

Review of the Marine Spatial Plan

Environment, Housing and Infrastructure Panel

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Chair's Foreword



We are an island in symbiosis with the sea and there are not many places in Jersey where you don't catch a glimpse of it. At the same time, many of us utilise the sea and coastal areas for a wide variety of activities whether for leisure, for commercial purpose, for connectivity or for access to the natural environment and wellbeing.

A Marine Spatial Plan (MSP) is needed to help define the balance we strive for as an island between the economic, cultural, social, and/or environmental benefits of the marine space; and at the same time, ensure its sustainability for future generations.

This means it's complex, involving many stakeholders, and it is clear that any proposed plan is unlikely to please all. The panel's task was to review whether the Minister for the Environment had hit the right note with that balance that islanders need to strike. It also examined whether international best practice had been followed and that there was alignment with neighbouring jurisdictions.

Due to the short time frame the panel had for review, we felt we couldn't cover all elements of the plan, so the review focused in on the processes and the development of the MSP, the consultations and engagement, and how it will be implemented and monitored. The panel have developed recommendations in this regard, as well as proposing an amendment. We felt there needed to be further clarity around the implementation framework. The aim is for stakeholders to have a clear timeframe when crucial proposals will be proposed and implemented. We felt there was necessity to ensure the work put into this plan would be delivered.

One element that came out of the review on the balance between human activities and the environment, was the contentious issue of the proposed Marine Protected Areas (MPAs). The panel, therefore, focused more time on reviewing this proposal, which requires an immediate States Assembly decision, than other elements that will be for future deliberations and decisions. The panel found during its review that the Minister has made a specific political choice regarding the newly designated MPAs. We felt that the States Assembly should deliberate whether the right balance has been struck between short- and long-term commercial viability, sensitive habitat protection and our international obligations. Therefore, we have put forward an amendment that reintroduces the different areas for MPAs that had been proposed in the draft MSP.

It is clear to the panel that there is much to do to ensure this roadmap is implemented, with success lying with a multiple of stakeholders, continued dialogue, need for additional resources, and utilising tools that can help mitigate tensions.

One of the key features of this review of the MSP has been the hard work and passion of all those involved, from the Marine Resources Officers who developed and produced the report to the fishers who provided detailed information about the jobs they do and what this plan means for them.

The Panel is grateful to everyone who answered the call for evidence, provided a submission and to those who took the time to meet with the Panel. The Panel is grateful for Howell Marine's swift and comprehensive review and the assistance that they have provided throughout as their independent advisor. Lastly, the panel would like to thank the dedicated Greffe officers who supported them in the review process and developing the final report.

We look forward to a response from the Minister regarding our amendments, findings and recommendations and will continue to monitor the implementation as part of our wider scrutiny role into 2025 and beyond.



Deputy Hilary Jeune

Chair of the Environment, Housing and Infrastructure Panel

Executive Summary

The concept of a Marine Spatial Plan is a simple one. It is a way of providing a direction for the marine space. It is a way to outline what the balance should be between activities and industry and the environment.

The concept may be simple but that balance is not and the challenges raised are reflected in this review and in the submissions made to the Panel. One of the most striking features of this review is the dominance in discussions of Marine Protected Areas (MPAs). While there were submissions which had broader comments on the MSP the majority focused on MPAs.

It is a debate that centres on the balance to be struck between the protection of marine habitats and the economic viability of elements of Jersey's fishing industry. The submissions, and some of the subsequent meetings and hearings held, also highlighted the complexity of the issue and the many conflicting voices on the development of these protected areas within the fishing industry.

There is no doubt for the Panel that the expansion of the MPAs will have a negative economic impact on parts of the fishing fleet. That impact on livelihoods and the future of parts of the fleet is fully recognised by the Panel.

However, the question remains for the States Assembly – as it did for the Minister for the Environment and Government Officers in developing the MSP – whether that impact is balanced by the other aims of the MSP, including the protection of valuable marine habitats.

In the view of the Panel, the political choice that is to be made is whether the current economic viability of the scallop dredging fleet is more important than future sustainability.

In this final version of the MSP, the MPA area was reduced from the 27% of territorial waters allocated in the original consultation draft to the 23%. It is the view of the Panel, that the current Minister for the Environment made a political choice to find a short-term compromise which would push the final decision on the scope of the MPAs into the future in recognition of the financial impact it could have.

However, the reduction has disappointed and, in some cases, angered those who wanted to see Jersey protect sensitive habitats under the OSPAR Convention and reach the target of protecting 30% of Island waters by 2030, and also seems to have failed to satisfy the fishers for whose economic benefit it seems to have been designed. The decision has also raised questions about the further level of research needed in the areas in question and why the data already available is not good enough to provide an immediate decision on expansion.

It is also the Panel's view that despite the changes which were made by the current Minister for the Environment on the size and shape of the MPAs, the resulting area does not seem to have satisfied any of the parties involved.

Crucially, the Panel does not believe that this reduction has helped to introduce any feeling of shared ownership or shaping of these areas.

The Panel has lodged an amendment to the proposition to increase the percentage of the area protected to ensure that specific areas of quality habitat are within the scope of the MPA network.

As part of this report, the Panel and its external advisors, Howell Marine Consulting, have examined whether there could – had time allowed – have been a way to develop the MPAs separately from the plan both in order to avoid the dominance that the issue has had over this piece of work and to ensure that there is joint understanding about what is and is not covered in terms of fisheries management within the plan.

The Panel has also gone on to examine in more detail whether the consultation process conducted has delivered a plan for which those involved feel some joint ownership. While the Panel does not doubt the good intention, time and effort given over to consultation with stakeholders, it does feel that had the engagement been more participatory and had been held over a longer time period specifically in relation to the MPAs as a single issue, the continued conflict over the shape and scope of those areas could have been mitigated.

What is clear to the Panel from the submissions received is that entrenched and divergent views remain and that little or no reconciliation of those views has been achieved in relation to the MPAs.

It is also the view of the Panel that confusion remains over the intention of the document in relation to fisheries management and how much this is or should be covered by an MSP.

The MSP is a wide-ranging document which represents a huge amount of work over a number of years for the officers who put it together and who facilitated the consultation and research necessary.

There are many aspects of the MSP which, in the view of the Panel, are aspirational and intended to provide a direction of travel rather than an immediate decision by the States Assembly. It is perhaps for this reason that other potentially contentious issues contained in the report have not yet caused public comment in the same way that MPAs have done.

The Panel's view is that, while the format is not ideal for all digital users, the plan is well written and relatable. It brings together a wealth of detailed information about the waters around Jersey, the natural environment and human activities and their impact. It showcases the different views which went into developing it – even if those voices are not in agreement with aspects of the final report. The pen portraits and photographs used bring Jersey's marine environment to life on the page.

The nature of the MSP is that it is a non-statutory document which is used to inform future policy and be used in the development of the next Island Plan. In concluding this report the Panel remains concerned whether the structures in place for monitoring the Plan are sufficient to ensure the implementation of the actions. It is also concerned that there is apparently no timeline for that implementation.

For this reason the Panel has lodged an amendment and made recommendations requiring the Minister to provide a transparent tracker of the actions contained within the MSP which provides regular updates on the progress in each instance. It also recommends the establishment of a clear timeline for implementation which is shared with all parties – including Arm's Length and external Organisations – who are tasked with actions within the Plan.

Methodology

The Terms of Reference which guided this review are available at Appendix 1 of this report. In addition to issuing a call for evidence the Panel sought the advice of independent expert advisors, Howell Marine Consulting (HMC). The HMC report can be found at Appendix 3 of this report and their findings are referred to in relevant sections throughout the report.

Scrutiny Panels and the reviews that they conduct are reliant on the evidence which is provided. In this instance, the Panel attempted to reach a wide range of industries, organisations and interested parties as part of this review and publicised its work on social media and in the traditional media.

The panel launched its review on 22 July 2024 and closed the call for evidence on 30 August 2024. It sent letters for targeted submissions to 42 organisations. The call for evidence resulted in 28 submissions to the review being published. These are available on the States Assembly website and are linked in Appendix 2 of this report.

The Panel also held seven hearings, of those the transcripts of five are in the public domain and include hearings with fishers and scallop divers, the Société Jersiaise Marine Biology Section and the Minister for the Environment.

Findings and Recommendations

Key findings

FINDING 1

The development of an MSP began to appear on the political agenda in about 2020/2021. Information had been collected for the development of a Marine Spatial Plan by Marine Resources Officers over a period of years in the knowledge that similar plans were being developed elsewhere in line with directives from the European Union and following guidelines and standards set out by U.N.E.S.C.O.

FINDING 2

Information for the development of a Marine Spatial Plan had been an aspiration of officers prior to its appearance on the political agenda

FINDING 3

The political timing and approach taken was dictated by the States Assembly approval of Strategic Proposal 3 of the Bridging Island Plan 2022 – 2025

FINDING 4

The compression of the timeline of the MSP delivery stems from the delivery date of 2025 stated in the Bridging Island Plan and to which both Ministers and the Marine Resources team are tied.

FINDING 5

The extension of the consultation period and the delivery of the Business Impact Assessment of the proposed Marine Protected Area network on the mobile gear fishing fleet in the period between the end of the consultation and the lodging of the final plan indicates that the original timescale had not been long enough to complete all necessary actions.

FINDING 6

The approaches taken by France and England in the development of MSPs were scalable and could therefore be applied to small marine areas

FINDING 7

Taking a more European approach to the planning process would have aligned it more with neighbouring MSPs and created better understanding and synergies with neighbouring countries, especially France

FINDING 8

The development of Marine Protected Areas was central to the Government's concept of an MSP.

FINDING 9

The stated intention of the MSP is to provide direction for the preparation of future legislation and policy and that the MSP would be a non-statutory document

FINDING 10

Firmer and clearer objectives would have provided better direction for current and future Government and for partners and stakeholders and a better flow between goals and actions.

FINDING 11

The vision and aims are clearly written and the aims are used to provide a clear link through the different chapters of the report allowing for themes to be followed easily through the document.

FINDING 12

The MSP is a readable and relatable document.

FINDING 13

The political timeframe did not provide a period within which an iterative process could be undertaken.

FINDING 14

The completion and direction of the Marine Spatial Plan process was impacted by the successful Vote of No Confidence – Chief Minister and consequent change in Government and Ministerial lead which took place at the beginning of 2024.

FINDING 15

The decision to reduce the MPA area from the 27% of territorial waters allocated in the original consultation draft to the 23% allocated in the final document was a political one.

FINDING 16

The MSP provides a direction of travel for the use of Jersey's marine space and was welcomed by some stakeholders.

FINDING 17

The MSP provides a clear rationale for the retention and the expansion of MPAs.

FINDING 18

The rationale provided indicates that a precautionary approach adopted in the development of the MSP and the MPAs and was in line with Jersey's obligations as a signatory to international conventions.

FINDING 19

The Business Impact Assessment on the impact of the MPAs on mobile gear fishers was conducted following the consultation period and was an influencing factor on the decision to reassess the areas which had been designated.

FINDING 20

An economic impact assessment will be carried out following the adoption of the MSP to consider economic support for diversification in parts of the fishing fleet.

FINDING 21

The redrawing of the designation for MPAs may put areas of habitat at risk if the further research and review is not prioritised.

FINDING 22

The Minister for the Environment has not provided sufficient detail on the evidence that has been used to inform a decision to move away from the precautionary approach which appears to have been used to develop the MSP

FINDING 23

The views expressed on the expansion of the MPAs are entrenched and unlikely to change without a strong participatory approach to future development of the MPAs and MSP.

FINDING 24

The Minister's statement that the '30 by 30' target agreed at the 2022 Kunming-Montreal Global Biodiversity Framework is not a priority undermines the goals and targets of the MSP.

FINDING 25

There was a clear intention on behalf of the Marine Resources team and the consultants assisting the process to be inclusive and to hear the voices of all stakeholders.

FINDING 26

The timeframe for the delivery of the MSP was too short and did not allow for the level of participatory engagement which could have led to a shared vision.

FINDING 27

The public consultation response document provided an excellent summary of the process, responses and actions and every comment was well recorded with an explanation of how it was addressed

FINDING 28

Government did not set out a clear policy statement about priorities for other marine sectors, especially the fishing industry, which would have helped the Marine Resources team, and other decision-makers, to consider the trade-offs between different stakeholder viewpoints.

FINDING 29

Using a well-recognised decision support and/or spatial analysis tool, or alternatively running a Business Impact Assessment at the same time as the MPA GIS spatial analysis, would have enabled the officers to test different spatial scenarios alongside fishermen to find the most acceptable trade-off between conservation objectives and livelihoods.

FINDING 30

It may have been useful for the government and/or officers to apply an external process to 'stress-test' the efficacy of the plan before releasing the final draft of the MSP for public consultation.

FINDING 31

The MSP contains 91 actions. 29 are in progress, 53 require funding and 9 already have funds secured.

FINDING 32

It is not clear from Appendix A or elsewhere in the MSP how those actions will be driven forward by the current and successive Governments as part of a clearly structured implementation framework.

FINDING 33

There is an objective in place to have the MSP ready 18 months to 2 years ahead of an Island Plan cycle, so that it can inform the delivery of next Island Plan.

FINDING 34

Concerns have been reported about the ability of Government to police existing protected areas.

FINDING 35

Concerns have been reported that pollution incidents have not been dealt with and reported by the Infrastructure and Environment Department.

Recommendations

RECOMMENDATION 1

The objectives should be reframed to provide a clearer flow of government intent from vision through to actions in an updated iteration of the MSP to be provided prior to the next Island Plan debate. This will provide a framework for successful monitoring of the MSP.

RECOMMENDATION 2

The Minister should establish a framework which defines the MSP objectives, goals, principles, planning approach, timelines, governance structure, high level implementation and monitoring framework. Such a framework could clarify the relationship between the MSP and the Island Plan or set out a new approach entirely. It will also provide greater clarity for MSP officers and transparency for stakeholders.

RECOMMENDATION 3

The Minister should give clear timeline on the delivery of the full economic impact assessment and ensure that there is meaningful engagement with those directly impacted.

RECOMMENDATION 4

The MPA network should be amended to include immediate protection for areas currently designated for further research and areas which are to be phased into the MPA network.

RECOMMENDATION 5

The Minister should provide a timeframe for designation of confirmed new MPAs, and future work on areas for further survey for future MPA designation should be made publicly available as a matter of urgency.

RECOMMENDATION 6

As a matter of priority, the Minister and Marine Resources should provide clarity on the development of fisheries management planning and must support industry to explore sustainable fishing methods.

RECOMMENDATION 7

Marine Resources should continue to seek ways to work with fishers to ensure that their data is included in planning and development.

RECOMMENDATION 8

The Minister for the Environment should reaffirm his commitment to the "30 by 30" initiative agreed at COP15 and to the aims of the OSPAR Convention.

RECOMMENDATION 9

The Minister and Marine Resources should investigate models for participatory engagement for all future iterations of the MSP so that development promotes ownership of the scheme by all stakeholders.

RECOMMENDATION 10

The Minister and Marine Resources Officers should investigate the use of Sustainability Appraisals used by the Marine Management Organisation in their marine plan process to independently assess the economic, social and environmental sustainability of the plan.

RECOMMENDATION 11

A clearly articulated set of anticipated outcomes and indicators to measure them should be developed to provide more clarity of the benefits of the MSP.

RECOMMENDATION 12

A clear implementation framework and timeline should be developed as soon as possible after the adoption of the MSP.

RECOMMENDATION 13

A tracker of the MSP framework should be delivered and maintained by Marine Resources. The tracker should be updated on a quarterly basis providing the progress on the actions contained within the MSP.

RECOMMENDATION 14

The Minister should establish an MSP working group with the external bodies with actions contained in the MSP to seek and publish the assurances of their ability and resourcing to carry out the actions assigned to them in the MSP and to ensure accountability is maintained.

RECOMMENDATION 15

The Minister should explore with the Marine Resources Team how policing of all the different areas of designation, including the No Take Zones, Ramsar sites and MPA network, is managed and whether a more effective solution is required. This action should be raised at the Marine Resources Panel and the outcomes minuted for publication.

RECOMMENDATION 16

The Minister should provide clarity on the reporting of breaches and how they are dealt with by all teams concerned and how this is regulated internally to ensure that no conflicts arise in relation to enforcement for senior officers.

RECOMMENDATION 17

Information should be published – or direction provided to publication – on the number of pollution incidents recorded, how these were dealt with and whether they constituted a breach of treaties and conventions to which Jersey is a signatory.

Introduction

Background and purpose of the Marine Spatial Plan

The MSP is a wide-ranging document which seeks to enable actions which strike a good balance between commercial activity, leisure activity, the Island's cultural heritage and the needs of the natural environment.

'Jersey's marine environment is under pressure, including from climate change and human activities. There is a need to manage Jersey's coasts and seas in a coordinated manner which enables them to thrive, and takes account of the many different ways in which they are used.' Introduction Marine Spatial Plan

The purpose of an MSP is set out in the document as follows:

2.1 What is a Marine Spatial Plan?

Put simply, a Marine Spatial Plan (MSP) sets out 'what goes where' in the marine environment. It is a spatial framework which aims to ensure sustainable use of marine resources and to achieve an appropriate balance between environmental, commercial, economic, cultural and social needs.

A public process of analysing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic and social objectives that have been specified through a political process.¹

Marine spatial planning is not an end in itself, but a practical way to create and establish a more co-ordinated use of marine space. It considers the interactions between different users, balances demands for development with the need to protect the environment, and supports social and economic outcomes in an open and planned way.

1

The production of an MSP was first proposed by Government as Strategic Proposal 3 of the Bridging Island Plan². The stated purpose of the plan was to:

¹ [p.44-2024 – Marine Spatial Plan.pdf \(gov.je\)](#) – p22

² [Bridging Island Plan.pdf \(gov.je\)](#)

'enable the development of a coordinated and coherent approach to governance and decision making in the marine environment by creating a framework to ensure that decisions are consistent with Government policies and objectives for all aspects of its use and management.'

Strategic Proposal 3 – Creating a marine spatial plan for Jersey

The Minister for the Environment will undertake further work to develop a **Marine Spatial Plan** before 2025, to organise human and marine resources and activities in Jersey's territorial waters and in particular, to develop a network of marine protected areas, which will be consistent with overall environmental, economic and social objectives.

This work will inform the policies of the next iteration of the Island Plan and support coordinated policy development and decision-making on all aspects affecting the marine environment.

Bridging Island Plan 2022 – 2025

The concept of developing an MSP, however, preceded the inclusion made in the Bridging Island Plan by some years. It is clear to the Panel from evidence provided both publicly and privately that, while the development of an MSP began to appear on the political agenda in about 2020/2021³, information had been collected by Marine Resources Officers over a period of years in the knowledge that similar plans were being developed elsewhere in line with directives from the European Union and following guidelines and standards set out by U.N.E.S.C.O. (United Nations Educational, Scientific and Cultural Organisation).

Minister for the Environment

*Marine Spatial Plans are a relatively new concept, but they are something that has been put in place around the globe and worldwide acknowledged as the best way forward for marine areas generally. Certainly, hats off to the Department for taking this on board and moving forward.*⁴

The evidence base used to inform the report and the consultation undertaken is listed in Appendix B to the MSP.⁵ The evidence base is described as follows in the MSP:

The Evidence Base includes technical reports, academic papers, examples of good practice from elsewhere, workshop outputs, consultation submissions, and digital datasets. Wherever possible (i.e. where there is no infringement of copyright or commercial sensitivity) items within the Evidence Base will be hyperlinked, or be available through the JMSP Digital Atlas. Some knowledge gaps were already identified prior to commencement of the JMSP process, and specific research was commissioned for the Evidence Base to fill these gaps and inform the JMSP. Where a further review of the Evidence Base at the start of the JMSP process showed baseline information to be lacking, information was sought through the public consultation process. There remain a small number of topics where additional information is required to confirm future priorities and actions (for example on recreational fishing,

³ [p.44-2024 – Marine Spatial Plan.pdf \(gov.je\)](#) p 24

⁴ [Transcript - Marine Spatial Plan Review - Minister for the Environment - 4 September 2024.pdf \(gov.je\)](#) p3

⁵ [p.44-2024 – Marine Spatial Plan.pdf \(gov.je\)](#) p248

and on the extent of some seabed habitats). In these cases, obtaining this information has been added to the actions in the JMSP.⁶

Later in this report the Panel addresses the question of evidence received from fishers that, due to a lack of trust and certainty about how the data would be used and who by, their data has not been included. At this point, however, the Panel believes that the volume of evidence collected over a number of years should be acknowledged.

The approach taken in the Bridging Island Plan and the shape and timing that this dictated in the development of the Marine Spatial Plan will be examined later in this report.

The high-level vision and the aims of the MSP are set out in the introduction to the document as follows:

Vision:	A thriving marine environment providing environmental, economic, cultural and social benefits
Aims:	Seascapes are valued and their character is retained and enhanced
	The natural environment is restored and biodiversity is thriving
	Commercial fishing and aquaculture are sustainable and profitable
	Cultural heritage is understood and protected
	Recreation and tourism is flourishing, diverse and safe
	Infrastructure, energy and transport are resilient and efficient

This report examines the approach to objective setting in the next chapter.

Timeline

The Marine Spatial Plan provides a timeline⁷ which supports the evidence that the information gathering for an MSP may have developed over more than a decade. However, the timeframe for the development and delivery of the plan itself was far more compressed. A timeframe for the MSP delivery stages is provided on page 27 of the document.⁸

The factors which seem to have most influenced the compression of the timeline are political and stem from the delivery date of 2025 stated in the Bridging Island Plan and to which both Ministers and the Marine Resources team are tied.

As a base for the table below, the Panel has used a delivery table which is published on the Government website⁹ but which has been updated here to provide a breakdown of the consultation phase and to add political context such as the need for an economic impact

⁶ [P.44/2024 – Marine Spatial Plan](#) – p15

⁷ [P.44/2024 – Marine Spatial Plan](#) - p29

⁸ [P.44/2024 – Marine Spatial Plan](#) - p27

⁹ [Jersey Marine Spatial Plan \(MSP\) \(gov.je\)](#)

assessment on the MPAs, the change in Jersey’s Government at the beginning of 2024 and the time provided for Scrutiny of the plan.

In December 2023, this Panel’s predecessor requested that the former Minister for the Environment extend the period of consultation provided from the first week of January¹⁰. The request was made following feedback from the fishing industry that the period of consultation had been too short. The then Minister extended the consultation period to 28 January 2024¹¹.

Date	Action
January to February 2023	Evidence base compilation and review
February to March 2023	Stakeholder consultation workshops and suggestions window
April to July 2023	Writing draft MSP document and developing draft map
August 2023	Consultation draft published
26 October to 1 January	Original consultation process
1 January to 28 January	Consultation extension
16 January 2024	Successful Vote of No Confidence in the Chief Minister and change of Government
30 January 2024	Appointment of new Minister for the Environment
July 2024	P.44/2024 Marine Spatial Plan lodged with the States Assembly
22 July 2024	Launch of Scrutiny Review
30 August 2024	Close of Scrutiny call for evidence
22 October 2024	Proposed debate of the Marine Spatial Plan in the States Assembly
	Launch of MSP Portal

The first two of the main findings made by the Panel’s advisors, Howell Marine, are in relation to the timeline for the production of the MSP. Howell Marine state that:

The JMSP plan was an ambitious undertaking in the allocated timescale, and an impressive amount of work has gone in to collating marine data and policy, filling important environmental data gaps with high-quality analysis, consulting with stakeholders and identifying a new MPA network and a suite of actions to feed back into the next iteration of the Jersey Island Plan. The Plan itself is well written and is an extremely valuable source of information to build on in the future.

And that:

Overall, the timeframe within which the JMSP was delivered was too short, with not enough time given before commencing the JMSP to prioritise government ambitions and develop a robust framework to guide delivery and stakeholder participation. The delivery phase was also too short for the JMSP team to conduct all the evidence requirements normally required for multi-use planning, such as a compatibility assessment/sectoral interactions matrix, futures/forecasting assessment, socio-economic assessment etc.

In addition, the Panel’s advisor sets out the following thoughts on the timeframe for the development and designation of MPAs/MSP.

¹⁰ [Letter - EHI to Minister for the Environment - Marine Spatial Plan Consultation - 20 December 2023.pdf \(gov.je\)](#)

¹¹ [Letter - Minister for the Environment to Environment Housing and Infrastructure Panel - Marine Spatial Plan - 4 jan 2024.pdf \(gov.je\)](#)

Typically, MPA designation and/or MSP involving fishers takes between 3-5 years. Figures 1 and 2 set out the timelines for the Pilot Pentland Firth and Orkney Waters Marine Spatial Plan (a similar scale plan to the JMSP) and for the Seychelles Marine Spatial Plan respectively. They show the time taken to prepare appropriate frameworks to guide the MSP and stakeholder process, and a minimum of three years to develop the MSP plan itself. Whilst it is understandable that the JMSP was accelerated to protect vulnerable habitats, largely from scallop dredging, this could have been addressed through fisheries management measures in the short-term, providing more time to develop the MSP process and plan.

Later sections of this report – particularly in relation to consultation and engagement – will return to the impact of the timeframe for delivering the MSP.

The Panel would also conclude at this point that the extension of the consultation period and the delivery of the Business Impact Assessment of the proposed Marine Protected Area network on the mobile gear fishing fleet¹² in the period between the end of the consultation and the lodging of the final plan would indicate that the original timescale had not provided the time required to complete all necessary actions.

FINDING 1

The development of an MSP began to appear on the political agenda in about 2020/2021. Information had been collected for the development of a Marine Spatial Plan by Marine Resources Officers over a period of years in the knowledge that similar plans were being developed elsewhere in line with directives from the European Union and following guidelines and standards set out by U.N.E.S.C.O.

FINDING 2

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The political timing and approach taken was dictated by the States Assembly approval of Strategic Proposal 3 of the Bridging Island Plan 2022 – 2025

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¹² [JMSP Business Impact Assessment of the proposed Marine Protected Area network.pdf \(gov.ie\)](#)

Development of the Marine Spatial Plan

Model for developing Jersey's Marine Spatial Plan

During the course of the review the Panel received evidence from officers in order to determine how the model had been chosen and shaped for the delivery of the MSP.

It is acknowledged that each jurisdiction will have its own set of circumstances which will determine how a plan will develop, including the industries and activities which are predominant, the environment and habitats in that area and current and future infrastructure. However, the Panel was keen to understand how and why Government chose the model and methodology it did and whether this aligned to the method followed by either British or neighbouring French authorities.

Head of Marine Resources, Infrastructure and Environment:

There is a lot of differences between a small island with just over 2,000 kilometre squared of sea and the U.K. with 6 million kilometre squared and France with 11 million kilometre squared. Scale is one thing that has been important to this. It is important in both ways, in that we can be a lot more focused on fine detailed, because we are focusing on such a tiny area. Whereas the broad-brush approach that is needed for Marine Spatial Plan on a grander scale. In the U.K. it is not even called Marine Spatial Planning, they are called Marine Plans, although they do the job of Marine Spatial Planning. That has been a challenging and politicised process for the U.K. The only other thing I want to mention before Sam talks about the style of M.S.P. development is that during M.S.P. consultation process and development process, we have also been consultees in the redevelopment of the French Marine Spatial Plans for their Normandy and Brittany plans. We joined French workshops and gave consultation responses to their plans as well as them responding to ours. The message from both parties the whole way through, and with Guernsey as well, has been: you do not plan for marine spaces that border your neighbours in isolation. It always has to be done in the wider context. We always respect and look to the plans of our neighbours and look to help our neighbours understand our plans to build and develop those.

Marine Resources Data Officer, Infrastructure and Environment:

The style of the Marine Spatial Plan did evolve over time. It also pre-dated my involvement in it. Paul Chambers and the planning officers did a lot of looking at what other islands and jurisdictions were doing. Bermuda and the Seychelles, those were 2 Marine Spatial Plans that were heavily researched in helping us to shape our Marine Spatial Plan. That later evolved once we brought Fiona Fyfe and Associates on board, because they had a strong planner on board that team. She was able to advise on how we should be going about ours. We were mindful to make it more local and community-led. That is why we have those pen-portraits throughout the Marine Spatial Plan. We have gone out to marine stakeholders, people who are using the marine environment every day, to make sure that their thoughts are included in the plan and are made very clear in there.

In their review of the plan and the process followed, Howell Marine has concluded that while scale is important as a consideration, the approaches taken by France and England are scalable and could therefore be applied to small marine areas.

Given multi-use was one of the priority actions for the JMSP along with the need to find a balance between different uses for the marine environment, the JMSP could have considered taking a similar, more European approach, to its planning process which would have aligned it more with neighbouring MSPs and created better understanding and synergies with neighbouring countries, especially France.

Objectives

The approach taken will also depend on the objectives chosen at the outset of the process.

While it is clear from the MSP what the principles and aims are of the plan are, it was less clear to the Panel what the motivation for the process was beyond the commitment made in the Bridging Island Plan.

The Panel was keen to establish with the Minister what those objectives have been, partly as a means to determine why the MPAs have become such a dominant feature of the plan.

Head of Marine Resources, Infrastructure and Environment:

So strategic priority 3 in the Bridging Island Plan was very simply the brief we were given, which was to develop and deliver a Marine Spatial Plan that would include a network of Marine Protected Areas.

...

In terms of the drivers for it, there are many elements where we were coming to a crunch point where competing interests in the sea were getting stronger and stronger and there was a need to have a structure so that people could understand what the future would look like in Jersey's territorial waters, and to have security to invest in their businesses or invest in their environment, understanding what was going to happen around it in a more clear and long term way. In terms of a real driver for our timeline, the Bridging Island Plan set this as a specific objective when it was debated. One of the proposals that was added to the Bridging Island Plan was for a large marine park, often called the Emerald J, that was not taken on board at that time. But, instead of that, a plan to build an M.S.P. (Marine Spatial Plan) that would include a network of Marine Protected Areas was a requirement of the Bridging Island Plan. This document is, as you say, Minister, an Island Plan for the sea, but also a feeder for the next Island Plan. Hopefully that is where we will see a long lifetime of this document build and grow.¹³

The answers provided above by the Head of Marine Resources are a strong indication of how central the development of MPAs was to the Government's concept of an MSP, as mandated by the States Assembly's approval of the Bridging Island Plan.

The Panel's advisor has concluded that:

The JMSP states progressive objectives and aims related to providing benefits for people, environmental conservation and finding a balance between the different uses on the island. However, our review shows that it is not clear how these objectives are going to lead to impact during the post-adoption stage of the plan. The JMSP's objective to designate marine protected areas seems to be prioritised and favoured

¹³ [Transcript - Marine Spatial Plan Review - Minister for the Environment - 4 September 2024.pdf \(gov.je\)](#) p3-4

over other sectors based on the related analysis and planning outcomes. The nuance between objective setting, carrying out comprehensive assessment and producing real multi-sectoral planning impact is not clear.

Howell Marine's view is that '*ideally, the vision should provide a time horizon, and direct plan makers to the key government and/or stakeholder priorities and ambitions for the MSP.*' The example it provides is from England's South Marine Plan:

By 2038, the south marine plan areas' iconic and unique qualities, characteristics and culture will be conserved, promoted and where needed enhanced, through good management of its marine space. The natural beauty of the coastline and busy coastal and offshore waters are qualities that make the south marine plan areas distinctive. By 2038, the south marine plan areas will have maintained this distinctive natural beauty and diversity while sustainable economic growth, protection of the natural and historic environment, as well as the well-being of those who live, work and visit the south coast, will have been enhanced through balanced and sustainable use of its resources.

International Best Practice

The Panel's third term of reference was to examine whether the MSP had been developed in accordance with best practice.

For this analysis the Panel has looked to its appointed advisor Howell Marine Consulting (HMC) and their expertise and experience in developing and reviewing MSPs.

HMC have drawn on the following statement in the opening paragraph on their findings in relation to best practice:

MSP is 'a participatory process of analysing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic and social objectives that have been specified through a political process'¹⁴

In their report HMC have set out the key themes for best practice in MSP as:

- Be integrated
- Be inclusive
- Be future-orientated and anticipatory
- Take an ecosystem-based approach
- Be place-based
- Be iterative¹⁵

HMC's view is that it is essential to the process that a clear set of drivers and motivations are in place. The evidence provided to the Panel and as already outlined above is that the political driver for Jersey's MSP was the Bridging Island Plan Proposal 3 which emphasises the development of the MPAs.

¹⁴ Ehler, Charles, and Fanny Douvère. Marine Spatial Planning: a step-by-step approach toward ecosystem-based management. Intergovernmental Oceanographic Commission and Man and the Biosphere Programme. IOC Manual and Guides No. 53, ICAM Dossier No. 6. Paris: UNESCO. 2009 (English).

¹⁵ LINK TO APPENDIX

Throughout the process of engagement with Scrutiny – and as stated in the MSP itself – the intention of the document has always been to provide direction for the preparation of future legislation and policy and that the MSP would be a non-statutory document.

Officers have previously drawn a comparison between the MSP and the Carbon Neutral Roadmap in terms of its status as a document which provides the direction in which changes can be made within the framework of the plan. However, the Panel believes that there is an important distinction to be drawn between the documents. It is their view that the Carbon Neutral Roadmap provided a clear intent and commitment which is not the case with the MSP where the commitment lies in future review of many of the issues it raises. The Carbon Neutral Roadmap was also supported from the outset by funding from the Climate Emergency Fund whereas funding hasn't been identified yet for many of the MSP actions.

As part of its review Howell Marine have set out an evaluation of the MSP objectives and aims against best practice. This evaluation is available in Howell Marine's full report which is available at Appendix 3 of the report.

HMC have stated in their findings that:

Wording of the nine JMSP principles generally aligns with international MSP principles, but they are stated as goals rather than principles to guide plan development and implementation. The JMSP aims are defined in the plan as chapters which do not clearly show how they were developed or their links with the objectives and vision.

It was also the advisor's view that the objectives of the plan '*were not clearly articulated to show the direct links with the plan vision*'.

Global MSP practice of setting goals and objectives normally follows the pathway flow of: Principles > vision > goals/strategic objectives > SMARTIE objectives (UNESCO-IOC/European Commission, 2021).

The Panel and its advisors feel that firmer and clearer objectives would have provided better direction for current and future Government and for partners and stakeholders and a better flow between goals and actions.

The Panel agrees with the advisors that in order to assist the monitoring of the MSP and its future implementation, the objectives should be 'reframed to provide a clearer flow of government intent from vision through to actions.'

The Panel acknowledges that, in the timeframe available, it is unrealistic to expect that this reframing can happen prior to the debate of the MSP, however, it does feel that an updated iteration of the MSP could provide that direction prior to the next Island Plan debate.

The Panel further agree with HMC that ahead of the next iteration of the MSP, a framework should be established which defines the MSP objectives, goals, principles, planning approach, timelines, governance structure, high level implementation and monitoring framework. Such a framework could clarify the relationship between the MSP and the Island Plan or set out a new approach entirely. It will also provide greater clarity for MSP officers and transparency for stakeholders.

Document layout and clarity

However, the Panel did want to take the opportunity to comment on the layout and flow of the document itself. The vision and aims are clearly written and the aims are used to provide a

clear link through the different chapters of the report allowing for themes to be followed easily through the document.

The Panel also felt that despite the depth and technical nature of the information it contained, the MSP had been written in a way which could be understood by readers and supported the evidence provided by the Marine Data Officer (above), that – in the writing of the document – the MSP should be ‘local and community led’.

However, while the writing was clear and relatable, the split column format made the document more difficult to read for digital users, particularly those accessing the document on a phone.

Political direction

It is acknowledged that all Government policy can be subject to political pressure and the priorities set by the Government of the day. As previously discussed, the political objective to deliver a Marine Spatial Plan by 2025 was approved by the States Assembly on 25 March 2022 as part of the Bridging Island Plan 2022 – 2025.

For the plan to be delivered in 2025, approval for it needs to be provided by the end of 2024 which provided officers with a two year and nine-month timeframe in which to complete all phases of the MSP from concept to States Assembly debate – including stakeholder and public consultation, and a period for Scrutiny appraisal. This timing would ensure that any successful amendments made during that debate could be incorporated in time for the plan to still go ‘live’ in 2025.

As already discussed in the introduction to this report, while aware that the States Assembly decision to approve the Bridging Island Plan meant there was an imperative for the Government to deliver by 2025, the Panel is also cognisant that this did not provide a timeframe within which an iterative process could be undertaken.

As already indicated in the timeline provided above, the completion and direction of the Marine Spatial Plan process was impacted by the successful Vote of No Confidence – Chief Minister and consequent change in Government and Ministerial lead which took place at the beginning of 2024. The new Minister was appointed on 30 January 2024.

In his nomination speech the now Minister for the Environment said of the Marine Spatial Plan:

‘The last issue I want to talk about generally when it comes to our waters is the Marine Spatial Plan, and I will say straight off the top that it would not have been my top priority, but this work is in progress and it is my intention now to keep it moving. The consultation has just been completed and we need to look at the responses we have had from everyone. I intend to address and resolve the 2 main issues, one of closing some of our well-used and vital fishing areas for our scallop dredgers, and also the question of access to our offshore reefs. I will look to provide solutions that satisfy all sides as challenging as that may be. I am under no illusions how challenging that could well be.’¹⁶

While this answer did provide the direction that the work would continue to be progressed it also indicated the willingness to reopen the conversation about the scope of the MPAs.

¹⁶ [2024.01.30 States of Jersey Official Report.pdf \(gov.je\)](#)

The speech also indicated a change in the political aspiration from the former Minister, Deputy Jonathan Renouf, whose focus had been on creating a network which ‘will form part of Jersey’s delivery of the “30 by 30” initiative agreed at COP15 in December 2022.’¹⁷

In October 2023, when launching the consultation draft, Deputy Renouf is quoted in the accompanying news release as follows:

‘I’m particularly pleased that we are bringing forward proposals to increase the area covered by Marine Protected Areas (MPAs), but I recognise that we need to consult fully with those who are likely to be most affected by this move.’¹⁸

In contrast, the current Minister has stated clearly to the Panel that ‘30 by 30’ is not his goal.

Minister for the Environment:

For me, 30 by 30 was not a prerequisite. What I want to do is to get the fishing fleet to a point where we have got lots of protected areas, but there is still plenty of product in the sea for them to make a living.’¹⁹

In the Panel’s view, the desire by the new Minister to readdress the MPAs and not to focus on the delivery of the 30 by 30 initiative has resulted in the major change to the MSP which has been to reduce the MPA area from the 27% of territorial waters allocated in the original consultation draft to the 23% allocated in the final document.

It is also not consistent with Jersey’s position as a signatory to the OSPAR convention. The aim of the OSPAR Convention is to prevent and eliminate pollution and to protect the maritime area from the effects of human activities.

The Panel will address the reduction in area in the next chapter of this report, including the assertion that more data is required. However, it is clear to the Panel from the evidence collected and from the Minister for the Environment that the decision to pursue a reduction was a political one.

The Minister for the Environment:

Politics is all about the art of the compromise, and certainly I inherited a plan which was out to consultation at the time and I listened to everything that people were telling me. I felt there was some compromise that was required, so what I did was, it was not a trade-off particularly, I said okay, we know 2030 is an important year for all sorts of various reasons. I decided that I wanted to make more concessions to the mobile gear, I wanted to make more concessions to commercial fishermen to make their livelihoods, if you like, less impacted on day one.’²⁰

Comparison and alignment with other jurisdictions

The MSP provides good information about the cross-boundary agreements related to Jersey’s marine environment and also details the characteristics of French territorial waters which are adjacent to Jersey’s.

During the public hearing with the Minister for the Environment the Panel sought information about engagement with the French and British authorities on the MSP.

¹⁷ [Plans for Jersey Marine Park to better protect Island’s waters \(gov.je\)](#)

¹⁸ [Plan for Jersey’s territorial waters published \(gov.je\)](#)

¹⁹ [Transcript - Marine Spatial Plan Review - Minister for the Environment - 4 September 2024.pdf \(gov.je\)](#)

²⁰ [Transcript - Marine Spatial Plan Review - Minister for the Environment - 4 September 2024.pdf \(gov.je\)](#)

The Minister for the Environment:

We have certainly consulted with other Channel Islands, Guernsey particularly. They do not have a plan. They are very interested to see what we are doing. They are keen to develop one right on the back of ours. We have spoken to the U.K. (United Kingdom) about fishing. We have certainly spoken to the French. We have spoken to regionally to Brittany and Normandy. We have spoken nationally. We have spoken specifically in places like Granville. Francis, tell us a bit more.

Head of Marine Resources, Infrastructure and Environment:

Interestingly, the first U.K. / French Marine Spatial Planning Meeting was held at the St. Helier Yacht Club and hosted by Jersey. That was back in 2018 and they needed some neutral turf on which to come together to start talking about Marine Spatial Planning on that wider scale. We have had those contacts and had that connection since then, which is quite useful to us. We are part of the U.K.'s Six Nation Marine Spatial Planning Group, which includes the U.K. as a whole, plus the devolved administrations, Ireland and the Crown Dependencies. We also look to work very regularly with our French counterparts and have done for a long time. Through the T.C.A. (Trade and Co-operation Agreement) process there have been updates on this, as well as the French being a regular consultee as part of the M.S.P. consultation process. We briefed, quite recently, in the middle of last month, the Normandy Comité Régional des Pêches on the outcomes of the Marine Spatial Plan as a courtesy, because they had given us one of our largest submissions to the consultation, at over 40 pages. We are looking to offer a briefing to Brittany very soon as well on the same basis.

As would be expected, it would seem that while there is not always agreement on the topics under discussion, there is frequent dialogue between Marine Resources and the fishing authorities in bordering French jurisdictions.

The Panel also feels that the evidence provided here indicates that the development of the MSP did not happen in isolation and that conversations which aimed to better understand the position of neighbouring jurisdictions were – and are – ongoing.

The Panel received a submission from the Comité Régional des Pêches Maritimes et des Élevages Marins de Normandie in which the issue of consultation and the assessment of feedback was addressed as follows:

On a positive note, we can highlight the work done by Jersey to process and respond to all the comments received. However, we deplore the fact that the only means of involvement and expression of the Normandy CRPMEM was to have the opportunity to respond in writing to the MSP in writing, and only after being informed at a late stage, at the end of October 2023. In fact, the stakeholder consultation process began in February 2023, notably with face-to-face consultation workshops. Like the workshop with Jersey fishermen in March 2023 and in view of the importance of Jersey's Normandy fishery, we would have appreciated an equality of opportunity and benefit from a concerted dialogue upstream of the delimitation of the proposed zones and the finalisation of the JMSP so that Normandy fisheries can be fully considered. Similarly, the scrutiny panel was launched during the summer period, with a return from us expected on 30 August. This is a very tight deadline at a time when the various parties involved are not very available. We have the feeling that we are being given late notice at every stage of progress.²¹

²¹ [submission - comite regional des peches de normandie with translation - 30 august 2024.pdf \(gov.ie\)](#)

As well as providing further evidence of the findings above in relation to the timeframe in which the delivery of the MSP took place, the submission also bears out the complexity and challenging nature of these relationships.

In a more conciliatory response, the Comité Régional des Pêches Maritimes et des Elevages Marins de Bretagne provided the view that it would be feasible to find consensus but felt that this should happen before the States Assembly vote on the MSP.

The French authorities are looking for measures that are as proportionate as possible between protecting biodiversity and maintaining sustainable economic activities. For the CRPMEM, these two aspects are not sufficiently robust and objective to lead to bans on dragnet fishing. Bans on dredge and trawl fishing, including in accordance with the new arrangements and perimeters proposed following the consultation. The CRPMEM requests that the scientific data used environmental analysis and the assessment of impacts on Breton fleets be better considered and that this work be and that this work be coordinated with the French authorities and in consultation with all the stakeholders. with all stakeholders. The CRPMEM is at the disposal of the authorities to provide its expertise on the activity of Breton fleets. In this respect, the CRPMEM believes that more in-depth discussions with the French authorities and stakeholders in the fishing sector would be useful. stakeholders in the fisheries sector should be held before the MSP vote. It also that it is perfectly feasible to find a consensus that reconciles the objectives of preserving marine habitats conservation of marine habitats and the maintenance of dragnet fishing activities, as long as they are as long as they are compatible with conservation objectives.²²

The report provided by HMC in relation to cross-border engagement and coherence in the MSP recognises the challenge posed by international relations and geopolitics. There is also an acknowledgement that ‘ongoing trade and border negotiations, including on fisheries access for French vessels which created additional challenges for transboundary negotiations and ensuring cross-border coherence of the JMSP’.

HMC found ‘exemplary best practice’ in the long-term contact and engagement with French authorities in relation to the sharing of consultation findings.

However, as already described in relation to the development of the MSP, HMC have also suggested that an altered approach could have created better understanding and synergies by adopting a more European style approach to its planning.

FINDING 6

The approaches taken by France and England in the development of MSPs were scalable and could therefore be applied to small marine areas

FINDING 7

Taking a more European approach to the planning process would have aligned it more with neighbouring MSPs and created better understanding and synergies with neighbouring countries, especially France

FINDING 8

²² [submission - comite regional des peches maritimes with translation - 30 august 2024.pdf \(gov.ie\)](#)

The development of Marine Protected Areas was central to the Government's concept of an MSP.

FINDING 9

The stated intention of the MSP is to provide direction for the preparation of future legislation and policy and that the MSP would be a non-statutory document

FINDING 10

Firmer and clearer objectives would have provided better direction for current and future Government and for partners and stakeholders and a better flow between goals and actions.

FINDING 11

The vision and aims are clearly written and the aims are used to provide a clear link through the different chapters of the report allowing for themes to be followed easily through the document.

FINDING 12

The MSP is a readable and relatable document.

FINDING 13

The political timeframe did not provide a period within which an iterative process could be undertaken.

FINDING 14

The completion and direction of the Marine Spatial Plan process was impacted by the successful Vote of No Confidence – Chief Minister and consequent change in Government and Ministerial lead which took place at the beginning of 2024.

FINDING 15

The decision to reduce the MPA area from the 27% of territorial waters allocated in the original consultation draft to the 23% allocated in the final document was a political one.

RECOMMENDATION 1

The objectives should be reframed to provide a clearer flow of government intent from vision through to actions in an updated iteration of the MSP to be provided prior to the next Island Plan debate. This will provide a framework for successful monitoring of the MSP.

RECOMMENDATION 2

The Minister should establish a framework which defines the MSP objectives, goals, principles, planning approach, timelines, governance structure, high level implementation and monitoring framework. Such a framework could clarify the relationship between the MSP and the Island Plan or set out a new approach entirely. It will also provide greater clarity for MSP officers and transparency for stakeholders.

Balance of activities and environment

On page 14 of the MSP are five headings and associated explanations for 'Why the MSP is needed'²³. The headings are:

- Addressing the climate and biodiversity crises
- Enabling Jersey to fulfil its international obligations
- Promoting sustainable fishing practices
- Minimizing conflicts between different users of the marine environment
- Applying international best practice within Jersey's waters

As has already been reported, the central purpose of the MSP is to strike a good balance between commercial activity, leisure activity, the Island's cultural heritage and the needs of the natural environment in Jersey's marine space.

The MSP sets out a wealth of complex information on each of these activities and the importance of the Island's cultural heritage. To the best of the Panel's knowledge this is the first time that this level of information and evidence on the history, environment, infrastructure and activities has been drawn together in one place. Submissions from a number of stakeholders would also indicate that it provides the 'direction of travel' that the Marine Resources team were seeking to achieve for many of the uses of the marine space.

The National Trust for Jersey's submission opens with the following comment:

It is evident that a huge amount of work has gone into the preparation of the MSP. We commend this significant step forward in marine protection, and every credit should be given to the Government of Jersey's Marine Resources team and its partners²⁴.

Jersey Recreational Fishing Association also commended the MSP as a 'significant achievement'.

A huge amount of work has gone into collating information to ensure future management decisions can be based on science not bias.²⁵

A number of the submissions provided to the Panel from organisations, including the National Trust for Jersey and the Blue Marine Foundation welcome the plan and the balance that it is trying to achieve.

Ports of Jersey, an Arms-length organisation of the States of Jersey and one of the bodies which will need to progress actions contained in the MSP stated that:

Ensuring that a balanced management plan is established for Jersey's waters is critical to the protection, not only of the waters and the environments they create, but also the livelihoods they support, as well as creating opportunities for the future of our island and its people.²⁶

²³ [p.44-2024 – Marine Spatial Plan.pdf \(gov.je\)](#)

²⁴ [Submission - Review of the Marine Spatial Plan - National Trust for Jersey - 29 August 2024.pdf \(gov.je\)](#)

²⁵ [Submission - Review of the Marine Spatial Plan - Jersey Recreational Fishermen's Association - 21 August 2024.pdf \(gov.je\)](#)

²⁶ [Submission - Review of the Marine Spatial Plan - Ports of Jersey - 29 August 2024.pdf \(gov.je\)](#)

Dyna Energy, a local offshore wind project developer, also welcomed the MSP for the direction that it provided.

*The JMSP helps to reduce the risks associated with the development of offshore wind projects. It provides confidence to investors that there is broad agreement amongst marine stakeholders that a defined area is prioritised for offshore wind development and that development of infrastructure in these areas has already been considered.*²⁷

As indicated earlier in this report, however, the issue of balance remains a difficult one given the dominance of the entrenched and conflicting views on the expansion of MPAs and the change in percentage area of that network under the current Minister for the Environment.

The Panel feels that to provide context, there should also be some explanation in this report of the different types of conservation areas which already exist. They include Ramsar sites, the existing MPAs, Sites of Special Interest, Areas of Special Protection and a No Take Zone.

The MSP contains priorities for protecting the natural environment through these existing areas as well as through the expanded MPA network.

One of the most contested habitats in the context of the MPA – and the most frequently mentioned to the Panel in hearings and submissions – is maerl. It is a coralline algae which is among the valuable habitats listed for protection under international convention. In their submission to the Panel, the Blue Marine Foundation states that maerl is designated as a priority habitat under OSPAR and should be protected under the requirements of the convention.^{28 29} Maerl is a habitat in which scallops thrive and so areas which are designated for protection or considered for designation are potentially also good fishing areas for scallop fishers – both divers and dredgers.

Marine Protected Areas

In September 2023 the then Minister for the Environment made the following comments prior to the release of the MSP consultation document:

'In the course of preparing the draft Marine Spatial Plan, it has become evident that a clear scientific basis exists to expand and add to our network of Marine Protected Areas.

This will allow us to create a Marine Park in the Island's waters, covering around 30% of our territorial waters. This network will form part of Jersey's delivery of the "30 by 30" initiative agreed at COP15 in December 2022.

*The Proposition, which I plan to lodge in the next few months, will set out the detailed timetable and methodology for establishing the boundaries of the park, and its management. There will be a full consultation with all stakeholders, including with our own fishing fleet, and our neighbours in France and Guernsey.*³⁰

Marine Protected areas already exist in Jersey territorial waters and the expansion of those areas can be achieved by revising current legislation to give them a statutory basis.³¹

²⁷ [Submission - Review of the Marine Spatial Plan - Dr Mark Leybourne - Dyna Energy - 2 September 2024.pdf \(gov.je\)](#)

²⁸ [submission - review of the marine spatial plan - blue marine foundation - 27 august 2024.pdf \(gov.je\)](#)

²⁹ [Maerl Beds | OSPAR Commission](#)

³⁰ [Plans for Jersey Marine Park to better protect Island's waters \(gov.je\)](#)

³¹ Action NB5b - [p.44-2024 – Marine Spatial Plan.pdf \(gov.je\)](#)

The MSP states that:

*Marine Protected Areas currently cover Jersey's north and east coasts, the south-east reefs, St Aubin's Bay, St Brelade's Bay, Les Écréhous and Les Minquiers. The purpose of the MPAs is to protect valuable and vulnerable habitats by preventing damage from mobile fishing gear. This allows the seabed to function naturally, and protects fish populations by allowing spawning grounds and nurseries to thrive. The existing MPAs do not cover all the relevant priority habitats and species protected under the OSPAR convention, nor do they consider the full range of benefits from nature, or the potential of Jersey's waters for carbon storage...*³²

The Panel believes that this provides a clear rationale for the retention and the expansion of MPAs. Although it is clear from the submissions collected that the shape, size and nature of the areas is not agreed by different parties, the Panel does not feel that existence of precious habitats and the knowledge of them displayed by the plan is in dispute. As indicated in the paragraph above the most contentious type of fishing is mobile gear fishing. In Jersey terms, this applies to fishers using dredging gear from a boat to harvest scallops.

The Panel also feels that the rationale provided indicates a precautionary approach adopted in the development of the MSP and the MPAs and was in line with Jersey's obligations as a signatory to international conventions detailed later in this report.

In this context, while it is only one of the priority habitats described within the MSP, maerl beds were mentioned often to the Panel by fishers, Government officers and conservationists.

*Maerl beds occur primarily in shallow waters off the south coast of Jersey, and along the edges of the offshore reefs. The largest known area is associated with Les Anquettes reef. Maerl is a free growing, coralline red alga that forms nodular and branched structures on the sea floor. These nodules create dense accumulations on the seafloor that provide structure and habitat for many other species. This habitat is characterised by diverse burrowing communities, in particular bivalves, including the commercially important king scallop (*Pecten maximus*). Maerl Beds are an OSPAR priority habitat due to their role in supporting biodiversity.*³³

The MSP states that maerl is particularly vulnerable to damage from mobile fishing gear.

*In common with Jersey's existing MPAs, the use of mobile gear presents the biggest threat to the integrity and viability of key habitats such as maerl, seagrass and other sedimentary habitats.*³⁴

Submissions received by the Panel from the Blue Marine Foundation and from scallop divers both focused on the slow recovery of maerl beds from this damage. The Panel also heard from the scallop divers about the damage which they have seen on the seabed and which they attribute to dredging.³⁵

Mr. T. Woolley:

Well, we go 100 metres where the ban is and then do a drift. You can go on the line where the ban is and do a drift and then you just see absolute decimation. Everything

³² [p.44-2024 – Marine Spatial Plan.pdf \(gov.je\)](#)

³³ [p.44-2024.pdf \(gov.je\)](#) – p103

³⁴ [p.44-2024.pdf \(gov.je\)](#) – p123

³⁵ [transcript - review of the marine spatial plan - toby woolley, harry jones and bob titterington - 18 september 2024.pdf \(gov.je\)](#)

is upside down and shells, scallop shells, crab shells. We did get a video and I can record the damage that they do compared to the current maerl beds and you can see because the maerl once it ... this has been out the water now. We found when it came up. It is white but when it is alive it is purple and all round where it has been banned you see all purple maerl but then once you go into where the dredgers have been it is churned up and it turns into white maerl and it is all broken up and you do not really see much life around there, which is sad really.

Mr. B. Titterington:

*It is indiscriminate, is it not. A dredger goes along and there is nothing he can do. Even if he wanted to be a conservationist he cannot because of the form of fishing he is doing.*³⁶

The Marine Spatial plan outlines the following ecological priority considerations given to designation.

<p>Higher ecological priority for inclusion within the MPAs was given to:</p> <ul style="list-style-type: none"> • Areas which scored well in multiple fields • Seabed areas with a high coverage (>30% of threatened habitats) • Connectivity to existing MPA sites, Ramsar areas or proximity to drying rocks • Proximity/connectivity to other high value grid squares • Proximity/connectivity to shallow water reef areas. 	<p>Lower ecological priority for inclusion within the MPAs was given to:</p> <ul style="list-style-type: none"> • Areas which score highly in just one or two fields • Areas with a low coverage of threatened habitats • Areas whose principal scoring was only for blue carbon, as research in this area remains ongoing
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Howell Marine have provided the following analysis of the objective to develop MPAs:

*The JMSP achieved its objectives of designating MPAs. The process for this designation however looked at all elements stated, but didn't look at the system as a whole in developing and testing actions and understanding the synergies across actions. Consequently, cumulative effects were not considered as there was no real spatial analysis on activities and pressures to the environment beyond fisheries.*³⁸

Marine Protected Areas and the reduction in area from 27% to 23%

A key element of the Panel's Terms of Reference was to:

'assess the decision-making process and rationale in reducing the percentage of the Marine Protected Areas and the impact of this decision on Jersey's ambition to meet international obligations and standards.'

The consultation draft of the MSP published under the former Minister for the Environment provided for MPAs which protected 27% of Jersey's territorial waters. The final version, which

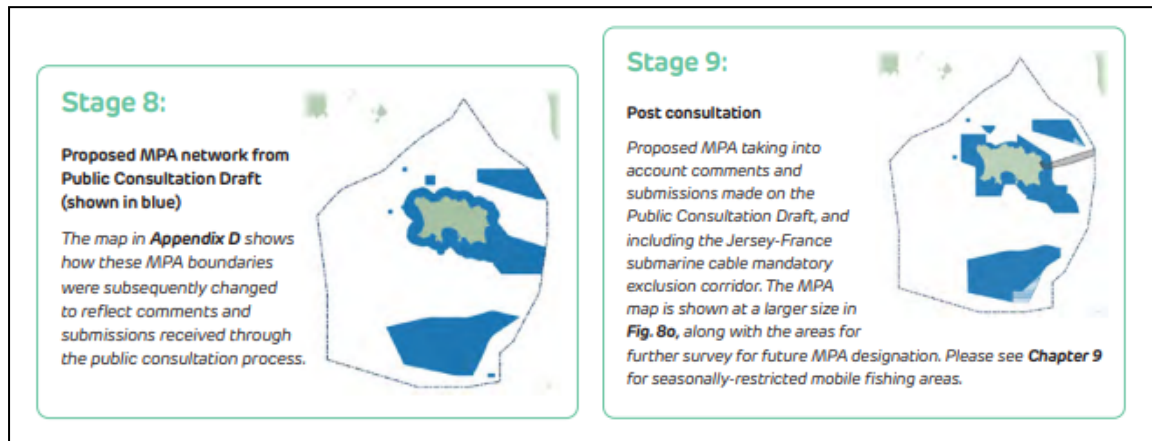
³⁶ [transcript - review of the marine spatial plan - toby woolley, harry jones and bob titterington - 18 september 2024.pdf \(gov.je\)](#)

³⁷ [p.44-2024.pdf \(gov.je\)](#)

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followed the extended consultation period and the publication of the Business Impact Assessment of the MPAs, has reduced that area to 23%.

In chapter 8 of the MSP, the different stages of identifying the MPAs are laid out. Stages 8 and 9 provide a comparison between the consultation and final draft of the MSP.



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More detailed maps of the proposed MPAs are also published in the MSP.

The factors that the Panel particularly wanted to consider in looking at this decision included whether the change:

- Still achieved 'an appropriate balance between environmental, commercial, economic, cultural and social needs.'⁴⁰
- Was a decision based on the same level of evidence which had been applied to the rest of the MSP.
- Was made to achieve a specific outcome and if this was achieved.

In answer to the Panel's question in its call for evidence as to whether the right decision had been made to reduce the size of the MPAs, the Blue Marine Foundation provided the following response:

Given the urgent need to protect the oceans both for environmental and long-term economic reasons, we do not feel the right decision has been made in reducing areas of protection. We do not feel that a detailed or viable explanation has been given for the amount of maerl habitat which has been removed from the initial MPAs proposed within the 27 per cent network of the draft JMSP. We would like to know, and for Scrutiny to review, the evidenced justification of why large areas of maerl to the SE of the Island and East of the Ecrehous have been removed from the MPA network.⁴¹

Blue Marine also provided a table which provides their analysis of the change in protection level to maerl beds under the revised MPA network.

³⁹ [p.44-2024.- Marine Spatial Plan.pdf \(gov.je\)](#)

⁴⁰ [p.44-2024.- Marine Spatial Plan pdf \(gov.je\)](#)

⁴¹ [submission - review of the marine spatial plan - blue marine foundation - 27 august 2024.pdf \(gov.je\)](#)

Habitat Character	Territorial Waters		In existing MPAs		In initial DRAFT MPAs		In proposed revised MPAs	
	Total area (km ²)	%Cover	Total area (km ²)	%Cover	Total area (km ²)	%Cover	Total area (km ²)	%Cover
Maerl beds	56.63	100	6.57	11.6	50.24	88.72	19.01	33.37

Table 1: Values show the extent of maerl within; Jersey waters, existing MPAs, initial draft MPAs and revised MPAs. Calculations are derived from habitat data provided by the Government of Jersey.

Others – such as the Jersey Recreational Fishing Association – went further and suggested that the MSP was now being undermined by bias.⁴²

An anonymous submission provided this analysis:

These new areas in the revised proposal have just been added to the proposed MPA's to get the quoted % of MPAs back up to 23 % (after a reduction from the original 27% in the first draft), but in reality the most recent proposed MPA will reduce by half the amount of vitality important and critically endangered seabed that will be protected.

The areas of seabed that have been removed from the current proposed MPA are critical areas for feeding grounds, particularly for juvenile fish and shellfish, and crucial spawning and nursery areas for a wide range of fish and shellfish. It makes no environmental, ecological or sustainable planning sense for these to have been removed.⁴³

The Panel also heard from the scallop divers who attended a Public Hearing on 18 September 2024 that they believed that the changes to the areas to be protected only benefitted those fishers who were dredging in those areas.

Mr. T. Woolley:

That is our main area to dive around the south end of the Ecrehous. To be honest with you, it looks like ... I am not sure what fishermen have been in here to choose the plan but it looks like they have just pointed out the spots that they want to keep dredging and they have pointed out there, one there, there. It is sort of like they are the places that they go mostly so they do not want them banned no matter what happens to the seabed, which is a bit of a concern really.

Mr. B. Titterington:

Yes, but let us get back to the maerl a minute. My father used to train the police diving team and in 1970 maerl was known as a prolific ground. That is 54 years ago. We have been trying to stop this maerl getting smashed up. It hardly grows. It grows about a millimetre every 20 years and if you take a full hand like full of maerl, you will have 60 juvenile species in that. What the dredgers have just said there, we are arguing about must have a ban, is full of maerl and they are just smashing it to pieces all the time. So if you are saying you are the Scrutiny Panel and you are looking to see if this is fit for purpose, it is not.⁴⁴

⁴² [submission - review of the marine spatial plan - jersey recreational fishermen's association - 21 august 2024.pdf \(gov.je\)](#)

⁴³ [submission - review of the marine spatial plan - anonymous 5 - 2 september 2024.pdf \(gov.je\)](#)

⁴⁴ [transcript - review of the marine spatial plan - toby woolley, harry jones and bob titterington - 18 september 2024.pdf \(gov.je\)](#)

As a result of the fact-check exercise it has become clear that there are a range of opinions on the growth rate of maerl and the timescale over which this is generally measured.

During this hearing the scallop divers said that an immediate concern centred on the area to the south-east of the Ecréhous⁴⁵ which is currently one of the areas for phased introduction into the MPA network. This is an area that they describe as being rich in maerl and one which they dive and should be protected.

The evidence given by the Minister both in response to correspondence with the Panel and in the Public Hearing held on 4 September 2024 was that the areas which had been removed from the plan were those which required more research to determine their value.

However, the Panel's view is that the rationale that further research was needed is made less valid by further reasons given by the Minister which include, the political compromise already mentioned in this report and the practical navigational concerns alluded to below:

The Minister for the Environment:

There are a number of reasons why the percentage numbers have changed. Certainly I sat down very soon after I became Minister and said: "Where are we? What are we proposing? Where are the areas of contention?" We looked at the consultation process. From a very straightforward point of view, I went to the team and said: "As somebody who has spent a little bit of time at sea, from a practical point of view of navigating and stuff like that, I would much prefer to have straight lines rather than the original curvy line."

...

These curved lines on the chart were something that we decided to go away from. From both sides, I felt that would make life easier. That made some changes. It was the effect of the original plan on some parts of the fishing industry and the responses that we had which mainly made me look again. I was very big on, as I said, compromise. I said: "We need to find ways of reducing this number, so the effect on the industry is less initially, but at the same time indicating a direction of travel." We have areas now that have been grandfathered. There is a small area up at the Les Écréhous. There is a larger area down to the south of the Minquiers. We have also, most importantly, designated these areas of further research, where the Department has admitted they might like to know more about what is on the sea bed, which species, how much we fish there. It was agreed that we would take certain areas out of the original plan and we would make them subject to further research. The Department are going to do that work, they will come back with the data and we will see where we are. The word on those areas is: we are going to look and if there is something there to protect, we will act. Similarly, we are not going to protect areas that are not worthy of protection. That is the reason why the 27 per cent came down to 23 per cent. You could look at what we have proposed now and say: if all the research areas that we do get protected, once we have been through the grandfathering stage we are going to be back up to ...

In addition, during the same hearing the Minister voiced his specific concerns for the mobile gear fishers.

⁴⁵ [Transcript - Review of the Marine Spatial Plan - Toby Woolley, Harry Jones and Bob Titterington - 18 September 2024.pdf \(gov.ie\)](#)

The Minister for the Environment:

... But I think we need to be under no illusions, the Marine Protected Areas that we are talking about here hit one particular part of our commercial fleet much harder than others and that is those that dredge. It is not scallop fishermen across the board because we have quite a thriving and expanding scallop diving industry in Jersey. But those that dredge the scallops are affected by this because certain areas are being closed that they have been used to dredging historically. But, for many and varied reasons, the pressures coming on those areas from others, whether it is potting, whether it is recreational, a whole range of things, or just the fact that there is a perception that there is damage there, we cannot deny that dredging is not great for the sea bed. Now the scallop dredgers will tell you there is different types of dredging, which is worse, and I agree. Praire dredging dredges this deep. So certain dredging operations are far more damaging than others, but dredging per se is not great for the sea bed. We are sending a message, we are not putting you out of business, we are going to help you to carry on, but I would hope that dredging, people who dredge, realise that their particular way of doing this job is challenging. There is new technology being developed that would do the same job in a different way, which would be much more environmentally friendly...

The Comité Régional des Pêches Maritimes et des Élevages Marins de Normandie made the following comments on the reduction of the area in their submission.

We cannot describe this as a 'good' decision, just as it is not a genuine reduction in the size of the MPA network. Rather, it is a question of making adjustments based on the factor that will allow fishermen to adapt. Nevertheless, we recognise the need to balance between protection measures and maintaining fishing activities, which is positive. As far as we understand it, the reduction in marine protected areas is only temporary and will only be authorised for fishing for a limited period. The study areas are not yet classified as protected areas, but they will probably be after more in-depth studies, as they were already proposed in the initial version of the MSP. Thus, the 23.3% of marine protected areas combined with the 3.7% of study areas will make up the 27% initially proposed in version 1 of the MSP within a few years. (translation of original)⁴⁶

The submission from the Societe Jersiaise Marine Biology section was also critical of the reduction.

We think a more proactive move would have been to have created 1% of our waters as NTZ, which the section has been advocating for over 15 years, which we think would have been beneficial to all parties.

Some of the tweaking of the zones is we feel a poor decision, in that allowing a small access area on a boundary, that could be easily enforced, as it was, is now more complicated. Why was this not resolved in the initial stages?⁴⁷

This submission advances the view that a No Take Zone on the East Coast of the Island and the investigation of other no take zones would have provided a better solution.

It is clear to the Panel that the Minister has been keen to find a compromise which satisfied all parties. However, the Panel is concerned that the solution chosen to reduce the area, provide

⁴⁶ [submission - comite regional des peches de normandie with translation - 30 august 2024.pdf \(gov.je\)](#)

⁴⁷ [submission - review of the marine spatial plan - societe jersiaise marine biology section - 2 september 2024.pdf \(gov.je\)](#)

a grandfathering system and conduct further research has made the situation less clear for all parties and has pushed a decision on enhanced protection further down the road.

The business impact assessment was an influencing factor on the decision to reassess the areas which had been designated. What is less clear to the Panel is how this will be balanced against future evidence of the value of the habitat in the areas in question.

The Minister and the Head of Marine Resources have also been keen to state that a further economic assessment has yet to be completed and that the business impact assessment conducted with the mobile fishers did not constitute a full economic survey.⁴⁸

Head of Marine Resources, Infrastructure and Environment:

One of the objectives after the plan has been through the States debate is to commission an economic impact assessment or really a sustainability impact assessment of the plan that looks at its final version...

A number of the submissions received, including those from scallop divers, question the decision to reduce the area. The message received from the divers was that the areas should not have been reduced and that dredging is damaging the seabed in areas that need protection⁴⁹.

The Blue Marine Foundation's submission questions the need for further evidence to support the inclusion of areas which have been removed from the final draft MPAs.

If the decision made to exclude these large areas of maerl, is due to the importance of those areas to the local mobile gear fishing fleet, then we would expect the evidence for this to be publicly shared.

If the decision was made due to a lack of evidence to justify the inclusion of these areas of maerl within the MPA network, then we would also expect this to be clearly explained. Furthermore, if this is the case, then we would like to understand the threshold of evidence needed to justify the inclusion of these maerl beds within the MPA network, and clear timescales for delivering the research needed to build this evidence base.⁵⁰

The Panel also heard from members of the mobile gear fleet at a Public Hearing held on 6 September 2024. The fishers who attended the hearing described the impact that the MPAs would have on their business and the uncertainty that the process was causing for them and for the wider industry. Their view on the damage caused contrasted to that of the scallop divers.

Mr S Viney:

But what we really want to get through is that our businesses now, through this marine park, have been ... made it probably impossible to sell. It has been devalued. Businesses we have taken years to build up, and the economic survey which we felt was the most important thing that should have been done first before the plan and the areas were outlined, because now we feel that all we are doing is trying to claw back bits and grandfather rights and a few areas that could be surveyed. Also what we do not know is the uncertainty of what has been ... how it is going to ... where is it going

⁴⁸ [transcript - marine spatial plan review - minister for the environment - 4 september 2024.pdf \(gov.ie\)](#) – p14

⁴⁹ [transcript - review of the marine spatial plan - toby woolley, harry jones and bob titterington - 18 september 2024.pdf \(gov.ie\)](#)

⁵⁰ [submission - review of the marine spatial plan - blue marine foundation - 27 august 2024.pdf \(gov.ie\)](#)

to end? They are looking at researching more and more areas and Steve said himself it is not about 30 by 30; it is whatever needs protecting will be protected. So we do not actually know where it is going to end and how much we are going to ... where is it a point where it is not viable for us to maintain staying in the business space? How long do we wait for these areas to go looking for other areas to fish?

During the hearing with the Panel, two members of Jersey's mobile gear fleet spoke to the Panel about the designation, what had shaped them and how they felt this could have been better approached.

Mr S Viney:

...Obviously the idea to protect the seabed, you have to protect something that is from something. So we were seen as the ones that were basically causing the so-called damage, if you like. Therefore the marine park was drawn around the areas that we fished, which seems to us that if that becomes the marine park, then we are displaced to somewhere else. So, it seems all the effort has gone into the areas where we fished, the data collecting, the seabed analysis, et cetera, but we feel that a lot of the areas that could have made up the 30 per cent have been ignored. The problem being is we are going to be displaced from the areas where we traditionally fished. We are probably going back to the 1800s when the oyster fishing was live and very, very large around the east coast. We are going to be displaced to other areas, which we feel have not been surveyed. So, if you like, we are just being moved, the problem is being moved. We still have to make a living. That is what we are for out there for. We love fishing, but we are also out there to make money. So we feel that all they are doing is shifting the problem. The public are: "Oh, the seabed is going to be protected", but in reality we are just moving somewhere else where there could be maerl beds, there could be a lot of other types of habitats. Within the blanket area, if you like, there are areas that are not ... they do not hold the species that O.S.P.A.R. (Oslo and Paris Convention for the Protection of the Marine Environment of the North-East Atlantic) did want to protect. So it seems a bit ... on the outside, it looks great, but the reality is we are only going to get shifted somewhere else, and we will have to work longer hours, we will have to intensify our fishing in a way to get the same return.⁵¹

The evidence provided at the hearing indicated that the fishers felt that there was a way to develop areas which would provide protection to specific areas rather than what they feel is a 'blanket' approach which covers both priority and non-priority areas.

The Panel also received a separate submission from a third mobile gear fisher, Philip Channing who stated the following:

We thought we had come to a compromise as Fisheries were involved. Then we see a revised chart, throwing us out of traditional grounds that have been fished for hundreds of years. In the latest chart I've seen we will be banned from all the sandbanks of our inshore grounds Saint Aubin's Bay and Grouville Bay. I can't see why we're being banned from sandbanks during the winter months. Our small boats rely on these inshore areas to make a living during the winter. With our raging tides we shelter on inshore grounds. By throwing us our traditional grounds out to deeper water they will be in no doubt putting fishermen's lives at risk. We will be pushed out to fish among the French and we know in the future we're gonna lose a big chunk of ground

⁵¹ [Transcript - Marine Spatial Plan Review - Stephen Viney and Kevin Singleton - 6 September 2024.pdf \(gov.je\)](#)

*in the deep water due to the proposed windfarm in all other jurisdictions. They have grandfather rights etc.*⁵²

Some of the submissions, many of which agree with the expansion of the MPAs and are sceptical about the reduction now proposed also acknowledge the concerns raised by the mobile gear fishing fleet. For instance, while the National Trust for Jersey endorses the findings made by Blue Marine and is particularly concerned about the reduction in the proposed protection of maerl, the organisation understands that enhanced protection has an impact on some fishers, who should be adequately compensated.

The National Trust for Jersey

*We understand and sympathise with the concerns of the commercial fishing fleet and the impact that reinstating the greater MPA protections will have on their businesses. We believe it is critical that fair and just transition arrangements are made to protect the fishermen affected. We believe that such an investment by Government will be repaid by creating a truly sustainable fishing industry for the long-term benefit of the Island.*⁵³

It is also a situation which, to some extent, the MSP seeks to address or at least recognise.

An Economic Impact Assessment will be used as a basis to consider economic support for diversification. If diversification is not possible, compensatory measures will be considered for affected fishers within the mobile fishing sector impacted by the expansion of MPAs.⁵⁴

In this context, the Panel fully understands the Minister's desire to find a solution which, even if in the short term, provides some assurance to the mobile gear fleet.

However, the Panel remains unconvinced that the evidence base for the original designations was not already there or that the change has achieved the outcome of assisting the mobile gear fleet. Further it feels that, no matter which side the debate you stand on, there is a lack of understanding about what evidence is needed and whether the time spent on more research will fundamentally change the outcome of the designations delivered.

Howell Marine have stated in their report that:

The areas for review potentially contains a large percentage of Jersey's maerl habitat and there is a risk that these areas could be impacted if the review and designation process is not prioritised.

The Panel heard at the Public Hearing on 4 September 2024 that the necessary surveys would be done next summer and that research was underway.⁵⁵ In follow up correspondence the Minister provided a further timeline for completion and reporting as follows:

*Depending on weather conditions and boat operations, Marine Resources would hope to have all of the data collected by October 2025. The subsequent analysis of this data will take place over Winter 2025/26. Reporting to follow in early to mid 2026.*⁵⁶

⁵² [submission - review of the marine spatial plan - philip channing - 28 august 2024.pdf \(gov.je\)](#)

⁵³ [submission - review of the marine spatial plan - national trust for jersey - 29 august 2024.pdf \(gov.je\)](#)

⁵⁴ [p.44-2024.pdf \(gov.je\)](#)

⁵⁵ [transcript - marine spatial plan review - minister for the environment - 4 september 2024.pdf \(gov.je\)](#) – p32

⁵⁶ [letter - minister for the environment to ehi re marine spatial plan - 12 september 2024.pdf \(gov.je\)](#)

The strongly expressed concern of the mobile gear fleet and other fishers who made submissions to the Panel was that there was no sense of where the designation process would end and at what point it would no longer be viable for them to stay in business.

The Panel does not feel that the Minister for the Environment has provided sufficient detail on the evidence that has been used to inform a decision to move away from the precautionary approach which appears to have been used to develop the MSP.

Further, the Panel would make the point that while more research may provide confirmation of the habitats and their value, it also believes that neither the debate nor the views on either side of it are likely to change without a strong participatory approach to the future development of MPAs. This concern will be explored in more depth in the following chapter of this report which looks at the engagement process.

One further concern that the Panel would raise in relation to the evidence and data being used was what appeared to be a mistrust about handing over data and who it would be seen by, and in others, confusion over who was collecting it.

When asked about the data which they had provided to Marine Resources to inform their case, the mobile gear fishermen, gave the following information:

Mr S Viney:

We mentioned that very early on, that the economic survey should be done. We were told right at the beginning: "No, we do that at the end." So it was not due to ... and we have supplied data. There was a fear from us of the data that we provided would be used in some way against us because they have only drawn the marine part around the areas where we fished. If we had have provided even more data, it might have been drawn around a few more areas, if you like. Where was that data going to end up? There was, within the department, some people that were previously part of N.G.O.s such as Blue Marine, et cetera, if that was data that was seen by them, they cannot unsee it. They cannot change what their beliefs are. I am not saying there is a conflict of interest, but they are minded to ... they are marine biologists. They do like to obviously save the planet is the thing that is going on. We felt that the data would be better provided to Steve Webster who did the economic impact survey. We would not mind him seeing it but we did not want it in some way used against us.⁵⁷

In line with the findings of the HMC report, the Panel would suggest that ensuring that this data and that which could be gathered from other commercial sources is used to inform future iterations of the report.

The Panel would recommend that the MPA network should be amended to include immediate protection for areas currently designated for further research and areas which are to be phased into the MPA network. These areas are listed on p124 of the MSP and are mapped on figure 80⁵⁸:

- the area east of Les Ecréhous
- part of the basin between Les Écréhous and Les Anquettes
- areas to the east and west of Les Minquiers
- the south-eastern edges of Les Ecréhous
- the south-eastern edges Les Minquiers

⁵⁷ [Transcript - Marine Spatial Plan Review - Stephen Viney and Kevin Singleton - 6 September 2024.pdf \(gov.ie\)](#)

⁵⁸ [p.44-2024.pdf \(gov.ie\)](#)

The Panel has made an amendment to this effect which has been lodged for debate.

It is the Panel's view that the higher percentage is already supported by the evidence available and that lowering it has created further uncertainty for those fishers most directly affected by the MPA designations.

In its amendment, the Panel has asked the Minister to reinstate specific areas.

Should this amendment – in whole or in part – be rejected, the Panel would strongly urge the Minister to provide a timeline for the decision to be made on the inclusion or otherwise of the areas for research and the criteria which will be used to judge those decisions. The Panel believes this will help to:

- Ensure that further important habitats are protected as required
- Provide certainty – whether negative or positive to the mobile gear fleet.

The Panel would also seek assurances from the Minister that specific engagement is undertaken with the mobile gear fleet to investigate workable sustainable practices and provide a clear detail on the form that the compensatory measures outlined in the report will take.

International obligations

In closing this section, the Panel would like to return to the Minister for the Environment's direction that he is not driven by meeting the '30 by 30' target.

Under the heading 'Enabling Jersey to fulfil its international obligations', the MSP states:

Jersey is a signatory to a number of international conventions which oblige it to protect its marine environment. Examples include the '30 by 30' target (i.e. 30% of the marine environment protected by 2030) agreed at the 2022 Kunming-Montreal Global Biodiversity Framework, and the OSPAR Convention, which identifies a series of threatened habitats and species which should be protected.⁵⁹

Later in the plan it is stated that the importance of reaching this target was a key theme of the Natural Environment and Biodiversity workshop held as part of the early engagement.

The Blue Marine Foundation submission provides the following statement:

The revised MPA boundaries would fall short of Jersey's commitments to the Kunming-Montreal biodiversity framework and the OSPAR Convention. Marine protection to the extent of 27 per cent of our territorial waters would place Jersey within the top 10 most protected marine jurisdictions in the world. Instead of being a world leader in delivering on its commitments, the reduction to 23.3 per cent makes Jersey's journey to fulfilling its international targets much slower and more difficult.

The Panel finds it difficult to square the wording of the plan in terms of 'commitments' and 'obligations' to conventions of which Jersey is a signatory, to the Minister's own stated stance that this is not a central goal for him. Again, the Panel feels that the removal – or minimising – of this goal removes another level of certainty from the process.

⁵⁹ [p.44-2024.pdf \(gov.je\)](#) p14

FINDING 16

The MSP provides a direction of travel for the use of Jersey's marine space and was welcomed by some stakeholders.

FINDING 17

The MSP provides a clear rationale for the retention and the expansion of MPAs.

FINDING 18

The rationale provided indicates that a precautionary approach adopted in the development of the MSP and the MPAs and was in line with Jersey's obligations as a signatory to international conventions.

FINDING 19

The Business Impact Assessment on the impact of the MPAs on mobile gear fishers was conducted following the consultation period and was an influencing factor on the decision to reassess the areas which had been designated.

FINDING 20

An economic impact assessment will be carried out following the adoption of the MSP to consider economic support for diversification in parts of the fishing fleet.

FINDING 21

The redrawing of the designation for MPAs may put areas of habitat at risk if the further research and review is not prioritised.

FINDING 22

The Minister for the Environment has not provided sufficient detail on the evidence that has been used to inform a decision to move away from the precautionary approach which appears to have been used to develop the MSP

FINDING 23

The views expressed on the expansion of the MPAs are entrenched and unlikely to change without a strong participatory approach to future development of the MPAs and MSP.

FINDING 24

The Minister's statement that the '30 by 30' target agreed at the 2022 Kunming-Montreal Global Biodiversity Framework is not a priority undermines the goals and targets of the MSP.

RECOMMENDATION 3

The Minister should give clear timeline on the delivery of the full economic impact assessment and ensure that there is meaningful engagement with those directly impacted.

RECOMMENDATION 4

The MPA network should be amended to include immediate protection for areas currently designated for further research and areas which are to be phased into the MPA network.

RECOMMENDATION 5

The Minister should provide a timeframe for designation of confirmed new MPAs, and future work on areas for further survey for future MPA designation should be made publicly available as a matter of urgency.

RECOMMENDATION 6

As a matter of priority, the Minister and Marine Resources should provide clarity on the development of fisheries management planning and must support industry to explore sustainable fishing methods.

RECOMMENDATION 7

Marine Resources should continue to seek ways to work with fishers to ensure that their data is included in planning and development.

RECOMMENDATION 8

The Minister for the Environment should reaffirm his commitment to the "30 by 30" initiative agreed at COP15 and to the aims of the OSPAR Convention.

Consultation and Engagement

A primary concern for the Panel in conducting this review was to evaluate the validity of the consultation process undertaken in developing the MSP. It was also keen to understand how the feedback received was assessed and weighted to ensure the best outcome for the process and the plan.

The MSP provides good detail both of the process undertaken, the workshops held and the number of stakeholders who have been involved in the process at some level. The Panel also feels that there was a clear intention on behalf of the Marine Resources team and the consultants assisting the process to be inclusive and to hear the voices of all stakeholders.

Participation and timeline

The first phase of consultation is described in the MSP as follows:

A series of themed in-person and online workshops took place in February/March 2023, near the start of the JMSP process. These workshops enabled a wide range of stakeholders and experts in Jersey's marine environment to find out more about the JMSP, and to contribute to its direction. Following the workshops, an online public consultation portal was open for several weeks where workshop attendees and members of the public could submit their thoughts and ideas. It was also possible to submit longer documents through the online portal, and several organisations and individuals did this.⁶⁰

During the Public Hearing held with the Panel on 6 September 2024, the Head of Marine Resources provided further detail on this process.

⁶⁰ [p.44-2024.pdf \(gov.je\)](#)

Head of Marine Resources, Infrastructure and Environment:

I have already described the initial scoping workshops that took place that really set the scene for the Marine Spatial Plan. Just to give that some more context in case it is helpful, we engaged Fiona Fyfe Consultants, who are on the Government's preapproved list of consultants for this type of work, they did the landscape and seascape character assessment for Jersey and they have worked here, 20 so they know the area well. We worked with them to build an introductory session to build an explanation to engage people, either in private individual one-to-one meeting sessions with particular industries, with particular areas, and then to build those broader stakeholder workshops where we started to get the feeling for what Jersey wanted out of its Marine Spatial Plan and what people wanted out of their sea, more to the point. Because the plan is the document, but the sea is the thing that matters to people. We brought that consultation process through. That really gave us our grounding and our foundation. We also use the Marine Resources Panel, which is a long-established stakeholder group that we have in Jersey and we meet quarterly with the panel, who are the Minister's main advisory body on marine issues, and updated them, listened to information from them and looked for opportunities to discuss each phase of the development of plan with that main group that involves commercial and recreational fishing, marine scientists, and Ports Authority, and aquaculture, and in-shore fishermen as well, so a full suite of representatives of use of the sea. On top of that, we had the later consultation sessions on the first plan, but I think for the initial scope that is where we started and the weighting and assessment of feedback received.

On a number of occasions, various stakeholders, the Minister and Government Officers have referred to the MSP having a long consultation and engagement process. The Minister referred to this belief in the same hearing.

Minister for the Environment:

Well, I have to say I have been a little bit disappointed with the communication I have had recently because the information and the knowledge that I had was that there had been a lot of consultation, certainly in my few months in office I have seen a lot of consultation. In the last couple of weeks, I have to say some of the correspondence I have had would indicate that maybe some of the meetings the fishermen held, they may not have been represented in the way they thought. But, depending who you speak to, you get a very different story. Francis will tell you and Sam will tell you about the level of consultation. It is really important to me to talk to people about it.

It would appear to the Panel that despite the efforts and intentions of Government that the perception of the level of consultation and engagement differs among the stakeholders – particularly the fishing community.

At the outset of this report, the Panel established that the view of its advisors was that, in reality, the timeframe for the delivery of the MSP was too short and did not allow for the level of participatory engagement which could have led to a shared vision.

As part of the evidence for this view (and as described earlier in this report), timelines for the Pilot Pentland Firth and Orkney Waters Marine Spatial Plan (a similar scale plan to the MSP) and for the Seychelles Marine Spatial Plan were provided and are available in Appendix 3 of this report. It was felt by HMC that, typically, MPA designation and/or MSP involving fishers would take between three to five years.

Further, HMC have pointed to guidelines which would provide for a more iterative approach which could have minimised the feeling for some members of the fishing community that MPAs were being imposed upon them.

In the early stages of an MSP process, best practice is to establish a multi-institutional or multi-agency working group which includes government authorities, but ideally should include key stakeholders, and experts – including from academia, and/or members of civil society. In line with the MSPglobal Guide, Zaucha and Kreiner (2021), found that the best MSP outcomes are when these stakeholders are involved at each iteration of the planning cycle, which builds and deepens stakeholder engagement.⁶¹

Key among HMC's findings is that:

With more time, as set out above, a dedicated and fully representative JMSP stakeholder working group could have been established to feed into the JMSP process at every stage of its development.

The Panel appreciates that many stakeholders who attended workshops have not provided evidence to this review and may well feel fully represented in the process, it is also clear that key stakeholders who would be directly impacted by the scope and development of the MSP did not feel as engaged in the process as officers or Ministers had hoped. Further it does not seem that they felt part of an iterative planning cycle.

There was also positive feedback contained in submissions from those who attended the workshops including the Chairman of Jersey Marine Conservation.

How the consultation and engagement was conducted and, in particular, how stakeholder feedback was weighted to inform the MSP. Commenting on the use of data and information provided by Jersey Marine Conservation, I think our data and outcomes were given serious, fair and balanced recognition. This was very much down to the skills and knowledge of those within government who lead the structuring and content of the report. We were fortunate to have a team with current and advanced knowledge of the marine environment.⁶²

The evidence provided by the mobile gear fishers who attended a Public Hearing on 6 September 2024 with the Panel was as follows:

Mr. S. Viney:

Obviously the consultation was where it all started from, really; the workshops, et cetera, was out to general public and stakeholders. We did attend some meetings. We did not think sometimes they were structured in a way that it was, shall we say, non-biased, or it seemed that the point of having a marine park was the focus, was the end goal, to reach that point. We feel that we are basically collateral damage to what is trying to be achieved. The previous Minister obviously was Jonathan Renouf. We did not have too many meetings with the Minister present. We did not really feel he listened particularly well to our concerns and particularly with the economic ...⁶³

⁶¹ Jacek Zaucha, Anja Kreiner, Engagement of stakeholders in the marine/maritime spatial planning process, Marine Policy, Volume 132,2021.

⁶² [submission - review of the marine spatial plan - kevin mcilwee msc chairman of jersey marine conservation - 13 august 2024.pdf \(gov.je\)](#)

⁶³ [transcript - marine spatial plan review - stephen viney and kevin singleton - 6 september 2024.pdf \(gov.je\)](#)

Mr. K. Singleton:

It is important to tell the panel as well, that the tone of the engagement with the consultations, the tone was set very early on. We went as a group, as you know, where there were fishermen and merchants at our table, and all the people that gained from the activity financially. We were shown ... well, I think there were 2 consultants that Jonathan brought in from somewhere. We were shown all these lovely pictures of all this work that they have done, and it was like: "Okay, well, that is great" and then they came around with a piece of paper, 4-inch square piece of paper, and they said: "Can you put your thoughts down on this piece of paper?" It was like: "Wow, that is how we are going to open this dialogue. That is how this is going to go." We have been on the defensive from the beginning. We feel like it could have gone a lot ... it could have gone a completely different way...

How on earth am I supposed to put down on a piece of paper that I am going to lose 80 per cent of my income? How do I even begin to do that? Then we went on to the other town hall, we went to one in St. Brelade; same again as a group. If it was not for us being there, there probably would have only been 2 other people there. But we were steered away from talking about what we wanted to talk about because everything was just concentrated on fishing. The other people in the room were supporting us, going: "Yes, we want answers to this."⁶⁴

The Panel also heard evidence from another fisher, who preferred to remain anonymous, who had not taken part in the consultation and workshops, in the belief that they were to some extent represented by others, including the Jersey Fishermen's Association. This lack of participation has led to confusion over the content of the plan, the precedent it sets and the impact it will have on fishing activity that has a lower impact than dredging.

Anon:

Yes. I think your concern is you read this and say: "Oh, this does not affect you now," so the M.S.P. will come in and it will affect the dredgers and everything and then this will come in. I mean, will it be another process/consultation for all these other actions that have been ... because, I mean, we have read through all the comments - there are 154 comments or whatever - that the public have said about, you know, dog-friendly beaches and dog-only beaches. How will that happen? Will that be another whole process, do you think, or will it just kind of ... no, we will go through it all again then for this, is it, or ...⁶⁵

Anon:

Yes, so all these other points that people are raising, and then it was saying like making bays for swimmers or the anglers, that would be a separate extra bit of the M.S.P. then, will it? Will it be like phase 2, stage 2 or will it just happen without anybody having any input?

This lack of engagement, for whatever reason, has led to a fear that further actions will be introduced in future without those who might be directly impacted knowing about them, as indicated by the following exchange at the same hearing.

⁶⁴ [transcript - marine spatial plan review - stephen viney and kevin singleton - 6 september 2024.pdf \(gov.je\)](#)
p13 and 14

⁶⁵ [transcript - marine spatial plan review - anonymous - 4 september 2024.pdf \(gov.je\)](#)

Deputy H. Jeune:

I suppose then that comes to process, about marine resources, how the Government interacts with you and the industry as a whole and how plans are developed accordingly, because again, at the moment it says just "reviewing", it does not say where it is going to ... which side it is going down into, so I suppose it is then how the process is going to happen. In your experience, how do you feel about the development of this M.S.P. or in the future how do you feel about your interactions with the Government and Marine Resources ...

Anon:

Obviously, we had Don Thompson sort of leading the J.F.A. (Jersey Fishermen's Association) before and now he has stepped down, so we do not have any representation at all now. So, unless we represent ourselves, we ...

Literally, because there is nobody. There is no association, is there?

A law could come in and we even would not know about it until it was in. That is the problem that we are facing. It is uncertain.

Further evidence provided to the Panel by members of the scallop diving industry also indicated a level of self-exclusion from the consultation. This was partly as a result of previous experiences and the feeling that other voices were being given more prominence; because there was a feeling that the information that they had to give had been delivered in other ways and also potentially not knowing the workshops were being held.

Deputy H.L. Jeune:

When the consultation first came up, did you input as scallop divers? Were you part of the discussions?

Mr. T. Woolley:

With the M.P.A. (marine protected area), the original M.P.A.?

Deputy H.L. Jeune:

Yes, I am thinking of the Marine Spatial Plan but, yes, there were the moments of public hearings, et cetera, and public workshops.

Mr. B. Titterington:

We did not actually go to any of those meetings but we did have constant contact with Blue Oceans, is it, that Sam Blampied has ...

Mr. B. Titterington:

We did go to one meeting with the divers but it got hijacked into talking about grants. We specifically came to talk about dredging bans not money and grants and the way forward for people to get money. After that we sort of retracted a bit because we did not get a word in really.

Mr. T. Woolley:

We have not had too much say. We have spoken slightly with Blue Ocean ... Blue Marine, but other than that we have not had much contact at all.

Evidence provided by the Head of Marine Resources also indicated a recognition that some groups found it harder to participate than others.

Head of Marine Resources, Infrastructure and Environment:

So that was the initial stakeholder workshop, so we had used a few different places, the best one was the main meeting room at St. Heliers Town Hall. We had a large round of square tables that we sat people in groups at tables. We opened with: "Do not sit with who you came with. So go and find a different table with different people so that you are going to be sitting around in a group of 6 to 10 of you discussing issues, discussing points that matter, and seeing how those fit in the wider context for other people." The only group I will say that did not sit in a diverse set of tables were our commercial fishermen who came to one particular meeting as the J.F.A. (Jersey Fishermen's Association) came as its panel, sat together, and made their views known very clearly during that meeting. I was saddened that we did not get that mixing of more of the main commercial fishermen into other tables and groups through that commercial and recreational fishing session. But we did have other fishermen in the room for all sessions who contributed as well.

The Panel does not under-estimate the task that is posed by trying to find a common ground and addressing entrenched views but does feel that from the evidence provided, an opportunity was missed to find and develop a truly participatory process with key stakeholders.

While HMC have concluded that 'the early stakeholder engagement and gathering evidence and spatial data from stakeholders conducted under the JMSP aligns well with best practice' they also suggest that.

A more deliberative and iterative stakeholder engagement process, preferably with a broader stakeholder working group, may have helped to deliver collective learning opportunities and deliver additional spatial data and non-spatial information to feed into the JMSP as well as improved understanding and buy-in.⁶⁶

It would be advantageous, for the further development of the MSP and the MPAs that a system of engagement is found that promotes ownership of the scheme by all stakeholders.

HMC also commented on the communication tools used to promote the public consultation as being successful and aligning with best practice. In addition – and as commented on at the outset of this report – the documents were found to be well written, informative and relatable. The provision of drop-in sessions was also found to be in line with best practice.

Future considerations to improve accessibility include: '*providing summary/non-technical documents which are colour-blind and dyslexic friendly, French translations of all documents, and making a few paper copies available in public libraries, or similar, to enable those without computers or smart phones – for example the elderly and low-income households – to view them*'.

⁶⁶ For best practice examples of participatory mapping see <https://darylburdon.co.uk/wp-content/uploads/2024/01/Participatory-Mapping-Guidance-Documents-Final-200520.pdf> and <https://darylburdon.co.uk/wp-content/uploads/2024/06/Cromarty-Firth-Workshop-report-FINAL-100723-no-emails.pdf> while examples of a more deliberative, iterative approach to stakeholder participation include [C-SCOPE](#).

The Panel also noted that while a summary of the MSP was provided in French, translations were not made of the document into other minority languages.

Assessment and weighting

As well as assessing the engagement itself, the Panel wanted to understand whether the views, data, information and experiences gathered were then assessed and weighted appropriately and to achieve the best outcome.

A summary of HMCs key findings in this respect are as follows:

1. The public consultation response document provided an excellent summary of the process, responses and actions and every comment was well recorded with an explanation of how it was addressed.
2. The MSP team did advise stakeholders at the workshop that their comments would be published, but developing and publishing the consultation response process at the start of the MSP process may have improved transparency and acceptance of the decisions made.
3. Whilst the government set out in the Bridging Island Plan that extending the MPA network was the main purpose of the MSP, it didn't set out a clear policy statement about priorities for other marine sectors, especially the fishing industry, which would have helped the MSP team, and other decision-makers, to consider the trade-offs between different stakeholder viewpoints.
4. Most comments on the MSP were not contentious and were adequately addressed.
5. Using a well-recognised decision support and/or spatial analysis tool such as Marxan with Zones or InVEST, or alternatively running a Business Impact Assessment at the same time as the MPA GIS spatial analysis, would have enabled the MSP officers to test different spatial scenarios alongside fishermen to find the most acceptable trade-off between conservation objectives and livelihoods. Lessons learned from the English MCZ process may also have helped to inform the MSP process.
6. The decision to reduce the areal coverage of the MPA network until further scientific data is gathered appears to have been a unilateral decision taken by the incumbent Minister.
7. This decision is likely a result of missed government opportunities to set clear priorities for different sectors and enable a longer timescale for delivery so that MSP officers could work with fishermen to identify areas of high economic value (thus making the trade-off decisions ahead of the draft MSP consultation).
8. It may have been useful for the government and/or MSP officers to apply an external process to 'stress-test' the efficacy of the plan before releasing the final draft of the MSP for public consultation. For example, Sustainability Appraisals (SA) are used by the Marine Management Organisation in their marine plan process to independently assess the economic, social and environmental sustainability of the plan.

As a result of the fact-checking exercise undertaken, the Panel has been asked to point out in relation to point 6 above that the decision followed a workshop with the mobile gear fleet post consultation to refine the current area to reduce impact on livelihoods. The chart was agreed by the then president of the Jersey Fishing Association.

Particularly in relation to point 6 above, this was an area that the Panel tried to explore further during its hearing with the Minister for the Environment. Aspects of the decision have been

investigated earlier in this report. However, the Panel feels that, in the context of the weighting of information, the lack of a clear answer from the Minister indicates a move away from the evidential based approach and transparency of the consultation draft.

Deputy A. Curtis:

There are a couple of questions I have coming off the back of that. The first one is about the data that informed the initial areas. I have had a chance to read the methodology summary that was attached to the website, which is incredibly detailed in sections 2 to 4, as to per square kilometre what the OSPAR (Convention on the Protection of the Marine Environment in the North East Atlantic) threatened at-risk areas are and what the ecological score is. What is interesting is the areas taken out are at part, especially to the east of Les Anquettes are scoring highly in multiple quadrants, scoring up at 100 per cent of seabed covered by OSPAR threatened species. With that compromise, how comfortable are you that you have made those right compromises, given the data that was used to create those M.P.A. areas was described as the right balance in the first place and whether the areas chosen to carve up in the lack of very quantifiable fishing data is the right weighting to remove these threatened sea beds?

The Minister for the Environment:

Francis can talk about the area to the east of Les Anquettes. We are not quite as much as proposed initially, but we are certainly a lot more than we have now. All those areas right out to our territory, I was under the impression that we could do more research there.⁶⁷

Further to point 8 above, the Panel would be interested to know what plans, if any, Government have for future use of Sustainability Appraisals as an independent means of assessment and would recommend that this is considered in the evolution of the MSP and ahead of the iteration which is used to inform the MSP.

FINDING 25

There was a clear intention on behalf of the Marine Resources team and the consultants assisting the process to be inclusive and to hear the voices of all stakeholders.

FINDING 26

The timeframe for the delivery of the MSP was too short and did not allow for the level of participatory engagement which could have led to a shared vision.

FINDING 27

The public consultation response document provided an excellent summary of the process, responses and actions and every comment was well recorded with an explanation of how it was addressed

FINDING 28

⁶⁷ [transcript - marine spatial plan review - minister for the environment - 4 september 2024.pdf \(gov.ie\)](#)

Government did not set out a clear policy statement about priorities for other marine sectors, especially the fishing industry, which would have helped the Marine Resources team, and other decision-makers, to consider the trade-offs between different stakeholder viewpoints.

FINDING 29

Using a well-recognised decision support and/or spatial analysis tool, or alternatively running a Business Impact Assessment at the same time as the MPA GIS spatial analysis, would have enabled the officers to test different spatial scenarios alongside fishermen to find the most acceptable trade-off between conservation objectives and livelihoods.

FINDING 30

It may have been useful for the government and/or officers to apply an external process to 'stress-test' the efficacy of the plan before releasing the final draft of the MSP for public consultation.

RECOMMENDATION 9

The Minister and Marine Resources should investigate models for participatory engagement for all future iterations of the MSP so that development promotes ownership of the scheme by all stakeholders.

RECOMMENDATION 10

The Minister and Marine Resources Officers should investigate the use of Sustainability Appraisals used by the Marine Management Organisation in their marine plan process to independently assess the economic, social and environmental sustainability of the plan.

Monitoring and Implementation

The last of the Panel's terms of reference for this review was:

'To examine the structures developed for monitoring the successful implementation of the Marine Spatial Plan and whether successful implementation will provide the information required to inform the next Island Plan.'

During the Public Hearing with the Minister for the Environment on 4 September 2024, the Head of Marine resources described the MSP as '*an enabler of the future use of our marine resource*'.

Head of Marine Resources, Infrastructure and Environment:

... So with this, and what will hopefully develop from it following the States debate, will have a structure that will allow people to really get a grip on what is viable within Jersey's waters and where within those waters different activities can and cannot or should and should not take place, so they do not invest money poorly in doing an

*environmental impact area for a seaweed farm and then realise it is quite an important fishing area or shipping area or bird resting area.*⁶⁸

Structures for monitoring and review

The Panel was keen to understand through this review how this enablement would lead to action, how those actions would be monitored and who by.

HMC state in their report that the MSPglobal Guide sets out that some principles for MSP Implementation:

1. **Proportionate:** A proportionate level of strategic and detailed assessment should be considered in decision-making, determined by the complexity, scale and sensitivity of the project or activity
2. **Accountable:** Clarity on what the use of marine plans in decision-making is seeking to achieve, what success looks like, the role and identity of those involved, and how delivery is being monitored.
3. **Consistent:** Use of marine plans in decision-making is consistent both within and across decision-making functions, noting the proportionality principle above also applies.
4. **Transparent:** Decision-making processes for marine plan use are transparent and can be understood by public audiences.
5. **Targeted:** Decision-making processes fulfil regulatory requirements in relation to marine plan use and are targeted via a risk-based approach.

The MSP sets out the following vision for its future implementation.

*Because the JMSP is a strategy without a formal statutory basis, its implementation will rely on other legislation, regulatory processes and mechanisms. Therefore, whilst the JMSP sets the 'direction of travel', the process of delivering change will be made through established mechanisms and procedures for implementing legislation and policy. These will bring all the established protocols and procedures for engagement and consultation on the detail of the proposed change. Implementing the JMSP will involve a number of different Government Ministers and their departments, as well as other organisations. Appendix A contains an implementation table which sets out who will be responsible for delivering each action. In many cases, different departments/ organisations will need to work together to deliver actions. Appendix A also sets out the current status of each action, for example whether it is something which is already happening and should be continued, or whether it is an entirely new idea. Vision and aims.*⁶⁹

The appendix referred to is a comprehensive and clearly presented list of actions, their status and which department or organisation is responsible for delivery.⁷⁰ The status against each of the actions is one of the following:

- In progress
- Resources secured

⁶⁸ [transcript - marine spatial plan review - minister for the environment - 4 september 2024.pdf \(gov.ie\)](#) - p7

⁶⁹ [p.44-2024.pdf \(gov.ie\)](#) – p12

⁷⁰ [p.44-2024.pdf \(gov.ie\)](#) – p228

- Resources required

Of the 91 actions contained in the document, 29 are in progress, 53 require funding and 9 already have funds secured.

The Panel recognises that this calculation does not provide any nuance in terms of the cost of each item and the likelihood or ease of delivery. And this is further caveated by the fact that it would be expected in a future-facing document that items would not yet be ear-marked for resourcing.

The Panel also appreciates that many aspects of the MSP which, in the view of the Panel, are aspirational and intended to provide a direction of travel rather than requiring immediate decision-making or funding.

However, it is also the case that Jersey finds itself in a challenging financial climate in which competition for funding is only likely to grow.

In addition, it is not clear from the appendix or elsewhere in the MSP how those actions will be driven forward by the current and successive Governments as part of a clearly structured implementation framework.

Part of the answer from the Government perspective lies in the Island Plan cycle and the context that the MSP has within that. The Head of Marine Resources has indicated that the objective would be to have *'a good, solid, up-to-date MSP ready 18 months to 2 years ahead of an Island Plan cycle, so that it was ready to inform and support the delivery of that whole Island Plan.'*⁷¹

The Panel also questioned the Minister on where ultimate responsibility would lie for the delivery of the many different actions contained in the MSP. The Minister confirmed⁷² that he would see ultimate responsibility falling under the remit of his role, and that of colleagues on the Council of Ministers, but he was less clear about the interaction with external organisations with actions under the plan and how these would be pursued.

The Head of Marine Resources provided the following as his understanding of the position:

Head of Marine Resources, Infrastructure and Environment:

*Certainly, and not just Ministers, Minister. There are objectives in there that will be owned by organisations such as Ports and Jersey Heritage. Those sit outside of Government. Now is a good time for those organisations to be saying: "That is great, we need to look for funding," or: "Hang on a minute." While the plan will be reported on by Marine Resources, officers to the Minister and hopefully back to the States in regular issue through that method. You do not want to create a situation where you put onus and responsibility on to organisations, especially arm's-length or third-party organisations and then cannot expect them to fulfil that. That is certainly, post-States debate, a huge piece of work that needs to happen to socialise, engage, and understand how different parts of the Island will take forward the responsibilities noted to them and based on areas of expertise, skills and resource.*⁷³

⁷¹ [transcript - marine spatial plan review - minister for the environment - 4 september 2024.pdf \(gov.je\)](#)

⁷² [transcript - marine spatial plan review - minister for the environment - 4 september 2024.pdf \(gov.je\)](#)

⁷³ [transcript - marine spatial plan review - minister for the environment - 4 september 2024.pdf \(gov.je\)](#)

Again, the Panel is concerned that none of the above constitutes any formal arrangement or monitoring which will ensure that the actions are carried out by Government or make it on to the business or delivery plans of any of the external partners mentioned in the document. The Panel agrees with the conclusion drawn by its advisor, HMC, that there is no clear mechanism or framework for how the actions in the MSP will be implemented or resourced.

The view provided by HMC is that:

It is also strongly recommended that a high-level implementation framework with a clear timeline, is set out ahead of adoption of the JMSP to ensure clarity and transparency. This should then be reviewed, and alternative models – e.g. MSP as a standalone statutory process - and addressed through a new MSP framework ahead of any future iterations of the plan.

Further, that:

the lack of a monitoring framework leads to a lack of government accountability to deliver the JMSP, and poor transparency for stakeholders. Further, a clearly articulated set of anticipated outcomes and indicators to measure them would provide more clarity of the benefits of the MSP and reassurance for the States of Jersey Assembly to deliberate when the JMSP is debated.

It is appreciated that in the one-week timeframe between delivery of this report and the debate on the MSP that a robust timetable and framework cannot be produced. The Panel feels that it is crucial to implementation of the MSP that a clear implementation framework and timeline are developed as soon as possible after the adoption of the MSP – should the proposal gain the approval of the States Assembly.

The Panel is concerned that the lack of a clear timeframe for delivery increases uncertainty for stakeholders, especially fishers about their future. It is important that all parties have a timeframe for processes and when and how they will be able to participate in each aspect of the process to delivery.

This framework should be accompanied by a tracker which is delivered and maintained by Marine Resources. The tracker should be updated on a quarterly basis providing the progress on the actions contained within the MSP.

The Panel also strongly recommends that, should any areas remain for further research before inclusion in the MPA network, the Minister commits to making a decision on inclusion or otherwise prior to the end of this Government's term of office.

Further, as part of this framework the Minister should seek and publish the assurance of external bodies of their ability and resourcing to carry out the actions assigned to them.

It would further suggest that the Minister consider appointing an independent body or expert to monitor the implementation of the MSP.

Lastly, HMC have stated that evaluation of the MSP process is equally as important as monitoring. It holds the process to account and enables valuable learning to be applied to further iterations of the plan. Evaluation is the key purposes of this current review and the broader public scrutiny process which it is part of. Future iterations of the MSP could include internal evaluation criteria to help improve the planning process and may want to consider the

use of SEAs or SAs. Evaluating the plan making process in real-time will help to ‘stress-test’ the plan, provide a robust framework for considering trade-offs and identify and mitigate potential problems before the consultation phase.

The adoption of sustainability appraisals to achieve this goal has been recommended earlier in this report.

Enforcement, resourcing and regulation

By extension of the above, the Panel also wanted to understand how the actions, particularly those which would fall to Marine Resources and Government Departments would be resourced – both in terms of manpower and required funding.

In response to queries on the Marine Resources capacity, the Head of Marine Resources stated that the team has ten roles, nine of which are currently filled.

The Minister for the Environment:

As I said, currently I am happy that when we are back up to 10 we will be fine. We have some very capable people in the Department. Financially, at the moment we are okay, but, as I said 20 minutes ago, we have more to do since the T.C.A. with the same number of people and the same amount of money.⁷⁴

The Minister confirmed that the team were responsible for policing the current No Take Zones around Jersey’s coast in addition to monitoring fishing and activity in other sites remain within regulation. The team are also responsible for managing and licensing fishing vessels – an activity that the Minister said had increased ‘since Brexit and since the instigation of the TCA’.

⁷⁵

The Minister indicated that he was satisfied that the team had the necessary power to enforce existing laws and regulations.

The Minister for the Environment:

... I can say from my perspective that I am always very clear with the team, where they uncover something happening that should not be happening, not only do we rectify it, but we make sure that people know that we have taken action ... I have made the Department very aware that when we find things that are not right we will take action. The last thing we can afford to do is to be seen to be not taking action when we know something wrong is happening. Having said that, it is very challenging to discover things that should not be happening at all times of the day and night in all weathers, but the team do their best and occasionally, every once in a while, we catch people doing things they should not and we prosecute them.⁷⁶

Despite this assurance the strong view provided in the submission from Nicolas Jouault of the Société Jersiaise Marine Biology Section was that the policing of the areas which are currently protected is inadequate and that the expansion of that protection was, therefore, meaningless.

It will just increase the misleading process and perception where the public think a large part of our waters are protected, when in reality little will change. For example Ramsar designation has seen an increase in issues and disturbance for a number of

⁷⁴ [transcript - marine spatial plan review - minister for the environment - 4 september 2024.pdf \(gov.je\)](#)

⁷⁵ [transcript - marine spatial plan review - minister for the environment - 4 september 2024.pdf \(gov.je\)](#)

⁷⁶ [transcript - marine spatial plan review - minister for the environment - 4 september 2024.pdf \(gov.je\)](#)

species, and habitat within the area, it is currently managed by those who have an interest in using the area for their own means and wishes, and little in the way of meaningful conservation measures for wildlife are in place.

We are currently flagging up the issue of upturned stones and illegal fishing activities, the management and enforcement of the current MPA's is lacking, some of it is down to logistics, but some of it is to do with the lack of regulations, or the lack of implementation of the regulations.

This week we observed fishing activity within the NTZ, for example buoyed fishing gear was well within the zone on a bright sunny day, pleased to say when reported it was acted on promptly.

While much of the submission referred to above could easily have sat in sections of this report which dealt with the content of the MSP, the Panel believes that the views expressed provide better context about the ability to enforce or introduce appropriate legislation.

By means of solution, the submission suggests the following:

Policing needs to improve, and be more robust, and act on infringements. We would propose French visitors to the offshore reefs apply for licences or permits to fish. This could be as part of an island scheme if the Jersey low water fishers would approve it.

In the submission, extracts of Minutes of the Ramsar Authority and the Marine Resources Panel are also used to demonstrate that there exists a lack of planning for meaningful improvements to protection, regulation, and enforcement.

The Panel would urge the Minister to explore with the Marine Resources Team how policing of the No Take Zones and Ramsar areas is managed and whether a more effective solution is required. This action should be raised at the Marine Resources Panel and the outcomes minuted for publication.

Regulation and the failures of the current regime were also brought to the Panel in a submission from Save Our Shoreline (SOS). In common with the Société Jersiaise submission, SOS feel that there have been regulatory failures in relation to Ramsar sites. The submission states that it is SOS's belief that breaches of the Ramsar Convention have not been reported under the terms of that treaty.⁷⁷

The submission provides information gathered by Save Our Shoreline on nitrogen and heavy metals pollution; the presence of the pollution in the fresh water supply and pollution in the Ramsar Area.

In response to questions about the Government's response to pollution, the Head of Marine Resources provided an overview of the responsibilities within the Infrastructure and Environment Department.

Head of Marine Resources, Infrastructure and Environment:

The Water Pollution Law is managed through regulation and also through the Water and Air Team who are part of the Lands Team. We work very closely at all levels from the Senior Leadership Team, which are within Natural Environment, the Directorate up to the Executive Leadership Team, at those levels of management, and then on a case by case basis and day to day issues basis. If a Marine Resources officer is alerted to or spots and issue they will talk to their Water Pollution colleagues. Likewise, if they

⁷⁷ [Submission – Review of the Marine Spatial Plan – Save Our Shoreline.docx \(gov.ie\)](#)

*need us on something, we will work together to get that information to help build cases, to provide witness statements or expert opinions.*⁷⁸

The Panel would ask that the Minister provides clarity on the reporting of breaches and how they are dealt with by all teams concerned and how this is regulated internally to ensure that no conflicts arise in relation to enforcement for senior officers.

It would also be helpful if information was published or (if already published) direction provided on the number of breaches recorded and how these were dealt with.

FINDING 31

The MSP contains 91 actions. 29 are in progress, 53 require funding and 9 already have funds secured.

FINDING 32

It is not clear from Appendix A or elsewhere in the MSP how those actions will be driven forward by the current and successive Governments as part of a clearly structured implementation framework.

FINDING 33

There is an objective in place to have the MSP ready 18 months to 2 years ahead of an Island Plan cycle, so that it can inform the delivery of next Island Plan.

FINDING 34

Concerns have been reported about the ability of Government to police existing protected areas.

FINDING 35

Concerns have been reported that pollution incidents have not been dealt with and reported by the Infrastructure and Environment Department.

RECOMMENDATION 11

A clearly articulated set of anticipated outcomes and indicators to measure them should be developed to provide more clarity of the benefits of the MSP.

RECOMMENDATION 12

A clear implementation framework and timeline should be developed as soon as possible after the adoption of the MSP.

RECOMMENDATION 13

A tracker of the MSP framework should be delivered and maintained by Marine Resources. The tracker should be updated on a quarterly basis provided the progress on the actions contained within the MSP.

⁷⁸ [transcript - marine spatial plan review - minister for the environment - 4 september 2024.pdf \(gov.ie\)](#)

RECOMMENDATION 14

The Minister should establish an MSP working group with the external bodies with actions contained in the MSP to seek and publish the assurances of their ability and resourcing to carry out the actions assigned to them in the MSP and to ensure accountability is maintained.

RECOMMENDATION 15

The Minister should explore with the Marine Resources Team how policing of all the different areas of designation, including the No Take Zones, Ramsar sites and MPA network, is managed and whether a more effective solution is required. This action should be raised at the Marine Resources Panel and the outcomes minuted for publication.

RECOMMENDATION 16

The Minister should provide clarity on the reporting of breaches and how they are dealt with by all teams concerned and how this is regulated internally to ensure that no conflicts arise in relation to enforcement for senior officers.

RECOMMENDATION 17

Information should be published – or direction provided to publication – on the number of pollution incidents recorded, how these were dealt with and whether they constituted a breach of treaties and conventions to which Jersey is a signatory.

Conclusion

The Panel has tried to include a spectrum of the views and experiences provided to it in the submissions which organisations and individuals have taken the time to send in. Many of the views are deeply and passionately held and the Panel hopes that this is reflected here – whether or not there is agreement with the view expressed.

It believes that the MSP is a complex, wide-ranging and important document and is hopeful that with the addition of a framework and timetable for implementation it can have a positive impact on Jersey's marine environment for all users. However, the Panel also feel that the Minister needs to find a way to move the debate over the scope of MPAs forward in a positive and more participatory way than has been the case to date.

It is crucial that review and evaluation form a central part of that framework if the Plan is to succeed.

The Panel would also ask that the Minister continues to consider how the actions and the expansion of protection, and whether this involves increased levels of licensing or regulation, will be policed.

Appendix 1 - Panel Membership and Terms of Reference



Deputy Hilary Jeune
Panel Chair



Deputy Tom Coles
Panel Vice Chair



Deputy Alex Curtis
Panel Member



Connétable David Johnson
Panel Member



Deputy David Warr
Panel Member

Marine Spatial Plan Review

Terms of Reference

1. To investigate whether the Marine Spatial Plan achieves the correct balance between commercial activity, leisure activity, the Island's cultural heritage and the needs of the natural environment. To include:
 - a. Evaluation of the validity of the consultation process undertaken and the weighting and assessment of feedback received.
 - b. The impact on the fishing and marine leisure industries.
 - c. The impact on the marine environment.
 - d. The impact on Jersey's marine heritage and culture.
2. To assess the decision-making process and rationale in reducing the percentage of the Marine Protected Areas and the impact of this decision on Jersey's ambition to meet international obligations and standards.
3. To examine whether the Marine Spatial Plan has been developed in accordance with best international practice.
4. To determine whether the Marine Spatial Plan works in alignment with those developed by and for neighbouring jurisdictions.
5. Whether political and international pressure had an impact on how the Marine Spatial Plan was developed.
6. To examine the structures developed for monitoring the successful implementation of the Marine Spatial Plan and whether successful implementation will provide the information required to inform the next Island Plan.

Appendix 2 – Submissions, letters and transcripts

Submissions

[Scrutiny review submissions – Marine Spatial Plan](#)

Correspondence

[Letter - Minister for the Environment to EHI re Marine Spatial Plan - 12 September 2024.pdf](#)

Transcripts

[Hearing with Toby Woolley, Harry Jones and Bob Titterington – 18 September 2024](#)

[Hearing with Stephen Viney and Kevin Singleton – 6 September 2024](#)

[Hearing with the Minister for the Environment – 4 September 2024](#)

[Hearing with Anonymous – 4 September 2024](#)

[Hearing with the Societe Jersiaise Marine Biology Section – 2 September 2024](#)

Appendix 3 – Howell Marine Consulting Report

**Review of the Jersey Marine Spatial Plan for the States of
Jersey Environment, Housing and Infrastructure Scrutiny
Panel**

1. Introduction

The Jersey Environment, Housing and Infrastructure Scrutiny Panel has commissioned Howell Marine Consulting (HMC) to review the Jersey Marine Spatial Plan (JMSP) as part of a wider examination and call for evidence. The JMSP is a non-statutory and strategic framework that sets the approach for coastal and marine resource management as well as fishing regulation. It gives direction to other legislative and policy tools, which will be used to deliver the priorities and actions set out in the JMSP.

The JMSP was published in May 2024 with 154 responses from individuals and organisations during the public consultation on the draft which ran from 24th October 2023 to 28th January 2024. One of the key concerns from the public consultation was the reduction from 27% of the island's territorial waters protected from dredging to 23% following objections from fishers who had concerns that increased protection could decimate their industry. Based on the public consultation, the Environment, Housing and Infrastructure Scrutiny Panel in Jersey has agreed to review the new Marine Spatial Plan ahead of a States Assembly debate of the plan on 22 October 2024.

HMC's review seeks to understand if the JMSP achieved its intended objectives and how it is fit for purpose based on international best practices. The review further seeks to understand how stakeholder comments were considered and addressed as well as making recommendations about how successful implementation of the JMSP should be measured.

To do so, HMC reviewed all major documents relating to the MSP process including:

- The Jersey Marine Spatial Plan including plan policies and policy maps
- MSP Priorities and Actions Plan
- MSP Public Consultation Response
- MSP Business Impact Assessment of the proposed Marine Protected Area network on the mobile gear fishing fleet
- The Jersey Bridging Island Plan
- Minutes from the Marine Resources Panel

In addition, the JMSP team were interviewed and the scrutiny panel hearing with the Minister for the Environment was attended. Transcripts from all scrutiny panel hearings were also reviewed.

This assessment has drawn on the MSPglobal International Guide on Marine/Maritime Spatial Planning¹ (MSPglobal Guide from here on), peer-review papers, existing MSP plans and expert knowledge. It has also considered the need to balance the fact that Jersey is a small island with limited resources and capacity, with the European MSP context within which it sits.

The following sections set out HMC's rapid review of the JMSP.

¹ UNESCO-IOC/European Commission. 2021. MSPglobal International Guide on Marine/Maritime Spatial Planning. Paris, UNESCO. (IOC Manuals and Guides no 89)

2. Summary of main findings

- i. The JMSP plan was an ambitious undertaking in the allocated timescale, and an impressive amount of work has gone in to collating marine data and policy, filling important environmental data gaps with high-quality analysis, consulting with stakeholders and identifying a new MPA network and a suite of actions to feed back into the next iteration of the Jersey Island Plan. The Plan itself is well written and is an extremely valuable source of information to build on in the future.
- ii. Overall, the timeframe within which the JMSP was delivered was too short, with not enough time given before commencing the JMSP to prioritise government ambitions and develop a robust framework to guide delivery and stakeholder participation. The delivery phase was also too short for the JMSP team to conduct all the evidence requirements normally required for multi-use planning, such as a compatibility assessment/sectoral interactions matrix, futures/forecasting assessment, socio-economic assessment etc.
- iii. The JMSP states progressive objectives and aims related to providing benefits for people, environmental conservation and finding a balance between the different uses on the island. However, our review shows that it is not clear how these objectives are going to lead to impact during the post-adoption stage of the plan. The JMSP's objective to designate marine protected areas seems to be prioritised and favoured over other sectors based on the related analysis and planning outcomes. The nuance between objective setting, carrying out comprehensive assessment and producing real multi-sectoral planning impact is not clear.²
- iv. The focus on identification of new MPAs, lack of futures and sectoral interactions analysis has led to limited consideration of cumulative effects of human activities and the trade-offs between sectors which might be required now and in the future. This does not align with the broader stated aims of the JMSP.
- v. The relationship between JMSPs goals, aims and objectives is not clear. Global MSP practice of setting goals and objectives normally follows the pathway flow of: Principles > vision > goals/strategic objectives > SMARTIE objectives (UNESCO-IOC/European Commission, 2021). The JMSP objectives are not clearly articulated to show the direct links with the plan vision.
- vi. Wording of the nine JMSP principles generally aligns with international MSP principles, but they are stated as goals rather than principles to guide plan development and implementation. The JMSP aims are defined in the plan as chapters which do not clearly show how they were developed or their links with the objectives and vision.
- vii. Overall, the thought process and flow for developing the JMSP objectives, principles, aims and related policy drivers are not clear. Reforming these principles, objectives and aims to have detailed objectives is key to successful monitoring of the JMSP.³

² Rachel Zuercher, Nicole Motzer, Rafael A Magris, Wesley Flannery, Narrowing the gap between marine spatial planning aspirations and realities, *ICES Journal of Marine Science*, Volume 79, Issue 3, April 2022, Pages 600–608, <https://doi.org/10.1093/icesjms/fsac009>

³ For an example of a clearly set out flow of vision, principles, aims and objectives, see page 5 of the [Pilot Pentland Firth and Orkney Waters Marine Spatial Plan](#)

These detailed objectives that are realistic, clearly defined and verifiable should inform a monitoring framework with qualitative and quantitative indicators. This approach will offer decision-makers a transparent and defensible means of decision making as well as a basis on which interested groups and individuals can engage constructively.

- viii. The level of stakeholder engagement was impressive given the short and politically accelerated timescale of the JMSP process, and good consideration was given to enabling stakeholders to contribute to the evidence base and comment on the draft JMSP. However, the process was too short for meaningful and active participation and consequently not facilitated in a way to encourage collective learning, acceptance and buy-in from some stakeholders, especially fishers.
- ix. Transboundary cooperation and collaboration have been well executed under challenging conditions and there is a strong foundation for good alignment of future marine spatial plans. Future iterations of the JMSP might want to consider adapting MSP processes more aligned with neighbouring jurisdictions to facilitate this.
- x. The JMSP is currently lacking a monitoring and evaluation framework and is yet to be implemented. There is a lack of clarity on how actions from the JMSP will be adopted into the Island Plan and what will happen to those that are not adopted. It is also unclear how much resource and budget will be required by government to implement the JMSP and how decisions based on actions within the JMSP, transposed and made into legal policy through the Island Plan, will be made.

3. MSP objectives and impacts against international best practice

MSP is 'a participatory process of analysing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic and social objectives that have been specified through a political process'⁴

MSP has been evolving since 2009 when the first UNESCO Step by Step Guide was published, and countries across the world have been developing and refining processes over the last 15 years. Based on the Ocean Panel⁵ and UNESCO-IOC definitions of MSP, and peer-review literature, there are several themes for best practice which emerge (Box 1). These themes have informed this review.

Box 1: Key themes for best practice in MSP

Be integrated: MSP should be a multi-objective planning process that establishes coordination mechanisms to integrate knowledge, sectors, and administration, and which

⁴ Ehler, Charles, and Fanny Douvère. Marine Spatial Planning: a step-by-step approach toward ecosystem-based management. Intergovernmental Oceanographic Commission and Man and the Biosphere Programme. IOC Manual and Guides No. 53, ICAM Dossier No. 6. Paris: UNESCO. 2009 (English).

⁵ The High Level Panel for a Sustainable Ocean Economy (Ocean Panel) is a unique global initiative by serving world leaders that is working to build momentum towards a sustainable ocean economy in which effective protection, sustainable production and equitable prosperity go hand-in-hand. The Ocean Panel consists of world leaders across 18 countries including Australia, Canada, Chile, Fiji, France, Ghana, Indonesia, Jamaica, Japan, Kenya, Mexico, Namibia, Norway, Palau, Portugal, Seychelles, United Kingdom, United States of America, Indonesia, and Norway.

brings together relevant authorities with sectoral responsibilities on ocean management. Integrated planning and management are essential to resolve multiple and divergent political ambitions (e.g., blue growth, sustainable use, legitimate decision-making) to achieve a balance of competing goals (Flannery et al., 2018; Jones et al., 2016).

Be inclusive: MSP should be an inclusive process which engages stakeholders, communities, indigenous groups, generations, and marginalised groups about their needs and vision for the use of marine space and, where appropriate, for their active participation in implementation of resulting plans (Flannery et al. 2016). An inclusive MSP process should consider aspects such as power dynamics and the distribution of benefits achieved by the plan

Be future-orientated and anticipatory: MSP is considered to be a future-oriented process that allows the public and stakeholders to shape actions that could lead to a more desirable future (Ehler 2018). To achieve this, MSP processes should focus on setting a vision for a sustainable future which encompasses socio-political and environmental scenarios and develop plans to realise them. This requires a review of trends, and consideration of potential conflicts between traditional marine uses and new and emerging activities, climate change and how they may be resolved or exacerbated in the future.

Take an ecosystem-based approach: The coupling of MSP and ecosystem-based management has been seen as necessary to ensure sustainable development through the effective management of human activities (Ansong et al. 2017; Domingues-Tejo et al. 2016) and the need to understand the cumulative impacts of multiple human activities on the ecosystem at the appropriate scale (Stelzenmüller et al. 2018). It is critical the MSP process includes spatial direction for the SBE vision by protecting, restoring, and maintaining ecosystem services and cultural values to support economic development.

Be place-based: MSP is a place-based approach that encompasses all marine and coastal areas under national jurisdiction and enhances integrated planning across the land-sea interface and jurisdictional borders. These areas could be captured in one single plan or via a suite of plans (e.g. one per type of marine ecosystem within the national jurisdiction). A plan should cover the surface, water column and seabed of the defined area.

Be iterative: MSP is not a one-off event and should have a defined timeframe with an in-built process for periodic monitoring and evaluation to check progress against agreed-upon goals and indicators. MSP should be adaptive, and plans updated to ensure that the socio-economic and political context as well as natural disasters and other externalities are factored into the iteration of the marine spatial plan. The Ocean Panel attributes of SOP highlights the need for long term funding, legislative instruments that endorses the plan and capacity for implementation. The iterative nature of MSP is difficult to achieve in regions and countries where MSP is financed based on project

Defining a clear set of motivations and drivers for the MSP process is essential and is part of the MSP process itself. There is strong political commitment from the Jersey government

which sets out in the **Bridging Island Plan⁶ (BIP) Strategic Proposal 3** the need for a marine spatial plan for Jersey:

'The Minister for the Environment will undertake further work to develop a Marine Spatial Plan before 2025, to organise human and marine resources and activities in Jersey's territorial waters and in particular, to develop a network of marine protected areas, which will be consistent with overall environmental, economic and social objectives. This work will inform the policies of the next iteration of the Island Plan and support coordinated policy development and decision-making on all aspects affecting the marine environment.'

The Proposal emphasises the development of a network of marine protected areas (MPAs), driven by its international and national obligations, and particularly the OSPAR Convention.

The JMSP preamble states that it is a non-statutory document that will provide direction to other legislative and policy tools, which will be used to deliver the priorities and actions set out in the JMSP. The JMSP sets out the 'direction of travel' and will be delivered through existing mechanisms and procedures for implementing legislation and policy. It also sets out that there is a particular emphasis on the conservation of the marine environment and its resources and that future iterations of the JMSP may have different emphases.

The JMSP sets out a vision that *'the Jersey Marine Spatial Plan (JMSP) is for a thriving marine environment providing environmental, economic, cultural and social benefits.'* This vision is somewhat generic, and could describe any MSP aspiration, and is perhaps symptomatic of the lack of clear flow of JMSPs goals, aims and objectives. **Ideally, the vision should provide a time horizon, and direct plan makers to the key government and/or stakeholder priorities and ambitions for the MSP.** For example, England's South Marine Plan sets out a vision that:

By 2038, the south marine plan areas' iconic and unique qualities, characteristics and culture will be conserved, promoted and where needed enhanced, through good management of its marine space. The natural beauty of the coastline and busy coastal and offshore waters are qualities that make the south marine plan areas distinctive. By 2038, the south marine plan areas will have maintained this distinctive natural beauty and diversity while sustainable economic growth, protection of the natural and historic environment, as well as the well-being of those who live, work and visit the south coast, will have been enhanced through balanced and sustainable use of its resources.

Sitting beneath the JMSP vision there are four pillars, five 'objectives' and six aims which set the framework for the JMSP plan and the stakeholder workshops. Underpinning all of this are nine guiding principles for development of the plan, informed by best practice and local consultation.

⁶ <https://www.gov.je/PlanningBuilding/LawsRegs/IslandPlan/pages/bridgingislandplan.aspx>

Table 1 sets out an evaluation of these objectives and aims of the JMSP against best practice, based on the MSPglobal Guide and the EU MSP Directive, and the themes in Table 1.⁷

⁷ Evaluation questions set out in HMC's tender and agreed by the Scrutiny Panel .

Table 1: Evaluation of the JMSP objectives and aims against best practice

Best practice objectives ⁸	JMSP objectives	JMSP aims	Review outcomes
Protect the environment by assigning protected areas, calculating impacts on ecosystems and identifying opportunities for multiple uses of space	To develop a network of Marine Protected Areas.	Environment restored and biodiversity thriving Seascapes retained/enhanced	<p>Plan policies and management measures on environment and biodiversity are not defined to guide current and future spatial development of activities and safeguard the environment. The following BIP policies are referenced in the plan including: PL5 Countryside, Coast and Marine Environment (Protected coastal area and Coastal national Park) and Policy EN5: Blue Carbon, Biodiversity and sequestration. However, specific policies on how environmental impacts will be avoided, minimised and compensated for are not introduced by the plan.</p> <p>The JMSP achieved its objectives of designating MPAs. The process for this designation however looked at all elements stated, but didn't look at the system as a whole in developing and testing actions and understanding the synergies across actions. Consequently, cumulative effects were not considered as there was no real spatial analysis on activities and pressures to the environment beyond fisheries. The areal extent of the MPA network was reduced, for future research and review, due to the potential impact on fishers. The areas for review potentially contains a large percentage of Jersey's maerl habitat and there is a risk that these areas could be impacted if the review and designation process is not prioritised.</p>

⁸ See https://oceans-and-fisheries.ec.europa.eu/ocean/blue-economy/maritime-spatial-planning_en

			<p>Climate change was considered with the blue carbon assessment and its integration into identification of optimal MPA sites. It is well addressed throughout contextual background information and numerous actions in the JMSP but, with little consideration for cumulative effects from human activities other than fishing, there is a limited understanding and integration of future impacts of climate change.</p>
<p>Reduce conflicts and creating synergies between different activities</p>	<p>To provide a framework for organising human and marine resources and activities in Jersey's territorial waters.</p>		<p>A compatibility assessment and discussion about sector interactions that shows conflict or compatibility between uses was not carried out to inform spatial designation and plan policies.</p> <p>There was little or no reference to coexistence and multi-use of space in the JMSP as an approach for effective use of marine space, creating synergies and driving marine protection and restoration.⁹ Spatial assessment for co-existence and multi-use of marine space was therefore not carried out. Multi use was however one of the priority actions but mainly in relation to managing conflict and improve safety within Multi-use Recreation Areas. Despite this, interactions between recreational activities – motorised vs non-motorised vessels and swimmers were not addressed in the JMSP.</p> <p>This approach could have been expanded to consider, for example, offshore wind, aquaculture and seaweed. This objective on multiuse was however a key issue raised by French stakeholders.</p>

⁹ See <https://maritime-spatial-planning.ec.europa.eu/msp-resources/co-existence-and-multi-use-activities>

			<p>The framework introduced by the JMSP for organising human activities and marine resources was focused on a single sector approach.¹⁰ The designation of protected areas was prioritised rather than a multi-sectoral framework that sets out management measures and spatial location requirements for traditional and emerging sectors in Jersey.</p>
<p>Encourage investment through predictability, transparency and legal certainty</p>	<p>To inform the policies of the next iteration of the Island Plan.</p> <p>To support co-ordinated development and decision-making on all aspects affecting the marine environment.</p> <p>The MSP process aims to find a balance between the different uses we have for our marine environment, and to make sure we interact with our local ecosystems</p>	<p>Fishing and aquaculture sustainable and profitable</p> <p>Infrastructure energy and transport resilient and efficient.</p> <p>Recreation and tourism is flourishing, diverse and safe</p>	<p>The JSMP states that the process aims to find a balance between different uses for the marine environment. Planning should not be limited to defining and analysing existing conditions but should also consider alternative future scenarios for the area in, for example, 5, 10, 15 or even 20 years. No forward time horizon was set for the plan, and future use areas and planning policies for sectors such as aquaculture and renewable energy were not defined through the JMSP. This limits the achievement of the goal of encouraging investment in Jersey marine area and providing legal certainty and predictability for sectors and developers. Sectors such as the offshore wind went through a separate, contested process including vote of no confidence in the Chief Minister.</p> <p>The JMSP defines priority actions that are essential for building on previous assessments, research and planning efforts to inform the next Island Plan. However, the JMSP could have gone a step further to develop non-statutory policies to ensure easy uptake within the next iteration of the Island Plan</p>

¹⁰ See P.J.S. Jones, L.M. Lieberknecht, W. Qiu (2016) Marine spatial planning in reality: introduction to case studies and discussion of findings Mar. Policy, 71 (2016), pp. 256-264

	in a sustainable manner.		There was a thorough review and consideration of the policy landscape. However, this was not fully translated across to the JMSP and the current structure of 'priority actions' does not provide a plan led approach to guide decision makers and provide a defensible and clear means of making marine management decisions. The spatial framework is lacking for future resource use.
Increase cross-border cooperation between countries			<p>The wider discussion about cross border cooperation and collaboration was not considered as an objective or aim for the JMSP. This objective is critical due to the location of Jersey between France and England. The JMSP already notes that transboundary considerations for migratory corridors for certain species are yet to be considered although they continue to engage with neighbouring jurisdictions.</p> <p>These transboundary and cross border considerations were highlighted by stakeholders as a key area to understand coherence points, impacts on neighbouring plan policies and upon the JMSP as well as the island's marine environment. It is however expected that the integration of the JMSP with neighbouring jurisdictions will be considered during future iterations.</p>
Improve opportunities for stakeholder participation and protection of		Cultural heritage understood and protected	The stakeholders included throughout the consultation process appear to reflect the diversity of actors in Jersey. Beyond the engagement of the diversity of actors, it seems the needs and interest of key stakeholders such as the fishing, aquaculture, offshore wind sectors have not been sufficiently

<p>cultural heritage</p>		<p>addressed or their engagement was later considered during the process. Stakeholder comments highlighted the need for more time to identify potential impacts of the JMSP on these sectors and determine what options and solutions could be available to mitigate any negative impacts. One stakeholder in reference to this issue noted that:</p> <p><i>“Our fishers must feel quite persecuted at the moment with this and the MSP.” “How will marine life be impacted? How does this fit in with MSP? Will this become a protected area.”</i></p> <p>Inclusive stakeholder engagement involves the consideration of social justice and equity. The JMSP process carried out a Children’s Rights Impact Assessment. However a wider consideration of social justice and inclusion of marginalised groups in the JMSP would have provided opportunities for greater impact of the plan. Priority actions around how stakeholder groups with less representation and power in the JMSP process will be resourced and capacitated are needed to ensure effective stakeholder engagement in the next plan iteration.</p> <p>There is an entire chapter on culture, which is cited as one of the JMSP aims, aligning well with recent best practice. The ecosystem services report lists the supply of cultural ecosystem services derived from marine habitats but doesn’t make any links to human wellbeing through asset flows, which therefore fails to link through to the actions on livelihoods and wellbeing within the</p>
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		<p>JMSP. The use of an integrated Land and Seascape Character Assessment provides important cultural and heritage context.</p> <p>The entire JMSP process was conducted under too short a time scale for a truly participatory approach, especially given fishers were the stakeholders most impacted by the JMSP. Processes and opportunities for people to participate were not clearly articulated in advance and sectoral rather than integrated workshops lessened the opportunity for participatory learning to build trust, understanding and ownership of the MPAs and JMSP. The stakeholder consultation section addresses this in detail.</p>
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4. Evaluation of stakeholder consultation process against best practice

The stakeholder consultation process consisted of two main phases, an information gathering stage ahead of drafting the JMSP which involved workshops and bilateral engagement, followed by a second phase of consultation on the draft JMSP. A third post-plan engagement process will be conducted to socialise the plan and ensure it is successfully implemented.

This section addresses the stakeholder engagement process in more detail than other sections as, due to the short timescale of the JMSP process as a whole, it has been identified as the main driver of public contention.

The first question to ask of the process is whether the stakeholders involved reflected the diversity of actors in Jersey?

Did the pool of engaged stakeholders reflect accurately the diversity of actors in Jersey?

Marine spatial plans should involve all key stakeholders to ensure the best outcomes. The MSPglobal Best Practice Guide sets out that the term 'stakeholder' is contextual and should be defined for each individual MSP. Stakeholders should then be identified, preferably through robust analysis, and an engagement framework based on inclusivity, transparency and equity established, which will capture the full representation of stakeholder values and experiences.

From the information publicly available, and documents provided to the evaluator, there does not appear to be a stakeholder definition, analysis or engagement strategy.

Commented [NS1]: Anna - please correct if this is wrong.

The MSPglobal definition is, therefore, used to frame this analysis: *'a stakeholder is an individual, group or body that has a legitimate stake or interest in the project and is either participating in or likely to be affected or influenced by the project.'*¹¹

On first investigation, the stakeholders included throughout the consultation process appear to reflect the diversity of actors in Jersey. Using the list of stakeholders who either attended the workshops and/or submitted material through the online public consultation portal, which is set out on page 28 of the JMSP Priorities and Action Plan, a rapid analysis¹² shows that the largest sector represented was tourism and recreation at almost 25% of all stakeholders. The environment sector represented approximately 15% of all stakeholders, with fishing and aquaculture the third most represented at almost 11%. Government stakeholders, both from Jersey and international, represented almost 10% with marine business at just under 9%. The remainder of stakeholders represented are fairly evenly distributed and cover the sectors anticipated for a MSP (Table 2). It is important to note that some stakeholders may be representing multiple members of an organisation, such as the Youth Parliament, and private individuals who contributed are not listed.

Table 2: Stakeholder sectors and spread of representation of those taking part in workshops and/or submitted material via the online portal

¹¹ MSPglobal Best Practice Guidelines, 2021

¹² Each stakeholder was searched for online to determine the sector which best represented them, a count of each sector made, then percentage calculated.

Sector	Count	% of all stakeholders
Arts and culture	2	1.94
Marine business	9	8.73
Energy	5	4.85
Environment	16	15.52
Tourism and recreation	25	24.25
Fishing/aquaculture	11	10.67
Anglers	3	2.91
Government (national and international)	10	9.7
Resident's association	1	0.97
Media	1	0.97
Recreational boating	4	3.88
Ports and Marine transport	4	3.88
Youth	1	0.97

Whilst there was a Youth Parliament workshop, Blue Marine Foundation provided evidence at the scrutiny panel hearing that “***we feel like we have been heard but we do not feel that the younger generations have been involved and been heard.***” There are many charities listed on the Jersey Charities website¹³ which work with children, including the disadvantaged, and which are unlikely to be represented by the Youth Parliament, which is probable to have a narrow appeal. With the caveat that private individuals are not named, for obvious reasons, it *appears* that **some underrepresented groups were not part of the consultation process; BAME (Black, Asian and Minority Ethnic) groups**, for example the Friends of Africa Jersey CI, **are absent**, as are **religious and disability** - for example Wetwheels Jersey Limited – **groups**.

French fishers have criticised the lack of engagement until after the draft plan was released for consultation, but post-Brexit negotiations and political protocols which require government to government engagement before relevant authorities can engage directly with a bordering State’s stakeholders did not allow earlier engagement. The MSP project team confirmed that discussions with French fishers is ongoing.

The second question to consider, is whether the consultation process that these stakeholders were involved in was effective.

¹³ <https://www.jerseycharities.org/members>

Did the stakeholder consultation process ensure effective participation and collaboration in a transparent manner?

Public participation has many definitions and is evolving. More recent theory, as set out in the OECD Guidelines for Citizen Participation Processes¹⁴ sets out nine principles of good practice to ensure their quality: clarity and impact, commitment and accountability, transparency, inclusiveness and accessibility, integrity, privacy, information, resources, and evaluation. It also establishes eight citizen participation methods which should be chosen to suit the context of participation, six of which are most suitable for MSP processes (highlighted by author in bold): **information and communication, open meetings/town hall meetings**, civic monitoring, **public consultation**, open innovation, **citizen science**, participatory budgeting, and **representative deliberative processes**.

The JMSP stakeholder participation process has been evaluated with the guidance of the OECD methods and principles and using the MSPglobal Guide as a framework.

It is good practice to **set out ahead of time how and when the public can participate in the MSP process**. In England and Scotland, a statement of public participation¹⁵ is a legal obligation and the starting point of the marine planning process. It includes principles of engagement, the timeline for marine plan development and details of when engagement will happen, as well as how. The evaluator has **not seen any evidence of a similar exercise**, although **social media and other communications channels were well-used** to publicise workshops and drop-in sessions etc. **A clear and simple statement of public participation could have improved stakeholders' understanding of the JMSP process and their role in it.**

A stakeholder engagement strategy should consider formats and methods to gather information, obtain inputs and discuss MSP outputs, using a wide range of participatory formats to ensure that stakeholders have a fair opportunity to engage, regardless of distance, internet access, literacy and other factors. Although the evaluator has not seen an engagement strategy, the JMSP process used workshops, both in-person and online, drop-in sessions at different times to accommodate a range of stakeholders, bilateral meetings, and an online consultation portal. **This aligns extremely well with best practice.**

Drawing on the communications strategy a communications plan should, amongst other things, set out clear messaging for different stakeholders. There is evidence that fishers were, and remain, confused by the purpose of the JMSP, conflating fisheries management, MPA management, marine spatial planning and even the previously suggested Marine Park. **Clear messaging early in the JMSP process may have improved transparency and helped to improve understanding for stakeholders.**

Stakeholder trust and collective learning (see below) is essential to obtain information, acceptance and buy-in to an MSP process, but it takes time, especially if fishers are to be involved. The Jersey Fishermen expressed their concerns about the timeline at the Marine

¹⁴ OECD (2022), OECD Guidelines for Citizen Participation Processes, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/ff765caf6-en>.

¹⁵See: https://assets.publishing.service.gov.uk/media/6626192ad706f962eca7e501/East_Statement_of_Public_Participation.pdf and <https://www.gov.scot/publications/scotlands-national-marine-plan-2-stakeholder-engagement-strategy-statement-public-participation/pages/2/>

Resources Panel in October 2022 stating “Fishermen are really concerned that it’s [the JMSP] being rushed through and we won’t get it right. Originally it was 2025 and now by end of 2023, that’s not achievable.” The assessors agree that **the JMSP timeline does not align well with best practice for stakeholder participatory MSP processes.**

Typically, MPA designation and/or MSP involving fishers takes between 3-5 years. Figures 1 and 2 set out the timelines for the Pilot Pentland Firth and Orkney Waters Marine Spatial Plan (a similar scale plan to the JMSP) and for the Seychelles Marine Spatial Plan respectively. They show the time taken to prepare appropriate frameworks to guide the MSP and stakeholder process, and a minimum of three years to develop the MSP plan itself. Whilst it is understandable that the JMSP was accelerated to protect vulnerable habitats, largely from scallop dredging, this could have been addressed through fisheries management measures in the short-term, providing more time to develop the MSP process and plan.

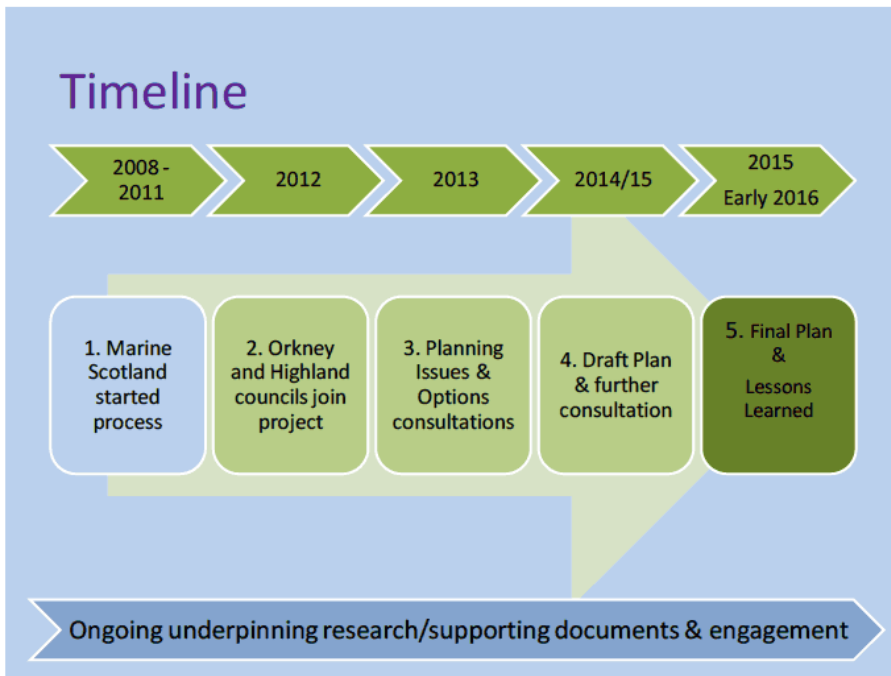


Figure 1: Timeline for the Pilot Pentland Firth and Orkney Waters Marine Spatial Plan¹⁶

¹⁶ <https://www.gov.scot/binaries/content/documents/govscot/publications/factsheet/2016/03/pilot-pentland-firth-orkney-waters-marine-spatial-plan/documents/00497299-pdf/00497299-pdf/govscot%3Adocument/00497299.pdf>

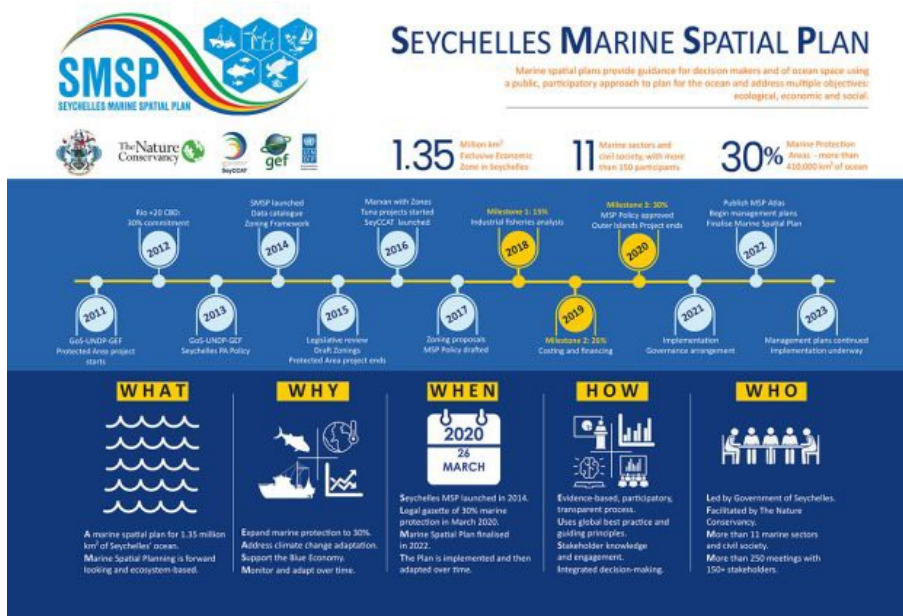


Figure 2: Timeline for the Seychelles Marine Spatial Plan¹⁷

In the early stages of an MSP process, best practice is to establish a multi-institutional or multi-agency working group which includes government authorities, but ideally should include key stakeholders, and experts – including from academia, and/or members of civil society. In line with the MSPglobal Guide, Zaucha and Kreiner (2021), found that the best MSP outcomes are when these stakeholders are involved at each iteration of the planning cycle, which builds and deepens stakeholder engagement.¹⁸

The MSP team drew on the Marine Resources Panel¹⁹ which has a broad range of stakeholders, including fishers, and **provides robust challenge** to government, and **would have provided good continuity**. However, reviewing minutes from the meetings during the timescale of the JMSP process, discussion was high-level and formed only part of the Panel meeting. **With more time, as set out above, a dedicated and fully representative JMSP stakeholder working group could have been established to feed into the JMSP process at every stage of its development.** This could have improved transparency, bought different perspectives into the plan-making process and improved buy-in.

The MSP process requires a shared vision to ensure that all stakeholders are on the same page. It should be based on strong agreement among stakeholders, government departments etc., and reflect their shared inspiration and a desirable time-bound future. It is unclear from the material available whether the vision was developed by the JMSP team

¹⁷ <https://seymsp.com/news/smsp-infographic/>

¹⁸ Jacek Zaucha, Anja Kreiner, Engagement of stakeholders in the marine/maritime spatial planning process, Marine Policy, Volume 132,2021.

¹⁹ <https://www.gov.je/Government/Departments/InfrastructureEnvironment/AdvisoryGroups/pages/fisheriesmanagement.aspx>

prior to the first consultation or developed after the workshops. **Had a JMSP stakeholder working group been established, the vision, aims and objectives could have been shaped and agreed on by all key stakeholders, again potentially leading to better understanding and buy-in.**

Collective learning should be at the centre of the MSP process. It is one that enables stakeholders from different sectors to understand each other, explore common concerns and ambitions, create new ideas and work together.^{20,21}

The six workshops held in the first consultation were themed and covered: Youth Parliament, Natural Environment and Biodiversity, Commercial Fishing and Aquaculture, Recreation and tourism, Energy and Infrastructure and a General, online, workshop. Stakeholders were encouraged to attend the workshop that was most relevant to them, but some sectors – namely fisheries, NGOs and Ports, attended multiple workshops. At the workshops people who had arrived together were encouraged not to sit together at a table, although it was noted that some fishers chose to sit together.²² Participants were asked to complete feedback cards answering six common questions.²³ Where information was spatial, participants were asked to mark-up locations which were cross-referenced with the information. It is unclear whether these cards were completed by individuals or by consensus on the table stakeholders were sat at.

Some stakeholders, particularly fishers, found the information gathering process challenging; *“they came around with a piece of paper, 4-inch square piece of paper, and they said: “Can you put your thoughts down on this piece of paper?” It was like: “Wow, that is how we are going to open this dialogue.... How on earth am I supposed to put down on a piece of paper that I am going to lose 80 per cent of my income?”* And some feedback at the second public consultation suggested that participants didn't know what to comment on or do at the workshops as they thought there would/should be a map with boundaries to comment on. The JMSP officers also made this point.

The early stakeholder engagement and gathering evidence and spatial data from stakeholders conducted under the JMSP aligns well with best practice. However, the themed workshops do not appear to have been designed or facilitated for collective learning and information provided at the Marine Resources Panel in July '23 was that *‘the initial consultation was only for high level thoughts’*. **A more deliberative and iterative stakeholder engagement process, preferably with a broader stakeholder working group, may have helped to deliver collective learning opportunities and deliver additional spatial data and non-spatial information** to feed into the JMSP as well as improved understanding and buy-in.²⁴

²⁰ <https://www.mspglobal2030.org/resources/key-msp-references/step-by-step-approach/engaging-stakeholders/>

²¹ <https://mspguide.org/principle-7-foster-participatory-learning/>

²² Notes from scrutiny panel, 04/09/24

²³ What do you value about Jersey's marine environment? What are your concerns regarding Jersey's marine environment? What should be the future priorities in the management of Jersey's marine environment? What ideas do you have to improve Jersey's marine environment? Are you aware of any sources of information/evidence which should feed into the JMSP?

²⁴ For best practice examples of participatory mapping see <https://darylburdon.co.uk/wp-content/uploads/2024/01/Participatory-Mapping-Guidance-Documents-Final-200520.pdf> and <https://darylburdon.co.uk/wp-content/uploads/2024/06/Cromarty-Firth-Workshop-report-FINAL-100723-no-emails.pdf> while examples of a more deliberative, iterative approach to stakeholder participation include [C-SCOPE](#).

Fishers and other unnamed stakeholders were given **further opportunities to sit with the JMSP team** to map their activities and discuss issues, which is **good practice and allowed fishers, who can be reluctant to publicly disclose fishing grounds etc., to more fully engage in the JMSP process and discuss the best areas to locate MPAs**. However, fishers' evidence provided at the scrutiny panel included *"If it is such a contentious issue, more time should be spent on it. Just to rush it through and have a bad taste in the air"* which suggests they still felt there had not been enough time for the participatory process.

The second phase of consultation was public consultation on the draft JMSP which was open between October 2023 and January 2024. There was a campaign to raise awareness of the JMSP and to explain how the public could comment on its content. The campaign involved a series of social media posts, posters and banners put up in areas of high footfall and flyers distributed amongst stakeholder groups to give to their associated communities. There were also opportunities to drop into sessions at parish halls where members of the Marine Resources team were present to answer any questions. Those wishing to comment were directed to a dedicated webpage. **The use of multiple communication tools and different ways to feedback aligns with best-practice and was clearly successful.**

The MSPglobal Guide set out that the consultation period for an MSP plan is usually three to six months and, in some cases, up to a year. The consultation period was initially shorter and extended following stakeholder requests, **but feedback, mainly from fishers, suggests that this could have been further extended.**

The third question relates to the ease and effectiveness of the second consultation period on the JMSP

1.3 Were the planning documents communicated effectively and was it accessible to stakeholders?

The JMSP planning documents, **were well written and provided an informative read. The pen portraits of stakeholders in the main plan document were a particularly nice touch and made the information provided more relatable for readers.** The consultation was well-publicised, and the provision of **drop-in sessions aligned well with best practice allowing those not comfortable with electronic viewing and submission to provide feedback.**

The main JMSP plan document and some of the more technical documents, especially the MPA Assessment Methodology, may have benefited from a **non-technical summary** to improve accessibility. Other considerations to improve accessibility include providing **summary/non-technical documents which are colour-blind and dyslexic friendly, French translations of all documents, and making a few paper copies available** in public libraries, or similar, to enable those without computers or smart phones – for example the elderly and low-income households – to view them.

The final question asks whether consultation feedback was adequately addressed.

1.4 Was stakeholder consultation feedback addressed fairly and appropriately to achieve the best outcome?

There were over 130 responders covering 400 separate comments once broken down. Some stakeholders provided extensive feedback. All comments were reviewed with two people present, deciding whether comments were spatial or non-spatial and whether they could or couldn't be addressed within the JMSP. **The public consultation response document provided an excellent summary of the process, responses and actions and every comment was well recorded with an explanation of how it was addressed.**

To ensure transparency best practice is for the MSP team to, ahead of the consultation, set out how responses from stakeholders will be addressed – for example by creating a response template, coding, identifying themes, transboundary issues to check in a neighbouring country's plan etc. This reassures stakeholders that their feedback will be addressed objectively. The JMSP team did advise stakeholders at the workshop that their comments would be published, but **developing and publishing the consultation response process at the start of the JMSP process may have improved transparency and acceptance** of the decisions made.

Addressing trade-offs between policies and actions is challenging, particularly when there are opposite viewpoints between conservationists and fishers. Whilst the **government** set out in the Bridging Island Plan that extending the MPA network was the main purpose of the JMSP, it **didn't set out a clear policy statement about priorities for other marine sectors, especially the fishing industry, which would have helped the JMSP team, and other decision-makers, to consider the trade-offs between different stakeholder viewpoints.**

Most comments on the JMSP were not contentious and were adequately addressed. However, there were 24 individuals/organisations which strongly disagreed with the MPA network as set out in the draft JMSP, with 47 who supported it. Most negative comments were received from the fishing communities in Jersey and France, highlighting the potential business impact on their livelihoods and a need for a business impact assessment to be carried out on affected boats. Several comments provided information on where the MPA network would have the greatest impact and requested to scale it back in some areas in return for expanding it in others.

Using a well-recognised **decision support and/or spatial analysis tool**²⁵ such as Marxan with Zones²⁶ or InVEST,²⁷ or alternatively running a **Business Impact Assessment at the same time as the MPA GIS spatial analysis, would have enabled the JMSP officers to test different spatial scenarios alongside fishermen to find the most acceptable trade-off between conservation objectives and livelihoods.** Lessons learned from the English

²⁵ See Kemal Pınarbaşı, Ibon Galparsoro, Ángel Borja, Vanessa Stelzenmüller, Charles N. Ehler, Antje Gimpel, Decision support tools in marine spatial planning: Present applications, gaps and future perspectives, *Marine Policy*, Volume 83, 2017, Pages 83-91, ISSN 0308-597X for a fairly recent review of available tools.

²⁶ <https://marxansolutions.org/what-is-marxan-with-zones/>

²⁷ <https://naturalcapitalproject.stanford.edu/software/invest/invest-models>

MCZ process may also have helped to inform the JMSP process.²⁸ Acknowledging governance frameworks would have made this more complex with French fishers, using existing French spatial fisheries data within a decision support tool may still have provided more acceptable outcomes for fishers from both nations, reducing the need for post-hoc trade-off decisions to be made.

The decision to reduce the areal coverage of the MPA network until further scientific data is gathered appears to have been a unilateral decision taken by the incumbent Minister. At the scrutiny panel hearing the Minister mentioned that politics is the art of compromise; he listened to what people were telling him and made the decision to ensure that the impact on fishers' livelihoods should be reduced until they had time to adapt, with financial assistance, to further potential restrictions. A member of the scrutiny panel summarised that the implication of this decision was that following the consultation, a decision that there needed to be an additional burden of proof to designate MPAs in areas of high economic value areas had been made. Again, this has parallels with English MCZ designations and is not based on a transparent process set out in advance.

This decision is likely a result of missed government opportunities to set clear priorities for different sectors and enable a longer timescale for delivery so that JMSP officers could work with fishermen to identify areas of high economic value (thus making the trade-off decisions ahead of the draft JMSP consultation)

It may have been useful for the government and/or JMSP officers to apply an **external process to 'stress-test' the efficacy of the plan before releasing the final draft of the JMSP for public consultation. For example, Sustainability Appraisals²⁹ (SA) are used by the MMO in their marine plan process to independently assess the economic, social and environmental sustainability of the plan.** Strategic decisions, as demonstrated in the decision to temporarily reduce the extent of the MPA network, may benefit one sector more than another or policies may emphasise, for example, protecting the environment over development. The SA process helps to ensure that these decisions are fair, transparent and contribute to achieving sustainable development.³⁰

The process runs in parallel to marine planning and tests the process at all the major stages of the planning cycle (Figure 3). SA assesses the direct and indirect effects within the plan areas as well as considering possible indirect effects in neighbouring areas including terrestrial areas and those for other EU countries where relevant.

Although it adds additional costs and process, it is possible to apply a SA at a much smaller scale than Scottish or English plan level. The Dorset C-SCOPE project, which was also non-

²⁸ See De Santo, Elizabeth (2016) Assessing public "participation" in environmental decision-making: Lessons learned from the UK Marine Conservation Zone (MCZ) site selection process. Vol 64 Marine Policy. 10.1016/j.marpol.2015.11.003 and Louise M. Lieberknecht, Peter J.S. Jones, From stormy seas to the doldrums: The challenges of navigating towards an ecologically coherent marine protected area network through England's Marine Conservation Zone process, Marine Policy, Volume 71, 2016, Pages 275-284, ISSN 0308-597X, <https://doi.org/10.1016/j.marpol.2016.05.023>.

²⁹ <https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal>

³⁰ Sustainability Appraisal is the UK's translation of the EUs Strategic Environmental Assessment directive which mandates that policy, plans or programmes which will have an environmental impact should be assessed for sustainability. MSPglobal sets this out as a best-practice example.

statutory and had a similar scale and marine area to the JMSP, conducted a SA³¹ with its stakeholder task and finish group to ensure trade-off decisions were robust and transparent.

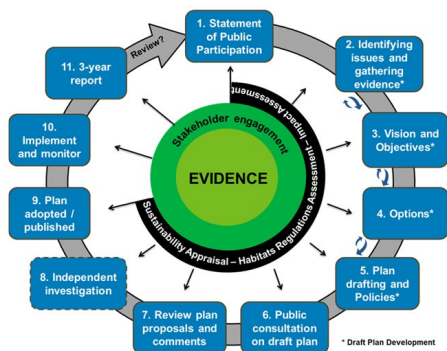


Figure 3: The MMO marine planning cycle showing the parallel process of Sustainability Appraisal.³²

5. Transboundary considerations and cross-border coherence in JMSP

MSP should apply an ecosystem-based approach (EBA) by ensuring that spatial distribution and related decision-making considers the principles and elements of EBA. This means that planning, amongst other factors, should look beyond jurisdictional boundaries as marine ecosystems almost inevitably span national jurisdictional boundaries. In practice, aligning MSP processes and plans with neighbouring countries is challenging due to international regulations and geopolitics.

Post Brexit, Jersey's new relationship with the EU is governed by the UK-EU Trade and Cooperation Agreement (TCA), and Jersey's participation in the agreement is in relation to trade in goods and access to fisheries resources in territorial waters. During the timespan of the JMSP process, there were ongoing trade and border negotiations, including on fisheries access for French vessels which created additional challenges for transboundary negotiations and ensuring cross-border coherence of the JMSP.

The Marine Resources team have been in long-term contact with French, UK and Guernsey counterparts and are also part of the UK's Six Nation Marine Spatial Planning Group. They work regularly with French counterparts, and the French authorities were a regular consultee as part of the JMSP consultation process. The team has also had multiple bilateral meetings with French fishers, including the Normandy Comité Régional des Pêches.

The team has also joined French workshops and given consultation responses to the redevelopment of the French Marine Spatial Plans for their Normandy and Brittany plans. On

³¹ https://www.cscope.eu/_files/results/activity_1/dorset/Supporting%20Documents/SA/SA%20Non-Technical%20Summary.pdf

³² <https://www.gov.uk/guidance/marine-plans-development>

the day of publication of the JMSP, the Marine Resources team were tasked to speak directly to their French counterparts in Paris to ensure they were aware. There is also ongoing dialogue with French Fishers. It is anticipated that the integration of the JMSP with neighbouring jurisdictions will be considered and improved during future iterations as processes become more embedded.

This is exemplary best practice under a challenging political environment.

Cross-border coherence is also challenging and as the Head of Marine Resources stated, *“there is a lot of differences between a small island with just over 2,000 kilometre squared of sea and the U.K. with 6 million kilometre squared and France with 11 million kilometre squared. Scale is one thing that has been important to this.”*

The Southern and Southwest English marine plans border Guernsey, but not Jersey, although there will be some influence of policies on Jersey. English marine plans do not currently have any zonation within them, the MPA network was developed outwith the marine planning process and, whilst there are some policies relating to fishing, fisheries management is also separate to marine planning. In France four sea-basins, including the Eastern Channel-North Sea which has eight sub-regions, are the focus for MSP. France’s MSP process is taking a similar approach to England in that it is non-zoned, multi-sectoral with a broad range of policies to promote a blue economy.

Given multi-use was one of the priority actions for the JMSP along with the need to find a balance between different uses for the marine environment, **the JMSP could have considered taking a similar, more European approach**, to its planning process which would have **aligned it more with neighbouring MSPs and created better understanding and synergies with neighbouring countries, especially France**. Whilst scale is extremely important to consider, the principles and basic approaches taken by France and England are **scalable** – i.e. they can be applied to small marine areas with local issues and priorities. C-SCOPE³³ and the Scottish regional marine plans such as Shetland³⁴ are examples of this.

6. Monitoring of the JMSP implementation

The MSPglobal Guide sets out that some principles for implementation of MSP. Implementation should be:

1. **Proportionate:** A proportionate level of strategic and detailed assessment should be considered in decision-making, determined by the complexity, scale and sensitivity of the project or activity
2. **Accountable:** Clarity on what the use of marine plans in decision-making is seeking to achieve, what success looks like, the role and identity of those involved, and how delivery is being monitored
3. **Consistent:** Use of marine plans in decision-making is consistent both within and across decision-making functions, noting the proportionality principle above also applies. Marine plans are used in a manner consistent with the duties placed upon them under

³³ <https://www.cscope.eu/en/results/>

³⁴ https://www.shetland.uhi.ac.uk/t4-media/one-web/uhi-shetland-images-and-documents/research/document/marine-spatial-planning/sirmp/SIRMP_2021_Amended_Version.pdf

4. **Transparent:** Decision-making processes for marine plan use are transparent and can be understood by public audiences
5. **Targeted:** Decision-making processes fulfil regulatory requirements in relation to marine plan use and are targeted via a risk-based approach

As the JMSP is yet to be implemented, provisions for monitoring its implementation have been reviewed, largely through the lens of principle 2, accountability and 4, transparency.

Any plan or strategy requires a monitoring, and MSP is no exception. MSP requires a monitoring and evaluation framework to hold authorities to account, track progress and inform future iterations of the MSP.³⁵ **The monitoring and evaluation framework should be in place as part of the wider MSP framework, before the MSP is developed**, and include a set of qualitative and quantitative indicators to be built on as the plan progresses. Indicators should not just focus on context, immediate actions and outputs, but also the intermediate and long-term outcomes and impacts of the MSP. As noted by one consultee: *"There have been no measurable aims or KPIs provided within the draft MSP, and how and when these will be measured and what will be identified as successes and failures"*. Whilst it is understood that not all suggested actions will be taken forward into the island plan, and that *"Measurable outputs will be decided on when the recommendations are taken forward as their own streams of work"*, **the lack of a monitoring framework leads to a lack of government accountability to deliver the JMSP, and poor transparency for stakeholders**. Further, a clearly articulated set of anticipated outcomes and indicators to measure them would provide more clarity of the benefits of the MSP and reassurance for the States of Jersey Assembly to deliberate when the JMSP is debated.

The JMSP is non-statutory, and the Minister for Environment set out that it is designed to feed in and support the Island Plan, with the two plans working side by side. He also stated that unless the JMSP *"were to become a statutory document on its own, the objective would be to always have a good, solid, up-to-date JMSP ready 18 months to 2 years ahead of an Island Plan cycle, so that it was ready to inform and support the delivery of that whole Island Plan."* There are clear actions which set out responsible authorities and budgetary requirements, which are helpful to an extent. **Yet there is no legislation (beyond creation of the JMSP itself) to ensure this happens, no publicly available clear mechanism or framework for how actions from the JMSP will be adopted into the Island Plan and what will happen to those that are not adopted. It is also unclear how much resource and budget will be required by government to implement the JMSP and also how decisions based on actions within the JMSP, transposed and made into legal policy through the Island Plan, will be made; who for example is the licensing authority for marine development?**

Strategic Proposal 3 of the Bridging Island Plan sets out that The Minister for the Environment has responsibility for the JMSP, which was confirmed at the scrutiny panel hearing by the Minister *"[The Minister] will have ultimate driving power behind it"*, with the Ministry as the competent authority. He accepted that there will be need for input from others, including NGOs, and that he worked *"very closely with the Minister for Sustainable Economic Development on many of these issues"*. Whilst it is not unusual for low to middle-income countries to hand over accountability to external bodies such as NGOs and charities, it is unusual in a high-income country such as Jersey. **External dependencies could potentially expose the Jersey government to risk and non-implementation of actions, but such actions were developed collaboratively with implementing partners which should go a long way to mitigating risks.**

³⁵ <https://www.mspglobal2030.org/msp-global/international-msp-guidance/>

Implementation timescales of some parts of the JMSP are uncertain, especially designation of MPAs and the additional research required to designate as MPAs areas of high economic value. The Minister for Environment set out at the scrutiny panel hearing that “*I would imagine 12 - 24 months initially, with the grandfathering going ahead, taking into account things like the 30 by 30 commitment, the windfarm, and other marine access needs.*” Given the main driver of the JMSP was to protect vulnerable habitats through designation of MPAs, at a minimum **a clear pathway and timeline for designation of MPAs is essential. It is also strongly recommended that a high-level implementation framework with a clear timeline, is set out ahead of adoption of the JMSP to ensure clarity and transparency. This should then be reviewed, and alternative models – e.g. MSP as a standalone statutory process - and addressed through a new MSP framework ahead of any future iterations of the plan.**

There is a positive action, expressed by the Head of Marine Resources, to “*educate the public and other stakeholders about plans, rules and regulations, and the implications for each stakeholder group*”. This will be important to ensure compliance with regulations once in place. At the scrutiny panel hearing there were concerns expressed about capacity to enforce the new MPAs. Whilst this is, of course, important, it is beyond the scope of this analysis.

Evaluation of the JMSP process is equally as important as monitoring. It holds the process to account and enables valuable learning to be applied to further iterations of the plan. **Evaluation is the key purposes of this current review and the broader public scrutiny process which it is part of. Future iterations of the JMSP could include internal evaluation criteria to help improve the planning process and may want to consider the use of SEAs or SAs as set out in section x.** Evaluating the plan making process in real-time will help to ‘stress-test’ the plan, provide a robust framework for considering trade-offs and identify and mitigate potential problems before the consultation phase.

7. Priority recommendations

Recommendations for future iterations of the marine plan are set out throughout this document but there are some priority recommendations which should be addressed more urgently:

- i. Ahead of adoption of the JMSP, a high-level implementation framework should be made publicly available to ensure clarity and transparency for both government and stakeholders. This should then be reviewed, and alternative models – e.g. MSP as a standalone statutory process - and addressed through a new MSP framework ahead of any future iterations of the plan.
- ii. Either as part of recommendation i) above, or separately if it can be completed more quickly, a timeframe for designation of confirmed new MPAs, and future work on areas for further survey for future MPA designation should be made publicly available as a matter of urgency.
- iii. Ideally the principles, objectives and aims of the draft JMSP should be reframed ahead of adoption to provide a clearer flow of government intent from vision through to actions. This will provide a framework for successful monitoring of the JMSP.
- iv. The Jersey government should provide a clear articulation within the final version of the JMSP of the relationship between the new and future MPAs and fisheries management, and how these will be regulated and managed going forward.

- v. Ahead of the next iteration of the JMSP, the Jersey government should establish a MSP framework which defines the MSP objectives, goals, principles, planning approach, timelines, governance structure, high level implementation and monitoring framework. Such a framework could clarify the relationship between the JMSP and the Island Plan or set out a new approach entirely. It will also provide greater clarity for JMSP officers and transparency for stakeholders.
- vi. If the JMSP remains non-statutory, it would be beneficial to define non-statutory policy that can be legally adopted and implemented within the Island Plan and separate these from priority actions which are often minor and do not necessarily need to be included (but are important to drive forward marine management in Jersey). If this could be achieved for the current draft JMSP it would make it easier to adopt within the Island Plan.

