Dear Richard

Marine issues

The Scottish Parliament’s Rural Affairs, Climate Change and Environment Committee (RACCE) has been considering various marine issues, such as the publication of a national marine plan, the establishment of marine protected areas, and the environmental impacts of marine renewables, and how these relate to each other, ahead of the Scottish Government’s planned consultation on these issues in summer 2013.

The Committee took evidence from Marine Scotland, stakeholders and from yourself, in order to inform the content of this letter. The purpose of the letter is to outline the views of the Committee regarding the issues it believes require consideration by the Scottish Government when finalising its consultation documents on a national marine plan, marine protected areas, and marine renewables. The detailed views of the Committee are attached in the Annexe.

The Committee would welcome a response to this letter ahead of any consultation documents on these issues being published by the Scottish Government.
The Committee looks forward to continuing positive engagement with you as the process unfolds over the summer and into the autumn.

Yours sincerely

Rob Gibson MSP
Convener
Broad Conclusion

The Committee is encouraged that, after a period of delay, the Scottish Government intends to consult this summer on the establishment of a national marine plan for Scotland, marine protected areas, and on marine renewables planning. This is a welcome development bringing Scotland closer to establishing what could be global-leading, inter-connected, spatial management plans for its seas.

Following concerns raised by stakeholders the Committee is also encouraged to note that the Scottish Government has taken an inclusive approach to marine planning and will not repeat the mistakes made when marine protected areas were consulted on in England. The Committee supports the plan to consult on all 33 possible marine protected areas, which have been proposed to the Scottish Government by Scottish Natural Heritage and the Joint Nature Conservation Committee along with the four additional search locations.

In terms of a national marine plan, the Committee notes the issues involved in seeking agreement from the UK Government for the management of off-shore waters beyond 12 nautical miles and other reserved elements in the plan and believes it is vital that, if coherent and effective management of Scotland’s seas is to be achieved, EU, UK and Scottish law is consistent and complimentary.

The Committee supports the Scottish Government in promoting a co-ordinated approach to planning in the marine environment which seeks to address the challenges of protecting Scotland’s marine ecology and supporting Scotland’s economy. The Committee recognises that there may be conflicts in seeking to achieve multiple objectives but the process of planning for and establishing effective management regimes will be vital. The Committee would welcome clarity on the mechanism the Scottish Government proposes to resolve potential conflicts and achieve a balance between environmental sustainability and economic development. The Committee recommends that where evidence is unclear, or data incomplete, the Scottish Government adopts a precautionary approach and operates on the basis of a presumption in favour of protection of the marine environment.

An evidence based approach to planning and management of our seas, particularly in areas where there may be competing interests, is essential. A co-ordinated approach to addressing data gaps, collating, sharing and analysing information and research between the Scottish Government, its agencies, commercial interests and communities will be vital to the successful implementation and management of the national marine plan. The Committee welcomes the move towards this and the sharing of data platforms. The Committee encourages the Scottish Government to continue this partnership approach to identify and fill existing data gaps.

Throughout the process of planning for and managing our seas the Committee encourages the Scottish Government to continue to focus on stakeholder buy-in and engagement with local communities.
National Marine Plan

Focus of the Plan

The UK’s Marine and Coastal Access Act 2009 and the Marine (Scotland) Act 2010 provide a broad framework for the development of Scotland’s National Marine Plan (NMP). The NMP will focus on fisheries, aquaculture, impacts on freshwater salmon fishing from a marine base, oil and gas, carbon capture and storage, renewables, recreation and tourism, transport, telecommunications and cabling, defence activities and some limited aggregates work.

The Committee understands the plan seeks to address economic growth, environmental issues, and the interaction between marine users, with a view to managing impacts on the marine ecosystem.

The Committee supports the starting point of the NMP in seeking to protect the marine environment and promote sustainable use where conservation objectives can be met. The Committee welcomes the acknowledgement of the Cabinet Secretary that the NMP should enhance and recover Scotland’s seas and understands the NMP will include statements about marine planning made by other bodies considering opportunities to enhance the health of Scotland’s marine area. The Committee is keen to ensure that the NMP recognises the impact climate change could have on the marine environment and the adaptation that may be required and acknowledges the contribution the marine environment can make to climate change mitigation.

The Committee recognises there are a number of activities seeking to utilise Scotland’s seas and considers it important that the NMP, as the statutory framework, provides clarity in relation to the activities that may cause problems in certain sites. The Committee anticipates the NMP will identify potential environmental impacts, potential for economic growth, interactions between uses and potential conflicts between sectors and in specific geographic areas.

Offshore Waters beyond 12 nautical miles

The Committee is aware of the relatively complex issues at play in the marine environment and in order to have a plan that covers the range of issues, agreement from UK ministers for elements relating to offshore waters beyond 12 nautical miles and the reserved elements of the plan, including at the consultation stage will be needed. The Committee would welcome confirmation of the timescale the two governments are working to, including the stage negotiations are at, and when the Scottish Government anticipate conclusion of these negotiations.

Marine Protected Areas

Identification and definition of MPAs

Both the UK and Scotland’s Marine Acts include a duty on Scottish Ministers to designate Marine Protected Areas (MPAs) and contribute to an MPA network, which protects biodiversity and geo-diversity. In December 2012 Scottish Ministers
reported to Parliament on progress in developing this network. This included outlining 33 nature conservation MPA proposals and four search locations, and identified further work that is required in the marine environment to meet EU obligations under the birds and habitats directives. The Committee is encouraged by the inclusive approach the Scottish Government is taking in seeking to develop the MPA network and welcomes the evidence based approach to designation focusing on the protection of key features. The Committee believes this will inform a responsive approach to the planning for and management of MPAs.

The Committee believes a comprehensive network of MPAs that contribute to an ecologically coherent network of protected areas is necessary, and welcomes confirmation from the Cabinet Secretary that all 33 Scottish MPA proposals and the four search locations will be consulted on. The Committee is pleased to note that a summary of the evidence gathered, and SNH and JNCC’s assessment of it, will be included as part of the consultation.

The definition and management of the MPAs offers considerable potential to maintain and enhance Scotland’s marine environment. The Committee would welcome clarification on the process of selection of the MPAs, specifically whether to date alternative sites of ecological equivalence have been proposed based on discussion with industry and, if that has been the case, the Committee would welcome further detail on the options considered, those selected and whether they provide ecologically equivalent substitutes.

The Committee encourages the Scottish Government to clearly outline the purpose and focus of each proposed MPA, in terms of conservation or recovery, and to provide an explanation as to the scientific basis for each of those categorisations. The Committee encourages the Scottish Government to be ambitious in its approach to promoting recovery. The Committee also encourages the Scottish Government to include an explanation of the social, environmental and economic benefits of each proposed MPA in the consultation.

The Committee recognises there are a number of EU and UK designations and encourages the Scottish Government to provide clarity on the contribution made by the MPA network and by individual MPAs to meeting international obligations and support non migratory seabird species such as the black guillemot. The Committee heard specific concerns about seabird feeding hotspots, particularly concerns relating to black guillemots as these are not migratory and not included in the Birds Directive (hence in MPA proposals). Taking an eco-system approach to the protection of species such as sand eels is vital for the survival of many bird species. The Committee seeks assurance from the Scottish Government that MPA designation plus the protection offered by the SACs, SPAs, SSSIs and fisheries closure areas offers sufficient protection for such seabird species.

The Committee understands that changes to the proposed MPA boundaries have recently been made, based on refinement by SNH and JNCC. As the consultation may result in further changes to the boundaries the Committee encourages the Scottish Government to promote transparency in decision-making in the lead up to and throughout the consultation period. The Committee would welcome further
information on meetings held prior to the consultation launch and details of the proposed consultations, including plans for community engagement. The Committee would also welcome updates on the progress of the consultations.

**Historic MPAs**

The Committee understands that historic features such as wrecks can support the development of many species and ecosystems which can make a valuable contribution to the diversity of the marine environment. The Committee recommends the Scottish Government work closely with Historic Scotland to ensure an appropriate consistency between the historic MPAs and the proposed network of MPAs.

**Management provisions**

The Committee welcomes the commitment of the Cabinet Secretary to include specific detail on management practices and potential management options for individual MPAs in the forthcoming consultation. The Committee seeks clarity as to whether the Scottish Government anticipates a further round of consultation on individual MPA management plans following completion of the initial consultation exercise.

The Committee understands that, once designated, management provisions within MPAs will depend on the features present and decisions will be made on a site-by-site basis. The Scottish Government has stated there will be a presumption that activities will continue within a MPA providing the conservation objectives can be met. However activities which pose a significant risk to a protected feature will require active management.

The Committee welcomes further information on what “active management” will mean in practice, for example does the Scottish Government anticipate implementing no take zones, or limiting aggregate dredging, or restricting renewable energy developments.

The Committee would also welcome further information on plans for monitoring and enforcement of management plans and agreements, specifically who will police the “active management”, and how boundaries around sensitive areas will be monitored e.g. is the technology available to ensure that those who should not be carrying out activities in certain areas will be prevented from doing so.

The Committee would welcome re-assurance that, once MPAs have been designated, management plans will be introduced quickly. The Committee understands that there may be an issue for offshore MPAs where fisheries need to be managed as a delay may be inevitable due to the requirements of the CFP and the need for engagement with other member states. The Committee would welcome clarification of this and the processes involved.

**Managing conflict**

Marine Scotland notes that the consideration of management options will inform “a socio economic impact assessment of where benefits could flow to a particular industry sector”, and Scottish Ministers have a power to take account of socio
economics when it comes to designation. The Committee understands the NMP seeks to encourage economic development of marine industries and incorporate environmental protection into marine decision making and it also has a role to play in managing adaptation to climate change. There is a view amongst some stakeholders that care needs to be taken over the possibility of promoting a presumption in favour of new development and concerns with regard to the potential cumulative effects of development. The importance of adopting the precautionary principle, particularly where scientific evidence was absent or incomplete, was raised in evidence to the Committee.

The Committee understands that in many circumstances economic activity and nature tourism can sit alongside protection of the marine environment. However, the Committee also understands that the impact of development can vastly outweigh the geographic footprint of that development and there can be a cumulative impact of activity or development. The Committee is keen to ensure that decisions taken are based on science and evidence and messages in relation to the balance between socio-economic and environmental interests are clear. The Committee welcomes confirmation provided by the Cabinet Secretary that the outcome must be to minimise the impact of human activity on marine features and protection of the marine environment will be the priority. The Committee recommends where evidence is unclear, or data incomplete, the Scottish Government adopts a precautionary approach and operates on the basis of a presumption in favour of protection of the marine environment. The Committee would welcome further explanation on the process for managing competing pressures and on the methodology Ministers propose to use to resolve conflicting demands.

Community engagement

The Committee understands that evidence to date recognises the increasing demands on the use of the marine environment and the likelihood that there may be conflicting views amongst communities of interest and amongst communities of place. The Committee encourages the Scottish Government to work with and support local communities to actively engage with the MPA designation process. The Committee would welcome further detail on proposals to support communities, in terms of the development of their knowledge base and their capacity to engage, and information on plans for meetings and the use of non-technical/scientific language in communications.

Sustainability appraisal, strategic environmental assessment and impact assessment

The Committee understands that a sustainability appraisal, a strategic environmental assessment and an impact assessment of the estimated costs and benefits of the MPA proposals is being prepared and will be included in the consultation. The Committee welcomes the inclusion of this.

Marine Renewables Planning

The Committee understands the Scottish Government plans to produce a set of offshore wind, wave and tidal energy plans which require a review of the offshore wind plan in “Blue Seas – Green Energy”, the wind energy plan produced by the Government in 2011. Statutory consultations will take place in parallel with the work
on the NMP and MPAs, and the Committee understands that 31 separate community workshops will be held across Scotland.

The Committee also understands that before the consultation begins, a strategic environmental assessment will be published, along with other assessment documents and a draft plan, which will have a non-technical summary, drafted in plain English, for the public to engage with. The Committee welcomes this approach.

In providing evidence to the Committee, Marine Scotland noted that it expects between 10-25% of areas zoned for renewable energy to be developed. The Committee heard that six sites for development have been identified and there is perhaps potential for another six. The Committee would welcome clarification on what is likely to happen in the remaining 75-90% of the zoned areas and how the proposed approach may impact on or limit the potential for off shore wind development.

The Committee would welcome clarification on the planning process for marine renewables, specifically the period the plans relate to, the approach to monitoring and evaluation and how this informs the decision making process and how protection and enhancement of the environment can be ensured. The Committee would also welcome information on what work is being carried out, or is planned, to assess the cumulative impacts of renewables development.

**Licencing**

The Committee encourages the Scottish Government to provide clarity on the proposed approach to licencing, including the process and authority for licensing of developments out-with the plan areas. The Committee is concerned to ensure that a strategic rather than an iterative approach is taken to licencing and the granting of consents to ensure that the risk of any cumulative negative impact is minimised. The Committee considers there will be a requirement for a degree of flexibility in the licencing regime to take account of this and to ensure that the approach is sensitive and conditional on emerging information on the impact of developments. The Committee encourages the Scottish Government to establish a licencing system that focuses on monitoring and review of individual licences, and ensures that licences are granted on condition, including time limits, and the system includes powers to revoke licences should conditions be breached.

**Research and data**

Development of the NMP and MPAs and marine renewables planning relies on robust science and adequate baseline data and, whilst the Committee recognises that knowledge and understanding of the marine environment has developed significantly in recent years, considerable data gaps remain. The need to identify and address gaps in the data is a concern expressed by a number of stakeholders who suggest that more central funding and direction for the collation and analysis of data is required alongside greater co-ordination of data and platforms for sharing this.
The Committee is aware of particular data gaps with respect to inshore fishing and the impact of electro-magnetic fields. The Committee has concerns about the accuracy of baseline data for fish stocks in inshore waters and the possibility that this will hamper the planning for, and enhancement and improvement of, fish stocks. The Committee welcomes the existing commitment of the Scottish Government to give greater priority to inshore fisheries and to expand and update the inshore fisheries strategy, focusing on a better understanding of the data. The Committee understands that gaps in data have also been identified in relation to the impact of electro-magnetic fields on cetaceans and in relation to the impact of naval sonar and the Committee would welcome detail on the scope of any research in these areas and the anticipated timescale for completion.

The Committee recognises the importance of a scientific evidence base to inform decision making and wishes to ensure that the data is as complete and as up to date as possible. The Committee welcomes the recognition by the Cabinet Secretary that gaps in the knowledge base exist and need to be addressed and recommends the Scottish Government and marine institutions to give consideration to the need for further work in these, and other areas, where data either does not exist or is only partially available.

The Committee also notes that there are a number of different datasets in existence to support different decisions and approaches to area use and designation (e.g. research by the fishing industry, marine conservation NGOs, the oil and gas sector and the renewables industry) but the extent to which this work has been centrally coordinated, or cross referenced is unclear. The Committee understands the Scottish Government has a “collect once use many times” policy in terms of marine data and welcomes the development of an electronic version of the marine atlas (national marine plan interactive) which will allow spatial data to be fed into a publically available electronic system and the Committee supports the approach of the Scottish Government in establishing agreements with other public bodies that own vessels to share information and data.

The Committee heard that the “marine science partnership” involving all research institutions in Scotland, helps in the co-ordination of data but there was recognition by the Cabinet Secretary that there was scope for improvement in data sharing across sectors. The Committee encourages the Scottish Government to give further consideration to its role in facilitating more effective data management, co-ordination and sharing of information and in promoting a systematic approach to identifying and addressing data gaps, including identifying a timescale and sources of funding for undertaking and reporting on further research. The Committee would welcome clarification on the responsibility the Scottish Government could take in this regard and how the process of addressing data gaps, data collection, co-ordination and sharing could be monitored and evaluated.

**Monitoring and Evaluation**

The Committee considered the issue of how of these plans will be monitored and evaluated once they are in place. The Committee is keen that lessons are learned, and best practice adopted, from the experience of land management planning, and
implementation of the Scottish Government’s land use strategy. In terms of MPAs, the Committee heard that the Government may follow a similar system as that used for land based protected areas, whereby they are assessed every six years to ascertain the extent to which the sites meet their conservation objectives and a report is made to Parliament. The Committee also heard that the Government would require surveys of the sites in advance of such reports, along with obtaining scientific advice and information on the economic use of the area. The Committee understands a monitoring framework is required by the EU marine strategy framework directive and must be in place by 2014. This will support the Government in monitoring the NMP.

The Committee welcomes the Cabinet Secretary’s commitment to a continual process of review and engagement with communities. The Committee considers this will be vital, particularly for mobile species where there are issues in terms of the quality of data relating to breeding, feeding patterns etc. The Committee is keen to ensure that the boundaries of MPAs are kept under constant review to take account of the effects of climate change on habitats and species. The Committee recommends that plans for monitoring and evaluating the effectiveness of the NMP, MPAs and planning for marine renewables are integrated into the final plans and this forms part of the consultation process.