

**Argyll and Bute Council**  
Comhairle Earra Ghaidheal agus Bhoid

*Customer Services*  
*Executive Director: Douglas Hendry*



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29 October 2012

## **NOTICE OF MEETING**

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **DERVAIG HALL, DERVAIG, ISLE OF MULL** on **MONDAY, 5 NOVEMBER 2012** at **10:30 AM**, which you are requested to attend.

Douglas Hendry  
Executive Director - Customer Services

## **BUSINESS**

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST (IF ANY)**
- 3. THE SCOTTISH SALMON COMPANY: FORMATION OF 16 CAGE FISH FARM AND INSTALLATION OF FEED BARGE: NORTH GOMETRA, LOCH TUATH, ISLE OF MULL (REF: 12/01176/MFF)**  
Report by Head of Planning and Regulatory Services (Pages 1 - 48)

## **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**

Councillor Gordon Blair	Councillor Rory Colville
Councillor Robin Currie	Councillor Mary-Jean Devon
Councillor George Freeman	Councillor Fred Hall
Councillor David Kinniburgh	Councillor Alistair MacDougall
Councillor Robert Graham MacIntyre	Councillor Donald MacMillan
Councillor Alex McNaughton	Councillor James McQueen
Councillor Sandy Taylor	Councillor Richard Trail

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Argyll and Bute Council  
Development Services

**Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle**

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**Reference No:** 12/01176/MFF  
**Planning Hierarchy:** Local Development  
**Applicant:** The Scottish Salmon Co.  
**Proposal:** Formation of 16 cage fish farm and installation of feed barge  
**Site Address:** North Gometra, Loch Tuath, Isle of Mull

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## **DECISION ROUTE**

Local Government Scotland Act 1973

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### **(A) THE APPLICATION**

#### **(i) Development Requiring Express Planning Permission**

- Formation of Marine Salmon Fish Farm comprising 16 No. 100m circumference cages, walkways, mooring grid and associated lines;
- Installation of feed barge;
- Installation of underwater lighting.

#### **(ii) Other specified operations**

- Servicing from existing shore base at Ulva Ferry
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### **(B) RECOMMENDATION:**

It is recommended that planning permission be granted subject to:

- i) the conditions and reasons listed in the report;
  - ii) the holding of a discretionary local hearing having regard to the number of third party representations received and the complex and varied nature of the material considerations in this case.
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### **(C) CONSULTATIONS:**

**Scottish Environment Protection Agency (SEPA)** – (14.06.12) no objection on either benthic or nutrient enrichment grounds. CAR licence application under consideration and likely to be consentable.

**Scottish Natural Heritage (SNH)** (06.08.12 & 07.09.12) – initial holding objection on grounds of inadequacy of the applicant's Landscape and Visual Assessment and the consequent unreliability of the conclusions drawn in the Environmental Statement. Considers that landscape and visual implications could be significantly adverse given sensitivity of National Scenic Area to development and applicant has failed to demonstrate that integrity of the designation will be safeguarded. More finely grained analysis required including assessment of cumulative effects and implications for the experience of remoteness.

No likely effects on nature conservation designations in respect of eagles, seals, wild fish, freshwater pearl mussel or wild salmonids. No habitats of national importance affected. SNH licence for the deployment of Acoustic Deterrent Devices required having regard to implications for cetaceans.

In a subsequent response to an augmented Landscape and Visual Assessment, SNH have withdrawn their objection on landscape grounds on the basis that whilst the development will have locally significant adverse consequences for the NSA to the detriment of the perceived remoteness and contributing to attrition of the qualities of the NSA, such impacts will be limited in their extent and are unlikely to undermine the integrity of the NSA as a whole. Whilst there are some omissions in the LVIA the information has been sufficient for SNH to be able to draw its own conclusions in the matter.

SNH accepts the conclusions of the applicant's updated LVIA that the development will have some significant 'moderate' adverse impacts which will weaken its character, particularly in terms of cumulative impact. However, it will not transform or dramatically change the landscape. This is because of the extent and range of similar important seascape views where the NSA landscape will be experienced from, but the proposed fish farm will not be evident or will be barely perceptible; the large scale diversity and complexity of the land/seascape and the horizontal nature of the proposed development, which has some compatibility with the horizontal visual emphasis of the island studded landscape. In addition, the proposed fish farm will be mostly viewed against the backdrop of the islands, aligned with and close to the coastal edge.

SNH recommends that the Council should carry out a Landscape Capacity Study for aquaculture in the Loch na Keal NSA to inform future decisions, so that the special landscape qualities of the area may be protected from gradual attrition by further developments of this nature.

**Marine Scotland Science** (14.06.12) – The operation of the site will be at an acceptable stocking density. Whilst salmon rivers with the highest returns in the district are circa 20km distant other salmonid watercourse lie closer to the site. Sea lice propagation from fish farms is likely to have a detrimental effect upon wild salmon and sea trout populations in some circumstances although the magnitude of the likely effects is not well understood. As sea trout are present in coastal waters year round beyond the salmon migration periods, lice control will require to be exercised on a year round basis. The importance the Council accords to wild fish interests and the level of precaution attached to populations has to be balanced against other material considerations.

**Scottish Government (EIA)** – no response to date.

**Argyll & District Salmon Fishery Board** – no response to date. (Note: the Mull Salmon Fishery Board is not currently operational)

**Argyll Fisheries Trust** (20.07.12) – no objection provided that sea lice limits advanced by the applicant are adhered to.

**Scottish Wildlife Trust** – no response to date.

**Historic Scotland** (13.06.12) – no objection.

**Northern Lighthouse Board** (01.06.12) – no objection, navigational marking advice provided.

**Small Isles & Mull Inshore Fisheries Group** – no response to date.

**Clyde Fishermen's Association** (12.06.12) – object to further development of the wider fish farming industry in general and this application in particular due to the threat presented to a productive fishery by pollution effects and sea lice.

**Mull Aquaculture and Fisheries Association** (26.05.12 & 08.08.12) – confirm that the prospective site has been relocated by the applicants at pre-application stage following discussion with commercial fishing interests, which represents an appropriate compromise to mutual satisfaction and MAFA appreciates this consultation and the applicant's willingness to have regard to fishing interests.

A further letter from MAFA refutes the contention expressed by the owner of Gometra that MAFA members do not have experience of navigating around the island and have expressed claims on behalf of the applicants. Almost all MAFA members navigate and fish in the area all year round and the Scottish Salmon Co. are not members of or are represented by MAFA.

**West Highland Anchorages and Moorings Association** (22.07.12) – no objection given that access to Acarsaid Mhor anchorage remains unrestricted.

**Royal Yachting Association** – no response to date.

**Council's Marine & Coastal Manager** (01.07.12) – Provides comments in respect of feed barge colour, details of top netting and lighting requirements in the context of the applicant's Landscape & Visual Assessment. No impact on fishing grounds anticipated in the light of re-positioning following pre-application consultation with fishing interests, and no impact upon navigation or anchorages. The applicant's modelling showed a total allowable treatment quantity of 2.1 times available biomass, which is less than their standard sea lice strategy of 5 times biomass, although this has been deemed by the applicants and marine Scotland Science to be adequate. Appropriate industry good practice in relation to containment, escapes, fallowing and synchronous stocking has been identified. Acoustic Deterrent Devices should only be used in the event that other means without implications for cetaceans prove ineffective.

**Council's Biodiversity Officer** – no comments.

**Council's Area Roads Engineer** – no comments.

**Council's Public Protection Service** (31.05.12) – no objection.

**Mull Community Council** (02.06.12) – Notwithstanding the possible, but not guaranteed, employment benefits of the development and the historic benefits to the community from fish farming the community council objects to development on this

scale on the grounds of adverse environmental effects in general and the pollution consequences in particular.

**Iona Community Council** (11.07.12) – object having conducted a public meeting on the island, on grounds of pollution, effects on the natural environment, effects on wild fish and potential seal shooting. The proposal would have particular consequences for eco and wildlife tourism including displacement of cetaceans. The development raises the prospect of net job losses rather than any gain in employment. The area attracts visitors for its pristine environment and its wildlife and the environmental credentials and reputation of the area would be threatened by inappropriate development.

**(D) HISTORY:**

No planning history relevant to this particular site, although it should be noted that prior to planning control having been extended to marine fish farms, there have been instances of fish farm lease applications having been rejected by the Crown Estate in Loch Tuath off both Ulva and Gometra on landscape grounds.

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**(E) PUBLICITY:**

The proposal has been advertised in both the local press and the Edinburgh Gazette (14.06.12 and 01.06.12) with the publicity periods having expired on 05.07.12.

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**(F) REPRESENTATIONS:**

**(i) Representations received from:**

Objections to the proposal have been received from 26 third parties along with 44 supporters. Names and addresses of those having submitted representations are listed in Appendix B to the report. The grounds of objection and support are summarised below.

It should also be noted that an on-line petition under the banner '*Save Staffa Archipelago*' is currently collecting signatures (1,108 as of 11.09.12) with the stated intention of being submitted as a representation against the proposal, although this has not to date been submitted formally to the Council – presumably as it continues to accrue signatories prior to the final determination date.

The stated grounds of objection upon which signatures are being collected are:

- 'We the undersigned deplore proposals for a salmon farm off the island of Gometra in the Staffa Archipelago within the Loch na Keal National Scenic Area. It would be a staggering failure of vision to position the Isle of Mull as a factory farming destination by committing the Staffa Archipelago to industrial aquaculture and so choke the flow of green gold from ecotourism which underpins our economy. We urge you to withhold consent for this devastating proposal'.

## **Support for the proposal**

### Comments in relation to the principle of marine fish farming

- Environmental awareness by fish farm operators has increased substantially since the early days of the industry and the industry is now one which is highly regulated;
- The Scottish Government estimates that 6,200 jobs are dependent on fish farming and the Scottish Salmon Producers Organisation states that 272 additional jobs were created last year alone;

### Comments expressed by business interests and local organisations

- Mull & Iona Community Trust expresses qualified support provided that jobs are offered to local people, local housing can be provided and that regulators safeguard the marine environment from pollution which could be detrimental to other business interest making a living from the qualities of the local environment;
- Ulva School Association Committee considers that fish farming has had a positive impact over the years on employment and to a lesser extent housing. No adverse effect on water quality or shellfish production is envisaged. Support is expressed for the proposal provided that operation of the site meets regulator requirements and there continues to be consultation between the operator and the local community and dialogue over social infrastructure;
- The operator of a long-established sea tour business carrying 7-10,000 visitors a year, who transits Loch Tuath with one of his tour routes, has not heard any derogatory remarks from passengers about the presence of fish farms who are mainly interested to know more about them and the local employment they provide. He would be the first to object if he felt that wildlife was threatened to the detriment of his business;
- The operators of the oyster farm at Ulva Ferry confirms that they have no issue with the applicant's or their existing site nearby and that they maintain a Grade A water quality status for shellfish production purposes;
- An existing B & B and nursery proprietor states that her property faces the existing fish farm which causes no visual or other harm to her business;
- The owners of a holiday let cottage facing the existing fish farm states that they have never had complaints from guests about that site;
- The operator of the Ulva tea room states that she has never had complaints about fish farms which can be seen in the area, only enquiries about what they are, and visitors return year after year, so she does not consider that fish farming impinges upon her business interests;
- The Ulva ferryman asserts that he has never heard visitors complain about fish farms and they simply want to know how people residing in remote communities make a living.

## Comments in relation to employment considerations

- Fish farming provides livelihoods for local people in rural areas lacking in employment opportunities. It helps keep young people and their families in remote communities, particularly in island locations, in circumstances where local demographics are often skewed towards the retired and non-full-time residents, and where there is otherwise often reliance on seasonal employment associated with tourism. Besides creating new jobs the proposal will support service employment such as divers, hauliers, tool suppliers, fuel merchants etc.
- Salmon farms in west Mull currently support 10 local families and provide housing for two of them.
- An young employee of the applicant's existing fish farm in Loch Tuath states that he has been provide with a company house locally and has been provided with training by the company, which has allowed him and his wife to remain in an area where there are currently no residents between the ages of 18 and 25;
- The applicants have increased staff across their operations from 160 to 380 in 2 years. For objectors to say that only 4 low paid fish farming jobs are to be created is frankly insulting. Whilst wages might not enable to employees to acquire islands, they are sufficient to sustain livelihoods and to retain households in the area.

## Comments in relation to tourism considerations

- Rural communities cannot be sustained by tourism alone, which tends to provide seasonal and often low paid jobs and which contributes to high house prices which skew the demographic so other employment opportunities become important in being able to sustain a viable community.

## Comments in relation to pollution and water quality

- Farmed fish grows best in unpolluted water so it is in the operator's interest to keep it so. There is no evidence to suggest that the existing Ulva fish farm site is unacceptably polluting as it co-exists local shellfish production;

## Comments in relation to wildlife interests

- Existing fish farms are known to co-exist with and indeed attract wildlife, as the wildlife logs maintained at the sites demonstrate.

## Comments in respect of landscape and visuals effects

- The site will be difficult to pick out against the dark backdrop of land;
- There is no evidence to suggest that site lighting will create unacceptable light pollution;



- Most objection is actually founded on aesthetics, although it is wrapped up in dubious claims about other environmental considerations;

### Comments in relation to navigation issues and fishing

- Local fishermen have not objected to the application as the applicant has, through negotiation, safeguarded their interests;
- Small vessels are capable of navigating in close proximity to, or even inshore of, existing fish farms, which can provide shelter rather than being a hazard. As large, static and navigationally lit features they should not present a hazard to competent boat users. Site staff are available to provide assistance to other marine users in need of help;
- A fish farm appropriately lit at night could improve the navigational safety of small vessels;
- Navigation between Ulva Ferry and Gometra is routinely achieved around the existing fish farm off Ulva and creel fleets, so claims of the development inhibiting access to the island by boat are spurious.

### Comments in response to views expressed by objectors

- Objections have been founded upon unsubstantiated and provocative assertions and this scaremongering has led to objectors being ill-informed;
- Most objectors are either holiday home owners or those with loose association with the island, or who are able to buy small islands with exclusivity and a view. They have no need of employment for themselves or their offspring and are without any understanding of the economic and social benefit fish farming brings to island communities;
- It is inappropriate for Mull Community Council to cite outright objection when community councillors have been divided on the matter;
- The proprietor of Gometra has exaggerated purported island population levels for the purpose of objecting to the proposal, as there are only 2 full-time residents and 2 people present for part of the year;
- Media reporting stimulated by the objectors has reported the community as being divided on the issue. That is not so, as full-time residents are overwhelmingly in support of the development and it is the holiday home owners who are divided from what ought to be regarded as the local community;
- The Gometra sponsored 'Save Staffa Archipelago' online petition is supported mainly by foreigners and not by people with any local interests in the area.

## **Objections to the proposal**

### Objections in relation to the principle of marine salmon farming

- The salmon farming industry causes unnecessary pollution due to chemical residues in the marine environment from sea lice treatment and other operational aspects of the operation of sites;
- Farmed fish put pressure on wild fish from disease, sea lice and escapes to the detriment of local populations. Scientific research is clear that farm derived sea lice present a serious threat to wild fish, despite the fact that the attribution of continuing declining wild stocks to the presence of farmed fish continues to be challenged by the Scottish Salmon Producers Organisation and Marine Science Scotland, and there is an ongoing and systematic denial of the problem by the industry and by government;
- Salmon farming has been shown to decrease the success of local more sustainable fishing industries that contribute positively to the local economy;
- There is a lack of sustainability in farming salmon due to the over-exploitation of wild fish to provide fish meal;
- Fish farming on this scale is inappropriate and locations should be identified for smaller less intrusive forms of development;
- Marine fish farming is not conducive to the obligation to meet Good Environmental Status for marine waters by 2020 under the Marine Strategy Framework Directive;
- The Scottish Salmon Co. has recent history, according to SEPA held data, of disease outbreaks, escape incidents and lice numbers above SSPO Code of Good Practice limits on its operational sites;
- The Scottish Salmon Co. Is not at all Scottish being foreign owned and other than limited employment and seabed lease income, Scotland derives little benefit from the presence of their fish farms. Processing is conducted elsewhere and not close to the point of production so there are few local benefits to outweigh the environmental damage fish farms cause.

*Officers' comment: The farming of salmon in cages in the marine environment is considered by the government to be a legitimate activity subject to appropriate regulation and the avoidance of particularly sensitive receiving environments or those locations where the carrying capacity of receiving waters is at, or close to, capacity. Accordingly, whilst it is appropriate for Members as decision-makers to have regard to material considerations in respect of the acceptability or otherwise of particular locations, and particular scales of development, it would not be legitimate to seek to resist this proposal on the grounds that marine salmon farming ought to be deemed an unacceptable form of development, regardless of its scale and location.*

### Objections founded on planning policy considerations

- The development fails to satisfy Scottish Planning Policy or development plan policy in respect of sustainability considerations in that it would not safeguard the established character or local distinctiveness of the area, would prejudice local biodiversity interests, would be harmful to a designated National Scenic Area and would be detrimental to the interests of the environment as a whole.

*Officers' comment: In determining this application it is appropriate in the first instance to have regard to government planning policy and development plan policy, and then to weigh other material planning considerations in the balance, to the exclusion of those matters which require to be disregarded given that they are consented by way of other regulatory regimes.*

### Objections in respect of marine and nature conservation interests

- The development if approved along with the proposal for Loch Scridain would in combination with existing development, increase to total biomass to 6,700 tonnes with serious consequences for wild fish, freshwater pearl mussel and shellfish production;
- The development will be polluting in terms of faeces, waste food, chemicals and sea lice, all of which will be damaging to the local ecosystem in terms of nutrient enrichment and algal blooms to the detriment of marine life;
- The development will have adverse consequences for wild fish by virtue of disease and parasite transmission and escapes degrading the genetic purity of local stocks. Freshwater Pearl Mussel in the Mingarry Burn SAC may be affected due to their dependence on the presence of healthy wild salmon;
- Sea lice are an avoidable natural disaster arising from the industrialised production of fish, the only response to which is a chemical one. Notwithstanding that, available sea lice treatment at this site is inadequate;
- Sea trout will be particularly vulnerable to this development as they remain in coastal waters unlike salmon which are able to migrate through sea lice infested waters more quickly;
- The use of acoustic deterrent devices will be detrimental to the grey and harbour seals which frequent the area as well as cetaceans and basking sharks. These will be threatened by activity associated with the farm, the deployment of Acoustic Deterrent Devices and in the case of seals, the prospect of licenced shooting; It is claimed that the Hebridean Whale and Dolphin Trust does not support the use of ADD's to deter seals at this location which would be to the likely exclusion of European protected cetaceans from the loch;
- The development could also impact upon other species of conservation importance such as otters, crustaceans and molluscs. Oysters are currently harvested at two sites on Gometra within 1km without the need for depuration and these are a food source for islanders. The presence of

the site could lead to microbiological contamination and the need to invoke shellfish water controls which could threaten the continued operation of the fish farm;

- The potential for impacts upon European SAC designations (Treshnish grey seal SAC and Mingarry Burn FWP Mussel SAC) must be tested via an 'appropriate assessment' under the Habitats Regulations;
- Marine conservation bodies are signatories to the 'Save Staffa Archipelago' petition as they view marine salmon farming as unsustainable.

*Officers' comment: Many of these issues are legitimate concerns, not all of which are however material planning considerations. Consultation has been undertaken with Scottish Natural Heritage, the Scottish Environment Protection Agency, Marine Science Scotland and the Argyll Fisheries Trust in order to seek advice in terms of water quality, benthic conditions and the conservation interest of habitats and species. None of these consultees have raised objection to the proposal. An 'appropriate assessment' is only required to be carried out by the Council in its role as 'competent authority' when it is considered that there will be 'significant effects' upon the conservation interests of European species or habitats within, or associated with, areas designated under the Habitats Regulations. In this case, Scottish Natural Heritage in its role as statutory consultee and in its capacity as the government's advisor on matters of nature conservation, has concluded that 'significant effects' will not arise in respect of Natura qualifying interests, and accordingly an 'appropriate assessment' is not required to be undertaken by the Planning Authority in this case. <mailto:proposal.@Appropriate>*

### Objections in relation to landscape, visual and amenity considerations

- The unspoilt and remote qualities of west Mull would be undermined by the presence of development on the scale proposed. The presence of equipment, activity, noise and lighting will be alien to this vulnerable landscape/seascape;
- The development would intrude upon the distinctive panorama available in Loch Tuath with the important associated island seascape which make the National Scenic Area so unique;
- The site is in a remote location with an absence of development so site lighting and navigational lighting will be intrusive in an area of otherwise dark skies;
- Outer Loch Tuath is the gateway to the Staffa archipelago and the experience for visitors is one of reducing development and increasing wild land qualities and this experience would be degraded by the presence of the fish farm;
- The development will be visible from and impact upon the setting of impact upon the scheduled monument of Cairn na Burg;
- The height of equipment and the associated barge above water level plus associated navigational and production lighting would be visually

intrusive;

- The Gometra community is 100% opposed to the development. Islanders have a low impact green lifestyle, without access to electricity or cars, and access to and the experience of arrival will be devalued by the presence of the fish farm. Noise fume and light pollution will have a disproportionate impact upon the amenity of such a pristine environment;

*Officers' comment: The siting of marine fish farms is influenced by a range of factors of which landscape considerations are but one. The need to avoid exceeding the carrying capacity of water bodies and to avoid developments in unsuitable locations due to nature conservation interests are amongst those factors which are conspiring to push developments out into more remote and often more exposed locations than those occupied hitherto. A significant number of fish farm sites in Argyll have already been accommodated within National Scenic Areas, so there is no presumption that such a designation will preclude the location of fish farms, provided that they are sited carefully so as to not undermine key qualities prompting designation or the overall integrity of the areas which have been designated. In this case SNH has accepted the applicant's conclusions that whilst there will be 'moderate' adverse effects on Loch Tuath locally, these will not be such as to undermine the special qualities of the NSA and accordingly they have not objected to the proposal on landscape grounds.*

#### Objections in relation to tourism interests

- The development will adversely affect local tourism which is founded upon wildlife and the environmental and scenic qualities of this unspoilt area. The threat to tourism related employment in the area by despoiling the very qualities of the environment, its scenery and its wildlife which people come to enjoy, far outweighs the limited employment and the economic benefits which in any event would accrue to international companies more than to local people;
- The loch is used as a route to the islands by tour boats and the presence of the fish farm would undermine the wild life experience for visitors to the detriment of tourism in the area. The sensitivity of the island landscape in the National Scenic Area is that it can be degraded by a single inappropriate development which undermines its wild land value;
- Sheltered inlets around Gometra would be less attractive anchorages for visiting yachtsmen with the fish farm in place;
- One wildlife tour operator stresses the importance of eco-tourism and the value of the tourism sector as a whole to the Argyll economy which far outweighs that of the primary industries. Chipping away at the very qualities which make the place special and attract visitors is not the way to proceed;

*Officers' comment: Marine fish farms are established widely across scenic coastal areas in the west of Scotland, and many Argyll sites lie within National Scenic Areas. Whilst it is acknowledged that the site should be regarded as a sensitive one, given the scenic qualities of the wider area with its wild land and wildlife dimensions, there is no evidence to suggest that tourists will be dissuaded by visiting the area provided that siting and design is not such as to*

*impinge to an unacceptable extent on the qualities for which the area is valued and which prompted designation. It should be noted that local supporters with interests in the tourism sector have indicated that the existing Ulva fish farm site does not appear to attract criticism by visitors and that they do not consider that it represents a threat to their livelihoods.*

### Objections in relation to employment claims

- Tourism provides sustainable employment far in excess of the four jobs associated with the proposal and there is no guarantee that these will be provided or will go to local people; nor that employment will be eroded in the future by ongoing automation;
- Claims of job numbers and employment growth associated with the sector are inflated across the industry. The difficulty of recruiting and retaining workers are such that it is likely that it will be migrant labour rather than local people employed at the site;
- No employment genuinely local to the site will be provided or supported on Gometra.

*Officers' comment: Whilst the development will bring some direct employment and will generate some spin-offs for the wider economy, and whilst the applicants have stated their intentions in respect of job creation and local recruitment, it is not possible to be conclusive as to how much local economic benefit might accrue from the development, either at its inception or in the future. In the decision-making process employment issues are material considerations, but they should not be used in the weighing up of competing interests as a reason to offset or to disregard otherwise unacceptable environmental shortcomings.*

### Objections in respect of navigation interests

- The fish farm is situated on the route used by small craft accessing Gometra from Ulva Ferry. Transport by boat is an essential part of living on the island. The presence of the fish farm will reduce access to the shelter of the coast pushing boats into deeper more exposed waters which will present an additional risk to users especially shallow craft in heavy seas, poor weather or at night. This will inhibit islander's access to essential services;
- Navigation inshore of the fish farm would be prevented by the presence of the feed barge which is to be sited between the cages and the shore;
- The site obstructs the yachting access route between Ulva Ferry and the anchorage at Acairsaid Mhor which provides shelter on the popular route to Staffa and the Treshnish Isles. The obstruction of public right to navigate may be unlawful.

*Officers' comment: The need for a safe route by sea from Ulva Ferry to Gometra is self-evident given the inadequacy of the overland route via Ulva. That said, the surface area of the fish farm equipment and the associated area obstructed by mooring lines would not impose an inordinate detour for the users of passing vessels, who, with familiarity with the occupied area,*

*should still be able to navigate relatively close in to the site. Although vessels would be locally displaced around the equipment into more exposed water further from the shelter of the shoreline, if conditions were to prove so inhospitable for small craft along the displaced route as to prejudice safety, then it is questionable whether passage ought to be attempted in such conditions, even if no fish farm was present. Site lighting as a point of reference and the presence of staff at regular times in the event of assistance being required, could improve opportunities to transit safely in a small boat.*

In response to the objections received the applicants have submitted comments summarised as follows:

## **Applicant's response to objections received**

### Visual impact and presence of development in National Scenic Area

- The landscape and visual implications of the development have been assessed in accordance with SNH guidance and further detail to satisfy SNH's initial consultation response has been provided. Whilst it is recognised that the proposal will give rise to some localised impact, the mitigation measures proposed in the siting and design of equipment will be such that the locality and the wider area will not be significantly compromised. Many users of the area have already commented that the existing Loch Tuath site has limited impact, being only visible from close quarters, and the applicants consider that the application proposal will share similar attributes and will not compromise the integrity of the NSA. Some objectors have raised the prospect of noise issues but as the generator will be acoustically housed in the barge it will not give rise to noise nuisance in respect of the surrounding area.

### Navigation

- The applicants have discussed the proposal with the Lighthouse Board, tour boat operators, commercial fishing and recreational yachting organisations, none of whom have raised concerns about the ability to navigate around the proposed site. Some boat users have suggested it may make the passage to Gometra safer by affording a degree of shelter.

### Shellfish Farming

- The applicants already operate fin fish sites alongside shellfish sites without any apparent adverse consequences. Indeed, the company is currently trialling composite shellfish and finfish sites, a practice well established in other countries.

### Cetaceans and the use of ADD's

- The applicants proposed to use targeted ADD's (rather than continuous models) which would only be triggered by panicked fish when a predator is present. These reduce sound exposure, harm to hearing and the disruption of non-target species. The same strategy is used on other sites both on Mull and elsewhere where a variety of wildlife continues to be seen.

Tourism impacts

- Support has been received from local tourism dependant businesses who do not consider that the presence of fish farms have proven to be a disadvantage to their interests. Independent research commissioned by the Scottish Aquaculture Research Forum found no evidence of a negative link between aquaculture and tourism. Experience locally and elsewhere indicates that fish farms are point of interest for tourists not a deterrent.

Wild fish interests

- The applicants are well aware of the need to manage carefully interaction between farmed and wild fish and have an appropriate suite of responses in place based on practice elsewhere, including synchronous stocking and fallowing and synchronous and strategic sea lice treatments. Sufficient treatment is available at this site and for the biomass proposed from predicted consentable sea lice medicines and Marine Scotland Science are satisfied with the applicant's approach to the issue. Sea lice dispersal is influenced by wind direction, tides and currents. Residual surface currents at this site are likely to transport lice away seaward rather than towards salmonid watercourses. Containment is practised to industry standards. There have been no fish loses from the applicant's Mull sites since compulsory reporting was introduced in 2001. Local concern has been expressed in relation to implications for a salmon netting station on Gometra. This was not identified by Argyll Fisheries Trust or Marine Scotland Science as a matter of concern and historical records of catches are unavailable. In view of the applicants intended sea lice treatment and site management arrangements it is not considered that freshwater pearl mussel in the Mingarry Burn will be at any significant risk from the development.

Employment and economic issues

- Existing staff on the applicant's Mull sites have combined service of 74 years and three recently recruited vacancies have been filled by local people, all in their 20's. The company is committed to providing local jobs. The predicted annual turnover of the site is £6.6m. It will contribute to the support the 67 staff employed at the Cairndow processing site as well as supporting indirect service jobs.

Consultation with the community

- In response to criticism as to the inadequacy of consultation, the applicants have indicated that they discussed proposals in advance with consultees, the Community Council, the owner of Gometra and held a public consultation event.

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**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

- (i) Environmental Statement:** Yes



The Environmental Statement sets out the details of the proposal, site selection process; identifies the main characteristics, nature and scale of the impacts of the development and includes assessment of the impact of the proposals and necessary mitigation measures in respect of:

- Benthic Impacts
- Water Column Impacts
- Interaction with Predators
- Interaction with Wild Salmonids
- Impacts Upon Species or Habitats of Conservation Importance, including Sensitive Sites
- Navigation, Anchorage, Commercial Fisheries, other Non-Recreational Maritime Uses
- Landscape and Visual Impact Assessment
- Noise
- Marine Cultural Heritage
- Waste Management (non-fish)
- Socioeconomic, Access and Recreation
- Traffic and Transport

- |       |   |    |
|-------|---|----|
| (ii)  | <b>An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b>  | No |
| (iii) | <b>A design or design/access statement:</b>   | No |
| (iv)  | <b>A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:</b> | No |

**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** No

**(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No

**(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

**(i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

'Argyll and Bute Structure Plan' 2002

STRAT DC 7 – Nature Conservation and Development Control

STRAT DC 8 – Landscape and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment

LP ENV 2 – Impact on Biodiversity

LP ENV 6 – Impact on Habitats and Species

LP ENV 9 – Impact on National Scenic Areas (NSAs)

LP ENV 12 – Water Quality and Environment

LP ENV 19 – Development setting, layout and design

LP BAD 1 – Bad Neighbour Development

LP CST 3 – Coastal Development on the Isolated Coast

LP AQUA 1 – Shell Fish and Fin Fish Farming

Expresses general support for fish farming subject to there being no significant adverse effect on a range of specified considerations; those relevant in this instance being:

1. Communities, settlements and their settings;
2. Landscape character, scenic quality and visual amenity;
4. National Scenic Areas and Areas of Panoramic Quality;
5. Statutorily protected nature conservation sites, habitats or species, including priority species and important seabird colonies along with wild fish populations;
6. Navigational interests
7. Areas of Isolated Coast (coastal area of 'very sensitive countryside')
8. Sites of historic or archaeological interest and their settings
9. Recreational interests
11. Existing aquaculture sites
12. Water quality

In the case of marine fish farming this support is further conditional on the proposals being consistent with the other policies of the Development Plan and Scottish Executive Strategic Framework Guidelines.

Appendix A – Sustainable Siting and Design Principles

- (ii) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Environmental Impact Assessment (Scotland) Regulations 2011

Scottish Planning Policy (2010)

Circular 1/2007 'Planning Controls for Marine Fish Farming'

Scottish Executive – ‘Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters’ (2003 and updated June 2009)

‘A Fresh Start – the Renewed Strategic Framework for Scottish Aquaculture’ (2009)

‘Guidance on Landscape/Seascape Capacity for Aquaculture’ (SNH 2008)

‘Siting & Design of Marine Aquaculture Developments in the Landscape’ (SNH 2011)

‘Argyll & Firth Of Clyde Landscape Character Assessment’ (SNH 1996)

‘Mull Landscape Capacity Study’ - Argyll & Bute Council 2009

Argyll & Bute Local Biodiversity Action Plan

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No

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**(L) Has the application been the subject of statutory pre-application consultation (PAC):** No

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**(M) Has a sustainability check list been submitted:** No

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**(N) Does the Council have an interest in the site:** No

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**(O) Requirement for a hearing (PAN41 or other):** Yes, in view of the recommendation to approve, the number of third party representations received opposing the proposal and the complex and varied material considerations raised in this case.

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**(P) Assessment and summary of determining issues and material considerations**

The proposal seeks permission for the installation of a marine finfish development of 16 (No.) 32m diameter cages and a feed/service barge to be utilised for the production of farmed salmon.

The application site is located off the north coast of the island of Gometra on the south coast of Loch Tuath which is located within the wider Loch Na Keal National Scenic Area. There is currently one existing salmon farm operated by the applicants in Loch Tuath off the south coast of Ulva, plus a number of small shellfish operations around the coasts of both Ulva and Gometra.

The proposal has given rise to significant public representation in the form of objection from the owner of Gometra and other third parties with concern raised in respect of visual and landscape impact, consequences for wild fish interests, restrictions upon navigation, and effects upon benthic habitats, shellfish purity and

marine mammals. Objectors also consider that the introduction of a fish farm on this scale will be to the overall detriment of the National Scenic Area, associated tourism interests, and the potential this relatively pristine area has to benefit from sustainable employment associated with wildlife tourism. A web based petition against the proposal has collected in excess of a thousand signatures from across the world, although the final number is not known as it has yet to be formally submitted to the Council. The proposal has attracted significant support from within the local community largely based upon employment related considerations, the lack of any environmental or other shortcomings experienced in connection with the operation of fish farms in west Mull thus far, and the view that objectors have been ill-informed by a misleading anti-campaign which does not reflect the view of the overwhelming majority of local full-time residents.

Scottish Natural Heritage has a role as a statutory consultee in view of the national landscape designation of the site and the occurrence of national and European nature conservation interests in the area surrounding the site. They have concluded that the development will not be significantly prejudicial to any habitats or species. Their initial stance on landscape and visual interests was that the applicant's analysis had not been finely grained enough and that it was not possible to conclude that NSA integrity would be safeguarded by the development. Following augmentation of the applicant's original assessment, SNH has accepted the applicant's conclusions that whilst there will be 'moderate' adverse effects on Loch Tuath locally, these will not be such as to undermine the special qualities of the NSA and accordingly they have not objected to the proposal on landscape grounds.

There have not been any objections from Marine Scotland or Scottish Environmental Protection Agency in terms of the carrying capacity of the water body, nor have there been objections from wild fish or commercial fishing interests and remaining consultees are largely satisfied with the proposal. Both Mull and Iona Community Councils have objected.

Scottish Planning Policy indicates the national importance of aquaculture in the context of rural areas and that fish farming should be supported in appropriate locations, subject to environmental considerations being assessed. Carrying capacity, landscape, natural environment, historic environment and potential for conflict with other marine users, including fishing and recreational interests, and economic factors will be material considerations in assessing acceptability. However, Planning Authorities are cautioned not to duplicate controls exercised by SEPA and Marine Scotland in their assessment of proposals.

Notwithstanding the third party concerns and the position of the community councils, the application has been recommended for approval on the grounds that there remains capacity for the addition of a second finfish farm in Loch Tuath without exceeding the carrying capacity of the water body, without compromising navigation, fishing or other marine users, without any significant consequences for nature conservation interests and without the presence of the equipment compromising the National Scenic Area to a point which would warrant refusal of the application. It should be noted that whilst a location in an NSA is accorded higher landscape sensitivity, such a designation does not preclude appropriately sited development. Indeed many of Argyll's existing fish farms are situated within NSA designations.

In such circumstances and in the absence of the identification of environmental considerations sufficient to warrant otherwise, the advice to Planning Authorities in the government's Scottish Planning Policy is to presume in favour of development, a stance which is reflected in the Council's adopted local plan, which requires the criteria based analysis which has been conducted in this case.

The proposal is to be regarded as a sustainable form of development within the receiving environment in accordance with the requirements of Development Plan policy and is therefore recommended for approval. *Notification requirements?????*

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**(Q) Is the proposal consistent with the Development Plan: Yes**

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**(R) Reasons why Planning Permission or Planning Permission in Principle Should be Granted:**

The proposal has been assessed in the light of the presumption established in favour of aquaculture in coastal waters established by Scottish Planning Policy, whilst also having regard to the criteria based analysis of environmental and other marine considerations as set out in the Council's local plan policy for aquaculture. It has been found to be compliant with the requirements of Policy LP AQUA 1 and other relevant development plan policies, and there are no other material considerations, including the views expressed by third parties, which would warrant the application being determined other than in accordance with the provisions of the approved development plan.

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**(S) Reasoned justification for a departure to the provisions of the Development Plan**

Not applicable

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**(T) Need for notification to Scottish Ministers or Historic Scotland: No**

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**Author of Report:** Richard Kerr

**Date:** 10<sup>th</sup> September 2012

**Angus Gilmour**  
**Head of Planning and Regulatory Services**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION 12/01176//MFF**

1. The development hereby permitted shall not be carried out other than wholly in accordance with the following plans and details unless previously approved in writing by the Planning Authority:

- Application Form;
- Admiralty Chart;
- Site Plan;
- Environmental Statement

received by the Planning Authority on 27.04.12 .

*Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.*

2. In the event that the development or any associated equipment approved by this permission ceases to be in operational use for a period exceeding three years, the equipment shall be wholly removed from the site thereafter unless otherwise agreed in writing by the Planning Authority.

*Reason: In the interest of visual amenity and to ensure that redundant development does not sterilise capacity for future development within the same water body.*

3. 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 developer 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.

*Reason: In the interest of visual amenity.*

4. All lighting above the water surface and not required for safe navigation purposes should be directed downwards by shielding and be extinguished when not required for the purpose for which it is installed on the site.

*Reason: In the interest of visual amenity.*

5. The finished surfaces of all equipment above the water surface including surface floats and buoys associated with the development hereby permitted (excluding those required to comply with navigational requirements) shall be non-reflective and finished in a dark recessive colour unless otherwise agreed in advance with the Planning Authority.

*Reason: In the interest of visual amenity.*

**NOTES TO APPLICANT**

- This permission shall only last for a period of **three years** from the date of this decision notice unless the development is started within that period.
- In order to comply with Sections 27A(1) of the Town and Country Planning (Scotland)

Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.

- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority.
- Whilst the site is to be illuminated for the purpose of navigation in accordance with the requirements of the Northern Lighthouse Board, as set out in their consultation response to the Council dated 01.06.12, the applicant should seek from the NLB dispensation for illumination levels to be reduced from 2NM to 1NM having regard to the location of the site within a National Scenic Area and the NLB's previous agreement to such a concession in circumstances where it can be deemed that longer distance visibility is not essential.
- The deployment of Acoustic Deterrent Devices at this site will be subject to a requirement for a licence to be obtained in advance from Scottish Natural Heritage in respect of disturbance to cetaceans.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 09/01175/MFF**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Location, Nature and Design of Proposed Development**

The applicant in this case is the Scottish Salmon Company who currently operate finfish farming sites in west Mull at Inch Kenneth (650 tonnes), Geasgil (1,330 tonnes), both in Loch na Keal, and Tuath (800 tonnes) off the south coast of Ulva; as well as in other locations across Argyll. This application is part of their portfolio of new and extended sites and it is one of two undetermined applications for new sites off the coast of Mull, the other being off the south coast of Ardmennach in Loch Scridain. The existing Mull sites are not capable of expansion due to bathymetric constraints. The site has been selected as being potentially suitable for a development on the scale proposed following hydrographic survey, benthic survey, biomass modelling and having regard to the relative merits of other locations considered as part of the site assessment process.

The site is located off the north coast of the island of Gometra which is a small island linked to the west end of the larger neighbouring island of Ulva. Together these two islands define the north coast of Loch Tuath and separate it from the larger water body Loch na Keal. Loch Tuath is some 12km in length and 2 to 4 km in width aligned generally east - west between the narrows at Ulva Ferry to the east and Treshnish Head to the west. It widens out with progression to the west, eventually opening out onto waters containing the offshore Treshnish Islands. The character of Gometra is influenced by its underlying basaltic geology, as is much of the surrounding area. It is a privately owned island, relatively remote from the remainder of Mull, without any road access or basic infrastructure such as electricity, which is only accessible via a 50 minute quad bike ride via track on Ulva, or by a 20 minute boat trip from Ulva Ferry. The north coast of the island where the fish farm is proposed to be situated is not inhabited, with the main house and associated cottages being out of sight on the opposite side of the island to take advantage of a southerly aspect and the outlook towards the islands of Staffa, Little Colonsay and Iona. At the time of the officer's site inspection, Gometra was home to three households, although it appears that the small population fluctuates, with supporters of the application claiming that only two people reside on the island on a year round basis. The island provides a remote and probably unique lifestyle characterised by exclusivity on the one hand and hardship on the other, deriving from its remoteness and inaccessibility and its stunning setting within the self-styled 'Staffa Archipelago'. The small community on Gometra is perhaps understandably particularly sensitive to the prospect of a fish farm being established off the coast of the island, not only in terms of its appearance and its consequences for the marine environment, but also as they view it as an impediment to their transit route to the island by small boat.

The other side of the loch is very different in so far as the coast road from Ulva Ferry to Calgary brings large numbers of tourists to appreciate the scenery in the summer both from the drive itself and from several notable viewpoints, whilst there are many individual buildings and small settlements along the landward side of the road which does not confer upon it the same feeling of remoteness as can be experienced on the opposite side of the loch either on Ulva, or in particular, Gometra. There is already some visibility of an existing fish farm off Ulva from this road and from some roadside properties.



Loch Tuath is a 'Category 3' sea loch in terms of Marine Scotland's Locational Guidelines '*where there are better prospects of satisfying environmental requirements*'. There is currently one finfish farm in Loch Tuath operated by the applicants at Rubha nan Gall (800t) off the south coast of Ulva, some 6km east of the application site. There are also a series of small shellfish sites around both the Ulva and Gometra coasts. The closest oyster beds are some 700m south-west of the application site, although there are no consented oyster farms or designated shellfish harvesting areas within 7km of the proposed salmon farm.

The proposal is to establish a marine salmon farm some 9km west of Ulva Ferry, approximately 200m off the north coast of Gometra, aligned east-west parallel to the adjacent shoreline, within a prospective seabed lease area of 47.3ha and a mooring area of 30.2ha. The equipment proposed comprises 16 No. 100m circumference cages, each of which would be 32m in diameter. These would be contained within a 50m x 50m mooring grid supported by floatation buoys with cables attached to the cage floatation rings with rock anchors used to secure the position of the grid relative to the seabed, producing an overall equipment surface area of 1.27ha. The farm would be laid out in an 8 by 2 cage group, producing a rectangular unfragmented site. A 220 tonne service/feed barge would be located on the inshore side of the cage group. This would measure 10.5m by 14m in area, its height above water level varying in accordance with the quantity of feed held. The barge will be finished in a recessive colour and comprises a landing stage, storage area, electricity generator, four food silos, a pneumatic feed system, air blowers, computer control systems and staff accommodation. The barge will enable the site to be run and managed on a daily basis independently of the onshore base at Ulva Ferry. The generator will be installed within an acoustically insulated plant room intended to be barely be audible above ambient sounds at sea.

The cages comprise a polyethylene flotation ring from which 10m nets are to be suspended. These are fitted with false bottoms (seal blinds) to deter predator attacks from below and are held in tension, again to resist predation. Top net polythene/nylon mesh to exclude piscivorous birds is to be suspended over the cages being supported by a horizontal 'hamster wheel' arrangement, to keep it clear of the surface and to avoid conflict with automated feed distribution within the cages

The intended maximum biomass (fish tonnage) for the overall site is 2,000 tonnes. The stocking density would be 15.7kg per m<sup>3</sup> max. The production cycle of the farm would be 22 months with 2 months left fallow to allow for maintenance and to assist in benthic (sea bed) recovery. The site would be stocked synchronously with other west Mull salmon farms and it would be operated within extended Management Area 16a (Loch na Keal). Operation with other sites would enable single year class stocking, synchronous stocking, fallowing and sea lice treatment. Such an approach reflects industry best practice and this site would be operated in compliance with the Scottish Salmon Producers Organisation's 'Code of Good Practice Guidelines for Scottish Finfish Aquaculture'. This sets out more than 300 main specific compliance points which cover all aspects of finfish good practice including:

- Fish Health – good husbandry and harvesting operations;
- Protecting the environment – including sea lice management and containment standards;
- Welfare and husbandry – breeding and stocking density;
- Detailed annexes giving further technical guidance on good practice, including the National Lice Treatment Strategy, Integrated Sea Lice Management, Containment, and a Veterinary Health Plan.

The site would also be operated in accordance with the principles of the former West Mull Area Management Agreement and the proposed West Mull Farm Management Agreement.

The site would be serviced primarily by sea from the company's existing shorebase at Ulva Ferry. The site would support four full-time staff members. This would augment the nine staff currently employed by the company to service their other sites in west Mull.

The feeding of the fish would be computer controlled from silos within the feed barge, underwater camera monitored and augmented by limited hand feeding. Grading of fish would take place 2 or 3 times during the production cycle using contracted well boats, which would also be used for final harvesting. Underwater lighting would be used to control maturation and maximise growth in the winter months every second year with 3 No, 1,000w lights being used beneath each cage. These would be powered by the feed barge generator and would produce a surface glow only visible at close quarters or from elevated vantage points. Other lighting on the site, with the exception of navigational requirements, would be restricted to essential requirements so as to avoid unnecessary illumination on the site.

The Environmental Statement also sets out specific husbandry practices for the site in respect of grading, harvesting, following procedures, food and feeding, fish health, veterinary treatments and chemicals, containment and contingency escape policy and waste management. With regard to predator control, it is noted that the ES states that Acoustic Deterrent Devices (ADDs) would only be deployed in circumstances where the site becomes subject to attempted predation. As a last resort in the event of these measures not preventing persistent rogue seal activity, the shooting of seals may take place in accordance with licence obtained from the Scottish Government.

### **B. Natural Environment - Fresh Water, Marine Environment and Biodiversity.**

The provisions of policies STRAT DC 7, LP ENV 2 and LP ENV 6 would all seek to resist development which is considered likely to result in a significant adverse impact upon internationally, nationally or locally important habitats and/or species.

The site is not subject to any European or national marine or other conservation designations and neither SNH nor SEPA have identified any habitats or species of particular conservation importance associated with or likely to be significantly affected by, the installation and operation of the site. The loch is frequented by cetaceans, seals and other marine mammals for which development of the type proposed could have consequences in terms of displacement or deterrence.

#### Seabed (Benthic) Impacts:

The development will affect seabed conditions as a consequence of the deposition of organic matter in the form of faeces. Furthermore, although the industry has made advances in the reduction of waste food as a result of more sophisticated feeding regimes, waste food also contributes to seabed deposition. The quantity and the extent of deposition is influenced by the tonnage of fish held, hydrographic and bathymetric conditions. Seabed impacts are regulated separately by SEPA via the CAR licence process, which determines maximum biomass with regard to the carrying capacity of the particular site.

The Environmental Statement concludes that site is one with high current speeds in an open location which is therefore well flushed. Modelling has been carried out to

predict the quantity and the dispersion of organic matter on the seabed and to predict nutrient enrichment. It is predicted that organic and chemotherapeutant deposition would be restricted to an area below the cage group due to flushing rates resulting in localised benthic consequences from the operation of the site. A CAR licence has not yet been obtained for the application site, but SEPA have indicated that the level of maximum biomass proposed for this site is likely to be consentable in this location.

The benthic habitat directly beneath the proposed salmon farm consists of light brown firm or soft over firm mud/sand/shale mud with a uniform slope across the site at around 20m to 30m depth. There are no specifically designated habitats below or in the immediate vicinity of the site. Whilst there is a varied faunal assemblage beneath the site there are no particularly sensitive species or species of particular conservation importance present.

SNH and SEPA are both content with the benthic surveys undertaken and have no objections to the proposal on the grounds of unacceptable benthic impacts.

### Water Quality Impacts:

Enrichment of water by nutrients released from salmon farms can cause an accelerated growth of algae and higher forms of plant life to produce an undesirable disturbance to the balance of organisms and the quality of water. This is a particularly important consideration where development has potential to affect shellfish harvesting areas, which is relevant here given the presence of oyster farming elsewhere in the loch.

As a result of modelling, the Environmental Statement concludes that the development would not have unacceptable nutrient enrichment consequences either for the locality of the site, or in terms of the wider water body taking into account cumulative effects with existing fish farms. In accordance with industry good practice it is proposed to monitor feeding response closely in order to minimise unnecessary food waste at this site.

Neither Marine Scotland Science nor SEPA have raised objection to the proposal in respect of the predicted impact of the development upon water quality.

### Interaction with Predators:

Salmon farm predators are generally piscivorous birds and seals with the latter tending to be the most frequently encountered predators on marine farms in Scotland. The presence of sea cages may attract higher concentrations of predators to the locality of the site, although good husbandry and hygiene procedures will help to reduce the attraction of predators. Tensioned netting on fish cages prevents and deters both seals and diving bird attacks, although regular maintenance of the nets is essential to maintain their integrity. Top nets are to be installed on the cages to avoid predation by birds from above the waterline. Bird nets require to be maintained to a high standard and properly tensioned eliminate the opportunity for birds to become entangled or to be able to enter the cage. The fish cages themselves are to be manufactured to current industry standards, with a net specification, tensioning arrangements, false bottoms and an installation, inspection and maintenance regime to meet the SSPO Code of Good Practice requirements. It is clearly in the operator's interest to ensure that equipment is specified and maintained in a manner to ensure containment of the farmed fish. Site specific equipment attestations have been supplied to confirm that, in the respective manufacturer's opinions, the equipment intended for use on this site is suitable and sufficiently durable to be deployed having regard to the characteristics of in the particular marine environment proposed.

The ES does not identify any major colonies of predators in the vicinity of the application site. Both common and grey seals frequent the area, but there are no haul outs within 3km (the nearest being Maisgair and Laggain Bay). The Environmental Statement concludes that proposed use of good husbandry (mortality and moribund fish removal) and hygiene practices based on experience at other sites, coupled with the use of tensioned nets and top nets will be sufficient to deter predators at the proposed site. In the event of persistent predator activity, the applicants propose to deploy Acoustic Deterrent Devices (ADD's) to scare away seals, although their use can have the unintended consequences of also displacing cetaceans, particularly within narrow water bodies such as sea lochs. ADD technology has, however, improved in recent years with devices available which are more effective than previous systems and are more localised and targeted in their impact. Only in extreme circumstances would resort be made to the shooting of seals under government issued licence. Boat traffic associated with the site is unlikely to lead to disturbance given that the loch is frequented by existing fish farm traffic, tour boats, recreational craft and fishing vessels.

Cetaceans, basking shark, porpoises and dolphins have all been sighted in Loch Tuath so SNH has indicated that a licence will be required from them for the deployment of ADD's so as not to unnecessarily deter non-target species from accessing the loch. Scottish Natural Heritage has, however, not raised objection to the proposal on the grounds of unacceptable consequences for marine mammals.

### Interaction with Wild Salmonids:

Farming of salmon in the marine environment gives rise to well-known consequences for wild fish as a result of disease transmission, sea lice propagation and escapes which can lead to competition and inter-breeding, with consequences for the genetic dilution of native wild stocks. The potential for escapes (as with predator control) can be reduced by having an equipment specification determined by site specific wave and climate analysis so as to ensure that it is fit for purpose. An associated inspection and maintenance regime is then required to ensure on-going containment integrity. Predator control plans, and escapes contingency plans, as submitted by the applicant, are also important elements in risk management.

Although containment risks can be managed, they cannot however be eradicated and there remains a residual risk that an unforeseen event can propagate escaped farmed fish in large numbers into an uncontrolled marine environment. Escapes of farmed stock are generally low, but can occur through equipment failure, predation, operator error, severe weather or foul play. By adherence the SSPO Code of Good Practice Guidelines the applicant seeks to minimise this residual risk as far as is practicable. Likewise, via good husbandry practices, regular inspection and the administration of medicines in accordance with veterinary health plans, outbreaks of disease which could have consequences for wild fish can be managed.

The most intractable issue influencing the interaction between farmed salmon and wild fish species is that of sea lice transmission. Farmed fish are routinely hosts to parasitic sea lice, the numbers of which require to be controlled in order to assure the health of farmed fish and to avoid lice propagation into surrounding waters. The site is removed from the most important salmonid rivers which are the Baa (19km) and the Bellart (23km) although there are intervening watercourses of lesser importance. Wild salmon are exposed to sea lice from fish farms close to salmon rivers during their migration periods, whilst sea trout tend to remain in coastal waters throughout the year, so are potentially at greater risk.

The applicant proposes to control sea lice in accordance with current industry practice, via the use of in-feed treatments and well-boat administered bath treatments, whilst adopting good management practices such as single year stocking and synchronous stocking, fallowing and sea lice treatment with other sites. The administration of sea lice treatments on board well-boats is an accepted method, in terms of control over exposure time and dosage to ensure the effectiveness of those treatments. The applicant's modelling shows a SEPA permissible total allowable treatment quantity of 2.1 times available biomass, which is less than the company's standard sea lice strategy of 5 times biomass, but still deemed to be adequate by the applicants given other management measures available.

However effective the control measures are in practice, it is an inevitable consequence of holding fish in such quantities that significant numbers of sea lice will be propagated from the site. How these are dispersed will depend on local factors such as wind direction and residual current. The distribution of farm derived lice in the marine environment is not well understood although it is known that in favourable conditions they can travel considerable distances from source.

The conclusion of the applicant's Environmental Statement is that the site will not pose a risk of significance to wild salmonids provided that industry good practice is adhered to in the operation of the site in conjunction with other sites in Management Area 16a, all of which are controlled by the applicants. The Argyll Fisheries Trust concurs with this view and has not objected in terms of conflict with wild fish interests. It has not been possible to consult the Mull Salmon Fishery Board as it is moribund for the time being, but the views of the AFT can be relied on in the absence of being able to obtain comments from the Board.

In view of the operator's intention to strictly adhere to the SSPO Code of Good Practice which includes fish health, sea lice management and containment standards, neither Marine Scotland Science nor SNH have objected to the conclusions of the applicant's Environmental Statement in respect of the potential risk to wild salmonids.

### Impact upon Species and Habitats of Nature Conservation Importance:

Loch Tuath is used by a number of European protected marine mammals from large cetaceans to smaller species including porpoise, dolphin, and seals. Acoustic Deterrent Devices (ADDs) used by fish farms to deter fish eating predators can elicit aversion responses in marine cetaceans up to several kilometres from the source. Habitat exclusion, particularly in fragmented coastal areas with sounds, channels and islands is of particular concern.

The proposal as submitted sets out a position where the operator seeks to ensure predator prevention primarily by way of tensioned nets and seal blinds. However, the use of ADD's should it prove necessary is not ruled out, nor indeed the licenced shooting of seals as a last resort. SNH have not raised objection to the use of ADD's at this site, subject to licencing of their deployment by them.

The site lies close to the Mull Coast & Hill Special Protection Area for Birds, a European designation to breeding populations of golden eagle. As smolts are to be delivered to the site by well-boat rather than by helicopter, the site should not have consequences of significance for qualifying interests. The Staffa & Treshnish Isles SPA, SSSI and SAC are designated for their geological, seabird colony, breeding bird and grey seal interests none of which will be subject to any significant effects as a result of the development.

Scottish Natural Heritage has not objected to the proposal on nature conservation grounds and has not identified a need for the Planning Authority to undertake a 'appropriate assessment' in respect of any surrounding Natura interests.

## Conclusion

The proposal is considered consistent with Local Plan Policy LP AQUA 1 (5 and 12) and other relevant development plan policies insofar as it would not significantly prejudice water quality and associated biodiversity interests.

### **C. Landscape/Seascape Character and Visual and Amenity Considerations**

The application site is located on the southern side of a sea loch which is defined by the relatively undeveloped islands of Ulva and Gometra. The land adjoining the site is identified as 'very sensitive countryside' as a consequence by the adopted local plan, which in turn confers 'isolated coast' status on the coastline. The wider area falls within the extensive (44k ha) Loch na Keal National Scenic Area, the special qualities of which are founded upon the basalt landscape, the island studded sea, the experience of travelling between sea lochs and the open sea and the overwhelming scale of the landscape/seascape. The enhanced status of the site within its NSA setting is such that landscape and visual implications of development have to be particularly carefully considered in view of what has to be regarded as a highly sensitive receiving environment.

The landscape character type surrounding the site is High Stepped Basalt as identified in SNH's 'Argyll and the Firth of Clyde Landscape Character Assessment'. This is one defined by basalt cliffs, flat topped headlands, terraced islands, exposed rock faces and moorlands and few man-made structures. Fish farming is already present within, but has not become a defining characteristic of, this particular landscape character type or the National Scenic Area generally. The applicants operate two fish farms in Loch na Keal at Inchkenneth and Geasgill plus one at Tuath off Ulva. In the event of this application being approved that would represent 0.03% of the overall surface area of the NSA - although there are clearly qualitative considerations as well as quantitative ones which determine the acceptability of additional development proposals. The applicants have cited the following in mitigation for the appearance of the development:

- Use of low profile black fish farm cages which will blend into the water colour especially during low light conditions;
- Sensitive siting aligned with the coastline, representing an unfragmented rectangular configuration;
- Use of a low-lying feed barge (maximum height of c.3-4m) finished in a non reflective recessive colour;
- Using only navigational lighting as external lights during hours of darkness. The barge will only be used at night on the occasion of grading and harvesting. Underwater lighting will point downwards into the cages.

The applicants have undertaken a Landscape and Visual Impact Assessment (LVIA) as part of their Environmental Statement which has been augmented by a more finely grained study which they have undertaken subsequently at the request of Scottish Natural Heritage. As this represents supporting information which has not entailed further areas of study not originally considered and which has not drawn conclusions

which are at odds with those of the LVIA submitted as part of the original Environmental Statement, this has not been regarded by the Planning Authority as amounting to 'additional environmental information' in terms of the Environmental Impact Assessment Regulations sufficient to warrant the production of a formal addendum to the Environmental Statement.

The supplementary information on landscape identifies the NSA (and the Area of Panoramic Quality to the north of the NSA) as being of '*High*' sensitivity to change with potential to accommodate some development of the type proposed if sensitively sited and designed, but recognises that inappropriate forms of development could impinge unacceptably on the existing character of the NSA, which lacks human influence. Whilst some areas of Ulva and Gometra do have wild land attributes, the site does not fall within an SNH 'Search Area for Wild Land' so cannot be classed as such. The development lies adjacent to two landscape character types namely 'High Stepped Basalt' and 'Basalt Lowlands'. These areas have been considered in a more local context with five landscape character zones being identified, all of which but one have been accorded '*High*' sensitivity to change.

The development imposes change in terms of:

- Boat traffic during the installation and operational phases;
- Presence of equipment;
- Operational characteristics;

the order of impact being determined by variables including the location and nature of the development, temporary indirect effects, longer term indirect effects, and the employment of mitigation measures.

It is concluded that overall, due to the small part of the designation affected, the development will have '*Slight adverse*' impacts during installation and operation on the NSA, and on four of the five local landscape character types identified, with '*neutral*' effects on one of those types and the more distant APQ. These '*slight*' effects would be enhanced to '*Moderate adverse*' local impacts close to the site. Locally moderate adverse impacts are to be regarded as being of significance as part of the Landscape and Visual Impact Assessment process, but overall it is concluded that there would be no significant impacts on the overall integrity of the Loch na Keal NSA, landscape character or the seascape of Loch Tuath.

The supplementary assessment goes on to assess the visual consequences of the development by means of establishing a zone of theoretical visibility, identifying potential receptors, ascribing sensitivity to change and the magnitude of change experienced. This analysis considers receptor groups from built properties as well as views available from frequented outdoor locations such as roads, walking routes and points of tourist interest. Of the locations assessed, none were identified as having impacts of greater magnitude than '*Slight adverse*' with none being subject to significant visual impacts.

The conclusion of the LVIA is that the proposed development would result in a locally significant effect on landscape, but overall, the effect on the landscape and visual resource of Loch Tuath would not be significant.

Scottish Natural Heritage has considered the more finely grained analysis provided in the supplementary LVIA, and despite some omissions identified by them, have been able to reach their own conclusions on the landscape merits of the development. They have accepted the applicant's conclusions that whilst there will be '*moderate*' adverse effects on Loch Tuath locally, these will not be such as to undermine the

special qualities of the NSA, and accordingly, they have not objected to the proposal on landscape grounds.

That said, they have concluded that the proposal will have some localised adverse impacts of significance on the landscape qualities of Loch Tuath and the contribution which this makes to the overall Loch Na Keal NSA, and they are aware that developments of this nature could lead to the gradual attrition of the special qualities of the NSA, both by virtue of cumulative impacts of multiple developments and by the gradual erosion of the wilderness qualities of the landscape. However, they do not consider that the siting of this development will itself undermine the integrity of the NSA, notwithstanding their acceptance of its localised impacts.

The conclusions of the applicant's augmented LVIA and the contents of the consultation response from Scottish Natural Heritage are both accepted by officers, who have also concluded that the receiving environment has capacity in landscape terms to accept the development proposed for the following summarised reasons:

- Loch Tuath is a relatively wide sea loch which will put some distance (+3.5km) between sensitive receptors on the B8073 and the equipment proposed;
- When viewed across the loch the development will be relatively low lying and will benefit from the backdrop of, and the shadow effect of, the adjacent volcanic coastline;
- The equipment will be finished in recessive colours and it will be located close into the shore and parallel with the coastline, with the barge on the inside of the cage group furthest from those on the water or on the B8073, all of which will help to absorb it into its landscape/seascape setting;
- Receptors along the B8073 do not experience the loch from the context of a wild environment given the habitation, other buildings and traffic along the coast road. Scenic views from key vantage points tend to be focused towards the mountains beyond the head of the loch or towards the offshore islands beyond the mouth of the loch rather than the opposing coastline;
- There will be virtually no close quarter receptors from Gometra, given the limited access to the north coast and the fact that all the island's habitation is located on the south coast;
- Although the Gometra coastline is undeveloped and is to be regarded as 'isolated coast' with wilderness qualities by virtue of the relative absence of development, it is not identified by SNH as a 'Search Area for Wild Land' and it is not therefore accorded the very highest status in terms of perceived remoteness;
- Loch Tuath already accommodates an existing fish farm on the north coast of Ulva so there is not an absence of this type of development in the loch. Whilst this constitutes a precedent for fin fish farming in the loch, it is of sufficient distance from the intended site, and does not constitute such a significant feature in the landscape itself, so as to contribute to an unacceptable level of cumulative impact as a result of the presence of multiple developments;
- The Loch Na Keal NSA already hosts 3 fin fish farms but the cumulative impact of this additional site, despite its localised effects, is not such as to undermine the integrity of the NSA as a whole, as fish farming is not so extensive or so widespread in its impact as to have become a defining characteristic of the designated area.



## Conclusion

The proposal is considered consistent with Local Plan Policy LP AQUA 1 (1, 2, 4, 7 and 8) and other relevant development plan policies insofar as it would not significantly prejudice landscape character, visual amenity, the setting of historic assets, or the landscape setting of communities or their residential amenity.

### **D. Navigation and Other Marine Users**

Marine fish farms may present an obstacle to commercial or recreational boat traffic and conflict with fishing. This may be through disruption of navigation routes, by depriving access to the area for recreational or commercial purposes or by increasing traffic at sea and in the vicinity of the farm.

There are no recognised anchorages at or close to the site, the closest being at Acarsaid Mhor on the north-west coast of Gometra, which is used by islanders and by visiting yachts. The development does not restrict access to or present an obstacle to that anchorage. Islanders on Gometra are, however, concerned that the presence of the site close inshore to the island on the transit route between Ulva Ferry and Acarsaid Mhor will present a navigational obstacle which will displace their transit route more offshore, into potentially more hazardous waters when making the journey by small boat. Although that may be the case, given that they are already obliged to navigate past the existing fish farm off the south coast of Ulva and past creel fleets, it is unlikely that the site will be of such impediment as to prevent transits which otherwise would have been possible had the site not been in place. Whilst the lease area of the site is large, the surface equipment area and the area obstructed by mooring lines is much more restricted, and experience elsewhere is that small boats are routinely able pass close to fish farm sites. Navigational lighting and the presence of site staff with work boats properly equipped for the environment in which they operate, are likely to improve navigational safety for small craft as well as providing a point of contact in the event of difficulties. In circumstances where it would present such a significant additional risk to circumvent the equipment, it would be questionable whether conditions were sufficiently safe to be able to attempt safely a small boat passage at all, regardless of the presence of a fish farm.

Given the difficulties in reaching Gometra by land from Ulva, it is understandable that accessibility to the island by sea is a primary concern for the small number of islanders. However, those choosing to live in unusually remote and poorly connected locations, with all the benefits which that confers, must ensure that they have an appropriate vessel available and the necessary seamanship to be able to make safe passage in all but the most inhospitable conditions, and accept those occasions where passage by sea may not be achievable.

Some recreational use of the loch takes place with some transit of the loch by tour boats from Ulva Ferry to Staffa and the Treshnish Isles. Commercial traffic occurs in the form of fishing vessels and work boats associated with the Ulva fish farm. Neither fishermen, nor their local organisation (MAFA), nor the local tour boat operator have objected to the proposal on navigational or any other grounds, although a wildlife boat operator has expressed the view that development of this type is not compatible with the interests of tourism dependant on wildlife and wilderness qualities. The loch is worked for nephrops, lobster crab and scallops. In this case, the location of the site has been specifically relocated to the west of the site originally identified by the

applicants in order to avoid areas worked for prawns. Indeed, support has been expressed for the proposal by other marine users in the locality, and the pre-application dialogue which has taken place between fishermen and the prospective applicants has been cited by both parties as an exemplar in terms of collaborative working and mutual agreement between the sectors. There is no evidence on the basis of the modelling provided in the Environmental Statement that existing shellfish harvesting will be prejudiced by the operation of the site. Anecdotally, the existing site at Ulva does not have appeared to have had implications for water quality and the ability to harvest shellfish at that site without the need for depuration.

It is not considered that there are navigational issues or conflicts with other established marine users that would warrant refusal of the application. Licencing of the site for the purposes of navigation will require to be obtained from Marine Scotland and navigational marking will require to meet requirements specified by the Northern Lighthouse Board.

### Conclusion

The proposal is considered consistent with Local Plan Policy LP AQUA 1 (6 and 9) and other relevant development plan policies insofar as it would not significantly prejudice safe navigation and other marine users.

## **E. Conclusion**

The proposal has given rise to considerable public representation, on the one hand primarily related to concerns about impacts on the National Scenic Area and upon water quality and wildlife in the loch, and on the other, by supporters who are anxious to see the established fish farm operators in west Mull increase their operations, given that it has been regarded locally as a sustainable form of local employment supportive of fragile communities, which is not reliant upon the seasonal vagaries of tourism.

The business of rearing fish in cages in the marine environment is one which has a chequered past, having developed from small business finding their way in in a complex receiving environment, the reputation of which was besmirched in the early days by under-specified equipment, inadequate management practices, accidental releases of fish, disease outbreaks and lack of adequate sea lice controls. The industry today is better equipped, more aware of its environmental responsibilities, better regulated, more collaborative across the sector and more organised to control the farming environment on a water body wide basis. It is seen by the government as a significant growth sector in the Scottish economy and the presumption is that it should be allowed to operate unless there are considerations which would rend a particular site unsuitable for environmental reasons.

In this case, despite the extent of the third party opposition, the development has been found to be within the carrying capacity of the water body within which this site and existing sites would operate. There are no nature conservation, historic environment, amenity or navigational or recreation interests, nor any conflict with fishing or other aquaculture interests or marine users, which would warrant refusal of the application.

The sole issue of concern is the prospect of siting development off 'very sensitive countryside' which confers 'isolated coast' status on the area around the site, which in turn, sits within the wider National Scenic Area designation, within which special

care has to be exercised in order to safeguard what are recognised as exceptional scenic qualities.

National Scenic Areas are not to be regarded as 'no go' areas for aquaculture, as evidenced by the high proportion of finfish sites in Argyll already operating within such designations. The search for consentable aquaculture sites is dictated by a wide range of factors, of which landscape considerations are but one, and as the industry continues to expand, locations in deeper water and less accessible and populated locations have to be considered which are removed from water bodies constrained by the presence of existing sites. The characteristics of sites within NSA's have to be scrutinised particularly carefully in order to be sure that any sites selected do not give rise to unacceptable degrees of landscape or visual impacts which would compromise those interests which prompted special designation in the first place. In this case, it has been concluded that whilst there will be some localised impacts of significance upon Loch Tuath, there will not be such as to undermine the overall integrity of the NSA designation, either individually, or cumulatively in conjunction with other consented fish farms within the area of that designation, and accordingly the application is recommended for approval.

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## Appendix B Representation relative to 12/01176/MFF in support of proposal

Mr Martin Napier	1 The Cottage□Porta Claidh□Isle Of Mull□PA73 6LY	23/08/2012	S
Miss Rachael Ross	17/15 Dalcross Street□Glasgow□G11 5RE	07/07/2012	S
Mr Thomas McKie	2 The Cottage□Ulva Ferry□Isle Of Mull□Pa73 6ly	09/07/2012	S
Mrs Emma Mckie	2 The Cottage□Ulva Ferry□Isle Of Mull□PA73 6LY	09/07/2012	S
Mrs Maggie Ross	5 Loganbarns Road□Dumfries□DG1 4BS□	11/07/2012	S
Mr Iain Wilshire	9 Druimfin Gardens□Tobermory□Isle of Mull□PA75 6AB	21/08/2012	S
Mr Stuart Tomison	Achnacraig□Ulva Ferry□Isle of Mull□PA756LY	24/07/2012	S
John MacDonald	Achnaha□West Street□Tobermory	15/07/2012	S
Ben Wilson	Bairinech□Craignure□Isle Of Mull□PA65 6BD	12/07/2012	S
Mrs Jeanette Cutlack	Ballygown□Ulva Ferry□Isle of Mull□PA73 6LU	18/07/2012	S
Mrs Rosmary Mckie	Beadoun□Eas Brae□Tobermory□PA756QA	15/07/2012	S
Mr James Lambert	Ben Vue□Ulva Ferry□Isle of Mull□PA73 6LY	25/07/2012	S
Mr Jonathan Martin	Dalmaclare□Ballygown□Isle of Mull□PA73 6LU	16/07/2012	S
Mr Ross Black	Erisgeir□Salen□PA72 6JB	08/07/2012	S
Mr Andrew Durie	Glenmore□Salen□Aros□PA72 6JL	15/07/2012	S
Mr Allan Cameron	Glenstrae□Salen□Isle of Mull□PA726JG	19/07/2012	S
Mr Donnie MacColl	Grouse Cottage□Torloisk□Isle of Mull□PA73 6LU	22/07/2012	S
Mrs Jeannie MacColl	Grouse Cottage Torloisk Isle of Mull PA73 6LU	22/07/2012	S
Helen Wilson	Inverlussa Marine Services Ltd□By Craignure□Isle Of Mull□	13/07/2012	S
Margo Wilkie	Isle Of Mull	17/07/2012	S
Mrs Lucy Mackenzie Panizzon	Lip na Cloiche□Ballygown□Isle of Mull□PA73 6LU	12/07/2012	S
Ms Lucy Mackenzie Panizzon	Lip Na Cloiche□Ballygown□Isle Of Mull□Argyll And Bute□P/	19/07/2012	S
Roger Dehany	Lussa Cottage□Ardura□Isle Of Mull□Argyll And Bute	12/07/2012	S
Maureen Dehany	Lussa Cottage□Ardura□Isle Of Mull□Argyll And Bute	12/07/2012	S
Mr Moray Finch	Mull And Iona Community Trust□An Roth Community Enterp	19/07/2012	S
Mr Colin John Mcnair	Campbe Na Fuarain□Ballygown□Isle of Mull□PA73 6LU	16/07/2012	S
Iain Morrison	No Address Given	22/07/2012	S
Mr B George	No Address Provided	15/07/2012	S
J N Mawhinney	Pairc Dubh□Ulva Ferry□Isle Of Mull□Argyll And Bute	04/07/2012	S
S K Mawhinney	Pairc Dubh□Ulva Ferry□Isle Of Mull□Argyll And Bute	04/07/2012	S
Ms Carolyn Scott	St Mary's Farm□Cupar□KY 15 4NF	27/07/2012	S
Mr Colin Morrison	Suisnish□Penmore□Isle of Mull□PA75 6QS	14/07/2012	S
Mrs Rebecca Munro	The Boathouse/ Ferry House □Ulva □Isle Of Mull □Argyll Ar	12/07/2012	S
Ms Rebecca Munro	The Boathouse/The Ferry House□Isle Of Ulva□Isle Of Mull□	13/07/2012	S
Mr Rhuri Munro	The Ferry House□Isle of Ulva□Isle of Mull□PA73 6LZ	10/07/2012	S
Mrs Jean Roth	The Old Mill Cottage□Torloisk□Isle of Mull□PA74 6NH	15/07/2012	S
Miss Elizabeth Roth	The Old Mill□Torloisk□Isle of Mull□PA74 6NH	15/07/2012	S
Mr Mark Millward	The School House□Ulva Ferry□Mull□	16/07/2012	S
Mr Neil Munro	The Sheiling□Dervaig□Isle of Mull□PA75 6QR	21/08/2012	S
Mr Donald Munro	The Sheiling□Dervaig□Isle Of Mull□Argyll And Bute□PA75 €	15/07/2012	S
Mrs Marion Munro	The Sheiling□Dervaig□Isle Of Mull□Argyll And Bute□PA75 €	15/07/2012	S

Mr Keith Chesney	Tigh An Uillt □ 1 Burnside, Lochdon □ Isle Of Mull □ PA64 6AP	23/07/2012	S
Ulva School Community Associ	Ulva Ferry □ Isle Of Mull □ PA73 6LT	06/08/2012	S
Douglas Ingram	No address given	05/09/2012	S

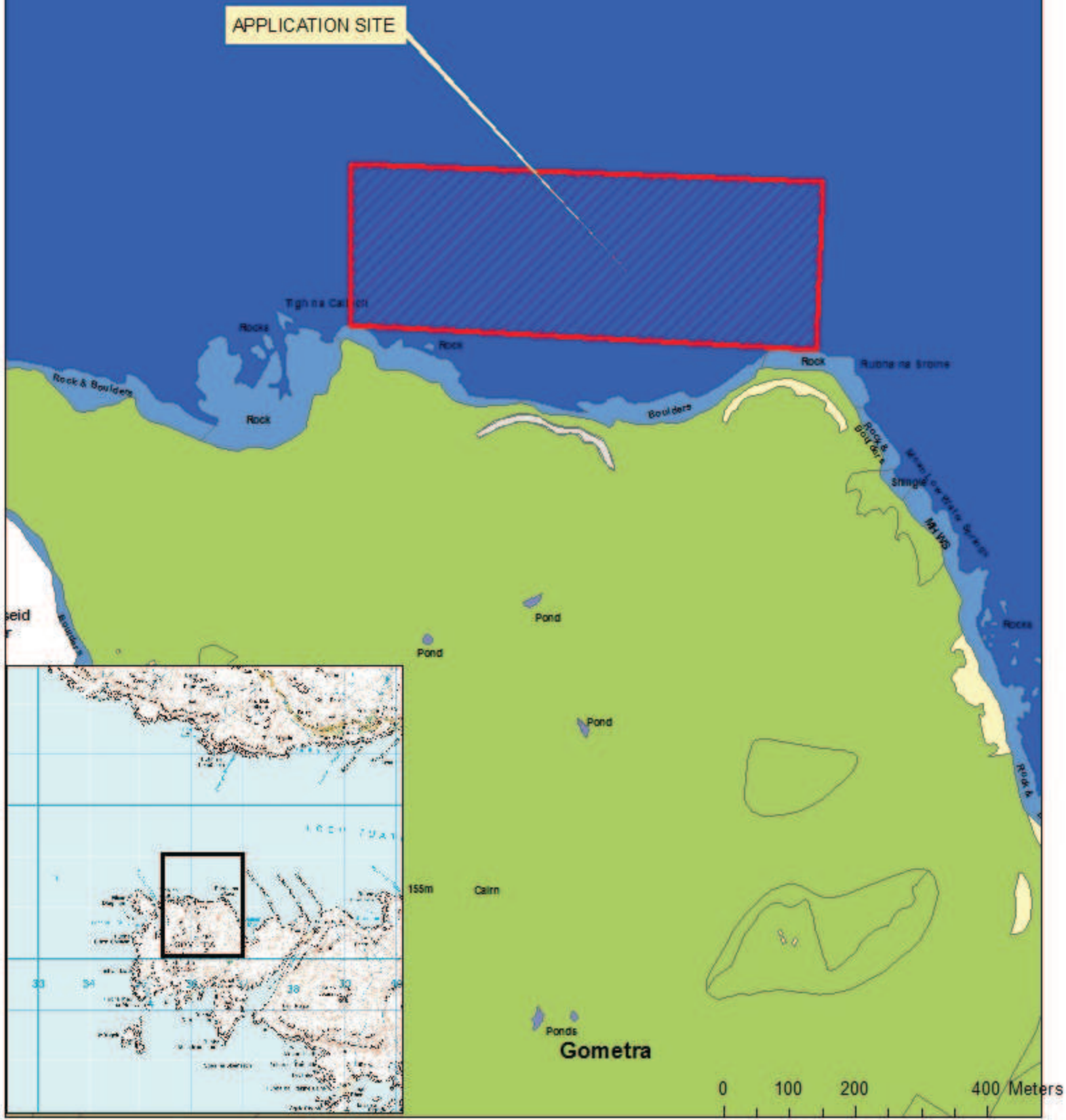
## Appendix B Representation relative to 12/01176/MFF against proposal

S Greenfield	4 Achleck□Torloisk□Isle Of Mull□PA74 6NH	29/06/2012	O
D Greenfield	4 Achleck□Torloisk□Isle Of Mull□PA74 6NH	29/06/2012	O
Lynne Farrell	41 High Street□Hemmingford Grey□Cambs□PE28 9BJ	16/07/2012	O
Nicholas Bridges	Achadhiseil□Tiroran□Isle Of Mull□PA69 6EU	13/07/2012	O
Susan Bridges	Achadhiseil□Tiroran□Isle Of Mull□PA69 6EU	13/07/2012	O
Sophie Baker	C/O Gometra House□Isle Of Gometra□Argyll And Bute□PA7	28/06/2012	O
Michael Blakenham	Cottage Farm□Little Blakenham□Ipswich□Suffolk□IP8 4LZ	29/06/2012	O
Prof Jenny Butler-Ferris	Fladda Cottage□Kilninian□Torloisk□Isle Of Mull□PA74 6NH	12/07/2012	O
Mr Hugh Ferris	Fladda Cottage□Kilninian,Torloisk□Isle Of Mull□PA74 6NH	13/07/2012	O
Miss Sophie Baker	Gometra House□Isle of Gometra□PA73 6NA	28/06/2012	O
R J A Harmer	Gruline House□Gruline□Isle Of Mull□Argyll And Bute□PA71	26/06/2012	O
Mrs Minty MacKay	High Lee Croft□Bunessan□Isle Of Mull□PA67 6DN	22/06/2012	O
Dr Claire Y Barlow	Inch Kenneth□Isle Of Mull□Argyll And Bute□PA68 6EL□	27/06/2012	O
Roc Sandford	Isle Of Gometra□PA73 6NA	20/06/2012	O
Mr Douglas Weatherhead	Machair□ISLE OF IONA□PA76 6SP	19/07/2012	O
Liam Ryan	Oakwood□Longrove□Crosshaven□Co. Cork□Ireland	16/07/2012	O
Dr Nicola Hall	Old School House□Lullington□Frome□Somerset□BA11 2PC	27/06/2012	O
Polly Huggett	Teacher's Cottage□Gometra□Ulva Ferry□Isle Of Mull□PA73	28/06/2012	O
Mr John C Ferguson	The Lochans□Strathblane□Glasgow□G63 9EX	31/05/2012	O
Rhoda Munro	The Managers Cottage□Gometra□Ulva Ferry□Isle Of Mull□/	28/06/2012	O
Iain Munro	The Managers Cottage□Gometra□Ulva Ferry□Isle Of Mull	28/06/2012	O
Mrs Adrienne Allison	The Tontine□Ardtun□Bunessan□Isle Of Mull□PA67 6DN	28/06/2012	O
Ms Fiona Brown	Tigh Na H-abhann□Pennyghael□Isle Of Mull□Argyll And But	19/06/2012	O
Fiona Brown	Tigh Na H'Abhann□Pennyghael□Isle Of Mull□Argyll□PA70 €	20/06/2012	O
David Woodhouse	Torr Buan House□Ulva Ferry□Isle Of Mull□Argyll And Bute□	28/07/2012	O
Mr Guy Bolton	Tostary Croft□Torloisk□Isle Of Mull□PA74 6NH	19/06/2012	O

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APPLICATION SITE



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**ARGYLL AND BUTE COUNCIL**

**PROCEDURE NOTE FOR USE AT**

- |  |                          |
|--|--------------------------|
| <b>(1) Statutory Pre Determination Hearing</b> | <input type="checkbox"/> |
| <b>(2) Pan 41 Hearing</b>                      | <input type="checkbox"/> |
| <b>(3) Council Interest Application</b>        | <input type="checkbox"/> |
| <b>(4) Discretionary Hearing</b>               | <b>X</b>                 |

**HELD BY THE PLANNING, PROTECTIVE SERVICES & LICENSING COMMITTEE**

1. The Director of Customer Services will notify the applicant, all representees and objectors of the Council's decision to hold a Hearing and to indicate the date on which the hearing will take place. The hearing will proceed on that day, unless the Council otherwise decides, whether or not some or all of the parties are represented or not. Statutory consultees (including Community Councils) will be invited to attend the meeting to provide an oral presentation on their written submissions to the Committee, if they so wish.
2. The Director of Customer Services will give a minimum of 7 days notice of the date, time and venue for the proposed Hearing to all parties.
3. The hearing will proceed in the following order and as follows.
4. The Chair will introduce the Members of the Panel, ascertain the parties present who wish to speak and outline the procedure which will be followed.
5. The Director of Development and Infrastructure's representative will present their report and recommendations to the Committee on how the matter should be disposed of.
6. The applicant will be given an opportunity to present their case for approval of the proposal and may include in their submission any relevant points made by representees supporting the application or in relation to points contained in the written representations of objectors.
7. The consultees, supporters and objectors in that order (see notes 1 and 2), will be given the opportunity to state their case to the Council.
8. All parties to the proceedings will be given a period of time to state their case (see note 3). In exceptional circumstances and on good case shown the Panel may extend the time for a presentation by any of the parties at their sole discretion.

Ref: ABH1/2009

9. Members of the Panel only will have the opportunity to put questions to the Director of Development and Infrastructure's representative, the applicant, the consultees, the supporters and the objectors in that order.
10. At the conclusion of the question session the Director of Development and Infrastructure's representative, the applicant, any consultees present, the supporters and the objectors (in that order) will each be given an opportunity to comment on any particular information given by any other party after they had made their original submission and sum up their case.
11. The Chair will ascertain from the parties present that they have had a reasonable opportunity to state their case.
12. The Panel will then debate the merits of the application and will reach a decision on it. No new information can be introduced at this stage.
13. The Chair or the Committee Services Officer on his/her behalf will announce the decision.
14. A summary of the proceedings will be recorded by the Committee Services Officer.
15. If at any stage it appears to the Chair that any of the parties is speaking for an excessive length of time he will be entitled to invite them to conclude their presentation forthwith.

NOTE

- (1) Objectors who intend to be present and speak at a hearing are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. To assist this process the Council will provide a full list of the names and addresses of all objectors.
- (2) Supporters who intend to be present and speak at a hearing are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. To assist this process the Council will provide a full list of the names and addresses of all supporters.
- (3) Councillors (other than those on the Panel) who have made written representations and who wish to speak at the hearing will do so under category (1) or (2) above according to their representations but will be heard by the Panel individually.
- (4) Recognising the level of representation the following time periods have been allocated to the parties involved in the Hearing.

Ref: ABH1/2009

The Director of Development Services' representative – not more than half an hour

The Applicant - not more than half an hour.

The Consultees - not more than half an hour.

The Supporters - not more than half an hour.

The Objectors - not more than half an hour.

- (4) The purpose of the meeting is to ensure that all relevant information is before the Panel and this is best achieved when people with similar views co-operate in making their submissions.
- (5) Everyone properly qualified as a representee recorded on the application report who wishes to be given an opportunity to speak will be given such opportunity.
- (6) The Council has developed guidance for Councillors on the need to compose a competent motion if they consider that they do not support the recommendation from the Director of Development and Infrastructure which is attached hereto.

I:data/typing/planning/procedure note

## COMPETENT MOTIONS

- Why is there a need for a competent motion?
  - Need to avoid challenge by “third party” to local authority decision which may result in award of expenses and/or decision being overturned.
  - Challenges may arise from: judicial review, planning appeal, ombudsman (maladministration) referral. All appeal/review processes have rights to award expenses against unreasonable/unlawful behaviour.
- Member/Officer protocol for agreeing competent motion:
  - The process that should be followed should Members be minded to go against an officer’s recommendation is set out below.
- The key elements involved in formulating a competent motion:
  - It is preferable to have discussed the component parts of a competent motion with the relevant Member in advance of the Committee (role of professional officers). This does not mean that a Member has prejudged the matter but rather will reflect discussions on whether opinions contrary to that of professional officers have a sound basis as material planning considerations.
  - A motion should relate to material considerations only.
  - A motion must address the issue as to whether proposals are considered consistent with Adopted Policy or justified as a departure to the Development Plan. Departure must be determined as being major or minor.
  - If a motion for approval is on the basis of being consistent with policy reasoned justification for considering why it is consistent with policy contrary to the Head of Planning’s recommendation must be clearly stated and minuted.
  - If a motion for approval is on the basis of a departure reasoned justification for that departure must be clearly stated and minuted. Consideration should be given to holding a PAN 41 Hearing (determined by policy grounds for objection, how up to date development plan policies are, volume and strength of representation/contention)
  - A motion should also address planning conditions and the need for a Section 75 Agreement.
  - Advice from the Scottish Government on what are material planning considerations is attached herewith. However, interested parties should always seek their own advice on matters relating to legal or planning considerations as the Council cannot be held liable for any error or omission in the said guidance.



## DEFINING A MATERIAL CONSIDERATION

1. Legislation requires decisions on planning applications to be made in accordance with the development plan (and, in the case of national developments, any statement in the National Planning Framework made under section 3A(5) of the 1997 Act) unless material considerations indicate otherwise. The House of Lord's judgement on *City of Edinburgh Council v the Secretary of State for Scotland* (1998) provided the following interpretation. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.
2. The House of Lord's judgement also set out the following approach to deciding an application:
  - Identify any provisions of the development plan which are relevant to the decision,
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies,
  - Consider whether or not the proposal accords with the development plan.
  - Identify and consider relevant material considerations for and against the proposal, and
  - Assess whether these considerations warrant a departure from the development plan.
3. There are two main tests in deciding whether a consideration is material and relevant:
  - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
  - It should fairly and reasonably relate to the particular application.
4. It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
5. The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
  - Scottish Government policy, and UK Government policy on reserved matters
  - The National Planning Framework
  - Scottish planning policy, advice and circulars
  - European policy
  - A proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance

Ref: ABH1/2009

- Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act
  - A National Park Plan
  - The National Waste Management Plan
  - Community plans
  - The Environmental impact of the proposal
  - The design of the proposed development and its relationship to its surroundings
  - Access, provision of infrastructure and planning history of the site
  - Views of statutory and other consultees
  - Legitimate public concern or support expressed on relevant planning matters
6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interest, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.