

# Petition PE1951: Reinstate inshore coastal limit on the use of dredge and trawl fishing gears

## Submission from Fish Legal

### Introduction and the key question

We invite RAINE to consider whether the SCFF petition can assist the Scottish Government meet its legal and policy obligations, in particular to achieve marine ecosystem health. Scotland is obliged to manage its fisheries in accordance with law and policy. It is currently failing to do so. *The key question we need to consider is whether an inshore limit could substantially and materially contribute to Scotland meeting its legal and policy obligations for the inshore.*

### The Scottish Government is failing in its obligation to achieve GES.

Under the UK Marine Strategy, Scotland<sup>i</sup> is obliged to put in place the necessary measures to achieve Good Environmental Status<sup>ii</sup>. There are currently no credible fishery plans that will allow it to do so. To achieve Good Environmental Status (GES) Scotland needs to demonstrate that each of specific ‘descriptors’ denoting marine ecosystem health are passed. Currently Scotland fails 11 of those 15 descriptors.

### Scotland’s inshore seabeds are categorised as highly disturbed

We are particularly concerned about the legal ‘descriptor’ for seabed health (also known as ‘benthic habitat’). The reference level to achieve good health for benthic habitat is that less than 15% should be categorised as highly disturbed<sup>iii</sup>. *All 11 of Scotland’s inshore marine regions fail the seabed descriptor* with, on average, 50% of the ground in each inshore marine region categorised as highly disturbed. In short, Scotland fails this descriptor very substantially<sup>iv</sup>.

### Bottom trawl fishing significantly causes Scotland’s failure to meet GES

The Scottish Marine Assessment 2020 acknowledges that “*disturbance to the seabed by bottom-contact towed fishing gears remains a significant and the most widespread pressure*”. This assessment of the impact of bottom trawling was re-iterated in the Scottish Government’s recently published Scottish Biodiversity Strategy to 2045.

In addition, the landmark State of Nature Report<sup>v</sup> of 2019 warns that “*the growing weight of evidence suggests that anthropogenic use of the seafloor itself means our*

*seas are not meeting GES*". The report describes bottom towed fishing gear as one of the most widespread sources of physical disturbance to the seas and concludes that *"measures, whether established for fisheries management, for conservation, or both are likely to have benefits for both nature's recovery and wider society that should be further explored. Future fisheries management in Scotland must have an ecosystem-based approach which includes recovery of marine nature at its core"*.

## The negligible impact of Marine Protected Areas (MPAs) on the inshore trawl fishery

Inshore bottom trawling takes place over almost all of the muddy sediments that are a feature of much of the inshore. The inshore has an area of 88,850 km<sup>2</sup> with around half of that being the type of muddy sediments that are the subject of inshore trawl fishery most notably the Nephrops trawl fishery. Marine Scotland scientists estimate<sup>vi</sup> that only 0.6% of the muddy sediments that are suitable for bottom trawling are shut to trawling by MPA management measures. Whilst trawl bans in the inshore cover around 2500 km<sup>2</sup> it would seem the majority of these are in areas where trawl activity would not occur anyway because of rocky seafloor conditions.

## Current plans by the Scottish Government are nowhere near enough to achieve GES

The Scottish Government are currently consulting on the introduction of a network of Highly Protected Marine Areas that will potentially cover 10% of Scotland's inshore. Until we know where these are going to be placed (i.e. in places which are highly disturbed by trawl activity or in areas unsuitable for trawling) we cannot estimate to what extent they will assist in helping Scotland achieve GES. What is clear is that this measure is a far short of the level or restriction of trawled activity required to get us to GES (i.e. less than 15% categorised as highly disturbed).

Marine Scotland plans to release a consultation on the 'Inshore Cap' in the near future. The Scottish Government has not given enough detail on what precisely is being 'capped' to allow us to estimate the extent to which any resultant measures might contribute to the achievement of GES. The Scottish Government claim<sup>vii</sup> that the 'inshore cap' will 'contribute to achieving GES for benthic habitats'. This is not credible unless the plans involve a substantial reduction in the scale of inshore trawling and there is not suggestion from the Scottish Government that they do.

## Scotland obligations to ecosystem management and GES under the Fisheries Act 2020

The Fisheries Act 2020 was enacted to ensure the UK manages its fishing activity in a way that is sustainable. The Fisheries Act alongside appropriate amended existing EU law<sup>viii</sup> provides a comprehensive regulatory framework to manage our fisheries and deliver our fisheries objectives. Six of the eight fisheries objectives in the Act related to sustainable fishing through environmental protection. The 'ecosystem objective'

explicitly seeks an ‘ecosystem-based’ approach to the management of fishing via achieving GES thus making clear links to the above noted UK Marine Strategy.

## An ‘ecosystem approach’ is at the heart of Scotland’s Biodiversity Strategy

Implementing an ecosystem approach is placed at the heart of the recently published Scottish Biodiversity Strategy to 2045<sup>ix</sup>. The Strategy notes that in terms of biodiversity Scotland is in the bottom 25% globally and that the evidence paints a picture of a deep biodiversity crisis. The Strategy recommends a programme of ecosystem restoration and it identifies the need to focus on *‘sea-scape scale regeneration rather than on management of individual species*. The Strategy also notes that dealing with the causes of environmental harm offers the opportunity not just to conserve nature but also *‘to generate economic benefits and support thriving communities*. In short and scale of operation anticipated by an inshore limit could play a valuable role in delivering this Strategy.

## An Inshore Limit can help the Scottish Government meet GES

It is clear that the introduction of an ‘inshore limit’ at the necessary scale is probably the most significant fishery measure that can help deliver the ecosystem objective and thus reduce the impact of fishing on the seabed and contribute to Scotland achieving GES. We would also add that there is increasing evidence that the inshore Nephrops trawl fishery has had very severe impacts on the health of inshore fish populations because of the use of fine fishing nets necessitates a significant bycatch of fish. <sup>x</sup>

## An inshore limit can also deliver economic benefits

The only recent comprehensive research that has been carried out into the economic impacts of re-introducing an inshore limit shows economic benefits and employment benefits<sup>xi</sup>. This is not hard to understand: if we allow the health of our inshore to recover it will be in a better condition to provide and go on providing the range of ecoservices that we require. This should encompass not only the stock of Nephrops but also a healthy stock of fish and a balanced and robust ecosystem.

Research work<sup>xii</sup> carried out by SCFF shows that for every tonne of Nephrops caught the Nephrops creel fishery generates more jobs and more revenue and much less environmental harm than the Nephrops trawl fishery that currently commands 90% of the stock. By substituting Nephrops creel for Nephrops trawl not only can the environment be protected but we can increase employment and revenue generated in the inshore.

## The need for ‘urgent’ action

The Minister for Green Skills, the Circular Economy and Biodiversity in her introduction to the Scottish Biodiversity Strategy to 2045 states that there is now a “*consensus*

*building around the urgent need to act decisively to address the twin crises of biodiversity loss and climate change*". The causes of biodiversity loss in the inshore are well understood. An inshore limit together with marine spatial plans can not only address that loss but reverse decades of economic decline in our inshore. We call on RAINE to request the Scottish Government to explain its approach to delivering 'ecosystem management' and in particular what measures it will put in place and when to deliver Good Environmental Status. The answer to that question will demonstrate not only whether the Scottish Government is genuine in its desire to meet its legal and policy obligations, but also whether it is *acting* with a demonstrable sense of urgency.

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<sup>i</sup> See Directive 2008/56/EC the Marine Strategy Framework Directive

<sup>ii</sup> See Marine Strategy Parts 1 -3 DEFRA

<sup>iii</sup> Marine Strategy Part One: UK updated assessment and Good Environmental Status 2019 DEFRA

<sup>iv</sup> Predicted extent of physical disturbance to seafloor Marine Scotland Assessment 2020

<sup>v</sup> The State of Nature Report was authored by over 50 nature and conservation organisations including NatureScot (then SNH) JNCC WWF RSPB MCS and many more

<sup>vi</sup> Langton et al Are MPAs effective in removing fishing pressure from benthic species and habitats? Biological Conservation 247 (2020) 108511

<sup>vii</sup> P.63 Marine Strategy Part Three: UK programme of measures 2021

<sup>viii</sup> Retained under the European Union (Withdrawal) Act 2018

<sup>ix</sup> See p.42 Scottish Biodiversity Strategy to 2045

<sup>x</sup> Ongoing research by the University of Strathclyde and Marine Scotland is indicating that the level of whitefish bycatch in the Firth of Clyde Nephrops fishery is a significant factor in the failure, in particular, of cod to recover despite measures to protect their spawning ground.

<sup>xi</sup> Management of the Scottish Inshore Fisheries: Assessing the Options for Change Technical Report Grid Economics 2014

<sup>xii</sup> Correcting the misallocation of Nephrops stocks in Scottish inshore waters: untapping a vast economic (and environmental) potential SCFF 2017