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## **Integrated terrestrial and marine planning in England's coastal inter-tidal zone: assessing the operational effectiveness of the Coastal Concordat**

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### **Highlights:**

- Considers the challenges facing the integration of terrestrial and marine planning
- The introduction of the Coastal Concordat has benefitted the public sector agencies
- Marine sector businesses are more neutral about the benefits of the Concordat

# **INTEGRATED TERRESTRIAL AND MARINE PLANNING IN ENGLAND'S COASTAL INTER-TIDAL ZONE: ASSESSING THE OPERATIONAL EFFECTIVENESS OF THE COASTAL CONCORDAT**

## **ABSTRACT**

In many countries, the regulation of activities and development in the marine environment has begun to evolve from a compartmentalised, fragmented, sectoral and uncoordinated system into a more strategic, comprehensive, integrated and transparent one. A remaining challenge, however, is the effective *integration* of marine and terrestrial planning, because the tools and mechanisms necessary for its achievement have been slow to be implemented. The introduction of the England's Coastal Concordat in 2013, as a voluntary framework for better integrating marine and terrestrial planning consents, represents an atypical mechanism to secure these goals. This paper is a preliminary survey of the perceived effectiveness of the Coastal Concordat, based on a survey of 32 professionals from the terrestrial planning authorities, marine statutory agencies and marine-sector businesses. While this evaluation is made less than two years after the introduction of the Coastal Concordat, it is important to undertake a preliminary examination, from various stakeholder perspectives, of the factors likely to be influential in the integration of regulatory systems, before the approach is 'rolled out' across other parts of England's inter-tidal coastal zone. The results indicate that the Coastal Concordat has produced benefits for marine planning in coastal areas, but that these improvements are largely experienced within the public sector in terms of better communication, early engagement, and a single point of contact. The marine sector businesses are more neutral about the benefits of the Concordat. It is clear, however, that marine sector businesses must participate in the formulation of any reforms if an effective integrated system of planning and management of coastal environments is to be achieved.

Keywords: Coastal Concordat; Marine planning; inter-tidal zone; integration of terrestrial and marine planning systems.

## 1. INTRODUCTION

In many countries, the regulation of activities and development in the coastal zone has historically involved a compartmentalised, fragmented, sectoral and uncoordinated system, characterised by a consenting regime focused on single species, sectors, activities or concerns (Scaff, *et al.*, 2015, p.97). The result has been a piecemeal approach to the protection of the marine environment, encapsulated in Boyes and Elliott's (2014, p.43) ultimate 'horrendogram' of relevant agencies and legislation and DEFRA's (2014) diagram of overlapping consents required in the coastal zone (see Figure 1), which both capture something of the complexity, confusion and inadequacy of existing measures. While some attempts have been made to achieve integration across sectors, levels of government, uses, stakeholders, and spatial and temporal scales (Portman, *et al.*, 2012), notably through Integrated Coastal Zone Management, Strategic Environmental Assessment and Marine Spatial Planning, a remaining area of neglect is the integration of marine and terrestrial planning (Scaff, *et al.*, 2015, p.98), where tools and mechanisms to coordinate the landward-side implications of the development of marine spaces (and vice versa) have been largely absent.

While planning principles have been applied to the mediation of decisions about terrestrial land use in the UK since the late 1940s, marine spaces have been subject to a much less coordinated system of regulatory control. Developments in the inter-tidal zone, straddling both the land and the sea, have been subject to a bewildering array of licensing controls, which have arguably not satisfactorily served either the 'public good' or commercial interests. The Marine and Coastal Access Act of 2009 was heralded as a significant turning point in the planning of marine spaces, with the potential to streamline the process for securing consent for development in the inter-tidal zone and to fuse a greater integration with terrestrial planning. While the initial introduction of this new system had its flaws, successive reforms have begun to create a more viable framework for all stakeholders.

In November, 2013, the Department for Environment, Food and Rural Affairs (DEFRA) introduced the 'Coastal Concordat' as a voluntary framework within which the separate terrestrial and marine processes for the approval of coastal developments in England could be better coordinated. The Coastal Concordat can

be described as an atypical example of an intervention which attempts to directly integrate terrestrial and marine planning, and its adoption therefore offers opportunities to define and investigate the factors likely to be influential in the creation of a more holistic regulatory system. As the latest stage in the evolution of marine planning, this paper explores the stakeholder assessment of the merits of the Coastal Concordat through a survey of 32 professionals from terrestrial planning authorities, marine statutory agencies and marine-sector businesses engaged in marine and planning consents and development management. While this evaluation is made less than two years after the introduction of the Coastal Concordat, it is important to undertake a preliminary examination of the perceived effectiveness of the new procedures from various stakeholder perspectives before it is 'rolled out' across other parts of the coast. The paper responds to the call made by Fletcher *et al.* (2014, p.266) to 'reflect carefully at each stage of its [marine planning] implementation to consider its effectiveness, including implications for stakeholders and the marine environment'.

## **2. THE EVOLUTION OF MARINE PLANNING**

Until recently, the sea was perceived as largely 'undevelopable' and 'unplannable', and where the application of the principles of terrestrial planning was not considered to be necessary or easily applied (Kerr, *et al.*, 2014; Claydon, 2006; Peel and Lloyd, 2004). The reasons for this situation were three-fold. First, state jurisdiction and controls over coastal waters were weak as these spaces were beyond the territory of nation states and sometimes subject to legal ambiguities and contestation. Second, the sea was considered as an environment or a space with common rights for navigation and exploitation purposes, such as fishing<sup>1</sup>. A system of spatial planning for marine spaces was therefore not considered necessary as the principles of

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<sup>1</sup> Rights of use through a water column vary, which can cause conflicts and can be difficult to resolve. The seabed around the United Kingdom, defined as being the zone extending from mean low water ordinary spring tides to the 12 nautical-miles [22 km] limit, is a form of public land administered by the Crown Estate. The Crown Estate once comprised all the sovereign's properties and constituted the principal source of royal income. Historically, however, in return for an income paid by the state, the sovereign released the Crown Estate to be operated as an independent commercial business (created by Act of Parliament) and overseen by Commissioners who have a legal duty to generate revenue for the benefit of the British nation, which is then spent by Her Majesty's Government. As the Crown Estate must achieve the best financial return in the form of seabed rents (such as marine renewables), it has some control over the utilisation of the seabed. The resources in the water column (such as fish), on the other hand, are common pool resources and the sea surface is a common space for navigation (Kerr, *et al.*, 2014), where management and control can be more problematic.

terrestrial planning, which involve the securing of 'public good' from private development decisions driven by the operation of property markets, were not relevant in an environment where commons rights were predominant (Jay, 2010; Ritchie and Ellis, 2010). Third, unlike the fixed land uses and zoning in terrestrial planning, the pattern of activities at sea are dynamic and overlapping, as well as being subject to tides, which adds to the complexity of regulation of the marine environment in planning terms. Consequently, where regulation was considered necessary, a system of licenses were formulated by relevant government agencies focusing on specific marine activities (such as fishing, mineral exploitation), rather than being based on a comprehensive integration of activities through spatial planning (Jay, 2010). Where marine developments involved coastal land, separate planning approval was also required from the local planning authority. Clearly, the governance of coastal marine environments was piecemeal, sectoral and complex, and there was certainly little integration between marine licensing and terrestrial planning (Boyes, *et al.*, 2003; Elliott, *et al.*, 2006; Boyes and Elliott, 2015).

By the end of the twentieth century, there was a realisation that the growing pressures on the marine environment required a more comprehensive and integrated system of regulation and governance. Increasing competition for marine space from an emerging 'blue economy', based on business opportunities in offshore aquaculture, renewable energy, maritime transport and tourism, which often required fixed built structures at sea, highlighted the potential and necessity for a much more coordinated approach to manage emerging conflicts (Fletcher, *et al.*, 2014). In 1993, English Nature had reported that there was no major estuary in England without a marina (Evans and Crosby, 2007, p.2). Indeed, historic failures to protect England's marine environment added to the pressure for a marine planning system (Kerr, *et al.*, 2014), especially in relation to compliance with EU Directives, such as the Habitats Directive (92/43/EC), the Water Framework Directive (2000/60/EC) and the Marine Framework Directive (2008/56/EC) (Ballinger and Stojanovic, 2010). The marine environment had also become subject to the remit of national government functions as international consensus had been reached over the definition of territorial waters (12 nautical miles) following the United Nations Convention on the Law of the Sea (UNCLOS III), which came into force in 1994 (Rothwell and Stephens, 2016; Jay, 2010).

In England, together with a desire to expedite the development of marine offshore renewable energy capability (Scaff, *et al.*, 2015), these influences resulted in the Marine and Coastal Access Act of 2009, which introduced a new ecosystem-based, plan-led system for marine activities (Fletcher, *et al.*, 2014). The legislation led to the formulation of a UK Marine Policy Statement (2010) which comprises a set of high-level marine objectives aimed at securing a balance between development and conservation. It introduced requirements for: (1) regional marine plans to provide an agreed framework to inform marine licensing decisions; (2) a streamlined marine licensing system, where most consents became the responsibility of a new agency (the Marine Management Organisation [MMO]) rather than a diverse range of government departments (Boyes and Elliott, 2015); and (3) the designation of a network of Marine Protected Areas. This system also created deliberate overlap between terrestrial planning (applied landward from the mean low-water mark ordinary spring tides) and the new marine licensing regulations (applied seaward from the high-water mark ordinary spring tides) (see Figure 1). As most coastal development requires approval from both systems, a step towards greater integration between terrestrial and marine planning was being taken.

The extent to which the introduction of marine planning has improved the management of the marine environment and its integration with terrestrial planning decisions is open to question (Boyes and Elliott, 2015). Indeed, Kerr *et al.* (2014) argue that a unified system is probably not achievable because of the different priorities, institutional and legal frameworks, and different epistemological approaches employed by marine and terrestrial planning. Marine spatial planning is constructed around the norms and assumptions of marine management based on scientific rationalism, led by the precautionary principle, rather than as an offshore extension of existing terrestrial planning practices, which has evolved from a scientific approach in the 1960s to incorporate communicative forms of rationality from the 1990s (Jay, 2010; Ritchie and Ellis, 2010; Taylor, 1999). While terrestrial planning outcomes are based on an evaluation of an evidence base for the 'public good', marine planning decisions follow the precautionary principle whereby, in the absence of any conclusive evidence about the potential impact of a development, the environment should always be protected, irrespective of the socio-economic

consequences. The extent to which decisions about terrestrial planning permissions and marine licensing consents can be coordinated based on these different epistemological approaches remained problematic.

An early indication of the extent of integration being achieved between terrestrial and marine planning systems under the 2009 Act was provided by the Department for Business Innovations and Skills review of regulatory enforcement on coastal projects and investment (Department for Business, Innovations and Skills, 2013), which formed part of the Government's commitment to reduce 'red tape' and thereby speed up the delivery of sustainable development. While not pretending to be based on an extensive, scientific or representative survey, the report highlighted a number of significant issues. There was evidence that the 'one project: one licence' promise of the reforms was not working because of delays in the appointment of the lead authority, inconsistencies regarding the decisions reached, and duplication of requests for environmental impact assessments and public consultation by both terrestrial and marine planners.

The 2013 review also noted that environmental conservation issues tended to be privileged in the decisions reached. This outcome was partly caused by developers, at the pre-application stage, attempting to reduce subsequent delays in the consent process by dealing with all potential conservation issues raised by the statutory consultees, especially Natural England and the Environment Agency, irrespective of the scale and significance of any objections. Environmental issues also tended to be prevalent because the statutory agencies were unduly cautious and risk-averse due to the fear that any decisions taken over development applications would be subject to Judicial Review prompted by one of the environmental NGOs. The Marine Management Organisation (MMO) was considered to be too precautionary and uncritical over concerns raised by objectors. While terrestrial planners would make a judgement based on evidence, marine planners would insist on conditions simply to cover any potential environmental objections that might be made irrespective of the validity of any claim. Developers, especially small companies, were faced with conflicting and contradictory requirements and/or conditions which were disproportionate for low-risk activities. Such inconsistent decisions added time, cost and commercial risk to projects on the coast. These influences on the system had

real and immediate economic consequences. For instance, boat builders reported a fall in the demand for new vessels related to the reluctance of developers to propose new marina facilities because of the increased commercial risk inherent in the operation of the regulatory system.

As a response to these concerns, an action plan was produced by the Department for Environment, Food and Rural Affairs in 2013, which included the idea of the 'Coastal Concordat' as a voluntary framework within which all the separate processes for the approval of coastal developments in England could be better coordinated. The Coastal Concordat was introduced in November, 2013, with the aims to reduce unnecessary regulatory duplication, provide better signposting to relevant agencies, stream-line assessments and increase transparency and consistency of advice. The Concordat could be applied to any development project in the inter-tidal zone in estuaries and on the coast which required multiple marine licence consents and terrestrial planning permission from a local planning authority (Boyes and Elliott, 2015, p.63). When an applicant applied to an agency for permission or consent for a development, each individual concordat body was required to contact the applicant to discuss the regulatory regime for which they were responsible and inform other concordat agencies. A lead authority was appointed to coordinate consultant bodies and identify common evidence requirements (see Figure 2). By October 2014, 13 local planning authorities had signed up to the Coastal Concordat (DEFRA, 2014). These areas represent 'test beds' for the integration of marine and terrestrial planning controls and the extent to which the values of the different stakeholders can be mediated successfully through the mechanisms of this system.

### **3. METHODOLOGY**

In order to probe the views of key stakeholders regarding the effectiveness of the integration of terrestrial and marine planning under the Coastal Concordat since 2013, the perspectives of the statutory agencies (namely, the local planning authorities [LPAs], Marine Management Organisation [MMO], Environment Agency

[EA] and Natural England [NE]) together with marine sector businesses<sup>2</sup> were sought using a questionnaire survey, supported by face-to-face and telephone interviews. A concise and carefully formulated questionnaire, containing both closed and open questions, was devised (including a pilot)<sup>3</sup>. If individuals were willing, however, follow-up interviews could be undertaken using the initial questionnaire answers as prompts for fuller discussion. The research was focused upon 13 local planning authority areas with a Coastal Concordat agreement at the time of the research (April, 2015) (see Figure 3) and specifically the relevant officers of the public sector agencies and the staff of marine businesses in these areas, as identified from the MMO's Marine Licensing Public Register (website). Responses from 12 local planning authorities and six officers from the statutory agencies were thus obtained (see Table 1). A response from the MMO's head office was not forthcoming because the survey coincided with the purdah period of the General Election in May, 2015. The number of marine businesses with development proposals in a Coastal Concordat area since 2013 was limited to just eight, which reflected the unfavourable economic conditions of the post-2008 recession. Although all eight businesses participated, the survey was extended to include marine businesses submitting development applications in non-Coastal Concordat areas, which produced a further six responses. While the sample was inevitably limited by the number of areas where the Concordat had been introduced, its coverage across relevant national and local statutory and business stakeholders does provide a valuable variety of viewpoints about the operation of the Coastal Concordat and the evidence yielded represents a reliable set of reflections upon and responses to the policy framework since 2013.

## **4. ANALYSIS OF RESULTS**

### **4.1 Development regulation in the inter-tidal zone prior to 2009**

The respondents to the survey revealed some of the main deficiencies of the marine

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<sup>2</sup> Marine businesses are not categorised as a separate and discrete economic sector in government statistics, but are taken as those related to marinas and boat builders for the purposes of this study. Major infrastructural projects, such as renewable energy projects and oil exploration, were not included as these developments are covered by a different legislative regime.

<sup>3</sup> A pilot survey was completed prior to the main period of survey, which resulted in a change in the sequence of questions and a new section about their experiences of obtaining consent for marine-related development prior to the Marine and Coastal Access Act of 2009.

licence consents and terrestrial planning permission regime prior to 2009. First, coordination of decisions by relevant agencies was, at best, partial. Only seven of the twelve local planning authorities in the survey had knowledge of marine licensing regulations prior to 2009 as they were, at the time, non-statutory consultees and so would only be involved if DEFRA felt that it was relevant to involve them. Both EA and NE were consulted about marine licences by DEFRA, but only for those applications which related to their statutory function (ie. NE about Natura 2000 sites and EA on flood risk issues). Agencies operated in a separate and discrete manner. One LPA stated that 'each statutory body focused on its own statutory function and was much siloed'.

Second, as noted by an interviewee from a local planning authority, the depth and quality of the information submitted with relevant licence applications was insufficient, particularly related to the environmental impacts of proposals. Third, the sequence of decision-making over consents for development in the inter-tidal zone was not systematic. An EA interviewee explained that their agency always found themselves involved in the latter stages of the marine consenting process. As a consequence, such as when drainage permits were required for a development, planning approval had usually been granted without considering the location of the drains and the impact on the marine environment. In these cases, the EA required modifications to, and resubmission of, the planning application, which created time delays as well as additional risk and cost for the developer. These comments would suggest that the quality of decision-making in the former consenting regime was highly variable related to the lack of coordination between statutory bodies. The system created some real frustrations for developers working in the inter-tidal zone.

#### **4.2 The views of bureaucrats about the Coastal Concordat**

In contrast, the experiences of the relevant public sector bodies since the enactment of the Coastal Concordat in 2013, as reported by the respondents to the survey, have been very different. The problems of partial consultation, poor quality information and erratic sequencing of decisions have been improved through the provisions of the Coastal Concordat, namely the single point of contact, early engagement, sequential development procurement, improved communication and a duty to co-operate.

**4.2.1 Single point of contact:** One of the key objectives of the Coastal Concordat was to establish a 'Single Point of Contact' for development applications in the inter-tidal zone. Eight of the LPAs stated that the 'single point of contact' was 'of value' and six of the statutory organisations considered it to be 'useful'. A single agency assumed responsibility and ensured that all stakeholders were informed and participated. One of the important benefits stated was for coordinating the requirements of Environmental Impact Assessments (EIA) and the Habitat Regulation Assessments (HRA). Furthermore, the Coastal Concordat helped to improve communication between the planning case officer and the MMO assessor when considering the 'screening opinion' as to whether the proposed development had an impact upon the environment or not and whether an impact assessment was required. Whilst the EIA regulations for the MMO and terrestrial planning are different, eight LPAs and four statutory bodies stated that they had engaged in pre-application discussions with other statutory bodies to avoid duplication of efforts when considering the need for an EIA. One respondent stated that: 'The consultation on the EIA was rolled into that of the general planning application process. It means that work is not duplicated in consulting bodies for both a planning application and EIA when both can be done together perfectly easily'. The 'Single Point of Contact' was also considered by the LPAs and the MMO to be a more efficient use of resources. For example, the cost of joint meetings could be paid for equally between both the MMO and the LPA.

Some respondents were, however, concerned about the time and cost implications of the 'Single Point of Contact' concept, especially with regards to the demands of co-ordination and facilitation at a time of shrinking public expenditure. A consequence of these pressures on a limited regulatory resource is that the stresses are transferred to individual officers. In order to ensure an adequate regulatory resource to assess applications, one LPA recommended that the 'Single Point of Contact' function might be funded in the future by the licensee/planning applicant. However, this idea would need the support of the marine business sector, who already consider the costs of the marine and terrestrial licensing regimes to be onerous.

**4.2.2 Early engagement:** Another dimension of the improved coordination between agencies was the early engagement of all parties over both planning and marine consents, especially through pre-application meetings. For example, the regeneration of part of the former quayside reported by one of the respondents raised a number of complex terrestrial and marine issues. The development proposal included the construction of 142 residential apartments in three blocks, with associated car parking, infrastructure and landscaping, together with the refurbishment of a redundant jetty. Amongst the many issues to be considered by the LPA were flood risk (especially given the unprecedented storms of 2014); the impact on a neighbouring Conservation Area; risk to navigation and disruption to a major ferry terminal on the site; and the works to the jetty that involved piling and works below the low water mark. As the development required both marine and terrestrial planning consents, the Coastal Concordat was used as a mechanism to enable a series of meetings to be held with all the relevant authorities and the developer to address the issues outlined.

The MMO led on consents for the marine works and the potential impact on a European Marine Site. These included the potential environmental impacts, such as on marine sediments and species; coastal processes; Marine Conservation Zone (MCZ) assessment; noise (affecting the marine environment); and on navigation. The LPA led on all the terrestrial planning issues, such as design, highway infrastructure and terrestrial biodiversity. As a consequence of the early engagement, each organisation understood its role and responsibility. The duplication of resources and, in particular, calls for additional evidence required to manage the potential impact on the marine environment required by NE and the MMO was avoided. As a result of the potential impacts being clarified prior to the consent being granted, the resulting planning and MMO conditions were prepared in the knowledge that they were based on sound evidence, which neither the developer nor third party could dispute. Nevertheless, it was clear that, while the marine planning consents were based on scientific evidence and the precautionary principle, the considerations of the terrestrial planners had to incorporate political influences, such as the 'presumption in favour of sustainable development' and housing targets.

**4.2.3 Sequential development procurement:** The respondents from the EA

considered that the Coastal Concordat was a useful tool to ensure that development procurement was considered sequentially. In the past, the uncoordinated processes for securing the various consents often meant that one or more of the consents had to be resubmitted as conditions imposed by one consent required changes in others. This situation can now be avoided as all relevant agencies are able to consider all aspects of the development together. For example, the consideration of an applications for the refurbishment of older buildings for a proposed hotel development was able to coordinate the views of the terrestrial and marine planners on the new drainage design at the outset of the development process. In this case, the introduction of the Coastal Concordat assisted the design and procurement process and thus reduced risk and cost for all stakeholders.

**4.2.4 Improving Communication:** The Coastal Concordat ensured that consultation took place with a wide range of statutory and non-statutory consultees. Of the twelve LPAs who responded, all had liaised with the MMO and ten engaged with the EA and NE. In addition, consultation was also undertaken with non-statutory organisations, such as Harbour Authorities, the Crown Estate and Town and Parish Councils. Many of these organisations were previously consulted prior to the introduction of the Coastal Concordat, but without the level of coordination now experienced. A total of ten of the twelve LPAs and all six of the statutory bodies concluded that the Coastal Concordat had helped to enable better co-ordination and understanding between the relevant regulatory bodies.

Contrary to expectations, where electronic forms of communication are prevalent and public expenditure cutbacks have reduced staff, face-to-face contact was highlighted as the key means of achieving this improved co-ordination and understanding. The research found that face-to-face meetings, including site visits and workshops, were considered by ten of the LPAs to be an important means of information sharing and improved knowledge acquisition. It is only through face-to-face contact that staff from each of the agencies has the opportunity to learn from each other and so create, over an extended period of time, a shared knowledge and improved integration of marine and terrestrial planning based on the working relationships formed between individuals at the officer level. Having said that, these improvements can only be sustained if there is continuity in the employment of

individual staff members and personnel or if these practices are formalised to allow transfer of best practice to new appointments. Pressure of work on individual officers in a period of public expenditure cutbacks can prevent such systems from being formalised and issues of career progression and redundancy for individual staff can cause a loss of shared knowledge and practice as well as interpersonal contacts. This concern was endorsed by a respondent from one council, who explained that their Coastal Concordat Officer had been made redundant following recent efficiency savings and that their knowledge had now been lost to the process.

**4.2.5 The Duty to Co-operate:** The Government's commitment to ensure that LPAs and other statutory bodies work together across neighbouring administrative boundaries since the enactment of the Localism Bill 2011 appears to have made some progress from the evidence of this research. Nine LPAs and three of the statutory organisations stated that they consult each other in the preparation of their Local Plans. The research also showed that the EA's and NE's strategic plans are reviewed by the majority of LPAs. Not surprisingly, as Marine Plans have yet to roll out to all LPA areas, only five LPAs stated that they have had an input into this process to date.

A specific example of the benefits of cross-boundary co-operation in the coastal zone is provided by the case of a cooperative partnership of twenty organisations, originally set up in 2009. As a response to concerns about new housebuilding in the coastal region and the additional recreational pressures on the three Special Protection Areas, it was able to prepare a Mitigation Recreation Strategy in 2015. Of particular concern was the impact of dogs running loose amongst the internationally important 90,000 wader birds, which include 10 per cent of the global population of Brent Geese. By working together across borders, the Partnership has introduced mitigation measures, which ensure that an initial £172 per dwelling is paid by the developer as a contribution towards a dedicated ranger team that patrols the area. This team contributes to the management of recreational pressure, such as loose dogs, with benefits for wildlife conservation (Portsmouth City Council, 2015).

### **4.3 Marine Businesses and the Coastal Concordat**

As of May, 2015, eight marine sector businesses have required a MMO licence and

a planning consent in a Coastal Concordat area. All eight businesses responded to the survey, together with a further six from non-Coastal Concordat areas.

Surprisingly, only six out of the fourteen knew whether or not a Coastal Concordat agreement existed in their location (let alone its purpose). This finding suggests that the arrangements have not been designed to be business-facing, but rather they tend to cater for the administrative ease of the statutory agencies. Indeed, those marine business respondents who had experience of the Coastal Concordat said that its effect on their businesses was, at best, neutral. Of the five who commented on the implications of the Coastal Concordat, four stated that there was no effect on their business and three stated that there had been no implications on investment and funding to their business. Essentially, these results reflect the fact that the Coastal Concordat has not altered the extent of regulation, but encouraged greater coordination of the administration of those regulations.

**4.3.1 Greater coordination and early engagement:** The businesses recognised that the greater level of coordination had reduced commercial risks, especially from early engagement with statutory consultations and the public. One business stated that, by running the public consultation process concurrently, ‘the planning and MMO process helped the engagement of stakeholders at an early stage in the development process. The objectors have been engaged early on, which helps to address issues and problems at an early stage. This approach is better than at the end of the project and just before the planning/marine consents are granted’.

Nevertheless, there were still weaknesses in the system, even after the introduction of the Coastal Concordat. One interviewee explained that two separate consultations had been required as part of the development of a coastal defence scheme in 2014: one for the MMO and the other for the LPA. These exercises required two sets of costs and two rounds of consultation, which resulted in delays in decision making over the marine licenses and planning permission.

**4.3.2 Statutory Expertise:** When the businesses were asked about their experience of working with statutory bodies concerning marine licenses and planning applications, of the ten businesses who responded, the MMO, EA and LPA were considered to provide ‘very good’ to ‘moderately good’ advice. Nevertheless, an

underlying frustration appeared to exist amongst the marine businesses related to the commercial implications of the associated costs and time of the regulatory process. In particular, eight out of the ten businesses felt that LPAs had a 'moderate' to 'very poor' understanding of viability. For example, a planning consultant acting for a developer explained that the LPA had lacked detailed commercial understanding when negotiating the affordable and flood mitigation obligations for the site. Although a solution was reached, as a consequence of protracted negotiations, the approval of the planning permission and development programme was delayed. However, it is widely acknowledged that planners have to balance complex competing demands over land use in an ever changing planning policy framework. MMO staff had also been criticised for their lack of commercial experience in the BIS study (2013), although this group had been viewed more positively by the respondents in the current survey. Eight of the nine businesses felt the MMO had a 'very good' to 'moderate' understanding of commercial viability. With increasing demands being placed on the developer to take responsibility for their actions, in particular when an EIA is required under EU law, a closer working relationship with the relevant statutory organisations has become inevitable and both parties have benefitted from learning and gaining experience from each other. Such synergies might therefore have occurred without the provisions of the Concordat, but have certainly been highlighted as a result.

**4.3.3 Marine Conservation Zones:** MCZs are a network of marine ecosystems around the English coastline which have been designated to protect delicate seabed habitats, such as sponge gardens, seagrass meadows and mudflats, from pollution, dredging and over fishing (DEFRA, 2013). At the time of the survey, 27 MCZs had been designated within English waters, but did not have a high profile amongst the marine businesses in the survey. Of the fourteen marine sector businesses consulted, only four stated that they had been required to comply with MCZ criteria when applying for a MMO licence or planning consent. The four respondents stated that the implications for their businesses were not significant.

However, the existence of MCZs has the potential to highlight potential conflicts resulting from the epistemological basis of marine planning. A respondent in a non-Coastal Concordat area had reported a case where a scallop farming business had

asked permission to locate close to a MCZ. While other stakeholders, such as the Harbour Master, had no objections, NE had adopted a precautionary approach (ie. that in the absence of any evidence, the decision should protect the environment) and stipulated that any anchor sites had to be 200 metres clear of the MCZ boundary. As a non-Coastal Concordat area, there were no mechanisms to discuss the application in order to negotiate a compromise given the socio-economic consequences of the decision. The case emphasises the potential benefits of the Coastal Concordat if it were to be implemented along the whole coastline. With the increasing pressure on the intertidal zone from development and recreational pressure, the challenge of balancing the need to protect the marine environment, whilst supporting economic development, will only intensify. The need for more nuanced decision-making will become ever more important. The Coastal Concordat at least encourages the participation of different stakeholders in that decision-making process.

## **5. DISCUSSION**

The experience of the regulation of development in the inter-tidal zone prior to 2009 was of highly variable decision-making caused by the 'siloed' approach of the statutory agencies. As a consequence, the environmental impact of development proposals were not always considered fully and the approval of license consents and planning applications were not always secured in the correct sequence, often requiring expensive re-applications by the developers. While the recession has limited the volume of coastal development proposals experienced since 2013, there is evidence to indicate that the Coastal Concordat is beginning to produce positive outcomes for integration, especially for the statutory bodies. The benefits of the Coastal Concordat have flowed from: the introduction of a single point of contact, which facilitated earlier engagement with applicants and consultees; a better coordination of environmental impact assessment requirements; the establishment of a more efficient sequence of approvals and development procurement; and the subsequent efficiency savings from a shared approach to decision-making and costs.

The fundamental differences between the epistemological basis of marine planning, founded on scientific evidence and the precautionary principle, and terrestrial planning, which has to incorporate political influences (such as the 'presumption in

favour of sustainable development', housing targets and public involvement) were still nevertheless evident. Even inconclusive scientific evidence about potential environmental impacts often resulted in development refusals in marine planning as a consequence of inexperienced marine planners, whereas terrestrial planners were more experienced and better prepared to make balanced judgements between development choices using conflicting evidence. However, the collaboration encouraged by the Concordat has helped to foster mutual learning among the consenting regimes and begun to resolve potential conflicts between the agencies. The research also confirmed that the relationship between the developer and the relevant statutory organisations has improved, albeit the need for greater co-operation may be, in part, the result of the legal obligations of EU Directives. The marine business sector appeared less convinced or less willing to recognise the benefits, despite acknowledging the potential of the new process to reduce costs and risks. Many businesses perceived the reform to be administrative rather than a system that eased the regulatory burden on new development on the coast.

There was also a hidden recognition that the benefits of the new system were often only achieved because of the relationships and personal expertise of individual officers within the statutory agencies. Much of the better coordination and improved inter-agency understanding was because of the efforts that individual officers went to establish and develop a good working relationship with the officers of other agencies and the developers. It was clear that face-to-face meetings, workshops and site visits were by far the most common form of inter-agency learning under the Coastal Concordat. These are time-consuming and often costly forms of collaboration, which add to the workload of individual officers. Such a system is only sustainable if there is a way of formalising the acquired knowledge within institutional systems or if there is a continuity of officers. The introduction of the Coastal Concordat has coincided with a period of austerity and public expenditure cutbacks, which have meant that the relevant officers have been affected by redundancy and the remaining personnel have been burdened with greater workloads. Such conditions are unlikely to be conducive to the sustainability of institutional social capital at this critical period after the introduction of the framework.

One solution, which has been suggested in other government reports (BIS, 2013),

would be to encourage the applicants of development projects to contribute to the cost of processing of licensing consents and planning applications. The acceptability of this proposal would depend on whether the private sector felt that it was likely to receive value-for-money from such an arrangement and whether the public sector felt that it could maintain its independence in reaching regulatory decisions. On the basis of this study, the private sector would require further convincing about the added value of the Concordat and the ability of statutory agencies, especially in relation to economic viability, to deliver robust decisions. It is clear that marine businesses must contribute to on-going policy formulation, including whether the Coastal Concordat should continue to be voluntary or become mandatory in all areas.

## **6. CONCLUSION**

This paper is a preliminary survey of the experience of those involved in a new set of approaches and voluntary protocols for the integration of regulatory systems in the coastal zone, as well as some who continue to operate in non-Coastal Concordat areas. The results indicate that some significant benefits and improvements have been secured through the Coastal Concordat, but also that some shortcomings and dangers have been identified. Transferable operating principles from this English case study are the importance of a single point of contact, early engagement between stakeholders over development proposals, and a clearly articulated and understood process. The success of integration depends upon opportunities for mutual learning between the public sector regulators and developers and on creating a system in which all stakeholders can have confidence. Ultimately, the ability of the system to deliver these expectations is dependent upon adequate resources. Given the recent and substantial cuts in public expenditure, any alternative funding models, such as through applicant contributions, must consider the independence and integrity of the role of the regulators.

The findings of this study, therefore, have wider relevance to the integration of regulatory systems in the coastal zone around the world, namely that it takes more than administrative reform to improve a regulatory system. Shared institutional knowledge and learning developed through face-to-face meetings of individual officers are particularly important to the integrity of the planning process as experienced by all stakeholders. These relationships take time to form, but ultimately

affect the realisation of economic opportunities in marine development on the one hand and the long-term outcomes as reflected in the quality and protection of the coastal zone on the other.

On-going monitoring and evaluation is required in order to refine the integration of regulatory controls in the inter-tidal zone, especially as its adoption spreads to other areas. Such research might focus on three areas. First, the proposed methodology of the Planning Advisory Service (2015), whereby the views of all stakeholders (including applicants/agents, consultees and planning officers) about the process according to established criteria can be triangulated to identify issues where opinions are most divergent, offers a more structured insight into the effectiveness of the process. Second, a focus on the activities of the Concordat agency officers in operationalising the Coastal Concordat would be instructive in understanding how the greater coordination and inter-agency learning is achieved, and the extent to which these processes are formalised into institutional practices and are sustainable. Third, an economic evaluation of the costs incurred and saved by all stakeholder groups by this more integrative process would also be informative in guiding the evolution of this policy mechanism, especially if developer contributions are favoured to financially support this regulatory system.

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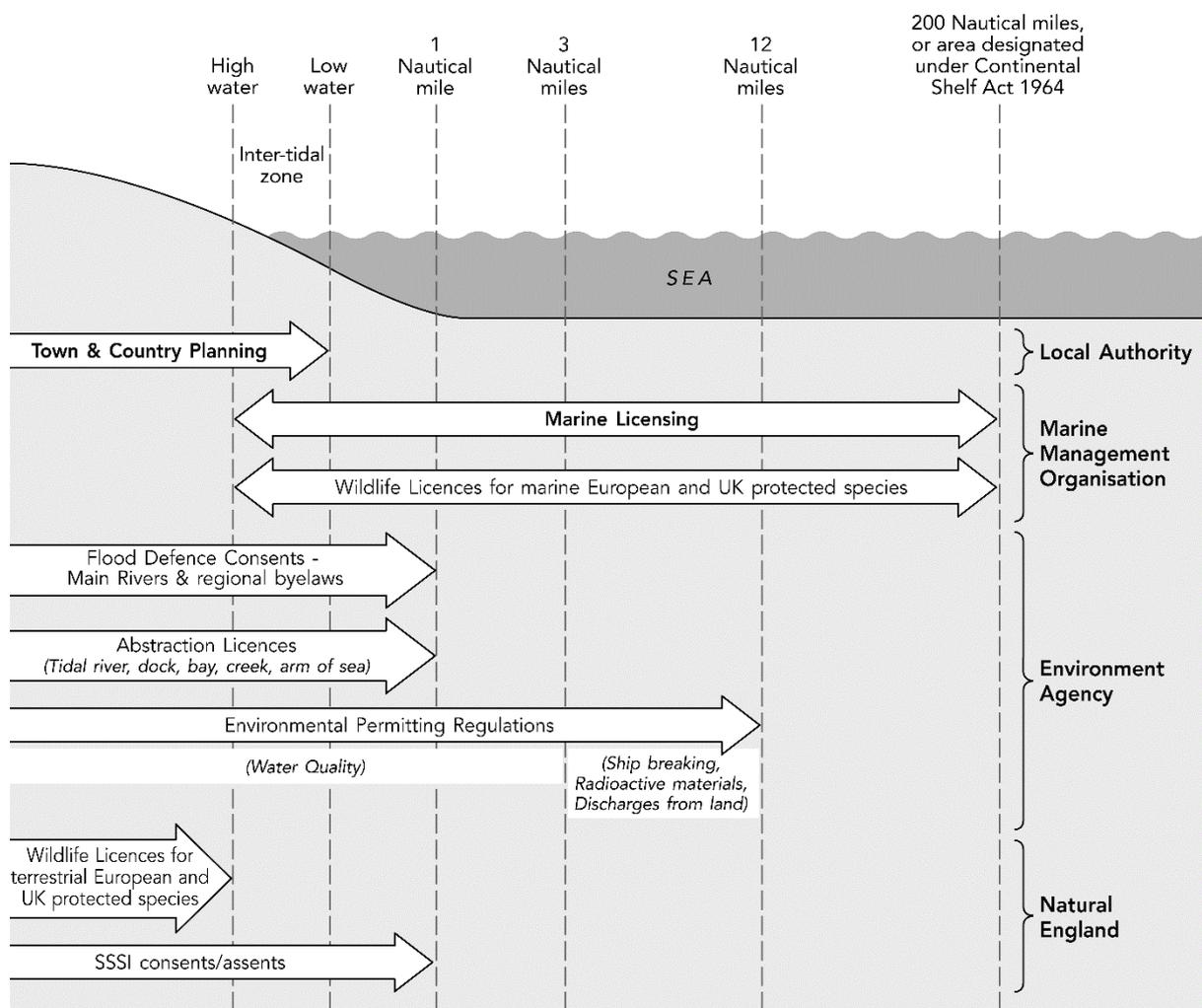
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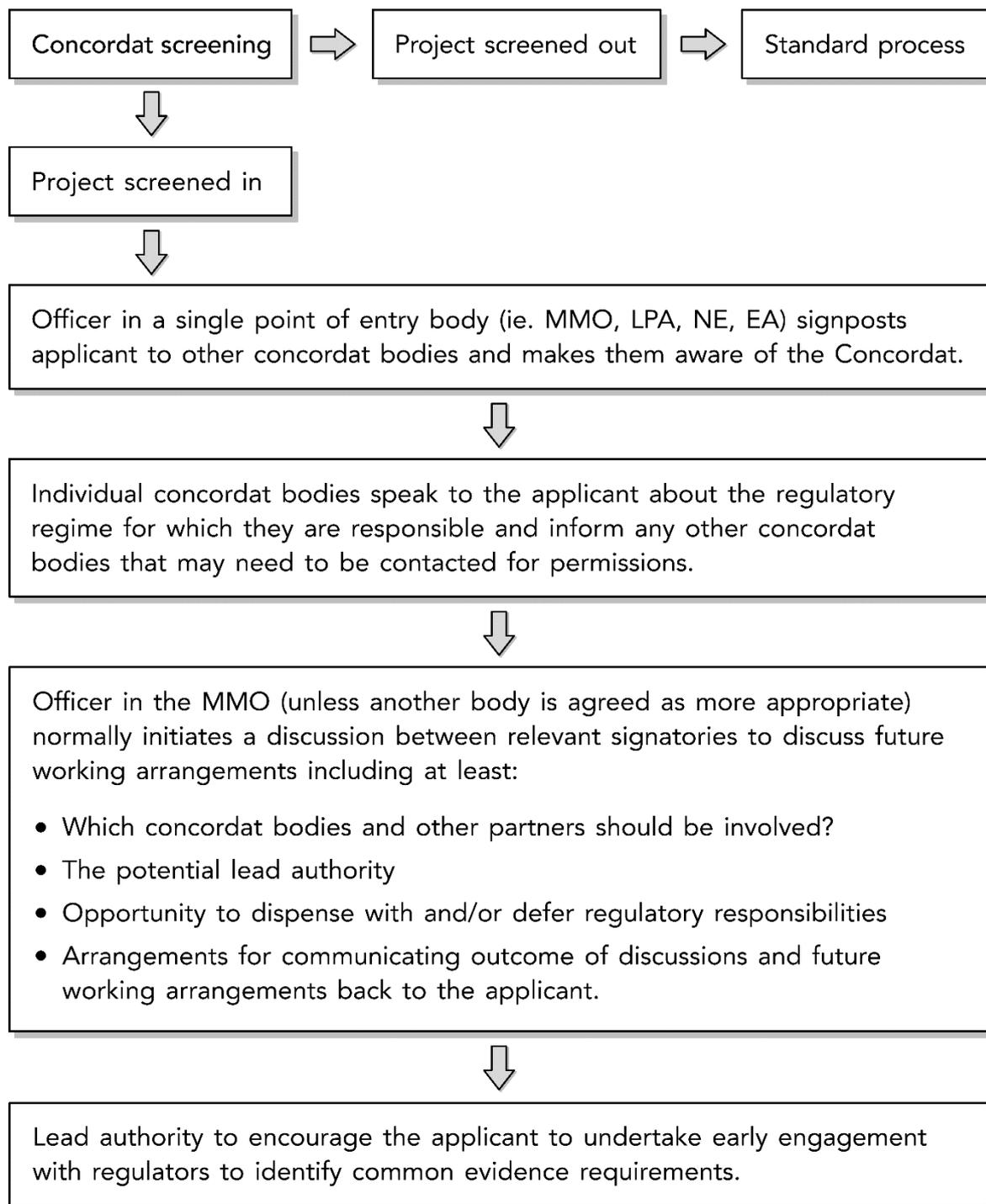
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**Table 1. Sampling frame for the survey of local planning authorities, government agencies and marine-related businesses about the integration of terrestrial and marine planning in Coastal Concordat areas**

Stakeholder group	Total in the sampling population	Questionnaire survey completions	Face-to-face interviews	Telephone interviews	Declined to be included in the survey	Total sample
Local Planning Authorities	13 LPAs + 1 partnership	9	1	1 + 1 partnership	2	12
Marine Management Organisation	Officers at national and regional level	0	1 from SW Office	0	0	1
Environment Agency	Officers at national and regional level	2 from SW Office	1 from SW Office	0	0	3
Natural England	Officers at national and regional level	1 from SW Office + 1 from S Office	0	0	0	2
Marine businesses in Coastal Concordat areas	8	6	2	0	0	8
Marine businesses in non-Coastal Concordat areas	8	4	2	0	2	6
<b>Totals</b>	<b>36</b>	<b>23</b>	<b>7</b>	<b>2</b>	<b>4</b>	<b>32</b>

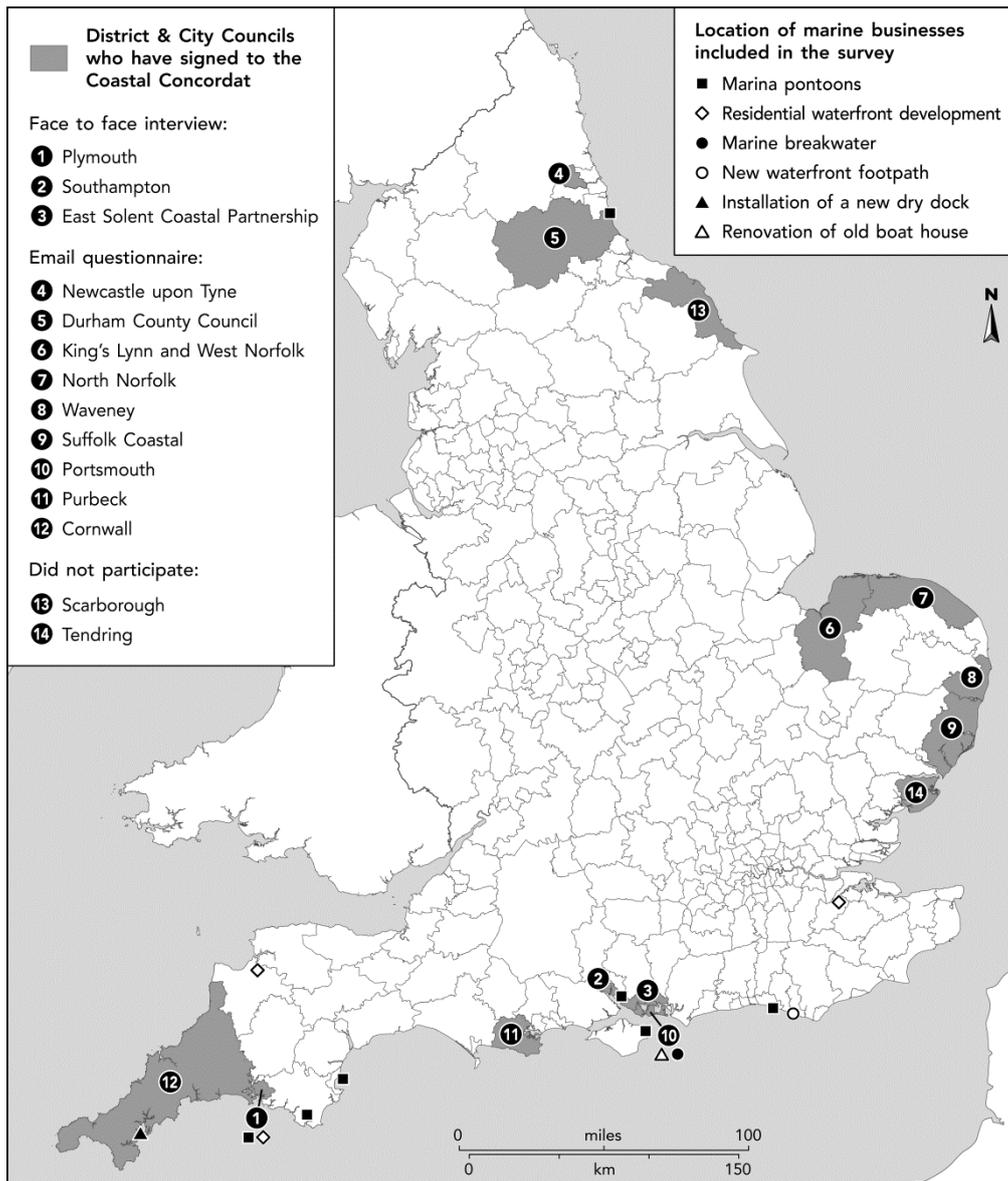


**Figure 1. Marine and terrestrial planning consents required in the inter-tidal coastal zone.**  
 SOURCE: DEFRA (2014, p.11).



**Figure 2. The process for the coordination of terrestrial planning permission and marine licensing consents for development applications in the inter-tidal coastal zone in Coastal Concordat areas.**

SOURCE: DEFRA (2014, p.7).



**Figure 3. Location of Coastal Concordat areas as at April, 2015.** The local planning authorities and marine-related businesses included in the survey are indicated. In addition, the views of officers from the Marine Management Organisation (South West England), Environment Agency (South West England) and Natural England (South West and Southern England) were also included in the study.