

Agenda Item	6.8
Report No	PLN/092/19

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: **26 November 2019**

19/03093/FUL: Organic Sea Harvest

Report Title: Land 1520M NE of Bridgend Cottage, Flodigarry

Report By: Acting Head of Development Management – Highland

1. **Purpose/Executive Summary**

1.1 **Description:** New Marine Fish Farm for Atlantic Salmon consisting of 12 x 120m circumference circular cages in an 80m mooring grid with associated feed barge.

1.2 **Ward:** 10 - Eilean A' Cheò

Development category: Local

Reasons referred to Committee:

- Objection from Skye District Salmon Fishery Board as statutory consultee
- number of third party objections
- member interest

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.

2. **Recommendations**

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

3. PROPOSED DEVELOPMENT

3.1 This application seeks planning permission for a new marine fish farm for Atlantic Salmon consisting of 12 x 120m circumference cages in a 2 x 6 formation serviced by a feed barge. The feed barge features a boat-like superstructure on top of a square section hull of 14m x 14m. The superstructure deck-head will be some 6m above the sea surface. The cages will feature a central 'snorkel' tube and pole supported bird nets.

3.2 The application suggests that day to day servicing will be carried out from Staffin pier to the south. General servicing will be from the sea with feed supplies and waste removal utilising Kishorn Port facilities and smolt delivery via Gairloch.

The application suggests that harvesting will utilise Staffin jetty but recognises that this may be contingent on upgrades to both jetty and access road. Alternative arrangements are not identified.

3.3 Pre Application Consultation: Generally positive officer response provided in April 2019 but with reservations identified in respect of visual, SAC, fresh water pearl mussel and wild salmonid constraints needing to be positively addressed in any application.

3.4 Supporting Information: 17/02314/SCOP identified the application as EIA development. The application has been submitted with a full EIA Report including a draft environmental management plan

3.5 Variations:

- revised visualisations submitted to include altered feed-barge design
- revised environmental management plan to take account of new guidance and minimum criteria from Marine Scotland

4. SITE DESCRIPTION

4.1 The proposal is positioned just off the eastern coast of the Trotternish peninsula at the north-eastern end of Skye. It is immediately to the north of Eilean Flodigarry which sits just off the coast from the Flodigarry settlement, hotel and youth hostel. To the south is Staffin Bay.

4.2 Inland, the landscape is dominated by the Trotternish ridge and its landslip formations which form the main features of the Trotternish National Scenic Area the northern boundary of which lies just to the south of the proposal site.

5. PLANNING HISTORY

5.1	17/02314/SCOP - EIA Scoping - New Marine Fish Farm for Atlantic Salmon consisting of 14 x 120m circumference circular cages in an 80m mooring grid with associated feed barge	Opinion provided	19.06.2017
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5.2	19/00494/PREAPP - New Marine Fish Farm for Atlantic Salmon consisting of 14 x 120m circumference circular cages in an 80m mooring grid with associated feed barge	Advice provided	09.04.2019
5.3	17/04735/FUL - Marine Fish Farm - Atlantic Salmon: New site comprising of 12 x 120m circumference circular cages an 80m mooring grid with feed barge – <i>the southernmost of the applicant's consented sites to the south</i>	Granted	24.04.2018
5.4	17/04749/FUL - New Fish Farm for Atlantic Salmon consisting of 12x120m circumference circular cages in an 80m mooring grid with associated feed barge – <i>the northernmost of the applicant's consented sites to the south</i>	Granted	17.04.2018

6. PUBLIC PARTICIPATION

6.1 Advertised: EIA development and Unknown Neighbour
Date Advertised: 2 August 2019 and re-advertised 20 September 2019
Representation deadline: 20 October 2019

Timeous representations: 85 from some 67 addresses (+ petitions)

Late representations: None

6.2 Material considerations raised are summarised as follows:

Against

- a) pollution of sea lochs
- b) sea lice impact on farmed fish and wild fish
- c) risk of hybridisation from escaped fish breeding with wild fish
- d) shooting of seals and harm to wildlife from acoustic deterrent devices
- e) seals at Sgeir na h-Eireann and sea eagle habitat under threat
- f) impact on tourism and the prospects for the proposed cultural centre – Ionad Thronairnis - due to visual impact could negate employment creation and other economic benefits
- g) visualisations understate actual visual impact
- h) closed containment should be required – an answer to chemical pollution and sea lice issues
- i) unclear how organic production differs from normal production
- j) unless farmed, cleaner fish come with their own environmental problem of natural stock depletion
- k) maximum stocked biomass of 2500 tonnes is difficult to equate with a stocking density of 8kg/m³ for a farm of this size
- l) application contravenes policies 28, 36, 50, 57 and 58 of the development plan

- m) Staffin slipway and access road are not suitable for heavy goods vehicles but the application states that fish will be landed and the site serviced from this slipway
- n) concerned about noise, light, smell pollution on Flodigarry properties and local bed and breakfast businesses
- o) site is clearly visible from the Skye Coastal Path and the local development plan suggests views across open water should be protected
- p) a variety of protected species have been sighted near the site during the last 12 months but the application makes no mention of them or the surveys required by Policy 58 of the development plan.
- q) extreme sea-states are common in this location leading to the possibility of equipment damage and mass-escapes
- r) toxins from the farm could damage coastal stocks of Dulce and Carrageen which are still foraged by locals
- s) the site is on the path of a wild salmon run to and from the Brogaig, Kilmartin and Lealt rivers as evidenced by historic salmon stations on nearby coastal locations
- t) local fishing for Pollack (Lythe) will be obstructed by this site
- u) submitted Environmental Management Plan (EMP) does not meet Marine Scotland's minimum criteria in that it fails to include sea lice dispersion modelling. Consequently, it is impossible to ascertain whether cumulative impacts upon wild salmonids generally and migrating salmon in particular will occur
- v) the cumulative impact of this and other fish farms on the migratory salmon routes up the west coast should be regarded as a 'national' impact to which the precautionary principle should apply in accordance with SPP.
- w) feed pipe abrasion and wear results in some 200kg a year of plastic waste entering the sea environment from an average farm

In support

- a) Proposal will help support a wide variety of jobs across many sectors across Scotland
- b) There is much misinformation about the fish farming industry. Planners must listen to the regulators.

6.3 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.

7. CONSULTATIONS

7.1 Scottish Water: No Objection

7.2 Northern Lighthouse Board: standard navigational lighting advice provided

7.3 Transport Scotland: No Objection

7.4 Historic Environment Scotland: No objection

- content that the proposed fish farm is unlikely to have a significant adverse effect on the setting of Druim na Slochd dun
- Proposal will not block views out from the site

7.5 SEPA: No objection

- CAR license application has yet to be submitted (22.08.2019)
- will be assessed under new regulatory framework

7.6 Skye District Salmon Fishery Board: Objects

- requests that wild salmonid survey work is completed before any consent is granted, as has been done for other farms, to provide baseline data for the required EMP
- Site is on an arterial migration route for salmon. The EMP should include a salmon and sea trout tracking project
- Rotational business model (one of four consented/proposed sites by this operator to be in extended fallow period) cannot be guaranteed. Must assume 'worst case' impacts based upon all four sites operating.
- Concerned that this is a very high energy site in adverse northerly gales which could damage or destroy the cages and lead to escapes

7.7 Marine Scotland Science (MSS) : does not object or support applications

- proposal will not result in unacceptable impacts to the water column
- proposed rotational stocking plan may be incompatible with disease management area regulations
- Cleaner fish to be used in all pens
- Information sought on source of freshwater treatment water
- some incompatibility between cleaner fish use and freshwater treatments noted. Further information sought
- Lice skirts and snorkel feeding nets to be used
- Further information on hatchery/wild sourced cleaner fish numbers/proportions sought
- Further information on net strength attestation required
- Submitted EMP does not meet Marine Scotland's minimum criteria as set in June 2019. MSS requests;
 - a monitoring scheme that will be able to report on the level of lice released into the environment
 - a statement explaining how the operator will identify likely areas of sea lice dispersal from the farm
 - upgraded wild fish monitoring information to explain how potential interactions between wild fish and sea lice will be monitored
 - details of how wild fish monitoring information will feed back into farm management practice
 - details of a regular review process to ensure the EMP remains fit for purpose

7.8 RSPB: Objects

- further information required in respect of impact upon the Inner Hebrides and Minches Special Area of Conservation
- further information/assessment required in respect of seabird populations within the Shiant Isles Special Protection Area (SPA)
- further information/assessment required in respect of impacts upon Black Guillemots
- recognises that application addresses issue of sea eagle habitat.

7.9 SNH: No objection

- The proposed development lies within an area of international importance for harbour porpoise. In our view, assuming that the proposed mitigation is implemented, harbour porpoise will not be adversely affected by the proposals. It is for the planning authority to determine, within the context of its own policies, whether conditions are necessary to secure the mitigation.
- The fish farm is on the edge of Trotternish National Scenic Area (NSA) which is of national importance for its landscapes. While the proposal will have some adverse effects on views out to sea from within the NSA this will not affect the integrity of the NSA.
- The most significant landscape and visual impacts will be along the section of coast immediately adjacent to the development. This will erode some of the special qualities of the Trotternish and Tianavaig Special Landscape Area (SLA) in that locality. It is for the planning authority to judge the importance of those effects in the context of its own policies.
- The Priority Marine Feature (PMF) '*Tide swept coarse sands with burrowing bivalves*' is extensive at this site and will be affected by these proposals. However we advise that the proposals do not raise any issues of national interest.
- the favourable conservation status of the regional population of Sea Eagles would be unaffected by the proposal
- developer has confirmed an intention to commission a pre-development survey in respect of relevant fresh water pearl mussel habitats

8. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

8.1 Highland Wide Local Development Plan 2012

28 - Sustainable Design
36 - Development in the Wider Countryside
49 - Coastal Development
50 - Aquaculture
57 - Natural, Built and Cultural Heritage
58 - Protected Species
59 - Other important Species
60 - Other Importance Habitats
61 - Landscape
72 - Pollution

8.4 West Highland and Islands Local Development Plan 2019

No specific policies apply

8.5 Highland Council Supplementary Planning Policy Guidance

Highland Historic Environment Strategy (Jan 2013)
Highland's Statutorily Protected Species (March 2013)
Special Landscape Area Citations (June 2011)

9. OTHER MATERIAL POLICY CONSIDERATIONS

9.1 Scottish Government Planning Policy and Guidance

- SPP (2014) paragraph 204 states;

“Planning authorities should apply the precautionary principle where the impacts of a proposed development on nationally or internationally significant landscape or natural heritage resources are uncertain but there is sound evidence indicating that significant irreversible damage could occur. The precautionary principle should not be used to impede development without justification. If there is any likelihood that significant irreversible damage could occur, modifications to the proposal to eliminate the risk of such damage should be considered. If there is uncertainty, the potential for research, surveys or assessments to remove or reduce uncertainty should be considered.”

- SPP (2014) paragraph 250 states;

“The planning system should:

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

- SPP (2014) paragraph 253 states;

“.....The planning system should not duplicate other control regimes such as controlled activities regulation licences from SEPA or fish health, sea lice and containment regulation by Marine Scotland.”

National Marine Plan (2015)

10. PLANNING APPRAISAL

- 10.1 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

- 10.2 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

- 10.3 The key considerations in this case are:
- a) compliance with the development plan and other planning policy
 - b) parliamentary reports, the precautionary principle and national policy
 - c) clarification of approach to other developments, organic status and use of Staffin pier

- d) visual and landscape impact
- e) impact upon the Inner Hebrides and the Minches SAC
- f) impact upon wild salmonids
- g) impact upon fresh water pearl mussel habitat
- h) impact upon protected bird species
- i) pollution
- j) risk of escapes
- k) economic impact including tourism and other fishery users
- l) noise impacts

a) Compliance with the development plan and other planning policy

10.4 Policy 50 (Aquaculture) of the Highland-wide Local Development Plan (HwLDP) is the key policy in respect of this application. Policy 50 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 any existing activity. The other policies of relevance to the above considerations are set out at paragraph 8.1 above. Subject to ensuring that the above requirements are met then the proposal would accord with the development plan.

b) Parliamentary reports, the precautionary principle and national policy

10.5 At the current time, no assessment of a fish farm application would be complete without some acknowledgement of the greatly increased public scrutiny of the industry which has accompanied and been reflected by the inquiries held by two Scottish parliamentary committees in 2018 and their subsequent reports.

10.6 The Fishery Board and several of the third party comments received in respect of this application have referenced these reports and particularly the criticism of the industry that they contained. One theme repeated in the objections was a call by the committees for regulators, including planning authorities, to employ the precautionary principle on a more regular basis.

10.7 As identified at paragraph 9.1 above, Scottish Planning Policy published in 2014 has provided a definition of the precautionary principle to be used in Scottish planning decisions. As such it is considered compatible with Scotland's international obligations as the concept has been adopted by both the UN and the EU. It is noted that this post-dates the 2012 HwLDP Policy 28.

10.8 The SPP definition sets some important limitations to the application of the precautionary principle. It only relates to interests of national and international importance. There should be sound evidence indicating that significant irreversible damage could occur and if there is uncertainty, the potential for research, surveys or assessments to remove or reduce uncertainty should be considered.

10.9 In this case the interest of international importance is the Inner Hebrides and the Minches SAC (assessed below and in the appropriate assessment appendix). Many parties have suggested that the precautionary principle could be legitimately used more widely. Arguably, the status of both salmon and trout as Priority Marine

Feature species provides them with 'national importance'. However, as can be drawn from SNH's consultation response on this and other similar applications, the precautionary principle would only apply in these circumstances when the predicted effect related to the status of the national population as a whole rather than just a small component of it.

10.10 To date, the parliamentary reports have not resulted in any fundamental change to national aquaculture planning policy. National policy continues to be balanced between a generally positive approach on the mainland west coast, Western Isles, Orkney and Shetland and a presumption against any new aquaculture off the northern and eastern mainland coasts in the interests of protecting wild fish.

10.11 In this regard it is also important to fully appreciate the implications of paragraph 250 of SPP (also at 7.1 above). This is the part of national policy maintaining the presumption against further marine finfish farm developments on the north and east coasts of Scotland to safeguard migratory fish species. Two significant inferences can be drawn from this policy position;

- i. the Scottish government accepts that the risk posed by finfish farming to migratory fish species (wild salmonids) is great enough to justify what, in effect, is a planning 'moratorium' around the majority of the Scottish mainland coastline – the north and east coast where particularly significant salmonid populations are found. A presumption against a certain form of development is unusual in national planning policy and this approach can be seen as an explicit example of the precautionary principle being applied at the national level.
- ii. In allowing finfish farming on the west mainland coast and the northern and western isles, the government is aware and accepts the risk to wild salmonid populations in these areas, but concludes that the overall environmental cost is justified and outweighed by the benefits derived from a successful aquaculture industry.

This is not to say that the policy can be read as a 'free for all' in the locality of this application. Environmental impacts must still be carefully assessed and a balanced planning judgement made, but it does suggest that simply identifying an unquantified negative impact on wild salmonids, at the local level, is not enough to justify a refusal of planning permission.

10.12 As part of the government's response to the parliamentary reports, working groups, including planning authority representation, have been set up to specifically examine the issue of wild fish interactions with aquaculture. SEPA are also revising their aquaculture policies and role and carrying out scientific research to support future regulatory improvements. The only clear change in policy position has been from Marine Scotland which has endorsed the EMP approach to post-consent adaptive management. It is conceivable that this may be reflected in revised future national guidance and policy. Until then the planning authority is obliged to consider applications within the framework of current and applicable regulations, guidance and policy.

c) Clarification of approach to other developments, organic status and use of Staffin pier

- 10.13 The applicant makes it clear within the application documents that this proposal forms a part of a wider business plan to operate four farms along this part of the Skye coast. The two most southerly of these four have already been consented.
- 10.14 Although this application is only seeking permission for the third of the four in this business plan, the visualisations have been submitted with the fourth and most northerly farm showing. However, in determining this application it must be remembered that no permission has been granted for the fourth farm and so no weight can be given to it as a material consideration. Equally the fact that the previous two applications have been approved is not material to the success or otherwise of this application.
- 10.15 The applicant has also stated that it is their intention to operate the farms in a way that allows the product to achieve an 'organic' standard. Whilst the planning authority regards this approach positively because it reduces the environmental impacts of production (SLICE feed additive (Emamectin benzoate) cannot be used for example), it is not possible for the operator to guarantee that any production cycle will be completed in organic compliance. If non-organic methods are required for any reason then animal welfare and fish health requirements must come before organic production goals.
- 10.16 Consequently, in assessing the proposal against 'worst-case' outcomes (as it is required to do), the authority must disregard the organic nature of the applicant's proposed production methods and base any assessment on the impacts from non-organic production methods.
- 10.17 A further aspect of the applicant's wider business plan is the building of a fish processing plant within the settlement of Staffin which has been discussed with the local community trust. This would necessitate the use of Staffin pier for the landing of the harvest which would then be transported to the plant along the 'beach' road.
- 10.18 Although servicing the farms from the pier on a day to day basis using small vessels ferrying personnel is entirely compatible with how the pier is already used and would have no material impacts, the pier and the beach road would require upgrading if it were to be used to land the harvest from these farms. The road is very narrow and features a couple of very tight bends and is not suitable in its current form for a material increase in heavy goods vehicle use. It is already heavily used by tourist traffic during the summer months.
- 10.19 However, the only reason to land fish at Staffin would be the processing plant. Without such a facility these farms would face the same situation as others in this part of the west coast – harvesting to well-boat and transporting the fish to established harbour facilities within reach of existing processing plants.
- 10.20 Consequently, it is not considered necessary to use planning conditions to control these matters as part of this application. This would require to be considered as part of any future application that may be submitted and fully assessed at that time.

d) Visual and landscape impact

10.21 Among the large number of third party comments received in respect of this application, concerns about the visual and landscape impact of the fish farm are one of the most frequent considerations raised.

10.22 The application has been submitted with a landscape/seascape and visual assessment (LVIA) accompanied by a comprehensive set of visualisations. It is considered that these cover all the main visual receptors and sensitivities;

- views from within Flodigarry township and the public road and within the national scenic area (NSA)
- views from the coastal path between Flodigarry and Balmaqueen to the north and within the special landscape area
- longer views north from Staffin Bay within the NSA
- longer views down from the Trotternish ridge at the heart of the NSA

The proposal sits just outside both designations.

10.23 Policy 61 – Landscape – states that proposals should take account of relevant landscape character assessments and as the main views of this proposal are all from within the national scenic area or the special landscape area (SLA), it is the assessments supporting these designations that should be relied upon. Policy 57 – Natural, Built and Cultural Heritage - provides the policy position in support of these designations.

In respect of the special landscape area it states that the Council will allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment resource (the SLA).

In respect of the national scenic area it states that the Council will allow developments that can be shown not to compromise the natural environment resource (the NSA) Where there may be any significant adverse effects, these must be clearly outweighed by social or economic benefits of national importance. It must also be shown that the development will support communities in fragile areas who are having difficulties in keeping their population and services.

10.24 This policy-based approach to the assessment of visual and landscape impact is important to keep in mind when a proposal has aroused the significant level of concern that this has. The policies focus upon the landscape designations because it is 'public' amenity that the planning system aims to protect, rather than narrower considerations of private amenity.

Critical to this is recognition that the planning system cannot protect an individual 'right to a view'. Many of the third party comments from the locality are raising the issue that the introduction of the farm into these otherwise undeveloped waters will compromise the outlook from their properties. Many of the comments are also concerned that this will have commercial implications for them because the view from their properties is crucial to the attractiveness of their properties as a hotel, youth hostel, guest house, pod site or holiday let. Annex A of Planning Circular 3/2013 provides clear guidance in this regard,

"...6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and

buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development..”

The material consideration of a more generalised impact upon tourism (a public interest) is dealt with in a later section.

10.25 In assessing the visual and landscape impact of this proposal it is considered that there are two fundamental visual aspects of the proposal which define any approach to its assessment;

- i. in its own right, the pen group is a lightweight structure, constructed of dark coloured components similar to the hues of the sea and coastal landforms and sits low in the water. In relation to the expanse of the surrounding landscape it is relatively small in scale. At some 750m from the nearest shore it is similarly distant from the coast as Eilean Flodigarry, however
- ii. because the proposal introduces man-made ‘unnatural’ development into the open water seascape of an otherwise undeveloped coastline its actual visual impact is greatly accentuated. Its surroundings exhibit a high sensitivity to change. In metaphorical terms, it’s the small blemish or ink blot on an otherwise uniform surface which draws the eye and creates a much bigger visual impact than its actual size would suggest.

10.26 The authority has sought advice from SNH to assist in quantifying the dichotomy described above.

In respect of impacts upon the NSA, SNH have focused upon the published special qualities and in particular the ‘*distant views over the sea*’ across the Minch and to the mountains of Wester Ross. The most severe impact is considered to be from the public road approaching Flodigarry from the south as illustrated by the VP7 visualisation. Here the farm is considered likely to be dominant and discordant feature.

However, it is also recognised that the majority of receptors in views such as this are motorists for whom any such views will be glimpsed and the impact thereby minimised. Elsewhere landform and vegetation partially or completely obscures the farm.

Further south, longer views (5.3km) from Staffin Bay (VP9 for example) suggest that the farm will not be prominent, its impact subservient to the adjacent islands and landslip formations.

In the heart of the NSA, from elevated positions on the ridge (VP8,) the farm will be visible to sensitive receptors such as walkers but, given the elevation and distance (2.8km from the site), is considered likely to appear as a minor feature in a wide vista featuring existing human development.

Officers agree with SNH’s conclusion that any significant adverse effects on the NSA are localised and limited in number and, taken overall, will not have an adverse effect on the integrity of the NSA.

10.27 However, SNH are more concerned about the impacts upon the special qualities of the SLA. As such they are largely agreeing with the conclusions of the LVIA submitted with the application.

It is noted that one of the sensitivities to change identified in the Council's assessment of the SLA is that the "...*introduction of marine-based installations in nearshore waters could fall within important coastal views or introduce built elements in areas remote from habitation...*".

The submitted LVIA identifies major to substantial visual impacts from the proposal upon users of the coastal path between Balmaqueen and Flodigarry – a section of the much longer Skye Trail. VP3 and VP4 illustrate that from this closest and elevated section of path the farm is considered by SNH to read as a large incongruous development which would create a new man-made focus and vie for attention with Eilean Flodigarry and possibly diminish its apparent scale. The higher level of tranquillity and perceived wildness of this section of the path would be eroded by the development.

- 10.28 The LVIA identifies that for much of the adjacent coastal margin, including the A855 corridor, impacts would be largely negligible. This is agreed and certainly, if the road were as exposed to the development as the coastal path, then, given the above analysis, it is much less likely that officer support would have been given.
- 10.29 In other words, it is the number of receptors which is considered the critical issue and this returns to the Circular 3/2013 quote above. With only limited numbers of receptors exposed to the major/substantial visual impacts identified, it is not considered that the degree of public amenity loss in this instance justifies a reason for refusal.
- 10.30 SNH suggest that a condition to control the colour of the feed barge such that bright colours are avoided would assist to reduce impacts even further.

e) Impact upon the Inner Hebrides and the Minches SAC

- 10.31 The proposal lies within the Inner Hebrides and the Minches Special Area of Conservation (SAC). The qualifying interest for which the site is designated is porpoise. As the proposal aims to use Acoustic Deterrent Devices (ADDs), SNH have confirmed that an Appropriate Assessment (see Appendix 2) is needed to conform to the Habitats Regulation requirements, as the proposal is likely, they conclude, to have a significant effect on the porpoises. The danger being that underwater noise from the ADDs will disturb the porpoise and effectively exclude them from this part of the protected habitat. This approach is also in compliance with the requirements of Policy 57.
- 10.32 There are also a number of cetacean species found in the waters of the proposal. These include Minke Whale and Bottlenose Dolphin; all are European Protected Species. Furthermore, the Nature Conservation (Scotland) Act makes it an offence to disturb deliberately or recklessly or to harass any cetaceans.
- 10.33 As identified in many third party comments, seals are often seen and heard on and around Flodigarry island and so the potential for seal predation at the proposed farm is considered to be higher than might otherwise be the case.
- 10.34 To avoid duplication, the main details regarding the potential impacts on the SAC are considered in the Appropriate Assessment (see Appendix 2), based on advice from SNH. A summary of the findings shows, that, with appropriate mitigation, including the use of alternative predator control measures where possible and procedures in which the ADDs are only switched on if there is evidence of sustained

seal attack, their use is acceptable. Their use will be recorded and the cumulative impacts assessed. These data will be made available to the Highland Council and SNH.

- 10.35 As part of these conclusions SNH have suggested that an amended ADD plan be called in by condition to ensure further clarification regarding;
- confirmation that 'fish panic' triggering will work at low stocking density
 - confirmation of the mode of use (power level) of the transducers
 - confirmation that hydrophone sensing of cetaceans will be effective

f) Impact upon wild salmonids

- 10.36 Policy 59 (Other Important Species) of the HwLDP requires the council to have regard to the presence of, and any adverse effect of development proposals, either individually and/or cumulatively on species including the multi-sea-winter component of the Atlantic salmon population (included in the UK Biodiversity Action Plan Priority Species List and as a Priority Marine Feature).
- 10.37 By way of background to these considerations, wild salmonids i.e. wild salmon and trout, are protected species. Among other designations, Atlantic salmon is listed on Appendix III of the Bern Convention and Appendix II and V of the EC Habitats and Species Directive and is listed on Schedule 3 of the Conservation (Natural Habitats, andc.) 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 (PMF). Trout (*Salmo trutta*) are also a PMF and 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. Clearly therefore, any impacts on these species must be considered.
- 10.38 Significantly, the overall numbers of wild salmonids in Scottish coastal waters has declined dramatically over the last few decades. Whilst there is no definitive evidence to suggest a causal connection with fish farming, it has created a situation where planning authorities need to satisfy themselves that new fish farm permissions will not add to the environmental pressures on an already struggling set of species and make a bad situation even worse.
- 10.39 The MSS consultation response stresses that there is now plenty of evidence from Norway and other producer states showing that sea lice emissions from fish farms can result in increased mortality among wild salmon and sea trout.
- 10.40 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 and therefore pose a greater risk to wild salmonids at that time.

- 10.41 For clarity, marine fish farms tend to operate on roughly two year production cycles, at the end of which 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.
- 10.42 For clarity, marine fish farms tend to operate on roughly two year production cycles, at the end of which 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.
- 10.43 Following the Parliamentary committee reports on the environmental impacts of salmon farming it was proposed that site-specific data for all marine fin fish farms would be forthcoming in due course. Individual site data are now published by the SSPO as from May 2018, although these are provided with a time lag.
- 10.44 MSS also 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.
- 10.45 The issue here relates to the very large numbers of fish reared within the pens of a farm relative to the much smaller number of wild salmonids inhabiting and/or transiting the waters in its vicinity. The 500,000 or more fish in the farm will exceed local wild fish populations to a very large extent. Consequently, even when the numbers of sea lice per farmed fish is relatively low, the total number of adult and planktonic sea lice entering the local receiving environment may still be many times greater than the naturally occurring 'background' level associated with the wild fish. This increases the risk of infection for wild fish to a corresponding degree including those wild salmon 'in transit' near a farm during the late spring migration.
- 10.46 It is clear from the Fishery Boards' consultation response that it has a particular concern that the location of this farm will have a detrimental impact upon migrating salmon (through sea lice emissions) because of its proximity to what is understood to be this specie's migratory routes. The more general concern about the impact of sea lice emissions on local populations of wild salmonids including (non-migratory) sea trout also exists.
- 10.47 This issue of proximity of farms to salmon migration routes was a specific concern of the parliamentary committees. They stressed that it makes sense to maintain clear separation between the two and we know that the migration is focussed around late spring. The difficulty, however, is that there is;
- i. very little data on the actual routes taken by the fish
 - ii. very little data about the dispersion pattern of sea lice around fish farms
- Consequently, the degree of connectivity between sea lice emissions from the farm and fish transiting the area of waters containing raised levels of sea lice from the farm remains difficult to ascertain and quantify.

10.48 To address these issues and in accordance with current Marine Scotland advice the applicant has submitted an Environmental Management Plan with the application. The plan sets out an adaptive management approach to the control of sea lice on the farm and includes a wild fish monitoring programme (in cooperation with the local Fisheries Trust) to provide base data on wild fish numbers and health in the vicinity of the farm.

However, in its original form the document was not considered to meet the minimum criteria laid out by Marine Scotland in June 2019. A revised version has been submitted.

Unfortunately as currently submitted this revision still does not address all the requirements laid out by Marine Scotland. In particular, there is insufficient detail on how the numbers and dispersion of sea lice from the farm are to be modelled and monitored and, therefore, no detail on the potential for interactions between sea lice emissions and wild fish. This is considered particularly prescient to accessing any impacts upon migratory salmon. There is also insufficient clarity on how the planning authority is to be informed of the results of such monitoring and included in discussions of adaptive management initiatives to address any problems identified by the monitoring.

Also it is considered that a specific commitment should be included to apply the EMP to this and the two consented sites to the south to ensure that adaptive management decisions are made in respect of all three sites in coordination.

This use of such a condition is consistent with the advice now being given by Marine Scotland who, since June 2019, have thrown their weight behind the use of EMPs until such time as a new regulatory structure for wild fish protection is forthcoming. There can be no guarantee that this new regime will be introduced in the short term and so EMPs must be as robust as possible to cover what could be an extended interim period.

10.49 Consequently, a condition is recommended to require the submission of a revised EMP that will explicitly address these shortfalls.

g) Impact upon fresh water pearl mussel habitat

10.50 In brief, both sea trout and salmon are host species for young fresh water pearl mussels and are critical to the long-term success of the population. Negative impacts of sea lice from these farms on the numbers of wild salmonids hosts could result in the mussel population declining correspondingly to a long-term and unsustainable degree. This would be regarded as contrary to Policy 58.

10.51 SNH have been able to confirm that they believe that there is unlikely to be a significant effect on the River Kerry SAC designated for freshwater pearl mussels (FWPM) and lying some 34km to the east in Wester Ross.

10.52 However, they are aware of other FWPM habitat closer to the farm. In this regard the requirement for a robust EMP discussed in the previous section is considered even more pressing.

h) Impact upon protected bird species

- 10.53 The RSPB have raised concerns about the potential impact upon the range of protected species of the Shiant Isles Special Protection Area (SPA) and also on local populations of the Black Guillemot – a priority marine feature. The primary concern is of entanglement in nets and displacement due to activity.
- 10.54 SNH have been able to make a more formal assessment of the SPA and concluded that there will be no likely significant effect on the qualifying features of the SPA. They consider the risks of entanglement to be low, the proportion of the population that could be affected to be very small and the area of habitat affected to be very limited.
- 10.55 Equally, in respect of the Black Guillemot SNH have concluded that since individual birds feed in particular areas of the sea only a small number of birds would be displaced by the fish farm. Also their favoured habitat - kelp beds – are inshore of the farm. Overall, even if a few pairs were displaced it would not affect the favourable conservation status of the PMF.

i) Pollution

- 10.56 A number of third party comments indicated serious concerns that the farm would result in pollution of the surrounding coastline to the extent that the harvest of local edible seaweed would no longer be possible and that there would be an overall degradation of the shore and coastal waters. Policy 72 – Pollution – requires the applicant to show how pollution is to be avoided and mitigated.
- 10.57 In respect of fish farms it is considered that the benthic (sea bed) and water column pollutants resulting from the farm's activities are effectively controlled by SEPA through the CAR license process. In this regard SEPA has confirmed that this farm will be assessed under their revised, more stringent regime.
- 10.58 Consequently it is considered that this matter is fully addressed and that the risk of pollution impacting upon the shoreline is very low.
- 10.59 In a related sense SNH have also been able to confirm that benthic impacts upon the priority marine feature '*Tide swept coarse sands with burrowing bivalves - Moerella spp. with venerid bivalves infralittoral gravelly sand*' does not raise any issues of national interest regarding the PMF.

j) Risk of escapes

- 10.60 Third party comments stated that northerly storms sometimes impacted this section of coast very severely and that this presented a very real risk of net failure and mass escapes of farmed fish leading to habitat competition and possible introgression with wild salmonids. Marine Scotland also raised the same point.
- 10.61 In response the applicant has submitted an attestation statement from the manufacturer of the nets and cages confirming that they have been specified to be able to withstand the acknowledged high energy conditions of the site.

10.62 It is also noted that the EMP contains a section on escapes and the procedures to be employed if such an event occurs. It is not considered likely that the applicant would leave this matter to chance as it could have disastrous business consequences and so officers are satisfied that the risk of escapes has been minimised to as great an extent as possible.

k) Economic impact including tourism and other fishery users

10.63 It is likely that the fish farm could have a positive impact on local employment and economic activity both directly and indirectly. This is particularly important for an area falling within the HIE definition of a Fragile Area. Policy 36 (Development in the Wider Countryside) of the HwLDP states that regard should be given to the extent to which a proposal would help, if at all, to support communities in Fragile Areas in maintaining their population and services by helping to re-populate communities and strengthen services.

10.64 However, very vociferous arguments have also been made that any economic advantage created by the farm will be more than cancelled out by the costs due to tourists being put off by the farms existence. Many have also questioned whether recent tourist impacts mean that Skye should no longer be classified as 'fragile'.

10.65 The extent to which a fish farm could impact upon tourist numbers is very difficult to quantify. A number of third parties have quoted survey results showing some possible connection, but at the same time it has to be recognised that the growth of tourism and the expansion of the fish farming sector in recent years have occurred in parallel with little obvious impact on each other.

10.66 Clearly, as with any economic benefit assessment, it is necessary to consider the 'net' effect. The obvious benefits of development have to be weighed against the 'costs' which come with it, some of which are difficult to quantify. There is insufficient evidence on either side of this argument for the planning authority to come to any definitive answer and so little weight can be placed upon this consideration.

10.67 In respect of other fishing interests, it is noted that the 'right' to fish in coastal waters is effectively removed when the Crown Estates offer to lease an area to the finfish farming industry. It is not known to what extent the fishing industry is able to influence such decisions but it is suggested that this might be a more effective focus of attention.

i) Noise impact

10.68 In accordance with the advice provided at pre-application, the application includes a noise assessment in respect of the nearest noise sensitive premises – the hotel and nearby residential dwellings.

10.69 The assessment indicates that noise from the site – primarily associated with the operations of the feed barge – will only just be audible above normal background noise levels at these locations.

- 10.70 The analysis and methodology appears to be robust. However, a condition is recommended requiring the applicant to achieve the NR20 noise standard at these properties. Failure to achieve these standards could then be made the subject of enforcement action in the form of a requirement for further noise mitigation and a reduction in noise emissions from the site.

Other material considerations

- 10.68 Potential impacts on White-tailed Eagles has been raised and is addressed as a confidential annex at Appendix 3 to ensure the location of any habitat does not become a matter of public record and the integrity of the bird's protected status damaged.

Non-material considerations

- 10.69 The issue of the financial make-up of the applicant company and its intentions for the owning or selling the site is not a material planning consideration.

Matters to be secured by Section 75 Agreement

- 10.70 a) None

11. CONCLUSION

- 11.1 The application has the potential to have substantial localised visual impact on the special qualities of both the NSA and the SLA when seen from the Flodigarry settlement and coastal path. However, these negative impacts are finite in their extent and will impact on a small number of receptors. Consequently the visual impacts of the proposal are considered acceptable.

- 11.2 The proposal has the potential to negatively impact a number of protected species. However, SNH have been able to confirm that, subject to the satisfaction of a number of conditions, no unacceptable impacts on these species will be caused by this development.

- 11.3 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.

12. IMPLICATIONS

- 12.1 Resource: Not applicable.
- 12.2 Legal: Not applicable.
- 12.3 Community (Equality, Poverty and Rural): Not applicable.
- 12.4 Climate Change/Carbon Clever: Not applicable.
- 12.5 Risk: Not applicable.
- 12.6 Gaelic: Not applicable.

13. RECOMMENDATION

Action required before decision N issued

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

Conditions

1. No commencement of the development hereby approved shall take place until a revised ADD use plan, based upon the one accompanying this application, has been submitted to and approved in writing by the planning authority. The revised plan shall address the issues raised by SNH in their consultation response, namely;
 - confirmation that 'fish panic' triggering will work at low stocking density
 - confirmation of the mode of use (power level) of the transducers
 - confirmation that hydrophone sensing of cetaceans will be effective

Thereafter the fish farm shall not be operated other than in strict accordance with the approved ADD plan.

Reason: To ensure there is no adverse impact on the integrity of the Inner Hebrides and the Minches SAC

2. No commencement of the development hereby approved shall take place until a revised Environmental Management Plan (EMP) has been submitted to and approved in writing by the planning authority. The revised EMP shall fully address all the minimum criteria identified in the consultation response from Marine Scotland Science dated 28.08.2019. Furthermore, it should include a specific commitment to ensure that it is coordinated and integrated with the EMPs applying to the operator's other two consented sites to the south. The required regular review process should make specific provision for a meeting with the planning authority towards the end of each production cycle to agree any adaptive production management changes considered necessary in the light of the monitoring data.

Thereafter, the fish farm shall not be operated other than in strict accordance with the approved EMP.

Reason: To ensure that measures are followed, throughout the lifetime of the permission, to identify and mitigate the potential impacts of sea lice loading on wild salmonids in accordance with the planning authority's biodiversity duty.

3. No commencement of the development hereby approved shall take place until a colour scheme for the feed barge hereby approved has been submitted to and approved in writing by the planning authority. The submitted scheme shall feature dark, recessive colours. No feed barge shall be positioned or operated at the site other than in strict accordance with the approved colour scheme.

Reason: To ensure the landscape and visual impact of the development upon the Trotternish NSA and the Trotternish and Tianavaig SLA is minimised

4. 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 ensure the landscape and visual impact of the development upon the Trotternish NSA and the Trotternish and Tianavaig SLA is minimised

5. 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 ensure the landscape and visual impact of the development upon the Trotternish NSA and the Trotternish and Tianavaig SLA is minimised

6. 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.

7. 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.

8. For the avoidance of doubt, unless amended by the terms of this permission, the development shall be constructed and operated in accordance with the provisions of the application, the submitted plans, and the Environmental Statement.

Reason: In order to clarify the terms of permission

9. 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 falls within Classes 7 (Hotels and 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.

REASON FOR DECISION

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.

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 and 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

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

Designation: Acting Head of Development Management – Highland
Author: Mark Harvey
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - Location Plan
Plan 2 - Site Layout Plan
Plan 3 - Cage elevations – snorkel tube
Plan 4 - Cage elevations – top net
Plan 5 - Feed barge elevations
Plan 6 - Feed barge deck plans
Plan 7 - Feed barge sections

Appendix 2: Appropriate Assessment

New Fish Farm for Atlantic Salmon consisting of 12x120m circumference circular cages in an 80m mooring grid with associated feed barge

19/03093/FUL Flodigarry

CONSIDERATION OF PROPOSALS AFFECTING EUROPEAN SITES

The status of the **Inner Hebrides and the Minches 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 fish farm and its incorporation of acoustic deterrent devices has the potential to have a likely significant effect on the qualifying interests. The Council is therefore required to undertake an Appropriate Assessment of the implications of the proposal for the Inner Hebrides and the Minches 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 when proposed mitigating conditions are applied. The council has undertaken an appraisal assisted by the information supplied.

Decision

On the basis of this appraisal, it can be concluded that the proposal will not adversely affect the integrity of Inner Hebrides and the Minches SAC.

HIGHLAND COUNCIL 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 Inner Hebrides and the Minches SAC

The qualifying interest for which the site is designated is porpoise. The SAC is the largest protected area in Europe for harbour porpoise and covers over 13,800 km² and supports over 5000 individuals. The SAC Selection Assessment Document on the SNH websiteⁱ describes the SAC as having the following attributes:

6. Site summary

The Inner Hebrides and the Minches site is located within the West Scotland harbour porpoise MU and is an area with high predicted and observed densities of harbour porpoise. The area included within the site covers important summer habitat, where the density of animals has been shown to be consistently above average by both Heinänen and Skov (2015) and the work from Booth *et al.* (2013). Additionally, work by Embling *et al.* (2010) and Marubini *et al.* (2009) also indicate that locations within this proposed site support high densities of harbour porpoise in summer and thus could be suitable as a protected area for the species. No modelling work was undertaken for the winter season for the West Scotland management unit because there were insufficient data available. Although there are more data from summer months, harbour porpoise are present throughout the year (Paxton *et al.* 2016), and thus the designation applies year round.

The Inner Hebrides and the Minches site comprises an area of 13801.99km². The site's northern boundary crosses the North Minch between the Point of Stoer and Tolsta Head. A simple boundary follows the coastline of the Outer Hebrides to Rubha na h-Ordaig on South Uist. From there it crosses the Sea of the Hebrides to the northern tip of Coll, and then runs from Port a' Mhùrain on the south west of Coll, down to Rubha Bholsa on the north coast of Islay. It has a southern boundary between the Rhuba na Tràille at the southern end of Jura and the mainland coast near Ballochroy. From Ballochroy it follows the mainland coastline back to the Point of Stoer including the Sound of Mull and Kyle Rhea. It encompasses the islands of Skye, Mull, Lismore, the island group within the Firth of Lorn and Colonsay.

The Advice to Support Management document on the SNH Websiteⁱⁱ (which pre-dates the site's SAC confirmation) notes:

Aquaculture - finfish

In assessing likely impact, our focus has been on the equipment on site, likely vessel routes, and the use of Acoustic Deterrent Devices (ADDs) which together represent the main interactions between aquaculture developments and harbour porpoise.

There are numerous finfish farms within or immediately adjacent to the pSAC, mainly close to the shore. Map 2 shows the distribution of aquaculture developments within or close to the boundary of the pSAC.

Aquaculture farm equipment includes pens, nets, moorings and can include floating buildings. We consider that there is a low risk of entanglement for harbour porpoise from aquaculture infrastructure.

Finfish farms often use ADDs as part of their anti-predator measures, however, these may result in disturbance/habitat exclusion of harbour porpoise. The evidence of impacts on cetaceans from ADDs currently in use is varied and is dependent on many variables (e.g. noise characteristics of device, how the device is used, the topography, animal behaviour and importance of the area/habitat where the ADD is being used). We are aware there are ongoing trials and research relating to new ADDs for which noise emissions do not overlap with the most sensitive range of harbour porpoise hearing. Further research is required but these new devices may in the future provide a suitable alternative seal defence mechanism which is more compatible with the conservation objectives of the site.

The conservation objectives for the Inner Hebrides and the Minches SAC were informed by a Conservation Strategyⁱⁱⁱ.

In respect of this planning application SNH have advised:

In our view, this proposal is likely to have a significant effect on harbour porpoise within Inner Hebrides and the Minches SAC because Acoustic Deterrent Devices (ADDs) are included as part of the range of predator control measures. These may disturb harbour porpoise. Consequently, The Highland Council 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 to date, the proposal will not adversely affect the integrity of the site. The appraisal we carried out considered the following factors:

- A range of measures are proposed to reduce the chances of seal attacks and minimise ADD use including *using new generation nets marketed for their seal resistance, incorporation of seal blinds into cage design, maintenance of net tension, lower stocking densities and regular removal of mortalities* (Section 5.5.3). We particularly support the use of new generation seal resistant nets at the outset.
- The site is on the edge of the Minch in a relatively unconstrained area in terms of cetacean movements (as opposed to sounds or narrows).
- Annex 2B (*Statement on the use of ADDs*) provide details on ADD usage. This includes measures to ensure that ADDs are only activated in the event of a significant seal predation event, would not sound continuously, and would be switched off promptly.
- ADDs would only be switched on if >50 fish are killed due to seal predation and then only if it is the second such event within the last 5-7 days. ADDs would be used for a maximum of 14 days with a minimum of 7 days between usage periods. When in use the ADDs will not

sound continuously. The intention is for the ADDs to be triggered by the panic reaction of the fish but there is doubt as to whether this will work at the stocking densities envisaged. In the event that it does not the devices will be set to sound intermittently/randomly. They also plan to switch off the ADDs at night (between 6pm-8am).

- The source level quoted for the proposed ADD is also lower than similar devices. However, the system proposed (OTAQ Seal Fence) has powerful transducers and the quoted level may be dependent on the mode of use: we recommend that this should be confirmed.
- They propose to deploy hydrophones to record cetaceans in the vicinity of the farm. We recommend that further details be provided on this system since ADD use may displace cetaceans beyond the range of the hydrophones.
- OSH have committed to keeping a log of ADD use and to make this available to THC and SNH on timescales to be defined by THC.
- The proposed Flodigarry and Balmaqueen fish farm sites would be sufficiently close that cumulative impacts (wider habitat exclusion) may occur if ADDs were in use at both farms at the same time. We therefore recommend that a single integrated plan be produced if both farms are permitted.

Further to this, discussions with SNH have advised they are content that an appropriate condition that reflects the above advice will satisfy the assessment of impacts.

Qualifying Species:

- Porpoise

Highland Council's appraisal of the effect of the proposal on species integrity

The development may directly cause negative impacts due to the impacts of ADDs if used on this fish farm. However, scientific advice provided indicates that so long as a condition is imposed on the planning application requiring that the ADDs to be used in a limited manner to minimise the individual and cumulative effects, no adverse effect on the integrity of the SAC will result.

Conclusion to scientific appraisal

The proposal is unlikely to have a significant effect of the integrity of the qualifying feature of the Inner Hebrides and the Minches SAC.

<http://www.snh.gov.uk/protecting-scotlands-nature/protected-areas/2016-harbour-porpoise-consultation/>

¹ <http://www.snh.gov.uk/protecting-scotlands-nature/protected-areas/2016-harbour-porpoise-consultation/>

¹ <http://www.gov.scot/Topics/marine/marine-environment/mpanetwork/harbourporpoisesacs/conservestrat>

Appendix 3: Confidential Annex

Impact on White-tailed (Sea) Eagles

Maintaining confidentiality in respect of the location of the nesting sites of protected birds is considered a fundamental element of their protected status. A publically accessible discussion in report of this nature would almost certainly compromise that protection – hence the use of this confidential annex which will not appear on the public website.

The existence of a Sea Eagle nesting site on Eilean Flodigarry has been widely reported in the third party correspondence.

White-tailed Eagle is listed under Schedule 1 of the Wildlife and Countryside Act 1981 as amended. It is illegal to intentionally or recklessly disturb the species close to a nest site during the breeding season or, at any time, to interfere or damage/destroy the nest or harass the birds.

Policy 58 – Protected Species – states that developments that will have an adverse effect on a protected species such as the Sea Eagle will not be allowed unless there is no satisfactory alternative. In this case, alternatives in respect of siting do exist. Consequently, the test of acceptability is whether an adverse effect on the species will occur as a result of the proposal.

The applicants are aware of the existence of a breeding site on the island and have addressed the issue through a confidential annex which analyses the situation and suggests mitigation.

The main risks are considered to be;

1. entanglement in the nets
2. disturbance due to noise and human activity associated with the farm and particularly boat transits to and from the site.

The applicant's suggested mitigation is;

1. choice of a net mesh size that will minimise entanglement risk
2. installation of the farm during the winter months outside the breeding season
3. site protocols in respect of the routes to be taken by boats past the island
4. training of staff and record keeping of Sea Eagle sightings.

In their confidential consultation response SNH confirm the existence of the nest on the island. They state that it is some 1.5km from the proposed site and that their guidance is that separation distances of more than 1km are unlikely to result in any direct disturbance.

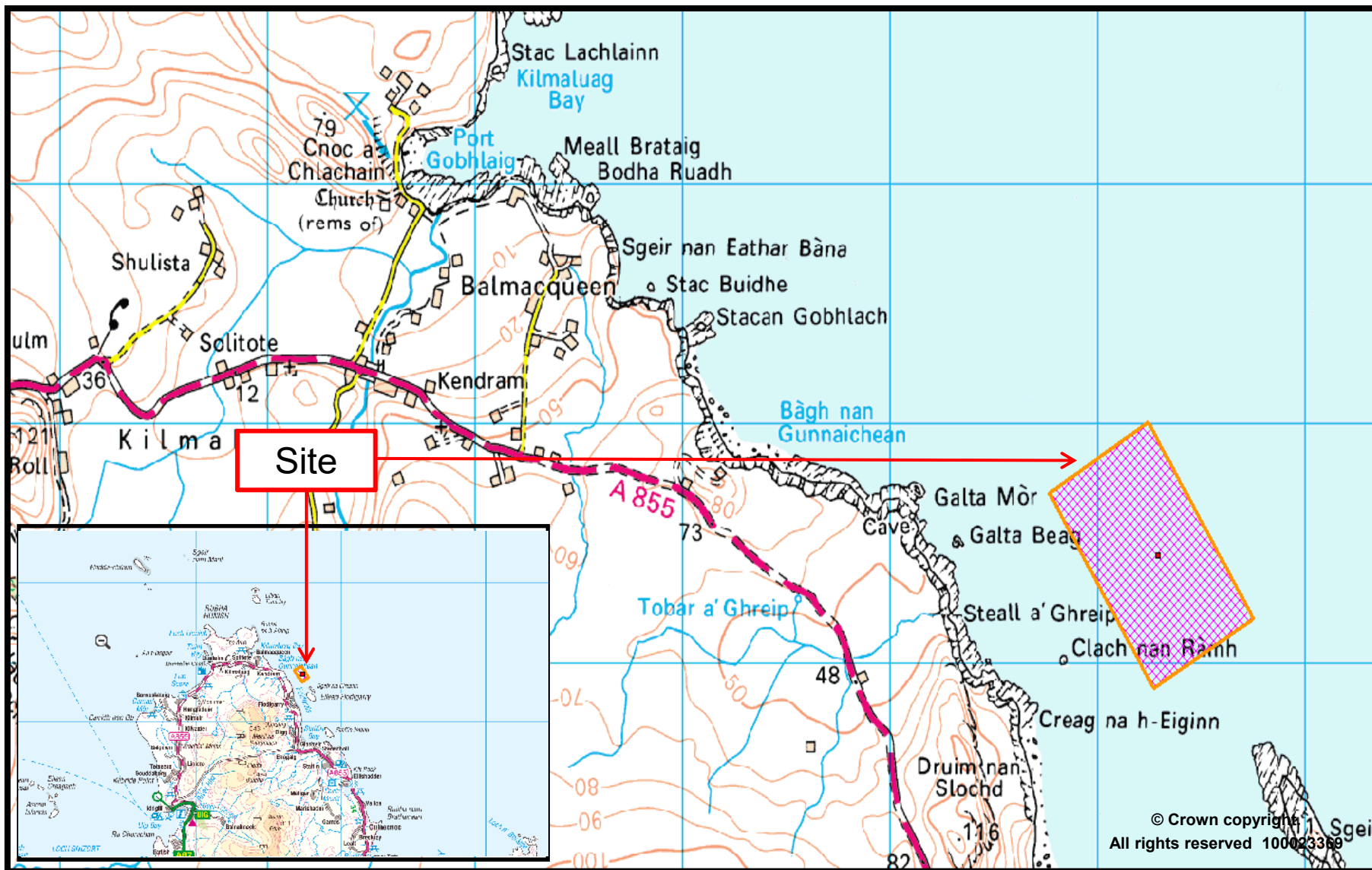
SNH agree that increased boat traffic near the island could be an issue in respect of disturbance but that the applicant's proposed mitigation should successfully mitigate this issue to an acceptable degree.

However, it is important to be recognised that it is the conservation status of the wider species that is being protected by the legislation and SNH go on to discuss the worst case scenario,

"...In a worst case scenario the birds will abandon their nest site and move somewhere else. They may even fail to breed for a season or two. However it is unlikely that they would stop breeding altogether. Even if that were the case, the population is now

sufficiently well established and expanding at such a rapid rate that the favourable conservation status of the regional population of Sea eagles would still be maintained...”

In other words, even if this breeding pair were to be displaced as a result of disturbance caused by this proposal, the ‘adverse effect’ identified by Policy 58 would not be considered to have occurred and so even this outcome would not be a reason for refusal.



Planning and
Development Service

Location Plan
19/03093/FUL

New Marine Fish Farm for Atlantic Salmon consisting of 12 x 120m circumference circular cages in an 80m mooring grid with associated feed barge.

November 2019

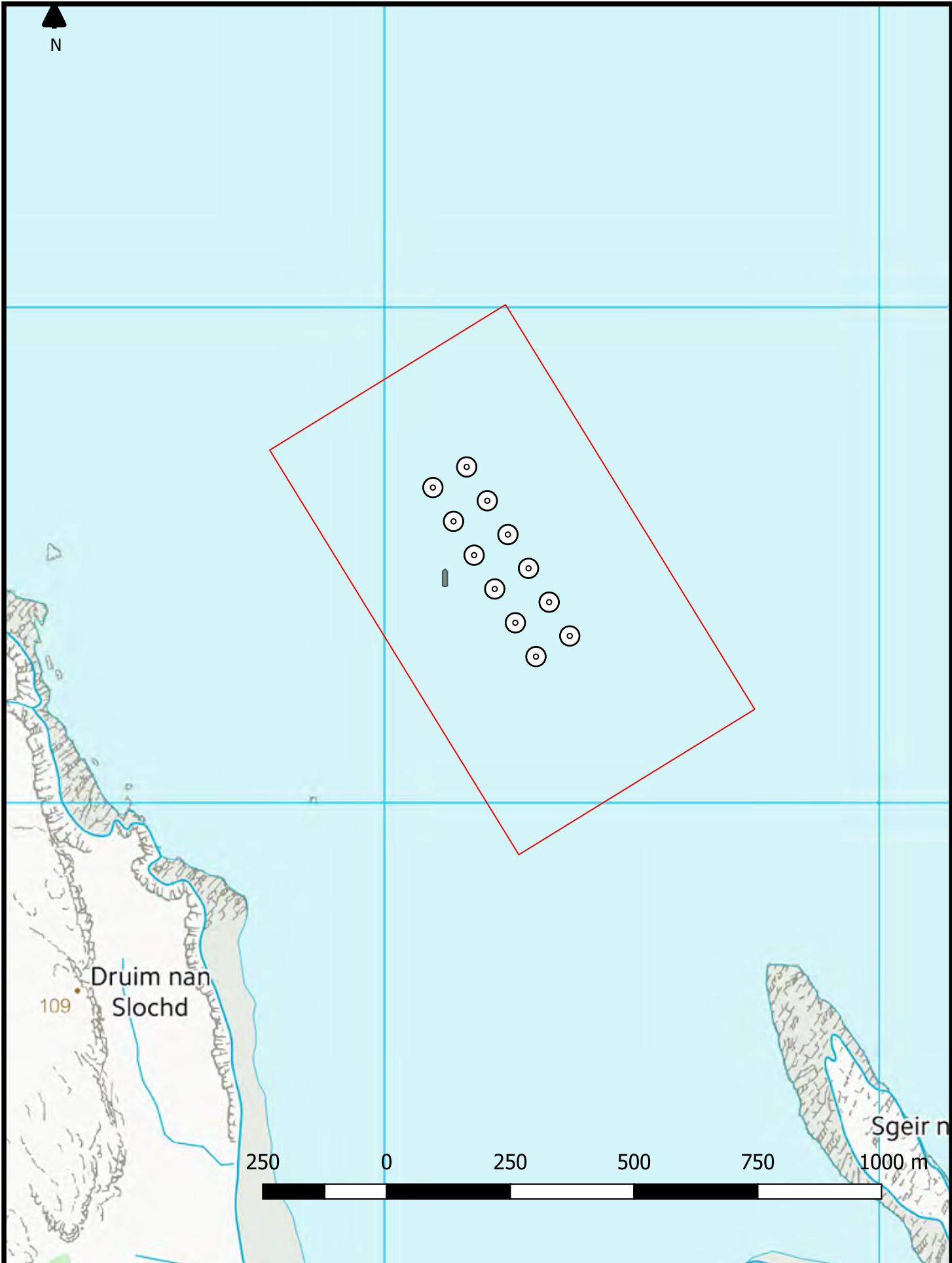
Scale:



Organic Sea Harvest
 Proposed Flodigarra Site
 FIG 1. Location Plan

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 UKHO Chart Data supplied by EMAPSITE © Crown Copyright, 2019. All rights reserved. License No. EK001-EMS-366113.
 NOT TO BE USED FOR NAVIGATION





Organic Sea Harvest
 Proposed Flodigarry Site
 FIG 2. Site Plan with Surface Equipment

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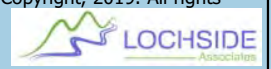
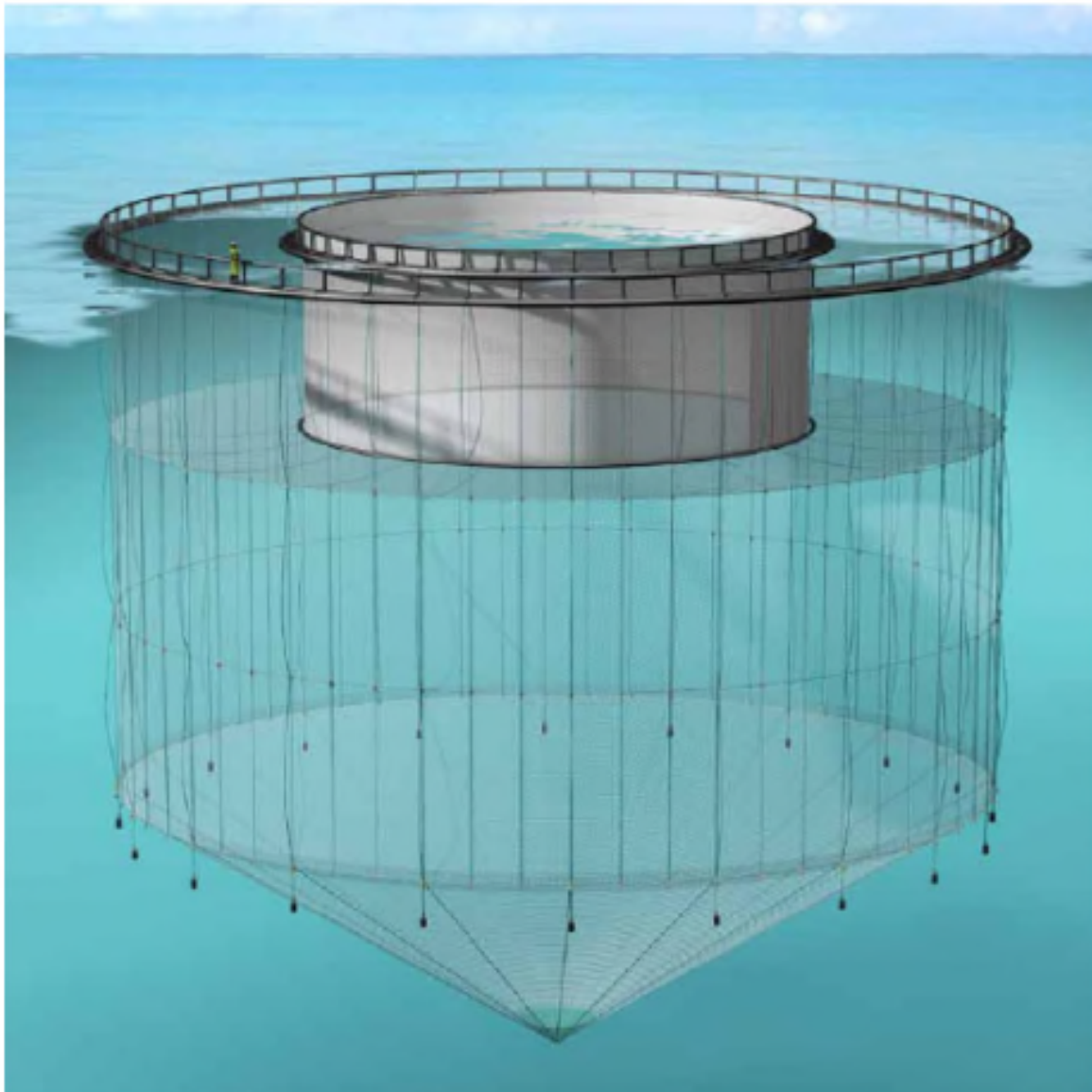
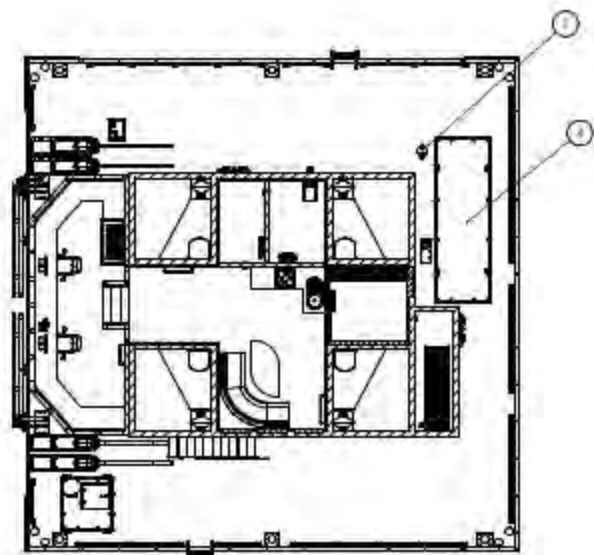
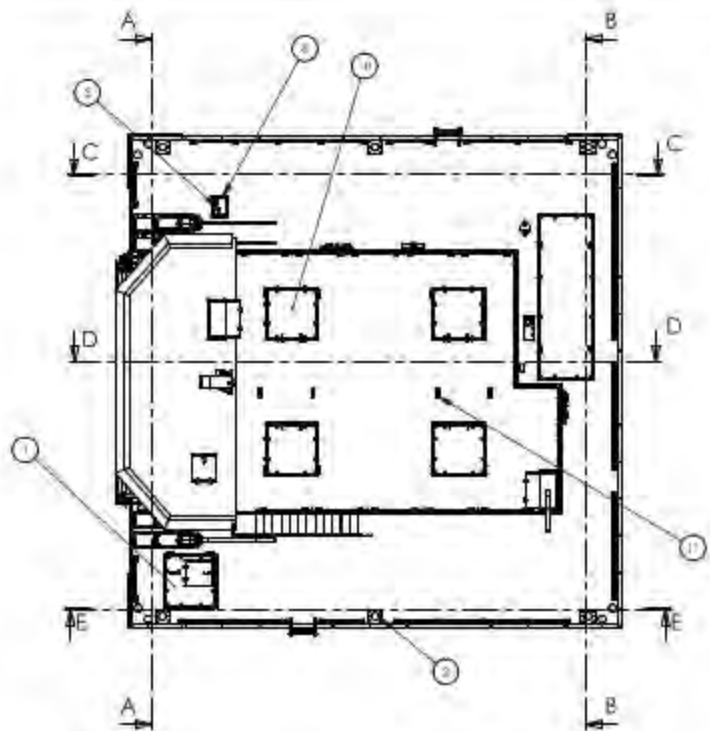


Figure 9 – Top Net Design



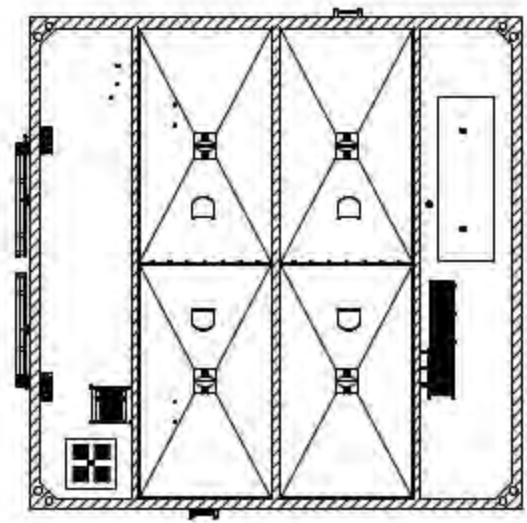
Figure 10 – Tube / snorkel net design



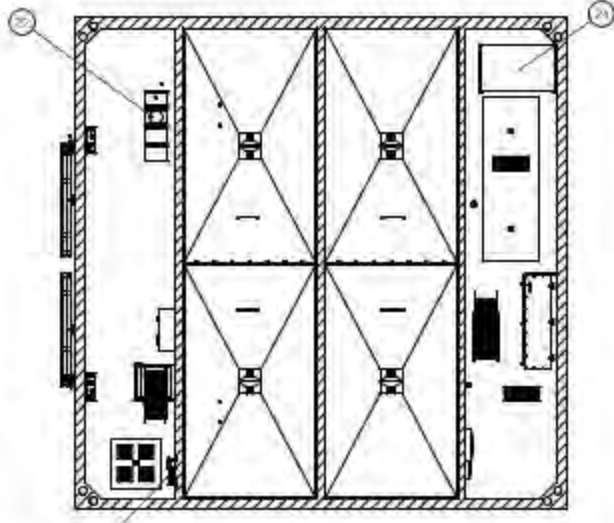


SECTION F-F

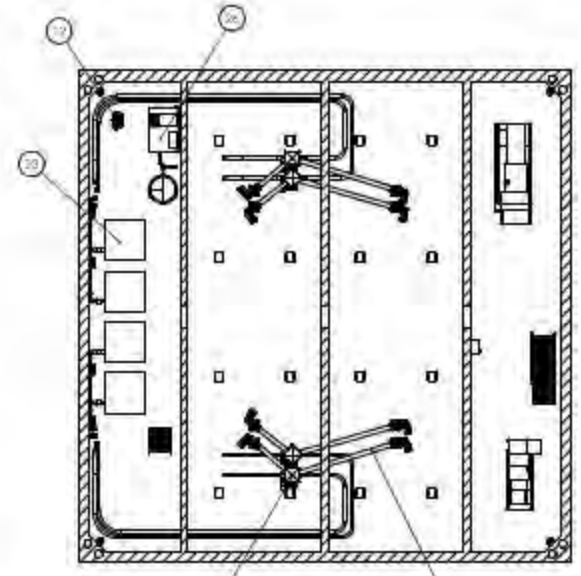
DRYNO	UNIT	DESCRIPTION
1		ENGINE ROOM
2		ELECTRICAL CONTROL ROOM
3		HYDRAULIC ROOM
4		GENERATOR ROOM
5		GENERATOR ROOM COVER
6		TV TANK
7		DESS (M&I)
8		FRESH WATER WELLS
9		AIR PRESSURE TANKS
10		NO. 100
11		NO. 100 SUPPORT
12		TRIPLE WATER POINT
13		ARCHIVE ROOM
14		SECURE ROOM
15		HOT WATER CYCLER
16		SECTOR
17		BLICE PUMP
18		BATHROOM
19		DRINK ROOM
20		DESS
21		GENERATOR
22		MAINTENANCE
23		FLOWER
24		HOT TANK
25		DRS
26		LOW PRESSURE



SECTION G-G



SECTION H-H



SECTION I-I

PROJECT: DRAWING NO: DATE: SCALE: SHEET NO: TOTAL SHEETS: PROJECT MANAGER: DESIGNER: CHECKER: APPROVER: CLIENT: CONTRACT NO: CONTRACT VALUE: CONTRACT START DATE: CONTRACT END DATE: CONTRACT TYPE: CONTRACT STATUS: CONTRACT VALUE: CONTRACT START DATE: CONTRACT END DATE: CONTRACT TYPE: CONTRACT STATUS:		SECTION: DRAWING NO: DATE: SCALE: SHEET NO: TOTAL SHEETS: PROJECT MANAGER: DESIGNER: CHECKER: APPROVER: CLIENT: CONTRACT NO: CONTRACT VALUE: CONTRACT START DATE: CONTRACT END DATE: CONTRACT TYPE: CONTRACT STATUS:	SECTION: DRAWING NO: DATE: SCALE: SHEET NO: TOTAL SHEETS: PROJECT MANAGER: DESIGNER: CHECKER: APPROVER: CLIENT: CONTRACT NO: CONTRACT VALUE: CONTRACT START DATE: CONTRACT END DATE: CONTRACT TYPE: CONTRACT STATUS:	
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