

PROTOCOL FOR PREPARING PLANNING APPLICATIONS FOR AQUACULTURE DEVELOPMENT

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1.0 INTRODUCTION

- 1.1 This Protocol fulfils a commitment made by the SSPO, on behalf of its member companies, as part of the agreement on 'Delivering Planning Reform for Aquaculture' (DPRFA) (Appendix 1). The agreement committed the industry to:
 - (i) engaging more fully in statutory Development Plan preparation;
 - (ii) ensuring comprehensive pre-application activity;
 - (iii) submitting high quality planning applications;
 - (iv) ensuring it has efficient and effective procedures in place; and,
 - (v) sharing experience, advice and good practice.
- 1.2 These commitments, coupled with the commitments made by the other parties to the DPRFA, i.e. Scottish Government, Councils, Statutory Agencies etc., are intended to improve the efficiency of the planning system as it relates to aquaculture by creating:
 - (i) up to date development plans which provide the industry and communities with greater certainty;
 - (ii) improved planning applications and Environmental Statements which will help to speed up response times from the public sector;
 - (iii) a more streamlined statutory consultation process;
 - (iv) greater understanding and co-operation across the public and private sectors;
 - (v) partnership between stakeholders to deliver better developments in the right places, and more efficiently; and,
 - (vi) improvements in the openness and transparency of the process.

- 1.3 The overarching purpose of the DPRFA agreement is to realise the growth potential of aquaculture for Scotland and capture its economic opportunities, on a socially and environmentally sustainable basis.
- 1.4 This protocol is designed to go further than simply fulfil the agreed actions in the DPRFA. It is intended to set standards which all companies in SSPO and the ASSG will adhere to in engaging with the statutory planning process and, in particular, preparing proposals for new, and alterations to existing, aquaculture facilities for submission as planning applications. It sets out a series of commitments and guidance which should be read alongside the Code of Good Practice for Scottish Finfish Aquaculture and the Association of Scottish Shellfish Growers Code of Good Practice to provide guidance for the Scottish aquaculture sector as a whole.
- 1.5 This Protocol sets out the commitments, actions, processes and procedures member companies will adopt and follow in terms of engagement in the development planning process, engagement with local communities, and in preparing to submit a planning application for any form of aquaculture, or aquaculture related development.
- 1.6 The objective of the adoption of the Protocol is for all member companies to carry out pre-application discussion and consultation and prepare and submit planning applications in a structured, disciplined, consistent and comprehensive way in accordance with all legal requirements and recognised best practice.
- 1.7 In adopting and following this Protocol, it is the expectation of the industry that local authorities, statutory agencies and other stakeholders will be able to fulfil their obligations in processing, considering and determining planning applications timeously. In addition, given the particular requirements the finfish aquaculture industry has to fulfil in relation to the EIA Regulations, and the costs associated with this, and the fact that there is no opportunity for companies to seek planning permission in principle, there is an increased need for pre-application engagement to be meaningful and productive in order to engender a greater degree of confidence and certainty. Companies should therefore enter into pre-application discussion openly and wholeheartedly as it should result in a greater degree of certainty as to whether or not planning permission will be granted.

2.0 COMPANY COMMITMENTS

- 2.1 Companies will seek to engage appropriately with Scottish Government, Regional Marine Planning Partnerships and Councils, either directly or through SSPO or ASSG, when they are preparing the National Marine Plan (NMP), Regional Marine Plans (RMP) and Local Development Plans (LDP) by:
- (i) commenting on the Draft Plans, Main Issues Reports, Proposed Plans and Finalised Plan and on any Supplementary Guidance that may be issued for consultation;
 - (ii) providing Regional Marine Planning Partnerships and Councils with information on strategic and local development intentions; and,
 - (iii) commenting on any NMP, RMP and LDP Monitoring Reports that may be issued.
- 2.2 Companies will, when appropriate, take part in, and contribute to, relevant discussion forums organised by the Council, or any other planning body, relating to aquaculture, Development Management, Development Planning, Economic Development or Planning Service Improvement.
- 2.3 Companies will appoint/nominate primary and secondary liaison staff to work on a consistent basis with Councils. Changes in personnel will be notified to Councils.
- 2.4 Companies will, when appropriate, initiate, organise and attend regular meetings with Councils and other stakeholders to discuss general and particular planning matters.
- 2.5 When planning new development companies will take the lead in initiating pre-application discussions.
- 2.6 Companies will seek to engage with Councils, Statutory agencies, local communities and other stakeholders as early as possible in their own business planning process.
- 2.7 Companies will, when appropriate, engage in one-to-one dialogue, and/or round table discussions, with statutory consultees.
- 2.8 Companies will, when appropriate, offer to initiate, co-ordinate, manage and resource round table discussions.
- 2.9 Companies will do sufficient research to establish sites which are more likely to be favourably considered having regard to:-
- the Scottish Government's Location Guidelines (Appendix 1);

- regional and local planning guidance (Appendix 1);
 - sea bed conditions;
 - requirements for CAR (Appendix 1);
 - impacts on, landscape, wildlife, navigation, recreation and archaeology, particularly where there is a designated interest present or nearby;
 - accessibility and shore base location;
 - confirmed availability of the sea bed for development (with regard to other existing or proposed interests).
- 2.10 Companies will utilise Marine Scotland, SNH, SEPA, Marine Scotland Science, Council and Historic Scotland websites to gather information on areas and sites as part of their research and project planning. (Appendix 1)
- 2.11 Companies will use the standard EIA Screening and Scoping Templates following the associated guidance. (Appendix 1)
- 2.12 Companies will ensure that information provided for Screening and Scoping, and in relation to Environmental Statements when considered necessary, is focussed on the proposed site.
- 2.13 Companies will ensure that, at the point of submission, their applications for planning permission:-
- are completed in accordance with the guidance notes;
 - are accompanied by the appropriate fee;
 - provide all information required statutorily and as requested by the Local authority;
 - are accompanied by all appropriate certificates.
 - are accompanied by any information agreed to be submitted with consultees during pre-application discussions.
- 2.14 Companies will ensure that planning applications comply with all legislative and regulatory requirements in order to be validated, registered and assessed. (Appendix 1)
- 2.15 Companies will consider comments and advice received from consultees and the local authority, following pre-application discussion and Screening and

Scoping, provide requested information and make amendments to proposals as appropriate.

- 2.16 Where changes are not made to proposals following pre-application discussion and/or Screening and Scoping, companies will provide a full explanation in the application supporting statement.
- 2.17 Where companies are proposing 'Major Development'^{*}, as defined in the relevant regulations, they will comply with all statutory requirements as a minimum but will go further where this is considered appropriate following discussion with the local authority.

3.0 CODE OF GOOD PRACTICE IN PLANNING AQUACULTURE DEVELOPMENT

3.1 Having made these commitments companies will ensure that they follow good practice in engaging with the statutory planning process, engaging with communities and stakeholder interests and in preparing planning applications for submission to the local authority. There are five key stages of involvement and engagement and companies will seek to ensure that all of these are covered when appropriate in the way they forward plan their development activities.

3.2 STAGE 1 – STRATEGIC ENGAGEMENT BY THE INDUSTRY

- (i) Companies should seek to maintain regular and constructive contact with key stakeholders including national statutory consultees, local statutory consultees, local interest groups and the local authority.
- (ii) Companies should seek, either directly or through SSPO or ASSG, to build relationships with local community representatives.
- (iii) Companies should seek, either directly or through SSPO or ASSG, to engage with any body involved in the promotion of economic development activity in local authority areas.
- (iv) Companies should, either directly or through SSPO or ASSG, engage with the statutory marine and development planning processes and any process which seeks to produce economic development strategies or action plans.

^{*} 'Major Development', for the purposes of aquaculture, is any development which occupies a sea surface area of 2 hectares or more.

3.3 STAGE 2 -STRATEGIC SITE SELECTION

- (i) Companies should seek to meet with the local authority and other stakeholders, including landowners, at the earliest possible stage to discuss strategic business, commercial and development intentions and to set out their site search objectives, strategy and key constraints. This should ideally be before a site search commences in a local authority area. This meeting should present broad proposals, commercial requirements and the process by which new sites of interest are selected. It should also include any proposals for development at existing sites in order to be comprehensive.
- (ii) Companies should seek to identify, when appropriate, the process and criteria by which sites are chosen to pursue and those that are not.
- (iii) Companies should take full and proper account of national and regional marine plans and local development plans, policy frameworks and constraints when searching for new sites and when seeking to alter and extend existing sites.
- (iv) Companies should seek advice and guidance from local authorities, statutory consultees and other stakeholders, including landowners, and take this fully into account in seeking sites, choosing sites and developing proposals.
- (v) Companies should seek and heed advice from the local authority on the most appropriate pre-application consultation strategy to adopt and the stakeholders with whom to engage prior to the submission of an application.
- (vi) Companies should, when appropriate, develop a consultation strategy based on the advice of the local authority and the sensitivity of the site.
- (vii) Companies should, when appropriate, obtain specialist advice to deal with significant issues raised by the local authority or consultees and where those issues cannot be adequately dealt with by their in-house environmental teams.

3.4 STAGE 3 – EIA SCREENING AND SCOPING AND ENVIRONMENTAL STATEMENTS

- (i) Companies should, following the guidance, complete the required templates and provide the necessary supporting information. (Appendix 1)

- (ii) Companies should focus on the site or sites chosen to pursue as development proposals in putting the information together. In general site specific, and development specific, information should be provided rather than generic information.
- (iii) If generic information is referred to then it should be provided in a form that is accessible electronically without duplication where this facility is available to a company.
- (iv) Companies should ensure that if an ES is required it focuses on the issues identified in the Scoping Opinion issued by the local authority.
- (v) Companies should, when appropriate, use specialist advice in carrying out an Environmental Impact Assessment and in preparing an Environmental Statement.
- (vi) Companies should use published and available good practice guidelines when carrying out EIA and when producing an ES.
- (vii) Companies must include assessments of alternative local sites considered as part of the EIA process.

3.5 STAGE 4 – PRE-APPLICATION CONSULTATION (Major Developments)

- (i) For major developments companies should carry out all pre-application consultation in accordance with the Regulations and the advice received from the local authority at Stage 2. (Appendix 1)
- (ii) Companies should, when appropriate, hold at least two public events in the locality of the proposed development (one is the statutory minimum).

3.6 STAGE 5 – PREPARATION AND SUBMISSION OF THE APPLICATION

Companies will :

- (i) use the forms issued by the local authority;
- (ii) complete the application form checklist of items included in the application;
- (iii) use recognised and standardised formats for location plans, site plans and plans of equipment;
- (iv) provide a supporting statement with the application covering all that was done in Stages 1-4 and setting out reasons why permission is being sought for the site in question;
- (v) identify the changes made to the proposal as a result of comments made at the earlier stages;
- (vi) explain why certain changes suggested have not been included;

- (vii) seek a 'pre-application submission' meeting with the local authority. This meeting should cover as a minimum the following issues.
 - (a) Check the correct fee.
 - (b) Check all forms and documentation are present;
 - (c) Check all plans and drawings required are present;
 - (d) Check to see if electronic submission is acceptable;
 - (e) Identify the case officer who will deal with the application;
 - (f) Identify the validation and registration date;
 - (g) Identify the publicity requirements and timescales;
 - (h) Identify the likely decision date and level (Scheme of Delegation);
 - (i) Provide the local authority with key company contact person details;
 - (j) Request telephone/e-mail contact for any further information requirements.
 - (k) Schedule a meeting four weeks after the application is submitted to review consultee responses and representations.

4.0 IMPLEMENTATION AND REVIEW OF THE PROTOCOL

- 4.1 All member companies of SSPO and ASSG have agreed to abide by the commitments and to follow the Code of Good Practice when dealing with planning matters and preparing their own development proposals.
- 4.2 The Protocol has been approved by the Boards of SSPO and ASSG and will be referenced in any revised codes of good practice for the finfish and shellfish sectors.
- 4.3 Adherence to the Commitments and the Code of Good Practice will be monitored by the SSPO DLO, working closely with the company environmental managers, and the Councils themselves. The SSPO DLO will seek regular feedback from Councils on company adherence to the Commitments and the Code of Good Practice so that any issues can be addressed timeously.
- 4.4 Success in achieving the required standards will also be reported to the Ministerial Aquaculture Planning Forum.
- 4.5 The Protocol will be reviewed annually with a report to the Boards of SSPO and ASSG.

4.6 Councils and statutory consultees will be consulted on any proposed changes to the Protocol.

5.0 APPENDICES

APPENDIX 1

Links to:-

- ["A Fresh Start – The renewed Strategic Framework for Scottish Aquaculture"](#).
- ["Delivering Planning Reform for Aquaculture"](#)
- ["A Code of Good Practice for Scottish Finfish Aquaculture"](#)
- ["Code of Good Practice for Shellfish Growers"](#)
- Acts
 - [Aquaculture and Fisheries \(Scotland\) Act 2007](#)
 - [Marine \(Scotland\) Act 2010](#)
 - [The Planning etc. \(Scotland\) Act 2006](#)
- Regulations
 - [Post 2006 Legislation](#)
- Circulars
 - [Planning Circulars](#)
- [Scottish Planning Policy](#)
- PANs
 - [Environmental Impact Assessment](#)
- [Marine Scotland Website](#)
- Five Council Websites
 - [Highland Council](#)
 - [Shetland Islands Council](#)
 - [Orkney Islands Council](#)
 - [Comhairle nan Eilean Siar](#)
 - [Argyll & Bute Council](#)
- [SEPA Website](#)
- [SNH Website](#)
- [MSS Website](#)
 - [Locational Guidelines](#)
- [The Crown Estate Website](#)

APPENDIX 2

Flow diagram – extract from 4/2009 Development Management Procedures.

