

Annex – detailed comments

RESPONSE FORM

DRAFT SEAWEED POLICY STATEMENT 2013

1. Do you agree with policies 1-6?

We agree with policies 1-6 in general. However, we feel there are further considerations which should be taken into account to ensure these policies achieve the desired aims.

Policy 2: see question 2 below

Policy 4 states that equipment should be fit for purpose to prevent damage from adverse weather but it is not clear what measure this will be assessed against (for example will there be a technical standard to adhere to or will judgements be made on a site by site basis). This policy should go further and tie-in with the NMP policies to ensure infrastructure is robust to climate-change related weather events.

Policy 5: This policy states that other users should be 'considered'. We feel that this policy should be stronger stating that seaweed cultivation will be brought under the umbrella of marine planning, at both the national and regional level.

Policy 6: We have concerns that this broad policy does not contain sufficient detail to ensure that all 'regional' issues identified within the SEA will be given sufficient consideration by the future consenting authority. The effectiveness of this policy could be improved by providing a more detailed explanation of the specific aspects (as identified in section 7.4.3 of the SEA) of the marine environment which should be given "due regard" in determining suitable locations.

2. Should policy 2 require local provenance, i.e., stock must originate from the water body the seaweed is to be grown in? YES/ NO

Our preference is for local provenance to be used. This is based upon the uncertainties associated with introducing non-local provenances and the subsequent dilution of the genetic integrity of a local population which may have developed certain characteristics to make it more suited to the specific local conditions.

However, we do note there may be practical limitations involved with collecting sufficient quantities of spore locally to permit the industry to develop on a commercial basis. It is also likely that further work would be required to determine such factors as spore dispersal in the natural environment and the actual degree of genetic variations in local populations. Until such work has been undertaken, establishing the actual significance of these uncertainties is unlikely to be possible.

3. Do you agree with policy 7? YES/NO

Yes, we agree with this policy. However, we feel policy 7 should also apply to shellfish-scale developments as we believe that this scale could also have significant environmental effects, particularly with respect to designated sites, Priority Marine Features and sensitive habitats and species. As we have outlined in our SEA response we do not think that scale alone will necessarily be an appropriate measure of the significance of impacts. The significance of any impacts will also be linked to the site-specific location. For example, a medium-scale development located in tidally-dynamic open water may have less significant impacts than a shellfish-scale development located in an enclosed water body such as a sea loch.

4. Do you agree with policies 8 and 9? Please state any that you agree or disagree with, and your reasons.

Yes, we agree with policies 8 and 9. However, see below for general comments.

The spatial distribution of IMTA (where seaweed is grown alongside finfish) is by default directly linked to the spatial distribution of finfish aquaculture. Existing and proposed policies are in place to limit the spatial distribution of finfish aquaculture (and we have commented on these separately in our response to the National Marine Plan consultation). It therefore seems that a separate policy to reaffirm this specifically in relation to IMTA may not be an essential component of this SPS.

We feel the term 'Western Isles' should be more specifically defined as it currently confuses the Outer and Inner Hebrides. There are some issues specific to the Outer Hebrides and we would suggest that these two distinct island groups are defined separately to avoid confusion.

medium, and extensive), are appropriate?

No. As we have stated above and within our response to the SEA environmental report; we have concerns regarding the scale categories and the degree of significance which has been attributed to each.

The use of the term 'shellfish-scale' (up to 40 longlines) to describe small scale operations is misleading as we do not believe this is representative of the current shellfish industry in Scotland.

We have concerns regarding the assessment of significance in relation to 'shellfish-scale' developments and believe that this scale could also have significant environmental effects, particularly with respect to designated sites, Priority Marine Features and sensitive habitats and species.

This scale of development is most likely to expand significantly in the near future and it is likely that new developments will primarily be located in our coastal waters including sheltered sea lochs, channels and voes. The impacts arising from a shellfish-scale development (such as impacts on nutrient availability, water flow and exchange, benthic impacts and landscape) located in an enclosed water body such as a sea loch may be of greater significance than a medium-scale development located in tidally-dynamic open water. This significance may increase further when taking cumulative impacts into account. If a mussel farm consisting of 40 longlines, covering an area of approximately 16ha area, (based on 20m spacing between 200m lines) were proposed (none currently exist as far as we are aware) then these potential issues would have to be considered and, where appropriate, mitigation would be required.

We suggest that to address our concerns above it may be appropriate to either a) reduce this scale to be more representative of the current shellfish industry b) highlight that significant effects are possible and therefore mitigation may be required for shellfish scale or c) provide greater clarity regarding the potential 'regional' issues which should be taken into account when determining suitable locations for shellfish-scale developments.

6. Which consenting option would be most appropriate for seaweed cultivation?

Option 2: We feel that Option 2 provides the most appropriate framework to regulate seaweed cultivation (i.e. providing consent under the Town and Country Planning Regulations) as this would align its regulation with other aquaculture sectors.

Local Authorities have gained considerable experience of marine related environmental issues through their regulation of aquaculture to date and may be best placed to provide a holistic approach in considering all elements of seaweed cultivation. Marine Scotland (MS) is a statutory consultee for marine fish farm development (Schedule 5 of the Town and Country Planning Development Management Procedure Regulations 2008) and would therefore be most likely to be made a statutory consultee for seaweed cultivation also. We would anticipate that Local Authorities can continue to utilise MS's (as well as other consultees) expertise of wider marine ecological issues through the existing consultation process.

The only caveat that we would suggest to this arrangement relates to the provision in the Marine (Scotland) Act 2010 for Scottish Ministers to order that aquaculture in not development under the terrestrial planning system. This effectively allows individual local authorities to 'opt out' of their aquaculture planning powers, bringing aquaculture regulation in the area under the marine planning and licensing systems. If this provision is used in future, then it would obviously be advisable to ensure that both the aquaculture and seaweed cultivation activities were covered by the Order, to ensure that planning and licensing of these issues remains coordinated.

We think it would be advisable to provide clear guidance to set out the role of each consultee when responding to consultations related to seaweed cultivation. This may be achieved by updating the existing aquaculture working arrangements document or alternatively by providing separate guidance in this respect.

If seaweed culture is brought under Town and Country Planning then consideration should be given to the relevance of the aquaculture permitted developments rights in relation to seaweed cultivation.

Option 1: We feel that option 1 is not appropriate. Even with the introduction of a flowchart system we feel that this option would be confusing for developers and members of the public and would not provide a suitable mechanism to take a holistic approach to seaweed cultivation applications.

Option 3: We feel that option 3 is not appropriate as a) a tiered approach based on arbitrary thresholds of scale would be confusing; b) there is currently insufficient information to base such thresholds on; c) this option does not make it easy or possible to consider the holistic environmental considerations of IMTA; and d) two different regulators may result in consistency issues.

Option 4: We feel that Option 4 is not appropriate due to the technical difficulties and complexity of issues surrounding the identification of seaweed as true IMTA. This is not just an issue of distance of seaweed culture from fish farms but needs to take into account hydrodynamics and nutrient availability.

**7. Should guidance be developed for the harvesting of wild seaweed?
If not, what (if any) alternative arrangements would you suggest?**

Although the development of a code of good practice guidance document would be helpful, we believe that formal regulation of this sector is required to ensure the sector remains sustainable in the future.

Without any formal regulatory control of this emerging sector there will be no means to fulfil any relevant legislative requirements and obligations (such as compliance with the Habitat Regulations), or in considering Priority Marine Features.

We have serious concerns regarding the future environmental effects if this sector is to remain unregulated. We note that the SEA states there is currently no evidence to demonstrate that an adverse environmental effect has occurred as a result of the wild harvesting activities which have taken place in Scotland to date. Though this may be true at present, this policy statement relates to future considerations. We are aware of existing commercial enquiries across the country regarding large-scale harvesting of wild species including *Laminaria hyperborea* which provides strong evidence to suggest that this sector will expand significantly in the foreseeable future and most likely before the cultivation sector does. It should be noted that, as detailed within our response to the SEA, there is a significant risk of adverse impacts if this proceeds without regulation.

The Crown Estate is believed to own only around half of the Scottish littoral, and a significantly lower proportion than this in the Northern and Western Isles and the northern mainland, the area where most commercial interest in harvesting is currently evident. There is currently almost no consultation between private owners of the coastline and various agencies, and it is possible at present for a harvesting company to obtain a lease from a private landlord without any wider consultation. Most large-scale operators would be dealing with multiple owners, and the current situation in the littoral is effectively beyond any control or co-ordination. We feel that formal regulation is required to provide the mechanism to ensure this sector remains sustainable. We feel that Marine Licencing may provide the most appropriate regulatory framework to consent this activity.

If regulation is ultimately deemed not appropriate by SG, then any Code of Practice for this industry needs to give consideration to how the legislative requirements of any designated sites or protected habitats and species will be fulfilled. In any instances where a designated site or protected habitat or species may be affected it would be imperative that our advice be taken into account through some sort of formal procedure. This is particularly relevant to any proposed wild harvesting of *L.hyperborea* to the west of Uists but may also apply to any other locations where loss of seaweed may affect designated sites or other protected species and habitats.

8. Should the 1997 Act should be amended to provide the flexibility to farm other species or specifically named species? YES/NO

We can see no reason why the industry should not be granted the flexibility to diversify the aquaculture sector in the future. However, particular regard must be given to ensuring there is no risk of potential invasive species being introduced outwith their natural range. To ensure compliance with the Wildlife and Natural Environment Scotland Act 2011 it must be guaranteed that any species cultured are not released or allowed to escape outwith their native range.

9. Do you have any comments to make on the BRIA content?

The BRIA states that no additional financial costs will be incurred and that farmers will still have to pay some form of licencing fees regardless of the final licencing procedure. We do not know how current Marine Licencing fee system is calculated in relation to seaweed culture. However, we are aware that some concerns have been raised in relation to the current fee system for aquaculture developments under Town and Country Planning. For example, our understanding is that currently the fee for shellfish development is aligned with that of finfish developments. This appears to disadvantage the shellfish sector as we understand the profit margins for such development is less than that of finfish production. If profit margins for seaweed culture are the same or less than shellfish culture then this issue may also apply to seaweed culture if brought under Town and Country Planning.



Scottish Natural Heritage
Dualchas Nàdair na h-Alba

All of nature for all of Scotland
Nàdar air fad airson Alba air fad

Marine Scotland,
Scottish Government,
Area 1-B North
Victoria Quay,
Edinburgh,
EH6 6QQ.

13th November 2013

Email: spsconsult@scotland.gsi.gov.uk

Dear Sir / Madam

DRAFT SEAWEED POLICY STATEMENT

Thank you for consulting SNH on the above consultation document. We welcome this opportunity to influence the Scottish Government's consideration of the future consenting regimes for seaweed cultivation and issues relating to the regulation of wild seaweed harvesting. We have responded separately to the SEA consultation on the draft seaweed policy statement.

The attached response form contains our detailed comments in relation to the consultation questions, but our main comments are summarised below:

- Whilst we broadly support the policy objectives for this emerging activity, we raise some concerns about the definition of different scales of development and suggest that the significance of impacts relate more to the sensitivity of the location than the scale of the proposed development.
- In relation to wild harvesting, we are now aware of significant commercial interest in this activity and have concerns that a voluntary code of good practice for wild seaweed harvesting will not be sufficient to adequately take into account the legislative requirements of designated sites (including HRA where necessary), species and priority marine features or to ensure the protection of other sensitive habitats and species. We therefore believe that formal regulation of this sector is required to ensure the sector remains sustainable in the future.

I hope our response is helpful. Should you wish to discuss our comments in further detail, please contact Liam Wright on / liam.wright@snh.gov.uk.

Yours sincerely

Cathy Tilbrook
Coastal and Marine Ecosystems Unit Manager