

Rùnaire a' Chaibineit airson Cùisean Dùthchail, Biadh agus an Àrainneachd
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The Scottish Parliament
EDINBURGH
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Dear Rob

NATIONAL MARINE PLAN

Thank you for the Committee's consideration of, and report on, the National Marine Plan (NMP). This response provides further information and clarification as sought by the Committee. The attached annex sets out a full response which should be regarded as my current position. Following on from the debate on the Plan on 19 February, I will lay a statement before Parliament setting out the Government's final position prior to adopting the Plan.

Support for decision making

The decision making process as set out in the NMP has to deal with a very wide variety of marine environments containing over 900 islands, a range of habitats including sea mounts and reefs, and hosting a diverse array of around 6500 species. Overlaying that environmental complexity with the wide range of projects that need to be regulated brings into focus the potential difficulties that may arise with even the simplest of decisions in the marine area. The current variations in the evidence base and the different levels of maturity of marine industries and associated regulatory regimes also need to be reflected, as does feedback received during the consultation process.

While I support the Committee's drive for streamlined decision making the reality of the context in which decisions have to be taken will continue to cover a wide spectrum of circumstances and the NMP has to reflect that reality.



Regional planning

The Marine (Scotland) Act requires regional plans to be consistent with the National Marine Plan and the Marine Policy Statement; and to have regard to the effect of their proposals on any plan for an adjoining region. Nonetheless it is clear that the precise approach in a region will be for the Marine Planning Partnerships to determine. I feel this strikes the correct balance to allow for local flexibility whilst providing a clear steer to help guard against inconsistency. Consistency can be further enhanced by the use of Directions provided for in the Act which can require co-operation if necessary.

Shetland and Clyde will be the first Marine Planning Partnerships. Secondary legislation is required to both establish the boundaries of the marine regions and to delegate planning powers to the Marine Planning Partnerships. On-going discussions are being held with Shetland Islands Council and the Firth of Clyde Forum as to the formal legal arrangements. In the interim, project officers currently funded by Scottish Government are working with a working group comprising Marine Scotland, SNH, SEPA and MASTS on the assessment phase which precedes the development of a marine plan. Further information on this and the guidance which has already been developed on regional assessment is available at NMP Online.

Shetland and Clyde will not be pilots, they will have formal legal status. The lessons learned from these areas will be disseminated and shared with other existing Local Coastal Partnerships, local authorities and other local stakeholders via NMP Online and through other forums such as the Marine Strategy Forum, the Scottish Coastal Forum and the MASTS marine spatial planning forum.

I recognise the issues the Committee has also identified in relation to conflict resolution at the local level and the role of local authorities in the process. As I noted in my verbal evidence, there is a great deal of existing expertise which can be drawn on locally across a wide range of organisations, but I do not underestimate the potential challenges, which is why it is not appropriate to set a firm target for rolling out regional planning at this stage. Rather a phased approach will be taken which will help to ensure that appropriate support is not spread too thin.

The process of review of regional plans at the Scottish Government level will be carried out by Marine Scotland on behalf of Scottish Ministers at the point when they are submitted for adoption. Such review will include consideration of any issues raised during the local consultation and assessment processes and discussion with relevant Scottish and UK departments if required.

Monitoring and Review

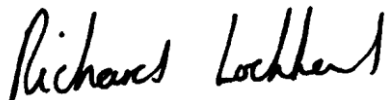
The Marine (Scotland) Act requires monitoring and evaluation of the Plan's implementation. This will be undertaken by Marine Scotland on behalf of Ministers and I will continue to consider the suggestion made regarding the timescales.

The monitoring framework will rely on the available evidence and data both to establish a robust baseline and to measure change. I welcome the Committee's endorsement of NMPI and am content to take forward the Committee's suggestions in relation to specific datasets and in terms of its use to support regional planning. This regionalisation process has been developed with input from Shetland, Clyde and other Local Coastal Partnerships and regional data is already being hosted on the system. I remain committed to delivering sound marine science through the Scottish Marine Science Strategy and to ensuring this evidence base is accessible to all – as the development of NMPI, MSi and NMP online demonstrate.

Appropriate assessment

The Committee sought clarification on whether the draft NMP requires an Appropriate Assessment in relation to the aquaculture targets. I can confirm that the screening of the Plan, in line with the Habitats Regulations process, demonstrates that an Appropriate Assessment is not required, as the general nature of the Plan's objectives and policies means that effects on any particular European site could not be identified. It should be noted that individual applications for aquaculture sites are assessed to ensure that they will not adversely affect the integrity of any European protected sites, before consent is granted.

Kind regards



RICHARD LOCHHEAD

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	Committee comment	Response
1	The Committee welcomes the General Policies set out in Chapter 4 and agrees their importance in reinforcing sustainability as an overarching principle of the draft NMP.	I welcome this confirmation of the approach.
2	The Committee appreciates the aspirations of the Scottish Government, however it is concerned that the interpretation and operation of the plan may become complex and restrictive at a local level. The Committee considers that the draft NMP should provide a simple framework for decision making and should not unintentionally produce a variety of prescriptive powers which will make operating in the marine environment more difficult.	A simple framework already exists through the UK Marine Policy Statement. The Plan requires to a more nuanced approach to cover the range of different activities, the interactions between them and the different environmental and industrial contexts present in Scotland's seas.
3	The Committee understands that the Scottish Government is required to publish a National Marine Plan for Scotland and therefore welcomes the publication of the document and the work that has gone into producing it. However, the Committee is concerned that, in its current form, the document does not provide a clear and concise set of principles that can be consistently applied by decision-makers and those using the marine environment and there is a danger that as currently drafted, the draft NMP will create conflict by having highly prescriptive actions in some areas while setting out vague aspirations in others.	I believe the approach is proportionate given the existence of the Marine Policy Statement and the inclusion of a limited range of General policies. The varying level of prescription reflects a number of factors including the current state of the evidence base, the differing levels of maturity of marine industries and their existing regulatory frameworks and consultation feedback to date.
4	The Committee is of the view that the draft National Marine Plan is both too detailed and prescriptive in some parts, and yet too vague in others. The Committee welcomes the Scottish Government's commitment to consider its comments and look again at how the general principles of the draft NMP, and the specific sectoral policies, could be rebalanced. The Committee recommends that the Scottish Government revisit the document with a view to streamlining the information provided to ensure that the final National Marine Plan stands as a clear overarching framework.	I believe the Plan provides a clear overarching framework. However I am content to review the text to consider how the relationship between General and sectoral policies is best represented. Online material will also be developed to support implementation of the Plan. Further guidance can be provided where necessary through Marine Licensing Guidance for applicants and in work with emerging Marine Planning Partnerships.
5	The Committee believes that it is important that Scotland's performance in marine planning is monitored and measured regularly and effectively. The Committee recommends that the Scottish Government provides more information on the monitoring	Information about the monitoring process has been provided in the main letter and will also be published online. My officials are in discussions with the Marine Management Organisation and the other UK administrations to ensure that lessons learned elsewhere are

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	and evaluation framework for the plan, what will be measured, and how it will be undertaken. The Committee recommends that, as this is the first National Marine Plan, the Scottish Government gives serious consideration to reviewing it after three years to coincide with the review of the reserved issues and the areas from 12-200 miles. The Committee believes that this is appropriate as it is the first report and issues may emerge that require early action.	also applied as relevant in Scotland.
6	The Committee understands the logic of translating the guiding principles of a national marine plan into regional plans, given the variations in environment and activity around Scotland's coastline and in Scotland's marine areas. However, the Committee considers that as currently drafted, the National Marine Plan does not give sufficient guidance to local authorities on the process of drafting regional marine plans, but is in danger, in places, of its content being overly prescriptive about local situations.	The process of regional planning is being discussed in detail with Shetland and Clyde at present and lessons learned from this process – and from the National Marine Plan process – will be shared. Marine Scotland are also in on-going dialogue with the Marine Management Organisation and the UK administrations on the development of their marine plans. The Plan is already clear that the precise approach is for Marine Planning Partnerships to determine, rather than being overly prescriptive.
7	The Committee welcomes confirmation that guidance will be published to assist with the development of Regional Marine Plans and asks the Cabinet Secretary to provide details on the expected timescales for this. The Committee seeks further information on the anticipated timescale for the completion and review of all Regional Marine Plans. The Committee also seeks further information on the process for review of Regional Marine Plans, to ensure consistency.	This information is provided in the main letter.
8	The Committee also seeks clarification on the status of the regional marine plans for Shetland and Clyde - are they expected to be formally established as pilot areas and if so, how will the pilots be run, what support is being made available to them and how and when will the experience of the pilots be disseminated?	This clarification is provided in the main letter.
9	The Committee is concerned about the possibility of inconsistency between Regional Marine Plans and recommends that guidance in relation to Regional Marine Plans is explicit on how regional marine areas will be expected to work together to ensure that users of the marine environment operating at a national level do not face inconsistent or conflicting arrangements.	Clarification is provided in the main letter.
10	The Committee welcomes confirmation from the Scottish	Local authorities are represented on the Marine Strategy Forum

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	Government that Marine Scotland will provide advice and intervene to help resolve any issues or conflict that may arise either within or between different sectors in the marine environment. The Committee recommends that Marine Scotland proactively engages with local authorities, and relevant others, to ensure that they are aware of the support that is available to them.	which has been party to the development of the National Marine Plan over a number of years. I am committed to ensuring that proactive engagement with local authorities on regional planning will be taken forward.
11	The Committee has serious concerns as to whether local authorities currently have sufficient experience, expertise and resources to successfully develop and implement Regional Marine Plans. The Committee is concerned that inconsistent guidance and decision-making could emerge as a result and this could have a detrimental impact on those operating in the marine environment. The Committee therefore welcomes confirmation from the Cabinet Secretary that Marine Scotland will take the lead in developing expertise and in sharing good practice. The Committee considers that a significant amount of work will be required with local authorities to build a sufficient level of expertise and questions whether Marine Scotland is currently resourced to effectively support this.	Regional marine planning will be taken forward by Marine Planning Partnerships in which local authorities will take a role. There is significant expertise in some areas which Partnerships will be able to access but I recognise that further support will be required. The phasing in of regional planning will help to ensure that this is provided sustainably. The existing Local Coastal Partnerships around Scotland, and their umbrella body the Scottish Coastal Forum, will potentially play an important role.
12	The Committee believes that it is critical that the proposed transfer of the Crown Estate's powers in relation to the seabed to Scotland, and then to local authorities, as discussed later in this report, and the impact of this on local authorities is taken into account when considering the level of resources and expertise required at a local authority level.	This important development will certainly be taken into account.
13	The Committee believes that it is essential that national and regional marine plans dovetail with existing legislation, duties and Scottish Government strategies, across the many areas covered by the draft NMP to provide clarity. The Committee recommends that the national and regional plans acknowledge the framework of legislation which exists for each of the sectoral headings and welcomes the Scottish Government's suggestions on how this can be taken forward through the key references section in each chapter and in the online version of the plan.	As I have set out, it is my intention that the NMP provides a single framework within which existing regulation can continue to operate. In order to retain a reader-friendly approach, the key references sections within the Plan will be reviewed and a proportionate level of information may be added. Further information will also be made available online.

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14	The Committee welcomes the Scottish Government's confirmation that it would not support activities that are to the detriment of the natural heritage. Whilst the Committee heard the concerns in relation to the emphasis on enhancement the Committee understands that some activities may not result in enhancement to the natural heritage but are important for a number of other reasons.	Agreed.
15	The Committee notes the views of both stakeholders and the Scottish Government on how to ensure that the adaptive management approach will not create instability for possible investment and development in the marine environment. The Committee welcomes the Cabinet Secretary's commitment to reflect on this issue and consider the representations that have been made to the Committee when producing the final NMP. The Committee considers that further thought is needed in relation to conflict resolution mechanisms at a national level within the context of sustainable development.	I am content to consider this issue, as is noted. I consider that it was correct to add a General Policy on Adaptive Management based on consultation feedback and also believe this accurately reflects the need for a planning process to take account of emerging evidence. However I also understand very well the need to avoid instability and will reflect further as to whether this can be emphasised within the text. Conflict resolution mechanisms can be considered but further consideration will need to be refined in the light of actual conflicts which transpire.
16	The Committee agrees with the principle in GEN 19 that decision-making in the marine environment should be based on sound scientific and socio-economic evidence. However, the Committee shares concerns raised by some stakeholders that an evidence based approach is not consistently reflected throughout the draft NMP the Committee therefore recommends that the Scottish Government reviews the draft NMP and ensures that the general principle that decision-making in the marine environment should be based on the most up-to-date, sound scientific and socio-economic evidence remains clear throughout.	In my view, the commitment to a sound evidence base for the Plan is already clearly reflected, particularly with respect to the development of the Marine Atlas, NMPi and the use of the marine planning webpages to highlight relevant science and research.
17	The Committee welcomes the Cabinet Secretary's acceptance that as new evidence emerges it must be reflected in the NMP and recommends that the Scottish Government considers how a sound scientific evidence base is built in a reasonable, effective and efficient way. The Committee asks how this could be co-ordinated at a national level to ensure that it is accessible to those at all levels and sectors engaged in marine planning and operating in the marine environment.	I remain committed to the continued development of our marine science evidence base, via the Scottish Marine Science Strategy and also with UK Marine Monitoring and Assessment Strategy (UKMMAS) partners and collaborations throughout Europe and more widely. The continued use of NMPi and the creation of a developed web presence around the Plan will ensure the evidence base is fully accessible.

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18	The Committee believes that it is essential that the National Marine Plan interactive (NMPi) is established and maintained as the single first-class authoritative mapping source for Scotland's marine areas and welcomes confirmation from the Scottish Government that work is currently underway to update the NMPi with additional information available to it, such as fishing sensitivity data maps. The Committee notes this is an on-going process and recommends that the NMPi is updated to contain as much available information as possible including commercial anchorages, navigational approaches and all instances of known habitats, with data being added as soon as new information becomes known.	NMPi is established as our main portal for spatial data which is relevant to marine planning and is continuing to grow – now hosting over 500 data layers. The intention is to update NMPi with relevant spatial data as soon as it becomes available and has been quality assured. The Scotland's Seas Data and Assessment Group oversee much of this work. The fishing sensitivity maps have now been added and work on the other specific datasets mentioned is on-going.
19	The Committee recommends that Marine Scotland works with local authorities proactively to encourage the use of the data held in the NMPi in the development of Regional Marine Plans and to ensure that all relevant data held by local authorities is added to the NMPi.	This process is already underway in relation to Shetland and Clyde and also with some of the existing Local Coastal Partnerships following the development of regionalisation of NMPi.
20	The Committee therefore welcomes the confirmation from the Crown Estate that while it is unable to comment on how this transfer of powers could work, it will make the information in its marine research system (MaRS) available when necessary.	I also welcome this confirmation and will ensure this aspect is considered in transfer arrangements.
21	The Committee agrees with the Cabinet Secretary that Crown Estate responsibilities to the 200 mile line should be devolved. However, clarity on the extent of the powers is required, therefore the Committee urges the Scottish Government to raise this issue with the UK Government as a matter of urgency.	This is a complex matter and is being taken forward in discussions between UK and Scottish Governments on implementation of the Smith Commission recommendations.
22	The Committee recommends that the final National Marine Plan includes text which acknowledges the current Smith Commission process and states that national and regional plans will be reviewed once final decisions have been taken. The Committee also recommends that the Scottish Government consults with stakeholders during the process of devolving the powers of the Crown Estate, as those decisions may have a significant impact on national and/or local management of the marine environment.	This can be reflected in the final text of the Plan. Stakeholders will be involved in the development of a new framework in Scotland on the management of Crown Estate assets.
23	The Committee welcomes the Cabinet Secretary's undertaking to	This is already being reviewed by officials following on from the

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	reflect on the language used in the plan to ensure the balance between climate change adaptation and mitigation is clear.	Committee's evidence sessions and the final text will be amended if necessary.
24	The Committee acknowledges that Scotland's fishing fleets are a major user of the marine environment and have a vital role to play economically, socially, and environmentally in sustainably delivering fish and shellfish to tables around the world. It agrees that the National Marine Plan should provide a level of protection for existing sustainable use in the wild fisheries industry and existing fishing opportunities and activities are safeguarded wherever possible, notes the Cabinet Secretary's willingness to give consideration to the issue and recommends that the final NMP should provide this protection.	I am content to give further consideration as was stated, although as I noted in evidence the current text does allow for safeguarding wherever possible.
25	The Committee is also of the view that the presumption in favour of sustainable development as set out in the draft NMP is correct and should be maintained and highlights the work it has undertaken to date in relation to Marine Protected Areas.	I welcome the recognition of the approach to sustainable development and will certainly maintain that. Work on MPAs will also continue to be taken into account in the finalisation of a well management network of MPAs and the reflection of this in the marine planning process
26	The Committee considers it is important that the national and regional marine plans give the fishing sector due prominence and explicitly state how fishing will interact with other uses of the marine environment. It is vital that this leaves no room for either contradiction with existing fisheries regulation, or widely varied interpretation by different marine users and decision-makers. The Committee recommends that the Scottish Government works with the SFF and other stakeholders and reviews the sea fisheries chapter to ensure that it achieves these ambitions.	These issues were considered as part of the independent investigation into the Plan, following the SFF's consultation response and I am satisfied the Plan reflects the outcome of the investigation appropriately.
27	Having questioned the need for the target for the development of aquaculture to be included in the draft NMP the Committee accepts that the target should be retained in the final document. However the Committee recommends the Scottish Government considers referencing some of the barriers which may be preventing the realistic sustainable achievement of the target, such as the current presumption against establishing additional farms in the north and east of Scotland.	These targets are industry led, supported by Government, and industry are currently confident that the finfish target is achievable.
28	The Committee recommends that the Scottish Government	As is noted above, the salmon industry are currently confident that

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	reviews the science and evidence on the likely impact of different species of farmed fish on the North and East coasts, with a view to refining the presumption.	the finfish target is achievable. Any future interest in farming non-salmonids in these areas will be monitored as part of the general monitoring of the Plan – there is no indication of latent demand at present. In addition, further science to look at the wider impacts of aquaculture will be continued and policy generally refined as a result.
29	The Committee seeks clarification from the Scottish Government on whether the draft NMP requires an Appropriate Assessment under the Habitats Regulation Appraisal process to determine the potential effects of the plan on the integrity of Natura sites, based on the inclusion of the ambitious targets for the aquaculture industry, which may impact on European marine sites.	This is clarified in the main letter.
30	The Committee is of the view that the length of time it took to replace the power cable which supplies electricity to Jura, Islay and Colonsay was unacceptable and it welcomes the Cabinet Secretary's commitment to take forward the lessons that have been learned from this case with a view to improving the process to allow any future similar incidents to be resolved safely and as speedily as possible. The Committee requests that the procedure for this new fast track approach be detailed in the final NMP.	I support the Committee's view that any new procedures, or explanation of current procedures, should be made clear. However it is likely that this level of detail would be more appropriately expressed in licensing guidance rather than within the Plan itself.
31	The Committee agrees that a risk assessed case by case approach is appropriate but considers that there appears to be some confusion around the drafting of Chapter 14 on submarine cables. The Committee recommends that the Scottish Government reviews the wording of Chapter 14 to ensure it is clear and contains all relevant information on the procedures to be followed.	This wording will be reviewed and any amendments required for clarity will be taken forward. However, as noted above, detailed guidance and information may be contained in guidance documents rather than in the Plan itself.