Agenda Item	5.3
Report No	PLN 004/18

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 23 January 2018

Report Title: 17/02976/FUL: Marine Harvest (Scotland) Ltd

Fish Farm Site in Loch Duich, North of Leachachan, Letterfearn

Report By: Area Planning Manager – North

Purpose/Executive Summary

Description: Marine Fish Farm - Atlantic Salmon: alteration from 12 x 100m circular pens to 12 x 120m circular pens

Ward: 05 - Wester Ross, Strathpeffer and Lochalsh

Development category: Local Development

Reason referred to Committee: Number of objections

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to Grant as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

1.1 The proposal is to replace the existing development, by removing the existing 12 x 100m circular pens and replacing them with 12 x 120m pens, a c.44% increase of equipment area, within a planning boundary that slightly extends the pontoon/feed pipe corridor but retains the existing pen mooring area. No changes to the existing 80 tonne feed barge are requested, but the accompanying Design Statement refers to a 100 tonne feedbarge. The manufacturer's diagram provided does not appear to state the capacity. No changes to the mooring grid buoys are proposed. For clarity, there are no storage/temporary rafts currently permitted on site, nor are any applied for.

1.2 The existing site comprises 12 x 100m circular pens, 80 tonne feedbarge and associated moorings/buoys/pipes. The site is serviced by the adjacent shore-base.

1.3 Pre Application Consultation: Formal pre-application advice (16/02196/PREAPP) provided in June 2016 stated that a proposal for any expansion at this site would not be supported. This view was shared by SNH. In considering the previous application (11/02114/FUL) concerns were raised that further expansion may not be acceptable due to the narrowness of the loch, the impacts on the Kintail National Scenic Area and impacts on nearby residential properties. The report stated that whilst the proposal would affect small sections of reef, SNH advised the overall integrity of the Special Area of Conservation (SAC) feature (see section 8.24) would not be adversely affected.

1.4 Supporting Information: The application was accompanied by an Environmental Statement, which included a Landscape and Visual Impact Assessment (LVIA), benthic modelling and video survey, additional information to assist with the assessment of the designated habitats, species and wider biodiversity impacts, along with technical information and charts outlining the proposal.

1.5 Variations: Following discussions with officers in respect of their serious concerns about sea lice impacts, the applicant has suggested an amendment such that no increase in biomass will take place within the new cages and that they would be willing to accept a planning condition securing this.

2. SITE DESCRIPTION

2.1 The site lies south of Letterfearn on the southwest side of Loch Duich and contains an existing fish farm. The A87 trunk road runs along the opposite shore and is a busy tourist route to Skye. The Letterfearn site can be seen from several locations between Dornie and Inverinate along this route and more prominently from the higher but less used Carr Brae road above it. The site is overviewed at relatively close quarters by a few residential properties along the C1223 that runs along the western shore of the loch.

2.2 The proposal lies within the Kintail National Scenic Area (NSA), designated for its outstanding scenic value in a national context.

2.3 The proposal lies within the Lochs Duich, Long and Alsh marine SAC, designated

for its Marine Reefs, which are currently assessed as 'Unfavourable Declining'.

2.4 The proposal also lies within the Lochs Duich, Long and Alsh Nature Conservation Marine Protected Area (MPA), designated for its Flame Shell Beds and burrowed mud.

2.5 Two other farms are also operated by the applicant in this farm management area – Sron and Ardintoul in Loch Alsh to the west.

3. PLANNING HISTORY

3.1 11/02114/FUL - Marine Fish Farm - Atlantic Salmon - Alteration to Existing Farm at Letterfearn Loch Duich - 6 October 2011

3.2 11/02114/FUL- Enforcement: Section 272 - 16 April 2014: Unauthorised cage: resolved

3.3 16/02578/SCRE - Modification of salmon farm, including installation of feed system and 10 circular pens (Screening request under EIA Regulations 2011) - 22 July 2016

3.4 11/02578/FUL - Enforcement action - May 2016 Unauthorised top-nets: resolved

3.5 16/02580/SCOP - Modification of salmon farm, including installation of feed system and 10 circular pens (Scoping request under EIA Regulations 2011) - 22 July 2016

3.6 17/01002/SCRE - Marine Fish Farm - Atlantic Salmon: alteration from 12 x 100m circular pens to 12 x 120m circular pens and associated feedbarge - 3 April 2017

3.7 17/00354/ENF – Enforcement action – noise complaint – outcome pending

3.8 17/00360/ENF – Enforcement action – noise complaint – outcome pending

4. PUBLIC PARTICIPATION

4.1 Advertised: EIA Development

Date Advertised: 21 July 2017

Representation deadline: 20 Aug 2017

Timeous representations: 6 representations from 6 addresses

Late representations: 2

4.2 Material considerations raised are summarised as follows:

- Pollution: waste products from the proposal and inadequate pollution modelling. (Note the main elements of benthic and chemical waste are controlled by SEPA/MSS, but impacts still considered for Habitats Regulations Appraisal (HRA) and biodiversity purposes.)
- Noise: Potential for increased noise levels from servicing the proposal, including cumulative impacts with nearby fish farms. (Existing noise levels

an issue.)

- Landscape: impacts on the landscape: particularly the feed barge
- Biodiversity: the impacts on wild salmonids due to sea lice and escapes; impacts on the seabed, marine pollution, including chemical inputs (see note in first bullet); disturbance to cetaceans and seals from Acoustic Deterrent Devices;
- Tourism/Amenity impacts: perceived negative impacts on the tourist industry, including impacts on wildlife watching.
- Cumulative impacts: there are a number of existing fish farms close to the proposal therefore the cumulative impacts on all of the above need to be considered.

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

5.1 Landscape Officer: No response

5.2 Marine Scotland Science: No objection: as SEPA have not completed a full assessment of any potential (benthic) impacts, MSS defer to SEPA for the final decision on biomass. MSS note ongoing difficulties the operator has had in effectively controlling sea lice at this and nearby sites and requested evidence of how the operator would address the issue.

5.3 Scottish Natural Heritage: no objection – impacts on SAC or MPA not considered significant.

5.4 Wester Ross Fisheries Trust: no response: left to area board to respond as out of trust area

5.5 SEPA: No objection. They advised that the HRA (Habitats Regulations Appraisal) assessment is not yet complete; nor is the Controlled Activities Regulation (CAR) licence.

5.6 Historic Environment Scotland: no objection

5.7 Northern Lighthouse Board: no objection – provided information on navigational lighting requirements

5.8 Crown Estates Commission: no response

5.9 Scottish Water: No objection

5.10 Transport Scotland: No objection

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

28 - Sustainable Design
29 - Design Quality & Place-making
49 - Coastal Development
50 - Aquaculture
57 - Natural, Built & Cultural Heritage

58 - Protected Species
59 - Other important Species
61 - Landscape
63 - Water Environment

6.2 **West Highland and Islands Local Plan (2012) (as continued in force)**

No specific policies apply

6.3 **Westplan: proposed plan (2017)**

7. OTHER MATERIAL CONSIDERATIONS

7.1 **Highland Council Supplementary Planning Policy Guidance**

Highland Historic Environment Strategy (Jan 2013)
Special Landscape Area Citations (June 2011)

7.2 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy (The Scottish Government, June 2014)

7.3 **Other**

National Marine Plan (2015): The principle of sustainable development and consideration of other coastal and marine interests is one of the key themes of the National Marine Plan. In the context of the Loch Duich application there is an element of tension between the plan's objective of supporting the general expansion of finfish farming and its objective of protecting the natural environment, including wild salmon.

Highland Coastal Development Strategy (2010): The strategy identifies the coast around Loch Duich as 'undeveloped'. The undeveloped coast should generally be considered for development only where:

- The proposal can be expected to yield social and economic benefits sufficient to outweigh any potentially detrimental impact on the coastal environment and;
- There are no feasible alternative sites within existing settlements or on previously developed land [in planning terms this includes marine fish farm sites].

Highland Aquaculture Planning Guidance (2016): whilst all of this document is relevant, Development Criteria 1 (DC1:Landscape, Seascape, Siting and Design) & 3 (DC3: Biodiversity) are particularly important.

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

8.3 The key considerations in this case are:

a) compliance with the development plan and other planning policy

b) significance of the level of change from the existing development

Development plan/other planning policy

8.4 Policy 50 (Aquaculture) within the Highland-wide Local Development Plan (HwLDP) states that the Council will support the sustainable development of finfish and shellfish farming subject to there being no significant adverse effect, directly, indirectly or cumulatively on the natural, built and cultural heritage and existing activity. As discussed in the report below, the original proposal would have had an unacceptable impact on natural heritage due to the existing sea lice problem, which the proposal could exacerbate. The original proposal would therefore not have complied with this policy or Development Criteria 3 (DC3: Biodiversity) of the Aquaculture Planning Guidance.

8.5 Policy 28 (Sustainable Design) includes, among other things, the requirement to assess proposals on the extent to which they have an impact on:

- individual and community residential amenity;
- including pollution and discharges, particularly within designated areas, species, marine systems and landscape.

As the proposal lies within the:

- Lochs Duich, Long and Alsh Special Area of Conservation;
- Lochs Duich, Long and Alsh Marine Protected Area and the;
- Kintail National Scenic Area;

careful consideration is required of the likely impacts.

8.6 Policy 57 (Natural, Built and Cultural Heritage) requires all development proposals to be assessed taking into account features of:

- **local/regional importance**: there are a number of amenity and cultural heritages resources in the vicinity of the proposal;
- **national importance**: Lochs Duich, Long and Alsh Marine Protected Area and protected species; we will allow developments that can be shown not to compromise the natural environment, amenity and heritage resources;
- **international importance**: the proposal lies within the Lochs Duich, Long and Alsh Special Area of Conservation. For features of international importance, developments likely to have a significant effect on a site, either alone or in

combination with other plans or projects, and which are not directly connected with or necessary to the management of the site for nature conservation will be subject to appropriate assessment (see appendix 2).

SNH are satisfied that the impact of the original proposal would not have an unacceptable impact in respect of the above matters.

8.7 Policy 58 (Protected Species) states, among other things, that development that is likely to have an adverse effect, individually and/or cumulatively, on European Protected Species, will only be permitted where:

- there is no satisfactory alternative;
- The development is required for preserving public health or public safety…;
- The development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in the natural range.

It also states, among other things, that development that is likely to have an adverse effect, individually and/or cumulatively, on other protected animals and plants, will only be permitted where the development is required for preserving public health or public safety. This therefore includes the freshwater stage of wild Atlantic Salmon, which are listed on Appendix III of the Bern Convention and Annex II and V of the EC Habitats & Species Directive. MSS and the Wester Ross Area Salmon Fishery Board (WRASFB) outline the existing sea lice problems with this and adjacent sites, therefore, in terms of the original proposal, the cumulative impacts of the proposal upon wild Atlantic salmon were deemed unacceptable with regard to this policy, as discussed in sections 8.32 - 8.54 below.

8.8 Policy 59 (Other Important Species): this policy requires the council to have regard to the presence of, and any adverse effect of development proposals, either individually and/or cumulatively, on the Other Important Species if these are not already protected by other legislation or by nature conservation site designations. Thus, as the multi-sea-winter component of the Atlantic salmon population is included in the UK Biodiversity Action Plan Priority Species List, and this species is also a Priority Marine Feature, for the reasons outline above, the original proposal was not acceptable with regard to this policy either.

8.9 Policy 61(Landscape) states, among other things, that the council would wish to encourage those undertaking development to include measures to enhance the landscape characteristics of the area. This will apply particularly where the condition of the landscape characteristics has deteriorated to such an extent that there has been a loss of landscape quality or distinctive sense of place. The proposal lies within the Kintail National Scenic area, as discussed below. Given the degree of change from the existing fish farm, the original and amended proposals are acceptable with regard to this policy.

8.10 **Planning Appraisal**

Landscape Impact

8.11 The proposal entails replacing the existing 12 x 100m circular pens and replacing them with 12 x 120m pens. This represents a 44% increase of equipment area.

This 44% expansion follows on from a number of previous expansions of the site. The previous application (11/02114/FUL) noted that further expansion might not be acceptable due to the narrowness of the loch, the impacts on the Kintail National Scenic Area (NSA) and impacts on nearby residential properties.

8.12 Given the site lies within the NSA, which is designated for, among other things, its renowned mountain ranges and inland coast and that the proposal would be visible from key tourist routes to Eilean Donan castle and Skye, the impacts of the change proposed, including cumulative impacts, have to be carefully considered.

8.13 The magnitude of change from a 100m circumference cage to a 120m circumference cage may not at first appear to be significant, but actually represents a substantial 44% increase in cage size. As this is multiplied across the 12 cages i.e. an extra 4,200m^2 of equipment, this represents a significant potential change to the impacts on the NSA, especially given the narrow confines of the loch and the numerous receptors.

8.14 Disappointingly, the visualizations provided are based on photographs taken early in the year, in poor quality light conditions, with snow on the hills. As the proposal is on water, the additional reflection of light is magnified, resulting in a poor representation of the likely visual impacts of the new cages. This is particularly evident from the high vantage point shown in the Carr Brae photomontages (viewpoint 8: figure 15b), where the shadowing effect of the light conditions masks the development. Carr Brae, along with views along the A87, are key tourist view-points, which most visitors are likely to explore in the summer months i.e. in generally clearer conditions.

8.15 Viewpoint 5 (figures 12a-e) from Leachachan shows the cages, and particularly the feedbarge, are prominent features of the landscape. This is however somewhat offset by the dark, matt colours of the equipment therefore the degree of change visible compared to the existing fish farm is not significant, especially given there is no change in feedbarge proposed.

8.16 The visualizations do indicate the cages could also be absorbed to some degree into background when viewed from the A87 (viewpoint 3, figures 10a-e), given the dark, matt colours of the equipment. As the same layout has been retained, the magnitude of change does not appear to be unacceptably significant . SNH advise that the increase in the density of the cages within the mooring matrix at Carr Brae may be noticeable but is unlikely to be significant. A condition requiring only dark materials, other than for safety equipment, is recommended.

8.17 The application notes that there may be “possible use of underwater lighting”; it is not currently used on this site. An assessment of the impact of any changes to lighting was requested by the planning authority at the previous scoping stage to be considered as part of the LVIA, but this has not been done. Section 3.1 of the ES also mentions underwater lighting but no assessment of the impacts are made. (Underwater lighting, used in the fish maturation process, was not an aspect of the previous permission.) The impacts of such underwater lighting, given the narrowness of the loch, the proximity of neighbouring properties and the NSA status, would therefore add another alteration. Given the prominence of the existing cages and the temporary nature of the use of the underwater lights

however, these impacts, whilst not ideal, are insufficient to have a significant effect on the NSA. A condition to control the design and use of underwater lights is recommended.

8.18 Whilst four of the third party comments did not focus on landscape impacts, one objector did not approve of the visual impacts of the existing feedbarge, which will not change. They also objected to the noise of the feedbarge. The increase in biomass may lead to prolonged use of the feedbarge but potential improvements in noise management should improve the situation (see section 8.58 for further noise information).

8.19 SNH agrees with the overall conclusions of the LVIA and as the layout remains the same, the change would be noticeable but there would not be any significant effects on the landscape character or seascape. SNH advise therefore that the proposal will not have an adverse effect on the integrity of the NSA or the qualities for which is has been designated.

8.20 As the cages would sit within a very similar planning boundary and in the same cage configuration, the perceived level of change from the existing site is unlikely to appear to be significantly different, therefore the proposal is deemed to be acceptable in terms of landscape impacts and thus comply with Policy 61 and Development Criteria 1 of the Aquaculture Planning Guidance.

Biodiversity

8.21 For clarity, some impacts on biodiversity relating to the fish in the cages are considered by SEPA and MSS in relation to the benthic impacts due to fish faeces and the chemicals used to try and control sea lice (see sections 8.31 and 8.38).

Marine Scotland also issue marine licences covering:

- navigation issues and deposits in the marine environment, including discharges from well boats;
- consents for an Aquaculture Production Authorisation;
- European Protected Species (EPS) licences (where an EPS may be disturbed by the activity/proposal) and
- licences to shoot seals.

SNH provide advice on most aspects of biodiversity but do not comment on sea lice impacts on wild salmonids; this is left to MSS. Whilst all these agencies have a biodiversity duty, it is left to the planning authority to determine the likely impacts of sea lice on wild salmonids, as discussed below in sections 8.32 - 8.57, along with any impacts on designated sites and other protected species, as discussed below.

8.22 The five key biodiversity considerations are:

1. likely impacts on the Lochs Duich, Long and Alsh Special Area of Conservation (SAC);

2. likely impacts on the Lochs Duich, Long and Alsh Marine Protected Area (MPA);

3. likely impacts on European Protected Species and Priority Marine Features;

4. likely impacts on the seabed and water quality;

5. likely impacts on wild salmonids due to sea lice.

The impacts on each aspect are considered below; the Appropriate Assessment for the SAC is in Appendix 2.

8.23 Lochs Duich, Long and Alsh SAC: The current status of the reefs, which are largely made up of the reef-forming species *Limaria hians* (Flame Shell), has been assessed by SNH as 'Unfavourable Declining'. The conservation objectives for the habitat, state that, among other things, the processes supporting the habitat, along with the extent of the habitat, must be maintained in the long term and that there is no significant disturbance of typical species of the habitat.

8.24 As noted in section 1.3, the previous application report noted that whilst the proposal would affect small sections of reef, the overall integrity of the SAC feature would not be adversely affected. The originally proposed 18% increase of biomass would correspondingly significantly increase the amount of debris and chemical input to the environment. Whilst some aspects of these impacts are considered by SEPA, MSS and SNH, given permanent planning permission is sought, the long term compound impact on the SAC must be carefully considered in accordance with the Habitats Regulations assessment required to be undertaken by the planning authority.

8.25 Lochs Duich, Long and Alsh MPA: designated for its Flame Shell Beds and Burrowed Mud. This Nature Conservation MPA was designated in 2014 to protect Scotland's largest Flame Shell bed and its Burrowed Mud habitat. This designation, therefore, is an additional consideration since the last increase at the Duich fish farm site.

8.26 Flame shell (*Limaria hians*) beds are very rare habitats, so require any degradation of this area be avoided. As noted by SNH's report in 2014, they are a scare feature in the UK and so the Scottish beds are of national importance. The beds also act as a refuge for juvenile fish, therefore support other fisheries, as well as being a refuge for hundreds of other species.

8.27 Whilst the Burrowed Mud component of the MPA may at first appear to be widely spread, the habitat in turn supports a number of Priority Marine Features (PMFs) found in the MPA. These include the Tall Sea Pen (*Funiculina quadrangularis*) and the Fireworks Anemone (*Pachycerianthus multiplicatus*). SNH guidance notes that marine fish farms sites within sea lochs may have direct effects on the habitat due to smothering, nutrient enrichment and chemical pollution, but the scale of the threat is considered to be low. However at this site, given the proximity and nature of the increase, the impacts on the PMFs need careful consideration, as also highlighted by various consultees and representations.

8.28 The potential for waste such as fish faeces to build up and then slide down the slope to the deeper sections of the loch, where the largest extent of burrowed mud habitat and the highest densities of *Pachycerianthus* occur, has been considered by the applicant. As such, they undertook a transect survey in May 2017 which extends out from the proposed boundary to the middle of the loch, covering the drop-off section where the depth contour falls away to over 100m depth.

8.29 In its MPA assessment, SNH noted that the originally proposed development is not capable of affecting the flame shell bed feature but is capable of affecting the burrowed mud feature and there is sufficient uncertainty to consider these changes to be significant, therefore further assessment was required. After assessing various modelling data, they note that there is some evidence to suggest that major effects on *Pachycerianthus* abundance and distribution are unlikely, but it is not possible to draw useful conclusions about how the farm has affected *Funiculina* [and how it would affect it, if the original proposal was granted].

8.30 SNH however conclude its MPA assessment stating it is unlikely that the structure and function of the site will be significantly hindered by the alterations to the existing fish farm. However, cumulative impacts in future from further expansion would be a concern. Overall, there is no significant risk of hindering the conservation objectives of the MPA site therefore is acceptable with regard to this aspect. Obviously, these conclusions hold in respect of the amended scheme with no biomass increase.

8.31 Biomass/benthic /water column impacts: It is assumed that the current Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as Amended) (CAR) license will cover the new pens given that biomass will remain unchanged at 2125 tonnes. The main impacts of biomass are assessed by SEPA in relation to benthic impacts and water quality; however, further information on biomass impacts are discussed below in relation to associated sea lice impacts. The discussion below explains in detail why an increase in biomass is considered unacceptable for this site at the current time and therefore, why the applicant's decision to amend the proposal to no increase in biomass is so significant in determining that the application be recommended for approval rather than refusal.

8.32 The discussion below outlines:

1. Why sea lice are a problem for aquaculture and wild salmonids (section 8.33 – 8.34)

2. Potential sea lice mitigation (section 8.35)

3. Protection status of wild salmonids (section 8.36)

4. The ongoing sea lice problems at the proposed site, including cumulative problems with nearby fish farms, and potential impacts on wild salmonid river populations from the proposed increase of the fish farm (sections 8.37- 8.51)

5. Why the mitigation suggested, including the use of an Environmental Management Plan or similar, would not be sufficient to allow the proposal to proceed (sections 8.52 – 8.54).

6. Why the amendment to no biomass increase successfully addresses these concerns (sections 8.55 – 8.57).

8.33 **Sea lice:** The key sea louse species of concern is *Lepeophtheirus salmonis*. These are parasites found in the wild, which can infect farmed salmon. They feed on the fish mucus and flesh. Given the high numbers of fish in fin fish cages, the population of the lice can rapidly increase and affect both the farmed fish and infect/re-infect the wild population. In addition, numerous studies have shown that sea lice in the receiving environment tend to be higher during second years of

production of a fish farm (see sections 8.40 and 8.44) and therefore pose a greater risk to wild salmonids at that time. For clarity, marine fish farms tend to operate on two year production cycles, then all remaining fish are harvested out and the site is left fallow for several weeks or months prior to re-stocking. Once re-stocked, the lice levels are generally low for at least the first few months, then if there is a sea lice issue in the area, the numbers can build up as the farmed fish grow bigger. The extra volumes of fish proposed for this application (data on actual numbers are not available), in combination with nearby fish farms, can therefore act as additional hosts for sea lice.

8.34 Sea lice data in relation to fish farms are published by the Scottish Salmon Producers Organisation (SSPO). These are not site-specific data but are based on Farm Management Areas (FMA), which are located within named regions. These areas adopt similar farming practices such as stocking the same year class of fish and synchronised fallowing of farms at the end of a production cycle. The current proposal lies within the Loch Long and Croe reporting region and as the only FMA within this region, is required to produce a Farm Management Statement. The other two farms in this FMA are Ardintoul and Sron, both within Loch Alsh; all three are operated by the applicant, Marine Harvest Scotland. Marine Harvest (MH) has started to publish site-specific sea lice data but these are only available from January 2017 and are not directly comparable to the SSPO data as it reports different information i.e. SSPO report on average adult female lice but MH only report average gravid (fertile) females. The SSPO data therefore is more useful as any of the females may have the potential to become/or have been gravid, whilst the MH data only reports those that are currently gravid. In addition information from MSS, as discussed below, highlights site-specific sea lice issues for the Loch Duich fish farm, as well as the other two sites, Sron and Ardintoul; thus the cumulative impacts are also taken into consideration.

8.35 **Proposed sea lice mitigation**: Information supplied by the applicant of methods to manage sea lice impacts includes:

a) Good husbandry practices: fallow periods; single year class stocking/production areas; lice counts; communications between companies; coordinated treatments between neighbouring farms; national treatment strategy; regional health managers; site-specific veterinary health plan.

b) Biological control: use of cleaner fish

c) Mechanical/Thermic Control: Hydrolicers and Thermolicers

d) Freshwater treatments

e) Medicinal control

f) Hydrogen peroxide

It is unclear if all current potential methods of sea lice treatment would be readily available for use on this site. MH noted that it was reviewing the lice management strategy and a full report was due to be completed and submitted as a follow up to this application but has not been received. The methods outlined appear to be very similar to those already applied at this and nearby sites; yet these methods clearly do not appear be suitably effective to date as discussed in sections 8.37-8.40, 8.43-8.49).

8.36 **Wild salmonids:** i.e. salmon and trout, are protected species. Among other designations, the Atlantic salmon is listed on Appendix III of the Bern Convention and Annex II and V of the EC Habitats & Species Directive and are listed on Schedule 3 of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) whilst in freshwater. The multi-sea-winter component of the Atlantic salmon population is included in the UK Biodiversity Action Plan Priority Species List. This species is also a Priority Marine Feature. Trout (*Salmo trutta*) are on the UK Biodiversity Action Plan Priority Species List and received some protection within the fisheries acts relating to the protection of 'salmon'. The Council also has a Biodiversity Duty under the Conservation of Nature (Scotland) Act 2004 to protect them. In addition, due to the decline of salmonids, the Conservation of Salmon (Scotland) Regulations 2016 aim to protect the killing of wild salmon in coastal waters and many rivers. The Wester Ross Area Salmon Fishery Board (WRASFB) have advised that within the wider area of the proposal, all salmon rivers have reverted back to category 3 rivers i.e. no killing of wild salmon. Clearly therefore, any impacts of the proposal on these species must be considered.

8.37 **Sea lice problems:** Marine Scotland Science (MSS) note in its response that there have been ongoing difficulties in sea lice management on this site, along with nearby sites in the same Farm Management Area, in recent production cycles. As highlighted by the WRASFB's response, in the absence of a District Salmon Fishery Board (a statutory consultee) in this area, the duties and responsibilities of a District Salmon Fishery Board (i.e. the protection of wild fish) fall to Scottish Ministers acting on advice from Marine Scotland. Thus, MSS, as part of Marine Scotland, are acting as the statutory consultee for wild fish interests. To support this, the Scottish Government publish data on wild fish catches.

8.38 Whilst MSS are not objecting (and do not object to any marine fish farm application; they state they only provide advice), they give a strong indication in the information they supplied that the sea lice implications are unacceptable for the original proposal, as discussed below. This view is supported by the WRASFB, the statutory consultee for wild salmonid interests in the adjacent fishery board area. For clarity, SNH have an agreement with MSS that the former will not comment on sealice/wild salmonid issues; it leaves that to MSS. Hence, there is no formal comment from SNH on this issue. Similarly, SEPA only provides information within its remit of assessing specific impacts, but also does not appear to provide comment on wider wild salmonid impacts under their wider biodiversity duty.

8.39 MSS advise that due to cumulative risk factors, based on wild salmonid catch trends, the originally proposed development has the potential to impact negatively on the fisheries associated with the Rivers Croe, Shiel, Elchaig and Ling. Whilst there are no river SACs designated for salmon in the immediate area, the various other protections offered to salmon (and trout) (see section 8.36) highlight that the risk to these fish clearly needs to be assessed. The WRASFB also notes the close proximity of the proposal to a number of wild salmon and trout rivers. These include the Rivers Croe and Shiel, which lie within 5km of the fish farm. The mouth of Loch Long, into which the rivers Ling and Elchaig enter, is located within 6km of the proposal. In addition, salmon smolts from rivers to the south of the area, including from the rivers Glen More, Glen Beag and Arnisdale, are also likely to pass through this farm salmon production area. The migratory routes for these

salmon, as well as potentially salmon from other areas e.g. River Carron, could take them past the site, as well as the other two fish farm sites in the area. As viable planktonic lice can disperse up to 25-30 km (see section 8.45), they clearly have the potential to infect wild salmonids in the proximity of these rivers.

8.40 Given the potential concentration of sea lice emanating from the fish farm, along with nearby fish farms, (see sections 8.43 – 8.45 below) and existing sea lice problems (see sections 8.46 – 8.51), the subsequent potential for infection of wild salmonids is high. Data provided by MSS and the WRASFB shows a trend towards lower catches of wild fish from a number of nearby rivers that appears to correspond with the second year of fish farm production within this area; this concurs with various published scientific data for the industry generally. Thus, as advised by the WRASFB, given the high biomass of farmed salmon already held within this area, even at close to CoGP levels (see sections 8.41 – 8.45), the emissions of larval sea lice from these salmon farms are likely to be too high to safeguard migrating juvenile salmon and sea trout within the area, given additional biomass was originally proposed, as discussed below.

8.41 The industry's Code of Good Practice (CoGP) states that average levels of 0.5 adult female lice per fish between February and June and 1.0 adult female lice per fish between July and January should be sought. Operating within these guidelines could release around 1.08 million adult female sea lice into the receiving environment per annum for an average sized farm (i.e. 1.5 adult female lice per fish per annum x 60,000 fish per cage x 12 cages). These are quantities of sea lice that would not be in the water body if it were not for the fish farm.

8.42 Note that MSS state that adherence to the suggested criteria for treatment of sea lice stipulated in the industry CoGP may not necessarily prevent release of substantial numbers of sea lice from aquaculture installations, as evidenced above.

8.43 The key issue of concern with the original proposal therefore is the current inability to control sea lice at this and adjacent fish farms and a proposal that would only to add to the problem. As such, there have been a number of epizootic (sudden, temporary disease outbreaks affecting a large number of animals) sea lice outbreaks in the farmed fish on this site, as discussed below.

8.44 Since 2014, average sea lice levels for the Farm Management Area i.e. the Duich, Sron and Ardintoul farms, have been repeatedly well over the CoGP levels, despite numerous treatments. In late 2015/early 2016 following re-stocking in early 2015, sea lice levels were 3.48 – 10.46 times over. Fish were harvested out in October 2016, following levels between 2.75 – 5.22 times over CoGP levels in August and September, prior to re-stocking again in November 2016. As outlined in sections 8.33 and 8.40, it would be expected that levels would be relatively low following initial stocking in the first year of production and if there were any sea lice problems, they would be more likely emerge in the second year. For 2017, data are only available up to June; as expected, lice levels were below CoGP levels as the sites were restocked in late 2016. Given the previous trends, and that permanent planning permission is sought, there is insufficient trend evidence to suggest that lice levels can be suitably managed to protect wild salmonid stocks, as discussed below.

8.45 MSS stated that a Loch Duich site inspection in November 2014 reported 3,500 mortalities attributed to sea lice were recorded over a nine month period. They also stated that treatments had not had a significant impact on lice numbers and fish displaying damage from sea lice were also observed in the pens; accelerated harvests had been instigated to manage sea lice.

8.46 During Fish Health Inspectorate (part of Marine Scotland) visits to the nearby Sron site in April 2016, they reported that sea lice numbers had been above the suggested criteria for treatment since November 2015, and subsequent chemotheraputant treatments had not had a significant impact on lice numbers. Subsequent hydrolicer treatments in December 2015 and February 2016 still resulted in 30-50% retention of gravid female lice. This highlights that this method does not appear to be capable of reducing adult female sea lice numbers down to CoGP levels, despite it being used in conjunction with other available methods.

8.47 In the last production cycle, sea lice levels in the FMA were still consistently over the CoGP levels for 12 months between Oct 2015 – Sept 2016. This suggests, despite the numerous treatments (22 in 12 months) and other treatment options available e.g. cleaner fish, sequential treatments proved to be insufficient to reduce numbers back to CoGP levels; the fish were eventually harvested out. During this time, lice levels reached a peak of over 11.6 times over the recommended levels, averaging 6.6 (rounded to 1 decimal place) from Nov 2015 – Sept 2016, when fish were likely harvested out.

8.48 Since then, despite numerous treatments both on the site and within the wider Farm Management Area i.e. Sron and Ardintoul, lice levels have continued to rise above CoGP levels. This highlights, despite using a variety of treatments, they have been ineffective on repeated occasions. Given the enclosed nature of Loch Duich and the cumulative impacts with the Sron and Ardintoul sites, along with the ability for planktonic sea lice to be transported up to c. 30km, this is leading to a large concentration of sea lice that any migratory wild salmonids may have to navigate past. The evidence discussed above therefore clearly shows that the authority's concerns for the probability of infecting wild salmonids are justified; the original proposal would only add to the problem.

8.49 At the previous scoping stage, MSS requested the operator to provide evidence in any subsequent planning application for this site of the current ability to control sea lice numbers on site, which would be useful for assessing the risk associated with the proposed modified site. This included information on any failures to control sea lice to be described. Again, in its response to the application MSS also noted that specific information of any documented review that was undertaken following the previous production cycle; unfortunately none of this information have been provided by the applicant. MSS also requested details of the scheduled plan for using the different available treatments/interventions but again, this was also not provided. Whilst there has been a failure to provide some information, there is sufficient evidence, as discussed in sections 8.35-8.57, to reach a robust decision about the likely impacts of the original proposal in relation to council policy. Any new information regarding an assessment of the previous failures, as requested by MSS, would not alter the fact of the historic and ongoing sea lice problems. The solutions proposed in mitigation for the original proposal (see section 8.35) are

available now, yet sufficient evidence of their efficacy has not been given, as discussed in sections 8.47 – 8.52.

8.50 A sea lice efficacy statement, which should include the maximum biomass that can be treated with in-feeds and the time take **to practically administer and complete** [MSS emphasis] bath treatments to all cages at maximum biomass without breaching EQS was also requested at the previous scoping stage. MSS advise in its response to information received that the method of administration for bath treatments of sea lice chemotheraputants is deemed satisfactory as far as can reasonably be foreseen. WRASFB note that despite this, MSS clearly document failures to control sea lice at the Loch Duich salmon farm in 2014, 2015 and 2016 despite the use of the full suite of sea lice treatments available. They also note that in each case an "early harvest" was needed because of the sea lice problem. Thus, although the practicalities of chemical treatments may be met, their sufficient effectiveness is lacking. Despite other methods available, as discussed in sections 8.35 and 8.53, in conjunction with chemical treatments, sea lice numbers are still repeatedly rising to unacceptable levels, placing undo risk on wild salmonids.

8.51 MSS state that whilst it is not possible to accurately predict the future lice levels on a farm, the performance of existing farms within the area could act as a guide for future performance. Clearly, given the repeated failures of all three sites in the area strongly suggests the original proposal would only add to the problem.

8.52 **EMPs and their limitations**: In the absence of any clear regulatory control from other agencies to manage the impacts of sea lice from fish farms on wild salmonids (see section 8.21), it currently falls to the planning authority to help mitigate sea lice issues. This was acknowledged by the DPEA reporter (case ref: PPA-270-2146: Nov 2016) when she noted that "some repetition between the relevant regulatory regimes is necessary" in relation to a Highland fish farm case where sea lice impacts were a key issue. In order to try and help address this issue, Environmental Management Plans have been secured by planning condition relatively recently by the DPEA and subsequently by the planning authority. These EMPs, whilst not a full solution, do provide a mechanism by which the planning authority can potentially help control severe impacts on biodiversity, including wild fish health, in accordance with the policies outlined in sections 6 and 7. The EMPs aim to provide greater detail on the method for monitoring and controlling the sea lice in the cages to act as a 'proxy' for the impacts the lice may have on the wild salmonids. If farm sea lice levels cannot be successfully controlled, the operator is likely to be in breach of the EMP condition and the EMP states a requirement to 'stop the job'. It is acknowledged, that even if this were to happen, the environmentally harmful impact of sea lice on wild salmonids would already likely have already occurred by that point.

8.53 In the case of the original proposal, the mitigation offered by an EMP would not therefore be sufficient, as it would appear that despite all the current methods available (including some relatively new methods), sea lice numbers are still consistently well above CoGP levels (see sections 8.45-8.48) and wild fisheries are declining (see sections 8.36, 8.39 – 8.40). The original proposal would only add to the problem through increased biomass. The applicant has not provided sufficient assessment of previous issues (requested by MSS) and assurances that any new methods of treatment not currently available to the existing sites could be used

successfully on this and the adjacent sites. As an EMP would not be sufficient to resolve the problem, the only option available to appropriately protect wild salmonids from an unacceptable level of harm was to refuse the original proposal.

8.54 Thus, despite the use of numerous long established existing and relatively novel methods of sea lice management and treatments, there remain insufficient assurances that sea lice can be sufficiently managed at a level that can protect wild salmonids and wider biodiversity at this site. The original proposal therefore does not comply with Policies 28, 50, 57, 58 and 59; nor does it comply with Development Criteria 3 of the Highland Council Aquaculture Planning Guidance or the Council's Biodiversity Duty under the Conservation of Nature (Scotland) Act 2004.

8.55 **Amended Proposal:** The applicant has accepted this argument but, by way of a compromise position, has amended the proposal to one in which although the new larger cages are installed, the biomass within them will be limited to current levels – this can be secured by condition. In this situation, although the authority has concerns about the biodiversity impact of the current biomass (as discussed above) it must also recognise that this amended scheme will have no worse an impact than the currently consented activities. The amended proposal can therefore be supported.

8.56 Operating at current biomass levels but within larger cages will reduce the density of fish in the cages and this may have a positive sea-lice control impact. More importantly, this approach will also give the applicant the opportunity to collect data to show that they are now in control of sea-lice numbers and that new control techniques using freshwater and modern well-boat fish handling equipment represent a real improvement over previous methods.

8.57 In this regard, it is recommended that a condition requiring the submission of an EMP for the site is still imposed despite the biomass amendment. The EMP will allow the authority to be better informed and more involved in improving the performance of the current site and this will allow the authority to more explicitly discharge its biodiversity duty and provide evidence that it is doing so if required. Assuming improvements are achieved, the EMP will then also provide the evidence base to justify any biomass increase in the future.

Other material considerations

8.58 Noise: Whilst an assessment of the impact of any changes to noise levels was requested by the planning authority at the scoping stage for the previous configuration (17/02580/SCOP) to be considered as part of the LVIA, this has also not been taken forward; no scoping opinion was requested by the applicant for the current configuration. The outstanding noise complaints (17/00354/ENF and 17/00360/ENF) are being dealt with by the enforcement team. However, given the amended limit to current biomass levels a significant increase in noise levels is not expected. A condition is recommended to ensure that noise levels at nearby receptors fall within accepted limits as recommended by Environmental Health.

8.59 Tourism/amenity: some objectors were concerned regarding the potential impact on tourism, including wildlife watching, and amenity issues. As the proposal would

be within the existing planning boundary, there would be no discernible change to any existing tourism/amenity impacts compared to the site at is currently operates.

8.60 Economic impacts: The site as it operates currently is a viable site. Therefore whilst this current amended proposal does not permit biomass expansion, it can continue to operate in its current form, which is similar to many existing fish farming sites in Highland. With the ongoing improvements in sea lice management, this will help ensure the impacts on biodiversity are not increased, and in relation to sea lice impacts, will hopefully be further reduced over time.

Non-material considerations

8.61 One objector appeared to be basing their objection in relation to the existing Sconser fish farm at Balmeanach Bay, Skye. Given the separation distance, it is unlikely there would be any significant interaction between the two sites. The other main non material considerations were:

- Request for moratorium on new fin fish farms.
- Ownership of fish farms
- Request for closed-containment fish farming
- Request for aquaculture reform
- Request for alterations to planning consultation process
- Private agreement regarding positioning of the cages.

Matters to be secured by Section 75 Agreement

8.62 None

9. CONCLUSION

9.1 Although the original proposal was not considered acceptable because it was considered likely to exacerbate existing sea-lice control problems and biodiversity impacts in the area, the amended scheme addresses these concerns in respect of being no worse than the currently consented activities.

9.2 All relevant matters have been taken into account when appraising this application. It is considered that the amended proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

10.1 Resource: Not applicable

10.2 Legal: Not applicable

10.3 Community (Equality, Poverty and Rural): Not applicable

10.4 Climate Change/Carbon Clever: Not applicable

10.5 Risk: Not applicable

10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued N

Subject to the above, it is recommended that planning permission be **Granted,** subject to the following:

Conditions and Reasons

1. All surface equipment, with the exception of navigational markers, shall be finished in a dark, matt neutral colour unless alternative finishes are agreed in advance in writing with the Planning Authority. Pipes between the automated feed barge and the cages shall be neatly bundled to minimise clutter.

   Reason: To minimise the visual impact of the installation and to help safeguard the integrity of The Kintail National Scenic Area.

2. All lighting above the water surface and not required for safe navigation purposes should be directed downwards by shielding. It should be extinguished when not required for the purpose for which it has been installed. If lighting is required for security purposes, infra-red lights and cameras should be used.

   Reason: To minimise the visual impact of the installation; to ensure that lights left on in the daytime do not draw the eye towards the site and at night do not present unnecessary sources of light pollution.

3. No underwater lighting shall be installed until and unless full details of such equipment have been submitted to and approved in writing by the planning authority. Such details shall include information to illustrate the visual impact of the proposed equipment when operating. The equipment shall be installed and maintained in the approved form thereafter.

   Reason: To minimise the visual impact of the installation to safeguard the integrity of The Kintail National Scenic Area.

4. Prior to the commencement of development and notwithstanding the information submitted with this application, an Environmental Management Plan (EMP), or similar document, will be submitted to and approved in writing by the Planning Authority and should include adequate details to address how compliance can be assessed. This should also detail triggers/thresholds and associated actions in order to secure that any risk to local wild fish

populations is minimised. Upon commencement the development and ongoing operation of the site must be carried out in accordance with the EMP as approved.

The EMP shall be prepared as a single, stand alone document, which shall include the following:

(1). Sea Lice Management in relation to impact on wild fish

a) A method statement for the regular monitoring of local wild fish populations based on available information and/or best practice approaches to sampling;

b) details of site specific operational practices that will be carried out following the stocking of the site in order to manage sea lice and minimise the risks to the local wild fish population;

c) details of site specific operational practices that will be carried out in order to manage the incidence of sea lice being shed to the wider environment through routine farming operations such as mort removal, harvesting, grading, sea lice bath treatments and well boat operations;

d) details of the specification and methodology of a programme for the monitoring, recording, and auditing of sea lice numbers on the farmed fish;

e) details of the person or persons responsible for all monitoring activities;

f) an undertaking to provide site specific summary trends from the above monitoring to the Planning Authority on a specified, regular basis;

g) details of the form in which such summary data will be provided;

h) details of how and where raw data obtained from such monitoring will be retained by whom and for how long, and in what form;

i) an undertaking to provide such raw data to the Planning Authority on request and to meet with the planning authority at agreed intervals to discuss the data and monitoring results;

j) details of the site specific trigger levels for treatment with sea lice medicines. This shall include a specific threshold at which it will be considered necessary to treat on-farm lice during sensitive periods for wild fish;

k) details of the site specific criteria that need to be met in order for the treatment to be considered successful;

l) details of who will be notified in the event that treatment is not successful;

m) details of what action will be taken during a production cycle in the event that a specified number of sea lice treatments are not successful;

n) details of what action will be taken during the next and subsequent

production cycles in the event that sea lice treatment is not successful.

(2). Escape Management to minimise interaction with wild fish

a) details of how escapes will be managed during each production cycle;

b) details of the counting technology or counting method used for calculating stocking and harvest numbers;

c) details of how unexplained losses or escapes of farmed salmon will be notified to the Planning Authority;

d) details of an escape prevention plan. This shall include:

• net strength testing;

• details of net mesh size;

• net traceability;

• system robustness;

• predator management; and

• record-keeping methodologies for reporting of risk events. Risk events may include but are not limited to holes, infrastructure issues, handling errors and follow-up of escape events; and

e) details of worker training including frequency of such training and the provision of induction training on escape prevention and counting technologies.

(3). Procedure in event of a breach or potential breach.

a) A statement of responsibility to "stop the job/activity" if a breach or potential breach of the mitigation / procedures set out in the EMP or legislation occurs. This should include a notification procedure with associated provision for the halt of activities in consultation with the relevant regulatory and consultation authorities in the event that monitoring demonstrates a significant and consequent impact on wild fish populations as a result, direct or otherwise of such a breach.

(4). Requirement for update and review

a) The development and operation of the site, shall be carried out in accordance with the approved EMP unless changes to the operation of the site dictate that the EMP requires amendment. In such an eventuality, a revised EMP will require to be submitted to, and approved in writing by the Planning Authority beforehand. In addition, a revised EMP shall be submitted to and approved in writing by the Planning Authority every 5 years, as a minimum, following the start date, to ensure it remains up to date and in line

with good practice.

Reason: To ensure that good practice is followed to mitigate the potential impacts of sea lice loading in the marine environment in general and on wild salmonids in particular; in accordance with the Planning Authority's biodiversity duty.

5. In the event of equipment falling into disrepair or becoming damaged, adrift, stranded, abandoned or sunk in such a manner as to cause an obstruction or danger to navigation, the site operator shall carry out or make suitable arrangements for the carrying out of all measures necessary for lighting, buoying, raising, repairing, moving or destroying, as appropriate, the whole or any part of the equipment so as to remove the obstruction or danger to navigation.

   Reason: In the interests of amenity and navigational safety.

6. At least three months prior to cessation of use of the site for fish farming, a scheme for the decommissioning and removal of all equipment shall be submitted to and agreed in writing with the Planning Authority. Upon cessation the approved scheme shall be implemented.

   Reason: To ensure that decommissioning of the site takes place in an orderly manner and to ensure proper storage and disposal of redundant equipment in the interest of amenity and navigational safety.

7. All plant, machinery and equipment shall be so installed, maintained and operated such that any associated operating noise does not exceed NR 20 when measured or calculated within any noise-sensitive premises with windows open for ventilation purposes. For the purposes of this condition, "noise-sensitive premises" includes, but is not necessarily limited to, any building, structure or other development the lawful use of which a) falls within Classes 7 (Hotels & Hostels), 8 (Residential Institutions) or 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), or b) is as a flat or static residential caravan.

   Reason: In order to safeguard the amenity of neighbouring properties and occupants.

8. The fish farm hereby approved shall not operate other than with a biomass of 2125 tonnes or less.

   Reason: In the interest of limiting the impacts of sea lice loading in the marine environment in general and on wild salmonids in particular; in accordance with the Planning Authority's biodiversity duty.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the amended proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.

2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: http://www.highland.gov.uk/yourenvironment/roadsandtransport

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud & Debris on Road

Please note that it an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Lighting and Licences: The development should be lit in accordance with Northern Lighthouse Board requirements and obtain any marine licences as required.

Signature:	Dafydd Jones
Designation:	Area Planning Manager – North
Author:	Mark Harvey
Background Papers:	Documents referred to in report and in case file.
Relevant Plans:	Plan 1 - Location Plan - 00001
	Plan 2 - Location Plan – Fig 1
	Plan 3 - Location Plan – Fig 2
	Plan 4 - Site Layout Plan - 00002
	Plan 5 - Site Layout Plan - 00003
	Plan 6 - Existing Site Layout - 00005

Plan 7 - Proposed Site Layout - 00006
Plan 8 - Existing Elevation Plan - 00007
Plan 9 - Proposed Elevation Plan - 00008
Plan 10 - Floor/Elevation Plan - 00010
Plan 11 - Floor/Elevation Plan - 00011
Plan 12 - Floor/Elevation Plan - 00012
Plan 13 - Proposed Elevation Plan - 00013
Plan 14 - Floor/Elevation Plan - 00014

Appendix 2 – Appropriate Assessment

Marine Fish Farm at Letterfern, Loch Duich.

Marine Fish Farm - Atlantic Salmon: alteration from 12 x 100m circular pens to 12 x 120m circular pens

17/02976/FUL

CONSIDERATION OF PROPOSALS AFFECTING EUROPEAN SITES

The Lochs Duich, Long and Alsh Reefs status as a classified Special Area of Conservation under the EC Directive 92/43/EEC, the 'Habitats Directive' means that the Conservation (Natural Habitats, etc.) Regulations 1994 (as amended), apply.

This means that where the conclusion reached by the Council on a development proposal unconnected with the nature conservation management of a Natura 2000 site is that it is likely to have a significant effect on that site, it must undertake an Appropriate Assessment of the implications for the conservation interests for which the area has been designated. The need for Appropriate Assessment extends to plans or projects outwith the boundary of the site in order to determine their implications for the interest protected within the site.

This means that the Council, as competent authority, has a duty to:

- Determine whether the proposal is directly connected with or necessary to site management for conservation; and, if not,
- Determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; and, if so, then
- Make an Appropriate Assessment of the implications (of the proposal) for the site in view of that site's conservation objectives.

The competent authority can only agree to the proposal after having ascertained that it will not adversely affect the integrity of the site. If this is not the case and there are not alternative solutions, the proposal can only be allowed to proceed if there are imperative reasons of overriding public interest, which in this case can include those of a social or economic nature.

It is evident that the proposal is not connected with or necessary to site management for conservation, hence further consideration is required. The proposed replacement from 12 x 100m circular pens to 12 x 120m circular pens and the operation of the proposed extended fish farm has the potential to impact on the qualifying interests (see Annex 1). The Council is therefore required to undertake an Appropriate Assessment of the implications of the proposal for the Lochs Duich, Long and Alsh SAC in view of the site's conservation objectives.

APPROPRIATE ASSESSMENT

While the responsibility to carry out the Appropriate Assessment rests with the Council, advice contained within Circular 6/1995 is that the assessment can be based on the information submitted from other agencies. In this case, the Appropriate Assessment is informed by information supplied by SNH.

Appraisal

In its response to the Council, SNH has advised that in their view this proposal will not adversely affect the integrity of the site. HC as undertaken an appraisal (see Annex 1) based on the information supplied.

Decision

On the basis of this appraisal, it can be concluded that the proposal will not significantly adversely affect the integrity of the Lochs Duich, Long and Alsh Reefs SAC.

ANNEX 1
HC APPRAISAL OF THE PROPOSAL

- The proposal is not directly connected with or necessary to site management for conservation;
- The proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; therefore;
- An Appropriate Assessment of the implications (of the proposal) for the site in view of that site's conservation objectives is provided below.

Interests of European Importance: the Lochs Duich, Long and Alsh SAC

The qualifying interests for which the site is designated are marine reefs. The Joint Nature Conservation Committee describes the SAC as having the following attributes:

This site is an extensive area of extremely sheltered reefs within a system of fjordic sea lochs in north-west Scotland. There is considerable diversity within the site, with areas of sheltered sublittoral rock supporting unusual assemblages of encrusting sponges and solitary ascidians, and, on shallower reefs, tide-swept kelp forests influenced by brackish water. Loch Duich is particularly notable for its well-developed communities of brachiopods and sea anemones on sheltered bedrock. Characteristic species include the sea anemone *Protanthea simplex*, the fan-worm *Sabella pavo*nina, and the brachiopods *Neocrania anomala* and *Terebratulina retusa*. The reefs in Kyle Rhea and Kyle Akin are subject to some of the strongest tidal streams in the UK, and the bedrock in Kyle Rhea supports rich communities typically dominated by the hydroids *Tubularia indivisa* and *Sertularia argentea,* the barnacle *Balanus crenatus*, anemones, sponges and ascidians. Tide-swept reefs also support unusually dense beds of the brittlestar *Ophiopholis aculeata*, an extremely rare feature in the UK. The sheltered reefs in Loch Long, the second most brackish of the large Scottish sea lochs, are unusual in that they are subject to variable salinities and support communities characterised by encrusting sponges and large numbers of ascidians, such as *Ascidia virginea*, *Boltenia echinata* and *Pyura squamulosa*.

The conservation objectives for the Lochs Duich, Long and Alsh SAC are:

- To avoid deterioration of the qualifying habitat (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation stats for each of the qualifying features and;

- To ensure for the qualifying habitat that the following are maintained in the long term:

    - Extent of the habitat on site
    - Distribution of the habitat within site
    - Structure and function of the habitat
    - Processes supporting the habitat
    - Distribution of typical species of the habitat
    - Viability of typical species as components of the habitat
    - No significant disturbance of typical species of the habitat

Qualifying Habitat:

- Reefs (Annex I habitats)

<u>Highland Council's appraisal of the effect of the proposal on site integrity</u>
In relation to the specific conservation objectives for this site, this proposed fin fish farm expansion in the Lochs Duich, Long and Alsh SAC has a number of potential hazards. Data from SEPA and SNH suggests:

- it may directly cause smothering of the reefs by waste feed and faeces;
- toxic effects of sea lice chemicals
- cumulative nutrient enhancement

Video and photographic seabed surveys were undertaken as part of the CAR requirements and a separate AA is being done by SEPA in consultation with SNH. The footage was also supplied to support the planning application.

SNH's advice is that this proposal is likely to have a significant effect on the qualifying interest of the site. However SNH further advise the Highland Council that on the basis of the appraisal carried out to date (summarised below) the proposal will not adversely affect the integrity of the site. SNH note:

In our view, this proposal is likely to have a significant effect on the reef interest within Lochs Duich Long and Alsh SAC. Consequently, The Highland Council, as competent authority, is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interest.

To help you do this we advise that, in our view, based on the information provided, the proposal will not adversely affect the integrity of the site. The appraisal we carried out considered the following factors:

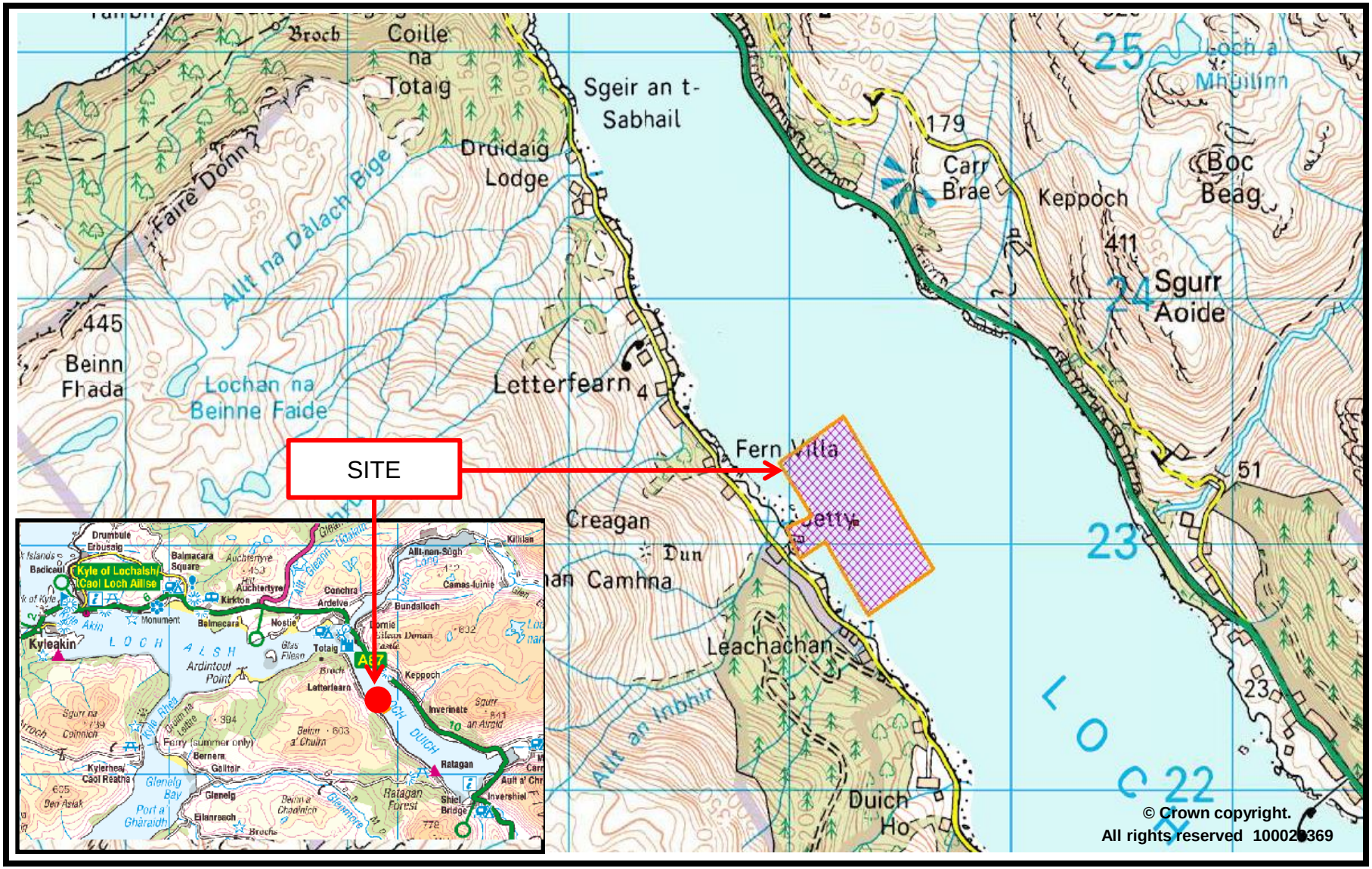
- Small patches of reef were found within the AZE and inshore of the AZE in previous transect surveys in 2006 and 2010. No new areas of reef were identified within the AZE or in close proximity to the AZE during the 2016 surveys.
- The patches of reef within the AZE were not extensive or high quality and are likely to have been modified by the existing fish farm.
- The modelling provided suggests that an increase in deposition on known areas of reef inshore of the AZE is unlikely.
- The new Autodepomod data indicates an increase in export of solids from the modelling grid compared to the 2011 data. However this appears to be an artefact of the change in current data used for the modelling. The exported material is predicted to be deposited in areas of burrowed mud habitat rather than on reef.
- Assessing the effects of fish farm chemicals (especially in feed medicines such as Slice) is complex and the subject of a review by SEPA. We therefore defer to their assessment as part of the CAR process.

Cumulative and in-combination impacts

As there are a number of fish farms operated by the applicant within the loch complex therefore the cumulative impacts need to be considered. The current condition of the SAC is stated by SNH to be 'unfavourable, declining' therefore any loss must be treated with caution, particularly where cumulative impacts from nearby fish farms may also negatively impact on sections of reef.

Conclusion to scientific appraisal

The proposal is unlikely to have a significant effect of the integrity of the qualifying features of the Lochs Duich, Long and Alsh SAC. However, the continued expansion of this site, in conjunction with any expansion with nearby fish farms in the SAC, suggests the levels of impact may have reached their acceptable limits.



The Highland Council
Comhairle na Gàidhealtachd

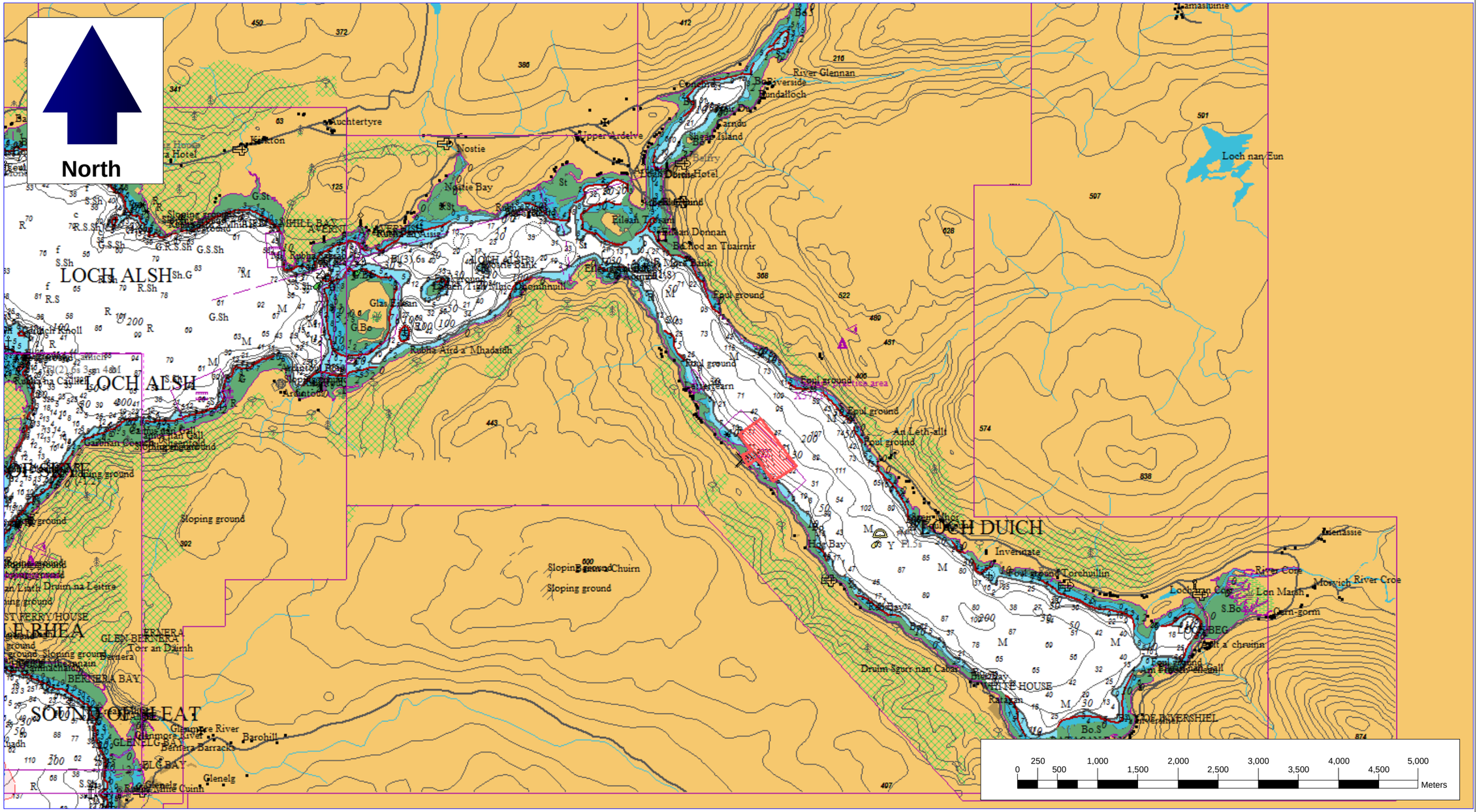
Planning and Development Service

Location Plan 17/02976/FUL

Marine Fish Farm - Atlantic Salmon: alteration from 12 x 100m circular pens to 12 x 120m circular pens

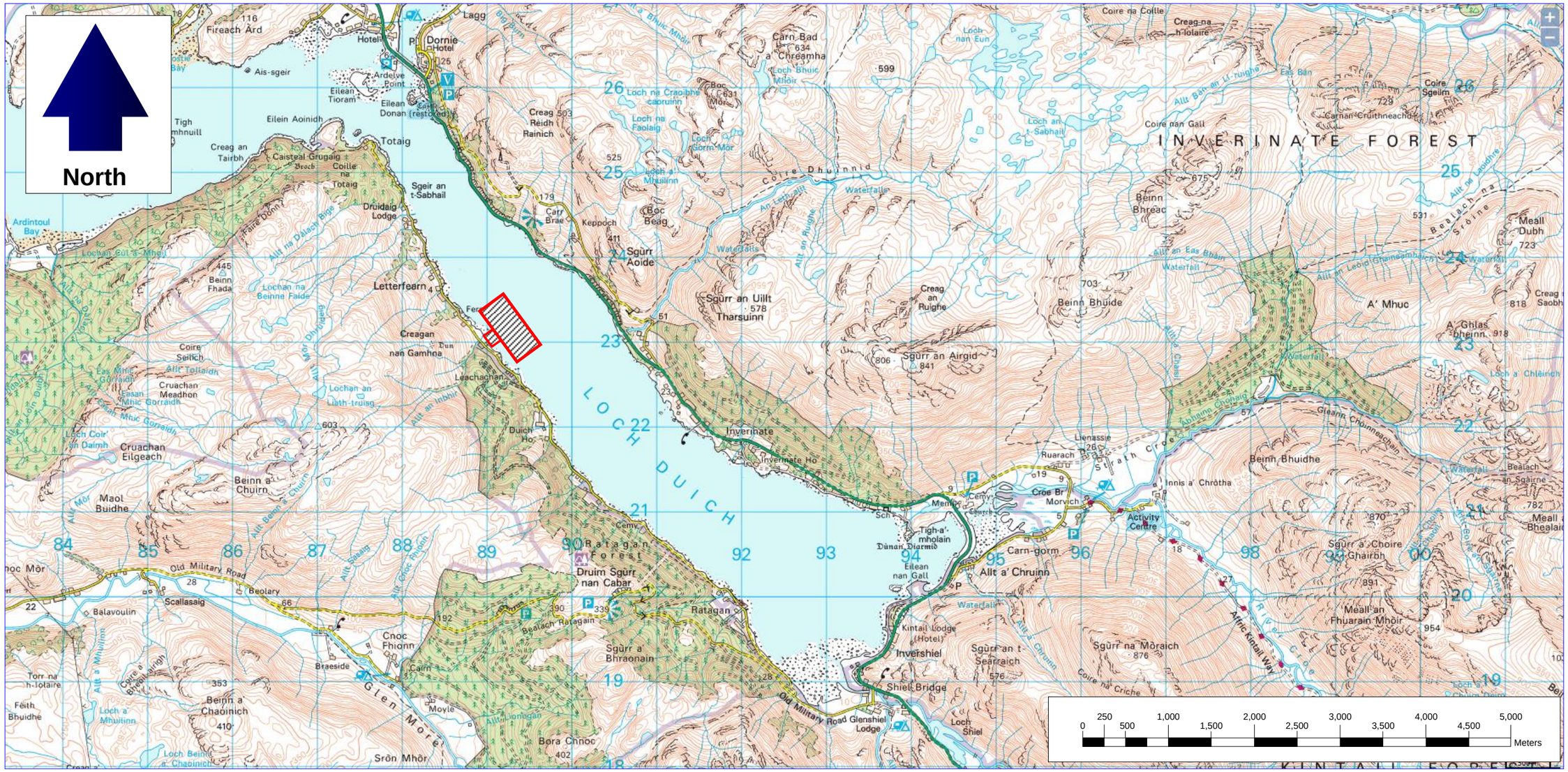
January 2018

Scale:

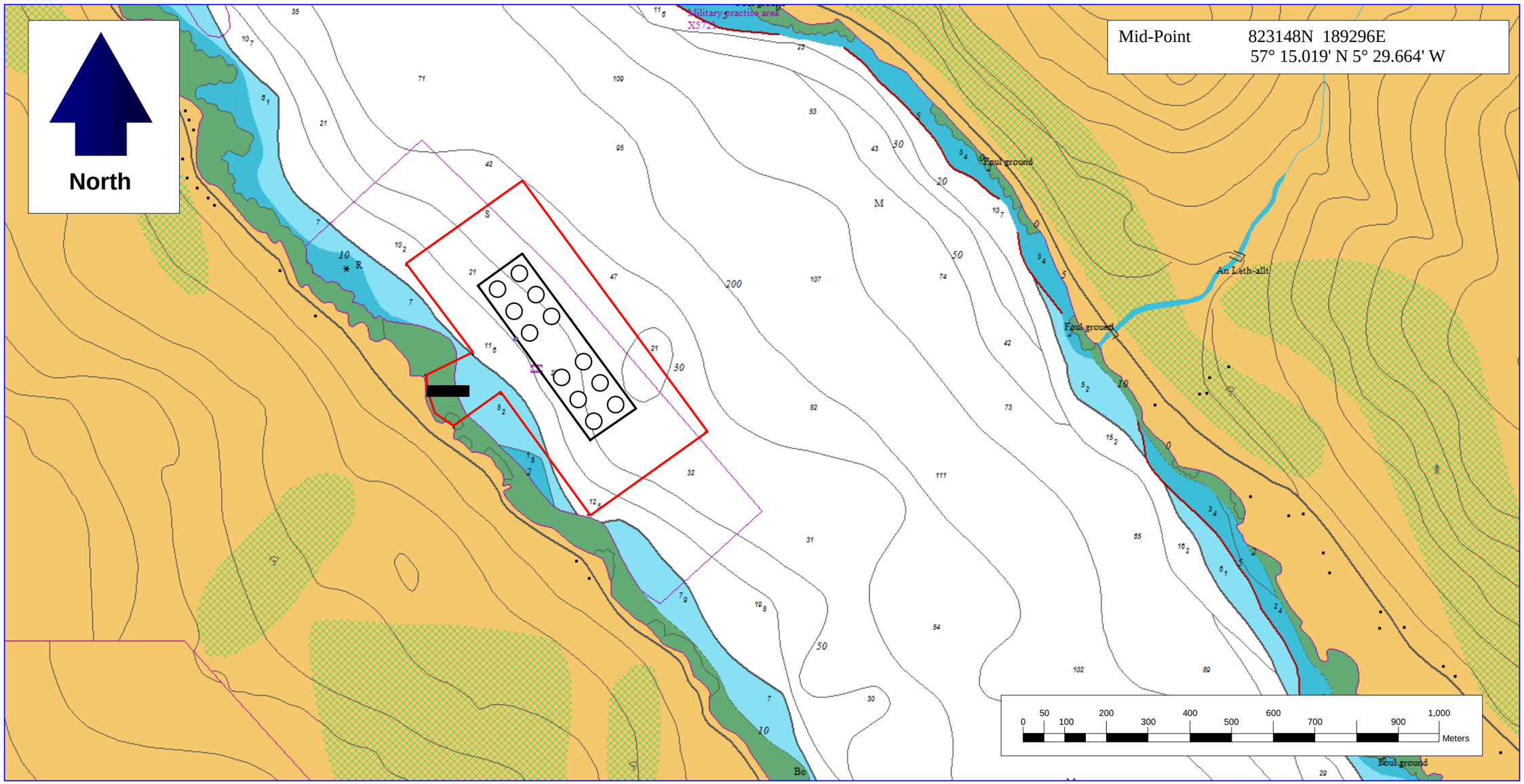


DUICH:	**LOCH DUICH**	Key:	**1:50,000**	**16/02/2017**	**CLH**	**KS**	**0001**	**Final**
ADMIRALTY CHART EXTRACT OF SITE LOCATION		Proposed Planning Boundary inclusive of moorings and shorebase pontoon						
Figure 3	General view of Duich.		Scale	Date	Drawn	Checked	Revision No.	Status

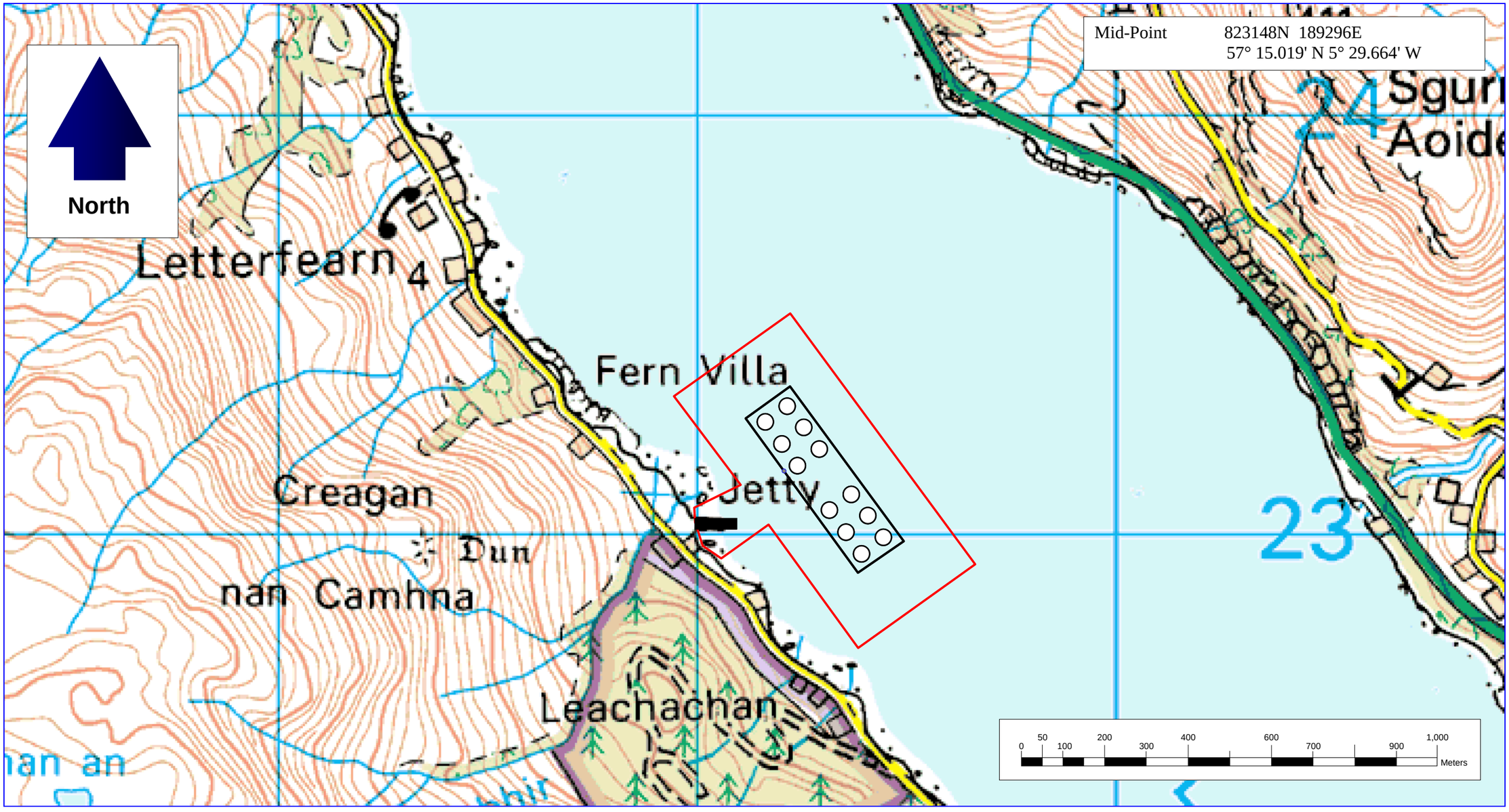
DUICH:	**LOCH DUICH**	Key:	**Not to scale**	**16/02/2017**	**CLH**	**KS**	**0002**	**Final**
GENERAL VIEW:	**ORDNANCE SURVEY MAP**							
Figure 1	General view and location of Loch Duich.		Scale	Date	Drawn	Checked	Revision No.	Status



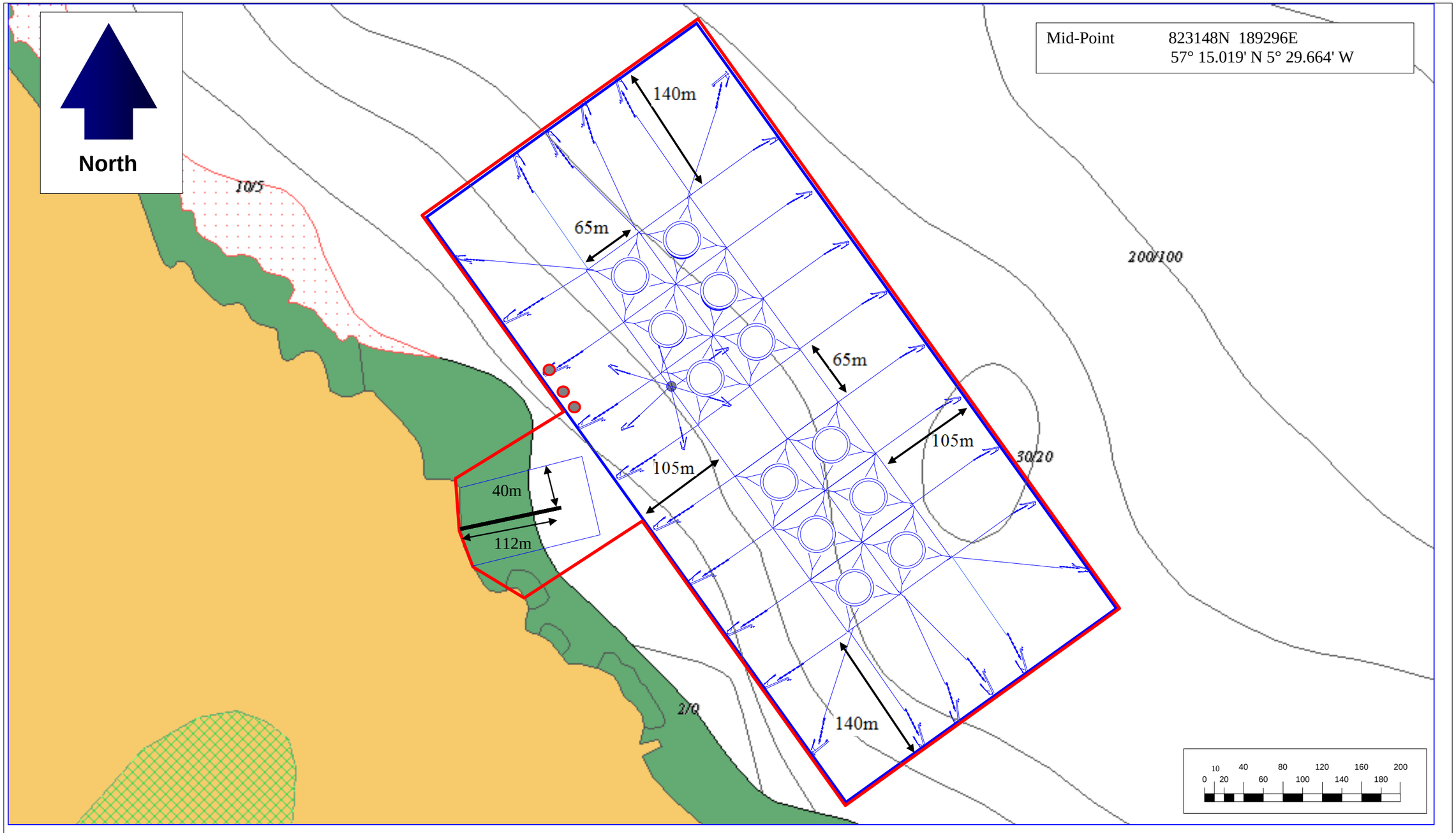
DUICH:	**LOCH DUICH**	Key:	**1:50,000**	**16/02/2017**	**CLH**	**KS**	**0001**	**Final**
LOCATION PLAN:	**ORDNANCE SURVEY MAP**	Proposed Planning Boundary inclusive of moorings and shorebase pontoon						
Figure 2	General view of Duich.		Scale	Date	Drawn	Checked	Revision No.	Status



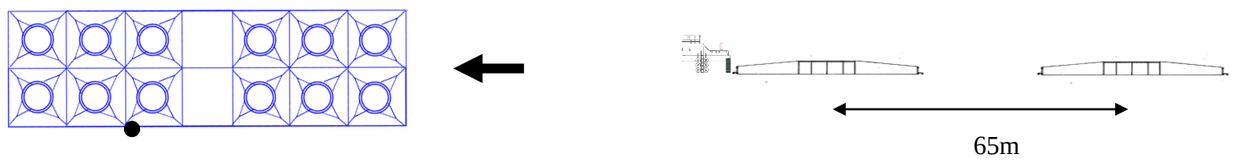
DUICH: **LOCH DUICH**	Key:		**1:10,000**	**16/02/2017**	**CLH**	**KS**	**0001**	**Final**
ADMIRALTY CHART EXTRACT OF SITE LOCATION	Proposed Planning Boundary Area	Proposed Cages						
Figure 5 General view of Duich. 12 circular plastic cages 120m circumference.	Existing & Proposed Pontoon	Existing & Proposed Feed Barge	Scale	Date	Drawn	Checked	Revision No.	Status



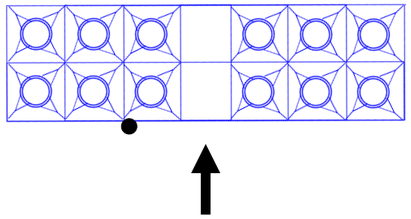
DUICH:	**LOCH DUICH**	Key:	**1:10,000**	**16/02/2017**	**CLH**	**KS**	**0001**	**Final**
LOCATION PLAN:	**ORDNANCE SURVEY MAP**	Proposed Planning Boundary Area; Proposed Cages; Existing & Proposed Pontoon; Existing & Proposed Feed Barge						
Figure 4	Detailed view of Duich. 12 circular plastic cages 120m circumference.		Scale	Date	Drawn	Checked	Revision No.	Status

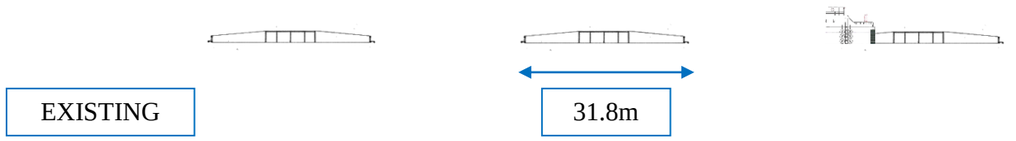


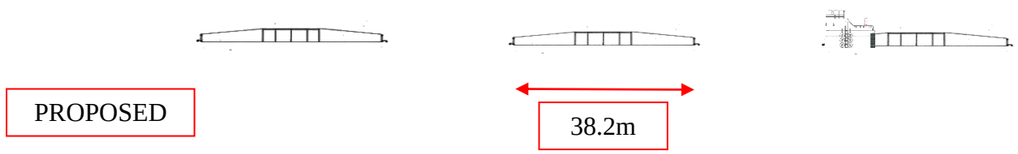
DUICH: LOCH DUICH	Key: **Proposed Planning Boundary** **Moorings** **Pens** **Feed Barge** **Single Point Moorings** **Pontoon**	**1:4,000**	**16/02/2017**	**CLH**	**KS**	**0001**	**Final**
PROPOSED SITE PLAN		Scale	Date	Drawn	Checked	Revision No.	Status
Figure 7 Detailed illustration of the proposed equipment (12 pens of 120m circumference)							

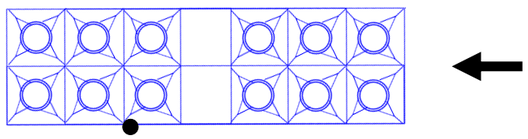


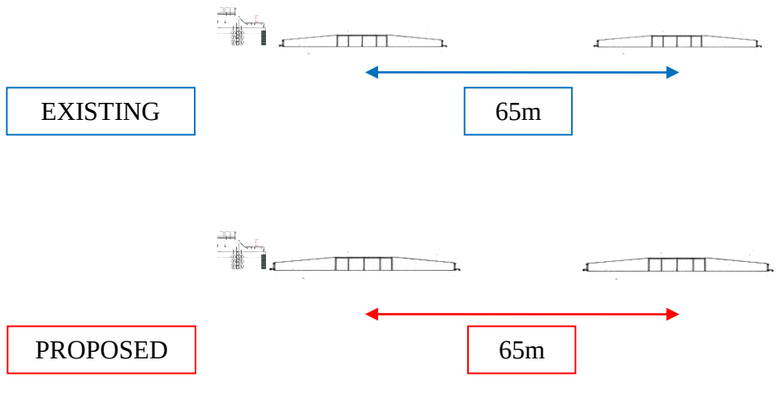
PROPOSED: DUICH SALMON FARM, LOCH DUICH	Key:						
	Feed System	**1:1,250**	**20/02/2017**	**CLH**	**KS**	**0001**	**Final**
ELEVATIONS - SITE CONFIGURATION							
Figure 1 Surface Cross section view of 12 circular plastic pens of 120m circumference in a 65m matrix grid	Typical Pen Design	Scale	Date	Drawn	Checked	Revision No.	Status









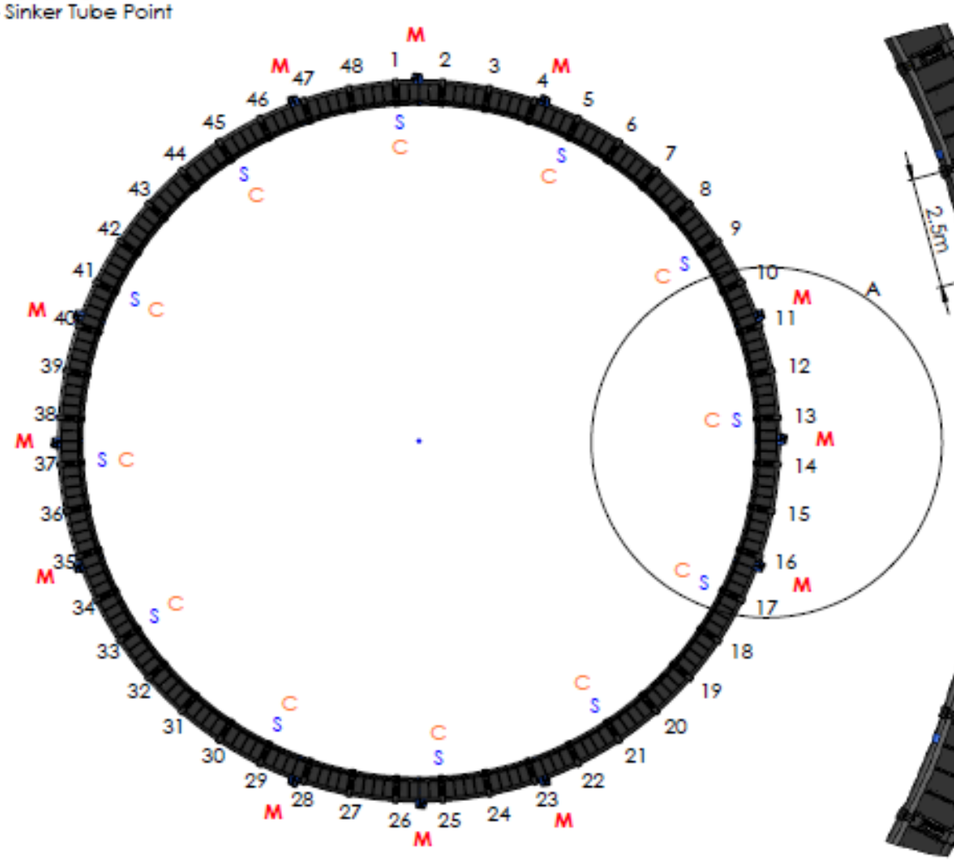


EXISTING & PROPOSED: DUICH SALMON FARM, LOCH DUICH	Key: Feed System	**1:1,250**	**20/02/2017**	**CLH**	**KS**	**0001**	**Final**
ELEVATIONS - SITE CONFIGURATION							
Figure 2 Surface Cross section view of 12 circular plastic pens of 120m circumference in a 65m matrix grid	Typical Pen Design	Scale	Date	Drawn	Checked	Revision No.	Status

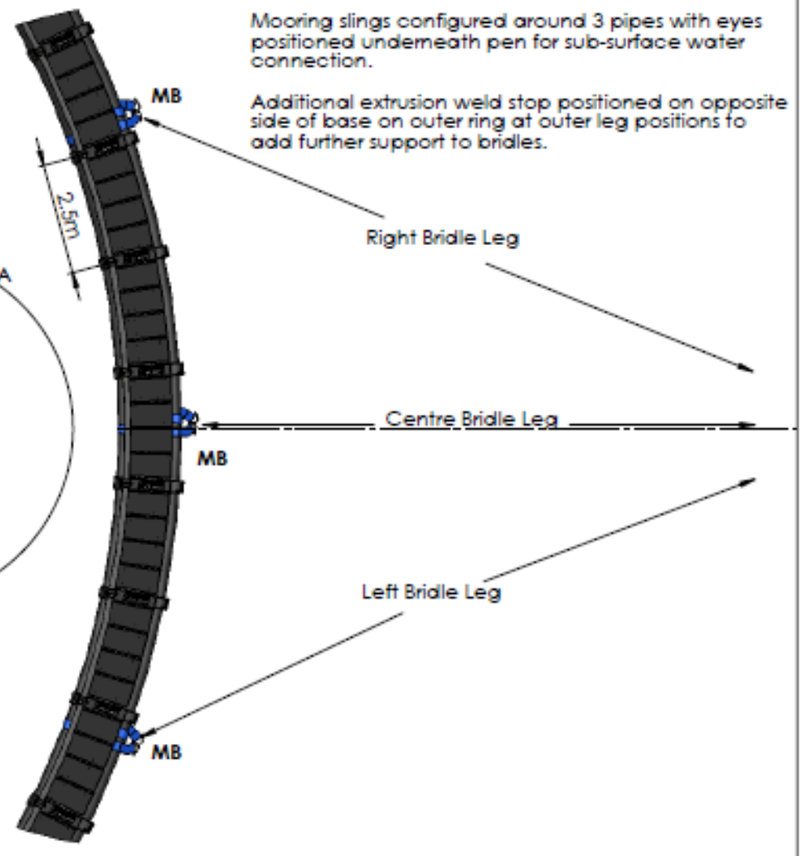
3rd Angle Projection	If In Doubt Ask ~ Do Not Scale	Dimensions are in mm	Date	Rev	Details of Revision

Job Number	Customer	Date	Base Unit Type	Uprights per Pen
J3764	Marine Harvest Scotland - Carradale		APM400/125	48

Key: M - Mooring Point
C - Cow Horn
S - Sinker Tube Point



DETAIL A
SCALE 1 : 100



Mooring Points - Triton 400 3 Ring Pen
3 Bridle leg connection points positioned as shown.

Mooring slings configured around 3 pipes with eyes positioned underneath pen for sub-surface water connection.

Additional extrusion weld stop positioned on opposite side of base on outer ring at outer leg positions to add further support to bridles.

Note: Base unit spacing 2.5m centres

MB - Outer Ring Mooring Position

Fusion Marine Limited
Marine Resource Centre
Barcaldine
By Oban
Argyll PA37 1SE
www.fusionmarine.com

Title: Triton400 3 Ring Pen - Cow Horns/Sinker Tube/Mooring Positions

Material: PE 100		Finish: Black	
Drawn:R.Edwards	Scale 1:250 @ A3	Drawing No.	Rev
Date: 22/09/2015	Reference Drgs		
Checked			
Verified			

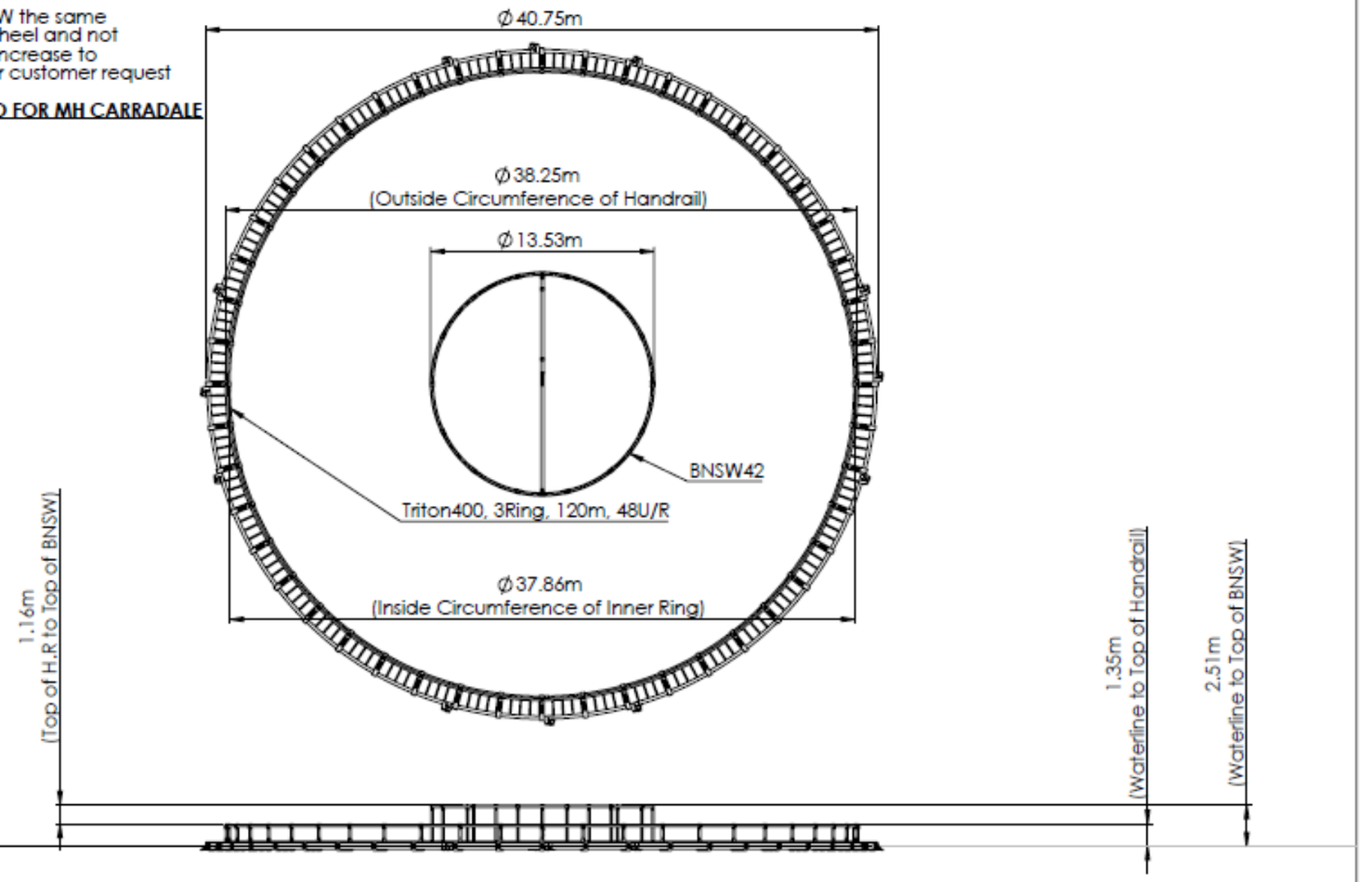
PROPOSED: DUICH SALMON FARM, LOCH DUICH	Key:	Not to Scale	20/02/2017	CLH	KS	0001	Final
PLAN VIEW - EXAMPLE OF A TYPICAL PEN DESIGN	Cage and top net support + net						
Figure 3 Manufacturers Diagram 1		none	Date	Drawn	Checked	Revision No.	Status

3rd Angle Projection	If In Doubt Ask ~ Do Not Scale	Dimensions are in mm	Date	Rev	Details of Revision

Job Number	Customer	Date	Base Pipe Type	Uprights per Pen
	Marine Harvest Scotland - Carradale		400sdr21	48

Note: Overall height of BNSW the same as a standard 30m wheel and not adjusted along with increase to circumference as per customer request

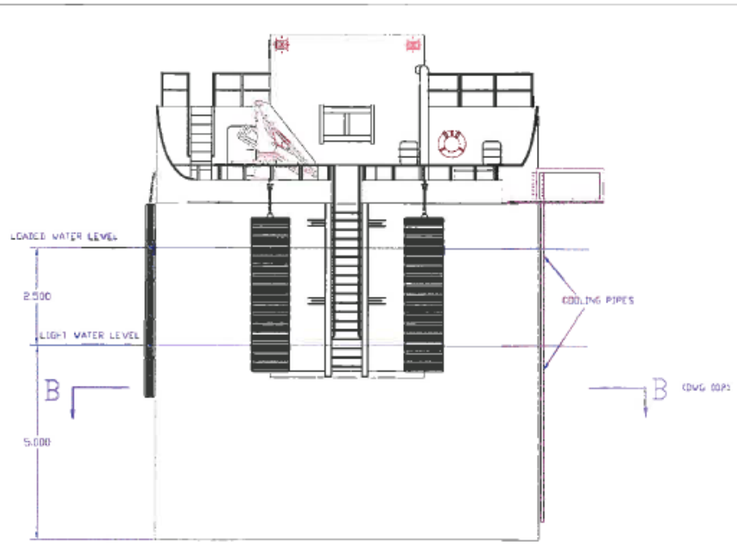
THIS IS A SPECIAL SCENAREO FOR MH CARRADALE



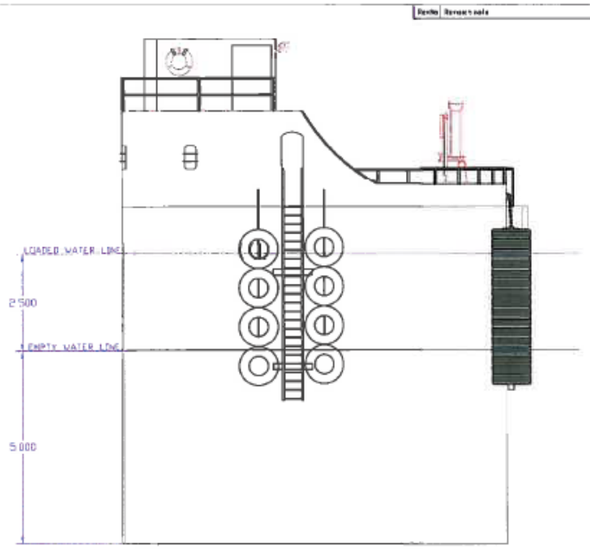
Fusion Marine Limited
Marine Resource Centre
Barcaldine
By Oban
Argyll PA37 1SE
www.fusionmarine.com

Title: T4003D120/48 c/w BNSW42CB			
Material: PE 100		Finish: Black	
Drawn:R.Edwards	Scale 1:250 @ A3	Drawing No.	Rev
Date: 25/08/2015	Reference Drgs	T4003D120/48BNSW42CB	
Checked			
Verified			

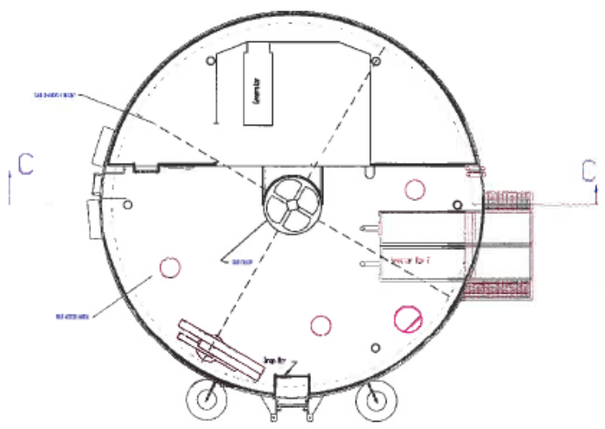
PROPOSED: DUICH SALMON FARM, LOCH DUICH	Key:	Not to Scale	20/02/2017	CLH	KS	0001	Final
PLAN & ELEVATIONS - EXAMPLE OF A TYPICAL PEN DESIGN							
Figure 4 Manufacturers Diagram 2		Scale	Date	Drawn	Checked	Revision No.	Status



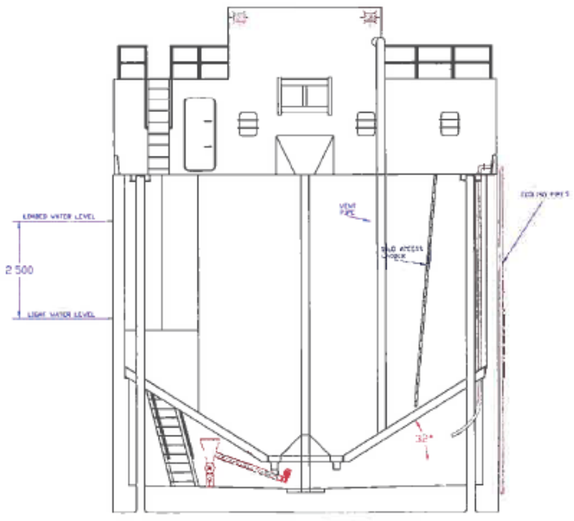
ELEVATION



SIDE ELEVATION



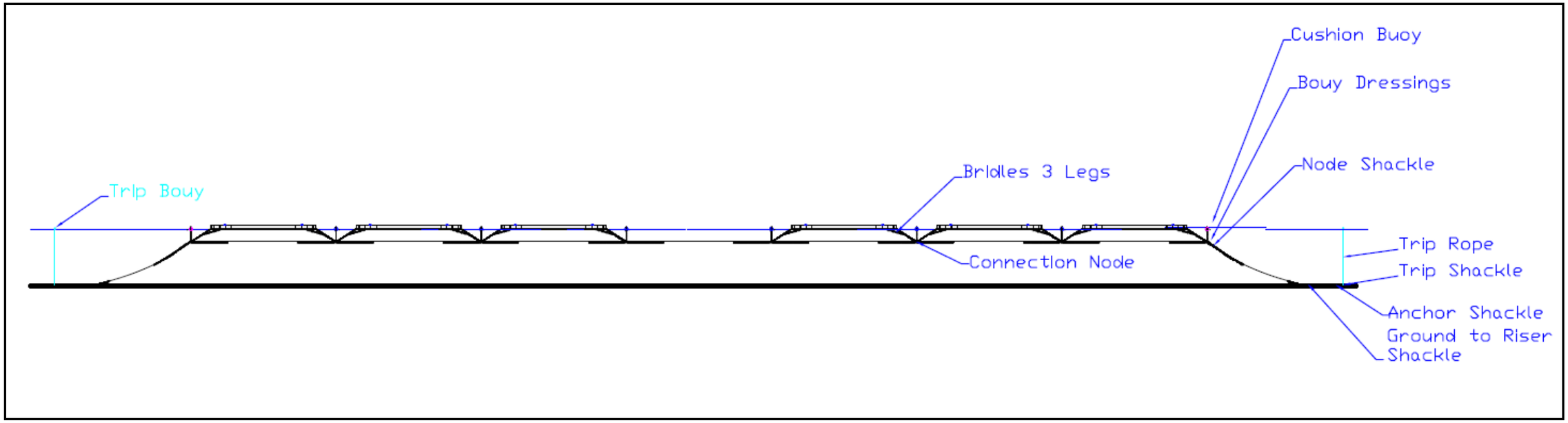
PLAN AT DECK LEVEL & PLANTROOM LAYOUT

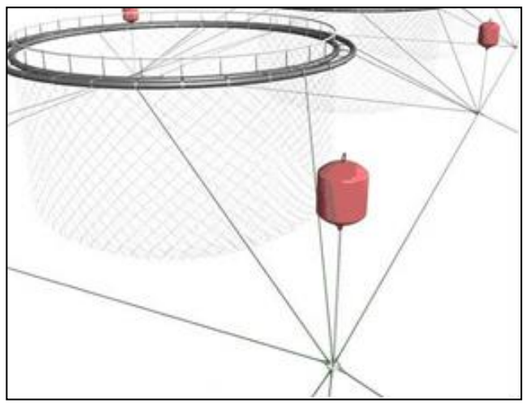


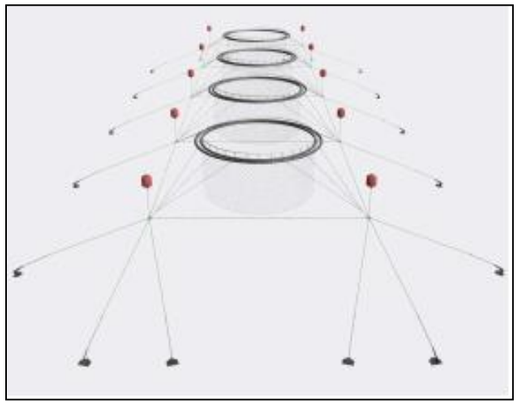
SECTION C-C

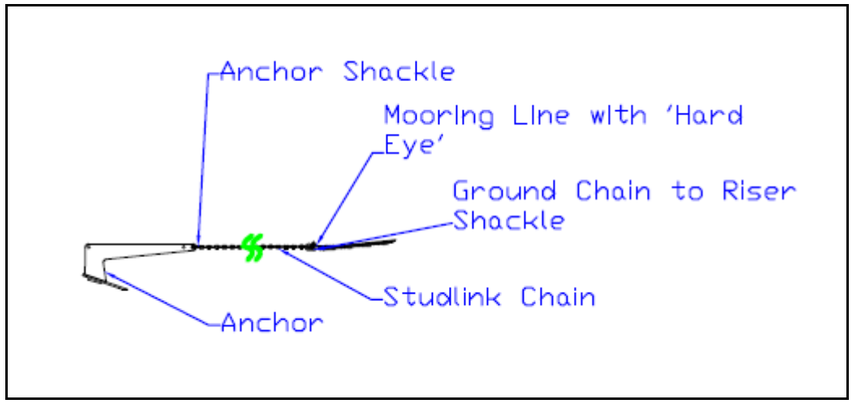
GAEL FORCE MARINE | GENERAL ARRANGEMENT 001 | C-CAPS/001

PROPOSED: DUICH SALMON FARM, LOCH DUICH	Key:	**Not to Scale**	**20/02/2017**	**CLH**	**DB**	**0001**	**Final**
PLAN & ELEVATIONS – FEED SYSTEM DESIGN							
Figure 5 Manufacturers Diagram 2		Scale	Date	Drawn	Checked	Revision No.	Status

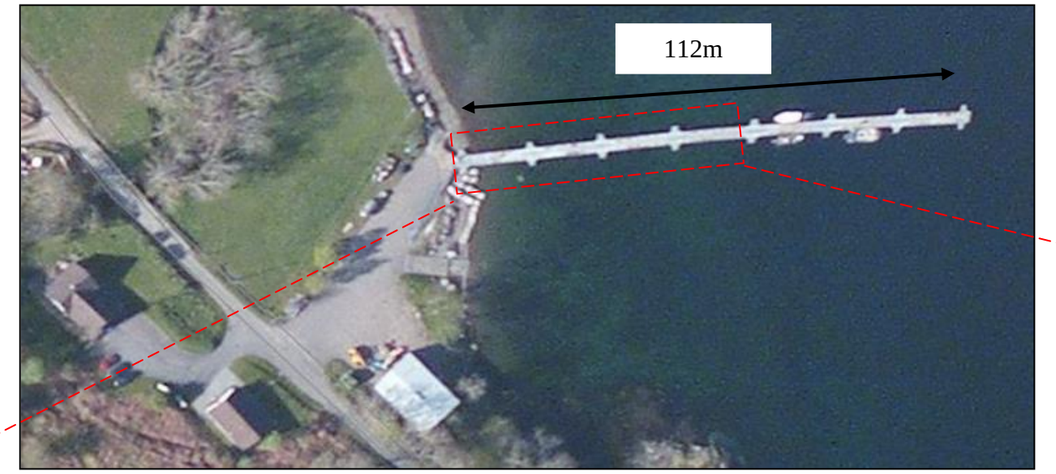


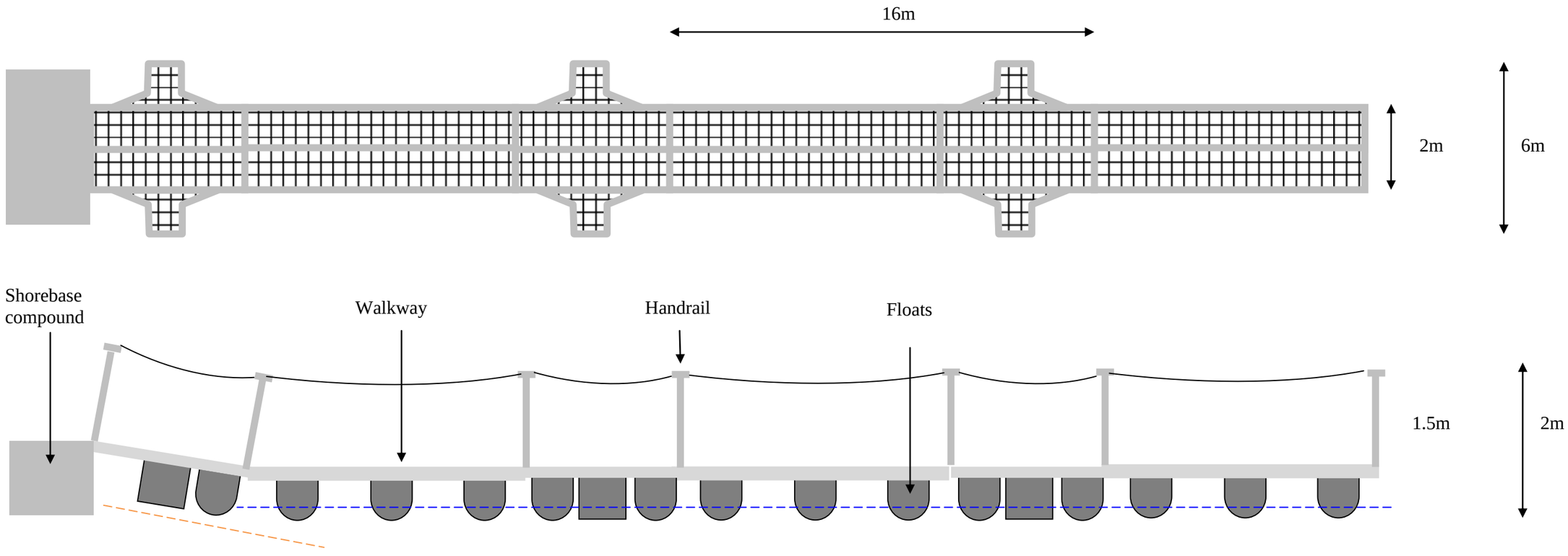






PROPOSED: DUICH SALMON FARM, LOCH DUICH	Key:	**Not to Scale**	**24/04/2017**	**CLH**	**DB**	**0001**	**Final**
ELEVATIONS							
Figure 6 Manufacturers Diagram – Typical Mooring Design		Scale	Date	Drawn	Checked	Revision No.	Status





PROPOSED: DUICH SALMON FARM, LOCH DUICH	Key:	**Not to Scale**	**24/04/2017**	**CLH**	**DB**	**0001**	**Final**
ELEVATIONS							
Figure 7 Pontoon Dimensions, Plan and Cross Sections		Scale	Date	Drawn	Checked	Revision No.	Status