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20/11/13

## **National Marine Plan Draft Consultation. Orkney Trout Fishing Association response.**

Dear Sir / Madam

Our overriding response to your National Marine Plan is one of concern. We regard it as having the potential to create as much confusion as it has to try and create a clearer path to sustainable development. It asserts ambitions to expand aquaculture as well as trying to tighten up on ensuring that all development in the sector is "sustainable".

From our extensive experience of trying to maintain a sustainable wild sea trout fishery in the field of an ever expanding aquaculture industry we find those ambitions admirable but probably impossible to achieve.

Our main observations from the plan would be:

- Need for a spatial zoning. Salmon farming as it is currently practiced is an open system. As a consequence it is not possible to contain or eliminate emissions, in particular sea lice and pollutants. Consequently the primary tool for environmental mitigation is location. In the absence of clear spatial guidance development is taking place in a piece meal and ad hoc fashion. Typically a site is selected that is convenient to develop and then an EIA is conducted which considers mitigation available at that site. The EIA happens after the location decision is made which is the single most important decision regarding environmental impact. This is woefully bad practise in terms of biodiversity.

In the current absence of clear spatial guidance as to where is not appropriate it is always worth a developers while "toughing it out" to get a site and local authorities are easily persuaded that "one more" site will do little harm.

Our specific concern is the location of salmon farms in the sea near sea trout spawning burns and the consequent impact on wild fish. There needs to be an explicit spatial approach restricting the siting of farms adjacent to sea trout spawning streams. The existence of a risk to wild fish is now accepted and recognised in this document. Given the uncertainty around the distance of potential impact this approach should be precautionary in nature. If in the future it is established that the impact on wild fish is less than believed spatial restrictions can be relaxed. If a relaxed approach is taken now the harm to wild fish is as science predicts, but when investment has been made in a development it is a much harder decision to move a salmon farm in the future.

- Third party right of appeal. Because inshore salmon farm development is governed by terrestrial planning procedures there is no third party right of appeal against decisions. As a consequence aquaculture developers can appeal against planning decisions but no

one else. There is a subtle but very important difference between the situation on land and at sea. On land a decision by a planning authority to restrict or prevent a landowner from exercising their private right to develop their land is a serious decision. The withdrawal of 3rd party right of appeal was intended to push the balance of power back towards the land owner/developer. In the sea an aquaculture developer has no pre-existing right in the selected site. A lease is awarded only after planning permission has been granted. If the site is refused the developer (unlike a terrestrial land owner) is free to move elsewhere. The only pre-existing rights are commonly held rights (navigation, fishing etc). these are the rights that are impacted by development. At the moment an aquaculture developer with no property right (and the freedom to locate wherever they choose) can appeal against a planning decision. An established local interest group, exercising legitimately held common rights cannot appeal. This is unjust.

It would be crucial for an open and just society to have these issues addressed to the public's advantage in your plan.

We have more detail in our response to your sustainability appraisal document which follows below.

Yours Sincerely

Colin Kirkpatrick

Chair Environment Sub Committee  
Orkney Trout Fishing Association.

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## **National Marine Plan Sustainability Appraisal Report**

### **Consultation. Orkney Trout Fishing Association response.**

Dear Sir / Madam

We find that the NMP Sustainability Appraisal document lacks clarity and clear transparent policy regarding aquaculture development and the protection of wild salmonids. It causes great concern as to the efficacy of the Main Plan.

In the absence of any local Fisheries Trust or Rivers Board it is Orkney Trout Fishing Association's responsibility to protect our community's wild trout heritage and fishery, its habitat and our right to fish. We therefore respond to this consultation on behalf of 500 local and visiting members.

We have consistently objected to salmon farms that we feel pose a danger to our wild sea trout population on the basis of the now accepted link between salmon farms and the danger they pose to local wild fish populations through unnatural levels of sea lice. We'd like you to note that we do not object to every planning application relating to salmon farming. It is purely down to location and proximity to sea trout spawning burns and habitat. In short sustainable wild fish populations need clear and transparent sustainable practice in aquaculture.

Sea Trout in Orkney are virtually unique in character in that they are fished for mainly in the marine environment. We have no rivers as such but many healthy clean burns provide excellent spawning and our coastline provides excellent juvenile and adult sea trout habitat. It should be noted that the unique character of the free community sea trout angling makes this also part of Orkney's unique cultural and historical heritage.

Sea Trout are a UK BAP species and are present in Orkney waters. "The Sea Trout is listed as a Priority Species in the UK Biodiversity Action Plan and is also included in the draft list of Priority Marine Features. Wild Salmonids also migrate past Orkney." As such we understand that the local authority and central government has a responsibility and an obligation to protect biodiversity.

Section 1, Part 1 of the Nature Conservation (Scotland) Act 2004 states "It is the duty of every public body and office-holder, in exercising any functions, to further the conservation of biodiversity". The sea trout (*Salmo trutta*) is a priority species under the UK's Biodiversity Action Plan (BAP). According to the UK BAP website, priority species are "those that have been identified as being the most threatened and requiring conservation action under the UK Biodiversity Action Plan (UK BAP)".

The document titled "Conserving Biodiversity – The UK Approach (October 2007)" sets out goals for the UK Government and devolved administrations. Section 4.2 of this document deals with priority species and habitats and states that "these priority habitats and species are a focus for conservation during the next decade". Therefore, there is a special obligation on local authorities and government amongst other groups and organisations, to provide particular protection for priority species. The Scottish Government has a clear obligation towards the conservation of biodiversity and sea trout clearly have a priority status. We'd like to be sure that the minister and all involved are clearly made aware of this prior to looking at a decision on this new plan. Any gaps identified as a result have to be filled.

The document titled "The Scottish Biodiversity Strategy" states in section 4.1 that there is an objective to halt the decline in biodiversity, particularly in priority species. We have concerns that the current plan and sustainability appraisal may contravene the government's clear responsibility to protect sea trout, as a priority species under the UK BAP.

It and the NMP are full of well meaning assertions and policies that frequently contradict and create potential conflict of opinion and confusion. This makes us think that this plan may be flawed beyond effective use.

The non technical summary has a box setting out perceived biodiversity impacts from commercial fisheries as an example. It could easily be argued that the more sustainable practises in the inshore commercial fishery are more representative of sustainable development than aquaculture – especially when it comes to biodiversity. When it does eventually appear in the main box referring to biodiversity the words aquaculture "may cause" differing forms of damage is repeated, when it would be generally agreed by many other marine users and scientists to be more accurate to say aquaculture "does cause" all the various forms of standard impact that open marine cage mariculture is consistently responsible for.

It is increasingly galling that similar impacts in onshore agriculture have been unlawful for decades. A report into nutrient loading from salmon farms done by Dr Malcolm McGarvin for WWF a decade ago used international oil industry standard formulas to calculate that a single, then average, 800 tonne salmon farm produced the same amount of nitrates as a human population of 20,000 people and the same amount of phosphates as a population of 60,000!

At 4.12 there are claims that "Middle Ground" is the preferred option by MS to allow economic development and environmental protection at the same time. I may be mistaken but outside of aquaculture, successive Scottish Governments previously chose the environmental protection model which still allowed economic development but gave historically much stronger protection to Scotland's natural heritage. This seems about to go into reverse. Just when Scotland could capitalise on the legacy of decades of much needed habitat and species protection that also of course protected our most magnificent landscapes.

In areas where industry has enjoyed a disproportionate movement in planning guidelines of late – like in the push for increased salmon production - we constantly see community conflict and loss of biodiversity and natural experience in previously protected areas. This "middle ground" sets up a scenario of much increased community and planning conflict for sectors of industry that the current government have an unequivocal ambition to expand

exponentially. Your model of choice constantly throughout this document creates doubt and grey areas through phrases and assertions that eternally contradict each other.

Table 3 item 2 suggests just this scenario : You ask the question “Will the draft plan” “Contribute to the growth of any marine industry without detriment to another”. Surely an increasingly impossible scenario this, especially in aquaculture. As actually suggested elsewhere in your consultations, there are repeated areas of considerable conflict between sectors and business interests. Aquaculture has the capacity to conflict with all sorts of industry and currently any further expansion in Orkney is likely to create conflict with scallop divers, creel fisherman and anglers all of whom can demonstrate a degree of real sustainability in their areas.

Your document seems to constantly include the words and phrases that favour big business. At item 3 on the same table you ask, will the marine draft plan “Remove or avoid barriers to new marine enterprise opportunities.” By choosing the middle ground and having lots of contradictory phrases there is every likelihood that barriers shall be targeted for removal. Barriers that elsewhere in the marine plan are looked upon as assets. This is especially true when it comes to tourism, recreation, and aquaculture. It is a mess of contradictions that suggest to me that increased conflict is inevitable. Surely an unsustainable approach, but one that might suit a government hell bent on industrial expansion in areas previously considered no go for development because of high environmental or landscape value.

Angling tourism was valued at £1.9 million to the Orkney economy in an SNH commissioned study in 2006 and as sustaining 65-70 full time jobs. Anything that impacts on the quality of reputation of this recreational fishery puts that benefit at risk.

Items 6, 16, 17 and 18 on your questions in table 3 again suggest to me that the answers could equally be yes or no, depending on which phrases you select from the document and apply to the questions. Yet again I’m left looking at the other questions before this and seeing that big business and planning lawyers shall be able to use these multiple contradictions to their financially biased advantage.

The cross cutting policies further suggest to me an abundance of open ended phrases and potentially contradictory passages that could constantly be used against each other and create inconclusive guidance. Financially backed developers shall have a field day with this scenario. Grass roots community interests which seem increasingly misrepresented by business lobbied politicians don’t stand a chance.

Like some of the assertions made in the other sustainability appraisal documents there are many statements that cancel each other out when it comes to “Trade Offs” between protecting the environment and allowing currently in favour forms of industrial expansion.

With Marine Scotland choosing the “middle ground” as a model for protection and development rather than an environmentally protective model the general population stand to loose out to a narrow band of corporate style businesses who do not put local sustainability ahead of global and corporate profit. Aquaculture being cases in point.

You repeatedly read in this document that this sector will only be allowed to develop in a ‘sustainable’ fashion, yet you then read in this, and other consultations just closed, that there might have to be “Trade offs” between aquaculture and wild fisheries groups. Totally speculative and in our opinion conveniently naïve conclusions. This is exemplified by the

fact that the industry has the right to appeal against planning decisions that don't go in it's favour, but other stakeholders can't appeal. A major injustice in our opinion.

We read in 3.2.2 about the importance of a sense of place to many rural and coastal communities, and that impacts on this could lead to people moving away. Yet elsewhere in this document (and the confusing plethora of other documents afoot) words suggest the opposite – that somehow if economic “growth” and expansion are not supported, there will somehow be depopulation in the same areas?

Most of us that choose to live in places like Orkney, who incidentally have some the lowest unemployment rates in the country, choose to live here specifically because of the quality of life and sense of place. We are officially at present one of the happiest places to live in UK. But we are also under the threat of an onslaught of industrial development from aquaculture, which already enjoys an existing presence here that has majorly impacted on the quality of our sea trout fishing. Many local anglers have given up on going out to try and catch sea trout in their former haunts as pointless. There needs to be much more research and inclusion in these plans regarding basic psychological well being. In this respect it gets scant mention realistically, considering that it is a basic human right in a free and democratic society.

We strongly agree with 3.7.8 and it's assertions of the importance of “attractive landscapes” to well being and sustainable tourism and recreation sectors in local communities yet find continued threats to this scenario throughout your document. This is especially true in Orkney where there is definite opportunity to grow the angling tourism sector sustainably. A scenario that would be reversed for the sake of national interests in industrialising our historic coastline and developing more aquaculture unsustainably.

Specific points:

5.1 We find these questions almost impossible to answer given the open ended policies we've seen. Protection shall not be achieved without a proper spatial policy for Salmon farming.

5.1.2 Whilst there is a degree of recognising effects on biodiversity we remain unconvinced that the NMP addresses them.

5.1.8 We think this looks great but we'd be amazed if these measures can be sustainably achieved with current attitudes to expansion of the industry. It must be worth noting that repeatedly in our experience local authorities lack the resources and detailed scientific knowledge required to make informed decisions in this field.

5.1.9 There is a vital need to properly define “sustainable” production in this context.

5.2 As mentioned earlier aquaculture has a massive nutrient loading effect in what are otherwise pristine inshore ecosystems. We find it hard given expansion plans for farmed salmon that there is any chance of “improvement”.

5.2.9 Developing an effective spatial planning policy for aquaculture must be a priority given current expansion plans. A precautionary approach written into existing policy is essential until such time that these plans appear. Otherwise there shall be a ongoing “gold rush” for new sites, before more effective legislation appears.

5.5.6 Historic Environment. Angling for wild salmonids does have historic and cultural links with the perception of a place in many areas of Scotland.

5.8 There is a lack of emphasis on the social aspects just narrow economic aspects of development. Recreational fishing (in addition to generating tourist income) contributes significantly to quality of life in rural Scotland.

5.8.6 The majority of existing inappropriately sited salmon farms represents an on going huge “trade off”.

5.8.7 The underlying assumption here is that there is an overriding need to create more employment in rural Scotland and that increased expansion of the aquaculture sector will deliver this. This assumption is overly simplistic on two grounds. Firstly many coastal communities in Scotland. For example Orkney and Shetland do not suffer from high unemployment. Rather, low wages is the problem and not a problem solved by aquaculture. Secondly the assumption that aquaculture expansion will deliver increased employment is false. The majority of aquaculture applications to our local authority in the last ten years have been to facilitate increased automation, with feed barges and automatic feeding a priority. This has meant the long term picture is one of increased production and automation whilst employment levels remain the same. Total employment in the sector is broadly the same as it was ten or twenty years ago despite rapidly expanding production and consequent environmental impact.

5.8.8 Wild Fish. We view words like “may result in mitigation and monitoring requirements” as worrying. The real impacts on wild fish from industry are widely held to be understood and clear. There is a danger that the monitoring and mitigation approach can allow further development where none is desired by wild fish interests.

5.8.9 This seems to be a repeat of 5.8.7 (?) referring to aquaculture and failing to recognise the value of angling recreation or it’s huge input into the economies and well being of Orkney and Scotland.

Ultimately your “middle ground” approach seems to me, to allow much more of the economic growth model to influence planning guidelines throughout this document. Guidelines and policies that eat yet further into our potentially endless larder of sustainable economic resource that is the Scottish marine ecology. Death by stealth in effect, “growth” and “development” in a dangerously finite and relatively pristine area, and complete and utter folly for a small coastal nation.

The assertion in 5.10.11 that “In conclusion, the cumulative effects of the policy frameworks in the draft NMP and SPP are considered to be largely positive or neutral.” strike us as being a massive leap of faith and one to which we do not subscribe to on a local level in relation to recreation and wild fish. You don’t have to look far through the detail of the multiple tables in the extensive appendices to find the same contradictory claims and aims.

We think this report is frequently and repeatedly at odds with itself and potentially a recipe for disaster. It needs to be far clearer and give credence to the decades of scientific research that precede it. Outside of the stated growth sectors which include aquaculture, currently enjoying government favour, there is much potential for distress and conflict. It really needs to be rewritten. Rather than encouraging “growth” and “sustainability” across

a large demograph of the population in Orkney, we could equally as easily see increased uncertainty and environmental uncertainty and yet more impact on our beleaguered, once legendary sea trout population.

It's high time that the word "sustainable" did what it says on the tin.

Yours Sincerely

Colin Kirkpatrick

Chair Environment Sub Committee  
Orkney Trout Fishing Association.