

Agenda Item	6.2
Report No	PLN/004/21

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 26 January 2021

Report Title: 20/00097/FUL : Organic Sea Harvest
Land 1600M East Of Balmaqueen

Report By: Acting Head of Development Management

Purpose/Executive Summary

Description: New marine fish farm for Atlantic Salmon consisting of 12 x 120m circumference circular cages in a 80m mooring grid with associated feed barge

Ward: 10 - Eilean A' Cheò

Development category: Local

Reason referred to Committee: Number of third-party objections and 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.

Recommendation

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

1. PROPOSED DEVELOPMENT

1.1 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.

1.2 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.

1.3 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.

1.4 Supporting Information: 17/02313/SCOP identified the application as EIA development. The application has been submitted with a full EIA Report including a draft environmental management plan

1.5 Variations: None

2. SITE DESCRIPTION

2.1 The proposal is positioned just over 1km off the eastern coast of the Trotternish peninsula at the north-eastern extremity of Skye. It is located directly to the east of the Balmaqueen settlement and just south of a line extending eastwards from the southern shore of Kilmaluag Bay.

2.2 The terrestrial landscape around Balmaqueen is the flatter land lying beyond the sudden and dramatic termination of the Trotternish ridge some 3 km south of the site location. The landslip formations of this upland area form the main features of the Trotternish National Scenic Area. The northern boundary of the NSA is some 2 – 2.5km south of the site.

3. PLANNING HISTORY

3.1	14.06.2017	17/02313/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	EIA development
-----	------------	--	-----------------

3.2	09.04.2019	19/00495/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
3.3	27.01.2020	Site at Flodigarry to the south	Refused
		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.	
	26.11.2020	20/00013/REFSL - Appeal	Dismissed
3.4	17.04.2018	The northernmost of the applicant's consented sites to the south	
		17/04749/FUL - New Fish Farm for Atlantic Salmon consisting of 12x120m circumference circular cages in an 80m mooring grid with associated feed barge	Granted
3.5	24.04.2018	The southernmost of the applicant's consented sites to the south	
		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	Granted

4. PUBLIC PARTICIPATION

4.1 Advertised: EIA development and Unknown Neighbour

Date Advertised: WHFP – 16 March 2020, Edinburgh Gazette 18 March 2020

Representation deadline: 19 April 2020

Timeous representations: 41 from 35 households (not including previously submitted petition)

Late representations: 6 from 5 households

4.2 Material considerations raised are summarised as follows:

Against;

- a) Use of the term 'organic' is misleading
- b) The proposal significantly disrupts the open-seascape views – raises similar issues to the Flodigarry proposal to the south. Particular impact on the Skye Trail coastal footpath
- c) High risk of north-westerly storm damage to the cages resulting in escaped fish and pollution. Pollution will also result from the operation of the farm
- d) Negative impact on tourism
- e) Will disrupt views and amenity when seen from the Trotternish Ridge

- f) Coastal swimming, kayaking and sailing should be protected from such development
- g) Acoustic Deterrent Device (ADD) use will harm cetaceans and disturb local colonies of seals
- h) Will impact upon wild salmon from the Brogaig, Kilmartin and Lealt rivers and the wider surrounding waters
- i) Recent sightings of basking sharks in Kilmaluag Bay
- j) Precautionary principle is not being applied as it should
- k) Protected species in the area should be surveyed as required by Policy 58
- l) Given previous consents are up and running and employing staff it is unlikely that this farm would require to create 7 new jobs
- m) Fish farms introduce micro plastics into the maritime environment

For;

- a) The farm will create steady, permanent jobs in the area
- b) Current Covid-19 lockdown indicates the importance of a wide employment base and not just tourism
- c) Pens and mooring systems have been designed specifically for this site taking into account local conditions. No reason to expect them to fail.
- d) No evidence that existing ADD use is causing cetaceans to leave the waters around aquaculture farms – plenty of sightings from those farms
- e) Organic certification will follow successful organic production at the existing sites
- f) No evidence that fish farms damage tourism
- g) Open location, rather than enclosed sea loch, should minimise sea lice impact on migratory fish
- h) Position 2km north of Flodigarry site means visual objections to that site do not apply to this one
- i) Fish farms create employment in other sectors too

Neutral;

- a) Staffin Community Trust confirms discussions with applicant regarding a community benefit levy for use of any redeveloped Staffin Slipway

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 Kilmuir Community Council

- Public meeting not possible so an opinion survey was carried out. The results were 45 against the proposal, 10 in favour or not against, 4 no contact/no reply.
- Majority are against but the survey did not capture the reasons
- No details of whether Kilmuir would benefit from any community benefit income
- Not all members of the community council are opposed

5.2 Transport Planning Team

- Seek more information on levels of operational and constructional road traffic
- A Construction Traffic Management Plan may be required

5.3 **Historic Environment Team**

- No sensitive historic environment issues raise

5.4 **Environmental Health**

- First response (6 May 2020) – submitted noise assessment does not contain sufficient information for an accurate assessment
- Second response (10 June 2020) - noise data is lacking in detail however, EH satisfied that it gives a conservative assessment of the predicted noise and in actuality, levels are likely to be lower.
- no further objections to the application subject to the condition detailed being attached to any consent

5.5 **SEPA**

- No objection
- an application for this proposal under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (As amended) (CAR) and this application is currently being determined.
- it would appear at this stage that the proposals are likely to be consentable under CAR however the maximum sustainable biomass and level of chemical usage will be set once the CAR application has gone through the determination process. As this is something we can control through our regulations, we have no objection to this planning application.

5.6 **Northern Lighthouse Board**

- standard navigational safety lighting recommended

5.7 **Historic Environment Scotland**

- no objection

5.8 **Marine Scotland Science**

- Benthic and water column impacts should be acceptable – determined by CAR license
- Site will form its own disease management area
- Lice counts of 50 fish per cage will be undertaken at least once a week, this assessment of higher number of fish is hoped to allow for earlier detection of an infestation of lice. Interventions will be considered at 0.2 adult female *Lepeophtherius salmonis* using the decision making flow chart provided. Functional feed is administered at the first detection, followed by mechanical treatment with thermolicer or hydrolicer.
- If adequate lice control cannot be achieved with non-medicinal means medicinal treatments will be considered, with an aim of keeping medicinal treatments below 2 per cycle to retain organic status.

- The site will be fitted with lice skirt nets at 5-7m deep. Underwater feeding is also proposed to limit the time fish spend in the upper layers of the water where sea lice are found. It is stated that as an end point of the development snorkel nets which keep fish below the water surface will be installed
- The supplied EMP includes the criteria specified by Marine Scotland
- Cage and mooring attestation have not been submitted

5.9 NatureScot (SNH)

(summary)

- The proposed development lies within an area of international importance for harbour porpoise. In our view, assuming that the proposed mitigation is implemented, utilizing the most recently agreed version of the ADD deployment plan, harbour porpoise will not be adversely affected by the proposals. It is for you to determine, within the context of its own policies, whether conditions are necessary to secure the mitigation.
- The fish farm is close to Trotternish National Scenic Area (NSA) which is of national importance for its landscapes. While the proposal will be visible from within the NSA it will not significantly affect the special qualities for which the NSA was designated.
- The proposal will affect Trotternish and Tianavaig Special Landscape Area (SLA). The most significant impacts will be experienced from the coastal path which runs immediately adjacent to the development. The development will erode some of the special qualities of the Trotternish and Tianavaig Special Landscape Area (SLA) in that locality. It is for you to judge the importance of those effects in the context of your own policies.
- The Priority Marine Features (PMF) 'Tide swept coarse sands with burrowing bivalves' may be present and 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.
- Pole mounted top nets are proposed at this site which are a potential threat to gannets which may originate from Special Protection Areas. Based on the currently available information, we recommend a presumption against use of pole-mounted top net systems with ceiling net mesh sizes of 200mm or greater. We further advise that any permissions for pole-mounted top net systems, irrespective of mesh sizes, should include consent conditions enabling timely enforcement of mitigating adaptive management if required. In our view, if these measures are implemented, gannets will not be adversely affected by the proposals.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

Delete as appropriate

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

6.2 **West Highland and Islands Local Development Plan 2019**

No specific policies apply

7. **OTHER MATERIAL CONSIDERATIONS**

7.1 **Highland Council Supplementary Planning Policy Guidance**

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

7.2 **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...”

The National Marine Plan 2015 supports the industry's target to grow marine finfish (including farmed Atlantic salmon) production. Policy 'Aquaculture 5' of the Marine Plan requires that developments should avoid and/or mitigate adverse impacts upon the seascape, landscape and visual amenity of an area, and follow Scottish Natural Heritage (SNH) guidance on the siting and design of aquaculture.

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) 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 (including seal impacts)
- f) impact upon the St Kilda Special Protection Area (SPA) (and other SPAs with gannet) in respect of top net design
- g) impact upon the Shiant Isles SPA other protected bird species
- h) impact upon River Kerry SAC and other freshwater pearl mussel (FWPM) habitat
- i) impact upon wild salmonids
- j) risk of escapes
- k) impact upon Priority Marine Features (PMF)
- l) pollution
- m) economic impact including tourism and other fishery users
- n) noise impacts

a) Compliance with the development plan and other planning policy

- 8.4 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.
- 8.5 In addition to Policy 50 above, Policy 28 'Sustainable Design', Policy 36 'Development in the Wider Countryside', Policy 57 'Natural, Built and Cultural Heritage' and Policy 61 'Landscape' are relevant to landscape, seascape and visual impacts. Policy 28 requires consideration of impacts on landscape, scenery,

individual and community residential amenity and whether proposals demonstrate sensitive siting. Policy 36 requires developments to be assessed in terms of whether siting and design are acceptable and compatible with landscape character and capacity. Policy 57 indicates that for features of local/regional significance developments will be allowed where it can be satisfactorily demonstrated there would not be an unacceptable impact on the natural environment. Policy 61 requires that new developments are designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed.

8.6 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

8.7 It is considered that 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.

8.8 Several 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.

8.9 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.

8.10 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.

8.11 In this case the interests of international importance are the Inner Hebrides and the Minches SAC, SPAs designated for Gannets, the River Kerry SAC and the Shiant Isles SPA (all evaluated below and in the Habitats Appraisal appendices). 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.

8.12 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.

8.13 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 north and east of the Scottish mainland coastline 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.

8.14 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. The Salmon Interactions Working Group reported back in April 2020. 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 Environmental Management Plan (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

8.15 The original business plan and corresponding planning approach of the applicant was for this proposal to be the northernmost of four farms. As shown in the planning history at paragraphs 3.4 and 3.5, two of these farms have been consented and are operational. Indeed, the Landscape and Visual Impact Assessment (LVIA) submitted with this application was carried out to cover both this site and its immediate southern neighbour at Flodigarry (19/03093/FUL). However, the refusal of that application and

the recent dismissal of the appeal against that decision almost certainly means the Flodigarry proposal will not go ahead. Consequently, any assumptions that cumulative impacts would be relevant to this application are no longer valid. Equally, the fact that previous applications have been approved or refused is not material to the success or otherwise of this application.

- 8.16 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 chemical usage 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.
- 8.17 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.
- 8.18 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.
- 8.19 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.
- 8.20 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.
- 8.21 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

- 8.22 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.
- 8.23 The application has been submitted with a seascape/landscape and visual assessment (SLVIA) accompanied by a comprehensive set of visualisations. It is considered that these cover all the main visual receptors and sensitivities;

- views from the coastal path between Flodigarry and Balmaqueen to the north and within the special landscape area (SLA)
- 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.

8.24 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 1000 -1300m from the nearest shore it is similarly distant from the coast as a line running between the three largest offshore island – Staffin Island, Eilean Flodigarry and Eilean Trodday to the north.

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.

8.25 The authority has sought advice from NatureScot (SNH) to assist in quantifying the dichotomy described above.

NatureScot consider that SLVIA has been carried out competently and largely concur with its findings. They state that its methodology follows the relevant guidance, scoping advice and reflects pre-application discussions. The assessment is systematic, thorough and well balanced. The viewpoints chosen are representative and, where necessary, appear to err on the side of ‘worst case’. The visualisations are of good quality with marker buoys used to define the edges of the farm (1.22) which should mean that the photomontages are reasonably accurate. Some distant detail, such as the Western Isles, the Shiant islands and mountains of Wester Ross, is not visible in some shots but this is not considered to unduly affect the assessment.

Furthermore, following the DPEA Reporter’s comments on the Flodigarry fish farm case, NatureScot state that they have considered whether the Balmaqueen proposal follow NatureScot siting and design guidance. Their conclusion is that it generally does. Under this guidance this coast would be considered ‘Open and expansive’ making it suitable for a development of this scale. However, they go on to point out that this particular stretch of coast is not especially straight and, while the farm aligns with the dominant orientation of the coast, bays and indentations mean that from some viewpoints the farm appears less well aligned. Siting the structures well offshore mitigates this effect to some degree they suggest

Officers agree with this assessment and note that visualisation points 1, 2, 3 and 4 are probably the most significant for this proposal with VP08 providing an impression of visual impact from the upland heart of the NSA. Although within the NSA, the

impact from Staffin Bay (VP09) is considered negligible because of the considerable distance of more than 6km, the low angle of view and the more prominent landscape features that attract the eye.

- 8.26 In respect of impacts from upland areas of the NSA, NatureScot advise that walkers are considered to be sensitive receptors and the fish farm would be visible in more distant views from the ridge (e.g. Sron Vourlinn and Meall na Suiramach). However, it would be a minor feature in a wide vista. In these distant views NatureScot consider the farm would appear well aligned with the coast, inferior in scale to the open water and seen in the context of existing human development.

On the negative side, the proposal would affect the ‘...distant views over the sea...’ special quality. However, the key views are out over Eilean Flodigarry and Staffin Island to the mainland beyond and the proposals will not affect those views.

Officers note that this assessment is consistent with the conclusions drawn by the Reporter for the Flodigarry appeal. For this more southerly site, it was concluded that the Flodigarry farm would diminish the appearance of the Eilean Flodigarry and Sgeir na Eireann islands and so detract from them as a special quality of the NSA. The Balmaqueen site, some 2km further north, does not raise this same seascape issue.

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.

- 8.27 However, NatureScot are more concerned about the impacts upon the special qualities of the SLA. As such they are largely agreeing with the conclusions of the SLVIA submitted with the application.

The proposed fish farm lies just outside the seaward boundary of Trotternish and Tianavaig SLA – a designation of regional landscape importance which is protected via the Local Development Plan – and impacts upon its special qualities are important material considerations in respect of Policies 28, 57 and 61.

NatureScot identify specific sensitivities for this SLA to include ‘...Detraction of tranquillity and isolation of uninhabited stretches of coastline...’ and ‘...Marine installations impinging on coastal views and introduction of built form in isolated areas...’. NatureScot agree with the SLVIA that proximity of receptors to the farm at certain points is a key issue (see paragraph 8.7 of SLVIA)’. Furthermore, the coastline here is classified as ‘undeveloped’ in the Highland Coastal Development Strategy (May 2010) and, in a Highland context, cannot reasonably be considered to be uninhabited or isolated, although it certainly creates a localised sense of isolation and tranquillity on some sections.

NatureScot agrees with the overall conclusion of the SLVIA (paragraph 17.3) that there would be ‘...locally significant impacts on seascape and undeveloped coast, largely contained to areas adjacent to the proposed development...’ and ‘...Significant effects may affect a small cluster of houses on the north side of Kilmaluag Bay and the Skye Trail passing the adjacent coast...’. They also agree that ‘...for much of the adjacent coastal margin, including the A855 corridor impacts would be largely negligible’ (17.4) because high cliffs and hilly coastal hinterland restricts visibility...’

Officers concur that the key areas of concern relate to the impacts from VP01, 02 and 03 – Kilmaluag Bay and closest points on the Skye Trail coastal path. Views from the busy A855 tourist road are very largely excluded by topography.

In terms of the impact on users of the coastal path NatureScot are satisfied that the SLVIA quantifies this accurately stating that the seascape impact assessment concludes that significant major to substantial adverse impacts are predicted close to the fish farm and at up to 1km distant (SLVIA paragraphs 10.2 and 10.23) because ‘...the proposed development would introduce large scale, permanent and static infrastructure...and activity in an area hitherto devoid of any commercial activity...’ (10.15).

NatureScot agree that significant effects on landscape character are likely to be ‘...largely limited to the coastline immediately adjacent to the development (north of Galta Mor)...’ (11.35; 11.43) and that this section of coast has a higher level of tranquillity and perceived wildness than the rest of the coastline (though this is very localised). Those qualities would be eroded by the development (12.3; 12.5). They agree that visual impacts would be greatest for the closest viewpoints. Impacts at VP2 - Coast path at radar station and VP3 – Coast path at Galta Mor, would be major or major to substantial.

- 8.28 From Kilmaluag Bay, NatureScot agree that the visual impacts from VP01 are likely to be mitigated by the low angle of view, although attention is drawn to the farm because it would appear behind the white house on the point which is a focal point in this view. It is also recognised that visual impacts on the cluster of houses on the north side of Kilmaluag Bay will be greater. That is due in part to higher elevation and partly because they tend to face towards the development site.
- 8.29 For features of local/regional importance such as the SLA, Policy 57.1 states proposals will be allowed if it is demonstrated that they will not have an unacceptable impact on its special qualities.

It is clear from the above that the proposal is capable of having a significantly negative impact on those walking the immediately adjacent section of the Skye Trail. Many third parties have raised this same point and added that maritime users will also experience a similar degree of impact.

However, the degree of harm to public amenity has to be assessed in the wider context. There is no suggestion here that these impacts will detract from the overall integrity of the SLA. They affect a very small element of the overall designation and, indeed, only a short length of the overall Skye Trail.

The key here is number of receptors. NatureScot point out that the Environmental Statement predicts that the numbers affected would be small (and has tried to quantify them – see sections 5.11.3 and 5.11.4). Officers agree that the number of users of the path is low and so only limited weight can be placed upon these impacts when measured against other considerations including national policy.

- 8.30 Officers note that in the case of the Flodigarry appeal (20/00013/REFSL), the Reporter concluded an unacceptable impact on the SLA because views from more southerly sections of the path witnessed the visual coincidence of the Flodigarry farm proposal with the offshore islands which fall within the NSA. This visual factor was one of the main reasons for the dismissal of the appeal but is not relevant to this proposal.

8.31 Equally, the visual impact upon the cluster of houses on the northern side of Kilmaluag Bay is not considered to be of a comparable material significance to the appeal findings in respect of the Flodigarry township where the landscape setting of the whole settlement within the NSA was considered to be compromised.

In the case of Balmaqueen, this impact is on a much smaller number of houses and is not within the NSA. It is considered to raise more of an issue of private rather than public amenity.

8.32 On a final note, NatureScot suggest that a condition to control the colour of the feed barge such that bright colours are avoided would assist in reducing impacts even further and a condition is recommended to that effect.

8.33 In conclusion, whilst the negative seascape/landscape and visual impacts presented by this proposal are acknowledged it is not considered that their affect can be considered so great to justify a reason for refusal of the application.

e) Impact upon the Inner Hebrides and the Minches SAC

8.34 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), NatureScot have confirmed that an Appropriate Assessment (see Appendix B) 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.

8.35 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.

In recent months the issue of whether farms using ADDs should apply for European Protected Species licenses has received much attention from both government and industry. How this issue will be resolved and what impact it will have on the general use and design of ADDs is unclear at present. In itself it is not a material planning consideration.

8.36 As identified in many third-party comments, seals are often seen in the vicinity of the proposal – there is a haul-out site on Eilean Trodday to the north and other populations to the south. So, the potential for seal predation at the proposed farm is considered to be higher than might otherwise be the case.

It should also be noted that the issue of seal shooting licenses will cease in the next few weeks. ADDs and ‘seal-proof’ nets will be the only options thereafter.

8.37 To avoid duplication, the main details regarding the potential impacts on the SAC are considered in the Appropriate Assessment (see Appendix B), based on advice from NatureScot. 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 NatureScot.

8.38 An acceptable ADD deployment plan has been agreed with NatureScot in respect of the operational farms to the south. This can be made the subject of a condition

f) impact upon the St Kilda Special Protection Area (SPA) (and other SPAs with gannet) in respect of top net design

8.39 This is a very recent concern that has only been raised in the last few months.

This proposal seeks to use pole-mounted top nets. There are recent reports of an emerging threat to marine birds from this system. Two instances have occurred, in different regions of Scotland at sites operated by different companies, where significant numbers of gannets have become entrapped under and/or entangled within ceiling nets after plunge diving into cages from above.

Breeding gannets have a very large foraging range and consequently there is potential connectivity between gannets from St Kilda and other SPA colonies and this fish farm. On the basis of best available current evidence, NatureScot consider that Likely Significant Effect (LSE) should be concluded with respect to gannet qualifying features of SPAs for all marine finfish farms involving deployment of pole-mounted top net systems.

Consequently, the authority is required to carry out an appropriate assessment in respect of this issue and this can be found at Appendix C

8.40 Following the advice of NatureScot, the assessment concludes that so long as conditions are used to;

- require the operator to submit details of the mesh size to be used prior to commencement
- ensure that an adaptive management regime of record keeping, notification and mitigation is in place

then it is unlikely that any adverse effect on site integrity will occur and the requirements of the Habitats Regulations will have been satisfied.

g) impact upon the Shiant Isles SPA other protected bird species

8.41 Nature Scot advise that the proposed fish farm is approximately 20km from the SPA which is classified for a range of breeding seabirds including fulmar, common guillemot, puffin, kittiwake, razorbill and shag. The farm is within foraging distances of many of these species but in their view, there is unlikely to be a significant effect on the SPA in this case because:

- The proportion of their potential foraging area affected by this proposal is insignificant.
- Mitigation measures have been included to reduce the risk of bird entanglement, including well tensioned nets and avoiding the use of secondary anti-predator nets.

8.42 A Judgement of Likely Significant Effects based upon NatureScot's advice and taking account of the same exercise carried out in respect of the Flodigarry appeal proceedings can be found at Appendix D. It confirms NatureScot's conclusion that appropriate assessment is not required.

8.43 In respect of White-tailed Eagles, NatureScot have stated that they have considered the submitted confidential annex: no roost or nest sites have been identified within 1km of the proposed site. We agree with EIA Report conclusion that this proposal is unlikely to have an adverse effect on this species subject to implementation of the mitigation measures proposed (particularly adjusting routes taken by work boats to avoid nest and roost sites).

A condition is recommended requiring the mitigation measures identified in the EIA Report to be implemented and maintained.

8.44 It is noted that the issue of Black Guillemot habitat was raised as part of the Flodigarry application. The points raised suggested that this proposal could also have an impact on the species.

However, following guidance from NatureScot the Reporter was able to conclude that whilst there would be some localised adverse impacts on this Priority Marine Feature species there was no reason to dispute the conclusion of NatureScot that significant adverse effects on this species were unlikely.

There is no reason to come to an alternative conclusion in respect of this application.

h) impact upon River Kerry SAC and other freshwater pearl mussel (FWPM) habitat

8.45 NatureScot state that the Balmaqueen site lies 35km from River Kerry SAC (in Wester Ross) which is designated for Freshwater Pearl Mussel (FWPM). FWPM populations require healthy juvenile salmonid populations to complete their life cycle. NatureScot have considered the potential impacts of sea lice from this proposal (in combination with other existing farms) on the SAC.

In their view there is unlikely to be a significant effect on the SAC in this case because:

- Two surveys have indicated that the pearl mussel population uses both salmon and trout as the host for the larval stage. However, salmon is the principal and disproportionately the most important host.
- Recent survey results in the Kerry suggest that fish densities were sufficient to support recruitment.
- The salmon post smolts (the most vulnerable life stage) arising from the Kerry will tend to head out to sea as they emigrate towards the North Atlantic/Norwegian Sea. Section 6.2.3 of the EIA report includes sea lice modelling which indicates that the smolts may interact with sea lice emanating from the proposed farm. However, at this significant dispersion would have taken place and the density of sea lice in the water column would be low.

- 8.46 A Judgement of Likely Significant Effects based upon NatureScot's advice and taking account of the same exercise carried out in respect of the Flodigarry appeal proceedings can be found at Appendix E. It confirms NatureScot's conclusion that appropriate assessment is not required.
- 8.47 NatureScot are aware of other FWPM habitat closer to the farm. In this regard the requirement for a robust EMP discussed in the following section is considered even more pressing.

i) impact upon wild salmonids

- 8.48 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).
- 8.49 By way of background to this 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.
- 8.50 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.
- 8.51 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.
- 8.52 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.

8.53 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.

8.54 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.

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.

8.55 The 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.

8.56 To address these issues and in accordance with current Marine Scotland advice the applicant has submitted an EMP 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.

8.57 Although Marine Scotland Science have confirmed that the submitted EMP meets their minimum criteria, officers consider that it is still lacking in one or two important adaptive management areas and falls short of the standard provided by some other operators.

Specifically, there is insufficient clarity on how the planning authority is to be informed of the results of wild fish monitoring and included in discussions of adaptive management initiatives to address any problems identified by that monitoring. Regular meetings towards the end of each production cycle should be a formal commitment.

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.

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

j) risk of escapes

8.59 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.

8.60 In response the applicant has submitted an attestation statement from the manufacturer of the nets confirming that they have been specified to be able to withstand the acknowledged high energy conditions of the site.

8.61 It is also noted that the EMP contains a section on escapes and the procedures to be employed if such an event occurs.

8.62 Although the vast majority of farms suffer no damage during the repeated storm events of a typical Scottish west coast winter, mooring and cage failures and resultant farmed fish escapes do occur and have done so recently.

Marine Scotland note in their consultation response that although the application includes an attestation statement from the net's manufacturer, they wish to see similar assessments from the cage and moorings suppliers.

8.63 Officers considered using a condition to secure such statements but realised that as the matter is ultimately regulated by Marine Scotland through their licensing system, this would be inappropriate.

k) impact upon Priority Marine Features (PMF)

8.64 NatureScot advise that, as identified in the EIA Report, Benthic visual surveys and grab samples were carried out in 2018. These appear to follow the relevant guidance and have reasonable coverage of the seabed in the vicinity of the cages. The quality of the video footage is adequate to assess the biotopes present, especially when combined with the grab sample data.

8.65 The seabed comprises primarily coarse shelly sand and gravels, with a smaller area of cobbles and boulders towards the SE end of the site and inshore. The species present are typical of these habitats. Assessment of the video and grab samples indicates that the sand/gravel habitats may be examples of the Priority Marine Feature 'Tide swept coarse sands with burrowing bivalves - Moerella spp. with venerid bivalves infralittoral gravelly sand'. Although some of the component species are present, including robust bivalves such as *Timoclea ovata*, *Goodallia triangularis*, other characterising species such as the *Moerella* (now *Tellina*) bivalves are not. Most of the current records are also in shallower water (<20m depth) but there is data to suggest that it may well be present in deeper water such as here. It is assumed that this is PMF habitat.

8.66 NatureScot further advise that the Tide swept coarse sands with burrowing bivalves PMF has a limited distribution with most records from Shetland, Orkney, the west coast of Scotland and Outer Hebrides. However correct classification of the feature

requires identification of species within the sediment and this probably accounts for the limited records rather than it being of a restricted distribution. The tide swept nature of this feature means it is found on open coasts or at mouths of sea lochs.

- 8.67 The habitat can be extensive where it occurs, as appears to be the case here. The grab sample data indicates that the biotope occurs across the whole site, as well as the reference sites to the south and south-east. The EIA report estimates that the biotope covers 60% of the site. In addition, the Flodigarry fish farm application area supported the same habitat.

Overall, the habitat is considered to have a low sensitivity to organic enrichment. Tolerance is assigned as medium with recovery high. However, since suspension feeders are first to disappear in organically enriched areas, the shallow burrowing bivalves in this feature are likely to have lower tolerance than other groups.

- 8.68 Hydrographic monitoring indicates that this is an energetic environment with the majority of organic material predicted to be exported. Most material that is deposited below the cages is likely to be re-suspended.

The low level of sensitivity, combined with an energetic environment, mean that significant habitat changes are likely to be restricted.

- 8.69 Officers have no reason to dispute these findings and it is concluded that the proposal does not raise any issues of national interest regarding this PMF.

l) pollution

- 8.70 A number of third-party comments indicated serious concerns that the farm would result in pollution of the surrounding coastline 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.

- 8.71 The application has been submitted with a comprehensive Waste Minimisation and Management Plan which officers consider covers many of the concerns raised. Its implementation over the lifetime of any permission can be controlled by condition.

- 8.72 The plan does not cover the benthic (seabed) and water column pollutants resulting from the farm's activities as these are 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.

- 8.73 Equally, the plan does not address the other issue raised – that of micro-plastics emanating from the erosional impact of feed pellets passing through plastic feed pipes. This is not something that falls within the regulatory powers of the planning authority.

m) economic impact including tourism and other fishery users

- 8.74 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.

- 8.75 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 farm's existence. Many have also questioned whether recent tourist boom means that Skye should no longer be classified as 'fragile'.
- 8.76 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.
- 8.77 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.
- 8.78 It is noted that in respect of the same issue with regard to the Flodigarry appeal the reporter felt able to come to the following conclusions;
- "...Given the attractiveness of both the island and the Trotternish Peninsula as a whole I consider that the development would be unlikely to have an effect on the number of visitors to the area. I consider that the attractiveness of the Skye Trail is unlikely to be diminished and I do not believe that the development would put off those who wish to complete its full length... On balance, I believe that the development has greater potential to have a positive rather than a negative impact on the economy of the island, but I cannot say with any certainty what the net effect of the proposal may be..."
- 8.79 In respect of navigation and fishing interests the Reporter continued;
- "...I am satisfied that the proposed fish farm would not have significant adverse impacts upon commercial inshore fishing grounds, established harbours and natural anchorages and navigation..."
- 8.80 Officers do not believe there are grounds to reach alternative conclusions in respect of this site.

n) noise impacts

- 8.81 Environmental Health requested further information in respect of the submitted noise data but are still of the opinion that the further information lacks detail. The assumption of a 35dB(A) background level is considered high for such a rural location. Officers note that the Reporter for the Flodigarry appeal identified the same issue with that proposal.

8.82 However, Environmental Health are not objecting because they are satisfied that the noise assessment has been based upon a very conservative estimate of predicted noise. In reality officers are satisfied that these levels are likely to be lower than predicted.

8.83 To cover any residual uncertainty a condition is recommended which would require a further noise assessment to be made if it is found that the NR20 standard cannot be achieved.

Other material considerations

8.84 None

Non-material considerations

8.85 None

Matters to be secured by Section 75 Agreement

8.86 None

9. CONCLUSION

9.1 The proposal will have some significant localised visual impact within the Trotternish and Tianavaig SLA which will erode its special qualities to a degree. However, in terms of public amenity, the number of receptors likely to experience these negative impacts is small. There is no substantive impact on the special qualities of the Trotternish NSA. The proposal is not considered to conflict with the relevant policies of the development plan to a degree that would substantiate a reason for refusal.

9.2 The proposal has potential impacts upon a number of ecological designations and other ecological interests. However, none of these impacts is considered to be significant and can be mitigated through the recommended conditions.

9.3 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.

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. The fish farm hereby approved shall not be operated other than in strict accordance with the provisions of the approved ADD deployment plan. For the avoidance of doubt the approved deployment plan is that entitled "Organic Sea Harvest ADD deployment plan: version 2 dated 15 June 2020".

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

2. The fish farm hereby approved shall not be constructed or operated other than in strict accordance with the mitigation measures contained within the EIA report and the Waste Minimisation and Management Plan.

Reason: To minimise any impacts on the receiving environment

3. No operation of the fish farm shall take place other than when all plant, machinery and equipment associated with this development is installed, maintained and operated such that any associated operating noise does not exceed NR 20 when measured or calculated within any noise-sensitive property with windows open for ventilation purposes.

If the above standard cannot be met, then no operation of the fish farm shall take place until a noise assessment report demonstrating that noise will not have an adverse impact on noise sensitive properties has been submitted to and approved in writing by the planning authority. The noise assessment shall be undertaken in accordance with BS 4142:2014 "Methods for rating and assessing industrial and commercial sound".

Reason: In the interests of residential amenity

4. The approved feed barge shall not be brought onto the site until full details of its external colours scheme has been submitted to and approved in writing by the planning authority. The submitted scheme should be designed to minimise visual impact. Thereafter no feed barge shall be positioned or operated at the site other than in strict accordance with the approved colour scheme.

Reason: In the interest of visual and landscape amenity

5. No stocking of the farm with fish shall take place until a revised adaptive management EMP has been submitted to and approved in writing by the planning authority. The submitted EMP should include a commitment to meet

with the planning authority towards the end of each production cycle to review the results of wild fish monitoring and any production mitigation proposed. Thereafter, the fish farm shall not be operated other than in strict accordance with the approved EMP.

Reason: In the interests of minimising sea lice impacts upon wild salmonids

- 6 No commencement of the development hereby approved shall take place until details of the top-net mesh size has been submitted to and approved in writing by the planning authority

Reason: In the interest of minimising bird entrapment/entanglement

- 7 No commencement of the development hereby approved shall take place until wildlife entanglement/entrapment record keeping and notification plan has been submitted to and approved in writing by the planning authority.

The submitted plan should include a standardised proforma and a commitment to submit regular (typically six-monthly) returns to the LPA, copied to NatureScot. In addition, the plan should commit to immediate notification by operators to both the LPA and NatureScot in event of any significant entrapment or entanglement of gannets (e.g. involving three or more birds of any named species on any one day and/or a total of ten or more birds in the space of any seven day period and/or or repeat incidents involving one or more birds on four or more consecutive days).

The plan should also detail adaptive management options (such as changing net mesh sizes and/or top-net design) in the event that NatureScot identify a possible adverse effect on the site integrity of the St Kilda or other gannet SPA.

Reason: To ensure there is no adverse impact on the integrity of the St Kilda SPA or other SPA with gannet

- 8 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 and Tianavaig SLA is minimised

- 9 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 and Tianavaig SLA is minimised

- 10 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.

- 11 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.

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
Author: Mark Harvey
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - Mooring plan (Chart)
Plan 2 - Moorings plan (Map)
Plan 3 - Site Plan with Surface Equipment (Chart)
Plan 4 - Site Plan with Surface Equipment
Plan 5 - Location Plan

- Plan 6 - Feed barge elevations
- Plan 7 - Feed barge deck sections
- Plan 8 - Feed barge sections
- Plan 9 - Fig 10 – Tube/snorkel net design
- Plan 10 - Fig 9 – Top Net design

Appendix B – Habitats Appraisal Inner Hebrides and the Minches Special Area of Conservation

The status of European protected sites such as SACs and SPAs, under the EC Directive 92/43/EEC, the ‘Habitats Directive’, means that the Conservation (Natural Habitats, etc.) Regulations 1994 (as amended), also known as the ‘Habitats Regulations’, apply.

Under the Habitat Regulations, The Highland Council, as a competent authority in the planning system, must consider whether any planning proposal, prior notification for permitted development rights or plan (e.g. Local Development Plan) will have a ‘likely significant effect’ on a European site. If so, they must carry out an ‘appropriate assessment’. The council must also seek advice from SNH and have regard to their representations during the HRA process.

The Highland Council must not authorise a plan or grant a planning application unless it can show beyond reasonable scientific doubt – using appropriate assessment – that the plan or planning proposal will not adversely affect the integrity of a European site.

This proforma can be used as template to conduct a Habitats Regulations Appraisal and Appropriate Assessment.

Date: 12/01/2021

Author: Chris Nall

A. EUROPEAN SITE DETAILS

Name of European Site(s) potentially affected:

Inner Hebrides and the Minches SAC

Qualifying interest(s) at the site:

This information can be obtained from NatureScot (SNH) site link website - <https://sitelink.nature.scot/map>

Harbour porpoise (*Phocoena phocoena*)

Conservation objectives at the site:

This information can be obtained from NatureScot (SNH) site link website - <https://sitelink.nature.scot/map>

1. To ensure that the Inner Hebrides and the Minches SAC continues to make an appropriate contribution to harbour porpoise remaining at favourable conservation status.
2. To ensure for harbour porpoise within the context of environmental changes, that the integrity of the Inner Hebrides and the Minches SAC is maintained through 2a, 2b and 2c:

2a. Harbour porpoise within the Inner Hebrides and the Minches are not at significant risk from injury or killing.

2b. The distribution of harbour porpoise throughout the site is maintained by avoiding significant disturbance.

2c. The condition of supporting habitats and the availability of prey for harbour porpoise are maintained. Structure, function and supporting processes of habitats supporting the species

B. PROPOSAL DETAILS

Planning Application Reference:

20/00097/FUL

Proposal Name:

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

Location:

Balmaqueen - Land 1600m East Of Balmaqueen

Description of proposal:

12x120m circumference circular cages in an 80m mooring grid with associated feed barge

Is the proposal directly connected with or necessary to site management for conservation?

No

- *If YES for all elements of the proposal, for all qualifying interests, then consent can be issued. Rationale should be detailed below and no further appraisal is required.*
- *If NO for all qualifying interests, then continue the appraisal.*
- *If the proposal has elements which are not connected to site management for conservation these elements should be appraised.*

C. NatureScot Advice

While the responsibility to carry out the HRA Screening and Appropriate Assessment rests with the Council, NatureScot (previously SNH) provides an advisory role to help determine whether an Appropriate Assessment is needed and what needs to be included in the assessment. As part of the the HRA the council must consult with NatureScot and take consideration of their advice. This requirement is outlined in regulation 48 (3) of the Conservation (Natural Habitats, andc.) Regulations 1994 as amended (The 'Habitats

Regulations’).

This advice is usually provided as part of NatureScot’s formal consultation response for a planning application and will be detailed within the section of the relevant to designated European site.

Outline relevant advice from NatureScot and date of response:

“Inner Hebrides and the Minches Special Area of Conservation

...

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. The Conservation Objectives for the site seek to ensure that, among other things, there is no significant disturbance of the species. Harbour porpoise are sensitive to noise disturbance, and therefore the use of Acoustic Deterrent Devices (ADDs) is potentially a concern. 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 was based on the latest version of the Organic Sea Harvest ADD deployment plan: version 2 dated 15 June 2020 – ‘*ADDS_USE_STATEMENT-FEB2020_JUNE2020REVJB.docx*’. However the version on e-planning is dated 28 February 2020.

The conservation objectives for the site are detailed in the Conservation and Management Advice for INNER HEBRIDES AND THE MINCHES SAC 2020 which is available at <https://sitelink.nature.scot/site/10508>. The main risk from ADD use is that conservation objective 2b. - *The distribution of harbour porpoise throughout the site is maintained by avoiding significant disturbance* – may not be achieved. That is the focus of our assessment which considered the following factors:

- The site is on the edge of the Minch in a relatively unconstrained area in terms of cetacean movements. Displacement may occur, particularly when used in ‘Standard’ mode, but the proposal will not block any straits or narrows for passage or for use.
- The risk of cumulative impacts with other farms is very low due to the output of the ADD proposed, distance to the next nearest fish farm (~14km to Culnacnoc fish farm) and the presence of intervening islands and headlands
- ‘Seal-proof’ nets will be installed at this farm from the outset. Combined with effective net tensioning and regular removals of morts, the use of ‘seal-proof’ cage nets reduces the likelihood that ADDs will need to be used at all.
- Measures are included 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 attack within the last 5 days. Consideration will be given to de-escalation if there are no further mortalities after 5 days use. 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. Two modes are proposed. The lower output 'Patrol' mode will be used in the first instance. Only if this is ineffective at deterring seals will 'Standard' mode be used and then only for a maximum of 5 consecutive days. Use of Standard mode would be restricted to the hours of 0600 to 1800 and would revert to, "Patrol Mode" outwith these hours. While it the aim should be to avoid/minimise ADD use, specialist acoustic measurements carried out on the OTAQ system at another fish farm suggest that noise levels in Patrol mode are unlikely to cause significant disturbance. Further studies are required to confirm this finding.
- OSH will submit an annual report summarising ADD and seal predation incidents to Highland Council. Full ADD deployment and use records will be available on request. OSH will seek to convene review meetings at least annually to discuss the report and any revision to the ADDs use plan. Meetings will allow for the formal review of the operation of the ADDs following which the ADDs use plan shall be revised if necessary. There is also an acknowledgement that changes in national policy may necessitate changes in ADD use. These commitments are important to 'future-proof' the plan, allowing it to be updated in response to site-specific issues as well as advances in scientific research and policy."

Extracted from NatureScot consultation response to the proposal on 8th January 2021

D. SCREENING

'Screening' is the initial evaluation of a project's potential effects on one or more European sites to determine whether an Appropriate Assessment is required. If an appropriate assessment is required, the output of screening should indicate which European sites are affected and which aspects of the project are likely to have significant effects.

IS THE PROPOSAL (EITHER ALONE OR IN COMBINATION WITH OTHER PROPOSALS) LIKELY TO HAVE A SIGNIFICANT EFFECT ON THE SITE?

It is evident that the proposal is not connected with or necessary to site management for conservation, hence further consideration is required.

The proposed fishfarm includes the option of using ADDs as part of its anti-predator strategy, outlined in the developers ADD Use Statement. Harbour porpoise, the qualifying interest for the Inner Hebrides and the Minches SAC are sensitive to noise disturbance and underwater noise from ADDs can cause displacement of harbour porpoise. There is

therefore deemed to be a likely significant effect on conservation objective 2b of maintaining a distribution of harbour porpoise throughout the site.

The Council is therefore required to undertake an Appropriate Assessment of the implications of the proposal for the SAC.

E. Appropriate Assessment

The appropriate assessment consists of two parts: a scientific, reasoned appraisal and a conclusion. Consider the proposed project, its impact on the qualifying interests assessed against their conservation objectives.

For each qualifying interest effected evaluate potential impacts of proposal detailing which aspects of the proposal are involved, the duration and size of the impact, and the overall effect on sites conservation objectives. Sufficient detail should be included to conclude the proposal will not adversely affect site integrity. This conclusion should be reached beyond scientific doubt.

Advice contained within Planning Circular 6/1995 stipulates that the assessment can be based on information submitted from other agencies e.g. NatureScot and the applicant.

*The council can only agree to the proposal after having ascertained that it **will not have an adverse effect on the integrity of the sites (AESI)**. 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 (please see seek further guidance if this is the case).*

Undertake an Appropriate Assessment of the implications for the site in view of its conversation objectives:

In its response to the Council NatureScot 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.

The qualifying interest for which the site is designated is the Harbour 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 harbour porpoise uses the entirety of the site and are present throughout the year with May – August being important for breeding and calving. Its conservation status currently considered to be favourable and the site's integrity would be adversely affected if the favourable conservation status of the qualifying species at the SAC would be adversely affected.

Underwater noise has been identified as one of the four key pressures this species is sensitive to and ADDs use high frequency sound to deter seals has been identified as potential disturbance to porpoises by NatureScot and the council.

The Conservation and Management Advice for INNER HEBRIDES AND THE MINCHES SAC 2020 (available at <https://sitelink.nature.scot/site/10508>) indicates the ADDs use at fishfarms should be minimised and ADD plans should consider cumulative impacts of noise.

This is because the duration and area over which noise causes displacement will be proportional to the level of disturbance.

In NatureScot's consultation with the council it is evident that no cumulative impact of noise is expected at this site. The nearest farm is approximately 14km away and there are a number of landmasses in between them. In this appropriate assessment we therefore only need to consider the impact of this farm on disturbance.

There are a number of planned measures in place at the proposed farm that will reduce chance of seal attacks and minimise ADD use. These include seal proof cage nets, incorporation of seal blinds into cage design, maintenance of net tension, low stocking densities and regular removal of mortalities. The use of ADD is a final line of defence from seal attack and will only be activated if significant seal predation occurs.

The ADD use statement outlines a high threshold of what it indicates a significant seal attack is as >50 fish killed and second attack within last 5 days. At which point ADDs will be considered for use and as a first instance will be used in "Patrol mode" which is lower output noise deterrent. NatureScot has indicated that this mode is not thought to disturb porpoise. If this mode is not observed to prevent seal attack it will be switched to "standard mode" where it will operate at this level for a maximum of 5 consecutive days between hours of 0600 and 1800. There will also be periods of rest bite between ADD use of a minimum of 7 days between a maximum of 14 day usage period. ADD use will be halted when there has been no predation over a 5 day period.

NatureScot have also indicated in their consultation that the proposed farm is on the edge of Minches SAC and is an unconstrained stretch of coast meaning that displacement caused by ADD use will not result in blocking porpoise from travelling to other areas of Minch. This would occur in case where an ADD would be used in strait and this can have more serious implications in prevent cetacean species from access feeding grounds.

This ADD use statement will be conditioned if planning permission is granted for this proposal meaning that ADD use will be minimised and that even in the event of significant seal attack disturbance to porpoise's in the vicinity of the farm will be temporary. There also will be a procedure of annual reporting of ADD deployment and seal predation by the operator to the council that will allow for the formal review of the operation of the ADDs following which the ADDs use plan shall be revised if necessary, on written approval by the council. These commitments are important to ensure that should there be any advances in scientific research and policy the ADD plan can be reviewed and also should any significant disturbance to porpoise be recognised this could be rectified in good time to ensure disturbance does not result in long term change to porpoise behaviour and possible adverse impact to conservation status of the porpoise.

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.

Appendix C – Habitats Appraisal St Kilda Special Protection Area (SPA)

The status of European protected sites such as SACs and SPAs, under the EC Directive 92/43/EEC, the ‘Habitats Directive’, means that the Conservation (Natural Habitats, etc.) Regulations 1994 (as amended), also known as the ‘Habitats Regulations’, apply.

Under the Habitat Regulations, The Highland Council, as a competent authority in the planning system, must consider whether any planning proposal, prior notification for permitted development rights or plan (e.g. Local Development Plan) will have a ‘likely significant effect’ on a European site. If so, they must carry out an ‘appropriate assessment’. The council must also seek advice from SNH and have regard to their representations during the HRA process.

The Highland Council must not authorise a plan or grant a planning application unless it can show beyond reasonable scientific doubt – using appropriate assessment – that the plan or planning proposal will not adversely affect the integrity of a European site.

This proforma can be used as template to conduct a Habitats Regulations Appraisal and Appropriate Assessment.

Date: 12/01/2021

Author: Chris Nall

A. EUROPEAN SITE DETAILS

Name of European Site(s) potentially affected:

St Kilda Special Protection Area

Qualifying interest(s) at the site:

This information can be obtained from NatureScot (SNH) site link website - <https://sitelink.nature.scot/map>

The relevant qualifying interest at this site is the Gannet (*Morus bassanus*)

Conservation objectives at the site:

This information can be obtained from NatureScot (SNH) site link website - <https://sitelink.nature.scot/map>

To avoid deterioration of the habitats of the qualifying species (Gannet) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and

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

- Population of the species as a viable component of the site
- Distribution of the species within site

- Distribution and extent of habitats supporting the species
- Structure, function and supporting processes of habitats supporting the species
- No significant disturbance of the species

B. PROPOSAL DETAILS

Planning Application Reference:

20/00097/FUL

Proposal Name:

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

Location:

Balmaqueen - Land 1600m East Of Balmaqueen

Description of proposal:

12x120m circumference circular cages in an 80m mooring grid with associated feed barge

Is the proposal directly connected with or necessary to site management for conservation?

No

- *If YES for all elements of the proposal, for all qualifying interests, then consent can be issued. Rationale should be detailed below and no further appraisal is required.*
- *If NO for all qualifying interests, then continue the appraisal.*
- *If the proposal has elements which are not connected to site management for conservation these elements should be appraised.*

C. NatureScot Advice

While the responsibility to carry out the HRA Screening and Appropriate Assessment rests with the Council, NatureScot (previously SNH) provides an advisory role to help determine whether an Appropriate Assessment is needed and what needs to be included in the assessment. As part of the the HRA the council must consult with NatureScot and take consideration of their advice. This requirement is outlined in regulation 48 (3) of the Conservation (Natural Habitats, andc.) Regulations 1994 as amended (The 'Habitats Regulations').

This advice is usually provided as part of NatureScot's formal consultation response for a planning application and will be detailed within the section of the relevant to designated

Outline relevant advice from NatureScot and date of response:

“St Kilda Special Protection Area (SPA) (and other SPAs with gannet)

This proposal seeks to use pole-mounted top nets. There are recent reports of an emerging threat to marine birds from this system. Two instances have occurred, in different regions of Scotland at sites operated by different companies, where significant numbers of gannets have become entrapped under and/or entangled within ceiling nets after plunge diving into cages from above.

Breeding gannets have a very large foraging range and consequently there is potential connectivity between gannets from St Kilda and other SPA colonies and this fish farm. On the basis of best available current evidence, NatureScot consider that Likely Significant Effect (LSE) should be concluded with respect to gannet qualifying features of SPAs for all marine finfish farms involving deployment of pole-mounted top net systems.

The EIA report refers in various places to ‘appropriate mesh size’ but does not provide details. Section 5.3.1 of the EIA report states that ‘mesh size will be of a size to reduce the opportunity for entanglement of birds’. We have recently requested this information from the developer.

Based on the currently available information, NatureScot advise a presumption against use of pole-mounted top net systems with ceiling net mesh sizes of 200mm or greater in areas likely to be regularly used by foraging SPA gannets

We advise that any permissions for use of pole-mounted top net systems should be subject to review, underpinned by systematic monitoring and by requirements for immediate notification in event of emergence of patterns of entanglement or entrapment of marine birds that might ultimately result in AESI.

Specifically, we advise that Planning Consents should require the following:

- operators to maintain daily records of wildlife entanglement / entrapment using a standardised proforma and to submit regular (typically six-monthly) returns to the LPA, copied to NatureScot;
- immediate notification by operators to both the LPA and NatureScot in event of any significant entrapment or entanglement of gannets, and any other SPA interests identified as relevant to a particular fishfarm (e.g. involving three or more birds of any named species on any one day and/or a total of ten or more birds in the space of any seven day period and/or or repeat incidents involving one or more birds on four or more consecutive days); and,
- Adaptive management approaches should be agreed between the planning authority and the applicant in consultation with NatureScot.

There are currently many uncertainties regarding this situation which makes it challenging to complete an Appropriate Assessment. However we are confident that if the above measures are implemented then, in our view, there will be no adverse effect on site integrity.”

Extracted from NatureScot consultation response to the proposal on 8th January 2020

D. SCREENING

‘Screening’ is the initial evaluation of a project’s potential effects on one or more European sites to determine whether an Appropriate Assessment is required. If an appropriate assessment is required, the output of screening should indicate which European sites are affected and which aspects of the project are likely to have significant effects.

IS THE PROPOSAL (EITHER ALONE OR IN COMBINATION WITH OTHER PROPOSALS) LIKELY TO HAVE A SIGNIFICANT EFFECT ON THE SITE?

It is evident that the proposal is not connected with or necessary to site management for conservation, hence further consideration is required.

The proposal seeks to use pole-mounted top nets. There are recent reports of an emerging threat to marine birds from this system. Two instances have occurred, in different regions of Scotland at sites operated by different companies, where significant numbers of gannets have become entrapped under and/or entangled within ceiling nets after plunge diving into cages from above. The proposal therefore has the potential to have a likely significant effect on Gannet should they be foraging in the area of the fish farm, both alone and in combination with other nearby fish farms. Conservation objectives of other SPAs with gannet as designated species may also be at risk because the foraging range of gannets can be extensive.

The Council is therefore required to undertake an Appropriate Assessment of the implications of the proposal for the SPA in respect of its conservation objectives. The qualifying feature considered is Gannet (*Morus bassanus*). The AA and mitigations resulting from it will also apply to other Gannet SPAs that could be affected.

E. Appropriate Assessment

The appropriate assessment consists of two parts: a scientific, reasoned appraisal and a conclusion. Consider the proposed project, its impact on the qualifying interests assessed against their conservation objectives.

For each qualifying interest effected evaluate potential impacts of proposal detailing which

aspects of the proposal are involved, the duration and size of the impact, and the overall effect on sites conservation objectives. Sufficient detail should be included to conclude the proposal will not adversely affect site integrity. This conclusion should be reached beyond scientific doubt.

Advice contained within Planning Circular 6/1995 stipulates that the assessment can be based on information submitted from other agencies e.g. NatureScot and the applicant.

*The council can only agree to the proposal after having ascertained that it **will not have an adverse effect on the integrity of the sites (AESI)**. 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 (please see seek further guidance if this is the case).*

Undertake an Appropriate Assessment of the implications for the site in view of its conservation objectives:

There have been documented examples of instances where gannets have interacted negatively with pole mounted top-nets and either become entangled or entrapped after diving into the pens from above. Concerns lie chiefly with mesh sizes greater than 100mm, specifically 200mm or greater. The frequency and number of gannets impacted is hard to predict as there is an absence of gannet foraging information surrounding Balmaqueen and chiefly there is no clear information on what mesh size would prevent such impacts. Although current understanding is the greatest risk lies with mesh size >200mm wide.

In the absence of this information and on the basis of NatureScot's appraisal, it can be concluded that adequate monitoring and adaptive management is required to guarantee there will be no adverse effect on site integrity (AESI) of the St Kilda SPA or other SPAs designated for gannet. This is needed to ensure the requirements of the Habitats Regulations will have been satisfied.

The following planning condition will be imposed to ensure no AESI will occur as a result of the top nets used at the site.

“No commencement of the development hereby approved shall take place until wildlife entanglement/entrapment record keeping and notification plan has been submitted to and approved in writing by the planning authority.

The submitted plan should include a standardised proforma and a commitment to submit regular (typically six-monthly) returns to the LPA, copied to NatureScot. In addition, the plan should commit to immediate notification by operators to both the LPA and NatureScot in event of any significant entrapment or entanglement of gannets (e.g. involving three or more birds of any named species on any one day and/or a total of ten or more birds in the space of any seven day period and/or or repeat incidents involving one or more birds on four or more consecutive days).

The plan should also detail adaptive management options (such as changing net mesh sizes and/or top-net design) in the event that NatureScot identify a possible adverse effect on the site integrity of the St Kilda or other gannet SPA.”

This condition will allow for mitigation to be implemented in a timely manner ensuring the gannet population at St Kilda SPA and other Gannet SPAs will not be adversely impacted should an issue be identified.

Appendix D – Habitats Appraisal Shiant Isles Special Protection Area (SPA)

The status of European protected sites such as SACs and SPAs, under the EC Directive 92/43/EEC, the ‘Habitats Directive’, means that the Conservation (Natural Habitats, etc.) Regulations 1994 (as amended), also known as the ‘Habitats Regulations’, apply.

Under the Habitat Regulations, The Highland Council, as a competent authority in the planning system, must consider whether any planning proposal, prior notification for permitted development rights or plan (e.g. Local Development Plan) will have a ‘likely significant effect’ on a European site. If so, they must carry out an ‘appropriate assessment’. The council must also seek advice from SNH and have regard to their representations during the HRA process.

The Highland Council must not authorise a plan or grant a planning application unless it can show beyond reasonable scientific doubt – using appropriate assessment – that the plan or planning proposal will not adversely affect the integrity of a European site.

This proforma can be used as template to conduct a Habitats Regulations Appraisal and Appropriate Assessment.

Date: 12/01/2021

Author: Chris Nall

A. EUROPEAN SITE DETAILS

Name of European Site(s) potentially affected:

Shiant Isles Special Protection Area (SPA)

Qualifying interest(s) at the site:

This information can be obtained from NatureScot (SNH) site link website -

<https://sitelink.nature.scot/map>

- Barnacle goose (*Branta leucopsis*)
- Fulmar (*Fulmarus glacialis*)*
- Guillemot (*Uria aalge*)*
- Kittiwake (*Rissa tridactyla*)*
- Puffin (*Fratercula arctica*)
- Razorbill (*Alca torda*)
- Shag (*Phalacrocorax aristotelis*)
- Seabird assemblage

* indicates assemblage qualifier only

Conservation objectives at the site:

This information can be obtained from NatureScot (SNH) site link website - <https://sitelink.nature.scot/map>

To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and

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

- Population of the species as a viable component of the site
- Distribution of the species within site
- Distribution and extent of habitats supporting the species
- Structure, function and supporting processes of habitats supporting the species
- No significant disturbance of the species

B. PROPOSAL DETAILS

Planning Application Reference:

20/00097/FUL

Proposal Name:

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

Location:

Balmaqueen - Land 1600m East Of Balmaqueen

Description of proposal:

12x120m circumference circular cages in an 80m mooring grid with associated feed barge

Is the proposal directly connected with or necessary to site management for conservation?

No

- *If YES for all elements of the proposal, for all qualifying interests, then consent can be issued. Rationale should be detailed below and no further appraisal is required.*
- *If NO for all qualifying interests, then continue the appraisal.*
- *If the proposal has elements which are not connected to site management for conservation these elements should be appraised.*

C. NatureScot Advice

While the responsibility to carry out the HRA Screening and Appropriate Assessment rests

with the Council, NatureScot (previously SNH) provides an advisory role to help determine whether an Appropriate Assessment is needed and what needs to be included in the assessment. As part of the the HRA the council must consult with NatureScot and take consideration of their advice. This requirement is outlined in regulation 48 (3) of the Conservation (Natural Habitats, andc.) Regulations 1994 as amended (The ‘Habitats Regulations’).

This advice is usually provided as part of NatureScot’s formal consultation response for a planning application and will be detailed within the section of the relevant to designated European site.

Outline relevant advice from NatureScot and date of response:

“Shiant Isles Special Protection Area (SPA)”

The proposed fish farm is approximately 20km from the SPA which is classified for a range of breeding seabirds including fulmar, common guillemot, puffin, kittiwake, razorbill and shag. The farm is within foraging distances of many of these species but in our view there is unlikely to be a significant effect on the SPA in this case because:

- The proportion of their potential foraging area affected by this proposal is insignificant.
 - Mitigation measures have been included to reduce the risk of bird entanglement, including well tensioned nets and avoiding the use of secondary anti-predator nets.
- “

Extracted from NatureScot consultation response to the proposal on January 8th 2021

D. SCREENING

‘Screening’ is the initial evaluation of a project’s potential effects on one or more European sites to determine whether an Appropriate Assessment is required. If an appropriate assessment is required, the output of screening should indicate which Europeans sites are affected and which aspects of the project are likely to have significant effects.

IS THE PROPOSAL (EITHER ALONE OR IN COMBINATION WITH OTHER PROPOSALS) LIKELY TO HAVE A SIGNIFICANT EFFECT ON THE SITE?

The planning authority concurs with the analysis provided by NatureScot and is satisfied no likely significant effect is expected on conservation objectives for the SPA as a result of this development. Therefore no appropriate assessment is required in this case.

The following reasons have led the Highland Council to this conclusion,

- although the farm will lie within the foraging area of many of the designated species in SPA the proportion of the foraging area affected by the proposal and other farms nearby will be insignificant.
- Mitigation measures outlined by the developer such as tensioned nets and avoidance of secondary anti-predator nets will reduce risk of birds entering pens and becoming entrapped and entangled.
- The waste management plan and the feeding of fish underwater outlined by the developer will furthermore reduce the attraction of seabirds to the site.

It should be noted that whilst no likely significant effect is expected in this case, the adaptive management condition in place to protect Gannets designated at other SPAs will ensure that should a significant entrapment/entanglement event occur with any seabird species this will be monitored, reported and mitigated.

Appendix E – Habitats Appraisal River Kerry Special Area of Conservation (SAC)

The status of European protected sites such as SACs and SPAs, under the EC Directive 92/43/EEC, the ‘Habitats Directive’, means that the Conservation (Natural Habitats, etc.) Regulations 1994 (as amended), also known as the ‘Habitats Regulations’, apply.

Under the Habitat Regulations, The Highland Council, as a competent authority in the planning system, must consider whether any planning proposal, prior notification for permitted development rights or plan (e.g. Local Development Plan) will have a ‘likely significant effect’ on a European site. If so, they must carry out an ‘appropriate assessment’. The council must also seek advice from SNH and have regard to their representations during the HRA process.

The Highland Council must not authorise a plan or grant a planning application unless it can show beyond reasonable scientific doubt – using appropriate assessment – that the plan or planning proposal will not adversely affect the integrity of a European site.

This proforma can be used as template to conduct a Habitats Regulations Appraisal and Appropriate Assessment.

Date: 12/01/2021

Author: Chris Nall

A. EUROPEAN SITE DETAILS

Name of European Site(s) potentially affected:

The River Kerry Special Area of Conservation (SAC)

Qualifying interest(s) at the site:

This information can be obtained from NatureScot (SNH) site link website - <https://sitelink.nature.scot/map>

- Freshwater pearl mussel

Conservation objectives at the site:

This information can be obtained from NatureScot (SNH) site link website - <https://sitelink.nature.scot/map>

To avoid deterioration of the habitats of the qualifying species (Freshwater Pearl Mussels) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and

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

- Population of the species as a viable component of the site
- Distribution of the species within site
- Distribution and extent of habitats supporting the species
- Structure, function and supporting processes of habitats supporting the species
- No significant disturbance of the species
- Distribution and viability of species' host species
- Structure, function and supporting processes of habitats supporting the species' host species

B. PROPOSAL DETAILS

Planning Application Reference:

20/00097/FUL

Proposal Name:

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

Location:

Balmaqueen - Land 1600m East Of Balmaqueen

Description of proposal:

12x120m circumference circular cages in an 80m mooring grid with associated feed barge

Is the proposal directly connected with or necessary to site management for conservation?

No

- *If YES for all elements of the proposal, for all qualifying interests, then consent can be issued. Rationale should be detailed below and no further appraisal is required.*
- *If NO for all qualifying interests, then continue the appraisal.*
- *If the proposal has elements which are not connected to site management for conservation these elements should be appraised.*

C. NatureScot Advice

While the responsibility to carry out the HRA Screening and Appropriate Assessment rests with the Council, NatureScot (previously SNH) provides an advisory role to help determine whether an Appropriate Assessment is needed and what needs to be included in the assessment. As part of the the HRA the council must consult with NatureScot and take

consideration of their advice. This requirement is outlined in regulation 48 (3) of the Conservation (Natural Habitats, andc.) Regulations 1994 as amended (The ‘Habitats Regulations’).

This advice is usually provided as part of NatureScot’s formal consultation response for a planning application and will be detailed within the section of the relevant to designated European site.

Outline relevant advice from NatureScot and date of response:

“River Kerry Special Area of Conservation (SAC)”

The Balmaqueen site lies 35km from River Kerry SAC (in Wester Ross) which is designated for Freshwater Pearl Mussel (FWPM). FWPM populations require healthy juvenile salmonid populations to complete their life cycle. We have considered the potential impacts of sea lice from this proposal (in combination with other existing farms) on the SAC.

In our view there is unlikely to be a significant effect on the SAC in this case because:

- Two surveys have indicated that the pearl mussel population uses both salmon and trout as the host for the larval stage. However, salmon is the principal and disproportionately the most important host.
- Recent survey results in the Kerry suggest that fish densities were sufficient to support recruitment.
- The salmon post smolts (the most vulnerable life stage) arising from the Kerry will tend to head out to sea as they emigrate towards the North Atlantic/Norwegian Sea. Section 6.2.3 of the EIA report includes sea lice modelling which indicates that the smolts may interact with sea lice emanating from the proposed farm. However, at this significant dispersion would have taken place and the density of sea lice in the water column would be low.”

Extracted from NatureScot consultation response to the proposal on January 8th 2021

D. SCREENING

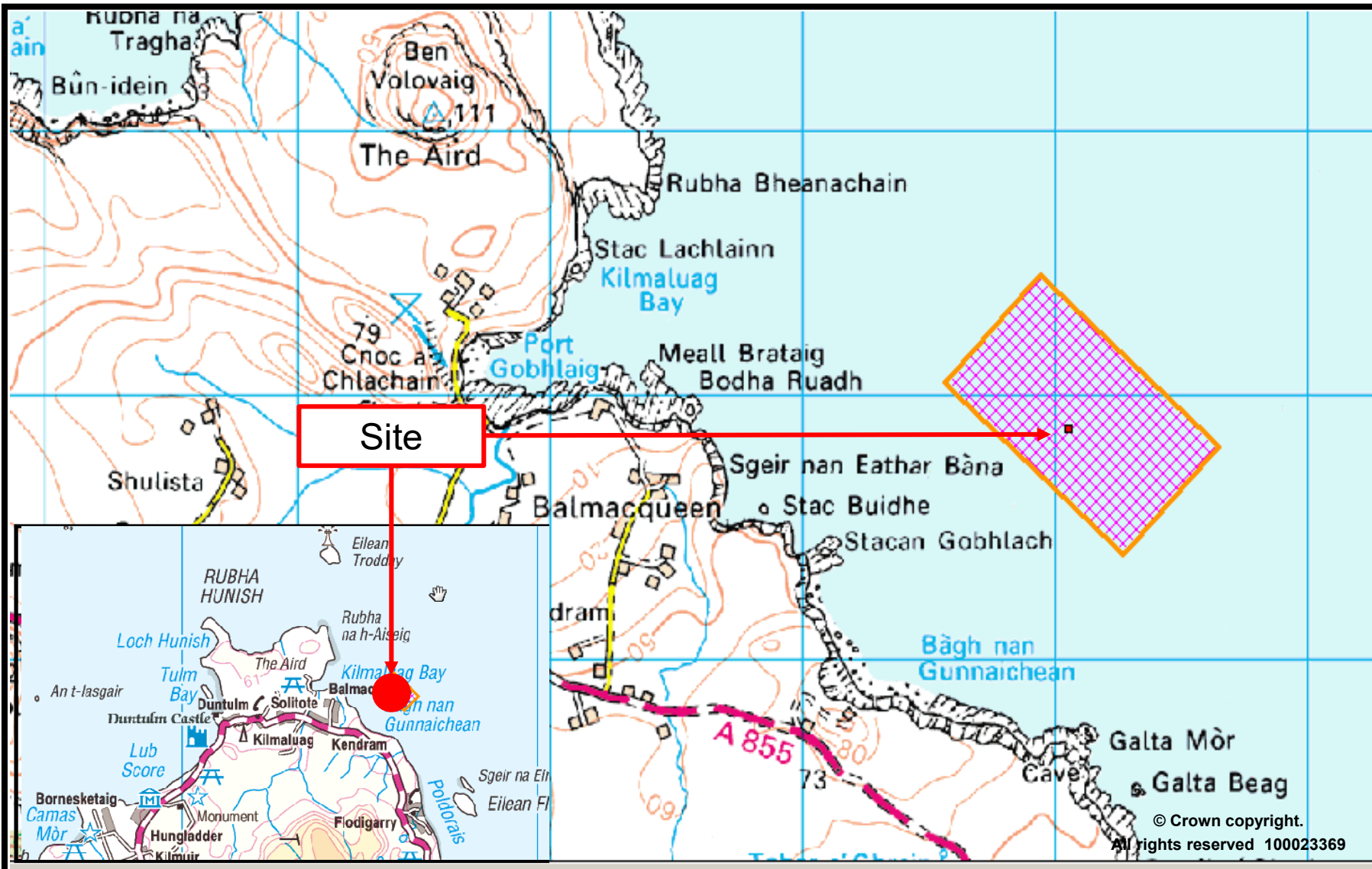
‘Screening’ is the initial evaluation of a project’s potential effects on one or more European sites to determine whether an Appropriate Assessment is required. If an appropriate assessment is required, the output of screening should indicate which Europeans sites are affected and which aspects of the project are likely to have significant

effects.

IS THE PROPOSAL (EITHER ALONE OR IN COMBINATION WITH OTHER PROPOSALS) LIKELY TO HAVE A SIGNIFICANT EFFECT ON THE SITE?

The freshwater pearl mussel (FWPM) *Margaritifera margaritifera* is protected by the SAC status and under Schedule 5 of the Wildlife and Countryside Act (1981). This species relies on a healthy juvenile Salmon population to complete their life cycle and therefore a possible reduction in host fish numbers as a result of wild fish interactions with sea lice emanating from the Balmaqueen fish farm could be a cause for concern.

However, the planning authority concurs with NatureScot that a likely significant effect on this qualifying feature of the SAC is unlikely to occur based on the reasons outlined in their consultation. Chiefly that the population of host fish in the SAC river is currently sufficient to support recruitment of FWPM and that sea lice dispersed from the farm will be at low density at possible points of interaction with migrating smolts. It should also be mentioned that the Environment Management Plan submitted in conjunction with this development includes mitigation in place to minimise the impact of sea lice on wild salmonids which will reduce the potential for this possible interaction further. The Highland Council is therefore satisfied no likely significant effect will occur at the SAC and an appropriate assessment is therefore not required.



Planning and Development Service

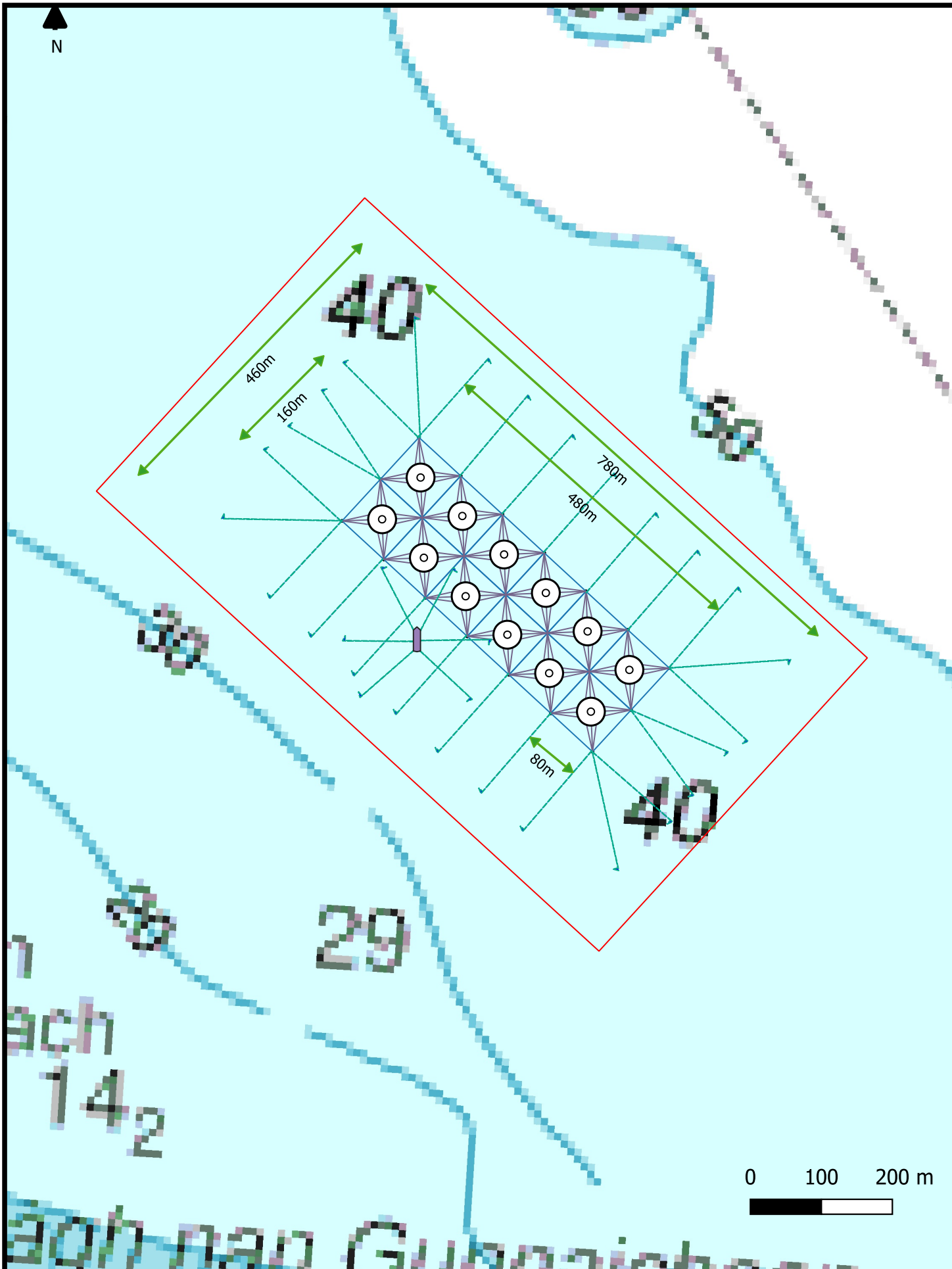
Location Plan
20/00097/FUL

New marine fish farm for atlantic salmon consisting of 12 x 120m circumference circular cages in a 80m mooring grid with associated feed barge

January 2021



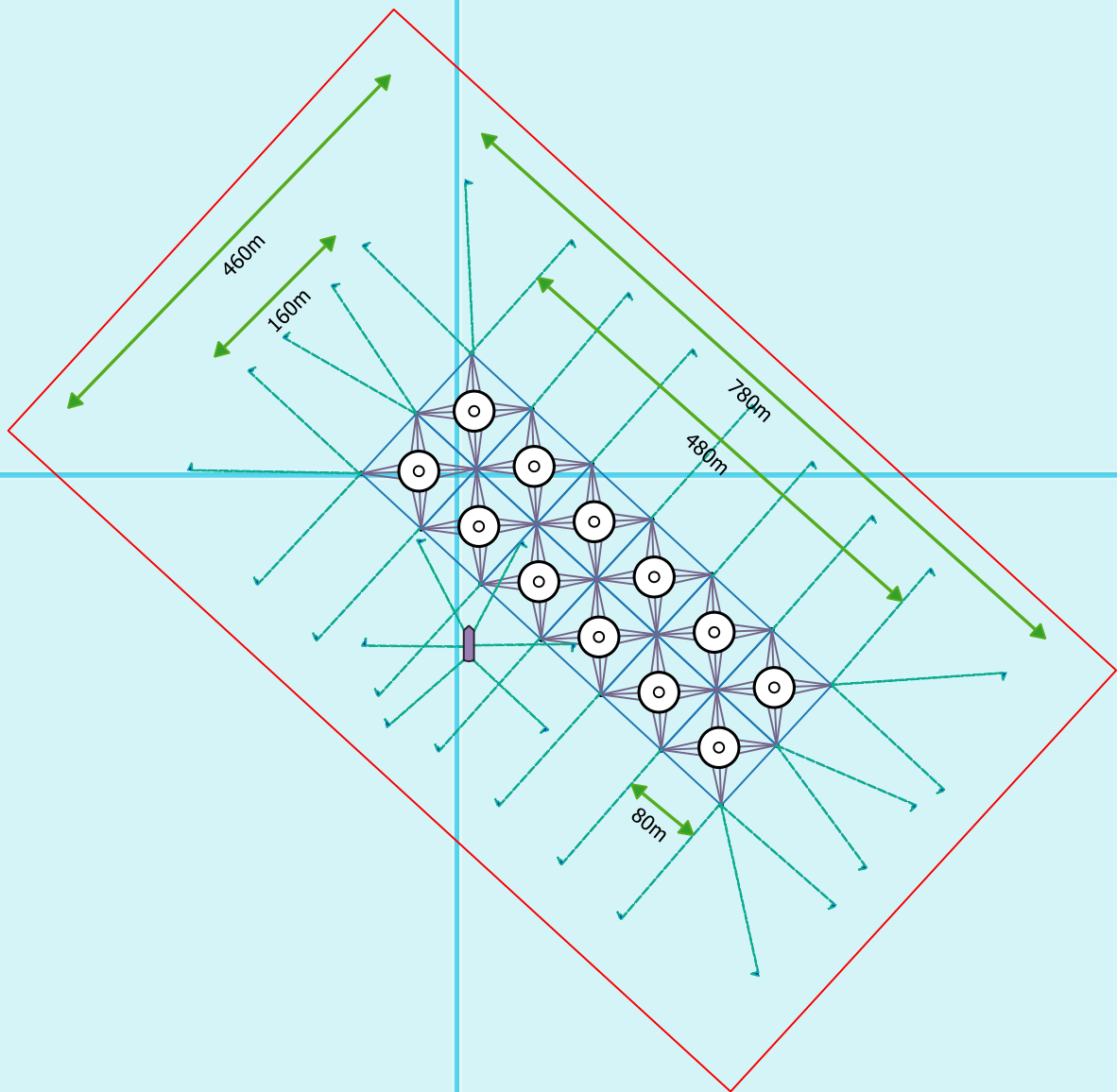
Scale:



Organic Sea Harvest
 Proposed Balmacqueen Site
 FIG 5. Moorings plan (Chart)

Ordnance Survey Opensource data. © Crown copyright and database right 2019.
 UKHO Chart Data supplied by EMAPSITE © Crown Copyright, 2019. All rights reserved. License No. EK001-EMS-366113.
 NOT TO BE USED FOR NAVIGATION

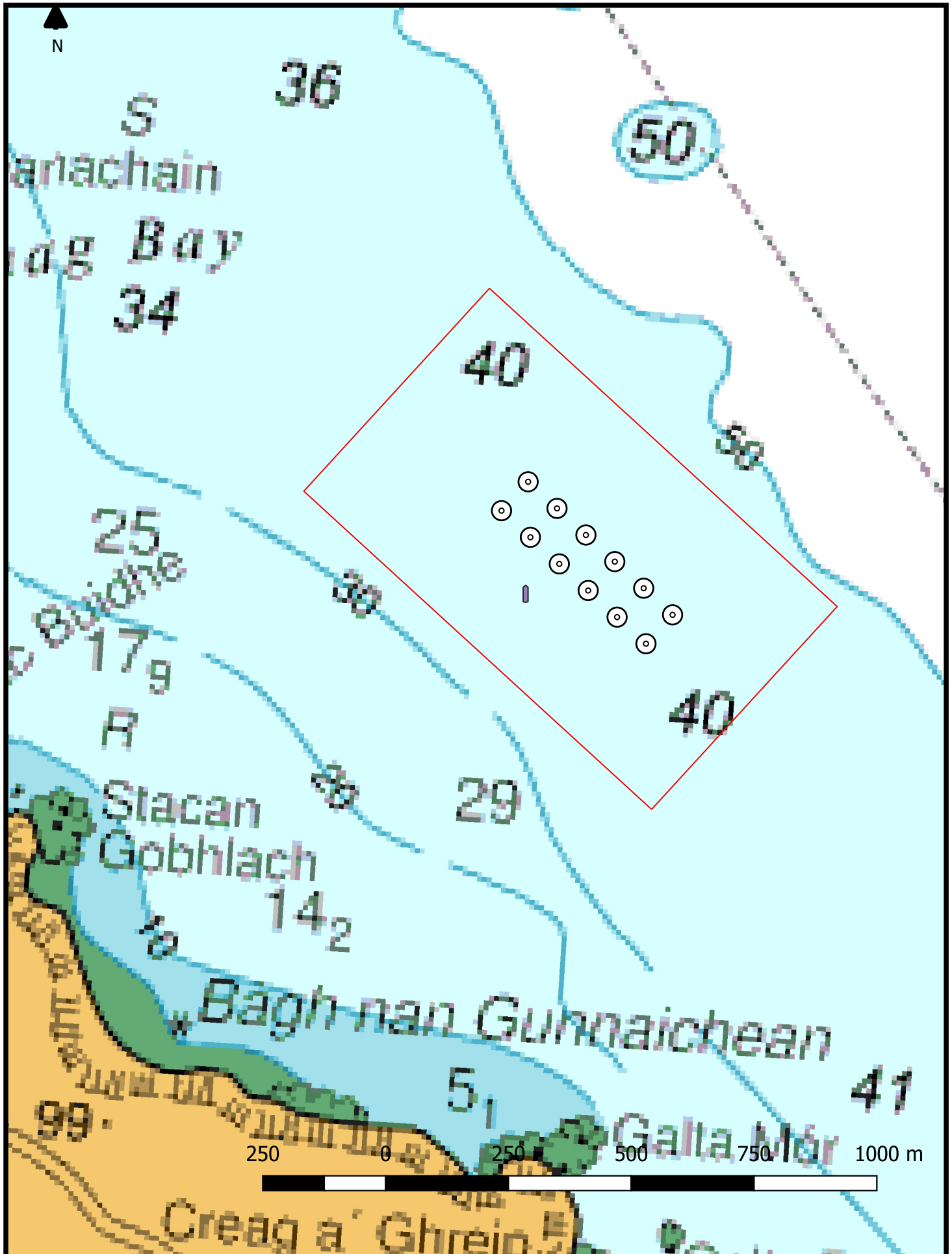




Organic Sea Harvest
Proposed Balmacqueen Site
FIG 4. Moorings plan (Map)

Ordnance Survey OpenSource data. © Crown copyright and database right 2019.
UKHO Chart Data supplied by EMAPSITE © Crown Copyright, 2019. All rights reserved. License No. EK001-EMS-366113.
NOT TO BE USED FOR NAVIGATION

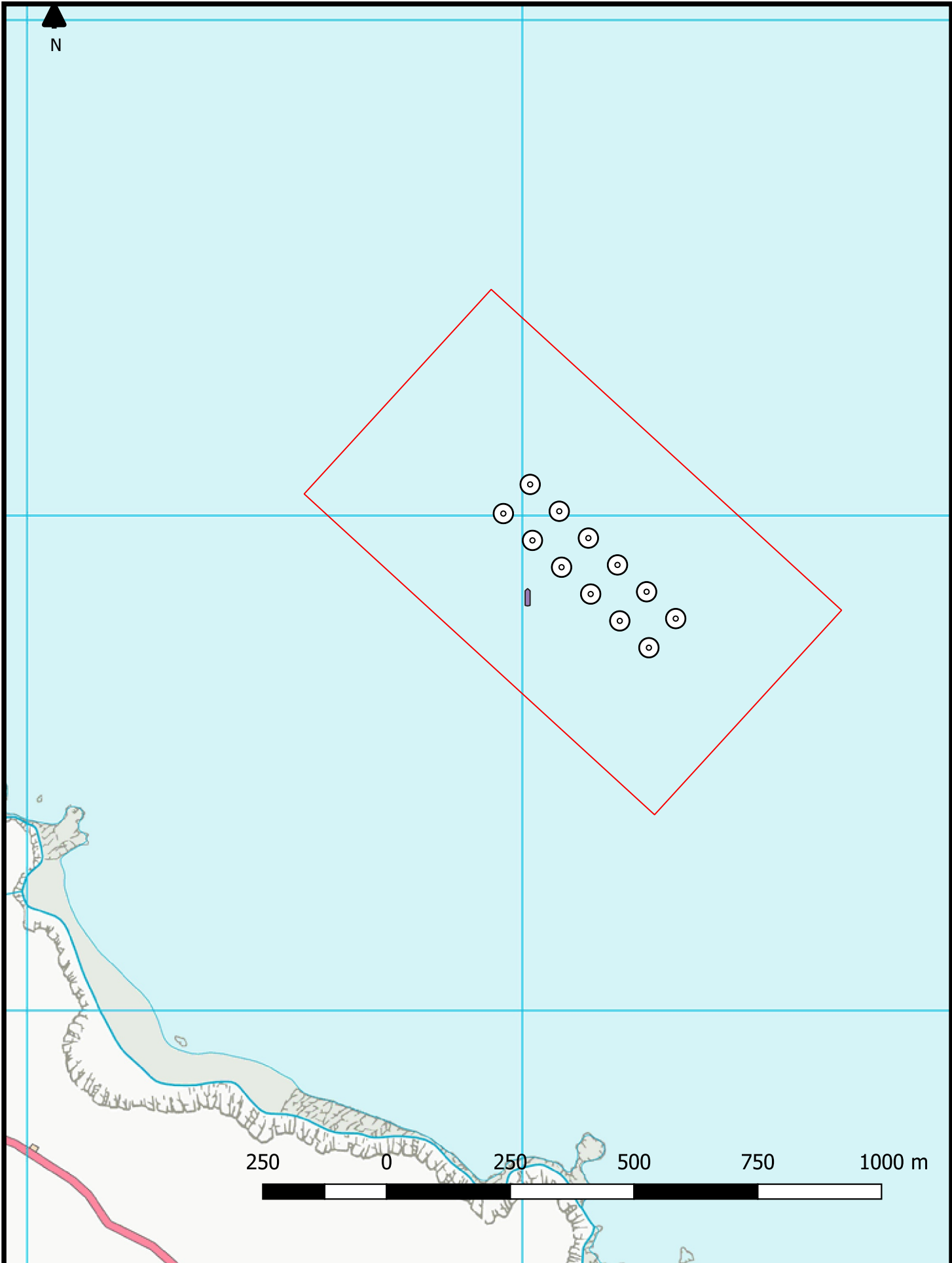




Organic Sea Harvest
 Proposed Balmacqueen Site
 FIG 3. Site Plan with Surface Equipt (Chart)

Ordnance Survey Opensource data. © Crown copyright and database right 2019.
 UKHO Chart Data supplied by EMAPSITE © Crown Copyright, 2019. All rights reserved. License No. EK001-EMS-366113.
 NOT TO BE USED FOR NAVIGATION

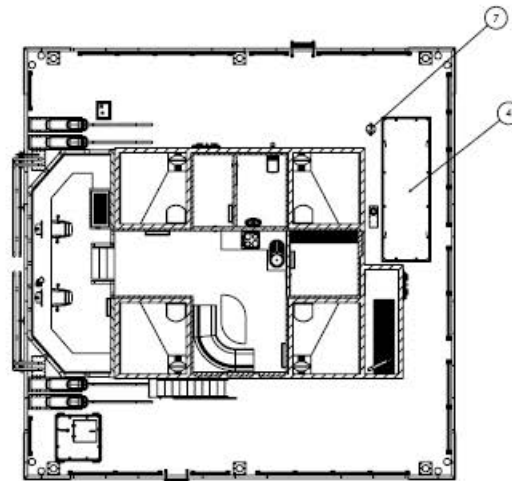
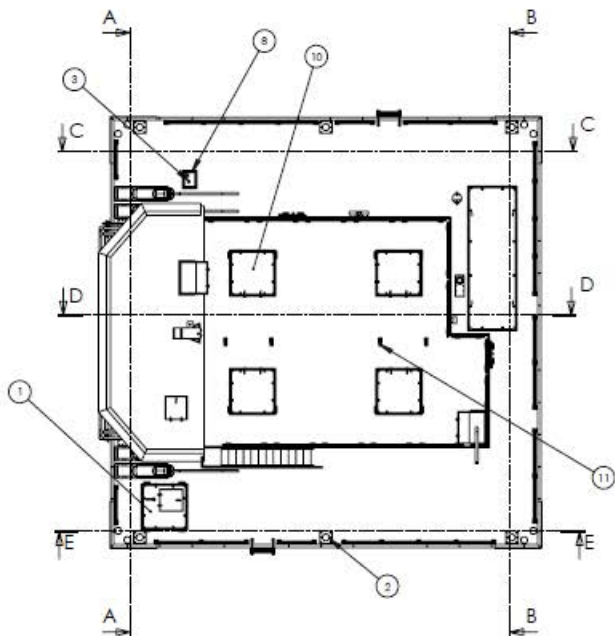




Organic Sea Harvest
 Proposed Balmacqueen Site
 FIG 2. Site Plan with Surface Equipment

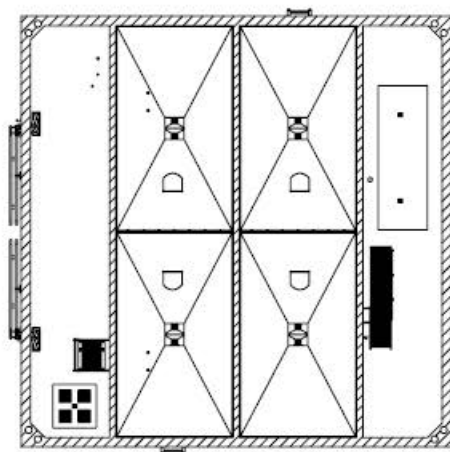
Ordnance Survey OpenSource data. © Crown copyright and database right 2019.
 UKHO Chart Data supplied by EMAPSITE © Crown Copyright, 2019. All rights reserved. License No. EK001-EMS-366113.
 NOT TO BE USED FOR NAVIGATION



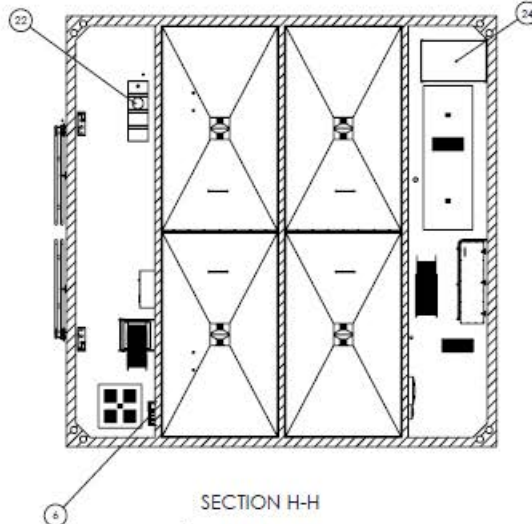


SECTION F-F

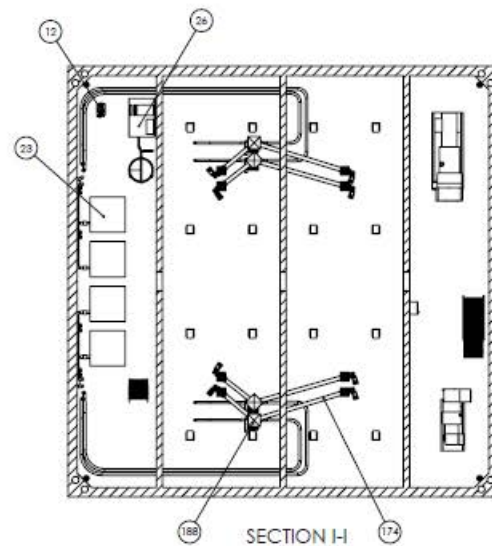
ITEM NO.	QTY	DESCRIPTION
1	1	BLOWER HATCH
2	9	BOLLARDS
3	1	HYDRAULIC BOX
4	1	GENERATOR HATCH
5	1	GENERATOR HATCH COVER
6	1	12V PANEL
7	1	DIESEL INLET
8	1	FRESH WATER INLET
9	4	AIR PRESSURE SENSOR
10	4	SLO HATCH
11	4	SLO LID SUPPORT
12	1	FRESH WATER PUMP
13	4	MOORING TUBE
14	4	SELECTOR SUPPLY
15	1	HOT WATER CYLINDER
16	4	SELECTOR
17	4	BILGE PUMP
18	1	BATHROOM
19	1	DRIVING ROOM
20	4	SLO
21	1	GENERATOR
22	1	WATER TANK
23	4	BLOWER
24	1	FUEL TANK
25	1	S/B S
26	1	COMPRESSOR



SECTION G-G



SECTION H-H



SECTION I-I

NO.	DATE	REVISION	BY	CHKD.	APP'D.	DATE	DESCRIPTION
1	10/10/00	ISSUED FOR CONSTRUCTION					
2	11/10/00	REVISED FOR CONSTRUCTION					
3	12/10/00	REVISED FOR CONSTRUCTION					
4	01/10/01	REVISED FOR CONSTRUCTION					
5	02/10/01	REVISED FOR CONSTRUCTION					
6	03/10/01	REVISED FOR CONSTRUCTION					
7	04/10/01	REVISED FOR CONSTRUCTION					
8	05/10/01	REVISED FOR CONSTRUCTION					
9	06/10/01	REVISED FOR CONSTRUCTION					
10	07/10/01	REVISED FOR CONSTRUCTION					
11	08/10/01	REVISED FOR CONSTRUCTION					
12	09/10/01	REVISED FOR CONSTRUCTION					
13	10/10/01	REVISED FOR CONSTRUCTION					
14	11/10/01	REVISED FOR CONSTRUCTION					
15	12/10/01	REVISED FOR CONSTRUCTION					
16	01/10/02	REVISED FOR CONSTRUCTION					
17	02/10/02	REVISED FOR CONSTRUCTION					
18	03/10/02	REVISED FOR CONSTRUCTION					
19	04/10/02	REVISED FOR CONSTRUCTION					
20	05/10/02	REVISED FOR CONSTRUCTION					
21	06/10/02	REVISED FOR CONSTRUCTION					
22	07/10/02	REVISED FOR CONSTRUCTION					
23	08/10/02	REVISED FOR CONSTRUCTION					
24	09/10/02	REVISED FOR CONSTRUCTION					
25	10/10/02	REVISED FOR CONSTRUCTION					
26	11/10/02	REVISED FOR CONSTRUCTION					
27	12/10/02	REVISED FOR CONSTRUCTION					
28	01/10/03	REVISED FOR CONSTRUCTION					
29	02/10/03	REVISED FOR CONSTRUCTION					
30	03/10/03	REVISED FOR CONSTRUCTION					
31	04/10/03	REVISED FOR CONSTRUCTION					
32	05/10/03	REVISED FOR CONSTRUCTION					
33	06/10/03	REVISED FOR CONSTRUCTION					
34	07/10/03	REVISED FOR CONSTRUCTION					
35	08/10/03	REVISED FOR CONSTRUCTION					
36	09/10/03	REVISED FOR CONSTRUCTION					
37	10/10/03	REVISED FOR CONSTRUCTION					
38	11/10/03	REVISED FOR CONSTRUCTION					
39	12/10/03	REVISED FOR CONSTRUCTION					
40	01/10/04	REVISED FOR CONSTRUCTION					
41	02/10/04	REVISED FOR CONSTRUCTION					
42	03/10/04	REVISED FOR CONSTRUCTION					
43	04/10/04	REVISED FOR CONSTRUCTION					
44	05/10/04	REVISED FOR CONSTRUCTION					
45	06/10/04	REVISED FOR CONSTRUCTION					
46	07/10/04	REVISED FOR CONSTRUCTION					
47	08/10/04	REVISED FOR CONSTRUCTION					
48	09/10/04	REVISED FOR CONSTRUCTION					
49	10/10/04	REVISED FOR CONSTRUCTION					
50	11/10/04	REVISED FOR CONSTRUCTION					
51	12/10/04	REVISED FOR CONSTRUCTION					
52	01/10/05	REVISED FOR CONSTRUCTION					
53	02/10/05	REVISED FOR CONSTRUCTION					
54	03/10/05	REVISED FOR CONSTRUCTION					
55	04/10/05	REVISED FOR CONSTRUCTION					
56	05/10/05	REVISED FOR CONSTRUCTION					
57	06/10/05	REVISED FOR CONSTRUCTION					
58	07/10/05	REVISED FOR CONSTRUCTION					
59	08/10/05	REVISED FOR CONSTRUCTION					
60	09/10/05	REVISED FOR CONSTRUCTION					
61	10/10/05	REVISED FOR CONSTRUCTION					
62	11/10/05	REVISED FOR CONSTRUCTION					
63	12/10/05	REVISED FOR CONSTRUCTION					
64	01/10/06	REVISED FOR CONSTRUCTION					
65	02/10/06	REVISED FOR CONSTRUCTION					
66	03/10/06	REVISED FOR CONSTRUCTION					
67	04/10/06	REVISED FOR CONSTRUCTION					
68	05/10/06	REVISED FOR CONSTRUCTION					
69	06/10/06	REVISED FOR CONSTRUCTION					
70	07/10/06	REVISED FOR CONSTRUCTION					
71	08/10/06	REVISED FOR CONSTRUCTION					
72	09/10/06	REVISED FOR CONSTRUCTION					
73	10/10/06	REVISED FOR CONSTRUCTION					
74	11/10/06	REVISED FOR CONSTRUCTION					
75	12/10/06	REVISED FOR CONSTRUCTION					
76	01/10/07	REVISED FOR CONSTRUCTION					
77	02/10/07	REVISED FOR CONSTRUCTION					
78	03/10/07	REVISED FOR CONSTRUCTION					
79	04/10/07	REVISED FOR CONSTRUCTION					
80	05/10/07	REVISED FOR CONSTRUCTION					
81	06/10/07	REVISED FOR CONSTRUCTION					
82	07/10/07	REVISED FOR CONSTRUCTION					
83	08/10/07	REVISED FOR CONSTRUCTION					
84	09/10/07	REVISED FOR CONSTRUCTION					
85	10/10/07	REVISED FOR CONSTRUCTION					
86	11/10/07	REVISED FOR CONSTRUCTION					
87	12/10/07	REVISED FOR CONSTRUCTION					
88	01/10/08	REVISED FOR CONSTRUCTION					
89	02/10/08	REVISED FOR CONSTRUCTION					
90	03/10/08	REVISED FOR CONSTRUCTION					
91	04/10/08	REVISED FOR CONSTRUCTION					
92	05/10/08	REVISED FOR CONSTRUCTION					
93	06/10/08	REVISED FOR CONSTRUCTION					
94	07/10/08	REVISED FOR CONSTRUCTION					
95	08/10/08	REVISED FOR CONSTRUCTION					
96	09/10/08	REVISED FOR CONSTRUCTION					
97	10/10/08	REVISED FOR CONSTRUCTION					
98	11/10/08	REVISED FOR CONSTRUCTION					
99	12/10/08	REVISED FOR CONSTRUCTION					
100	01/10/09	REVISED FOR CONSTRUCTION					
101	02/10/09	REVISED FOR CONSTRUCTION					
102	03/10/09	REVISED FOR CONSTRUCTION					
103	04/10/09	REVISED FOR CONSTRUCTION					
104	05/10/09	REVISED FOR CONSTRUCTION					
105	06/10/09	REVISED FOR CONSTRUCTION					
106	07/10/09	REVISED FOR CONSTRUCTION					
107	08/10/09	REVISED FOR CONSTRUCTION					
108	09/10/09	REVISED FOR CONSTRUCTION					
109	10/10/09	REVISED FOR CONSTRUCTION					
110	11/10/09	REVISED FOR CONSTRUCTION					
111	12/10/09	REVISED FOR CONSTRUCTION					
112	01/10/10	REVISED FOR CONSTRUCTION					
113	02/10/10	REVISED FOR CONSTRUCTION					
114	03/10/10	REVISED FOR CONSTRUCTION					
115	04/10/10	REVISED FOR CONSTRUCTION					
116	05/10/10	REVISED FOR CONSTRUCTION					
117	06/10/10	REVISED FOR CONSTRUCTION					
118	07/10/10	REVISED FOR CONSTRUCTION					
119	08/10/10	REVISED FOR CONSTRUCTION					
120	09/10/10	REVISED FOR CONSTRUCTION					
121	10/10/10	REVISED FOR CONSTRUCTION					
122	11/10/10	REVISED FOR CONSTRUCTION					
123	12/10/10	REVISED FOR CONSTRUCTION					
124	01/10/11	REVISED FOR CONSTRUCTION					
125	02/10/11	REVISED FOR CONSTRUCTION					
126	03/10/11	REVISED FOR CONSTRUCTION					
127	04/10/11	REVISED FOR CONSTRUCTION					
128	05/10/11	REVISED FOR CONSTRUCTION					
129	06/10/11	REVISED FOR CONSTRUCTION					
130	07/10/11	REVISED FOR CONSTRUCTION					
131	08/10/11	REVISED FOR CONSTRUCTION					
132	09/10/11	REVISED FOR CONSTRUCTION					
133	10/10/11	REVISED FOR CONSTRUCTION					
134	11/10/11	REVISED FOR CONSTRUCTION					
135	12/10/11	REVISED FOR CONSTRUCTION					
136	01/10/12	REVISED FOR CONSTRUCTION					
137	02/10/12	REVISED FOR CONSTRUCTION					
138	03/10/12	REVISED FOR CONSTRUCTION					
139	04/10/12	REVISED FOR CONSTRUCTION					
140	05/10/12	REVISED FOR CONSTRUCTION					
141	06/10/12	REVISED FOR CONSTRUCTION					
142	07/10/12	REVISED FOR CONSTRUCTION					
143	08/10/12	REVISED FOR CONSTRUCTION					
144	09/10/12	REVISED FOR CONSTRUCTION					
145	10/10/12	REVISED FOR CONSTRUCTION					
146	11/10/12	REVISED FOR CONSTRUCTION					
147	12/10/12	REVISED FOR CONSTRUCTION					
148	01/10/13	REVISED FOR CONSTRUCTION					
149	02/10/13	REVISED FOR CONSTRUCTION					
150	03/10/13	REVISED FOR CONSTRUCTION					
151	04/10/13	REVISED FOR CONSTRUCTION					
152	05/10/13	REVISED FOR CONSTRUCTION					
153	06/10/13	REVISED FOR CONSTRUCTION					
154	07/10/13	REVISED FOR CONSTRUCTION					
155	08/10/13	REVISED FOR CONSTRUCTION					
156	09/10/13	REVISED FOR CONSTRUCTION					
157	10/10/13	REVISED FOR CONSTRUCTION					
158	11/10/13	REVISED FOR CONSTRUCTION					
159	12/10/13	REVISED FOR CONSTRUCTION					
160	01/10/14	REVISED FOR CONSTRUCTION					
161	02/10/14	REVISED FOR CONSTRUCTION					
162	03/10/14	REVISED FOR CONSTRUCTION					
163	04/10/14	REVISED FOR CONSTRUCTION					
164	05/10/14	REVISED FOR CONSTRUCTION					
165	06/10/14	REVISED FOR CONSTRUCTION					
166	07/10/14	REVISED FOR CONSTRUCTION					
167	08/10/14	REVISED FOR CONSTRUCTION					
168	09/10/14	REVISED FOR CONSTRUCTION					

Figure 10 – Tube / snorkel net design

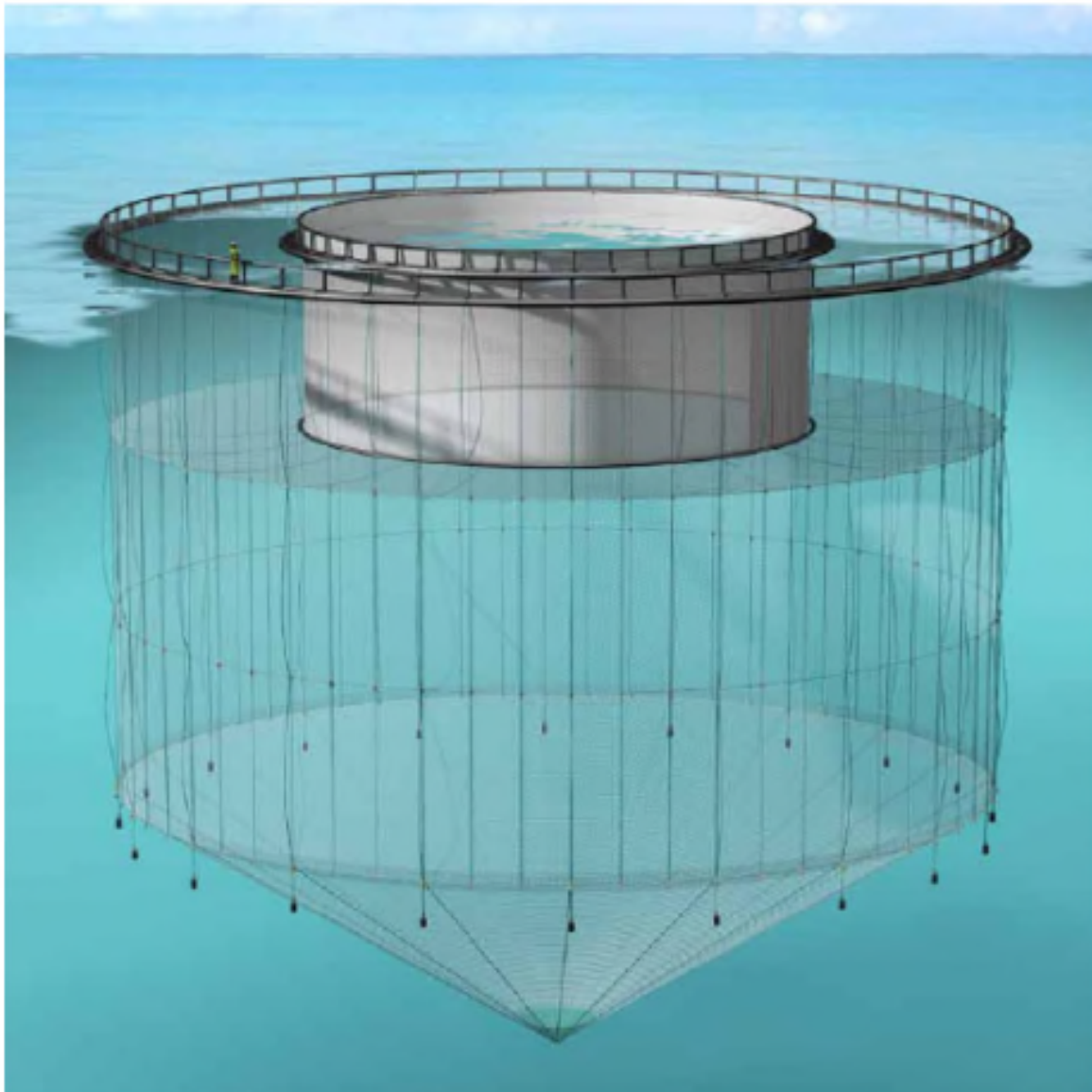


Figure 9 – Top Net Design

