Dear Sirs,

Draft Marine Bill 2008

Response from the Marine Biological Association

1. The Marine Biological Association (MBA) is a Learned Society established in 1884. The MBA has about 1000 members worldwide and runs The Laboratory in Plymouth where 60 staff work. The MBA has an international reputation for excellence and innovation in research and receives strategic funding through the Natural Environment Research Council’s Oceans’ 2025 Programme. The MBA is actively engaged in providing scientific information to underpin policy and inform environmental management. The MBA also hosts the Marine Environmental Change Network (MECN), which is concerned with the coordination of UK long-term research and monitoring and the provision of advice to policymakers, and the Marine Life Information Network (MarLIN) which undertakes research to support marine environmental management protection and education.

2. The MBA has previously provided a response to the consultation on the Marine Bill Green Paper in 2006 and the Marine Bill White Paper 2007 and welcomes the chance to now provide comment on the Draft Marine Bill 2008.

3. Our response follows-on from previous MBA responses and addresses areas of science that MBA personnel are particularly experienced in. A more wide-ranging response has been drafted by the Plymouth Marine Sciences Partnership, of which MBA is a member, which we have contributed to.

4. Our response has been co-ordinated by the Executive Secretary of the MBA (Dr Matthew Frost) with contributions from Dr Keith Hiscock and Professor Colin Brownlee.
General Comments

5. The MBA welcome the draft Marine Bill as a valuable tool to provide protection for the seas and move towards the government’s vision of having “healthy, productive and biologically diverse seas”.

6. We would like to see a more explicit commitment to ensuring that the UK Marine Bill will be compatible with the impending Scottish Marine Bill. This is of crucial importance because marine resources span country boundaries which links to issues such as the function and remit of the UK Marine Management Organisation (MMO) and in ensuring the best use of the UK’s national science capability for management and protection of our seas.

Comments on marine conservation issues

7. We drew attention (Point 6) in response to the Marine Bill White Paper on 6 June 2007 to the importance of addressing biosecurity in relation to the import and movement of non-native species. Such activities should be a function of the MMO and mentioned in Annex F. We note that the Bill does not mention shellfisheries or mariculture in general which seems a major omission. The import of non-native species deliberately for mariculture and the accidental import and movement of ‘hitch-hiking’ non-natives on them is a major cause for concern as many become pest species. Measures could also be taken with regard to vessels entering UK waters or moving around within UK waters that are fouled and likely to introduce non-native species to new areas. All-in-all, non-native species are a major threat to native biodiversity and it is remarkable that there is no mention of measures to prevent their importation or subsequent movement around the coast.

8. Movement of shellfish and overall regulation of mariculture is not mentioned in the bill. This is significant as mariculture is a significant use of the marine environment and greatly responsible for the movement of potential non-native pest species. We recommend that mariculture as an industry be subject to spatial planning guidelines.

9. There are several points in the Marine Bill and supporting material where "important" features for biodiversity conservation are mentioned or are relevant (for instance, Policy Paper 3.78; Bill Part 4, clause 106 (2)). We have noted therefore, that there is no reference to the list of Nationally Important Marine Features (NIMF) for species and habitats that were developed as a part of the Review of Marine Nature Conservation. Although NIMF list is long and needs ‘rationalisation’ (what that rationalisation should include has been itemised to
Defra and JNCC), it would be an important tool for environmental assessments and for MCZ selection and management.

10. The MBA champions the use of the best available scientific evidence to support marine conservation (see our comments below on the MMO). However, we would also like to see reference made to the precautionary principle so that scientific uncertainty is not used as an excuse for inaction, particularly in relation to the establishment of a network of Marine Reserves.

Comments on Part 1 - Marine Management Organisation

11. In our ‘Overall comments’ in response to the Marine Bill White Paper on 6 June 2007, we indicated (Point 2) that the MMO should include conservation scientists to properly support the nature conservation role of the MMO. We are concerned that biodiversity conservation is now not explicitly identified as a function of the MMO.

12. The MBA is fully behind the proposals for a Marine Management Organisation. However, we are concerned that its main objective (Clause 2 (1), p29) has been cited as “contributing to the achievement of sustainable development” but without direct reference to the overall aim of the bill (see our point 4). It should be read as contributing to sustainable development and also of contributing to the aim of coastal protection and creating a “healthier, productive and more biologically diverse marine environment” (p11).

13. We are pleased that the MMO will seek to utilise research in seeking to carry out its function (Clause 23 (1) & (2), p49). We would recommend that there are strong mechanisms for ensuring that marine scientific research and advice from experienced marine scientists is considered in the first instance by the MMO when carrying out its functions. It is still unclear how research is going to be central to the MMO’s function: i.e. will there ‘in house’ marine experts or will NERC or the UKMMAS (United Kingdom Marine Monitoring and Assessment Process process) be used to obtain expert advice. The MBA would suggest that:

   a. At least one of the MMO board members should be a scientific representative
   b. There should be a scientific advisory panel, including conservation scientists, to the MMO
   c. The UKMMAS which is establishing good links between the research community and those responsible for policy driven assessments be explicitly linked to or coordinated by the MMO.

14. The House of Commons Science and Technology Committee recommended in its ‘Investigating the Oceans’ report that the Inter-Agency Committee on Marine Science and
Technology Committee (IACMST) be replaced by a new body, the Marine Science Coordination Committee (MSCC). Although the MBA has previously expressed some concern over the need to ensure the effectiveness of the MSCC (MBA response to the government response to the IOC report, Feb 2008) it should still be clear if and how the MSCC would be linked to the MMO.

15. The importance of taking good scientific evidence into account is shown by the fact that information gained by the MMO will be used to contribute to the selection of sites for designation as Marine Conservation Zones (MCZs) (Annex F, p70). Policy statement 3.79 should be reworded so that it reads “Sites will initially need to be selected on best available scientific evidence.” Mention can then be made of the social and economic considerations. This is vital as the network of Marine Protected Areas that is at the heart of the governments measures to protect the environment must be selected on the basis of robust scientific evidence before other considerations are taken into account.

16. The issue of MMO activities being based on scientific evidence is important in ensuring that the best available conservation science is used to make decisions about protection of species and habitats and that nature conservation, as one of the duties of the Marine Management Organisation (MMO), is supported by conservation scientists within that organisation (and/or a Conservation Advisory Committee could be considered).

17. One of the remits of the MMO is to “improve coordination of enforcement and related monitoring activities and make best use of information and data” (Impact statement, p9). It would be useful to have a more explicit mention, therefore, of the role the MMO is expected to play in coordinating monitoring such as that required to be ensure conservation objectives are reached for Marine Conservation Zones (MCZs)(See policy statement 3.86). For example, will the UKMMAS (see point 11) now come under the remit of the MMO? The UKMMAS has been an extremely successful strategy for coordination of monitoring and in addressing data issues. However, although it is mentioned in the policy background (policy statement 3.32) there needs to be explicit mention within the bill on how the UKMMAS relates to the MMO and whether the MMO will now take responsibility for the UKMMAS.

18. The issue of better use of data is also important and the MBA is pleased to see this issue being addressed (see policy statement 3.30 - 3.32). However, there is concern that the Marine Environmental Data Information Network (MEDIN) and the United Kingdom Directory of Marine Observing Systems (UKDMOS) are generally under-funded and rely on the goodwill of data providers to support the work. We would wish to know, therefore, whether there is a commitment to have these initiatives coordinated by and funded via the MMO?
Comments on Part 2 – Marine Planning

19. There is some concern over the statement "a combination of formal town and planning qualifications, and experience of strategic project management and policy development……. we think that these skills are applicable and transferable to planning in the marine environment" (policy statement 3.46). Although there is then a further statement that marine expertise advice will be given, it is vital that specialists be identified or properly trained for this role as this will be key to the successful implementation of Marine Spatial Planning. It is not adequate to let terrestrial planners (who are driven largely by economic and political considerations) to be the main force in developing marine spatial plans where there should be a primary emphasis on marine environmental protection.

Comments on Part 4 – Marine Conservation Zones

20. Explanatory note 264 should be clarified. It should mention (in addition to “areas above high water spring tide”) areas inshore of tidal regions on the open coast but which are affected by seawater and contain marine species (percolation or sluiced saline lagoons). Section 108 of the Bill is affected and should be clarified.

21. It appears from comments made in Marine Bill document (e.g. policy statement 3.153; Clause 105, explanatory note 252; IA, paragraph 17(iii)) that the Marine Conservation Zones (MCZs) are going to be subject to different conservation measures than those in place for the European marine sites (SACs & SPAs). Although both sets of sites will be included within a wider network we believe it is imperative that European marine sites are afforded the same level of scrutiny in identifying the level of protection as the new MCZs, especially as current protection for European sites is widely perceived as being inadequate.

Comments on Part 5 – Other conservation sites

22. Part 5, Clause 133 refers to Sites of Special Scientific Interest and to situations where their boundary might be extended beyond Mean Low Water. Where a SSSI is designated for its marine biological interest or where marine biology is explicitly mentioned in the reasons for designation, then the richest communities (and special interest) are likely to be at extreme low water levels. Most importantly, those features may not occur above mean low water and therefore the arrangements outlined in 133 (3) (1C) to extend boundaries below Mean Low Water could not be applied. All-in-all, the Clause needs to be re-thought with the help of scientists who understand tides, ecology and where special features might occur.
Alternatively, just make the lower boundary of all SSSIs with marine biological interest, that is not explicitly terrestrial fringe, extreme low water of spring tides.

23. The title of Clause 134 is poorly worded as “intertidal” includes areas to chart datum (the lowest tidal level) and “subtidal” (commonsensically) is below chart datum.

Comments on Part 7 - Reform of migratory and freshwater fisheries

24. Clause 106 (2) should also include species that are in decline or are threatened with decline. However, commercial fish species should be excluded as, whilst many are clearly in decline, their exploitation is a matter for fisheries regulations (Part 7).

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