

The Clerk
Environment Audit Committee
House of Commons
Westminster
London W1A 0AA

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Dear Sir, Marine Conservation Zones: Supplementary Questions to the Minister.

We write further to the meeting of the House of Commons Environmental Audit Committee on 2nd April 2014 when the Committee questioned the Minister, George Eustice MP, about the delivery of Marine Conservation Zones (MCZs). We wish to suggest some supplementary questions which the Committee may wish to follow-up in writing with the Minister. Marinet is a community marine network.

We believe it to be essential to the answering of the Committee's questions that the Committee should establish what the Minister understands by a coherent network of MCZs. This information needs to be provided by the Minister, and not by his team.

Explanatory Paragraph, 28/04/14:

Under the Marine and Coastal Access Act 2009 the Minister is responsible for the establishment of Marine Conservation Zones (MCZs) and the legislation requires that these MCZs form an ecologically coherent network. Previous Ministers have emphasised that the MCZ process would be "ecologically coherent". Given that the Minister has this specific responsibility under the legislation, it is essential that the Minister understands the concept and the scientific principles relating to it. The only way to establish the Minister's competence is to ask him to explain, in his own words (i.e. unaided by officials), what this concept means. In asking the Minister to give this reply in written form, one would have to ask the Minister to give an assurance to the Committee that the reply has been written by himself, and not "ghosted".

Once it is established what the Minister understands by a coherent network, then the Minister can be asked what is the purpose of this network, and what benefits will arise from these interlinked sites.

Explanatory Paragraph, 28/04/14:

Ecological coherence has been defined by the government's statutory nature conservation agency, Natural England. When the government (Defra) established the procedure for the identification of MCZs following enactment of the 2009 legislation, the government gave the task of MCZ identification to Regional Stakeholder Groups in England, and to the devolved Governments in Wales and Scotland. To assist this identification process and to define what ecological coherence means, Natural England identified a range of habitats and species that characterise the ecological structure of the UK's seas and the instruction from the government to the English Stakeholder Groups was to identify a list sites

within their region that reflected this range of habitats and species, and thus to recommend to the Minister and his advisors a list of sites that was ecologically representative. In addition, these sites had to be agreed with social and economic interests on the Stakeholder Group so that they could be recommended with confidence to the Minister - i.e. social and economic interests had been involved in their determination and listing, and thus the list did not conflict with their interests.

Further as each of the Regional Stakeholder Groups was undertaking an identical process, the combined list of the sites identified by the Stakeholder Groups gave a comprehensive and representative structure to the MCZ identification process throughout English seas, thereby ensuring that there was a coherent character to the national process.

Consequently everyone could be assured that the important habitats and species were being protected, that social and commercial interests were content, and that the list constituted a coherent, linked national network - in short, the MCZ network was ecologically coherent.

One should **note**: it was assumed that the Minister would designate the full suite of MCZ sites - which had been identified by the Stakeholder Groups and vetted by his scientific advisors [The Scientific Panel] - because this authoritatively agreed list fulfilled the legal requirement for the network to be ecologically coherent; and, that the Minister would not attempt to "cherry pick" just a few sites from this list because to do so would undermine the whole process which had led to the list being ecologically incoherent. In the event 127 MCZ were identified by the Stakeholder Group process, but the Minister chose to advance the nomination of only 31; and, when the "first tranche" were actually nominated by the Minister this figure of 31 fell to 27. So the question of the integrity and obligation to meet ecological coherence remains unfulfilled at the present time, with no clear prospect of when it will be fulfilled in the future, nor any clear statement of the future procedure involved. The Minister has advanced the view that social and economic interests have expressed concerns about the full list of 127 sites. This however appears a disingenuous point of view since the social and economic interests were involved in the original identification process in the Stakeholder Groups, and gave their consent to the full list of 127 sites. Also the Minister has expressed the view that the scientific credentials of some of the sites in the list of 127 needs further validation but, once again, this appears a disingenuous point of view given that the full list of 127 sites were identified using the scientific and conservation criteria identified by the government's statutory nature conservation agency, Natural England, and vetted for integrity by the Minister's own appointed scientific team of experts (The Scientific Panel).

We observe that it was not clear from questioning whether the Minister understands that the concept of MCZs came from the Marine and Coastal Access Act, 2009, and that the 2009 Act was never meant to deal with issues relating to fisheries.

Explanatory Paragraph, 28/04/14:

It was not clear from the Minister's replies to the Committee whether he understands that the MCZ network comes from the 2009 Act; that the Act excludes protection and conservation of fish species; that the Act states this, and that fishery protection and conservation measures are to be developed within the framework of the EU Common Fisheries Policy (CFP) - by means of closed areas, for example, under the CFP in order to protect fish spawning grounds and key areas/habitats. Therefore if the Minister seeks to introduce issues of fisheries management as an objective of MCZ identification and delivery, this is erroneous and incorrect in terms of the 2009 Act. Fishery interests can, of course, express views about the identification of MCZs, but they have already been fully involved in the original Stakeholder Group process, and it should be noted that fisheries may operate within MCZs provided that their activity does not damage the conservation objectives of the MCZ. In the case of highly protected MCZ "reference areas" there is a no-take requirement relating to fishing activity, but these "reference areas" are individually very small, limited in geographical terms (a miniscule fraction of 1% of the seas), and in no way undermine the national interests of the fishing industry.

The answers provided by the Minister indicated that the coherent network was to be designed to allow safe passageways for transient species, but what species had he in mind ?

Explanatory Paragraph, 28/04/14:

Given the foregoing explanatory detail, it is unclear why the Minister should indicate that the coherent network should be designed to allow the safe passageway for transient species. Can he please explain this view, and specify the species he has in mind? One should **note**: one of the virtues of a national ecologically coherent network is that if trauma should occur in one region of our seas (e.g. a severe pollution incident) then similar habitats and species will have been preserved elsewhere, thus ensuring durability for the survival of those habitats/species nationally, and the possibility of regeneration in the damaged area in the longer term.

If MCZs are now seen as essential for fisheries, can the Minister also answer the question about what has priority in his mind - that of the nursery and spawning grounds for fish species, or socio-economic considerations ?

Explanatory Paragraph, 28/04/14:

Is the Minister seeing the conservation and protection of fish spawning and nursery grounds as a priority, and that this priority outweighs social and economic considerations in the final analysis?

In any scientific view, fish and their habitats are an integral part of the marine ecological structure. They are key marine animals, and ecological structure means little if they are excluded from it; and, their own protection is equally compromised if they are not evaluated as a key component of the overall ecological structure of UK seas. Therefore it is most interesting if the Minister is now taking a broader view of MCZs and the 2009 Act, and is beginning to reflect the scientific thinking that was strongly recommended (but ignored) at the time of the enactment of the legislation – namely, that fisheries protection is a key component of any ecologically coherent conservation strategy. If this is so, does the Minister give priority to the protection of fish spawning and nursery grounds in order to rebuild fish stocks, or is the ability of commercial interests to harm these areas (for example, by dredging for aggregate) and the ability of the commercial fishing industry to relentlessly harvest these areas - because fish gather together in spawning grounds and are easily caught there - to still be allowed to hold sway, thereby contributing to both the merciless decline in the overall size of these stocks and the commercial survival of these over-fished stocks?

If he chooses the latter, like the Dogger Bank region, why cannot the co-location principle apply ? Note: co-location is the siting of MCZs in conjunction with areas of human activity.

Explanatory Paragraph, 28/04/14:

If the Minister now wants to give priority to the protection of fish spawning and nursery grounds, like the Dogger Bank in the North Sea, then he can actually do this in conjunction with commercial and social interests. For example, the Dogger Bank is a prime location for offshore wind farms – identified by the offshore wind industry itself – and the Dogger Bank is a key area for the spawning of several commercial fish stocks. If a MCZ is identified based on the Dogger Bank, then it is clear that commercial interests (offshore wind

industry securing a key site, and fishing industry securing protection for a key spawning and nursery area) are able to work directly with conservation and the statutory purposes of the 2009 Act. This conjunction of industrial/commercial areas with conservation areas is “co-location”. It is a policy of immense potential. Not only does it marry economic, social and commercial interests with conservation interests, but it can be applied widely in the coastal seas of the UK. For example, shipping lanes (which permit little other commercial activity for safety reasons) can be made into conservation zones (MCZs), seabed pipelines and cables and the surrounding area can be similarly linked, reference areas adjacent to marine aggregate dredging sites which exist to enable dredged areas to be “re-populated” once dredging has ceased can be equally designated, and a similar approach/philosophy can be deployed in connection with any other commercial use of the sea. If this principle of co-location is accepted – linking geographical areas of commercial activity with conservation objectives – then a widespread delivery of conservation areas and objectives can be readily brought into play. At present, the Minister and the government (Defra) are declining to engage with this approach. Why, when it offers so many advantages ?

At the meeting on 2nd April no questions were asked of the Minister about co-location, yet it is clear that co-location would deliver more sites for the coherent network. The question is: why have MPs “lost” the concept of co-location and allowed the Minister to duck this important issue? This concept would allow a second tranche MCZ no-take sites to be delivered in 2014.

Explanatory Paragraph, 28/04/14:

Little further explanation is required, already having been explained above. Why is the Committee losing sight of this important conservation tool, why is the Minister losing sight too, and would it not solve a huge number of “conflicts” which are currently being advanced as the reason why the process of MCZ delivery and ecologically coherent network cannot be speedily advanced ?

Does the Minister recognise his duty for providing fish food security for 12 months of the year, and that he is personally accountable when it comes to any legal challenge about the stewardship of handling public assets?

Explanatory Paragraph, 28/04/14:

Fish stocks in UK seas belong to the nation and are held in a common trust on behalf of the nation, with the government acting as the trustee. This is an acknowledged fact of Public Trust and Common Law. The Minister is the nominated trustee on behalf of the government. Historically, UK fish stocks have been able to meet the needs of the nation for fish for all 12 months of the year, year after year (the definition of fish food security). However in recent times the UK nation has lost its food security because the UK government – the trustee of these stocks – has allowed over-fishing repeatedly, year after year (ref. Common Fisheries Policy and the UK licensing of fishing vessels) which, in turn, has destroyed UK fish food security with stocks now so diminished that they can only meet the UK’s needs for 6 months of each year.

Therefore, the Minister and the government is open to a charge of legal culpability in this regard – wilful neglect, and a breach of Public Trust Law. Does the Minister recognise his legal duty to manage fish stocks sustainably so that they can provide fish food security, and does the Minister recognise his legal duty to pursue management policies that will rebuild fish stocks so that they can once again deliver fish food security ?

Would the Minister care to comment about the current ownership of the British fishing quota by European fleets and companies?

Explanatory Paragraph, 28/04/14:

At the conclusion of each annual meeting (December) of the EU Council of Ministers convened to consider the delivery of the Common Fisheries Policy and the policies with regard to fishing levels and practices, the UK is allocated a specific quota of the EU catch for the forthcoming 12 months. This UK quota is administered and disbursed by the Minister (Defra). At present, the Minister refuses to reveal to whom – the names of the companies / fishing trawlers – the UK quota is allocated to. Thus, who receives what and how much is unknown, although UK fish stocks are a common asset and administered under Trust Law by the government (Defra Minister). Moreover, it is alleged that many of the recipients of the UK quota are not in fact UK companies or fishermen, but registered in other countries or are foreign nationals. So, who does own and receive the British fishing quota disbursed by the Minister ? And, if the disbursement is not wholly to UK companies and trawlers, why is this ?

These are a few supplementary questions which your Committee may wish to address in writing to the Minister, and we would be grateful if you would make this letter available to the Committee's chair and members.

Yours faithfully,

David Levy
Marinet Chair