

**THE HIGHLAND COUNCIL**

**PLANNING, ENVIRONMENT & DEVELOPMENT COMMITTEE**

**6<sup>th</sup> November 2013**

Agenda Item	10i
Report No	PED 70/13

**PLANNING SCOTLAND'S SEAS: DRAFT NATIONAL MARINE PLAN AND PLANNING CIRCULAR**

Report by Director of Planning & Development

**SUMMARY**

The Scottish Government has consulted on its draft National Marine Plan. Accompanying this is a draft planning circular which sets out the relationship between the terrestrial planning system and the marine planning and licensing systems and how integration should work. Committee is recommended to approve the detailed responses to the consultation documents along the lines indicated.

**1. Background**

- 1.1 In July this year the Scottish Government (SG) published a major suite of consultation documents on marine policy and Marine Protected Areas (MPA's). This was grouped under the banner "Planning Scotland's Seas". Over the late summer and early autumn the SG ran an extensive programme of public consultation events across the country to promote the documents and to stimulate public interest. Within Highland, Marine Scotland held consultation meetings in Inverness, Fort William, Thurso, Ullapool and Kinlochbervie. SNH also held drop-in sessions on Rum and Canna, in Strontian, Kilchoan, Ullapool, Mallaig, Poolewe and Kyle of Lochalsh.
- 1.2 Publication of the consultation documents follows several years of preparatory work and the publication in 2011 of the document "Scotland's Marine Atlas". The atlas can be accessed at:  
  
<http://www.scotland.gov.uk/Topics/marine/education/atlas>
- 1.3 This committee report considers two items: (a) the draft of Scotland's first National Marine Plan and (b) the draft circular which deals with the relationship between terrestrial and marine planning and licensing. Both of these items can be accessed via the SG website:  
  
<http://www.scotland.gov.uk/Topics/marine/seamanagement/national>
- 1.4 Other reports to the Council's PED committee today will deal with (c) the proposed Marine Protected Areas for nature conservation, and (d) draft

sectoral marine plans for offshore renewable energy in Scottish Waters.

- 1.5 Two further consultation documents have been published by the SG, which are essentially of a technical/background nature. These are the Sustainability Appraisal for the draft National Marine Plan, and a consultation on priority marine features which should have a bearing on the selection of Marine Protected Areas. With the committee's approval, these will be dealt with as delegated responses.
- 1.6 This report outlines the key features of the draft National Marine Plan and draft planning circular and provides brief comments on both. Detailed comments are provided in the completed response questionnaires which can be found at Appendices 1 and 2 to this report.

## **2. The Draft National Marine Plan**

- 2.1 The creation of the National Marine Plan is a major component of the Marine (Scotland) Act 2010. It sets out national strategy in this sphere and aims to ensure sustainable economic growth of marine industries, while taking the environmental into account, and sets out policies including economic, social and marine ecosystem objectives.
- 2.2 The Plan covers both Scottish inshore waters (out to 12 nautical miles) and offshore waters (12 to 200 nautical miles) where the UK Parliament legislates but where certain matters have been devolved. The Plan applies to the exercise of both reserved and devolved functions.
- 2.3 The published document is supplemented by an online interactive mapping tool, which can be accessed via the following web link:  
  
[\(<http://www.scotland.gov.uk/Topics/marine/seamanagement/nmpihome/nmpi>\)](http://www.scotland.gov.uk/Topics/marine/seamanagement/nmpihome/nmpi)
- 2.4 Scottish Government 's main considerations when formulating policies for the plan were:
  - conditions for sustainable economic growth;
  - managing interactions with other users of the marine area;
  - living within environmental limits;
  - climate change;
  - whether and how a policy might help

A spatial element is also provided where possible.

- 2.5 Earlier reports suggest that public consultations have gone well. The main issues emerging are:
  - uncertainty about the purpose of the plan
  - the digestibility of the plan in its current form

- how best to achieve integration of land, sea and river basin planning
  - the process of monitoring and review – how to evaluate the plan’s success or otherwise
  - the balance which should be struck (a) between national and regional/local planning, and (b) between prescription and flexibility
  - sector-specific issues, particularly in relation to aquaculture, the visual impact of development on landscape /seascape, and subsea cables
- 2.6 Early indications from stakeholders on the Marine Strategy Forum are that the draft plan has, in general terms, been well received, though there are uncertainties about some of the detail and a degree of unease that it may be trying to be all things to all people.
- 2.7 The National Marine Plan and supporting documents are particularly relevant to Highland for the following reasons:
- Highland has the longest coastline and the largest area of inshore waters within 12 nautical miles of the coast of all the Scottish local authorities. Its coastline is more than 3500 kms long (27% of the Scottish total) and the marine-based industries – aquaculture, fishing, shipping, offshore oil & gas - are important to Highland’s economy, as is tourism on and around the coast, and (increasingly) the renewable energy sector;
  - Highland Council has substantial, complementary experience of coastal planning at local level which it can contribute to the development of marine policy and plans at regional level;
  - Highland is a prime destination in the UK for wildlife tourism and the Council has already helped SNH and others to prepare management strategies for marine nature conservation sites in the Sound of Arisaig, the Moray Firth, Lochs Duich, Long and Alsh, and Loch Sunart.
- 2.8 The National Marine Plan will provide the overarching policy framework within which more detailed planning for the 11 proposed Scottish marine regions will take place. This phase of more detailed planning will be of particular interest to the Council, and may have some resource implications for the Planning & Development Service. Because of its geographical extent, Highland is likely to be involved in planning for 3 such marine regions – off its north, west, and east coasts – although this work is likely to be staggered rather than simultaneous. At present, marine planning activity is focussed on the north coast through the preparation of the Marine Plan for the Pentland Firth and Orkney Waters.

#### General Comments

- 2.9 It is suggested that Members will wish to support the integrated approach and the main thrust of the NMP which emphasises sustainable use and development of marine areas. They will also wish to welcome the clearly stated objectives and the linkage between these, the NMP policies, and the

benchmark scientific assessments of the condition of Scotland's seas which appeared in the 2011 document 'Scotland's Marine Atlas'. However, Members may have concerns in relation to some of the specific objectives and policies within the sectoral chapters of the Plan.

- 2.10 A gap amongst the sectoral chapters is Nature Conservation. The rationale for this omission may be a belief that (a) sustainable development and "living within environmental limits" are considerations which run right through the document and/or (b) that the "sectors" should be essentially economic activities. However, nature conservation has economic, scientific, and educational value too. It helps to restore or maintain marine ecosystems, habitats, and species which form the basis of our biological assets. It helps to support the resource base for wildlife tourism and it generates jobs in its own right. A clear strategy for marine nature conservation in Scotland has long been lacking. Now is an appropriate time for such a strategy. The National Marine Plan provides an opportunity to fill this gap.
- 2.11 The plan is primarily about principles rather than actions within specific timescales. However the Scottish marine planning system has to be a vehicle for safeguarding our key natural assets for the generations which will follow. It has to be an effective means of reconciling competing claims for marine resources and should encourage not just commercial investment and technological innovation but public engagement in marine planning and develop a sense of public stewardship for the marine resources on our doorsteps.
- 2.12 Progress has been slow on firming up the boundaries of Scotland's Marine Regions and the infrastructure for preparing Marine Region Plans is not yet in place. The National Marine Plan should indicate how work on the Marine Region Plans will be resourced and the timescales within which the Marine Region Plans will be prepared. The Pentland Firth, Minches, and Clyde Estuary are identified in the plan as "Strategic Sea Areas" which will require a more integrated approach. But the plan does not say what that more integrated approach will entail.
- 2.13 The environmental credentials of the plan are set out in the sections on "National Marine Plan strategic objectives" (pp14-15) and the "Approach to Policies" (pp18-19). This clear commitment to environmental sustainability is welcome. The prominence given to using and developing sound science as a basis for managing marine areas is also welcome.
- 2.14 The statement on P20 under the heading "Informing decision making" is important – "General and sectoral marine planning policies together will inform the content of regional marine plans and be a consideration in decision-making. They should be used to inform proposals from initial concept to implementation and guide decisions on management of all marine activities

including renewal of licences for existing activities.”

- 2.15 Two areas where members may wish to highlight concerns are the general policy on landscape/seascape and some elements of the aquaculture section.

Landscape/seascape

- 2.16 The general policy on landscape/seascape – GEN14 – seems weak. It only requires planning and decision-making authorities to take landscape and visual impact “into account”. This is surprising given that the quality of Scotland’s landscapes (many of which are coastal and involve a seascape element), is widely regarded as one of the country’s greatest assets. That quality can be gradually eroded by development which is inappropriate in terms of location, scale, or design. The policy should be stronger on the need to protect the nation’s valued landscapes and resources of wild land, not all of which have National Scenic Area status.

Aquaculture

- 2.17 The accent of the draft National Marine Plan’s objectives is on growing the industry rather than improving its sustainability. The plan should have as one of its objectives a clear intention to put salmon farming on a sustainable basis and to reconcile the industry’s growth aspirations with the need to safeguard and restore wild fish populations in areas where these are significant or potentially significant and fragile. For a long time there has been a blanket national policy embargo on further marine finfish farm development on the north and east coasts (to protect migratory fish stocks) whilst development pressure has virtually all been focussed on the West Coast (which has similar migratory fish stocks). Given that technical advances in the industry are allowing more exposed sites to be farmed, there is potentially more flexibility in location. These factors would seem to suggest that the spatial element of national policy on finfish farm development is due for review.
- 2.18 Further detailed comments on the draft plan are provided in Appendix 1.

### **3. Draft Planning Circular**

Features of the Circular

- 3.1 The 13-page draft circular explains the relationship between the marine and terrestrial planning systems, including related regimes such as marine licensing and consenting for offshore energy generation, ports and harbours development, and aquaculture. It also advises on how the terrestrial and marine planning systems can best be aligned.
- 3.2 Members should note that under the new marine planning system, all public authorities taking authorisation or enforcement decisions which affect (or might affect) the UK marine area must do so in accordance with the UK Marine

Policy Statement, the Scottish National Marine Plan and any subsequent Regional Marine Plan, unless relevant considerations indicate otherwise. This applies also to decisions on terrestrial planning applications and enforcement action. Decisions which do not involve enforcement or authorisation, but which are still capable of affecting the UK marine area, must also have regard to the Statement and Plans. This applies to the preparation and adoption of terrestrial development plans, supplementary coastal planning guidance, and to other terrestrial planning functions. Marine plans must be kept under review and a report for each must be prepared at least every five years, at which time Ministers must consider whether the plan needs to be amended or replaced.

- 3.3 The circular notes that Marine plan boundaries extend up to Mean High Water Springs while terrestrial planning boundaries extend down to Mean Low Water Springs with the exception of marine aquaculture. There is therefore an overlap in the inter-tidal area. The circular suggests that this overlap will assist the integration of and consistency between both planning regimes which can best be achieved by liaison between the terrestrial and marine planning authorities. The circular states that “it is likely local authorities will have a key role in the great majority of marine and terrestrial plans, and having one or more officials who are closely involved in both processes will be desirable.”
- 3.4 The circular suggests that in most circumstances the marine and terrestrial planning and consenting regimes, working together as advocated, will be sufficient to ensure an integrated approach to the planning and management of the coastal zone. However, it recognises in para 38 that there may be some areas where complex or competing interests require a finer-grained approach (eg around some of the firths, sea-lochs and sounds. The circular states that “it will be for marine and terrestrial planning authorities to consider and agree, in each case, whether there is a requirement for more detailed co-ordination in the form of integrated management of the coastal zone. Where this is agreed it should remain consistent with the policies and proposals in the respective terrestrial and marine plans.

#### Comments on the Circular

- 3.5 The circular provides a good starting point for engagement between and integration of the marine and terrestrial planning systems. However, the circular needs to be more specific and provide a greater level of detail as to the process/ protocol for engagement between terrestrial and marine authorities, both during the plan preparation process and in consenting processes.
- 3.6 The circular tends to emphasise the dichotomy between land and sea and between terrestrial and marine planning authorities. However, coastal planners on the RTPi’s Marine Spatial Planning Task Group have long argued that a simple two-way split for planning purposes is undesirable. The nearshore coastal zone often has to be considered in a different way from more distant

offshore waters because it is the area of most intense interaction between the land and sea and the area where a range of interests are most likely to compete for space. This is why bespoke coastal plans which provide guidance at local level are useful. It would therefore be worth having a chapter which focusses specifically on the coastal zone – why it is particularly important and the various interactions which go on within it.

- 3.7 There is little mention in the circular of coastal planning as a subject in its own right and the section on ICZM (Integrated Coastal Zone Management) is very short. However integrated coastal planning is already established and it is an important activity in some areas, especially those with highly indented, populated coastlines and more sheltered, productive inshore waters. Highland and Argyll & Bute Councils, for example, have both been active in this field for years. International experience, in Norway for example, is also relevant here and should be mentioned.
- 3.8 The direction in the draft circular that all marine plans should be reviewed at least every five years, at which time Ministers will decide whether the plan should be amended or replaced, will have resource implications and will remove some of the Council's flexibility to prepare and review coastal plans at its own initiative and its own pace. If this part of the circular is ultimately confirmed a more disciplined approach may be required to the updating of related planning guidance.
- 3.9 Members may wish to give careful consideration to paragraph 77 of the circular which suggests that in time, marine region plans and any supplementary plans or guidance associated with them should become the principal spatial form of reference for decisions about the location of new aquaculture development.
- 3.10 Members will be aware that there are good reasons why marine aquaculture currently falls within the scope of the Town and Country Planning system and a slide away from local authority planning control would be a retrograde step. As long as aquaculture development interest remains focussed on locations close to the coast, the terrestrial development plan and its supplementary coastal planning guidance should have *at least* equal weight to the Marine Region plan which is like to be coarser-grained.
- 3.11 Because the terrestrial and marine planning systems overlap in the inter-tidal area, there is sometimes an element of confusion, for example, on whether applications for oyster farms should be considered as terrestrial or as marine aquaculture (requiring planning permission and a marine licence). Oyster farming is also moving up to a much larger scale. The circular should therefore provide more detailed guidance on inter-tidal developments.
- 3.12 Further detailed comments are given in the completed response questionnaire

in Appendix 2.

#### **4. Fit with the Programme for the Highland Council**

- 4.1 The draft National Marine Plan aligns well with the Council's commitment to:
- prioritise and support the creation of jobs in the Highlands
  - support and invest in appropriate opportunities presented by renewable energy, particularly wave and tidal power
  - maintain its commitment to Scotland's Climate Change Declaration

#### **5. Resource Implications**

- 5.1 The draft National Marine Plan in itself has no immediate resource implications for the Council. However, in due course the involvement of the Council in preparation of marine region plans on the West, North and Moray Firth coasts, depending on the role which is allocated to it, may require the allocation of resources. These will be reported when understood.

#### **6. Equality, Climate Change and Carbon Clever Implications**

- 6.1 Climate change is a key consideration running through the National Marine Plan. Overall the Plan should have positive Carbon Clever implications. There is no reason to believe that the Plan will have significant equality implications.

#### **7. Legal and Risk Implications**

- 7.1 No legal or risk implications are foreseen.

#### **8. Recommendation**

- 8.1 The Committee is recommended to approve the responses to the Draft National Marine Plan and Draft Planning Circular as outlined above and as contained in the completed questionnaire responses in Appendices 1 and 2.

Designation: Director of Planning & Development  
Date: 25<sup>th</sup> October 2013  
Author: Colin Wishart, Principal Planner (tel: 01463-702272)

Background Papers:

- Scottish Government (2013) Draft National Marine Plan
- Scottish Government (2013) Draft Planning Circular

**Appendix 1: Completed response form for draft National Marine Plan**

**Appendix 2: Completed response form for draft Planning Circular**



# Appendix 1

## National Marine Plan Consultation Draft



### RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

#### 1. Name/Organisation

Organisation Name

Highland Council

Title Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

Surname

Forename

#### 2. Postal Address

Director of Planning & Development

Highland Council

Glenurquhart Road

Inverness

IV3 5NX

Phone

Email

#### 3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate  Yes  No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate  Yes  No

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

## CONSULTATION QUESTIONS

Please identify the main area of interest you identify with :

Nature Conservation

Fisheries

Industry/Transport

Energy

Aquaculture

Recreation/tourism

Academic/scientific

Local authority

Community group

Public sector/Regulatory body

Local Coastal Partnership

Other (Please state)

Comments

### **Q1. Does the NMP appropriately guide management of Scotland's marine resources?**

Broadly speaking, yes, through the clear exposition of the key objectives of the document and through a reasonably comprehensive, complementary mix of general policies and sectoral policies. However, the statement of national objectives, the general policy on landscape/seascape, and parts of the aquaculture section should be sharpened up.

The statement of national objectives in the plan sounds well meaning but also slightly naïve. The plan tells us that the strategic objectives most relevant to marine planning are "Wealthier and Fairer" and "Greener" – in that order. Intuitively this doesn't sound quite right. Surely sustainability or sustainable development comes before "wealthier and fairer" because sustainability (or the lack of it) determines whether or not we have wealth

(and wellbeing) in the long term ?

Looking out across an expanse of Scotland's seas, be it from the deck of a trawler, from the helipad of an oil rig, or a cliff top overlooking the Minch, and thinking about the role marine planning would play in that environment, surely few people would immediately think of "wealthier and fairer" – especially in the same breath ? These are secondary, not primary objectives. More likely people will think of marine planning as helping to maximise productivity, maintain biodiversity, promote technological innovation offshore, and conserve our natural assets.

The section on national objectives describes one of the most *relevant* national outcomes as being an imagined future where "we live in a Scotland that is the most attractive place for doing business in Europe". This could more accurately be described as one of the most *optimistic* national outcomes. There is nothing wrong with having aspirations but for written objectives to have credibility they must be measured and realistic,

Similarly, the headline vision statement for the marine environment – "clean, healthy, safe, productive and biologically diverse oceans and seas, managed to meet the long-term needs of nature and people" is wordy and sounds a little overblown. Do we really need a distinction to be made between "clean" and "healthy" seas ? Safe ? The sea will never be completely safe. Oceans ? We are a small country and we have only one ocean on our doorstep – the Atlantic Ocean. The vision should therefore be tightened up a little – "healthy, productive and biodiverse seas, managed to meet the long-term needs of nature and people" would do.

Thereafter in the document, the statement of national marine plan objectives on pages 14-17 is better focussed, though the line about the coasts, seas, oceans and their resources being "safe to use" still sounds questionable.

**Q2. Does the NMP appropriately set out the requirement for integration between marine planning and land use planning systems?**

Further detail could be provided on the available mechanisms and protocol for integration between terrestrial and marine planning.

**Q3. Does the NMP appropriately guide development of regional marine planning? What, if any, further guidance is required for regional marine planners in terms of implementation and how to interpret the NMP?**

Progress has been slow on firming up the boundaries of Scotland's marine regions and the infrastructure for preparing Marine Region Plans is not yet in place. The National Marine Plan should be doing more than just saying that this is a work in progress. It should indicate how work on the Marine Region Plans will be resourced and the timescales within which the Marine Region Plans will be prepared.

**Q4. The Marine Regional Boundaries Consultation proposed that in addition to regional marine planning, further integrated management of key marine areas would be achieved by designating the Pentland Firth; the Minches and the mouth of the Clyde as Strategic Sea Areas.**

**Should the NMP set out specific marine planning policies for Strategic Sea Areas?**

The Pentland Firth, Minches and Clyde Estuary are identified in the plan as “Strategic Sea Areas” which will require a more integrated approach, without saying what that more integrated approach will entail. If these proposed designations are to be carried forward to the final plan, specific planning policies should be provided for these areas.

The Pentland Firth is already receiving priority treatment because of the interest in developing renewable energy there, and planning for the Clyde Estuary may progress faster than some other areas because it already has a well-established local coastal partnership in place. However, what about the Minches ? It is an area which is regarded as one of the jewels in Scotland’s crown in terms of its environmental quality, tourism interest, and resource base for inshore fishing and aquaculture. But parts of it are also sensitive to over-development, pollution risk from tanker traffic, and over-fishing.

**Q5. Are the objectives and policies in the NMP appropriate to ensure they further the achievement of sustainable development, including protection and, where appropriate, enhancement of the health of the sea?**

The environmental credentials of the plan are well set out in the sections on “National Marine Plan strategic objectives” on pages 14-15 and the “Approach to Policies” on pages 18-19. This clear commitment to environmental sustainability is welcome. The prominence given to using and developing sound science as the basis for managing marine areas is also welcome.

**Q6. Chapter 3 sets out strategic objectives for the National Marine Plan and Chapters 6 – 16 sets out sector specific marine objectives.**

**Is this the best approach to setting economic, social and marine ecosystem objectives and objectives relating to the mitigation of and, adaptation to climate change?**

Yes.

**Q7. Do you have any other comments on Chapters 1 – 3?**

No reference is made in these chapters as to how often the plan will be

updated. It is our opinion that to ensure true integration with the terrestrial planning system, the National Marine Plan should be updated every 5 years on a rotational basis. This timescale is the Scottish Government's expectation of other marine plans as set out in the draft planning circular.

While review programme timing will not fit directly with every Local Development Plan timescale in Scotland, it should preferably be programmed to fit well with the timescale for updating of the National Planning Framework.

P18 – Approach to policies – in the symbology used to label policies, a fifth category might be appropriate to indicate policies which promote the development of better information and understanding about the marine environment and patterns of use within it.

### **General Planning Policies**

**Q8. Are the general policies in Chapter 4 appropriate to ensure an approach of sustainable development and use of the marine area? Are there alternative policies that you think should be included? Are the policies on integration with other planning systems appropriate? A draft circular on the integration with terrestrial planning has also been published - would further guidance be useful?**

There is an element of duplication between the general policies GEN 1, 2 and 3. These three policies would be better merged into one.

**Q9. Is the marine planning policy for landscape and seascape an appropriate approach?**

Visual, landscape and seascape impacts caused through development are important factors to be considered during the determination of any planning application. It is therefore appropriate that the general policy GEN 14 recognises the need to consider these three types of impact. However, the policy seems weak. It only requires planning and decision-making authorities to take these impacts "into account". This is surprising given that the quality of Scotland's landscapes (many of which are coastal and involve a seascape element) is widely regarded as one of the country's greatest assets. That quality can be gradually eroded by development which is inappropriate in terms of location, scale, or design. The policy should therefore be stronger on the need to protect the nation's valued landscapes and resources of wild land, not all of which have National Scenic Area status.

The policy or supporting text should also include reference to the need for consideration to include cumulative impact (or multiple developments) and sequential impacts.

The reference in the supporting text to taking account of core wild land mapped by SNH is noted. This reference will require amendment if necessary, depending upon the outcome of the recent Scottish Government consultations on National Planning Framework 3 and Scottish Planning Policy, including the further consultation which we understand SNH will be undertaking shortly.

**Q10. Are there alternative general policies that you think should be included in Chapter 4?**

See response to question 9 above.

**Guide to Sector Chapters**

**Q11. Do you have any comments on Chapter 5?**

**Are there other sectors which you think should be covered by the National Marine Plan?**

P40 – in this methodology it sounds like the objectives are open-ended in time terms. An absence of time-bound objectives will make it easier for difficult-but-necessary actions to be put off.

Generally the relevant sectors have been included in the draft National Marine Plan. However one sector is conspicuous by its absence – nature conservation. The rationale for this omission may be a belief on the authors' part that (a) sustainable development and living within environmental limits are considerations which run right through the document, and/or (b) that the "sectors" should be essentially economic activities. However, nature conservation has economic, scientific, and educational value too. It helps to restore or maintain marine ecosystems, habitats and species which form the basis of our biological assets. It helps to support the resource base for wildlife tourism and it generates jobs in its own right. A clear strategy for marine nature conservation in Scotland has long been lacking. Now seems an appropriate time for such a strategy to be set out in a succinct and accessible form and the National Marine Plan provides a place where this gap can and should be filled.

Re graphic conventions used for presentation of the sectoral policies - Not sure that the symbols used for each policy help. If only one symbol was used for each policy they might be OK, but because multiple symbols are often relevant it creates a degree of visual clutter. Use of background tints might be a better alternative. Repetition of the full sector title for each policy also adds clutter. It might be better to use abbreviations, eg AQU for Aquaculture. The practice in labelling the policies is also inconsistent, eg sometimes they are headed up as "Marine Planning Policies" whereas at other times it is just "Planning Policies". The policy for Wild Salmon and

Migratory Fish has no number or identifier. The policies for Carbon Capture and Storage use abbreviations in the labels while those for Oil and Gas spell out the sector title in full.

## **Sea Fisheries**

### **Q12. Do you have any comments on Sea Fisheries, Chapter 6?**

P42 – Management of fisheries on a regional sea-basin basis may not be local enough in some instances.

### **Q13. Are there alternative planning policies that you think should be included in this Chapter?**

No particular comments.

## **Aquaculture**

### **Q14. Does Chapter 7 appropriately set out the relationship between terrestrial and marine planning for Aquaculture? Are there any planning changes which might be included to optimise the future sustainable development of aquaculture?**

See response to Q.15 below.

### **Q15. Do you have any comments on Aquaculture, Chapter 7?**

P58 – Objectives - There is little or no hint in the plan objectives of how controversial fish farm development has been in Scotland and how it continues to be in relation to its perceived impact on wild salmonid fish populations and sport fishing interests. This is surprising given that this is an issue which arouses strong passions and frequent press coverage and which local planning authorities have to grapple with when dealing with *many* fish farm planning applications. However, the scientific/technical advice which local authorities receive from Marine Scotland in these instances is often equivocal. In the Aquaculture sub-section headed “Living within Environmental Limits” this issue gets only two sentences. There is further limited reference to it in Chapter 8 but again it is only minor. We are told that there is work under way to improve spatial planning for finfish aquaculture and “to improve the framework for assessing risk to wild salmonids with a view to informing regional planning” but it has been a long time in coming. Marine Scotland has recently seemed to distance itself from work which it co-sponsored by RAFTS (Rivers and Fisheries Trusts Scotland) that identifies higher-risk river catchments.

The accent of the draft National Marine Plan’s objectives is all about growing the industry rather than improving its sustainability. The plan should



have as one of its objectives a clear intention to put salmon farming on a sustainable basis and to reconcile the industry's growth aspirations with the need to safeguard and restore wild fish populations in areas where these are significant or potentially significant and fragile. It is important that fish farming should be developed in harmony with the other interests around our coasts. Highland Council has gone to considerable effort to assist this process in its preparation of Aquaculture Framework Plans and Integrated Coastal Plans at local level. This effort to provide balanced planning guidance which has the support of the local coastal communities needs to be reflected at national level.

Aquaculture Policy 3 – the continued blanket presumption against further marine finfish farming developments on the north and east coasts – to help safeguard migratory fish species – looks imbalanced (see Map 10 in the plan) when there are fragile populations of the same migratory species (albeit smaller populations) on the west coast and it has seen far more fish farm development. Advances in the technology for fish farming are allowing more exposed sites to be developed than was the case in the early phases of the industry's growth, when the shelter available on parts of the West Coast was a prime attraction. This, along with the factor mentioned above, would seem to suggest that the spatial element of national policy on finfish farm development is due for review. The current 3-year project being conducted by Marine Scotland Science to identify areas of opportunity and constraint for aquaculture (mentioned in part 4: The Future) may help with this, but thus far very little information has been disseminated about this project and there has been little or no consultation with the local planning authorities.

**Q16. Are there alternative planning policies that you think should be included in this Chapter?**

See response to Q.15 above.

**Wild Salmon and Migratory Fish**

**Q17. Do you have any comments on Wild Salmon and Migratory Fish, Chapter 8?**

The single marine planning policy here is OK as far as it goes but it really just describes the status quo – ie what is current practice. It doesn't take us forward and it doesn't provide any spatial strategy for prioritising safeguard/restoration of wild salmonid populations in certain catchments. In the sub-section headed "The Future" the plan states that the Scottish Government is committed to undertaking a review of the management of salmon and freshwater fisheries in Scotland, but it does not give any timescale for this.



**Q18. Are there alternative planning policies that you think should be included in this Chapter?**

See response to Q.17 above.

### **Oil & Gas**

**Q19. Do you have any comments on Oil and Gas, Chapter 9?**

We agree with the key issues raised in this chapter of the plan and also support the specific policies for the oil and gas industry. However, we feel that more detail/attention could be given to the decommissioning of existing oil and gas extraction infrastructure, particularly in terms of any potential policies that may affect and/or guide this.

**Q20. Are there alternative planning policies that you think should be included in this Chapter?**

Additional policies should be included that consider the decommissioning of oil and gas infrastructure.

### **Carbon Capture & Storage (CCS)**

**Q21. Do you have any comments on Carbon Capture and Storage, Chapter 10?**

No particular comments

**Q22. Are there alternative planning policies that you think should be included in this Chapter?**

No particular comments

### **Offshore Renewable Energy**

**Q23. Should the NMP incorporate spatial information for Sectoral Marine Plans?**

The NMP should make reference to the draft Sectoral Plans for Offshore Renewable Energy in Scottish Waters, which is currently being consulted on and it should also incorporate spatial information from it.

**Q24. Do you have any comments on Offshore Renewable Energy, Chapter 11?**

The offshore renewable industry is a rapidly expanding one with very specific requirements. How will the plan accommodate and take into

account the developments, particularly if the demands on the marine environment from new development increase rapidly ?

This further highlights the need for a supplementary-planning-guidance-type document that will be regularly updated as the industry changes and expands.

**Q25. Are there alternative planning policies that you think should be included in this Chapter?**

No particular comments.

### **Recreation and Tourism**

**Q26. Do you have any comments on Recreation and Tourism, Chapter 12?**

P98 Recreational Sea Angling – participation in this activity has declined not so much because of jetties and piers falling into disrepair but because inshore fish stocks have been hammered by unsustainable levels and types of commercial fishing. Improving this situation is not so much a case of “addressing competition with commercial fishermen for target species” (a competition which commercial fishermen will generally win) but making inshore fishing sustainable by reducing fishing pressure to biologically safe levels or excluding fishing with mobile gear from nearshore waters altogether (eg reinstate the 3-mile limit). Recreational sea angling also needs to be appropriately licensed and managed at a local level so that a reasonable quality of sport is maintained and commercial fishermen do not see it as a threat to their livelihoods.

P99 Diving – Wreck sites and underwater wildlife in Scotland represent something which is more than just “of interest”. It is sometimes a key element in the local tourism economy. Scapa Flow is generally recognised as one of the best areas for wreck diving in the world and attracts divers from abroad as well as the UK. Some of the most popular dive sites in Scotland (eg Scapa, the Sound of Mull, and St Abbs) attract thousands of divers over a season, but the norm is widely distributed activity at a lower level. Wreck diving is a particular draw for many divers but Scotland also has much good scenic diving outwith the honeypot areas mentioned above (eg in Shetland, off the north coast, and the west and northwest Highlands) which is under-publicised and under-visited because it is often remote. Dive charter boat operators in remote locations deserve a degree of support to maintain their viability and contribution to the local tourism economy. Divers are the “eyes of the community” underwater and through their contributions to marine survey work and underwater photography they can help to monitor the condition of our inshore marine life and alert the general public to the hidden underwater landscapes and wildlife on their doorstep.

P100 - Interactions with other Users – There is no mention of the fact that there is widespread concern amongst sea trout and salmon anglers, Fisheries Boards and riparian owners that their sport can be adversely

affected by elevated levels of sea lice infestation and mass escapes from marine fish farms. This concern is manifest time after time when planning applications for fish farms are being considered and whilst it is not the only factor which might account for the decline in some sport fisheries, the issue should be recognised in this section of the plan as well as in chapters 7 and 8.

P102 – Rec & Tourism policy 2 – add at the end of the first bullet point: “or presents a risk to sport fishing interests”.

P103 – The Future – 4<sup>th</sup> bullet – what is an “artificial dive site” ? It would be better to substitute the phrase “artificial reefs (eg purposely sunk shipwrecks) to create new dive sites”

**Q27. Are there alternative planning policies that you think should be included in this Chapter?**

No particular comments

### **Transport (Shipping, Ports, Harbours & Ferries)**

**Q28. Should the NMP specifically designate national significant ports/harbours as described in Chapter 13: Marine Planning Policy Transport 2?**

We would support the designation of nationally significant ports/harbours.

**Q29. Do you have any comments on Transport, Chapter 13?**

P105 – Objectives – it is surprising that the list of objectives for transport does not include one for exploring the potential for new public transport routes transiting marine areas which could complement the existing network of ferry and air routes.

P114 – Part 4: The Future – first paragraph – mention also advances in transport technology and the development of renewable energy.

**Q30. Are there alternative planning policies that you think should be included in this Chapter?**

No particular comments.

### **Telecommunication Cables**

**Q31. Do you have any comments on telecommunications, Chapter 14?**

No particular comments.

**Q32. Are there alternative planning policies that you think should be included in this Chapter?**

No particular comments.

**Defence**

**Q33. Do you have any comments on Defence, Chapter 15?**

No particular comments.

**Q34. Are there alternative planning policies that you think should be include in this Chapter?**

No particular comments.

**Aggregates**

**Q35. Do you have any comments on Aggregates, Chapter 16?**

No particular comments.

**Q36. Are there alternative planning policies that you think should be included in this Chapter?**

No particular comments.

**Business and Regulatory**

**Q37. Please tell us about any potential economic or regulatory impacts, either positive or negative, that you think any or all of the proposals in this consultation may have.**

No particular comments.

**Equality**

**Q38. Do you believe that the creation of a Scottish National Marine Plan discriminates disproportionately between persons defined by age, disability, sexual orientation, gender, race and religion and belief?**

Yes  No

**Q39. If you answered yes to question 23 in what way do you believe that the creation of a Scottish National Marine Plan is discriminatory?**

No particular comments.

### **Sustainability Appraisal**

**Q40. Do have any views/comments on the Sustainability Appraisal carried out for the NMP?**

More detail should be provided in para 15. It is too scant, especially when compared to (for example) the landscape sections.

Para 28 could be misleading by singling out one pressure and box 1 should be re-titled "An example of pressures on marine biodiversity".

Para 34 suggests protection of landscapes/seascapes will only apply to designated sites.

Para 39 suggests that whatever the impacts are, all development will be given the go-ahead regardless as there will always be policies to support it.

## Appendix 2

### Draft Planning Circular

The relationship between the statutory land use planning system and marine planning and licensing.



### RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

#### 1. Name/Organisation

Organisation Name

Highland Council

Title Mr  Ms  Mrs  Miss  Dr  *Please tick as appropriate*

Surname

Forename

#### 2. Postal Address

Director of Planning & Development

Highland Council

Glenurquhart Road

Inverness

Postcode IV3 5NX

Phone

#### 3. Permissions - I am responding as...

Individual

/

Group/Organisation

*Please tick as appropriate*

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please tick as appropriate*  Yes  No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please tick ONE of the following boxes*

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

*Please tick as appropriate*  Yes  No

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

*Please tick as appropriate*

Yes

No

## CONSULTATION QUESTIONS

Please identify the main area of interest you identify with :

- |                                      |                                     |
|--------------------------------------|-------------------------------------|
| Local Authority / Planning Authority | <input checked="" type="checkbox"/> |
| Nature Conservation                  | <input type="checkbox"/>            |
| Fisheries                            | <input type="checkbox"/>            |
| Industry/Transport                   | <input type="checkbox"/>            |
| Energy                               | <input type="checkbox"/>            |
| Aquaculture                          | <input type="checkbox"/>            |
| Recreation/tourism                   | <input type="checkbox"/>            |
| Academic/scientific                  | <input type="checkbox"/>            |
| Community group                      | <input type="checkbox"/>            |
| Public sector/Regulatory body        | <input type="checkbox"/>            |
| Local Coastal Partnership            | <input type="checkbox"/>            |

Other (Please state)

Comments

### **Q1. Is the Draft Circular on the relationship between the land use and marine planning systems helpful?**

In general, the circular is a useful document which provides a good starting point for engagement between, and integration of the marine and terrestrial planning systems. However some important sectors seem to be missing from the discussion, there is a lack of detail on the processes for liaison between terrestrial and marine authorities, and the need for specialised coastal zone planning and management is underplayed. The circular should also provide more detail on arrangements for the inter-tidal area.

The circular seems rather "sectoral" in its structure, but it misses out some relevant sectors, notably commercial fishing and oil & gas. This seems odd because marine planning partnerships, in preparing plans for the marine regions will undoubtedly consider commercial fishing activities and the infrastructure required to support it. Marine and coastal planning can help to provide a spatial management discipline for fisheries management even if

the Town & Country Planning system does not have the legislation to deliver it. Oil & gas is an important sector economically and although most of its activities are outwith the 12 nm limit, it still requires landfall for pipelines and servicing.

The circular needs to be more specific and provide a greater level of detail as to the process/ protocol for engagement between terrestrial and marine authorities, both during the plan preparation process and in consenting processes. It would also be very useful if the circular clearly identified what types of plans should be subject of such engagement.

Paragraph 54 – In respect of a marine-based electricity generating station subject of a Section 36 application, reference is made to the fact that developers may still choose to make a separate planning application for the onshore components if they wish. It would be helpful if the circular was transparent about why developers may choose to do this. For example, developers may not be very clear about what they require onshore at the time of submitting their Section 36 application. Also, it is likely to be easier to seek amendment of a planning application than of a Section 36 consent, if such amendment is necessary.

Paragraph 77 suggests that in time, marine region plans and any supplementary plans or guidance associated with them should become the principal spatial form of reference for decisions about the location of new aquaculture development. Highland Council does not accept this. There are good reasons why marine aquaculture now falls within the scope of the Town and Country Planning system and a slide away from local authority planning control would be a retrograde step. As long as aquaculture development interest remains focussed on locations close to the coast, the terrestrial development plan and its supplementary coastal planning guidance should have *at least* equal weight to the Marine Region plan which is like to be coarser-grained and more absorbed with issues further offshore.

## **Q2. Does the Draft National Marine Plan appropriately set out the requirement for integration between marine planning and land use planning systems?**

Whilst it is acknowledged that there is a definite requirement for integration between the marine and terrestrial planning systems, the circular does not provide a sufficient level/ depth of information on when and how integration should occur and what mechanisms should be used.

We also feel that a protocol should be produced that sets out how the two should relate to each other in terms of day-to-day process for working between the relevant authorities. Our understanding is that there is already intention to prepare such protocol and we are keen to be shown what progress is being made with it. We would suggest that any such protocol created should cover both the pre-application consultation/advice stage and the consenting process for any submitted applications.



There could also be a protocol for the engagement between marine and terrestrial planning authorities in respect of plan-making, indicating how such engagement would work and at what stage(s) during the plan preparation process it should occur.

Each of these protocols are considered to be as important as each other and preferably should be included within the final version of the circular.

The circular tends to emphasise the dichotomy between land and sea and between terrestrial and marine planning authorities. However, experienced coastal planners on the RTPI's Marine Spatial Planning Task Group have long argued that a simple two-way split for planning purposes is undesirable. The nearshore coastal zone often has to be considered in a different way from more distant offshore waters because it is the area of most intense interaction between land and sea interests and the area where a range of interests are most likely to compete for space. This is why bespoke coastal plans which provide guidance at local level are useful. It would therefore be worth having a chapter which focusses specifically on the coastal zone – why it is particularly important and the various interactions which go on within it.

There is little mention in the circular of coastal planning as a subject in its own right, ie planning which focusses on nearshore waters and the land adjacent. The section on ICZM (Integrated Coastal Zone Management) is very short – just two paragraphs and almost an afterthought. But integrated coastal planning is already established and it is an important activity in some areas, especially those with highly indented, populated coastlines and more sheltered, productive inshore waters. Highland and Argyll & Bute Councils, for example, have both been active in this field for years. International experience is also relevant here and could usefully be mentioned. There is a whole infrastructure for production of such plans in Norway where many coastal plans, prepared locally but with help from central and regional government, are now in their third generation.

Because the terrestrial and marine planning systems overlap in the inter-tidal area, there is sometimes an element of confusion here, for example, as to whether applications for oyster farms should be considered as terrestrial or as marine aquaculture (requiring planning permission and a marine licence). Oyster farming is also moving up to a much larger scale. Some would argue that the boundaries of the two planning systems should be rationalised to remove the need for dual regulatory regimes. The circular should therefore provide more detailed guidance on inter-tidal developments.

**Q3. Do you agree with the suggestions for good practice in paragraphs 30-39, and do you have any other suggestions?**

In general, we agree with the suggestions made for good practice in paragraphs 30-39 but with the provisos mentioned above.

We would also wish to add the following:

Paragraph 32 - Plans should be produced in an 'outcome focused' manner, with key outcomes being agreed early on between terrestrial and marine planning authorities. This will ensure that both authorities are working with the same aims during the plan process.