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RE: CONSULTATION RESPONSE TO THE DRAFT JOINT FISHERIES STATEMENT

Dear Minister,

On behalf of the Office for Environmental Protection (OEP), I am pleased to submit our response to your consultation on the draft Joint Fisheries Statement (JFS). Our full consultation response is set out in the annex to this letter.

At the outset I wish to express our strong support for government's ambition to deliver world class, sustainable management of our sea fisheries and marine aquaculture. Delivering on this commitment will not only promote the long-term viability of the fishing sector, but also broader targets to achieve Good Environmental Status (GES) in marine waters. We are therefore pleased to see that the ecosystem objective set out by the Fisheries Act embeds for the first time a direct link between fisheries management and the broader UK Marine Strategy.

The JFS is an opportunity to take an important step towards meeting this objective. Government can establish a policy framework for sustainable fisheries management which exceeds what was achievable under the constraints of the Common Fisheries Policy. I set out recommendations in this letter that we hope will assist and make the Statement much more likely to lead to the achievement of government's stated objectives.

Whilst we recognise that the JFS must respect devolution by affording each fisheries administration the flexibility to determine the right policies for its own context, in our view it must also offer strong enough guidance to deliver a consistent and coherent approach to managing the marine ecosystem at a national level. There is a purposeful balance to be struck.

The environmental principles are now enshrined by statute: the JFS is being prepared in the context of a stronger environmental governance regime. We advise it would be extremely helpful if the attendant policy statement on environmental principles were published as soon as possible. The JFS will be legally obliged to reflect the policy statement when undergoing future reviews, and there is the opportunity now to make sure the JFS and the policy statement are fully aligned.

Moving now to the detail of the draft JFS, in our view there are some significant shortcomings. We advise that you will be more likely to achieve the objectives set out in the Fisheries Act if the JFS is strengthened in six key areas:

1. Fully integrated approach to management – To deliver the vision set out in the 25 Year Environment Plan, the draft JFS must integrate fisheries management with government's broader target to achieve GES. This means ensuring that fish stocks are exploited sustainably, but also protecting the wider marine ecosystem that supports these stocks.

Some policies articulated in the draft JFS do attempt to embed a more holistic approach to fisheries management. They risk being tempered, however, by a headline ambition (set out in Chapter 1) which in our view retains an overly narrow sectoral focus. To deliver reforms on the scale necessary to achieve the fisheries objectives, the JFS vision must be holistic and the statement must adopt a fully integrated approach. It must show how fisheries fit into a wider regulatory framework aimed at managing *all* impacts on the marine environment. Fisheries should not be viewed in isolation.

2. Timebound commitments – Overall, the current draft lacks the detail needed to deliver government's ambitions. Commitments are often caveated or overly uncertain. The inevitable risk is that the policy detail contained within Fisheries Management Plans (FMPs) will deviate from what is necessary to deliver the objectives set out in the Fisheries Act. Should this happen, it also leaves little scope to effectively hold fisheries policy authorities to account.

We therefore recommend the inclusion of clear, achievable and timebound commitments throughout the draft. This would give the JFS teeth, whilst providing the certainty that the sector needs to effectively plan for future regulation.

3. Marine spatial planning – Although section 4.2.9 briefly acknowledges that marine plans should include policies that consider fisheries, the draft JFS misses an opportunity to take steps to fully integrate commercial fishing into the marine planning system.

This is important because a fully integrated system would allow for a more proactive approach to regulation, requiring license applications to comply with a plan that has mapped out fishing pressures over an extended period and undergone a Strategic Environmental Assessment. It would also help to tackle growing levels of displacement by

allocating specific areas in which fishing can take place separate to other marine developments and existing biodiversity protection measures (e.g. Marine Protected Areas).

We strongly advise that the JFS is amended to support policies which pursue a marine planning system that encompasses all major uses of the seas.

4. Environmental Impact Assessment – In our view, the draft JFS should set out a clear ambition to incorporate fisheries into an Environmental Impact Assessment (EIA) regime.

At present, commercial fishing is one of the only economic activities that does not need to undergo screening for an EIA before a license is granted, meaning that impacts are often not described or mitigated. Requiring new and existing fishing operations to demonstrate that they would not have a significant effect on the marine environment would bring fishing into line with the regulation governing other extractive processes, where environmental costs must be internalised and not passed on to the rest of society. This would be a major step towards implementing an ecosystem-based approach to fisheries management.

5. Marine Protected Areas – A well-designed and well-managed network of Marine Protected Areas (MPAs) is perhaps the single most practical tool for achieving the aims of the Marine Strategy. There are known difficulties associated with ensuring compliance within MPAs, however. The JFS can signal clearly the step change needed, by further developing and specifying the way in which fishing activities will be managed effectively.

By way of example, to achieve the ecosystem objective, and government's recently proposed MPA target, we strongly recommend that section 4.2.10 is strengthened with clearly defined framework policies for how the network should be administered. Included within these policies should also be an explanation of the monitoring and enforcement methods that will be used to safeguard against non-compliance. In this way, the JFS can reset expectations and begin to drive home compliance.

6. Reducing bycatch and minimising discards – The draft JFS makes commitments to reduce the incidental catch of undersized fish, marine mammals, and seabirds, but offers limited guidance as to how this will be achieved. It also lacks explanation of how non-compliance with rules to deter bycatch will be monitored and enforced. Whilst we agree that detailed policy should be reserved for FMPs, we believe that the threat that bycatch poses to the achievement of the ecosystem objective justifies a more joined-up approach to mitigation at national level. In the absence of a published UK Bycatch Mitigation Initiative, we advise that the JFS be amended to outline the policies that fisheries administrations should implement to deliver on the commitments being made.

To conclude, in our recommendations we have sought to outline what we think is needed to achieve government's ambitions for GES in UK marine waters. By strengthening the final JFS, Defra can set a new direction for fisheries management that is both world-leading and subject to appropriate public scrutiny.

I am addressing this to you as the Minister responsible for fisheries. I am also copying our response for information to the Secretary of State, Minister Pow, and your fellow fisheries ministers in the devolved administrations.

Yours sincerely,

Dame Glenys Stacey
Chair, Office for Environmental Protection

cc.

George Eustice MP, Secretary of State for Environment, Food and Rural Affairs
Rebecca Pow MP, Minister for Nature Recovery and the Domestic Environment
Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd
Mairi Gougeon MSP, Cabinet Secretary for Rural Affairs and Islands

Consultation response on the Draft Joint Fisheries Statement

Q1 To what extent do you think the policies articulated in the draft JFS will achieve, or contribute to the achievement of, the fisheries objectives?

Our Shared Ambition (1.1-1.3)

The draft JFS is a critical step towards achieving the objectives set out in the Fisheries Act. If successful, it will integrate fisheries management with government's broader target to achieve Good Environmental Status (GES) in marine waters. This means ensuring that fish stocks are exploited sustainably, but also protecting the wider marine ecosystem that supports those stocks. This vision has already been well captured by both the 25 Year Environment Plan (25 YEP) and the ecosystem objective which embeds for the first time a direct link between fisheries management and the UK's broader Marine Strategy.

Some policies articulated in the draft JFS do attempt to embed a more holistic approach to fisheries management. They risk being tempered, however, by a headline ambition (set out in Chapter 1) which in our view retains an overly narrow sectoral focus. Specifically, the strategy for delivering government's ambition does not adequately reflect the interdependence between fish stock health, the wider marine ecosystem, and a resilient fishing industry – instead separating these topics into three separate areas of focus. This promotes a fragmented approach to fisheries management which is at odds with the 25 YEP vision.

To deliver reforms on the scale necessary to achieve the fisheries objectives, the draft JFS must combine these three areas into a more coherent approach which explains how fisheries fit into a wider regulatory framework aimed at managing all external drivers of marine ecosystem degradation (e.g. climate change, pollution, development).

Achieving the Fisheries Objectives through our Policies (4.2)

Regrettably, the individual policies themselves lack the necessary detail to deliver these objectives. Commitments designed to guide devolved policymaking are often caveated or overly uncertain, making it difficult for fisheries policy authorities to be held to account for the effectiveness of the measures that they introduce.

Whilst we recognise that the JFS must respect devolution by affording each fisheries administration the flexibility to determine the right policies for its own context, this should not come at the expense of the joined-up thinking needed to deliver government's ambitions at a national level. Especially in policy areas where fisheries authorities have traditionally struggled to have impact, such as monitoring and enforcement.

To illustrate this point, we recommend amendments to the following policies in order to contribute to the achievement of the fisheries objectives:

Reducing Bycatch and Minimising Catches of Sensitive Species (4.2.7)

Bycatch of undersized fish, invertebrates, marine mammals and seabirds is an ongoing pressure which directly impacts our ability to achieve the fisheries objectives. Prior to the introduction of the landing obligation, the European Commission estimated that discards alone could be responsible for nearly 70% of fish mortality in some species and locations, whilst incidental catch remains a key contributor to failures to achieve GES for seabirds and some cetacean species.

To date, lack of effective monitoring has restricted efforts to ensure compliance with preventative legislation. Therefore, whilst we are pleased to see the draft JFS make commitments to reduce the incidence of both discarding and bycatch, we believe that it lacks guidance on exactly how this will be achieved. What is more, it is not clear how non-compliance with rules to deter bycatch will be monitored and enforced.

A variety of mitigation measures have been put forward as a potential solution to the problem, including effective monitoring through the introduction of Remote Electronic Monitoring with cameras. Although we agree that detailed policy should largely be reserved for Fisheries Management Plans (FMPs), the threat that bycatch poses to the achievement of the fisheries objectives justifies a more clearly defined approach to mitigation at a national level. This is particularly so in the absence of a published UK Bycatch Mitigation Initiative.

The draft JFS should in our view be amended to outline the policies that fisheries administrations will implement to deliver on the commitments being made.

Marine Spatial Planning (4.2.9)

Although section 4.2.9 touches upon existing policy positions by stating that marine plans should include policies that consider fisheries, the draft JFS misses an opportunity to take steps to fully integrate commercial fishing into the marine planning system.

This is important because a fully integrated system would allow for a more proactive approach to regulation, whereby new licenses would have to comply with a plan that has mapped out fishing pressures over an extended period and undergone a Strategic Environmental Assessment. With competition for space likely to increase under plans to expand the UK's network of Marine Protected Areas (MPAs), as well as offshore wind, wave and tidal stream devices, it would also help to tackle displacement by allocating specific areas in which fishing can take place separate to other marine developments and existing biodiversity protection measures.

We acknowledge that full integration will be challenging, particularly where the movement of stocks and fishing effort is highly dynamic. However, recent years have seen a sharp rise in the development of tools and methods capable of collecting verifiable scientific data in high enough volumes to support projections. Even where data is lacking, we often have enough information to offer an indication of areas with an increased probability for shifting fisheries effort. This can in turn be used to inform a truly precautionary approach to management, which ensures that space is created for fishing, whilst safeguarding the most sensitive parts of the marine ecosystem over time.

We strongly advise that the JFS is amended to support policies which pursue a marine planning system that fully encompasses all major uses of the seas.

Marine Protected Areas (4.2.10)

A well-designed and well-managed network of MPAs is perhaps the most practical tool for achieving GES. However, designated sites have historically been poorly protected from fishing. Moreover, even when suitable management measures are introduced, lack of monitoring can be a considerable obstacle to effective enforcement.

We advise that there is a need to further develop the way in which the draft JFS addresses how fishing activities will be effectively managed. As it stands, section 4.2.10 contains only passing reference to the need to ensure that fishing activities are managed to enable MPAs to achieve their conservation objectives. Despite government's recent commitment to adopt fisheries management for all MPAs by 2024, there is also no mention of a firm time by which the objectives of this policy should be achieved.

To ensure that fisheries administrations are in the best position to achieve the fisheries objectives, as well as government's recently proposed MPA target, the draft JFS should build on the current text with clearly defined framework policies for how the MPA network should be administered, and to what timescale. Included within these policies should be an explanation of the monitoring and enforcement methods that will be used to safeguard against any drops in compliance. In this way, the JFS can reset expectations and begin to drive home compliance.

Q2 What are your views on the proposals for developing Fisheries Management Plans (FMPs)?

Without getting drawn into detailed discussion of individual stocks, we broadly agree with the principles underpinning the development of FMPs. It is important that fisheries policy authorities have the autonomy to design management measures at a regional level, particularly when that provides a platform for close co-operation with affected stakeholders. We do not believe, however, that the draft JFS sets clear enough targets to ensure that FMPs deliver the objectives set out in the Fisheries Act.

At present, too many commitments are caveated or uncertain. In our view, they should be replaced with clear and achievable, timebound commitments against which authorities responsible for developing FMPs can be held to account. This would give the JFS teeth, whilst also providing the certainty that the sector needs to be able to plan for future regulation.

To illustrate our observation, we have highlighted several commitments in the draft JFS that we argue should be strengthened:

- 4.1.8 – Fisheries policy authorities will only “aim” to fish within sustainable limits based on the best available scientific advice. Reference is also made to using “suitable proxies” for maximum sustainable yield when setting limits for data-limited stocks, without providing an indication of the methodology that will be used to ensure that those proxies will be established in line with the precautionary approach.

- 4.2.7 – Fisheries policy authorities are said to be committed to the principle of reducing bycatch and discards. However, despite ongoing failures to achieve GES for seabirds and some cetacean species, the draft JFS does not provide a date by which effective monitoring and mitigation measures should be introduced.
- 4.2.10 – Despite government’s recent commitment to adopt fisheries management for all MPAs by 2024, there is no mention of a firm time by which policy authorities will ensure that fishing activities are managed to enable MPAs to achieve their conservation objectives.
- 5.2.3 – The Fisheries Act defines a FMP as a document that sets out policies to restore or maintain a stock at sustainable levels. However, no guidance is provided as to the date by which that recovery should be achieved.

Q3 Are there any other areas of fisheries policy you think should be included in the draft JFS?

In our view, the draft JFS should set out a clear ambition to incorporate fisheries into an Environmental Impact Assessment (EIA) regime. At present, commercial fishing is one of the only economic activities that does not need to undergo screening for an EIA before a license is granted, meaning that impacts are often not described or mitigated.

It is therefore important that applications for both new and existing operations – particularly when there is a desire to change the intensity, extent and/or focus of fishing effort – are required to demonstrate that they would not have a significant effect on the marine environment. This would bring fishing into line with the regulation governing other extractive industries, where environmental costs must be internalised and not passed on to the rest of society. This would be a major step towards implementing an ecosystem-based approach to fisheries management which can deliver the objectives set out in the Fisheries Act.