

Pilot Scheme Public Consultation Feedback Form

This form relates to the draft Asset Management Pilot Scheme – Criteria and Process which can be found at <http://www.crownestatescotland.com/the-assets/local-management>

Please note that the deadline for responses is close of business 16 April 2018.

We will publish a summary of consultation feedback, including resulting actions, on our website.

Respondent information

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name	Fauna & Flora International
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Crown Estate Scotland would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name**
 Publish response without name
 Do not publish response

We may wish to contact you again in the future, but we require your permission to do so. Are you content for Crown Estate Scotland to contact you again in relation to this consultation exercise?

- Yes**
 No

Please send this form to enquiries@crownestatescotland.com by close of business 16 April 2018. If you have any queries about the Pilot Scheme, or the feedback form, please email enquiries@crownestatescotland.com or call 0131 260 6070 and ask for Esther Black.

Consultation Questions

Timescale and Process

- 1) Do you think these timescales are appropriate?
- 2) In particular, does it give potential pilot projects enough time to respond to Stage One (6 weeks) and to create a business plan in Stage Two (12 weeks)?

The timescales are quite tight. From our various discussions with community groups a little more time for consideration of the pilot criteria itself would have been welcomed. In light of this we would recommend considering 8 weeks for Stage 1 rather than 6 weeks. Limited word counts hopefully help manage workload/input for Stage 1, particularly in respect to groups gathering adequate evidence of broad community support.

- 3) Do you think the proposed approach gives a rigorous, transparent and robust process for assessing pilot scheme applications? Are there ways it could be enhanced?

Yes, the process as laid out seems fair and relatively robust.

- 4) We are interested in exploring opportunities for external input to the decision-making process. Do you have suggestions for how to go about doing this?

The involvement of external parties for input into decision-making of course has pros and cons – in any scenario, the decision-making process must be clear and strictly applied and evidenced. Any external party involvement will need to be transparent and justified, with conflicts of interest detailed. If there are strong requirements to demonstrate community support for individual proposals, then the anticipation would be for external input to be evidenced through this process.

- 5) Do you think this is an appropriate aim for the Pilot Scheme?

Yes, more clarity at this stage would be useful around the specific metrics which will be used to measure value within social; environmental and economic. We appreciate this is the role of the pilot schemes however some further examples of relevant and non-relevant approaches which will be considered as meeting the aim would be useful for community bodies engaging in Crown Estate Scotland asset management for the first time.

- 6) Do you think it is appropriate to measure the social, economic and environmental outcomes?



Yes - whatever management arrangements are developed, there is the ability to influence these so that the triple bottom line of environmental, social and economic benefit are enshrined in decisions being made about use of this public asset, an ambition we support.

7) Do you think there are other appropriate measures that should be used?

FFI supports this triple bottom line approach, as per above. We would like to explore the detail more within these and look forward to the pilot scheme doing so. For example, with regards to environmental management measures – will the preference sit with demonstrating an overriding economic benefit or will the longer-term environmental benefits be considered appropriately?

8) Do you think the project review period is appropriate?

A two year review in 2020 seems appropriate, with the understanding that this is not the termination of the pilot. Given it is a novel project a relatively short review period makes sense so that practical and constructive advice can be delivered to enhance continued delivery.



9) Do you think there are other assets which should be excluded from the Pilot Scheme?

No. However, with regards to the potential selling and disposal of assets. The Crown Estate Bill details that there are certain disposals requiring Ministerial consent, this includes the stipulation that transferring ownership of seabed away from the manager (other than the Scottish Ministers), wherein the manager no longer manages any Scottish Crown Estate assets, can only occur with the consent of the Scottish Ministers. We strongly support, and reiterate here in the context of the pilots, this provision and would express concern over potential interests in disposals of seabed assets - an asset which should be managed for common good. We seek further detail on the criteria which Ministers would apply if this scenario were to arise, and/or on the likely scenarios which would lend itself to this arising, including whether this might potentially arise as part of the pilots themselves?

Stage One Application Questions

10) Have we listed the correct types of organisations? Should any other types of organisation be included or should any of these organisations be excluded?

FFI believe that natural assets which are community owned, and managed through a representative mechanism such as a community body, allow a community to better influence their operation or use, providing more responsive management and allowing communities to directly conserve and enjoy the benefits arising from such resources.

This seems comprehensive and we are supportive of the flexibility which is built in. Agree with the opportunity to establish adequate structure and governance in the given timeline as per the commencement of Stage 2. Further information around the stipulation to "include a financial statement" would be useful, so as to clarify whether there are minimum or maximum thresholds.

We would stress here however that with enhanced responsibility comes enhanced workload, pressure and liability. As such community bodies who are seeking to obtain management responsibilities of this nature for the first time should be empowered to do so and enabled to engage within their own parameters and with adequate support to community bodies in place from both Scottish Ministers and Crown Estate Scotland.

11) Have we given sufficient information to guide proposers? Are there any other items which you think should be included under this question?

Guidance seems sufficient.

12) Have we listed the correct questions for testing if the project will meet the statutory duty under the Crown Estate Act 1961 and other relevant legislation?

More detail on CES's definition of 'good management' and their requirements regarding regulatory burdens would be useful.



13) Are there any other questions which you think it would be appropriate to include at this stage?

We would encourage the full consideration of environmental value, as per the Crown Estate Scotland Bill which states that, regarding the Bill's duty to maintain and enhance value, managers/transferees of Scottish Crown Estate assets must maintain and seek to enhance the value of the assets (and the income arising from them) in a way that is likely to contribute to the promotion or the improvement in Scotland of (a) economic development, (b) regeneration, (c) social wellbeing, (d) **environmental wellbeing**, (e) sustainable development.

Similarly, with regards to the manager's duty to obtain market value, we encourage the testing of statutory duties which allow the manager to make a relevant transaction for consideration of *less than market value* if the manager is satisfied that the relevant transaction is likely to contribute to the promotion or the improvement in Scotland of (a) economic development, (b) regeneration, (c) social wellbeing, (d) **environmental wellbeing**, (e) sustainable development.

14) Are there other tests of public interest which would be appropriate at this stage?

Environmental value must be given due consideration within the recognition of public interest and public interest should not be a catch-all for economic gains – i.e. value for money must encompass environmental value. We support the need for applicants to detail how their proposal is meeting the public interest to maintain/enhance the marine environment via, e.g. The National Marine Plan and seeking to engage with relevant institutions such as Marine Planning Partnerships.

All case-by-case transfers of powers to local bodies which is granted will also need to be in line with legislation such as the National Planning Framework, Land Use Strategy, the Scottish Biodiversity Strategy and Scotland's National Outcomes including valuing and enjoying our built and natural environment.

Ultimately, clear standards will be necessary for seabed and foreshore management to ensure developments deliver more than direct economic benefit. There will also need to be clear responsibility for enforcing such standards nationally, across the portfolio of pilots, to mitigate any environmental risks and ensure strong protection where case-by-case management could otherwise cause detrimental impacts upon the natural environment.

15) Do you think we have identified the correct types of evidence of community support?

16) Are there other ways of assessing community support?

FFI supports the application of the National Standards for Community Engagement as the benchmark (Inclusion, Support, Planning, Working Together, Methods, Communication and Impact).

We note that a community can be defined, as appropriate to an application, if either by their geography or by their interest. As best as possible, we would recommend strong geographic community support and support the caveat detailed wherein if it is a community of interest then there should be demonstration of how the applicant has also engaged, or plans to engage, with the local geographical community in the project area.

17) Is there anything else which you think should be taken into account at this stage?



Seems comprehensive enough without being burdensome to the applicant.

18) Do you feel the appeal process, and the associated timescales, are appropriate and proportionate?

Yes.

19) Are there any other criteria that you think Crown Estate Scotland should be using to assess the pilot projects at this stage?

No comment.

20) We have suggested word limits for the questions in order to ease the burden on applicants. Do you think this is appropriate, and fair, for the Stage One applications?

Yes.

21) Please take this opportunity to bring any other issues related to the Pilot Scheme to our attention.

No comment.

Stage Two Application Questions

22) Apart from the best value characteristics, and along with the Crown Estate Scotland strategic objectives and associated KPIs, are there other appropriate measures of a pilot project?

Seems fair. For environmental assessment measures it will be crucial to allow consideration of the relative timescales required to measure environmental recovery and value.

23) Are there other ways we could assess the context of an application?

Seems adequate. With regards to the stipulation to 'tell us about any funding requirements for your project and include relevant details of your fundraising strategy' - more information at this stage on the process required to secure funds to support the running costs of the proposed pilot, and the proposers obligations to potentially ensure the necessary costs are covered upfront, would be helpful.



24) Are there other ways we could assess how a project plans to evidence best value and best consideration?

It is stated that the applicant has to demonstrate how the proposal is “contributing to Scotland’s economic, social and environmental well-being and prosperity” however there is no further detail required, from the list provided, around specific indicators of environmental well-being - it would be useful to detail this requirement here, particularly for those projects which plan to test such values.

25) Have we identified the correct aspects of management?
26) Are there any other aspects which should be included?

FFI supports the alignment with sustainability, the Community Empowerment Act, Land Reform Act and principle of subsidiarity. Further clarity on how sustainable development will be measured in this context will be helpful.

27) Are there other ways we could assess the governance arrangements of an application at this stage?

FFI supports commitments to demonstrate good governance and support the ‘check-list’ set of questions provided. Although not prescriptive, FFI also promotes principles of:

Participation – where all stakeholders participate in decision making that affects their lives, including representatives from marginalised and disempowered groups.

Equity - where costs and benefits are shared fairly and impartial judgement is available in case of conflict.

Accountability - where lines of responsibility are clear and those in positions of responsibility are answerable to all stakeholders.

Transparency - where all relevant information is available, in an appropriate form, to all stakeholders.

See the following links to further reading which may be of interest:

Lockwood, M et al (2009) Governance Principles for Natural Resource Management Land & Water
<http://lwa.gov.au/products/pn30299>

Moore, P et al (2011) Natural Resource Governance Trainers’ Manual IUCN RECOFTC SNV
<http://www.recoftc.org/site/resources/Natural-Resource-Governance-Trainer-s-Manual.php>

SAGUN Program Tool 3: Participatory Governance Assessment <http://www.careclimatechange.org/tools>

28) Have we identified the correct aspects of financial management and accountability?
29) Are there any other aspects which should be included?

No comment.

30) Have we identified the correct aspects of community engagement?
31) Are there any other aspects which should be included?



Yes a range of evidence types being presented will offer some flexibility to groups operating at different scales and developing projects which are testing various values. Letters of support, minutes of meetings, and evidence of previous discussions and project development should offer appropriate/sufficient evidence.

We are also encouraged by the comment that communities of interest should also demonstrate how they have also engaged, or plan to engage, with the local geographical community in the proposed project area, as well as the community of interest. Institutions such as local development trusts, community councils and other locally-scaled representative bodies should be involved in the application as best as possible.

FFI does question why Crown Estate Scotland are not listed as a body which communities can make Participation Requests to under the Community Empowerment (Scotland) Act 2015 but appreciates this may be something to discuss with the relevant persons within the Scottish Government's Community Empowerment Team.

- 32) Have we identified the correct aspects of community benefit?
33) Are there any other aspects which should be included?

Yes, FFI supports the provisions to align with National Outcomes which include having strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others; and valuing and enjoying built and natural environment, protecting and enhancing it for future generations.

Social Auditing processes also allow for consideration of the triple bottom line, enabling a process wherein organisations assess and demonstrate social, economic and environmental limitations and benefit, and can be useful as a form of indicator particularly for strong partnership working across projects and communities.

- 34) Do you think it is possible for a potential pilot project to create a useful risk register and suggest mitigations?
35) Are there any other aspects which should be included?

Yes, particularly if the applicant is given support with regards to CES's perceived risks.

- 36) Is there anything else we should consider in the review of the projects?

With the potential of Local Councils taking on further management responsibilities the risk of conflicts of interest could emerge – for example where the Local Councils planning responsibilities under the Town and Country Planning (Marine Fish Farming) (Scotland) Order 2007 (which makes the planning consenting process for aquaculture sites is the responsibility of Local Councils) would sit alongside their new Crown Estate Scotland management. This would mean a Local Council would be both the aquaculture licensor and the leaser of the seabed and in this scenario adequate safeguards would need to be enshrined.

- 37) Are there other sources of support available which could assist communities in developing their application for the Pilot Scheme?



**Crown Estate
Scotland**

Oighreachd a' Chrùin Alba

Support with writing a Business Plan will be helpful, particularly for those bodies undertaking this for the first time. There are large donor organisations which communities could potentially seek funds from as relevant to the pilots and larger projects of work, including the Big Lottery Fund's [Community Assets grants](#), Foundation Scotland's [Community Benefit Funds](#).