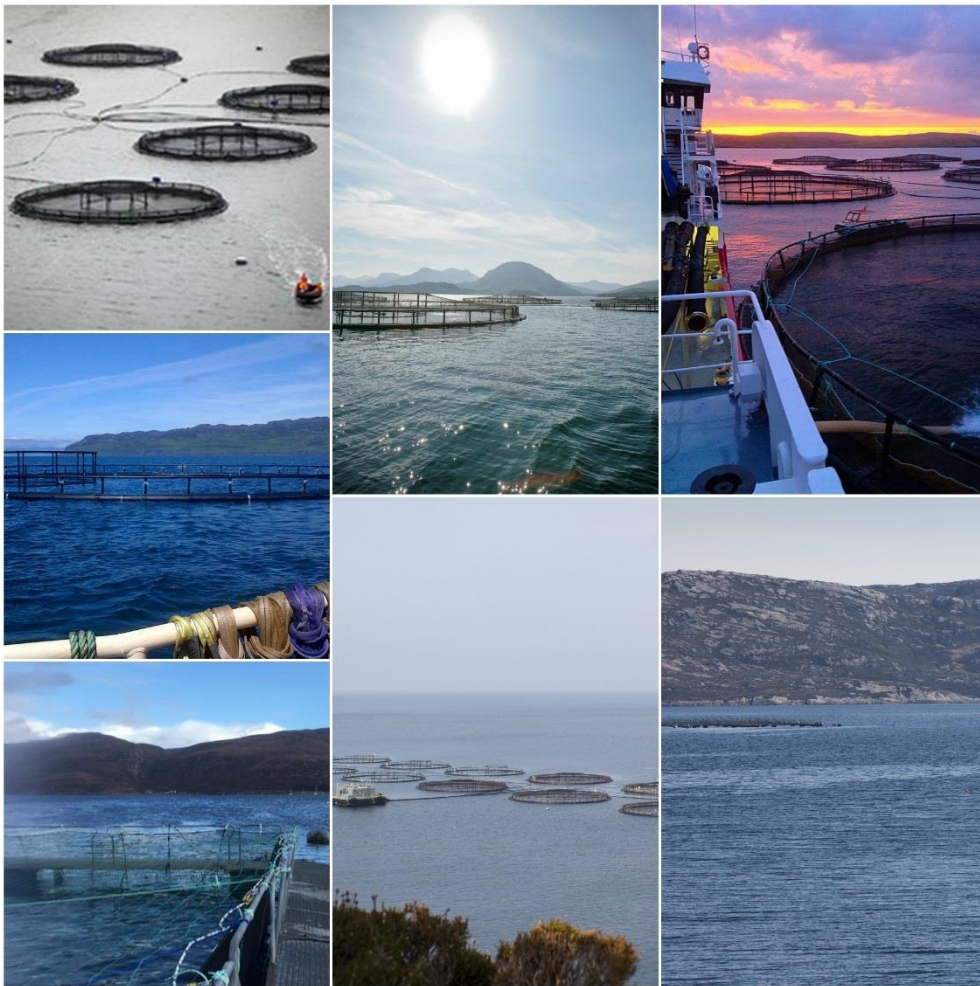


THE FISH FARMING PLANNING PROTOCOL

A guide for fish farm developers on engagement with the planning process and on the procedures to follow when seeking to develop in Scotland.

Content and Structure

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1.0 INTRODUCTION

- 1.1 This Guide fulfils a commitment made by the SSPO, on behalf of its member companies, as part of the agreements on 'Delivering Planning Reform for Aquaculture' (2010 & 2011) (DPRFA and DPRFA2) (Appendix 1). The agreements 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 updated and revised guide follows a comprehensive review of the operation and usefulness of the original Protocol prepared in 2011. It is the industry contribution toward achieving a strengthened pre-application process which was one of the recommendations of the [Independent Review of Scottish Aquaculture Consenting \(2016\)](#).
- 1.5 The objective of this guide is to help all member companies; engage with the planning system; become involved in the planning process; 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.

- 1.6 As such it is hoped that this guide will assist companies in fulfilling commitments made in the ['Community Engagement Charter'](#) (2016) (Appendix 1) as well as the 'Delivering Planning Reform for Aquaculture' agreements ([2010](#) and [2011](#))



2.0 ENGAGEMENT IN THE PLANNING PROCESS AND COMMUNICATION

COMMITMENTS

- 2.1 Companies will engage appropriately with Scottish Government, Regional Marine Planning Partnerships and Councils, either directly or through SSPO, 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 Companies will engage with Councils, statutory agencies, local communities and other stakeholders as early as possible in their own business planning process.



3.0 PREPARING TO SUBMIT A PLANNING APPLICATION

COMMITMENTS

- 3.1 Companies will, when appropriate, engage in one-to-one dialogue, and/or 'round table' discussions, with statutory consultees.
- 3.2 Companies will, when appropriate, offer to initiate, co-ordinate, manage and resource 'round table' discussions.
- 3.3 Companies will do sufficient research to establish sites that are more likely to be favourably considered having regard to:
 - the Scottish Government's [Locational 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).
- 3.4 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).
- 3.5 Companies will consider using appropriate expert advisers when carrying out Environmental Impact Assessment. Marine Scotland EIA Screening and Scoping Templates may be helpful as a guide, however companies should consider separating 'Screening' from 'Scoping'.
- 3.6 Companies will engage in dialogue with agencies to discuss options and issues for a range of sites prior to commencing EIA.
- 3.7 Companies will ensure that information provided for Screening and Scoping, and in relation to Environmental Statements, when considered necessary, is clear, concise, well organised and focused on the proposed site. Consideration of alternatives, the ways in which the proposal has responded to issues raised by consultees, and measures to mitigate significant environmental impacts, should all be prominent within the body of the Environmental Statement.
- 3.8 Companies will ensure that their Environmental Impact Assessments and Environmental Statements are completed in accordance with best practice.
- 3.9 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.

- 3.10 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.
- 3.11 Where companies are proposing 'Major Development'¹, 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.
- 3.12 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.



¹ 'Major Development', for the purposes of aquaculture, is any development which occupies a sea surface area of 2 hectares or more.

4.0 CODE OF GOOD PRACTICE IN PLANNING AQUACULTURE DEVELOPMENT

- 4.1 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, all in accordance with the principles and commitments set out in the ['Community Engagement Charter'](#), (2016) (CEC).

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.

4.2 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 (see CEC).
- (ii) Companies should seek, either directly or through SSPO, to build relationships with local community representatives (see CEC).
- (iii) Companies should seek, either directly or through SSPO, to engage with any body involved in the promotion of economic development activity in local authority areas (see CEC).
- (iv) Companies should, either directly or through SSPO, engage with the statutory marine and development planning processes and any process which seeks to produce economic development strategies or action plans.

4.3 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 (see CEC).
- (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 (see CEC).

- (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 (see CEC).
- (vi) 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.

4.4 STAGE 3 – EIA, SCREENING AND SCOPING AND ENVIRONMENTAL STATEMENTS

- (i) Companies should, following the regulations and appropriate guidance, prepare and submit applications for screening and scoping opinions, carry out Environmental Impact Assessment and prepare Environmental Statements (ES), all in accordance with best practice.
- (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 must include assessments of alternative local sites considered as part of the EIA process.
- (vii) Mitigation of significant environmental effects must be clearly set out in the Environmental Statement.

4.5 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).

4.6 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.
- (viii) Consider entering into a 'Processing Agreement' with the Council.



5.0 APPENDICES

APPENDIX 1 – Useful Links

- [Delivering Planning Reform for Aquaculture \(2010\)](#)
- [DPRFA 2 \(2011\)](#)
- [Community Engagement Charter \(2016\)](#)
- [Planning Acts](#)
- [Planning Regulations](#)
- [Planning Circulars](#)
- [Scottish Planning Policy \(2014\)](#)
- [PANs](#)
- [Marine Scotland Website](#)
- Five Council Websites
 - [Highland](#)
 - [Argyll & Bute Council](#)
 - [Western Isles \(Comhairle nan Eilean Siar\)](#)
 - [Shetland](#)
 - [Orkney](#)
- [SEPA Website](#)
- [SNH Website](#)
- [MSS Website](#)
- [Crown Estate Website](#)
- [Guidance on Highland Council's 'Pre-application advice service.'](#)
- [Guidance on 'Processing Agreements'](#)

APPENDIX 2 - Flow diagram – extract from 3/2013 Development Management Procedures

