

# **Response from the saveiseilsound Campaign Group to the Scottish Government Consultation on the proposed Aquaculture and Fisheries Bill**

## **About us**

The saveiseilsound Campaign Group was formed in early 2011 in response to an application by Lakeland Marine Farm Limited for planning consent to expand its operations in the waters of Seil, Shuna and Melfort by massively increasing the permitted biomass at two of its sites. Local residents and business operators alike were horrified at the scale and location of this and started to register objections, which to date number about eight hundred. A nucleus of the objectors decided to form a campaign group to focus on this issue. Like virtually all campaign groups in Scotland we are unincorporated and do not have a formal constitution. Our members include not only concerned lay people but also a number with experience and qualifications in natural science and marine biology. We have established sources of advice from supportive experts in various special areas. We are entirely funded from our members' private resources.

Further information can be obtained via our website,  
[www.saveiseilsound.org.uk](http://www.saveiseilsound.org.uk)

## **Shortcomings of the current consultation**

While we welcome this consultation as evidence that Scottish Government (SG) has woken up to the dangers following various disasters in places like Chile and elsewhere we are concerned that the scope thereof is limited. To quote from the recent DEFRA National Ecosystems Assessment,

“A common paradigm amongst scientists discussing marine management has been that we do not manage marine ecosystems; rather we manage human activities within them. However, fundamentally we rarely understand the biodiversity or ecosystem implications of management decisions, let alone the impacts on ecosystems services. It is arguable whether, with the exception of fisheries, we manage any activity in the marine environment with respect to the provision of ecosystem services and their benefits. In the case of fisheries, it is only very recently that our management strategies are showing even slight signs of success. The biodiversity and habitats of 80–90% of the UK's marine seabed remains unmapped and is known only via interpolation from the sites that have been surveyed and sampled: we do not know in detail what the characteristics of the seabed are in terms of sediment or rock habitat, what organisms live there, or how they change temporally. We need a much more comprehensive evidence base to properly quantify ecosystem services in a meaningful way that supports policy and new marine legislation.”

The impacts of fish farming on wild fish populations are now well documented. It is disappointing to see the consultation paper stating

“There is already in place a Scottish ‘zonal’ policy, with the majority of aquaculture production based on the west coast and the islands and a presumption against marine finfish farm developments on the north and east coasts, *as a precautionary measure to safeguard migratory fish species. (our italics)*”

Are we seriously expected to believe that only East coast salmon migrate and that West coast ones prefer to stay at home? This form of words has been repeated over the years in policy statements and other documents issued by SG and its predecessors like a mantra. Surely the massive, proven decline in wild salmon in the western “aquaculture coast” is connected to the concentration of fish farms there and not to some curious difference in fish behaviour?<sup>1</sup>

It is time for SG to accept what the industry already knows, that fish farming damages the environment. The challenge for those who wish to secure a future for the industry in the longer term is to minimise that damage. The present consultation represents a start, but a number of important issues are missing. These include:-

- **Pollution** The cumulative effects of the dumping of huge amounts of debris, including heavy metals and pesticides, year on year, should be assessed. There is an opportunity to assess the impact of the fish farming industry on the environment of the areas where fish farms are already sited, which should not be missed. Many of those farms are located in areas which would not even be scoped today, being located in enclosed stretches of coastal water with massive existing pollution from local populations and agriculture and often only limited tidal scouring. This is precisely the case in our area of Seil/Shuna/Melfort, where members of our group are convinced that the local ecosystems are struggling with the burden of pollution. We were shocked to discover that SEPA deal with applications on a case by case basis and have never attempted a comprehensive assessment.
- **Seal Shooting** We are concerned that the figures for the shooting of seals recently reported by SG do not tell the whole story, in the absence independent monitoring. We believe that it is perfectly possible for seals to be kept out of fish cages by the use of a second anti-predator net. We are utterly baffled by claims constantly made by fish farming companies that it is impractical to do this. There appear to be no reasons other than cost, it being much cheaper for operators to shoot predators such as seals. It is instructive that one of the largest operators in the World, Marine Harvest, uses anti-predator nets in

---

<sup>1</sup> For a fuller discussion see the paper by Roger W Booth, **Comparison of the decline of Scottish East and West Coast Salmon Fisheries**

Canada, as otherwise the large American market would be closed to it.<sup>2</sup>

- **Acoustic Deterrent Devices** There are now numerous devices on the market, working in different ways to scare off predators. We are concerned at the impact these have on marine mammals outside the target group of seals. We commend the recent thesis by Cormac Booth of St Andrews University, funded in part by SNH<sup>3</sup>.
- **Pesticides and Crustaceans** There is increasing evidence of damage to lobsters, prawns and other crustaceans from the use of pesticides on fish farms. It seems that chemicals that are prohibited in other countries for this reason are being licensed by SEPA for use here, presumably under industry pressure. Independent research into this problem is called for.

We now present our answers to the questions relevant to our campaign, being numbers 1 to 12 inclusive, 18 to 22 inclusive, 37 and 46.

## CONSULTATION QUESTIONS

### SECTION 1 - THE SUSTAINABLE DEVELOPMENT OF AQUACULTURE

#### Farm Management Agreements (FMAs)

1. **Do you agree that we should, subject to appropriate safeguards, make it a legal requirement for marine finfish operators to participate in an appropriate Farm Management Agreement (FMA), with sanctions for failure to do so, or to adhere to the terms of the agreement? (Page 9)**

**YES** But SG must go much further. We understand Farm Management Agreements (FMAs) to be among the fish farm operators in an area only, i.e. they do not involve other interests such as the fisheries boards and local communities. This means that in an area where there are, for example, only two operators they can easily sign up to what looks fine on paper and perhaps continue as before, without outside monitoring

Far more important for the protection of the local environment in relation to matters such as control of sealice are Area Management Agreements (AMAs) as they do involve some outside interests.

Our experience in Seil/Shuna/Melfort is instructive. It shows that an agreement can fall when a party withdraws. Wild fish interests withdrew from the former AMA for reasons which are not being disclosed by the former members, but are believed to have been an outright refusal by one of the two fish farm operators to comply with a provision. The lack

---

<sup>2</sup> For a new release see here: [http://www.upi.com/Top\\_News/World-News/2011/10/19/Salmon-farm-to-spare-predators-with-nets/UPI-26321319037106/](http://www.upi.com/Top_News/World-News/2011/10/19/Salmon-farm-to-spare-predators-with-nets/UPI-26321319037106/)

<sup>3</sup> VARIATION IN HABITAT PREFERENCE AND DISTRIBUTION OF HARBOUR PORPOISES WEST OF SCOTLAND by Cormac G. Booth - A Thesis Submitted for the Degree of PhD at the University of St. Andrews

of information is a problem for groups like ours and should be for government too.

The two local farm operators have now entered an FMA and are presumably able to continue as before without any external scrutiny.

The problem is exacerbated in remote rural areas where operators may share facilities such as vessels or staff, especially where many of the latter are part-time.

### **Appropriate Scale Management Areas (MAs)**

- 2. Do you agree that operators should have primary responsibility for determining the boundaries (and other management arrangements) for Management Areas, but with Scottish Ministers having a fallback power to specify alternative areas? (Page 9)**

**NO** Can SG trust the operators? They should be subject to an obligation to pass on all information to SG, with whom the final decision should rest. Decisions should only be made after consultation with all interested bodies, including conservation ones and local authorities.

### **Management Measures and Dispute Resolution**

- 3. Do you agree that an independent arbitration process should be put in place (with statutory underpinning) to resolve disputes related to Farm Management Agreements? (Page 10)**

**YES**

- 4. How do you think such a system might best be developed? (Page 10)**

Absolutely not through the SSPO, which is basically a representative and lobbying organisation for the fish farming industry. SG should maintain its own panel of experts suitable and willing to be appointed, drawn from persons of integrity with relevant experience of the issues.

### **Unused Consents**

- 5. Do you agree we ought to review the question of unused consents? (Page 11)**

**YES** There are a number of reasons why.

- (a)** It is important that all data collected in respect of any particular area should be as accurate as possible. This is much more difficult if some consents are not being used.
- (b)** A bad development is the tendency for sites and consents to be viewed as items of commercial property, largely as a result of

the changes of Crown Estate practice regarding the length of leases, giving operators the possibility of making legal challenges to attempts to close down sites on environmental grounds.

**6. What do you consider are suitable options to promote use or relinquishment of unused consents? (Page 11)**

A three year rule seems reasonable, also if a site has demonstrably been abandoned or become derelict.

**7. Do you agree that Scottish Ministers should be given powers, ultimately, to revoke, or to require or request others to revoke, consents? (Page 12)**

**YES**

**8. Should any such power relate to all or to particular consents (and if the latter, which)? (Page 12)**

Apart from cases covered by Question 6 there could be situations where developments of scientific knowledge mean that entire areas with existing farms are shown to be unsuitable for environmental reasons. There is a need to a power to revoke consents in such an area on cause shown.

**Collection and Publication of Sea-lice Data**

**9. What in your view is the most appropriate approach to be taken to the collection and publication of sea-lice data? (Page 13)**

We support the Norwegian approach. The government there has learned the hard way, after their industry nearly destroyed itself as a result of failures in self-regulation.

**Surveillance, Biosecurity, Mortality and Disease Data**

**10. Do you agree that aquaculture businesses ought to be required to provide additional information on fish mortality, movements, disease, treatment and production as set out above? (Page 16)**

**YES**

**11. What are your views on the timing and frequency of submission of such data? (Page 16)**

The ideal is the submission of real-time data. We do not see that it should be significantly more difficult or expensive to process data this way.

**Biomass Control**

**12. Do you agree that Scottish Ministers should have powers to require SEPA to reduce a biomass consent where it appears to them**

necessary and appropriate – for example to address concerns about fish health and welfare? (Page 16)

**YES**

### **Commercially Damaging Species**

**18. Do you agree that we should provide for additional powers for Scottish Ministers in relation to commercially damaging native species? (Page 19)**

**NO** At least not without further scientific research and a proper debate in the public arena. There appears to be doubt in scientific circles at present about whether or not the commercially valueless *Mytilus Trossulus* (also known as the bay mussel) whose presence on mussel lines has triggered this question is a recent foreign invader or a survivor from the last Ice Age, colonies with a unique genetic identifier having been found at Loch Etive. In principle allowing the control of any native species to further commercial production opens up wider issues of how far we should go in altering the natural environment for the sake of industry.

## **SECTION 2 - PROTECTION OF SHELLFISH GROWING WATERS**

**19. Do you agree with the introduction of provisions to protect shellfish growing waters and support the sustainable growth of the shellfish industry? (Page 21)**

**YES**

## **SECTION 3 - FISH FARMING AND WILD SALMONID INTERACTIONS**

### **Sea-lice**

**20. Do you agree that there is a case for giving Scottish Ministers powers to determine a lower threshold above which remedial action needs to be taken, in appropriate circumstances and potentially as part of a wider suite of protection measures? (Page 23)**

**YES**

### **Containment and Escapes**

**21. Do you agree we should provide powers for Scottish Ministers to require all finfish farms operating in Scotland to use equipment that conforms to a Scottish Technical Standard? (The technical content of the standard would be defined separately.) (Page 25)**

**YES**

## Tracing Escapes

**22. Do you agree that there should be additional powers for Scottish Ministers to take or require samples of fish from fish farms, for tracing purposes? (Page 26)**

**YES**

## **SECTION 5 - MODERNISING ENFORCEMENT PROVISIONS**

### Strict Liability for Certain Aquaculture Offences

**37. Do you agree that strict liability criteria should apply – where they capable of being applied – for offences related to Marine Licensing requirements insofar as the apply to aquaculture operations and, potentially, in other situations? (Page 37)**

**YES**

## **SECTION 6 - PAYING FOR PROGRESS**

**46. Do you agree that there should be enabling provisions for Scottish Ministers to provide, through secondary legislation, for both direct and more generic charges for services/benefits arising from public sector services and activities? (Page 43)**

**YES** We fully understand that currently times are hard and bodies such as SEPA are having their budgets cut, which is regrettable and potentially damaging to the environment. The fish farming industry generates enormous revenue and it is only appropriate that it should fund the cost of regulation. (Incidentally it's curious that the tax-payer is apparently meeting one half of the cost of the Machrihanish wrasse experiment – shouldn't the industry at least pay for its own research?)

We suggest that costs could be reduced if the present regulatory mechanism were to be simplified. The various public bodies involved, such as SEPA, SNH and Marine Scotland have powers and responsibilities that often overlap, leading to duplication of effort and to bucks being passed. There seems to be a lack of formality too, with no particular pecking order, so that an operator can decide which body to pick off first. If required we can supply detailed evidence of this in connection with our campaign, where for example the lack of formality enabled the operator to dress up a large increase in biomass as a "relocation". A great deal of administrative work would have been avoided had the operator been required to complete a form with full details, rather than approaching the government bodies informally.