



Northern Ireland
Assembly

Committee for the Environment

OFFICIAL REPORT (Hansard)

Marine Bill: Countryside Alliance
Ireland/British Association for Shooting and
Conservation

10 May 2012

NORTHERN IRELAND ASSEMBLY

Committee for the Environment

Marine Bill: Countryside Alliance Ireland/British Association for Shooting and Conservation

10 May 2012

Members present for all or part of the proceedings:

Ms Anna Lo (Chairperson)
Mr Simon Hamilton (Deputy Chairperson)
Mr Gregory Campbell
Mr Tom Elliott
Lord Morrow
Mr Peter Weir

Witnesses:

Mr Tommy Mayne	British Association for Shooting and Conservation
Mr Lyall Plant	Countryside Alliance Ireland

The Chairperson: I welcome Lyall Plant, chief executive of Countryside Alliance Ireland, and Tommy Mayne, from the British Association for Shooting and Conservation (BASC). You are very welcome; thank you very much for coming. Members already have your written submission, so perhaps if you give us five or 10 minutes of a presentation, it will allow them more time to ask questions.

Mr Tommy Mayne (British Association for Shooting and Conservation): Good morning, Chair and members of the Committee. We would like to begin by thanking the Committee for extending the invitation to both BASC and Countryside Alliance Ireland to come along and highlight our concerns in relation to the Marine Bill. We are very grateful for the opportunity to represent our members' interests. My name is Tommy Mayne, and I am director of BASC Northern Ireland. With me is Lyall Plant, the chief executive of Countryside Alliance Ireland. Although we are separate organisations, we have come together today because we have mutual concerns in relation to some of the clauses in the Bill. We are keen to ensure that the views of the 61,500 firearms certificate holders in Northern Ireland are conveyed to the Committee.

We would like to make it very clear at an early stage that we are not opposed to the Marine Bill in its entirety, as there are parts of the Bill that will undoubtedly benefit marine life and biodiversity. As conservationists, we must welcome that aspect of the Bill. However, we have concerns in relation to other parts of the Bill that are ambiguous and, therefore, open to misinterpretation and potential abuse. Before we get to the individual clauses, I ask the Committee to note that we have also been asked to represent the views of the Northern Ireland Firearms Dealers' Association and the Gun Trade Guild Northern Ireland. Both organisations have submitted their own responses to the Committee's call for evidence, and both organisations share our concerns in relation to the Bill. We all feel that it has significant potential to negatively impact on a sport that contributes £45 million annually to the Northern Ireland economy and employs the equivalent of 2,100 full-time jobs. Shooting is already

making a very significant contribution to the Northern Ireland economy, with £10 million spent annually on habitat improvement and wildlife management.

You will be glad to hear that we recognise the workload of the Committee and, as such, we intend to keep our presentation as short and concise as possible and focus on the main issues of concern. We are not in favour of a marine management organisation to manage our marine environment. We feel the responsibility for managing our marine environment should remain with the Department, which would allow your Committee to have oversight. That would help ensure full stakeholder participation and engagement, which, we feel, is of the utmost importance and crucial to the overall success of the Marine Bill.

Lyall will now highlight our concerns in relation to some of the individual clauses.

Mr Lyall Plant (Countryside Alliance Ireland): Clause 2 deals with the marine plans for the Northern Ireland inshore region. A marine plan will come into effect when it has been published by the Department, in accordance with schedule 1. We believe that a marine plan should come into effect 20 working days after being published by the Department, and not on publication. That would allow time for objections to be lodged and further consultation to be undertaken, if needed. It is easier and much less disruptive to amend the marine plan before it has been implemented. In addition, if any challenges are received, the implementation of the plan should be postponed.

Clause 8(4) states:

"a person aggrieved by a relevant document may make an application to the High Court".

We recommend that an alternative means of challenging a marine plan is provided; for example, the 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 the Northern Ireland Environment Minister or the Secretary of State for Northern Ireland. We feel that it is not acceptable for anyone who is challenging a plan to be forced to prove the plan's faults to the High Court in the first instance. An individual who wishes to challenge a plan could be prevented from doing so due to the potential cost implications incurred by High Court action.

I move now to clauses 11 and 12. Clause 11 deals with the designation of marine conservation zones (MCZs). We recommend that clause 11(1) be reworded, with the insertion of:

"after consultation with key stakeholders registered with the Department."

That must include Countryside Alliance Ireland and the BASC. If abused in its current form, those clauses could prohibit or seriously restrict wildfowling and access to wildfowling and other activities on or around the coast of Northern Ireland.

Clause 12 deals with the grounds for designating MCZs. Clause 12(5) refers to:

"conserving marine flora or fauna or habitat ... whether or not any or all of them are rare or threatened."

We seek clarification on why that clause was included in the Bill, as we can only conclude that it was included to proscribe legitimate country sport activities.

We also recommend that clause 12(7) be reworded. It currently states:

"the Department may have regard to any economic or social consequences".

We wish to see "cultural" included in that paragraph. In addition, irrefutable evidence must be provided to prove the necessity of an MCZ before one is designated. Furthermore, we contend that where protection of flora and fauna is already served by legislation, such as the Wildlife (Northern Ireland) Order 1985, as amended, that should take precedence over any MCZ protective measure. For example, where quarry species of waterfowl are allowed to be taken outside the close season under schedule 2 to the Wildlife (Northern Ireland) Order 1985, there must be no facility under any new legislation to prohibit or restrict such activity.

Tommy will cover the next few clauses.

Mr Mayne: Clause 14 deals with consultation before designation. I refer to:

*"(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."*

and

"(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)."

As previously stated, we recommend that the Department creates a register of interested stakeholders that must include BASC and Countryside Alliance Ireland and that those stakeholders must be consulted prior to any designation even in urgent cases.

Clause 15 relates to the publication of orders. I refer to:

*"(3) The notice under subsection (2) must—
(a) 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;"*

We recommend that the Department should be required to publicise its intention to designate an MCZ in both the national and local press and after notifying key stakeholders registered with the Department.

Clause 24 refers to by-laws for the protection of MCZs. As the owner of fishing and shooting rights, as well as owning the riverbed of the Lower Bann, The Honourable The Irish Society shares our concerns in relation to this clause. We have grave concerns regarding the inclusion of clause 24 in the Bill. We have only to think back to June 2010, when amendment No 23 was submitted at the last minute to the Wildlife and Natural Environment Bill. That amendment sought to give the Department power to make by-laws for areas of special scientific interest (ASSIs). It had far-reaching and wide-ranging implications for country sports as it sought to:

"prohibit or restrict the killing, taking, molesting or disturbance of living creatures of any description".

We believe that amendment No 23 was a deliberate attempt to prohibit or restrict shooting and angling across Northern Ireland, especially when we take into account the underhand way in which it was tabled. Similar wording is included in clause 24 of the Marine Bill; therefore, we feel that clause 24 is completely unacceptable in its current format.

We have heard it said many times by those were behind amendment No 23 that it had been cut and pasted from English legislation. We do not believe that, just because a piece of legislation has been cut from English legislation, it should be pasted into a Northern Ireland Marine Bill. The Northern Ireland marine environment is unique and, as such, merits a Bill specifically tailored to suit our needs.

Clause 24(8) allows for the creation of higher-protected areas within MCZs without there being any requirement to justify the designation of such areas. In England, such areas are called "reference areas" and they prohibit wildfowling activities on the east coast of England. Wildfowling, the taking of a natural resource for personal consumption, is a sustainable activity that does not have a significant impact on the environment. As such, it should continue within MCZs.

Clauses 25 and 26 refer to emergency by-laws. Clause 25 sets out the consultation process prior to making by-laws and it also makes provision for consultation to be waived in cases of urgent need. The procedure for enacting emergency by-laws is contained in clause 26. Though we recognise that there could be a necessity for emergency by-laws — for example, in the event of pollution incidents — we recommend 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 orders and special protection orders, be established.

Clause 27 refers to interim by-laws, and states:

*"(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."*

We are 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 we recommend that that should be reworded to avoid confusion. We seek a written assurance from the Department that proposals for interim by-laws will be proportionate, based on scientific evidence and subject to consultation with registered stakeholders. Furthermore, we recommend that, where the protection of flora and fauna is already served by legislation such as the Wildlife (Northern Ireland) Order 1985, as amended in 2011, that should take precedence over any MCZ by-laws. I will now hand over to Lyall, who will continue through the various clauses.

Mr Plant: Clause 39, which deals with interpretation, defines "seashore" as:

"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".

We seek clarification in relation to that clause, as the current wording could potentially allow for the inclusion of large expanses of land that have little or no impact on the marine features that the Bill seeks to protect. We are particularly concerned with the application of that definition in regard 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 that interpretation implies that an MCZ could, in effect, be extended through restriction into any land adjoining the seashore. That raises this question: where would an MCZ stop? The proposed interpretation of seashore could lead to severe negative impacts on farmers, landowners, user groups and other local businesses.

Clause 45, which deals with Crown protection, ensures that there will be no exemptions for holders of Crown Estate leases. Both BASC and Countryside Alliance Ireland have members who are holders of such leases, and those members have asked for confirmation that the Department has consulted with the Crown Estate on that matter, because the owners of those leases have not been consulted whatsoever.

Schedule 1 is a statement of public participation. Schedule 1, paragraph (5)(8)(a) defines "interested persons" as:

"any persons appearing to the Department to be likely to be interested in, or affected by, policies proposed to be included in the marine plan".

We propose that the Department retains a register of interested parties who must be consulted. The current definition is too loose and runs the risk of genuinely interested persons or organisations being excluded or overlooked.

In conclusion, we believe that the Marine Bill is, in principle, a positive step aimed at benefiting marine life and biodiversity in Northern Ireland. However, our foregoing concerns have been raised in a genuine bid to ensure that unsympathetic parties do not use the Bill to unnecessarily prohibit or restrict legitimate rural pursuits, which, in turn, would result in adverse economic, social and cultural consequences for Northern Ireland. The Bill must be fit for purpose and recognise the needs of the country sports community, which depends upon and engages in sustainable management of the rich marine resources of Northern Ireland. Stakeholder participation is vital to ensure the successful development of the Marine Bill, and, going forward, we ask the Department for an assurance that both BASC and Countryside Alliance Ireland will be included at all stages throughout.

It should be noted that wildfowling is the original conservationism, and I mean conservationists in a practical sense: rearing and releasing birds; doing shoreline clean-ups, with the assistance of local councils; making and erecting nesting boxes for breeding ducks; carrying out predator control in order to protect the various species of ground-nesting birds; and supplementary feeding during times of severe weather, such as the winter of 2010, when temperatures reached a record low of -18°C. All

those things contribute to the overall conservation effort. We feel that the Department and the Minister should recognise the efforts of the wildfowling and country sports community, who are very different people from the desktop protectionists who will seek to influence the Bill in order that wildfowling becomes collateral damage.

We sincerely hope that the Minister, his Department and the Environment Committee take our concerns into consideration. We are happy to work further with the Committee to ensure that our members' legitimate activities are not unduly curtailed. Countryside Alliance Ireland and the British Association for Shooting and Conservation are grateful for the opportunity to share our views with the Committee, and we thank the Committee for giving us the opportunity to make this presentation.

The Chairperson: Thank you very much for your thorough presentation and for your written paper. You raised a lot of issues. We will consider all those issues, but a lot of them centre on communication. You mentioned that you object to a marine plan being published and implemented right away. You asked for a 21-day consultation period after the marine plan's publication. Will you not be assured by the fact that the Bill includes the need for the Department to issue a statement of public participation? That will clearly set out who it is going to consult and how it is going to consult. It clearly says that the Department needs to do that during the process of developing a marine plan and the designation of MCZs. Will you not be assured by the criteria that the Department must meet?

Mr Plant: No, I do not believe so. Both our organisations have not been involved with the stakeholder group that set up the Marine Bill. That is a clear indication that we were excluded from the stakeholder process, which formulated and gained evidence from a wide range of organisations throughout Northern Ireland that the Marine Bill would impact on. Therefore, having not been included from the start of the process, we believe that this was another way to exclude us, going forward.

Mr Hamilton: Thank you for your evidence. The points that you raise prove the importance of the Committee Stage of a Bill. A lot of the points that you have raised are about seeking clarification. The Committee is here as a conduit to take your concerns to the Minister and the Department to seek clarification on the points that you raise, and we are more than happy to do that.

There are a lot of points on which you require clarification, and I understand why you want that. Some of the points that you raise were also raised by some of the other parties interested in the Marine Bill, particularly on the environmental side; for example, in respect of legal challenges and who has locus standi to raise a challenge. I do not know whether it should worry you or them more, but you have similar concerns. Therefore, there is a commonality in relation to some of the stuff that you are bringing to us.

I appreciate your concerns about clause 24 and the protection of MCZs. As the Committee does its work, it is important to clarify with the Department whether that long list of potential protections is an à la carte list from which you can pick things or whether it is an all-you-can-eat seafood buffet. You are probably looking at this from the same perspective as I am, which is that we should have no more protection than is necessary to ensure that the MCZ and whatever habitat we are protecting is protected. However, it is well worth clarifying with the Department the exact intention of clause 24 and that long list. It could be one or two rather than all those designations being slapped on every MCZ.

I appreciate the points that you made about the need for meaningful consultation. The Committee returned from a visit to Scotland a couple of weeks ago, and one of the major points I took from that was that consultation there is long and painstaking, and, in some people's opinion, frustratingly slow. What we took from the visit was that that was the right way to go about it. They did not designate an MCZ today and enforce it tomorrow without talking to anybody. They are still in a process; they have pinpointed areas that they think might be designated, but they have not done anything with that yet. They are still talking to fishing interests, energy interests, shooting and conservation interests, as well as environmental interests. So, that is something worth clarifying as well.

Lyall, you mentioned that you have had no participation up to this point. Another thing that we took from our visit to Scotland was that all stakeholders were included in the room before, during and after the Bill was passed. If the Department has not involved you in the process, have you had any involvement with the likes of the Northern Ireland Marine Task Force (NIMTF), which is coming from the environmental side of the argument? Have you had any discussion with it? One thing we took from our visit was that those two interests, as diametrically opposed as they appear to be, had at least started to discuss points with each other, and even if they did not agree on nine out of 10 things, they did agree on some things. Have you had any sort of dealings or contact?

Mr Mayne: I will come back to that point. A few minutes ago, you talked about trying to ensure that MCZs had no more protection than is absolutely necessary, or words to that effect. I think that is crucial. We need to consider wildfowling and how heavily regulated it is at this time. Let us talk about Strangford lough specifically. We have wildfowling permits, issued by the National Trust, for a scheme that has been in place since the mid-1950s and has been permitted from the mid-1960s. Bag returns need to be submitted by individual wildfowling, and if they do not submit bag returns for one season, they do not get a permit for the next season. That includes nil returns. So, we have wildfowling permits; individual bag returns; the Wildlife (Northern Ireland) Order 1985; the Game Preservation Act (Northern Ireland) 1928; firearms certificates with individual conditions on them; nature reserves and timeshare zones, which allow birds to roost and feed undisturbed; lead shot regulations, which came in in September 2009; and the proposed Strangford lough by-laws, which prohibit anchoring, mooring and diving, and to which we have already responded. We also have special protection orders that come into play when, for example, severe weather kicks in. Even before that comes into play, we have calls from BASC for voluntary restraint. From looking at that, I think that we would all agree that wildfowling is already a heavily regulated activity. I think that is a relevant point: we should not be looking to overprotect MCZs.

On your question about the Northern Ireland Marine Task Force, we listened very carefully to the comments made by its co-ordinator during his presentation to the Committee last week, particularly his claim that the task force represents 100,000 people. That may well be the case; however, that claim is not reflected in its web poll. On the Marine Task Force website, there is a web poll that asks visitors to the site to vote in support of the Northern Ireland Marine Task Force to ensure that the Marine Bill has wildlife at its heart. The web poll has been in place for some time; however, it only really got our attention on Sunday 22 April. At that time, the web poll stood at 97% in favour of the Northern Ireland Marine Task Force. However, our members were able to turn that around within a 24-hour period. As of this morning, that web poll stood at 20% for and 79% against, which we think is very relevant. It shows the depth of feeling in the country sports community. You may be asking yourself this question: why do organisations such as BASC and Countryside Alliance, which are so heavily involved in and focused on conservation issues, urge their members to vote against the work of the NIMTF? I think that we all agree that the Bill must have wildlife at its heart. However, we feel that the Bill must provide maximum benefit for nature conservation without impacting on the wildfowling community. We want to show the Minister, the Department, this Committee and our other political representatives that the NIMTF is not the only voice in town, that its way is not the only way and that the country sports community also has a voice that must be heard.

Unsurprisingly, there have been a few gremlins with the web poll, and some of our members have complained that when they try to vote no, they get a response saying that they have already voted, which was not the case. One of our members e-mailed the website administrator to complain and received an e-mail response, which I have with me. It was only at that point that the NIMTF made contact with BASC and the Countryside Alliance to ask for a meeting, which happened within the past 10 days or so, just prior to the NIMTF coming in front of this Committee. The main purpose of that meeting was to get us to call off the no vote campaign. However, it also provided an opportunity for the NIMTF to come in front of this Committee and say that it had reached out to BASC and the Countryside Alliance. We did consider calling off the no campaign, but, during our meeting, the NIMTF co-ordinator made it very clear that it fully supports clause 24, which, to us, is unacceptable.

We listened carefully during its presentation to the Committee last week, and we noted that the NIMTF co-ordinator told the Committee that it had reached out to a broad section of bodies. It had not reached out to BASC or the Countryside Alliance until last week. Despite the fact that most, if not all, of the organisations involved in the NIMTF know full well that we are key stakeholders and that the Marine Bill in its current form has the potential to significantly impact on wildfowling and other rural activities, neither BASC nor the Countryside Alliance was invited to attend the Castle Espie event in late March. So, we feel that, all things considered, it shows that the NIMTF is very much working to its own agenda, which does not include country sports.

Mr Hamilton: I appreciate what Tommy said about a lack of contact. However, if a means of communication is now established, I encourage you to work on that. The Committee is keen for that to happen. I appreciate that, on most issues, you will probably have very divergent views, but it would be encouraging to the Committee if that contact continues to happen. I appreciate the points that you make on that and on clause 24 in particular, and it is incumbent on the Committee, given the concerns that you raised — which will be shared, I am sure, by some of the other interests that we will hear during our evidence over the next number of weeks — to clarify exactly and precisely what that will mean in practice and what level of consultation there will be with groups such as yours.

Mr Plant: We left the meeting with the Northern Ireland Marine Task Force with a view that we will go forward. We had our differences, and its co-ordinator was fully aware of them, but we may be able to work together on some areas. It was a positive meeting, and it allowed the three organisations to sit down together for the first time. The NIMTF co-ordinator is fully aware of the impact that both our organisations can have on its work going forward.

The Chairperson: I am very glad that the meeting has taken place. It is important for the Department to hear views from all sides, in order to come to a comprehensive conclusion.

Mr Plant: My office received a call from the Department following that meeting asking us for our contact details. I hope that is a sign of good things to come.

The Chairperson: As Simon said, we were in Scotland, where the fishing industry talked to us through video link, and it was very useful to hear its views.

Mr Campbell: You are very welcome; it was an interesting presentation. My query is on the conservation zones and your suggested amendment to 12(7). I think that I can see exactly what you mean about changing "may" to "must", because that at least gives you an assurance that there is an imperative that the Department must do that, rather a discretionary "may". Do you accept that if the Committee were to look at changing "may" to "must", the other word in that reference that would probably have to be looked at is "any"? At the moment, clause 12(7) states:

"may have regard to any economic or social consequences of doing so."

If that is changed to:

"must have regard to any economic or social consequences",

some could argue that we create an imperative that any economic impact whatsoever of any kind, should it be the most miniscule, will trigger the imperative of "must". Do you accept that if we look at "may" becoming "must", we would probably have to look at "any" becoming something slightly different?

Mr Plant: Yes, we agree with that.

Mr Mayne: I think that the Assembly widely recognises that shooting sports alone contribute significantly to the Northern Ireland economy, so I would be reasonably happy with that.

Mr Plant: We are also concerned about the Bill's use of the word "cultural", because wildfowling is steeped in the history of Strangford lough in Northern Ireland, in Lough Foyle and all over. It is an important part of our heritage and we must continue to recognise and value it as such, and not just have it excluded from the clause.

The Chairperson: Are you also suggesting that we add the word "cultural" to "social or economic consequences" to make the clause more comprehensive?

Mr Plant: Yes.

Mr Mayne: I want to ensure that the Committee recognises that fact that restricting or prohibiting wildfowling is highly likely to have a detrimental impact on the livelihoods of a significant number of firearms dealers in Northern Ireland. In the Strangford lough area alone, for example, I can count six such dealers off the top of my head, and there are another six or seven around Lough Foyle. We need to recognise the fact that, if the Bill impacts on shooting sports and angling, it will have an adverse knock-on effect on those people's livelihoods.

The Chairperson: We need clarification on the restrictions that the Department will impose on MCZs. We do not know whether the Department is saying that there will be no wildfowling or anything. As you said, we need to clarify those boundaries and the conservation restrictions.

Mr Weir: To pick up on Gregory's point: we may need to tease out some of the definitions. You made a fair point about including a reference to "cultural" consequences in the clause. This may be semantics, but instead of replacing "may" with "must", should we instead consider: "shall have regard to"? That would tend to be more consistent with how legislation is drafted.

I heard what was said about the web poll and have seen the e-mails. I am not quite sure why any organisation runs a web poll, because, with the best will in the world and with no disrespect to you or the Marine Task Force, whether a web poll says 97% one way or 80% another, it would be mad of anyone to rely a great deal on a web poll, because it is easy to get large numbers of people to click a button in support of one thing or another.

I want to raise two issues. Your point about the first port of appeal being the High Court is reasonable. Given the experience of the issues in Strangford going to Europe, could taking your objections to the High Court end up being a double-edged sword for you? When certain proposals come up, you may want to appeal them, get them changed or whatever. Recently, there has been a strong tradition, particularly among environmental groups, of complaints being lodged quickly. By making it easy for people to complain, I wonder whether you will end up with quite a lot of people pushing for particular things to be strengthened against your interests rather than having something reduced. There is a reasonable point in that, irrespective of the end result, but I wonder whether you could make a rod for your own back.

Mr Plant: We believe that the first road of appeal should be to the Minister or to the Environment Committee so that they could look at the appeal. The matter could then go to the High Court. The first avenue must be to allow the people of Northern Ireland, who do not have the funds but genuine concerns, an opportunity that is not going to cost them their house and their livelihood.

Mr Weir: I think that that is a perfectly valid point, and what I am saying is that you may find that, under those circumstances, more complaints would go the other way and more results may worsen your position rather than —

Mr Plant: Yes, but the final one can go to the High Court to make the decision. If the Minister declined, you would then have the option to go to the High court.

Mr Weir: I am not denying that, but I think that, from your point of view, that may end up being counterproductive. However, that is by the by.

The Chair mentioned communication, and, from a practical point of view, the point is to get the by-laws and whatever else is there right. The issue of urgent or emergency situations has been raised, and you highlighted that you feel that implementation should come only after consultation. Can you spell out to us how you see that working in practice? I think that it was Tommy who referred to a situation where people may need to move in urgently, if, for example, there were an oil spill. Without knowing a great deal about it, I assume that very swift action may have to be taken, including prohibiting certain things or whatever, and people may need to move in virtually instantaneously. How would that be compatible with consultation ahead of something being issued? In practice, how do you see a consultation process happening in an emergency situation?

Mr Plant: I have worked in the marine environment for over 30 years, with 20 years in Her Majesty's Coastguard. One of my tasks there was dealing with marine pollution. Before an exclusion zone was established for an oil spill, consultation would take place, even if it was only a phone call or a notification that the zone was being established, so that everybody was aware immediately of what was going to happen. Everybody could then have their input to the proposed initial time, the area, the extent of what it was going to include —

Mr Weir: Does that mean that consultation could be fairly instantaneous under those circumstances?

Mr Plant: Yes. If there is an MCZ, there is bound to be an emergency plan to take into account of these situations. For instance, if there were an oil spill in Strangford lough, the plan would state what action would be taken and who would be involved. So, the emergency plans should be in place for designated MCZs.

Mr Weir: The weakness is that consultation can sometimes mean setting out what someone intends to do, but, irrespective of what they are told, they still go ahead and do it. So, consultation can sometimes be meaningless.

I do not know how this issue could be defined or restricted. I think that one of your concerns about an emergency or urgent situation is that someone in the Department may use it as somewhat of a Trojan horse, in that the label of "emergency" is used when it is not really an emergency. How do you see that problem being solved? If consultation is a tick-box exercise, that does not necessarily stop someone from taking a different and very wide interpretation of the term "emergency".

Mr Mayne: I will try to answer that. We take your point, which is very valid. The consultation could be as simple as a phone call. I will draw your attention to a scenario that happened over the weekend up in Lough Foyle, where a fairly big cruiser ran aground, leaving oil and fuel pumping out of it. It was discovered by members of the Lough Foyle Wildfowlers Association, who, as I understand, got in touch with the Environment Agency. Representatives of the Environment Agency went up and checked it out. I am not sure whether anything was done, but I do not think that it was for some time. The point that I am trying to make is that, if there were an oil spillage or a natural disaster of some description on Strangford lough, for example, you would usually find that our members had got there before you.

Mr Plant: An emergency is an emergency. If it was not an emergency, it would be —

Mr Mayne: Lyall is trying to make a valid point. If there were a genuine emergency, such as an oil spillage, fire or some natural disaster —

Mr Plant: Our members would be the first there to respond.

Mr Weir: If consultation were referred to in the Bill, you would not be seeking to define it, because, presumably, it could vary from occasion to occasion. It is a different situation if somebody is bringing forward the likes of a marine plan, because there has to be widespread consultation on such a plan, and it is a long-term issue. Under those circumstances, somebody making a phone call is not appropriate, but in the case of an oil spill, making half a dozen phone calls may be —

Mr Plant: It has to be looked at in the context of the definition of emergency.

The Chairperson: I suppose there needs to be a safeguard to allow the Department to take action very swiftly.

Mr Plant: Yes.

The Chairperson: Even e-mailing round would be very quick. Do all your members have e-mail?

Mr Mayne: Quite a large percentage of them do.

Mr Elliott: Thank you for your presentation. I listened to what you said about the Marine Task Force. Regardless of whether it is accurate, there is a perception in the wider community — there is for me, anyway — that the Marine Task Force is an authoritative organisation on marine issues. Although not exclusively, it by and large speaks for the vast majority of people who are involved in marine issues. I do not want to put words in your mouth, but, from what I am hearing from you today, it seems that you are indicating that you do not believe that the Marine Task Force performs that role or speaks for the majority of people who are involved in marine issues.

Mr Mayne: I think that we recognise the expertise in the various organisations that make up the Marine Task Force. I want to clarify one thing: we are certainly not at loggerheads, and we share a lot of common ground. However, we are disappointed at the lack of contact that there has been until this point in time. As Lyall pointed out a few minutes ago, it got in contact with us recently, but that was on the back of its website poll.

Mr Elliott: As other members and the Chair indicated, continuing discussions with the task force, yourselves and other stakeholders would be helpful.

I have a query about the marine management organisation. You said that you did not think that there was any need for it. If there is not, can you suggest any way in which the Departments could, at least, co-operate better and have a better understanding of how to deal with issues? In the past, my experience has been that some Departments do not always look on economic issues as a positive element and other things take precedence. Obviously, the Department of Enterprise, Trade and Investment (DETI) may take a different view. One of your suggested changes to the clauses is that there should be much more reliance on economic issues, social issues and, as you said, cultural issues. If that were the case, one Department might not necessarily be the best opinion-maker on that. I am trying to establish how you believe a grouping could work together better, if there is not going to be a single organisation.

Mr Plant: I believe that the Department should enter into a service level agreement with the other Departments. That would legally bind them into them taking the economic, social and cultural aspects of the Marine Bill into account. Therefore, the onus would be put on each Department to take account of what you are actually saying.

Mr Elliott: So, are you suggesting some sort of service level agreement between a number of Departments?

Mr Plant: Yes.

Mr Elliott: Do you think that that is workable?

Mr Plant: In the current times of financial austerity, it is the best way forward. It would focus Departments on delivering value for money and the needs of the Marine Bill on biodiversity and on what it hopes to achieve.

Mr Mayne: One of the general messages around the Table is the need for inclusivity and consultation, particularly when we come to the marine conservation zone designation process. However, it goes back to the very early stages, and it is about getting Departments to recognise the various stakeholder groups and to include them in discussions at that very early stage.

Mr Elliott: That will be a discussion for another day. I have one final question, which is about the designation of MCZs. One thing that is not in the Bill is that any designation of MCZs should be evidence based. Maybe it is in the Bill, and I have missed it, but I am interested in your views and in other organisations' views on that. Should the designations be evidence based?

Mr Mayne: Absolutely. They should be evidence based and supported with good scientific evidence. MCZs should not be designated just on a whim. We accept that there will be MCZs, but, as I highlighted, part of our concern is that the reference areas that are being designated in England are having a detrimental impact on our wildfowling on the east coast. The reference areas can be applied to all MCZs or part of the MCZ.

Mr Elliott: So, does that mean that you could have a conservation zone within a conservation zone?

Mr Mayne: That is correct.

Mr Elliott: That seems complicated.

Mr Mayne: The Bill does not use the phrase "reference areas" or "research and development areas", but I think that you have hit the nail on the head. We are talking about a conservation zone or a highly protected area within a marine conservation zone.

Mr Plant: One of the things that I highlighted was that the grounds for designation are about:

"conserving marine flora or fauna or habitat ... whether or not any or all of them are rare or threatened."

That allows the Department to designate an MCZ even if there is nothing rare or threatened in it, giving the Department carte blanche to do what it wants.

The Chairperson: I think that Tom is right. Designation needs to be evidence based. In Scotland, that is very much the case. They do mapping exercises and carry out a lot of scientific research.

Mr Plant: We would all like to know what we are actually achieving by designating an MCZ. For example, if the mussel bed in Strangford is designated, we would like to know why. We need to have something tangible so that we can say that it is an MCZ because of a, b, c or d.

Lord Morrow: I, too, commend both organisations on their presentations. They have been very frank and well presented. If you feel that, in the past, you may not have been treated as an equal or as an important stakeholder, I hope that that will change in the future and that you will not have to fight to get in. I think that the members of the organisations that you represent are among the best conservationists. Of course, I would say that, since I am an angler and a member of the shooting fraternity.

I have a great admiration for the work that you seek to do, although I am not a member of either of your organisations. You highlighted issues with the Marine Bill, and this is new territory for us all. I think that it is important that the points that you raised and the reservations that you highlighted in your reports and again verbally today are part of this Bill, whether by exclusion of some of the things that you highlighted or through the inclusion of some of the issues that you are bringing to the Committee's attention. I want to commend you on what you have done and said so far on all this.

I will bring you back to clause 24. Tommy, when you were speaking, I wrote down the word "unacceptable", although I am not sure whether you used it. If you did not use it, just say so. For clarification, I want to ask you whether you mean that the clause has to be reworked and reworded or whether you want it out of the Bill altogether because it will have a negative impact on the whole matter.

Mr Plant: We believe that there will have to be by-laws to protect an MCZ. However, prior to any amendment of the Bill, clause 24 needs to be reworded, explained and consulted on.

Mr Mayne: I will elaborate on that. Part of the reason that we are so concerned about clause 24 is that we have had previous experience, going back to 2010, with amendment No 23 to the Wildlife and Natural Environment Bill. We know why and how that was done. Thinking back to amendment No 23, the wording of clause 24(3)(e) of this Bill is pretty much identical:

"prohibiting or restricting the killing, taking, destruction, molestation or disturbance of animals or plants of any description".

That gives us grave cause for concern, as does clause 24(4).

One other matter of grave concern for us is clause 24(2), which reads:

"Byelaws under this section may be made so as to apply to any area in the Northern Ireland inshore region".

For some obscure reason, that is then followed by the words

"or in any other part of Northern Ireland."

We are struggling to our heads around that.

Mr Plant: Does that refer to Lough Erne, Lough Neagh or the Sperrins?

Mr Mayne: When we talk about a "marine environment" everybody is generally of the opinion that we are talking about a saltwater marine environment. The words:

"or in any other part of Northern Ireland."

were added. If that opinion is the case, why were those words added?

Mr Plant: How far does the tidal reach go up the River Bann or the River Foyle and so on?

Mr Mayne: I take your point, Lord Morrow. My answer is that we would be very happy to sit down across the table from the Department and look in detail at clause 24 in its entirety.

Mr Plant: We fully acknowledge that there will have to be by-laws for MCZs, but they will have to be fit for purpose.

Lord Morrow: I thought that I had it highlighted, but I did not. Did you say that there was already legislation in place for wildfowl. I thought that I had that marked, but I just cannot pick it up. Did you say that it was already in existence and that you felt that it was adequate? Am I misquoting you?

Mr Mayne: That is possibly where we talked about wildfowling being heavily regulated. We have the Wildlife (Northern Ireland) Order 1985, which was amended again in 2011, the Game Preservation Act (Northern Ireland) 1928, our firearms certificates, lead shot regulations and the proposed Strangford lough by-laws, to which we responded two or three weeks ago and which, as I said, prohibit mooring, anchoring and diving. There are special protection orders that prevent shooting during periods of severe weather and voluntary restraint.

I will also highlight another point. Take Strangford lough, on which we have four clubs, as an example. The National Trust issues in the region of 250 wildfowling permits a year. Those include private permits, not just permits for members of those four clubs. Some of those club members, who are BASC members, volunteer as National Trust wardens, policing timeshare zones and reserves. I cannot think of any other activity on Strangford lough that is regulated in any way, let alone regulated to this degree.

Lord Morrow: I will interrupt you to hear your views on this point; I have just picked it up from my papers. In your presentation, you state:

"BASC 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."

Mr Mayne: Yes.

Lord Morrow: Are you content in your own mind and in those of your members that that is adequate and that it does not need to be added to?

Mr Mayne: We are cautious, because we have had our fingers burned before. We are happy to look at that and, as I said, to sit down with the Department and discuss it to see whether there is a requirement for that clause.

Mr Plant: Lord Morrow, the Wildlife and Natural Environment Act (Northern Ireland) 2011 also gave further protection to flora and fauna. Will the Marine Bill take precedence over that? What impact will it have on other legislation, such as that concerning rights of way and so on?

Lord Morrow: This is a new animal. It might come out in a funny shape at the end of the day, and it might come out uncontrollable. That is what we need to watch out for. I take fully the point that you folk make about the impact that the Bill would have on the shooting fraternity, particularly gun dealers and those in the angling world. I honestly think that that is overlooked and misunderstood at times. Sometimes, there is a thought out there that wildfowling and anglers are just conservation hooligans, and I think that that is grossly unfair. I think that you are right to make the point about the impact that the Bill will have on the economy. Very often, those things are not considered whenever legislation is being made.

The Chairperson: You raised a lot of concerns about clause 24. We will write to the Department with all your queries as soon as we can, rather than wait until the end of this process. We will wait for the Department's response to us. A number of members agree with some of the concerns that you raised.

Mr Mayne: Thank you very much.

The Chairperson: Thank you very much for your presentation.