

Public Petitions Committee  
C/O Clerk to the Committee  
Room T3.40  
The Scottish Parliament  
Edinburgh EH99 1SP

**By email only:** [petitions@scottish.parliament.uk](mailto:petitions@scottish.parliament.uk)

10 August 2012

Your ref: PE1431

Dear Public Petitions Committee

### **Public Petitions Committee – Consideration of Petition PE1431**

Thank you for your letter of the 28<sup>th</sup> June that informed Scottish Government that the Public Petitions Committee had considered the above petition at its meeting on the 12<sup>th</sup> June. Your correspondence sought written responses to a number of questions raised by the Committee; please find this information below.

#### **What is your response to what the petition seeks?**

For several years Fair Isle has benefitted from a Council of Europe Diploma. In their latest bid for support they proposed an MPA is designated in their waters. We understand this has become a condition of continued support from Council of Europe. With this in mind, the petition calls on the Scottish Parliament to urge the Scottish Government to implement a condition of the Council of Europe Diploma to Fair Isle by designating Fair Isle waters as a Marine Protected Area.

Waters around Fair Isle out to approximately 2 km were designated as a Special Protection Area for seabirds in 2009. While Marine Scotland is supportive of the Council of Europe Diploma, we cannot guarantee that a new or additional MPA will be designated simply to satisfy a condition placed on the Diploma as this would be separate to the scientific process currently being followed for MPA identification.

FIMETI originally submitted their proposal for a MPA as both a Nature Conservation and Demonstration & Research (D&R) proposal, but unfortunately it does not fit the search features (ie species and habitats) criteria for a Nature Conservation MPA. As we can see the potential value of the proposal, we have been continuing on the basis of it being considered for a D&R proposal.

As with other stakeholders we will continue to engage with FIMETI, and we have asked them to provide more detail on exactly what FIMETI expect would be affected by the measures being proposed and what the benefits might be.

Therefore we are not yet in a position to say whether this proposal will be approved until we receive further information from FIMETI and we have completed our assessment against the criteria for D&R proposals. In the meantime, as stated above the existing Special Protection Area recognises the importance of the waters around Fair Isle for seabirds.

**The Committee draws the Scottish Government's attention to the evidence given by the petitioners regarding the "narrow" criteria applied for MPAs (*Official Report*, c. 647). To what extent has there been any evaluation of the criteria used to assess eligibility for MPA status?**

The MPA network will include marine natural features considered as priorities for area-based protection in Scottish waters. The process has focused on identifying suitable locations for certain key features e.g. threatened or declining features, and features of functional significance for the overall health of Scotland's seas. The choice of these has been based on a list of Threatened and Declining Habitatst and Species that has been developed by the OSPAR Convention on...., and MPA search features mostly comprise Priority Marine Features for which MPAs are considered an appropriate conservation measure. They are considered likely to be representative of a wider range of features which would also benefit from spatial protection and which can be included in the network. These criteria have been assessed by SNH and JNCC as the most suitable to search for appropriate locations for potential MPAs. The MPA Selection Guidelines, which included the list of features and the process that would be applied to assess locations, was consulted upon in 2010. This gave stakeholders an opportunity to evaluate the appropriateness of the features the process would concentrate on, and the criteria for assessment of locations. Five stakeholder workshops have been held throughout the process of applying the Scottish MPA selection guidelines to ensure that stakeholders have had the opportunity to comment on the process, and post-workshop reports outlining are available on Marine Scotland's webpages.

The final stage of the assessment process provides an opportunity for Nature Conservation MPAs to protect other habitats and species that are not MPA search features, if necessary, and where it can be demonstrated that these features are required for ecological coherence. Examples of these features were presented in the case studies at a MPA Workshop 5 in June 2012, where representative features were included in the list of features for protection in the potential areas.

We do not view the the selection criteria for Nature Conservation MPAs as 'narrow'. They are science-based and take account of powers under other legislation to designate protected areas. MPAs are not appropriate for all features. For example, with respect to highly mobile species they are only appropriate for wide-ranging species which use defined areas predictably for key life cycle stages, such as breeding or nursery areas. A question of scale arises also, for example, in relation to large expanses of habitats where, although the features may potentially benefit from protection, management of relevant activities may be more effectively secured through marine planning and/or sectoral measures. Therefore some features, such as many fish species, have not been included as they are managed through wider, more effective, measures, such as fisheries management.

Marine Scotland, SNH and JNCC evaluated the draft criteria for assessing eligibility for MPA status in light of the responses received to the consultation in 2010.

**To what extent have the concerns raised by the petitioner regarding the criteria for proposed MPA status been taken account of to date?**

In 2010 Marine Scotland, SNH and JNCC held an informal consultation on the MPA Selection Guidelines, which included the criteria used to identify future MPAs. We were

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grateful for FIMETI's response that the approach for selecting MPAs should take into account the social, economic, cultural and environmental benefits of MPAs to the community. There was a clear position in the guidelines that we should take a science-based approach, allowing for the consideration of socio-economics if two areas were of similar ecological value, not as a basis for designation in itself. There was strong support for this approach from most stakeholders, including FIMETI who also noted that the guidelines were clear and welcomed.

FIMETI also made representations about the absence of birds on the list of MPA search features. In considering the suggestions on this topic we felt that it would in the main be possible to address the conservation requirements of Scottish birds through work to implement the EU Birds Directive. SNH and JNCC are undertaking work to determine whether birds need representation in SPAs beyond those already designated. The exception to this was black guillemot which was added to the list of MPA search features following consultation and considered to be a distinctively Scottish species. There was also a concern from FIMETI regarding protection of habitat used for foraging by birds, but it was judged that this was already considered for birds protected within SPAs and the approach outlined above which includes the facility to consider what other features over and above search features may merit protection in a Nature Conservation MPA. For black guillemot, foraging habitat is being considered in the selection of areas for this feature.

At Workshop 4 Marine Scotland and FIMETI discussed progress on the assessment of Demonstration and Research MPA proposals received. There was again discussion on the choice of features for inclusion in the network, and FIMETI explained that many features found in Fair Isle were not MPA search features. While we considered that it would not be desirable for the reasons given above to change Nature Conservation MPA selection criteria, we are exploring how FIMETI's requirements could be met with a Demonstration & Research MPA, to which different considerations apply.

Hence as explained in answer 1, we still see the potential value of the proposal and we have been continuing on the basis of it being considered for a Demonstration & Research proposal.

**When will the final assessment of MPA designation for Fair Isle be made?**

We hope to have completed the final assessment for all Demonstration & Research proposals, including this one, by December 2012.

I hope the above information was useful and please feel free to contact me should you require any further information.

Yours sincerely,

**Sebastian Howell**