

TITLE: DEVELOPMENT CONSENT FOR MARINE ALGAL FARMS

1. BACKGROUND

- 1.1 Since April 2007, new aquaculture sites and modifications to existing aquaculture developments have required planning consent from Argyll and Bute Council under the provisions of the Town and Country Planning Marine Fish Farming (Scotland) Order 2007. It applies to the placement of equipment in the sea, on the seabed or on the foreshore below MWHS out to 12 nautical miles.
- 1.2 The original definition of “fish farming” in the Town and Country Planning (Scotland) Act 1997 was restricted to the breeding, rearing or keeping of fish or shellfish (including any kind of crustacean or mollusc). Article 8(2) of the 2007 Order amended this definition to include the farming of sea urchins. Given the potential interest in marine farming of seaweed at the time, a number of local authorities requested seaweed to be included in the amendment of the definition which was ignored. This effectively means that development proposals for seaweed farming in coastal waters do not require planning consent, even though the type and scale of equipment is very similar to that of mussel farm developments.
- 1.3 There is significant national, international and now local interest in the culture of seaweed species to produce human food, agricultural feed stuffs, biofuel, pharmaceutical products and energy through anerobic digestion plants. Quantities of seaweed needed for these products/markets are substantial and it is likely that individual seaweed farms will need to be significantly larger in size than existing shellfish or finfish farms.
- 1.4 The likely method of culture is to grow juvenile plants on seeded ropes within longline systems very similar to mussel farm longlines. The interactions between this kind of development and the environment and other interests are essentially the same as shellfish development, the main issues of landscape impacts and conflict over use of space with other marine users.
- 1.5 As seaweed farming developments do not come under planning control they are caught by the new marine licensing system, operated by Marine Scotland. It is proposed that marine policy and spatial guidance will be developed to inform the marine licensing process in the form of a National Marine Plan and subsequent regional marine plans. As the national marine plan is in preparation and regional marine planning has not started, the marine licensing process is not currently plan led.
- 1.6 Argyll and Bute Council have an existing policy framework (Local Plan policy for aquaculture & other relevant development policies) and additional guidance (ICZM Plans for Loch Etive, Loch Fyne and Sound of Mull) that is appropriate to guide future seaweed farm development in Argyll and Bute. Council planning officers are also experienced in considering applications for shellfish farming developments which are similar to seaweed developments in terms of environmental effects, interactions with other users and local interest.

2 ISSUES

- 2.1 A local mussel farm company was recently granted a marine licence for a small seaweed farm in Loch Scridain. A second application for a large farm is currently being considered by Marine Scotland and has led to confusion amongst the local community and local marine users as to why this type of development does come under planning control. These applications in combination with existing mussel farms and a proposed salmon farm may lead to cumulative

impacts on landscape and other interests and the different consenting regimes present difficulties in assessing this cumulative impact.

- 2.2 Given that seaweed farming is so similar to other types of aquaculture development currently under planning control, local communities and marine users are concerned that these similar development types are considered by two different consenting regimes. This anomaly presents difficulties for developers and those with an interest in the seaweed application in understanding the differences in policy and process of the two consenting regimes. The planning process and marine licence process are very different and these differences are detailed in Annex 1 of this report.
- 2.3 While the Marine Licensing process will consider the same potential issues and conflicts as planning the main difference is the level of transparency in the process for the developer and stakeholders with an interest in the application. Online planning has made the planning application process very transparent with the application form and all supporting information available for anyone to view online. In addition all representations and a final planning report detailing how the application had been determined are also available. This is not the case for marine licensing. Marine licensing has significantly more public interest than the FEPA consenting regime that it replaced and the level of public interest is likely to increase once marine licensing becomes plan led.

3. CONCLUSION

- 3.1 While the marine licensing process will consider similar aspects in the determination development applications, the application process is not as transparent as the planning process and there is currently no policy framework to guide decision making for the marine licensing process. Given that all aquaculture development other than seaweed farming is under planning control and the Council has the appropriate experience and policy framework to deal with this type of development it is considered that seaweed farming should be brought under planning control as a matter of urgency. Over the coming months Marine Scotland will be consulting on proposals to introduce new legislation on improving management measures for farmed fish. This is an opportunity for the Scottish Government to consider bringing seaweed farming under local authority planning control by amending the definition of “fish farming” to include seaweed.

4. RECOMMENDATION

- 4.1 That members support the view that marine algal farm developments should be brought under local authority planning control and agree to the Head of Planning and Regulatory Services making representation to the Scottish Government for this option to be considered in the current development of the new Aquaculture Bill.

5. IMPLICATIONS

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| Legal: | None. |
| Policy: | The current Local Plan and supporting ICZM plans provide a sufficient policy framework to guide seaweed farming development to appropriate locations. |
| Personnel: | None. |
| Financial: | If seaweed development was brought under planning control the Council would receive planning applications fees for these developments. |
| Equal Opportunities: | None. |

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Annex 1 – Differences between planning application and marine licence processes

| | Planning application | Marine Licence |
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| Advertising of application | <ul style="list-style-type: none"> • Advert in Local Paper | <ul style="list-style-type: none"> • Advert in Local Paper |
| Statutory consultees | <ul style="list-style-type: none"> • SNH • SEPA • Marine Scotland Science • Bidwell's (Agents for The Crown Estate) • Historic Scotland • Argyll District Salmon Fisheries Board | <ul style="list-style-type: none"> • SNH • SEPA • Northern Lighthouse Board • Maritime & Coastguard Agency |
| Non-statutory consultees | <ul style="list-style-type: none"> • Community Council • Inshore Fisheries Group • Royal Yachting Association • Northern Lighthouse Board • RSPB | <ul style="list-style-type: none"> • Community Council |
| Main issues considered in determination of application | <ul style="list-style-type: none"> • Environment (biodiversity and landscape) • Economic benefit • Impacts on other users & communities • Navigation | <ul style="list-style-type: none"> • Environment (biodiversity and landscape) • Economic benefit • Impacts on other users & communities • Navigation |
| Information available online | <ul style="list-style-type: none"> • Application form • Supporting information • Individual representations • Planning report • Decision notice | <ul style="list-style-type: none"> • Electronic register (list of applications submitted & those granted) |
| Policy framework | <ul style="list-style-type: none"> • Local Plan policies • ICZM Plans | <ul style="list-style-type: none"> • National Marine Policy Statement • National Marine Plan and Regional Marine Plans still to be developed. |
| Determination of application | <ul style="list-style-type: none"> • Detailed planning report showing how application was determined • Decision notice | <ul style="list-style-type: none"> • No report • Electronic register lists only applications granted, but not those refused. |
| Fees | <ul style="list-style-type: none"> • Based on seabed and surface area of development | <ul style="list-style-type: none"> • Based on value of construction work |