

**House of Commons Environmental Audit Committee,
Inquiry into Marine Protected Areas (MPAs) in the UK and the Overseas Territories.**

October 2016.

Written evidence submitted by Marinet Limited.

Marinet Limited (Reg. No. 9241919) is a not-for-profit company limited by guarantee which campaigns and informs on matters affecting the marine world, primarily in the UK but also worldwide. It is run by its Members on a voluntary basis, and its membership is composed of individuals and community groups, with membership currently numbering 92. Marinet used to be a part of Friends of the Earth, but became entirely separate two years ago.

Executive summary.

- The Marine and Coastal Access Act 2009 (MCCA) was poorly drafted by Government and is unable to deliver effective marine conservation via Marine Conservation Zones (MCZs) in the UK. We do not accept that these deficiencies in drafting were unforeseen, and we therefore believe that in its fundamental purpose – fully effective marine conservation – it was designed to fail.
- Marine Protected Areas (MPAs) require effective management which can deliver active protection. Unless this is the case, they are not effectively protected areas. The MCCA has fundamental flaws in terms of its ability to deliver effective management, and therefore needs reform by Government. This reform should seek to engage all interested parties working co-operatively within a defined management unit for each MPA, and establish an overarching national management body governing this individualised management structure.
- The principle of co-location whereby licensed users of the sea seek, and are required by terms of their license, to work in tandem with the conservation needs and objectives of the UK's seas should be established as a fundamental principle of both licenses and MPA management. Co-location is founded on the principle of co-operation, and seeks to have the three pillars of sustainability – social, economic and environmental – working co-operatively, rather than in opposition to each other which is frequently the case at present.
- The term Blue Belt should be used advisedly. It suggests a marketing concept which, unless the reality behind it is grounded in real protection and management, is likely to mislead rather than inform.

How effective has the MCCA (2009) been in achieving its objectives ? Are there improvements that could be made to it ?

1. The key to answering this question is knowing firstly what the MCCA's objectives are, and secondly what they ought to be in the light of its overall aim.
2. Reference to the MCCA itself will tell us what these objectives are (S.129 onwards), but perhaps more pertinent is an assessment of what these objectives are, and ought to be, in the light of its primary aim – to create a coherent ecological network of MPAs (MCZs, and EU based SACs and SPAs) – which will restore and sustain a healthy, productive and biologically diverse character to the UK's seas.

3. Two matters are of primary importance in an assessment of what these objectives are, and ought to be. The first is whether the MCCA was designed in such a way as to be able to deliver these objectives. The second is whether the MCCA contains the tools to create the management that can deliver on this.

4. First, was the MCCA adequately designed? Marinet contends that it was not. We made this point clearly at the time in Parliament (2008). Unless the basis of MCZ creation and designation is such as “to protect the marine ecosystem as a whole” within the MCZ (as opposed to protection of selected aspects based on species, habitats and geological features, ref. S.117) then the Act does not contain the full range of powers necessary to establish the primacy of the principle of a coherent ecological network. This failure has meant that MCZs are always at best compromised, at worst subordinate, to the social and economic interests within the MCZ boundaries, and that conservation – the restoration of ecological integrity – can never preside.

5. When the MCCA Bill was at the House of Commons Report Stage in 2008 Marinet tabled an amendment, via Katy Clark MP (*Labour, North Ayrshire and Arran*), which sought to enable a MCZ to be designated in order “to protect the marine ecosystem as a whole” within its boundaries. Whilst supported by the Opposition (Conservative and Liberal Democrats), the Government (Labour) defeated the amendment on a whipped vote. The following year the Conservative and Liberal Democrats formed the Coalition Government and could have enacted this amendment, but declined to do so.

6. Hence Marinet has concluded that the MCCA was “designed to fail” in this most important respect. It was not designed to enable the assertion of the primacy of the ecological needs of our seas, either within individual MPAs, or nationally, via a coherent network. Thus the design of the MCCA is such that MCZs will always be compromised and often subordinate to social and economic interests within the MCZ boundaries, and conservation – the restoration of ecological integrity – can never preside.

7. Why should the ecological integrity of our seas preside? This is because the fruits of all social and economic uses of the sea depend, for their richness and abundance, on the ecological health of the seas. For example, if fisheries are to maximise catches it is necessary that stocks are allowed to exist at the maximum level that current ecological limits will permit. If ecological conditions are compromised so also will be stocks and, likewise, catch levels. The only way out of this downward spiral is to assert the restoration of the primacy of ecological health of the seas. Economic and social maximisation depend on ecological health. Hence the need for the ecological integrity of our seas to preside.

7. We **recommend** that MCCA 2009 be amended in S.117 to enable MCZs to be designated in order to enable them “to protect the marine ecosystem as a whole” within a MCZ’s boundaries.

8. The second aspect as to whether the MCCA was designed to deliver its objectives is whether it contained the management tools necessary to make MCZs effective i.e. to provide the actual protection.

9. The Marine Management Organisation (MMO) has powers (S.129) to create bye-laws for MCZs which, in terms of management, the MMO has described as “control plans”. However we believe that management means the capability to undertake active action at the site, and this feature is largely absent.

10. In the case of MCZs between 0 and 6 nautical miles, management falls to the regional Inshore Fisheries and Conservation Authority (IFCA), but IFCAs tend to confine their focus on fisheries.

11. The MMO’s management jurisdiction is, in actual terms, confined to MCZs between 6 and 12 nautical miles, whilst beyond 12 nautical miles management falls to the Joint Nature Conservation Committee (JNCC).

12. In addition to this fractured nature of management authority and activity, no MCZ – nor indeed MPA (i.e. including SACs and SPAs) - has a standing management body which meets regularly in the presence of stakeholders and interested parties to receive evidence and determine management. In short, there is no management of MCZs in the conventional sense – a governing body which convenes itself regularly in order to administer and regulate – with the result that MCZs are effectively rudderless.

13. This failure of the MCCA 2009 is, one can only conclude, deliberate. If the truth were otherwise, Government (which knows the meaning of “government”) would have created an effective management body with accompanying powers. It is our conclusion that the MCCA is not failing due to poor administrative or human ability. Rather, it is failing because it was designed to fail e.g. to ensure that the imperative of ecological integrity can never preside absolutely, but always be relative, if not subordinate, to social and economic interests.

14. We **recommend** that MCCA 2009 be amended in S.120 onwards in order to ensure that a clearly defined management body exists for MCZs; **that** this management body is convened on a regular basis with clearly defined powers and responsibilities; **that** the body has a clear convening statutory authority who acts as its chair – we **recommend** the MMO – **and that** this applies to all MCZs regardless of their distance from the coast **and that** this management body be inclusive and formed from all persons or organisations with an interest in the MCZ.

15. We **recommend** that the MCCA be further amended, pursuant to paragraph 14 above, to create an additional national management body which superintends all the individual MCZ management bodies in order to ensure consistency and delivery of the ecological coherence of the network (ref. S.123 and 124).

16. It needs to be understood, additionally, that achieving the objectives of the MCCA, both in its overarching aim and in terms of effective management, requires the active co-operation of all parties interested in how the sea is used. This means that social, economic and environmental (ecological) interests need to see that their interests are best secured by co-operation, rather than in competition with one another.

17. We have sought to advance this belief, not least to this Committee in our evidence to its first Report in 2014, that co-location means that sites licensed for various uses (windfarms, aggregate dredging, oil and gas extraction, cables and pipelines, shipping lanes, and indeed fishing) should be developed in conjunction with and in the furtherance of conservation and ecological objectives. This means, for example, that offshore windfarms seek to protect spawning and nursery grounds for fisheries in tandem with their overall site footprint; that aggregate dredging sites create reference marine protected areas (MCZs) alongside their licensed site with the purpose of providing both genuine no-take areas for national scientific research and also for the subsequent recolonisation of the dredged site; that cable, pipelines and shipping lanes develop similar no-take reference areas in conjunction with their need to secure protection of the sea for their own specific use; and, that even fishing recognises that the protection of spawning and nursery areas will, in the long-term, regenerate stocks and thus the economic viability of the fishing industry whilst, at the same time, restoring the wider ecological structure of the sea where fish and fish stocks are a key determinant in biodiversity.

18. The fruits of co-operation, and its associated principle of co-location, are so considerable that they require to be a cardinal principle in the designation of MCZs (MPAs) and their management.

19. At the present time, co-location and co-operation as we have defined it, have no traction in MCZ policy. Nor indeed is the concept embraced specifically in the 2009 Act. We consider this to be a

profoundly woeful omission. It illustrates a spirit of dysfunctional thinking in the spirit and administration of the Act and MCZ roll-out.

20. Accordingly we **recommend** that the Act be specifically examined by Government to determine how its provisions can be amended to incorporate the provision of co-location and co-operation in the designation and management of MCZs (MPAs); **that** this thinking be an essential component in the delivery of an ecologically coherent network of MPAs: **and, that** this principle of unity and co-operation between social, economic and environmental (ecological) interests be an essential feature of the reformed management structure and regime which we have recommended. Partnership, not division and self-interest, is the only effective route for the restoration of health to our seas.

What lessons should the Government be taking from the process of designation, implementation and enforcement of the first two tranches of MCZs ? To what extent has it learnt these lessons ?

21. The answers, from the point of view of the Government, depend greatly on what the Government's objectives actually are.

22. If the Government's objectives are, as we have advanced, in line with a view that the MCCA was never designed to deliver MCZs where ecological imperatives preside, and the Act prefers a situation where the social and economic objectives preside – and, by implication, the Government does not believe genuinely in co-operation between social, economic and environmental objectives – then it is probably true to say that the Government's objectives have been largely achieved. Only 50 out of the original 127 candidate MCZs have been delivered in the first and second tranches, and none of the MCZs have an active management regime in the terms discussed above. As has been observed elsewhere by other commentators, genuine protection within these protected sites and our seas has not been delivered, and delivery in terms of a genuine driver for change has been, at best, very limited.

23. We have provided the Committee with the basis and evidence for our thinking. If we are right in our thinking, then the Government needs to undertake serious reform of the Act. If we are wrong in our thinking, then the Government will continue as before; and we and the Government - and our different perceptions - will have to be judged by the Committee in the terms of results.

24. To state matters simply, will the health of our seas improve or deteriorate ? If it improves, the Government is probably on the right course. If it continues to deriorate then we are probably right, and our recommendations and analysis are justified.

To what extent has the Government met the previous Committee's concerns regarding management plans for individual MCZs, and the overall strategy for all MCZs ?

25. Our understanding of the conclusions of the Committee's 2014 Report is that:

- There was no effective MCZ management strategy.
- There was no enforcement strategy.
- The MMO proposed to deliver "control plans" for MCZ management for only the 1st tranche by 2016.
- The Government must set out management plans for individual MCZs.
- The Government must set out an overall strategy for MCZ management.
- The Government should identify a clear lead agency for management, with resources to match.

26. Our perception is that the Government has made little progress in addressing the shortcomings identified by the Committee in 2014. Our conversations with the MMO suggest that this organisation is committed to the task it has been given by the 2009 Act. However it has received no new powers since 2014. Thus the MMO's statutory remit remains unreformed, and severely proscribed. In addition its annual grant from DEFRA continues to decline, so no new resources have been made available. Our contact with the IFCAs has been limited, and when we have sought contact and information in order to ascertain management initiatives by the IFCAs, the replies have been threadbare. IFCAs have placed no detailed information about MCZ management in the public domain. Indeed, their contribution to the Committee's 2014 Report seemed virtually negligible, and their role and contribution unassessed.

27. We **recomm**ed that the Committee takes evidence from the IFCAs regarding their role and function in MCZ management.

How should the Government's policy on the Blue Belt take account of the EU Referendum result (Brexit) ?

28. As a result of the EU Referendum, the Government may – depending on the outcome of Article 50 negotiations – have substantial powers of self-management restored to the UK.

29. If this situation transpires, then the Government must ensure that MPA designation and administration established under EU Regulations continues without diminution under UK law.

30. The next step is to ensure that fisheries management returns under full and effective control of the UK Government and Devolved Administrations. Management of UK fisheries by the UK Government prior to the Treaty of Rome was not a success story. Substantial decline in fish stocks took place under that earlier watch. Since then this serious decline in fish stocks has continued, allied to the development of "property rights" relating to fishing of these stocks by means of the Total Allowable Catch (Quota) system which, in turn, has allowed access to fish stocks to fall into the ownership of large companies ("Producer Organisations"), a substantial proportion of which are non-UK owned. Additionally, the small UK fishermen (under 10 metre boats) have been marginalised by the quota system to the point where now they no longer have viable economic access to UK fish stocks. All of this has resulted in continued over-fishing, and a decline in the overall ecological health of our seas.

31. Brexit and the MPA regime must address the question of how fish stocks are rebuilt. Specifically, how the UK fishing industry is restored to a sound economic base; and, how conservation principles allied to the MPA regime can play a lead role in the re-establishment of the ecological integrity of our seas. In précis : how social, economic and environmental principles of sustainability work co-operatively and not in competition.

32. Fish stocks which are in robust health, and the associated management regime which achieves this, are central to the overall restoration of the ecological health of our seas – what is termed under the EU Marine Strategy Framework Directive as "Good Environmental Status" which is to be attained by 2020.

33. The MPA regime (Blue Belt) can and must play a central role in this 2020 objective. Fishermen, particularly small boat fishermen, can play a central role as managers of a MPA network which is specifically focused on the regeneration of fish stocks, along with the overall ecological health of the seas. We **recomm**end that they be engaged by the UK Government in this capacity.

MPAs and Overseas Territories.

34. We welcome the 15th September 2016 announcement of the UK Government that it is to double marine protection in seas around UK Overseas Territories to around four million square kilometres – greater than the landmass of India. We **recommend** that the Committee seek precise details from the UK Government concerning the nature of the individual fishery regimes that will be established, and how overall protection for these marine protected areas will be managed and enforced.

David Levy and Stephen Eades,
Directors,
Marinet Limited,
4th October 2016.

2927 words.