23rd October 2015

email: Rob.Gibson.msp@scottish.parliament.uk

Mr Rob Gibson MSP
Convenor - RACCE
The Scottish Parliament
Edinburgh
EH99 1SP

Dear Mr Gibson,

Development of operational rules for Marine Protected Areas for inclusion in forthcoming SSIs

As you know from the evidence session at the Committee on 23 September, the management of MPAs has great significance for the Scottish fishing industry. The Committee wrote to Cabinet Secretary Lochhead on 24 September and his reply was received and published on 9 October. Comment by the fishing industry is appropriate and is respectfully offered by the Scottish Fishermen’s Federation and the Western Isles Fishermen’s Association acting together, representing between them the overwhelming majority of fishing vessels in the west of Scotland, including those operating static gear, mobile gear, and impacted by the forthcoming instruments.

Firstly on the matter of timing, we note that the Cabinet Secretary’s letter missed the requested deadline by a week and was sent on the day parliament rose for October recess. The exhortation in his first paragraph for speed of action seems therefore a little out of place and slightly alarming. While timely action is entirely appropriate, for this tranche of management measures, and those to follow, the central requirement is to optimise the measures rather execute them quickly.
Design of management measures

Regarding the Committee’s first question on boundaries, as the Cabinet Secretary pointed out in his reply the peripheral or external boundaries of the MPAs were not changed in the announcements on management measures. The designations made in 2014 were generally accepted as realistically bounding the features to be protected. The unhappiness expressed at the evidence session by stakeholders was that the expected ‘zonal’ application of management measures inside the MPAs, anticipated reasonably from the detail in the Scottish Government consultation, was changed. It was this change, which can be connected to internal boundaries, which exercised the witnesses.

In the third paragraph of his answer to your first question, the Cabinet Secretary uses some curious language, which we must challenge. He notes that the range of management measures laid out in his own consultation “were seen to be variations of minimalistic management measures favourable to the mobile fishing industry”. By whom they were seen as such is not mentioned, but a more accurate description of the measures consulted upon would be that the proposed management measures were the culmination of the Government’s own four-year process (regarded by all as competent and transparent) advised by SNH and JNCC and representing a set of proposals which would meet the conservation objectives. The Cabinet Secretary therefore appears to denigrate his own evidenced, sensible process. This we find odd; we repeat the point made by witnesses that the unexpected decisions were on measures inside the already designated MPAs, with the real heartache coming from the measures themselves.

In the next paragraph the Cabinet Secretary asserts that: “almost everyone who responded to the consultation, with the exception of those associated with the mobile fishing industry, were of the view that these measures would come with a significant risk of not achieving the conservation objectives.” While this may describe correctly some of the response contents we note that just under 96% of the total were submissions of an email campaign text (96.5% of which were exactly similar). Further, more than half came from outside Scotland or the UK. It is most curious that the Cabinet Secretary places such specific store in that while appearing to discount his own process leading up to the designation and consultation. It is suggested that the latter was rather more sound, where the participation of the Statutory Nature Advisers ensured that the measures proposed would meet the conservation objectives. We challenge the Cabinet Secretary’s apparent badging of the consultation responses as a contribution to scientific assessment.

Throughout the designation and consultation process there was an accepted principle of meeting the conservation objectives while preserving where possible economic activity. This reflects Scotland’s National Marine Plan, which in this matter appears to have been abandoned at the point of decision-making.

Subsequent paragraphs leading up to the sub-headline “The evidence base” contain much detail that while interesting is not particularly relevant to the questions asked, going to a level of detail that seems to confuse rather than illuminate.

The evidence base

The Cabinet Secretary’s paragraphs under this headline accurately describe the sources pre-consultation and note also SNH’s involvement. None of this is challenged; our problem comes instead from the transposition of that evidence into previously unheralded measures.

Socio-economics

The statements made in the Cabinet Secretary’s letter under this headline simply describe a process that occurred before the consultation. This was subsequently demonstrated to be inadequate, because the whole area of Scottish waters was used to calculate percentage figures of additionally closure. The decisions were then presented as light-touch when in fact the local impact was anything but. Immediately the Cabinet Secretary’s actual decisions were announced a meeting with him was sought to pass the proper information on damage to local communities that would result. At the meeting it was clear that he was unaware of the information being passed. We have consistently made the point that the Government assessment simply did not seek information at the level required for decision-making. When presented with the relevant information by the impacted parties, the Cabinet Secretary required “new and additional information”, with a month to go to the already existent deadline. To our surprise and disappointment the onus was placed only upon the trade association and the impacted individuals – no tasking was placed at the time on Marine Scotland’s professional economists. Within the time and resource available a contract was let by the SFF to fill as many of the gaps as possible and the Committee has the results.
On the matter of safety, is perhaps a little insensitive of the Cabinet Secretary to point out that this is the responsibility of individual skippers – this we unequivocally understand and agree. The point being made by witnesses was that legislation that reduces available shelter, no matter what mitigating language is used in justification, will reduce the likelihood of safe working.

Our conclusions and recommendations

As noted above, the Cabinet Secretary’s letter illuminates several important matters to be addressed:

- The Cabinet Secretary’s letter fails, in our opinion, to justify why after a very competent process and a consultation containing rational options, the end result departed so far from that reasonably expected. That the public consultation on MPAs should elicit mass-produced responses subscribing to the general idea that the more restrictions on fishing, the better the MPA, is absolutely no surprise; however that does not constitute an assessment that there is a significant risk of not achieving the conservation objectives. That assurance was available from the pre-decision process. Dangerously (in our view), the decision-making process moved away from scientifically based collaboration into a completely subjective area conducted to a large degree in the social media and containing certainty for no one. Perhaps the RACCE might consider recommending that in a redraft of the forthcoming SSIs, SNH report again what actions would meet the conservation objectives and preserve where possible existing economic activity. That would be in accordance with Scotland’s National Marine Plan and would form a fine template for the rest of the process.

- While reference is made to an “updated economic assessment” to be published at final decision time, the intended method and scope are unknown. Perhaps the RACCE might consider recommending that stakeholders participate. It will be centrally important that the assessment is made this time at the level where impacts on the communities are identified. Such work will be vital as a part of the follow-on phases of the MPA process and again, perhaps the RACCE might consider recommending this as part of the process to come. The study commissioned by the SFF had time and resource available only to do the most basic work aimed at producing whatever evidence might be available and scoping the gaps.

We thank again the RACCE for their attention to this issue. Given that the Scottish fishing industry will be impacted by MPAs (which is entirely accepted) decisions must be made in accordance with accepted process and proper evidence. We are at the very beginning of the first tranche; anything that the RACCE can do to ensure good order for the considerable volume of decisions yet to come will be most valuable.

To inform you we are writing to each of the members of the RACCE in identical terms.

Yours sincerely

Bertie Armstrong
Chief Executive
Scottish Fishermen’s Federation

Duncan MacInnes
Secretary
Western Isles Fishermen’s Association