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20th March 2013.

For the attention of: Richard Benyon, Minister for Natural Environment and Fisheries, and
the MCZ Team, Defra, Nobel House, 17 Smith Square, London SW1P 3JR.

Dear Sir, Defra Public Consultation: Marine Conservation Zones.

These are the comments of Marinet, the Marine Network of Friends of the Earth (England, Wales and Northern Ireland) and its members. We have consulted our members and supporters, and I have supplied here their individual comments, attributing them to specific people where appropriate.

Before recording these statements, may I advise you on the general view of Marinet.

We in Marinet hold it to be self-evident that nature reserves are a sensible thing.

They protect areas of exceptional and rare biodiversity, and they provide a reservoir and sanctuary for wildlife, in all its various plant and animal forms, where nature can multiply and then spread out naturally and, with man's assistance where necessary, re-colonise areas and landscapes that have been damaged.

On land, this need and practice is widespread. Modern agriculture and urban development has made it essential, and the abundance of nature reserves in all their various forms is legion. We have responded and created nature reserves, large and small, all over the country and whilst their abundance could still be improved they are in many ways a success story. They preserve wildlife, and the proof of their importance is evident and clear.

At sea, this need is equally great. Intensive fishing and other commercial uses of the sea have seriously reduced fish stocks and degraded both the diversity and the resilience of our seas' ecosystems. Yet, marine nature reserves - Marine Protected Areas and Conservation Zones - have **not** been established in any way near the same abundance or with the sense of purpose as they have on land. Marine nature reserves are still the "Cinderella" of the conservation movement - a dazzling presence that is forever promised, but very meagrely supplied.

We all, including the UK Government, know the urgent necessity for these reserves in order to rebuild our severely depleted fish stocks and their degraded ecosystems - and yet now, when the Government has the ability to create **127** Marine Conservation Zones (based on sound scientific advice and following lengthy public consultation) it has decided provisionally to create **only 31**. This is not good enough. We all know that it is not good enough, and we believe that the Government (in its heart of hearts) knows this too.

Marinet's involvement in the MCZ identification process – the 4 English Regional Stakeholder Groups and their own more local consultative procedures – has been led by our Steering Group member, Tim Watson (North Tyneside Friends of the Earth). He has been in touch throughout with our representatives in all the 4 Regional Stakeholder Groups and their consultative processes, and he offers the following comment for Defra's consideration:

"Thank you for the opportunity to comment on the proposed first tranche of MCZ's.

"We note that an inclusive, project based identification process, monitored and assessed by a Science Advisory Panel, has taken place (2010-12). The timetable for this process was extended by six months to enable further work to take place in checking the robustness of the data, and to firm up the scientific evidence for the sites identified by the four stakeholder groups.

"We welcome, therefore, the emergence of a final list of 127 proposed MCZ's, endorsed by the Science Advisory Panel, as having ecological coherence. This will provide a network of sites approximating to 27% of the sea area covered [out to 200 nautical miles, ref. Marine Conservation Society estimate] by the four projects.

"It is noteworthy that The Royal Commission on Environmental Pollution, in its 25th Report (Turning the Tide) recommended that 30% of the sea area be included within a U.K. Marine Protected Area network. We applaud, therefore, your efforts in identifying a suitable network which will move marine conservation on within the U.K.

"We are aware that within the marine environment, knowledge of habitats increases with research, but we are most concerned that the current consultation only relates to 31 of the 127 identified sites. We have previously observed that the MCZ identification process was extended by six months to enable more information to be gathered. It is unsatisfactory, now, not to consult on the full list of sites, given that the six months extension enabled the Science Advisory Panel to endorse the full list.

"We are aware that the consensual approach, along with the Ecological Network Guidance, which the Regional Stakeholder Groups used for the identification of possible locations for MCZs has meant that stakeholders, individually and collectively, have had to make compromises. Therefore, having made decisions based on compromise, we would now be very concerned if those same stakeholders sought to undermine the identification process by objecting to a site which they had agreed to at an earlier stage.

"We therefore urge you adopt the full list of 127 proposed MCZ's on the basis that they have scientific backing. This will meet U.K. commitments to a wider European Marine Protected Area network and give marine ecosystems sustainable protection for future generations."

I think the message of Tim Watson, Marinet Steering Group member, is clear. We strongly support the UK Government's commitment to an ecologically coherent network of Marine Protected Areas seeking to protect around 30% of our seas (the Royal Commission recommendation of 2004). But we are concerned that despite a strong scientific procedure during the identification process – clear published scientific guidance from the UK statutory nature conservation bodies (Natural England and JNCC) and review of the Regional Stakeholder Groups' MCZ recommendations by an expert Scientific Advisory Group appointed by the Government – the Government and Defra is now asserting that the science in support of 96 of the 127 proposed sites is deficient, and needs to be further researched. We find this difficult to accept, and especially so when no timetable or timescale is attached to this new scientific procedure. Hence we fear for the designation of these 96 sites, both in the near future and also ultimately.

Our consultation of our own members and supporters has also raised a number of additional points – some making reference to aspects mentioned above – and I now wish to advise you of these.

"1. The Stakeholder Groups were "representative" of all interests, and they received scientific advice from the statutory nature conservation bodies (NE and JNCC), and therefore their deliberations and selection of sites were soundly based (took account of all opinions) and were carefully guided (scientifically informed)."

"2. The designation of the remaining 96 sites (127 less 31) currently has no timescale for implementation, and this is not acceptable."

"3. It is not clear why the 96 sites have been rejected - other than the statement that they need further "scientific grounding". The Minister has not indicated the specific weaknesses that these 96 sites need to address."

"4. Without the other 96 sites, there is a deficit in the requirement for "ecological coherence" of the MPA network."

"5. There is no reference to "co-location" opportunities with commercial marine sites in this current MCZ designation process. Will this be evaluated by the new "scientific appraisal" that the Minister has commissioned? "Co-location" has the potential to lift the area of sea designated as receiving protection to a substantial figure, and would greatly assist in the protection of "ordinary habitats" (i.e. non-special and non-rare habitats) and fisheries which are an essential feature of the marine ecosystem as a whole and its stable functioning. Ref. recent lecture (March 2013) by Prof. Chris Baines at Buckingham Palace and to the Prof. David Bellamy Foundation."

"6. Areas where no-extractive activity of any kind may occur - known as reference areas - which serve as scientific markers within the MCZs of what a "pristine habitat" should look like and how it functions, were meant to be created as part of the 127 MCZ designation process. These are essential scientific tools and reference points. It is not clear what the current status of these "reference areas" is within the MCZ designation process. Will they be created in connection with the 31 MCZs currently to be designated? And, is the Minister still committed to the creation of "reference areas" as part of the UK's MPA network and its need to demonstrate ecological coherence? "

I think it is clear from these additional comments that members believe the scientific process to date has been robust, and are concerned that until the full 127 recommended sites are designated the commitment of the Government and Defra to create an ecologically coherent MPA network seems somewhat hollow. Clear reassurance is needed in this regard, along with a commitment to a definite timetable of designation of the full 127 MCZ sites.

Two additional points of some significance are the concepts of "co-location" and "reference areas". Firstly, co-location offers an opportunity to provide considerable additional protection for the marine ecosystem and fisheries, and to do so on a widespread basis. We believe that this is a policy initiative that has a great deal to recommend it – not only extending the scope of marine conservation into non-rare habitats, but also enabling commercial users of the sea to work in tandem with conservation principles and objectives (something that would be enormously beneficial) – and we would greatly like the Minister to give very careful thought to implementing such a policy and strategy. Secondly, there is the issue of reference areas which set down a scientific marker for what a marine habitat and ecosystem should display when it is in fine health and functioning perfectly (i.e. close to what might be considered pristine). We believe that reference areas are a **key scientific tool** for the sound management of our seas, and must be an integral part of the MCZ system. If reference areas are not created – and Government policy on this is currently unacceptably ambiguous and uncertain – then this will be a serious deficiency, perhaps even a fatal flaw, in the Government's policy and objectives for marine management. We cannot overstate **the importance of reference areas** for the Minister and his advisors.

We have also had representation made to us not by a Marinet member, but rather a supporter. We feel that these comments are of some significance and so include them here.

"The reason I'm contacting you is because I've found something that causes me very grave concern amongst the MCZ consultation material on DEFRA's website. I believe it is a potential legal loophole that, as far as I can see, would prevent MCZs being a force for positive change, even in the few places where they are designated.

"The problem is the suggested legal definition of favourable condition for habitats and habitat FOCI [Feature of Conservation Importance] in MCZs (as given in Article 4, Schedule 2, Section b(iii) of the example Designation Order - attached or at <http://www.defra.gov.uk/consult/files/mcz-annex-g-121213.pdf>). It states:-

– "**favourable condition**" means **(b) in relation to a habitat or habitat FOCI within the area designated**–

(iii) the biological diversity of its characteristic communities is maintained such that the quality and occurrence of habitats and the composition and abundance of species in those communities are at least as favourable as those characteristically found in the prevailing physiographical, geographical and climatic conditions;

"I don't think it's an exaggeration to say that this definition of favourable condition, if enacted, has the potential to render the entire MCZ network utterly pointless.

"The reference condition specified in b(iii) is not just non-aspirational, it is wholly regressive and self-defeating as a driver for nature conservation.

"...at least as favourable as those characteristically found in the prevailing physiographical, geographical and climatic conditions" translates practically as no worse than the condition of comparable features in places that are not MCZs. If comparable features outside MCZs are characteristically in degraded condition due to one or more anthropogenic activities, then this characteristic condition becomes the 'favourable condition' target for the same features within MCZs.

"Hence, management would only be deemed to be failing when the condition of an MCZ feature was significantly worse than that of comparable features in comparable nearby places that are not MCZs and may be in poor ecological condition.

"Worse still, if the condition of a feature is characteristically declining in the surrounding area, due to widespread anthropogenic disturbance, then according to this definition of 'favourable condition', the target condition for the MCZ must decline in accordance with the general trend.

"If there is no legal driver for maintaining or restoring features to a condition that is better than *"that found in the prevailing physiographical, geographical and climatic conditions"*, including potential anthropogenic impacts, then as far as I can see, there is literally no point in having MCZs. If this definition of favourable condition is enacted, the MCZ network will just perpetuate the status quo ante.

"This highlights the danger of not having Reference Area MCZs in the network - without these, there is no objective basis for defining an aspirational target condition.

"Unless I'm overlooking something that negates the significance of this example Designation Order, then I suggest that all marine NGOs that are hoping that MCZs will do more than just perpetuate the status quo should object very strongly to this definition of favourable condition."

We submit to the Minister and Defra that the message explained above is very clear. The definition of "favourable condition" [favourable conservation status] is seriously deficient, needs immediate up-grading to a definition where the functioning of the habitat/ecosystem in question is referenced to a benchmark that is akin to pristine conditions (ref definitions of "favourable conservation status" employed by the EU Habitat Regulations) and that the need for the creation of "**reference areas**" in MCZs is of cardinal importance.

I think the message of support from our own consultative process involving our members and supporters for Defra's MCZ initiative and for MCZs themselves is very clear.

In conclusion David Levy, Marinet's Chair, offers these final thoughts.

"We would like to suggest to Richard Benyon, Minister for Fisheries at Defra, that he and the Civil Service think more creatively about how to operate the subsidies regime that is available from his Department and the European Maritime and Fisheries Fund for use by conservation areas, fishermen and their industry.

"The Minister, in his response to Hugh Fearnley-Whittingstall's Fish Fight Series Two television programmes, said that HF-W did not understand how expensive it is to create MCZs. However it is also clear from these programmes that the **key** to delivering successful MCZs is to have **fishermen** directly involved in MCZ management, as evidenced by the fishermen at Lyme Bay, Dorset. Put simply, MCZs can rebuild fisheries by protecting important habitat areas, and the people who benefit directly from this (renewed stocks for the future) and who can best supervise the area (know its features and ways) are the fishermen. So it is essential that the subsidies from the EU and UK are given directly to the fishermen in these areas so that they, firstly, are employed as the MCZs' managers, and secondly, so that they have a direct interest in the success of each and every MCZ.

"The need for a new, creative use of subsidies was also made clear by the programme which featured South Georgia and the Falkland Islands where pristine ecosystems for krill and South Atlantic fisheries are not protected because the Islands need the £3 million revenue from fishing. Yet a simple subsidy would enable the Falkland Islands economy to meet its needs whilst simultaneously delivering a large 200 nautical miles MPA administered by the Islands and their fishermen. So with a creative use of subsidies everyone benefits - the Islands economy which is also assisted by a new conservation/tourism industry, the fishermen themselves who administer the MPA, and the ecosystem and its wildlife in the South Atlantic and Southern oceans.

"Respectfully, we observe that at the moment we can see little innovation in the administration and delivery of the MCZ process. Examples of creative, innovative practice already exist elsewhere - Australia, New Zealand and the USA - and if the Minister were to respond positively and imaginatively we would quickly, and genuinely, affirm that he has delivered an ecologically coherent network of MCZs as promised."

We trust that these observations, many of which are heart-felt, are of value to the Minister and the MCZ Team at Defra. We have before us an opportunity to put right a long and most unfortunate history of undeniable mismanagement of our seas, where we have lost a fishing industry which, in its prime, not only provided us with food security but also exported its catch worldwide.

The opportunity before us is the proper implementation of the Marine and Coastal Access Act and its promise of an ecologically coherent network of Marine Conservation Zones, a prospect that has held sway for nearly 10 years since the Royal Commission 25th Report on our fisheries, and their management and regeneration. The time has now arrived to fulfil that promise.

Yours faithfully

S. D. Eades
On behalf of Marinet