



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 8 May 2013

Session 4

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RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE
16th Meeting 2013, Session 4

CONVENER

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

DEPUTY CONVENER

*Graeme Dey (Angus South) (SNP)

COMMITTEE MEMBERS

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

*Claudia Beamish (South Scotland) (Lab)

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

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

*Jim Hume (South Scotland) (LD)

*Richard Lyle (Central Scotland) (SNP)

*Angus MacDonald (Falkirk East) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Richard Lochhead (Cabinet Secretary for Rural Affairs and the Environment)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

Committee Room 5

Scottish Parliament

Rural Affairs, Climate Change and Environment Committee

Wednesday 8 May 2013

[The Convener opened the meeting at 10:00]

Decisions on Taking Business in Private

The Convener (Rob Gibson): Welcome to the 16th meeting in 2013 of the Rural Affairs, Climate Change and Environment Committee. Members and the public should turn off their mobile phones and BlackBerrys, as leaving them in flight mode or on silent will affect the broadcasting system. We have received no apologies.

Agenda item 1 is for the committee to decide whether to take items 4 and 5 in private. Are we agreed?

Members indicated agreement.

The Convener: Under item 1, the committee will also decide whether to take its consideration of evidence and any draft report on an expected crofting bill in private at future meetings. Are we agreed?

Members indicated agreement.

Subordinate Legislation

Action Programme for Nitrate Vulnerable Zones (Scotland) Amendment Regulations 2013 (SSI 2013/123)

Environmental Information (Scotland) Amendment Regulations 2013 (SSI 2013/127)

10:01

The Convener: Item 2 is consideration of two Scottish statutory instruments that are subject to negative procedure. No matter relating to the instruments has been brought to our attention. I refer members to the clerk's note and ask for comments. I know that Alex Fergusson wants to raise an issue about SSI 2013/123.

Alex Fergusson (Galloway and West Dumfries) (Con): Thank you, convener. I do not wish to impede the instrument's progress in any way, but I have one or two concerns about the regulations. My concern has partly been caused by the fact that, given that we received the papers fairly late last week and that Monday was a bank holiday, it was quite hard to follow up on the details.

When you read the regulations closely, it is apparent that they will impose an extra burden on farmers in nitrate vulnerable zones. I was particularly taken with the comment in the policy note that

"Responses to the consultation were analysed and the proposals have been developed and refined taking into account points raised in responses. Following this, modifications to the proposals were discussed with stakeholders, DEFRA, and the European Commission, and with Brian Pack The Regulations embody changes from the version of the programme consulted upon".

It would have been useful to know—I do not know whether it is possible for somebody to contact us about the issue in the time that is available—what changes were made to the original proposals in the light of the consultation responses.

The Convener: The lead committee's report is not due until 20 May, so there is leeway to consider the regulations again at our meeting on 15 May. If members are so minded, we have the time to write to the Government for clarification.

Alex Fergusson: I do not want to impede the process, but further information would be useful.

Claudia Beamish (South Scotland) (Lab): I support that suggestion. I was approached prior to the consultation by a number of farmers who had concerns, so I would like to know what modifications were made.

The Convener: We can arrange for the clerks to draw up some questions in concert with Mr Fergusson.

No comments have been made on SSI 2013/127. The committee therefore agrees that it will not make any recommendations in relation to SSI 2013/127 but that it may delay SSI 2013/123. [*Interruption.*] I am advised that we might not have to delay the instrument. We can write to the Government and amendments might be suggested if any substantial issues arise from our questions.

Alex Fergusson: I clarify that I am aware that SSI 2013/123 covers an action programme for existing nitrate vulnerable zones, not the proposal to expand the number of nitrate vulnerable zones. If we do not need to delay consideration, I am happy to write to the Government to raise the concern that I have outlined.

The Convener: In that case, do we agree not to make any comments with regard to the process and to get the points that have been raised clarified?

Members *indicated agreement.*

The Convener: Okay. The negative instruments have caused a little bit of excitement.

Marine Issues

10:05

The Convener: Agenda item 3 is evidence on marine issues. We have heard from Marine Scotland and from stakeholders. Today, we hear from the Cabinet Secretary for Rural Affairs and the Environment. The committee will consider all the evidence that we have heard over the past few weeks before it writes to the Scottish Government with any views, ahead of the Government's planned consultations in summer 2013.

I welcome to the meeting the cabinet secretary, Richard Lochhead, and David Palmer, who is acting head of division at Marine Scotland at the Scottish Government.

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): Good morning. I am just recovering from a bout of panic that you may have been about to ask me about nitrate vulnerable zones. Thankfully, we are staying at sea and, I hope, discussing the marine environment.

I do not have a prepared statement; I am here to answer the committee's questions on landmark legislation—the Marine (Scotland) Act 2010. It highlights how marine issues have dramatically risen up the agenda in recent years, which is partly due to increased knowledge and scientific awareness. It is also because this country's future very much depends on successful sustainable use of our seas. A number of competing industries would like to progress plans in our waters. While they do, we should ensure that we balance environmental interests with economic interests.

As we look forward to our first network of marine protected areas and the implementation of other measures in the 2010 act—in particular, the overarching marine plan for Scotland—these are exciting times for Scotland's marine environment, all the species and habitats within it and the industries that depend on it for creating jobs.

The Convener: We are aware that the national marine plan involves processes that will take some time because there has to be co-operation with the United Kingdom Government. What timescale are the two Governments working to? At what stage are negotiations? What have been the key areas of discussion and negotiation?

Richard Lochhead: The question highlights the fact that we were successful in negotiating coverage of the act out to the 200-mile limit, rather than just to the inshore waters that are within the remit of the Scottish Parliament. When it comes to planning purposes and the marine plan, we have been able to include all of Scotland's waters,

which is a big step forward. It means, however, that we have to negotiate with the UK Government on how reserved issues such as oil and gas are covered in the marine plan for Scotland. We are therefore in the middle of finalising our negotiations with the UK Government, which has the draft plan for comment on reserved issues.

On timescales, we hope soon to conclude our discussions with the UK government, which will allow us to go out to consultation in July this year, with a view to adopting the marine plan in early 2014.

The Convener: What were the key areas in the discussions? Have there been areas of disagreement?

Richard Lochhead: Our starting point was that we had to have a plan that goes out to 200 miles but takes into account the UK Government's views on the reserved issues—primarily oil and gas, which are hugely important industries to Scotland, and defence. I expect that the plan will not deviate from the status quo in terms of the relationship with the UK Government on those issues.

Graeme Dey (Angus South) (SNP): Good morning, cabinet secretary. By way of a scene setter, would you outline for us how robust you feel the science is that has informed the process until now, and how it was gathered? At the risk of getting ahead of ourselves, what is the plan for assessing the success or otherwise of marine protected areas? For example, is there a plan to review the whole set-up five or 10 years down the line? If an issue emerges with an individual MPA, would assessment be done and action taken on that basis?

Richard Lochhead: First—and further to the progress report on MPAs that was published in 2012—we must report back to Parliament in 2018 on how the marine protected areas have been doing. A huge amount of work will be done in between times. We are about to go out to consultation on the proposed marine protected areas, which will be part of an overall network with existing designations taken into account largely through European directives.

Graeme Dey's question highlights the fact that our knowledge of the marine environment has come on in leaps and bounds over the past few decades, and especially in recent years, as we look towards implementing the Marine (Scotland) Act 2010. We have relied largely on information and data that have been gathered in the past few years from existing activities in the marine environment—oil and gas or fishing, for example. In addition, a huge amount of research has been undertaken for the first time.

I am sure that we have learned more about the marine environment in the past few years than we

ever have before. There has been a huge step forward. In the coming years, I have no doubt that we will gain a lot more knowledge about species and their habitats in our waters, and how they interact with other forces, such as climate change. We are on a steep upward learning curve. We have gaps in our scientific knowledge about the marine environment that we must fill, but I am confident that we have robust scientific evidence on which to move forward with designating MPAs. As you know, the principle behind our approach has been all along to base it on science.

I am sure that there will be questions later on learning more about the species in our waters. We are tagging basking sharks, which is a huge step forward in learning about their behaviour. Who would have thought a few years ago that we would be doing that in 2012 or 2013? Lots of things are happening for the first time and we are learning new things all the time. It is very exciting.

Graeme Dey: You mentioned that there will be a report back to Parliament in 2018, which will look at the overall picture. If evidence emerges that there are issues in a single MPA, is there scope to take action that is specific to that individual area?

Richard Lochhead: Yes. The work will continue from here on in through Marine Scotland and our partners. We have a lot of scientific knowledge and expertise built up in Scotland not only in the Government, but across our universities and research sectors. Our knowledge has largely been co-ordinated by Scottish Natural Heritage and the Joint Nature Conservation Committee, which is the UK-wide body. We also work with other stakeholders and partners who have their own scientific knowledge, so we build that into the national picture.

As evidence becomes available—the research will continue—new MPAs can be created at any time. We also have the ability to create community-driven MPAs; a number of such proposals have come from communities around Scotland and I have no doubt that that process will continue. As and when we have expressions of interest, Marine Scotland will look at those applications; there will be an on-going MPA review process.

Angus MacDonald (Falkirk East) (SNP): The announcement a couple of weeks ago on days at sea for prawn fishermen included a commitment to use local fishing boats from the Western Isles to conduct scientific research. That announcement was widely welcomed in the Hebrides. Will their data be fed into the assessment of MPAs and the national marine plan?

Richard Lochhead: I hope that we can be innovative. There has been a longstanding debate in Scotland, particularly in relation to the fishing

sector, about how we can use our marine users—in this case, the fishermen who are at the coalface and who are doing day-to-day jobs in our waters—and encapsulate their knowledge and experience at sea and use their feedback to build up our overall scientific knowledge. If that can be done by encouraging our fishing vessels to participate in scientific programmes, I am all for that.

10:15

The initiative to which Angus MacDonald referred relates to how we manage days at sea for fishing vessels on the west coast of Scotland. We faced a difficult decision because, with prawn stocks not appearing in the North Sea, there has been increased pressure from north-east based boats to fish in west coast waters. Of course, the west coast fishing communities are concerned that not enough days at sea will be left for their own needs. We have had to balance that additional pressure on west coast waters from east coast interests with protecting the interests of the west coast fishing communities.

I am confident that the fishermen on the west coast will be able to fish their quotas for 2013 in terms of days at sea, but we also recognise that some vessels have been subjected to a small cut of 5 per cent. To help those vessels to make up the income that they might have lost, we are offering them the opportunity to participate in scientific programmes. If such knowledge gathering can help towards the designation of MPAs or increase scientific knowledge of what is happening in west of Scotland waters, that is a good thing.

Alex Fergusson: I have a follow-up question on scientific evidence. The Government's guidelines for identifying MPAs states that Marine Scotland will

"use the best available evidence".

Given that determination, I do not quite understand the logic of delaying implementation for some MPAs. Surely "the best available science" must mean the best available science at the time, so why has there been a decision to delay?

Richard Lochhead: As I said, we are on a very steep learning curve. At any point in time, we have a set amount of scientific knowledge, but it is improving all the time. Clearly, we have to justify any MPA proposal to the communities and stakeholders with whom we have been heavily engaged over the past couple of years on progressing the network of MPAs. If there is a scientific gap, it may be worth trying to plug that gap, given that scientific research is on-going all the time.

A big issue at the moment is the behaviour of mobile species in our waters. For instance, if we want to create MPAs to protect certain species of dolphins, whales or porpoises but we do not know where they congregate, breed or feed, it is difficult to take a decision on where the MPA should be located. That is why we are unable to take some decisions at the moment. In other cases, we thought that it was worth our while to wait until we have listened to the concerns and views of stakeholders on the nature and location, as well as the socioeconomic impact, of MPAs.

It is worth getting things right even if it means waiting a few extra months. That is why we have decided that this summer we will bring together all our consultations on renewables, marine protected areas and the national marine plan, which are all closely aligned and closely related and will influence each other. We will have an overall consultation in which those three streams of documents will be available.

Alex Fergusson: I might come back to that, but I thank you, for the time being.

Jim Hume (South Scotland) (LD): I am interested to know whether the Government intends to include all 33 Scottish MPA proposals in the consultation. Also, will the consultation include the search locations?

Richard Lochhead: I am happy to confirm that all 33 proposals and the four search locations will be included in the consultation. We will listen closely to the views of Scotland in making final decisions.

Jim Hume: That is great.

One issue, which I think Alex Fergusson partly touched on, is that some proposed areas have changed dramatically, such as in the Firth of Forth and south of Skye. As Alex Fergusson said, the Government's principles state that it will

"use the best available science".

In their advice to the Scottish Government, SNH and the JNCC suggest that some alternatives have been sought as a result of representations from fisheries or renewables sectors. Which is it, or is it a mixture of both?

Richard Lochhead: There are two scenarios, I guess, that could change the potential number of MPAs. One is that, where a search location involves a large area such as the Firth of Forth, the area might be narrowed down in time as more is learned about the features there. Once the features have been identified, a decision then needs to be taken on whether the area should be proposed as an MPA. If my memory serves me correctly, in the Firth of Forth we started off with quite a large area, but as we learned more about the features we were able to break that down into

three or four potential marine protected areas, where particular features that might need to be protected were identified. It influences the statistics if one big area goes down to three smaller areas, for instance, but we have to take a decision guided by the science as to where the features are.

As we have discussed with stakeholders, we must balance the interests of the renewable energy and fishing sectors as part of the process, provided that there is no major conflict with the science. That must be taken into account when we decide which features should have priority for protection.

Jim Hume: I think that 43 species will be given conservation protection, but there are around 6,500 Scottish marine species. Is the cabinet secretary confident that seabirds such as kittiwakes, skuas and puffins and other marine animals will be adequately protected? What work is being carried out in the four search locations to ensure their protection?

Richard Lochhead: Scotland is home to many of Europe's seabird breeding colonies. We have 45 per cent of Europe's breeding seabirds, so we have a huge responsibility to safeguard those precious species, particularly given some of the pressures that many of our bird species are under in the marine environment.

At the moment, many of the migratory bird species are protected under European designations under the birds directive. Other species are also protected under the habitats directive.

In building an MPA network in Scotland, 33 nature conservation marine protected areas are proposed. We also have the four search locations for the mobile species. Then we have 31 special protected areas in the marine environment and 40 special areas of conservation, the latter being for dolphins, whales and porpoises and the former being for seabird colonies. That works out at 108 potential sites within the network. That, alone, could represent 20 per cent of Scotland's waters.

The question is whether seabird populations are protected within that network. For instance, black guillemots, not being a migratory species, were not included within the European protection but we have incorporated them into the MPA proposals.

If stakeholders or anyone else wants to suggest ideas and proposals once we are in the formal consultation stage, we will listen to those representations if there is a view that there is not enough protection for our seabird colonies and species in Scotland. However, I am confident that between the European designations, our own proposed nature conservation MPAs and the overall network of a potential 108 sites—we will

have to wait and see what the consultation says and what final decisions are made—substantial protection is offered for Scotland's seabird colonies.

Jim Hume: Correct me if I am wrong, but I am led to believe that only three of the sites have been given a conservation objective of "recover", meaning that the objective is to increase the number of species. Is that correct? Is that enough?

Richard Lochhead: I will certainly check that figure for you, unless my colleague David Palmer knows it off the top of his head.

We rely on science. I guess that you can see damage where it is, but it is much more difficult to measure the damage at any particular location and to understand how it was caused.

The reason why we want protection in the first place is that some marine features require a lot more time to recover than others. A coral reef, for instance, might take thousands of years to recover, so we must protect it to ensure that there is no further damage. Other damaged marine features might be able to recover in shorter time, depending on the nature of the feature, such as whether it is a species or landform. We must understand that.

There are some areas that have to recover, and I will check the figures for you.

Jim Hume: Thank you.

Claudia Beamish: Good morning, cabinet secretary. On MPAs, what comment do you have on the obligation under the Marine (Scotland) Act 2010 to enhance Scotland's seas?

Richard Lochhead: It is right to place, in the public interest, an obligation on the Government to enhance our marine environments, when that is possible. That is why the marine plan is so exciting. The first stage has been a learning process of identifying and designating our precious marine features. That in itself attaches value to the marine environment and the amazing species and land forms that we have in it. We are therefore much further forward than in previous years, and now the big challenge is to go through the formal designation and work out how the MPAs can be best managed to protect areas for the future, with all the qualities that they deliver for the marine environment.

Once some areas are protected, that will help recovery—that relates to the previous question—which is good for enhancing the marine environment, and other areas will be protected just by being designated. Any future activities in those areas will have to take into account their designation. That is a big step forward for marine conservation.

Claudia Beamish: That is helpful. I seek clarification on the definitions of “conserve” and “recover”. I am certainly not going to say that I have read all the information about the common skate—although I know what one looks like—but I understand that some environmental groups have expressed concern that, although that fish is still at risk, it is in the conserve category. Will you clarify how the definitions of “conserve” and “recover” were formulated?

Richard Lochhead: We very much rely on scientific advice for defining the state of fish stocks or any other marine feature. We do it case by case and simply rely on the scientific advice. However, the national marine plan for Scotland will clearly set out our policies for our marine environments. That will cover all the various sectors, including fishing, of course.

We have sea fisheries objectives, which are guided by science and which will be incorporated in the national marine plan. A factor in the marine plan will be helping stocks to recover. That is already our policy, and the marine plan will bring everything together in one document. In turn, that will relate to the common fisheries policy, which also lays out our objectives for recovering certain fish stocks.

To answer your question specifically, the scientific advice already exists for many of our species, and particularly sea fisheries species. The national marine plan will incorporate that into how we use our waters and recover stocks or whatever our objectives may be.

Claudia Beamish: I understand that the common skate stock is very low. As a layperson, I do not understand why that species has been put into the conserve category rather than the recover one. How were those definitions arrived at?

Richard Lochhead: Again, I can answer that question only by saying that the matter is down to the scientific advice. The common fisheries policy reform that is taking place in Europe will come to a head next week. I will head out to Brussels on Sunday for the negotiations, so I might be better placed at some point next week to inform you how the conservation policies will be taken forward.

The common fisheries policy is looking at setting long-term management plans for fish species and achieving certain targets by certain years for each species, and the scientific advice feeds into that. The advice guides whether a stock should be sustainably fished where it is or whether measures should be put in place to help it to recover to a different level by a certain date. The definitions come from the science.

I hope that that answers your question. We have long-term management plans for fish species,

which in turn guide what will go into the national marine plan.

10:30

Claudia Beamish: Is it the case that only nine of the 33 sites are identified as areas where recovery of specific species is the purpose? Nine out of 33 does not seem to be very ambitious, but I would value your comments on that.

Richard Lochhead: That figure is accurate. As I said to Jim Hume, I will write to the committee about how the issues are defined and their exact nature. We can go only on the science that we have. The figure might change in the future as other marine features are discovered in our waters that might need to recover and would therefore fall into that category. All that we can go on is the scientific knowledge that we have at present. As I said, we are trying to find features of significance that need to be protected. If there are damaged features that need to recover, that is clearly an objective in itself.

Alex Fergusson: Members of the recreational sea angling sector have put it to me that the enhancement and recovery of fish stocks are a worthwhile aim of the marine legislation but that there is a large number of species of fish, particularly in inshore waters, for which there is no real baseline measurement. I have been asked to inquire how any recovery of those fish stocks can be measured when there is no accurate baseline measurement.

The cabinet secretary will be aware of the importance of the recreational sea angling sector. I remember that he came to Drummole to launch a report that stated that it was worth—I think—£25 million a year to the local economies. Obviously, there is concern about how the legislation might impact on it.

Richard Lochhead: That is a good question, because there are gaps in fisheries science in Scotland. We must target our scientific resources, as we and previous Governments have done for decades. Cod stocks have soaked up a lot of our scientific resources in recent years because of the cod recovery plan and the focus on that stock. It is therefore difficult to sit here and say that we will have a baseline for, or full scientific knowledge of, all our inshore fishery stocks at any point in time.

However, I have given Parliament a commitment that we will give much higher priority to inshore fisheries. We have a research project under way in the Clyde, and some work has already been carried out there. We are also considering a range of measures across inshore fisheries.

We are updating and expanding our inshore fisheries strategy. That in itself is a recognition that our inshore fisheries are important to Scotland. You mentioned the sector's importance to communities in your constituency. Inshore fisheries can be disproportionately important to communities in certain parts of the country.

We are giving the issue greater priority, and there is a scientific dimension to that. We want to understand better the state of our inshore fish stocks.

Alex Fergusson: Can you assure me that any discussions on inshore fisheries will include the recreational sea angling community?

Richard Lochhead: Yes. I have met representatives of recreational sea angling and have assured them that we will take their interests into account.

Nigel Don (Angus North and Mearns) (SNP): Once we believe that we have enough science in place and have got the MPAs, the obvious question is, what will we do with them? What do you believe that active management will mean?

Richard Lochhead: Once the MPAs are designated, we will have to come up with a management plan for each one. In some cases, the plan might take a light touch; in other cases, interventionist measures might have to be adopted. There will be a variety of MPAs and each case will be considered on its merits.

When the first consultation is published in the summer, there will be outline details of potential management options for each MPA. I have no doubt that we will receive strong representations from sectors across the country as to whether the options are appropriate, need to be enhanced or go too far. That is part of the consultation process.

When a marine licence is applied for in any particular sector, the application process will have to refer to the designation and the management plan.

Nigel Don: I appreciate that the consultation is to come, but I want to put together in my mind a list of the kind of things that will have to be actively managed, which I presume has to do with fishing and might involve a no-take zone. I presume that there might be restrictions on dredging and what can be taken from the sea bed and that there would be restrictions, limitations or perhaps an absolute ban on drilling for oil, gas or anything else that interferes with the sea bed. Those are the obvious things that occur to me as an absolute layman. Might other issues be involved?

Richard Lochhead: The starting point is that human activity will have to be assessed in terms of its impact on the marine feature that has been protected as a marine protected area. As you can

appreciate, if an application is made for a licence for one particular activity in one particular MPA, there will be unique circumstances and features to consider. That means that it is difficult to predict exactly what will happen. A decision could come down to the direction that a pipe takes or the kind of fishing that is permitted.

We must not fall into the trap of thinking that there will be no-take zones everywhere. The matter could simply come down to the kind of fishing that takes place. Some fishing methods have different impacts from others. Whether we are talking about wider energy or telecommunications activity—whatever it may be—there will be a bespoke management plan for each MPA.

Nigel Don: I understand that, but I will press you a bit. How will we be in a position to police those plans? It is one thing to tell somebody what they are allowed to do, but it is a very different story to sort out whether they are doing what they have been told.

Richard Lochhead: First and foremost, the licensing process for direct intervention of human activity for energy projects or whatever is clearly the best way to police and enforce conditions that relate to an MPA. I have no doubt that all sectors will be very responsible; they are working closely with the Government to understand how to manage such situations.

As for general policing, we have Marine Scotland Compliance, our three vessels, two aircraft and the rest of our resources. As you know, a few years ago we widened the focus and remit of what was the Scottish Fisheries Protection Agency, which became Marine Scotland Compliance. Of course it is a challenge if 20 per cent of our waters are potentially protected in one way or another. We cannot have people on site in 20 per cent of our waters. Every country around the world faces such challenges, which apply to many laws of the land—we cannot have a policeman on the corner of every street. However, we will be in a much better place than we are now and I am confident that things will work well.

Nigel Don: That is super—thank you.

We have said previously that, as you get more scientific information, the view about what should or should not be done in any particular MPA will change. You said that you would have to bring things back to Parliament in 2018, which is fine. Do you see MPAs being revisited every year or two? Will licences be for ever or for a period, subject to revision? How will we accommodate in any MPA the fact that we learn as we go along, so perhaps something that we thought was okay is no longer okay and something that we thought should stop is okay?

Richard Lochhead: A monitoring exercise will be conducted as part of the policy. Work on how monitoring will be done in the coming years is going on. We have to learn, and we must monitor for the sake of monitoring, so that we know that things are working. As you said, we must take account of new knowledge that comes to light. We must see what the next few years bring in terms of the lessons that we learn and the scientific knowledge, as in many areas of public life.

Nigel Don: Does that mean that an MPA will in effect be negotiable as it goes along?

Richard Lochhead: Licences will have conditions attached, of course, and a monitoring programme will be put in place. I said that we have a duty under the 2010 act to report on the MPA network in 2018, but I am sure that, week in and week out, the Parliament will hold us to account on the progress that is being made on protecting the marine environment and on MPAs.

Alex Fergusson: Will the forthcoming consultation contain detail on the management of individual MPAs or will it be more general? If it is to be more general, do you expect a further round of consultation on the management of individual MPAs?

Richard Lochhead: My official nodded as you asked that, which gives me great comfort in saying yes.

Alex Fergusson: I nearly stopped after my first question.

Richard Lochhead: Yes—management options will be part of the consultation. Until specific licence applications come in for MPAs, the detail of management options will be difficult to predict, because we will not know the nature of projects. The designation of MPAs must go through the Parliament and there will be opportunities to hear views on all the issues.

It is worth making the point that stakeholders have generally welcomed the process that we have put in place for identifying MPAs and producing the national marine plan for Scotland. I am thankful that in this country we have avoided some of the criticism that has been directed elsewhere on these islands. We have worked closely with stakeholders and I intend to maintain that spirit of good consultation by working with people who have much to contribute to the process.

Richard Lyle (Central Scotland) (SNP): I am excited by the 2010 act and its approach to managing Scotland's shores and so on. A couple of weeks ago we took evidence from three of David Palmer's colleagues. We heard that, although they will control a lot of issues, the minister will make the final decision. What

engagement have you had with stakeholders such as people in the fishing industry—I know that you always fight the industry's corner—and in marine conservation, tourism and offshore renewables? A lot of things are happening around our shores. Are you consulting partners individually? Have you had a lot of meetings? I know that officials have had meetings, but what have you done over the past few months, apart from the other things that you do?

Richard Lochhead: I have had considerable engagement with different sectors on the issues, over a long time. For instance, in my regular meetings with the fishing industry, marine protection and MPAs have appeared on the agenda more and more, as you can imagine, because there is concern about the impact on activities at sea.

As part of my wider remit I have a co-ordinating role in relation to the marine environment, and I have responsibility for the licensing regime, as well as the 2010 act. My colleagues who have responsibility for energy are in regular contact with the offshore renewables sector. I engage with that sector from time to time, but I do not pretend to have nearly as much engagement as my ministerial colleagues have with such sectors on the issue. That is good, because it is not just up to me to work with all the sectors, and I must ensure that my ministerial colleagues are engaged in the environmental dimension of the marine environments. It is important to point that out. I should also say that I get regular representations from environmental non-governmental organisations on the matter.

10:45

Richard Lyle: The three officials who gave evidence said that they might present things but the final decision is made by the minister or the cabinet secretary. You might be excited about carrying forward the plan, but what pressure will you be under from each of the stakeholders over the next year or so? As Graeme Dey has pointed out, someone might want to trawl in one area, but you might turn around and say, "Well, you can't, because that is going to another sector."

Richard Lochhead: I am sure that there is a variety of views in Scotland about the number and operation of MPAs. I will start by being guided by the science on a feature's importance. If the science says that it is very important, I will want to protect it.

In the times ahead, there will be a lot of debate and negotiation over, say, licence applications and how we manage human activities in MPAs. I have no doubt that those negotiations between Marine Scotland in the first instance and applicants will be

tough; after all, there will have to be conditions with regard to the management options for each MPA to protect the marine environment. I have no doubt that pressures will be felt and debates will be had as we balance the economic value of our marine environment with the environmental safeguards that we want.

I am not denying that such debates will be tough; my job as minister will be to strike a balance. However, as I have said, my starting point is that we are creating MPAs for the purpose of protecting the marine environment and, given that, the outcome must be that we minimise the impact of human activity on our most precious marine features.

Jayne Baxter (Mid Scotland and Fife) (Lab): Is there any mechanism for sharing the consultations that you and other ministers are having with stakeholders? Are any of those meetings recorded? How do you gather that information together and use it to inform decision making across the board?

Richard Lochhead: There has been intense engagement between Marine Scotland and our stakeholders for the past few years. I have lost count of the number of workshops and consultation meetings that have been held. I note that in the summer another series of meetings will take place around Scotland as part of the formal consultation, and I am happy to share the draft timetable with committee members in case they want to attend some of the meetings. I am also happy to send the committee a record of the meetings that have taken place so far. Given their regularity, some of them will not have detailed minutes.

As I have said, I am getting positive feedback from our stakeholders on the level of engagement on the issue, so I hope that there is no cause for concern. Nevertheless, I take on board the member's desire to be kept informed.

Jayne Baxter: As you said, that is my desire, but it is also a case of ensuring that that information has value, is seen as useful and is used as much as possible across the board by colleagues and other organisations.

Richard Lochhead: I will take away that point, think it over and see how we can articulate things to the committee.

Angus MacDonald: Communities are also stakeholders and, from what we have seen from previous attempts to designate special areas of conservation, it will be important to engage with local communities in the MPA designation process. What are the plans for community meetings and engagement? How will you ensure that, in such engagement, layman's terms rather than scientific or technical terms are used? Are

there plans for close consultation with the communities in each area?

Richard Lochhead: Over the past couple of years there has been considerable community engagement on the various strands of work that are under way—particularly the “Blue Seas—Green Energy” plan for developing offshore renewables. There has been heavy engagement with communities around Scotland and some sites have been amended because of that. Some sites in the Solway were removed from the proposals because of feedback from local communities. I hope that that indicates that we listen closely to communities' views.

As I indicated a few moments ago, as part of the formal consultation, there will be meetings around Scotland. We will take the issue into communities, to hear their views.

Jayne Baxter: I am thinking about Scotland's economy. Marine industry is really important for Scotland's economy, but so are jobs that are provided through sustainable tourism and environmental tourism. Will you give some practical examples of where there might be a conflict between such activities? Will there be a presumption in favour of one over the other?

Richard Lochhead: Wildlife tourism and—in the context of this debate—marine wildlife tourism have become increasingly popular over the past few years. Marine wildlife tourism presents a fantastic opportunity for Scotland, not just economically but with regard to education about marine environments.

I will plug an event that I was at on the bank holiday Monday: the really wild festival at the Scottish dolphin centre at Spey Bay, in my constituency. It was fantastic to see local people turning out to that and learning about the marine environment. They learned about not just the dolphins that they were there to spot but the osprey that was flying above the mouth of the Spey and diving for its food. We all had great fun watching the osprey.

More and more marine wildlife tourism is happening around Scotland and it is really exciting. It is connecting people with their marine environment. We have an amazing marine environment in Scotland; we have a lot of unique features that many other countries do not have. The more people who learn about our marine environment and engage with it, the better. The tourism benefit of that is potentially enormous and is growing all the time.

Conflict is a possibility. For instance, boat trips can interfere with some of our species. However, I understand that most boat operators are very responsible, and there are guidelines about how close boats should go to sharks, whales and

dolphins. We have to pay attention and ensure that we are responsible about wildlife tourism. I hope that that is happening.

Jayne Baxter: What about conflicts between marine and renewables industries and the world of tourism? What methodology do you propose to use to resolve the conflicting demands there?

Richard Lochhead: Under the existing infrastructure at sea, there are usually zones around sites that concern how close boats can go and so on. I expect that they would be part of the agreement for offshore renewables sites as well. There are exclusion zones—I am not sure whether that is the right phrase—around oil rigs and other installations for safety purposes. Such zones have to be established or are being established for renewables, as with the oil and gas industry. That is part and parcel of operating at sea.

Alex Fergusson: I will take that a little step further. One or two of us talked earlier about conflict resolution. In the course of bringing together the marine plan, if there was a conflict between economic activity in the form of offshore renewables and marine protection, who would win? I know that there are some areas in which the search areas and the proposed MPAs already overlap.

Richard Lochhead: That is a good question that goes to the heart of this debate. As I said before, the purpose of the Marine (Scotland) Act 2010 is to protect our marine environment, so the outcome has to be that we find a way in which we can allow economic activity at sea while protecting the marine environment, which has to be the number 1 priority. The management plan in each circumstance will be the key to striking that balance. We will have to rely on scientific advice on the extent to which any human activity impacts the marine environment. We are not starting out by saying that human activity should not impact on the marine environment, but clearly the guiding principle will be whether the scientific advice throws up a threat of significant damage. We have to strike a balance.

On working with the offshore renewables sector, I think that there is a common understanding that we can be sensible about this. The impact of structures and activity will be quite small in the overall scheme of things. I think that the officials who were before the committee said that a large area might be under consideration for renewable energy, but the area where the devices go into the water represents only a tiny percentage of it. We have to make sure that we are managing the impact on the marine environment.

Alex Fergusson: You and I served on a committee that drew up legislation to do with national parks, in which economic activity is very

much encouraged, but with environmental protection being, at the end of the day, the overarching aim. Does the same apply to marine protected areas? If it really came to a conflict between one or the other, would environmental protection take priority?

Richard Lochhead: That will be our guiding principle, but clearly each case will have to be taken on its merits. We are going to take into account social and economic factors. Clearly, the purpose of the Marine (Scotland) Act 2010 is to protect the marine environment.

Alex Fergusson: That is very diplomatic, cabinet secretary.

The Convener: I will change the focus slightly by looking at the Cromarty Firth, which is an example of an area where there is a lot of activity in oil and gas and renewables, but there are also boat trips to look at dolphins and the like. That is an example of economic activity alongside nature tourism. There are examples around the country of its being entirely possible to make decisions that are not about favouring one over the other.

Richard Lochhead: That illustrates why without being presented with an exact scenario of human activity and the details of the marine feature it is difficult to say how we would balance those interests and what would get priority. There are many examples of economic activity going side by side with protecting the marine environment. The purpose of the act is to say that we accept that there is human activity at sea and that there is massive potential for more in the future in terms of renewable energy and marine wildlife tourism, but now we have a marine plan so that we can plan for that. It is not going to just happen; we are going to plan for it so that we can protect the marine environment.

Graeme Dey: On the point about potential conflict between renewable energy development and other aspects, Marine Scotland officials told the committee that they anticipate that only 10 to 20 per cent of zones that are earmarked for renewable energy development might be used for that purpose. Does that offer scope to resolve conflicts? You might be able to redesignate the rest of an area in order to strike a balance where conflict has arisen.

Richard Lochhead: That is a very good point. That is why we are carrying out planning at sea for offshore renewables and why one of the three consultations that will come out at the same time in the summer is on wave power, offshore wind power and tidal power potential. That is why there will be zones, which will give us flexibility. A whole area might be suitable for renewables technology, so once an application comes in, we will negotiate with the applicant. There might be an equivalent

area in the wider zone that is more appropriate for use in order to protect the marine environment.

Graeme Dey: What work has been done on the cumulative impacts at sea of offshore renewables?

Richard Lochhead: Cumulative impacts will be taken into account, but we are at such an early stage of the development of offshore renewables that they are not a factor at the moment.

Graeme Dey: Will they be a consideration?

Richard Lochhead: In the consultation on any application, I am sure that communities and other stakeholders will want to submit their views on the number of turbines and so on. If cumulative impacts are an issue, the matter will be raised at that point.

11:00

The Convener: I will take a bit further the issue of complications that might arise in creating the designations. As we discussed at the beginning of the meeting, some of those can stray beyond the 12-mile limit. As the member state with responsibility for the area beyond the 12-mile limit and for common fisheries policy issues, will the UK Government be involved in the designation process?

Richard Lochhead: We have to contend with the fact that, with regard to fish stocks, the common fisheries policy usurps all other legislation. If we were to have a management plan for a protected area that required management of fishing activities, we would have to seek that particular part of the plan through the CFP. For the next 15 months or so, we will have to consult the UK Government about that. I hope that beyond September 2014—or beyond 2016—we can just submit our changes to the CFP, or its successor, of our own accord. There is a European dimension and a UK dimension when it comes to fishing policy beyond 12 miles.

Claudia Beamish: In relation to marine renewables and broader issues, the evidence that we have taken from the cabinet secretary and at the previous two meetings has stressed the importance of robust science and adequate data. It has also been noted that, potentially, a number of different data sets exist beyond “Scotland’s Marine Atlas: Information for The National Marine Plan” to support different decisions and approaches to area use and designation. We have heard about research by the fishing industry, marine conservation non-governmental organisations, the renewables industry and others.

The extent to which that work is centrally co-ordinated or cross-referenced is unclear. Would you shed some light on that, particularly in view of the fact that, as I understand it, we are looking for

as ecologically coherent a network as possible by 2018? There will also be developments in climate change science. How are data shared among sectors? Could the Scottish Government facilitate that? Are some data likely to be commercially sensitive?

Richard Lochhead: I mentioned earlier that a lot of scientific knowledge has built up because of the processes that the oil industry and the aquaculture sector have had to go through. More recently, the renewables sector has had to go through such processes when it has looked at its plans for the future. In addition, there is the work that the Government and the university and academic sector are carrying out. The question about how we will co-ordinate all that and ensure that we have the maximum information in front of us when we take decisions is a good one.

There is in Scotland a marine science partnership that helps to achieve that. We are also looking to have an online portal for “Scotland’s Marine Atlas: Information for The National Marine Plan” that we published a couple of years ago—it is a fantastic document. The next version of the atlas will be online, so it will be constantly updated with new information and populated with new data. The atlas will be as up-to-date as we can make it, using various sources of information. Provided that the information has been checked and is credible and reliable, it will go on the online portal.

We also work with all the sectors on information sharing. The sharing is by no means perfect but we want to ensure that the energy sector is sharing its scientific information with us. Likewise, we can share with others. I understand that that has worked reasonably well, but there is room for improvement in how we share data. Whether data are commercially sensitive is a decision for those who have purchased the science. However, we are working in quite a reasonable way and we are all open with each other.

I am not sure whether commercial sensitivities have resulted in any data being withheld, but various sectors say that they want to be open with us, and we want to be open with them—we all want to share the data that we are gathering and paying for.

Claudia Beamish: Thank you. Can you tell us more now or later about the marine science partnership? What is that?

Richard Lochhead: That partnership involves the marine research institutions in Scotland and I will be happy to send details of it to the committee. It addresses the general good point that there is so much happening at the moment. Private companies are going off and commissioning research to prepare their own applications, while we have to do environmental assessments, which

means that we must have our own scientific investigations.

Graeme Dey: Do we have an adequate understanding of the impact of electromagnetic fields on cetaceans and migrating fish? If not, how will that gap in our knowledge be plugged?

Richard Lochhead: A gap has been identified in terms of the lack of understanding of the impact of electromagnetic fields on certain species. I can offer some comfort to the committee in that work is under way to plug that gap so that we can better understand the impact. Many people have expressed concern about the issue, which is very difficult to pin down—it is very difficult to ascertain exactly what the impact might be. However, it is on the research agenda.

Graeme Dey: I fully appreciate the point that you make about the difficulties. I presume that it is easier to measure the impact on cetaceans than the impact on fish that are making their way back to rivers in the north-east of Scotland. I presume that there are a lot of challenges.

Richard Lochhead: There are. People often jump to the conclusion that something that happens in our seas must be caused by something that is happening elsewhere in our seas; they link issues together, which is difficult to prove or disprove. I am not sure that man has ever worked out how the Atlantic salmon manages to get back to its birthplace in the rivers Dee, Spey or wherever. We are not quite there yet and I am not sure whether we will ever get to the bottom of some of those questions.

However, we have to understand the impact of human activities, as we use our waters more and more. When offshore renewables devices are going to be placed in our waters or there is defence activity or whatever, we have to make every effort to increase our understanding of the impact that that will have on our mobile species.

The Convener: I understand that at Dunstaffnage the Scottish Association for Marine Science and the University of the Highlands and Islands are looking at the potential impact of renewables equipment in the seas, which is one of the strands that you alluded to. However, I am not aware of extensive research into the effects of naval sonar or explosions, which have on a number of occasions been linked with deaths of cetaceans in the north-west of Scotland. Can the Scottish Government assure us that such research will take place and be available when the MPA designations are being agreed?

Richard Lochhead: The research that is under way relates largely to Atlantic salmon and European eels. Up to now, the impact on our marine mammals has been quite low. However, a gap in our knowledge remains and our research

institutions are keen to do more work on that, which we would be happy to encourage. Of course, we are always conscious of those issues when we take forward our thinking on environmental assessments for any future applications.

Alex Fergusson: The subject of electromagnetic fields was raised by a witness at last week's meeting, but it was slightly left to one side. The subject has been raised again with me by the sea angling community. My attention has been drawn to some initial research that suggests that some species—as you have already indicated—could be affected by electromagnetic fields. The phrase that raised an alarm with me is that electromagnetic fields “could form”—I accept the use of the word “could”—“a migratory barrier”. I am comforted that research is going on into this issue. How quickly will that research come to a head and when might you know its results?

On that subject, I have always believed that Robin Rigg wind farm in the Solway Firth, which I call an inshore wind farm, presented a wonderful opportunity to carry out studies of that nature. Have any such studies been carried out? If they have, why have the results not been made public? I think that I am right in saying that they have not.

Richard Lochhead: This is quite a big subject. I will write back to the committee on it, because I do not have information to hand on how much research has been carried out, the results and so on.

What I am trying to say, to give the committee some comfort, is that we recognise that there is an issue and that we have to plug the gap in our scientific knowledge, especially as we put more and more devices into our waters. We have to understand, if it is possible to do so, what impacts they will have. As I said, it is a difficult thing to measure. I am happy to write to the committee to summarise what has happened so far and give a timescale for future research.

Alex Fergusson: I would be grateful for that. Thank you.

The Convener: That completes our questions. We wish you well, cabinet secretary, on your visit to Europe regarding the common fisheries policy, which clearly is close to our hearts. We hope that you will be able to catch up with the “Hebrides: Islands on the Edge” programme on the iPlayer. The first episode was screened on Sunday evening.

Richard Lochhead: I watched it.

The Convener: It seems that one in four Scots watched it, so the marine environment is obviously a hugely important issue for lots of people out there. We hope that that sets a particular mark on

the committee's interest in the way that the MPAs are set up. I am pretty sure that some MPAs will be in the area that was featured in that film, which we watched with great interest.

Richard Lochhead: I congratulate everyone involved in making the programme, which I hope will give a big boost to tourism and open up a window to our spectacular natural environment and the flora and fauna that we have in the Hebrides. I tweeted that it reminded me of two things. First, it reminded me that Scotland is a very blessed country with our unique flora and fauna, as illustrated in the programme. Secondly, it reminded me of the amazing holidays that I have had in the Hebrides and on the islands that were featured in that programme.

The Convener: Thank you very much, cabinet secretary, for your evidence and support.

11:12

Meeting continued in private until 11:40.

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