

# Orkney Islands Council Consultation Response

## RESPONSE FORM

### DRAFT SEAWEED POLICY STATEMENT 2013

*The consent process adopted influences how the questions have been answered, the Orkney Islands Council are of the opinion that the consenting process should be under the Town and Country Planning (Scotland) Act 1997” and have answered the questions on this basis. However, to accord with legislation which states: “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 policies set down would therefore need to fall within the terms of the legislation.*

#### 1. Do you agree with policies 1-6? – disagree

*Policy 1 – If falling under planning legislation the policy would need to reflect this, where development would only be supported if it accorded with the development plan. Furthermore issues that are covered by separate legislation are not a material consideration therefore could not form part of the planning consideration. The Draft Marine Planning Circular states the Scottish Government’s intention for development planning for aquaculture to migrate from local development plans to regional marine plans. The planning policy intentions for seaweed cultivation should be clarified so that it is made clear whether the Scottish Government intend seaweed cultivation and harvesting to be addressed in LDPs or RMPs.*

*Policy 2 - agree*

*Policy 3 – agree, but would suggest that water quality is assessed at all site. Consideration may be given to designated seaweed growing waters (for human consumption) similar to what is presently in place for shellfish, however it should be noted that water quality is regulated through SEPA and would therefore not be a material planning consideration.*

*Policy 4 - agree*

*Policy 5 – agree, however consideration should be given to expanding this policy to ensure no development took place where there were navigational safety issues also the issue of socio economic impacts should be included.*

*Policy 6 – consideration on location should be given to other marine users, marine activities along with navigational safety issues and any socio economic impacts.*

#### 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

*Local provenance will minimise any potential environmental issues, native local species would also be most appropriate to the habitat, it would easier to understand the potential ecological risks from a species that already existed within the area.*

*Clear mapping of water bodies need to be provided along with species within the areas. Clear information on the method of obtaining any stock for the farm from the existing seaweed needed to be understood to identify any potential impacts on the exiting wild seaweed within the area.*

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

**Policy 7 – In principle, the Scottish Government is also supportive of medium scale development, subject to regulatory consideration.**

**Applications for such seaweed farms should demonstrate that mitigation measures have been considered to prevent adverse environmental impacts, and set out how these will be delivered**

*As in question 1. The policy should be appropriate for the legislation the consenting will fall within. It is also considered that the wording of policy 7 would not ensure that environmental information is submitted upfront to show how the development could be managed to ensure no significant impact on the environment. Mitigation measures should only have to be considered if there are likely to be negative impacts and it may be that they will be insufficient to overcome any negative impacts that may warrant a refusal. Environmental Impact Assessment (EIA) Regulations may require to be amended to include seaweed cultivation.*

**4. Do you agree with policies 8 and 9?**

*Policy 8 – As in question 1*

*Policy 9 – IMTA should be considered in all areas as part of an expansion to an existing finfish farm. The draft SPP and NMP need to be satisfied that the scientific data on the environmental impacts of IMTA developments justifies the blanket restriction on a presumption against development on the north and east coasts and is clear about why other waters do not have the same degree of vulnerability.*

**5. Do you think that the size scales (shellfish (small), medium, and extensive), are appropriate?**

*No. It is felt that the reference to shellfish (small) would be confusing. 'Small', 'medium' and 'large' based on site area would be much simpler and easily understood. The scales should be area based rather than based on the number of lines. It is acknowledged that the industry is fairly new in Scottish waters, therefore it is likely that method of growing seaweed may change over time and area based scales would allow for this without future changes and updating of legislation and associated criteria.*

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

*It should be noted that Orkney Islands Council under the 1974 Orkney County Council Act, are responsible for the works licences for developments in harbour area*

waters. Aquaculture was specifically removed from the works licensing requirements through the Town and Country Planning (Marine Fish Farming) (Scotland) Order 2007. This does not appear to have been identified within the SEA document. If the aim is to have a similar consenting process to aquaculture changes to legislation would need to be made to remove seaweed development production from the works licensing requirements.

Marine planning and terrestrial planning has been partially integrated through the exiting consenting legislation for aquaculture. Aquaculture is now defined by the Planning Act as "development". It would therefore seem appropriate for a similar form of development type to be consent through the same legislation process. Furthermore it is understood that that these forms of development would generally be located near the shore where development in the marine area has potential to affect people and environmental resources on land e.g. the visual impact. Therefore using planning legislation which presently considers these implications would appear to be most appropriate.

If this consent process were to fall within planning jurisdiction the Scottish Government would need to ensure that adequate expertise to assess the marine biology/science aspects of any proposals is made available to the planning authority. The scientific advice would need to be on a site specific level rather than generic advice to ensure good decision making.

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

Where commercial harvesting of wild seaweed already exists, a process of consenting any existing activity by way of a certificate of lawfulness (or similar provision) by the planning authority should be facilitated. Thereafter, all new commercial seaweed harvesting should fall under the same consenting process as all other commercial seaweed activities. As there is a potential for the seaweed resource to become much more commercial as the industry develops it is important that the legislation is in place and brought forward across the industry. The EIA regs. may need to be amended to include seaweed cultivation.

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

More detailed information on the types of species, method of farming and potential environmental impacts to be covered before it can be fully understood if the 1997 Act and the planning consenting process is the most appropriate legislation for it to be considered under.

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

Until a clear decision has been made on the consenting process, the financial implications for Orkney Islands Council as Planning Authority cannot be identified. Further cost analysis assessment needs to be undertaken.