

# Pilot Pentland Firth and Orkney Waters Marine Spatial Plan

Business and Regulatory Impact Assessment

March 2016

## **Title of Proposal**

Pilot Pentland Firth and Orkney Waters Marine Spatial Plan

### **1. Purpose and intended effect**

#### **Background**

1.1 In 2009 the Marine and Coastal Access Act was published containing provisions aimed at the effective management of the UK marine environment. The Act sets in place the foundation for the adoption by the UK Government of both a marine planning system and a Marine Policy Statement covering UK territorial waters. The UK Marine Policy Statement (UK MPS) was published and adopted by all UK administrations in 2011.

1.2 The UK MPS is a high-level policy framework that aims to guide the preparation and implementation of marine plans in the UK. The UK MPS contains provision for the adoption of a system of marine planning that includes National Marine Plans and the preparation of sub-national Regional Marine Plans. Alongside the Marine and Coastal Access Act (2009) and the UK MPS, the Marine (Scotland) Act 2010 also sets in place a framework for the implementation of a network of Regional Marine Plans.

1.3 The provisions contained in the Marine (Scotland) Act 2010 include the requirement for Scottish ministers to prepare and adopt a National Marine Plan covering Scottish waters whilst a Marine Policy Statement is in place. Scotland's National Marine Plan (NMP) was published in March 2015. All Regional Marine Plans produced under the Marine (Scotland) Act 2010 must comply with the aims and policies contained within the adopted NMP and the UK MPS.

1.4 The NMP contains policy guidance and provides a framework for the production of Regional Marine Plans. Marine Planning Partnerships will be responsible for the production of future Regional Marine Plans. The pilot Pentland Firth and Orkney Waters Marine Spatial Plan (PFOW MSP) has been produced to trial the process of regional marine planning.

1.5 The Plan aims to trial the approach that future Marine Planning Partnerships may take in the preparation of suitable policies (including interpreting the policy framework of the NMP within a local context) and the approach that may be taken to governance of Marine Planning Partnerships (including local authority and stakeholder involvement). The pilot Plan is therefore a non-statutory precursor to the Regional Marine Plans. Whilst the pilot Plan does not form part of the statutory marine planning system, it is hoped that it will be used as a material consideration in existing marine management, planning and consenting processes.

1.6 The pilot PFOW MSP includes two of the Scottish Marine Regions designated through the Scottish Marine Regions Order 2015 (Orkney and the North Coast). The Scottish Marine Regions covered by the pilot Plan area are similar to regions identified in Scotland's Third National Planning Framework (NPF3) as areas of key significance in delivering the Scottish Government's Low Carbon Strategy (Orkney, Pentland Firth and North Caithness). It is hoped that this pilot Plan will be a key mechanism in delivering the development of the marine renewable energy sector in the area, both directly (as a consideration in current processes) and indirectly as a precursor to the statutory Regional Marine Plans.

1.7 With this background in mind the pilot PFOW MSP has been developed in accordance with the NMP and all preceding legislation with a bearing on marine planning. The pilot PFOW MSP also sits within the international framework for marine planning that includes the United Nations Convention on the Law of the Sea, the European Union Maritime Spatial Planning Directive and various other European Union directives (such as the Marine Strategy Framework Directive).

### **Objective**

1.8 The pilot PFOW MSP aims to put in place a non-statutory planning and policy framework in advance of statutory regional marine planning. It is hoped that the development of this Plan will be useful in establishing the basis for two separate Regional Marine Plans for Orkney and North Coast Scottish Marine Regions. Piloting the marine spatial planning process will provide many lessons learnt that will be helpful in informing the preparation of future regional marine plans and the governance arrangements that may underpin future Marine Planning Partnerships.

1.9 In meeting these aims the pilot Plan will be meeting the Scottish Government purpose as outlined in the Government Economic Strategy; to create a more successful country with opportunities for all of Scotland to flourish through increasing sustainable economic growth. It will also contribute to the following national outcomes:

- we live in a well-designed, sustainable place where we are able to access the amenities and services we need
- we value and enjoy our built and natural environment and protect it and enhance it for future generations
- we live in a Scotland that is the most attractive place for doing business in Europe
- we reduce the local and global environmental impact of our consumption and production
- we realise our full economic potential with more and better employment opportunities for our people

1.10 The pilot PFOW MSP will help meet the Scottish Government's aim to have clean, healthy, safe, productive and biologically diverse oceans and seas. The Plan will also help to meet the Scottish Government goal to have seas that are managed to meet the long term needs of nature and people.

### **Rationale for Government intervention**

1.11 The Pentland Firth and Orkney Waters are used by a wide range of marine users and for a variety of activities. A vast majority of the Plan area is used for multiple activities and so there is potential for competition and conflict. Whilst the Plan area has been highlighted as a key area for the development of the offshore renewable energy generation industry in Scotland, the Pentland Firth and Orkney Waters also contain a variety of important and rare species as well as a range of internationally important historic sites. The variety of potentially competing uses of the area creates the risk that the marine environment may be mismanaged and damaged with consequences for both the goods and services it provides and the natural and historic heritage of the area. Poor management of the area could result in costs and uncertainty for developers and marine users which could have a negative impact on progress towards fulfilling Scottish Government national outcomes in the area. The NMP (and the policy framework it sits within) has provided for a system of statutory Regional Marine Plans to aid in

the management of the marine environment.

1.12 The pilot Plan has been developed to pilot the process of creating the statutory Plans and to inform the Marine Planning Partnerships which will be formed to produce them. The production of this pilot Plan will contribute to the effective preparation of the Regional Marine Plans. In addition to this, the pilot Plan will be used as a material consideration in the determination of marine licensing and section 36 consent applications within the Pentland Firth and Orkney Waters area. Highland Council and Orkney Islands Council will have the option to adopt the final pilot Plan as non-statutory planning guidance, acknowledging the status of the Plan as a material consideration in the determination of relevant planning applications. Orkney Islands Council will also be provided with the option to approve the Plan as a material consideration in the determination of works licence applications.

## **2. Consultation**

### **Within Government**

2.1 Updates regarding this work were sent to a range of Scottish Government divisions via the stakeholder distribution list and face-to-face discussions were held with officials within Marine Scotland and the wider Scottish Government from the outset of the plan-making process. This included those with responsibility for:

- Nature conservation
- Fisheries
- Energy
- Marine renewable energy
- Aquaculture

2.2 Historic Environment Scotland, Scottish Natural Heritage and the Scottish Environment Protection Agency were also regularly consulted throughout the marine planning process.

### **Public Consultation**

2.3 A Plan Scheme was published in 2012 which set out the key stages for the preparation of the pilot Plan. This performed the function of a Statement of Public Participation as detailed in the Marine (Scotland) Act 2010.

2.4 A Planning Issues and Options Consultation Paper and a draft Environmental Report were produced in 2013 which enabled early stakeholder engagement on the pilot Plan's strategic objectives, key themes and policy approaches. The public consultation ran between 17 June and 26 July 2013. Stakeholder workshops, public drop-in sessions and individual meetings with stakeholders also took place in July 2013 to discuss the document.

2.5 Thirty formal written responses were received from a wide range of marine sectors and stakeholders. Results of the consultation exercise were presented in a Consultation Analysis and Consultation Report.

2.6 A further public consultation was held on a Consultation Draft of the pilot PFOW MSP and supporting documents, including the Partial Business and Regulatory Impact Assessment (BRIA). This consultation took place between 15 June and 6 September 2015. Public drop-in sessions were held in Stromness, Thurso and Durness in July 2015 .

2.7 Thirty-one formal written responses were received as part of the latest consultation. Of the twelve respondents that answered the question regarding the BRIA, four had additional comments to provide.

2.8 The main issues raised in these responses included:

- one respondent noted the potential for even small additional costs having a potentially detrimental impact on the viability of the wave and tidal industry
- one respondent noted the need to recognise that encouraging business to maximise a range of potential benefits should not be at the expense of the wider project viability
- a fisheries respondent felt that activities having a defined spatial or zoned footprint are favoured in the Plan while the wide-roaming nature of fishing operations places them at a disadvantage
- a respondent from the aquaculture industry felt that regulators and stakeholders were being overburdened with an increasingly complex planning process and duplication of policy documents

2.9 Support for the development and adoption of a pilot PFOW MSP was received from one respondent.

2.10 Many existing policies have already been assessed for business and regulatory impacts and are considered to be baseline policies (For policies considered 'baseline' see annex A). As such, comments received on the potential impacts of these policies have not been included as part of this BRIA.

### **Other stakeholder engagement**

2.11 Throughout the entire plan-making process, routine updates were issued to a list of >250 stakeholders with an interest in this work.

### **Business**

2.12 Representatives from relevant sectors have been involved in the development of their respective policies throughout the development of the Plan and have been provided with regular updates through the stakeholder distribution list and, in many cases, face to face meetings.

2.13 Additional face-to-face meetings were held with 8 businesses around the north Caithness and Sutherland coast and Orkney Islands in August 2015. Businesses involved in these discussions included those potentially affected by the proposal from a broad range of sectors:

- Camping/caravan site
- Bed and Breakfast
- Renewable energy consultancy
- Ferry tour operator
- Engineering firm for energy industries
- Shellfish processor
- Tidal energy developer
- Salmon farm company

2.14 The results of these discussions form the main part of the Scottish Firms Impact Assessment.

### **3. Options**

#### **Option 1 – Do nothing**

3.1 Under this option, the pilot PFOW MSP would not be developed. The existing policy framework governing Scottish waters would remain, including the Marine Policy Statement and European Directives (e.g. the Marine Strategy Framework Directive, Water Framework Directive and Habitats Directive). In addition to this the NMP will remain in place, including its requirement for statutory regional marine planning. As many of the Policies in the pilot Plan are reiterations of existing planning and policy requirements, some of the policies it contains will continue to be implemented in the absence of the pilot Plan.

3.2 As the pilot Plan aims to pilot the regional marine planning process and inform Marine Planning Partnerships, the absence of this Plan could significantly reduce the effectiveness of the future Regional Marine Plans. In this way the absence of the pilot Plan would increase the difficulty of implementing the requirement for Regional Marine Plans in the NMP. The guidance and consolidation the Plan will likely bring to the existing consenting and planning process (through its intended use as a material consideration) would also be absent if this Option was adopted.

3.3 In line with the vision of the UK MPS, the provision for regional marine planning set out in the Marine (Scotland) Act 2010, and the aims and requirements of the NMP, this is not seen as a viable option.

#### **Option 2 – Development and approval of a pilot Pentland Firth and Orkney Waters Marine Spatial Plan.**

3.4 Under this option the pilot PFOW MSP would be approved and would consolidate the requirements of the NMP, the UK MPS and existing European Directives. The experience gained from piloting the regional marine planning process will help to guide and inform the preparation of future Regional Marine Plans and the work of the Marine Planning Partnerships.

3.5 The pilot PFOW MSP also sets out some new and additional policies and conditions for development in the Pentland Firth and Orkney Waters area.

#### **Sectors and groups affected**

- 3.6 A number of sectors may be affected by the pilot PFOW MSP:
- developers of licensed activities in the Pentland Firth and Orkney Waters area (including oil and gas, renewable energy, ports & harbours, aquaculture and all other licensable activities. These activities could be Scottish-owned, Rest of UK-owned or foreign-owned).
  - activities in the Pentland Firth and Orkney Waters marine area that do not require a licence or that require licences without a spatial component to them (i.e. those not linked to specific geographical location, e.g. fishing, shipping, tourism, leisure and recreational activities). Those affected may be Scottish, Rest of UK, or foreign.

- coastal communities.
- the Scottish Government (through Marine Scotland’s Planning and Licensing Operations).
- the Orkney Islands Council and the Highland Council.
- regional Marine Planning Partnerships (including local authorities).

## **Costs**

### Option 1

3.7 It is not envisaged that this option will create any additional costs for developers. As many of the policies within the Plan are reiterations of existing policies, these requirements would remain in place. However, under this option the Plan would not consolidate policies in an accessible manner, or aid in the application of existing policies in a local context. Developers could suffer from ongoing uncertainty surrounding planning and licensing which could, in turn, result in higher costs, undermining sustainable economic growth and the protection of Scotland’s marine environment.

3.8 This option would potentially undermine the feasibility and effectiveness of future Regional Marine Plans as the process would not have been piloted.

### Option 2

3.9 The pilot PFOW MSP reiterates many existing policies (see annex A). However, it also sets out a variety of new policies (annex B) that aim to provide guidance on development in the Pentland Firth and Orkney Waters area. Some of the policies included in the plan are general and apply to all activities and uses of the marine environment. Others however, are specifically applicable to particular sectors such as renewable energy generation, aquaculture, oil and gas or commercial fishing etc.

3.10 Although this Plan is non-statutory the new policies are likely to be material considerations in the existing planning and consenting processes. New policies may also inform or be carried into the future statutory Regional Marine Plans. Therefore it is likely that this Plan will have some implications for the sectors and groups specified above, though it is not certain that all requirements contained within the Plan will be applied due to its non-statutory nature. The policies can influence:

- the preparation of, and consultation upon, Regional Marine Plans by future Marine Planning Partnerships
- the preparation of applications by developers and the assessment of applications by licensing authorities
- the choice of location of marine developments and activities
- the requirements placed on the construction, operation and expansion of marine developments

3.11 The pilot PFOW MSP will be submitted to Scottish ministers for approval in 2016. As such it’s conditions would only apply to developments and applications after it has been approved.

3.12 This BRIA has not quantified additional costs incurred as a result of the adoption of this option and the policies contained within the Plan. At this stage it is not possible to estimate and quantify the additional costs to developers with any accuracy, therefore a qualitative approach has been taken to assessing the additional costs of new policies within this BRIA.

**Table 1** sets out the potential impacts and costs associated with new and additional policies (Annex B).

**Table 1: Potential Impacts of New and Additional Policies (Annex B) Contained in the pilot Pentland Firth and Orkney Waters Marine Spatial Plan Policies**

Policy	Costs
<p>General Policy 1B: Supporting Sustainable Social and Economic Benefits</p>	<p><b>Potential Additional Costs for Developers</b></p> <p>Requirement to maximise local supply chain opportunities may lead to suppliers choosing more expensive supply option to comply with this guidance.</p> <p>Requirements on developers to consult, and cooperate may be additional to current requirements and this may result in developers changing or adding to their existing processes, incurring additional costs.</p>
<p>General Policy 1C: Safeguarding the Marine Ecosystem</p>	<p><b>Limited/ No Additional Costs to Developers</b></p> <p>Requirement to minimise and mitigate damage to the natural environment is already required by the licensing and consenting process. It is likely that no additional actions are required to comply with this policy and so there are likely to be no/limited additional costs.</p>
<p>General Policy 2: The Well-Being, Quality of Life and Amenity of Coastal Communities</p>	<p><b>Potential Additional Costs for Developers</b></p> <p>Requirement on developers to consult, engage, and cooperate with other marine users may alter developer behaviour and create additional tasks, resulting in increased costs.</p> <p>Requirement to mitigate damage will result in additional actions and so incur additional costs.</p>
<p>General Policy 4C: Wider Biodiversity</p>	<p><b>Limited/ No Additional Cost to Developers</b></p> <p>Developers must already take into account the effect of development on Priority Marine Features; both effectively demonstrating the absence of an effect or putting in place mitigation for the effect. There is therefore unlikely to be any additional costs for developers</p>

<p>General Policy 5A: Water Environment</p>	<p><b>Potential Additional Costs for Developers</b></p> <p>Requirement to gather information about potential adverse effects will likely result in additional actions which may incur additional costs on developers.</p> <p>Requirement to co-operate with existing activities with an effect on the water environment may result in additional actions for developers.</p>	
<p>General Policy 7: Integrated Coastal and Marine Development</p>	<p><b>Limited/ No Additional Costs to Developers</b></p> <p>A respondent to the consultation in 2015 noted that the recommendation in this policy for developers to produce a single Environmental Impact Assessment (EIA) for terrestrial components of a development project that are inextricably linked to the main works may result in developers to consider producing a single EIA where they would not have otherwise done so. However, responses from the consultation exercise resulted in this policy wording being changed and it no longer specifically recommends producing a single EIA.</p> <p>Requirement to carry out an EIA is already required by the licensing and consenting process. It is likely that no additional actions are required to comply with this policy and so there are likely to be no/limited additional costs.</p>	
<p>General Policy 9: Invasive Non-Native Species</p>	<p><b>Potential Additional Costs to Developers</b></p> <p>Requirement for developers to put in place biosecurity plans will result in additional actions and so incur additional costs for developers.</p> <p>Requirement for developers to produce contingency and mitigation plans will result in additional tasks and activities which will produce increased costs for developers.</p> <p>Activities resulting from mitigation and contingency plans produced to meet the requirements of this policy will result in developers changing or adding to their existing processes. This has potential to result in additional tasks. This may incur increased costs for the developer.</p>	

Sectoral Policy 1: Commercial Fisheries	<p><b>Potential Additional Costs to Developers</b></p> <p>Requirement of Port and Harbour operators to engage with local fishers could result in additional activities and result in altered behaviour, potentially increasing costs for the developers.</p>
Sectoral Policy 4: Renewable Energy Generation	<p><b>Limited/ No Additional Costs to Developers</b></p> <p>Requirement to take account of Regional Locational Guidance (RLG). The RLG published alongside the pilot PFOW MSP does not differ significantly to the RLG published alongside the draft Sectoral Marine Plans and so is unlikely to incur additional costs for developers.</p>
Sectoral Policy 5: Recreation, Sport, Leisure and Tourism	<p><b>Potential Additional Costs for Developers</b></p> <p>Requirements on developers to consult, and cooperate may be additional and alter behaviour, resulting in additional costs.</p> <p>The requirement to mitigate damage to recreation, leisure and tourism may result in additional actions and activities, incurring additional costs for the developer.</p>
Sectoral Policy 9: Marine Aggregates	<p><b>Potential Additional Costs for Developers</b></p> <p>The requirement for developers to cause no significant adverse impact on other marine activities may incur additional costs through information gathering and engagement activities. As a result developments may also be required to be sited away from the optimal area.</p>

3.13 It is envisaged that the pilot PFOW MSP will incur some additional costs for businesses. However, as the Plan is non-statutory, it is not guaranteed that all of the new policies will come into effect. Costs have not been quantified due to their inherent uncertainty.

### **Benefits**

#### Option 1

3.14 No additional benefits are expected to arise from this option.

#### Option 2

3.15 Implementing the pilot PFOW MSP should help deliver the benefits of a marine planning system set out in the Final Regulatory Impact Assessment for the Marine (Scotland) Act 2010.

These benefits include:

- reducing planning risk and uncertainty
- a more informed site selection process
- benefits for the economy including an efficient use of Scotland’s marine resources, reduced conflict between marine users and a greater confidence and certainty for developers whilst negotiating the planning and consenting system
- policies involving stakeholder engagement would have social benefits, involving local communities in the use of the marine area
- environmental benefits include the protection of internationally, nationally, and locally important nature conservation and biodiversity sites and interests
- this option helps environmental issues to be incorporated into the planning and management process

3.16 Additional benefits may include consideration of the Pentland Firth and Orkney Water’s historic environment and its protection in planning and development decisions in the area.

3.17 The pilot PFOW MSP will provided future Marine Planning Partnerships with a clear approach to the preparation of Regional Marine Plans. This will likely lead to more effective Regional Marine Plans that will help planning and licensing authorities to manage the marine environment and the region’s marine resources more effectively than if the Plan had not been approved.

#### 4. Scottish Firms Impact Test

4.1 Face-to-face discussions were conducted with small businesses representing various sizes and sectors. Questions were asked to cover potential costs and benefits from the pilot PFOW MSP and whether or not the pilot Plan should be implemented. Responses are outlined in Table 2.

4.2 Most businesses did not anticipate any real impact on day to day running costs as a result of the pilot Plan. Two businesses considered there to be costs in terms of resources required to participate in the consultation for the development of the pilot Plan. Overall the pilot Plan was welcomed on the basis that it would have negligible negative impact on businesses and would support sustainable economic growth.

**Table 2: Summary of responses from meetings with businesses in north Caithness and Sutherland and Orkney Islands.**

Type of business	No. employed	Sector	Costs/benefits	Other comments
Camping/caravan site	24-25 in summer/4 in winter	Tourism	No opinion on impacts.  <b>Implement – Yes</b>	Fishing litter an issue along north coats as it washes ashore on beaches.

Bed and Breakfast	1	Tourism	Lack of harbour access in Durness and wider parish a major issue. Benefits for tourism if Plan supports harbour development. Fish currently transported from Scrabster but could be landed locally if there was a harbour.	
Renewable energy consultancy	3	Renewable energy generation	<p><b>Financial/administrative</b> - Potential impact for businesses if they become overburdened with documents, policies etc. Plan should not be a barrier to innovation.</p> <p><b>Environmental/social-</b> Marine environment very complex and needs to be taken care of, the Plan can help do that. We need an overarching document for looking after the environment.</p> <p><b>Day to day running –</b> Marine energy developers will need the Plan to be interpreted and the company could include that as part of the services they provide.</p> <p><b>Implement - Yes</b></p>	Needs to be clear how often the Plan will be reviewed. Given the pace of change with renewables industry any review period would need to be frequent enough to capture this change.
Ferry tour operator	15 (at peak season)	Marine transport/Tourism	<p><b>Day to day running -</b> No real impact so long as limits not imposed on how close ferry can approach sea cliffs. Have flexibility to move route if required.</p> <p><b>Implement – Yes,</b> can see no cause for concern for the business.</p>	
Engineering firm for energy industries	12	Oil and gas/Renewable energy	Business recently impacted by downturn in oil price and lack of new	

		generation	<p>activity with wave and tidal industry.</p> <p><b>Day to day running -</b> Business opportunities may be provided if Plan supports growth of marine renewables industry that make use of local industries.</p> <p><b>Implement - Yes</b></p>	
Shellfish processor	85	Commercial fisheries	<p><b>Day to day running –</b> Impact negligible at the moment on business as Plan non-statutory. Highlights important issues. Remains to be seen how Plan will consider weighting different sectors when it becomes statutory. Different drivers for development emerging since work on Plan started (e.g. cable laying, downturn in marine renewables). Issues will be considered on case-by-case basis but good to have overall framework for informing decisions.</p> <p>Business is growing and new boats are entering Orkney fishery. However, there may be limits to this growth and fishing will move to new areas. Boats on Westray starting to fish out with the boundary of the Plan area. Future discussion will be required on provisions for management beyond 12 nautical miles.</p> <p>Management measures</p>	

			<p>to sustain stocks and maximise value may have interactions with other sectors. These will need to be considered in future marine plans.</p> <p><b>Administrative/financial</b> – Attending meetings and responding to consultations on marine planning is time-consuming for Inshore Fisheries Group (IFG) chairs. IFGs need to focus on issues within their fisheries.</p> <p><b>Environmental/social</b> – We have responsibilities to look after the marine environment and manage increasing use of it.</p> <p><b>Implement</b> – Yes, it is a welcome document.</p>	
Tidal energy developer	23	Renewable energy generation	<p><b>Day to day running</b> – If it makes consenting easier there will be cost benefits. Can see no additional costs in terms of requirement for consultation with local stakeholders as company is local and therefore already has established relationships with those users. Plan will be of more use to companies coming into the area from elsewhere as they won't necessarily know the local players and local environment.</p> <p><b>Implement</b> – Yes, Plan will help from a consenting perspective.</p>	Lots of infrastructure has been put in place for marine renewables industry which could be lost if not used. If Plan can support the development of these industries in area then it's a good thing.
Salmon farm company	368 (43 in Orkney)	Aquaculture	<p><b>Day to day running</b> – Seems to be duplication</p>	

			<p>with Supplementary Guidance for Aquaculture. How will it fit together? If there are different review periods for each there may be conflicting information guiding aquaculture development. However, good in principle to have guidance to defend decisions. Welcome having a criteria-based approach rather than having a spatial approach as business requires flexibility.</p> <p><b>Administrative/financial</b> – Duplication of guidance may create confusion and costs. Unclear as to where separation lies with Supplementary Guidance for Aquaculture for Orkney/Highlands and the Plan. Time taken to engage in consultation to develop Plan policies.</p> <p><b>Suppliers</b> – Have tried to maximise use of local suppliers however not always possible to do so.</p> <p><b>Implement</b> – Yes, but make clear separation of Plan from existing guidance. No benefit in terms of additional profit.</p>	
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4.3 As much of the pilot Plan reiterates and consolidates existing policy, these elements of policy are unlikely to impose additional costs on small businesses. The pilot Plan does include some new policy elements which may have impacts on the developers of licensable activities and may impose additional costs on other small businesses.

4.4 Small and micro businesses are likely to benefit from their interests being considered as part of proposals for development.

## Competition Assessment

4.5 New and additional policies within the pilot PFOW MSP may affect a variety of marine activities. Particular effects may be seen in marine activities for which developers require a licence to carry out new or amended operations. Such activities include renewable energy generation, aquaculture and ports and harbours.

### Competition Filter Questions

4.6 Will the proposal directly limit the number or range of suppliers? (Will it award exclusive rights to a supplier or create closed procurement or licensing programmes?)

**No.** It is not likely that the number or range of suppliers will be directly limited by the pilot PFOW MSP.

4.7 Will the proposal indirectly limit the number or range of suppliers? (Will it raise costs to smaller entrants relative to larger existing suppliers?)

**Limited/ No Impact.** As the policies which affect the preparation of applications, location of marine developments and activities, or requirements for marine developers would apply equally to all developers, irrespective of business size, there is unlikely to be any impact on this. The new and additional policies within the Plan have the potential to incur additional costs for developers submitting new licence applications. However, the policies will apply to both new entrants and existing developers seeking to expand or change their operations.

4.8 Will the proposal limit the ability of suppliers to compete? (Will it reduce the channels suppliers can use or geographic area they can operate in?)

**No.** The policies contained within the pilot PFOW MSP will not directly affect firms' route to market or the geographical markets they can sell into.

4.9 Will the proposal reduce suppliers' incentives to compete vigorously? (Will it encourage or enable the exchange of information on prices, costs, sales or outputs between suppliers?)

**No.** Although policies that support co-existence of developments may encourage some aspects of cost-information sharing, these companies are likely to be undertaking different activities and so would not be in competition with one another.

### Test run of business forms

4.10 It is not envisaged that the pilot PFOW MSP will result in the creation of new forms for businesses to deal with, or result in amendments of existing forms.

## 5. Legal Aid Impact Test

5.1 It is not expected that the pilot PFOW MSP will have any impact on the current levels of access to justice through legal aid or on the possible expenditure from the Legal Aid fund.

5.2 The Scottish Legal Aid Board have agreed that there is not expected to be any impact of this Plan on Legal Aid expenditure.

## 6. Enforcement, sanctions and monitoring

6.1 As the pilot PFOW MSP is non-statutory there is no requirement for enforcement, sanctions and monitoring. The Plan is to be used as a material consideration in the existing licensing process of Marine Scotland and in the planning system of local authorities.

## 7. Implementation and delivery plan

7.1 Work on developing the PFOW MSP started in April 2012 as part of a three stage process that started in 2009. Once approved the pilot Plan will be used as a material consideration in the determination of marine licensing and section 36 consent applications within the Pentland Firth and Orkney Waters area. Highland Council and Orkney Islands Council will have the option to adopt the final pilot Plan as non-statutory planning guidance, acknowledging the status of the Plan as a material consideration in the determination of relevant planning applications. Orkney Islands Council will also be provided with the option to approve the Plan as a material consideration in the determination of works licence applications. It is likely that this PFOW MSP will be used as the basis for the statutory regional marine plans in the Orkney and North Coast Scottish Marine Regions. Once these statutory regional plans are in place they will be the way in which marine planning in these areas is implemented.

### • Post-implementation review

Marine Scotland, Orkney Islands Council and Highland Council intend to put in place a system to monitor how the Plan is used by the Marine Scotland's Licensing Operations Team and by the councils when determining planning applications. The results of this monitoring will be used to inform the development of statutory regional marine plans. The need for a post-implementation review will cease once these statutory plans are in place.

## 8. Summary and Recommendation

8.1 It is recommended that Option 2 (the development of the pilot PFOW MSP) is adopted. This would help the implementation of the NMP, and inform the production of future Regional Marine Plans.

### Summary Costs and Benefits Table

Option	Summary of Costs	Summary of Benefits
1: Do Nothing	No additional costs envisaged.  Lack of guidance to inform the preparation of policies in the Regional Marine Plans and the governance of Marine Planning Partnerships.  Continued lack of certainty and clarity for developers and planning authorities.	No additional benefits envisaged.

<p><b>2: Approve the pilot Pentland Firth and Orkney Waters Marine Spatial Plan</b></p>	<p>Potential for additional costs for developers of licensed activities to be incurred. See Table 1 for details.</p>	<p>Guidance for the preparation of future statutory Regional Marine Plans.</p> <p>Clarity and guidance for the existing planning and consenting process</p>	
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**Declaration and publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**



**Date:** 16<sup>th</sup> March 2016

**Minister's name** Richard Lochhead

**Minister's title** Cabinet Secretary for Rural Affairs, Food and the Environment

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## Annex A: Baseline Policies in the pilot Pentland Firth and Orkney Waters Marine Spatial Plan

Policy Title	Policy Text
<p><b>General Policy 1A: Sustainable Development</b></p>	<p>Development(s) and/or activities will be supported by this Plan when it can be demonstrated that:</p> <ul style="list-style-type: none"> <li>• they will not have significant adverse direct, indirect or cumulative social, environmental or economic effects</li> <li>• they will maintain and, where possible, enhance, existing built, natural and cultural heritage resources</li> <li>• they will make efficient use of marine space, and where appropriate, maximise opportunities for co-existence between marine users and support the multiple use of marine space</li> <li>• they will not create an unacceptable burden on existing infrastructure and services that cannot be resolved</li> </ul> <p>Public authorities should adhere to the following sustainable development principles in the determination of any authorisation or enforcement decision:</p> <ul style="list-style-type: none"> <li>• the protection and, where appropriate, enhancement of the health of the marine area</li> <li>• maximise opportunities for lasting social, environmental and economic benefits balancing these considerations through the consenting process</li> <li>• maximise the efficient use of existing infrastructure and services (e.g. port and harbour infrastructure)</li> <li>• support the efficient use of marine space and co-existence between marine users</li> <li>• sound science has been used responsibly</li> </ul>
<p><b>General Policy 3: Climate Change</b></p>	<p>Development(s) and/or activities will be supported by the Plan where the proposal can demonstrate appropriate:</p> <ul style="list-style-type: none"> <li>• measures to mitigate the effects of climate change</li> <li>• measures taken to adapt to climate change</li> <li>• resilience has been built into the project over its lifetime</li> </ul> <p>All proposals for development(s) and/or activities must minimise, as far as practicable, emissions of greenhouse gases and clearly demonstrate mitigation measures taken.</p>
<p><b>General Policy 4A: Nature Conservation Designations</b></p>	<p>The Plan will support development(s) and/or activities where due regard is given to the importance of international, national and locally designated nature conservation sites.</p> <p><b>Internationally designated sites</b></p> <p>Development(s) and/or activities likely to have a significant effect on a site designated or proposed to be designated as a SPA or SAC (collectively known as Natura 2000 sites) alone or in combination and not directly connected with, or necessary to the conservation management of that site, must be subject to an Appropriate Assessment in order to assess the implications for the site's conservation objectives.</p>

	<p>Development(s) and/or activities will only be permitted in circumstances where the assessment ascertains that:</p> <ul style="list-style-type: none"> <li>• they would not adversely affect the objectives of the designation or the integrity of the site; or</li> <li>• there is no alternative solution; and</li> <li>• there are imperative reasons of over-riding public interest, including those of a social or economic nature.</li> </ul> <p>The international importance of Ramsar sites should also be appropriately protected.</p> <p><b>Nationally designated sites</b></p> <p>Development(s) and/or activities capable of affecting a Nature Conservation Marine Protected Area (NC MPA) will only be permitted where it can be demonstrated to the satisfaction of the relevant public authority that there is no significant risk of hindering the achievement of the conservation objectives of the NC MPA. Where this cannot be satisfactorily demonstrated authorisation can only be granted if the relevant public authority is satisfied that:</p> <ul style="list-style-type: none"> <li>• there is no alternative that would have a substantially lower risk of hindering the achievement of the conservation objectives of the NC MPA;</li> <li>• the public benefit outweighs the risk of damage to the environment; and</li> <li>• the applicant will arrange, to the satisfaction of Scottish Ministers, for measures of equivalent environmental benefit to the damage that will or is likely to occur.</li> </ul> <p>Development(s) and/or activities that affect a SSSI or Geological Conservation Review (GCR) site will only be permitted where (for SSSIs) the objectives of designation and overall integrity of the area, or (for GCR sites) the reasons for selection, will not be compromised, or where significant adverse effects on the qualities for which the area has been designated/selected are clearly outweighed by social, environmental or economic benefits of national importance.</p> <p><b>Locally designated sites</b></p> <p>Development(s) and/or activities that affect a Local Nature Conservation Site (LNCS) or Local Nature Reserve (LNR) will only be permitted where it can be demonstrated to the satisfaction of the consenting authority that any significant adverse impact on the integrity of the site, or the qualities for which it has been designated, have been appropriately addressed or mitigated or any such impact is clearly outweighed by social, environmental or economic benefits and there is no satisfactory alternative.</p> <p>In addition, in all cases where development(s) and/or activities affecting a nature conservation site can be consented, satisfactory mitigation measures will be required to minimise any potential adverse impacts during the construction, lifetime and decommissioning of the development(s) and/or activities.</p>
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	<p>Where the impact of development(s) and/or activities on an international, national or local natural heritage resource are uncertain, but there are good scientific grounds that significant irreversible damage could occur, the precautionary principle will apply.</p>
<p><b>General Policy 4B: Protected Species</b></p>	<p>The Plan will not support development(s) and/or activities that would be likely to have an adverse effect on a European Protected Species unless the relevant consenting or planning authority is satisfied:</p> <ul style="list-style-type: none"> <li>• there is no satisfactory alternative;</li> <li>• the development(s) and/or activities are required for preserving public health or public safety or there are other imperative reasons of overriding public interest; and</li> <li>• the development(s) and/or activities would not be detrimental to the maintenance of the population of a European Protected Species concerned at a favourable conservation status in its natural range.</li> </ul> <p>Where the impacts of development(s) and/or activities on an internationally or nationally protected species are uncertain, but there are good scientific grounds that significant irreversible damage could occur, the precautionary principle will apply.</p> <p>Development(s) and/or activities will only be permitted where they comply with any licence granted by the appropriate authority required for the purpose of species protection.</p> <p>Development(s) and/or activities likely to have an adverse effect on other species protected under current wildlife legislation, individually and/or cumulatively will only be permitted if those effects can be mitigated to the satisfaction of the relevant consenting or planning authority, or if they are satisfied that legislative requirements to proceed can be met.</p>
<p><b>General Policy 4D: Landscape and Seascape</b></p>	<p>The siting and design of any proposed development(s) and/or activities should demonstrate how the proposal takes into account visual impact and existing character and quality of landscape and seascape.</p> <p>Development(s) and/or activities that affect National Scenic Areas (NSAs) and Special Landscape Areas (SLAs) should only be permitted where:</p> <ul style="list-style-type: none"> <li>• they will not adversely affect the integrity of the area or its special qualities for which it has been designated; or</li> <li>• any significant adverse effects are clearly outweighed by social, environmental or economic benefits of national importance for NSAs and local importance for SLAs.</li> </ul> <p>Scottish Planning Policy should be considered in both the planning and decision-making stages.</p>
<p><b>General Policy 4E: Geodiversity</b></p>	<p>Development and/or activities will only be supported by this Plan where they:</p> <ul style="list-style-type: none"> <li>• do not have a significant adverse effect on geodiversity interests of international, national and regional/local importance</li> <li>• provide mitigation to minimise any adverse effects on such features</li> </ul>

<p><b>General Policy 5B: Coastal Processes and Flooding</b></p>	<p>The Plan will support proposals for development and/or activities, including any linked shore-base requirements, that demonstrate, potentially by way of a flood risk assessment:</p> <ul style="list-style-type: none"> <li>• compliance with Scottish Planning Policy</li> <li>• that they will not exacerbate present or future risks of flooding or erosion</li> <li>• that sensitive uses, such as accommodation, should generally not be located in areas shown to be at risk of flooding unless appropriate measures are in place</li> <li>• how resilience and adaptation strategies have been incorporated within proposed developments over their lifetime to adapt to the effects of climate change, coastal erosion and coastal flooding</li> </ul> <p>Any development must not compromise the objectives of the Flood Risk Management Act.</p>
<p><b>General Policy 6: Historic Environment</b></p>	<p>Development(s) and/or activities with potential to have an adverse effect on the archaeological, architectural, artistic or historic significance of heritage assets, including their settings, will be expected to demonstrate that all reasonable measures will be taken to mitigate any loss of significance, and that any lost significance which cannot be mitigated is outweighed by social, economic, environmental, navigation or safety benefits.</p> <p>Preservation in situ will always be the preferred form of mitigation. The results of any mitigation measures must be published in an agreed format, and all supplementary material lodged with an agreed publicly accessible archive.</p> <p>Heritage assets of very high significance should be protected from all but minor adverse effects to their significance unless there are overwhelming social, economic or environmental benefits from the development(s) and/or activities. For these sites the highest levels of mitigation will be required. This includes sites where there is a substantial likelihood of the survival of human remains, and protected sites identified in Table 3.</p> <p>For those sites which are designated, licences or consents are likely to be required from the relevant authority before the commencement of development(s) and/or activities. Receiving these consents may be a condition of marine licence approval. Proposals for development(s) and/or activities that may affect the historic environment should provide information on the significance of known heritage assets and the potential for new discoveries to arise. They should demonstrate how any adverse impacts will be avoided, or if not possible minimised and mitigated. Where it is not possible to minimise or mitigate impacts, the benefits of proceeding with the proposal should be clearly set out.</p>
<p><b>General Policy 8A: Noise</b></p>	<p>This Plan will support development(s) and/or activities in the marine environment where:</p> <ul style="list-style-type: none"> <li>• developers have avoided significant adverse effects: <ul style="list-style-type: none"> <li>○ of man-made underwater noise and vibration on species sensitive to such effects</li> <li>○ of man-made noise, vibration and/or disturbance on the amenity of local communities and marine users</li> </ul> </li> <li>• applications for marine development(s) and/or activities that are likely to have significant noise impacts (on sensitive</li> </ul>

	<p>species and/or people) include a noise impact assessment or supporting information to describe the duration, type and level of noise expected to be generated at all stages of the development (construction, operation, decommissioning)</p> <ul style="list-style-type: none"> <li>• mitigation measures are in place to minimise the adverse impacts associated with the duration and level of significant noise activity</li> <li>• the cumulative effects of noise in the marine environment and on local communities have been assessed</li> <li>• developers have considered whether the level of surface or underwater noise has the potential to affect a European Protected Species (EPS) and have noted that any development(s) and/or activities which have the potential to disturb an EPS (otters, cetaceans) will require an EPS licence</li> <li>• developers have consulted with the local planning authority, Marine Scotland and Scottish Natural Heritage in relation to potential noise impacts as early as possible in the design and development of any marine-related project</li> </ul>
<p><b>General Policy 8B: Waste and Marine Litter</b></p>	<p>All developers and users of the marine environment should seek to minimise waste and discard all litter responsibly, recycling where possible.</p> <p>Proposals for new development(s) or modifications to existing activities shall ensure that waste is reduced to a minimum and they do not add to marine litter.</p> <p>Large developments may require a waste management plan, which shall be adhered to as a condition of the development, where appropriate. Where this is the case, a draft plan should be included in the application.</p> <p>Where unavoidable litter is created, e.g. due to storms, a means of recovery, where reasonably practical, should be deployed.</p> <p>Where appropriate, a decommissioning plan should be provided to ensure removal of redundant infrastructure.</p>
<p><b>Sectoral Policy 2: Aquaculture</b></p>	<p>Aquaculture developments will be supported by the Plan where they are in compliance with:</p> <ul style="list-style-type: none"> <li>• Local Development Plans for Orkney Islands Council or Highland Council and any related planning guidance as appropriate</li> <li>• any Marine Scotland or Scottish Environment Protection Agency licensing requirements and guidance</li> </ul> <p>The Plan will support the sustainable growth of seaweed cultivation where it complies with any licensing or subsequent planning requirements.</p>
<p><b>Sectoral Policy 3: Oil and Gas</b></p>	<p>Exploration and production of oil and gas will be supported by this Plan, working with DECC, the Oil and Gas Authority and Competent Authority when:</p> <ul style="list-style-type: none"> <li>• oil and gas exploration and production are conducted in accordance with regulations</li> <li>• there is an approved Oil Pollution Emergency Plan in place that has the agreement with the appropriate authorities to respond to any accidental release of oil or gas and related hazardous substances</li> </ul>

	<ul style="list-style-type: none"> <li>• all oil and gas platforms have in place nine nautical mile consultation zones in line with Civil Aviation guidance</li> <li>• connections to shore base and associated infrastructure take into account environmental and socio-economic constraints</li> <li>• appropriate monitoring programmes and detailed restoration and maintenance proposals based on standard best practice are in place</li> <li>• re-use of oil and gas infrastructure is considered and, where not practicable, decommissioning takes place in line with standard practice, and as allowed by international obligations</li> </ul>
<b>Sectoral Policy 6: Marine Transport</b>	<p>Development(s) and/or activities will be supported by this Plan when it can be demonstrated that:</p> <ul style="list-style-type: none"> <li>• Adverse impacts on existing or planned shipping and ferry routes, navigational safety and access to ports and harbours have been avoided or appropriately mitigated, taking account of movements in all weather conditions</li> </ul> <p>Proposed development(s) and/or activities which would have an adverse impact on efficient and safe movement of shipping between ports, harbours and other recognised anchorages should be refused.</p>
<b>Sectoral Policy 7: Ports, Harbours and Dredging</b>	<p>The sustainable growth of the ports and harbours within the Pentland Firth and Orkney Waters area, particularly within existing facilities, will be supported by the Plan where:</p> <ul style="list-style-type: none"> <li>• access to ports and harbours is not restricted</li> <li>• safety considerations are primary</li> <li>• navigational routes are not compromised</li> </ul> <p>Dredging within the PFOW area will be supported by the Plan where:</p> <ul style="list-style-type: none"> <li>• dredged material is recycled or disposed of in appropriate locations</li> </ul>
<b>Sectoral Policy 8: Pipelines, Electricity and Telecommunications Infrastructure</b>	<p><i>Safeguarding existing pipelines, electricity and telecommunications cables</i></p> <p>Development(s) and/or activities that could potentially damage cables or pipelines should comply with relevant industry requirements with regard to any proposed works and safety considerations. Information sources such as KIS-ORCA can be used to ensure the location of cables are known and taken account of when carrying out such activities.</p> <p><i>Electricity and telecommunications infrastructure</i></p> <p>When laying or replacing electricity and telecommunications infrastructure the following considerations should be taken into account on a case-by-case basis:</p> <p>Developers should ensure that they have engaged with other developers and decision makers at an early planning stage and taken a joined-up approach to minimise impacts on the marine historic and natural environment, the assets, infrastructures and other marine users. Appropriate and proportionate environmental consideration and risk assessments</p>

	<p>should be provided which may include cable protection measures and mitigation plans.</p> <p>Any deposit, removal or dredging carried out for the purpose of executing emergency inspection or repair works to any cable is exempt<sup>14</sup> from the marine licensing regime with approval by Scottish Ministers. However, cable replacement requires a marine licence and is subject to the marine licensing process. Marine licensing guidance should be followed when considering any cable development and activity.</p> <p>Cables should be suitably routed to provide sufficient requirements for installation and cable protection. New cables should implement methods to minimise impacts on the marine historic and natural environment, the assets, infrastructures and other marine users where operationally possible and in accordance with relevant industry practice.</p> <p>Cables should be buried to maximise protection where there are safety or seabed stability risks to reduce conflict with other marine users and to protect the assets and infrastructure. However, it should be noted that not all cables will, or can, be buried depending on project requirements and circumstances.</p> <p>Where burial is demonstrated not to be feasible, cables may be suitably protected through recognised and approved measures (such as rock or mattress placement, cable armouring, shore end marker beacons and admiralty chart updates) where practicable and cost-effective and as risk assessment direct.</p> <p>The need to reinstate the seabed, undertake post-lay surveys and monitoring and carry out remedial action where required.</p> <p>The proposed land fall of power and telecommunications equipment and cabling will be considered against the appropriate policies in the relevant Local Development Plan(s).</p> <p>A risk-based approach should be applied by network owners and decision-makers to the removal of redundant cables, with consideration given to cables being left in situ where this would minimise impacts on the marine, historic and natural environment and other marine users.</p> <p><sup>14</sup> <b>The Marine Licensing (Exempted Activities) (Scottish Inshore Region) Order 2011 (Amended 2012)</b>  <a href="http://www.legislation.gov.uk/sdsi/2011/9780111012284/contents">http://www.legislation.gov.uk/sdsi/2011/9780111012284/contents</a></p>
<b>Sectoral Policy 10: Defence</b>	<p>Development proposals in the Pentland Firth and Orkney Waters area that are in, or affect, Ministry of Defence exercise areas, firing ranges or firing danger areas must ensure that agreement for such use of the area has been agreed with the Ministry of Defence.</p>

## Annex B: New Policies in the pilot Pentland Firth and Orkney Waters Marine Spatial Plan

Policy Title	Policy Text
<b>General Policy 1B: Supporting Sustainable Social and Economic Benefits</b>	<p>Development(s) and/or activities will be supported by this Plan when the proposal can demonstrate:</p> <ul style="list-style-type: none"> <li>• sustainable employment benefits</li> <li>• that opportunities to support local supply chains and create skilled employment in local communities have been maximised</li> <li>• that any adverse social, economic and operational effects on existing activities have been avoided, or where avoidance is not possible, adverse effects have been appropriately mitigated</li> <li>• that opportunities to support synergistic benefits between development and activities have been maximised</li> </ul> <p>Developers should undertake early engagement with the local authority, and any other relevant bodies, if there are likely to be significant impacts on local infrastructure or services.</p>
<b>General Policy 1C: Safeguarding the Marine Ecosystem</b>	<p>The Plan will support proposed development(s) and/or activities when they:</p> <ul style="list-style-type: none"> <li>• safeguard the integrity of coastal and marine ecosystems</li> <li>• contribute towards the MSFD objectives to promote enhancement or improvement of the environmental status of the marine environment</li> <li>• demonstrate how any significant disturbance and degradation of coastal and marine ecosystems has been avoided or appropriately mitigated</li> </ul>
<b>General Policy 2: The Well-Being, Quality of Life and Amenity of Coastal Communities</b>	<p>Development(s) and/or activities will be supported by this Plan when it can be demonstrated that:</p> <ul style="list-style-type: none"> <li>• significant adverse effects on the well-being, quality of life and amenity of local communities have been avoided, and where appropriate, mitigation measures to address any adverse effects have been incorporated as part of the proposals and agreed with the consenting authority</li> <li>• local stakeholders, relevant Community Councils and interested community groups have been engaged at an early stage in the development process when assessing any potential impacts on the well-being, quality of life and amenity of local communities</li> </ul>
<b>General Policy 4C: Wider Biodiversity</b>	<p>The Plan will not support development(s) and/or activities that result in a significant impact on the national status of Priority Marine Features.</p> <p>Where development(s) and/or activities are likely to have an adverse impact on species of regional or local importance to biodiversity, proposals should demonstrate that:</p> <ul style="list-style-type: none"> <li>• the public benefits at a local level clearly outweigh the value of the habitat for biodiversity conservation;</li> <li>• the development(s) and/or activities will be sited and designed to minimise adverse impacts on environmental</li> </ul>

	<p>quality, ecological status or viability; and</p> <ul style="list-style-type: none"> <li>any impact will be suitably mitigated.</li> </ul>
<b>General Policy 5A: Water Environment</b>	<p>The Plan will support development(s) and/or activities in the marine environment when the proposal:</p> <ul style="list-style-type: none"> <li>does not cause any water body to deteriorate in status nor prevent the achievement of established objectives set out in the River Basin Management Plan for the Scotland river basin district</li> <li>contributes, where possible, towards objectives to improve the ecological status of coastal water bodies and the environmental status of marine waters</li> <li>does not cause deterioration in the standard of waters designated under European Commission Directives and national legislation</li> <li>is accompanied by sufficient information to enable a full assessment of the likely effects, including cumulative effects, on the water environment</li> <li>has taken into account existing activities in the proposed location for development and undertaken early consultation to ensure that activities that may not be compatible (e.g. development of an incompatible activity near an established legitimate activity, such as a licensed discharge) are not located together</li> </ul>
<b>General Policy 7: Integrated Coastal and Marine Development</b>	<p>For development(s) and/or activities that require multiple licences, permissions and/or consents, applicants should undertake early pre-application engagement with the consenting authorities and relevant stakeholders.</p> <p>For development(s) and/or activities that require an Environmental Impact Assessment and multiple licences, permissions and/or consents, applicants should produce a Consultation Strategy at the scoping stage.</p> <p>Where appropriate, proposals for construction projects should be supported by a construction environmental management plan which covers both the terrestrial and marine environment.</p> <p>MS-LOT and other relevant consenting authorities should consult one another at an early stage to improve the efficiency of the consenting process and, where appropriate, coordinate and streamline the various consenting requirements.</p>
<b>Policy GEN 9: Invasive Non-Native Species</b>	<p>All developers and users of the marine environment should take into account the risk of introducing and spreading non-native species and put in place biosecurity and management measures to minimise this risk. These measures will be most effective when a co-ordinated and collaborative approach is taken by developers and users of the marine environment. Applications for marine-related development(s) and/or activities should demonstrate that the potential risks of spreading non-native species, and appropriate mitigation where needed, has been adequately considered in their proposal.</p> <p>Existing Codes of Practice, species control agreements and orders (under the WANE Act), risk assessments and international guidelines should be used to develop these measures where relevant to the marine environment.</p> <p>Where non-native species assessed as high risk are known to be present, mitigation measures (e.g. an eradication plan) or a contingency plan should be put in place to minimise the risk of spreading the species.</p>

<p><b>Sectoral Policy 1: Commercial Fisheries</b></p>	<p>Taking account of the relevant EU policies and Directives marine planners and decision makers should aim to ensure:</p> <ul style="list-style-type: none"> <li>• existing fishing opportunities and activities will be safeguarded wherever possible</li> <li>• an ecosystem based approach to the management of fishing which ensures the sustainability of fish stocks and avoids damage to fragile habitats has been implemented</li> <li>• consideration has been given to protection for vulnerable commercial stocks (in particular for juvenile and spawning stocks through continuation of sea area closures, where appropriate)</li> <li>• other sectors take into account the need to protect fish stocks and sustain healthy fisheries for both economic and conservation reasons</li> <li>• that appropriate consultation regarding proposed development(s) and/or activities have been undertaken with local fishers and representatives of local and national fisheries organisations and Inshore Fisheries Groups (or equivalent)</li> </ul> <p>The following key factors should be taken into account when deciding on uses of the marine environment and the potential impact on fishing:</p> <ul style="list-style-type: none"> <li>• the cultural and economic importance of fishing, in particular to vulnerable coastal and island communities</li> <li>• the potential impact (positive and negative) of marine development(s) and/or activities on the sustainability of fish and shellfish stocks and resultant fishing opportunities in the Pentland Firth and Orkney Waters area</li> <li>• the environmental impact on fishing grounds (such as nursery, spawning areas), commercially-fished species, habitats and species more generally</li> <li>• the potential effect of displacement on: fish stocks; the wider environment; use of fuel; socio-economic costs to fishers and their communities and other marine users</li> <li>• port and harbour operators should seek to engage with fishing and other relevant stakeholders at an early stage to discuss any changes in infrastructure, including commercial policy, that may affect them</li> <li>• any port or harbour development(s) and/or activities should take account of the needs of the dependent fishing fleet with a view to avoiding commercial and environmental harm where possible</li> </ul>
<p><b>Sectoral Policy 4: Renewable Energy</b></p>	<p>All proposals for offshore wind and marine renewable energy development are subject to licensing and consenting processes.</p> <p>The Plan will support proposals when:</p> <ul style="list-style-type: none"> <li>• proposals for commercial scale developments are sited in the Plan Option areas identified through the Sectoral Marine Plan process. These are considered the preferred location for the sustainable development of offshore wind and marine renewables</li> <li>• the potential for co-existence in, and multiple use of, Plan Option areas and Agreement for Lease areas by other marine users has been discussed with stakeholders and given due consideration</li> <li>• due regard has been paid to relevant factors in Regional Locational Guidance</li> </ul>

	<ul style="list-style-type: none"> <li>• connections to shore and National Grid connections have been considered against the appropriate policies in the relevant Local Development Plan(s)</li> <li>• early and effective communication and consultation with all affected stakeholders has been established to avoid or minimise adverse impacts</li> <li>• any adverse impacts are satisfactorily mitigated</li> </ul>
<b>Sectoral Policy 5: Recreation, Sport, Leisure and Tourism</b>	<p>The Plan will support the sustainable development of marine recreation, sport, leisure and tourism.</p> <p>The Plan will support proposals for recreation, sport, leisure and tourism development(s) and/or activities where:</p> <ul style="list-style-type: none"> <li>• they do not adversely affect the natural and historic environment which is the resource that recreation, sport, leisure and tourism rely upon</li> <li>• codes of best practice and guidance such as those for biosecurity planning, non-native species and Marine Wildlife Watching are complied with</li> </ul> <p>The Plan will support proposals for development(s) and/or activities of other sectors where:</p> <ul style="list-style-type: none"> <li>• during planning, construction and operation they minimise or mitigate any disruption and/or disturbance to recreation, sport, leisure and tourism activities, including the natural and historic environment as a resource that these activities rely upon</li> <li>• the impact the development has on access, navigational routes and navigational safety in relation to recreation, sport, leisure and tourism activities has been minimised or mitigated</li> <li>• consultation and engagement with relevant users of the marine environment has been undertaken to ensure the measures used to minimise or mitigate disruption or disturbance are appropriate</li> <li>• consideration has been given to the facility requirements of marine recreation, sport, leisure and tourism users and the potential for co-operation and sharing infrastructure and/or facilities taken into account</li> </ul>
<b>Sectoral Policy 9: Marine Aggregates</b>	<p>Proposals for new marine aggregate extraction sites should ensure they do not compromise existing activities.</p> <p>Decision makers should ensure marine environmental issues are considered and appropriately safeguarded.</p> <p>Any marine development should consider any impacts on existing or potential marine aggregate resources.</p>



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