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Reply from the Coastal Communities Network - Aquaculture sub-group, to your letter of 14th September 2018: '*Re Coastal Communities Network Questions to the Scottish Government*'.

Dear Jeff,

In order to keep track of the questions you have and have not answered, we have addressed, in blue, each point in your letter below, which is in black.

Thank you for your letter of 28 July 2018 building on the helpful and informative meeting we had with you and your colleagues. As I outlined when we met, I do not see this as a one off event and am committed to more regular dialogue to ensure issues of concern are considered in a timely manner. I would be keen for a further date in the diary for later in the year and once we have all had an opportunity to consider the anticipated REC report.

When we met I committed to reflect on the many questions you had prepared in advance and those that you have provided consequent to our meeting. I am sorry that it has taken longer than I had originally expected, but as I outlined in an earlier email, the breadth and scope of your questions required extensive consultation within and beyond Marine Scotland.

We are also willing to meet again, and we appreciate that the REC report may well change some things, but first we would like you to answer all the questions we asked you in July.

We are really unhappy with the quality of the answers you have given below, and above all that you have chosen not to answer with the level of detail that you know we requested. Above all we are deeply disappointed that you have failed to answer so many of our questions. This contrasts with what you have written above, that you want to ensure that issues of concern are considered in a timely manner. This gives the unfortunate impression that you are avoiding the more awkward questions.

Transparency engenders trust, as we pointed out at the meeting.

We will ask you the questions again below, some of them now for the third time, but you have left us little choice other than to request answers to these outstanding questions at our meeting with the Cabinet Secretary for the Environment next week, and to ask our MSPs to write to her, or to table parliamentary questions, which is surely embarrassing for the Government and a waste of the Cabinet Secretary's time.

The unanswered questions are in bold below.

We recognised when we met the context of Scottish Parliamentary Committee Inquiries on aquaculture including the anticipated Rural Economy Committee report. I have looked to respond to your questions with that in mind, recognising a number of common themes

throughout. You specifically asked which part of Marine Scotland had primary responsibility for protecting wild salmonids when they are at sea. As you will be aware from our meeting in July, responsibility for policy on wild salmonids sits within the ACRE Division (Aquaculture, Crown Estate, Recreational Fisheries, EMFF and Europe).

At the meeting we asked you which part of Marine Scotland has primary responsibility for protecting wild salmonids when they are at sea. Thank you for explaining that it is your own ACRE Division (Aquaculture, Crown Estate, Recreational Fisheries, EMFF and Europe).

At the meeting we also repeatedly asked **which individuals in MS are responsible for deciding whether the impact of aquaculture on wild salmonids is likely to be significant, and how that decision is made** (see the minutes of meeting 25th July 2018, which we sent you).

You agreed to find out and to tell us. We confirmed this to you in writing on 27<sup>th</sup> July.

You have not answered this question but as you are the Aquaculture Team Leader in the ACRE Division, it would seem that it is your responsibility to make this judgment.

- **If it is not your responsibility, whose responsibility is it?**
- **Is it the Cabinet Secretary for the Environment's responsibility?**

We ask you again to answer the following fundamental and important questions:

- **Is Marine Scotland certain that salmon farming poses no risk to the west coast populations of wild salmon and sea trout, after using the available mitigation measures?**
- **Please confirm that marine fish farming will not pose such a risk if it doubles in capacity by 2030.**
- **How can Marine Scotland be certain that there is no such risk, given that these species are suffering steeper declines on the west coast than on the east and north coasts?**

These questions matter because they affect the decisions made by LPAs on whether to consent all fish farms.

- **Will MS advise the Local Planning Authorities (LPAs), when they consult MS regarding planning decisions, that there is a risk of significant harm from aquaculture, to wild salmonids on the west coast?**
- **Separately from individual planning applications, will MS advise the LPAs in the aquaculture zone that there is a likelihood that aquaculture has a significant impact on the nationally important wild salmonid population in this zone, and if it will not, please explain why not?**

We also asked about your advice to LPAs on cumulative impacts:

- **The LPAs' role in biomass determination affects sea lice numbers released into the sea, so why does Marine Scotland not advise and oblige the LPAs to limit biomass in order to take account of the cumulative impacts of sea lice on wild**

fish?

About screening and scoping:

- **If MS's advice is limited by the one-off nature of the question posed by LPAs (ie *'the proposed development will be likely to have "significant effect" on the environment'*), please confirm that MS will revise the EIA question asked in the screening and scoping template, which is currently under review following the IRSAC review, to include cumulative effects across the LPA's area of responsibility and beyond?**

And about accepting the validity of communities' view:

- **In the absence of a scientific answer on significance, does MS accept that local communities' assessment of the likely significance is valid.**
- **Do you agree that if MS cannot say whether the impact is significant, but the communities believe it is, then the LPAs should regard that as a material consideration.**

We asked you these questions in good faith, seven weeks ago. Please answer them now.

There are other unanswered questions below.

So, building on our meeting I will now further address your queries below.

I will firstly turn to those questions which were connected to the planning and regulatory framework:

Scottish planning policy supports an integrated approach to coastal planning to ensure that development plans and regional marine plans are complementary. On the marine side, planning authorities will need to ensure integration with policies and activities arising from the National Marine Plan, Marine Planning Partnerships, Regional Marine Plans, and Integrated Coastal Zone Management, as well as aquaculture.

Scotland's first statutory National Marine Plan was adopted and published in 2015. It provides a comprehensive overarching framework for all marine activity in our waters, and sets out how Scottish Ministers intend marine resources to be used and managed out to 200 nautical miles and applies to all decisions taken by public authorities that affect Scotland's marine area, to enable sustainable development and use of our marine area in a way which will protect and enhance the marine environment whilst promoting both existing and emerging industries.

The National Marine Plan promotes an ecosystem approach, putting the marine environment at the heart of the planning process to promote ecosystem health, resilience to human induced change and the ability to support sustainable development and use. It adopts the guiding principles of sustainable development, which also ensures that any individual policy, plan or activity is carried out within environmental limits. The SEA of the National Marine Plan is contained within a Sustainability Appraisal - which was required to satisfy UK considerations of the Plan and published at:

<https://www.gov.scot/Resource/0042/00428327.pdf>

Compared even to the scoping document for the SEA of mechanical kelp harvesting, the Sustainability Appraisal of the National Marine Plan is not the detailed Environmental Impact Assessment of the aquaculture industry that is called for.

- **Why has this industry as a whole never had a detailed Environmental Impact Assessment?**

The SEA Environmental Report, produced during the development of the National Marine Plan, recognised the potential effects of the relevant objectives and policies on biodiversity, while also recognising the mitigation afforded through related objectives and policies contained in the NMP around the need for sustainable development and as noted above, that any, plan or activity is carried out within environmental limits. The spatial framework for the future development consent of individual projects was out with the scope of the National Marine Plan and subsequently, the accompanying SEA.

As you point out, the Sustainability Appraisal of the NMP (effectively an SEA) did not consider the environmental impact of the 'future development' of aquaculture: ie its plans to double in capacity by 2030.

However the Government has published policies, plans and strategies for supporting this expansion. We quoted some of the objectives and marine planning policies from the NMP to you in July. For instance:

**GEN 1 General planning principle:** There is a presumption in favour of sustainable development and use of the marine environment when consistent with the policies and objectives of this Plan.

**4.5** This principle is relevant to all marine activities, but is especially relevant for the key growth sectors which Scotland specialises in. These include aquaculture and fisheries.

### **Objectives and marine planning policies:**

**Objective 2** - With due regard to the marine environment and carrying capacity, support for the industry's target to grow marine finfish (including farmed Atlantic salmon) production sustainably to 210,000 tonnes;

### **Marine planning policies:**

**AQUACULTURE 1:** Marine planners and decision makers should seek to identify appropriate locations for future aquaculture development and use, including the potential use of development planning briefs as appropriate. System carrying capacity (at the scale of a water body or loch system) should be a key consideration.

**AQUACULTURE 2:** Marine and terrestrial development plans should jointly identify areas which are potentially suitable and sensitive areas which are unlikely to be appropriate for such development, reflecting Scottish Planning Policy and any Scottish Government guidance on the issue. There is a continuing presumption against further marine finfish farm developments on the north and east coasts to safeguard migratory fish species.

**Regional policy:** Regional marine plans should consider the potential for sustainable growth of aquaculture in their region, taking into account the policies set out above, and working in close partnership with terrestrial planners, SEPA, Marine Scotland, SNH and other regulators

There are also these policies in the **Scottish National Planning Policy 2014:**

**'NPF Context:**

**249:** Planning can play a role in supporting the sectoral growth targets to grow marine finfish (including farmed Atlantic salmon) production sustainably to 210,000 tonnes

**Policy Principles:**

**250:** The planning system should:...play a supporting role in the sustainable growth of the finfish and shellfish sectors

**Key Documents:** National Marine Plan

**Development Planning:**

**251:** Local development plans should make positive provision for aquaculture developments...'

It is a legal requirement for public bodies to do an SEA of environmental impact of their policies, plans and strategies - before the expansion can proceed.

We ask you again:

- **Why has MS/SG not produced a Strategic Environmental Assessment of the aquaculture policies in Scotland's National Marine Plan, as it legally obliged to do under the 2005 EIA Act, in order to determine the biological carrying capacity of the 'aquaculture zone' for marine fish farms, the cumulative impact of all the fish farms currently existing, and under the proposed doubling of capacity, on coastal and marine species and habitats, including wild salmonids, and the socio-economic impact on local communities and other users of the marine environment, through their effects on existing sustainable jobs, including tourism and creel fishing (where fish farm pesticides can kill commercially valuable crustaceans)?**
- **Will MS/SG now commit to doing a SEA on the cumulative impact of aquaculture at the scale of the 'aquaculture zone', before allowing further expansion?**
- **If not, why not?**

A first review of the Plan (a legal requirement) was concluded earlier this year, the Plan was generally perceived as being a valuable document with comprehensive and relevant objectives and policies.

But it makes no mention of expansion! The pro-expansion policies are already in place.

- **Why were the pro-expansion policies not specifically reviewed this year?**

A further review of the Plan is required to be completed and published on or before 23 March 2021 for the offshore area and 23 March 2023 for inshore. Following publication, Scottish

Ministers are again required to consider whether replacement or amendment of the Plan is needed. Both scenarios would require prior re-assessment of the information evidence base, by producing a new Scotland's Marine Atlas followed by full public consultation and engagement with the wide range of marine interests.

By 2023 much of the planned expansion of this industry will have taken place, or been consented without a full assessment of its impact on the environment's ability to assimilate its effects.

This lack of knowledge was very clear from the RECC session on the 18<sup>th</sup> April, when the Head of Planning at the Highlands & Islands Council said: *'Industry has set a challenge to double production but no-one knows the capacity of Scottish waters to absorb that much'*

He added: *'it feels that we are 30 years too late. In 2018 we should have the answers. We are nowhere near.'*

When SNH was asked whether anyone knew the Scottish sea's carrying capacity for fish farms, Cathy Tilbrook replied, *'we are quite a long way from that'*.

- **Why is this assessment not being done now, rather than after the expansion has happened?**

Since 1 April 2007, all fish farm development in Scotland has been subject to the town and country planning system and is the responsibility of local authorities. (A fish farm also needs up to 4 further consents to operate, issued by Marine Scotland, SEPA and Crown Estate Scotland.)

Each new fish farm site is dealt with on its merits by Local Authorities through the planning process with consideration advised by statutory consultees (SEPA, MS LOT, MSS SNH) and any representations from other interested parties and the general public. In coming to a decision for a spatial planning consent for a fish farm, Local Authorities will consider a wide range of issues, which would include effects on coastal and marine species (including wild salmonids).

Local Development Plans of all the main aquaculture councils (Highland, Shetland, Orkney, Western Isles and Argyll and Bute) set the context for determining planning applications and should set out the issues that will be considered when assessing specific proposals.

But the LDPs follow Scottish National Planning Policy, set by the Government, which makes a presumption in favour of development, conditional on its being sustainable.

As mentioned earlier, most finfish developments will require to be screened as to whether an Environmental Impact Assessment is necessary.

I note your letter also raised questions regarding Environmental Impact Assessment (EIA), as you know EIA is a systematic means of assessing the likely significant environmental effects arising from a proposed development.

Finfish farms are identified in Schedule 2 to the 2017 EIA Regulations meaning projects involving intensive fish farming will require an EIA if they are determined likely to have a significant effect on the environment.

Most finfish developments will require to be screened, to establish whether an EIA is necessary and, if the Local Authority determines that one is required, the EIA Report must be submitted alongside the relevant planning application. Although shellfish farms fall out with the scope of the 2017 EIA Regulations, Local Authorities may still consider the potential environmental consequences of the proposal prior to granting planning permission.

We did not ask you about shellfish farms. We asked why so few EIAs are done for finfish farm expansions.

Argyll and Bute Council's supplementary written evidence to the ECCLR Committee shows that *'any applications requiring Environmental Impact Assessment are required by the EIA Regulations to address cumulative impacts in association with other developments, so an applicant would be expected to address wild fish interactions on a cumulative basis.'* ([http://www.parliament.scot/S5\\_Environment/Inquiries/003\\_Argyll\\_and\\_Bute\\_Supp.pdf](http://www.parliament.scot/S5_Environment/Inquiries/003_Argyll_and_Bute_Supp.pdf))

But this only applies if the Council determines that an EIA is needed. It often does not ask for the increasing cumulative impacts of multiple farms to be assessed and it rarely requests EIAs for the expansion of existing farms, even though these farms often grow to many times their original biomass in stages, unexamined by EIA.

The Argyll & Bute Planning Department told us last year: *'Generally the situation with fish farms is that we normally require EIA for new sites, but are less likely to do so for extensions or alterations to existing sites – unless they are in especially sensitive locations.'*

In its written submission to the ECCLRC the council added: *'In other cases there is no express requirement for the applicant to provide cumulative information...'*

Under the 2011 Regulations, an EIA must be undertaken where any proposed finfish aquaculture development is to be carried out in a sensitive area, is designed to hold a biomass of  $\geq 100$  tonnes, will extend  $\geq 0.1$  hectare surface area of marine waters, including any proposed structures or excavations, or when the installation resulting from the development is designed to produce more than 10 tonnes of dead fish weight per year. (*Salmon Farming in Scotland - SPICe 2018*)

Also *'The EIA thresholds apply to a proposed extension to an existing development, taking into account the current scale of the existing development, i.e. the thresholds apply to the entire development, as amended.'*

Please answer these questions, as promised:

- **Why do so many planning permission Screening and Scoping assessments conclude that no EIA is needed, even when successive permissions have been given without EIA for farm enlargement up to 3500t (eg at BDNC Loch Shuna)?**
- **Why do you not advise the LPAs to request an EIA every time these thresholds are exceeded?**

SARF has developed [templates and guidance](#) for fish farm EIA.

Where a farm is granted planning permission, the Local Authority may impose relevant conditions on the development to manage its likely impact on the environment. Further information on EIA can be found on the [Development Management pages](#).

We asked you very specific questions about this, which you have not answered. Please answer them now.

- **Under the IRSAC review, Marine Scotland agreed to review the EIA templates in the light of the new EIA Regulations. How will this review change the EIA trigger thresholds and the scale of your assessment of cumulative effect?**

We also pointed out that in order to complete the EIA process, the Planning Advisory Note PAN58 says: *'the actual impacts of a project and the mitigation measures have to be monitored and compared to those predicted. This is an essential part of the process. It will demonstrate that the time and money invested in the EIA by all the parties is being taken seriously and enable corrective action to be taken if required'*.

- **We asked you whether MS ever performed this essential part of the EIA process in relation to wild salmonids, by comparing the actual outcomes, after mitigation measures, with the predicted outcomes?**
- **When they do not match, has MS taken corrective action?**

Please answer these questions.

Planning processes are kept under constant review. The aquaculture consenting process has been reviewed on a regular basis. For example, following the Independent Review of Scottish Aquaculture Consenting we have a commitment to look at the potential for an alternative consenting regime. We have commissioned the Scottish Aquaculture Research Forum to look at the feasibility / modeling of single Marine Licence development consent (excluding CAR). That report will help inform our thoughts and approach going forward.

We anticipate concluding the work on the heat maps very soon and then to consider how they might be utilised as part of the wider discussions at the new Interactions Working Group on which HOPs will be represented.

- **What are HOPs?**

Our unanswered question is about how Marine Scotland advises Local Authorities and others on the sensitivity of some areas over others for impacts on wild salmonids. It is impossible to give adequate advice to Local Authorities without this information.

We repeat the question that you have not answered:

- **In the absence of that sensitivity information, how do you know that aquaculture does not risk significantly harming wild salmonid populations?**
- **You agree there is an impact, you do not know its extent or significance. Under these circumstances you are legally obliged to apply the precautionary principle, are you not?**
- 

You promised at the meeting to answer this question - please do so now.

We will be putting it to the Cab Sec for the Environment as well and raising your reluctance to answer it.

Regarding your queries on Strategic Environmental Assessment, as I have already indicated, the Scottish Government supports the sustainable growth of the aquaculture sector but not at the expense of the environment. It is important to recognise the distinction between an industry that aspires to grow and the role of Government and the regulators.

As we said above, SEAs are required for the plans policies and strategies of all public bodies. The National Marine Plan and the Scottish Planning Policy both promote aquaculture expansion. These policies and strategies in favour of expansion have not been subject to any SEA of the environmental or socioeconomic impacts of that expansion.

- **Why not? It is a legal obligation.**
- **Without doing an SEA, how do you know that the 'aquaculture zone' has the carrying capacity for the impacts of twice the current biomass of farmed fish?**

Turning to your questions regarding the precautionary principle, Marine Scotland regularly publishes papers on the relationship between farmed and wild salmon (<https://www.gov.scot/Topics/marine/Salmon-Trout-Coarse/Freshwater/Research/Aqint/sealice>).

John Armstrong (FFL/MS) agreed at the meeting that this webpage did not include the latest science and that it needs to be updated. This information does not judge the significance of the impact on the national population of wild salmonids.

In addition the Joint Ministerial statement in March 2017 not only reaffirmed the need to protect Scotland's environment on which the sector and many others, such as freshwater fisheries, depend, but set out how the Scottish Government and its agencies will work constructively with the sector and others with a direct interest to operate a policy and regulatory framework that enables sustainable growth while maintaining the right balance across our economic, environmental and social responsibilities.

The 'right balance' to achieve sustainable growth is surely not to compromise the environment at all. We applaud this policy but we are asking you for details about your actions to ensure that it is not being compromised.

That approach would be in the spirit of the precautionary principle and in assessing risk; and in the ability to make decisions when extensive scientific knowledge on the matter is not absolute.

- **We asked you where the precautionary principle is being applied in Scottish Government policy towards wild salmonids and other marine life on the west coast.**

Whether the 'spirit' of the precautionary principle might be served by enabling '*sustainable growth while maintaining the right balance across our economic, environmental and social responsibilities*' is not the point.

The precautionary principle is a clearly defined legal requirement. Regarding the sea, it is laid out in the OSPAR Convention, as you know because we quoted it to you previously:

*'Preventive measures are to be taken when there are reasonable grounds for concern that*

*human activities may bring about hazards to human health, harm living resources and marine ecosystems, damage amenities or interfere with other legitimate uses of the sea, even when there is no conclusive evidence of a causal relationship. A lack of full scientific evidence must not postpone action to protect the marine environment.'*

- **Why did you not answer our questions, as follows?**
- **Please confirm that MS/Scottish Government will act in accordance with the OSPAR Convention, so that even when there is no conclusive evidence of a causal relationship: 'A lack of full scientific evidence must not postpone action to protect the marine environment'.**
- **Please define exactly the circumstances under which Marine Scotland would apply the precautionary principle to wild salmonids in the marine environment, consistent with the Nature Conservation (Scotland) Act 2004**

Please answer these questions.

We also asked these very specific questions, which you did not answer:

- **Mitigation cannot reduce the risk to the conservation status of vulnerable wild populations to zero, so why is the precautionary principle not being applied?**
- **Why is the industry's expansion being encouraged and facilitated by Government policy, before new mitigation methods have been shown to reduce the risk posed by sea lice to zero?**

Regarding your queries on the presumption against fish farm development on the north and east coasts, this presumption is long-standing since before 2000, and was 'established' to protect migratory fish. Individual applications will be assessed on a case by case basis and subject to a planning decision by the relevant local authority. This is consistent with the position set in the National Marine Plan and in National Planning Framework 3. There has been no demand for marine finfish farms on the north and east coasts.

That was not our question.

- **We asked you to confirm whether it is correct that aquaculture poses a smaller risk to the wild salmonids populations on the west coast of Scotland than on the east and north coasts.**
- **We asked if it does not, whether MS will undertake to tell the LPAs.**

Please answer these questions

On the west coast and in the Western Isles, there are 4 Special Areas of Conservation (SAC) where wild salmon are afforded additional protections. Where a development is likely to have a significant effect on a SAC, an Appropriate Assessment is undertaken to address the potential impact on the conservation feature prior to any planning decision being taken by the planning authority.

We note 'additional protection'. They seem to be offered no protection at sea out with these SACs.

It is right that Atlantic salmon and sea trout are protected by SACs: they are Government Priority Marine Features, and protected as such by the NMP objective that no developments will be allowed to compromise their national status.

You have told us that aquaculture has an impact on wild salmon and sea trout, but that you do not know whether it is significant, ie whether it is compromising their national status.

- **Do you agree that in this situation the precautionary principle applies, and until you have evidence that the impact is insignificant, Atlantic salmon and sea trout should be protected wherever they occur, not just inside the 4 SACs,**

It is worth reminding ourselves that this is in addition to the EIA and the presumption is in part also based on the application of certain farming methods and would need careful consideration if applications were to come forward in different locations and employing different farming methodologies.

This does not make sense. Do you mean the presumption against aquaculture on the east and north coasts?

- **Please clarify.**

Noting your questions on MPAs, public authorities are required to apply general policy 9 of the National Marine Plan to all priority marine features wherever they are found in their decision making. In terms of fisheries management when the first phase of MPA measures were put in place a detail assessment of the extent to which non-designated priority marine features were protected was undertaken and published in the consultation report. An assessment of whether a similar approach is required for other priority marine features will be undertaken once the current work programme is completed.

We agree that a detailed assessment of the extent to which non-designated priority marine features are protected from aquaculture is of vital importance.

It is clear from the present review of protection of PMFs from mobile fishing gear that the locations of all the 11 PMFs most at risk are not known. These same 11 species are vulnerable to aquaculture pollution too, as are other sessile PMFS and some mobile species, such as flapper skate. The salmon and sea trout PMFs are at risk from sea lice, and cetaceans from ADDs.

- **If you do not know the locations of these PMFs how can you be sure that their national population status is secure?**
- **If there is a risk of significant harm, but you cannot quantify it, why do you not apply the precautionary principle?**
- **We asked, if MS does not know which areas are most sensitive and which are less so, how can it provide the sound advice needed by the LPAs and SEPA to do their job?**

As we pointed out in July, the EIA screening process is automatically triggered if a project is likely to be located within a 'sensitive area'.

Scottish Planning Policy says that Marine Scotland is obliged to explain its, *'locational policies when identifying areas potentially suitable for new development, and sensitive areas which are unlikely to be appropriate for such development'*.

The locational policies and maps included in the National Marine Plan only show MSS predictive modelling *'to estimate nutrient enhancement and benthic impact in sea lochs or similar water bodies supporting aquaculture'*, rather than areas that are sensitive for wild salmonids.

The National Marine Plan was published in 2014. Section 7.17 says:

*'Marine Scotland Science is in the final year of a three-year project to identify areas of opportunity and constraint for both finfish and shellfish sectors. This will consider constraints from competing uses of marine space as well as environmental sensitivities and capacity, and will represent a development of current Locational Guidelines.'*

It follows that the MSS Locational Guidelines are almost four years late.

- **How soon will Marine Scotland's locational policies (hot spot maps etc) be published with regard to impacts on wild salmonids, identifying the areas on the west coast that are suitable for new aquaculture developments, and the sensitive areas defined as unlikely to be appropriate for such developments?**
- **Have the Locational Guidelines been held up because the industry wants to expand before they are published?**
- **Without these maps, why do you not advise the LPAs to apply the precautionary principle, by waiting until this information is available?**

Argyll and Bute have already consented a 3500t farm within a few miles of salmonid breeding river (BDNC Loch Shuna).

- **We asked you to give an example of an offshore site that will have no impact on wild salmonids and other species, given SEPA's intention, under DZR, to license farms larger than 2500 tonnes, sited offshore, where sea lice will not be such a problem (according to Mr A'Hearn's statement to Mr Dey).**

Please answer these questions

I note you requested information on Locational Guidelines and so I have included the following references below. Please see the National Marine Plan (page 50) *Aquaculture 3: In relation to nutrient enhancement and benthic impacts, as set out under Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters, fish farm development is likely to be acceptable in Category 3 areas, subject to other criteria being satisfied. A degree of precaution should be applied to consideration of further fish farming development in Category 2 areas and there will be a presumption against further fish farm development in Category 1 areas.* <https://www.gov.scot/Resource/0047/00475466.pdf>

Link to *Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters* <https://www.gov.scot/Resource/0053/00534252.pdf>

Thank you for the link. These guidelines cover the capacity of various sea lochs to assimilate nutrient enhancement and organic deposition, as you know.

On your question on the definition of 'sea lochs and voes' used by Scottish Government agencies, Marine Scotland has information on water quality and turnover for inshore sea lochs and voes, but these sources of information are not material to the consideration of whether inshore areas should be considered as sea lochs and voes. Such areas were described as such and included in the "Locational Guidelines" for finfish aquaculture on the basis of topography. In other words areas of "restricted exchange" where water flow is limited by topography and as such are more likely to be susceptible to developing high concentrations of water soluble pollutants from fish farms.

Our question was specifically about why Loch Melfort/Loch Shuna/Seil is classed as a strait, rather than as a single water body with a limited rate of turnover of water. A strait is not subject to the same presumption against further development of fish farms as a sea loch or voe.

- **We asked Does Marine Scotland agree that water quality and turnover is the main/only issue in designating which areas should benefit from the presumption against further expansion, and should this presumption also apply to areas of 'restricted exchange', whether they are topographically sea lochs and voes or not?**

With regards to your questions about SNH's role in the Planning process, it would not be correct to state that SNH never comment on threats to wild salmonids at sea. In most cases, SNH responses to aquaculture EIA screening /scoping consultations refer to the PMF status of Atlantic salmon and sea trout and highlight the risk that impacts could occur as a result of sea lice and genetic introgression. However, as SNH has limited access to any detailed data on local wild fish populations or the effectiveness of historic sea lice management they would normally defer to MSS and the DSFB to provide advice on the local significance of wild fish populations and information required in support of the planning application / EIA.

We accept that SNH does sometimes give general advice to Local Authorities if proposed developments present a risk to wild salmonids, for instance:

'Carradale North – May 2018

*There is potential for interactions to occur with wild fish populations. No designated sites with a wild fish related feature are likely to be impacted by this proposal. However, Sea trout and Atlantic salmon are both Priority Marine Features (PMF). This proposal has potential to impact on both these species as a result of the risk posed through the release of sea lice in to the marine environment and as a result of genetic introgression with wild Atlantic salmon populations should farmed stock escape in to the wild. PMFs are considered a sensitive species or habitat as defined in section 4.3 of the template. As such the proposal could result in an impact which may have an effect on the receptors or issues identified in sections 4.1 to 4.4.*

*The final application should contain details of mitigation measures to minimise the risk of any significant impacts occurring upon wild fish species in the vicinity of the site. We note and support MHS commitment to the proposed monitoring strategy as detailed in the Kilbrannan Sound Environmental Management Plan (Annex 1). We have limited access to any detailed data on local wild fish populations or the effectiveness of historic sea lice management in the*

area. On this basis, we are happy to defer to the District Salmon Fisheries Board and Marine Scotland Science to provide further advice to the Planning Authority on the local significance of the proposal and any further information that is required in support of the final application.'

SNH acknowledges that sea lice have an impact on wild salmonids but, just like MSS, SNH gives no advice on the impact on the national status of these PMFs, even though its role is to safeguard that national status.

- **As SNH does not know the significance of that impact why does it not apply the precautionary principle, as it is obliged to, until the uncertainty is resolved, in order to protect the national status of wild salmon and sea trout?**

In relation to the second part of this question, it is not yet possible to comment on whether SNH's role may change in relation to the recent REC Inquiry.

Noting your queries about the role of SEPA (many of which you may care to follow up directly with colleagues there), currently, the biomass limit is set by SEPA, based upon the results obtained from running the AUTODEPOMOD system. This sets the maximum biomass permitted on an aquaculture site at any one time, based upon the environmental capacity to assimilate the waste from the farm in question – the 'award' of increased capacity would take the farm out with that permitted maximum allowable biomass..

You have not answered our question. We are also talking to Terry A'Hearn about this. We asked:

- **How can the industry's clear intention to site 3500t fish farms in high current, near-shore locations, be consistent with protecting wild salmonids from the impacts of aquaculture?**
- **Will MS confirm that SEPA's biodiversity duty requires it to protect wild salmonids from the consequences of the farmed fish biomass it consents?**
- **Will MS inform SEPA that siting large farms in high current, near-shore locations is inconsistent with Mr A'Hearn's statement above, and is likely to have significant cumulative, large-scale impacts on wild salmonids?**

Please answer these questions - they also bear on MS policy.

The reporting level of three and the action level of eight adult and ovigerous lice are not regarded as trigger levels, indeed, neither Scottish Government, nor the Code of Good Practice for Scottish Finfish Aquaculture now or in the past have referred to trigger levels. The change in sea lice policy was implemented to avoid situations such as you describe at Furnace Quarry – the previous metric of satisfactory measures was such that high lice loads did not necessarily translate into further action – recognition of this point in part led to the change in interpretation of the Aquaculture and Fisheries (Scotland) Act 2007.

We appreciate that this was changed for a good reason, but even when there is (a very high threshold) average of 8 female lice per fish, enforcement action does not necessarily follow (as you point out below) - and then it is often just a letter - and 8 is a much higher figures that

the CoGP sea lice targets which, even if met, MS confirms is no guarantee that sea lice larvae will not be released. All these levels were set to protect farmed fish health, not wild fish. With a sea lice burden averaging eight per fish, multiplied by 2500 or 3500 tonnes of fish, a farm would be pouring louse larvae into the sea, where wild salmonids live.

With regard to the other sites in Loch Fyne which you note, the operation of the policy is laid out in the flow diagram (further information is available here - <https://www.gov.scot/Resource/0052/00522428.pdf>) – please note that a single report of eight adult or ovigerous female sea lice does not necessarily lead immediately to the serving of an enforcement notice. (Please note that the reporting and intervention levels are currently under review as a wider review of the current sea lice policy.) That may explain the circumstance which is described.

It is clearly right that these levels are under review. We could learn from other countries, for instance the Faeroes, which has much tougher rules about breaches of sea lice level.

On your questions about the ability to resist a 1 in 50 year storm assessed for a particular site, in 2015, the Scottish Government published *A Technical Standard for Scottish Finfish Aquaculture* to determine the technical requirements for fish farm equipment in sites around Scotland (<https://www.gov.scot/Resource/0047/00479005.pdf>).

The standard says that information to determine site specific appropriateness of equipment should be obtained from a combination of site monitoring and desk based research and, where required, this should be further processed to determine wind, wave, and current conditions with a return period of 50 years that might be expected at the site. Equipment must be manufactured accordingly.

Thank you for this. We note that these standards do not become mandatory until 2020, yet Local Authorities and SEPA are already receiving applications for farms up to 4660t in exposed locations (eg Corpach Bay, Jura)

It is interesting but not reassuring to see that Marine Scotland is happy for estimates of the current speeds during a 1 in 50 year storm to be based on only three months current data. For many of the new 'remote exposed' fish farm locations the wave height and wind forcing on cages and feed barges will be even more significant than the current. The cages are likely to be heavily fouled in kelp areas during storms. The drag on these cages and the strain on their moorings would be phenomenal. The feed barges are often anchored inshore of the cages, making them vulnerable if the cage moorings fail. The statistical approach MS favours makes some allowance for these things but they are estimates. There are limits to what modelling can be trusted to do and the consequences of failure are dire. A precautionary approach is needed.

You may be interested to know that the Scottish Government is currently updating the technical standard to ensure it remains fit for purpose. The *Improved Containment Working Group* will meet again in November 2018 and we will ensure that climate change is taken into consideration.

We are pleased that these standards are being updated. Corpach Bay MFF proposal is currently in scoping with Argyll and Bute Council, with a maximum biomass 4660t rainbow trout. No one who knows the west coast of Jura would anchor anything only 100m from its west coast in any winter storm and expect it to remain undamaged, or expect that the fish inside its

14 huge cages would be unharmed. People who have lived on Jura all their lives say a fish farm at Corpach Bay would not have a chance of surviving a 1 in 50 year storm, yet the applicants say that all would be fine.

The precautionary principle needs to be applied to the likelihood of up to 4660 tonnes of fish escaping from farms in these exposed locations, given the uncertainties of predicting extreme conditions and equipment failures.

I note your letter raised questions on the 'polluter pays' principle, the aquaculture industry recognises that marine conditions are changing and bringing new challenges to fish health and environmental management.

The sector spends around £10M per year on research and over £50M on new equipment and techniques to understand and manage health and environmental problems.

Anne Anderson, Head of Compliance and Beyond at SEPA, told us (02/08/2018): *'There is no other single sector making discharges to the water environment which have the same total cumulative extent of impacts as fish farms...'*

- **Please can you direct us to any of this research that has reduced the organic pollution being dumped into the sea through open nets, or that has much reduced the dumping of pesticides?**

'Polluter pays' is intended to ensure that the polluter cleans up their pollution at source. This is not possible for organic waste from fish farms using open nets. At present all its chemical pollution is also dumped untreated into the sea.

The sector match-funds the Scottish Government's £11 million investment to establish the Scottish Aquaculture Innovation Centre at University of Stirling (which is match funded with the aquaculture industry), to help the sector enhance its environmental performance and growth potential through the application of high quality research, with sea lice a priority, with projects on cultivation and use of cleaner fish as a biological solution to sea lice management.

We asked about polluter pays'. We are glad that the Government and industry are taking sea lice seriously, after all they cost the industry many millions each year. We understood however, that the Government (SEPA) does not regard sea lice as pollution.

The Scottish Government recently ran a consultation, which may be of interest to you, to inform the development of an Environment Strategy for Scotland.

<https://consult.gov.scot/environment-forestry/environment-strategy/> (consultation closed 24 August 2018. Updates will be posted on the consultation hub webpage).

This takes forward the commitment in the 2017/18 Programme for Government to develop a strategic approach on environmental policy to protect and enhance our environment, safeguard natural capital and continue Scotland's leading role in addressing environmental challenges.

We are glad to see the Discussion Paper *'Developing an Environment Strategy for Scotland'*. Thank you. It is interesting that it does not mention aquaculture. If we had known about the consultation we would certainly have responded.

We are also glad to note the Government's commitment in the document that *'The Strategy will remain guided by the four EU principles:*

- *Polluter pays*
- *Preventative action*
- *Tackling pollution at source*
- *Precautionary principle.'*

The Environment Strategy will help to coordinate action and guide future prioritisation across Scotland's existing environment policies, addressing biodiversity, land use, water, air, seas, climate change, the circular economy and people's connection with nature.

With regards to your queries around Biodiversity, Marine Scotland is a directorate of the Scottish Government. We have made a significant contribution to the 2015-2017 Scottish Government Biodiversity Duty report which will be published in due course. Scottish Natural Heritage has a biodiversity delivery agreement with the Scottish Government.

I note your letter raises concerns about the risks of unchecked expansion and would like to reassure you that the structure of our planning regime, as outlined previously, is such that the risk of unchecked expansion is appropriately managed.

We see no signs of this and you cannot know the risks of doubling capacity without doing a comprehensive EIA of the whole sector.

The BDNC Loch Shuna farm expansion to 3500 tonnes was granted by Argyll and Bute Council last month, against the advice of the Local Salmon Fishery Board that it would impact wild salmonids, and with 'Borderline' seabed monitoring results in its latest (2018) survey, at its present biomass.

A number of other farms have recently applied to the LPAs and SEPA to expand to 3500 tonnes. Kames Fish Farming's Corpach Bay, Jura, proposal in scoping with A&BC is for 4660 tonnes of rainbow trout at maximum production. Four farms in Loch Fyne have applied to *'delete their biomass limits'*. A proposed new farm at Kilbrannan Sound, if granted along with expansions to 3500t at both Caradale N and S (which are effectively one farm) will double biomass in this small area to around 10,000 tonnes.

It is already apparent that there are a number of challenges for the sector as it looks to grow sustainably towards 2030 and beyond. Those challenges have driven the development of Scotland's 10 year Farmed Fish Health Framework and the establishment of the Interactions Workstream, with an initial focus on the relationship between farmed and wild salmon. That latter process will bring together key stakeholders to:

- Look at the conclusions and any emerging recommendations from the Parliamentary Inquiries into farmed salmon in Scotland
- Evaluate current Scottish Government policy and advice governing wild/farmed salmon sea lice interactions, and
- review the existing and planned projects around the interactions
- Make recommendations, including a delivery plan of agreed actions and timescales, for a future interactions approach.

We welcome this initiative.

- **Which stakeholders are invited to take part?**

I recall when we met you indicated that you didn't meet regularly with either of the two key representative bodies, the Scottish Salmon Producers Organisation and Fisheries Management Scotland, and I would continue to encourage engagement with them to more fully understand the work they are progressing, much of which will be pertinent to your concerns and to the questions you have raised.

We are in regular touch with the Argyll District Salmon Fisheries Board and Trust, which are part of Fisheries Management Scotland.

We would welcome contact with the SSPO and Fisheries Management Scotland.

There has been no public discussion of whether Scotland's communities want aquaculture to expand. Parliament would be one forum for this debate to happen.

We proposed to Argyll and Bute Council that they and we jointly organise a workshop for councilors on the Planning Committee and members of the public, including fish farmers, on the significance of the threat of aquaculture to wild salmonids, to be chaired by someone neutral who has a science background, and inviting Fisheries Management Scotland and Marine Scotland Science to answer our questions.

The Head of Planning at A&BC turned us down.

Noting your queries about the *Aquaculture Growth to 2030, A Strategic Plan for Farming Scotland's Seas (2016)*, The Cabinet Secretary for the Environment was not consulted. This is an industry owned document. It should be noted that the Environment Assessment (Scotland) Act 2005 does not apply to private industry proposals; therefore the sector's vision for the aquaculture zone falls out with the scope of this legislation.

It is simply not true that aquaculture growth is not within the scope of the EIA Act. The National Marine Plan and Scottish Planning Policies both explicitly support aquaculture expansion, so an SEA should be preformed to assess the environmental and socio-economic impact of these policies.

We asked you specifically 'Has Marine Scotland conducted a Strategic Environmental Assessment of the cumulative impacts of salmon farming on wild salmonids on the west coast, and on other marine organisms and habitats, as required under the Environmental Assessment (Scotland) Act 2005? This SEA should of course include the impact of industry's plans to double its capacity by 2030.'

You said above that the '*spatial framework for the future development consent of individual projects was out with the scope of the National Marine Plan and subsequently, the accompanying SEA*'.

In other words there has been no SEA of the environmental impacts of the Government's plans, policies and strategies in support of the expansion of the industry, (not just of its individual projects).

- **Why is a SEA not required of the impacts of this expansion?**

If an equivalent assessment has been done we asked you to:

- **Please provide details of the consultations that you are obliged to have undertaken with public bodies, the private owners of salmonid fisheries, recreational anglers and those likely to be affected by aquaculture, to determine this cumulative impact across the whole area.**
- **And to please provide the Environmental Report on all these impacts and plans for monitoring changes in the impacts over time, to ensure that the biological carrying capacity of the west coast is not compromised.**

The Scottish Government supports the sustainable growth of Aquaculture, we also recognise the need to protect Scotland's environment, on which the sector and many others depend.

In May 2018 we delivered a Programme for Government Commitment for 2017-2018, to deliver a strategic fish health framework (<https://www.gov.scot/Publications/2018/05/8141>) to tackle emerging disease and biological challenges and to support the sustainability of the Aquaculture sector's 2030 growth targets.

Regarding the questions your letter raises on sea lice, the SSPO are publishing weekly sea lice counts by month and at the individual fish farm level on their website. Sea lice information is published three months in arrears and can be viewed here; <http://scottishsalmon.co.uk/farming/> [Search for "Lice"]

We asked you about this in July. At the ECCLRC session in March the SSPO promised to publish near real-time, farm specific sea lice data. The ECCLRC reported:

*'For that data to be most useful the Committee considers there should be no unreasonable delay in its publication. The industry should be required to publish it in real time. ... The industry should also be required to publish consistent and comparable weekly historic data sets on salmon mortality on a farm by farm basis from the time records are available ... There should be no delay in the industry publishing this information so this should initially be published on a voluntary basis by the end of April 2018.'*

- **As this has not happened, how is MS holding the SSPO to its promise?**

Why does the SSPO publish these figures three months in arrears? It does not take three months to check the figures. This makes us suspect that, despite the new louse control techniques, the sea lice problem is so bad that the industry wants to avoid drawing attention to it. Loch Roag would seem to confirm that.

- **When will SSPO start to honour this promise, in order to build trust?**

Sea lice are regulated by three key pieces of legislation in Scotland. It is currently not a legal requirement to publish sea lice information. You will be aware that the work of the REC Committee was informed by the conclusions of the ECCLR. We look forward to receiving the final conclusions of the REC inquiry and responding in due course.

The legal requirement is immaterial if the industry has promised timely reporting at a farm level, but not delivered that.

I note the question on a temporary moratorium, as I outlined at the beginning of this response, we are currently awaiting the REC report and will give careful consideration to its

recommendations. We are not persuaded that a moratorium is necessary at this juncture.

- **If SG/MS will not support a temporary moratorium on the expansion of aquaculture using open nets, in inshore areas, until the risks above can be shown to be insignificant, we asked you please explain why not.**

Please do so now.

Events such as this summer's sea lice infestation in Loch Roag make it clear that the industry cannot control sea lice numbers.

Many farms are breaching their CAR licence terms (Anne Anderson tells us that of 337 benthic surveys in the last three years, 97 were unsatisfactory. SEPA's 2015 figures show 21% of farms not-complying in some way (*Salmon Farming in Scotland* SPICe 2018 report quoting from: <https://www.sepaview.com/2017/06/a-framework-for-a-sustainable-future-for-finish-aquaculture-in-scotland/>).

These standards are already set very low, allowing areas around each of the largest farms the size of 70 football pitches to be heavily compromised, with most seabed life killed.

The risk of fish farm waste/nutrients triggering Harmful Algal Blooms rises with rising sea temperature and the doubling of farm capacity.

There is uncertainty about the impacts of fish farm pesticides on PMFs and commercially important crustaceans.

A moratorium on expansion is necessary until these issues have been researched and addressed.

On your query regarding the US Marine Mammal Protection Act (MMPA), we have been very clear in a number of previous enquiries, including Parliamentary Questions, that Marine Scotland remains in regular dialogue with Defra, the EU, NOAA and the SSPO about the order and remain committed to ensure that we can continue to export product to the US.

We are not persuaded that you can continue to export seafood to the US unless you stop issuing licences for shooting seals. You should refuse to issue any seal shooting licenses after January 2020, unless a farm has double-skinned anti-predator nets, which is the best available practice for avoiding predation.

Farms not using best practice are not complying with their license condition to only shoot seals as a last resort.

The Scottish Government ensures high standards of protection for seals and cetaceans in Scotland through existing legislation. The seal numbers granted under licence by Scottish Ministers equate to less than one per cent of Scotland's seal population and represents a significant decline in the number of seals shot at fish farms since the introduction of the new licensing system in 2011.

Noting the queries your letter raises about ADDs, following the submission of the SNH advice in July 2017, Marine Scotland has been in discussions with SNH about the potential impact of ADDs on the environment and cetaceans, and will continue to do so in moving forward.

We take our duty to protect Scotland's iconic marine species extremely seriously, and are carefully considering all the available evidence.

We understand that you are discussing this with SNH but you have been doing that for years.

- **We asked you specifically to recognise that the scientific evidence we provided shows that ADDs disturb cetaceans.**
- **We asked you at the meeting and in writing on 27<sup>th</sup> July to confirm that MS understands that the disturbance of any cetacean by ADDs is illegal and that MS will now enforce this law wherever ADDs are used in the presence of cetaceans.**

Could you please answer this now?

This is independent of any discussions you are having with SNH on exactly which cetaceans are being disturbed or whether the area is important or not.

All individual cetaceans are protected from disturbance by Scottish law.

These inadequate answers comes on top of MS's failure to answer all but two of the questions on ADDs posed by D and J Ainsley under FOI in January 2018.

Fish farms use ADDs as part of their anti-predator measures, which may in some cases, have the potential to disturb cetaceans. However, the evidence of impacts on cetaceans from ADDs is dependent on many variables including characteristics and operation of the device, site topography, animal behaviour and the importance of the area where the device is being used.

Furthermore, the recent ECCLR report stated that “better reporting of ADD usage, and improved understanding of ADD function, impact and efficacy, could help to assess and manage the trade-off between seal deterrence and acoustic pollution with its potential effects on cetaceans. That is why Marine Scotland is still working closely with SNH to carefully consider all the available evidence in relation to the potential impact of ADDs on cetaceans in order to deliver a framework which balances growing aquaculture sustainably

It is disingenuous to quote from 'the recent ECCLR report' as if the quote is from the ECCLR committee, whereas the quote is actually from the SRSL's (one of the consultees) report to the committee.

You do not quote the view of the ECCLR committee itself, which said (248);

*'The committee has significant concern about the use and operation of ADDs and their cumulative impact and considers all fish farms in Scotland should be required via legislative or any other appropriate means, to follow the position of the Aquaculture Stewardship Council in relation to ADDs. This ensures fish farms cannot use ADDs'*

*& (249) 'The committee considers the industry should manage the risk of predation through extension of the use of double skinned predator nets'.*

The necessary powers to investigate any offences fall to the Police. It would therefore be for the Police to report the matter to the Procurator Fiscal. Neither the Police nor Marine Scotland can prosecute, such a decision is a matter for the Fiscal.

- **If Marine Scotland knows the law is being broken shouldn't it report the matter to the police and the Procurator Fiscal?**

Under Regulation 39 (2) of the Conservation (Natural Habitats etc.) Regulations 1994 (as amended) it is an offence to “*deliberately or recklessly* disturb any dolphin, porpoise or whale (cetacean).” More information on the view of the Scottish Government in relation to Regulation 39 (2) can be found in the published guidance on “The Protection of Marine European Protected Species from injury and disturbance in Scottish inshore waters”

Marine Scotland has published guidance that applies to EPS licences issued under regulation 44(2) (e) to (g) of the Conservation (Natural Habitats etc.) Regulations 1994 (as amended). The guidance contains the Scottish Government’s view in relation to Regulation 39.

Each EPS licence application is considered on an individual basis in line with the appropriate legislation so it is not possible for Marine Scotland to provide a generic response on the three tests. There are also no current plans to change EPS procedure before or after Brexit.

The Scottish Government is committed to a framework which balances growing aquaculture sustainably with protecting biodiversity and the environment. That is why we are working closely with SNH to fully consider all available evidence in relation to the potential impacts of ADDs on cetaceans.

ADDs can be used by the aquaculture industry as a deterrent for seals and the installation and use of these is considered by local authorities as part of the planning process with protecting biodiversity and the environment.

You have not answered the key question:

Unlicensed ADDs can surely not be used by the aquaculture industry if it is illegal to do so. SNH has advised Ministers that ADDs disturb cetaceans. It is illegal to disturb even one cetacean in Scotland. You cannot grow aquaculture sustainably if doing so breaks the law.

- **Why do you continue to sanction the illegal use of ADDs by fish farms?**

Please answer the following questions, which we also asked you in July:

- **Do you agree that Regulation 39(2) provides protection from disturbance at all times, regardless of the circumstances of the mammal at the time of the disturbance in question?**
- **Do you agree that it is clear from the text of Habitats Regulation 39 that the protection applies at an individual level?**
- **Given that there is scientific evidence demonstrating that ADDs disturb and can injure cetaceans, why has MS not enforced Habitats Regulation 44, by requiring farms that can disturb cetaceans with ADDs to hold EPS licenses?**

- **Given that technical methods are used successfully elsewhere in the world to separate seals and salmon, rendering unnecessary the killing of seals or use of ADDs; why does MS not enforce the condition printed on the seal shooting licence, that seals can only be shot as a 'last resort'<sup>1</sup>?**

Argyll and Bute Planners inform us that their consent allows the installation of ADD(s), but the use of those ADDs causing disturbance / injury to cetaceans should be consented by Marine Scotland by an EPS licence.

- **Does Marine Scotland agree that this advice from the Planners is correct? If not please explain your answer.**
- **We submit that a typical open cage salmon farm could not pass any of the 3 tests. If Marine Scotland disagrees please explain your reasons.**
- **Should any attempt before or after Brexit be made to change the three tests needed for an EPS licence, will MS undertake to inform the minister that this will be a breach of European Habitats Directive Article 16?**

Seal licensing in Scotland allows fish farms to undertake limited local seal management in order to prevent or to protect the health and welfare of farmed fish. A licence will only be granted if there is no satisfactory alternative and that the removal authorised by the licence will not be detrimental to the maintenance of the seal population at a favourable conservation status in their natural range. In this context, Marine Scotland seeks to achieve an appropriate balance between seal conservation and sustainable fish farming. Even where a licence has been granted, shooting should always be undertaken as a last resort.

Have you no awareness of the enormous harm that seal shooting is doing to the industry's reputation here and overseas? The RSPCA is coming under great pressure from its members to no longer sanction seal shooting by the fish farms it certifies.

Please answer these specific questions we asked you in July:

- **What specific actions are Marine Scotland taking to encourage the industry to use double skinned predator nets?**

The US Marine Mammal Protection Act does not come into force until 2022, however countries are required to demonstrate compliance, or working toward compliance by 2019.

- **What specific actions are Marine Scotland taking to ensure that Scotland does not face an export ban due to non-compliance with the Act?**

Marine Scotland takes its duty to protect Scotland's iconic marine species extremely seriously, and is committed to a framework which balances growing aquaculture sustainably with protecting biodiversity and the environment. That is why we are still working closely with SNH to fully consider all the available evidence in relation to the potential impact of ADDs on cetaceans.

On the points your letter raises about community involvement, community involvement is

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<sup>1</sup> MS Seal Shooting Licence Application form.

welcomed by the Scottish Government. Community involvement and indeed citizen science are both contributors to local decision making.

- **Why then do the Local Authorities never give the same weight to the opinions of local communities who do not want fish farms as it does to the developers' and Marine Scotland's opinions?**

The Scottish Government supports the industry's vision for sustainable growth in the aquaculture sector by 2030. We want to ensure that growth is sustainable and it is therefore imperative that the sector's vision aligns with our policies especially on the environment.

Ensuring alignment entails regular dialogue with the Scottish aquaculture sector and this is achieved in part through the Aquaculture Industry leadership Group (AILG). This industry-led group is leading the sector's vision to double production and employment by 2030. Its members and the Scottish Government have a moral and indeed legal obligation to ensure that growth of the sector is sustainable.

The Scottish Government is working towards a cleaner, greener and healthier Scotland. For this to be achieved it will involve including environmental, community and conservation groups when considering any changes to the regulatory framework designed to protect the environment.

Please then, and from the Government's perspective, answer these questions, as promised to do in July. They concern the AILG's aims to align industry and government:

In the light of the *Strategic Plan for Aquaculture Growth 2030*, which calls for: '*The formation of an Industry Leadership Group (ILG) to drive sector growth and ensure alignment between industry and government.*'

- **What does 'alignment between industry and government' entail?**
- **What role will environmental, community and conservation groups have in ensuring the environment is not neglected, in favour of local development plans and industry growth?**

*The Strategic Plan for Aquaculture Growth 2030* calls for: '*An examination of the role of Marine Scotland as both regulator and policy advocate for development.* The date set for this recommendation is 'by July 2017'.

- **Does this mean that the remit of Marine Scotland has already changed? If so, what changes have been made? Has the role of Marine Scotland as an independent regulator been compromised?**
- **How will Marine Scotland reconcile the independent nature of its regulatory function with the interests of the aquaculture sector?**
- **Does the Scottish Government intend to remove aquaculture development from the mainstream planning system?**

*The Strategic Plan for Aquaculture Growth 2030* calls for: '*The introduction of Innovation Sites to allow controlled trials and development of innovative equipment, technologies, disease*

*control measures, and regulation.'*

- **What are the criteria for choosing these sites and, if they have already been identified, where are they?**
- **Will you lay out in detail what activities will take place at these sites and give assurances that they will not harm the environment?**
- **Will these sites be subject to standard Local Authority planning applications and require CAR licences?**
- **Which regulatory body or bodies will be responsible for their monitoring and oversight?**
- **If the aquaculture sector is to double its growth by 2030, will regulatory bodies such as SEPA, SNH and MSS, as well as planning and local authorities, see a commensurate growth in their resources to monitor and regulate the industry?**
- **Will the Scottish Government involve environmental, community and conservation groups when considering any changes to the regulatory framework?**
- **Why doesn't Scotland collect similarly substantial aquaculture licence fees, comparable to Norway's, and use them to reduce the environmental impact of this polluting industry?**
- **Why doesn't Scotland penalise poor environmental behaviour and adopt a Norwegian-style reward system for responsible behaviour?**