

Marine Aquaculture Consenting Guide

2017



Sustainable Inshore Fisheries Trust



Contents

1	SIFT and MCS	03
2	Why this guide is needed	04
3	Introduction	05
4	Background: the marine salmon farming industry	08
5	Aquaculture planning policy overview	11
6	Local Planning Authorities	15
7	Marine Scotland	24
7.1	Marine Scotland Science	26
7.2	Aquaculture Planning Co-ordination Team	27
7.3	Fish Health Inspectorate	27
7.4	Marine Scotland Seal Licensing Team	29
8	Scottish Environment Protection Agency	31
9	Scottish Natural Heritage	36
10	The Crown Estate	39
11	Regulatory developments in 2016 & 2017	42

Appendices

1	Other relevant bodies and initiatives	44
2	Aquaculture and communities	46
3	Getting information on fish farms via information requests	47
4	Information for fishermen who find dead crustaceans in their creels	50
5	International information on aquaculture	51

1 SIFT & MCS

Sustainable Inshore Fisheries Trust

SIFT is a Scottish charity (Registered Scottish Charity Number SC042334) founded in 2011 with the aim of achieving the sustainable management of Scotland's inshore waters so that they provide the maximum long term benefits to all coastal communities.

In order to meet its aim, SIFT has adopted four key strategic themes:

- **To implement new fisheries management measures and legislation.**
We focus on 'on-the-ground' solutions that lead good practice by example rather than by discourse.
- **To raise the management of inshore waters up the political agenda.**
We increase the public's awareness of its 'ownership' of inshore waters so that calls for action are a high political priority.
- **To increase the representation of a wider range of stakeholders in fisheries management.**
We rectify policy-making inequalities by helping under-represented stakeholders' voice their concerns.
- **To promote the use of scientific and economic data as a basis for decision-making.**
We promote the most policy-relevant areas of research and ensure that its findings are used.

Marine Conservation Society

MCS is the UK charity dedicated to protecting our seas, shores and wildlife. We work with the public, governments, industry, commercial partners and communities to raise awareness of the serious issues facing our seas. Our role is to educate and inspire people to change their habits, opinions and preconceptions to help preserve our oceans for generations to come.

To progress towards our vision of Seas Fit For Life the Marine Conservation Society's Strategic Aims for 2015-2020 are:

- **Protecting marine life**
Establish an ecologically coherent UK network of well-managed Marine Protected areas (MPAs).
- **Sustainable fisheries**
Recovery of fish stocks and reduced impact of fishing and fish farms on habitats, non-target species and marine ecosystems; and increase availability of sustainably wild caught and responsibly farmed seafood.
- **Clean seas and beaches**
Reduce litter and bathing water pollution at UK beaches.
- **Working seas**
Ecologically sustainable planning and management of major marine industries and our wider seas.
- **Engaging our audiences**
Increase public understanding, appreciation and enjoyment of UK seas and active involvement in marine conservation.

2 Why this guide is needed

Members of the public often find it difficult to understand the complexities of the aquaculture planning process. This Guide aims to explain the process and improve understanding. In so doing, the Guide aims to help local communities exert greater influence over how their local sea areas are managed.

With greater mutual understanding, aquaculture developments should have greater 'social licence', and the aquaculture industry and other stakeholders should subsequently be able to co-exist more harmoniously.

By promoting community participation in planning and regulating the aquaculture industry, the Guide is closely aligned with the objectives of the Community Empowerment Act (Scotland) 2015.

The Guide should also help coastal communities ensure that the natural resources of their locality are being developed sustainably. It is notable that The Land Reform (Scotland) Act 2016 entitles community bodies to apply to Scottish Ministers to force a sale of land to the community in the interests of furthering sustainable development. By helping coastal communities have more say over how sustainably their local inshore waters are being used, the Guide is consistent with the aims of the Land Reform Act too.

The Guide focuses on coastal Atlantic salmon farms, the dominant type of marine fish farm in Scotland. It does not detail the environmental or socio-economic impacts of these fish farms. Such information is readily available elsewhere.

The Guide replaces an earlier publication, The Aquaculture Information Pack, published by SIFT in 2013 and benefits from contributions by the Marine Conservation Society (MCS) and other experts. MCS is often approached for advice from local communities and individuals about fish farm developments and the planning processes involved.

The Guide only provides an overview of the planning process. Much of the content is drawn from the publications and websites of relevant public agencies. Links to these more detailed sources are given through the document. Furthermore, readers should note that aquaculture planning is constantly evolving. So the content of the Guide may have been superseded by newer regulations. Accordingly, readers seeking to engage with an aquaculture development should obtain specific professional advice at the earliest possible stage.

3 Introduction

This Marine Aquaculture Consenting Guide explains the planning and consenting process for, and the regulatory oversight of, marine fish farms in Scottish waters. It sets out the responsibilities of, and relationships between, the various public bodies involved in consenting and regulating this sector of the aquaculture industry. In essence, the following consents and licences are required before a fish farm may be developed:

- A Development Consent (Planning Permission) – from the local planning authorities;
- A Controlled Activities Regulations (CAR) Licence – from the Scottish Environment Protection Agency;
- A Marine Licence - from Marine Scotland's Aquaculture Planning Coordination Team;
- A Seabed Lease - from the Crown Estate;
- Authorisation of an Aquaculture Production Business (APB) - by the Fish Health Inspectorate.

The process of acquiring these consents is complex and overlapping. This complexity is well-illustrated by the following graphic, by Poseidon consultants (2016).

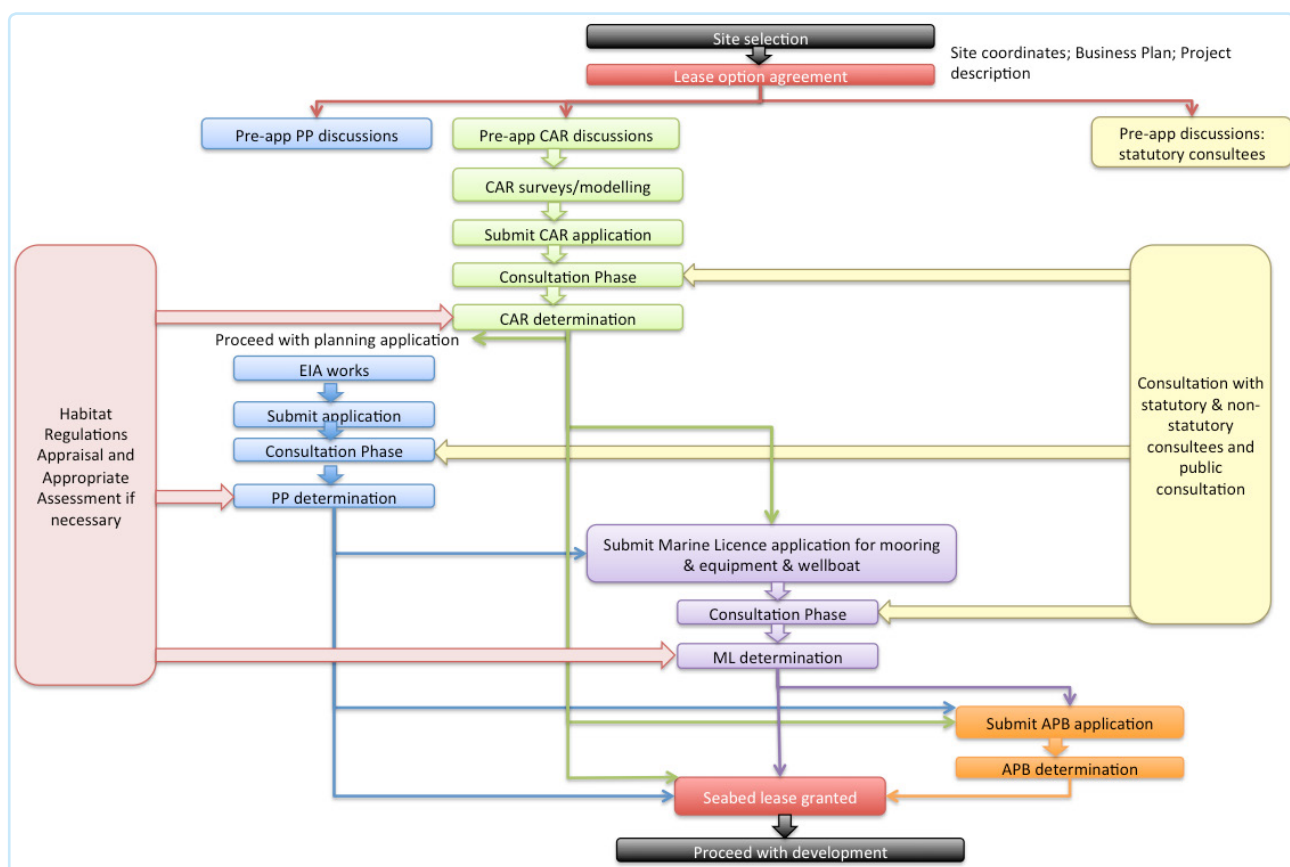


Figure 1: Overview of key tasks for achieving the consenting of new aquaculture site

Source: Independent Review of the Consenting Regime for Scottish Aquaculture. Poseidon, 2016

The subsequent regulation of operating salmon farms is the responsibility of these foregoing public bodies.

In addition to the regulatory bodies mentioned above, there are a range of additional advisory bodies, which have existed at different times to provide guidance and advice to the industry. For example,

the Ministerial Group for Sustainable Aquaculture (MGSA), which was established in 2013 to support Scotland's aquaculture industry to achieve its growth targets. This MGSA had several sub-groups, working on issues such as Capacity (covering capacity, barriers to growth, streamlining regulation & consenting), Containment, Wellboats, Interactions between wild and farmed fish, and Fish Health. In 2016, the MGSA was superseded by an Aquaculture Industry Leadership Group. Unlike the MGSA, only industry and public sector stakeholders are represented on the Leadership Group.

The planning process

Participation by local communities during the development of statutory plans, prior to the submission of an application for the consents and licenses required for the development of a new aquaculture facility or the extension of an existing facility, can help coastal communities ensure that the natural resources of their locality are being developed sustainably.

The terrestrial planning system currently has three main statutory plans:

The National Planning Framework (NPF)

Sets out the Scottish Ministers priorities for development and use of land across Scotland, specifying in general terms where this could and should occur. It is the spatial plan for Scotland and provides the spatial mechanism to support the Scottish Government's economic strategy.

Strategic Development Plans

There are four Strategic Planning Authorities in Scotland, and within each one's specified boundary, (the 'Strategic Planning Area'), relevant local authorities prepare Strategic Development Plans.

Local Development Plans

At a local level, local development plans, prepared by local planning authorities, set out the spatial priorities for each of the thirty two local authority areas.

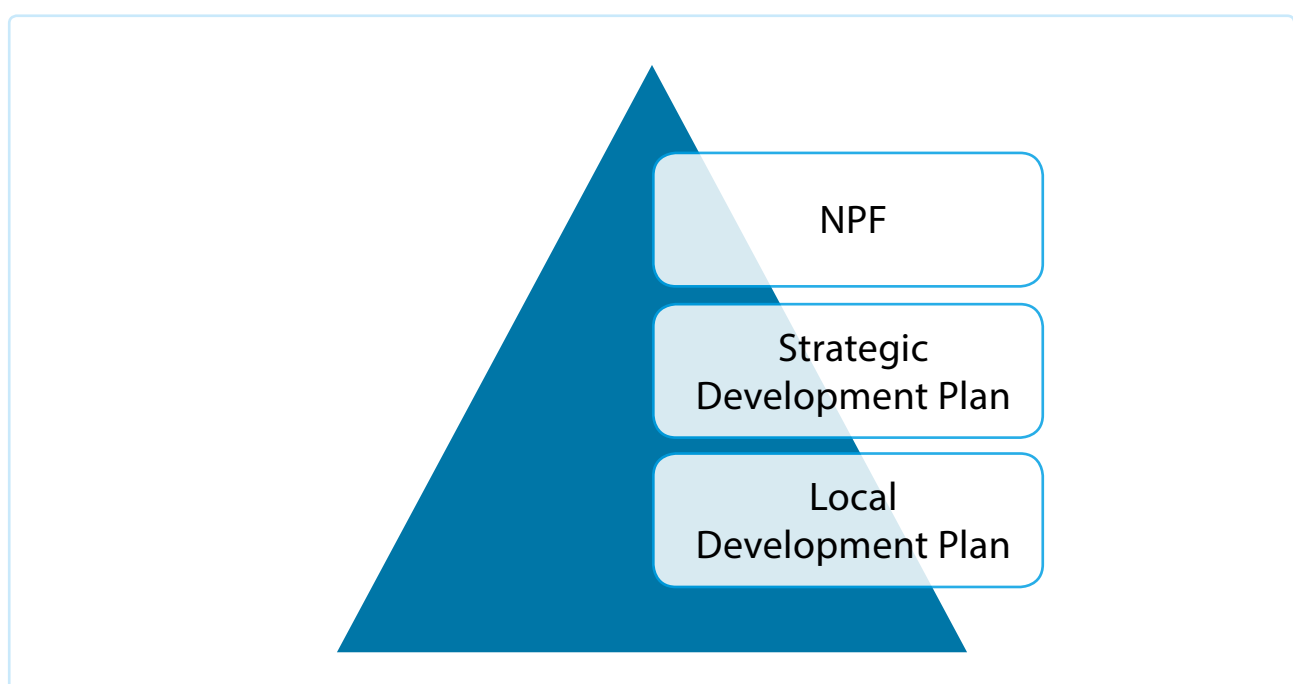


Figure 2: Scottish Planning Hierarchy

Participation in these processes provides coastal communities with the opportunity to contribute to the shaping of their locality. Early engagement with these planning processes is encouraged as plans adopted are material considerations during the determination of a planning application by the local authority.

Considerable information on these planning processes exists elsewhere, therefore, this Guide does not replicate this. For further information on the terrestrial planning system see (gov.scot/Topics/Built-Environment/planning) advice and assistance is available from Planning Aid Scotland (pas.org.uk) and information on the marine planning system is available from Marine Scotland (gov.scot/Topics/marine/seamanagement). The Scottish Government in 2017 consulted on the future of the Scottish Planning System, proposed changes include removing strategic development plans and strengthening connections between community plans and local development plans. For more information see: blogs.gov.scot/planning-architecture/2017/02/07/planning-for-a-better-future.

General duties on public authorities

When exercising any function (such as, granting a licence or a lease) within the Scottish marine area, the Scottish Ministers and all public authorities are under the obligation to act in the way best calculated to further the achievement of sustainable development, including the protection and, where appropriate, enhancement of the health of that area (Marine (Scotland) Act 2010 s.3).

4 Background: the marine salmon farming industry

Since its beginnings in the 1960s, Scottish salmon farming has grown from an industry characterized by small, generally privately-owned farms, to the industry of today, which is dominated by a handful of multinational, generally publicly-traded companies, with 'farmgate value' of sales of some £650 million in 2015. Source: scottishsalmon.co.uk/business.

The largest salmon farming companies in Scotland are:

Cooke Aquaculture (Scotland)

A subsidiary of Cooke Aquaculture Inc. – a privately owned Canadian company with annual sales of C\$1 billion. In Scotland it operates some 45 sites and employs approximately 230 staff.

cookeaquaculturescotland.com

Marine Harvest (Scotland)

A subsidiary of Marine Harvest ASA, one of the largest seafood companies in the world, and the world's largest producer of Atlantic salmon. The company employs some 600 people at over 50 sites in Scotland. In 2015 the company had a turnover of NOK 28 billion. Marine Harvest is listed on the Oslo Stock Exchange (OSE) and the New York Stock Exchange (NYSE).

marineharvest.com

The Scottish Salmon Company

A subsidiary of The Scottish Salmon Company PLC, a Jersey registered company listed on the Oslo stock exchange. It operates over 40 marine sites in Scotland. SSC PLC has annual revenues in excess of £100 million, and is majority owned by Northern Link Ltd, a Ukrainian backed private equity company.

scottishsalmon.com

Scottish Seafarms

SSF is jointly owned by two companies listed on the Oslo stock exchange: SalMar ASA, one of the world's leading salmon producers, and the Lerøy Seafood Group ASA, the leading exporter of seafood from Norway and the world's second largest producer of Atlantic Salmon. SSF operates over 40 sites around Scotland.

scottishseafarms.com

The remainder of the industry is largely comprised of smaller and essentially regional, companies, including:

Wester Ross Fisheries

A locally owned company with three marine sites in NW Scotland - wrs.co.uk

Loch Duart Limited

Privately owned company with sites in Hebrides and the Mainland - lochduart.com

Greig Seafood Shetland Limited

Largest salmon farmer in Shetland, a subsidiary of Greig Seafoods ASA of Norway - griegseafood.no

For more information visit the following link scottishsalmon.co.uk/facts-figures - or for an up to date register of all Scottish fish farm businesses, please follow the link to the comprehensive Scottish Aquaculture website: aquaculture.scotland.gov.uk.

Growth targets

The majority of Scotland's marine salmon farms are situated on its Atlantic coast, and produced some 179,000 tonnes of fish in 2014. The industry currently aims to increase its production to 210,000 tonnes by 2020. For more information, visit the following link: gov.scot/Resource/0047/00475466.pdf.

In 2016 a Working Group from the Scottish aquaculture industry, proposed that 'sustainably achievable projections for 2030 could be in the range of 300,000 to 400,000 tonnes per annum for finfish production'. This is detailed in its publication Aquaculture Growth to 2030 A Strategic Plan for farming Scotland's seas scotlandfoodanddrink.org/media/78119/lr-sfd-aquaculture-doc_spread.pdf.

Impacts on coastal communities

The industry provides employment in often sparsely populated areas. In 2014, Scottish marine salmon production employed 1191 full-time staff and 134 part-time staff. In addition, 244 full-time and 65 part-time staff were employed on freshwater sites where salmon smolts were produced. These jobs were dispersed across some 260 marine sites and 96 freshwater sites (Source: Marine Scotland). Aquaculture companies also contribute to coastal communities through donations to local causes. Further analysis of the benefits can be found in the 2014 report to Scottish Government: An Assessment of the Benefits to Scotland of Aquaculture. gov.scot/Resource/0045/00450799.pdf.

However, marine salmon farming impacts upon coastal communities in less positive ways; it impinges upon a range of other livelihoods including inshore commercial fishing, shell fish farming, recreational sea angling, wild salmon and sea trout angling, and wildlife tourism. As the industry expands, it is becoming increasingly clear that these interactions are problematic. The problems, which can have serious economic as well as environmental consequences, arise in different ways, including:

- The space that marine salmon farms occupy may interact with and/or displace inshore fisheries;
- The negative visual impacts of floating cages, pontoons and work rafts and the industry's licensed use of lethal predator control on seals could adversely affect some tourism businesses;
- Escaped farmed salmon can interact and interbreed with wild salmon resulting in genetic weakening, causing harm to wild populations;
- Sea lice on farmed salmon can disperse and affect wild salmonid populations, which is widely held to harm the wild salmon and sea trout fisheries;
- Chemicals used in salmon farms to treat sea lice may harm the marine environment. There is also growing concern about possible impacts upon the crustaceans and inshore shellfishery sector;
- The wild capture of 'cleaner fish' such as Wrasse (which salmon farms use to remove sea lice as an alternative to chemical treatments) is currently being undertaken in UK and Scottish waters without stock data. Welfare of wild caught wrasse during capture, transport and deployment in cages is also a concern as is their mortality;
- The fall of uneaten fish feed and faecal matter through aquaculture cages can harm the marine seafloor ecosystem in the vicinity of fish farms. Of particular concern is the cumulative impacts of fish farms in one body of water or location.

This Guide does not cover these issues. Information is available from the industry and government websites referred to in the Guide. In addition the following Non Governmental Organisations have information about aquaculture:

Friends of Loch Etive lochetive.org

Fisheries Management Scotland fms.scot

The Atlantic Salmon Trust atlanticsalmontrust.org/aquaculture

Marine Conservation Society goodfishguide.org/information/Farmed+fish

Another useful source of information is:

The **Scottish Salmon Producers Organisation's (SSPO)** regular Fish Health Management Reports
scottishsalmon.co.uk/wp-content/uploads/2017/02/Fish-Health-Management-report-Q4-2016.pdf

5 Aquaculture planning policy overview

Introduction

The policy framework for aquaculture is diverse. Local authority planners have to take into account a wide range of plans and policies during the determination of a planning application for a new aquaculture development. This section of the guide provides an overview of some of these.

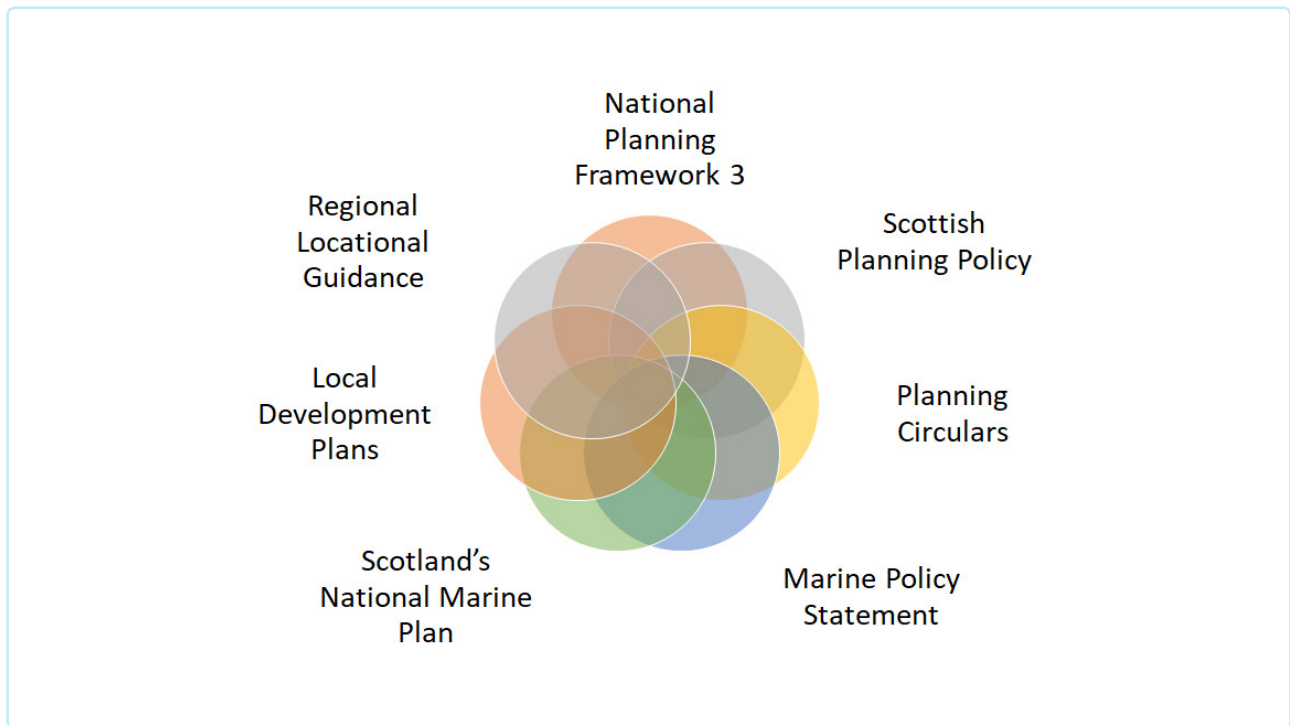


Figure 3: Scottish Planning Hierarchy

National Planning Framework

Scotland's aquaculture planning policy is underpinned by the Scottish Government's National Planning Framework 3, (2014), [gov.scot/Resource/0045/00453683.pdf](https://www.gov.scot/Resource/0045/00453683.pdf) which both supports 'the sustainable growth of the aquaculture sector' and acknowledges the industry's expansion targets. This document is in turn supported by Scottish Planning Policy (2014) which establishes that the planning system should:

- Play a supporting role in the sustainable growth of the finfish and shellfish sectors to ensure that the aquaculture industry is diverse, competitive and economically viable;
- Guide development to coastal locations that best suit industry needs with due regard to the marine environment;
- Maintain a presumption against further marine finfish farm developments on the north and east coasts to safeguard migratory fish species.

Scottish Planning Policy provides guidance on what is relevant to planning. It also requires authorities to take into account the direct and cumulative effects of the proposed development on the environment, including:

- Carrying capacity
- Visual impact and the effects on the landscape
- Effects on the marine historic environment and the sea or loch bed

Scottish Planning Policy also makes clear that **the needs of local communities and other interests should be taken into account alongside the economic benefits of the sustainable development of the aquaculture industry and the operational needs of fish and shellfish farms.**

National Marine Plan

In addition, Scotland's National Marine Plan (NMP – 2015) gov.scot/Resource/0047/00475466.pdf sets out specific targets, objectives and policies for aquaculture growth.

The objectives include:

- An aquaculture industry that is sustainable, diverse, competitive economically viable and which contributes to food security whilst minimising environmental impact;
- With due regard to the marine environment and carrying capacity, support for the industry's target to grow marine finfish (including farmed Atlantic salmon) production sustainably to 210,000 tonnes; and shellfish, particularly mussels, to 13,000 tonnes sustainably by 2020;
- A proportionate and transparent regulatory framework within which the industry can achieve these targets;
- Quality employment and sustainable economic activity in remote and rural areas, as well as more widely in Scotland;
- Improve business confidence and industry investment and reduce environmental impact by identifying areas where sustainable aquaculture growth is optimal, taking account of key resource and constraints considerations;
- Maximise benefits to Scotland and to local communities from the Scottish aquaculture value chain;
- Support research and development, including trials and technical innovation, to improve knowledge and understanding of the requirements for sustainability of the industry, with a particular focus on the issues of sea lice, containment and interactions with other activities.

Aquaculture policies set out in the National Marine Plan include:

- Marine planners and decision makers should seek to identify appropriate locations for future aquaculture development and use, including the potential use of development planning briefs as appropriate. System carrying capacity (at the scale of a water body or loch system) should be a key consideration.

- Marine and terrestrial development plans should jointly identify areas which are potentially suitable and sensitive areas which are unlikely to be appropriate for such development, reflecting Scottish Planning Policy and any Scottish Government guidance on the issue. There is a continuing presumption against further marine finfish farm developments on the north and east coasts to safeguard migratory fish species.
- In relation to nutrient enhancement and benthic impacts, as set out under Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters, fish farm development is likely to be acceptable in Category 3 areas, subject to other criteria being satisfied. A degree of precaution should be applied to consideration of further fish farming development in Category 2 areas and there will be a presumption against further fish farm development in Category 1 areas. (See Section 7.1 of this Guide)
- There is a presumption that further sustainable expansion of shellfish farms should be located in designated shellfish waters if these have sufficient capacity to support such development.
- Aquaculture developments should avoid and/or mitigate adverse impacts upon the seascape, landscape and visual amenity of an area, following Scottish Natural Heritage (SNH) guidance on the siting and design of aquaculture.
- New aquaculture sites should not bridge Disease Management Areas although boundaries may be revised by Marine Scotland to take account of any changes in fish farm location, subject to the continued management of risk.
- Operators and regulators should continue to utilise a risk based approach to the location of fish farms and potential impacts on wild fish.
- Guidance on harassment at designated seal haul out sites should be taken into account and seal conservation areas should also be taken into account in site selection and operation. Seal licences will only be granted where other management options are precluded or have proven unsuccessful in deterrence.
- Consenting and licensing authorities should be satisfied that appropriate emergency response plans are in place.
- **Operators should carry out pre-application discussion and consultation, and engage with local communities and others who may be affected, to identify and, where possible, address any concerns in advance of submitting an application.**
- Aquaculture equipment, including but not limited to installations, facilities, moorings, pens and nets must be fit for purpose for the site conditions, subject to future climate change. Any statutory technical standard must be adhered to. Equipment and activities should be optimised in order to reduce greenhouse gas emissions.
- Applications which promote the use of sustainable biological controls for sea lice (such as farmed wrasse) will be encouraged, such as equipment utilising skirts, hot water or lasers;
- Proposals that contribute to the diversification of farmed species will be supported, subject to other objectives and policies being satisfied.
- The Scottish Government, aquaculture companies and Local Authorities should work together to maximise benefit to communities from aquaculture development.

Local Authorities

The Planning consenting process for aquaculture sites, which is the responsibility of Local Authorities, is described in more detail in Section 6 of this Guide.

Additional Regulatory Instruments

Planning is further guided by a range of regulatory instruments including:

- **Planning Controls for Marine Fish Farming (Circular 1/2007)**

gov.scot/Publications/2007/03/29102026/0

This gives guidance to planning officers, developers, communities and regulators on the provisions contained in the Acts, Regulations and Order which pertain specifically to marine fish farming

- **Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011**

gov.scot/Topics/Built-Environment/planning/Roles/Scottish-Government/Environmental-Assessment/EIA

- **Aquaculture and Fisheries (Scotland) Act (2013)**

gov.scot/Topics/marine/Fish-Shellfish/bill

This focuses on farm management and the interaction of farmed and wild fisheries. It should be recognised that concerns over the shortcomings over this legislation were expressed in a Petition to the Scottish Government in 2013. Further information about this Petition are available at:

parliament.scot/GettingInvolved/Petitions/PE01598

- **Environment (Scotland) Act 2005**

legislation.gov.uk/asp/2005/15/contents

This Act requires responsible authorities to carry out an Strategic Environmental Assessment (SEA) prior to the adoption of a 'qualifying plan or program' where any of that plan or program applies to Scotland or a part of Scotland.

- **Planning Circular 1/2015: The Relationship between the Statutory Land Use Planning System and Marine Planning and Licensing**

gov.scot/Publications/2015/06/5851

This document explains the relationship between the marine and terrestrial planning systems, including related regimes such as marine licencing and consenting for various activities including aquaculture.

6 The Local Planning Authorities

Introduction

This section of the Guide provides information on the role of Local Planning Authorities (LPAs) in the aquaculture planning application process, under the Town and Country Planning (Scotland) Act 1997 (as amended) and the Town and Country Planning (Marine Fish Farming) (Scotland) Order 2007. In essence, LPAs are charged with granting planning permission for fish farms in much the same way as they are for a new house or a development on land.

'Developments' on land **may or may not** require planning permission. In Scotland, there are four categories of development:

- **National Developments**, which are projects included in National Planning Framework 3;
- **Major Developments**, which are proposals covering a surface area of water greater than 2 hectares and are listed in Schedule 1 of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 (the Hierarchy Regulations); and
- **Local Developments**, which are neither national or major developments - most applications are fall under this category.
- **Minor Developments**, these do not require planning permission.

National Developments	Major Developments	Local Developments	Minor Developments
<ul style="list-style-type: none"> - Planning instrument: NPF - Decision maker: Scottish Ministers / Planning Authority - Appeal: Courts only 	<ul style="list-style-type: none"> - Planning instrument: Development Plans - Decision maker: Planning Authority / Scottish Ministers - Appeal: Scottish Ministers or Court 	<ul style="list-style-type: none"> - Planning instrument: Development Plans - Decision maker: Either (a) elected member or (b) delegated to officer - Appeal: (a) Scottish Ministers or (b) Local Review Body 	<ul style="list-style-type: none"> - Planning instrument: General Permitted Development Orders - Decision maker: Planning authority - Appeal: Court only

Figure 4: Development Hierarchy, Plan, Decision Maker and Mode of Appeal¹

The majority of marine fish farm applications will fall within the categories of local developments or minor developments. Applications for new or modifications to existing marine fish farms should be made to the relevant planning authority. The planning permission process has various stages which are discussed below.

Scottish planning policy and aquaculture: context

Aquaculture is seen nationally as being an important industry particularly for coastal and island communities on account of its contribution to employment. Accordingly, LPAs are advised to support the development of new and modified fish farms in appropriate locations.

What do Local Planning Authorities do?

On 01 April 2007, the Town and Country Planning (Marine Fish Farming) (Scotland) Order 2007 came into force. This gave planning authorities full planning responsibility for all aquaculture developments in marine waters. For this purpose marine waters surrounding Scotland were divided into various zones and responsibility for determining development consent for fish farms was allocated to relevant local planning authorities. Figure 5 (below) sets out the boundaries of the Marine Planning Zones.

LPA's are also responsible for enforcing planning controls. If an existing farm, is not in compliance with planning consent it is reasonable to expect the LPA to pursue it.

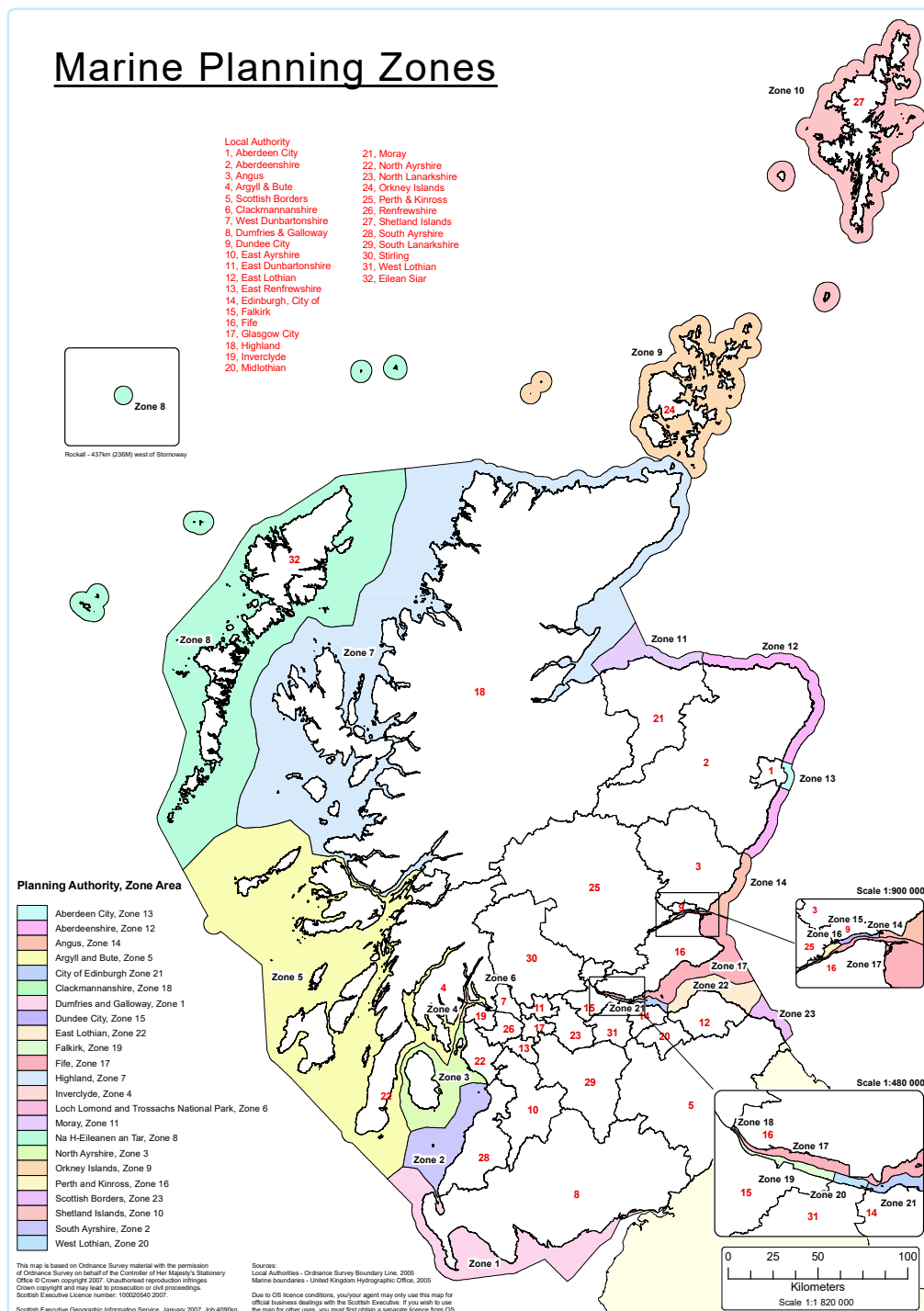


Figure 5: Marine Planning Zones - Source: gov.scot/Resource/Doc/173600/0048433.pdf

It is for the LPA to consider the impacts of the development on the surrounding marine environment including habitats and species such as wild salmonids. This means that it falls to planning officers to manage interactions between fish farms and wild fish. None of the other statutory bodies has this remit. That will necessitate the LPA considering both the adequacy of the containment of the site and the implications of the farm or its cumulative impact in terms of additional sea lice and chemical treatment dispersal within the local waters and the impact that this may have upon the surrounding ecosystem. The salmonid sensitivity guidance developed by RAFTS could be of great assistance to help planning authorities be aware of locations where the risk to wild salmonids is greatest rafts.org.uk/aquaculture.

Fish farm developments: definitions for planning purposes

Fish farms are defined as developments under section 26 (6) of the Town and Country Planning (Scotland) Act 1997 (as amended). The 1997 Act states this involves the placing or assembly of equipment for the purpose of fish farming within waters covered by the Act. Waters covered include both freshwater and marine waters out to the 12 nautical mile limit.

The Planning Process

The following pages set out the three main stages of the planning process. Relevant local authority websites, that might have existing aquaculture framework plans and related documents, and that should certainly at least have a planning policy statement covering aquaculture, are:

- Western Isles Council cne-siar.gov.uk
- Highland Council: highland.gov.uk
- Argyll and Bute Council: argyll-bute.gov.uk
- Orkney Islands Council: orkney.gov.uk
- Shetland Council: shetland.gov.uk
- North Ayrshire Council: north-ayrshire.gov.uk/home.aspx

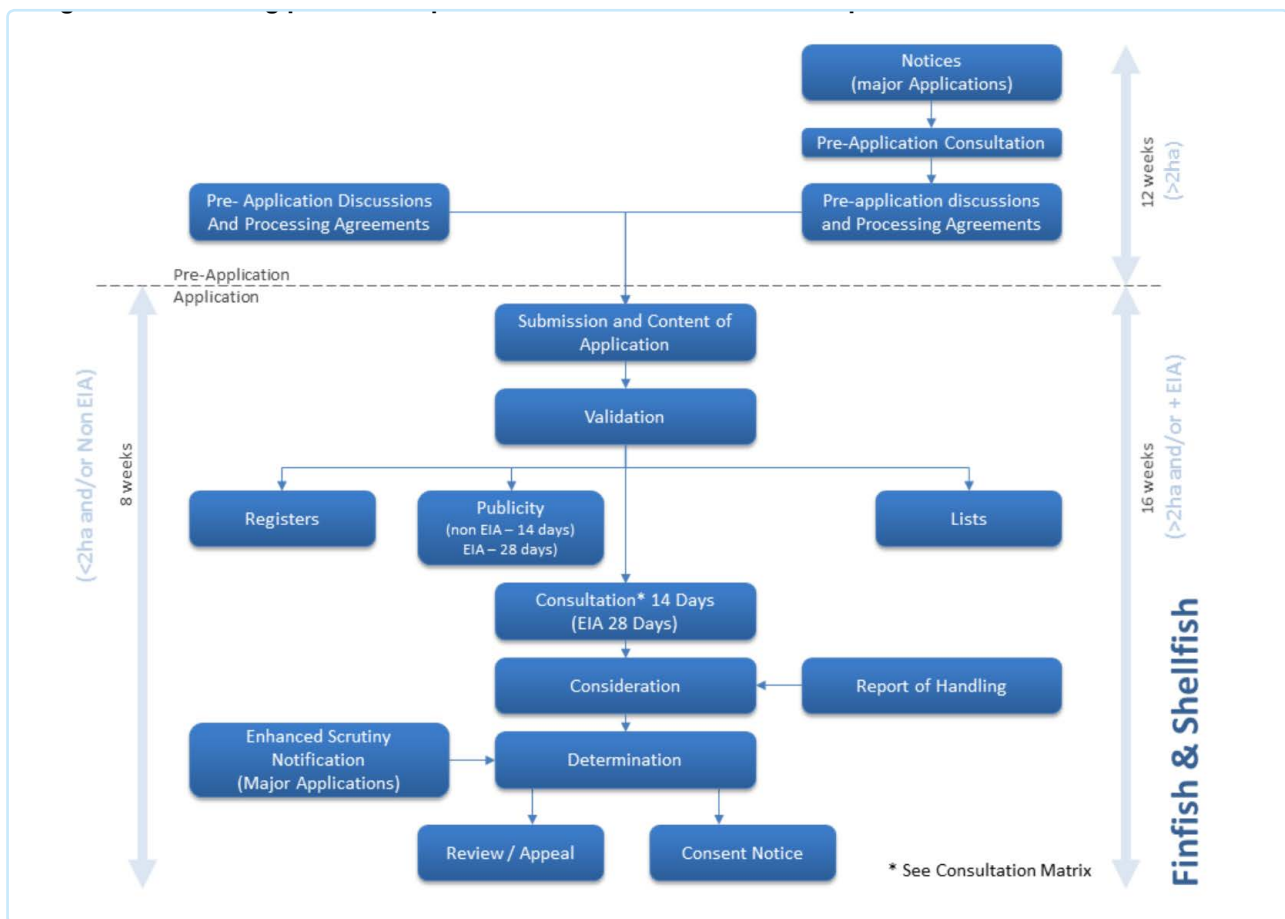


Figure 6: Overview of Planning permission process for finfish aquaculture

Source: Independent Review of the Consenting Regime for Scottish Aquaculture. Poseidon, 2016

Stage One: Preparation and Submission of Application

In the first instance, a fish farm developer will approach the Local Planning Authority (LPA), which will advise the developer to consult with relevant parties. Such formal pre-application consultations are required for Major and National developments. Otherwise, this is not a legal requirement but is a requirement of industry protocol issued through Improved System for Licensing Aquaculture Development (ISLAD).

Subsequent pre-application discussions are non-formal, voluntary and can be confidential, and can occur for any type of development (Minor/Major/National). These discussions are typically between developers and planning authorities, regulators and others who will have to be consulted on a formal planning application. The aim is to identify at an early stage any issues that may subsequently cause delays.

Applications should provide information on:

- The size of the site,
- Type, number and scale of any structures,
- The placing of structures,
- The extent of any on-shore facilities, ancillary equipment, lighting and noise impact and
- Plans for restoration following cessation of operations.
- A priority for the developer is to establish if the development requires an Environmental Impact Assessment.

Environmental Impact Assessments

Environmental Impact Assessments seek to ensure that the environmental effects of major projects and development proposals are fully investigated, understood and taken into account via the provision to the Planning Authority of an Environmental Statement, before decisions are made on whether the development should proceed.

The Framework for an EIA is provided by EC directive 85/337/EEC as amended and codified in Directive 2011/92/EU. This Directive has now been amended by Directive 2014/52/EU. Amendments include:

- Changes in terminology: for example, replacing Environmental Statement with Environmental Impact Assessment Report.
- Specified timeframes: for example, at least a 30 day public consultation period.
- Co-ordination of EIA and other assessments; such as those required under the Birds and Habitats Directive.
- Improving the quality of EIA Reports, for example, by requiring developers to ensure that the report is prepared by a competent expert.
- Increasing transparency and accountability, for example, by requiring responsible authorities to publish reasoned opinions and aiming to make EIA reports more understandable to the public, especially in connection with assessments of the current environmental state and alternatives to the proposal in question.
- An unofficial codified version of the Directive is available from the European Commission: ec.europa.eu/environment/eia/pdf/EIA_Directive_informal.pdf. The amendments specified in the 2014 Directive have to be implemented by member state governments by 16 May 2017.

In 2016, the Scottish Government consulted on the intended approach to implementation of the amendments and included draft regulations for the purposes of the consultation. These were the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 Regulations, and the Electricity Works (Environmental Impact Assessment) (Scotland) 2017 Regulations. The Scottish Government's consultation response was published in January 2017 which indicated that legislation will be laid before Parliament once it has been re-drafted. The Scottish Government have also undertaken to update planning guidance during 2017 to take account of the changes in the Directive, and, to create a webpage on the mygov.scot website.

The EIA process

The assessment is carried out by, or on behalf of, the developer and is submitted along with the application for consent or authorisation and is also made available to the public.

It is the duty of fish farm developers under the Environmental Impact Assessment (Scotland) Regulations 2011 to undertake an EIA and then to publish an associated Environmental Statement/Environmental Impact Assessment Report regarding their proposed fish farm.

There is a wealth of guidance on how fish farm developers should conduct EIAs, including:

- **Practical Guidelines produced by the Scottish Aquaculture Research Forum**
sarf.org.uk/Project%20Final%20Reports/SARF024%20-%20Final%20Reports%20and%20Templates/EIA%20Guidelines%20FINAL+%20Templates.pdf
- **Environmental Impact Assessment: Practical Guidelines Toolkit for Marine Fish Farming, Planning Advice Note (PAN) 58 Environmental Impact Assessment, and circular 8/2007**
scotland.gov.uk/Publications/1999/10/pan58-root/pan58

There is also information produced by Scottish Natural Heritage on what EIAs should comprise:

- A handbook on environmental impact assessment Guidance for Competent Authorities, Consultees and others involved in the Environmental Impact Assessment Process in Scotland
snh.gov.uk/docs/A1198363.pdf

Marine fin fish farms come within the scope of intensive fish farming in Schedule 2 of the Environmental Impact Assessment (Scotland) Regulations 2011. The Regulations require 'Schedule 2' developments in a sensitive area, or which exceed certain thresholds or meet certain criteria, to be screened for their environmental impact before they can be granted planning permission. For a fin fish farm (shellfish farms do not come under the scope of the Regulations) the thresholds are that the proposed development is designed to hold a biomass of 100 tonnes or greater; or that the proposed development will extend to 0.1 hectares or more of the surface area of the marine waters, including any proposed structures or excavations.

The developer should submit a Screening and Scoping Application to the Local Planning Authority using the standard SARF template (see above). This will allow the Planning Authority to decide if EIA is needed and what it should cover. Accepted EIA methodology is to identify clearly:

- The baseline environmental conditions;
- Mitigation measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment;
- The overall magnitude of the impact on the environment.

The LPA must decide if an EIA is required within 3 weeks of receiving a request. Under amendments proposed to the screening process, a statutory time limit of 30 days could be introduced. If an EIA is required, statutory consultees must be approached: they are the SEPA, SNH, MSS and the District Salmon Fisheries Boards.

There is no formal procedure whereby the public can submit information to the developer for inclusion in the EIA's Environmental Statement/EIA Report. However, the Directive does advise that 'assessment should be conducted on the basis of appropriate information supplied by the developer, which may be supplemented by the authorities and by the public likely to be concerned by the project in question.'

Though formal objections can only be made at Stage Two of the Planning Process, stakeholders wishing to respond to an aquaculture application should organise themselves at the earliest opportunity. If the developer has consulted as per industry protocol then the wider community should hear about the proposal before a formal application. Information provided during the EIA process can be used to determine whether or not an 'appropriate assessment' (discussed below) is needed.

However the public may make regular Freedom of Information or Environmental Information (Scotland) Regulations requests to planning authorities to involve themselves in the earlier stages of the EIA, i.e. at the screening and scoping stage.

The LPA must take account of the contents of any Environmental Statement/Environmental Impact Assessment Report submitted in so far as they relate to planning considerations. Failure to provide a robust, independent and accurate assessment of the potential impacts on receptor populations will mean that the EIA has failed to properly demonstrate that environmental risks have been assessed and mitigated and that is sufficient grounds for a Planning Authority to refuse a development.

It is important to note here, that even if a formal EIA was not required, the response to a planning application should assess potential environmental impacts.

Mitigation

Developments should fit into their surroundings to avoid or minimise impact. So mitigation strategies should be included in development proposals. Where adverse impacts are significant and cannot be mitigated, planning permission should not be granted.

Stage Two: Consultation, Consideration and Determination

On receipt of a planning application the LPA must advertise it in the local press and on its web site so that formal objections can be made. Objectors will normally have between 14 and 28 days to object depending on whether an EIA has been submitted. If formal representation is not made there is no recourse to object.

Consideration

In considering the application, the LPA must seek to balance competing interests in a way that is fair and transparent and take into account the direct and cumulative effects of the proposed development on the environment including:

- Carrying capacity;
- Visual impact and effects on the landscape;
- Sea bed impacts;
- The needs of local communities;
- The effects on traditional fishing grounds, netting stations and angling interests;
- Impacts on recreational use of the inshore area;
- The economic benefits of the sustainable development of the fish farm industry.

The planner will be particularly guided by the Local Development Plan which will set out the Local Planning Authority's priorities and there will be a presumption in favour of development in accordance with that Plan, unless material considerations indicate otherwise. Where there are any such material considerations they must be identified and assessed as to whether they are of such weight as to indicate that the development should not be accorded priority.

Appropriate Assessments under the Habitats Directive 92/43/EC

If the development is within a Natura site (the term given to Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)) then there will also need to be an 'Appropriate Assessment' under the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), usually called simply 'The Habitats Regulations'. This requires competent authorities to undertake an Appropriate Assessment when a plan or project affecting a Natura site:

- Is not connected with management of the site for nature conservation;
- Is likely to have a significant effect on the site (either alone or in combination with other plans or projects).

An Appropriate Assessment is therefore required for developments having the potential to affect a Natura site, no matter how distant the site. The Assessment will focus on the qualifying interests of the site and consider the development's impacts on the conservation objectives of the site. There is no set format to an Appropriate Assessment but it must answer the question as to whether a development will adversely affect the integrity of the Natura site. Crucially, a Local Planning Authority cannot give permission for a farm if it is not beyond reasonable scientific doubt that the activity for which the application has been made will not affect the integrity of the SAC. The test is laid down in Article 6(3) of the Habitats Directive. It would be unlawful of the Local Planning Authority to grant permission for a fish farm where the appropriate assessment concludes that the Article 6(3) test has not been passed.

Scottish Natural Heritage provide advice on whether a finfish or shellfish farm site requires an Appropriate Assessment. If a farm is assessed and it is determined that it does not adversely affect the integrity of the Natura site, then planning permission may be granted. If not, planning permission can only be given for the site if there are no alternative solutions and if there are imperative reasons of overriding public interest for doing so.

The LPA may provide a temporary planning permission, which will allow it to assess some of the impacts of the development before considering whether to grant permanent permission.

The decision to grant or refuse planning permission is usually made under delegated powers by a local planning officer. If a statutory consultee has objected, the application will be determined by the council committee instead of being delegated to a planning officer, this has a bearing on the route of appeal by the applicant.

Stage Three: Appeals

The applicant has the right to appeal any decision for refusal, or any conditions attached to an approval. If the decision has been made at officer level (i.e. a delegated decision) then the appeal is heard by the Council Planning review panel. If the decision was made at a committee level then the appeal goes directly to Scottish Ministers.

There is no third party right of appeal, which means members of the public can take no further action.

What information do local planning authorities hold?

All LPAs operate on-line planning application systems where application documents can be read and commented upon.

LPAs also hold information concerning past applications. This information has relevance to existing fish farms which have planning permission, but are seeking to expand. The LPA will be able to provide details of previous applications (granted, appealed or refused) from their files subject to the normal rules on access to environmental information. The submissions to LPAs by other statutory and public bodies can also be accessed, and may inform stakeholders about 'official' opposition or concerns about planning applications.

An official guide to how the different statutory and public consultees work in collaboration when dealing with fish farm planning applications can be found at:

scotland.gov.uk/Resource/Doc/295194/0106302.pdf

Time scale

Just as the window of opportunity for public responses to fish farm planning applications is limited, so too is the period when application documents remain on line. They are sometimes removed from the websites after the periods for consultation required by law have expired.

7 Marine Scotland

Marine Scotland (MS) is a Directorate of the Scottish Government and is responsible for the integrated management of Scotland's seas for both prosperity and environmental sustainability. Under the Marine (Scotland) Act 2010, MS provides a planning and licensing framework to balance competing demands on Scotland's seas.

Under the Marine Act, Marine Scotland has a responsibility to develop a National Marine Plan gov.scot/Publications/2015/03/6517, with specific targets and policies for aquaculture growth. These objectives and policies are set out (above) in Section 5 of this Guide.

What does Marine Scotland do regarding fish farms?

Fish Farm Planning Applications

Marine Scotland is a Statutory Consultee for marine fish farm planning applications. Planning applications are forwarded by LPAs to the Marine Scotland Aquaculture Planning Co-ordination Team (see below), where an internal consultation is undertaken and responses are requested from specialist groups within Marine Scotland Science covering such topics as:

- Environment: impacts on the benthos, of nutrients on the water column, local capacity (see below re Locational Guidelines) and impacts of chemotherapeutant use;
- Shellfish Hygiene: site status and history for microbiological contamination (shellfish applications only);
- Fish Health Inspectorate: containment, sea lice treatment, husbandry, fish health and welfare;
- Freshwater Fisheries: risk to wild salmonid populations, and the fisheries that depend upon them.

MS's responses to Local Authorities are coordinated by the MS Aquaculture Planning Co-ordination Team (or the applicant in the case of a pre-application consultation). During the statutory consultation process MS's Freshwater Laboratory will undertake consultation concerning wild fish populations and fisheries with other Statutory Consultees according to the procedure outlined below:

- 1 Receive application;
- 2 Preliminary review of application to check the information that has been provided;
- 3 Note any further information required from the applicant;
- 4 If the review highlights concerns, contact other statutory consultees and agencies as required, for further information, data or discussion, and to clarify a shared understanding of the knowledge base as a foundation for a common scientific approach;
- 5 Receive approaches from the other statutory consultees should they have similar concerns;
- 6 The assessment is then completed using all the information provided and sent to the MSS coordinator.

Aquatic Environment Programme staff also send their draft responses to the Scottish Environment Protection Agency (SEPA) for comment (and receive draft SEPA responses for comment) this provides a short window of opportunity to ensure that:

- Neither consultee is requesting environmental information already held by the other.
- A consistent view is reached concerning the relevant environmental receptors ‘sea bed’ and ‘water column’.

Regulation

With regard to aquaculture, Marine Scotland’s objective is to: “Promote sustainable, profitable and well managed fisheries and aquaculture industries in Scotland”. Marine Scotland’s regulatory role for marine aquaculture is therefore quite broad and covers:

- Fish health and biosecurity under The Aquatic Animal Health (Scotland) Regulations 2009;
- Containment and sea lice under the The Aquaculture and Fisheries (Scotland) Act 2007;
- Authorisation of Aquaculture Production Businesses (APBs) by the Fish Health Inspectorate (FHI) under the Aquatic Animal Health (Scotland) Regulations 2009;
- Regulation of discharges of chemotherapeutants from wellboats and works which may interfere with navigation under the Marine (Scotland) Act 2010 via the requirement for marine fish farms to obtain a marine licence.

Working Arrangements

MS is a signatory to the Aquaculture Working Arrangement which sets out the responsibilities of organisations with a formal role in aquaculture development, including how they will consult each other and how information will be shared gov.scot/Resource/Doc/295194/0106302.pdf.

Interaction between fish farms and the marine environment

Under the Aquaculture and Fisheries (Scotland) Act 2013 (legislation.gov.uk/asp/2013/7/enacted) Marine Scotland has powers to ensure that farmed and wild fisheries are managed effectively, maximising their combined contribution to supporting sustainable economic growth with due regard to the wider marine environment.

The Act details a number of requirements which strengthen the framework within which the aquaculture industry currently works, for example:

- Statutory farm management agreements or statements;
- Technical standards for farm equipment;
- The control and monitoring of wellboats;
- Enforcement and Control Powers.

Marine Scotland has several subsidiary entities which have roles in regulating the fish farming industry. These are described below.

7.1 Marine Scotland Science

Research

Marine Scotland Science (MSS) is the division of Marine Scotland which conducts scientific research on aquaculture, including matters such as the link between sea lice on fish farms and damage to wild salmonid fish, seal predation, and benthic impacts. MSS's advice to Scottish Government and LPAs regarding the interactions between aquaculture and wild salmon and sea trout combines the findings of scientific studies from a wide variety of sources, including its own work. A Summary of the Science is available at: gov.scot/Topics/marine/Salmon-Trout-Coarse/Freshwater/Research/Aqint/troutandlice.

A full list of MSS's peer reviewed papers is available at:

scotland.gov.uk/Topics/marine/science/Publications/PeerReviewedPublications

Guidance on locations for fish farms

MSS has produced an Aquaculture Decision Support Tool (ADST) to determine the potential impacts associated with the expansion of salmon farming in Scottish sea lochs.

gov.scot/resource/0040/00405906.pdf

MSS also produces 'Locational Guidelines for the authorisation of Marine Fish Farms in Scottish Waters'.

gov.scot/Resource/0050/00507228.pdf

These Guidelines, which are regularly updated, designate locations as Category 1, 2 and 3 areas on the basis of Marine Scotland Science (MSS) predictive models to estimate environmental sensitivity of sea lochs. The models allocate values for different parameters for sea lochs such as:

- Maximum biomass (tonnes)[†]
- Total biomass (tonnes)[#]
- 'Nutrient enhancement' index
- 'Benthic impact' index

Typically, no further increases in maximum biomass are permitted in Category 1 areas. Increases are more likely to be permitted in Category 2 and 3 areas (subject to site specific assessments).

Planning

As noted above, MSS also acts as a statutory consultee on behalf of Scottish Ministers for aquaculture planning under the Town and Country Planning (Scotland) Act 1997 (as amended) providing consultation responses to LPAs on applications for new fish farms or the expansion of existing fish farms, covering: environmental impacts, impacts on wild salmonid fisheries and fish health issues.

7.2 Marine Scotland Aquaculture Planning Co-ordination Team

The Aquaculture Planning Co-ordination Team issues Marine Licences if the development of a fish farm involves:

- Obstruction or danger to navigation;
- Construction, alteration or improvement works;
- The deposit of any object or substances onto the sea-bed.

What Marine License information does it hold?

The Team holds details of any marine license applied for or granted to a fish farm. A copy of this public register of licences can be found at gov.scot/Topics/marine/Licensing/marine/register.

Sea lice treatment Best Practice Guidance

MS also provides best practice guidance on the discharge of waste sea lice treatment products following treatment of fish in a wellboat at sea cages in Scottish waters.

gov.scot/Topics/marine/Licensing/marine/Applications/wellboat2011

7.3 The Fish Health Inspectorate

The Fish Health Inspectorate (FHI), which is part of MSS, aims to support the aquaculture industry and safeguard the health of wild fish stocks, through regulation and scientific advice. Its main objective is to prevent the introduction and spread of fish and shellfish diseases by providing advice and diagnostic services to fish and shellfish farmers, and other stakeholders. More specifically it:

Authorisations of Aquaculture Production Businesses

Under the Aquatic Animal Health (Scotland) Regulations 2009 (2009 Regulations), the FHI issues authorisations for all aquaculture businesses on the basis of meeting certain conditions associated with fish health. A register of all authorizations for Aquaculture Production Businesses is available to inspect at: gov.scot/Topics/marine/Fish-Shellfish/FHI/authorisation/internetregister.

Inspects fish farms

Fish health inspectors carry out inspection and testing of fish and shellfish farms to:

- Maintain the status of Great Britain as an approved zone for various diseases of fish and shellfish
- Fulfil the monitoring required in support of the additional guarantees afforded by the European Commission for the importation of live aquaculture animals or products to prevent the introduction of *Gyrodactylus salaris* (gov.scot/Topics/marine/Fish-Shellfish/aquaculture/diseases/notifiableDisease/g-salaris) and other diseases.
- Continue surveillance for Infectious Salmon Anaemia (ISA) (gov.scot/Topics/marine/Fish-Shellfish/aquaculture/diseases/notifiableDisease/infectious-salmon-anaemia)

Farmed fish escapes

FHI keeps an archived record of any reported and confirmed escapes of farmed fish. Recent escape data is also available at: aquaculture.scotland.gov.uk/data/fish_escapes.aspx.

Provides a diagnostic service

The FHI provides a diagnostic service to fish farmers and other parties responsible for the care of fish. It investigates reports of unexplained mortalities, takes samples and diagnoses the cause where possible.

Monitors the trade in live aquaculture animals and products

The FHI is responsible for monitoring imports of live fish and shellfish, including non-native species, into Scotland. Both by spot-checks on imports at points of entry and at destination points. It also provides movement documents in order to meet the requirements for fish and shellfish moving around the EU.

Certification

The FHI offers a health certification service for fish and shellfish.

Conducts Production Surveys

The FHI carries out annual surveys of the fish and shellfish farming industries to provide statistics and an evaluation of the production of aquaculture species.

Application of Movement Restrictions

The FHI may serve controls on the movement of live fish to prevent the spread of disease. It also undertakes:

- Veterinary Medicines Residues Sampling;
- Operations under The Animal and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997 on behalf of the Veterinary Medicines Directorate, to:
 - Inspect fish farm medicine records;
 - Take samples from farmed fish for veterinary medicines residue testing;
 - Investigate any positive results.
 - Unannounced Site Inspections

The FHI carries-out unannounced inspections under the EC Directive 2006/88/EC, EC Regulation 882/2004 and The Aquatic Animal Health (Scotland) Regulations 2009. However the frequency of such inspections is very low.

Quality Assurance

The Fish Health Inspectorate is accredited by the UK Accreditation Service to ISO17020 standard for inspection and sampling of fish farm sites for fish diseases in accordance with EC Directive 2006/88

Publication of FHI activities

- Details of the inspection and operational activities of Marine Scotland's Fish Health Inspectorate are published proactively on the Marine Scotland Webpages: gov.scot/Topics/marine/Fish-Shellfish/FHI/CaseInformation.

7.4 Marine Scotland Seal Licensing Team

Under the Marine (Scotland) 2010 Act it is an offence to kill, injure or take a seal, either intentionally or recklessly at any time of the year. Part 6 of the Act replaced the previous licensing system which operated during the closed season only under the Conservation of Seals Act 1970 and replaced this with a year-round seal licensing system.

Marine Scotland is the licensing authority empowered to approve seal management applications. Licenses to kill or take seals can be granted for various purposes including for the protection of the health and welfare of farmed fish and to prevent serious damage to fisheries or fish farms. Nevertheless, the policy is that non-lethal measures should be used wherever possible, and, that seals should be shot as a last resort.

Under the 2010 Act, Scotland is divided into seven seal management areas, licenses are issued on a group basis and stipulate the maximum number of seals that can be killed based on the potential biological removal (PBR) figure, i.e. the maximum number of seals that can be removed without causing a population decline. Licenses cannot be granted unless Marine Scotland are satisfied that the person authorised to shoot seals has adequate skill and experience in using a firearm.

The information supplied by applicants is nominally held by Scottish Ministers, who have duties under the Environmental Information (Scotland) Regulations 2004 and the Freedom of Information (Scotland) Act 2002 to provide certain types of information held by them. The 2004 Regulations generally apply to information about licences to shoot seals because this is likely to be environmental information. Guidance on the seal licence application process is available at gov.scot/Resource/0048/00485470.pdf.

A full list of seal licences issued each year, including the numbers of seals shot by specific fish farms is available at gov.scot/Topics/marine/Licensing/SealLicensing/Licences2016.

How to obtain information from Marine Scotland

MS holds much information that is accessible under the The Environmental Information (Scotland) Regulations 2004 and the Freedom of Information (Scotland) Act 2002 legislation.gov.uk/ssi/2004/520/pdfs/ssi_20040520_en.pdf.

If there are concerns regarding impacts of fish farms, and the requisite information cannot be found on the Scottish Government's informative but not comprehensive Scotland's Aquaculture website (aquaculture.scotland.gov.uk/map/map.aspx) it is appropriate to ask MS for further information. The Scottish Information Commissioner produces 'Tips for requesting information under FOI and EIRs' at itspublicknowledge.info/YourRights/Tipsforrequesters.aspx. A sample letter, requesting information from FHI, can be found in **Figure 7** below.

Historic information

All information previously released by Marine Scotland in response to requests for information made under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 is available online at: gov.scot/Topics/marine/Publications/MSFOIEIRDisclosures.

Any other general concerns can be raised with Marine Scotland, including any issues of non-compliance with European Directives, such as the Habitats Directive (92/43/EC) and the Environmental Impact Assessment Directive (85/33/EC).

Fish Health Inspectorate
Marine Laboratory
PO Box 101
375 Victoria Road
Aberdeen
AB11 9DB

Dear Sir/Madam

Re: Fish Farm at

I would be grateful if pursuant to the Environmental Information (Scotland) Regulations 2004 you would supply the following information as may be held by Marine Scotland Science / Fish Health Inspectorate.

1. All written records of all inspections of the marine salmon farm at carried out by Marine Scotland or the Fish Health Inspectorate over the last years.
2. All correspondence to / from Marine Scotland Science or the Fish Health Inspectorate and any other party concerning the [proposed / existing] fish farm at such correspondence to include letters, faxes, emails, records of telephone conversations or direct conversations or meetings.

This request is pursuant to the Environmental Information (Scotland) Regulations 2004.

Yours faithfully

Figure 7: Sample Letter Requesting Information From Marine Scotland



The Scottish Environment Protection Agency

The Scottish Environment Protection Agency (SEPA) is Scotland's principal environmental regulator, protecting and improving Scotland's environment. As a non-departmental public body of the Scottish Government, SEPA's role is to make sure that the environment and human health are protected, to ensure that Scotland's natural resources and services are used as sustainably as possible and contribute to sustainable economic growth.

What does SEPA do regarding fish farms?

Planning

SEPA is a Statutory Consultee for marine fish farm planning applications. SEPA is consulted by planning authorities on all fish farm consultations. Planning consultations on fish farms come into SEPA's Planning Service and are dealt with at their offices in Dingwall, Aberdeen or Ayr (depending upon the location of the application).

The consultation documents are considered by the Marine Science and local Environment Protection and Improvement (EPI) teams. Once internal comments are received, the planning officer co-ordinates a draft response which is sent to Marine Scotland Science and the local Scottish Natural Heritage office, both of which must give consideration on a specified timescale. Following this consultation period, if no significant issues are highlighted, the response is emailed to the LPA. If significant issues are highlighted, the planning officer discusses these with the internal consultees and either further information is provided to SEPA's agency partners to help with their responses or, if relevant to SEPA's interests, its response is amended to reflect the further information received.

Controlled Activities Regulation

SEPA issues Controlled Activities Regulations Licences ('CAR licenses') to ensure that fish farms are performing sustainably and are in compliance with the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) (legislation.gov.uk/ssi/2011/209/contents) and their amendments (legislation.gov.uk/ssi/2013/176/contents/made). These regulations provide SEPA with powers to ensure that activities which may pose a risk to the water environment are controlled. In most cases, this allows fish farms to operate in an economically viable and sustainable way while placing strict limits on the extent and severity of impacts.

Typically the CAR licences set site specific limits on the tonnage of fish that can be held in a farm and hence the likely benthic impact from uneaten food and faeces that fall from it to the seafloor.

CAR licenses also control the use and discharge of medicines and chemicals.

There is further information on the exact process for licencing and monitoring of fish farms under CAR in SEPA's Fish Farm Manual at sepa.org.uk/regulations/water/aquaculture/fish-farm-manual.

For the avoidance of doubt, SEPA has no remit or statutory function with respect to the protection of wild fish and therefore when setting licences and the level of permitted biomass of farmed fish within those licences, it does not take into account any potential impact on wild fish.

Licencing process

Applying for a CAR licence, is a multi-stage process and requires applicants to submit survey information on the physical, chemical and biological condition of the seabed where a farm is proposed. Applicants must also measure the currents in the area and conduct computer modelling simulations showing how waste will be dispersed from the site. SEPA's modelling advice (see below) provides information on how this information should be collected and reported.

During the application process, there is also a pre-consultation phase. Prior to submitting an application, SEPA recommends that fish farmers discuss their proposals with SEPA. SEPA states that this occurs without prejudicing the process. Stakeholder concerns regarding this process can be raised with SEPA at this stage.

Guidance on making applications are set out in sepa.org.uk/media/34488/aquaculture-car-pre-application-process-guidance.pdf.

Advertising of CAR licence applications

After submission, applications must be advertised. These are advertised online at sepa.org.uk/regulations/consultations/advertised-applications-under-car.

This website provides details of applications including:

- Applicant
- Location
- Activities
- Local Authority representations
- Date of submission
- Timescale for any person affected or likely to be affected by or having an interest in, the application to make representations to SEPA in writing

Details of how the public can make a representation regarding an application will be held with the application on the SEPA website. It should be noted that information on this site may not stay online any longer than the statutorily-required period for consultation.

SEPA also publicises details of closed CAR licence applications for 6 months, at: sepa.org.uk/regulations/consultations/advertised-applications-under-car/closed-consultations.

Licence determination

Following submission, advertising of the application and receipt of any objections, SEPA will consider the proposals and either grant or refuse a license.

Modelling and Technical Guidance

SEPA also provides fish farm operators with computer modelling tools and technical guidance to help achieve SEPA's stated aim of ensuring that fish farms operate within the capacity of the environment.

SEPA's computer modelling provides guidance on discharge quantities of anti-parasitic chemicals and organic waste arising from marine fish farms. The modelling tools promoted by SEPA generally provide predictions which require little site-specific information. A range of modelling tools are provided by SEPA which cover:

- Water current and wind data
- Bath treatments
- In-feed and biomass models

A key element in the monitoring process is the Allowable Zone of Effect (AZE), which is defined as the area (or volume) of sea-bed or receiving water body in which SEPA will allow some exceedance of a relevant Environmental Quality Standard (EQS) or some damage to the environment. The size and shape of the AZE is determined by SEPA using the AUTODEPOMOD model which takes into consideration the local hydro-geographic and hydrological data. More information on modelling of effects can be found in the SEPA guidance document entitled Regulation and Monitoring of Marine Cage Fish Farming in Scotland. Annex H. Methods sepa.org.uk/media/113511/fish-farm-manual-annex-h.pdf.

For further information: sepa.org.uk/environment/water/aquaculture/modelling.

SEPA intends to commence a consultation in 2017 on its proposed Depositional Zone Regulation licensing arrangements.

Technical Guidance

SEPA also produces guidance documents relating to modelling of marine fish-farms for CAR licence applications. These cover subjects including:

- Bath treatment depth
- Biomass sampling stations
- Hydrographic data analysis tool notes
- Limits to in-feed chemicals released from dispersive sites
- Shallow sites

For further information: sepa.org.uk/environment/water/aquaculture/technical-guidance.

Monitoring

Licensed fish farms are monitored and inspected by SEPA. The operator is also required under the terms of The Water Environment (Controlled Activities) (Scotland) Regulations 2011 to commission regular studies of the effect of the farm on the seabed.

Fish farmers are also required to make regular data returns (sepa.org.uk/regulations/water/aquaculture) to SEPA detailing the scale of the discharges from each of their farms. This data forms a large part of the publicly available Scottish Pollutant Release Inventory (SPRI) sepa.org.uk/environment/environmental-data/spri. Most of this data is also contained within the Scotland's Aquaculture website: aquaculture.scotland.gov.uk/data/data.aspx.

Enforcement

SEPA has a general duty under section 33(1) The Environment Act 1995 to use its powers for the 'the purpose of preventing or minimizing or remedying or mitigating the effects of pollution of the environment'. But SEPA disclaims any responsibility for the emission of juvenile sea lice from fish farms or the escape of farmed fish.

In general SEPA's powers must be exercised in a way that ensures there is 'no deterioration' in the status of the water quality as required under the Water Framework Directive. Although it must be noted that under section 2(4) (a) of Water Environment Water Services (Scotland) Act 2003 SEPA is able to have regard to the social and economic impact of the exercise of those functions.

Powers of enforcement

SEPA has powers of enforcement under the Regulatory Reform (Scotland) Act 2014 and the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015, through which it can exercise powers in a variety of ways including:

- Encouraging voluntary measures
- Civil Court Actions
- Final warning Letters
- Fixed Monetary penalties
- Prosecution – by referral to the Crown Office and Procurator Fiscal

Further information is available at sepa.org.uk/regulations/enforcement and on sepa.org.uk/media/219242/enforcement-guidance.pdf.

Specific responsibilities relating to Conservation

In common with the other regulatory bodies, SEPA is a Competent Authority under the Habitats Directive, which requires it to ensure that any plan or project it authorizes (such as a fish farm CAR license) will not damage the integrity of a Special Area of Conservation (SAC) or the protected species for which it is designated. When it is uncertain that a plan or project would impact upon a Natura site then the authorisation should be refused on the grounds of the precautionary principle. SEPA's duties have clear implications for when considering applications for new fish farms or fish farm expansions in or just near to marine SACs, where the impact of the fish farm could negatively affect protected species or the site itself.

SEPA also has statutory duties under the Nature Conservation (Scotland) Act 2004, Conservation (Natural Habitats, &c.) Regulations 1994, and the Water Environment and Water Services (Scotland) Act (2003) to protect and safeguard biodiversity through its regulatory functions.

Working Arrangements

SEPA is a signatory to the Aquaculture Working Arrangements document which sets out the responsibilities of organisations with a formal role in aquaculture development, including how they will consult each other and how information will be shared gov.scot/Resource/Doc/295194/0106302.pdf.

How to obtain information from SEPA

SEPA maintains a Public Register of all CAR licenses held by fish farmers and any reported benthic monitoring or details of the discharge of sea lice treatment residues as may be required by the license.

Other relevant information, such as correspondence over new fish farm or fish farm expansion proposals, can be obtained from SEPA under the Environmental Information (Scotland) Regulations 2004.

Contact:

SEPA Corporate Office
Erskine Court Castle Business Park
Stirling
FK9 4TR

The SEPA website sepa.org.uk will provide the address of local SEPA offices.

SEPA email contact addresses are planning.dingwall@sepa.org.uk, planningaberdeen@sepa.org.uk, planning.ek@sepa.org.uk.

9 Scottish Natural Heritage

Scottish Natural Heritage (SNH) is a publicly funded body which provides advice and information to Ministers on a range of issues relating to the nature and landscapes of Scotland. In so doing, its purpose is to:

- Promote, care for, and improve Scotland’s natural heritage;
- Help people enjoy nature responsibly;
- Enable greater understanding and awareness of nature;
- Promote the sustainable use of Scotland’s natural heritage.

SNH has general aims and purposes given by Section 1 of the Natural Heritage (Scotland) Act 1991. In relation to the natural heritage these are to secure the conservation and enhancement of the natural heritage of Scotland. SNH also has a wider duty to have regard to the desirability of securing that anything done, whether by SNH or any other person, is undertaken in a manner which is sustainable.

Specifically, SNH is responsible for the protection of any designated nature conservation sites such as Special Areas for Conservation (SAC) designated under the Habitats Directive and Sites of Special Scientific Interest designated under domestic legislation.

What does SNH do regarding fish farms?

SNH seeks to support the sustainable growth of the Scottish aquaculture industry through a strategic approach which guides aquaculture development towards the most suitable locations and technologies. It does this by:

- Working with Local Planning Authorities on the preparation of Development Plans, Aquaculture Framework Plans and Integrated Coastal Zone Management Plans;
- Engaging with developers and planners at the pre-application stage to help developments happen in ways that enhance, rather than damage, Scotland’s nature and landscapes;
- Providing advice on planning applications and Controlled Activity Regulation licences as a statutory consultee;
- Assessing applicants’ Environmental Impact Assessments Statements/ EIA Reports;
- Supporting and encouraging marine planning under the Marine (Scotland) Act 2010 to guide the sustainable growth of Scottish aquaculture;

Working in partnership in strategic initiatives such as the Scottish Aquaculture Research Forum sarf.org.uk.

An overview of SNH’s role is at: snh.gov.uk/planning-and-development/marine-aquaculture.

Planning

SNH is a Statutory Consultee for marine fish farm planning applications. All planning applications are sent by the Local Authority to SNH local offices, for consultation by an Area Officer. The SNH office may draw on more specialized advice if required. Where SNH has concerns (for example over benthic biodiversity, or wild fish impacts), SNH will liaise with SEPA or MSS to discuss the issues prior to responding to applications.

Specific responsibilities relating to conservation

SNH will advise other public bodies about the impact of a fish farm on the biodiversity of the seabed although the role of SNH does appear to be self-limited to concerns over protected habitats or species (under the Habitats Directive), landscape issues and where predator control of seals is likely to be an issue.

Where there could be impacts on Natura sites, SNH will advise MSS on the information necessary to assess impacts and comply with the Habitats Directive, including undertaking a Habitats Regulations Appraisal. The response is then submitted to the Local Authority.

Landscape issues

SNH has produced guidance on marine aquaculture and the landscape to assist developers and planners:

- **Guidance on landscape/seascape capacity for aquaculture** provides a methodology for assessing the character and visual qualities of the coastal landscape and seascape to work out where aquaculture development may best be accommodated in principle:
[🔗 snh.org.uk/pdfs/publications/heritagemanagement/aquaculture.pdf](https://snh.org.uk/pdfs/publications/heritagemanagement/aquaculture.pdf)
- **Marine aquaculture and the landscape: siting and design of marine aquaculture developments in the landscape** provides guidance for those who develop and manage aquaculture facilities, and offers advice on how to assess and address the landscape and visual impact of marine aquaculture developments:
[🔗 snh.org.uk/pdfs/publications/heritagemanagement/marineaquaculture.pdf](https://snh.org.uk/pdfs/publications/heritagemanagement/marineaquaculture.pdf)

Working Arrangements

- SNH is a signatory to the Aquaculture Working Arrangement which sets out the responsibilities of organisations with a formal role in aquaculture development, including how they will consult each other and how information will be shared. [🔗 gov.scot/Resource/Doc/295194/0106302.pdf](https://gov.scot/Resource/Doc/295194/0106302.pdf)

How to obtain information from SNH

- SNH website lists its Published Research at [🔗 snh.gov.uk/publications-data-and-research/research](https://snh.gov.uk/publications-data-and-research/research). This includes:
 - Commissioned Reports,
 - Reviews and Research,
 - Surveys and Monitoring Series.

Some of these relate to Aquaculture, for example: SNH Commissioned Report 460: Landscape/seascape capacity for aquaculture: Outer Hebrides pilot study (2011).

How to use the information supplied by SNH

Communities that become aware of a development that may affect the natural heritage of a location can consult SNH to check whether there are any active conservation designations that might provide protection to the site and its fauna and flora. Similarly, if any nature conservation designations apply to, or are near to the area where a marine fish farm is or will be sited, the public can request information from Scottish Natural Heritage for full details of how the designated features of the sites concerned will be protected.

Contact:

SNH
Great Glen House
Leachkin Road
Inverness
IV3 8NW

10 The Crown Estate

The Crown Estate manages Crown lands and property for the benefit of the nation. This includes the great majority of the seabed around the Scottish coastline and approximately half of the foreshore. The Crown Estate is currently working with the Scottish and UK Governments to transfer its management duties in Scotland to the Scottish Parliament, as recommended by the Smith Commission and reflected in the Scotland Act 2016. In January 2017 The Scottish Government launched a consultation on the long term management of the Crown Estate in Scotland. The Crown Estate's environmental and sustainability duties are a focus of the consultation.

Once devolved, it is expected that a new framework for control and management will be developed, potentially including the right of coastal communities to receive 100% of net revenue from marine activities out to 12 nm, and to have a greater say in the way that the Estate's marine assets are managed.

For the time being, the Crown Estate's management of virtually all the seabed around the UK out to the 12 NM limit, means that fish farming operations normally require a Crown Estate lease. The Crown Estate currently manages some 750 leases for shellfish and fin-fish aquaculture. The Crown Estate is not a regulator of, and has no statutory function in relation to, the fish farming industry.

While the sea-bed under each marine cage fish farm is leased from the Crown Estate and a fish farm operator must apply for a lease for the right to station a farm on the sea bed, it is not clear that the Crown Estate has the right to lease the surface of the sea or the water column to a fish farmer.

Relevant legislation

The Crown Estate is currently governed by the Crown Estate Act 1961. Under section 1 of the Act, the general duty of the Crown Estate Commissioners is to maintain and enhance the value of the Crown Estate and the return obtained from it, but with due regard to the requirements of good management. 'Good management' is not defined in the 1961 Act, but it is arguable that it should encompass a high degree of environmental protection.

The Crown Estate also has a duty to have regard to conserving biodiversity as set out in the Nature Conservation (Scotland) Act 2004.

The seabed leasing process

Applications for fish farming leases can be made at any time. A valid planning consent is not a prerequisite. If a valid planning consent is not in place, then the Crown Estate can offer a Lease-Option Agreement which is valid for three years. This is intended to give the developer time to complete the outstanding planning and consenting requirements for a specific site to become a fish farm. A fish farm developer may hold more than one Lease Option Agreement. To apply, it is necessary to complete a lease application form

- crownestatescotland.com/the-assets/marine/asset/aquaculture

The Crown Estate will determine applications with regard to a variety of factors, including whether the applicant:

- Intends to occupy and operate the site themselves.
- Has obtained any of the statutory consents for the site.
- Has access to the resources required to fulfil the terms and conditions of the lease.
- Can demonstrate how acquiring the lease will provide community, stakeholder or environmental management benefits.
- Full details of the process are available at
crownestatescotland.com/maps-and-publications/download/47

Removal / decommissioning of deployed equipment

Crown Estate leases for fish farm sites require that all equipment such as moorings is removed at the end of the lease. The Crown Estate may conduct a survey of the seabed to ensure that removals have been completed.

Specific responsibilities relating to conservation

As with other regulatory bodies, the Crown Estate is a competent authority under the Habitats Directive, which requires it to ensure that any plan or project it authorises (such as a fish farm lease) will not damage the integrity of an SAC or the protected species for which it is designated. This duty has clear implications for the Crown Estate when granting leases for fish farms in or near to SACs.

How to obtain information from the Crown Estate

The Crown Estate is subject to normal rules governing Freedom of Access to Environmental Information and copies of fish farm leases and correspondence between the Crown Estate and would-be or actual lessees can be obtained from the Crown Estate in Edinburgh under the Environmental Information (Scotland) Regulations 2004. However the Crown Estate is not a public authority for the purposes of the Freedom of Information (Scotland) Act 2002. A sample letter requesting information from the Crown Estate is set out below:

The Crown Estate
6 Bells Brae
Edinburgh EH14 3BJ

Dear Sir/Madam

Re: Fish farm proposed for / proposed extension at

I would be grateful if pursuant to the Environmental Information (Scotland) Regulations 2004 you would supply the following information:

1. Any reports, data, research or other information of whatever nature held by the Crown Estate in relation to the fish farm sites (actual or proposed) mentioned above.
2. All correspondence, whether by letter, email or notes of conversations between the Crown Estate and any third party (including the relevant planning authority, Scottish Government, Scottish Natural Heritage, Scottish Environmental Protection Agency and Marine Scotland Science relating to the fish farm sites (actual or proposed) mentioned above.
3. Copies of any leases of the sea-bed granted to any third party by the Crown Estate relating to the fish farm sites (actual or proposed) mentioned above.

Yours faithfully

Figure 8: Sample Letter to Crown Estate

How to use the information supplied by the Crown Estate

It is not possible to know when an application for a lease of the sea-bed has been submitted to the Crown Estate and in all probability a lease or an option for lease will already have been granted by the Crown Estate by the time communities learn of plans for a new fish farm or expansion of an existing farm.

Nevertheless, if for example, an SAC may be impacted, communities can raise concerns with the Crown Estate and ask to see how it was assessed, pursuant to Article 6 of the Habitats Directive, which requires that the granting of a fish farm lease will not negatively impact upon European protected species or nature conservation sites. Even where a European nature conservation site is not present, (for example, where migratory fish such as sea trout may be affected) stakeholders are entitled to ask the Crown Estate whether it has considered this in granting any lease and how it has complied with their wider environmental duties.

Contact:

The Crown Estate
6 Bell's Brae
Edinburgh EH4 3BJ

enquiries@thecrownestate.co.uk

See also: thecrownestate.co.uk/our-business/crown-estate-scotland

Regulatory developments in 2016 and 2017

The complex nature of the regulation of aquaculture is recognised by the Scottish Government. It commissioned an Independent Review of Scottish Aquaculture Consenting, (by Poseidon Consultants) which reported in 2016 gov.scot/Publications/2016/07/9269/downloads.

In undertaking the Review, consultations were held with the aquaculture industry, Local Authorities and public sector organisations. No community groups, representatives of the sea fisheries or environmental NGOs were consulted. Furthermore only a selection of the District Salmon Fishery Boards were consulted. It is difficult to reconcile the extent of these consultations with the Scottish Government's policy objectives regarding community empowerment. The Review recommended eight 'quick wins':

- **QW1 Strengthen the pre-application process**

This includes ensuring the SSPO Industry Protocol for Pre-Application is readily available on the Scottish Aquaculture website, and ensuring the Protocol includes an up-to-date pro-forma with an information checklist to be provided confidentially to statutory consultees.

- **QW2 Introduce consistent format for co-ordinates, site name and summary information**

This includes standardising the required site summary information across all applications, promoting, assisting and supporting the industry in improving the quality of application submissions.

- **QW3 Update of Working Arrangements document**

This includes agreeing the most efficient engagement with consultees, identifying responsibilities across authorities/regulators and statutory consultees and ensuring it is available on the Scottish Aquaculture portal.

- **QW4 Integrate wellboat Marine Licence into the CAR Licence**

- **QW5 Update Scottish Aquaculture portal**

This includes ensuring the portal includes easily accessible links to all relevant licence/consent applications, regulation, guidance and advice and contacts for key personnel, detailed information on all planning consents, direct access to monitoring and survey reports and a link to SEPA's webpage that displays all CAR applications.

- **QW6 Support provision of electronic application forms**

This includes ensuring that forms can be downloaded and completed electronically, rather than hand written, for Marine Licences and Planning Permission application forms.

- **QW7 Update EIA template**

This includes reviewing the EIA template (after the Working Arrangements document has been updated) to ensure structure/roles are addressed and that information requirements and format can be optimised

- **QW8 Hold a Landscape and Visual Impact Assessment workshop between SNH, LPAs and industry** To provide an opportunity to agree with industry an effective, practical approach to implementing the current landscape/seascape policy of SNH and LPAs.

A further five longer term options were suggested by the Review. These alternative approaches for the consenting process, are intended to simplify, speed up and remove uncertainty in the consenting process. They are:

- **OPTION 1: Consolidate Marine Licencing (for Moorings and Equipment) into Planning.**
Permission This option is proposed to address duplications. This would, inter alia, minimise the number of consents and reduce the overall consenting timeframe.
- **OPTION 2: Aquaculture Act: Remove aquaculture from the Town and Country Planning Act and introduce a specific Aquaculture Act.**
 This option is proposed based on experience elsewhere, namely Norway’s distinct Aquaculture Act. A Scottish Aquaculture Act could provide an opportunity for the details and specifics of the sector to be appropriately addressed, including marine and freshwater aquaculture for finfish, shellfish and seaweed.
- **OPTION 3: Align Controlled Activities Regulation (CAR) and Planning Permission consents (finfish aquaculture only).**
 This option is proposed to address duplication and delays. It would allow the stages and tasks required for finfish aquaculture to be aligned up to point of determination. This would ensure that each process was aware of the other, reduce duplication in the consultation process and the overall timeframe of consent, yet retain the flexibility within the system for instances when only CAR is required.
- **OPTION 4: One-stop shop.**
 This option is proposed as it would provide a single contact point that drives the application/consenting process, most appropriately housed within an existing competent authority i.e. LPAs (in which case there would be 6 one-stop-shops), Marine Scotland or the Crown Estate.
- **OPTION 5: Movement of technical biomass aspects from Planning Permission into Controlled Activities Regulation (CAR) licence (finfish aquaculture only).**
 This option focuses on which consent/licence is most appropriate for dealing with farmed and wild salmonid interactions. Currently there is little that can be done to put conditions on wild fish interactions with fish farms. One proposal is that the CAR licence is a potentially suitable consent within which wild fish interactions are considered.

Government Response

The Scottish Government’s Response to the Review was published in January 2017 and is available at gov.scot/Publications/2017/01/9447.

The Response explains that the eight ‘quick wins’ to alter the consenting process are now being implemented. Further changes to the consenting process in line with the longer term options, as well as the proposed changes to the wider Planning System and the introduction of the Better Environmental Regulation (BER) Programme (which aims to provide a more effective and efficient protection of the environment and a reduction in the regulatory burden on business) are being considered.

APPENDIX 1 Other relevant bodies and initiatives

Scottish Salmon Producers Organisation

Community Engagement Charter, 2016

In 2016 the Scottish Salmon Producers Organisation published a Community Engagement Charter to highlight its' commitment to working with communities and to ensure that people in the areas where salmon farming operates understand the industry and benefit from it wherever possible.'The Charter sets out roles and responsibilities of companies and communities, and lists the potential benefits from increased transparency:

🔗 scottishsalmon.co.uk/wp-content/uploads/2016/09/community_charter_2016_digital.pdf.

Code of Good Practice for Scottish Finfish Aquaculture

The code covers the production of all types of finfish farmed in Scotland and every aspect of the farming process. It refers to a range of issues outwith planning control (but used by developers to support planning applications) such as: Food Safety, Fish Health, Biosecurity, Protecting the environment and Fish Welfare: 🔗 thecodeofgoodpractice.co.uk.

Improved System for Licensing Aquaculture Development (ISLAD)

The Improved System for Licensing Aquaculture Development (ISLAD) Working Group was established in 2009 following the launch of A Fresh Start - the renewed Strategic Framework for Scottish Aquaculture (🔗 gov.scot/Resource/Doc/272866/0081461.pdf) and comprises industry representatives from:

- Salmon Producers' Organisation (SSPO):
- Marine Scotland, including Marine Scotland Science
- Scottish Salmon (SSPO)
- The British Trout Association (BTA)
- The Association of Scottish Shellfish Growers (ASSG)
- Scottish Environment Protection Agency (SEPA)
- Scottish Natural Heritage
- Crown Estate
- All relevant planning authorities

The Group has been tasked with ensuring that opportunities exist for expansion of the industry in the right places, with streamlined and proportionate regulations and procedures to ensure faster decisions and to minimise adverse impacts on other users of the marine and freshwater environment. The current issues for the Group include:

Overseeing the implementation of the actions in Delivering Planning Reform for Aquaculture (gov.scot/Publications/2010/02/26144010/0) and Delivering Planning Reform for Aquaculture 2 (gov.scot/Topics/marine/Fish-Shellfish/18716/previous/ISLAD/DPRA2) which are designed to improve planning delivery;

- Overseeing the preparation of a working arrangements document between the main statutory consultees;
- Improved availability of sites where development can go;
- Examining the current usage of existing sites and how to consider unused biomass;
- Revision of the Locational Guidelines particularly in relation to food composition;
- Identifying other users of the marine environment, their interactions with aquaculture and impacts;
- Examining the scope for the streamlining of all relevant permissions, consents or licences.

The Scottish Aquaculture Research Forum

SARF is a registered charity and an independent company whose main aim is to support research into aquaculture and related areas. A key output from SARF is guidance on the Environmental Impact Assessment process. For more information, visit sarf.org.uk.

Marine Scotland Fish Farm Consents website

This is a general information site regarding aquaculture in Scottish waters:
gov.scot/Topics/marine/Fish-Shellfish.

APPENDIX 2 Aquaculture and communities

This Section of the Guide provides information on how community groups can engage in the planning process, and maximise their influence over the management of their local waters.

How a community should deal with applications for new farms

An important first step is to form a group of local people willing to assess the impact of an aquaculture proposal on the community. The group should assess both the potential benefits of the development and its costs. If an application does not present a risk to existing businesses or the environment, and it is clear that the developers have taken a decision to proactively avoid sensitive areas, the community group might support that application. This will generate goodwill with the developer in question and any subsequent responses to other applications may carry more weight with both the planners and the applicant.

However this is not necessarily an easy exercise and groups should remember that once an aquaculture site has planning permission, it will be difficult to get it moved.

Build Your Case

If a group decides to oppose an application then it will need to build the strongest case it can. It should:

- List the potential impacts
- Assess as far as possible the economic implications of those impacts
- Decide how best to provide evidence of those impacts
- Consider material considerations for the planning officer
- Create a campaign
 - Involving the whole community
 - Holding regular meetings and minuting them properly
 - Getting as much media attention as possible. Notify journalists.
 - Developing a website to inform and focus attention, and keep followers updated through social media outlets
 - Assessing what other allies exist and signing them up
 - Lodge objections with the Council
 - Ensure it fully understands all the processes and time limitations.

Examples of community groups

Arran arrancoast.com

Seil Sound saveseilsound.org.uk

Isle of Skye scottishsalmonthinktank.net

APPENDIX 3 Getting info on fish farms via information requests

Information

If you think your local waters are being affected by aquaculture, you should consider investigating the matter through your statutory right to request information from public authorities. You can do this by making a request under the Environmental Information (Scotland) Regulations 2004, the Freedom of Information (Scotland) Act 2002, or the Freedom of Information Act 2000 – which give the public the right to request information held by “public authorities” – being the Scottish Government itself or its agencies including SEPA, MS, SNH.

Most information sought by community groups concerned about aquaculture is likely to be ‘environmental information’ and this is dealt with under the more powerful Environmental Information Regulations. These Regulations give members of the public the right of access to environmental information, and were enshrined in European law for almost a decade before the UK’s Freedom of Information Act was passed.

Environmental information is divided into the following six main areas:

- The state of the elements of the environment, such as air, water, soil, land, fauna - including humans;
- Emissions and discharges, noise, energy, radiation, waste and other such substances;
- Measures and activities such as policies, plans, and agreements affecting or likely to affect the state of the elements of the environment;
- Reports, cost-benefit and economic analyses;
- The state of human health and safety, contamination of the food chain;
- Cultural sites and built structures - to the extent they may be affected by the state of the elements of the environment.

As noted above, salmon farms are monitored by various bodies, some of which hold records that can be obtained by the public via Freedom of Information requests.

What is my right to information?

You can ask for any information you believe a public authority might have. There is a presumption in favour of disclosure of any information held by a public authority - that is the starting point. This does not, of course, mean you will always get what you want. The rights of access to information are not absolute.

There are sometimes valid reasons why some kinds of information will be withheld. Note, however, that the public authority has to justify withholding information. The range of reasons for why you may not be given information is set out in the Regulations. But information can be withheld, for example, if it relates to someone’s personal details (which are protected under the Data Protection Act) as are certain intellectual property rights. Information can also be withheld on grounds of commercial confidentiality or if it is the subject of on-going legal proceedings.

If you are asking about pollution with pesticides, for instance, always note that some of the usual reasons for withholding information cannot apply when the information you are after relates to ‘emissions’ to the environment.

Often decisions on disclosure are subjected to a 'public interest test'; i.e. is it in the public interest that the information is disclosed or not? Where does the balance lie?

As noted previously, The Scottish Information Commissioner produces 'Tips for requesting information under FOI and EIRs' at itspublicknowledge.info/YourRights/Tipsforrequesters.aspx.

How do I make a request?

Please remember that a public authority is not obliged to deal with vexatious or repeated requests. Make them polite, detailed, reasonable, clear and easily understandable.

You do not have to say why you want the information and the public authority has no right to withhold information on that basis. That said, it can help if you do say why you want it, as the public authority might offer you other information in addition – they are under a duty to assist you in your requests.

You must contact the public authority in writing (this includes email) and provide your name and an address for a response. Although under the Environmental Information Regulations, requests can also be made verbally, this is not advisable and you may need to show the detail of the request you made at a later date.

There is no need to say you are asking for information under the Freedom of Information Act or the Environmental Information Regulations, but mentioning them can help. Always keep a copy of all the letters you send or receive.

What to ask for when investigating aquaculture:

If you write to SEPA or Marine Scotland you can ask for such information as:

- Data on sea lice infestation for particular farms over a reasonable time period – say 5 years;
- Treatment regime data including details of what chemicals are used to treat infestations and the frequency of use and concentration for particular farms;
- Records from SEPA's own investigations or inspections of farms.

What happens next?

Public authorities must respond to information requests within 20 working days. But this limit can be extended for complex and bulky information, in which case the authority must inform you.

If the request you made is for a great deal of information there may be a charge. This can be a deterrent to smaller groups asking for information. However, there are strict rules about what a public authority can and cannot charge for – if you think you are being charged too much, then refer to the Information Commissioner's guidance at itspublicknowledge.info.

What if the information is refused?

When a public authority decides not to disclose information, it must specify the reason, and, where relevant, explain its arguments. If you are unhappy with the information you have been given or the reasons given for withholding information, in the first instance you must complain to the public authority itself.

If you remain unhappy with the response you have been given when the public authority has “reviewed” its decision, you can complain to the Information Commissioner if the public authority has failed to:

- Provide the information which you requested;
- Tell you if they hold relevant information;
- Respond to your request within time limits (normally 20 working days);
- Give proper advice and help;
- Provide information in the form in which you requested it;
- Properly explain the reasons for refusing the request;
- Correctly apply an exemption under the Regulations – in other words, they have refused to disclose information for the wrong reason; or
- They have overcharged you for providing information.

You will need to provide the Information Commissioner with information in support of your complaint otherwise it may not be considered. If you are in any doubt about your rights to information or the application of the various reasons for withholding information that you receive, please contact the Information Commissioner’s Office on enquiries@itspublicknowledge.info or see the website at itspublicknowledge.info/home/ScottishInformationCommissioner.asp.

APPENDIX 4 info for fishermen who find dead crustacea in their creels

Background information

Communities should be involved in the monitoring of their local salmon farms, especially if there is a risk of a conflict of interest between the farm and existing community activities. One potential area of conflict is between salmon farms and creel fishermen.

If dead or dying crustacea such as prawns, lobsters or crabs are thought to have been affected by a pollution incident SEPA advise that the following steps should be taken;

- A note should be made of the location and time at which the animals were recovered and of any activities which are occurring or have recently occurred in the area. If the sample collected is a portion of those which were found a note should be kept of the extent of the impact, such as numbers killed.
- Any affected or recently deceased animals should be preserved by wrapping them in tin foil and freezing them at the earliest opportunity. Prior to freezing they should be kept as cool as possible. Treating the animals in this way will preserve them appropriately for many months.
- Contact should be made as soon as is practicable with the local SEPA office or by phoning the pollution hotline on 0800 80 70 60 (this operates 24 hours 7 days a week) to report the incident and determine an appropriate course of action.
- If, at a later date, the animals are to be shipped to a laboratory for analysis they should be transported in a cool- box with freezer packs to ensure they remain preserved.
- Depending on the nature of the incident analysis of the dead animals may or may not be worthwhile. This will be assessed on a case by case basis.

APPENDIX 5 International information on aquaculture

Aquaculture Stewardship Council

Founded in 2010 by WWF and IDH (Dutch Sustainable Trade Initiative) ASC is an independent not for profit organisation which aims to be the world's leading certification and labelling programme for responsibly farmed seafood. The ASC's primary role is to manage the global standards for responsible aquaculture, which were developed by the WWF Aquaculture Dialogues. ASC works with aquaculture producers, seafood processors, retail and foodservice companies, scientists, conservation groups and consumers to:

- Recognise and reward responsible aquaculture through the ASC aquaculture certification and labeling.
- Promote best environmental and social choice when buying seafood.
- Contribute to transforming seafood markets towards sustainability: asc-aqua.org.

Global Aquaculture Alliance

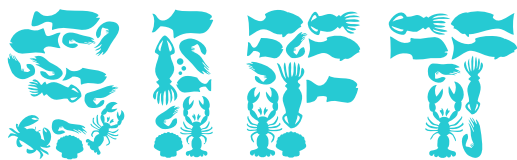
The Global Aquaculture Alliance is an international, non-profit organization committed to feeding the world through responsible, sustainable aquaculture. Representing dozens of individuals, associations and businesses associated with aquaculture and seafood around the world, GAA works to improve practices and increase output across the entire aquaculture production chain: gaalliance.org.

TAPAS (Tools for Assessment and Planning of Aquaculture Sustainability)

The Horizon 2020 TAPAS research project, which started in March 2016, aims to consolidate the environmental sustainability of European aquaculture by developing tools, approaches and frameworks to support EU Member States in establishing a coherent and efficient regulatory framework, implementing the Strategic Guidelines for the sustainable development of European aquaculture and delivering a technology and decision framework for sustainable growth: tapas-h2020.eu/tapas.

AquaSpace

A pan European initiative to identify aquaculture industry issues and develop tailored tools.
aquaspace-h2020.eu.



Sustainable Inshore Fisheries Trust

Sustainable Inshore Fisheries Trust

Thorn House
5 Rose Street
Edinburgh
EH2 2PR

Email: info@sift-uk.org

Registered Scottish Charity No. SC042334
Company Number SC399582



Marine Conservation Society Scottish Office

Suite 7 CBC House
24 Canning Street
Edinburgh
EH3 8EG

Head office switchboard: 01989 566 017

Email: info@mcsuk.org

Registered charity no: 1004005 (England & Wales); SC037480 (Scotland).
Company limited by guarantee no: 2550966.
Registered in England VAT no: 489 1505 17.
Registered office: Overross House, Ross Park, Ross-on-Wye, HR9 7US.