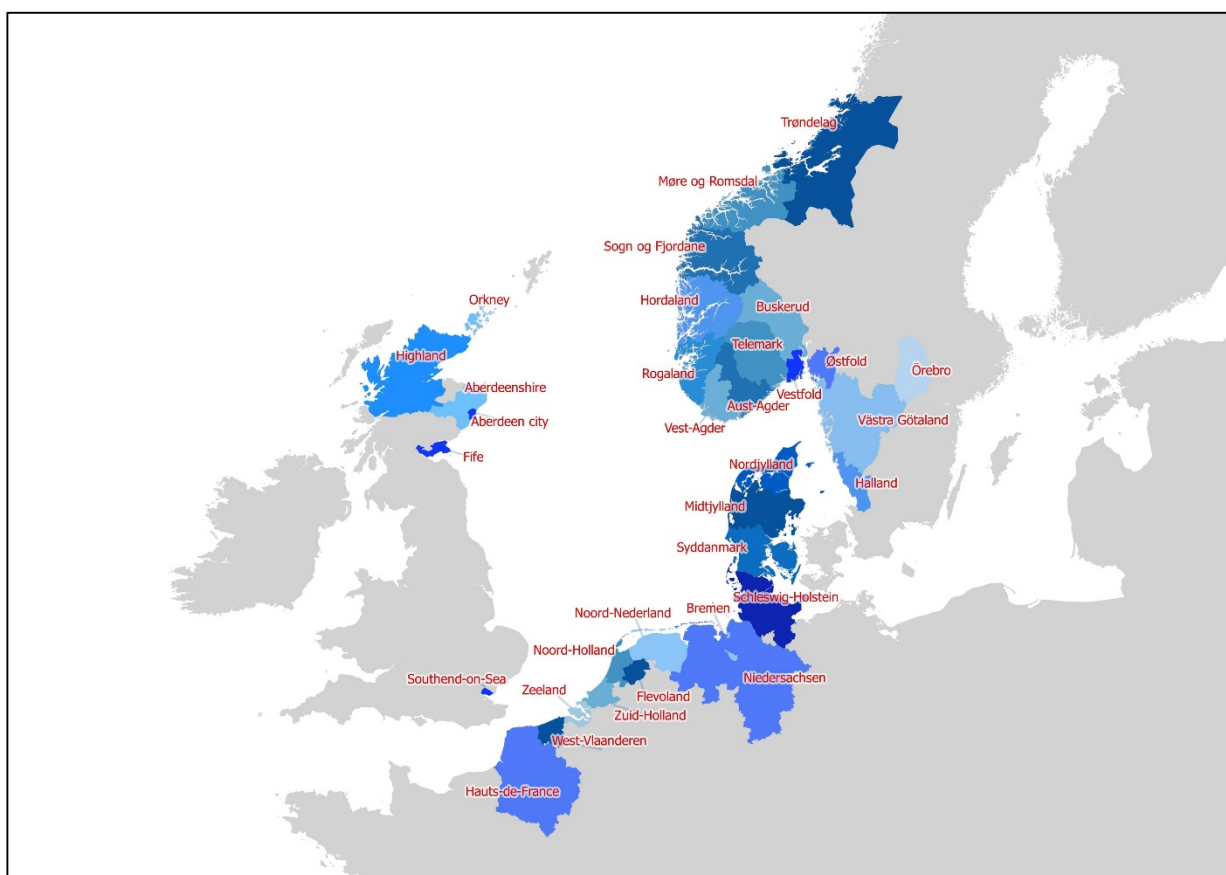


NorthSEE project Maritime Spatial Planning

The Role of Regions in Maritime Spatial Planning within the North Sea area



Final (as of October 2019)

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Executive Summary

Looking from land to sea, it is sometimes difficult to comprehend the sheer number of interacting and counter-acting forces, resources and activities that are taking place before you. Whilst you may see a ship or offshore wind farm on the horizon, or seabirds wheeling over cliffs, beaches or diving into the water to fish, you may equally be faced with a never-ending seascape that looks totally empty. But it is most definitely not.

The North Sea is one of the busiest sea areas in the world with intertwined ecosystems straddling international borders and multiple maritime industries making use of shared resources in pursuit of economic value and achieving smart 'Blue Growth' objectives. Given the cross-border nature of activities and processes, facilitating greater transnational coherence and cooperation in Maritime Spatial Planning (MSP) represents a challenge for the countries that border the North Sea Region (NSR). Within those countries, they are generally dealt with at the national level but sub-national interests need consideration too. How this is achieved varies across the NSR but contributes to overcoming a potential democratic deficit in their representation within the marine planning processes that are being established or further developed.

For MSP/marine planning to be effective, it should take advantage of the existing organisational and institutional structures that already facilitate 'regional' relationships, both within EU North Sea Member States and between those States and third countries. By building on - and investing in – such structures and their supporting human resources, greater awareness of MSP can be achieved.

The importance of regional input to national marine planning processes is reflected around the North Sea. Some countries, e.g. Norway, Sweden and Germany have spatial planning systems that already give sub-national entities like municipalities or Länder responsibilities for planning over sea areas, out to the limit of territorial waters. Others, such as the Netherlands, Belgium, Denmark and component parts of the UK have created new marine planning regimes in response to external economic drivers but have enabled regional priorities and interests to be reflected within them.

Despite this, representatives of regional interests can feel marginalised within their own national marine planning processes and in relation to MSP across the NSR. The lack of any formal MSP strategy for the whole of the North Sea means that there is no supra-national approach that considers the potential cumulative impacts of decisions in one area on another, or how marine planning may avoid or ameliorate/improve such outcomes.

Therefore, it is important to make use of existing opportunities for engagement across and between regions to facilitate better understanding of marine planning and what it can achieve. If such opportunities do not exist, thought may be given to setting them up. At a

time of likely imminent change in the nature of political relationships around the North Sea, it could be that an evolution is required in order to secure regional input that reflects the desires of neighbours to continue to work together for the environmental, economic and social benefit of the wider sea basin.

There is no single 'right' way of carrying out marine planning and it is clear that current processes are largely based around implementing the interests of national entities, often via a centralised process for Exclusive Economic Zone (EEZ) areas beyond the 12 nm limit. Tools are already available for overcoming some of the concerns expressed by regional representatives particularly that their understanding of MSP processes is limited or that their ability to contribute to national and transnational mechanisms is constrained. Where there may be gaps in existing systems, exchange of knowledge from one area to another may help resolve outstanding issues. This approach can be facilitated by projects such as the EU-funded NorthSEE initiative or by enlightened adaptation of one country's approach to another's situation.

Whichever approach or option is taken, the role of 'regions' – however they may be defined – in delivering ecosystem-based, transboundary and cross-border processes for MSP is essential.

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List of acronyms and abbreviations

| | |
|-----------|--|
| CoR | Committee of the Regions |
| CPMR/CRPM | Conference of Peripheral Maritime Regions |
| EEZ | Exclusive Economic Zone |
| EFTA | European Free Trade Association |
| EU | European Union |
| ICM | Integrated Coastal Management |
| IMP | Integrated Maritime Policy |
| MSFD | Marine Strategy Framework Directive |
| MSP | Maritime Spatial Planning |
| NMP | National Marine Plan |
| NSR | North Sea Region |
| NSC | North Sea Commission |
| MRG | Marine Resources Group NSC |
| RMP | Regional Marine Plan |
| SwAM | Swedish Agency for Water and Marine Management |

1. Introduction

The North Sea is one of the busiest sea areas in the world. Intertwined ecosystems straddle international borders and multiple maritime industries make use of shared resources in pursuit of economic value and achieving smart 'Blue Growth' objectives. Given the cross-border nature of activities and interests, facilitating greater transnational coherence and cooperation in Maritime Spatial Planning (MSP) represents a challenge for the countries that border the North Sea. The European Union-funded NorthSEE project addresses elements of this challenge directly, with a particular focus on shipping, energy and environmental aspects.

MSP is a tool to help balance the often competing user interests as well as protecting the environment. It is more effective if national approaches to it are coordinated and not contradictory. A lack of coordination over sites for environmental protection, shipping routes, energy infrastructure and many other activities can lead to less-efficient use of sea space, higher costs for maritime industries and compromised environmental outcomes¹.

Coastal and marine processes, resources and ecosystems do not recognise human-scale administrative boundaries but these are essential for securing the sustainable use of the sea basin for national and sub-national interests and for managing human activities at sea. Transnational MSP coordination must ensure that planners and stakeholders have a joint understanding of MSP systems, processes and concepts in their region.

This report on the Role of Regions in MSP in the North Sea area complements the other reports on Shipping, Energy infrastructure and Environmental issues produced by the NorthSEE project (2016 – 2020). With MSP generally being driven by national level organisations, it considers how those involved at the sub-national/regional level can ensure that their interests are appropriately represented in their own countries and across transnational boundaries.

1.1 Background

MSP is a politically-guided, stakeholder-driven process designed to facilitate appropriate, if not optimum, use of marine space for maritime activities including the conservation of environmental resources. An EU Directive, establishing a framework for MSP, was adopted on 23 July 2014². It commits EU Member States to establishing MSP by 2021 and sets out a series of principles by which this is to be achieved, including cooperation through existing regional institutional structures.

¹ NorthSEE project: <https://northsearegion.eu/northsee/integrated-horizontal-activities/>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0089&from=EN>

The North Sea is bordered by seven countries. At the time of writing, all countries are members of the European Union apart from Norway. Sharing a common sea space and national/ sectoral interests developed over many years have led to long-established but complex bilateral and multilateral agreements relating to the exploitation of marine resources by maritime industries: these pre-date any attempt at formal transboundary spatial planning.

1.2 Report layout

An overview of the legislative context for MSP in the North Sea area is given in Chapter 2, with a summary of the national approaches to its delivery in Chapter 3. Consideration of the different meanings of the term ‘Regions’ is undertaken in Chapter 4, followed by two case studies in Chapter 5. Finally, Chapter 6 offers some conclusions and recommendations for marine planning authorities, regional entities and other relevant stakeholders. Background information on the context of marine planning in the different countries is summarised in Annex 1 but additional information from other sources is referenced throughout the document.

1.3 Terminology

The phrases “Maritime/Marine Spatial Planning” and “marine planning” are generally used interchangeably unless there is a particular reason not to do so. However, it has been argued that the choice of “maritime” rather than “marine” emphasises “the human use and economic importance of the marine environment” over its innate ecological value. In some countries, e.g. the UK, there is a presumption against spatial allocation of activities unless specifically required. Figure 1 sets out countries’ use of the relevant terminology.

Figure 1: Terminology

| | |
|--|--------------------------------|
| Maritime Spatial Planning | Netherlands, Germany & Denmark |
| Marine Spatial Planning | Belgium & Sweden |
| Marine Planning | UK |
| Integrated Management of the Marine Env't. | Norway |

Chapter 1 - summary

- The North Sea is one of the world’s busiest sea areas, with 7 countries bordering it.
- Human-scale administrative boundaries are not recognised by transboundary and intertwined natural ecosystems.
- Maritime Spatial Planning (MSP) is a politically-guided, stakeholder-driven process designed to facilitate the optimum use of marine space for maritime activities, including the protection of environmental resources.
- MSP means different things in different countries around the North Sea.

2. Legislative context

Europe is a maritime continent. Looking from land to sea, it is sometimes difficult to comprehend the sheer number of interacting and counter-acting forces, resources and activities that are taking place before you. You may see a ship or offshore wind farm on the horizon, or seabirds wheeling over cliffs and diving into the water to fish. You may be faced with a never-ending seascape that looks totally empty. But it is most definitely not.

The laws that support the many different uses made of marine resources are as varied and complex as the activities themselves. Sectoral legislation, often drafted at the international level, sits alongside national policies and economic or environmental objectives. These may not always be complementary with each other or with those of a neighbouring country. Additional complexity arises from the lack of an overall approach to the sustainable use of marine resources within a single sea basin.

Spatial planning in the North Sea has had a long but uneven history. While terrestrial planning legislation in Norway, Sweden and Germany gives coastal municipalities responsibilities for spatial planning out to the 12nm limit, other countries, e.g. UK and Denmark, have used mainly sectoral approaches to plan for, and manage, activities in offshore areas. Transnational attempts at dealing with marine pollution in the early 1970s resulted in the successful adoption of the Oslo and Paris Conventions for addressing dumping practices and pollution from land-based sources. A series of North Sea Ministerial Conferences (1986-2004) also demonstrated political will to deal with marine pollution but it may be argued that it took the emergence of European Union, seeking the sustainable economic use of marine space, to enable the most significant changes in marine governance for the sea basin³ and facilitate formal spatial planning in marine areas.

2.1 EU Maritime Policy development: 2002 - 2013

The publication in 2007 of the European Union's Integrated Maritime Policy (IMP) began the process that ultimately resulted in the publication of the EU Directive for Maritime Spatial Planning in 2014 but it drew on pre-existing concepts that were already contributing to the sustainable development of specific geographic areas. The EU's 2002 Recommendation on Integrated Coastal Zone Management aimed for the coordinated application of different policies relating to activities ranging from aquaculture to tourism, along with the application of the ecosystem based approach, which respects the limits of natural resources and ecosystems⁴.

³ Van Tatenhove, J. and Van Leeuwen, J. in Gilek, M. and Kern, K, (eds) Governing Europe's Marine Environment: Europeanisation of Regional Seas or Regionalisation of EU policies? 2015

⁴ http://ec.europa.eu/environment/iczm/index_en.htm

The IMP is a holistic approach to all sea-related EU policies: it is based on the premise that greater returns can be drawn from the resources in seas and oceans, with less impact on the marine environment, if policies are coordinated and multiple stakeholders contribute to the decision-making process⁵. Common challenges for economic growth and environmental protection can be tackled using cooperation and knowledge sharing as tools for a more coherent management of the seas.

In 2008, the EU Marine Strategy Framework Directive ([2008/56/EC](#)) established legislation for EU Member States to use the ecosystem approach for the management of human activities having an impact on the marine environment, integrating the concepts of environmental protection and sustainable use. It set the goal of achieving Good Environmental Status (GES) in marine waters by 2020 and established European marine regions and sub-regions on the basis of geographical and environmental criteria, and within the existing Regional Seas Conventions, as a means of facilitating this⁶. For the North Sea, this meant a discrete area within the North-east Atlantic Ocean and using the OSPAR Convention, to which both EU Member States and Norway were contracting parties, as a mechanism for securing cooperation in shared marine waters.

The MSFD required Member States “to undertake spatial measures and spatial and temporal distribution controls and management measures that influence when and where an activity is allowed to occur.”⁷ In 2008, the European Commission also issued the Communication, “Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU”⁸. This brought together information on what was then current Maritime Spatial Planning practices in both EU and non-EU countries and it identified ten key principles for MSP. Both initiatives, along with the IMP and the Europe 2020 Strategy for smart, sustainable and inclusive growth, constituted significant stimuli for maritime spatial planning in EU Member States.

Proposals for a Directive that addressed both Integrated Coastal Management and Maritime Spatial Planning were developed by the European Commission. The Directorates General for Maritime Affairs and the Environment worked together to produce a draft text, which was subject to negotiation with the European Council and the European Parliament. It was eventually passed as the EU Directive on Maritime Spatial Planning in July 2014.

⁵ <https://ec.europa.eu/maritimeaffairs/policy/> and

<http://www.europarl.europa.eu/factsheets/en/sheet/121/the-integrated-maritime-policy>

⁶ http://ec.europa.eu/environment/marine/eu-coast-and-marine-policy/marine-strategy-framework-directive/index_en.htm

⁷ 2008/56/EC Article 13(4)

⁸ Communication from the European Commission, 25 November 2008, Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU, COM (2008) 791 final.

2.2 EU Maritime Spatial Planning Directive, 2014

The European Union Member States around the North Sea are subject to the EU Directive on Maritime Spatial Planning ([2014/89/EU](#)), which requires all EU Member States to establish and implement maritime spatial planning⁹ by 31 March 2021.

The MSP Directive emerged from an awareness that some Member States were responding to the challenges of sustainable development of their marine resources by “planning” for areas within their Exclusive Economic Zones beyond the limits of established terrestrial planning regimes. Some states, such as the Netherlands, Belgium and the UK, had pushed ahead with domestic legislation to establish marine planning, either with or without a spatial element. This was often in response to driving factors such as accommodating emerging industries, e.g. offshore renewable energy, alongside long-established uses of marine areas like navigation and fishing. Others, such as Sweden and Germany, already had provisions in place through their terrestrial planning regime that gave responsibility for spatial planning in coastal areas, out to the limit of Territorial Waters, to sub-national administrative entities such as municipalities or Länder but had nothing in place for the areas beyond the 12 nautical mile mark. Denmark’s sea-based activities were regulated by a series of sectoral Acts and plans but none were integrated. The negotiations for a MSP Directive, therefore, reflected a wide variety of existing national circumstances across the Union, which had to be accommodated in the outcomes.

With several Member States keen that any Directive should not interfere with their competence for terrestrial planning, the Integrated Coastal Management element was dropped during the negotiation process. States already undertaking marine planning were also keen that new legislation did not require them to start over again, so the MSP Directive does not stipulate *how* maritime spatial planning is to be executed. Instead, Article 4 (3) states that “The resulting plan or plans shall be developed and produced in accordance with the institutional and governance levels determined by Member States.” Additionally, the undertaking is given that “This Directive shall not interfere with Member States’ competence to design and determine the format and content of that plan or those plans.”

Thus, considerable discretion is given to EU Member States over the manner in which their Maritime Spatial Plans are to be created and put into effect.

⁹ 2014/89/EU Article 4(1)

2.3 Norway

Norway is not part of this process: it has its own approach to securing the sustainable uses of its marine resources and the management plan for its part of the North Sea and Skagerrak was approved by the Norwegian Parliament in 2013.

The Norwegian Government's goal is for Norway to be a pioneer in developing an integrated, ecosystem-based management regime for marine areas¹⁰. Although there is no specific Maritime Spatial Planning legislation for areas beyond the baseline, and no single plan for its EEZ, three management plans have been created for the sea areas between baselines and the extent of the EEZs in the Barents Sea, the Norwegian Sea and the North Sea. Their purpose is to provide a framework for value creation through the sustainable use of natural resources and ecosystem services in the sea areas and, at the same time, maintain the structure, functioning, productivity and diversity of the ecosystems of the sea areas¹¹. They encourage the integrated management of the marine environment, along with closer coordination between sectoral interests to set clear priorities for Norway's sea areas.

A number of Norwegian Government Ministries and Agencies have responsibility for uses of the marine area but a clear 4-step process has been developed for producing and reviewing the management plans. It involves: a description of the environment and socio-economic conditions; sectoral impact assessments and consideration of external pressures; cross-sectoral consideration of cumulative impacts and conflicting interests and, finally, Government agreement on the necessary decisions to effect an Integrated Management Plan. An inter-ministerial Steering Committee, headed by the Ministry of Climate and Environment, coordinates the process and ensures that research institutions and sectoral interests contribute to the scientific and evidence base. The resulting plans for the marine areas have been presented to the Storting, the Norwegian Parliament, as White Papers and the adoption in May 2013 of the plan for the Norwegian part of the North Sea and Skagerrak completed the trilogy. Reviews of the plans are undertaken at regular intervals with the North Sea and Skagerrak Plan scheduled to be reviewed in 2020.

Although planning for EEZs starts at the baseline and goes out to the 200nm limit, internal waters¹² and sea areas up to one nautical mile beyond the baseline are covered by the Planning and Building Act 2008, which is the main piece of legislation supporting spatial planning on land. The Act is intended to bring about uniform planning for national, county and municipal activities and enables integrated coastal zone planning to be done by

¹⁰ Integrated Management of the Marine Environment of the North Sea and Skagerrak (Management Plan), April 2013

¹¹ The Ecosystem Approach: Norwegian marine integrated management plans – presentation by Geir Klaveness, Norwegian Ministry of the Environment, to English Marine Management Organisation workshop on East Marine Plan Areas vision and objectives, April 2012.

¹² The heavily indented nature of the Norwegian coastline means that the baseline is a straight line between the outer islets and reefs; it encompasses 90,000km² of sea (HELCOM/VASAB, 2015).

Norwegian municipalities. The overlap between the area covered by the Planning and Building Act and those covered by the management plans means that municipalities have an interest in marine planning as well as coastal management.

2.4 Further information

For further information on the national marine planning and licensing frameworks of the North Sea countries, see Annex 2 of the NorthSEE project's 'Status quo Report on Offshore Energy Planning Provisions in the North Sea Region'¹³.

Chapter 2 – summary

- The European Union has developed a suite of related legislation that is intended to facilitate and deliver an integrated approach to maritime policy.
- It reflects both environmental and economic aspects and sets milestones for EU Member States to reach: 2020 is a key date for achieving Good Environmental Status for marine waters and delivering smart, sustainable and inclusive growth.
- The EU Member States have to implement the requirements of the Maritime Spatial Planning Directive by 31 March 2021 at the latest but have complete autonomy over how this will be done in their own areas. This results in a wide variety of approaches.
- Norway has no separate law for marine planning beyond baseline but pursues the integrated management of its marine environment and has a long history of spatial planning on land and an integrated approach to coastal management that strongly involves relevant municipalities.
- In 2013, Norway produced an Integrated Management plan for its part of the North Sea, which complements similar plans for the Barents and Norwegian Seas.

¹³ <https://northsearegion.eu/media/4932/annex-2-marine-planning-licensing-frameworks-northsee-offshore-energy-status-quo-report-final-with-intro-120418.pdf>

3. MSP: National approaches

3.1 Drivers

Humans do not live at sea but, over millennia, we have taken advantage of the many and varied services it offers to improve life on land. Ecosystem services have provided us with the underlying resources for food chains that satisfied both domestic consumption and formed the basis for multi-million industries. Coastal protection, provided by other ecosystem services, allows us to live in areas of great biodiversity that also facilitated means of (relatively) easy travel, which, in turn, enabled ideas on commerce, culture and society to develop and spread far beyond immediate shorelines¹⁴.

Within the North Sea area, the drive for offshore fossil fuel extraction in the latter half of the 20th century provided a catalyst for the expansion of knowledge about our marine environment and the allocation of space required for the infrastructure to support such activities. *Shipping and fishing, having historically had the commons to themselves, suddenly have to cope with the implications on their actions that came from emerging activities and industries.* An accommodation, therefore, had to be reached that enabled the requirements of different sectors to be delivered but dealt with the many cumulative interactions arising from the combinations of activities.

3.2 National approaches

Some North Sea Region countries started considering extending the concept of spatial planning into offshore areas in the early 2000s to accommodate their national political and economic priorities. These varied from pursuing energy security by taking advantage of large sea areas with good wind resources to making optimum use of limited sea areas to accommodate multiple different activities. Others have needed the push of supra-national legislation to begin a more integrated approach to marine planning, having been content to let sectoral issues develop in parallel with each other. Whatever the drivers behind their processes, all North Sea countries are now doing something in relation to planning for the uses of their marine areas.

At the moment, the focus is primarily on what works for the *national* interest. Although projects such as NorthSEE set the context for considering cross-border planning for transboundary marine areas, reflecting the interests of ecosystem-based marine planning, this approach may be several years away in practice and will be subject to external political, and other considerations. Marine planning in the different NSR countries is undertaken by national Governments or their Agencies. There are significant differences between them and it is clear that 'one size' does not fit all circumstances or objectives.

¹⁴ 'The Edge of the World: How the North Sea Made Us Who We Are', Michael Pye 2015 Penguin, pp 400.

The approaches taken cover the full spectrum from advisory guidance (Norway and Sweden) to highly detailed and statutory spatial allocations for multiple activities in a limited sea area (Belgium). Other countries have a hierarchy and prioritise certain uses over all others in some areas, whilst giving special importance to some uses in other areas but not ruling out additional activities in the same spaces *per se* or identifying places where certain uses that have been ruled out elsewhere may take place (Germany). The nature of devolved government in the UK leads to Scotland and England having common principles¹⁵ underpinning entirely separate marine planning regimes and methods, which brings challenges to cross-border water bodies.

A summary of national approaches is contained in Figure 2 below.

3.3 Extent of planning

The EU MSP Directive leaves it to the discretion of the Member States as to whether their approaches to marine planning include coastal waters, although the text explicitly states that it “shall not apply to town and country planning”¹⁶, which includes “any terrestrial or land spatial planning system used to plan how land and coastal zone should be used”¹⁷ and further notes that if “Member States apply terrestrial planning to coastal waters or parts thereof, this Directive should not apply to those waters.”¹⁸

However, any integrated approach towards sustainable development and management of marine resources, acknowledges the nature of interactions between land and sea and that activities at sea almost inevitably require some linkages to land-based interests. Recognising this, the MSP Directive requires EU Member States to take land-sea interactions into account in order to promote the sustainable use of maritime space¹⁹.

Existing terrestrial planning regimes often extend to the limit of Mean Low Water of Spring Tides or beyond, thus giving coastal administrations an element of formalised responsibility for, and interest in, marine-related activities within their areas of jurisdiction.

Across the UK, marine planning starts at the mark of Mean High Water of Spring tides (MHWS) and extends out to the 200 nautical mile limit: this is deliberately intended to create an overlap with the Town & Country Planning system, which extends to the mark of Mean Low Water of Spring tides (MLWS). In Sweden and Norway, coastal municipalities have had long-established responsibilities for spatial planning on land, for internal waters

¹⁵ UK Marine Policy Statement

¹⁶ 2014/89/EU Article 2 (3)

¹⁷ 2014/89/EU Recital 17

¹⁸ *ibid*

¹⁹ 2014/89/EU Article 4(2), Article 7 and Recital 16

and into the coastal zone out to the limit of territorial seas, although some have chosen to implement them to a greater degree than others. The marine planning regimes in both countries start one nautical mile beyond baselines, which also creates an overlap of up to 11 nautical miles with the terrestrial system. In turn, this may lead to complications when considering the nature and priorities of uses in areas of common interest to both regional and state organisations.

3.4 Concerns with the national approach

As systems of marine planning around the North Sea have evolved, engagement with stakeholders across sectors and communities of interest has been a key feature. The generation of marine plans created since 2009 has pioneered this inclusive approach, often building on processes originally conceived for earlier work relating to Integrated Coastal Management, and many positive outcomes have been achieved. However, despite this – and, increasingly as marine planning regimes get past the first flush of enthusiastic participation - limitations with the processes involved have become evident.

Concerns have been raised that many of the approaches are ‘top-down’, overly centralised and lacking in a recognition of local priorities. This is addressed further in Chapter 4.

Chapter 3 - summary

- Although there are multiple drivers behind the push for marine planning, some of which consider the benefits to be gained from an approach that embraces ecosystems at their widest and transboundary level, most MSP is currently driven by national objectives and many of these are economic in nature.
- The spatial element in North Sea MSP varies: it is paramount in some countries’ approach whilst others have a general presumption in favour of multiple uses made of the same areas, unless specific concerns (e.g. safety, protection of marine features) dictates otherwise.
- The inclusion of coastal waters in marine planning is at the discretion of the State: in some cases there is a deliberate overlap between terrestrial and marine planning regimes but connections between the two may still have to be fully understood.
- MSP systems are not perfect and experience suggests that improvements may be needed to make them less-centralised and more open to regional interests.

Figure 2: Summary of North Sea country's approaches to marine planning

| Country | Nature of Plan | Date of completion | Marine Planning Authority | Extent | Comments |
|----------------|----------------|--|--|--|--|
| Belgium | Statutory | <p>Belgian Maritime Spatial Plan (2014-2020) adopted March 2014.</p> <p>Draft Maritime Spatial Plan for Belgian waters for 2020-2026 currently in preparation.</p> | <p>Belgian Minister for the North Sea is responsible for all federal competences at sea.</p> <p>Our Belgian MSP starts at the Mean Low Water Mark on the coastline. This is where the Flemish region ends.</p> | The Belgian Maritime Spatial Plan starts at the Mean Low Water Mark on the coastline, where the Flemish Region ends. | <p>Maritime competences are divided between the Federal State and the Flemish Region, with several Departments at each level involved, but there is no overlap between the two.</p> <p>The Federal State has competence over Maritime Spatial Planning, with responsibility for ensuring the coordination of all involved participants but it cannot legally or politically regulate Flemish competences (e.g. fisheries) or the obligations arising from them.</p> <p>Of the five provinces in the Flanders Region, West-Flanders has been heavily involved with ICZM and ten municipalities, including Ostend, have exercised relevant competences for coastal matters on land</p> |
| Denmark | Statutory | In preparation: to be completed for 2021 | Danish Maritime Authority, part of the Danish Ministry for Industry, Business & Financial Affairs | Marine internal waters, the territorial sea and EEZ | |
| Germany | Statutory | Maritime Spatial Plans for the German areas of the North Sea and Baltic Sea, 2009 | German Federal Ministry of Transport, Building & Urban Development | From limit of territorial waters to extent of EEZ in the North Sea and Baltic Sea | <p>The Federal Maritime & Hydrographic Agency prepared the Maritime Spatial Plans for the North Sea and Baltic Sea EEZs.</p> <p>German coastal Lander have responsibility for spatial planning in their areas of coastal waters and out to limit of territorial waters. Schleswig-Holstein and Lower Saxony border the North Sea.</p> |

| | | | | | |
|--------------------|-----------|--|---|---|---|
| Netherlands | Statutory | National Water Plan, December 2015 | Netherlands Government - Ministry for Infrastructure & Water Management | The Federal Government has responsibility for MSP from 1km beyond the coast to extent of EEZ | Municipal and provincial authorities have jurisdiction for spatial planning to 1km beyond the coast with slight deviations in the Zeeland Delta and the Wadden Islands. |
| Norway | Advisory | Integrated Management of the Marine Environment of the North Sea & Skagerrak, April 2013 | Norwegian Ministry of Climate & Environment | From 1nm beyond baselines to limit of EEZ in Barents Sea, Norwegian Sea & North Sea | Although coastal waters are not included in marine planning, coastal municipalities' responsibility for spatial planning extends to 12nm limit, resulting in an overlap between jurisdictions |
| Sweden | Advisory | For 2021 | Swedish Agency for Water & Marine Management | From 1nm beyond baselines to limit of EEZ in Skagerrak/ Kattegat, Gulf of Bothnia and Baltic Sea | Although coastal waters are not included in marine planning, coastal municipalities' responsibility for spatial planning extends to 12nm limit, resulting in an overlap between jurisdictions |
| UK | | | | | |
| England | Statutory | East Marine Plan Area Inshore & Offshore Plans adopted 2014 Southern Marine Area Plans adopted in 2018 All other Plans to be adopted by 2021 | Marine Management Organisation (Agency) | From mark of Mean High Water Spring tides to 12nm (Inshore Marine Plan area) and from 12nm to 200nm (Offshore Marine Plan Area) | English waters have been divided into six Marine Plan Areas covering: the North West, the North East, the East coast, the South East, the South Coast and the South West. The suite of 11 Marine Plans being developed for Inshore and Offshore areas will build up national coverage of English waters over a period of several years. There will be Inshore and Offshore Plans for each Area apart from the South east, which will only have an Inshore Plan; there is no South East Offshore Marine Plan area. |

| | | | | | |
|----------|-----------|--|--|--|--|
| Scotland | Statutory | National Marine Plan published in March 2015 | Scottish Ministers, supported by Marine Scotland (part of Scottish Government) | From mark of Mean High Water Spring tides to 200 nm limit. | <p>A single National Marine Plan covers all of Scotland's waters, from MHWS to 200nm.</p> <p>Planning from MHWS to 12nm is subject to Scottish domestic legislation, the Marine (Scotland) Act 2010. Planning for activities in the 12-200nm area is subject to the UK Marine & Coastal Access Act 2009 but is carried out by Scottish Ministers under the terms of an Executive Devolution Agreement between the Scottish and UK Governments. Sign-off of by the UK Government's Secretary of State for the Environment is required for marine planning covering activities in the 12-200nm area around Scotland.</p> |
|----------|-----------|--|--|--|--|

4. Regional interests

4.1 Definition of 'Region'

The concept and definition of 'Regions' means many different things to the many different people involved in marine planning. In turn, these can have an impact on the nature of MSP. Disparate descriptions can cause confusion so it may be helpful to outline some of the more common uses of the phrase in relation to MSP within the North Sea.

4.2 'Region' at the sea basin level

The definition of the North Sea itself, as a geographical concept for the implementation of European legislation, is set out in the EU Maritime Strategy Framework Directive²⁰. This notes that the Greater North Sea, including the Kattegat and the English Channel, is a subdivision of the North East Atlantic, which is one of four marine regions recognised within the European Union's extent.

The MSP Directive uses the MSFD definition of "marine region" as the basis for the geographic scope of marine planning²¹. It sets out that "when establishing maritime spatial planning, Member States shall have due regard to the particularities of the marine regions, relevant existing and future activities and uses and their impacts on the environment, as well as to natural resources, and shall also take into account land-sea interactions."²² By so doing, it acknowledges the ecosystems and other specificities of the different marine regions and takes into consideration the ongoing work, knowledge and experience of the Regional Sea Conventions, e.g. OSPAR for the wider North East Atlantic area²³.

There is also the expectation that EU Member States "should cooperate with third-country authorities in the marine region concerned" but the explicit acknowledgement that "given the differences between various marine regions or sub-regions and coastal zones, it is not appropriate to prescribe in detail in this Directive the form which those cooperation mechanisms should take".²⁴

²⁰ 2008/56/EC Article 3(2) and Article 4(2)(a)

²¹ 2014/89/EU Article 3(3)

²² 2014/89/EU Article 4(5)

²³ 2014/89/EU Recital 14

²⁴ 2014/89/EU Recital 20

In this context, therefore, the overarching definition of 'Region' relates the concept to the European Union's sea areas, of which the North Sea is a sub-division of one. This, therefore, introduces the idea of 'regions within regions', e.g. at sea-basin level, to suit other governance, administrative and ecological purposes.

4.3 'Regionalisation'

The sub-division of a nation state into smaller components, usually to enable easier administration or governance, is known as 'regionalisation'. The process can be defined as a politico-administrative procedure by which 'Regions' emerge as relevant units of analysis for economic and political activity or for welfare and service provision²⁵. It involves the active devolution of power from the centre to other administrative entities for specific purposes.

Whilst this may be a process that is generally initiated from the top-down and with a specific purpose in mind, the resulting units may take it upon themselves to subsequently re-group in order to respond to developments in a way that better suits *their* perception of what needs to be done for a particular cause, sector or geographic area. Thus, 'regions' created for one reason can be reconfigured into entities that also address others, including Maritime Spatial Planning.

4.4 The EU Committee of the Regions

Created in 1994, after the entry into force of the Maastricht Treaty, the Committee of the Regions (CoR) is a political assembly of holders of a regional or local electoral mandate. Members can be leaders of regional authorities, mayors or elected or non-elected representatives of regions and cities of the 28 EU Member States. It provides institutional representation for all the EU's territorial areas, regions, cities and municipalities and addresses opinions on their behalf to the Council and the Commission. Its purpose is to involve regional and local authorities in the European decision-making process and encourage greater participation in that process by citizens.

The CoR's Opinion on the original proposal for a Directive for Maritime Spatial Planning and Integrated Coastal Management²⁶ supported the general aims for achieving a more effective and efficient management of marine resources and activities to foster long-term investment. It noted that a number of its member authorities, at regional and local level,

²⁵ Source: Spatial Development Trends - Nordic Countries in a European Context, Nordregio Report, 2004:6. Stockholm: Nordregio 2004. Quoted by Prof. Holger Magel in 'Governance & Regionalisation: New Paradigms for Transparent Politics and Accountable Civic Engagement'

http://www.fig.net/resources/proceedings/fig_proceedings/fig2011/ppt/ps02/ps02_magel_5439_ppt.pdf

²⁶ OJ C 356, 5.12.2013, p. 124.

were already key players in existing MSP and ICM policies. However, whilst it welcomed efforts to achieve better coordination between land-based and sea-based activities, it raised concerns that the proposals for ICM impinged “directly on existing competences for spatial planning policy and practice hold at regional and/or local level.” Its view was that the proposals as they stood in October, 2013 would “have negative consequences for local/regional planning policy and procedures, as the proposal will subject spatial plans with a coastal dimension to minimum sector-specific content requirements, which considerably undermine the autonomy of planning authorities to balance the needs of all appropriate uses.” This view, shared by some other EU Member States, resulted in the ICM element of the draft text subsequently being dropped, although the final Directive requires Member States to take into account “land-sea interactions” when establishing and implementing Maritime Spatial Planning. How that is to be done, however, is left to the discretion of the Member States. It can be argued, therefore, that by dismissing Integrated Coastal Management from the draft Directive, the Committee of the Regions ended up downgrading the opportunities for their own members to influence the processes subsequently developed to deliver MSP.

4.5 The Conference of Peripheral Maritime Regions & the North Sea Commission

While the Committee of the Regions only represents authorities within the European Union, the Conference of Peripheral Maritime Regions²⁷ (CPMR) is a pan-European organisation for subnational government authorities that brings together some 150 Regions from 25 States both inside and beyond the European Union. It operates both as a think tank and as a lobby for regions²⁸. The CPMR encourages synergies between its members’ development strategies and the implementation of EU regulations and strategies affecting the use of maritime and coastal space. It has a particular focus on land-sea interactions, coastal data and the roles of regions in the implementation of the Maritime Spatial Planning and Maritime Strategy Framework Directives.

The CPMR has Geographic Commissions that address and articulate the particular circumstances of the major European sea basins but allow cooperation on specific subjects of common interest when necessary or appropriate. The North Sea Commission²⁹ (NSC) was founded in 1989 with the specific remit of acting as a coordination platform for regional authority members facing the challenges and opportunities presented by the North Sea area, including the promotion of the sea basin as a major economic entity within Europe.

²⁷ <https://cpmr.org/>

²⁸ https://cpmr.org/wp-content/uploads/2015/10/cpmr_a5_brochure_2015_en_v2klow.pdf

²⁹ <https://cpmr-northsea.org/>

CPMR actions relating to MSP and ICM are developed through a North Sea Commission Working Group (the Marine Resources Group³⁰) that is coordinated by the Province of Noord-Holland. As Maritime Spatial Planning has emerged onto the policy agenda in each of the North Sea States, including Norway, authorities have mobilised within the NSC to ensure that their interest in the subject is recognised at the sea basin level. This ranges from concern about a lack of representation of *regional* priorities in national MSP approaches to a recognition that close integration and coordination between MSP and ICM is paramount as the coastal zone is the hinge between terrestrial and marine systems³¹.

NSC regions involved in the Marine Resources Group have identified several points of attention during their discussions which centre around the fact that it's a complex process by nature. The MSP challenge³² in particular was welcomed as a very useful tool to shed light on the many different stakeholders involved and the intertwined ecosystems and industries as well as the planning processes that occur simultaneously across borders. It was considered as one of the best ways to demonstrate why cross border cooperation is essential when discussing MSP.

As part of the SIMNORAT initiative³³, the CPMR surveyed members to find out their experiences of how regional authorities are being involved in the processes of MSP. Their conclusions suggested that there was a disparity in involvement and inclusion depending on the national MSP implementation processes being undertaken and relevant regulatory powers and competences between different levels of government. However, there was a common willingness to be informed about MSP and evidence of involvement, although further, effective involvement highlighted the need for capacity-building amongst staff and stakeholders. The CPMR study advised that regions could act as a facilitator for engagement with stakeholders at both the local level and through inter-regional cooperation, through their existing mechanism, in order to assist with transnational or cross-border marine planning casework³⁴.

³⁰ <https://cpmr-northsea.org/policy-work/managing-maritime-space/>

³¹ North Sea Commission Strategy document 'Contributing to Europe 2020', August 2013

³² www.mspchallenge.info

³³ <https://www.msp-platform.eu/projects/supporting-implementation-maritime-spatial-planning-north-atlantic-region>

³⁴ Périsse, D., Guennal, L., Carval, D. (2019). State of play of MSP Directive implementation process – Focus on the role of the regions. Supporting Implementation on Maritime Spatial Planning in the European Northern Atlantic (SIMNORAT). CPMR 20pp <https://zenodo.org/record/2598470#.XS2I4rpFzIU>

4.6 Marine Regions in the UK: Scotland and England

The UK Marine & Coastal Access Act 2009 is the primary legislation that establishes marine planning in UK waters. The Marine (Scotland) Act 2010 is primary legislation of the Scottish Government and establishes marine planning, and the mechanisms for it, in Scottish territorial waters out to the 12 nautical mile limit, where Scottish waters border UK waters. An Executive Agreement between the Scottish and Westminster Governments in December 2009 devolves powers for marine planning in UK waters between 12 and 200 nautical miles to Scottish Ministers. This Agreement thus enabled Scottish Ministers to prepare a single National Marine Plan for all Scottish waters, from the Mean High Water Mark to the 200 nautical mile limit. In English waters, the Marine Management Organisation, a Non-Departmental Public Body, undertakes marine planning.

Scotland's marine legislation provides for a single, overarching marine planning framework and a National Marine Plan for all Scottish waters³⁵. It also provides for the creation of eleven Scottish Marine Regions (SMRs)³⁶ and the ability for the Scottish Government to delegate marine planning to this local level and a network of Partnerships set up specifically to deliver Regional Marine Plans. These Partnerships are intended to allow for local accountability and input into marine decision making. The plans they will produce are intended to implement the policies outlined in the National Marine Plan but enable a more detailed and, possibly, spatial approach to marine-related activities within particular areas

In England, the Marine Management Organisation is responsible for marine planning for English waters³⁷. What may be said to be a 'regional' approach has also been taken with the creation of the Marine Plan Areas under the UK Government's Marine and Coastal Access Act³⁸. There is no National Marine Plan in England but the network of Marine Plan Areas will eventually create comprehensive national coverage for marine planning for English waters from the Mean High Water Mark to the 200nm limit. These areas cover multiple Local Authorities and involve many other public and private organisations.

³⁵ Due to the nature of devolved government in the UK, the Scottish Government has powers for marine planning out to the limit of Territorial Waters under Scottish legislation. Beyond the 12nm limit are UK waters, which are subject to the UK's Marine and Coastal Access Act 2009. Agreement between the Scottish and UK Governments in December 2009 allowed a single Marine Plan to be produced by the Scottish Government for all waters around Scotland out to 200nm, subject to the planning for activities in the 12-200nm area being signed-off by the UK Government's Secretary of State for the Environment.

³⁶ <http://marine.gov.scot/maps/765> The Scottish Marine Regions for the Shetland Isles, the Orkney Isles and the Outer Hebrides reflect the geographic nature of the islands' unitary local authorities. The SMR for the Solway reflects the area covered by Dumfries & Galloway Council, on the north side of the Solway Firth. The southern side is covered by the English Marine Management Organisation's North West Marine Area Inshore and Offshore Marine Plans.

³⁷ <https://www.gov.uk/government/collections/marine-planning-in-england>

³⁸ http://www.legislation.gov.uk/ukpga/2009/23/pdfs/ukpga_20090023_en.pdf

4.7 Nomenclature of Territorial units for Statistics (NUTS)

Humans impose artificial administrative boundaries over natural ecosystems for their own purposes, including attempting to compare ‘like with like’ in terms of geographic areas, populations and other criteria. Eurostat’s Nomenclature of Territorial Units for Statistics (NUTS) is a geocode standard for referencing the sub-divisions of countries for statistical purposes. It considers EU Member States in detail but also extends to members of the European Free Trade Association (EFTA), so includes Norway in relation to the North Sea.

The NUTS 2016 classification, in use since January 2018, uses a hierarchical series of reference criteria. Each level is a sub-division of a higher level and the process is regularly updated to reflect changes in population thresholds.

Figure 3 – NUTS hierarchy

| NUTS 2016 classification | | |
|---------------------------------|--|---------------|
| NUTS 1 | Major socio-economic region | 104 regions |
| NUTS 2 | Basic regions for the application of regional policy | 281 regions |
| NUTS 3 | Small regions for specific diagnoses | 1,348 regions |

Under this classification, coastal typology is applied at the level of NUTS level 3 regions: it identifies coastal regions in the European Union and EFTA areas as those having a border with a coastline, having more than half their population within 50 km of the coastline, or having a strong maritime influence³⁹.

Work carried out by the North Sea Commission has helped to identify the relevant NUTS levels for their member organisations and the functions they carry out⁴⁰. However, this approach to classification has its limits and there are difficulties in trying to match terrestrial functions for work in relation to marine planning. The divisions by which areas are determined to be ‘Regions’ and ‘Coastal Regions’ do not match up with how policy makers have set up approaches to marine planning. For example, the whole of Denmark is considered to be a major socio-economic region (NUTS 1) but so are the sub-national German Länder, which means that ‘like’ is not always compared with ‘like’.

Additionally, the whole of Scotland is also in the NUTS 1 category but the sub-divisions for the purposes of marine planning do not always correspond with the NUTS 2 or NUTS 3 classifications. In particular, the Highlands and Islands unit (NUTS 2) is geographically split between six different Scottish Marine Regions. Further, one of its NUTS 3 units (Highland

³⁹ [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Territorial typologies manual - coastal regions](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Territorial_typologies_manual_-_coastal_regions)

⁴⁰ Personal correspondence from Magnus Engelbrektsson, Executive Secretary, CPMR North Sea Commission, 27 November 2018.

Council) has three separate SMRs within its own area of jurisdiction and is adjacent to four other neighbouring ones. Thus, sub-divisions for statistical purposes may have little or no bearing on marine planning areas, which are left without accurate data as a result.

Whilst there are good and valid reasons for using existing mechanisms based on varying concepts of 'regions' to support and add value to emerging marine planning processes, there are difficulties in trying to make one system fit another.

Chapter 4 - summary

- The term 'Region' means different things to different stakeholders.
- It can be a technical description of a formal EU sea basin, a geographic grouping of authorities within a hierarchical terrestrial planning regime or a statutory definition of an area for which a formal marine plan shall be prepared as part of an overall national framework.
- Organisational and institutional structures already exist to facilitate 'regional' relationships between EU Member States and third countries: some even exist to cater for the particular issues affecting the North Sea.
- There may be a miss-match between the geographic coverage for different levels of MSP governance and the units for which useful and relevant data might be gathered.
- In turn, this may lead to differences of opinion and expectations of how interests and priorities may be adequately reflected in marine planning processes.

5. Case studies

5.1 Scotland - Background

The concept of ‘regions’ has a very particular meaning in relation to marine planning. The Marine (Scotland) Act 2010 requires the publication of a National Marine Plan (NMP) but also enables the creation of Regional Marine Plans (RMPs)⁴¹ for geographically-specific areas, in order to supplement and complement the high-level national plan. The Scottish Marine Regions Order 2015 sets out the geographic boundaries of 11 Marine Regions, which were confirmed after a public consultation. All marine plans in Scotland are statutory and a map of the final Regions is shown in Figure 4.

Regional Marine Plans are prepared by Marine Planning Partnerships (MPPs), which represent the economic, community, environmental and recreational interests within a Scottish Marine Region. MPPs are established to enable local ownership of policy development and decision making, taking account of local circumstances. Scottish Ministers’ powers for marine planning are devolved to these Partnerships by means of a legal instrument known as a Direction⁴².

Before a RMP is drafted, preparatory work must be undertaken to assess the condition of the Marine Region and to summarise the significant pressures and impact of human activity. Whilst reflecting the Scottish Government’s policies on sustainable development, nature conservation and the protection and enhancement of the area to which the plan applies, RMPs must set economic, social and marine ecosystem objectives along with others relating to the mitigation of, and adaptation to, climate change.

Public authorities, e.g. local councils, are required to have regard to the appropriate marine plan(s) in making any decision that relates to the exercise by them of any function capable of affecting the whole or any part of the Scottish marine area⁴³. Clarification of how Local Authorities discharge their duties in respect of a Regional Marine Plan has been agreed for the Clyde Marine Planning Partnership: an agreement is in place between the public authorities and the CMPP about carrying out their duties together⁴⁴.

The Regional Marine Plan approach enables locally-important issues to be considered in greater detail, possibly within a spatial or temporal context, than could be addressed by the National Marine Plan.

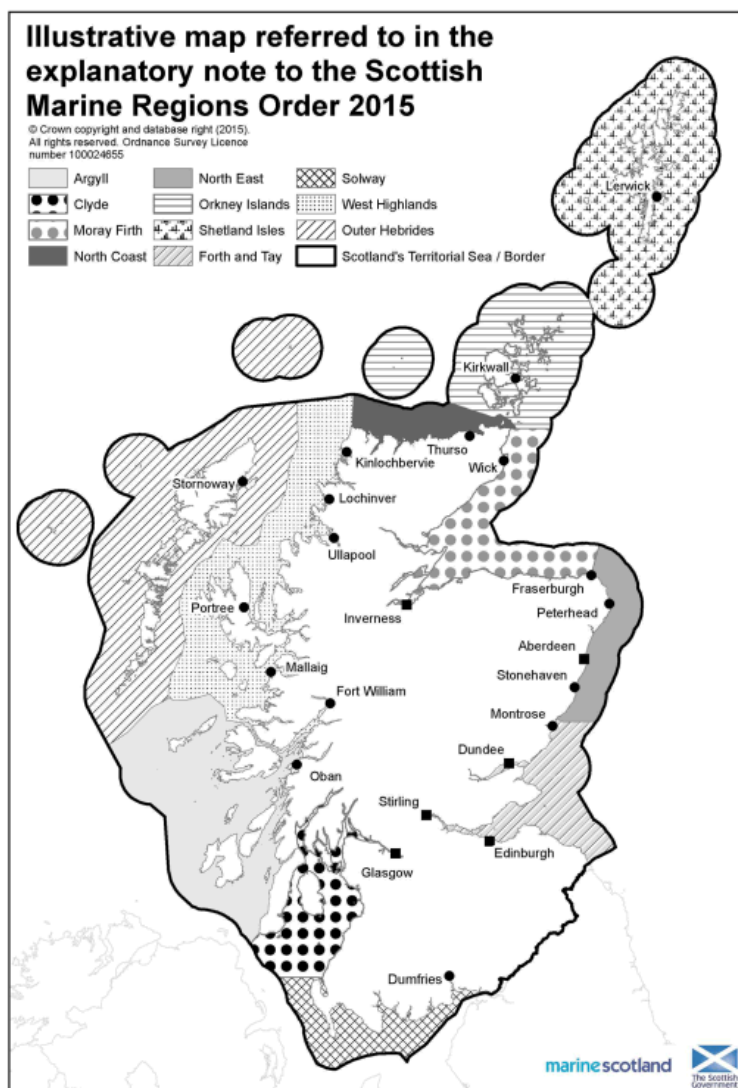
⁴¹ Marine (Scotland) Act, 2010 Part 3, Section 5

⁴² Marine (Scotland) Act 2010 Section 12(1) enables Scottish Ministers to give directions to a delegated organisation – a Marine Planning Partnership – to exercise marine planning functions on their behalf.

⁴³ Marine (Scotland) Act, 2010 Part 3, Section 15(3)(a)

⁴⁴ <http://clydemarineplan.scot/about-us/about-the-clyde-marine-planning-partnership/#direction>

Figure 4 – Scottish Marine Regions



At the time of writing, three Scottish Marine Regions have been set up. The Clyde and Shetlands Islands Marine Planning Partnerships have published initial drafts of Regional Marine Plans, following considerable public engagement. Administrative arrangements are still being finalised for the Orkney Islands Marine Region but the Marine Planning Partnership for this area is expected to be set up by the end of 2019⁴⁵.

⁴⁵ Whilst the broad nature of a Direction for marine planning is the same across all SMRs, the detail of each reflects the particular circumstances of the Region in question and the nature of the Marine Planning Partnership that will be formed in that area to create a Regional Marine Plan. The role that Scottish Local Authorities play within these Planning Partnerships is of particular interest when considered against the responsibilities for spatial planning that similar organisations have elsewhere in the North Sea Region. Originally, there was an explicit requirement within the Marine (Scotland) Act that marine planning should **not** be left entirely to Local Authorities. However, difficulties in securing an organisation to partner the Orkney Islands Council for the development of the Orkney Islands Regional Marine Plan led to this point being amended in primary legislation. As a result, the Orkney Island Council will lead the Orkney Islands Marine Planning Partnership and will lead on the development of the Orkney Islands Regional Marine Plan.

5.2 Regional Marine Planning in Shetland

The Shetland Islands is the most northerly region within the United Kingdom, forming an archipelago comprised of over 100 islands, of which sixteen are inhabited. The islands are situated around 160 km north of mainland Scotland and 320 km west of Norway. They form part of the division between the Atlantic Ocean to the west and the North Sea to the east. The Shetland Islands Marine Region includes all territorial waters seaward of the mean high water of the spring tide (MHWS), out to 12 nautical miles. The marine area is equivalent to 12,305 km², approximately seven times the land area of the Islands.

Shetland has a significant a history of marine planning and management. The terms of the primary legislation that set up the Shetland Islands Council (SIC), the Zetland County Council Act 1974, give the authority considerable powers over the seas around Shetland. No development can take place in Shetland's waters without a works licence from the SIC. Following the Planning etc. (Scotland) Act 2006 that reformed and modernised the Scottish terrestrial planning system, the Shetland Islands Council's Local Development Plan (LDP) is the main guidance for terrestrial land use and marine aquaculture planning applications in Shetland. The Islands were also a pilot area for the Scottish Sustainable Marine Environmental Initiative (SSMEI), an early marine planning project that ran from 2006-2010. Through extensive consultation with local stakeholders and guidance from an advisory group, the Shetland Islands' Marine Spatial Plan (SIMSP) was developed to consider suitable areas for in-water aquaculture developments. In 2015, the 4th Edition of the SIMSP was adopted as Supplementary Guidance to the Shetland Islands' Local Development Plan, which means its policies and maps became material considerations in any marine applications made to the Shetland Islands Council.

The Shetland Islands Regional Marine Plan will replace the SIMSP, forming a stand-alone plan for Shetland's marine environment⁴⁶. It has collated and analysed a large volume of existing and new data to provide the evidence base to support a more decisive and cohesive decision making process. In recognising that marine spatial planning is a new concept and can mean different things to different people, the SIRMP includes all aspects of marine and coastal resource use including fishing, aquaculture, oil and gas, marine renewables, transportation and shipping, culture and heritage, sport and recreation, education and the environment. Building on Shetland's existing track record of effective and sustainable marine management, it will ensure the marine waters around Shetland continue to be clean, healthy, safe and productive so as to meet the long term needs of nature and the local community.

⁴⁶ Shetland Islands Regional Marine Planning Partnership (2019) Draft Shetland Islands Regional Marine Plan. NAFC Marine Centre UHI pp 158 <https://www.nafc.uhi.ac.uk/t4-media/one-web/nafc/research/document/marine-spatial-planning/sirmp/Shetland-Islands-DRAFT-Regional-Marine-Plan-June-2019-compressed.pdf>

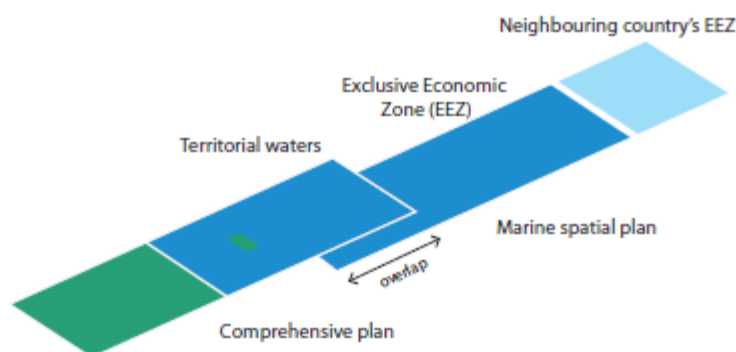
Following a period of formal public consultation in 2019, the Shetland Islands Regional Marine Plan is expected to be approved by Scottish Ministers during 2020.

5.3 Sweden – Background

In Sweden, Marine Spatial Plans are the state's comprehensive view of how the sea should be used in a specific geographic area. The Plans being prepared by the Swedish Agency for Marine and Water Management (SwAM) cover the sea area from a line one nautical mile beyond baselines. They are general and long term in their nature but set a direction and focus for Swedish interests in the Skagerrak/Kattegat area of the North Sea, the Baltic Sea and the Gulf of Bothnia. Although non-statutory, they contain guidance that is directed at Government Agencies, municipalities, and regional planning bodies that plan, develop or implement management measures concerning the sea. Business interests in sea-related activities are intended to benefit from the increased predictability provided by Marine Spatial Plans⁴⁷.

Under the Swedish Planning and Building Act⁴⁸, coastal municipalities have to produce a comprehensive plan for their entire area, including to the limit of territorial waters. In the area of territorial waters where national and municipal plans overlap, both plans apply.

Figure 5: Boundaries and planning responsibilities in Swedish waters⁴⁹



The interaction between Marine Spatial Plans and comprehensive plans for the municipalities is important in order for the connection between sea and land to work well⁵⁰. Comprehensive plans are significant for indicating local and regional considerations that

⁴⁷ Proposals for Marine Spatial Plans for Sweden: Review Documents. Part 1: This is marine spatial planning. Swedish Agency for Marine and Water Management. Reg. No. 666-19, 2019-03-04, Page 28.

⁴⁸ Planning and Building Law 2010:900

<https://www.boverket.se/en/start/publications/publications/2018/legislation/>

⁴⁹ Proposals for Marine Spatial Plans for Sweden: Review Documents, Swedish Agency for Marine and Water Management 14 March 2019: www.havochvatten.se

⁵⁰ Proposals for Marine Spatial Plans for Sweden: Review Documents. Part 1: This is marine spatial planning. SwAM 2019, Page 28.

may be relevant to the offshore marine spatial planning process and vice versa. According to the Planning and Building Law, there is a requirement for inter-municipal coordination but not for joint planning.

Coastal municipalities have had responsibility for spatial planning since 1987 but, in spite of an amendment to the Planning and Building Law in 2010 that obliges them to spatially plan their areas of jurisdiction out to the limit of territorial seas, very few have done so⁵¹. However, the development of the MSP Directive and its subsequent transposition into Swedish legislation by the Maritime Spatial Planning Ordinance 2015, provided a chance to review municipal coastal and marine planning as proposals were being drawn up for the national Marine Spatial Plans.

5.4 Sub-national MSP in Sweden

Country Administrative Boards (CABs) provide an important bridge between the national and local organisations involved in Marine Spatial Planning in Sweden. These 14 government bodies coordinate national interests at the regional level. They provide support to the 87 coastal municipalities that have spatial planning responsibilities extending across land and sea to the limit of territorial waters. They also work with SwAM in relation to the three offshore Marine Spatial Plans.

A 2014 report into the then current status of MSP in Swedish waters made a general observation that “the treatment of the sea in the master plans of the coastal municipalities in the Skagerrak/Kattegat, Gulf of Bothnia and Baltic Sea suggests that there are many interests that overlap each other, but that clear standpoints are rarely reported and balancing of these interests against each other is often put off for the future. Areas near land and in the coastal zone are addressed in the plans more often than the areas further out in territorial waters. Standpoints are sometimes adopted between the different interested parties, but consequences are not investigated until projects are about to become a reality. From a marine spatial planning perspective, it would be an advantage if strategies were drafted for larger geographical areas than just individual municipalities.”⁵²

The Swedish MSP Ordinance expects municipalities adjacent to the areas covered by the national Marine Spatial Plans to be given the opportunity to participate in their development so that local and regional needs can be taken into account⁵³. However, in 2012, four

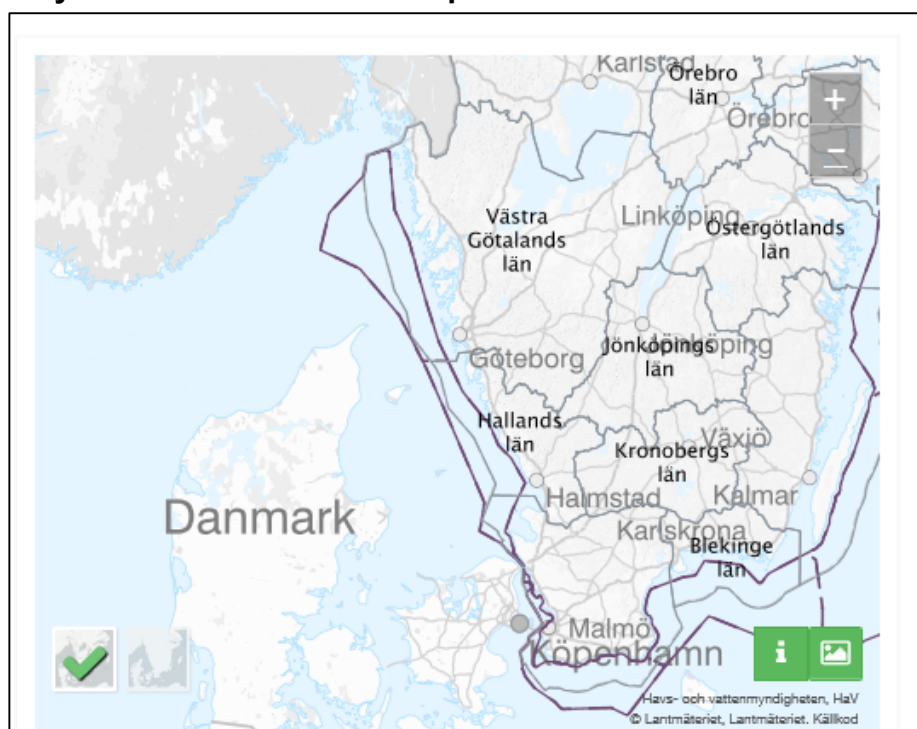
⁵¹ Response by Västra Götaland County Administrative Board to 2017 CPMR Survey on Regions & European Directives Relating to Coastal & Maritime Areas.

⁵² Marine Spatial Planning — Current Status 2014: National planning in Sweden’s territorial waters and exclusive economic zone (EEZ) Knowledge Base Final report 2015:16, SwAM

⁵³ Final report on the KOMPIS Grant: Municipal coastal and marine planning in state collaboration during 2016 – 2018, Åkerlund, G., County Administrative Board of Västra Götaland County, Dept. of Social Affairs

municipalities under the Regional Council of Västra Götaland and its County Administrative Board were encouraged to extend their responsibilities for spatial planning beyond their coasts. This pioneering approach ultimately led to the development in 2017 of a joint Maritime Business Plan for the municipalities, setting goals for a blue society that were created in collaboration with local maritime businesses and encompassed cross-border concepts such as the circular economy. This has provided a blueprint for other areas and 8 municipalities around Göteborg have been encouraged to develop something similar⁵⁴.

Figure 6: Map showing Västra Götaland and Halland County Administrative Boards and the cells within the Swedish national MSP for the Skagerrak/Kattegat in which they and their coastal municipalities have an interest



For other coastal areas, it was less clear what was being done to plan municipalities' own marine areas of interest. From 2016-2018, the KOMPIS programme⁵⁵ provided financial support to investigate this data gap and to strengthen the capacity of coastal municipalities to participate in inter-municipal marine planning and engage with the national Plans.

Initiated by SwAM, the KOMPIS initiative awarded grants worth SEK 26 million (approx. EUR 2.8 million) to coastal municipalities for cross-border projects that addressed nature, cultural environment, landscape, archipelagic environments, recreation, climate change, tourism, mineral resources, energy, mariculture and the built environment. The project has

⁵⁴ Response by Västra Götaland County Administrative Board to 2017 CPMR Survey on Regions & European Directives Relating to Coastal & Maritime Areas.

⁵⁵ Kommunal planering i statlig samverkan (KOMPIS): "Municipal planning in cooperation with the state"

provided valuable data on what is still needed to be done to achieve comprehensive municipal marine planning and to complement the three Swedish national Marine Spatial Plans. It has encouraged and enabled municipalities to engage with the national MSP process, some of them for the first time in any detail.

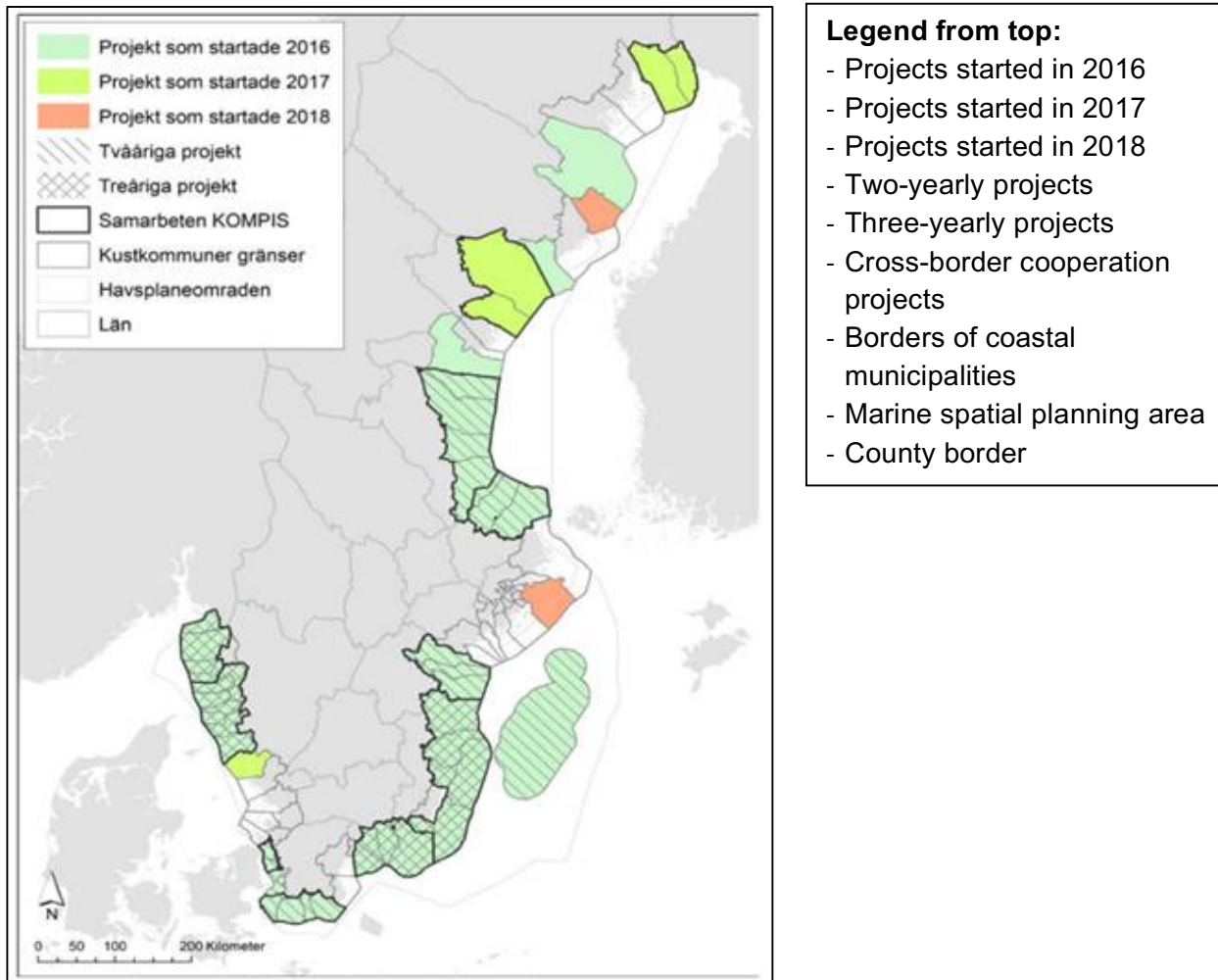


Figure 7: KOMPIS projects - start date, duration and cross-border cooperation

The programme's Final Report⁵⁶ notes that "building capacity for coastal and marine planning takes time" and concludes that only a quarter of the required work had been done for all coastal municipalities to adopt overview plans that extended spatial planning to their sea areas. It recognises the important role of funding in supporting strategic planning and recommends further investment in grants to municipalities so they can invest in their own capacity to respond to marine planning requirements at local, inter-municipal or national

⁵⁶ 'Slutrapport över KOMPIS-bidraget: Kommunal kust-och havsplanering i sttlig samverkan under 2016-2018' - 'Final report on the KOMPIS contribution: Municipal coastal and marine planning in state collaboration during 2016-2018'. Author: Gunnar Åkerlund. Report: 2019:24. Published by the County Boards of Västra Götaland, the Samhall Department and Västernorrlands.

levels. This includes improved capacity for sharing GIS data and analysis tools that consider how the municipalities' current spatial planning meets different national goals and strategies. It also advises that development of national goals for some sectoral interests could benefit from being broken down to regional strategies, which would allow a more regional approach to be taken to complement and deliver national objectives, reflecting that "many issues around the sea have a large inter-municipal impact". Looking ahead, it acknowledges the role that municipalities may play when a clearer picture emerges of requirements of space for offshore windfarms, noting that "there are good opportunities between authorities and for synergy effects for society as a whole".

The Swedish system places separate requirements on different players within marine planning but expects them to deliver their part of the process for the ultimate benefit of the whole. The new marine legislative context reflects the long-standing links to spatial planning on land and has extended this concept beyond the coast. The EU MSP Directive has placed a greater emphasis on planning in offshore areas but it is likely to have a knock-on effect that encourages municipalities to carry out spatial planning in their sea areas as well, especially as new uses such as windfarms emerge. The MSP Ordinance gives priority to national marine planning in the areas of overlap so the key to successful implementation of MSP policy at both levels will be for overlapping areas to be complimentary in their approach to developments and uses, rather than antagonistic or challenging. This will require effective representation of local and regional interests to the national decision-makers, and vice versa, over time.

Chapter 5 – summary

- The Scottish marine planning system allows for sub-national issues to be reflected in a suite of statutory Region Marine Plans, which may be more spatial in their nature than the strategic Scottish National Marine Plan.
- RMPs are created by Marine Planning Partnerships, bodies that have had marine planning powers delegated to them by the Scottish Government and include representatives of local environmental, community, economic and recreational interests.
- The first two Scottish Marine Regions to draft Regional Marine Plans are the Clyde and the Shetland Islands: their RMPs are expected to be signed-off by Scottish Ministers in 2020.
- Sweden's system of spatial planning expects coastal municipalities to extend this to the limit of territorial waters but not many have done so to date.
- There is an overlap of up to 11 nautical miles across area of territorial waters covered by the coastal municipalities and the areas covered by the three national Marine Spatial Plans, including the MSP for the Skagerrak/Kattegat.
- As marine planning in Sweden matures, there may be conflicts of interest between areas of interest to regional/coastal municipalities for their economic or environmental objectives and national objectives.
- The KOMPIS programme (2016-2018) provided funding for coastal municipalities to engage with the national MSP process and build capacity in understanding marine planning for the benefit of all levels of participant.

6. Conclusion & Recommendations

6.1 Main findings

All countries' planning systems can be characterised as combining “supra-sectoral spatial planning and spatially-relevant sectoral planning”⁵⁷ to underpin sustainable development, which brings the social and economic demands made on an area into line with its ecological functions.

Around the North Sea area, some countries already apply this concept to their territorial seas but are extending it to areas beyond the 12nm limit. Other countries, where terrestrial planning stops at or around the Mean Low Water Mark, are developing and implementing entirely new systems for introducing spatial planning beyond the shoreline.

Within both these approaches, the opportunity exists for representing local or regional interests in the varied uses made of marine resources. Even systems that are generally ‘top-down’ and may be centralised in a national government department or agency enable sub-national input to be made so that the resulting decisions on spatial allocation or presumption of use can reflect multiple interests from different administrative levels.

The case studies considered demonstrate two very different methods of achieving this:

- the Scottish system is relatively simple and was set up by custom-made legislation; it is statutory and starts with the premise of a strategic, high-level National Marine Plan, within which Regional Marine Plans will fit as/when they are created. In the absence of a RMP (either until they are drafted and adopted or if a decision is made that one is not required), the National Marine Plan is already in existence so all areas of the coastline and water are covered by marine planning policies. A regional plan is a bespoke mechanism for adding greater detail and reflecting local priorities or issues within the context of the national picture. Stakeholder engagement is essential, both in terms of the membership of the Marine Planning Partnerships that are given the responsibility of creating the RMPs but also with those whose interests are affected by possible proposals.
- the Swedish approach, by contrast, adds a non-statutory, guiding approach for *marine* spatial planning to a pre-existing system of spatial planning that already extends into territorial waters but has not generally previously used MSP as a tool within the governance system. New legislative requirements have been set for the

⁵⁷ Spatial Planning in Germany Blotevogel, H., Danielzyk, R. and Münter, A. in Spatial Planning Systems and Practices in Europe: A Comparative Perspective on Continuity and Changes Reimer, M., Getimis, P., and Blotevogel H., Routledge 2014, pp.336

creation of strategic Marine Spatial Plans in areas that start within territorial waters but then go beyond them, to the limit of the EEZ in three separate sea areas. The overlap of these Plans with municipalities' and regions' areas of jurisdiction creates a new dynamic within the spatial planning regime but also, potentially, a new tension if ideas and options for the uses of areas do not match up. The Swedish MSP Ordinance states that the interests of a national plan take precedence over those at the regional or more local level. As more municipalities consider the development opportunities in their own offshore areas, there is the potential for conflict between, for example, a municipality that wants to install windfarms in an area that is not designated for offshore wind generation capability in the relevant national Marine Spatial Plan. Resolution of such situations will require investment in the marine planning process at multiple levels.

During the course of the NorthSEE project, there have been several opportunities to meet with representatives of different administrative regions around the North Sea and hear about their experiences of marine planning, both within their own countries and in the context of transboundary MSP. Feedback from the responses to the CPMR's 2017 survey of Regions and European Directives relating to coastal and maritime areas has also offered some useful insights on the issues of interest to sub-national organisations in Germany, the Netherlands, Sweden and Scotland⁵⁸.

It is evident that there is already a significant degree of sub-national involvement in national approaches to MSP. In the case of Norway, Sweden and Germany this reflects long-standing responsibilities for marine planning over territorial waters although existing requirements to undertake this activity do not always result in them being implemented. In countries where bespoke marine planning systems have been developed, it is encouraging to note that stakeholder engagement has been incorporated as a key element from the start. The EU MSP Directive requires this but the regimes that were established before 2014 already contained this aspect as a core element. Therefore, it is clear that there is an expectation of involvement in marine planning by all those who may have an interest in what it sets out to achieve.

However, as MSP processes have developed and begun to mature, some frustrations have become evident over:

- Understanding what is required to deliver a given MSP system;
- Capacity building to enable effective participation across all relevant levels; and
- Opportunities for engagement between different administrations.

⁵⁸ Responses received from: the Lower Saxony State Government, Germany; Västra Götaland Region and the County Administrative Board of Västra Götaland, Sweden; the Province of Noord-Holland, Netherlands

MSP can be a complicated subject to understand and even MSP practitioners are not always aware of the multiplicity of different uses taking place in any given area. The interactions between different activities may result in a range of outcomes, from positive to neutral or negative. This affects those involved at both the primary interface but also others who experience the effects of cumulative or indirect impacts. Work coordinated by the Scottish Coastal Forum in 2011/12⁵⁹ demonstrated that the *perceptions* of interactions between sectors or activities varied dramatically depending on which side of the interaction your interest lay and were as important as the interactions themselves. For example, recreational sailors felt their activities were significantly impacted upon by commercial vessels but the vessels were often unaware of their proximity to areas used by sailing craft and felt there was little in the way of adverse interactions. All of this adds to the complexities involved in trying to encourage involvement and engagement of interest groups and stakeholders and multiple administrative levels in marine planning.

National marine planning processes should, therefore, clearly explain the component parts of their regimes and the roles that key stakeholders may play within them. This includes an awareness of the different drivers, expectations and timescales for delivery of MSP policy and outcomes. Anecdotal evidence suggests that stakeholders, including those within sub-national administrations, can be unclear about exactly what their roles might be and how they might fit in with emerging MSP processes. This is especially in relation to reflecting local or regional interests into a system that is often driven by ‘top-down’ or sectoral issues and national concerns. As a result, despite a willingness to be involved, there can be confusion about their ability or opportunity to contribute to marine planning processes, either in their own countries or where there is a cross-border issue that affects their interests.

Systems are only as good as their component parts. It is, therefore, incumbent on those with responsibility for MSP regimes to ensure that the component parts are ‘fit-for-purpose’. This requires investment in building-up human and organisational capacity in the subject matter. Additionally, as MPS processes evolve over time - and as those involved at different levels change or move on - regular (re)engagement is needed to ensure audiences at all levels remain informed and up-to-date with developments and are able to influence them. Such capacity-building can be time consuming and resource-intensive but is the only way to ensure that fresh entrants to the process are enabled to play as full a role as possible.

The involvement of regional political entities may help avoid charges of a democratic deficit in the marine planning process. Such accusations may be levelled if the national system is perceived as being too centralised or only accessible to sectoral interests. Setting up

⁵⁹ Sectoral Interactions Matrix: Results of the Review Panel. Potts, T. *et al* on behalf of the Scottish Coastal Forum, October 2012

marine planning regimes to specifically reflect ‘regional’ input and encouraging the consideration and validation of policy documents by bodies operating at such levels goes some way to facilitating local confidence that their views are being represented in the overall MSP process.

Opportunities for engagement in MSP are not limited to formal marine planning fora. The overarching nature of the subject – and, particularly, the requirement to consider land-sea interactions – means that connections can be found between the subject and most other activities if a little lateral thinking is employed. The old proverb “the sea begins in the mountains” reflects the interconnections between land and sea ecosystems⁶⁰ and demonstrates that those with interests on land need to be aware of what is happening at sea and how they may be affected. If this is not currently a priority, it will become ever-more important as the implications of climate change become clearer.

It may not be enough to take advantage of existing mechanisms for involvement in the policy process, such as the North Sea Commission: new opportunities may have to be created to enable regional interests to be represented in discussions that matter. In England, the Local Government Association’s Coastal Special Interest Group was created by a proactive Coastal Officer from a local authority with a particularly dynamic coastline. He realised that there was a better chance of having concerns that were shared by other Councils across England being taken seriously by Government and other organisations if they spoke with a consistent and coherent voice. The Special Interest Group (SIG) was created to support coastal councils in delivering sustainable development. Through the exchange of knowledge and experience, it strengthens the capacity of coastal councils in key policy areas. It promotes the role of Local Government in coastal issues and it achieves recognition of the English coast in policy and decision-making from local authorities to national government and beyond. Although the SIG was designed for representing coastal issues, the model it offers could be adapted and adopted for marine spatial planning in similar authorities elsewhere.

As marine planning processes mature, existing mechanisms may also need to evolve to ensure that they continue to play a relevant part. The emergence of specific entities, such as the Marine Resources Group within the North Sea Commission, offers an opportunity for transnational consideration of specific issues and useful knowledge exchange in a fast-evolving policy environment. In particular, at a time of political uncertainty in relation to the UK’s departure from the European Union, such mechanisms offer a way of retaining links with neighbours around a sea basin whose ecosystems do not recognise artificial human-scale political constructs.

⁶⁰ Kurien, John. (1998). Traditional Ecological Knowledge and Ecosystem Sustainability: New Meaning to Asian Coastal Proverbs. *Ecological Applications* 8(1), February 1998

6.2 Recommendations - tools to address identified challenges

Many of the tools that may help regional interests improve their involvement in MSP come from good project management techniques or the lessons learned from Integrated Coastal Management projects. There is nothing particularly novel about any of the following suggestions but they can be applied to the MSP situation and could assist in overcoming the identified challenges.

Suggestions might be:

- Direct engagement with national processes if these are currently lacking, e.g. adapting the model pioneered by the Coastal Special Interest Group;
- Clear explanation of relevant roles and priorities
- Better understanding of where regions and their issues or interests fit into a national or cross-border picture – this will require consideration at the supra-national level
- A National Forum for the exchange of views and ideas in relation to MSP: if it doesn't exist, invent it!
- An international forum to facilitate transboundary MSP within the North Sea Region
- Use of the MSP Challenge⁶¹, which has been demonstrated via other EU projects and IOC-UNESCO to enhance stakeholder understanding of, and engagement in, marine planning at local, regional, national and international levels.

All of the above suggestions can be used to build capacity so that MSP can be addressed and carried out by informed participants. Each one can be backed by the necessary resources that would underpin such an enlightened process, such as human endeavour, financial support and legal expectations but also goodwill and commitment to securing an ecosystem-based approach to marine planning.

6.3 Conclusion

The flexibility of the EU MSP Directive and the pre-existing mechanisms that facilitated spatial planning in the North Sea region allows for many different options to be put into practice to secure sustainable use of marine resources. There is no single 'right' way of carrying out marine planning or implementing environmental protection: each system is currently designed to reflect the aims and objectives of its nation state. It is clear that there is more to the process than just the interests of a single national entity.

The nature of 'Regions' is varied but national plans are diminished if they do not reflect what is happening at the sub-national level. National MSP documents or regimes cannot possibly accommodate the countless different issues that are of environmental, social,

⁶¹ www.mspchallenge.info

cultural, economic or other importance to local or regional areas. These have as much right to be reflected in marine planning as the supra-national, supra-sectoral interests that drive so much of the global economy. MSP offers a way of accommodating all of these interests and enabling them to be considered in relation to what also happens on land: it can offer a truly integrated approach to marine *and* coastal management as neither exists in isolation of the other and both are connected to their hinterland.

Tools are already available for facilitating the exchange of knowledge between those MSP participants who are at different stages in their respective processes. These can also be learned from for when the current generations of plans need to be updated and the engagement process needs to be undertaken again, possibly with a whole new cohort of stakeholders who have not previously been involved or are only seeing the relevance of MSP to their interests as the marine planning process matures. Projects such as the NorthSEE initiative have demonstrated the value of bringing together professionals, practitioners and politicians, including the representatives of regional and local interests, through both formal and informal methods. Never underestimate the value of a conversation in a conference coffee queue for raising awareness of current concerns or sparking ideas that go on to resolve common problems. Use the different editions of the MSP Challenge to introduce everyone from politicians to fishermen to the complexities of interactions between marine uses and the sometimes unintended long-term consequences of marine planning.

MSP practitioners and participants at all levels can learn from the hectic development in the last decade of a new discipline that has emerged to provide the framework by which some of the 21 Century's greatest challenges might be addressed. By adopting what has been demonstrated to work and adapting methodologies, possibly at different scales or in a transboundary setting, marine planning can be a formidable process to respond to new challenges and policy drivers as they continue to emerge. It enables the involvement of multiple stakeholders at all levels of human-scale administrations and facilitates consideration of the needs of activities or processes that transcend such artificial divisions. The role of regions within this process, therefore, is essential.

Chapter 6 – summary

- MSP systems are generally designed to deliver largely national objectives and they vary considerably in their scope and approach.
- Representation of regional interests – through existing mechanisms or new opportunities – is essential to secure a comprehensive understanding of what Maritime Spatial Planning can deliver for ecosystems that do not acknowledge artificial human-scale administrative boundaries and transnational sectoral interests

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Annex 1. Summary of national marine planning in North Sea countries⁶²

Belgium

| General information | |
|---|--|
| Total Belgian sea area | 3,454 km ² (about 0.5% of the entire North Sea area) |
| Size of Territorial Sea | 1,437 km ² |
| Exclusive Economic Zone | 2,017 km ² |
| National MSP authority | Belgian Minister of the North Sea |
| Primary MSP legislation | National planning process underpinned by the Marine Environment Act 1999, amended in 2012 to include the development of a Maritime Spatial Plan for Belgian waters and renamed as the Act for the protection of the marine environment and for the organisation of marine spatial planning in the maritime regions under Belgian jurisdiction. |
| Secondary/additional legislation | Royal Decree of November 20, 2012 established an Advisory Committee for MSP and the process for the adoption of a Maritime Spatial Plan in the Belgian maritime regions. Royal Decree of March 20, 2014 adopted the present Belgian Maritime Spatial Plan (2014-2020), which was subject to public and transboundary consultation during 2012-13. A draft Maritime Spatial Plan for 2020-2026 is in preparation and was adopted by the Council of Ministers on 20 April 2018, prior to a period of public (and transboundary) consultation on both the draft Plan and the accompanying Strategic Environmental Assessment. |
| Preparation and implementation of MSP | Coordinated by the Marine Environment Division of the Federal Public Service (FPS) for Health, Food Chain Safety and Environment with the involvement of the Federal Government Service for Mobility, Director General Shipping, and the Management Unit of the North Sea Mathematical Models and the Scheldt Estuary (MUMM), a Department of the Royal Belgian Institute of Natural Sciences (RBINS). |
| National / Regional relationship | |
| Flanders, in the north of Belgium, is one of three Belgian Regions and the only area with a coastline. It is split into five Provinces including West-Vlaanderen, a member of the North Sea Commission. | |
| Division of relevant competences: | National |
| | Regional |
| | Environmental protection Nature conservation (marine) (Wind) energy development Disposal of dredged material Shipping Aggregate extraction Military activities Maritime Spatial Planning |
| | Fisheries Aquaculture Nature conservation on land Dredging Ship pilotage and traffic guidance Integrated Coastal Management |
| Licensing | Licensing is established by different Decrees but a code on Spatial Planning in each Region provides the relevant legal framework. A 1991 Regulation on environmental permits for the Flemish Region allows these to be delivered by MUMM, which advises the Federal Minister for the Marine Environment on their final decision of whether or not to issue a permit. |

⁶² Abridged from Annex 2 of NorthSEE project 'Status quo report on offshore energy planning provisions in the North Sea Region', country Maritime Spatial Planning information provided on the European MSP Platform and other sources of information.

Denmark

| General information | | |
|---|--|--|
| Total Danish sea area | 105,000 km ² | |
| Total Exclusive Economic Zone | 61,500 km ² | |
| Total size of Territorial Sea | 40,000 km ² | |
| Total area of Danish part of the North Sea (including Internal Marine Waters, Territorial Sea and EEZ) | 49,712 km ² Danish part of Skaggeak: 10,350 km ² Danish part of Kattegat: 35,631 km ² | |
| General responsibility for implementation of MSP | Danish Ministry for Industry, Business & Financial Affairs | |
| National MSP authority | Danish Maritime Authority, part of the Ministry for Industry, Business & Financial Affairs | |
| Primary MSP legislation | Danish Act on Maritime Spatial Planning, June 2016 Act establishes a framework for MSP in Danish waters, promotes economic growth, the development of marine areas, the use of marine resources on a sustainable basis and aims to contribute to achieving MSP goals whilst taking into account land-sea interactions and strengthening cross- border cooperation | |
| Secondary/additional legislation or information | Sectoral plans for energy infrastructure, fisheries, nature protection and other issues pre-date work on a Maritime Spatial Plan and provide the context for development of MSP. | |
| Preparation and implementation of MSP | Danish Maritime Spatial Plan will apply to marine internal waters, the Territorial Sea and the Exclusive Economic Zone. It is expected to be fully implemented in 2021. | |
| National / Regional relationship | | |
| Denmark is divided into five Regions and 98 Municipalities: three Regions are members of the North Sea Commission – Nordjylland, Midtjylland and Syddanmark. Together, they account for 52 Municipalities: 11 in Nordjylland, 19 in Midtjylland and 22 in Syddanmark. | | |
| Division of relevant competences | Land | Sea |
| National level | Maritime Spatial Planning Coastal protection Sea defence Nature protection Exploitation of natural resources (raw materials) Military activities | Fishing Shipping Marine environmental protection Exploitation of natural resources (raw materials) Naval activities Licensing of offshore activities Environmental Impact Assessments required by national sectoral legislation |
| Regions | Raw materials (mapping & planning) Contaminated land | |
| Municipalities <i>Responsible for translating overall guidelines and national visions into actual spatial planning through Municipal Plans and Local Development Plans</i> | Nature protection Waste management Water catchment management Water catchment planning Environmental Impact Assessment of Municipal Plans | Harbour ownership & administration |
| Licensing | Licensing of offshore activities is undertaken at the national level, e.g. the Danish Energy Agency grants licences for offshore wind farms. Stakeholder and public consultation is undertaken on applications and EIAs. The EIA process may include a public hearing process where authorities, neighbouring countries and other stakeholders, e.g. local communities can be heard. | |

Germany

| General information | | |
|---|---|---|
| Total German sea area | 56,400 km ² | |
| Total Exclusive Economic Zone | 33,000 km ² | |
| Total size of Territorial Sea | 23,400 km ² | |
| Total area of German part of the North Sea (including internal waters, Territorial Sea and EEZ) | 41,000 km ² (about xx% of the entire North Sea area) Internal waters & Territorial Sea in North Sea area: 12,500 km ² EEZ in North Sea area: 28,500 km ² | |
| General responsibility for implementation of MSP in EEZ | German Federal Ministry of Transport & Digital Infrastructure (BMVI) is responsible for setting up maritime spatial plans for the German EEZ in the North Sea and Baltic Sea. | |
| General responsibility for planning for Territorial Seas | The Coastal Federal States of Schleswig-Holstein, Lower Saxony and Mecklenburg-Vorpommern are responsible for spatial planning in their share of internal and territorial waters. Schleswig-Holstein and Lower Saxony both have North Sea coasts. | |
| Primary MSP legislation | Federal Spatial Planning Act, (the “Raumordnungsgesetz” / ROG): this was made applicable to EEZ in 2004 and set up the legal framework for economic and scientific uses of the sea, including principles to protect the marine environment. | |
| Secondary/additional legislation | Legal framework of MSP is also provided by the Federal Maritime Responsibilities Act 2002, the Federal Mining Act of 1980 and the Federal Energy Management Act of 2005. Sectoral activities have their own legislation, e.g. the Renewable Energy Law (“Erneuerbare-Energien-Gesetz”) 2014, 2016. In addition to the ROG, the legal basis for plans covering the territorial seas is provided by the spatial planning law of each Coastal Federal State, as amended to extend the scope of Regional Development Plans to the 12 nm limit of territorial seas and establish coordinated planning of sea and coastal areas. | |
| Preparation of Maritime Spatial Plans | Maritime Spatial Plans for the North Sea EEZ and Baltic Sea EEZ have been prepared by the Federal Maritime & Hydrographic Agency (BSH). The territorial sea areas under the jurisdiction of Schleswig-Holstein, Lower Saxony and Mecklenburg-Vorpommern are covered by the (terrestrial) spatial plans produced by those States. | |
| National / Regional relationship | | |
| ROG states that the Federal Government is responsible for maritime spatial planning in the EEZ. The Federal Coastal States are responsible for setting up spatial targets and principles for their respective share of internal waters and territorial seas in the North Sea and Baltic Sea The Coastal Federal States of Schleswig-Holstein and Niedersachsen (Lower Saxony), along with the Federal State of Bremen (consisting of the Free Hanseatic City of Bremen and the enclave of Bremerhaven) are members of the North Sea Commission. | | |
| Division of relevant competences: | National | Coastal Federal State |
| | Maritime Spatial Planning and Licensing for the EEZ (12-200nm) Legislation on energy policies and targets for offshore energy Waterways (maritime & inland) Shipping & Maritime Security Marine environmental protection Sea and coastal fisheries Aquaculture | Regional spatial planning on land and out to the 12nm limit Licensing offshore installations in territorial waters Nature conservation Public administration Industry and jobs, Tourism Culture, education and libraries Fisheries within territorial and inland waters |

| | | |
|-----------|---|--------------------------------------|
| | <i>Disposal of dredged material</i> <i>Aggregate extraction</i> <i>Military activities</i> | <i>Integrated Coastal Management</i> |
| Licensing | Licensing for offshore installations in the German EEZ is underpinned by the Federal Maritime Responsibilities Act 2016 and the Offshore Installations Regulations 1997. The mandate for licensing offshore installations in German territorial waters lies with the respective Federal State | |

The Netherlands

| General information | | |
|--|--|---|
| Total Dutch sea area | 58,000 km ² | |
| Exclusive Economic Zone | c. 53,400 km ² | |
| Territorial Sea | c. 4,600 km ² | |
| General responsibility for implementation of MSP | Dutch Government: a variety of Ministries have policy responsibilities for different aspects of the North Sea but the Minister for Infrastructure and the Environment is responsible for coordinating North Sea policy and management, including MSP in Dutch waters | |
| Primary MSP legislation | The National Water Act 2010 is the legal basis for MSP. The current National Water Plan (NWP) fulfils the obligation for MSP for the period 2016-2021, required by Section 4.1(1) of the Water Act. | |
| Secondary/additional legislation | The Policy Document on the North Sea is an appendix to the National Water Plan and was adopted with the NWP in December 2015. It substantiates the policies described in the main text of the NWP and provides a framework vision for MSP as required under Section 2.3(2) of the Spatial Planning Act. The NL Policy Document on the North Sea is not a legal document but was prepared on the basis of the General Administrative Law Act (Algemene wet bestuursrecht) and the Water Decree (Waterbesluit). Additional procedural regulations apply under the National Water Act (Waterwet), the Spatial Planning Act (Wet ruimtelijke ordening) and the Environmental Management Act (Wet milieubeheer). | |
| Preparation of Maritime Spatial Plans | Responsibility of the central NL Government, particularly the Minister for Infrastructure and the Environment | |
| National / Regional relationship | | |
| The jurisdiction of municipal and provincial authorities extends to 1km from the low water mark on shore: responsibility for this area is shared with central government by the five coastal Provinces but only central government has jurisdiction over marine areas beyond 1 km from the coast to the extent of the NL EEZ. The five coastal Provinces – Noord-Holland, Zuid-Holland, Zeeland, Friesland, Groningen including Flevoland are members of the North Sea Commission. | | |
| Division of relevant competences: | National | Provinces |
| | Maritime Spatial Planning Licensing <i>Legislation on energy policies and targets for offshore energy</i> <i>Waterways (maritime & inland)</i> <i>Shipping & Maritime Security</i> <i>Marine environmental protection</i> <i>Sea and coastal fisheries</i> <i>Aquaculture</i> <i>Disposal of dredged material</i> <i>Aggregate extraction</i> <i>Military activities</i> | Sustainable spatial development including water management Environment, energy & climate Countryside & nature management, nature protection Regional infrastructure & regional public transport Regional economy & agriculture Cultural infrastructure and preservation of monuments Public administration <i>Licensing?</i> |

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| | | <i>Fisheries within territorial and inland waters</i> <i>Integrated Coastal Management</i> |
| Licensing | <p>The Dutch Government sets assessment frameworks within the North Sea Policy Document to enable use of space to evolve efficiently, safely and sustainably. Permits for activities are underpinned by different Acts, e.g. the Water Act, the Nature Conservation Act, the Flora & Fauna Act, the Earth Removal Act, the Mining Act, the Environmental Permitting (General Provisions) Act and shipping laws. Policy regulation is applied by the competent authorities through the Rijkswaterstaat, on behalf of the Minister for Infrastructure & the Environment and the Minister for Economic Affairs. The Rijkswaterstaat is the overseeing authority for enforcing the general rules underpinned by the Water Act and specific rules that relate to decisions over offshore wind farms.</p> | |

Norway

| General information | |
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| Total Norwegian sea area | 819,620 km ² |
| | EEZ split into three regions: Barents Sea, Norwegian Sea & North Sea |
| Norwegian North Sea area | 125,000 km ² |
| General responsibility for implementation of MSP | <p>Norwegian Ministry of Climate & Environment has main responsibility for ensuring integrated climate and environmental policies and for management plans for Norwegian waters, in association with the Norwegian Environment Agency.</p> <p>The Ministry of Transport & Communications has the overall responsibility for coastal management, the marine environment and port and sea transport policy in Norwegian waters and works with its agency, the Norwegian Coastal Administration.</p> <p>Municipalities are given main responsibility for coastal zone planning.</p> |
| Primary MSP legislation | <p>Planning and Building Act 2008 sets the context for integrated coastal zone planning in sea areas out to the baseline, giving responsibility for it to Norway's 280 coastal Municipalities. The Act is intended to bring about uniform planning for central, county and municipal activities and ensuring that the uses made of an area, including the exploitation of natural resources, are assessed in conjunction with municipalities' planning and financial responsibilities.</p> <p>No separate law for MSP beyond the coastal baseline. Sectors are regulated through their own legislation and under the authority of the relevant Ministry.</p> |
| Secondary/additional legislation | <p>Sectoral legislation implemented by relevant Ministries, e.g. the Offshore Energy Act.</p> <p>Marine Resources Act, 2008: ensures the sustainable and economically profitable management of wild living marine resources, the promotion of employment and settlement in coastal communities and the establishment of marine protected areas.</p> <p>MSP is also anchored in area-based management tools, e.g. provisions for MPAs in the Nature Diversity Act, fisheries closures under the Marine Resources Act and shipping regulations/routing measures in the work of the Norwegian Coastal Administration.</p> |

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| Preparation of Maritime Spatial Plans | <p>Integrated ecosystem-based management plans apply to parts of the Barents, Norwegian and North Seas within the Norwegian EEZ. This excludes the coastal zone, which may be covered by local plans created by Municipalities.</p> <p>An Integrated Management Plan for the Norwegian part of the North Sea/Skagerrak area was completed and implemented in 2013. It is to be reviewed in 2020.</p> |
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National / Regional relationship

Norwegian Municipalities have had responsibility for terrestrial planning for many years but their interest in planning for adjacent sea areas emerged from competition for space for aquaculture facilities in the coastal zone during the 1970s and 1980s. This resulted in an approach to integrated coastal zone management that combined County administrations and State Agencies operating at the County level. However, experience suggests that the approach has been more about conducting coordinated policy between sectors, rather than a truly integrated one across policy areas.

The management plans for the three Norwegian marine areas, including the North Sea, establish the overall political and strategic framework and guidelines for management actions across economic sectors. They describe management actions to be implemented for the conservation and sustainable use of these areas and aim to facilitate coexistence between activities through management measures as well as spatial limitations, e.g. possible geographic zones for the construction of offshore wind power and other renewable energy generation facilities. The strength of sectoral legislation and the authority of relevant Ministries or Directorates at the national level regulates the management plans in sea areas beyond the coastal baselines.

| Division of relevant competences: | National / Sectoral interests | Municipalities |
|-----------------------------------|---|---|
| | <p>Maritime Spatial Planning</p> <p>Licensing</p> <p>Legislation on oil, gas and energy policies</p> <p>Shipping & Maritime Security</p> <p>Marine environmental protection</p> <p>Sea fisheries</p> | <p>Regional development and planning</p> <p>Coastal planning & Integrated Coastal Management</p> <p>Water regions management</p> <p>Aquaculture</p> |
| Licensing | <p>The Norwegian Ministry of Oil & Energy, under the Energy Act, authorises the Water Resources and Energy Directorate to licence relevant activities within the baseline, with the Ministry being the appeal body.</p> <p>Under the Offshore Energy Act, the licensing body is the Ministry of Oil & Energy.</p> <p>For aquaculture, the licensing body is the relevant County Municipality.</p> | |

Sweden

| General information | |
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| Total Swedish sea area | 130,000 km ² |
| Exclusive Economic Zone | 60,000 km ² |
| Territorial Sea | 70,000 km ² |
| General responsibility for implementation of MSP | <p>The Swedish Government and Ministries lead national policy making, assisted by sectoral agencies (e.g. Swedish Agency for Marine & Water Management). Overall responsibility for MSP lies with the Ministry of Environment & Energy, supported by SwAM.</p> <p>Municipalities have responsibility for planning out to the limit of territorial seas (baseline to 12nm). County Administration Boards coordinate national interests at the regional or municipal level.</p> |
| Primary MSP legislation | Swedish Environmental Code 1998 and the Plan & Building Act 2010 constitute the legal basis for MSP in Sweden. |

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| | <p>The Swedish Environmental Code was amended in 2015 to enable the preparation of marine spatial plans for the Gulf of Bothnia, the Baltic Sea and the Skaggeak and Kattegat.</p> <p>There is a geographic overlap between the national-level MSPs prepared under the Environmental Code and the comprehensive plans enabled by the Plan & Building Act, prepared by the Municipalities.</p> |
| Secondary/additional legislation | <p>The Maritime Spatial Planning Ordinance 2015 was adopted to meet the requirements of the EU MSP Directive and regulate the process of marine spatial planning. It sets out the contents of the three national-level MSPs and gives responsibility for their preparation to SwAM. The Ordinance also sets out which Swedish authorities have to be involved in MSP policy making and how this should happen.</p> |
| Preparation of Maritime Spatial Plans | <p>Under the Plan & Building Act, Municipalities are responsible for planning all Swedish land and water areas under their authority, including sea areas out to 12nm, through comprehensive but non-statutory plans.</p> <p>SwAM is responsible for preparing maritime spatial plans for the Gulf of Bothnia, Baltic Sea, the Skaggeak and Kattegat with support from the counties of Västra Götaland, Kalmar and Västernorrland.</p> |
| National / Regional relationship | |
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| Division of relevant competences: | National |
| | <p>Maritime Spatial Planning Licensing Energy production Mineral extraction Shipping & Maritime Security Marine environmental protection Sea fisheries Cultural heritage management</p> |
| | Municipalities |
| | <p>Regional development Planning for terrestrial and marine interests out to 12nm Environment & nature protection</p> |

United Kingdom

Although marine planning in the UK is enabled by a single piece of overarching legislation, the Marine & Coastal Access Act 2009, there are different arrangements in place for Scotland, England, Wales and Northern Ireland. There is no single marine planning authority for the whole country and no single approach taken: Scotland, Wales and Northern Ireland have pursued strategic, high-level national Marine Plans with the option of regional plans to add further detail while England will eventually have national coverage through a series of geographically-specific Marine Plans covering their Inshore and Offshore waters, which are being developed over time.

| General information | |
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| Total UK sea area | 58,000 km ² |
| Exclusive Economic Zone | c. 53,400 km ² |
| Territorial Sea | c. 4,600 km ² |
| Primary MSP legislation | <p>UK Marine & Coastal Access Act 2009 enables marine planning for all UK waters.</p> <p>UK Marine Policy Statement 2011 was jointly agreed by the UK administrations and provides the overarching policy framework for developing marine plans and achieving sustainable development of the UK's marine area.</p> |

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| | Marine Plans apply the Marine Policy Statement through detailed policy and spatial guidance, as appropriate, for each marine plan area. | |
| Additional legislation | <p>Marine (Scotland) Act 2010 is the primary domestic legislation for marine planning in Scottish territorial waters.</p> <p>An agreement with the UK Government enables the Scottish Government to plan for all waters around Scotland out to 200nm under its National Marine Plan, although the provisions for activities in the 12-200nm area and for reserved matters must be signed-off by the UK Government's Secretary of State for the Environment.</p> <p>Marine Act (Northern Ireland) 2013 builds on the provisions set out in the Marine & Coastal Access Act and establishes a strategic system of marine planning in Northern Ireland's inshore and offshore waters.</p> | |
| Preparation of Marine Plans | <ul style="list-style-type: none">• England: the Marine Management Organisation is responsible for preparing 11 Marine Plans that will cover English inshore and offshore waters, from the Mean High Water Mark to the 200nm limit.• Scotland: Marine Scotland, the marine Directorate of the Scottish Government, prepared the National Marine Plan (2015) which covers all waters around Scotland from the Mean High Water Mark out to 200nm. Scottish territorial waters, out to 12nm, have been divided into 11 Scottish Marine Regions for which Regional Marine Plans will be developed by Marine Planning Partnerships.• Northern Ireland: the Department of Agriculture, Environment and Rural Affairs is responsible for preparing marine plans for both the NI inshore and offshore areas, which will be published as a single document.• Wales: the Welsh Government is responsible for preparing a single Welsh National Marine Plan covering the inshore & offshore regions. | |
| National / Regional relationship | | |
| The different approaches to marine planning taken within the Devolved Administrations for Scotland, Northern Ireland and Wales and by the Marine Management Organisation for England mean that it is a complex situation when considering | | |
| Division of relevant competences: | UK National level | |
| | Policy areas reserved to UK Government: <ul style="list-style-type: none">• Oil and gas• Defence• Maritime Security | |
| | Scottish Government/ Marine Scotland | Scottish Marine Regions |
| | Marine planning Water management Energy & climate change Environmental protection Fisheries Marine licensing Integrated Coastal Management Cultural infrastructure and preservation of monuments | <p>Regional Marine Planning Partnerships are Directed by Scottish Ministers to produce Marine Plans for their geographic areas, to take account of local circumstances and smaller ecosystem units. They are required to be in accordance with the National Marine Plan and the UK Marine Policy Statement to ensure consistency with national objectives and priorities.</p> <p>Regional Marine Plans will not normally affect reserved functions.</p> <p>Local Authorities have responsibility for terrestrial planning, which includes permission for aquaculture.</p> |

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| | | Public bodies, including terrestrial planning authorities, are required to give consideration to marine plans when developing strategic and Local Development Plans for their areas of interest. Alignment between marine and terrestrial planning should be achieved through consistency of policy guidance, plans and decisions. |
| | English Marine Management Organisation | English Marine Planning Areas |
| | Marine planning for the English inshore and offshore regions Marine licensing Sea and coastal fisheries | Development of a suite of 11 Marine Plans covering the Inshore and Offshore areas of 6 Marine Planning Areas will to comprehensive marine planning coverage of English waters, from the Mean High Water Mark to 200nm. Local Authorities are key stakeholders in the development of Marine Plans, especially for Inshore areas. |
| Licensing | In Scotland, this is the responsibility of the Marine Scotland Licensing Operations Team. In England, it is part of the duties of the Marine Management Organisation | |