



The MARINET UK Marine Reserves Campaign

**MARINET's Response to Questions identified by the Joint Committee :
Supplementary Document.**

For the attention of:

24th May 2008.

Joint Committee on the Draft Marine Bill,
Scrutiny Unit,

Room G10,

7 Millbank,

London SW1P 3JA

Evidence from:

MARINET,

Marine Network of Friends of the Earth Local Groups and Affiliates,

Allington House,

Allington,

Chippenham

Wiltshire SN14 6LN

Tel. 01249 653972

Email. Stephen.marinet@btinternet.com

Introduction by MARINET.

Our main document seeks an amendment to the draft Bill in order to place a duty upon the Secretary of State to create an ecologically coherent network of Highly Protected Marine Reserves which covers at least 30% of UK seas out to 200 nautical miles.

This document, our response to the Joint Committee's questions, is therefore a supplement to our main document.

Joint Committee's Questions:

1. *The challenge of assessing whether the legislative framework for marine spatial planning set out is fit for purpose in the absence of the government setting out what the*

objectives for the planning system are (the Marine Policy Statement).

We are seeking an amendment to the Marine Bill which will place a duty on the Secretary of State, via an amendment to the clauses in the Bill relating to the Marine Policy Statement, which will require Her Majesty's Government to create, and thereafter maintain, an ecologically coherent network of Highly Protected Marine Reserves which covers at least 30% of UK seas out to 200 nautical miles. The purpose of this is to protect and restore the good environmental status of the marine ecosystem as a whole.

We believe that unless this amendment is made the marine spatial planning system will not be

instructed by this higher level principle, but rather will be driven by competing sectoral interests (fishing, aggregates, energy, conservation, communications, and so forth). Accordingly, it is our assessment that the legislative framework for marine spatial planning is not yet sufficiently robust.

2. *How well the regulatory framework proposed will operate, given the wide range of responsibilities involved.*

The regulatory framework will be operated by the Marine Management Organisation (MMO), which in its own turn will be drawn from existing areas within Whitehall concerned with regulation e.g. the Marine and Fisheries Agency.

Given the establishment of the new task of marine spatial planning within the framework of the MMO, there should be a greater level of expertise available to the regulatory section of the MMO. Additionally, with the integration of disparate regulatory units (as at present) into one unified unit (the MMO), there should be greater efficiency.

However, from our perspective, the regulatory framework does not function well at the present time. We do not believe that the regulatory system adequately recognises the needs of the marine ecosystem as a whole and that, as a consequence, the integrity and well-being of the marine ecosystem is in serious decline. Our evidence base for this is detailed, and is drawn from our experience with the approval and evaluation of marine aggregate extraction licences, and the general condition of the fisheries in UK seas.

3. *The proposed powers, structure and regulatory role of the Marine Management Organisation.*

It is hard to say whether the MMO, as proposed in the Bill, will be adequate in terms of its powers, structure and regulatory role as the introductory notes at the front of the April 2008 version of the Bill state that the government plans to create the MMO in a gradual, phased approach, partly because of the evolutionary nature of the new system, and partly because of the availability of resources (ref. Section 3.44).

To be effective, the MMO must have executive authority and, once the Marine Policy Statement is established, the MMO must be allowed to operate within the terms of that Statement without interference from its sponsoring Department of State (Defra).

In terms of structure, the MMO must be sufficiently decentralised so as to be able to understand the needs of each English maritime region, otherwise the planning system which the MMO is being asked to deliver will be centralised and proscriptive, rather than responsive and prescriptive.

In terms of its regulatory role, the MMO must be capable of operating in an expert manner, and be open and transparent in its decision-making. Any regulator must connect with the needs and perception of those whom it is regulating, whilst at the same time connecting with the needs and perception of those parties whom its regulations are seeking to protect. This is not an easy role, and will require adequate resourcing from its sponsoring Department of State.

4. *How well the provisions of the Bill will fit with the aims and policies of the devolved assemblies.*

We are not in a position to comment on this question.

5. *Will the system proposed be sufficient to meet the requirements of the forthcoming European Marine Strategy Directive and achieve 'good environmental status' as defined under the Directive.*

If the system is not founded on the establishment of an ecologically coherent network of Highly Protected Marine Reserves covering at least 30% of UK seas out to 200 nautical miles, we do not believe that the needs of **the marine ecosystem as a whole** will be met. Accordingly, we doubt that the fundamental objective of 'good environmental status' throughout UK seas can be delivered. This is because the only management tool which can actually deliver this is a network of Highly Protected Marine Reserves, and the UK Bill is not proposing to establish this.

Moreover, the UK marine spatial planning system is going to be rolled out gradually, region by region (two regions in the first instance), by a Marine Management Organisation whose date of establishment is not specified in the Bill. Accordingly, the requirement in the European Marine Strategy Directive to deliver marine spatial plans, along with attendant plans for the attainment of good environmental status by 2015 (Article 5, section 2b(i)) looks like a remote possibility.

Further, the draft Bill will not address the question of the management of sea fisheries beyond UK territorial waters, arguing that their management is a devolved matter to Brussels. Therefore the UK asserts that it can only act in terms of fisheries conservation

with the direct consent of Brussels. We do not believe that this statement is correct. Our legal advice informs us that the UK Parliament can act in a sovereign manner over fisheries management and conservation, provided that such intervention is to protect the and conserve the marine ecosystem as a whole – hence, our recommendation that the UK Bill establishes Highly Protected Marine reserves covering at least 30% of UK seas. Such a principle can deliver both full ecosystem and fisheries protection.

If the provision and amendment which we recommend is not incorporated into the Bill, then the UK government will be unable to deliver one of the key, defining terms of ‘good environmental status’ – namely, that all commercially exploited fish stocks are to be managed within safe biological limits in terms of age and size (ref. Annex I)

6. *Whether the proposed Marine Spatial Plans will be based on adequate scientific data and provide certainty about where activities and developments will be permitted in a given time frame.*

At present, it is widely recognised there is insufficient catalogued data to deliver marine spatial plans throughout UK seas, other than in a crude, rough-and-ready manner. Accordingly, considerable research will be required prior to the drawing up of these plans and this, in turn, means an adequate provision of financial resources to undertake this task.

Currently, the knowledge we possess is largely driven by commercial licence applications. Thus if an aggregate company, for example, wishes to mine aggregate from the seabed in a specific locality an Environmental Impact Assessment is conducted which provides scientific data adequate to determining the suitability or otherwise of a licence – in short, the kind of information that a marine spatial plan will require if it is to fulfil its function.

Accordingly, we believe there must be doubts as to whether marine spatial plans can be delivered in a near future time frame (e.g. 2015 as required by obligations incurred under the European Marine Strategy Directive), unless the Marine Management Organisation is established at an early date and is adequately resourced. The current draft of the Marine Bill does not give us confidence that this will be so.

7. *Whether improvements to the management and enforcement of inshore marine fisheries can deliver required conservation and sustainable development objectives.*

The key to the fishing industry being able to abide by and respect conservation and sustainable development objectives rests upon their involvement in the formulation and management of those objectives.

Highly Protected Marine Reserves exist to rebuild the stocks of commercial fisheries – see the extensive scientific evidence collected by the Royal Commission on Environmental Pollution in their 25th Report, *Turning The Tide*, published 2004, and MARINET’s supplementary Briefing for Members of Parliament (attached to this present document). Therefore the fishing industry stands to regain its long-term economic future from

conservation and sustainable development objectives, provided the industry allows these objectives to be established and properly managed.

Central to this is a decision by government to adequately pay off the bank loans on fishing vessels which compel fishermen to fish even when fish stocks are in danger of collapse, and the building of a new economic framework whereby fishermen are paid both for their knowledge and the supervision of the management objectives of HPMRs. If this new economic contract and dialogue is established by the Bill, then the Bill's conservation and sustainable development objectives will succeed. If this new contract is not established, then the Bill's objectives will fail.

8. *Should there be a statutory requirement on a UK body to ensure that the network of Marine Conservation Zones is created ?*

As observed above, we believe it is fundamental that the clauses in the Bill regarding the Marine Policy Statement are amended to incorporate a statutory duty on the Secretary of State (and thereby the government's agencies) to create an ecologically coherent network of Highly Protected Marine Reserves which cover at least 30% of UK seas out to 200 nautical miles. These HPMRs will be "no-take" areas in terms of human activity, and serve the purpose of protecting the marine ecosystem as a whole.

However, we believe that this 30% area of HPMRs must be established in consultation and negotiation with the other users of the sea. Thus we would expect the government (and its agencies) to work out with other users of the sea (fisheries, aggregate, energy, communications) where their imperative needs exist, and then seek to formulate the 30% area of HPMRs around and with regard to those other needs. The UK seas are, we believe, large enough to accommodate all interests – including the maintenance of marine ecosystem integrity – and we can and should proceed on this premise.

Therefore the establishment of extensive and widespread HPMRs should be on a negotiated basis, and not an authoritarian one. Clearly within territorial waters (12 nautical miles) there is competing usage for the sea which will give rise to disagreement about designation. We do not have the knowledge or professional expertise to proscribe definitively on designation in such congested areas, and we believe that professional expertise within government agencies can justifiably be trusted to serve as the arbiter. The important matter to remember, however, is that the UK seas out to 200 nautical miles are a vast area, and there is sufficient space here for *all* competing objectives and usages to be met.

9. *Is there sufficient biological data to identify a potential network of Marine Conservation Zones, especially in offshore areas, and what data will be required to measure their effectiveness ? What proportion would be highly protected ?*

We believe that the proportion that should be Highly Protected throughout UK seas is 30%, for reasons already stated, and we believe our earlier comments in reply to

Question 6 apply here.

We would however make the additional comment. It is because our knowledge of how the marine ecosystem as a whole functions is so slender and under-researched that it is imperative to establish Highly Protected Marine Reserves. They are the one management tool that allows us to manage the marine ecosystem as a whole. If we follow this approach, we recognise our limitations in knowledge and adopt a management approach that is both precautionary and allows us, with some real measure of confidence, to know that we are managing the seas in a sustainable way for future generations precisely because we have set aside a substantial area.

When fishing stopped during World War I and World War II, UK fish stocks rebounded significantly in size and quality. We therefore know that the “no-take” approach regenerates the marine ecosystem. What we need now is the will and determination to establish this “no-take” approach in measured terms (30% of UK seas), and to create the legislative and executive powers in the Bill.

10. *Should socio-economic criteria as well as scientific criteria be used in identifying areas to be Marine Conservation Zones? What lessons on the designation of protected areas can be learned from existing SACs and Marine Nature Reserves?*

Earlier comments apply here. However when we say that Highly Protected Marine Areas (and by implications lesser conservation designations such as Marine Conservation Zones) should be “no-take” areas which exclude all human activity, it must be recognised that this designation has been made, *at the same time*, in full consultation with all other users of the sea and, moreover, that the management system has identified those areas of the sea essential to their needs and livelihood. Thus, the competing uses of the sea (the marine spatial plan) will have identified those areas of the sea where specific activities will apply – whether that designation be no human use, fisheries, aggregate extraction, energy generation, cable laying or whatever. Thus, the potential conflict between social, economic and environmental definitions of sustainability will have been negotiated and reconciled. This is the hallmark of good management.

It should be noted, as a footnote, that in terms of fisheries Highly Protected Marine Reserves result in larger fish and more fecund fish stocks. See our attached Briefing for Members of Parliament where the details and scientific evidence for this is recorded.

11. *Will the Government’s 3GW renewable energy target create a demand for marine sites that have potential as conservation areas?*

We have spoken with the British Wind Energy Association and we see no inherent conflict. Obviously certain sites viewed favourably by the industry may have important conservation characteristics. However what needs to be established is how unique these conservation characteristics are and, if they are replicated elsewhere, whether conservation zones (HPMRs) can be established in those alternative areas where there is no competing usage, thus enabling the 30% target for HPMRs to be established throughout UK seas.

In inshore waters, we should rely on professional expertise to negotiate a satisfactory *modus vivendi*, but we do not anticipate the actual area of sea experiencing such contention to be very large and certainly in no way will it undermine the 30% obligation that we have identified. The sea is too large a space for this scenario to have any truth or validity.

12. *The suitability of including regulatory issues concerning inland waters within the Marine Bill.*

By inland waters, we assume it is meant freshwater areas. On this we have no view or basis for comment. If it means tidal waters in estuaries i.e. where marine life and ecosystems exist, then we would regard the inclusion of regulatory issues as entirely appropriate.

13. *The appropriateness of the measures contained in the draft Bill aimed at creating an English coastal route.*

We have no expertise in this matter. However, in principle, we would tend to view the proposal favourably and can see no fundamental obstacle. Allowing people to connect with the marine and coastal environment can only be beneficial, provided no-one's livelihood is seriously adversely affected and, should this be so, cannot be adequately addressed.