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Nigel Gooding
Defra
Nobel House
17 Smith Square
London
SW1P 3JR

Dear Mr Gooding,

Fairhurst have prepared this letter on behalf of the Port of Blyth in response to the public consultation exercise currently being undertaken by Defra related to the designation of Marine Coastal Zones (MCZs) across the UK. The comments outlined within this letter relate specifically to MCZ NG13 (Coquet to St Mary's) which is currently under consideration for designation in a future tranche, however, Defra acknowledge that further work is required prior to this.

The Marine and Coastal Access Act 2009 (The Act) is the key piece of legislation which has brought in the requirement to designate MCZs. The Act states that the "*appropriate authority may make an order under 116 of the Act if it thinks that it is desirable to do so for the purpose of conserving:*

(a) Marine flora or fauna;
(b) Marine habitats or types of marine habitat;
(c) Features of geological or geomorphological interest".

The reference in subsection (1) (a) to conserving marine flora or fauna includes, in particular, a reference to conserving any species that is rare or threatened because of the limited number of individuals of that species, or the limited number of locations in which that species is present.

NG13 will directly impact upon the Port of Blyth and the Port's main concerns related to the designation of the MCZ are:

- The lack of consultation that has been undertaken with the Port prior to the formulation of the MCZ boundary;
- The underestimation of the economic impact the designation may have on the Port of Blyth and the wider area, including the legal implications such a designation may have in terms of the Port's operational activities;
- The underestimation of the social impact the designation may have on the Port of Blyth and the wider area; and
- The ecological evidence behind the designation of NG13.

For site NG13 there is a strong indication of potentially significant socio-economic implications associated with the renewable energy sector and that further work will be required to better understand the facts and improve the data certainty prior to this site being considered for designation. However, it is considered that the potential socio-economic

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implication associated with Ports and Harbours has been significantly underestimated at £17,000.00 per year.

Consultation

Firstly, it is unclear how the figure of £17,000.00 per year was achieved when the Port of Blyth, as the Statutory Harbour Authority in the area, have not been involved in the consultation process which lead up to the proposed boundary of the MCZ. The Act states that *"119. (4) The appropriate authority must consult any persons who the appropriate authority thinks are likely to be interested in, or affected by, the making of the order".*

It is considered that in order to fully comply with this requirement, full engagement with all key stakeholders should be undertaken prior to formulating boundaries for MCZs, and prior to conclusions being made on the potential socio-economic impact that the designation may have.

With regard to the consultation that took place relative to NG13, two meetings took place in Blyth in October 2010 through the North East Regional Hub but the Port of Blyth were not shown as members and were not invited to the meetings in question.

It is noted that the Port of Blyth and the British Port Association (BPA) have made representations but this was after the proposed designation of NG13 and despite requesting alterations prior to formal consultation this was not deemed possible. Furthermore these representations have not been taken into consideration within the Impact Assessment. It is, therefore, considered that the process is flawed and it could be considered appropriate to challenge the process without starting again from the outset. There are also a range of other stakeholders who are interested in the regeneration of Blyth and the recently designated Enterprise Zone on the Blyth Estuary who are *"likely to be interested in, or affected by, the making of the order".*

Previous discussions between the Port of Blyth and Natural England in 2012 regarding the boundary for NG13 confirmed that, had the Port been consulted at an earlier stage, then it is likely that the Port's Statutory Limits would have been excluded and that Natural England would have supported a change. This further adds to the fact that the consultation process has been inadequate and the boundary should not be supported in its current form.

Economic Impacts

The Act states that *"In considering whether it is desirable to designate an area as an MCZ, the appropriate authority may have regard to any economic or social consequences of doing so".*

As the Statutory Harbour Authority, the Port of Blyth's rights and responsibilities for the Blyth Harbour Port Limits (as shaded blue on the attached plan) are set out in primary legislation (Blyth Harbour Acts and Orders 1858 – 2004). The designation of the MCZ in its current form is likely to create complicated legal conflicts regarding the existing rights of the Port and those that will be created by the designation of the MCZ which will be regulated through The Act by the Marine Management Organisation (MMO).

The Port of Blyth are concerned at the potential impact on future port operations in particular future capital dredging, maintenance dredging and disposal and longer term development plans such as lengthening piers and deepening channel approaches. It is considered that the boundary should be amended to ensure the Port's operational areas are outwith the MCZ but also areas which are required for the proposed expansion of the Port.

The Port of Blyth is the only large commercial port in the Netgain Region included within a MCZ. Other Ports, such as the Tyne and Humber, have been specifically excluded (the later after proper early consultation).

Of greatest concern is the requirement for more stringent controls within and adjacent to the MCZ through Licence Applications. The MMO will be responsible for Licensing any activity in a MCZ which *"is capable of affecting (other than insignificantly) (i) the protected features of an MCZ; (ii) any ecological or geomorphological process on which the conservation of any protected feature of an MCZ is (wholly or in part) dependent."*

The work undertaken to support the proposed designation highlights that there will be increased costs due to assessing environmental impacts but underestimates the extent of this cost as well as the knock on effect this may have. For example, developments not referred to within the Impact Assessment include the RES Biomass Powerstation on Battleship Wharf and Hainsford Energy's Windfarm development on Port of Blyth's East Pier. As each would require new infrastructure development, this would significantly increase the costs associated with the work. There is a danger that existing and potential developers may seek to locate elsewhere rather than have to undertake the costly work associated with locating within a MCZ.

Further to this, RWE Npower still retain a nationally important strategic site for future power generation on the estuary and have (currently shelved) plans for a "clean coal" power station. It is appreciated that such plans are medium rather than short term but this £2 billion development (also involving an extension to the Port of Blyth's East Pier) would again be potentially adversely impacted by the designation of NG13 in its current form.

It is also of concern that if the designation of the MCZ goes ahead with the current boundary, then the MMO have the right to make Byelaws such as those set out below. The Act states that *"(1) The MMO may make one or more byelaws for the purpose of furthering the conservation objectives stated for an MCZ in England. (3) The provision that may be made by a byelaw under this section includes, in particular, provision (a) prohibiting or restricting entry into, or any movement or other activity within, the MCZ by persons or animals; (b) prohibiting or restricting entry into, or any movement or other activity within, the MCZ by vessels or (where appropriate) vehicles; (c) restricting the speed at which any vessel may move in the MCZ or in any specified area outside the MCZ where that movement might hinder the conservation objectives stated for the MCZ; (d) prohibiting or restricting the anchoring of any vessel within the MCZ; (e) prohibiting or restricting the killing, taking, destruction, molestation or disturbance of animals or plants of any description in the MCZ; (f) prohibiting or restricting the doing of anything in the MCZ which would interfere with the sea bed or damage or disturb any object in the MCZ".*

It is considered that the inclusion of the Port of Blyth within the MCZ may impact upon the recently adopted Local Development Orders (LDO) at two significant development sites around the Blyth Estuary. This is because the primary purpose of the LDOs is to create conditions for economic recovery and growth and reduce unnecessary delays to development. Although the MCZ does not extend upstream of the Port of Blyth's piers, the LDO focuses on port related development particularly within the energy sector where structures within the MCZ may be required and certainly significant vessel movements and anchorage. Any MCZ designation (and indeed uncertainty of potential future designation) may, therefore, adversely impact on the LDO / Enterprise Zone area and make potential inward investors reluctant to proceed.

Social Impact

The Port of Blyth is a modern Trust Port that handles up to 1.5 million tonnes of cargo each year offering a handling, storage and distribution service. As a Trust, the Port of Blyth recognises its responsibility to the wider community playing a key role in the economy and providing significant direct and indirect employment. All Port revenue is reinvested in the Region and the Port works closely with local government and other regional partners to ensure that the benefits of the Port are maximised whilst at the same time minimising any potential for disturbance from Port operations. Any economic impacts which affect the competitiveness of the Port will inevitably impact on the wider area.

Northumberland County Council made the following observations during the LDO process *"South East Northumberland suffers high levels of deprivation and unemployment. The development of the Bates site as part of wider initiatives to create the conditions for economic growth could have positive economic outcomes. The magnitude of the positive impacts will depend upon a range of factors including the required level of staff skills. The sectors being targeted are likely to need to attract employees from the wider north eastern area and potentially from other parts of the country or Europe. The socio-economic benefits for the local area may therefore be indirect benefits achieved in the long term rather than the short term – e.g. through investment in the area and potential for supply chain growth and associated jobs".*

The Port of Blyth support hundreds of jobs around the estuary and together with local and regional development organisations is looking to create hundreds more on key strategic sites. The imposition of an MCZ may, therefore, restrict or possibly even reduce port related jobs in an area of high unemployment and deprivation.

Ecological Evidence

The Marine and Coastal Access Act 2009 states that *"Marine Conservation Zones (MCZs) are a type of Marine Protected Area. They will protect areas that are important to conserve the diversity of nationally rare or threatened habitats and/or species and those places containing habitats and/or species that are representative of the biodiversity in our seas".*

Fairhurst's specialist Marine Advisor has stated that there are significant gaps in the ecological evidence provided, with only 2 features having acceptable data certainty and 12 features with unacceptable data certainty. They have stated that it is difficult to see why the site is being considered further and there is little prospect of the benefits outweighing the significant costs associated with this site.

To conclude, the Port of Blyth would like a re-appraisal of the boundary of site NG13 and are keen to work positively with Defra and Natural England to ensure the Port of Blyth's Statutory Limits are excluded. This includes the consideration of a significant corridor being excluded between the Port and their dredging disposal grounds (including a widening of the distance between these grounds and the boundary of NG13) which would allow the unhindered operation of the Port, reduce the risk of future conflict and remove potential restrictive controls on anchorage.

Further to this the Port of Blyth believe that consideration should be given to rejecting NG13 altogether due to the significant socio / economic impacts which far outweigh the unsubstantiated and vague ecological / scientific arguments.

The Port of Blyth would urge an early decision to initially exclude Port Statutory Limits (which form a very small percentage of NG13) as this would remove current "planning blight"

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whereby the uncertainty could discourage current opportunities for desperately needed inward investment.

The Port of Blyth are happy to provide evidence to support the information set out within this letter and request to be fully informed of any further consultation or developments related to site NG13.

Yours sincerely,

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Development Planner

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