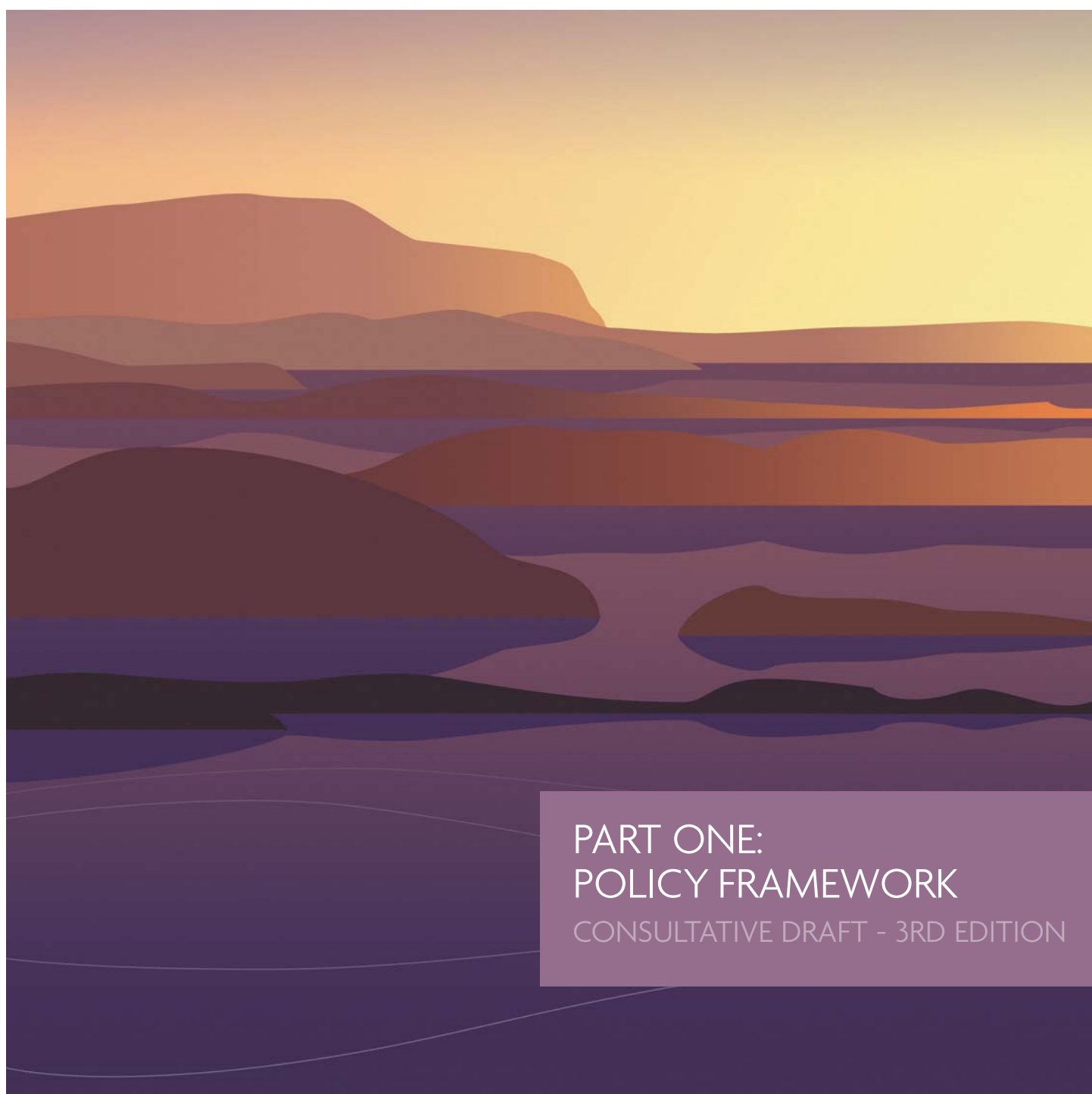
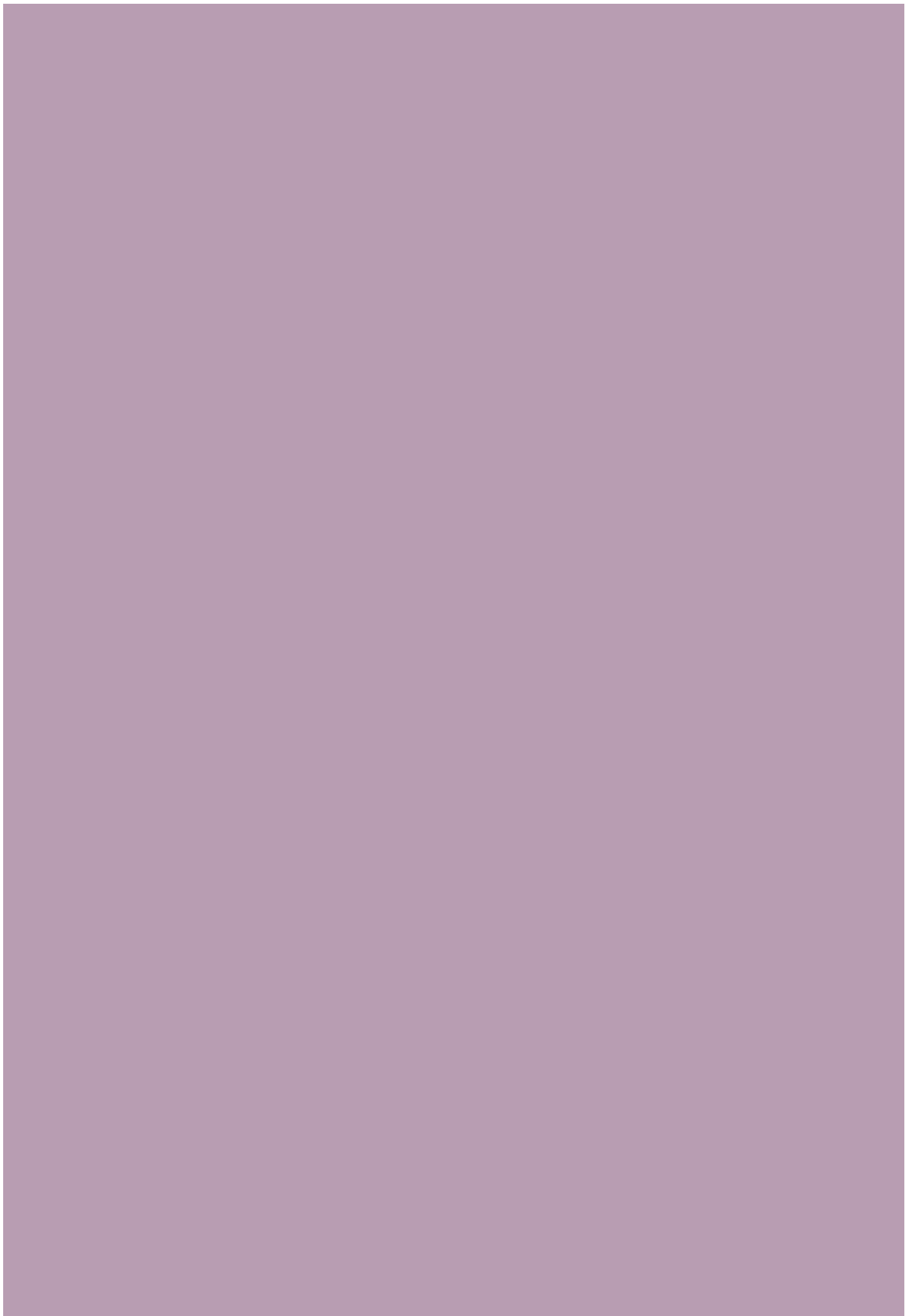




A MARINE SPATIAL PLAN FOR THE SHETLAND ISLANDS



PART ONE:
POLICY FRAMEWORK
CONSULTATIVE DRAFT - 3RD EDITION





A MARINE SPATIAL PLAN FOR THE SHETLAND ISLANDS PART ONE: POLICY FRAMEWORK

CONSULTATIVE DRAFT - 3RD EDITION

This Plan was developed at the NAFC Marine Centre through the Scottish Sustainable Marine Environment Initiative (SSMEI), a three year pilot funded by the following organisations:



The overall guidance to the pilot is provided by a Local Steering Group (membership detailed in Appendix 1).

THE CONSULTATION PROCESS

This consultation can be viewed on the NAFC Marine Centre's website: www.nafc.ac.uk/ssmei.aspx. Strategic Environmental Assessment of the impact of this Plan are provided in the consultation package and available to download at the website above.

We look forward to receiving comments and views on the consultation of A Marine Spatial Plan for the Shetland Islands, and on the other elements of the consultation package.

We invite responses by 14th June 2010. You may wish to use the questions provided below (or available at the above website) on areas which we would particularly like your views.

Hard copies, responses and any questions about the consultation should be directed to:

Lorraine Gray
NAFC Marine Centre
Port Arthur
Scalloway
Shetland ZE1 0UN
Tel: +44 (0)1595 772332
Or by e-mail to: Lorraine.Gray@nafc.uhi.ac.uk

A summary of responses to this consultation will be published by 14th July 2010 on the NAFC Marine Centre's website. Paper copies will be available on request.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

General Questions

Q1: Are you a: (a) user of the sea (b) developer preparing proposals or (c) regulator evaluating proposals?

Q2: Did you find it easy to find the information that you require, and is it in a helpful format? If your answer is no, what would improve the accessibility and format of the information for your special area of interest?

Q3: Does the plan provide a balanced and realistic basis on which to achieve sustainable development in Shetland's marine environment? If your answer is no, what would make it more balanced or realistic?

Q4: Would you use this Plan? If your answer is yes, what benefits do you see? If your answer is no, what would make you more likely to use it?

Q5: Are there any equality impacts such as race, gender or other aspects that you feel would be affected by the implementation of this Plan and its policies?

Q6: Was the guide to the Plan on page 8 helpful when navigating through the document?

Q7: Do the General Policies adequately address the needs of all users and areas of importance, and are they applicable as umbrella policies for all sectoral activities? If your answer is no, what changes would you like to see made?

Q8: After evaluating the plan, do you feel that there is anything missing, or incorrectly stated?

Q9: Do you think that the Delivery Plan is achievable. If your answer is no do you have any suggestions?

Q10: Do you agree this Plan should be monitored and updated?

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Remains of Jarlshof settlement

Image courtesy of Promote Shetland



An aerial view of Eshaness

Image courtesy of Promote Shetland

QUICK GUIDE

This document is designed to guide all marine users in the placement of existing and proposed activities, operations or developments. To help you navigate through this document, there are two hierarchies of policy to read and supplementary maps to consult.

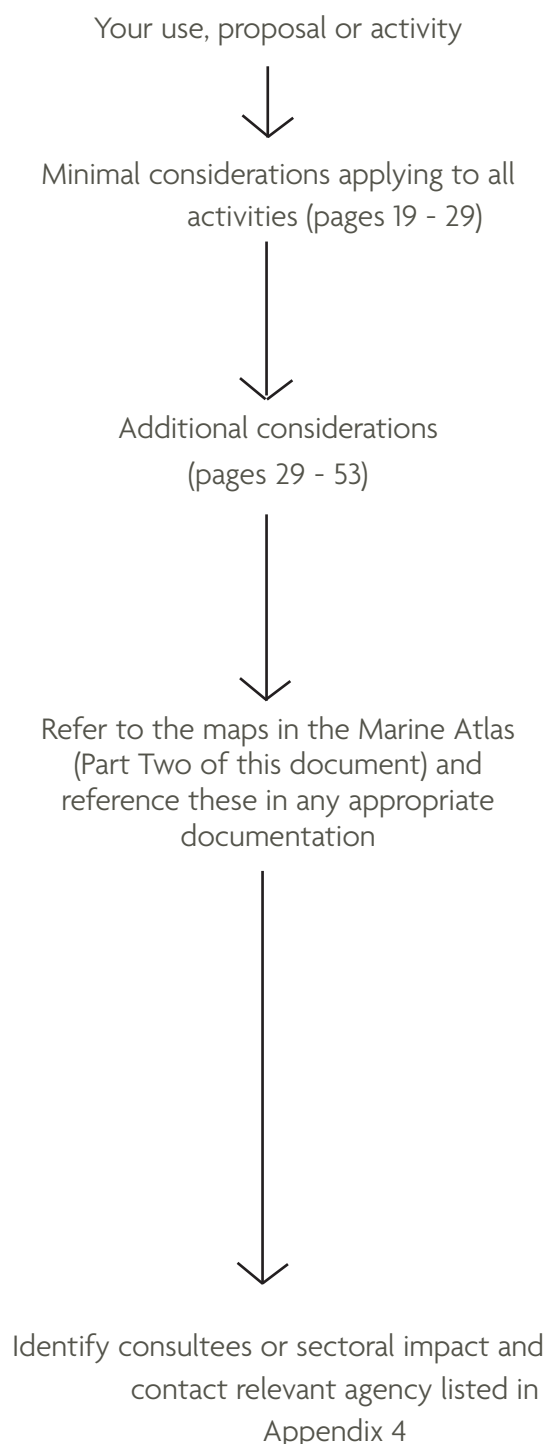
Step 1: The General Policies provide you with the minimal considerations when using the marine and coastal area. All decisions will have considered, as a minimum, all the criteria in these two policies.

Step 2: The next hierarchy of policy is additional criteria appropriate to the sector / type of activity, as well as providing wider considerations such as impacts of and on climate change. Refer to it for specific guidance on the impact of your development / activity.

Step 3: Refer to the maps in the Marine Atlas (Part Two of this document) to advise you on important features / areas of conflict surrounding your area of interest. **You are encouraged to reference these in any documentation for the development consents process.**

If you have a broadband connection, you will be able to open the spatial information on Google Earth™ (files provided on the disk in the Atlas). If you have not already done so, you will have to download a free version of Google Earth™ before opening the files. This is available at: <http://earth.google.com> You can also use the spatial information on certain Geographical Information Systems (GIS). Please ensure you read and agree to the terms of agreement before using the spatial data.

Step 5: Ensure you are familiar with other statutory policy that apply to your activity (this could be Shetland Islands Council's Works License Policy, or, if there is an overlap with the land side of the High Water Mark, the Local Plan). If in doubt, check with the relevant agency listed in Appendix 4 of this document.



FOREWORD

Shetland has a rich and diverse maritime heritage which has evolved and grown out of the Island's geographical remoteness and the industries and communities of fishing and, more recently, oil. Shetlanders have embraced and responded to many new opportunities which, when integrated with existing traditions and skills, has resulted in a strong and dynamic marine management ethos.



National policy on marine management is in a state of flux with UK and Scottish Marine Bills in preparation. The opportunity now exists to further augment the desire for local marine management through a more co-ordinated and robust framework that ensures the fundamental principles of sustainable development are applied to all marine activities. Whilst socio-economic and environmental factors are already integrated into a number of decision making processes, this has tended to be on a sectoral basis. As the use of valuable marine resources increases there is a need to manage more positively the potential tensions between sectors and between environmental and socio-economic prosperity.

This Marine Spatial Plan presents, for the first time, a comprehensive picture of the marine environment around Shetland. In developing the Plan a large volume of existing and new data has been collated and analysed to provide the necessary underpinning knowledge that is required for a more decisive and cohesive decision making process. In recognising that marine spatial planning is a new concept and can mean different things to different people, this Plan includes all aspects of marine and coastal resource use including fishing, aquaculture, oil, wet renewables, heritage, sport and recreation, education and the environment.

Marine stakeholder and local community input has played an integral part in the development of this Plan. It is hoped that these same bodies and others will use the Plan when considering future marine use so as to minimise and reduce potential conflicts of interest and build on Shetland's existing track record of effective and sustainable marine management.

A handwritten signature in black ink, appearing to read 'Sandy Cluness', written in a cursive style.

Sandy Cluness
Convenor, Shetland Islands Council

SUMMARY

The Shetland Marine Spatial Plan brings together authoritative spatial data on the marine and coastal environment and its various uses. It establishes an overarching policy framework to guide the placement of activity, from marine renewable energy to aquaculture.

This Plan is not prescriptive about what can occur where and when in specific areas of the Islands. Rather it demonstrates what is occurring where and when, and clarifies the distribution of planning constraints and important assets that require safeguarding.

This is an area with a wealth of social and cultural, environmental and economic resources that are increasingly coming under pressure from the aspirations of a growing number of users.

The Plan has been in development since 2006 with the emphasis on consultation with stakeholders at all stages. This document represents an innovative approach to marine planning, based on Scottish Ministers' commitment to making marine management more efficient, inclusive and accessible now and for future generations.

As the Plan is being developed during a period of fast development of marine policy at national and international

levels, it should be considered as part of an ongoing process and, as such, a working document.

The Plan is non-statutory and aims to complement and seek to influence the marine planning regimes and terrestrial plans of Shetland Islands Council as well as strategies of other organisations, for example SEPA's River Basin Management Plan. It seeks to foster shared understanding and to promote consensus as to how and where marine management can lead to community benefits and economic regeneration.

These policies on marine planning should be taken into account by regional planning bodies in the preparation of regional spatial strategies and by local planning authorities in the preparation of local development documents. They may also be material to decisions on individual planning applications. The implementation of this Plan will test the effectiveness of this approach, which aims to deliver the key benefits of:

- Providing a plan-led approach to the management of the sea around Shetland facilitating a more integrated and better informed decision making process regarding the future distribution of use of space and resources
- Enabling long-term protection and use of the marine environment

It should streamline the development applications process by enabling developers to identify locations that could be refused planning permission or works licensing pre-submission, which should lead to reduced delays and costs.



An aerial view of St. Ninian's Isle

Image courtesy of Stephan Hennig

CONTEXT AND USE OF THE PLAN

"...the coast is not only a complex natural environment; it is also a complex policy area where a range of agencies with differing, but often overlapping, objectives, responsibilities and powers operate" (Scottish Office, 1997).

European Context

Marine environment policy is an important aspect of the current European, UK and Scottish environmental agenda and is undergoing a period of change and development. At the European level, the Marine Strategy Framework Directive (MSFD) establishes an overarching approach to the management of Europe's seas. The MSFD aims to achieve Good Environmental Status of the EU's marine waters by 2020 and to protect the resource base upon which marine-related economic and social activities depend. The MSFD must be transposed into domestic law by the 15th July 2010. The MSFD constitutes the environmental pillar of the EU maritime policy, which is designed to achieve the full economic potential of oceans and seas in harmony with the marine environment.

Scottish Context

The Marine (Scotland) Bill, as introduced on 29th April 2009, provides a statutory requirement for marine planning in Scottish waters. It proposes that there will be a National Marine Plan for Scotland which will set out policies and priorities for the sustainable use, development, management and protection of Scotland's marine and coastal resources. Whilst some of these activities are controlled through existing licensing regimes and fishing is managed through the EU Common Fisheries Policy, there is currently no strategic mechanism for planning and managing Scotland's marine environment. For example, existing licensing is restricted to certain types of activity and therefore has limited ability to manage potential conflicts and cumulative effects across multiple marine industries. In response, the Bill proposes an

integrated framework for the management of growing and competing demands on Scotland's marine resources within sustainable environmental limits.

Regional / Local Context

A key proposal of the Marine (Scotland) Bill, is the establishment of Scottish Marine Regions and the development of associated regional marine plans. These plans will establish a statutory framework for guiding proposed activities, operations and developments in Scotland's marine and coastal areas. Furthermore, development of statutory marine plans provides a key opportunity for different views and interests to be accounted for through a balanced plan-development process. This represents a much more holistic approach than licensing which deals with issues on a case by case basis and is unlikely to be able to account for the views and interests of all key stakeholders and potential cumulative effects.

Context for the Shetland Marine Spatial Plan

The Shetland Marine Spatial Plan has been developed under the auspices of the Scottish Sustainable Marine Environment Initiative (SSMEI), which was initiated by the Scottish Government to inform future marine policy and test new management framework options for Scotland's marine and coastal environment. The Plan is an example of how a regional level plan could be set out.

Three other pilot projects were set up across Scotland, located in the Firth of Clyde, the Sound of Mull and Berwickshire.

The SSMEI National Steering Group oversees the four SSMEI Pilot Projects and provides consistent national advice and a Scottish wide context to the Plan. This national approach has ensured that parallel work, including the development of the United Kingdom and Scottish Marine Bills, has been fully taken into account.



A diver exploring Shetland's seas

Image courtesy of Kenny Gifford

Relationship to Other Strategies and Policies

In the absence of the National Marine Plan the development of the Plan is informed by a number of policy and strategy documents. There is a very wide range of strategies and policies deriving from international, national, regional and local levels. The main policy drivers have been referenced at the end of each policy, however, full details of the relationship of International and European Policies, Plans and Programmes to the Marine Spatial Plan for the Shetland Islands can be found in Appendix 2 of the SEA Scoping Report.

A key attribute of this local Marine Spatial Plan is that it facilitates delivery of the integration of policies and objectives across different sectors in the production of one unified plan.

The Plan recognises the interactions between the terrestrial and marine environment and suggests ways to develop a more integrated approach between jurisdictions. The primary focus of the Plan is to provide a means of better informing public bodies

who have responsibilities for marine and coastal planning functions. It will inform decision making, guide priorities and seeks to achieve a balance between national and local interests.

As a voluntary plan it can make suggestions, propose direction and highlight opportunity. However, it does not have a statutory basis. It is hoped that the policies and maps will become a material consideration in the determination of new applications for development by planning and regulatory authorities, and that they will subsequently be given statutory recognition, for example, through incorporation into the new strategic and local Development Plans.

Development Plans

The Plan aims to support the objectives of Shetland Islands Council's Development Plans. Under planning reform and modernisation, which commenced in January 2009, there is only one Development Plan, the Local Development Plan, for terrestrial land use and marine aquaculture interests in Shetland. These Plans' policies are already well developed for planning above the tide level at Mean High Water Spring (MHWS), which will continue to be the main source of policy guidance for this area. The Shetland Marine Spatial Plan policies therefore focus on ensuring that existing and future development does not adversely affect marine use and ecosystems. It is therefore suggested that due consideration should be given to this Marine Spatial Plan in any future reviews and updates.

Swarbacks Minn Sub-area Marine Spatial Plan

The SSMEI has produced a sub-area Marine Spatial Plan for the Swarbacks Minn area of Shetland which can be downloaded from <http://www.nafc.ac.uk/SSMEI.aspx>. This more localised plan provides supplementary guidance for all developers but is of particular relevance to the extensive aquaculture industry in the area. It is an example of a sub-area plan within this overarching, Shetland-wide Marine Spatial Plan.

Fair Isle Action Plan

The local community of Fair Isle produced an Action Plan for the SSMEI which can be downloaded from <http://www.nafc.ac.uk/SSMEI.aspx>. This is a product of a sub-area Plan that was written by the SSMEI pilot in collaboration with the local community. It identifies the desire for statutory objectives for the surrounding marine and coastal environment (i.e. it considers specific community aspirations).

Regional Transport Strategies

The Transport (Scotland) Act 2005 established statutory Regional Transport Partnerships (RTPs) throughout Scotland. The ZetTRANS is the Regional Transport Partnership within the Plan area. ZetTRANS have prepared a Regional Transport Strategy, which sets out the framework for investment in strategic transport infrastructure and services for the next 15 to 20 years. The Plan takes account of these in its development and also highlights specific transport infrastructure requirements that enable the sustainable development of communities and marine based activities.

River Basin Management Plan

The Marine Spatial Plan meshes with other statutory plans generated by or through other planning and regulatory authorities, such as the consenting body SEPA, who also co-ordinate the national process to achieve the objectives of the EC Water Framework Directive through the production of River Basin Management Plans (RBMP). These Plans will promote sustainable water use while protecting and improving the water environment. The area covered by the RBMP process is inland waters as well as coastal waters out to 3 miles. The local area plans are stakeholder-led by the Orkney and Shetland Advisory Group, which the SSMEI pilot participates in to ensure the two projects come together efficiently. Details of the role of the Advisory Group can be found at: <http://www.sepa.org.uk/wfd/rbmp/aag/orkshet/index.htm>

Geographic Coverage of the Plan

The coastline was measured for the first time since 1975: the coastline of the Shetland Islands is 2,702 km (1,697 miles), the equivalent of 10% of Scotland's coastline (based on MLURI, Macaulay Institute figure of 16,491 miles). The original measurement was estimated to be 1,450 km (Flinn, 1975), almost half the revised extent. This large differential could be explained by advancements in Geographical Information Technology. The recent Shetland coastline was measured using the tide level of the Mean High Water Spring (MHWS) extracted from the Ordnance Survey MasterMap® using GIS software (scale 1 : 1,250). This coastline was based on satellite imagery and the new measurement therefore includes all lengths of coast such as skerries and stacks, which were probably not included in the 1975 estimation.

The planning area includes all territorial waters seaward of the Mean High Water of the spring tide, out to 12 nautical miles but includes habitats / ecological processes that are clearly affected by marine use.

Archaeological features within 150 m of the coastline have also been included. The area is the equivalent to 10,580 km² (3,899 miles²); almost seven times the land area of the Shetland Islands.

The landward extent of the coastal zone varies considerably, but in general is determined by the extent to which it is affected by coastal processes. This boundary was set to include a major proportion of the salt marsh and sand dune areas. Salt marsh and sand dunes are significant coastal habitats being of international importance. Salt marsh habitats are usually inundated by seawater at least once a year when tides are at their highest. Both are important for inclusion as they serve as nursery and feeding habitats for a wide diversity of species.

Figure 1: Shetland Marine Spatial Plan area



The Shetland Shellfish Management Organisation and the Shetland Inshore Fisheries Association

The Shetland Shellfish Management Organisation was established in January 2000 as the first locally run management scheme for fishing in the UK with the aims of maintaining and improving Shetland's shellfish fisheries, and thus contributing to the long-term sustainability of the local industry. More recently, a new Shetland Inshore Fishermen's Association (SIFA), has been introduced to give its members a voice in the way the industry is run.

The SSMO manages fishing methods and fishing gear, restricts fishing seasons, sets minimum sizes for shellfish and manages shellfish beds for stock conservation. The SSMO is also responsible for the collection of data which allows a comprehensive Stock Assessment to be developed year on year. This allows fishery management to take place based on the best possible information and analysis.

The SIFA has so far worked proactively to resolve issues over access to marine space and to key infrastructure such as harbours and slipways.

These two groups are very much in keeping with the Scottish Government's objectives in devolving fisheries management to local fishing interests so it could be said that Shetland is well ahead in comparison to the rest of Scotland in this area. As there already exists local management regimes in Shetland, it is unclear at this stage how a new Inshore Fisheries Group (IFG) will mesh with existing ones. As part of the remit of the IFG, a Fisheries Management Plan will be developed, and in doing so, should take account of the policies and proposals within the Marine Spatial Plan.

The Ecosystem Approach

The Ecosystem Approach is the principle method set out for achieving the goals of the 1992 Convention on Biological Diversity (CBD). The CBD describes the Ecosystem Approach as '*a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way*'. It is a framework for assessing biodiversity and ecosystem services, and evaluating and implementing potential responses.

The Marine (Scotland) Bill, endorses an ecosystem approach to marine management, requiring a '*duty to keep relevant matters under review including the physical, environmental, social, cultural and economic characteristics of the Scottish marine area and the living resources which the area supports*' (Art 7(2)(a)(1) an (b)(1)). There is therefore a legal

requirement to apply the Ecosystem Approach to planning for the Scottish marine environment.

The theoretical ability of marine planning to facilitate the Ecosystem Approach is strong. However, the practice of marine planning for multi-purpose uses of the sea is relatively new, and this Plan is one of few practical examples for applying an Ecosystem Approach in this context.

Process of the Plan Production

The framework adopts the principles of the ecosystem approach, and provides for the:

- Development of an overarching Marine Spatial Plan;
- Existing and future development and use to have regard to this Marine Spatial Plan;
- Evaluation of the impact of the Marine Spatial Plan through Strategic Environmental Assessment; and
- Aspirations for the future of Marine Spatial Planning in Shetland through a Delivery Plan.

Consultation

This Spatial Plan has benefited from extensive consultation with a wide range of stakeholders since the SSMEI project began in 2006. A public consultation was carried out on the first draft in February 2008, and subsequent changes were included in an Interim Draft. A soft implementation phase was trialled on this Interim Draft during 2009. Details of the key outcomes from these consultations can be found in Appendix 2.

At the time of revising the current version of the Marine Spatial Plan, some two years have passed since the initial public consultation. SSMEI Shetland were keen to ensure that the data, views and information gathered during the consultation has not gone out of date in the period between the submission of the original version of the Plan and this most recent version and that any new or developing issues are captured and addressed in this latest revision. Review of the feedback from the implementation phase carried out during 2009 suggests that some of the key issues identified during the original consultation remain highly relevant.

Furthermore, Strategic Environmental Assessment has taken place which has also carefully reviewed the information gathered through the consultation processes.

VISION, AIM AND OBJECTIVES

Following the establishment of a Local Steering Group, the 18 members shared a vision and set an aim and objectives for the management of Shetland's marine environment.

Vision

Shetland's vision for the marine and coastal environment is one that is clean, healthy, safe and productive, managed to meet the long-term needs of nature and the local people.

Aim

Ensure that use of the marine and coastal environment of Shetland is sustainable.*

*Sustainable use will enable dynamic economic activity supporting a prosperous community whilst maintaining and enhancing marine wildlife, habitats and ecosystems. Sustainable use should not lead to loss of biodiversity or ecological balance, or reduce the availability of natural resources for future generations.

Objectives

The objectives of the Marine Spatial Plan as a mechanism of achieving the aims are to:

- SOC** Ensure a high quality, fully functioning marine and coastal ecosystem for the benefit and prosperity of local communities;
- ENV** Protect and enhance areas where there are locally, nationally or inter-nationally important marine species and habitats whilst taking account of natural changes;
- PLAN** Identify areas with differing priorities for sustainable use (such as fishing, aquaculture, recreation & tourism, oil, nature conservation etc.); and
- ECON** Ensure that stakeholders can take advantage of development opportunities in a sustainable way.

The vision, aim and objectives have driven the development of this Marine Spatial Plan.

Additional objectives were established by the Steering Group that address the longer-term aspirations of Marine Spatial Planning and these are detailed in the Delivery Plan of this document.



Sandwick beach, Unst

Image courtesy of Promote Shetland

THE POLICIES

The Principles of Sustainable Development

The policies in this report have been established in recognition of Shetland's objectives for Marine Spatial Planning and the commitment to sustainable development of which the key principles taken from "One future - different paths, UK shared framework" are:

- Living within environmental limits
- Ensuring a strong, healthy and just society
- Achieving a sustainable economy
- Promoting good governance
- Using sound science responsibly

At all times all stakeholders should endeavour to balance these aims to ensure the Marine Spatial Plan's policies are equally promoted.

The recognition of sustainable development as one of the key underlying principles of the Marine Spatial Plan requires the application of the precautionary principle. Whilst much can be done to assess the full implications of a development proposal there may be instances where the scientific evidence is inconclusive, but the potential damage could be significant.

Environmental Impact Assessment

Much can be done to assess the full implications of a development proposal. The potential impact of varying types of proposed developments can be assessed by undertaking more detailed and specific impact assessments. The best known of these is the Environmental Impact Assessment (EIA) which identifies the environmental effects of development proposals. For the development of certain types of projects, there is a statutory requirement to produce an EIA, but first the project will be subject to formal screening to determine whether the EIA is required. Other impact assessments may cover issues such as retailing and transport.

Navigating Through the Policies

This document and its Atlas is designed to guide all marine users, planners and regulators in the placement of existing and proposed activities, operations or developments. To help you navigate through this document, there are two hierarchies of policy to read and supplementary maps in the Marine Atlas to consult. A developer, for example, is encouraged to use the policies and maps before a planning application is submitted to the relevant authorities. The developer and the authorities are expected to reference these in any appropriate documentation. This is very much in keeping with new planning legislation and in taking forward the development of Marine Planning under the forthcoming Marine (Scotland) Act.

The first hierarchy of the policies establish some general considerations, the main principle being to identify the needs of other sectors as well as detailing the criteria for considering where different development and activity should and should not occur.

The subsequent five sections, "Wider Considerations", "Heritage", "Community", "Business & Industry", and "Infrastructure & Services", provide additional criteria to the general policies and guide where different priorities should occur based on aspirations of the Local Steering Group and the specific legislation to that sector.

These policies are designed to dovetail into the Scottish Government Economic Strategy to make Scotland wealthier and fairer; smarter; healthier; safer and stronger; and greener.

Any development proposal must not conflict with current Government guidance and other specific policies such as those in Shetland Islands Council's Works Licence policy (detailed in Appendix 6). A developer is encouraged to identify consultees prior to submitting a Planning or Works Licence Application, and relevant agencies are listed in Appendix 4.

1. GENERAL POLICIES

MINIMAL CRITERIA FOR CONSIDERATION

Policy MSP GEN1:

Wider Considerations

Developments¹ and activities² should be encouraged and could be looked on favourably where they can demonstrate that they have taken into account wider impacts including, but not limited to:

- i. existing facilities - are they inadequate?;
- ii. post-development /activity - are there restoration proposals?;
- iii. the impact on the land side of the development;
- iv. effects of, and the effects on, climate change;
- v. the water resources (water quality, marine litter, introduction of non-native species);
- v. wider ecosystem function; and
- vi. coastal erosion and sediment transport.

Developments and activities that contribute towards the additional criteria outlined in the remainder of this document should be considered more favourably and encouraged.

Policy MSP GEN2:

Impacts on Other Sectors

Developments¹ and activities² could be looked on favourably where they can demonstrate that they will not have a significant adverse impact on the following sectors:

Heritage

This includes, but is not limited to, individual and cumulative effects on the following built, natural and cultural heritage features:

- i. designated nature conservation sites (SPA, SAC, SSSIs, Ramsar) and Marine Protected Areas;

- ii. important species and habitats outwith designated nature conservation areas;
- iii. landscape /seascape character including Landscape / Seascape Carrying Capacity, designated National Scenic Areas (NSAs), and visual amenity;
- iv. archaeology (Scheduled Ancient Monuments, ship and plane wrecks, and unscheduled monuments).

Developments and activities that consider particularly sensitive species and habitats, as detailed in the matrix of Sensitivities in Appendix 3, should be considered more favourably.

Community

This includes, but is not limited to:

- i. community aspirations;
- ii. community settlements and their setting (including noise and disturbance issues); and
- iii. public health and safety.

Business & Industry

This includes, but is not limited to:

- i. oil related development;
- ii. tourism and recreation;
- iii. aquaculture;
- iv. renewable energy;
- v. commercial fishing; and
- vi. sand, gravel and shingle extraction (not mapped).

Infrastructure & Services

This includes, but is not limited to:

- i. shore access;
- ii. cables & pipelines;
- iii. dredging and disposal;
- iv. transport and fixed Links;
- v. coastal defence and flood protection; and
- vi. buoys and navigational aides.

¹ Developments are defined as a use that requires a statutory consent to utilise a defined area from a competent authority to proceed. This can include new developments or alterations, extensions or changes in material use to existing developments that require a statutory consent.

² Activities are defined as a current or future use that is covered by a public right of use (e.g. navigation) and/or does not require a statutory consent to utilise a defined area from a competent authority to proceed (e.g. a Works Licence, Planning Permission, CAR Authorisation).

Justification

Marine Spatial Planning requires local Plans to set out detailed policies for the use of the sea in order to guide day-to-day decisions. The purpose of these General Policies is to provide a basic framework of guidance in the assessment of all marine activities, including not just planning applications or prior notifications, but unlicensed activities such as shipping and fishing. It aims to facilitate:

- reduced spatial and temporal conflict;
- the connection between the various authorities responsible for individual activities or the protection and management of the environment as a whole;
- the connection between offshore activities and resource use and onshore communities that are dependent on them;
- conservation of biologically and ecologically sensitive marine areas; and
- investment certainty for marine developers and users of ocean resources.

Definitions

All marine management decisions will have considered, as a minimum, all the criteria in Policy MSP GEN1 and GEN2 when determining use of the sea. The remaining policies in this document then specify these criteria in more detail.

It is intended that users of the Plan refer to the maps included in the Marine Atlas that details the spatial extent of the different features and activities so that users can visualise potential conflict. Conflict is divided into three themes in the Atlas:

- Activity: likely overlap in use of space (a user-user conflict).
- Statutory constraints: features that are non-negotiable in terms of where they occur, like major shipping lanes.
- Advisory constraints: primarily species and habitats out with the designated conservation areas (a user-environment conflict).

An example of its use might be when a renewable developer wants to consider spatial conflict with fishing (any device in the water is considered a threat for fishermen because they reduce the total available area

for fishing). Knowing statutory and advisory constraints prior to submitting a Works Licence Application, increases the investment certainty.

Irrespective of the existence of conflicts and human impacts, marine ecosystems have an inherent need to function sustainably. Therefore, further to these mapped constraints is the need for all users to consider wider impacts from, for example, climate change: storm events and sea level rise that are predicted to be significant in Shetland and this may restrict the location, scale and type of development or activity.

Marine developers must consider their wider impacts on the environment, and this will be implemented by screening applications to determine whether they have suitable site restoration proposals: this could include plans for habitat restoration by, for example, promoting community involvement through schools and volunteer groups. Other considerations that could be included is the creation of compensatory areas i.e. habitat banking/creation. Developers must also show to the satisfaction of the Planning Authority that plans include the removal of redundant plant and equipment and the assurance that any deposits of waste are agreed at the application stage.



An aerial view of Sumburgh Lighthouse Image courtesy of Promote Shetland

2. WIDER CONSIDERATIONS

CLIMATE CHANGE

Policy MSP CON1:

Planning for Climate Change

The responsible authorities will ensure current and future activities include provision for the impacts of climate change including:

- a. avoiding new development in areas vulnerable to climate change, particularly where it is not viable to manage likely risks through suitable measures to provide resilience;
- b. bringing forward adaptation options for existing development in vulnerable areas;
- c. the capacity of existing and potential infrastructure and services (including for energy supply, waste management, water and sewerage and transport) to service the site or area in ways consistent with cutting carbon emissions;
- d. the ability to build and sustain socially cohesive communities with appropriate community infrastructure and services so as to avoid social exclusion, having regard to the full range of local environmental impacts that could arise as a result of likely changes to the climate;
- f. the effect of development on biodiversity and the capacity for adaptation, having regard to likely changes in the local climate;
- g. physical and environmental constraints on coastal development such as sea level rises, flood risk and stability, and take a precautionary approach to risk that could arise as a result of changes to the climate; and
- h. ensuring opportunities are consistent with the Scottish Government's target for 50 per cent of electricity to come from renewables sources by 2020 with an interim target of 31 per cent by 2011, and, where appropriate in the light of delivery, are periodically revised upwards.

Activities should be considered favourably where they have sought to mitigate the impacts of climate change, like for example by having some form of environmental

management accreditation (including contractors and sub contractors).

In determining planning applications, planning authorities should, where relevant, consider the likely impact of proposed development on existing, or other proposed renewable development.

Where proposed development would prejudice renewable energy development, consideration should be given as to how the proposal could be amended to make it acceptable or, where this is not practicable, to refusing planning permission.

Justification

Climate change is real and is happening now. The coast of Shetland is subject to constant attack by the sea, but the effects of global warming, rising sea levels and increased storminess, are expected to strengthen the attack in the future. It may also lead to significant changes in marine ecosystems as a result of temperature changes or acidification.

The Scottish Climate Change Act sets out clear and demanding Scottish emissions targets. Effective spatial planning is one of the many elements required in a successful response to climate change. Spatial planning has a central part to play in enabling local action and in creating an attractive environment for innovation and investment by the private sector.

Shetland's potential for large scale renewable energy development is constrained by the lack of a connection to the National Grid. However this may change within the next five years with a submarine cable to mainland Scotland allowing the development of proposed onshore and offshore renewables in Shetland.

To encourage the development of this emerging sector in Shetland, the Council has funded a new post based at the NAFC Marine Centre to raise the profile of Shetland as a place to develop marine renewables. The outputs of this project will be included in future versions of this Plan.

This Policy Conforms to:

- Shetland Local Plan policies LP WD10 and LP ENG6
- Shetland Structure Plan policy SP CST1
- SEPA policy 41 and 22
- Scottish Planning Policy
- Planning Policy Statement: Planning and Climate Change Supplement to Planning Policy Statement 1.

This Policy Supports:

- Development Plan aims 1, 2, 3, and 4
- The Corporate Plan.

Legislative Responsibility:

- Shetland Islands Council
- Scottish Environment Protection Agency (SEPA)
- Scottish Government Climate Change and Water Industry Directorate
- Department of Energy and Climate Change..

Inspection, Enforcement and Control:

- Shetland Islands Council
- Scottish Environment Protection Agency (SEPA).

THE WATER RESOURCE**Policy MSP CON2:****Reducing the Spread of Non-Native Species**

All marine users (commercial and non-commercial) should consider the potential risks of spreading non-native invasive species particularly when moving equipment, boats or live stock (e.g. fish and shellfish) from one water body to another.

To reduce the spread of non-native invasive species it is not permitted to:

- release aquarium plants or animals into the environment;
- knowingly move non-native species to new locations;

Marine users can ensure the potential spread of non-native invasive species is reduced by:

- maintaining boat hulls clear of fouling organisms, particularly when moving to and from new areas;
- cleaning boats and equipment before transporting them from one water body to another;
- cleaning and drying dive and fishing gear after use;

d. reporting any sightings to the Shetland Biological Records Centre.

Marinas and ports are encouraged to promote awareness of non-native invasive species amongst their users.

Justification

After habitat loss, non-native invasive species are considered by the UN to pose the greatest threat to biodiversity. The effects of introduced species on their host environment can include competition with native species for food and space, habitat alteration, changes in water quality and the transmission of disease or parasites. Scotland's Seas: Towards Understanding their State identifies shipping and aquaculture as the main industries that may introduce non-native species into the marine environment.

This Policy Conforms to:

- Shetland Local Plan policies LP NE10
- Shetland Structure Plan policy SP CST2.

This Policy Supports:

- Development Plan aim 3
- The Corporate Plan
- The Orkney and Shetland Draft River Basin Management Plan.

Legislative Responsibility:

- Shetland Islands Council
- Scottish Environment Protection Agency (SEPA)
- Marine Scotland Science.

Inspection, Enforcement and Control:

- Shetland Islands Council
- Scottish Environment Protection Agency (SEPA)
- Marine Scotland Science.

Policy MSP CON3:**Tackling Marine Litter**

A coordinated marine litter strategy for the Shetland Islands should be developed. This should include analysing litter monitoring forms from Shetlands annual beach clean to assess the extent of the problem, identify priority areas and the main sources of marine litter and debris. Existing initiatives should be supported in their efforts to combat the problem of marine litter, including: Da Voar Redd Up; Fishing for Litter; and the Green Blue.

Justification

Marine and beach litter is a significant issue at UK, Scottish and Shetland levels. Surveys have been filled out by Da Voar Redd Up volunteers since 1988 on the distribution and sources of marine litter. Scotland's Seas: Towards Understanding their State highlights that 80% of marine litter originates from land-based sources. It is unlikely that this is the case in Shetland, but without proper analysis, little is known of the extent and composition of beach litter around the Shetland Islands.

Da Voar Redd Up is an annual clean up of Shetland's beaches and roadsides after the winter storms to get the islands clean for summer visitors, wildlife and the residents. "Da Voar Redd Up" means The Spring Clean Up. The cleanups are undertaken by local residents on a voluntary basis and approximately 15% of the population take part (4,000 volunteers), and do so year on year since it began in 1988.

This Policy Conforms to:

- Shetland Structure Plan policy SP WM2
- PAN 51.

This Policy Supports:

- Development Plan aims 2, 3, and 4
- The Corporate Plan
- KIMO Fishing for Litter
- The Green Blue Scotland
- Shetland Amenity Trust and the Da Voar Redd Up.

Legislative Responsibility:

- Shetland Islands Council- Infrastructure Services
- Scottish Environment Protection Agency (SEPA) licence waste carriers
- Marine Scotland Science
- Maritime and Coastguard Agency (MCA).

Inspection, Enforcement and Control:

- Shetland Islands Council- statutory duty for littering, dumping on public ground and ability to prosecute
- Scottish Environment Protection Agency (SEPA) - responsible for fly tipping
- Marine Scotland- statutory duty under FEPA to control deposits of articles in sea / tidal areas e.g. disposal of dredged material
- Maritime and Coastguard Agency (MCA)- control and manage pollution at sea i.e. from vessels.

Policy MSP CON4:

Water Quality

A coordinated water quality strategy should be developed that prioritises areas for proposed Recreation Water Designations.

Justification

The quality of the water around the Shetland Islands is an important resource for attracting marine recreation and tourism. A key indicator of water quality is the number of faecal indicator organisms present: these bacteria exist in human sewage and in traces of animal faeces washed from farmland during periods of wet weather. If swallowed in sufficient quantities they can cause illnesses such as stomach upsets and ear infections.

Standards exist for bathing beaches, however there are no such designations in Shetland. Proposed Recreation Waters designations will be an indication of locations where water quality should normally be maintained at levels where no ill effects would be anticipated should it be ingested. Water quality in these areas would be monitored and reported as per Bathing Beaches.

During the production of the Marine Atlas, important areas for recreation were identified to which such a standard could be applied. Not all of these areas could realistically meet such a standard given existing settlement and land use patterns, so some prioritisation process needs to take place.

This Policy Conforms to:

- Shetland Local Plan policies LP WD5,
- Shetland Structure Plan policy SP GD51, GD54, WD1,
- SEPA policy 28
- PAN 79.

This Policy Supports:

- Development Plan aims 2 and 3
- The Corporate Plan
- Orkney and Shetland Draft River Basin Management Plan.

Legislative Responsibility:

- Shetland Islands Council
- Marine Scotland Science Environment Protection Group - administer the FEPA regulations

- Maritime and Coast Agency (MCA) manage pollution at sea and control of vessel disposal of bilge water and sewage outside harbour areas
- Scottish Environment Protection Agency under the Water Environment (Controlled Activities) Regulations 2005 (CAR) authorisations to tidal waters
- Lerwick Port Authority.

Inspection, Enforcement and Control:

- Shetland Islands Council
- Marine Scotland Science Environment Protection Group
- Maritime and Coast Agency (MCA)
- Scottish Environment Protection Agency
- Scalloway Harbour Oil Spill Plan
<http://www.shetland.gov.uk/ports/contingencyplans/scallowayoil.asp> and the Sullom Voe Harbour Oil Spill Plan
<http://www.shetland.gov.uk/ports/contingencyplans/sullomvoeoil.asp>

THE LAND-SEA INTERFACE

Policy CON5:

Alignment of the Land-Sea Interface

The marine planning department will maintain regular and on-going liaison with the land planning department to align policy implementation for proposals occurring across the land-sea interface to ensure the effective implementation of the Marine Spatial Plan and the Shetland Local Plan.

Justification

Integrated Coastal Zone Management (ICZM) is the adoption of a management process that is intended to facilitate a more integrated approach to the use, development and protection of resources across the land/sea interface and in the near shore zone. Shetland has a clear advantage over other areas in Scotland because the local authority has had powers to determine consent applications for certain coastal and marine developments for the past 34 years under the ZCC Act (1974).

It is important however that changes made to marine planning in this document are considered alongside other changes being made to planning structures on land, and are made to work effectively with them, and conversely for marine management to give proper consideration to land planning.

The aim of this policy is to clarify that some developments

on the land-sea interface will need to be considered with the assurance that the proposal does not conflict with policies and aspirations of the Shetland Local Plan and that they will need to comply with both marine and land based policies. Developments between mean high water and mean low water must be considered under both the Town and Country Planning (Scotland) Acts and ZCC Act. In addition, other developments may have both sea and land based elements.

Considerations might be to ensure:

- No adverse effect on the natural heritage, landscape, amenity and general appearance of the countryside and coast;
- There is adequate and appropriate parking and suitably sized roads to manage increase in traffic;
- Proposals endeavour to be sited near public transport corridors, i.e. ferry / bus / air routes; and
- The design is of high quality adding to and reflecting the character and amenity of the local area.

This Policy Conforms to:

- Town and Country Planning (Scotland) Act, 1997 and the Planning etc (Scotland) Act, 2006.

This Policy Supports:

- Development Plan aims 1, 2, 3 and 4
- The Corporate Plan.

Legislative Responsibility:

- Shetlands Islands Council.

Inspection, Enforcement and Control:

- Shetland Islands Council.



Puffins at Sumburgh Head

Image courtesy of Stephan Hennig

3. HERITAGE

DESIGNATED NATURE CONSERVATION SITES

Background and issues

Shetland has both national and international obligations with regards to nature conservation. The sound stewardship of wildlife and natural features is not a task for government alone, but also depends on the decisions made by those local and regional government departments who influence the development and use of the sea and coast. One of the keys to conservation of wildlife and the maintenance of biodiversity is the protection of the habitat on which it depends. While certain species may have been given statutory protection, the thrust of government policy has been towards the protection of habitat.

Sites which are currently designated because of their nature conservation importance are identified in Map 13 of the Shetland Marine Atlas. International sites are those with protection under European law - Special Protection Areas (SPAs) designated under the EC Wild Birds Directive and Special Areas of Conservation (SACs) designated under the EC Habitats Directive. SPAs and SACs taken together are commonly known as Natura 2000 sites. Natura sites are designated under the Conservation (Natural Heritage etc.) Regulations 1994 (commonly known as 'the 1994 Regulations'). There are currently 11 SPAs for seabirds and 6 SACs with a marine element in Shetland.

Additionally, wetland areas are protected under the Ramsar Convention on Wetlands of International Importance, and in Shetland there is one Ramsar site. For these sites, the Scottish Government has chosen as a matter of policy to apply the same considerations to their protection as if they were SPAs.

National sites include Sites of Special Scientific Interest (SSSI). There are 82 designated SSSIs in Shetland, including 31 with coastal geology as a notified feature and 29 for marine biology.

There are currently four Marine Consultation Areas (MCA): Brindister Voe, Swinister Voe, The Houb (Fugla Ness) and

Whiteness Voe. A MCA is a non-statutory designation intended to assist in the protection and conservation of marine areas which are of high conservation value but not otherwise designated.

Natural heritage is not confined to the primary statutorily designated sites but is found throughout the marine and coastal area. Further sites outwith these designated areas have been identified by the SSMEI Biodiversity Working Group as being of local importance to wildlife or to exhibit features of local natural heritage interest because they host statutory protected species and habitats. These are shown in maps 16 - 26 of the Shetland Marine Atlas. While national and international sites represent the "best" of Shetland's environmental capital, these tertiary sites contribute to the diversity of sites which makes Shetland so important for nature conservation.

Statutory and non-statutory sites, together with features which provide wildlife corridors, links or stepping stones from one habitat to another, all help to form a network necessary to ensure the maintenance of the current range and diversity of our flora, fauna, geological and landform features and the survival of important species. The most threatened of the natural heritage sites are those with no statutory protection.

Current procedures for assessment of development in or near sites with international nature conservation designations (including Natura 2000)

Development not directly connected with or necessary to the management of a Natura 2000 Site or a proposed Natura 2000 Site, and which is likely to have a significant effect on the site (either individually or in combination with other plans or projects), will be subject to the most rigorous examination.

Appropriate Assessment (AA) is a legal requirement for all authorities that can consent development or activity and determines whether these would significantly affect the

integrity of Natura 2000 Sites. Should an Appropriate Assessment indicate that a development will have an adverse effect on the integrity of any Natura 2000 site, competent authorities will be minded to refuse the application as required by the 1994 Regulations. Additionally the competent authority will take proper account of Articles 12, 13 and 16 of the Habitats Directive in respect of European protected species when considering applications.

Scottish Natural Heritage, as the Scottish Government's natural heritage advisor, consider the AA and indicate whether they agree with its conclusions or not. Where it cannot be ascertained that the development would not adversely affect the integrity of the site it will not be permitted unless:

- a. There is no alternative solution; and
- b. There are imperative reasons of overriding public interest which may, for sites not hosting a priority habitat type and/or priority species, be of a social or economic nature.

Where the Natura 2000 site hosts a priority habitat type and/or a priority species (as defined in Article 1 of the Habitats Directive and shown in map 13), the reasons referred to at b) must relate to human health, public safety or beneficial consequences of primary importance to the environment, or other reasons which in the opinion of the European Commission are imperative reasons of overriding public interest.

The Shetland Biological Records Centre housed within the Shetland Amenity Trust provides an invaluable source of information for planning staff and developers in assessing whether any habitats or species are likely to be affected by development proposals, particularly important when assessing whether a sensitive time of a species' life cycle might be affected that would restrict construction / development occurring at certain times of the year.



Soft Corals

Image courtesy of Kenny Gifford

Policy MSP HER1:

Developments in or near Sites of International Interest (SACs, SPAs and Ramsar)

Development likely to have a significant effect on a site designated or proposed to be designated as a Special Protection Area, Special Area of Conservation (collectively known as Natura 2000 sites) or a Ramsar site and not directly connected with, or necessary to the conservation management of that site must be subject to an Appropriate Assessment as required by the Conservation (Natural Habitats etc.) Regulations 1994 or the Scottish Government Circular No. 6/1995, in order to assess the implications for the site's conservation objectives. The development will only be permitted in circumstances where the assessment indicates that:

- a. it would not adversely affect the objectives of the designation or the integrity of the site; or,
- b. there is no reasonable alternative solution; and,
- c. there are imperative reasons of over-riding public interest, including those of a social or economic nature.

Except for development involving public health or safety, the European Commission must be consulted for development on all sites where a priority habitat or species (as defined by Article 1 of the Habitats Directive) would be affected.

Where the competent authority proposes to give consent for development which would adversely affect the integrity of such a site the Scottish Government must be notified.

Policy MSP HER2:

Developments in or near SSSIs

Development likely to have a significant effect on a Site of Special Scientific Interest will only be permitted:

- a. if there is no impact on the special interest of the site or it can be subject to conditions that will prevent damaging impacts on wildlife habitats or important physical features: or,
- b. where there is no reasonable alternative or less ecologically damaging location and the reasons for the development clearly outweigh the value of the site by virtue of social or economic benefits of national importance.

Definitions

It should be noted that all competent authorities have a duty to assess the implications of development proposals "within" and "near" SACs and SPAs for their implications on the integrity of the sites. Development proposals outwith Natura 2000 sites may therefore be subject to this policy. Effective mechanisms control activities within designated sites but their wildlife interest can often be damaged by operations outwith their boundary. It is important that planning decisions take account of possible effects on designated natural heritage sites even though these may be some distance from the development site.

For a proposal to be considered directly connected with or necessary to the conservation management of the site, it must be in accordance with the conservation objectives of the site for European interests. On a multi-interest site, a proposal which may benefit one interest may be contrary to the conservation objectives for another interest, and should therefore be subject to a full appraisal.

Examples of over-riding public interest might include the following:

- A regional economic development opportunity which generates in excess of 50 full-time equivalent jobs;
- Works required for public safety, or for the safety of aircraft, road traffic or shipping; or,
- Works necessary in the interests of national security.

Under the 1994 Regulations a 'competent authority' is defined as any Minister, government department, public or statutory undertaker, public body of any description or person holding a public office. Competent authorities include the Shetland Island Council, Lerwick Port Authority, SEPA, Marine Scotland and the Northern Lighthouse Board.

Implementation and Monitoring

Policies HER1 and HER2 will be implemented by the screening of all applications to determine whether they affect, or are likely to affect, any of the designated sites. Developers will be asked to show that there is no significant impact through the production of an environmental statement or impact assessment. As well as Scottish Natural Heritage who are statutory consultees, special interest groups such as the RSPB are also asked for their views on development proposals by competent authorities such as Shetland Islands Council and SEPA.

Designations are prone to change over time as new sites are discovered and existing sites reviewed. Advice should

therefore be sought from the competent authority or Scottish Natural Heritage to obtain the current situation at any given time.

Monitoring of policy HER1 and HER2 will be through:

- The recording of incidence where applications approved affect designated sites; and
- Quantitative indicators will be used to assess changes in the quality of sites over time where these are currently recorded.

IMPORTANT SPECIES AND HABITATS

Scottish planning policy requires that local authorities make provision for the conservation of biodiversity and the protection and enhancement of the natural heritage outwith designated areas. Features of natural heritage interest are not solely confined to designated sites, and the Marine Spatial Plan recognises the need to maintain and enhance the status of key habitats and species.

Policy MSP HER3:

Important Species and Habitats Outwith Designated Nature Conservation Areas

a. Species and Habitats

Developments or activities that would have a significant adverse direct or indirect effect on any important species of animal (or their actively used breeding, feeding and roosting habitats) or plant or habitat outwith designated nature conservation areas will only be permitted:

- a. if it can be subject to conditions that will prevent damaging impacts on wildlife habitats or important physical features: or,
- b. the creation of a replacement habitat of equal habitat value could be imposed as a planning obligation to mitigate the effects of the proposed development: or,
- c. where there is no reasonable alternative or less ecologically damaging location and the reasons for the development clearly outweigh the value of the habitat/species by virtue of social or economic benefits of regional importance.

b. Undiscovered Features

Where there is evidence to suggest that there may be an important species or habitat in a proposed development site, the Council may require the applicant, at his/her own expense, to submit a specialist survey of the site's natural

environment.

If important new features of nature conservation interest are discovered, development will not be permitted unless it safeguards the features, or the importance of the development outweighs the value of the features. This includes important habitats and species that are not mapped, including: Vegetated shingle (EC Habitats Directive), Vegetated sea cliffs (EC Habitats Directive), and rare seaweeds (LBAP).

Important species and habitats in Shetland include those protected under:

- i. EC Habitats Directive (Annex I, II, IV and V): of relevance in Shetland are maerl beds, horse mussel beds and eelgrass beds (map 16a and 16b), lagoons and shallow inlets and bays (map 17), rare plants, sand dunes, and caves (map 18), salt marsh (map 19), all cetacean species (map 20), otter, common seals and grey seals (map 21);
- ii. EC Birds Directive (Annex I and Migratory Species): of relevance in Shetland are Great Northern Diver, Slavonian Grebe, Storm Petrel, Leach's Petrel, Common Tern and Arctic Tern (maps 22 and 23);
- iii. OSPAR list of threatened and / or in decline species and habitats of relevance in Shetland are native oyster, common mussel beds, and mud in deep water (seapens) (map 25);
- iv. The Wildlife and Countryside Act 1981 as amended (from schedules 1, 5, and 8): of relevance in Shetland are Harbour Porpoise (map 20);
- v. Biodiversity Action Plan (UK and Local): of relevance in Shetland are sheltered muddy gravel (map 25), mudflats (map 19) and kelp forest (map 26); and
- vi. Birds Of Conservation Concern: of relevance in Shetland are Cormorant, Common Eider, Long-Tailed Duck, Red-Breasted Merganser, Black Guillemot, Puffin, Manx Shearwater, Gannet, Shag, Mallard, coastal breeding and wintering waders Arctic Skua, Great Skua, Lesser Black-Backed Gull, Herring Gull and Razorbill (maps 22, 23 and 24).

Whilst sensitive times of the year have been indicated on the maps in the Marine Atlas, early consultation on actively used sites for species such as birds, otters, seals and cetaceans is advised. Applicants and planners should seek advice from the Shetland Biological Records Centre and Scottish Natural Heritage.

Justification

For the first time, data on protected species and habitats outwith designated areas have been brought together from various sources into maps using Geographical Information Systems (GIS). This spatial information should be used by developers pre-consultation to avoid any objections to the Planning or Works Licence application (which will prompt the request for the marine user to show that there is no significant impact through the production of an environmental statement or impact assessment).

These policies aim to secure the conservation of Shetland's natural heritage through the protection of habitats at all levels from injurious development. This includes ensuring that species with protected status under British or European Law are not caused harm from developments which may affect their feeding, resting or breeding sites, even if these are not in themselves considered to be habitats worthy of protection.

Implementation and Monitoring

Where an application for Planning Permission or a Works Licence is thought likely to decrease the value of a site of natural heritage importance, the developer may be required, through condition and/or agreement, to prepare a management plan that will show:

- How work will be conditioned to ensure potential damage to any existing habitat is minimised;
- The long-term aims of the proposal and how it is to be achieved; and
- How they aim to ensure that the development provides for the creation or enhancement of habitat features.

Monitoring of this policy will be through:

- Recording the number of applications approved which may affect important species; and
- Assessing those which, despite affecting sites of natural heritage importance, have made provision for habitat creation or enhancement; and
- Quantitative indicators will be used to assess changes in the population levels of species over time where these are currently recorded.

It is acknowledged that some of the information in the maps is incomplete and it is for these reasons that pre-application consultation with a natural heritage advisor such as SNH, RSPB and the Biological Records Centre is recommended. Efforts will be made to fill these knowledge gaps in the future (as detailed in the Delivery Plan of this report).

LANDSCAPE / SEASCAPE

Scottish planning policy requires that local plans include policies for the protection and, where appropriate, the enhancement of nationally designated areas, and for any other areas identified as being of regional or local importance for their natural heritage. These designated areas, along with other parts of Shetland, represent landscapes which could in themselves be considered tourism assets and which should be conserved for the benefit of this industry. The purpose of the policy is to provide adequate protection for national and locally important scenic areas in Shetland.

The quality of Shetland's landscape has been recognised by the designation of a National Scenic Area (NSA). Seven separate small areas of coastal landscape in Shetland have been identified as of outstanding scenic interest. They lie principally in the south-west and northern extremities of the archipelago and include Fair Isle, Foula, the western flank of Dunrossness and the Deeps, part of Muckle Roe, Esha Ness, Uyea Isle and Fethaland, and Herma Ness.

Policy MSP HER4:

Safeguarding Seascape Character and Visual Amenity

All development proposals should ensure a high standard of design, in terms of siting, scale, colour, materials and form to ensure the various types of development or coastal use change might best be accommodated within particular landscape and seascape types.

Development or coastal-use change that may have a significant adverse effect, either directly or indirectly will only be permitted where the quality or character of the landscape will not be adversely affected; or, where any significant adverse effects on the National Scenic Area are clearly outweighed by social or economic benefits of national importance.

Implementation and Monitoring

NSAs are a terrestrial designation and do not have a legally defined seaward extent. Some marine developments will have an impact on NSAs by virtue of their proximity, scale and design, and as such, stricter control should be enforced as appropriate. Applications for planning permission or Works Licence on the seaward side of these areas are required to be accompanied by Design Statements, exhibiting greater consideration of siting and design issues than in other areas.

All Planning applications and Works Licences falling on the seaward side of NSAs will be monitored by:

- the imposition of conditions and planning agreements to do seascape enhancements and seascape carrying capacity studies; and
- The recording of incidence where applications approved affect landscape.

These Policies Conform to:

- Scottish Planning Policy
- Structure Plan policies GDS1, GDS4 and SP NE4, NE7, NE8
- Regional and Local Biodiversity Action Plans
- Local Plan policies LP NE10, NE 13, BE8, BE9.

These Policies Support:

- The SIC Corporate Plan
- Development Plan Aim 1, 2, 3 and 4
- Biodiversity: The UK Action Plan
- Safeguarding our Seas - A strategy for the conservation and sustainable development of our marine environment.

Legislative Responsibilities:

- Shetland Islands Council or Lerwick Port Authority in granting Planning Permission and Works Licences within their specific areas of jurisdiction
- Scottish Environment Protection Agency (SEPA) issuing CAR Licences
- Marine Scotland.

Inspection, Enforcement and Control:

- Shetland Islands Council or Lerwick Port Authority
- Scottish Environment Protection Agency (SEPA)
- Marine Scotland.

ARCHAEOLOGY

The sea around the Shetland Islands hosts a rich and diverse cultural heritage. At the coast there are numerous structures of archaeological and historical interest (shown in map 7). There are 1,490 shipwrecks on the seabed that we know of (shown in map 27), but only a small proportion are known in detail. Two of these are designated under the Protection of Wrecks Act 1973, and the seabed around 14 of these wrecks is leased by Shetland Islands Council as a means of protecting the resources within them (shown in map 11)¹. The seabed is also of palaeo-environmental interest, particularly areas that were once dry land during ice age conditions and where there is potential for a wide range of buried deposits of archaeological interest.

An executive agency of Scottish Government, Historic Scotland takes the lead in providing statutory protection for the most important elements of Shetland's coastal and marine historic environment through the scheduling of ancient monuments, the listing of historic buildings, and the designation of historic shipwrecks under the Protection of Wrecks Act 1973. In addition, Historic Scotland directly manages several Properties in Care (PiC) that fall within the scope of this Plan (e.g. Jarlshof; Mousa Broch).

Shetland's archaeology is a key part of what gives the islands their own distinctive and unique character. This includes Scheduled sites but also includes many other sites which are of schedulable quality as well as sites of Regional and Local importance. Shetland Amenity Trust has a responsibility to maintain a constantly evolving record of them. This is known as the Shetland Sites and Monuments Record (SMR). The Record currently holds information on 8,000 sites, a high proportion of which are coastal/marine. Activities potentially conflicting with archaeology have to take archaeology into account as a dominant use for cultural and historical reasons. Therefore, in the case of conflicts, because sites are fixed, other uses are secondary.

Policy MSP HER5:

Safeguarding Archaeological Remains

In considering applications for new developments, there will always be a presumption in favour of preserving the archaeology. The Planning Authority will presume against any development that will result in the demolition of the feature, their setting and any features they may possess or would otherwise harm its character or setting of any archaeological remains, including, but not confined to:

- scheduled ancient monuments;
- historic plane wrecks;
- designated wrecks;
- any associated buildings (such as bōds, piers and sea walls);
- protected wrecks; and
- unscheduled monuments with significant value.

Alterations or extensions to, and new developments within the vicinity of the above must respect the original structure in terms of design, scale and, where appropriate, setting. In granting consent to demolish, the Planning Authority would act on the advice of the Regional Archaeology Service. Any proposal to demolish the above protected infrastructure will need to be supported by a marine engineer's report indicating that the structure cannot be retained. Particular attention should also be paid to the following factors:

- a. the importance of the structure;
- b. the adequacy of efforts made to retain the structure in use;
- c. the extent to which the community would benefit from preservation.

Continued over.....

¹ The following extract describes the protection afforded by Shetland Islands Council:

“The council leased from the Commissioners of Crown Lands the seabed rights of specified areas where some of the more important wrecks are known to lie. Such a lease does not give the council any rights to the individual wrecks in question, but it would give that body control to prevent any person interfering with the seabed within the defined areas. And since the ships themselves are broken and scattered and their remains can only be reached by excavation the interference need not be stressed.” *Henderson (1985)*.

In cases where the Planning Authority is minded to grant consent to the demolition of any of the above structures, it will consider attaching conditions in respect of:

- d. any munitions enclosed within the structure;
- e. methods of demolition to be employed;
- f. appropriate and satisfactory provision has been made for the excavation, recording, analysis and publication of the remains, and for the notification of any finds to the appropriate authorities;
- g. the conservation, retention or salvaging of architectural or other features, artifacts or other materials; and
- h. the restoration or redevelopment of the site including specifying that redevelopment contracts need to be approved prior to the commencement of demolition, in appropriate cases.

Justification

The aim of this policy is to provide protection to marine archaeology in accordance with current guidance and legislation. Marine archaeology makes a significant contribution to the character and amenity of Shetland. It is a valuable resource that can stimulate enjoyment of the wider environment and act as an important medium for education, recreation and tourism. As such, the resource must be protected.

To help assess proposals affecting marine archaeology the views of the Archaeologist at the Shetland Amenity Trust and Historic Scotland will be sought.

This Policy Conforms to:

- PAN 42 and 53
- Scottish Planning Policy
- The Memorandum on Listed Buildings and Conservation Areas (Historic Scotland)
- Structure Plan policy SP BE1
- Local Plan policy LP NE10.

This Policy Supports:

- The Corporate Plan
- Development Plan aim 3.

Legislative Responsibilities:

- Scottish Government through Historic Scotland.

Inspection, Enforcement and Control:

- Shetland Amenity Trust (Archaeology) and Historic Scotland (Monument Wardens) - monitor the condition of Scheduled Monuments.
- Shetland Amenity Trust (Archaeology) provides advice to the Shetland Islands Council's Planning Department under a Service Level Agreement on the enforcement of the Ancient Monuments and Archaeological Areas Act, 1979. The Shetland Amenity Trust also maintain the SMR.
- Historic Scotland - controls access to, through administering a licensing regime on behalf of Scottish Ministers, and manages a programme of periodic inspections and monitoring work in respect of Designated Wreck Sites (under the Protection of Wrecks Act, 1973).
- Historic Scotland (Inspectorate) - advises on proposals of change and administers the system of Scheduled Monument Consent (SMC).
- Historic Scotland and/or Northern Constabulary - enforce appropriate action in the event of damage to a Scheduled Monument.
- Northern Constabulary, HM Coastguard and Lerwick Port Authority in collaboration with Historic Scotland - enforce the Protection of Wrecks Act 1973 in the event that unauthorised works / activities took place within a protected area.
- Ministry of Defence (MOD) - enforces the Protection of Military Remains Act, 1986
- Receiver of Wreck - enforces the Merchant Shipping Act, 1995 (Section 236). The Scots common law rights relating to found Archaeological and historic items in Scotland (dealt with through the system of 'Treasure Trove') are also relevant in that they extend to the foreshore (see www.treasuretrovescotland.co.uk)

Background Reading:

- European Convention for the Protection of the Archaeological Heritage (Revised, Valetta, 1992 Council of Europe).
- British Archaeologists and Developers Liaison Group (BALDG) Code of Practice.

4. COMMUNITIES

COMMUNITIES

Policy MSP COM1:

Community Aspirations

Encouragement will be given to developments and activities that promote and support sustainable communities:

- a. with a culture of maritime enterprise, providing the right economic conditions for businesses to achieve dynamic and sustainable growth; and
- b. in achieving aspirations for their locality.

Competent authorities will seek to involve communities in the planning process in order to make more informed decisions.

Justification

The aim of this policy is to help the people and marine related businesses of Shetland to achieve their full potential on a long term, sustainable basis. Efforts will be made to define community aspirations (as detailed in the Delivery Plan of this report), and these will be taken account of in future area-specific policies of this Plan.

This Policy Conforms to:

- PAN 81
- Scottish Planning Policy
- Structure Plan policy SP GDS5, BE3, CSF1 and CSF3
- Local Plan policy LP CFS4.

This Policy Supports:

- The Corporate Plan.

Legislative Responsibilities:

- Shetland Islands Council
- COSLA.

Inspection, Enforcement and Control:

- Audit Scotland.



Cormorant

Image courtesy of Promote Shetland



Boat Museum, Unst

Image courtesy of Stephan Hennig

5. BUSINESS & INDUSTRY

The Shetland Economy

The Shetland Islands' marine and coastal environment is central to its unique identity both physically and culturally and to the sustainability of its economy. It supports a diverse range of industries and employment opportunities, including those detailed below in Figure 2.

A socioeconomic review was carried out in 2006 and found that the sea around Shetland directly supports around 3,102 jobs in over 144 businesses. These jobs create a turnover of £302 million, which in turn generates around £128 million for the Scottish economy each year.



Figure 2: The jobs, businesses and Gross Value Added supported by the marine environment around the Shetland Islands in 2003.

Aquaculture Planning Framework

The aquaculture industry in Shetland has two major components: finfish farms and those involved in the cultivation of shellfish (maps 3 and 4 of the Shetland Marine Atlas). The industry is a major component of the Shetland economy and salmon production is, by far, its largest element. In addition small quantities of sea trout, cod and halibut have been produced. In respect of shellfish cultivation, mussels are the main species with a small number of sites being developed for scallops and oysters.

This section of the Plan covers the legislative framework at coast and on seabed for development consent of aquaculture (hygiene / disease is not covered except in so much as the legislation requires zoning).

Planning Application Jurisdiction

Shetland Islands Council applies the Interim Policy for Marine Aquaculture (2007) to all planning applications for new or modified marine fish farming developments. It applies to the placement of equipment in the sea, on the seabed or on the foreshore below Mean High Water Spring (MHWS) out to 12 miles, under the scope of the Town and Country Planning (Scotland) Act 1997.

Currently, applications are considered in terms of the:

- a. Interim Policy for Marine Aquaculture (2007);
- b. Council's Structure and Local Plans (where relevant);
- c. Scottish Planning Policy;
- d. Circular SEDD 1/2007 'Planning Controls for Marine Fish Farming';
- e. Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters -Policy Guidance Note (Scottish Government, 1999);
- f. Existing legislative framework currently applying to the proposed development;
- g. Wildlife and Countryside Act, 1981;
- h. Water Environment and Water Services (Scotland) Act, 2003; and
- i. Nature Conservation (Scotland) Act, 2004.

In addition, if applicable, applications are considered in terms of the:

- j. Environmental Impact Assessment (Scotland) Regulations 1999 (the Regulations of 1999);

k. Seabed lease from the Crown Estate;

l. Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) (CAR) Licence from SEPA;

m. Consent under the Food and Environment Protection Act 1985 from the Scottish Government;

n. Consent under the Coast Protection Act 1949 from the Scottish Government.

N.B. Planning Permission does not control aspects of an operation that is specifically controlled by powers granted to these other regulatory bodies.

Planning Application Process

Permissions for fish farming are awarded after an informed judgement is made based on the best available evidence through the application, consultation and Environmental Impact Assessment (EIA) procedures.

On receipt of a Planning Application, Shetland Islands Council (SIC) forward the application for consultation to those listed in Appendix 4.

SIC considers the application in terms of the Interim Policy for Marine Aquaculture (2007), a full copy of which can be obtained from SIC. The policies have been extracted and included at the end of this document in Appendix 5. Potential developers should use the Interim Policy for Marine Aquaculture after they have considered the siting of the proposal using the Marine Spatial Plan policies detailed in this Plan and maps provided in the Shetland Marine Atlas (Part Two of this document).

Applications that are outwith policy, or attract objections will be determined by the Planning Board of SIC. As part of the decision making process both applicants and objectors are offered the opportunity of addressing the Board in the interests of open, fair and transparent governance. A final decision of the Council will continue to be required where an application outwith this policy is recommended for approval by the Board.

In an attempt to clarify the legislative features and information that require consideration outlined previously, the following policy is specific local spatial guidance which should be supplemented with the Atlas provided in Part Two of this document.

Policy MSP AQ1:

Aquaculture - Key Conditions

Aquaculture development applications will be favourably considered where they have complied with:

- a. Policy MSP GEN1 and GEN2, and due regard should be given to Policies HER 1 - 5 and COM1;
- b. Locational Guidelines (for fin fish farming only); and
- d. local policy restrictions¹.

The Planning Authority may be minded to refuse any applications that fall outwith separation distances between other aquaculture developments (as detailed in the Interim Policy for Marine Aquaculture, 2007: 1,000 m for finfish; 500 m for shellfish), but due regard should be given to Policy MSP AQ3.

Developers should comply with the Interim Policy for Marine Aquaculture, 2007 (as detailed in Appendix 5), and included information regarding their conformity with the Fin Fish Code of Best Practice.

All marine aquaculture proposals must demonstrate that anti-predator measures deter or prevent predation through use of methods which are non-lethal and do not cause any significant harm. For the avoidance of doubt the use of monofilament nets for such purposes is not permitted.

Justification

The purpose of this policy is to highlight the key conditions that restrict the placement of new aquaculture proposals as per the Council's Interim Policy for Marine Aquaculture (detailed in Appendix 5). Through compliance with the General Policies (and use of the Marine Atlas), aquaculture developers should be able to predict with greater certainty where a development is likely to be acceptable and where it is

not. This form of pre-application consultation should reduce costs in survey work and prevent delays in the development consents process.

Locational Guidelines areas are designated on the basis of predictive models developed by Marine Scotland Science which assess the relative sensitivity of sea loch/ voe system to additional nutrient loading by fish farm development, taking account of data on the location and size of existing marine fish farms. As a result there will be areas outwith classification which are or could be sensitive to aquaculture development but have not been specifically highlighted as they do not contain aquaculture development at the moment.

[Note: 'Designation of shellfish growing waters' and 'classification of shellfish harvesting areas' (shown in map 36) are not parts of the development application process. Classification is only sought once a site has been sanctioned and the operator is approaching first harvest. In Shetland, 'designated waters' status has largely been granted on the basis that an area already contains a number of existing shellfish farming sites rather than exploring 'virgin' territory on which to confer this status.]

Policy MSP AQ2:

Aquaculture Development Management Plans

Area wide aquaculture development management plans proposals will be supported and encouraged where:

- a. it can be shown that the plan will lead to one or more of the following:
 - increased separation distance between developments;
 - reduced overall environmental impacts and/ or reduced potential impact on protected species or habitats;
 - safeguard or improve fishing opportunity;
 - aim to produce community benefits i.e. reduced visual impact, noise or impact on recreation/ access;

¹ Over time, the Council has adopted policies in coastal areas of Shetland where there is a general presumption against aquaculture development. Such policies are as follows:

- (a) Fish farming will not as a matter of policy be permitted anywhere within the Sullom Voe Harbour Area (as defined in the Sullom Voe Harbour Revision Order 1980) for as long as its primary purpose is to accommodate vessels engaged in the carriage of hydrocarbons or other dangerous substances;
- (b) No aquaculture developments will be permitted in Whiteness Voe north of a line between Usta Ness and Grutwick or the upper part of Weisdale Voe between the Taing of Haggersta and Vedri Geo;
- (c) No further new aquaculture developments will be permitted in Busta Voe north of a line drawn between Hevden Ness, Mainland and Green Taing, Muckle Roe as a matter of policy, and variations to existing sites north of this line should not result in either an increase in site size, a change in site location or an increase in environmental or visual impact.

- increased socio-economic benefit i.e. from job creation or increased economic viability; and
- reduced potential for disease transmission, increase fish welfare or control and manage sea lice numbers.

b. the plan considers the potential impacts (both positive and negative) on local communities, natural heritage, socio-economic viability and disease prevention and control and other industries in the area.

Subsequent development applications within an area covered by a management plan must not reverse the gains made by the management plan.

Justification:

Development management plans are plans which adopt a holistic, multiple site approach to management which aim to bring benefits to industry and/ or other users and interests. This may be through the development of disease control and prevention measures, optimising production or to benefit the fishing industry, recreational users, the community or natural heritage.

Development management plans have the potential to bring about significant benefits by considering impacts and interactions from and between multiple developments. It is important that where these plans are entered into the potential impacts, both positive and negative are fully considered. It is also important that the aims of the plans are not undermined by subsequent applications. This may be of particular relevance where space for new developments has only been made available by the actions of a development management plan.

Conflict resolution opportunities have worked successfully in the past in Shetland (such as Yell Sound Coast SAC Seal Plan) and will become more common as scope for growth becomes limited. It is advised that plans of this type seek assistance from the recently established Expert Working Group on Aquaculture Siting.

Policy MSP AQ3:

Aquaculture Separation Distances

There will be a presumption in favour of maintaining the minimum separation distance between developments as detailed in the Interim Policy for Marine Aquaculture, 2007. Consideration may be given to reducing these minimum distances provided:

- a. it can be shown to bring either an economic, natural heritage or community benefit;
- b. it does not impact on the operations or economic viability of neighbouring sites or other users; and
- c. it will not cause a significant increase in the risk of disease transmission.

Justification:

Small movements in development positioning may help to increase economic viability by creating disease breaks, increasing growth and reducing impacts on natural heritage, navigation and fisheries. It should be noted that any planning application that does not meet the Interim Policy for Aquaculture will be determined by the council planning board.

Policy MSP AQ4:

Aquaculture in the Swarbacks Minn Area²

Due to the high numbers of consented sites within the Swarbacks Minn area and the required minimum separation distance stipulated in the Interim Policy for Marine Aquaculture (2007), there is currently no potential for the development of new finfish or shellfish developments without the revocation of existing licences.

Applications for new sites will only be considered where:

- a. the developer intends the application to be in place of an existing licence/ permission at another or the same location; and
- b. is part of a site exchange to improve economic, biosecurity, navigation, natural heritage or community benefit i.e. an exchange between a shellfish and finfish farm.

Continued over....

² The Swarbacks Minn area is defined as the north-west mouth of Roe Sound to the mouth of Swarbacks Minn, located between Muckle Roe and Vementry. This area includes Busta Voe, Olnafirth, Gonfirth, Aiths Voe, Uyea Sound, Sound of Houbansetter, Roe Sound, Cole Deep, Swarbacks Minn and Northra Voe. It excludes the Brindister Voe area, Vementry Sound and Cribba Sound.

Renewal of site planning permissions which have never been active will only be considered where a plan of proposed use detailing why the site has not already been developed and how it will be used in the future and details are given, where relevant, of how the development will fit in with any aquaculture development management plans in the area.

This policy will be reviewed at least every 3 years.

Justification:

Due to the high number of sites in the Swarbacks Minn area, there is little room for site alterations to be made. Additionally, some unused sites may be preventing a more effective use of space and although some may form part of a long term plan for a developer this is perhaps not the case for all undeveloped, unused sites. The continued renewal of these development consents is potentially preventing the relocation and amalgamation of other developments which may bring benefits to industry, natural heritage and the community.

These Policies Conform to:

- Scottish Planning Policy
- SEPA policy 3
- Shetland Local Plan policy LP WD6 and LP WD9
- Structure Plan policies SP NE3 and GDS4
- Interim Policy for Aquaculture (2007) Policy F2.

These Policies Support:

- Development Plan aim 3
- The Corporate Plan
- EU Water Framework Directive
- Water Environment and Water Services (Scotland) Act 2003 (WEWS)
- Water Environment (Controlled Activities) Regulations 2005.

Legislative Responsibilities:

- Marine Scotland Science for site registration
- Northern Light House Board for navigational Consent.
- Scottish Environment Protection Agency (SEPA) - discharge consents for chemicals, veterinary medicines and fish biomass
- Shetland Islands Council for Planning Consent.

Inspection, Enforcement and Control:

- Marine Scotland Science (Environment Protection Group)
- Marine Scotland Planning and Policy
- Scottish Environment Protection Agency (SEPA)
- Shetland Islands Council
- Northern Lighthouse Board.

Background Reading:

- A Strategic Framework for Scottish Aquaculture. (2003). Scottish Government.
<http://www.scotland.gov.uk/Publications/2003/03/16842/20502>
- Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters. (2009). Marine Scotland Science (previously Fisheries Research Services).
http://www.marlab.ac.uk/Delivery/Information_Resources/information_resources_view_document.aspx?contentid=1416
- Marine Aquaculture and the Landscape: The siting and design of marine aquaculture developments in the landscape. (2001). SNH.
- Swarbacks Minns sub-area Marine Spatial Plan. (2009).
<http://www.nafc.ac.uk/SSMEI.aspx>.



Fish Farm, Scalloway

Image courtesy of Hjaltland Seafarms Ltd

Oil Extraction and Decommissioning

Policy MSP OIL1:

Oil Extraction Proposals and Decommissioning

Exploration for oil within 12-miles of the coast will only be permitted where they have:

- a. complied with Policy MSP GEN1 and GEN2;
- b. included all elements such as connections to shore base and infrastructure; and
- c. included an appropriate monitoring programme and detailed restoration and maintenance proposals.

Further information may be required as part of the matrix of sensitivities detailed in Appendix 3 and/or contribution towards the EIA Regulations (1999).

Decommissioning and shore based activities are preferred in existing developed areas.

Justification

The oil industry has made a significant contribution to the economy of Shetland since the oil terminal at Sullom Voe was established and it is anticipated that Sullom Voe's role as a major oil landing facility will continue for the next 20-25 years. The precise timescale will depend on both the development of the Atlantic fields to a point where a pipeline landfall is initiated, but also on the location and success of new exploration and development areas.

Where an application for a SIC Works Licence is sought for oil exploration the developer will be required to include a detailed monitoring programme because accidental spillage is damaging to wildlife and sites within 12 miles have little or no time for cleaning before oil reaches the shore.

It is important that early consideration is given to what occurs post-Sullom Voe: the situation is currently being monitored by Shetland Islands Council with a study commissioned recently to determine the future prospects of the port. Which will also have to give due consideration to the Sullom Voe SAC.

Regarding decommissioning, the community recognises the unique development opportunities associated with Sullom Voe for further marine related development given its attributes as a relatively sheltered, deep water anchorage. Any development would have to be compatible with aquaculture and fishing industry, together with providing a habitat for a wide range of flora and fauna including some internationally protected and rare species.

This Policy Conforms to:

- Scottish Planning Policy.

This Policy Supports:

- Development Plan aim 3
- The Corporate Plan.

Legislative Responsibilities:

- Scottish Environment Protection Agency (SEPA) within 3 nautical miles of the coast.

Inspection, Enforcement and Control:

- Scottish Environment Protection Agency (SEPA) within 3 nautical miles of the coast.

Background Reading:

- OSPAR Offshore Oil and Gas Industry Strategy. Extract from the Annual Report of the OSPAR Commission 2006/07. http://www.ospar.org/eng/doc/Annual%20Report%202006_7%20OIC.pdf
- IMO guidelines and standards for the removal of offshore installations and structures on the continental shelf and in the EEZ. (1989). http://www.imo.org/Environment/mainframe.asp?topic_id=1026.



Sullom Voe Oil Terminal

Image courtesy of Stephan Hennig

Renewable Energy

Policy MSP NRG1: Exploratory, Appraisal or Prototype Renewable Energy Proposals

Exploratory, appraisal or prototype energy proposals will be encouraged where they have:

- a. complied with Policy MSP GEN1 and GEN2;
- b. detailed any associated infrastructure required to service the site; and
- c. included an appropriate monitoring programme and detailed restoration proposals.

The Planning Authority will specify a time period for the granting of a Works Licence for exploratory, appraisal or prototype proposals which will be without prejudice to any subsequent application to develop fully operational projects at that location.

Justification

It is acknowledged that a significant level of exploratory work (including the building of prototypes) may be required to establish the optimum locations and the long-term viability of energy projects. It would be beneficial to engage with both Scottish Natural Heritage, the Forum for Renewable Energy Development in Scotland (FREDS) and local industries, such as the fishing industry, at the early stages of the project design. Accordingly, temporary permissions or Licences will normally be granted for exploratory proposals so that a proper assessment can be made of a particular site in terms of viability, cost effectiveness and impact on marine biodiversity. Trials of renewable energy devices are currently underway in Orkney, the Pentland Firth and the Western Isles.

The assessment of efficiency and appropriate monitoring to determine any impacts must be transparent and be demonstrated to the satisfaction of the Planning Authority. This will allow an informed decision to be made should the developer wish to apply for a more permanent site.

It should be noted that a Marine Protected Area does not preclude any development. As with all developments, the site would have to be assessed to identify if there are any significant impacts from the development.

This Policy Conforms to:

- Scottish Planning Policy
- Shetland Local Plan policy NEI2.

This Policy Supports:

- The Corporate Plan
- Development Plan aims 1 and 3
- Forum for Renewable Energy and Development in Scotland (FREDS).

Legislative Responsibilities:

- Shetland Islands Council or Lerwick Port Authority in granting Works Licences within their specific areas of jurisdiction (ZCC Act, 1974)
- Department of Trade and Industry (DTI) - Licensing and Consents Unit (LCU)
- Marine Scotland Science Environment Protection Group for FEPA Licence
- Marine Scotland Planning and Policy
- Scottish Government Energy Consents Unit- Electricity Act, 1989
- Crown Estate
- Northern Lighthouse Board- Coast Protection Act.

Inspection, Enforcement and Control:

- Shetland Islands Council or Lerwick Port Authority
- Health and Safety Executive (HSE)
- Maritime and Coastguard Agency (MCA)
- The DTI controls on discharges
- Northern Lighthouse Board.

Policy MSP NRG2: Renewable Energy Development Proposals

Renewable energy developments will be encouraged where they have:

- a. complied with Policy MSP GEN1 and GEN2;
- b. included all elements such as connection to shore base and National Grid connections; and
- c. demonstrated to the satisfaction of the Planning Authority an appropriate monitoring programme specific to the design, scale and type; and,
- d. detailed restoration and maintenance proposals.

Further information may be required as part of the matrix of sensitivities detailed in Appendix 3 and/or contribution towards the EIA Regulations (1999).

Justification

Shetland's coastline and climate mean that the Islands have great potential for the generation of renewable energy. However, the offshore technology required to sustain the elements in the open seas around Shetland is still in its infancy, but this policy has been established in the eventuality that a proposal arrives within the term of this Plan.

It is still important that renewable energy sources and technology on a commercial scale are tried, tested and used for the benefit of consumers in Shetland. Despite all the obvious advantages of renewable energy, it is also important to ensure that the Shetland environment and the quality of life of its residents are not compromised. It would therefore be beneficial, at the early stages of the project design, for the developer to engage with Scottish Natural Heritage, local industry (in particular fishing), and the local community.

This Policy Conforms to:

- Scottish Planning Policy
- Structure Plan policies SP ENG 1, ENG 2, ENG 3
- Local Policy LP ENG 6, 7 and 8.

This Policy Supports:

- Development Plan aim 1 and 3

- The Corporate Plan
- Forum for Renewable Energy and Development in Scotland (FREDS).

Legislative Responsibilities:

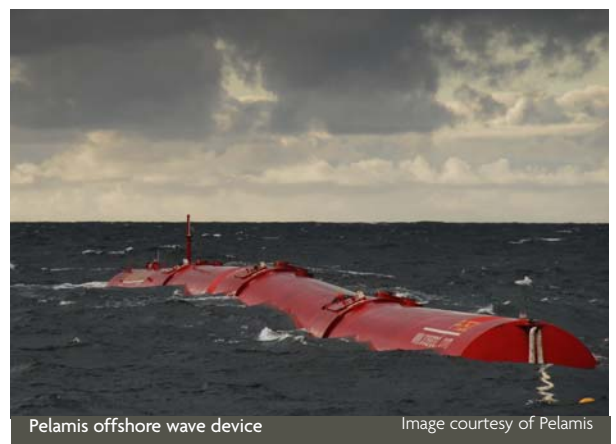
- Shetland Islands Council or Lerwick Port Authority in granting Works Licences within their specific areas of jurisdiction
- Scottish Government Energy Consents Unit - Electricity Act, 1989
- Marine Scotland Planning and Policy - Coast Protection Act (CPA), 1949
- Marine Scotland Science (formerly FRS) - Part II of the Food and Environment Protection Act 1985 (Deposits in the Sea)
- Northern Lighthouse Board.

Inspection, Enforcement and Control:

- Shetland Islands Council or Lerwick Port Authority
- Marine Scotland Science
- The operator
- Northern Lighthouse Board.

Background Reading:

- Distribution of Development Human Activity and Environment Supplements.



Pelamis offshore wave device

Image courtesy of Pelamis

Commercial Fishing

Fishing opportunities within the 12 nautical mile limit around Shetland provide the opportunity for a wide range of commercial activity. These include the following whitefish and shellfish species (their spatial distribution is shown in maps 1 and 2 respectively):

- Cod (*Gadus morhua*)
- Haddock (*Melanogrammus aeglefinus*)
- Whiting (*Merlangius merlangus*)
- Monkfish (*Lophius piscatorius*)
- Veined squid (*Loligo forbesi*)
- Saithe (*Pollachius virens*)
- Lythe or Pollack (*Gadus pollachius*)
- Velvet crab (*Necora puber*)
- Edible brown crab (*Cancer pagurus*)
- Lobster (*Homarus gammarus*)
- Norway Lobster (*Nephrops norvegicus*)
- King scallop (*Pecten maximus*)
- Queen scallop (*Aequipecten opercularis*)
- Common whelk known locally as buckies (*Buccinum undatum*)

Finfish fisheries in the North Sea are managed through the EU Common Fisheries Policy (CFP). The CFP sets Total Allowable Catches (TAC) for most commercial species within European Waters and allocates quotas to Member States based on historic fishing rights. The CFP also includes a range of technical measures including fishing gear regulations and minimum landing sizes. The Scottish Government manages quota for fish stocks and controls the activities of fishing vessels and fishing effort (days spent at sea) out to 12 nautical miles.

Between 6-12 miles Member States' vessels have historic access rights as defined in the CFP Basic Fisheries Regulation (Regulation EU 2371/2002). The Netherlands and Denmark have historic rights access in the 6 - 12 mile zone around Shetland for herring.

Scottish fishing vessels have exclusive access to the fisheries and waters out to 6 miles. In the case of Shetland, however, within 6 miles shellfish fishing is managed by the Shetland Shellfish Management Organisation (SSMO) under a regulating

order, using a licensing system. The SSMO manages fishing methods and fishing gear, restricts fishing seasons, sets minimum sizes for shellfish and manages shellfish beds for stock conservation.

The SSMO is also responsible for the collection of data which allows a comprehensive Stock Assessment to be developed year on year. This allows fishery management to take place based on the best possible information and analysis.

Marine Scotland Compliance, formerly the Scottish Fisheries Protection Agency (SFPA), co-ordinates an enforcement programme for the monitoring, control and surveillance of sea fishing activity. Marine Scotland Compliance also undertakes investigations and prosecutions when breaches of the regulations are identified.

Policy MSP F1: Safeguarding Fishing Opportunities

All relevant organisations and stakeholders will work with the local fishing community to safeguard the future sustainability of the industry and their stocks without adversely affecting marine ecosystems. Development proposals will not normally be permitted if it obstructs an important fishing ground* or a route between a fishing port or a harbour where there are no suitable alternatives, or impacts a spawning and nursery area.

* An important fishing ground is defined by the frequency of use or productivity of an area, which has been determined by local fishermen.

Please note that the maps of local grounds in the Marine Atlas are currently incomplete and pre-application consultation is strongly advised.

Policy MSP F2: Local Management of Sustainable Fisheries

Local fisheries management will develop appropriate measures so that fishing is not carried out in ways that damage important habitats and species (as detailed in the matrix of sensitivities).

Justification

In Shetland, there are strong economic and social arguments for conserving fishing grounds. Determining factors in the location of fishing activity are cost-effective distance between the ports of call and its relationship with fishing, and obstructions such as aquaculture and prevention of certain gear types (dredging) around oil and gas pipelines.

Many habitats, and consequently the target commercial species that live there, could be lost to insensitive development and can never be replaced once lost or take years to recover. In order to ensure that fishing is as productive as possible, this policy is designed to ensure the sensitive placement of other activities.

On the other hand, some fishing activity can have impacts on non-target habitats and species. The spatial information on these protected seabed species should be used to encourage the diversion of bottom trawling and dredging outwith these areas.

Local agreements should be encouraged to achieve the objectives of these policies, such as one previously established for management of the sandeel fishery between RSPB Scotland, the Shetland Fishermen's Association, SNH and the Scottish Government. Future agreements are likely to be achieved through the Shetland Shellfish Management Organisation and the proposed Inshore Fisheries Group.

This Policy Conforms to:

- Scottish Planning Policy
- Shetland Structure Plan Policy SP NE9, GDS1, GDS2
- Shetland Local Plan Policy LP NE10, NE 13
- Regional and Local Biodiversity Action Plans.

This Policy Supports:

- Development Plan aims 1, 2, 3 and 4
- The Corporate Plan
- Inshore Fishing (Scotland) Act, 1984.

- Sea Fish (Conservation) Act 1967
- Biodiversity: The UK Action Plan
- Safeguarding our Seas - A strategy for the conservation and sustainable development of our marine environment.

Legislative Responsibilities:

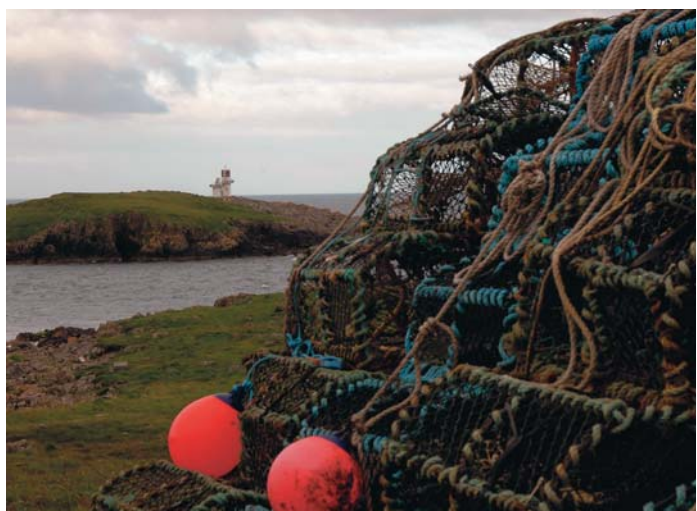
- Marine Scotland Sea Fisheries
- Shetland Shellfish Management Organisation.

Inspection, Enforcement and Control:

- Marine Scotland Sea Fisheries
- Marine Scotland Compliance.

Background Reading:

- Safeguarding our Seas - A strategy for the conservation and sustainable development of our marine environment.
- A Strategic Framework for the Scottish Sea Fishing Industry (2006) Scottish Government <http://www.scotland.gov.uk/Publications/2005/03/20860/File-1>
- Prime Ministers Strategy Unit Fisheries project (2004) Net benefits - A Sustainable and Profitable Future for UK fishing.
- Royal Society of Edinburgh (2004) Inquiry into the future of the Scottish Fishing Industry.



Fishing creels in Hamnavoe, Burra

Image courtesy of Promote Shetland

Mineral and Aggregate Extraction

Shetland Islands Council can permit extraction of sand, gravel and shingle and coastal quarrying under the ZCC Act through issuing a Works Licence in all areas except the Lerwick Harbour area (under the jurisdiction of the Lerwick Port Authority). An independent technical report from a competent body must be submitted to Shetland Islands Council at the applicant's expense. This technical report should assess whether the development would have knock on effects on the surrounding coastal environment, including information on the likely cumulative effects of this development. In particular, it should detail the hydrographic conditions and any information on the lateral and longitudinal shifts along the beach or coastline of the proposed area.

Policy MSP EX1:

Extraction of Sand, Gravel and Shingle

Proposals for the extraction of sand, gravel or shingle from beaches and dunes and below the Mean High Water Spring (MHWS), including coastal quarrying, would not normally be permitted, but where it has to be considered, the relevant Planning Authority will ensure the application has:

- a. complied with Policy MSP GEN1 and GEN2;
- b. provided a description of the alternatives that have been considered. This should include:
 - i. alternative sources (both within and outwith Shetland - bearing in mind the most sustainable option may actually be sourced material from out with Shetland);
 - ii. alternative materials;
 - iii. using dredged material; and
 - iv. doing nothing;
- c. detailed how sand/gravel extraction is an essential part of the proposed project;
- d. provided details of the works (ancillary equipment, storage, access, use of vehicles etc);
- e. submitted an independent technical report from a coastal engineer with the planning application.

When deemed necessary the works should be carried out with a local archaeologist present.

Justification

The aim of this policy is to protect the coastline from damaging extraction. Sand, gravel or shingle extraction can have impacts well away from the extraction site if it interferes with the movement of sediment along the coastline -very small changes to beach composition can lead to knock on effects and flooding risk.

The quarrying of active beach material reduces the sedimentary store of the donor beach, which in turn reduces its capacity to respond to storm events. Research into sediment supply on open beaches suggest that a very minor fall in lateral sediment supply (e.g. 0.1% fall in sediment from adjacent sections of beach) would result in comparable rates of beach erosion as a 0.5 m increase in mean sea level.

Given the sea level changes experienced since the last ice age, Shetland has experienced rising sea levels for the last 13 thousand years. This has a profound effect on the coastline and the location of sediment stores. Unlike much of mainland Scotland which has glacially derived sediments (known as fluvio-glacial sediments) held in river terraces and other features, Shetland's fluvio-glacial sediments are below sea level. This combined with the thousands of years of submergence mean that Shetland's coastline has rolled back on itself, leaving very little of the 'old' coastal zone, where these sediments would remain. This unfortunate chain of events for Shetland, means that the sediment stores at the coast are limited, unlikely to be replaced and currently provides a 'natural coastal defence' role with a dwindling asset.

If the results of the technical report are inconclusive the precautionary principle will apply. If Archaeological remains are present there may be circumstances where *in situ* remains could be excavated in advance at the discretion of the Shetland Archaeologist and at the developer's own expense.

This Policy Conforms to:

- Shetland Local Plan policy LP MIN9
- Scottish Planning Policy
- Structure Plan policy GDS1, GDS4, SP MIN2 and SP MIN3.

This Policy Supports:

- Development Plan aim 1 and 3
- The Corporate Plan
- Coast Protection Act (CPA), 1949.

Legislative Responsibilities:

- Lerwick Port Authority or Shetland Islands Council
- Marine Scotland Science Environment Protection Group - administer the FEPA regulations
- The (non-statutory) Government View procedure requires an EIA to be undertaken for all dredging operations
- Crown Estate issues Licence after favourable Government View
- Ancient Monuments and Archaeological Areas Act, 1979.

Inspection, Enforcement and Control:

- Crown Estate - acts as landowner and monitoring / enforcement agency for the monitoring of tonnage removal and compliance with licence conditions
- Lerwick Port Authority or Shetland Islands Council, Port and Harbour Operations - control and enforcement of the Coast Protection Act within their specific areas of jurisdiction
- CEFAS - Provide monitoring and advice on fisheries impacts of extraction activities with real time monitoring and modelling sediment plume density and dispersion for impact assessment before, during and after extraction.

Background Reading:

- Aggregate Working in Shetland, 1994.



Westsandwick beach, Yell

Image courtesy of Promote Shetland

Tourism and Recreation

The special qualities the Shetland Islands provide as a tourist destination are primarily its large areas of unspoilt wilderness. As an island community, Shetland has always relied heavily on the sea; as a result it has been well looked after and the facilities available for recreational users and visiting boats are excellent.

Recreational opportunities around the coast of the Shetland Islands provide the opportunity for a wide range of recreational and commercial activities. These include:

- Windsurfing
- Surfing
- Diving
- Sea-kayaking
- Rowing
- Sailing
- Yacht events
- Fishing / Sea Angling
- Natural history tourism and wildlife watching
- Coasteering
- Traditional Boats
- Power Boat – water skiing and jet skiing
- Ferry Services, charter boats

Marinas and piers often form the heart of Shetland's districts: there are visitor berths at most of the 15 marinas, and the community enjoys 325 points of access to the shore in the form of jetties, piers and slipways. Yachting also takes prominence: there are 17 regattas held every year as well as the Round Foula Race, the Lerwick to Skerries Race and the international Bergen-Shetland Races.

Tourism is worth £13m to the Shetland economy each year but there is considerable scope for growth. The Shetland Tourism Association and Promote Shetland, effectively manage existing and new opportunities. They also play an important role in promoting investment that encourages the creation of tourist facilities around appropriate attractions and activities, both on- and offshore.

Developments associated with water sport uses such as slipways and marinas require a Works Licence from Shetland Islands Council or from Lerwick Port Authority for projects within Lerwick Harbour. It is the general intention of Shetland Islands Council to conserve the character of the coast and to protect it and its surroundings from development which may be detrimental to this character.

**Policy MSP TR1:
Marine Recreation**

Local communities, user groups and other relevant agencies will seek opportunities to increase provision for those wishing to participate in water sports and recreation provided that development does not have any adverse impact on natural heritage, landscape character and the sustainability of local industry i.e. fishing grounds. To this end, the Planning Authority will look favourably upon applications to provide new facilities, or to extend and enhance existing provision, providing they have:

- a. complied with Policy MSP GEN1 and GEN2; and
- b. accommodated, where practicable, the multiple use of water areas.

Power craft use, such as jet skis, should be concentrated in areas where they will not cause any impacts to sensitive habitats and species.

Justification

The contribution a fully developed water sport industry can make to local tourism is recognised. Scottish planning policy requires local authorities to identify and protect water sports areas and identify water resources with potential for development in their development plans. The aim of this policy is to ensure that existing public access areas are protected. These areas provide a valuable recreational resource, helping to promote health and the enjoyment and awareness of the natural and historic environment.

Water related sport is an important leisure activity in Shetland and the seas surrounding the coast are important recreational resources, the potential of which remains to be fully developed. The potential contribution to Shetland's tourist economy is acknowledged, and the policy aims to support opportunities associated with water sports.

Development of water sports should not be to the detriment of the natural heritage of Shetland and other industries such as fishing. Care must be taken to avoid conflict between water sports and the sustainability of local industry and where there are important concentrations of protected species such as the harbour porpoise.

This Policy Conforms to:

- Local Plan policy CFS4 and COM14
- Structure Plan policy SP COM1, CSE2 and CST2
- Scottish Planning Policy.

This Policy Supports:

- Development Plan aims 2 and 4
- The Corporate Plan
- The Local Transport Strategy.

Legislative Responsibilities:

- Maritime and Coastguard Agency (MCA) - Provision to approve byelaws confirmed by the Secretary of State for Transport, as laid down in section 236 of the Local Government Act, 1972
- Local Authorities - provision to make byelaws to control unwanted activities (but implies policing responsibility to enforce)
- National Trust for Scotland - provision to make byelaws under the National Trust Act, 1907.

**Policy MSP TR2:
Tourist Developments**

New tourist developments will be favourably considered where they have:

- a. complied with Policy MSP GEN1 and GEN2; and
- b. provided detail of the design, scale and type ensuring the retention or enhancement of the ecological characteristics, landscape character and popular coastal views.

Developments that contribute to the following will be looked upon more favourably:

- c. appropriate management of attracting more people and spending to Shetland;
- d. help to lengthen the tourist season, develop the conference trade or encourage business tourism;
- e. benefit the local community as well as the tourists;
- f. enhance or make better use of existing attractions and facilities and promote the local character of an area;
- g. provide appropriate interpretation facilities;
- h. make better use of existing infrastructure, including the re-use of redundant buildings, ships, piers and other facilities; and,
- i. promote "environmentally responsible" tourism.

Justification

Shetland's economy is becoming increasingly reliant on its service sector, and tourism has the greatest potential for growth in that sector. The purpose of this policy is to increase the present level of tourism in Shetland, without damaging the resource on which it is based. Careful consideration on the design and siting of information facilities is necessary to enhance the area in which they are located.

This Policy Conforms to:

- Structure Plan policy SP TOUR1.

This Policy Supports:

- Development Plan aim 1, 2 and 3
- The Corporate Plan.

Legislative Responsibilities:

- Scottish Ministers devolved matter for seaward developments. Responsible for the issuing of Harbour Revision Orders dependent on EIA. Also consents under the Coast Protection Act, 1949

- Shetland Islands Council or Lerwick Port Authority in granting Planning Permission or Works Licences within their specific areas of jurisdiction
- Crown Estate - Licence required before development begins
- Maritime and Coastguard Agency (MCA)- licence boats and prevent hazards to navigation.

Inspection, Enforcement and Control:

- Maritime and Coastguard (MCA)
- Lerwick Port Authority or Shetland Islands Council.

Policy MSP TR3:

Environmental Protection as a Priority in Marine Tourism

Local marine tour operators should comply with MSP Policy GEN1 and GEN2.

Local marine tour operators should abide by and advocate the use of 'The Scottish Marine Wildlife Watching Code', 'A Guide to Best Practice for Watching Marine Wildlife' and 'Guidance Notes for Divers and Archaeologists on the Protection of Wrecks Act 1973'. Recreational users should be made aware of these codes of conduct.

Justification

This policy seeks to ensure that, in meeting the demand for eco-tourism, no harm is caused to the unique and irreplaceable features that attract visitors to Shetland in the first place.

Existing statutory and other formal mechanisms have a critical role to play in planning and managing for genuinely sustainable marine tourism. However, it is important to recognise that these will often need to be supplemented by a range of informal and voluntary measures in order to achieve a balance between approaches. Supplementing the statutory approach with voluntary regulations can address the shortcomings that formal regulatory structures tend to exhibit in respect of the unique problems inherent in planning for genuinely sustainable marine ecotourism.



Sea kayakers

Image courtesy of Promote Shetland

This Policy Conforms to:

- Shetland Structure Plan policy SP NE8 and NE9
- Shetland Local Plan policy LP NE10, NE13
- Scottish Planning Policy
- Regional and Local Biodiversity Action Plans.

This Policy Supports:

- Development Plan aims 1 and 3
- Biodiversity: The UK Action Plan
- Safeguarding our Seas - A strategy for the conservation and sustainable development of our marine environment.

Background Reading:

- Scottish Marine Wildlife Watching Code
- Guidance Notes for Divers and Archaeologists on the Protection of Wrecks Act, 1973
- Shetland Sandy Beach Access Audit
- Shetland Interpretive Plan.

Legislative Responsibilities:

- Scottish Government through Historic Scotland
- Northern Constabulary.

Inspection, Enforcement and Control:

- Northern Constabulary, HM Coastguard and Lerwick Port Authority in collaboration with Historic Scotland - enforce the Protection of Wrecks Act, 1973
- Ministry of Defence (MOD) - enforces the Protection of Military Remains Act, 1986
- Receiver of Wreck - enforces the Merchant Shipping Act, 1995 (Section 236).



Aithsting Coast

Image courtesy of Promote Shetland



An aerial view of Mousa Broch

Image courtesy of Promote Shetland

6. INFRASTRUCTURE & SERVICES

Infrastructure: Construction Permission Framework

Local Responsibility for Construction Permission

Under the Zetland County Council Act 1974 (the Act of 1974), Shetland Islands Council (SIC) has a duty to promote the conservancy and control of development (other than that for the purposes of marine fish farming) throughout Shetland, with the exception of those areas under the jurisdiction of Lerwick Port Authority or Broonies Taing Pier Trust (as shown in map 9 of the Shetland Marine Atlas).

The Council or Lerwick Port Authority applies the Works Licence Policy to all applications for the placement of 'works' on the seabed or on the foreshore below Mean High Water Spring (MHWS) to the limit of the territorial sea (12 nautical miles).

The Works Licence policy is an integral component of this Plan, and as such, is summarised here.

Works Licence Jurisdiction

The Works Licence policy is primarily concerned with, but is not confined to, the following development activities:

- Piers, marinas, breakwaters, sea defences, pipelines and other constructions.

Applications for Works Licences are considered within the terms of the:

- Works Licence policy;
- Council's Structure and Local Plans (where relevant);
- National Planning Policy Guidance, Memoranda and Advice, set out in for example:
 - Scottish Planning Policy; and
 - SEPA policy and guidance. Of specific relevance is Policy 55 on Provision of Waste Water Drainage in Settlements (available from www.sepa.org.uk/policies/index.htm)

d. Existing legislative framework currently applied to the proposed development:

- Birds Directive (79/409/EEC) that covers the conservation of wild birds and includes provision for designation of Special Protected Areas;
- Wildlife and Countryside Act, 1981;
- Water Environment and Water Services (Scotland) Act, 2003;
- Nature Conservation (Scotland) Act, 2004;
- Consent under the Coast Protection Act, 1949 (from the Scottish Government); and
- Conservation of Natural Habitats of wild flora and fauna (92/42/EC) (The Habitats Directive).
- The Conservation (Natural Habitats &c.) Regulations, 1994

In addition to (if applicable):

- Land-use planning policies for development above MLWS;
- Advice and consent from Shetland Islands Council as the Coast Protection Authority for coastal protection works;
- Seabed lease from the Crown Estate;
- Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) (CAR) Licence from SEPA;
- Consent under the Food and Environment Protection Act 1985 (from the Scottish Government);

A Works Licence does not control aspects of an operation that is specifically controlled by powers granted to these other regulatory bodies.

Works Licence Application Process

The Works Licence policies have been extracted and included in Appendix 6. A full copy of the Works Licence Policy and an application for a Licence can be obtained from Shetland Islands Council. A Works Licence Application for a project within the area of jurisdiction of Lerwick Port Authority requires an application made to Lerwick Port Authority. Potential developers should use these Works Licence Policies after they have considered the siting of the proposal using the Marine Spatial Plan policies and maps provided in the Shetland Marine Atlas.

Applications that are outwith policy, or attract objections, will be determined by the Planning Board of Shetland Islands Council. As part of the decision making process, both applicants and objectors are offered the opportunity of addressing the Board in the interests of open, fair and transparent governance. A final decision of the Council will continue to be required where an application outwith this policy is recommended for approval by the Board.

Seabed lease from the Crown Estate

The Crown Estate, as owner of about half of the foreshore and almost all the seabed in Scotland, grants landowner consents for development by virtue of The Crown Estate Act 1961. Although Shetland Islands Council can issue Licences for construction or permission for Aquaculture, there is usually a Crown Savings clause which means that the Planning Authority (SIC) still requires the Crown Estate's consent as landowner.

Direction of the Crown Estate by Government is a reserved

matter although the Crown Estate complies with devolved policy and legislation as appropriate.

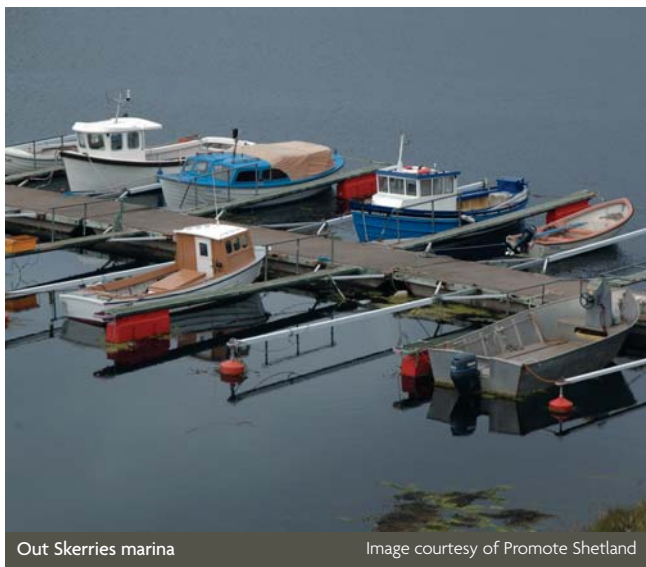
Consent under FEPA

Construction work which involves the deposition of materials below the High Water Mean Spring, e.g. building of harbours, jetties, sea outfall pipes, reclamation of land etc. is regulated under Part II of the Food and Environment Protection Act 1985 (FEPA). A FEPA Licence (for construction) is normally required and can be obtained from Marine Scotland Science (formerly FRS) in Aberdeen.

Some minor works of construction may be exempt from FEPA licensing; these are listed in the Deposits in the Sea (Exemptions) Order (Scotland), 1995. However, an application should always be submitted to Marine Scotland Science (previously called FRS) for assessment of the need for licensing.

Development in or near an EU protected site

The Marine Atlas can be used to help a developer to determine whether they are in or near an EU protected site. Where a development is proposed in or near an EU protected site it is important that the developer liaises with SNH at the earliest possible stage. An Appropriate Assessment may be required if it is considered that there is a potential for significant effect.



Infrastructure: Shore Access

Shore access development is defined here as piers, jetties, slipways and marinas and their access tracks (shown in map 5).

Policy MSP SA1: Shore Access

Shore access developments will be considered favourably where they have:

- a. complied with Policy MSP GEN1 and GEN2;
- b. detailed the level of impact of construction and increased access and traffic both on land and at sea;
- c. demonstrated the need for their facility of moorings; and
- d. clearly demonstrated the implications for existing users and planned future use.

Shore development proposals are encouraged where activity already exists.

Justification

The purpose of this policy is to protect the character of the coastal zone from inappropriate development and to direct development requiring a coastal location to areas with existing development, or sites where the character of the coastal zone could accommodate such development. Developers should be aware of the need for compliance with the Shetland Local Plan policies.

Globally it is likely that sea levels will rise significantly over the next hundred years and that storms will become more severe. Around Shetland a sea level rise of 0.8 to 0.9 metres (3 feet) is predicted. This will have consequences for all existing and proposed jetties, piers and marinas. Great care will be taken to ensure development proposals will not increase the likelihood of erosion or tidal inundation.

This Policy Conforms to:

- Local Plan policy LP CST6 and LP NE10
- Scottish Planning Policy
- Structure Plan policy GDS1, GDS4, SP CST1.

This Policy Supports:

- Development Plan aims 1, 2 and 3
- The Corporate Plan.

Legislative Responsibilities (above low water):

- Shetland Islands Council, Planning on behalf of Scottish Government Development Department (SGDD).

Legislative Responsibilities (below low water):

- Scottish Ministers devolved matter for seaward developments. Responsible for the issuing of Harbour Revision Orders dependent on EIA. Also consents under the Coast Protection Act 1949
- Marine Scotland Science Environment Protection Group - administer FEPA regulations
- Shetland Islands Council or Lerwick Port Authority in granting Works Licences within their specific areas of jurisdiction (ZCC Act, 1974)
- Crown Estate - Licence required before development begins.

Inspection, Enforcement and Control (above low water):

- Shetland Islands Council - controls the applications system, enforcing development controls, and ensuring environmental assessment of developments under the Environmental Impact Assessment (Scotland) Regulations 1999.

Inspection, Enforcement and Control (below low water):

- Marine Scotland Science Environment Protection Group - administer FEPA regulations on behalf of Scottish Ministers
- Shetland Islands Council or Lerwick Port Authority
- Operators - report on likely impact and monitoring duties.

Infrastructure: Coastal Defence and Flood Protection

Primary responsibility to protect land lies with the landowner who may undertake flood prevention works, subject to necessary planning permission, or coast protection works, subject again to planning permission and the approval of the Coast Protection Authority (which is Shetland Islands Council, Port and Harbours Operations, and the Coastal Engineer, who is based within the Planning Service). Requirements of any coastal works should be carried out in line with Scottish Planning Policy.

The Coast Protection Act 1949 and the Flood Risk Management (Scotland) Act 2009 allow local authorities (identified as Coast Protection Authorities in the 1949 Act) to promote appropriate schemes, on land not in their ownership, when the need for coast protection works or flood prevention works (for non-agricultural land) is deemed necessary in the wider public interest. Such schemes require ministerial approval regardless of size. Coast Protection Authorities are permitted to undertake maintenance and emergency work under the terms of the 1949 Act and certain public bodies are expected to take a pro-active role in managing, and where achievable lowering overall flood risk.

The UK Climate Impacts Programme (UKCIP)* provides scenarios that show how our climate might change and co-ordinates research on dealing with our future climate. The implications of climate change for coastal hazards on Shetland are documented in 'Climate Change and Coastal Hazards on Shetland', available from SIC or to download from:

www.shetland.gov.uk/developmentplans/documents/v2all.pdf



An aerial view of Bannamin beach, Burra

Image courtesy of Promote Shetland

Policy MSP CD1:

Coastal Defence Construction

The installation of new flood defences and coastal protection works may be considered if coastal erosion or flooding threatens existing public infrastructure and important built development and where there is a significant safety risk. Where this has been demonstrated, the Planning Authority will ensure the construction of flooding or coastal defence developments have:

- a. complied with Policy MSP GEN1 and GEN2;
- b. provided detail of relocation options;
- c. detailed the design, ensuring the retention or enhancement of the ecological characteristics, landscape character and popular coastal views;
- d. can demonstrate the wider implications of exacerbating flooding or coastal erosion processes elsewhere.

Where coastal defence is deemed necessary, there should be an overall presumption in favour of soft rather than hard defences.

The use of managed realignment of coastal defences where appropriate will be promoted.

Policy MSP CD2:

Coastal Defence Demolition

Permission for the demolition of coastal defence materials will only be permitted when it can be demonstrated that there are no adverse impacts for the environment, landscape or land use.

In particular, when considering the demolition of coastal defence structures, the following should be taken account of:

- a. historic value of the structure in its surroundings;
- b. potential to re-use the material;
- c. implications for reinstatement; and
- d. value to species and habitats, such as providing a substrate for an important rocky shore habitat, or shelter for otters.

Justification

The coast of Shetland is subject to constant attack by the sea. As a result of cliff and beach erosion the shoreline is naturally receding, indeed there would be no beaches if erosion were not to occur. Development near the coast is preventing erosion from occurring and therefore creates a need for defence.

Many of the defences against erosion or flooding have traditionally been 'hard engineering' works. Hard coastal defence works includes dykes and groynes, rock armour, seawalls, gabions. However these are initially expensive and utilise large quantities of raw materials for concrete etc.

Soft coastal defence works include beach nourishment and beach re-enforcement by dune fencing, recharging, Marram grass, etc. Unofficial attempts at 'soft' defences, such as beach re-enforcement by means of nets over dunes are now discouraged with a focus now being placed on using methods such as dune fencing to direct wind deposited sand where required.

The Flood Risk Management (Scotland) Act 2009 requires Local Authorities to produce Local Flood Management Plans by 2015. It is anticipated that the plans will detail coastal areas prone to coastal flooding as well as areas subject to erosion. The Flood Risk Management (Scotland) Act 2009 also requires local authorities to create sub-district advisory groups by 2010. These will replace the Flood Liaison Appraisal Groups.

The instillation of flood defences should consider the needs of public health and safety as well as the wider implications of the work and the potential environmental effects. Flood and coast protection policies will be supported where they account for wider marine interests.

These Policies Conform to:

- Shetland Local Plan policy LP WD10
- Structure Plan policy GDS1
- Scottish Planning Policy

These Policies Support:

- Development Plan aim 3
- The Corporate Plan.

Legislative Responsibilities:

- Shetland Islands Council or Lerwick Port Authority in granting Works Licences within their specific areas of jurisdiction (ZCC Act, 1974)
- Marine Scotland Science Environment Protection Group administer FEPA regulations.
- Shetland Islands Council - responsibility to produce Local Flood Management plans.
- SEPA - responsibility to undertake flood risk assessments.

Inspection, Enforcement and Control:

- Shetland Islands Council or Lerwick Port Authority
- SEPA – In the result of a pollution incident, would enforce The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) (CAR)
- Marine Scotland Science
- Shetland Islands Council – Transport & Works Act, 1992
- Land owner.

Background Reading:

More details on the legislative regime for consents and consultations can be found in "A Guide to managing coastal erosion in beach / dune systems" published by Scottish Natural Heritage, Battleby, October 2000, and available to read online at: <http://www.snh.org.uk/publications/online/heritagemanagement/erosion/sitemap.shtml>

Details of the legislative framework can be found at <http://www.shetland.gov.uk/conservation/floodingand-coastprotection.asp> and <http://www.rise-frm.org.uk/legislative.asp>

Infrastructure: Cables and Pipelines

A number of oil and gas pipelines and telecommunication and power submarine cables exist within the plan area (map 12) which form a vital part of the Islands' socioeconomic infrastructure. Power and telecommunication cables provide lifeline services to communities in most of the islands around Shetland. Similarly, oil and gas extraction has been a significant contribution to the Shetland economy, and this will continue for at least another 30 years.

The consenting of submarine cables is governed by the Scottish Government. Local Licences are also required from Shetland Islands Council from the MHWS out to the 12 nautical mile limit.

Policy MSP CBP1:

Placement of New Telecommunication and Submarine Cables and Oil and Gas Pipelines

There are a variety of methods and innovative ways for a developer to engineer their route in the placement of cables and pipelines. In all cases the best environmental option, not withstanding safety considerations, will be favoured. Where possible, cables and pipelines should use existing routes and landing points. New cables and pipelines should have landing points in existing developed areas.

The laying of communication cables and oil and gas pipelines will be considered favourably where they have:

- a. complied with Policy MSP GEN1 and GEN2; and
- b. taken account of the implications for landing points including any seasonal sensitivities, and impacts to existing land use.

Justification

The purpose of this policy is to ensure developers explore the range of options open to them in laying cables and pipelines to make it suitable to the environment in which they propose.

This Policy Conforms to:

- Shetland Local Plan Policy LP NE10
- Structure Plan policy GDS1, GDS4, SP IND1, SP ENGI.

This Policy Supports:

- Shetland Local Plan policy LP CST4
- Development Plan aim 1 and 3
- The Corporate Plan
- Submarine Cables Act, 1885
- UNCLOS (United Nations Convention on the Law of the Sea), 1982
- Telecommunications Act, 1984
- Electricity Act, 1989
- Communications Act, 2003.

Legislative Responsibilities:

- Shetland Islands Council or Lerwick Port Authority in granting Works Licences within their specific areas of jurisdiction (ZCC Act, 1974)
- Marine Scotland - Consents for Coast Protection Act, 1949
- Marine Scotland Science Environment Protection Group - administer FEPA licences under the Food & Environment Protection Act 1985.

Inspection, Enforcement and Control:

- Marine Scotland Science – this covers the assessment and issue of licences, enforcement visits and routine monitoring
- Operators – report on likely impact and monitoring duties.

Policy MSP CBP2:

Avoidance of Cables and Pipelines

Activities that could damage any cables and pipelines (e.g. dredging or mooring attachments to the seabed) should be avoided:

- a. oil and gas industry recommend a minimum exclusion zone of 500m around well heads and platforms and the Local Authority recommend a minimum exclusion zone of 200m around pipelines; and
- b. telecommunication and electricity companies recommend 250m on either side of submarine cables.

Justification

Dredging for fish in Shetland has previously caused damage to communication and electricity cables. These cables provide lifeline services to Shetland and damage can jeopardise this, as well as creating a need for extra resources for repair. The aim of this policy is to establish clear safety zones that address potentially serious public safety issues.

This Policy Conforms to:

- Petroleum Act 1987 (Section 21)
- Submarine Cables (Safety) Regulations 2004.

This Policy Supports:

- Development Plan aim 3
- The Corporate Plan
- Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) - often referred to as CAR.

Legislative Responsibilities:

- Shetland Islands Council or Lerwick Port Authority in granting Works Licences within their specific areas of jurisdiction (ZCC Act, 1974)
- Marine Scotland Science - Environment Protection Group - administer the FEPA regulations (Part II of the Food and Environment Protection Act 1985 (Deposits in the Sea).

Inspection, Enforcement and Control:

- Shetland Islands Council or Lerwick Port Authority
- Marine Scotland Science.

Policy MSP CBP3:**Placement of New Wastewater Pipelines**

There will be a general presumption against the laying of new wastewater pipelines.

The development of new wastewater pipelines from the land entering the sea will only be permitted where:

- a public wastewater system is not already present;
- a suitable soakaway is unachievable; and
- it has complied with Policy MSP GEN1 and GEN2.

In situations where a new pipeline is acceptable, the proposal will then be favourably considered where they have demonstrated that:

- the seaward end of the pipe is sited well below the MLWS (check with SEPA) and at least 100m from any wrecks, Archaeological remains and aquaculture sites; and

- it can fulfil any other requirements specified by SEPA and Shetland Islands Council's Building Standards.

Justification

Current SIC policy on the placement of wastewater pipes stipulate that it extends to below the tide level at Mean Low Water Spring (MLWS) and complies with dilution requirements. As part of the authorisation process, SEPA assesses the dilution requirement for effective effluent dispersal. However no specific buffer zone is placed around sensitive receptors such as aquaculture sites.

The aim of this policy is to ensure that wastewater arrangements, where permitted, are properly sited and have no public health or pollution impacts on the surrounding area, and in areas served by wastewater schemes, new developments are connected to the existing system.

This Policy Conforms to:

- Scottish Planning Policy
- SEPA policy 3
- Shetland Local Plan policy LP WD6 - 9.

This Policy Supports:

- Development Plan aim 3
- The Corporate Plan
- Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) - often referred to as CAR.

Legislative Responsibilities:

- Scottish Environment Protection Agency (SEPA) for the authorisation to discharge by the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) (CAR); Part II of the Control of Pollution Act; and the Coast Protection Act (CPA), 1949.

Inspection, Enforcement and Control:

- Scottish Environment Protection Agency (SEPA).

Infrastructure: Moorings for Individual Boats, Weather and Radar Masts, Buoys and Anchorage

Moorings are structures attached to the seabed which can hold: individual boats, weather and radar masts, buoys and anchorage, marinas, barges, pontoons, renewable energy generators and shellfish growing equipment.

Lerwick Port Authority (LPA) or Shetland Islands Council (SIC) receives Works Licence applications for the following uses and spatial policies for these are detailed in their respective section ('aquaculture', 'shore access', or 'renewable energy'):

- Marinas;
- Renewable energy generators;
- Barges and pontoons; and
- Shellfish growing equipment.

Seabed leases for individual boats, weather and radar masts, buoys and anchorage are not issued locally.

The sea around Shetland features a network of small structures which act as buoys and weather towers, shown in map 31 of the Shetland Marine Atlas. Buoys indicate the location of certain shipping routes, and therefore have less capacity for negotiation in terms of where they can occur.

There are very few single mooring agreements in Shetland, most boats are kept in small community marinas for which the Crown Estate charge £2 per berth per year.



Lerwick Harbour

Image courtesy of Promote Shetland

Policy MSP MOI: Moorings

The mooring of individual boats is encouraged at designated marinas.

Proposals for additional mooring structures will only be permitted where:

- a. they comply with Policy MSP GEN1 and GEN2;
- b. the need has been demonstrated;
- c. no other practical alternatives exist;
- d. other users have been taken account of; and
- e. the appropriate regulatory body has been consulted i.e. mooring within a Natura site requires contact with SNH.

Justification

Sporadically placed moorings naturally hinders a number of other users in their performance of their functions. This, combined with the cumulative impact of numerous mooring chains which can do substantial damage over a wide area, is the reason that boats are encouraged at designated marinas which are designed and sited to integrate with the landscape and complement the character and scale of the surrounding area.

This Policy Conforms to:

- Scottish Planning Policy

This Policy Supports:

- Development Plan aim 1 and 2
- Coast Protection Act (CPA), 1949
- The Crown Estate Act, 1961.

Legislative Responsibilities:

- The Crown Estate.
- The Northern Light House Board

Inspection, Enforcement and Control:

- The Crown Estate.
- The Northern Light House Board

Transport

Shipping (>5000 tonnes) is regulated by international agreements and are generally inflexible in terms of where they can go. The types of vessels in this category that Shetland receives are: cruise liners, large shipping and ferry vessels, cargo, oil related vessels such as diving support ships, platform supply vessels and oil tankers. The main routes have been mapped and are shown in map 10 of the Shetland Marine Atlas (Part Two of this document).

In some areas of Shetland, shipping not regulated by international agreements have more potential to be flexible with respect to other uses. The types of vessels Shetland receive in this category are: small fishing vessels, small ferries, aquaculture work boats, yachts and hobby boats. Only small ferry routes in this category have been mapped, shown in map 10 of the Shetland Marine Atlas (Part Two of this document).

In many voes of Shetland however, there are narrow channels where there is not a lot of room for manoeuvre, and so other activities that potentially conflict with shipping have to take shipping into account as a dominant use for safety reasons. Therefore, in the case of conflicts, other uses are secondary, but pre-application consultation for a development proposal with Lerwick Port Authority or Shetland Islands Councils Port and Harbour Operations is strongly advised.

Policy MSP TRANS1: Safeguarding Navigation Channels and Port Areas

Development proposals that prejudice inshore navigation channels to ports or the long-term operational capacity of a ferry operation will be refused. Other developments within port and harbour authority areas should take account of the potential future marine development needs of ports.

Justification

All ferry terminals and port areas require a certain amount of operational area for approaching and leaving a pier in addition to its route to its destination (shown in Map 9). The aim of this policy is to protect the operational area from potential obstructions in order to maintain links to rural communities.

Development on the seabed (e.g. dredging or laying of cables and pipelines) should not be affected because they should not conflict with the operation of shipping except at the time of construction.

Navigation channels are not a given size, but more related to its distance between two land masses. For this reason, it is difficult to put a standard safety zone around shipping routes without wasting an area for another use that could safely occur.

Policy MSP TRANS2: Areas to be Avoided and MEHRAs

Large shipping vessels and other sea users must avoid additional areas around the Shetland coastline which have not been defined in the Shetland Marine Atlas, but should be clearly marked on Admiralty Charts. These additional features include:

- a. obstructions e.g. rocks and reef
- b. restricted area, explosives dumping ground, chemicals dumping ground, contaminated area;
- c. currents: dangerous tidal streams, overfalls, tide rips, races and eddies; and
- d. Marine Environmental High Risk Areas (MEHRAs).

Justification

Shipping is under significant pressure to minimise the impact of accidents and operations on the marine environment. Oil spills, collisions and groundings as well as waste discharges, anti-fouling systems, anchor damage, wake impacts and ship-generated noise have become increasingly important and high profile issues.

Since the Braer ran aground off Shetland over 15 years ago, the need for further protective measures to eliminate and reduce shipping related impacts around the UK coast, has been highlighted.

Ship owners and operators can take action through ensuring the integrity, maintenance and effective environmental management of their vessels and, secondly, through due consideration of the environmental requirements of any regions in which their ships will operate. In order to achieve the latter, Marine Environmental High Risk Areas (MEHRAs) have been proposed. Routing measures aim to encourage ships to follow routes where vessels are less likely to collide with each other, run ashore or get into difficulties. They also aim to reduce the scope for a disaster if a ship does get into difficulty and direct ships away from areas where pollution would be highly damaging.

These Policies Conform to:

- Shetland Local Plan policy LP TP9
- Scottish Planning Policy
- Structure Plan policy SP TP3
- The Local Transport Strategy.

These Policies Support:

- Development Plan aim 1
- The Corporate Plan
- The Local Transport Strategy
- Harbours Act, 1964
- Lerwick Harbour Act, 1994
- Pilotage Act 1987.

Legislative Responsibilities:

- International Maritime Organisation (IMO) - Empowered to deal with administrative and legal matters relating to technical matters of all kinds affecting shipping engaged in international trade; standards for maritime safety; efficiency of navigation and prevention and control of marine pollution from ships.

- Department for Transport (DfT) - Reserved matter for Merchant Shipping legislation within the UK
- Maritime and Coastguard Agency (MCA) - Responsible for maritime safety and the prevention of pollution.
- Marine Scotland - dredging for navigation and safety of navigation.

Inspection, Enforcement and Control:

- Marine Scotland – maintenance dredging in coastal waters
- MCA -powers to prosecute for a pollution incident from shipping (out to 200 miles)
- Lerwick Port Authority and Shetland Islands Council's Port and Harbour Operations - operate under a variety of legislation and could have the responsibilities to direct vessels to ensure safety of navigation; pollution prevention and clean-up
- Northern Lighthouse Board -Buoy laying, consent and superintendence of lights, wreck marking outside harbour authority areas, lighthouse operations. Inspects navigation aids provided under the Coast Protection Act. Have responsibility under Merchant Shipping Act 1995 to deal with wrecks that are a danger to navigation outside Harbour areas.



A sheltering oil platform (Sedco 714), tugs, the Northlink ferry and a petrol tanker (Petronordic)

Image courtesy of Stephan Hennig

Background Reading:

- Lerwick Port Authority Port Marine Safety Code Policy Statement <http://www.lerwick-harbour.co.uk/information.html> and Shetland Islands Council's Sullom Voe Harbour Authority's Safety Management System <http://www.shetland.gov.uk/ports/contingencyplans/SV-SafetyManagementSystem.asp>
- Marine Environment High Risk Areas (MEHRAs) <http://www.dft.gov.uk/pgr/shippingports/shipping/elc/se/cmehras/pdfmehras>

Policy MSP TRANS3:

Future Fixed Links / Ferry Terminals

The construction of fixed link developments and new ferry terminals will be considered favourably where they have:

- a. complied with Policy MSP GEN1 and GEN2;
- b. detailed the level of impact from increased access, exclusion from areas and disturbance issues such as blocking sounds, construction noise and traffic both at the shore side and coast.

Justification

Consideration is currently being given to the replacement of one or more of the ferry services with fixed links. The Shetland Islands Council inter island ferry service will continue to be seen as the main lifeline link to the isles.

Routes have been mapped by the project (map 10); however, it is most likely that any future fixed links will be located close to the shortest crossing points. The aim of this policy is to make developers and users of the marine and coast aware of the possibility of fixed link developments.

This Policy Conforms to:

- Shetland Local Plan Policy LP TP10
- Scottish Planning Policy
- Structure Plan policy SP TP3.

This Policy Supports:

- Development Plan aims 1, 2 and 3
- The Corporate Plan
- The Local Transport Strategy.

Legislative Responsibilities:

- Shetland Islands Council or Lerwick Port Authority in granting Works Licences within their specific areas of jurisdiction (ZCC Act, 1974)
- Northern Lighthouse Board.

Inspection, Enforcement and Control:

- Shetland Islands Council or Lerwick Port Authority
- Northern Light House Board.



North Lighthouse, Fair Isle

Image courtesy of Promote Shetland

Dredging and Disposal

Licence Application Process

Currently only the dumping of dredge spoil in the sea is licensed under Part II of the Food and Environment Protection Act 1985 (FEPA). Dredging activity (other than aggregates dredging) itself is not licensed although capital dredging is subject to Environmental Impact Assessment.

Shetland Islands Council can permit dredging under the ZCC Act through issuing a dredging licence in all areas except the Lerwick Harbour area (under the jurisdiction of the Lerwick Port Authority).

The disposal of material arising from dredging requires a FEPA licence from Marine Scotland Science in Aberdeen (previously called FRS). This marine laboratory has the power to impose conditions and limitations on the areas where dredging is permitted.

Some sea disposal operations are licensed annually, usually the major ports require an annual maintenance dredge, others undertake dredging operations when required and these can be either to maintain channels or berths or are associated with construction works to upgrade or replace existing port facilities.

A distinction is made between capital and maintenance dredging. The initial dredging of a channel is usually referred to as “capital dredging”. This should be in an area or down to a level (relative to Ordnance Datum) not previously dredged during the preceding 10 years. It is often permitted under the terms of the harbour legislation (the ZCC Act).

Subsequent dredging to keep the channel at its desired depth is usually termed “maintenance dredging”. Maintenance dredged material is derived from an area where the level of the seabed to be achieved by the proposed dredging is not lower (relative to Ordnance Datum), than it has been at any time during the preceding 10 years, or from an area for which there is evidence that dredging has previously been undertaken to that level (or lower) during that period. Provision is normally included in the harbour legislation or in a Revision Order if one is sought.

Policy MSP DD1:

Dredging and Disposal of Dredged Material

Proposals for dredging and the disposal of the dredged material will be considered favourably where they have:

- a. complied with Policy MSP GEN1 and GEN2;
- b. detailed the level of impact from suspension of materials and disturbance to the seabed.

The permission of dredging and disposal of clean dredged materials (especially sands and gravels) will be favoured where a beneficial use for the disposal has been identified, such as beach nourishment.

Justification

Navigation channels require dredging. Most of the voes in Shetland used by large vessels are deep and therefore have never required dredging. However, dredging has occurred in the shallow exposed harbours of Lerwick and Scalloway (shown in Map 8).

The licensing authority works with applicants, Shetland Islands Council, SEPA, SNH and others to identify potential uses for the dredged material. However, usually the dredged material is dumped (shown in map 8). This is because current licensing arrangements make re-use of demolished material an unlikely option for a developer. It is anticipated these regulations will be amended through a Marine Bill which makes this a more attractive option.

This Policy Conforms to:

- Shetland Local Plan policy LP MIN9
- Structure Plan policy GDS1, GDS4, MIN2 and MIN3
- Scottish Planning Policy.

This Policy Supports:

- Development Plan aim 1 and 3
- The Corporate Plan.

Legislative Responsibilities:

- Marine Scotland through Government View Procedure
- Shetland Islands Council and Lerwick Port Authority – issue licences for dredging
- Marine Scotland Science Environment Protection Group - administer the FEPA regulations (Part II of the Food and Environment Protection Act 1985 (Deposits in the Sea))
- The (non-statutory) Government view procedure requires an EIA to be undertaken for all dredging operations
- Crown Estate issues licence after favourable Government View.

Inspection, Enforcement and Control:

- Crown Estate - acts as landowner and monitoring / enforcement agency for the monitoring of tonnage removal and compliance with licence conditions.
- Lerwick Port Authority, Shetland Islands Council, Port and Harbour Operations - control and enforcement within their specific areas of jurisdiction
- CEFAS - Provide monitoring and advice on fisheries impacts of extraction activities with real time monitoring and modelling sediment plume density and dispersion for impact assessment before, during and after extraction.

Background Reading:

- Marine Scotland Science Environment Protection Group <http://www.marlab.ac.uk/FRS.Web/Uploads/Documents/FEPA%20Guidance.pdf>
- CEFAS - Provide monitoring and advice on fisheries impacts of extraction activities with real time monitoring and modelling sediment plume density and dispersion for impact assessment before, during and after extraction.



An aerial view of Scalloway Harbour

Image courtesy of Promote Shetland



An aerial view of Lerwick Harbour

Image courtesy of Promote Shetland

DELIVERY PLAN

Objectives

The objectives of the Marine Spatial Planning Process in Shetland are to:

- INT Integrate the Marine Spatial Plan with other planning and regulatory systems;
- KNOW Improve knowledge of the marine and coastal environment and take account of this;
- SENS Assess the sensitivities of marine wildlife and habitats to current and future uses; and
- REST To restore damaged marine habitats and ecosystems.

The wider objectives of Marine Spatial Planning have guided the development of the following actions proposed to be conducted by the SSMEI pilot or by any competent authority.



A Common Seal

Image courtesy of David Gifford



Bòd, Whalsey

Image courtesy of Promote Shetland

Proposal	Theme	Action	Partners	Progress	Target Objective	Rationale / Purpose	Target Delivery
1	Development application process: ensuring well-informed development applications and balanced decisions are made	Developers and their environmental contractors, regulators, planners and other stakeholders will be encouraged to use the policies and the maps to ensure everybody's needs are considered. This will be measured by the SEA indicators in Appendix 7.	Marine Scotland SEPA SNH Historic Scotland SIC	Funding for SSMEI extension submitted for 2010 / 2011	INT	Minimise conflict / streamline the development consents process.	2011
2	Encouraging use of the MSP	Continue to provide assistance to communities, developers and competent authorities.	Community Councils SEPA SNH Historic Scotland SIC	Funding for SSMEI extension submitted for 2010 / 2011	INT	Minimise conflict / encourage pre-application consultations.	Continuous
3	Development application process: assisting with community engagement	Create a pre-application consultation database and integrate this into maps. This database will include a sub-group to which potential offshore development proposals might be directed.	Community Councils SEPA SNH Historic Scotland SIC	Funding for SSMEI extension submitted for 2010 / 2011	INT	Minimise conflict / encourage pre-application consultations.	2012
4	Community planning: defining the aspirations of communities	Every community in Shetland will be asked to define their aspirations for their locality. These will be then taken account of in future versions of the Marine Spatial Plan.	Community Councils SIC	Funding for SSMEI extension submitted for 2010 / 2011	INT	Minimise conflict / prepare and implement a strategy for specific maritime areas.	2012
5	Development application process: trialling changes	Change the wording of the planning application, the Works Licence application form and Screening and Scoping reports of the Council to stipulate the use of Plan.	SIC Marine Scotland SEPA SNH HS	Funding for SSMEI extension submitted for 2010 / 2011	INT	Minimise conflict / streamline the development consents process.	2011

Proposal	Theme	Action	Partners	Progress	Target Objective	Rationale/Purpose	Target Delivery
6	Development application process: trialling changes	Investigate how to encourage innovative or prototype aquaculture developments without huge planning costs.	NAFC Marine Centre SIC Shetland Aquaculture Seafood Shetland Marine Scotland	Funding for SSMEI extension submitted for 2010 / 2011	INT	With changes to the planning regulations, aquaculture developments now face large planning application costs. This discourages new and innovative trials, essential if Shetland is to remain one of the leaders in Aquaculture in Scotland.	2011
7	Development application process: establishing good practice for the renewables industry	Provide a preliminary guideline for prototype renewables.	SIC Marine Scotland SEPA SNH HS	Funding for SSMEI extension submitted for 2010 / 2011	INT	Good Practice needs to be established before applications are submitted to ensure environmental impacts are identified early to enable modifications to promote environmental protection.	2010
8	Socioeconomic values of industry	Preliminary study to investigate what work is required to put a monetary value on mapped socio-economic features.	NAFC Marine Centre SIC Shetland Aquaculture Seafood Shetland SFA	Part-funding received for 2010	KNOW	During the recent outbreaks of ISA and sea lice, a need was identified to access the economic impact quickly. This information will also be of value when making planning decisions, such as predicting the impact of relocating aquaculture sites.	2011
9	Data collection: ensuring good standards	Archive data with a Data Archive Centre and provide feedback to local data providers on metadata and storage issues.	SOTEAG SBRC SEPA SNH HS Marine Scotland Science NAFC Marine Centre	Funding for SSMEI extension submitted for 2010 / 2011	KNOW	Promote the ethos of "collect once, use often".	2012
10	Data collection: seabed habitats	Translate historical surveys from the fish farming industry into habitat information (to MNCR standards).	SEPA SNH SIC	Complete. Update of habitat map due 2010	KNOW	Increase confidence in the predictive seabed habitat map.	2010
11	Data collection: seabed habitats	Ground-truth the predictive habitat.	SSQC Any developer	Complete. Update of habitat map due 2010	KNOW	Increase confidence in the predictive seabed habitat map.	2010

Proposal	Theme	Action	Partners	Progress	Target Objective	Rationale / Purpose	Target Delivery
12	Data collection: seabed habitats	Encourage the use of the habitat map in future marine surveys. This can be measured by recording the useage of the map in planning applications.	Any developer SSQC Biotikos Hjaltland Seafarms	Funding for SSMEI extension submitted for 2010 / 2011	KNOW	In the absence of comprehensive coverage of the seabed around Shetland, this map shows the best estimate of habitat distribution, and as such its use should be encouraged to target surveys to make them more efficient.	2012
13	Industry / science partnerships	Engage with fishermen, boat tour operators, local and visiting divers to assist with data collection.	Tour operators Zetland sub-aqua club Sea-angling club Seasearch SFA SSMO Boating clubs	Part complete, but gaps remaining in fishing grounds. Funding for SSMEI extension submitted for 2010 / 2011	KNOW	Exploit existing knowledge to map important resources.	2011
14	Data collection: litter	Data already exists on distribution and quantities of marine litter. This needs to be analysed and presented in a meaningful way.	KIMO Shetland Amenity Trust	Needs funding	KNOW	Exploit existing knowledge to map vulnerable areas to marine litter.	2013
15	Marine Protected Areas: identify suitable locations	Engage with local industry, SNH and environmental NGOs to identify, designate or recognise particular locations worthy of protection (locally important species or habitat, viewpoint, local historic interest, community benefit or open space).	SSMEI Steering Group	Funding for SSMEI extension submitted for 2010 / 2011	KNOW	The establishment of MPAs is supported by Scottish, European and International policy frameworks.	2013
16	Fair Isle: is it a suitable MPA?	Carry out a feasibility study on Fair Isle as a MPA.	Marine Scotland SIC SNH FIMETI SFA SMMO	An Action Plan for the island was written by the community (funded by the SSMEI pilot)	KNOW	The Fair Isle community wants to establish sustainable management measures around the isle, most controversial is the creation of fishing restrictions. Sites initiated by local communities is a tier of requirement for site protection to deliver Scottish priorities of the Marine Bill (e.g. Lamlash Bay), but what will the benefits, if any, to the community and wider be?	2011

Proposal	Theme	Action	Partners	Progress	Target Objective	Objective / Purpose	Target Delivery
17	Sub-area Plans: Providing more specific policy guidance	Engage with local industry to develop a more area-specific Marine Spatial Plan for the Swarbacks Minn area.	SNH Seafood Shetland Shetland Aquaculture SIC	Complete	KNOW		2009
18	Filling data gaps	Efforts will be made to gather further data on: seaweed harvesting; winkle picking; intertidal bait gathering;; fish aggregating devices; artificial reefs; vegetated shingle; vegetated sea cliffs; important burns for angling; wading birds; rare seaweeds; seals and cetaceans around Fair Isle and Foula.	SNH Local knowledge Sea-angling club	Needs funding	KNOW	There are still gaps in data in the Marine Atlas. Some data were perceived to be important in a Shetland context that either did not exist or was in a format that requires further survey work.	2014
19	Filling data gaps: non-native species	Investigate what non-native species are present in Shetland.	SNH Seafood Shetland Shetland Aquaculture SIC	Funding for SSMEI extension submitted for 2010 / 2011	KNOW	The exact cost of invasive species that have been introduced to Shetland waters is unknown (e.g. cleaning of fish farm nets, the mussel species <i>Mytilus tossulus</i> reduces productivity of, and crosses with, the farmed mussel <i>Mytilus edulis</i>).	2011
20	Sensitivity mapping	Use existing maps of biodiversity and activity to show sites at risk of damage.	SNH SEPA Marine Scotland SFA SSMO SOTEAG Sullom Voe	SSMEI helped the SSMO propose closed areas for the scallop fishery. Needs funding.	SENS	To avoid significant conflicts and impacts. Real-time benefits from oil-spill sensitivity maps could be recognised locally.	2011
21	Identify and restore damaged habitats and ecosystems	A new partnership will be established and encouraged to develop adaptive management strategies and mitigation measures to restore and prevent further damage to habitats and ecosystems. This would balance the extent of damage with the practical feasibility of restoration and other users.	SSMEI Steering Group	Funding for SSMEI extension submitted for 2010 / 2011	REST	The health of habitats and ecosystems is critical to sustaining a productive sea and restoration can help to support economic growth.	2011

MONITORING AND REVIEW

Monitoring

Besides specific monitoring recommendations for Policy MSP HER1 - HER4, Strategic Environmental Assessment has identified the need to introduce a number of other monitoring regimes which will ensure the other policies are delivered, and this is detailed in Appendix 7. Approaches range from measuring the number of planning applications where there are potential impacts on or to climate change to recording the number of applications which would potentially have adverse and/or beneficial impacts on water quality /status.

It should be noted however that overall there is an absence of specific targets at present due to the lack of previous monitoring undertaken and, linked to this, the limited availability of baseline data. Efforts will be made by SSMEI to build upon data collection and monitoring programmes during the lifespan of the Marine Spatial Plan.

The Delivery Plan will be used as the basis to monitor the success of delivering the high level objectives within the Marine Spatial Plan.

This combination of monitoring will ensure that the Plan continues to be relevant and responsive to changing circumstances, and assists in identifying what amendments to the Plan may be necessary.

The SSMEI project can continue to carry out monitoring until funding ceases. After this, the proposed Scottish Marine Region board will be responsible for monitoring.

Review

This is the third draft of the Shetland Marine Spatial Plan and it is intended to further grow, change, develop, and gain status as it becomes increasingly relevant to the management of the marine environment around Shetland. This Plan will be updated to reflect changes that have occurred and ensures that the Plan is kept up to date and remains relevant. Scottish planning guidance recommends that terrestrial Development Plans should be kept up-to-date and reviewed on no more than a five year cycle, but to account for the Scottish Marine Act and its secondary legislation, we recommend this Plan should be initially reviewed after 2 - 3 years.

Communication

This Plan is for everyone in Shetland. It is important that it is widely available and relevant. As the Plan and its supporting maps will be continually updated, most recent versions can be found at <http://www.nafc.ac.uk/SSMEI.aspx>. Paper copies can be requested from the NAFC Marine Centre in Shetland.



Coast of Out Skerries

Image courtesy of Promote Shetland

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A boat in Fair Isle

Image courtesy of Promote Shetland



Looking out to Dore Holm, Northmavine

Image courtesy of Promote Shetland

GLOSSARY

Activity: a current or future use that is covered by a public right of use (e.g. navigation) and/or does not require a statutory consent to utilise a defined area from a competent authority to proceed (e.g. a Works Licence, Planning Permission, CAR Authorisation).

Amenity: the physical and social features of settlements and countryside that contribute to creating a comfortable and desirable living environment.

Appropriate Assessment (AA): The purpose of Appropriate Assessment is to ensure that protection of the integrity of European sites is a part of the planning process at a regional and local level. The requirement for Appropriate Assessment of plans or projects is outlined in Article 6(3) and (4) of the European Communities (1992) Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ("Habitats Directive").

Bathymetric (noun: Bathymetry): the depth of the seabed, analogous to topography (on land). A bathymetric reading or survey is therefore a measurement of the depth of the seabed. Such a survey is usually conducted acoustically.

Benthic (noun: benthos): the plants and animals which live on the seabed.

Biodiversity: the variety (within and between species) of living things from all sources (terrestrial, marine, aquatic).

Biological Records Centre: the core element of the Shetland Biological Records Centre (SBRC) is a comprehensive database containing up-to-date information about Shetland's wildlife. The information is available to everyone.

Biotope: a discrete physical habitat with its associated community of animals and plants.

Birds Directive: EC Directive 79/409/EEC on the Conservation of Wild Birds. Requires member states to sustain populations of naturally occurring wild birds by sustaining areas of habitats to maintain ecologically and scientifically sound levels.

BOCC (Birds Of Conservation Concern): bird species suffering decline in the European and global context. The Royal Society for the Protection of Birds (RSPB) have identified and classified these species by the rate of decline into a red list and an amber list.

Breeding area: a site used by one or more species mainly for the purpose of reproduction and birthing.

CAR (Controlled Activities Regulations): bring into effect requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) (CAR).

Character: A combination of features which distinguish an area. These each include architectural styles, main uses, landscape type, etc. A proposal would be 'out of character' if it introduced features not in keeping with those which make up an area's existing character.

Coast Protection Act (CPA), 1949: affects works below MHWs, deposit and/or removal of object/materials. Imposes restrictions on works detrimental to navigation.

Conservation: action(s) resulting in the preservation of the natural environment.

Cumulative: created by successive additions (for example of impacts).

The Dangerous Substances Directive (76/464/EEC): defines principles for the control of lists of substances ranging from those which are toxic, persistent and which bioaccumulate, to those which have "deleterious effect upon the aquatic environment". Some chemicals used within marine fish farming fall within the latter description.

Designated Sites: these are sites that are designated for their value for nature conservation or their landscape value.

Development Plan: comprises the Structure Plan and the relevant Local Plan. These documents are the basis for determining planning applications.

Development: a use that requires a statutory consent to utilise a defined area from a competent authority to proceed. This can include new developments or alterations, extensions or changes in material use to existing developments that require a statutory consent.

Ecosystem: structure, process, functions and interaction among organisms, including humans, and their non-living environment.

Ecosystem Approach: the integrated management of multiple human activities based on knowledge of ecosystem dynamics to achieve sustainable use of ecosystem resources and maintenance of ecosystem integrity. Managed within the ecological constraints on which the environment depends.

Ecosystem function / ecological processes: dynamic biological and physical processes, for example natural cycles, currents, sediment movements, nutrient cycling, community and trophic structures and migratory species movements.

Eelgrass beds: area where the flowering marine plants *Zostera* spp. grow in marine or brackish waters.

Electricity Act, 1989: electricity generation including offshore wind farms.

Environmental Impact Assessment (EIA): a study based on expert professional opinion which gives a detailed assessment of a particular development and its impact upon the social and physical environment of the surrounding area.

FEPA: Part II of the Food and Environment Protection Act 1985 (Deposits in the Sea). Covers all construction, coastal defences, disposal of waste and burial at sea.

Fish Aggregating Device: A fish aggregating (or aggregation) device (FAD) is a man-made object used to attract ocean going pelagic fish. They usually consist of buoys or floats tethered to the ocean floor with concrete blocks.

Fully-functioning ecosystem: The protection and maintenance of the physical structures which support, and the biological communities or ecosystem composition which manage ecological functions. Even if we do not understand exactly how a marine or coastal ecosystem works, it is still important to keep all the parts in the system and to retain the energy, nutrient, and biotic flows within and between the various parts of the ecosystem.

Geographical Information Systems (GIS): a system for creating, storing, analysing and managing spatial data and associated attributes. Their main outputs are maps, called layers, but graphs and summary statistics can also be produced (for example in calculating what % area is designated for conservation).

Geomorphology: the study of landforms (in this case the coastline), including their origin and evolution, and the processes that shape them.

Habitat: the environment in which a species lives at any stage in its life cycle.

Habitats Directive: in May 1992, the member states of the European Union adopted the 'Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora'. The main aim of the Directive is to promote the maintenance of biodiversity and, in particular, it requires member states to work together to maintain or restore to favourable conservation status certain rare, threatened, or typical natural habitats and species. These are listed in Annex I and II respectively. One of the ways in which member states are expected to achieve this aim is through the designation and protection of a series of sites, known as Special Areas of Conservation (SACs).

Harbours Act (and Lerwick Harbour Act, 1994), 1964: the primary legislation under which harbour works are authorised.

Historic Scotland: the body responsible for safeguarding Scotland's built heritage.

Impact: a human disturbance which causes a change in a population's composition, abundance, or distribution. Examples of impacts include: effect of waste discharge on eelgrass and scouring of vegetation from boating activities in shallow water.

Infrastructure: pipelines, cables, wrecks, archaeological remains, shore access, barges, pontoons, shellfish growing equipment, offshore renewable energy structures, weather and radar masts, buoys and anchorage.

Intertidal: the area of coast between the mean high water level and mean low water level.

Local Agenda 21: at the earth summit in Rio in 1992, the UK agreed to promote a programme of measures aimed at

sustainable development. This programme is called Agenda 21. Shetland Islands Council is responsible for taking forward these programmes in Shetland with the involvement of the local community.

Local Biodiversity Action Plan (LBAP): a document for use by all kinds of organisations to help sustain biodiversity.

Local Plan: a detailed land-use planning document prepared by Unitary and Island Councils setting out specific policies and proposals in accordance with the Structure Plan.

Managed Realignment: one of several 'soft' engineering options available. In most cases it involves breaching an existing coastal defence, such as a sea wall or an embankment, and allowing the land behind to be flooded by the incoming tide. This land is then left to be colonised by saltmarsh vegetation. When established, the vegetation disperses wave energy during storm events, reduces erosion rates and provides an important habitat for coastal flora and fauna. If the newly breached area is backed by low-lying land, a new embankment is usually constructed beforehand on the landward side of the site to reduce the risk of flooding. Although a relatively new idea, it is widely recognised that managed realignment can reduce the costs of coastal defence whilst offering numerous environmental benefits.

Marine Consultation Areas (MCAs): areas identified by SNH (Scottish Natural Heritage) as deserving of protection by reason of the quality and sensitivity of the marine environment. MCAs have no statutory basis, however Shetland Islands Council consult SNH on proposals that could damage the interests of the site.

MHWS (Mean High Water Spring): predicted high water heights of Spring Tide over a period of approximately 19 years.

***Modiolus modiolus*:** the horse mussel *Modiolus modiolus* forms dense beds at depths of 5-70 m in fully saline, often moderately tide-swept areas off northern and western parts of the British Isles. Although it is a widespread and common species, true beds forming a distinctive biotope are much more limited. *M. modiolus* is a long-lived species and individuals within beds are frequently 25 years old or more. Juvenile *M. modiolus* are heavily preyed upon, especially by crabs and starfish, until they are about 3-6 years old, but predation is low thereafter. There have been no studies of

the recovery of damaged beds but full recovery after severe damage would undoubtedly take many years at best and may not occur at all.

National Scenic Areas (NSAs): areas that are nationally important for their landscape quality. There are stricter planning controls within NSAs and planning authorities have to take care that new development does not detract from the scenic quality of the area.

Nursery area: habitats providing shelter and food to marine fauna during the vulnerable, juvenile stages of life (for example eelgrass habitats are nurseries for many species of fish).

***Ophiura brittlestar*:** brittlestars tend to live in dense communities on the seabed, and amongst some species the density is 100s to 1000s per square metre. The animals live on tide-swept seabeds where the surface is either rocky or of mixed substrata, and they link their "arms" together in order to secure their position on the seabed, whilst other "arms" are raised in order to filter and catch food from the passing water. Brittlestars tend to be a "keystone species" i.e. other marine species live in association with them and are dependent upon them for some essential function (i.e. food, shelter). *Ophiura* brittlestars are a particular species. They live in communities, but not at the same density as some other brittlestar species. *Ophiura* brittlestars tend to live in the North Sea where many other species of brittlestar are not to be found.

OSPAR: Convention for the Protection of the Marine Environment of the North-East Atlantic (Oslo and Paris Commissions)

Planning Advice Notes (PANs): produced by the Scottish Government providing advice on good practice and other relevant information.

Precautionary Principle: A principle adopted by the UN Conference on the Environment and Development (1992) that in order to protect the environment, a precautionary approach should be widely applied, meaning that where there are threats of serious or irreversible damage to the environment, lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation. The precautionary principle permits a lower level of proof of harm to be used in policy-making whenever the consequences of waiting for higher levels of proof may be very costly and/or irreversible.

Productivity: the rate at which radiant energy is used by producers to form organic substances as food for consumers.

Protect: to shield from harm.

Ramsar Sites: wetland areas of high ecological value. Designated under the Convention on Wetlands of International Importance.

Reef: subtidal and intertidal rocky outcrops supporting diverse assemblages of marine flora and fauna.

Salt marsh: coastal wetland plant community dominated by herbs and low shrubs and located in the upper intertidal areas of the coast (often on the landward side). Salt marsh areas are usually waterlogged and frequently flooded with saltwater by the tide. Salt marsh assemblages may extend inland for several hundred kilometres and can contain other terrestrial salt tolerant plants.

Safeguarding Our Seas: the first UK Marine Stewardship Report

Scottish Environment Protection Agency (SEPA): the public body responsible for environmental protection in Scotland. Its main aim is to provide an efficient and integrated environmental protection system for Scotland that will both improve the environment and contribute to the Scottish Ministers' goal of sustainable development. Full details are available from www.sepa.org.uk

Scottish Natural Heritage (SNH): an independent body responsible to the First Minister whose task it is to secure the conservation and enhancement of Scotland's natural heritage. SNH aim to help people to enjoy Scotland's natural heritage, understand it more fully and use it wisely so that it can be sustained for future generations.

Scottish Planning Policy (SPP): is the statements of the Scottish Government policy on nationally important land use and other planning matters, supported where appropriate by a locational framework.

Seabird: aerial birds (such as Gannets) and swimming birds (such as Puffins) usually seen at, and deriving most or all of its food from, the sea.

Sites of Special Scientific Interest (SSSIs): areas of special interest by reason of their flora, fauna, geological or physiological features. Notified under the Wildlife and Countryside Act, 1981.

Spawning area: habitats critical to the spawning stage of the

reproductive cycle. Spawning areas are often geographically distinct from nursery areas; for example, Monkfish spawn in deeper waters but their larvae drift into sheltered coastal areas around Shetland.

Special Areas of Conservation (SACs): areas identified as supporting rare, endangered and vulnerable habitats or species. Designated under European Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna (the 'Habitats Directive'). Together with SPAs they form the Natura 2000 network of protected sites across the European Community.

Special Protection Areas (SPAs): important habitats for rare, threatened or migratory birds. Classified under European Directive 79/409/EEC on the Conservation of Wild Birds, (the 'Birds Directive').

Strategic Environmental Assessment (SEA): the process of assessing policies, plans and programmes (rather than individual projects) for their environmental impacts.

Structure Plan: sets out the strategic land-use policy framework over a wide area and is prepared by either Unitary or Islands Councils. Consists of a Written statement, a Key Diagram and a Report of Survey.

Subtidal: benthic area from the low tide line to the seaward edge of the continental slope.

Sustainable Development: this means enabling development that meets today's needs without compromising the ability of future generations to meet their own needs. In other words, it means promoting better quality of life and better quality environments for ourselves and for our children and grandchildren. Sustainable development is a key aim of Shetland Islands Council and the UK Government.

Sustainable use: the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.

Telecommunications Act, 1984: affects the placement of subsea cables (including placing any buoy or seamount) and anything conflicting with its use.

Transport & Works Act, 1992: large works on land and at sea.

Use: economic, recreational, social or cultural activities in the marine and coastal environment that may not be directly associated with development, and as such, may not be subject to regulation, for example, commercial and recreational fishing.

Wastewater: usually refers to the discharge of sewage, or effluent from a process.

Water Framework Directive (WFD): EC Directive 2000/60/EC. Requires member states to achieve good ecological status of coastal water bodies. Sets framework for integrated catchment management (which includes the sea to 3 miles) requiring River Basin Management Plans.

The Water Environment and Water Services Act, 2003 (WEWS Act): transposes the Water Framework Directive into Scots law. The aim of WEWS is to protect the water environment whilst also supporting the social and economic interests of those who depend on it.

Wet Renewables: usually refers to the marine renewable energy industry and the devices they would employ to harness energy from tides and waves.



Meal beach, Burra

Image courtesy of Lorraine Gray



Leriwck Harbour

Image courtesy of Promote Shetland

APPENDIX 1:

SHETLAND PARTICIPATION IN SSMEI

Local Steering Group organisations represented:

Association of Shetland Community Councils (John Ridland to January 2007 / Bobby Hunter from October 2007)

BP (Theo Smith)

Fair Isle Marine Environment and Tourism Initiative (Nick Riddiford)

Friends of the Earth Scotland (Vic Thomas)

Scottish Environmental Protection Agency (David Okill)

Scottish Natural Heritage (John Uttley)

Scottish Sustainable Marine Environment Initiative (Lorraine Gray and Rachel Hope as maternity cover and job share)

Seafood Shetland (Ruth Henderson)

Shetland Amenity Trust (Biological Records Centre) (Paul Harvey)

Shetland Aquaculture (David Sandison)

Shetland Fishermen's Association (Hansen Black)

Shetland Islands Council (Coastal Zone Manager) (Martin Holmes)

Shetland Islands Council, Planning (Heritage) (Austin Taylor)

Shetland Islands Council (Councillor) (Bill Manson)

Shetland Islands Council, Planning (Development) (Suzanne Shearer or Hannah Nelson)

Shetland Shellfish Management Organisation (Campbell Jamieson to January 2007 / Ryan Leith from October 2007)

Royal Society for the Protection of Birds (Pete Ellis)

Biodiversity Working Group organisations represented:

RSPB (Pete Ellis)

SEPA (Janet Davies)

Shetland Amenity Trust (Biological Records Centre) (Paul Harvey)

Shetland Islands Council, Planning (Heritage) (Austin Taylor)

SSMEI (Lorraine Gray)

SNH (Karen Hall and Chris Leakey)

SOTEAG / University of Aberdeen (Martin Heubeck)

Spatial Analysis Working Group organisations represented:

SEPA (Janet Davies)

Shetland Aquaculture (David Sandison)

Shetland Islands Council, Planning (Heritage) (Kelda Hudson)

Shetland Islands Council, Port and Harbours Operations (Barry Edwards)

SSMEI (Lorraine Gray)

SNH (Karen Hall and Chris Leakey)

Policy Development Working Group organisations represented:

RSPB (Pete Ellis)

Shetland Aquaculture (David Sandison)

Shetland Fishermen's Association (Hansen Black)

Shetland Islands Council, Planning (Development) (Suzanne Shearer)

Shetland Islands Council, Planning (Heritage) (Kelda Hudson)

SSMEI (Lorraine Gray)

SNH (Karen Hall)

Other people and organisations directly involved:

Aith Boating Club, Archaeology (Shetland Amenity Trust), Delting Boating Club, Fishermen, Lerwick Port Authority, Mid Yell Boating Club, NAFC Marine Centre, Seabirds and Seals (boat tours), Shetland Angler's Association, Shetland Islands Council (Ferry Operations Division), Reawick and District Boating Club, Trondra Rowing Club, Whiteness and Weisdale Boating Club, Zetland Sub Aqua Club.

APPENDIX 2:

OUTCOMES FROM PREVIOUS CONSULTATIONS

The First Public Consultation

The first Public Consultation exercise was undertaken between February 2008 and May 2008. Consultation meetings were held with all 18 Community Councils in Shetland during the first public consultation process, the majority of which were open to the public. Meetings were also held with other key stakeholder groups, including public service workers, the aquaculture industry and fishermen. A 'snap-shot' of responses is found here, but for full detail, please go to: <http://www.nafc.ac.uk/SSMEI.aspx> or contact the SSMEI project team for a paper copy (details of which can be found at the beginning of this document).

The key findings of the first Public Consultation exercise are presented below:

- Concern that SEA had not been done properly
- Further consideration of the Ecosystem Approach was required
- Some sectors were looking for a Marine Spatial Planning model which goes beyond current provision e.g. keenness to see a strategic steer to future development - to grow the market but also to provide more prescriptive guidance like zoning - most acutely expressed by the renewable sector and Scottish Natural Heritage
- Concern over future of the Plan leading to a broad desire for monitoring and updating
- The need to separate plan- and process- led objectives was widely recognised
- Positive impact of the Marine Atlas was appreciated.

Subsequent changes were made to the Plan and an Interim Draft was prepared for a trial implementation period.

Implementation of the Interim Draft

Feedback was received in the form of a survey or one-one interviews and significant feedback is summarised below:

- Users have a desire for it to be more prescriptive in where to go for different development and activity
- Particular concern that it was not helpful for aquaculture because it did not identify any space or strategic steer to future development
- Recognised benefits of the Marine Atlas for new emerging industries like renewables
- Usability concerns, especially in navigating through the policies
- Importance of clarifying the legal standing of the Plan and whether or not users should reference it during the planning application process

Construction: Shore Access, Coastal defence / flood protection, Cables & pipelines, Moorings, Fixed links	Smothering of seabed	high	-	-	-	-	-	-	-	-	-	-	-
	Removal of food supply	low	medium	-	-	-	-	-	-	-	-	-	-
	Physical damage to seabed habitat	high	high	-	-	-	-	-	-	-	-	-	-
	Changes to sediment transport	high	-	-	low	-	-	high	high	high	high	high	high
Transport	Disturbance to wildlife (construction)	-	low	medium	medium	medium	medium	medium	medium	medium	medium	medium	low
	Displacement and/or collision risk (e.g. from bridges)	-	medium	-	-	-	-	-	-	-	-	-	-
	Water quality changes including anti-fouling	medium	-	-	-	-	-	-	-	-	-	-	-
	Disturbance to wildlife	-	low	low	low	low	low	low	low	low	low	low	medium
Intertidal Collection (bait digging, winkles, seaweed)	Collision risk	-	low	low	low	low	low	low	low	low	low	low	medium
	Physical damage	-	-	-	-	-	-	-	-	-	-	-	medium
	Removal of target/ non-target species	-	-	-	-	-	-	-	-	-	-	-	-
	Removal of food supply	-	-	-	-	-	-	-	-	-	-	-	-
	Disturbance to wildlife	-	medium	high	high	high	high	high	high	high	high	high	high
		-	-	-	-	-	-	-	-	-	-	-	-

Definitions

Potential impacts are rated high/medium/low. Where no rating is given the impact is considered to be very low or not applicable to the species/ habitat/ ecosystem.

It is intended that this matrix is indicative only. All impacts considered are potential direct impacts, indirect and cumulative effects may also occur. The scale of actual impacts will be dependent on the time of year, scale and design of development and may be higher or lower than indicated. Some potential impacts may be mitigated against e.g. potential impacts on cetaceans can be reduced by the avoidance of acoustic deterrents. SNH, RSPB, SEPA or other relevant government body should be contacted for further information.

It should be noted that a proposed development may need to consider impacts in more than one activity area, for example aquaculture, renewable and oil development ratings are for the sea development only and shore/ intertidal components such as shore access, cables and pipelines have been considered under 'construction'.

Smothering of seabed: through organic or inorganic material

Displacement: restriction to movements in an area

Physical damage to seabed habitat: removal of habitat or substrate

Collision risk: collision with water craft or moving structures

Water quality changes: changes to water chemistry

Entanglement: in nets and ropes e.g. anti-predator nets, fishing nets and creel lines

Escapes: the potential impacts on native stocks

Impact on or removal of target / non-target species: damage and removal

Use of non-native species: alterations to benthic habitats and ecosystems due to

Disturbance to wildlife: the impacts of noise from human presence, boat movements

the introduction of non-native species

and acoustic deterrents

Removal of food supply: includes loss of sandeels and damage to shellfish beds

Removal of plankton: excessive removal of plankton has the potential to cause

ecosystem change

* Elder ducks have traditional moulting sites, where for part of the year they are flightless and particularly vulnerable to disturbance. Development should be avoided at these traditional moulting sites and moulting eiders should not be disturbed during July to September inclusive.

** Terns, oystercatchers and ringed plovers often nest near beaches and sometimes on breakwaters. Sea cliffs are often used by several species of nesting seabirds. Where these species are present, in order to avoid destruction or chilling of eggs and young, no works should be carried out and breeding birds should not be disturbed during April to August inclusive.

*** Common seals have traditional haul-out sites around the coast and on small islands. They breed during June and July and moult during August and September. Where common seals are present, in order to avoid disturbance, no works should be carried out and seals should not be disturbed during June to September inclusive

APPENDIX 4: USEFUL CONTACTS FOR LICENCES / PERMIT INFORMATION

Bodies consulted on for Works Licence and Planning Applications:

Community Council within which the application lies

The Association of Community Councils, Lerwick, Shetland (01595 743906)

Bidwell's (Agents for the Crown Estate)

Bidwell's Property Consultants, Inverness (01463 723562)

Historic Scotland

Longmore House, Salisbury Place, Edinburgh EH9 1SH. 0131 6688600

Lerwick Port Authority

Albert Building, Lerwick, Shetland ZE1 0LL (01595 692991)

Royal Society for the Protection of Birds (RSPB)

Sumburgh Head Nature Reserve, East House, Sumburgh Head Lighthouse, Shetland ZE3 9JN (01950 460800)

Scottish Environment Protection Agency (SEPA)

Esplande, Lerwick, Shetland ZE1 0LL (01595 696926)

Marine Scotland (formerly Marine Directorate / SEERAD)

Victoria Quay, Edinburgh EH6 6QQ (0131 244 0000)

Scottish Natural Heritage (SNH)

Stewart Building, Alexandra Wharf, Lerwick, Shetland ZE1 0LL (01595 693345)

Shetland Amenity Trust (Archaeology)

Garthspool Lerwick Shetland ZE1 0NY (01595 694688)

Shetland Islands Council, (relevant Councillor for area)

(01595 693535)

Shetland Islands Council, Planning (Land)

Grantfield, Lerwick, Shetland ZE1 0NT (01595 744800)

Shetland Islands Council, Planning (Marine)

NAFC Marine Centre, Port Arthur, Scalloway, Shetland ZE1 0UN (01595 772000)

Shetland Islands Council, Environmental Health

Grantfield, Lerwick, Shetland ZE1 0NT (01595 744800)

Shetland Islands Council, Port and Harbour Operations

Port Administration Building, Sella Ness, Sullom Voe, Shetland ZE2 9QR (01806 244200)

Shetland Fishermen's Association (SFA)

Shetland Seafood Centre, Stewart Building, Lerwick, Shetland (01595 693197)

Other bodies may be consulted on specific matters, if appropriate:

Biological Records Centre, Shetland Amenity Trust

Garthspool Lerwick Shetland ZE1 0NY (01595 694688)

Fisheries Research Services, Environment Protection Group

PO Box 101, 375 Victoria Road, Aberdeen AB11 9DB (01224 876544)

SEPA Planning Unit (North)

Graesser House, Fodderty Way, Dingwall Business Park, Dingwall IV15 9XB

Seafood Shetland

Stewart Building, Lerwick ZE1 0LL (01595 693644)

Shetland Shellfish Management Organisation

Stewart Building, Lerwick ZE1 0LL (01595 693644)

Fair Isle Marine Environment and Tourism Initiative

Fair Isle, Shetland ZE2 9JU (01595 760250)

Shetland Aquaculture

Stewart Building, Lerwick ZE1 0LL (01595 695579)

Shetland Islands Council, Planning (terrestrial not marine)

Grantfield, Lerwick, Shetland ZE1 0NT (01595 744800)

APPENDIX 5: AQUACULTURE POLICIES EXTRACTED FROM THE INTERIM POLICY FOR MARINE AQUACULTURE, 2007

1. GENERAL POLICIES

G1 In determining applications for planning permission, the Council will take account of, inter alia, the following factors:

- The need to ensure that safe navigation is maintained.
- Potential effects, including cumulative, on the environment and natural heritage interests.
- The implications for fishing interests.
- Existing marine fish farms in the locality.
- The implications for recreational and other interests.
- The availability of any necessary infrastructure and potential impact on existing infrastructure, when relevant.

G2 The Council will take account of the views of all interested parties, including competent and relevant bodies and local communities, in its determination of planning applications.

G3 Planning applications will be determined with due regard to relevant national and local policies and guidance in place at the time of the application.

G4 It shall be a condition of all planning permissions that developers must comply with all relevant statutory controls currently in force or which come into force during the period in which their planning permission remains valid. A failure to comply with any relevant statutory control, or a breach of any condition which is brought to the Council's attention will be investigated and may, if circumstances warrant it, result in the Council taking appropriate enforcement action.

G5 In respect of all planning permissions approved pursuant to this policy, if no equipment is present during any continuous period of 3 years on a site for which planning permission has been granted the relevant planning permission will lapse. In that case, the developer will take appropriate steps in correspondence with the Council to seek either an extension of time or approval to commence development, both of which may require further application.

The Council will not be unreasonable in dealing with either of these requests but where neither scenario happens or there continues to be no development on site, the Council may initiate revocation proceedings.

G6 In calculating the 3 year period, no account will be taken of any period where equipment is removed from a site for the purposes of pollution, environmental or disease control, or in order to comply with orders or notices served under other legislation. 'Equipment' does not apply to either finfish, shellfish or other live organisms.

G7 Planning applications will be dealt with by the Council on a first come, first served basis. Where the Council has a pre-existing application, any subsequent applications that are made in the area of the initial application will be recommended for refusal on the basis that the application process is in train for a previous applicant.



A fish farm, Scalloway Islands

Image courtesy of Kenny Gifford

- G8** Appropriate lights, buoys or beacons that comply with the International Association of Lighthouse Authorities' guidelines must mark any installations close to navigation channels, or which may otherwise be a danger to navigation. Such markings must be specified in the planning permission following consultation between the Council's Ports and Harbours Operations and the Northern Lighthouse Board.
- G9** Where a planning application is made to the Council for development adjacent to or within a Natura 2000 site (Special Area of Conservation or Special Protection Area) designated under either the Habitats or Birds Directives, the Council, as competent authority, will undertake an appropriate assessment of the development as required under Regulation 48(1) of the Conservation regulations 1994. Should such an assessment indicate that the development will have an adverse effect on the integrity of any Natura 2000 site, the Council will be minded to refuse the application as required by the 1994 Regulations. Additionally the Council will take proper account of Articles 12, 13 and 16 of the Habitats Directive in respect of European protected species when considering planning applications.



2. MARINE AQUACULTURE

- M1** For the avoidance of doubt, the Council will normally be minded to accept applications to vary existing sites closer than the relevant separation distance required by policy provided the proposed variation does not result in any increase to the existing licensed mooring containment area or increased environmental impact.
- M2** All applications for new or extended marine aquaculture developments must be submitted with a mooring specification that is suitable for the proposed development.
- M3** All marine aquaculture proposals will be considered in the light of codes of practice that the Council may adopt and optimum standards of sustainable site management, husbandry practices and general efficiency. In assessing these factors the Council will consider them against current best practice guidelines published by relevant recognised bodies or competent authorities. In the case of new and experimental species the applicant must demonstrate that these objectives are fully considered during the development of proposals, within the constraints of scientific knowledge, research evidence and practical experience prevailing at the time of application.



M4 All marine aquaculture proposals must demonstrate that anti-predator measures deter or prevent predation through use of methods which are non-lethal and do not cause any significant harm. For the avoidance of doubt the use of monofilament nets for such purposes is not permitted.

M5 In every case that requires alteration of the size or extent of either the surface works area or the mooring containment area of an existing site, the applicant will be required to submit a planning application for a variation to the site. In addition, any other significant changes to the scale or nature of the development, including an increase in biomass, the siting of feed barges, or change of species will require the submission of a planning application for a variation prior to any changes being made to the development.

M6 With regard to the development of the culture of new or novel species, the Council will permit up to two cages of an existing facility to be given over to a new species for a single production cycle to allow developers the opportunity to assess the suitability of the site. Documentation showing that all species originated from hatcheries with a disease free status would be required to be submitted to the Council as would an application to vary the existing site prior to any changes being made. Thereafter, the developer would be required to indicate through a variation whether the site was to be utilised for either a single species in successive production cycles or different species in alternate production cycles. Applicants can apply for a variation to include new or novel species without the need for an initial assessment cycle. In all instances the site must be operated on a single species basis except for any initial assessment cycle. Where different species are being ongrown in alternate cycles, a fallow period of at least 6 weeks must be observed between introductions of fish.

M7 Over time, the Council has adopted policies in coastal areas of Shetland where there is a general presumption against aquaculture development. Such policies are as follows:

- (a) Fish farming will not as a matter of policy be permitted anywhere within the Sullom Voe Harbour Area (as defined in the Sullom Voe Harbour Revision Order 1980) for as long as its primary purpose is to accommodate vessels engaged in the carriage of hydrocarbons or other dangerous substances;
- (b) No aquaculture developments will be permitted in Whiteness Voe north of a line between Usta Ness and Grutwick or the upper part of Weisdale Voe between the Taing of Haggersta and Vedri Geo;
- (c) No further new aquaculture developments will be permitted in Busta Voe north of a line drawn between Hevden Ness, Mainland and Green Taing, Muckle Roe as a matter of policy, and variations to existing sites north of this line should not result in either an increase in site size, a change in site location or an increase in environmental or visual impact.



The pier in Aithsting, West Mainland

Image courtesy of Promote Shetland

3. MARINE FINFISH DEVELOPMENTS

- F1 Planning permission will not be granted for finfish developments situated within 1,000m (measured as the water flows) of the extents of any other approved finfish farm or any water intakes/outfalls associated with shore based finfish rearing facilities, or within 500m (measured as the water flows) of the extent of any approved shellfish farm.
- F2 Where developers within an area seek to address issues of sustainability, biosecurity and environmental benefit through site relocation, amalgamation or revocation, the Council may be minded to seek greater separation distances than the minimum stated within this policy. To preserve these increased separation distance the Council may in addition be minded to refuse new applications for aquaculture developments in those areas created by site relocation, amalgamation or revocation. Industry should seek to achieve agreement with all licensees through either a Farm Management Agreement or Area Management Agreement.
- F3 The Council will assess applications for finfish sites on the basis of their cage surface area and surface works area. Its mooring containment area will define the overall area for which planning permission may be granted.
- F4 Planning permission may be granted for sites that have a maximum cage surface area of 9,000 m² and a maximum surface works area of 30,000 m². If, after considering the information contained in the planning application, Environmental Statement, including any further information, any relevant comments or representations received as a result of publicity for the application, the Council may consider the above maxima can be waived.
- F5 Single point mooring systems will be considered on their own merits but maximum cage surface area will be limited to 9,000 m².
- F6 Each marine finfish development must remain part of a management regime so as to ensure that it is followed for the purposes of seabed recovery, disease and parasite control, in accordance with current best practice guidelines published by relevant recognised bodies or competent authorities. Any such regime may be managed solely by the developer or jointly so as to include marine finfish developments operated by other developers. In all cases prospective developers will have to state their proposed stocking, fallowing and other relevant operational practices at the time of applying for planning permission.
- F7 In any event, planning permission will only be granted for sites whose production, either in isolation or in conjunction with adjoining sites, will not have significant adverse effects on the environment of the site under application or the adjacent marine environment, insofar as current scientific method is able to determine.
- F8 Prior to commencing development, site specific containment and contingency plans detailing both the means by which risks of fish escapes are minimised and the steps to be taken in the event of a fish escape must be submitted to the Council. In addition, copies of the notifications submitted to SEERAD on either events giving rise to the potential for an escape of fish or an actual escape of fish must also be submitted to the Council through the Marine Management Department (NAFC Marine Centre).

4. MARINE SHELLFISH DEVELOPMENTS

- S1 Planning permission will not be granted for shellfish developments situated within 500 m (measured as the water flows) of the extents of any other approved marine aquaculture developments, or any water intakes/outfalls associated with shore based shellfish washing and/or depuration facilities.
- S2 Where both the intake and outfall water supplies associated with shellfish washing and/or depuration facilities are subject to appropriate treatment, the Council may be minded to waive the minimum separation distances contained within this policy.
- S3 The Council will assess applications for shellfish sites on the basis of their surface works area. Its mooring containment area will define the overall area for which planning permission may be granted.
- S4 Planning permission for the suspended culture of shellfish will be restricted to a maximum surface works area of 50,000 m².
- S5 Planning permission for the cultivation of shellfish in seabed structures will be restricted to a maximum seabed area of 10,000 m² in respect of the extent of these structures.
- S6 Whilst the Council may be minded not to approve applications for new aquaculture developments in those areas created through site relocation, amalgamation or revocation for the purposes of sustainability, biosecurity and environmental benefit, relocation of, or variations to, existing shellfish developments may be permitted provided they do not either exceed the size criteria or reduce the minimum separation distances allowed by this policy and form part of an AMA or FMA.
- S7 The Council will assess applications for shellfish sites within a particular body of water with respect to its biological carrying capacity (i.e the total shellfish biomass that can be sustained within a water body). Where the proposed new development or variation to an existing site results in the carrying capacity being significantly exceeded, the Council may be minded to refuse such applications.



A pier in Yell

Image courtesy of Promote Shetland

APPENDIX 6: SHETLAND ISLANDS COUNCIL WORKS LICENCE POLICIES

General Policies

- G1** In determining applications for Works Licences, the Council will take account of, inter alia, the following factors:
- The need to ensure that safe navigation is maintained.
 - Potential effects, including cumulative, on the environment and natural heritage interests.
 - The implications for fishing interests.
 - Existing marine fish farms in the locality.
 - The implications for recreational and other interests.
 - The availability of any necessary infrastructure and potential impact on existing infrastructure, when relevant.
- G2** The Council will take account of the views of all interested parties, including competent and relevant bodies and local communities, in its determination of Works Licence applications.
- G3** Works Licences will be determined with due regard to relevant national and local policies and guidance in place at the time of the application.
- G4** It shall be a condition of all Works Licences granted that licensees must comply with all relevant statutory controls currently in force or which come into force during the period in which their works licence remains valid. A failure to comply with any relevant statutory control, or a breach of any condition of the Works license which is brought to the Council's attention will be investigated and may, if circumstances warrant it and the Council consider it appropriate, result in the Works Licence being revoked.
- G5** In respect of all Works Licences approved pursuant to this policy, if no works are present during any continuous period of 3 years on a site for which a Works Licence has been granted the relevant Works Licence would cease to have effect. In that case, the licensee will take appropriate steps in correspondence with the Council to seek either an extension of time or approval to commence development. The Council will not be unreasonable in dealing with either of these requests but where neither scenario happens or there continues to be no development on site, the Council may initiate revocation proceedings.
- G6** In calculating the 3 year period, no account will be taken of any period where works were removed to comply with notices or orders served under other legislation.
- G7** Works Licences may only be transferred to a new licensee with the Council's prior written consent. A written application to transfer the licence must be made to the Council who will not unreasonably withhold any such request. Failure to obtain the Council's consent may result in the Council revoking the licence.
- G8** Works Licence applications will be dealt with by the Council on a first come, first served basis. Where the Council has a pre-existing application, any subsequent applications that are made in the area of the initial application will be recommended for refusal on the basis that the application process is in train for a previous applicant.
- G9** Appropriate lights, buoys or beacons that comply with the International Association of Lighthouse Authorities' guidelines must mark any installations close to navigation channels, or which may otherwise be a danger to navigation. Such markings must be specified in the Works Licence following consultation between the Council's Ports and Harbours Operations and the Northern Lighthouse Board.

G10 Where a Works Licence application is made to the Council for development adjacent to or within a Natura 2000 site (Special Area of Conservation or Special Protection Area) designated under either the Habitats or Birds Directives, the Council, as competent licensing authority, will undertake an appropriate assessment of the development as required under Regulation 48(1) of the Conservation regulations 1994. Should such an assessment indicate that the development will have an adverse effect on the integrity of any Natura 2000 site, the Council will be minded to refuse the application as required by the 1994 Regulations. Additionally the Council will take proper account of Articles 12, 13 and 16 of the Habitats Directive in respect of European protected species when considering works Licence applications.



Sea Rocket at dusk

Image courtesy of Promote Shetland

Constructions (Piers, Breakwaters, Marinas and Other Constructions)

- C1** Works Licence applications for other marine constructions will be determined with regard to relevant local and national policies, local and national guidelines and any representations received. For the avoidance of doubt, constructions include those lengths of piped septic tanks outfalls that cross the foreshore below MHWS.
- C2** All applications for works Licences for floating pipes connecting shore feeding bases to floating cages will be considered on a case by case basis with due consideration being given to their specific merits such as location, navigation aspects, impact on other users, etc.



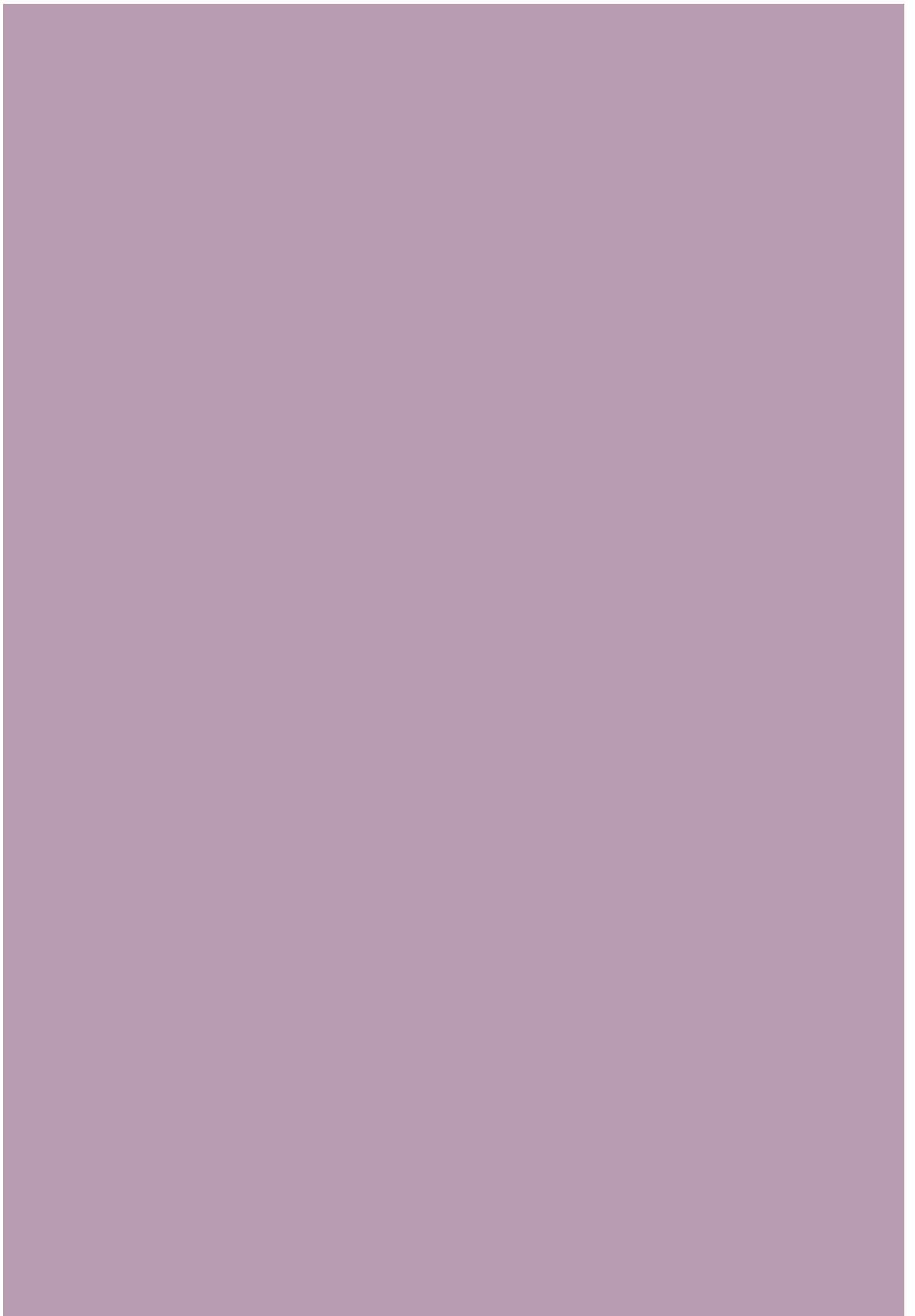
Heylor marina

Image courtesy of Promote Shetland

APPENDIX 7: SEA OBJECTIVES AND INDICATORS

SEA Topic	SEA OBJECTIVES	SEA QUESTION	SUGGESTED INDICATOR/MONITORING
Biodiversity & Nature Conservation (Flora & Fauna)	<ul style="list-style-type: none"> To protect natural environment with particular emphasis on protected sites and species (Local, National and European) and to conserve the existing environment through enhancement schemes, mitigation and compensatory measures where necessary. To promote people's enjoyment, understanding and appreciation of the natural heritage and need for its protection. 	<ul style="list-style-type: none"> Does the MSP have a negative impact upon any sites of environmental importance such as European Designated sites (Special Protection Area (SPA), Special Area of Conservation (SAC), Ramsar), Nationally designated (Site of Special Scientific Interest (SSSI), National Nature Reserve (NNR)? Are there any impacts on European Protected Species? Does the MSP contain strategies aimed at improving the local environment and therefore enhancing the natural heritage of the plan area? Does the MSP protect areas of known local importance for nature conservation/biodiversity? 	<ul style="list-style-type: none"> Condition of Designated Site from Site Monitoring reports (SNH) - have sites deteriorated or improved? Number of applications which would potentially have adverse and beneficial impacts on nature conservation and biodiversity Tourism figures for wildlife visitor attractions i.e. wildlife watching tours, outdoor recreation etc Levels of biodiversity could be correlated to sea fishing activity i.e. levels of catch, quality of catch, changes in distribution of species etc? Survey information from new applications providing data on birds, cetaceans etc?
Population & Human Health	<ul style="list-style-type: none"> To promote prosperity and quality of life benefits for the people and communities of Shetland through appropriate levels of development within the plan area 	<ul style="list-style-type: none"> Does the MSP promote economic development whilst protecting the marine resource? Does the MSP positively address and demonstrate an awareness of the balance of protecting, managing and directing change in a way that recognises the dynamic relationship that connects people, place and environment? 	<ul style="list-style-type: none"> Number of applications where there are positive benefits to local population and communities through local employment creation, increased accessibility, increased availability of facilities etc. Number of applications where there is potential for adverse impacts i.e. through visual impacts, noise and vibration impacts, adverse impacts on local businesses and employment opportunities, impacts on local resources e.g. healthcare, community facilities, housing etc. Number of applications where there is planning gain to the Local Authority.

SEA Topic	SEA OBJECTIVES	SEA QUESTION	SUGGESTED INDICATOR/ MONITORING
Geology and Soils	<ul style="list-style-type: none"> To protect and where appropriate enhance the physical quality of the seabed 	<ul style="list-style-type: none"> Does the MSP protect the seabed from inappropriate coastal development and erosion? Does the MSP affect any designated sites for geology? 	<ul style="list-style-type: none"> Number of applications which would potentially have adverse and/or beneficial impacts on seabed condition/soils and/or designated sites.
Water Quality	<ul style="list-style-type: none"> To protect and enhance the quality of the water environment of Shetland and its waters including surface and groundwater features in addition to the coastal and offshore areas of the marine environment. To protect areas designated as floodplains to ensure floodwater attenuation is not affected. 	<ul style="list-style-type: none"> Does the MSP promote development whilst protecting the marine resource? Does the MSP promote strategically planned drainage infrastructure? Does the MSP take into account the requirements of the Water Framework Directive and the chemical, ecological and hydromorphological pressures on the water environment? 	<ul style="list-style-type: none"> Condition of Designated Site from Site Monitoring reports (SNH) Number of applications which would potentially have adverse and/or beneficial impacts on water quality /status Number of applications under the 'The Water Environment (Controlled Activities) (Scotland) Regulations' - CAR Regulations. Achieving good ecological status by 2015 under the Water Framework Directive.
Climate	<ul style="list-style-type: none"> To reduce the vulnerability of Shetland and its marine environment to the effects of climate change (e.g. sea level rise, coastal erosion, flooding) 	<ul style="list-style-type: none"> Does the MSP promote appropriate coastal defence and flood protection measures? 	<ul style="list-style-type: none"> Number of applications where a flood assessment has been undertaken and flood prevention measures included. Incidences of flooding of existing developments.
Cultural Heritage	<ul style="list-style-type: none"> To protect and, where appropriate, enhance the historic environment 	<ul style="list-style-type: none"> Does the MSP have a negative impact upon any historic environment features and/or setting Has development identified any previously unknown sites of cultural heritage interest e.g. wrecks? 	<ul style="list-style-type: none"> Number of applications where there are potential impacts on a site designated for the historical environment Condition of sites designated for the historical environment Monitoring/mapping/recording of any new sites of historical importance discovered as part of any developments.
Landscape/ Seascape & Visual	<ul style="list-style-type: none"> To protect and, where appropriate, enhance the seascape / landscape and visual amenity of the SMSP plan area and Shetland 	<ul style="list-style-type: none"> What impact will the MSP have on the landscape quality and integrity of Shetland? Will the policies of the SMSP protect and enhance the landscape/seascape resource? Are there any cumulative impacts resulting from the MSP policies? 	<ul style="list-style-type: none"> Numbers of applications for development with potential impacts on seascape/landscape designations. Proximity of proposed developments i.e. any trends for clustering of developments?





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