# Response ID ANON-HFUA-SEFA-3

Submitted to Facilitating marine nature restoration through legislation
Submitted on 2024-05-16 17:03:36

## Structure

## Setting the scene

## Part 1: registration process for marine nature restoration projects

### 1 Do you think the example definitions provided are a suitable basis to frame a definition of marine nature restoration for the purpose of this legislation?

Other - Please explain

If you selected 'Other' then please use this space to expand on your answer.:

We consider that a definition which encompasses 'passive' restoration as well as 'active' restoration is required.
'Passive restoration' is a misnomer, because while this might not involve specifically placing anything on the seabed, progressing passive restoration involves significant activity and action.
We consider that spatial management and protected areas should be recognised as delivering 'passive' restoration in addition to other actions that would be considered to fall under 'passive' restoration. The proposals regarding MCOs are particularly relevant in this instance.
Overall 'passive restoration has a very important contribution to make towards restoration, whether on its own or in combination with 'active' restoration. Failure to include it within the definition will be a lost opportunity to realise the full benefits of marine nature restoration for Scotland.

### 2 Are there any other considerations or examples we should consider in formulating a definition for marine nature restoration?

Please provide examples and any information which you think would be useful to support your views.:

Yes. A definition for marine nature restoration should encompass both what are currently thought of as 'active' and 'passive' restoration activities. Both require time, effort, action and decision-making. It is essential that both are specifically recognised within a definition for marine nature restoration. Focusing on just 'active' intervention in a definition will significantly limit what actions are then considered relevant for marine nature restoration and failure to maximise opportunities to enable marine restoration activities in Scotland.
We consider that the definition needs to make specific reference to restoration of ecosystems and ecosystem function and not just focus on habitats and species.
Ecosystem restoration means assisting in the recovery of ecosystems that have been degraded or destroyed, as well as conserving ecosystems that are still intact (UN Decade on Ecosystem Restoration). This is also reflected in the IUCN definition of ecosystem restoration as a process of "reversing the degradation of ecosystems to regain their ecological functionality, and to improve their productivity and capacity to meet the needs of society."

## Part 1: registration process for marine nature restoration projects continued

### 3 Do you think registration should be based on the restoration 'project', rather than each individual 'activity'?

Yes

If you selected 'Other' then please use this space to expand on your answer.:

There needs to be clarification of what constitutes a restoration project to ensure clarity and avoid misuse of this routeway.

### 4 Please share any considerations you have in relation to tying the registration process to a 'restoration project' rather than each individual activity.

Please provide examples and any information which you think would be useful to support your views.:

It will support joined up consideration of restoration projects as a whole and enable a broader, holistic approach for marine nature restoration. It ensures that the requirements of the whole project can be seen at the start.
It should support better monitoring of projects and enable connectivity between different local/regional projects, as well as enabling tracking of restoration progress for Scotland as a whole.

## Part 1: registration process for marine nature restoration projects continued

### 5 Please share any reflections you have on how we could set appropriate threshold(s) of environmental impact.

Please provide examples and any information which you think would be useful to support your views.:

We are somewhat confused as to whether this section on thresholds of environmental impact is specifically in relation to environmental risk thresholds for restoration projects or thresholds for what a restoration project is aiming to achieve.

Either way there need to be meaningful threshold criteria set that support objective consideration of the environment impact of restoration projects but enable restoration projects to proceed and contribute positively to biodiversity and ecosystem recovery.

We support an approach that encompasses a variety of environmental risk factors, including:
Biosecurity considerations
Restoration methods
Proximity to and interaction with sensitive sites.

We consider that positive environmental impact thresholds for restoration projects should include measures of criteria such as: increasing community/public involvements; biodiversity; seabed integrity; ecological structure and function.

6 Do you agree with the principle that placement of moorings/anchors, lines or other objects that may present a navigational risk (for example through propeller entanglement) should not qualify for registration, and should remain subject to current marine licencing laws, even if they are part of a restoration project?

Yes

If you selected 'Other' then please use this space to expand on your answer.:

7 Please share any reflections you have on how we can minimise navigational risks under a registration process.

Please provide examples and any information which you think would be useful to support your views.:

Assessment of navigational risks at the project planning stage and consideration of appropriate measures throughout the project and beyond.

## Part 1: registration process for marine nature restoration projects continued

8 Do you agree Scottish Ministers should have the option to devolve the administration of a registration process to another public body?

Yes

If you selected 'Other' then please use this space to expand on your answer.:

Whichever body has responsibility needs to be adequately resourced to deliver this function

9 Should a registration process be based on a self-declaration/self-assessment model or would you prefer an 'approval/application' based process?

Other - Please explain

If you selected 'Other' then please use this space to expand on your answer.:

We favour a self-declaration/self-assessment process but at the same time consider that there does need to be some sort of assessment or check and review procedure to the process to ensure that any potential issues or conflicts arising from restoration projects are identified and can be addressed at an early stage. This could include identifying any potential restrictions or permissions required in specific situations or locations. It could also provide a means to provide support to those wanting to progress restoration projects and provide the basis for monitoring progress of projects and assessing overall delivery of restoration objectives.

10 If you answered 'approval/applications process' for question 9, should the administrator of a registration process be able to apply conditions to the registration?

Not Answered

If you selected 'Other' then please use this space to expand on your answer.:

11 Please share any considerations or concerns you have on the nature of the registration process and whether it should be based on self-assessment or approval/application.

Please provide examples and any information which you think would be useful to support your views.:

Appropriate guidance and setting standard conditions will be necessary to support a self-assessment process and make sure that the process is transparent and fair.

## Part 1: registration process for marine nature restoration projects continued

12 What are the key types of information you think projects should be required to provide as part of their registration?

Location, Activity being undertaken, Methods, Biosecurity, Monitoring, Navigational risk, Other - Please explain

If you selected 'Other' then please use this space to expand on your answer.:

Engagement with other stakeholders and any issues arising
Size/scale
Target Habitat / species / ecosystem
Timescale

13 Do you think the register should be made publicly available? By publicly available we mean published online.

Yes, but only some information

If you selected 'Other' then please use this space to expand on your answer.:

14 Please share any concerns or considerations you may have with regards to providing information in the registration process and/or making information on the register publicly available.

Please provide examples and any information which you think would be useful to support your views.:

As the sea is publicly accessible and resources such as fish and shellfish are public assets, and we would generally support information being shared publicly.

However, we have significant concerns about all information being shared publicly for the following reasons:
- Some parts of the information, e.g. personal details etc may not be appropriate to share publicly.
- There is potential that project areas and possibly the individuals involved may be targeted by sectors who are not supportive of restoration projects and MCO's being implemented. This could lead to damage to sensitive areas and undermine restoration activity. With the current marine compliance arrangements in place in Scotland we do not consider that there are adequate and robust measures in place to prevent this happening.

We would support the following information being shared publicly once a project has been registered to proceed:
- A general project description
- Description of target habitats / species / ecosystems
- Proposed restoration methods
- Contact information for the project (email / postal)

## Part 1: registration process for marine nature restoration projects continued

15 Do you agree Scottish Ministers should have a broad post-registration power to intervene and amend/update/remove projects from the register?

Unsure

If you selected 'Other' then please use this space to expand on your answer.:

We consider that there should be some means of intervention possible to amend / update / remove projects but subject to adequate safeguards to protect the benefits of a project. There should be clear criteria established for when such intervention could be considered appropriate and necessary. There should also be a right of appeal by those developing/implementing the project if they dispute the reasons for the intervention.

16 Please share any comments you may have on instances where Scottish Ministers should be able to intervene post-registration.

Please provide examples and any information which you think would be useful to support your views.:

We consider that there should be some means of intervention possible to amend / update / remove projects but subject to adequate safeguards to protect the benefits of a project. There should be clear criteria established for when such intervention could be considered appropriate and necessary. There should also be a right of appeal by those developing/implementing the project if they dispute the reasons for the intervention.
Intervention may be required if adverse environmental impacts of a project are identified. Intervention should be a last resort, with opportunity for consideration of ways to address the issues.

17 Do you agree Scottish Ministers should be able to create offences and penalties in relation to the registration process?

Other - Please explain

If you selected 'Other' then please use this space to expand on your answer.:

To ensure that restoration projects provide positive benefit for Scotland it will be necessary to establish a system of penalties and offences but not just in relation to the registration process. Penalties and offences should be created for where actions or activities harm registered restoration projects.

Clear and effective communication and publicity about procedures for restoration projects will help reduce the need to enact penalties and offences. Guidance for restoration projects should be clear and unambiguous. For administrative issues, there should be a mechanism to resolve issues through communication and discussion initially.

18 Do you agree with the limits we propose as a model for the framework and upper limits on offences and penalties?

Other - Please explain

If you selected 'Other' then please use this space to expand on your answer.:

Restoration is intended for the public good and penalties and offences for different matters should be proportionate to the implications of the activities.

## Part 1: registration process for marine nature restoration projects continued

19 Do you support bringing forward legislation to enable Scottish Ministers to develop a registration process for marine nature restoration projects?

Yes

If you selected 'Other' then please use this space to expand on your answer.:

20 Do you think a registration process would help to reduce the administrative burden on restoration projects?

Yes

If you selected 'Other' then please use this space to expand on your answer.:

21 Do you think a registration process would help encourage more restoration projects to come forward and/or scale up?

Other - Please explain

If you selected 'Other' then please use this space to expand on your answer.:

It depends how the registration process operates in practice and how clear and accessible any guidance, criteria etc associated with it are.

22 Please share any further considerations you have about the proposals as a whole.

Please provide examples and any information which you think would be useful to support your views.:

The biodiversity and climate crises, the poor condition of many aspects of Scotland's seas, loss of marine ecosystem function and failure to meet national and international obligations regarding health and protection of our seas highlight the urgent need for recovery of Scotland's seas.
Marine nature restoration has an important contribution to make but can only do so if supported meaningfully and undertaken at scale, embracing relevant approaches. It is essential that marine nature restoration encompasses what is currently described as 'active' and 'passive' restoration – actions and measures to protect inshore marine areas from damaging activities and other forms of what would be considered as 'passive' restoration are essential components of restoration if we are to delivery recovery of Scotland's marine habitats, species and ecosystems.

## Part 2: Marine Conservation Orders

23 Do you support the extension of existing Marine Conservation Order provisions under the Marine (Scotland) Act 2010 to be applicable to habitats and species undergoing restoration or which have been restored?

Yes

If you selected 'Other' then please use this space to expand on your answer.:

24 Do you think there should be a requirement on Scottish Ministers to review any Marine Conservation Orders implemented for habitats or species undergoing restoration or which have been restored?

Yes

If you selected 'Other' then please use this space to expand on your answer.:

25 Do you think that any of the existing Marine Conservation Order provisions outlined in this section should not be extended to be applicable to habitats or species undergoing restoration or which have been restored?

No

If you selected 'Other' then please use this space to expand on your answer.:

26 Do you have any other views you would like to share in relation to the proposal to extend the existing Marine Conservation Order provisions to habitats and species undergoing restoration or which have been restored?

Please provide examples and any information which you think would be useful to support your views.:

We support the intention to expand the existing MCO provisions to protect habitats and species undergoing restoration or which have been restored. Legal mechanisms to safeguard restored ecosystems are essential to realise the long-term benefits of restoration initiatives.

We support application of MCOs in areas that are not contiguous with MPAs.

We would like support for local communities and small-scale projects to apply for MCOs for restoration projects.

## Part 2: Marine Conservation Orders continued

27 Do you agree that Marine Conservation Order powers should be extended as outlined to be applicable to standalone European marine sites?

Yes

If you selected 'Other' then please use this space to expand on your answer.:

28 Do you think that any of the existing Marine Conservation Order provisions within the Marine (Scotland) Act 2010 should not be extended to be applicable to standalone European marine sites?

No

If you selected 'Other' then please use this space to expand on your answer.:

## Part 2: Marine Conservation Orders continued

29 Do you agree with our proposal to change the requirement to consult on the 'draft order' to a requirement to consult on the 'draft proposal'?

Yes

If you selected 'Other' then please use this space to expand on your answer.:

## Impact assessments

30 Do you think that any of the proposals will have an impact directly or indirectly on the costs and burdens placed on businesses, the public sector voluntary and community organisations?

Other - Please explain

If you selected 'Other' then please use this space to expand on your answer.:

There is the potential for projects to impact businesses, the public sector, voluntary and community organisations both in terms of those wanting to progress projects and through the implications of potential changes in the activities of others. But there are considerable long-term benefits to be realised through restoration that will outweight short-term impacts.

## Impact assessments continued

31 Do you think that any of the proposals will have an impact that is significantly different for island communities than for mainland communities?

Other - Please explain

If you selected 'Other' then please use this space to expand on your answer.:

There are potential opportunities for jobs and employment as a result of restoration projects that are more likely to be realised in the coastal/marine areas where the projects are operating.
Overall restoration will have long-term positive impacts that will benefit both those living close to the coastal/marine areas but also the population of Scotland as a whole by improving the condition of Scotland's seas and improving ecosystem functions and services.

## Impact assessments continued

32 Do you agree with our assessment that the proposals set out in this consultation will not impact on people with protected characteristics as set out under the Equality Act 2010?

Yes

If you selected 'Other' then please use this space to expand on your answer.:

## Impact assessments continued

33 Do you agree that the Strategic Environmental Report is an accurate representation of the potential impacts, positive and negative, on the environment from the proposed MCO changes?

Not Answered

If you selected ‘Other’ then please use this space to expand on your answer.:

34 Do you agree with the findings of the Strategic Environmental Report that overall, the likely beneficial effects of the proposals outweigh the potential negative impacts?

Yes

If you selected ‘Other’ then please use this space to expand on your answer.:

## Further comments

35 Do you have any further comments you wish to add?

Please provide any further comments.:

Effective marine compliance monitoring and enforcement is necessary to safeguard restoration areas and ensure that MCOs are being complied with. Given the lack of on-the-ground marine compliance resources, there is a very urgent need to progress the implementation of vessel tracking on all fishing vessels and prioritising implementation of remote electronic monitoring (REM) on all vessels operating bottom-towed fishing gear.

It is important that the wording of MCOs is such that harmful or impacting activities are readily encompassed within it. There needs to be learning from the shortcomings of some of the existing MPA MCOs which hampers prosecution of illegal activities.

## About you

36 What is your name?

Name:
Lucy Kay

37 Are you responding as an individual or an organisation?

Organisation

38 What is your organisation?

Organisation:
Community of Arran Seabed Trust (COAST)

39 Further information about your organisation's response

Please add any additional context:

COAST is a community-based marine conservation organisation that works to improve the state of marine areas around Arran and in the Clyde for the benefit of all. We can see how spatial management measures removing particularly impacting bottom-towed dredge and trawl fisheries is enabling restoration of habitats in Arran's marine protected areas. We have experience of how effective this sort of management approach can be and consider that it is a necessary and essential aspect of restoration and should be incorporated into any definition for marine nature restoration.

40 The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

41 Do you consent to Scottish Government contacting you again in relation to this consultation exercise?

Yes

42 What is your email address?

Email:
email@arrancoast.com

43 I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

## Evaluation

44 Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:
Slightly dissatisfied

Please enter comments here.:

It was very long and a few of the questions unclear

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:
Very satisfied

Please enter comments here.: