

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 02 September 2016 11:53  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** MS and adviser comments on 'discussion draft' - 2 September 2016  
**Attachments:** ms and adviser comment-seaweedharvest-2-9-16.pdf

Hi [REDACTED]

Please find a letter containing comments, minutes and draft process (which you have previously seen). The hard copy is in the post.

Kind regards

[REDACTED]

---

**From:** [REDACTED] [mailto:btconnect.com]  
**Sent:** 26 August 2016 11:41  
**To:** [REDACTED] (MARLAB)  
**Cc:** [REDACTED]  
**Subject:** RE: follow up actions from MBL MSLOT meeting

Hi [REDACTED]

Thanks for the minutes. Any idea when we can see the comments from SEPA, SNH and MSS as per action point one?  
Thanks,

[REDACTED]

---

**From:** [REDACTED] [mailto:gov.sco] [REDACTED]  
**Sent:** 26 August 2016 11:27  
**To:** [REDACTED] [mailto:btconnect.com]  
**Cc:** [REDACTED] [mailto:gov.scot]; [REDACTED] [mailto:gov.scot]  
**Subject:** RE: follow up actions from MBL MSLOT meeting

[REDACTED]

Please find minutes attached.

Kind regards

[REDACTED]

---

**From:** [REDACTED] [mailto:btconnect.com]  
**Sent:** 26 August 2016 10:19  
**To:** [REDACTED] (MARLAB)  
**Subject:** RE: follow up actions from MBL MSLOT meeting

Hi [REDACTED]

Any chance of getting the minutes and comments you were going to send?  
Thanks very much,

[REDACTED]

---

**From:** [redacted]\_gov.scot [redacted]@gov.scot]  
**Sent:** 04 August 2016 16:40  
**To:** [redacted]@btconnect.com  
**Subject:** follow up actions from MBL MSLOT meeting

[redacted]

Thanks for coming up to Aberdeen to meet with the Licensing Team on Tuesday. I think it was helpful to understand the proposal and hopefully for you to understand the licensing process and the needs for information to support applications.

We took minutes and they will be sent on to you when completed, so too the comments received on the Discussion Draft document you sent for comment. This will be sent once the remaining consultees provide some comment, which most have done quickly given the timeframe. When we send this we will give you written advice process on our process.

We discussed some documents and said we'd provide some links.

The draft SEA is attached. This covers the broad range of topics that you should cover for any site specific scope of assessment.

Also attached is a link to a list of other projects. These have gone through a formal EIA process and so will show good examples of the type of report expected to accompany a request for a scoping opinion.

<http://www.gov.scot/Topics/marine/Licensing/marine/scoping>

The timeline and process map attached was discussed. It is meant for renewables projects but will give the overview of the licensing timeframes.

Also discussed was that, whilst your project did not fall within the prescribed classes, it would be appropriate for some form of pre-app consultation and that this could follow the Pre-application consultation regulations found at

<http://www.legislation.gov.uk/ssi/2013/286/made> and guidance

at <http://www.gov.scot/Topics/marine/Licensing/marine/guidance/preappconsult>

The draft SPAs can be found at <http://www.snh.gov.uk/protecting-scotlands-nature/protected-areas/proposed-marine-spas/> and will need consideration in your proposals.

Could you please remind me of the aspect you wanted from Historic Scotland so we can find out for you?

Hope this helps and I'll get the minutes and consultee responses to you.

Regards

[redacted]

[redacted]  
Marine Licensing Section Head  
**Marine Scotland** - Marine Planning & Policy

[redacted]

Direct Dial: + [redacted]  
General Queries: + [redacted]  
Fax: + [redacted]  
Email: [redacted]@gov.scot  
Website: <http://www.gov.scot/Topics/marine>



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Dh'fhaodadh gum bi teachdaireachd sam bith bho Riaghaltas na h-Alba air a chlàradh neo air a sgrùdadh airson dearbhadh gu bheil an siostam ag obair gu h-èifeachdach neo airson adhbhar laghail eile. Dh'fhaodadh nach eil beachdan anns a' phost-d seo co-ionann ri beachdan Riaghaltas na h-Alba.

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[REDACTED]

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**From:** [REDACTED]  
**Sent:** 01 September 2015 18:15  
**To:** [REDACTED]  
**Subject:** FW: Scottish Seaweed Industry Association

[REDACTED] response, for your info.

[REDACTED]  
Environmental Assessment Specialist  
Marine Scotland

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**From:** [REDACTED]  
**Sent:** 01 September 2015 12:38  
**To:** [REDACTED]  
**Subject:** RE: Scottish Seaweed Industry Association

Hi [REDACTED]  
Good to hear from you.  
The SSIA is in its formative stage, currently with 8 members. One is hand-gathering for food, one is commercially harvesting and processing, one wants to harvest and process, one research and one academic company, both involved in the cultivation of seaweed, one who is involved in the extraction of novel sugars from seaweed, one consultant well known in the sector, and myself. Collectively they are the major players in the seaweed sector at the moment.  
We do hope to attract more members, and are in the process of applying for a grant to allow us to work on this. However, I know from my ASSG days that it takes some time to convince people that there is benefit in being part of a trade association. Usually there is more willingness as challenges appear!  
I would be happy to be part of the PAG, and look forward to your invitation.  
Thanks,  
Walter

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**From:** [REDACTED]  
**Sent:** 31 August 2015 16:59  
**To:** [REDACTED]  
**Subject:** Scottish Seaweed Industry Association

Hi [REDACTED]  
I understand that you have been busy setting up the Scottish Seaweed Industry Association. I was hoping that you could send me some details, i.e. number of members, type (hand-gathering, industrial-scale gathering, etc). Would that be possible please?

The Project Steering Group for the SEA (wild seaweed harvesting) has now been set up and I will be issuing invitations to the Project Advisory Group shortly – and am planning to invite the Association to be a member (hence the request for information).

Hope all is well with you, thanks in advance for your help.

Regards  
[REDACTED]

Environmental Assessment Specialist  
Marine Scotland

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Dh'fhaodadh gum bi teachdaireachd sam bith bho Riaghaltas na h-Alba air a chlàradh neo air a sgrùdadh airson dearbhadh gu bheil an siostam ag obair gu h-èifeachdach neo airson adhbhar laghail eile. Dh'fhaodadh nach eil beachdan anns a' phost-d seo co-ionann ri beachdan Riaghaltas na h-Alba.

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[Redacted]

**From:** [Redacted]@btconnect.com>  
**Sent:** 11 June 2015 11:33  
**To:** [Redacted] btinternet.com  
**Cc:** [Redacted]  
**Subject:** RE: Contact details

Hi [Redacted]  
Thanks to you, [Redacted] and [Redacted] for taking the time to meet us yesterday. I found the meeting productive, and hope we can continue to work together to reach a satisfactory conclusion. I hope you don't mind if I contact you from time to time to discuss progress.  
[Redacted] apologies if I appeared hesitant when talking about the newly formed Scottish Seaweed Industry Association, which I Chair. It was not on my mental agenda for yesterday, and I only realised during the meeting that I should 'declare' my position, in case there was any conflict of interests! I don't think we have enough members at the moment to be considered 'representative' of the sector, but we are working on it. Feel free to contact me directly if you have any questions.  
Thanks again,  
[Redacted]

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**From:** [Redacted]@scotland.gsi.gov.uk [Redacted]@scotland.gsi.gov.uk]  
**Sent:** 10 June 2015 12:49  
**To:** [Redacted]@btinternet.com; [Redacted]@btconnect.com  
**Cc:** [Redacted]@scotland.gsi.gov.uk; [Redacted]@scotland.gsi.gov.uk  
**Subject:** Contact details

[Redacted]

It was good to meet with you this morning, thanks for coming in. As promised, here are my contact details.

Regards  
[Redacted]

[Redacted]  
Environmental Assessment Specialist  
Scottish Government  
[Redacted]  
tel: [Redacted]  
email: [Redacted]

\*\*\*\*\*

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Dh'fhaodadh gum bi teachdaireachd sam bith bho Riaghaltas na h-Alba air a chlàradh neo air a sgrùdadh airson dearbhadh gu bheil an siostam ag obair gu h-èifeachdach neo airson adhbhar laghail eile. Dh'fhaodadh nach eil beachdan anns a' phost-d seo co-ionann ri beachdan Riaghaltas na h-Alba.

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[REDACTED]  
E: ms.marinelicensing@gov.scot

[REDACTED]  
[REDACTED]  
02/09/2016

Dear [REDACTED]

Thank you for the submission of the document titled 'Discussion Draft for 2nd August meeting about Seaweed Harvesting' submitted to Marine Scotland on 26 July 2016.

The removal of algae from the seabed using a vehicle or vessel is considered to be a licensable marine activity under Section 21 (1) 6 of the Marine (Scotland) Act 2010. As such, a licence from Marine Scotland – Licensing Operations Team (MS-LOT) is needed prior to carrying on such removal activity.

The 'discussion draft' outlined your plans to harvest kelp from a number of areas in the 'Scottish marine area' and was the matter of discussion at a meeting between you and Marine Scotland on 2 August 2016. To avoid duplication, I append the minutes of that meeting to this letter, the two should be read in conjunction. I have also appended an updated draft process document.

You requested that comments be sought from key advisers on the discussion draft. Whilst the 'discussion draft' did not contain sufficient information to constitute a full 'scoping report', it was the intention of the meeting, and using the comments below, to provide sufficient information on the expectations of key advisers, to enable a targeted and valuable 'scoping' process.

The next steps in the process are for you to consider the scale of the proposed licensable marine activity. The scale of the activity should determine how to apply the following advice to your proposals and the need for submission of a scoping report based on the advice below, the draft Strategic Environmental Assessment and correspondence to date with MS-LOT. You will note that advisers consider the scale of the proposal in the 'discussion draft' to require a comprehensive environmental assessment. Comments to help you do this are provided.

Thank you for consulting with us on this matter and if you require further assistance or advice on marine licensing matters please contact MS-LOT at [MS.MarineLicensing@gov.scot](mailto:MS.MarineLicensing@gov.scot)

Yours sincerely,

[REDACTED]  
Section Head – Marine Licensing Section - MS-LOT

The comments from key advisers are summarised below.

### Marine Scotland Science

- Kelp stands form critical habitat for numerous marine species and as such, these habitats are listed as Priority Marine Features for Scottish waters. We also know they form critical nursery habitat for juvenile gadoid species on the West coast of Scotland. Species of significant commercial interest to fishermen. Kelp forests were proposed and nearly designated this year as "threatened / declining species or habitats" under OSPAR for the NE Atlantic.
- Environmental assessment is therefore required to ensure the sustainability of the habitat, the communities it supports and the commercial interests in sharing the "ecosystem services" kelp stands provide.
- the applicant should provide evidence of pre-application consultation with other local marine users, particularly commercial fishers, and a scoping report justifying whether a full environmental assessment will be required for the proposed activity.
- Dependant on scale the applicant could:
  - 1) Demonstrate that the scale (area) of kelp to be harvested is small and/or isolated (thereby having insignificant impact and/or allowing rapid recolonisation / recovery of both kelps and communities) OR
  - 2) Conduct a proper assessment of the impacts associated with the POTENTIAL maximum scale of operations in the areas identified. Taking into account recovery of kelp stands themselves, recovery times of the associated communities, the spatial and temporal extent of impact (not just extraction activity) and develop a programme of monitoring to demonstrate that impact and recovery predicted in the assessment is correct.

Given the severity of the potential impacts an assessment should cover:

- A baseline assessment of the kelp stands in these areas
  - A proper description of the planned or maximum extent of harvesting operations in these areas
  - An assessment of the impact on the kelp stocks themselves including recovery rates
  - An assessment of the impact on the habitat / communities supported and nursery habitat for commercial fish species (cumulative impact of all harvesting areas)
  - An assessment of the potential impact on protected features in nearby designated sites
  - An estimate of what proportion of the kelp forests in the areas is included in the proposal
  - An assessment of the indirect impact of harvesting methodology on the seabed (eg discarding of parts of the harvested fronds/stipes during collection)
  - Monitoring plans to validate the assessment
- 
- A phased approach with good /evidence estimates of in situ recovery times would be more appropriate than harvesting in all of the areas in the discussion draft (which are in fact relatively close together) in the manner described from the outset.
  - In view of the importance of the habitat to a range of biota, and the links to organisms further up the chain many of which support commercial important species - it will be much more complex to monitor effects on non-target species, than is suggested.

## Scottish Natural Heritage (SNH)

The following advice assumes that licence application(s) will require some form of EIA. SNH strongly support this process, given the complexity and significance of potential impacts on the natural heritage, many of which don't involve Natura sites and so would not be considered by HRA.

### General / strategic issues

The discussion around the SEA process has regularly mentioned baseline characterisation and monitoring (the 'before' and 'after') but not how to determine a detailed framework for impact assessment. EIA scoping for MBL's harvesting proposal will inform how impact assessments develop and as such, will be a key stage for developing further thinking about requirements for impact assessment.

Close liaison is likely to be needed with SEPA not only as EIA consultees but also in relation to SEPA's duty (s.19 of Flood Risk Management Act) to identify natural features the removal of which could significantly increase flood risk.

### Proposal – general comments

The documents states that harvesting mimics storm damage, however, whether harvesting really mimics storm damage is far less important than the fact that impacts of harvesting are likely to be additional to removal by storms. The statement that six 'start-up' locations "avoid exposed sandy shorelines" is contradicted, not only by the Oronsay location but also by South Kintyre.

## Process

- the outcomes of the draft SEA should inform the applicant's aspirations for large-scale harvesting.
- As discussed at SEA PAG meetings, SNH support the idea of an 'EIA-type' process for potentially large-scale seaweed harvesting proposals such as this, but note the proposal is not explicitly covered in the EIA annexes.
- There is no information in the document to indicate where processing will take place at this stage.

## Proposal

- The detail provided does not go much beyond previous correspondence. As such, there is insufficient information at this stage to fully inform SNH's advice for any marine licence application and several issues require considerably more detailed information before we would be able to advise fully.
- It would be beneficial for the applicant to provide more detail regarding appropriate harvesting and monitoring methods. If there are some details that the applicant is unable to confirm in advance of licence provision then the works would have to be subject to some kind of project envelope to allow SNH to comment on the worst case scenario, but the fundamental detail of what the applicant proposes is still required.
- SNH broadly agree with the feedback MSS has provided, and highlight /expand on key natural heritage considerations below.
- The maps shown in the 'discussion draft' extend across a number of protected sites, notably the new suite of pSPAs. SNH's general advice with regards to the principle of

harvesting in designated sites is that we recommend that best practice is to avoid designated sites, where possible. However, designated sites are not intended to prohibit activities such as sustainable seaweed harvesting but are intended to protect species and habitats. Activities that directly or indirectly affect the protected features, such as seaweed harvesting, may need to be managed to achieve the conservation objectives of sites. As such, SNH advises that a **HRA would be required** to accompany the proposals in order to fully assess the impacts on relevant European protected sites (including in-combination impacts).

- It is unclear if the 2 maps shown (section 2: Harvest locations) are all areas to be covered in the 5 year licence application (in the first map in purple) or if the licence will cover only the areas in yellow (termed initial areas). From page 5 of the report *'To reduce the risk of misunderstanding, it must be understood these six locations are not likely to alone support MBL's first five year requirements. Access to other locations will be required.'* The applicant will need to be more explicit about the locations where they plan to harvest under licence – when and where.
- There are no details of the harvesting vessel/s to be used, harvesting methods, vessel routes, frequency of transits and landing locations.
- Monitoring (and reporting) methods need further consideration, the basic framework for which MSS has covered. Baseline information will be required, methods outlined and agreed in advance of licensing and harvesting commencing. This is the kind of information SNH would reasonably expect from other sectors where licences are required.
- Baseline and additional information should be used to inform impacts assessments (there is no mention of impacts assessments). The applicant should identify impact pathways (direct and indirect) and the potential magnitude of the impacts. It may be of benefit to the applicant to employ the expertise of a consultant / academia to assist in developing appropriate protocols / assessments.
- The biomass estimates in table at the bottom of page 6 needs to be evidenced by a baseline stock biomass assessment, and a sustainable harvesting methods and reporting strategy developed from that.
- Harvest method – this basic framework suggested needs further detail in terms of method to be applied and monitoring to determine its viability as a sustainable harvesting method, incorporating the use of fallows. Supporting evidence from earlier studies and reasoning/validation for this protocol should be provided with the harvest methodology.
- Harvesting and monitoring protocols – this section is particularly vague. There is discussion in this section regarding potential use of video cameras and echosounders, but it is currently unclear how / where these would be deployed and how they may fit into a monitoring and reporting framework.
- Mitigation needs further consideration in conjunction with impacts assessments (SNH notes all year round harvesting is proposed). A more detailed cumulative / in-combination assessment is required.

SNH has considered designated sites (and a few other notable assets) that could be affected through the pathway of reduced wave attenuation for the six 'start-up' locations. However, we have yet to consider all relevant protected sites and interests in detail. This may involve local staff who could raise particular issues for the sites, as well as specialist advisers e.g. for benthic effects or birds. As such, the advice provided is without prejudice to any future advice, i.e. it is likely possible that SNH may identify additional site or receptor-specific impacts at scoping.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

#### Potential impacts - full set of '5 year time horizon' locations

##### Kintyre west coast

Potentially greater effects on the sites discussed at 1 – 3 above. Kilberry Coast SSSI (Knapdale) might well need scoping in for its coastal habitat features but potential effects considered unlikely.

##### Islay and Jura south east and east coasts

Potential direct and indirect impacts on harbour seal interests of South-East Islay Skerries SAC would require consideration.

##### Islay – Laggan Bay and Loch Indaal

Potential effects on sand dune feature of Laggan Peninsula and Bay SSSI, and on intertidal habitat features of Bridgend Flats SSSI (and potentially its SPA birds in turn).

##### Islay – Rinns peninsula

Potential effects on coastal geomorphology feature of Rinns of Islay SSSI could be adverse in terms of disrupting natural coastal functioning.

In considering impacts across 'start-up' and '5 year time horizon' locations, consideration will also need to be given to potential impacts on protected sites that are currently at the consultation stage and therefore have policy protection, namely Sound of Gigha and Coll and Tiree pSPAs for winter bird interests. Inner Hebrides and the Minches pSAC for harbour porpoise will also require consideration (the consultation for this pSAC has now closed).

#### Impact assessment considerations

Taking into account the uncertainty over the extent, frequency and pattern of harvesting and taking into consideration established practice for assessing impacts of other sectors e.g. marine renewables, it's likely that assessing the impact of at least some of the proposed locations will require hydrodynamic modelling.

Where the sensitivity of coastal receptors is sufficiently low (e.g. where they are resilient to increased wave attack) and / or harvesting is minor relative to the existing resource, simple desk-based calculations are likely to suffice instead, or even expert reasoning for the lowest-magnitude impacts.

Factoring in seaweed recovery time (including decay in the effect of reduced wave attenuation) could be complex not only ecologically, but also in relation to determining model run period. Although a year will be the base unit for modelling, it will be very important to model 'medium-large' storm events with a return period of, for example, up to 20 years. Such storms create waves large enough to cause significant coastal erosion but small enough to still be hindered by kelp beds.

In line with EIA of marine renewables, we anticipate that impacts from increased wave energy will need assessed not just for designated sites but also non-designated coasts, both soft and hard. For each location or combination of locations, a generous 'zone of potential effects' would need to be set as a minimum domain for hydrodynamic modelling, plus an area at least as large for the impact assessment. For example, the Oronsay location might, depending on its exact specification, have potential to affect the southeast-facing coast within the SAC by reducing energy of westerly waves refracted around the island.

The key elements of hydrodynamic modelling are likely to be:

- Establishing a representative wave climate for the seaward side(s) of the harvesting location(s). A familiar process for marine renewables developers.
- Establishing current wave climate at the shore – difficult decisions around whether/when this would require monitoring or could perhaps be done by extrapolating wave transformations from kelp sites studied elsewhere.
- Taking the proposed degree of harvesting (see above) and deriving the effect on waves, taking account of relationships between vertical extent of kelp and wave closure depth.
- Modelling the predicted wave climate at the shore after harvesting over the relevant time period (either until harvesting is repeated or until pre-harvest seaweed extent is predicted to re-establish).

The above advice only discusses the most obvious physical processes effect: increased wave energy increasing the potential for erosion. If offshore harvesting would reduce the net volume and frequency of beach-cast seaweed, the contribution of such material to beach stability and coastal vegetation growth (noted in various studies and reviews) could be reduced. As this indirect effect would largely exacerbate the effect of increased wave energy, this has yet to be investigated further. However, it ought to somehow be factored into impact assessment, to avoid under-estimating the potential for offshore harvesting to encourage coastal erosion.

#### Scottish Environment Protection Agency (SEPA)

- Any application for an activity in the water environment must take into account the good status and/or no deterioration requirements of Water Framework Directive (WFD) and Marine Strategy Framework Directive (MSFD). Where activities are permitted then the appropriate mitigation must be used to ensure that the overarching status objectives are met.
- Environmental monitoring requirements – to ensure consistency with similar regimes. The aquaculture industry are required to provide suitable environmental monitoring of the sea-bed prior to the establishment of any cages, this provides a baseline for all future surveys as to the health of the local environment.
- The Scotland River Basin District (Standards) Directions 2014 sch 4 details the application of spatial standards to transitional and coastal waters. As the majority of Scotland's coastal waters are high status the spatial standards test for ecological status or ecological potential would only allow 0.5km<sup>2</sup> or 5% cumulative.

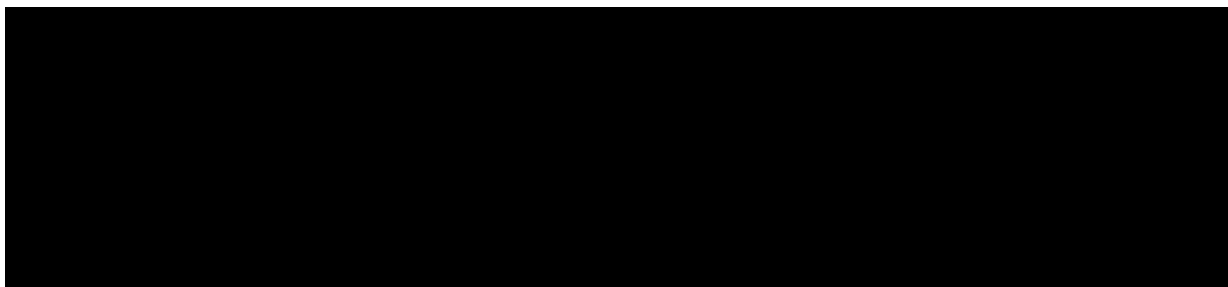


## Appendix 1

Meeting Minutes			
Marine Scotland – Licensing Operations Team:	Marine Biopolymers Ltd (MBL)	Date:	02 August 2016
██████████	██████████	Venue:	C203, Marine Laboratory, Aberdeen
██████████	██████████	Time:	10:00 am
██████████	██████████		

### 1 – Welcome and Introductions

### 2 - The Act



██████ querying the consultation process and enquiring if only statutory consultees would be included. ██████ explaining that, in the first instance MBL is advised to publish a public notice regarding the proposed works, following the procedure in the Marine Licensing (Pre-Application Consultation) Scotland Regulations (2013), and thereafter consultation, either scoping or on an application, would take place. ██████ advising that only a very limited number of applications are restricted to consultation with the statutory consultees only and these would be related to small scale projects with minimal impact. This would not apply to removal of seaweed on the proposed scale.

██████ advising that some projects are also classified as falling under The Marine Works (Environmental Impact Assessment) Regulations 2007 (EIA). ██████ explaining that MBL's project was not classed as an EIA project, however the EIA model of screening and scoping would be the recommended approach for the proposed project. ██████ providing further information on the screening and scoping process. ██████ querying what stage in this process their project would currently fall under. ██████ explaining the draft discussion paper would require further information including the types of assessments proposed before it would constitute a scoping report.

### 3 – Discussion of Comments

██████ explaining that due to the short notice he had not been able to obtain full comments regarding the draft discussion paper from MSS and SNH. Confirming once these were received he would collate the comments and forward them to MBL. **Action 1.**

#### a) Scottish Natural Heritage (SNH) comments

■ advising that the comments received so far from SNH indicate that they are supportive of the EIA process being followed for this proposal and recommend that the draft Strategic Environmental Assessment (SEA) should be used to inform the assessments used by MBL. ■ advising he has not been able to obtain an updated copy of the SEA. ■ noting there was useful information contained in the update and it would be beneficial to MBL. ■ advising that the updated SEA details a suite of pathways and receptors which would require consideration in MBL's scoping report. ■ explaining these terms. ■ advising that the scoping report would require to include evidence to support any conclusions that any of the pathways or receptors are not to be negatively affected by the proposed activity. WS querying how this should be dealt with if the activity has not been carried out before. ■ advising that if scientific evidence is available then it must be used, failing which it would be for MBL to make a case within their scoping report justifying their position. ■ emphasising that information is key and if an applicant has made 'leaps of faith' then the regulator would have to apply the 'precautionary principle' when determining an application. **Action 2.**

■ explaining that MBL require to consider and address the receptors on a site specific basis as the receptors may differ for each site. Separate applications should be made for each of the areas proposed. ■ explaining the Habitats Regulations Appraisal (HRA) process and noting that based on the draft discussion paper SNH have confirmed this will be required. ■ explaining that the MBL would need to consider candidate and draft designated sites as well as already designated sites. ■ querying if the candidate and draft sites are published. ■ confirming she would look into this. **Action 3.**

■ querying who determines what is 'small scale' and 'significant impact'. ■ advising that if MBL considered their project to be 'small scale' then they would require to demonstrate this within their scoping report and thereafter MS-LOT would consult on this matter. ■ enquiring as to whether MS-LOT were bound by the statutory consultee responses and ■ confirming that MS-LOT would require strong justification to depart from these. ■ noting that the footprint of the project was bigger than some renewable projects which are required to follow EIA. ■ advising however that the proposal follows what the impact of a storm would be however on a smaller scale.

■ explaining that this information should be detailed in MBL's scoping report but should include evidence to support this view. MS-LOT would then consult SNH etc and thereafter review the responses. ■ emphasising that 'significant' is a crucial term and there has been a lot of case law regarding its interpretation. ■ suggested that MBL review some of the information provided relative to wind projects and ■ directing MBL to the MS-LOT website in this regard.

*b) Marine Scotland Science comments (MSS)*

Reviewing MSS comments. ■ advising that following discussions with SNH he did not think that the proposal would affect any Priority Marine Features (PMF). ■ confirming that they would include in their scoping report details and evidence as to why PMFs were not affected.

■■■■■ ■ advising of the difficulty in surveying something which is not static and depending on the type of survey the results could be worthless. ■ querying the type of surveys MBL's draft discussion paper indicated they were going to complete. ■ explaining these were intended to be completed prior to harvesting the kelp so to ensure the kelp had not been removed by the weather. ■ explaining that MS-LOT

could not make an informed licence determination without evidence. ■■■ noting that all of the comments received regarding the draft discussion paper so far emphasise the need for baseline surveys.

■■■ querying if a marine licence could be issued subject to a condition requiring a satisfactory pre-harvest survey. ■■■ explaining that if the proposal is located within a HRA designated site then we would not be able to meet our HRA obligations with such a condition. ■■■ directing MBL to SNH sitelink website with regards to identifying designated sites. ■■■ advising that if MBL did not want to do the assessments which all the consultees were indicating would be required, then MBL could minimise the scale of their project and essentially apply for a marine licence for a test site. ■■■ commenting that the amount of kelp required to make the project viable is probably not small scale.

■■■ also questioning the practicality and cost of sampling every species of flora or fauna. ■■■ explaining that MBL could identify and justify which types of species of flora or fauna were important and which weren't in their scoping report and thereafter MS-LOT would consult on this. Through the scoping process considerations which are justified and agreed as not relevant or appropriate can be scoped out.

#### c) SEPA comments

■■■ detailing comments made by SEPA. ■■■ confirming all of the comments would be forwarded to MBL for them to digest.

■■■ advising that all those consulted on the paper provided by MBL had done so to a tight timescale and that further consideration may be needed. Also that each of the consultees had gone to great efforts to provide comments for the meeting and wished to be involved in the process as it developed.

#### 4 - Marine Licensing (Pre-Application Consultation) Scotland Regulations 2013 (PAC)

■■■ querying the process for PAC and ■■■ advising proposal was not a prescribed activity under PAC. ■■■ advising MBL content to follow this process anyway. The timeframes for PAC, EIA and a marine licence application were discussed further. ■■■ confirming that the scoping report would be consulted on and a scoping opinion is issued before a marine licence application is submitted. ■■■ confirming understanding of the distinctions and processes. ■■■ explaining that essentially it is a front loading process in that the applicant is made aware of any potential issues by the scoping process and can attempt to deal with these prior to submitting a marine licence application. ■■■ directing MBL to review a scoping report and the process map for wind farm applications, both available on MS-LOT website, with a view to putting together a scoping report.

#### 5 – Application Form

■■■ advising that anything which is pulled up as part of proposed activity and then disposed of at sea is a further licensable activity. ■■■ ■■■ and ■■■ commenting on issues of such a requirement relative to the unavoidable lifting of stones whilst harvesting kelp. ■■■ explaining requirements of legislation in this regard. ■■■ confirming MBL would consider bringing stones back and disposing of on land. ■■■ advising if this was the chosen option then this should be included in the scoping report.

■ commenting that different locations identified in draft discussion paper and therefore should apply for each site as a different application. ■ explaining that different locations could mean different consultees and different considerations. Noting that if MBL submit one application for all of the sites then they could end up in the scenario whereby the whole application is held up by an issue with one site. ■ commenting that if MBL are looking to build traction for the project then potentially they should consider applying for smaller scale individual test sites. ■ noting that if MBL want to apply for the whole project at the same time then MS-LOT would recommend following the EIA process.

■ querying the timeframes for the process and ■ confirming that for a small scale application the process would be approximately 14 weeks. With regards to a bigger scale project which would follow the EIA process then the timescale will be longer. ■ noting that for the EIA process we could not determine the timescales however the quality of the information supplied by the applicant would impact this.

■ querying if a marine licence is issued if this would include exclusivity for the activity. ■ confirming it would not and referring to the co-existence policy contained within the Scotland's National Marine Plan. ■ noting that they would instead discuss this matter further with the Crown Estate.

No.	Actions	Who
1.	Comments received relative to MBL's draft discussion paper to be collated and forwarded to MBL together with outstanding comments once received.	MS-LOT
2.	Copy of updated SEA to be forwarded to MBL.	MS-LOT
3.	Confirmation to MBL as to whether draft SACs have been published.	MS-LOT

## Appendix 2.

### **Draft map of licensing process for the 'commercial scale' removal of seaweed from the seabed in the Scottish marine area.**

The regulatory process to control the sustainable removal of seaweed from Scottish waters requires an applicant to carry out an assessment of the environmental effects of their proposed activity to support their application. This will involve the collection of 'baseline' data and studies to calculate the effects. The removal of seaweed is not an Annex 1 or 2 project as described in the EIA Directive (85/337/EEC) and therefore would not require a statutory EIA. However, given the nature and size of potential seaweed removal, and the need for the provision of evidence to support any proposal, an 'EIA-type' process, of Screening, Scoping and Environmental Statement stages, would allow for the best targeted Environmental Assessment to be undertaken.

Such a process is outlined below and should follow SNH guidance on the matter <http://www.snh.org.uk/pdfs/publications/heritagemanagement/EIA.pdf>

#### Screening

Regulators can be asked for a Screening opinion. This is the determination, by the regulatory authority, of whether an EIA is necessary. Whilst seaweed removal does not require EIA, this should be the stage where the regulatory opinion is given on whether the EIA-type process should be followed to best assess the potential effects of a proposal.

A request for a screening opinion from the regulator must be accompanied by:

- a chart or map (or both) sufficient to identify the location of the project and of the regulated activity,
- a brief description (including a plan) of the nature and purpose of the project and the regulated activity and their possible effects on the environment,
- a statement of the working methods to be used in the course of the project and in carrying out the regulated activity, and
- such other information or representations as the applicant may wish to provide or make.

The process of providing a screening opinion will usually take around eight weeks. Where the proposed activity is of a small scale, this stage is the appropriate time to discuss regulatory requirements, if any, with the regulator.

A processing agreement could be entered into at this stage in the process with the aim of developing "a shared understanding and expectation of the processes involved, and can help to identify what information is required, and from whom, and in the setting of agreed timescales for the various stages of the process" (PAN 1/2013)

## Scoping

Regulators can be asked by an applicant for an activity for a Scoping opinion. This is the stage at which the applicant submits a 'scoping report' to propose:

- key issues to be considered;
- those matters which can either be scoped out or which need not be addressed in detail; and
- appropriate methods of impact assessment, including survey methodology where relevant.

The regulator will, following consultation, provide a 'Scoping opinion', based on the submission by the applicant and representations from consultees. The process of providing a Scoping opinion will usually take around eight to ten weeks.

In addition, it is beneficial for applicants, regulators and consultees to:

- Make early site visits in order to ensure that matters of natural heritage and other environmental concerns are identified at an early stage;
- Establish appropriate consultation arrangements with interested parties including the Competent Authority;
- Conduct the scoping exercise in a systematic manner using scoping matrices and producing a Scoping Report; and
- Agree baseline survey requirements, prediction methods and evaluation criteria with appropriate bodies, including non-governmental bodies where they have expertise

Through the use of robust scoping stages, the prospective applicant should be gathering advice to enable them to carry out requirements for baseline data collection, site characterisation surveys, monitoring requirements (methods, duration), mitigation and any required reporting schedules particularly if the proposal involves any phased harvesting which would be subject to appropriate reporting between phases.

## Pre-Application Consultation (PAC) requirements

Ideally an applicant for seaweed harvesting approval of this type would follow the steps in the Marine Licensing (Pre-application consultation) (Scotland) Regs 2013.

Under these rules, applicants are required to carry out a public pre-application consultation to allow local communities, environmental groups and other interested parties to comment upon proposed marine developments at an early stage. The process requires a public event to be held and a report detailing the outcomes of the event must be submitted alongside an application. Guidance on the process is found at <http://www.gov.scot/Resource/0043/00439649.pdf>

### Submission of the application and Environmental Statement

Where an applicant has been given a Screening opinion that the EIA-type process should be followed and the Scoping stage has been completed, the applicant should submit an Environmental Statement alongside their applications.

The ES in support of the application should be developed in line with SNH guidance and should cover all aspects required from the Scoping process. It is likely that an ES for seaweed harvest should cover at least the following (which should be tailored to the site, the scale and the target seaweed species):

- Detailed baseline ecological surveys showing composition of species found at the location of the proposed activity and those relying on the site or algae to be removed:
- Impact on species identified above which rely on or which live in/on/around the site/product e.g. use of site by wrasse, gadoid nursery areas, herring spawning areas modelled over various time periods, various harvesting regimes to provide conclusion on the most appropriate way forward
- A stock biomass assessment of the area proposed for seaweed removal
- Baseline studies of coastal processes and details of existing and likely impact on coastal processes or impacts on coastal infrastructure
- The details of the harvesting operations, such as proposed biomass to be harvested, and the timings and duration of activity.
- A sustainable harvesting strategy
- Impact on fisheries (all scales), modelled over suitable time periods and using different harvesting regimes to inform the harvesting strategy
- Modelled information to support any harvesting cycle allowing comparisons to be made
- Cumulative and in combination impact assessments considering not only kelp removal projects but any other projects which may have an impact as detailed above
- Proposed means of dealing with waste from the proposed process
- Any other information to allow the competent authority to complete any necessary HRA process (would be site dependent) Information on the impact on the NMP
- Information on the impact on MPAs/ SPAs/SACs
- Information on any EPS affected/likely to be affected.

In the submission of the application for a marine licence the applicant must submit at least the following:

- Project description including charts, maps and co-ordinates of the exact location of the works along with a chart showing the area in which the work is to be carried out
- Details of the proposal including harvesting methods, and equipment to be used
- The required Fee – based on sec 3 of the fees regs based on costs of the project
- cost/benefit analysis of the proposals to assess the impact of the proposal on any affected industries and provide a balanced assessment of the projected investment to the area and the country.
- Confirmation of the position with Crown lease
- PAC report

Following receipt of the application for regulatory approval and accompanying Environmental Statement, the regulator will carry out a consultation with both statutory and on-statutory consultees. EIA projects require a 42 day consultation period.

The statutory consultees for the marine licensing process are the NLB, the MCA, SNH and SEPA. Non-statutory consultees include, but are not limited to, the Royal Yachting Association (RYA), the Crown Estate (CE), Scottish Fisherman's Federation (SFF), Marine Scotland Science (MSS), Whale and Dolphin Conservation (WDC), Historic Scotland, Transport Scotland and any relevant Harbour or Port Authority.

#### Decision

A marine licence may then be issued with attached conditions. These conditions will remain enforceable throughout the lifetime of the licence.

#### Appeal of decision

Any applicant for a marine licence is able to appeal against a decision not to grant a licence or against any of the conditions attached to a licence. Regulations made under Section 38 of MSA 2010 and Section 73 of the MCAA 2009 provide that appeals against marine licensing decisions for both the Scottish inshore and offshore regions will be heard by a Sheriff. The Sheriff Court provides an independent and impartial forum for these appeals.