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Dear Sirs

RE: Draft Northern Ireland Marine Bill

I write as Chair of the Gun Trade Guild NI (GTG NI) and in relation to NI Environment Committee's call for evidence on the draft NI Marine Bill.

The GTG NI is grateful for the opportunity to submit evidence to the Environment Committee in relation to the draft Bill and we are keen to work with the department on what we feel is a very important piece of legislation. However, the GTG NI believe that in it's current form, the Marine Bill has the potential to prohibit or severely restrict not only aspects of legitimate shooting sports but also the associated conservation work that goes hand in hand with sustainable shooting.

While the GTG NI welcomes any attempt to increase the level of protection given to rare or threatened Marine flora and fauna, we do not support the draft Marine Bill in its current format, given that shooting interests are not recognised. An independent study carried out in 2006 found that shooting sports contributed £45m annually to the NI economy and the sport provided the equivalent of 2100 full time jobs.

Given the Department's failure to recognise and accommodate legitimate activities such as wildfowling and the valuable conservation work carried out by people involved in such activity, the GTG NI feels that the Bill, in its current form, has the potential to significantly and negatively impact on a sport which has been a feature of coastal communities for generations. That being the case, then the Bill undoubtedly has significant potential to impact on the business interests of the GTG NI, in what is already a very difficult economic climate.

The GTG NI fully supports the position taken by the British Association for Shooting and Conservation (BASC) in that we have major concerns in relation to certain Clauses contained within the draft Marine Bill, which in the opinion of the GTG NI, are ambiguous and therefore open to misinterpretation and potential abuse.

The GTG NI is concerned that the legitimate rights and the cultural, social and economic worth of the NI wildfowling community has not been considered in the drafting of the Marine Bill. On a related issue we are also concerned that the province's shooting community, which numbers in the region of 61,500 firearm certificate holders, are not represented on the current NI Marine Task Force, an organisation which has been campaigning for this Bill for some considerable time.

In relation to the draft Marine Bill, the GTG NI is concerned about a number of Clauses contained within the draft Bill, specifically:

Clause 2 – Marine Plans for NI Inshore Region

2(9) - A marine plan comes into effect when it has been published by the Department in accordance with Schedule 1.

The GTG NI recommends that a marine plan should come into effect **21 days** after it has been published by the Department in accordance with Schedule 1.

A marine plan should come into effect only after an agreed period of time has elapsed and not on publication, as is currently proposed. This would allow adequate time for objections to be lodged, and further consultation to be undertaken if needed. It is easier and much less disruptive to amend a marine plan before it has been implemented. In addition, if any challenges are received, the implementation of the plan could be postponed.

Clause 8 – Validity of Marine Plans subsections 4 and 5

8(4-5) - A person aggrieved by a relevant document may make an application to the High Court.....

The GTG NI recommends that an alternative means of challenging a marine plan is provided, e.g. a path of communication with the Department should be the first step in any challenge. It should also be possible for an aggrieved person to make an application to either the NI Environment Minister or the Secretary of State for NI.

The GTG NI feels that it is not acceptable for anyone challenging a plan to be forced to prove the plan's faults to the High Court in the first instance. An individual wishing to challenge a plan could be prevented from doing so due to the potential cost implications incurred from High Court action.

Clause 11 & 12 – Designation of MCZ's

With the agreement of the Secretary of State Clause 11(1) allows the Department to designate any area of sea, or any island in the sea, falling within the NI inshore region as an MCZ if it *"thinks that it is desirable to do so"*.

The GTG NI recommends that clause 11(1) be reworded – inserting the words "after consultation with key stakeholders, registered with the department". If abused these Clauses could prohibit or seriously restrict wildfowling and access to wildfowling on or around the coast of NI.

Clause 12 – Grounds for Designating MCZ's

*12(5) – conserving marine flora, fauna or habitat **whether or not** any or all of them are rare or threatened.*

*12(7) – in considering whether to designate an area as an MCZ, the Department **may** have regard to any economic or social consequences of doing so.*

The GTG NI recommends that the Department **must** have regard to **cultural, social and economic** consequences and that 'conservation of flora, fauna or habitat whether or not any or all of them are rare or threatened' disregards the principles of sustainable use of such features.

The GTG NI seeks written assurance that any decision to designate an MCZ will be proportionate and based on good science and supported by evidence. Furthermore, the GTG NI contends that where the protection of flora and fauna is already served by legislation such as the Wildlife (NI) Order 1985 (as amended), this should take precedence over any MCZ

protective measure. For example where quarry species of waterfowl are allowed to be killed or taken outside the close season under Schedule 2 of the Wildlife (NI) Order 1985, there must be no facility under any new legislation to prohibit or restrict such activity.

Clause 14 – Consultation before Designation

14(4) – *The Department must consult (a) the Secretary of State; and (b) any other persons who the Department **thinks are likely** to be interested in, or affected by, the making of the order.*

14(6) - *In a case where the Department thinks that there is an urgent need to protect the area proposed to be designated as an MCZ, the Department need not comply with subsections (2), (3) and (4)(b)*

The GTG NI recommends that the Department creates a register of interested stakeholders who must be consulted prior to any designation, even in urgent cases. The GTG NI recommends that those with shooting interests are included in any consultation process.

Clause 15 – Publication of Orders

15(3) - *‘.....be published in such manner as the Department thinks is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it.’*

The GTG NI recommends that the Department should be required to publicise their intention to designate an MCZ in both the national and local press and after notifying key stakeholders registered with the Department..

Clause 24 – Byelaws for Protection of MCZ’s

24(2) - *Byelaws under this section may be made so as to apply to any area in the Northern Ireland inshore region **or in any other part of Northern Ireland.***

The GTG NI requests a written explanation on why the words ‘any other part of Northern Ireland’ have been included under 24(2) as the introduction to the draft Bill and Part 1 of same categorically specifies and defines the area that this legislation is designed to protect, i.e. – the NI inshore region. The GTG NI asks what relevance a piece of legislation dealing with the NI inshore region has to any other part of Northern Ireland?

24(4) - *The provision that may be made by byelaws under this section also includes provision prohibiting or restricting entry into, or any movement or other activity on, any part of the seashore that adjoins the MCZ by persons, animals or vehicles.*

The GTG NI believes that this provision has the potential to restrictively impact on the cultural, social and economic activities of many people particularly when the definition of ‘seashore’ contained within clause 39 is applied: “seashore” means (a) the foreshore, that is to say, land which is covered and uncovered by the ordinary movement of the tide, and (b) any land, whether or not covered intermittently by water, which is in apparent continuity (determined by reference to the physical characteristics of that land) with the foreshore, as far landward as any natural or artificial break in that continuity. Clause 24(4) could potentially extend the MCZ into land that has no direct influence on the marine features that the MCZ has been designated to protect.

24(5) - *Byelaws under this section may provide for the Department to issue permits authorising anything which would, apart from such a permit, be unlawful under the byelaws.*

The GTG NI requests a written explanation on how the Department envisage administering such a scheme and what the financial implications would be both for the department and the applicant.

24(8) - *Byelaws under this section may make different provision for different cases, including (in particular): (a) different parts of the MCZ; (b) different times of the year; (c) different means or methods of carrying out any activity.*

The GTG NI is concerned that this wording allows the creation of higher protected areas without there being any requirement to justify the designation of such areas. The GTG NI requests a written explanation on why higher protected areas are needed, and where and how they will be created.

The GTG NI recommends that Clause 24 should be reworded in its entirety to reflect the legitimate interests of the wildfowling community.

Clause 25 & 26 – Emergency Byelaws

Whilst Clause 25 sets out the consultation process prior to making byelaws, it also makes provision for consultation to be waived in cases of 'urgent need'. The procedure for enacting emergency byelaws is contained within Clause 26.

Whilst the GTG NI recognises that there could be necessity for emergency byelaws e.g. pollution incidents, the GTG NI recommends that there must be a form of emergency consultation prior to implementation and that a fast track system similar to the procedures for severe weather Special Protection Orders be established.

Clause 27 – Interim Byelaws

27(1) - *The Department may make byelaws for the purpose of protecting any feature in an area in Northern Ireland if the Department thinks: (a) that there are or may be reasons for the Department to consider whether to designate the area as an MCZ, and (b) that there is an urgent need to protect the feature.*

The GTG NI is concerned that the wording '*an area in Northern Ireland*' could be misconstrued to include areas that do not fall within the NI inshore region and the GTG NI recommends that this should be reworded to avoid confusion.

The GTG NI seeks written assurance that proposals for interim byelaws will be proportionate and based on good science and evidence and subject to consultation with registered stakeholders. Furthermore, the GTG NI recommends that where the protection of flora and fauna is already served by legislation such as the Wildlife (NI) Order 1985 (as amended), this should take precedence over any MCZ byelaws.

Clause 31 – Offences

31(2)(a-d) refers to '*protected features*' – given that specific flora and fauna are already afforded protection under the Wildlife (NI) Order 1985, the draft Bill seeks to introduce another layer of protection that will be confusing and difficult to administer and could lead to fewer successful prosecutions than would otherwise be the case.

The GTG NI recommends that where the protection of flora and fauna is already served by legislation such as the Wildlife (NI) Order 1985, this should take precedence over any MCZ protective measure. For example, where quarry species of waterfowl are allowed to be killed or taken outside the close season under Schedule 2 of the Wildlife (NI) Order 1985, there must be no facility under any new legislation to prohibit or restrict legitimate activities.

Clause 32 – Exceptions

32(1)(c) – *A person is not guilty of an offence under section 30 or 31 if the act which is alleged to constitute the offence was done in accordance with a permit issued by the Department (whether under section 24(5) or otherwise)*

The GTG NI seeks a written explanation of how the Department envisages administering such a scheme and what the financial implications might be.

Clause 39 – Interpretation

‘Seashore’ - (b) any land, whether or not covered intermittently by water, which is in apparent continuity (determined by reference to the physical characteristics of that land) with the foreshore, as far landward as any natural or artificial break in that continuity.

The GTG NI proposes that this part of the definition of seashore should be removed as this wording could allow inclusion of large expanses of land that have little or no impact on the marine features that this draft Bill seeks to protect.

The GTG NI is particularly concerned with the application of this definition to Clause 24(4) and the potential to exclude or restrict any entry or activity on any part of the seashore adjoining an MCZ by persons, animals or vehicles. The present wording of this interpretation implies that an MCZ could in effect be extended through restriction/prohibition into any land adjoining the seashore; this raises the question - where would the MCZ stop?

The proposed interpretation of seashore could lead to severe negative impacts on landowners, user groups and other local businesses.

Clause 45 – Crown Application

This Clause ensures that there will be no exemptions for holders of Crown Estate leases. Many of our customers hold Crown Estate shooting leases and the GTG NI asks the Department to confirm that it has consulted with Crown Estate on this matter.

Schedule 1

Statement of Public Participation

Sch1 5(8)(a) - Definition of ‘interested persons’ – ‘any person **appearing** to the Department to be **likely** to be interested in.....

The GTG NI proposes that the Department retain a register of interested persons who must be consulted. The current definition is too loose and runs the risk of genuinely interested persons being excluded or overlooked.

In conclusion, the foregoing concerns have been raised by the GTG NI in a genuine bid to ensure that any future marine legislation is fit for purpose and inclusive of the cultural, social and economic aspirations of the community, especially wildfowling, who depend upon and engage in sustainable management of the rich marine resources of Northern Ireland.

The GTG NI is content to let BASC NI represent the views of the GTG NI during any committee presentation.

Yours faithfully

David Robinson
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Gun Trade Guild NI (GTG NI)