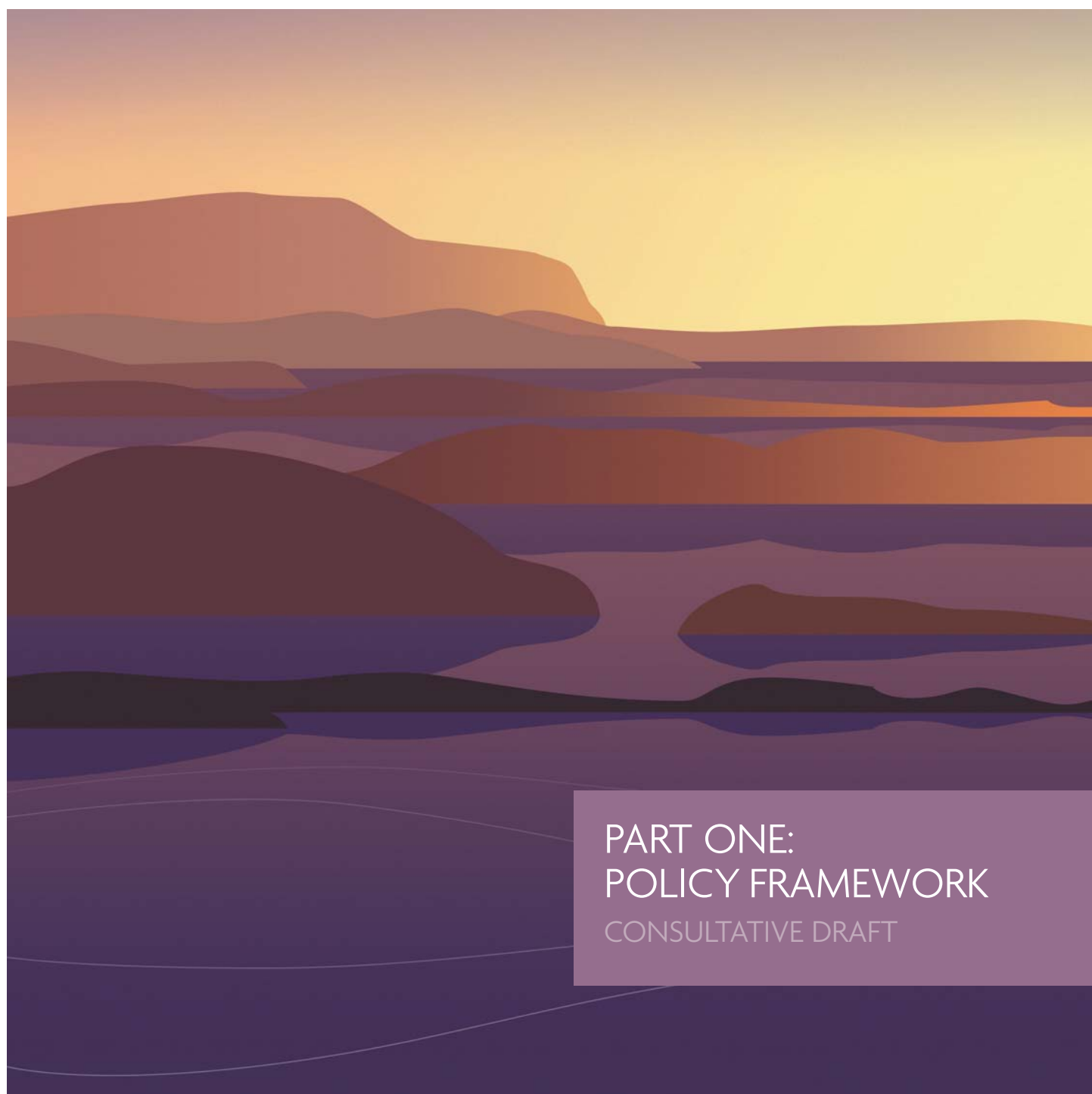
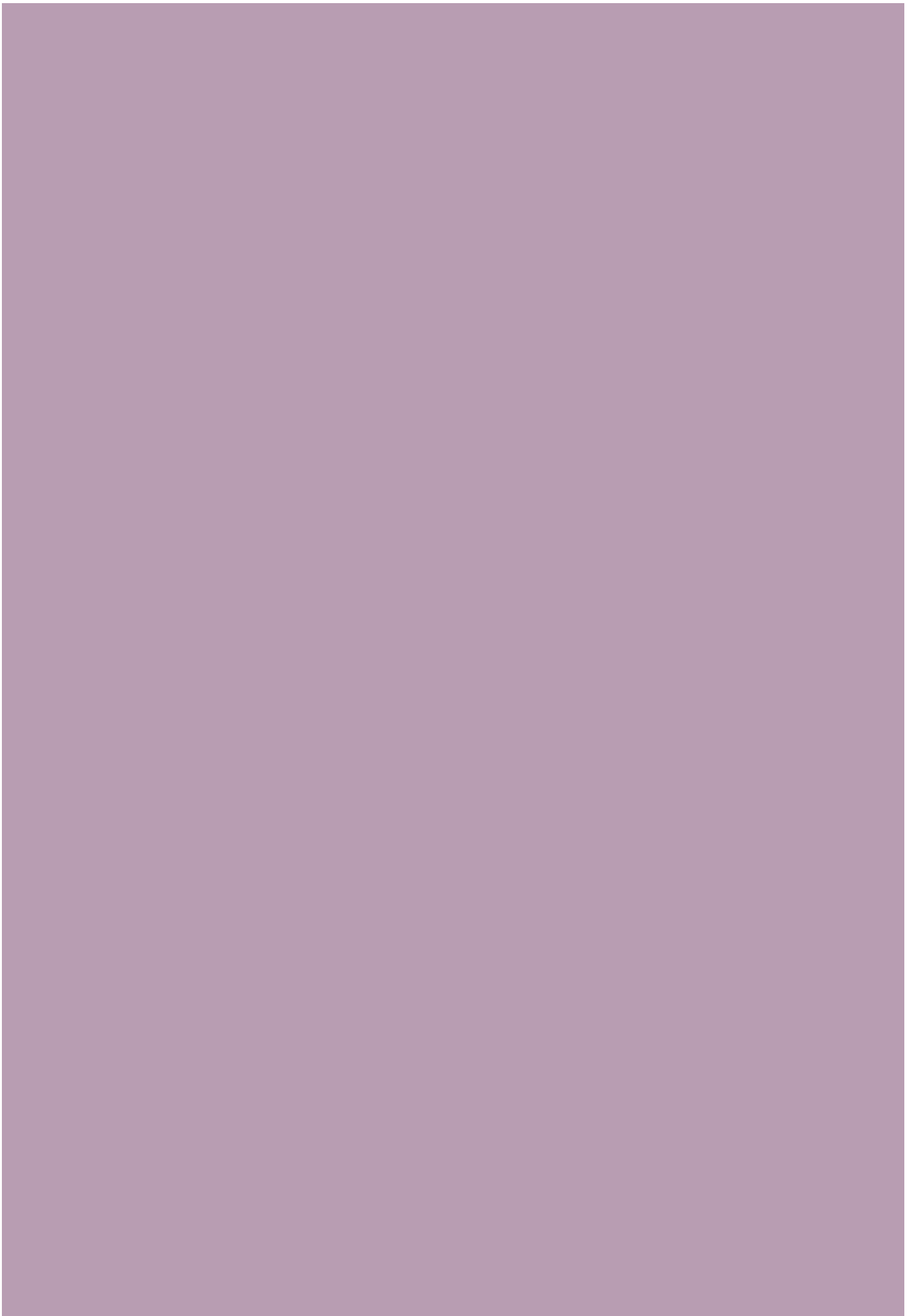




A MARINE SPATIAL PLAN FOR THE SHETLAND ISLANDS



PART ONE:
POLICY FRAMEWORK
CONSULTATIVE DRAFT





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

CONSULTATIVE DRAFT

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 2).

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Remains of Jarlshof settlement

Image courtesy of Visit Shetland



An aerial view of the lighthouse at Eshaness

Image courtesy of Visit Shetland

QUICK GUIDE

- Step 1:** Refer to the heading in Section 6 appropriate to your interest.
- Step 2:** Familiarise yourself with the relevant policies guiding development and use for that area.
- Step 3:** Refer to the maps in the Marine Atlas (Part Two of this document) to advise you on important features surrounding your area of interest.
- Step 4:** If you have a broadband connection, you will be able to open the spatial information on Google Earth™ (the files are provided on the CD 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 on the CD. This is available at: <http://earth.google.com> You can also use the spatial information on any Geographical Information Systems (GIS) you may currently use. Please ensure you read and agree to the terms of agreement before using the spatial data.
- Step 5:** Ensure you are familiar with the statutory regulations or policies that apply to your activity, detailed in each section of this report (e.g. the Interim Policy for Marine Aquaculture (2007), for aquaculture). If in doubt, check with the relevant agency listed at the back 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.



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, offshore renewable, heritage, sport and recreation, education and the environment.

Marine stakeholder and local community input has played a major role in the development of this Plan. It is hoped that these same bodies and others will use the Plan when considering future marine development proposals 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'.

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 offshore 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.

The Plan links into many other Shetland Islands Council's strategies and plans, such as the Corporate Plan and its individual departmental plans, as well as those 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.

The framework is a significant component of the Scottish Government's commitment outlined in 'Seas the Opportunity' (2005) for achieving sustainability in the marine environment. The Scottish Sustainable Marine Environment Initiative (SSMEI) was initiated by the Scottish Government to inform future marine policy and test new management

framework options for Scotland's marine and coastal environment. Four pilot projects have been set up across Scotland, located in the Firth of Clyde, the Sound of Mull, Berwickshire and Shetland.

This Shetland Marine Spatial Plan forms a component of the SSMEI pilot. It should streamline the development applications process by enabling developers to identify areas that could be refused planning permission or works licensing pre-submission, which should lead to reduced delays and costs. The information efficiencies will also benefit planners and regulators, helping them make a more integrated and better informed decision regarding the future distribution of use of space and resources.

Whether the Plan adds value to the current regimes is dependent on:

- Developers and their environmental consultant referring to the Plan before they lodge an application for a works license or planning permission; and
- All stakeholders referring to the Marine Plan when a proposal for a new development arises.

It is acknowledged that Marine Spatial Planning is a process which takes much longer than the time it has taken to produce this Plan: this Plan is merely the first step in achieving process objectives.

This Plan is voluntary and it is therefore the intention to gather feedback on its implementation after the 12-week consultation period. The Scottish Government is currently considering proposals for a new Scottish Marine Bill, and the pilot of Marine Spatial Planning in Shetland will have an important input into this.



An aerial view of St. Ninian's Isle

Image courtesy of Stephan Hennig

INTRODUCTION

The purpose of Marine Spatial Planning is to develop a system for using the marine and coastal environment within the capacity of its ecological systems.

Environmental planning frameworks must deal with uncertainty and complexity. They must be designed to be sufficiently flexible to be responsive to the requirements of unforeseen developments. It is not possible to devise a system that will cope with every eventuality, but there is a strong case for developing systems which are sufficiently flexible to be able to respond to changing circumstances.

They must also simplify complexity so that lay people can appreciate the factors to be considered. This is particularly important in the maritime environment as marine information is generally quite hard won and yet must be brought to bear in good time and in such a form as to have an influence on decision makers.

Relationship to Other Strategies and Policies

There is a very wide range of strategies and policies deriving from international, national, regional and local levels. An attempt has been made to demonstrate which policies cross-link at the end of each policy, however, a full list of strategies and policies to which the plan has regard is presented in Appendix 1.

The Future of a National Marine Spatial Planning Framework

The Government has suggested that commitments to Marine Spatial Planning will assist with the integrated, multiple use management of the coast and marine environment by providing specialist management, understanding and knowledge. It is anticipated that future legislation will provide a statutory basis for Marine Spatial Plans, and will interact with, and inform any subsequent strategies, plans and policies that may arise.

Who Will Use This Plan?

The SSMEI Shetland pilot will continue to lead a coordinated approach to the implementation of this Marine Spatial Plan until its current funding ceases (January 2009). This document is the first step in the Marine Spatial Planning process: it is a planning and decision making tool to guide development and use of the marine and coastal environment. It is therefore intended for use by all stakeholders, but will mostly include:

- National and local government, management agencies, authorities, boards and other relevant planning bodies; and
- Businesses, industrial and commercial users and researchers will also find this Plan useful in finding suitable sites for development or for the EIA process.

How Can I Use This Plan?

Step by step instructions to the use of this Plan are provided at the beginning of this report. The considerations required for a particular development or use is guided by a series of policies in this document. These direct the user to maps in the Atlas (Part Two of this document), which then directs the user to data for use with Geographical Information Systems (GIS) and Google Earth™. To improve information efficiencies in the planning process, every attempt has, and will continue to be made to provide the appropriate data in a format that suits everybody.

Process of the Plan Production

The Shetland framework has been informed by stakeholder participation throughout the draft plan stage (listed in Appendix 2), and this process has been summarised in a previous report (SSMEI Shetland, 2007). The framework adopts the principles of the ecosystem approach (see Box 1 for a definition), 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 (described below in the 'Monitoring' section).

The Planning Area

The coastline was measured for the first time since 1975: the coastline of the Shetland Islands is 2702 km (1697 miles), the equivalent to 10% of Scotland's coastline (based on MLURI, Macaulay Institute figure of 16,491 miles). The original measurement was estimated to be 1450 km (Flinn, 1975), almost half the revised extent. 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 1:1250).

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 (e.g. salt marsh), and archaeological features within 150m of the coastline. The area is the equivalent to 10,580 km²(3899 miles²); almost seven times the land area of the Shetland Islands.

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.

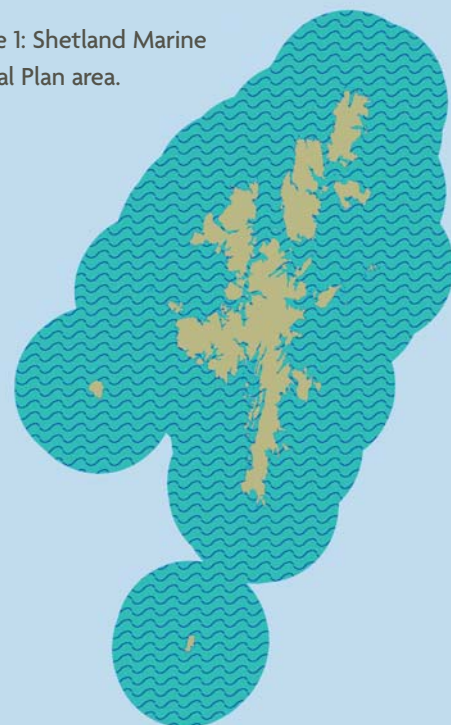
Box 1: The Ecosystem Approach

An ecosystem-based approach to management represents a new and more strategic way of thinking. It puts the emphasis on a management regime that maintains the health of ecosystems alongside appropriate human use of the marine environment, for the benefit of current and future generations.

This requires setting clear environmental objectives both at the general and specific level, basing management of the marine environment on the principles of sustainable development, conservation of biodiversity, robust science, the precautionary principle and stakeholder involvement.

(DEFRA, 2002. Safeguarding Our Seas, section 1.17)

Figure 1: Shetland Marine Spatial Plan area.



Planning and Regulatory Authorities' Roles and Responsibilities

The aspiration of Marine Spatial Planning is such that it must be consistent with other plans and strategies and statements of policy at a higher level. 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 coordinate a National Framework to achieve the objectives of the EC Water Framework Directive called the River Basin Management Planning (RBMP). 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 Shetland Advisory Group, which the SSMEI pilot participates in to ensure the two projects come together efficiently.

All current versions of National Planning Policy Guidelines (NPPGs), now being replaced by Scottish Planning Policy (SPPs), and associated Planning Advice Notes (PANs) together with the National Waste Plan were taken into account in the preparation of this Marine Spatial Plan, which is considered to be compatible with them.

Shetland Islands Council has an obligation to produce Development Plans: the Structure Plan provides the islands' strategy for land use planning until 2015, and the Local Plan looks 10 years ahead, but is reviewed every five years. 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 [*The Town and Country Planning (Marine Fish Farming) (Scotland) Order 2007 came into force on 1 April 2007 and replaced the previous Works Licence system (which is still valid for other developments), so Development Plans will nevertheless have to be amended*].

This Marine Spatial Plan recognises that many uses and developments are governed by statutory regulations and these will be unaffected by this plan. However, the implementation of the plan may reveal ways in which current regulations could be amended, or applied differently in future.

Accordingly, if stakeholders respond to the policies outlined in the Shetland Marine Spatial Plan, this will provide a sound basis to develop and facilitate a more effective response of the pilot to the Scottish Government.

Monitoring

The impact of the Plan will be examined by an on-going process as part of the SSMEI pilot. It will play a key part in assessing the effectiveness of Plan policies, which in turn feeds in to further development and review of the Plan.

Further to this review, it is a relatively new requirement for plans such as the Marine Spatial Plan to undergo a formal assessment of its environmental effects. This requirement arises from a European Directive 2001/42/EC which affects all the member states across Europe. In the UK, the Directive has been transposed into law through the Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 and subsequently the Environmental Assessment (Scotland) Act 2005.

The Marine Spatial Plan is however a voluntary pilot and SEA of the Plan is not formally required. However it was considered that it would be desirable to follow best practice and demonstrate the environmental benefits of the Plan.

The SEA process started at the same time as the preparation of the plan. It is anticipated that the Plan will benefit from undergoing the assessment, and the Review of the Plan will suggest various changes to ensure that there are no negative environmental effects and that positive effects are maximised.



A diver exploring Shetland's seas

Image courtesy of Kenny Gifford

Forthcoming Sub-Area Marine Spatial Plans

During the process taken to produce this Plan, it was recognised that a series of more localised plans might be appropriate. A Plan has recently started to be established for some of the small remote isles off Shetland. A timetable for establishing local plans in other geographical / ecosystem areas will shortly be drawn up. It is anticipated that these plans would need to be developed where the conflicts and issues require a more focused set of objectives and targets compared to this 'overarching' Plan.

Whilst these policies will be applied to future developments and uses, the aspiration is to adapt existing uses and management to these too. Pressure points have been mapped during the production of this Plan. Subsequent application of this will involve a review of current practices that guide development and/or activities in these high pressure areas.

Maintenance of Data and Information

A wealth of information has been collated and created during the production of this Plan. A database has been created which states when data requires updating, but of course this is limited by the resources of the SSMEI pilot (which ends in January 2009). Currently there is limited skills base and time within the different sectors to maintain this spatial information and it would benefit all stakeholders if consideration was given to funding the means to maintain this database in GIS.



Puffin's at Sumburgh Head

Image courtesy of Stephan Hennig

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.*

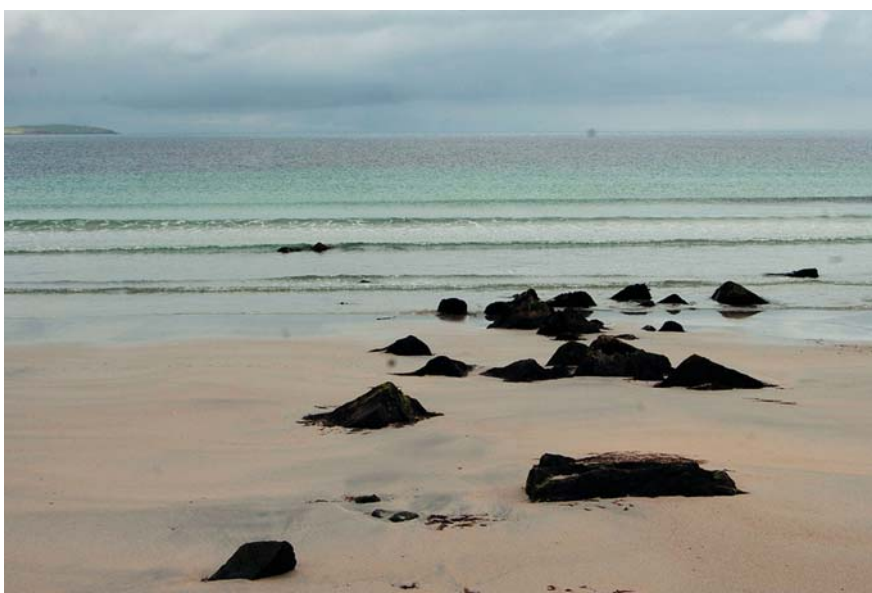
*Sustainable use will enable dynamic economic activity supporting a prosperous community whilst maintaining and enhancing marine wildlife, habitats and ecosystems. Sustainable use should not lead to loss of biodiversity or ecological balance, or reduce the availability of natural resources for future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

Objectives

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

1. Establish policies to manage a productive marine and coastal environment for the benefit and prosperity of local communities;
2. Integrate with other planning and regulatory systems;
3. Take account of natural changes in, and improved knowledge of, the marine and coastal environment;
4. Safeguard areas where there are locally and nationally important marine species and habitats;
5. Assess the sensitivities of marine wildlife and habitats to current and future uses;
6. Identify areas with differing priorities for sustainable use (such as fishing, aquaculture, recreation & tourism, oil, etc.);
7. Identify and restore damaged marine habitats and ecosystems;
8. Identify and manage activity to minimise conflict.

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



Sandwick beach, Unst

Image courtesy of Visit Shetland

1. POLICIES¹

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 aims are to:

- Encourage appropriate development that maintains and improves life chances for local people;
- Involve local communities in the decision-making process; and
- Protect and enhance Shetland's marine environment.

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

There are 35 overarching policies in this Plan and these are presented in the following sections of this report.

2. INTEGRATION²

“...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).

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 Shetland Marine Spatial Planning framework aims to achieve the integration of policies and objectives through:

- Coordination between stakeholders;
- Establishment of Plan policies to ensure sectoral policies take account of the needs of other uses and the ecosystem;
- Guidance provision to relevant stakeholders in relation to consenting issues for new developments;
- Monitoring progress towards achievement of Plan objectives.



Sailing boats in Bressay Sound

Image courtesy of Visit Shetland



Boat Museum, Unst

Image courtesy of Stephan Hennig

Policy MSP ITG1:**An Integrated Plan for Marine Monitoring**

A new partnership should develop a local monitoring strategy that effectively manages existing and new surveys to prevent duplication of work and make the central data collation process easier.

Justification

There is now a central storage of data which, combined with the policy framework, will guide users in the placement of activity that will take account of other uses and resources. Gaps in the data may exist and constant changes in use will require a certain amount of updating.

Various organisations and departments of Shetland Islands Council will want to survey the marine environment at some stage in the future, and fishermen survey the environment on a day-to-day basis. It seems logical then that an integrated plan for marine monitoring should be established.

An integrated monitoring plan would require continual maintenance and is therefore not within the resource capacity of the SSMEI pilot. Where possible, policies have been put in place to encourage updating the current information: responsibilities for fishermen and potential developers are proposed in more detail in section 3. However, these were made with the assumption that resources will be available to centrally update this information.

Policy MSP ITG2:**A Pre-Application Consultation Database**

A database of contact details could be integrated into the electronic maps (on the CD of the Marine Atlas) to assist with community engagement in development plan preparation and shared with developers for pre-application consultations.

Justification

A contact database comprising local people and groups who have helped map different use (fishermen and boating clubs) has been established by the SSMEI pilot (summarised in Appendix 2 and 4). This information could be integrated into the spatial information: in practice this would involve using Google Earth™ or GIS.

This can be used to assist with community engagement in development plan preparation and shared with developers for pre-application consultations. *[This has not been provided so far to conserve the confidentiality of the person who provided the information.]*

These policies conform to:

- PAN 81 (Planning with People).

Relevant sectors to have regard to this policy:

- Regulators: SEPA, Shetland Islands Council.
- Planners: Shetland Islands Council
- Others: All marine stakeholders.

1. Refers to Objective 1: "Establish policies to manage a productive marine and coastal environment for the benefit and prosperity of local communities."

2. Refers to Objective 2: "To integrate with other planning and regulatory systems."

3. USING AND IMPROVING OUR KNOWLEDGE³

Policy MSP KN1: Setting Data Standards

Where possible, organisations conducting future monitoring or collecting data (for example from SOTEAG, SBRC, SNH and fish farm companies) should make their data:

- a. Publicly available;
- b. In a readable format (i.e. not PDF);
- c. Geo-referenced (give latitudinal and longitudinal values or if OS grid reference, this should be low scale, i.e. 'HU 4745 4529' is preferable to 'HU 44'; and
- d. Accountable i.e. provide metadata (the 'who', 'what' and 'where' of the survey).

Organisations are encouraged to start classifying their seabed data to a habitat type (i.e. provide a biotope code to MNCR or EUNIS standards).

Justification

It is acknowledged that the data supporting this Plan will have to be continuously updated. The information that was provided was often portrayed in very different ways, covered different time periods and different geographic areas, or was in different data formats (SSMEI Shetland, 2007).

The aim of this policy is to make the process of data collation easier in the future by setting standards in data formats.

Policy MSP KN2: Filling Seabed Knowledge Gaps

Any company or organisation conducting a seabed survey is encouraged to use the predicted biotope map (provided on the CD in Part Two: A Shetland Marine Atlas) so that they can target the extent of their survey more efficiently. The differences between 'actual' and 'predicted' should be reported to increase our knowledge of seabed habitat distribution.

Justification

The cost and effort required to physically survey the sea is very high. As an alternative, GIS was used to predict the extent of different habitats, using baseline data on sediment type, depth, temperature, etc. This type of predictive mapping was undertaken and performed by Envision Mapping Ltd.

Map A of the Shetland Marine Atlas shows the broadscale extent of seabed habitats (or biotopes) according to the MNCR classification system, a recognised national criterion of grouping seabed habitat types.

Whilst it has been scrutinised with local knowledge and compared with offshore surveys (giving a confidence level of 80%), users should use it with the caveat that it is a prediction, and might not accurately represent the true seabed habitat. However, it is a valuable tool that can, and should, be used to target surveys more efficiently, feeding more knowledge back into the maps which can be refined and improved.

These Policies Conform to:

- Marine Data and Information Partnership* objectives.

Relevant sectors to have regard to these policies:

- Regulators: SEPA.
- Others: SNH, Shetland Biological Records Centre, SOTEAG, research institutes, fish farm companies, contractors, FRS, developers.

Policy MSP KN3: Filling Fish Habitat Knowledge Gaps

A partnership should be established to facilitate feedback from fishermen on the fish habitat maps (provided on the CD in Part Two: A Shetland Marine Atlas). The differences between 'actual' and 'predicted' will be reported to increase our knowledge of fish habitat distribution.

Justification

Maps have been produced by the SSMEI pilot and local fishermen to show the distribution of important fishing grounds. These maps will be used by developers and planners to ensure appropriate safeguarding against developments that remove opportunity for fishing.

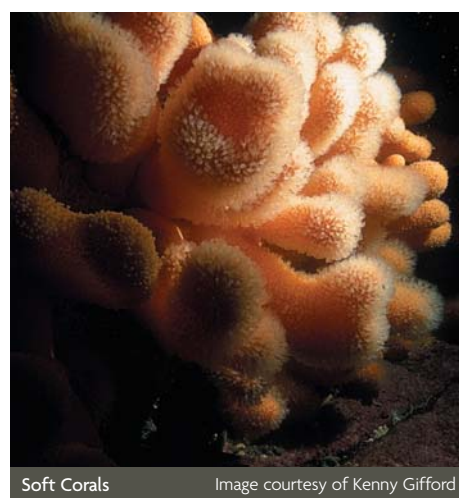
In addition to this, fish habitat areas have been mapped by Envision Mapping Ltd using known locations of physical characteristics cross-referenced with fish habitat preference information, shown in map B of the Shetland Marine Atlas.

These habitat maps have not been fully scrutinised (with local fishermen's knowledge), and as such should be used with the caveat that it might not accurately represent the true range of the species' habitat. For these reasons, it is important to update this information.

Where the information has been approved by fishermen, this information was extracted and included in the shellfish fishing grounds (map 2).

Relevant sectors to have regard to these policies:

- Shetland Shellfish Management Organisation and Shetland Fishermen's Association (and their related Sub-Committees), FRS, and NAFC Marine Centre.



Soft Corals

Image courtesy of Kenny Gifford

3. Refers to Objective 3: "To take account of natural changes in, and improved knowledge of, the marine and coastal environment."

* The Marine Data and Information Partnership is an open partnership, established under the auspices of the Inter Agency Committee on Marine Science and Technology (IACMST), working to develop marine data and information resources for the benefit of all in the marine community.

4. SAFEGUARDING MARINE LIFE⁴

Policy MSP SFI:

Safeguarding Protected Species and Habitats

Sites with international and national nature or geological conservation designations in the plan area (Special Protection Areas, Special Areas of Conservation, Sites of Special Scientific Interest), together with statutorily protected species and habitats, will be afforded the strongest levels of protection from use that can impact on the integrity of the species or habitat.

Statutorily protected marine species and habitats common around Shetland include*:

- a. Annex I, II, IV and V of the Habitats Directive: 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);
- b. Annex I Birds Directive and Migratory Species: Great Northern Diver, Slavonian Grebe, Storm Petrel, Leach's Petrel, Common Tern and Arctic Tern (maps 22 and 23);
- c. Birds Of Conservation Concern: Cormorant, Common Eider, Long-Tailed Duck, Red-Breasted Merganser, Black Guillemot, Puffin, Manx Shearwater, Gannet, Shag, Mallard, Arctic Skua, Great Skua, Lesser Black-Backed Gull, Herring Gull and Razorbill (maps 22, 23 and 24);
- d. OSPAR list of threatened and / or in decline species and habitats: native oyster, common mussel beds, and mud in deep water (seapens) (map 25);
- e. UK and LBAP: sheltered muddy gravel (map 25), mudflats (map 19) and kelp forest (map 26); and
- f. Species from schedules 1, 5, and 8 of the Wildlife and Countryside Act: Harbour Porpoise (map 20).

Justification

For the first time, data on protected species and habitats have been brought together from various sources into maps using Geographical Information Systems (GIS). This spatial information should be used to afford the strongest level of protection (in addition to designated sites) from current and future use that cause a known impact to the said species and habitats.

This policy conforms to:

- Shetland Structure Plan policy SP NE4, NE7, NE8
- Shetland Local Plan policy LP NE10, NE 13
- NPPG 14
- Regional and Local Biodiversity Action Plans.

This policy supports:

- Development Plan aims 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.

Relevant sectors to have regard to this policy:

- Regulators: Scottish Government Marine Directorate
- Planners: Shetland Islands Council, SIC Planning Board
- Others: SNH, Lerwick Port Authority, developers and their contractors, RSPB, fisheries associations, Amenity Trust (Biological Records Centre), Community Councils, Councillors, any other interested user.

4. Refers to Objective 4: "To safeguard areas where there are locally and nationally important marine species and habitats."

* Some of the species above are protected by more than one of the above legislations and this is not detailed here.

5. SENSITIVITIES OF MARINE LIFE⁵

Policy MSP SENI: Identifying Sensitive Areas

A programme of work will seek to identify areas of species and habitat sensitivity from various human impacts, such as pollution from accidental oil spills, which can contribute to the ecosystem based approach to Marine Spatial Planning.

Justification

Information on the relative sensitivity of marine species to human impacts is sometimes difficult to determine: a cause-effect relationship is particularly difficult when the species moves around a geographic area. The most reliable marine indicator of human impact is species that live on the seabed because the home range is very small (and therefore exposed at constant levels).

The Marine Life Information Network® for Britain and Ireland (MarLIN) have had experience in development of a marine seabed sensitivity mapping database and GIS integration, and this could be an option for making use of the seabed habitat map produced for the pilot.

This policy conforms to:

- Shetland Structure Plan policy SP NE4, NE7, NE8
- Shetland Local Plan policy LP NE10, NE 13
- NPPG 14
- Regional and Local Biodiversity Action Plans.

This policy supports:

- Development Plan aims 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.

Relevant sectors to have regard to this policy:

- Regulators: SEPA, FRS
- Planners: Shetland Islands Council
- Other: SNH, Research institutions.



A Common Seal

Image courtesy of David Gifford

5. Refers to Objective 5: "To assess the sensitivities of marine wildlife and habitats to current and future uses."

6. IDENTIFYING AREAS WITH DIFFERING PRIORITIES FOR USE⁶

There is a plethora of roles and responsibilities undertaken by different government bodies within the marine and coastal environment. Below the Mean High Water Spring (MHWS), statutory controls mostly operate on a sectoral basis. Regulated activities include aggregate extraction, shipping, oil and gas development, cables and pipelines, coastal defence, historic sites, nature conservation, fisheries, recreation and increasing moves to establish offshore renewable energy sites.

This section of the Plan establishes spatial policies based on the legislation covering the following activities and uses:

• Infrastructure:

- Shore Access
- Coastal Defence
- Cables and Pipelines
- Moorings
- Fixed Links
- Aquaculture
- Energy

• Shipping

• Fishing

• Nature Conservation

• Archaeology

• Dredging and Disposal

• Extraction Of Sand, Gravel & Shingle

• Tourism & Recreation

All users of the marine and coastal environment should use this section in combination with the Shetland Marine Atlas to identify the needs of other users, thereby attempting to reduce any conflict.

Policy MSP GD1:

General Development Policy

In determining applications for planning permission and works licences, the following factors should be considered:

- a. the implications for fishing interests (maps 1 and 2);
- b. the need to ensure that safe navigation is maintained (maps 9 and 10);
- c. the availability of any necessary shore access (map 5) or other infrastructure and potential impact on existing shore access and infrastructure;
- d. the implications for possible future fixed links (bridges or tunnels) between islands;
- e. the implications for recreational interests (map 6);
- f. potential effects, including cumulative, on the environment, natural heritage and landscape interests;
- g. suitable site restoration proposals which include enhanced biodiversity and the removal of redundant plant and equipment are agreed at the application stage;
- h. conflict with shipwrecks (maps 11 and 27), archaeological remains (map 7) and infrastructure: pipelines and cables (map 12), aquaculture barges, pontoons or shellfish growing equipment (maps 3 and 4 respectively), weather and radar masts (map 31), buoys and anchorage;
- i. impacts to the water resources and the pollution of controlled waters (by any contaminants associated with the land or likely discharge from the proposed development), in particular its impact on the cumulative coastal water body status (map 28);
- j. the implications of climate change over the expected lifetime of any associated infrastructure (or business plan) should be considered; and
- k. due consideration has been given to, and assurance that the proposal does not conflict with, current Government guidance and other policies such as those in the Marine Spatial Plan or Works Licence policy.

Policy MSP GD2:**Development in or near Sites of European Interest (SPAs and SACs)**

European Sites consist of Special Protection Areas (SPAs) and Special Areas of Conservation (SACs).

Development not directly connected with or necessary to the management of a European site or a proposed European 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 European Sites.

Scottish Natural Heritage considers the AA, as the Scottish Government's natural heritage advisers, and indicates 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 European 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.

Policy MSP GD3**Development in or near Sites of National Interest (SSSIs and NSAs)**

Development which would affect National Scenic Areas or Sites of Special Scientific Interest (particularly for geology), shown in map 13, will only be permitted where it can be adequately demonstrated that either:

- a. the proposed development will not compromise the conservation objectives and overall integrity of the site; or
- b. there is a proven public interest where social, economic or safety considerations outweigh the ecological interest of the site and the need for the development cannot be met in other less ecologically damaging locations or by reasonable alternative means.

Justification

The aim of this policy is to ensure future development and uses (and sectoral policies) take account of the needs of other uses and the ecosystem.

This policy conforms to:

- NPPG 5, 13, 14, and 18
- Structure Plan policies GDS1 and GDS4
- Local Plan policies LP NE10, BE8, BE9.

This policy supports:

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

Relevant sectors to have regard to this policy:

- Regulators: FRS, SEPA, Scottish Government Marine Directorate
- Planners: Shetland Islands Council
- Others: SNH, Lerwick Port Authority, SIC Planning Board, developers and their contractors, RSPB, fisheries associations, Amenity Trust (Archaeology and the Biological Records Centre), Community Councils, Councillors, any other interested user.

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 applies the Works Licence Policy (2007) 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:
 - NPPG 13 'Coastal Planning'; and
 - NPPG 14 'Natural Heritage';
- Existing legislative framework currently applied to the proposed development;
- EC Council Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (92/43/EC) (the Habitats Directive);
- 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; and
- Nature Conservation (Scotland) Act 2004.

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;
- Controlled Activities Regulations (CAR) licence from Scottish Environment Protection Agency (SEPA) under the Water Environment and Water Services (Scotland) Act 2003;
- Consent under the Food and Environment Protection Act 1985 (from the Scottish Government);
- Consent under the Coast Protection Act 1949 (from the Scottish Government).

N.B. 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

An application can be obtained from Shetland Islands Council (SIC). A full copy of the Works Licence Policy can be obtained from SIC. The policies have been extracted and included at the end of this document in Appendix 3. 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.

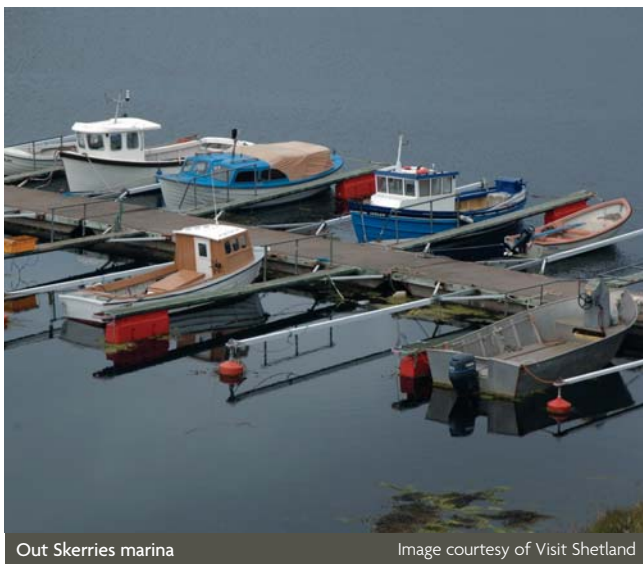
Direction of the Crown Estate by Government is a reserved matter although the Crown Estate complies with devolved policy and legislation as appropriate. No part of the foreshore in Shetland is subject to Crown rights and is subject to certain public rights.

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 Fisheries Research Services in Aberdeen (on behalf of the Scottish Ministers).

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 FRS for assessment of the need for licensing.



Out Skerries marina

Image courtesy of Visit Shetland



Voe marina

Image courtesy of Visit Shetland

Infrastructure: Shore Access

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

Policy MSP SA1: General Shore Access Proposals

The construction of shore access developments will be considered in terms of the:

- a. general concerns outlined in Policy MSP GD1; and
- b. policies if the proposal is within or near a conservation area (Policies MSP GD2 and MSP GD3).

In particular, when considering shore access development proposals, full consideration should be given to:

- c. the distribution of features that apply to Policy MSP SFI, particularly sensitive seabed habitats such as maerl beds, horse mussel beds and eelgrass beds (map 16a and 16b), concentrations of bottom-feeding waterfowl, such as eider (map 24), native oyster, common mussel beds, and mud in deep water (seapens) (map 25), sheltered muddy gravel (map 25), mudflats (map 19) and kelp forest (map 26).

Policy MSP SA2: Jetties, piers and marinas outwith Sullom Voe, Lerwick and Scalloway

Jetties, piers and marinas outwith Sullom Voe and Lerwick will be assessed in accordance with Marine Spatial Plan policy SA1 (above) and policies LP NE10 and LP CST6 in the Shetland Local Plan, and approved in principle if all of the following criteria are met:

- a. opportunities for the shared use of facilities are fully investigated and shown to the satisfaction of the Planning Authority;
- b. the proposal conforms with the requirements of the Planning Authority;
- c. the scale of the proposed development respects the character and amenity of the surrounding area;
- d. the proposed development would not adversely affect coastal dynamics;
- e. site reinstatement proposals which enhance biodiversity are submitted with the application.

Where appropriate, agreements under Section 75 of the Town and Country Planning (Scotland) Act 1997 and a financial bond may be sought for the purpose of restricting or regulating the development or use of the land.

Justification

It is important that the character of Shetland's coast is protected from inappropriate development and that development which requires shore access is directed in the first instance to areas where it already exists. The aim of this policy is to balance the needs of industry and the environment, while recognising the importance of the coast in the day-to-day life and economic prosperity of Shetland.

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.

Legislation and consenting bodies (above low water):

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

Legislation and consenting bodies (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.
- Fisheries Research Services (FRS), Environment Protection Group – administer FEPA regulations on behalf of Scottish Ministers
- Shetland Islands Council – licence required before development begins
- 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):

- Fisheries Research Services (FRS), Environment Protection Group – administer FEPA regulations on behalf of Scottish Ministers
- Shetland Islands Council
- Operators – report on likely impact and monitoring duties.

These policies conform to:

- Local Plan policy LP CST6 and LP NE10
- NPPG 13
- Structure Plan policy GDS1, GDS4, SP CST1.

These policies support:

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

Relevant sectors to have regard to these policies:

- Regulators: FRS, SEPA, Scottish Government Marine Directorate
- Planners: Shetland Islands Council
- Others: SNH, Lerwick Port Authority, SIC Planning Board, developers and their contractors, Marina Associations, RSPB, fisheries associations, Amenity Trust (Archaeology and the Biological Records Centre), Community Councils, Councillors, any other interested user.

Policy MSP SA3:**Jetties, piers and marinas at Lerwick, Sullom Voe Oil Terminal, and Scalloway**

Jetties, piers and marinas at Lerwick, the Sullom Voe Oil Terminal and Scalloway will be assessed in accordance with Marine Spatial Plan policy MSP SA1 (above) and Shetland Local Plan policy LP NE10, and approved in principle if:

- a. they provide economic benefits;
- b. they respect the character and amenity of the surrounding development and landscape.

Justification

Lerwick, Sullom Voe and Scalloway are the three major ports in Shetland. This policy will encourage their continued growth and the protection of the environment. Sullom Voe and parts of the southern end of Yell Sound are Special Areas of Conservation; although this would not, of itself, preclude developments, any proposal for development would need to be subject to Appropriate Assessment (AA) to ensure that it does not damage the interests of the sites.

This policy conforms to:

- Shetland Local Plan policy LP CST5, LP NE10
- NPPG 13
- Structure Plan policy GDS1, GDS4.

This policy supports:

- Development Plan aim 1
- The Corporate Plan.

Relevant sectors to have regard to this policy:

- Regulators: FRS, SEPA, Scottish Government Marine Directorate
- Planners: Shetland Islands Council
- Others: SNH, Lerwick Port Authority, SIC Planning Board, developers and their contractors, Marina Associations, RSPB, fisheries associations, Amenity Trust (Archaeology and the Biological Records Centre), Community Councils, Councillors, any other interested user.

* The Sullom Voe Oil Terminal is located within two SAC's (Sullom Voe and parts of the southern end of Yell Sound) and as such will be considered in terms of Policy MSP GD2.

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).

The Coast Protection Act 1949 and the Flood Prevention (Scotland) Act 1961 (as amended by the Flood Prevention and Land Drainage (Scotland) Act 1997) 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.

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 Visit Shetland

Policy MSP CD1:

Coastal Defence Construction and Demolition

The construction of coastal defence developments will be considered in terms of the:

- a. general concerns outlined in Policy MSP GD1; and
- b. policies if the proposal is within or near a conservation area (Policies MSP GD2 and MSP GD3).

In particular, when considering coastal defence development proposals, full consideration should be given to:

- c. the distribution of features that apply to Policy MSP SFI, particularly sensitive seabed habitats such as maerl beds, horse mussel beds and eelgrass beds (map 16a and 16b), concentrations of bottom-feeding waterfowl, such as eider (map 24), native oyster, common mussel beds, and mud in deep water (seapens) (map 25), sheltered muddy gravel (map 25), mudflats (map 19) and kelp forest (map 26).

Coastal defence works should not be carried out during the bird breeding season from April – August (inclusive).

Hard coastal defense works (dykes and groynes) and soft coastal defense works (beach nourishment, beach re-enforcement by means of nets, Marram grass, etc) near sensitive dune systems need to be planned and carried out with the greatest caution and are only possible when there is a significant safety risk.

The permission of demolition of coastal defence materials will be favoured where beneficial re-use of the material can be identified.

Flood and coast protection policies in Shoreline Management Plans, Local Development and Structure Plans will be supported where they account for wider marine interests.

Justification

Erosion is normally seen as a troublesome thing that something should be done about: this however is not the case. 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, such as walls and groynes. However these are initially expensive and utilise large quantities of raw materials for concrete etc.

Unofficial attempts at 'soft' defenses, such as beach re-enforcement by means of nets over dunes, are quite common in Shetland, used to prevent sand encroaching onto land.

There is no requirement to prepare formal plans or strategies for coastal defence work. However, National Planning Policy Guideline 13 (Coastal Planning) encourages local authorities to prepare non-statutory Shoreline Management Plans where it is recognised that coastal erosion is a problem.

Work on the preparation of such plans has not been started yet by Shetland Islands Council (SIC), despite it being started by some other UK Councils. The SIC does however have a new post in place to specifically look at flood prevention infrastructure. Furthermore, a Shetland Flood Liaison Appraisal Group has been recently set up who plan to review the council's coast protection and flooding policy.

This policy conforms to:

- Shetland Local Plan policy LP WD10
- Structure Plan policy GDS1
- NPPG 13
- Scottish Planning Policy 7.

This policy supports:

- Development Plan aim 3
- The Corporate Plan.

Legislation and consenting bodies:

- Scottish Government Marine Directorate (SGMD)
- Fisheries Research Services (FRS), Environment Protection Group – administer FEPA regulations on behalf of Scottish Ministers.

Inspection, Enforcement and Control:

- SEPA – The Water Resources Act, 1991
- Fisheries Research Services (FRS)
- Shetland Islands Council – Transport & Works Act, 1992
- Land owner.

Relevant sectors to have regard to this policy:

- Regulators: FRS, SEPA, Scottish Government Marine Directorate
- Planners: Shetland Islands Council
- Others: SNH, Lerwick Port Authority, SIC Planning Board, developers and their contractors, Marina Associations, RSPB, fisheries associations, Amenity Trust (Archaeology and the Biological Records Centre), Community Councils, Councillors, any other interested user.

Further 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>

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 estimated 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

Developers should engineer their route to make best advantage of physical seabed conditions and existing land based infrastructure. Proposals will be favoured where burial of the pipelines or cables will be conducted to avoid conflict with other users.

The laying of communication cables and oil and gas pipelines will be considered in terms of the:

- a. general concerns outlined in Policy MSP GD1; and
- b. policies if the proposal is within or near a conservation area (Policies MSP GD2 and MSP GD3).

In particular, when considering the laying of cables and pipelines on the seabed, full consideration should be given to:

- c. the distribution of features that apply to Policy MSP SF1.

The works should not be carried out during bird breeding season, April – August (inclusive).

Justification

The purpose of this policy is to concentrate cables and pipeline related development at the existing locations.

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.

Legislation and consenting bodies:

- Scottish Government - Consents for Coast Protection Act, 1949.
- FRS, Environment Protection Group - administer FEPA licenses under the Food & Environment Protection Act 1985.

Inspection, Enforcement and Control:

- FRS on behalf of Scottish Ministers – this covers the assessment and issue of licenses, enforcement visits and routine monitoring.
- Operators – report on likely impact and monitoring duties.

Relevant sectors to have regard to this policy:

- Regulators: FRS (Environment Protection Group), SEPA
- Planners: Shetland Islands Council
- Others: SNH, Cable and pipeline developers and contractors.

Policy MSP CBP2:

Activity near Cables and Pipelines

Activities that could damage any cables and pipelines (e.g. dredging or mooring attachment to the seabed) should be avoided. An exclusion zone of 500m already applies to oil and gas pipelines and 250m on either side of submarine cables, but this separation distance should be applied to all types of cables and pipelines.

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 put in place a voluntary agreement which establishes clear safety zones that address potentially serious public safety issues.

This policy conforms to:

- Shetland Local Plan policy LP WD6
- Petroleum Act 1987 (Section 21)
- Submarine Cables (Safety) Regulations 2004.

This policy supports:

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

Relevant sectors to have regard to this policy:

- Planners: Shetland Islands Council
- Others: Fishermen (dredgers), fisheries associations, maintenance / capital dredging developers and contractors, mooring engineer works.

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

The laying of wastewater pipelines will be considered in terms of the:

- general concerns outlined in Policy MSP GD1; and
- policies if the proposal is within or near a conservation area (Policies MSP GD2 and MSP GD3).

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

- a public wastewater pipeline is not already present;
- the seaward end of the pipe is sited at least 100m from any wrecks, archaeological remains and aquaculture sites; and
- it can fulfil any other siting or percolation requirements specified by SEPA and Shetland Islands Council's Building Control.

In particular, when considering laying new wastewater pipelines on the seabed, full consideration should be given to:

- the distribution of features that apply to Policy MSP SF1.

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. Whilst SEPA assess the dilution requirements of waste from a new pipeline construction, the distance from aquaculture is not considered, i.e. there is currently no safety zone around the end of a wastewater pipeline that prevents the contamination of aquaculture with sewage effluent.

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 development is connected to the system.

This policy conforms to:

- NPPG 18, NPPG 5, NPPG 14
- SEPA policy 3
- Shetland Local Plan policy LP WD6 and LP WD9.

This policy supports:

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

Legislation and consenting bodies:

- Scottish Environment Protection Agency (SEPA) on behalf of Scottish Government Marine Directorate (SGMD) for the consent of discharge and enforcement of The Water Resources Act, 1991; The Urban Waste Water Treatment Directive (UWWTD), 1991; Part II of the Control of Pollution Act; and the Coast Protection Act (CPA), 1949.

Inspection, Enforcement and Control:

- Scottish Environment Protection Agency (SEPA).

Relevant sectors to have regard to this policy:

- Regulators: FRS, SEPA
- Planners: Shetland Islands Council
- Others: SNH, Lerwick Port Authority, SIC Planning Board, developers and their contractors, RSPB, Amenity Trust (Archaeology and the Biological Records Centre), Community Councils, Councillors, any other interested user.

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 (for fin fish farming) and shellfish growing equipment.

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

- Marinas;
- Barges and pontoons (for fish farming); and
- Shellfish growing equipment.

SIC then forward the application to the Crown Estate for a seabed lease. Furthermore, the Council does not issue seabed leases for individual boats, weather and radar masts, buoys and anchorage.

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 are therefore non-negotiable 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.

**Policy MSP MO1:
Moorings**

The mooring of individual boats is encouraged at designated marinas.

The mooring of structures will be considered in terms of the:

- a. general concerns outlined in Policy MSP GD1; and
- b. policies if the proposal is within or near a conservation area (Policies MSP GD2 and MSP GD3).

Justification

The presence of moorings for individual boats naturally hinders a number of other users in their performance of their functions, and it is for this reason that mooring of boats is encouraged at designated marinas.

This policy conforms to:

- NPPG 11, NPPG 13.

This policy supports:

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

Legislation and consenting bodies:

- The Crown Estate.

Inspection, Enforcement and Control:

- The Crown Estate.

Relevant sectors to have regard to this policy:

- Planners: Shetland Islands Council
- Others: Local Marina User Associations / Pier Trusts, new small boat owners.

Infrastructure: Fixed Links

Policy MSP FLI: Future Fixed Links

The construction of fixed link developments will be considered in terms of the:

- general concerns outlined in Policy MSP GD1; and
- policies if the proposal is within or near a conservation area (Policies MSP GD2 and MSP GD3).

In particular, when considering the construction of fixed links, full consideration should be given to:

- the distribution of features that apply to Policy MSP SFI, particularly sensitive seabed habitats such as maerl beds, horse mussel beds and eelgrass beds (map 16a and 16b); native oyster, common mussel beds, and mud in deep water (seapens) (map 25); sheltered muddy gravel (map 25), mudflats (map 19) and kelp forest (map 26) and concentrations of bottom-feeding waterfowl, such as eider (map 24).

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
- NPPG 17 and SPP 17
- Structure Plan policy SP TP3.

This policy supports:

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

Legislation and consenting bodies:

- Lerwick Port Authority
- Shetland Islands Council - enforces the Transport & Works Act, 1992 and the Coast Protection Act (CPA), 1949.

Relevant sectors to have regard to this policy:

- Regulators: FRS, SEPA, Shetland Islands Council (Port and Harbour Operations)
- Planners: Shetland Islands Council
- Others: Crown Estate, SNH, Lerwick Port Authority, Northern Lighthouse Board, SIC Planning Board, developers and their contractors, RSPB, Amenity Trust (Archaeology and the Biological Records Centre), Community Councils, Councillors, any other interested user.



North Lighthouse, Fair Isle

Image courtesy of Visit Shetland

Infrastructure: Aquaculture

The marine fish farming 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 the farming of sea trout, cod and halibut has become well established. 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 this report 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. National Planning Policy Guidance, Memoranda and Advice, set out in for example:
- d. NPPG 13 'Coastal Planning';
- e. NPPG 14 'Natural Heritage';
- f. SPP22 'Planning for Fish Farming';
- g. Circular SEDD 1/2007 'Planning Controls for Marine Fish Farming';
- h. Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters - Policy Guidance Note (Scottish Executive, 1999);
- i. Existing legislative framework currently applying to the proposed development;
- j. EC Council Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (92/43/EC) (the Habitats Directive);
- k. Birds Directive (79/409/EEC) that covers the conservation of wild birds and includes provision for designation of Special Protected Areas;

- l. Wildlife and Countryside Act 1981;
 - m. Water Environment and Water Services (Scotland) Act 2003; and
 - n. Nature Conservation (Scotland) Act 2004.
- In addition, if applicable, applications are considered in terms of the:
- o. Environmental Impact Assessment (Scotland) Regulations 1999 (the Regulations of 1999);
 - p. Seabed lease from the Crown Estate;
 - q. Controlled Activities Regulations (CAR) licence from Scottish Environment Protection Agency (SEPA) under the Water Environment and Water Services (Scotland) Act 2003;
 - r. Consent under the Food and Environment Protection Act 1985 from the Scottish Government;
 - s. 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.

An application form for Planning Permission for aquaculture can be obtained from Shetland Islands Council (SIC). On receipt of a Planning Application, the 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 on the previous page, 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**

Aquaculture development applications will be considered in terms of the:

- a. general concerns outlined in Policy MSP GD1;
- b. policies if the proposal is within or near a conservation area (Policies MSP GD2 and MSP GD3);
- c. Locational Guidelines (for fin fish farming only, shown in map 14); and
- d. local policy restrictions (map 9).

In particular, when considering proposals for aquaculture, full consideration should be given to:

- e. the distribution of features that apply to Policy MSP SFI, particularly eider ducks for a shellfish farm application (map 24).

The Planning Authority may be minded to refuse any applications within 100m of a discharge (shown in map 17).

Offshore aquaculture development proposals will have stricter requirements on markings.

Justification

The purpose of this policy is to clarify the conditions that restrict the placement of new aquaculture proposals so that developers (or contractors) can have reduced costs and prevent delays during consultation.

Whilst there are currently no offshore aquaculture sites around Shetland, there is an expectation that these proposals will arrive within the life of this Plan with improvements in technology. This brings new problems because of the restriction to coastal shipping and local boat routes, which occur outwith harbour boundaries. The aim of this policy is to make developers aware of the stricter requirements on markings that will be required.

[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.]

This policy conforms to:

- NPPG 18, NPPG 5, NPPG 14
- SEPA policy 3
- Shetland Local Plan policy LP WD6 and LP WD9
- Structure Plan policies SP NE3 and GDS4.

This policy supports:

- 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:

- FRS on behalf of Scottish Government Marine Directorate (SGMD) for registration and licensing of fish farms
- Scottish Government, Marine Directorate (SGMD) for navigational consent and installation of fish farms under the Coast Protection Act.
- Scottish Environment Protection Agency (SEPA) - discharge consents for chemicals, veterinary medicines and biomass consents by means of controlling effluent from fish farms by limiting the weight of fish on a farm.
- Shetland Islands Council
- Lerwick Port Authority

Inspection, Enforcement and Control:

- Fisheries Research Services (FRS) Environment Protection Group
- Scottish Government Marine Directorate (SGMD)
- SEPA
- Shetland Islands Council
- Northern Lighthouse Board.

Relevant sectors to have regard to this policy:

- Regulators: FRS, Scottish Government Marine Directorate, SEPA, SIC (Port and Harbours Operations)
- Planners: Shetland Islands Council
- Others: Bidwells (Agents for the Crown Estate), SNH, RSPB, fisheries associations, SIC (Environmental Health), Amenity Trust (Archaeology), Community Councils, Councillors, Northern Lighthouse Board, any other interested user.

Infrastructure: Energy

Policy MSP NRG1: Energy Development Proposals

The general presumption in favour of renewable energy developments will be considered in terms of the:

- a. general concerns outlined in Policy MSP GD1; and
- b. policies if the proposal is within or near a conservation area (Policies MSP GD2 and MSP GD3).

In particular, when considering development proposals, full consideration should be given to:

- c. the distribution of features that apply to Policy MSP SFI.

As part of the contribution towards the Environmental Impact Assessment (Scotland) Regulations 1999, further information on seabird feeding areas and migration routes should be a requirement.

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. Tide and wave power generation have all the advantages of renewable energy, but without some of the more intrusive environmental concerns associated with wind power (e.g. prominent skyline locations, noise, electromagnetic interference etc.). Offshore development is controlled through Shetland Islands Council. 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.

This policy conforms to:

- NPPG 5, 6, 13, 14, 18
- 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.

Legislation and consenting bodies:

- DTI Offshore Renewables Consents Unit (ORCU) - Electricity Act, 1989
- Scottish Government Marine Directorate (SGMD) - Coast Protection Act (CPA), 1949
- Fisheries Research Services (FRS) - Part II of the Food and Environment Protection Act 1985 (Deposits in the Sea)
- Northern Lighthouse Board.

Inspection, Enforcement and Control:

- Fisheries Research Services (FRS)
- Operators
- Northern Lighthouse Board.

Relevant sectors to have regard to this policy:

- Regulators: FRS, Scottish Government Marine Directorate, SEPA, SIC (Port and Harbours Operations)
- Planners: Shetland Islands Council
- Others: Bidwells (Agents for the Crown Estate), SNH, Lerwick Port Authority, RSPB, fisheries associations, Amenity Trust (Archaeology and Biological Records Centre), Community Councils, Councillors, Northern Lighthouse Board, any other interested user.

Policy NRG2:**Exploratory, Appraisal or Prototype Renewable Energy Proposals**

Exploratory, appraisal or prototype energy proposals will normally be granted temporary permission (or Works Licence) provided that the proposal:

- a. does not constitute a serious nuisance to local residents or users of the surrounding area;
- b. does not have a significantly adverse impact on sites of acknowledged scientific, ecological, geological, geomorphological, marine or archaeological significance;
- c. includes adequate access arrangements to the site;
- d. includes detailed restoration proposals; and
- e. does not conflict with any other Marine Spatial Plan policy.

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

Justification

The Council acknowledges 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. Accordingly, temporary permissions or licences will normally be granted for exploratory proposals so that a proper assessment can be made of a particular site. However, permitting exploratory work does not commit Shetland Islands Council to subsequently approve a detailed commercial development for that site, irrespective of the outcome of the exploratory findings.

This policy conforms to:

- NPPG 4
- Shetland Local Plan policy NE12

This policy supports:

- The Corporate Plan
- Development Plan aims 1 and 3
- Coast Protection Act (CPA), 1949
- Part II of the Food and Environment Protection Act 1985 (Deposits in the Sea)
- Electricity Act, 1989.

Legislation and consenting bodies:

- Department of Trade and Industry (DTI) - Licensing and Consents Unit (LCU)
- Fisheries Research Services (FRS) Environment Protection Group for FEPA licence
- Scottish Government Marine Directorate (SGMD).

Inspection, Enforcement and control:

- Health and Safety Executive (HSE)
- Maritime and Coastguard Agency (MCA)
- The DTI
- Controls on discharges
- Northern Lighthouse Board.

Background Information:

- Distribution of Development Human Activity and Environment Supplements
- Aggregates Working Paper
- Energy Working Paper
- Scottish Development Department Circular 12/86 Planning Control over Onshore Oil & Gas facilities (supplementary advice), gives specific detail to planning control relating to onshore oil and gas proposals.
- National Contingency Plan for Marine Pollution from Shipping and Offshore Installations - The current version was brought into force on 1 March 2000. Its statutory basis is section 293 of the Merchant Shipping Act 1995 as amended by the Merchant Shipping and Maritime Security Act 1997.



Sullom Voe Oil Terminal

Image courtesy of Stephan Hennig

Shipping

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 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).

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, 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).

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.

Policy MSP SH1:

Safeguarding Navigation Channels and Port Areas

Development proposals that prejudice navigation channels to ports or the long-term operational capacity of the 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.

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.

This policy conforms to:

- Shetland Local Plan policy LP TP9
- NPPG 17
- Structure Plan policy SP TP3
- The Local Transport Strategy.

This policy supports:

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

Relevant Planning Authorities:

- Port and Harbour Operations, Shetland Islands Council
- Shetland Islands Council.

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.
- Scottish Government - dredging for navigation and safety of navigation.

Inspection, Enforcement and Control:

- Scottish Government Marine Directorate (SGMD) – maintenance dredging in coastal waters.
- SEPA - powers to prosecute for a pollution incident from shipping in controlled waters (out to 3 miles).
- Lerwick Port Authority and Shetland Islands Council's Port and Harbour Operations - operate under a variety of legislation and 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.

Relevant sectors to have regard to this policy:

- Regulators: Shetland Islands Council's Port and Harbour Operations
- Planners: Shetland Islands Council
- Others: Lerwick Port Authority.



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

Image courtesy of Stephan Hennig

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*)
- Veined squid (*Loligo forbesi*)
- Saithe (*Pollachius Virens*)
- Lythe or Pollack (*Gadus pollachius*)
- Velvet crab (*Necora puber*)
- Edible brown crab (*Cancer pagurus*)
- Lobsters (*Homarus gammarus*)
- Norway Lobster (*Nephrops norvegicus*)
- King scallop (*Pecten maximus*)
- Common whelk known locally as buckies (*Buccinum undatum*)

Fisheries in the North Sea are managed through the EU Common Fisheries Policy (CFP). The CFP sets Total Allowable Catches (TAC) for 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 from out to 6 miles. Within 6 miles however, shellfish fishing is regulated by a licence system by the Shetland Shellfish Management Organisation (SSMO). The SSMO regulate fishing methods and fishing gear, restrict fishing seasons, set minimum sizes for shellfish, manage and protect shellfish beds or control fishing for environmental purposes.

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

Policy MSP FI: Safeguarding Fishing Opportunities

Shetland Islands Council will work with the local fishing community and other relevant agencies to safeguard the future sustainability of the industry alongside other worthy stakeholders.

Development proposals will not normally be permitted if it affects an important fishing ground, a route between a fishing port and a harbour, or spawning and nursery area.

Justification

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.

In Shetland, there are strong economic and social arguments for conserving fishing grounds. Many habitats, and consequently the species that live there, could be lost to insensitive development and can never be replaced once lost. In order to ensure that fishing is as productive as possible, this policy is designed to ensure the sensitive placement of other activities.

This policy conforms to:

- NPPG 15
- Structure Plan policies GDS1, GDS2.

This policy supports:

- Development Plan aims 1, 2, 3 and 4
- The Corporate Plan
- Inshore Fishing (Scotland) Act 1984
- Sea Fish (Conservation) Act 1967.

Relevant sectors to have regard to this policy:

- Regulators: Scottish Government Marine Directorate
- Planners: Shetland Islands Council
- Others: Fisheries associations, Lerwick Port Authority.

Policy MSP F2:

Dredging (Fishing) Near Important Seabed Habitats

The relevant authorities should take account of the Marine Spatial Plan policy MSP SFI regarding the avoidance of the following protected habitats and species:

- maerl beds, horse mussel beds and eelgrass beds (map 16a and 16b);
- concentrations of bottom-feeding waterfowl, such as eider (map 24);
- native oyster, common mussel beds, and mud in deep water (seapens) (map 25);
- sheltered muddy gravel (map 25), mudflats (map 19) and kelp forest (map 26).

Justification

Seabed habitats and species are particularly sensitive to dredging activity. The spatial information on these protected seabed species should be used to encourage the diversion of dredging outwith these areas.

This policy conforms to:

- Shetland Structure Plan Policy SP NE9
- Shetland Local Plan Policy LP NE10, NE 13
- NPPG 14
- Regional and Local Biodiversity Action Plans.

This policy supports:

- Development Plan aims 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.

Relevant sectors to have regard to this policy:

- Regulators: Scottish Government Marine Directorate (SGMD), SFFA
- Others: Fisheries associations, Shetland Shellfish Management Organisation.



Fishing creels in Hamnavoe, Burra

Image courtesy of Visit Shetland

Nature Conservation

Policy MSP NCI: Development and the Environment

The relevant planning and regulatory authorities assess applications for planning permission and licence of works for their impact on the environment. Applications for planning permission and works licences will normally be permitted provided the proposal, by virtue of its location, scale or duration of operation, would not significantly damage the site integrity of important natural features detailed in each of the policies of this Marine Spatial Plan.

Justification

Development is encouraged because of the benefits it can bring to the local community, but it is recognised that at the same time the natural heritage must be safeguarded. These important areas are shown in maps 13 and 16 – 26 of the Shetland Marine Atlas.

The aim of this policy is to give stronger protection to habitats and species, even when they are not associated with designated conservation sites, EU legislation or worldwide status.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to avoid potential conflicts from becoming a reality by giving developers an opportunity to make a well-informed decision on the location of a proposed development.

This policy conforms to:

- Shetland Structure Plan policy SP NE8 and NE9
- Shetland Local Plan policy LP NE10, NE13
- NPPG 14
- Regional and Local Biodiversity Action Plans.

This policy supports:

- Development Plan aims 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.

Relevant sectors to have regard to this policy:

- Regulators: Scottish Government Marine Directorate (SGMD)
- Planners: Shetland Islands Council
- Others: SNH, Lerwick Port Authority, RSPB, JNCC, Community Councils, Councillors.

Archaeology

The sea around the Shetland Islands hosts a rich and diverse cultural heritage. At the coast there are numerous structures of national archaeological and historical interest (shown in map 7).

There are 1490 ship wrecks 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)*.

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.

Historic Scotland has responsibility for national heritage protection as provided through scheduling ancient monuments, the listing of historic buildings and casework associated with the management of shipwrecks of national importance.

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.

* 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).

Policy MSP ARI:**Safeguarding Archeological Remains**

In considering applications under the Planning etc. (Scotland) Act and ZCC Act, the Planning Authority will presume against any development that will result in the demolition 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;
- Protected wrecks; and
- Unscheduled monuments.

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. 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.

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, artefacts 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. They are a valuable resource that can stimulate enjoyment of the wider environment and act as an important medium for education, recreation and tourism. As such, they must be protected. To help assess proposals affecting marine archaeology the views of the Archaeologist at the Shetland Amenity Trust will be sought.

This policy conforms to:

- PAN 42
- NPPG 18 and 5
- 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) – enforces the Ancient Monuments and Archaeological Areas Act, 1979
- Shetland Islands Council (Museum & Archives) – controls access to wrecks
- Police, Coastguard, Lerwick Harbour Authority – enforces the Protection of Wrecks Act, 1973
- Ministry of Defense (MOD) – enforces the Protection of Military Remains Act, 1986
- Receiver of Wreck – enforces the Merchant Shipping Act, 1995 (Section 236).

Relevant sectors to have regard to this policy:

- Regulators: SIC, Scottish Government Marine Directorate (SGMD), Police, Coastguard, Ministry of Defence, Receiver of Wreck
- Others: Shetland Amenity Trust (Archaeology), Community Councils, Councillors, Lerwick Harbour Authority

Dredging and Disposal

Licence Application Process

Dredging and disposal is regulated under Part II of the Food and Environment Protection Act 1985 (FEPA). 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 Fisheries Research Services in Aberdeen (on behalf of the Scottish Ministers). FRS has the power to impose conditions and limitations on the areas where dredging is permitted.

The initial dredging of a channel is usually referred to as Capital Dredging and is often either permitted under the terms of the harbour legislation (the ZCC Act) or may require a Harbour Revision Order (in the Lerwick Harbour area). Subsequent dredging to keep the channel at its desired depth is usually termed Maintenance Dredging. 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 in terms of the:

- a. general concerns outlined in Policy MSP GD1; and
- b. policies if the proposal is within or near a conservation area (Policies MSP GD2 and MSP GD3).

In particular, when considering dredging proposals, full consideration should be given to:

- c. the distribution of features that apply to Policy MSP SFI, particularly concentrations of bottom-feeding waterfowl, such as eider (map 24); maerl beds, horse mussel beds and eelgrass beds (map 16a and 16b); native oyster, common mussel beds, and mud in deep water (seapens) (map 25); sheltered muddy gravel (map 25), mudflats (map 19) and kelp forest (map 26).

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, the reclamation of salt marshes or mud flat.

Justification

Navigation channels require dredging. Most of Shetland's voes 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 licence 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 policy conforms to:

- Shetland Local Plan policy LP MIN9
- Structure Plan policy GDS1, GDS4, MIN2 and MIN3
- NPPG 4.

This policy supports:

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

Legislation and consenting bodies:

- Scottish Government Marine Directorate (SGMD) through Government View Procedure
- Shetland Islands Council and Lerwick Port Authority – issue licenses for dredging
- Fisheries Research Services (FRS) Environment Protection Group - administer the FEPA regulations (Part II of the Food and Environment Protection Act 1985 (Deposits in the Sea)) on behalf of Scottish Ministers
- 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
- Shetland Islands Council – Coast Protection Act, 1949.
- 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.

Relevant sectors to have regard to this policy:

- Regulators: FRS, Scottish Government Marine Directorate (SGMD), Shetland Islands Council (Port and Harbour Operations), Bidwells (Agents for the Crown Estate)
- Others: Lerwick Port Authority, RSPB, operators and their contractors, Community Councils, Councillors.



An aerial view of Scalloway Harbour

Image courtesy of Visit Shetland



An aerial view of Lerwick Harbour

Image courtesy of Visit Shetland

Sand, Gravel and Shingle Extraction

Shetland Islands Council can permit extraction of sand, gravel and shingle under the ZCC Act through issuing a 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 the Local Authority, at the applicant's expense, to demonstrate that any proposal will not cause an unacceptable level of damage to the coastal environment (i.e. encourage or accelerate coastal erosion).

SP EX1:

Extraction of Sand, Gravel and Shingle

Extraction of sand, gravel or shingle from beaches, dunes and below the Mean High Water Spring (MHWS) will be permitted only where it can be demonstrated to the satisfaction of Shetland Islands Council that:

- the workings will not be unduly visually intrusive;
- there are no other reasonable sources available; and
- recreational use of the beach is not compromised.

Proposals for extraction of sand, gravel or shingle from beaches, dunes and below the Mean High Water Spring (MHWS) will be considered in terms of the:

- general concerns outlined in Policy MSP GD1; and
- policies if the proposal is within or near a conservation area (Policies MSP GD2 and MSP GD3).

In particular, when considering dredging proposals, full consideration should be given to:

- the distribution of features that apply to Policy MSP SFI, particularly rare coastal plants (map 18), concentrations of bottom-feeding waterfowl, such as eider (map 24); maerl beds, horse mussel beds and eelgrass beds (map 16a and 16b); native oyster, common mussel beds, and mud in deep water (seapens) (map 25); sheltered muddy gravel (map 25), mudflats (map 19) and kelp forest (map 26).

The works should not be carried out during bird breeding season, April – August (inclusive). 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 or shingle extraction can have impacts well away from the extraction site if it interferes with the movement of sediment along the coastline. If the results of the study 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
- NPPG 4
- 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.

Background information:

- Aggregate Working in Shetland 1994.

Legislation and consenting bodies:

- Scottish Government Marine Directorate (SGMD) through Government View Procedure
- Fisheries Research Services (FRS) Environment Protection Group - administer the FEPA regulations on behalf of Scottish Ministers
- 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 or Shetland Islands Council, Port and Harbour Operations - control and enforcement within their specific areas of jurisdiction
- Shetland islands Council - Coast Protection Act
- 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.

Relevant sectors to have regard to this policy:

- Regulators: FRS, SIC, Scottish Government Marine Directorate
- Others: SNH, operators, Community Councils, Councillors.

Tourism and Recreation

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
- Diving
- Sea-kayaking
- Rowing
- Sailing
- Yacht events
- Fishing
- Coasteering
- Traditional Boats
- Power Boat – water skiing and jet skiing
- Ferry Services, charter boats

Marinas and piers usually 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 Visit 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.

Policy MSP TRI:

Development and Recreational Use

Proposals for recreational development associated with water sports will be given favourable consideration where the development does not have an unacceptable impact on the amenity of the area or lead to water pollution.

Shetland Islands Council will work with local communities, user groups and other relevant agencies to safeguard the tradition of marine recreational use.

Justification

Water related sport is an important leisure activity in Shetland and the seas surrounding the coast are important recreational resources. Developments associated with water sport uses such as slipways and marinas require a Works Licence. It is the general intention of Shetland Islands Council to conserve the character of the coast and to protect them and their surroundings from development which may be detrimental to this character.

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.

This policy conforms to:

- Local Plan policy CFS4
- Structure Plan policy CSE2 and CST2
- NPPG 11 and 13.

This policy supports:

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



Sea kayakers

Image courtesy of Visit Shetland

**Policy MSP TR2:
Noisy Recreation**

Noisy water sports (power boat activities) should not occur in ecologically sensitive areas, such as important areas for eiders (map 24), seals or areas known for otter activity (map 21).

Justification

Water recreation can vary from the more tranquil uses such as kayaking and sailing to noisy water sports such as power boat sports like jet-skiing. The aim of this policy is to protect sensitive species from more obtrusive activities.

This policy conforms to:

- Shetland Local Plan Policy LP COM14
- Structure Plan policy SP COM1.

This policy supports:

- Development Plan aim 2
- The Corporate Plan.

Legislation and consenting bodies:

- 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 - provision to make byelaws under the National Trust Act, 1907.

Inspection, Enforcement, and Control:

- Maritime and Coastguard Agency (MCA)
- Lerwick Port Authority or Shetland Islands Council, Port and Harbour Operations
- National Trust.

**Policy MSP TR3:
Local Participation and Re-Use of Resources for Tourism**

Re-use of resources and rewarding locally resident people are favoured. For example, redundant buildings, ships, piers and other facilities can be reused as visitor centres / sea life interpretation centres etc. while the retraining of community members to take a role in marine tourism (for example, as certified operators or guides) is a possible strategy for re-deploying soft resources at a community level.

Justification

Shetland recognises a need for measures that should be interpreted in the local context and with the local stakeholders, without whose active support and participation, no marine tourism would be genuinely sustainable. Marine tourism initiatives will be encouraged to evolve at the local community level, rather than be imposed from above.

Funding mechanisms to achieve these kinds of goals could include grant schemes, development corporation and lottery money. Full participation of both local stakeholders and public agencies should help to ensure that there is long-term commitment on the part of everyone concerned to developing genuinely sustainable marine tourism.

This policy conforms to:

- Shetland Local Plan policy LP BE4
- Structure Plan policy SP IND1.

This policy supports:

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



An aerial view of Sumburgh Lighthouse

Image courtesy of Visit Shetland

Policy MSP TR4:**Environmental Protection as a Priority in Marine Tourism**

Local marine tour operators should seek to understand and work within the context of relevant existing frameworks. This includes local mechanisms stemming from international and EU policy (such as Local Agenda 21 and the EU Habitats Directive), as well as local manifestations of formal designations in related sectors such as conservation (for example, Special Areas of Conservation).

Furthermore, marine tour operators should advocate the use of codes of conduct such as the Scottish Marine Wildlife Watching Code and the Guidance Notes for Divers and Archaeologists on the Protection of Wrecks Act 1973.

Justification

Shetland's economy is becoming increasingly reliant on its service sector, and tourism has the greatest potential for growth in that sector. This policy seeks to ensure that, in meeting the demand for eco-tourism, existing operators are not adversely affected and 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.

This policy conforms to:

- Shetland Structure Plan policy SP NE8 and NE9
- Shetland Local Plan policy LP NE10, NE13
- NPPG 14
- 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.

Other Reports/Strategies

- 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.

Relevant sectors to have regard to these policies:

- Regulators: Scottish Government Marine Directorate
- Planners: Shetland Islands Council
- Others: SNH, Lerwick Port Authority, jet-ski users, boat tour operators, Visit Shetland, Shetland Tourism Association, Community Councils, Councillors, National Trust, MCA.



An aerial view of Mousa Broch

Image courtesy of Visit Shetland

7. IDENTIFYING AND RESTORING DAMAGED ECOSYSTEMS⁷

Policy MSP RESTI: Damaged Habitats and Ecosystems

Local partnerships are encouraged to develop adaptive management strategies that effectively manage existing and new activities to restore and prevent damage to habitats and ecosystems. This would have to balance the extent of damage with the practical feasibility of restoration.

Justification

The health of habitats and ecosystems is critical to sustaining a productive sea and restoration can help to support economic growth. The ultimate goal of the management process of Marine Spatial Planning must be to bring together information on activities, habitat data and sensitivity to impacts in order to avoid significant conflicts and impacts. The maps of the Shetland Marine Atlas are a useful aide in identifying the spatial extent of the activities, but in their current format limited in demonstrating cumulative impacts of multiple activities.

As part of the SSMEI pilot, a Spatial Analysis Working Group was established that developed a cumulative impact risk assessment for the different activities around Shetland. This scoring system was embedded into the maps and areas of impact ranked in terms of cumulative pressures.

The group recognised the map identified pressure points, but it was decided against publishing it in the current Plan. The cumulative pressures map for Shetland could be used as an additional tool to assist with adaptive management strategies, and this kind of mapping will be trialled with operators in high pressure areas of Shetland.

This policy conforms to:

- Shetland Structure Plan policy SP NE8 and NE9
- Shetland Local Plan policy LP NE10, NE13
- NPPG 14
- 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.

Relevant sectors to have regard to these policies:

- Regulators: SEPA, Scottish Government Marine Directorate
- Others: SNH, users that impact the environment.

7. Refers to Objective 7: "To identify and restore damaged marine habitats and ecosystems."

8. MINIMISING CONFLICT⁸

Conflicts at sea often arise between different users that claim areas as their own. Known conflicts exist between aquaculture and fishing activities in Shetland, mainly because aquaculture is considered a threat for fishermen because they reduce the total available area for fishing. In addition, most activities have an impact on the environment, creating conflict with the safeguarding of protected species and habitats.

Fortunately for some other users, multiple use of space is possible around Shetland. Fisheries for example may benefit from ship wrecks, marine protected areas, offshore wind farms or other areas where fishing is not possible. These areas possibly function as attractive refuges and resting-places for smaller fish (nursery habitats), which would serve as an attractive food supply to bigger fish nearby.

Multiple use of space is also possible for maintenance dredging to allow bigger ships to enter Shetland's ports: the Lerwick Port Authority have plans to re-use dredged material for land reclamation for their harbour area.

Policy MSP CON1: Minimising Conflict with Future Development

Developers and their environmental contractors, regulators, planners and other stakeholders are encouraged to use the maps in the Atlas (Part Two of this document series) to streamline the development consents process to ensure everybody's needs are considered. The added value (or otherwise) to the current planning regime should be reported during the consultation of this Plan.

Justification

New planning regulations that came into force in April 2007, removed the right of appeal to a development proposal by a third party. This puts even greater responsibility on Shetland Islands Council and Statutory Consultees when taking other users' claim of space in consideration when a proposal is made.

The aim of this policy is to encourage the use of the spatial information to ensure better-informed decisions are made during the development application process.

This policy conforms to:

- Shetland Structure Plan policy SP NE8 and NE9
- Shetland Local Plan policy LP NE10
- NPPG 14
- Regional and Local Biodiversity Action Plans.

This policy supports:

- Development Plan aims 1, 2, 3 and 4
- Safeguarding our Seas - A strategy for the conservation and sustainable development of our marine environment.

Relevant sectors to have regard to these policies:

- Regulators: FRS, Scottish Government Marine Directorate, SEPA, SIC (Port and Harbours Operations)
- Planners: Shetland Islands Council
- Others: Bidwells (Agents for the Crown Estate), SNH, Lerwick Port Authority, RSPB, fisheries associations, SIC (Environmental Health), Amenity Trust (Archaeology), Community Councils, Councillors, any other interested user.

8. Refers to Objective 8: "To identify and manage activity to minimise conflict"

MONITORING AND REVIEW

Monitoring

This Marine Spatial Plan provides a framework for the sustainable development of marine activities and is the first step in developing a framework for the protection of important species and habitats.

Initially the many partner organisations should re-visit their departmental and corporate strategies, the work of which will be influenced by the proposals outlined here.

Review

This is the first Shetland Marine Spatial Plan and it is intended to grow, change, develop, and gain status as it becomes increasingly relevant to the management of the marine environment around Shetland. This Plan should be updated to account for increasing knowledge (estimated every 5 years).

It is planned that during the initial implementation phase the Marine Spatial Plan will be formally reviewed by the Strategic Environment Assessment (SEA) process. This is a recognised and robust method that sets in place an agreed approach to the monitoring of indicators selected to detect change, both natural and human induced, in the condition of Shetland's marine and coastal zone management.

The review should provide opportunities for changing circumstances and new ideas to be accommodated within a potential future Marine Spatial Planning system. A summary review and progress report will be prepared and distributed widely at the cessation of the SSMEI pilot in January 2009.

Communication

This Plan is for everyone in Shetland. It is important that it is widely available and relevant. The Plan is published in four forms:

- The full Marine Spatial Plan document and its Atlas. Where copyright agreement allows, some data has been included on a CD for use in GIS and Google Earth™.
- A summary leaflet version
- Print and online versions can be accessed through the Library service.



Coast of Out Skerries

Image courtesy of Visit Shetland

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A boat in Fair Isle

Image courtesy of Visit Shetland



Looking out to Dore Holm, Northmavine

Image courtesy of Visit Shetland

GLOSSARY

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

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): Birds of Conservation Concern are 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 (Water Environment (Controlled Activities) Regulations 2005): bring into effect requirements of WEWS Act for controls of activities relating to the water environment.

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: definition as per Town and Country Planning (Scotland) Act 1997.

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

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.

Eelgrass beds: area where flowering marine plants 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.

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.

Habitat 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 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.

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

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): a quango created to enable existing pollution control functions to be exercised in a way that brings greater benefit both to the environment and those being regulated.

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.

Seabird: aerial birds (such as Gannets) and swimming birds (such as Puffins) usually seen at sea.

Sites of Special Scientific Interest (SSSIs): areas of special interest by reason of their flora, fauna, geological or physio-graphical 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: this is the term used for all types of drainage e.g. sewage, surface water runoff.

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.

The Water Resources Act, 1991: covers flood defence, discharge or drainage consents.



Meal beach, Burra

Image courtesy of Lorraine Gray

APPENDIX 1: LIST OF POLICIES AND STRATEGIES TAKEN INTO ACCOUNT IN PREPARING THE PLAN

International Strategies and Policies

- United Nations Convention on the Law of the Sea (UNCLOS)
- International Maritime Organization (IMO) Conventions
- Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (The London Convention)
- OSPAR Convention
- Convention on Biological Diversity (CBD)
- World Summit for Sustainable Development 2002.

European Strategies and Policies

- European Spatial Development Perspective
- 6th Environmental Action Plan - European Marine Thematic Strategy
- Integrated Coastal Zone Management Recommendation
- European Commission White Paper on Transport
- Common Fisheries Policy
- Water Framework Directive
- Habitats and Birds Directives
- Strategic Environmental Assessment and Environmental Impact Assessment Directives.

UK/National Strategies and Policies

- UK Sustainable Development Strategy
- Safeguarding our Seas
- Seas of Change & the Government's Response to Seas of Change
- Water Framework Directive
- Sectoral Policies – the sectoral nature of the management of human activities in the marine environment has given rise to a large number of disparate sectoral policies relevant to the plan. Examples include:
 - Fisheries - Securing the Benefits (Defra et al, 2005);
 - Ports - Modern Ports: A UK Policy (DfT, 2000);
 - Shipping - British Shipping: Charting a New Course (DETR, 1998);
 - Flood and Coastal Erosion Risk - Making Space for Water (Defra, 2004);
 - Energy Generation - Energy White Paper (DTI, 2003);
 - Sport and Recreation – Department of Culture Media and Sport;
 - Mineral Extraction - Minerals Planning Guidance note 6 (DETR, 1994); Marine Minerals
 - Guidance Note 1 (ODPM, 2002).

Regional Policies and Strategies

- **Cultural Heritage Resources**
 - National Planning Policy Guidance Note 18: Planning and the Historic Environment
 - National Planning Policy Guidance Note 5: Archaeology and Planning.
- **Biodiversity, Geological and Nature Conservation**
 - Biodiversity: The UK Action Plan
 - Safeguarding our Seas - A strategy for the conservation and sustainable development of our marine environment
 - Regional and Local Biodiversity Action Plans
 - National Planning Policy Guideline 14: Natural Heritage.
- **Oil & Gas Exploration and Production**
 - Energy White Paper: Our Energy Future - Creating a Low Carbon Economy.
- **Renewable Energy**
 - Energy White Paper: Our Energy Future - Creating a Low Carbon Economy
 - National Planning Policy Guideline 6: Renewable Energy Developments.

- **Mineral Extraction**
 - National Planning Policy Guideline 4: Land for Mineral Working.
- **Fisheries and Shellfisheries**
 - Common Fisheries Policy: Council Regulation (EC) N. 2371/2002. Official Journal of the
 - European Communities
 - A strategic framework for inshore fisheries in Scotland - action plan 2005.
- **Mariculture**
 - Common Fisheries Policy: Council Regulation (EC) N. 2371/2002. Official Journal of the
 - European Communities
 - National Planning Policy Guideline 13: Coastal Planning
 - A Strategic Framework for Scottish Aquaculture.
- **Climate Change**
 - Regional climate impacts overviews
 - Climate change and local communities - How prepared are you?
 - Building Knowledge for a Changing Climate
 - Planning Policy Guidance Note 25: Development and Flood Risk.
- **Water Quality**
 - OSPAR Convention for the Protection of the Marine Environment of the North East Atlantic.
 - Hazardous Substances Strategy
 - OSPAR Eutrophication Strategy
 - OSPAR Radioactive Substances Strategy
 - Regulations implementing the Water Framework Directive.
- **Management of the Coastal Zone**
 - National Planning Policy Guideline 13: Coastal Planning
 - National Planning Policy Guideline 7: Planning and Flooding.
- **Cables**
 - Communications White Paper; A New Future for Communications.
- **Oil & Gas Interconnectors**
 - Energy White Paper: Our Energy Future - Creating a Low Carbon Economy
 - Energy: A strategic framework for Northern Ireland, June 2004.
- **Flood Defences and Coast Protection**
 - Scottish Planning Policy 7: Planning and Flooding
 - National Planning Policy Guideline 13: Coastal Planning.
- **Recreation and Leisure**
 - National Planning Policy Guideline 13: Coastal Planning
 - National Planning Policy Guideline 11: Sport, Physical Recreation and Open Space.
- **Ports**
 - Integrated Transport White Paper 'A New Deal for Transport: Better for Everyone'
 - Sustainable Distribution: A Strategy
 - Modern Ports : A UK policy.
- **Shipping**
 - British Shipping: Charting a New Course, 1998
 - White Paper on the Future of Transport 1998.

APPENDIX 2: 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)

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 (Conservation) (Austin Taylor)

Shetland Islands Council (Councillor) (Bill Manson)

Shetland Islands Council, Planning (Development) (Suzanne Shearer to January 2007 / Hannah Nelson from April 2007)

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 (Conservation) (Austin Taylor)

SNH (Karen Hall to June 2007 / Chris Leakey from June 2007)

SOTEAG / University of Aberdeen (Martin Heubeck)

Spatial Analysis Working Group organisations represented:

SEPA (Janet Davies)

Shetland Aquaculture (David Sandison)

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

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

SNH (Karen Hall to June 2007 / Chris Leakey from June 2007)

Other people and organisations directly involved:

Aith Boating Club

Archaeology, Shetland Amenity Trust

Delting Boating Club

Fishermen

Lerwick Port Authority

Mid Yell Boating Club

Nesting Rowing Club

NAFC Marine Centre

Seabirds and Seals

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 3: WORKS LICENCE POLICIES FOR DEVELOP

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 licence 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 Visit 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.

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)

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)

**Scottish Government Marine Directorate (SGMD)
(previously 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)

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 760 224)

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.



A fish farm, Scalloway Islands

Image courtesy of Kenny Gifford

- 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.

- 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.



An aerial view of the Scalloway Isles

Image courtesy of Visit Shetland

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 Visit 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

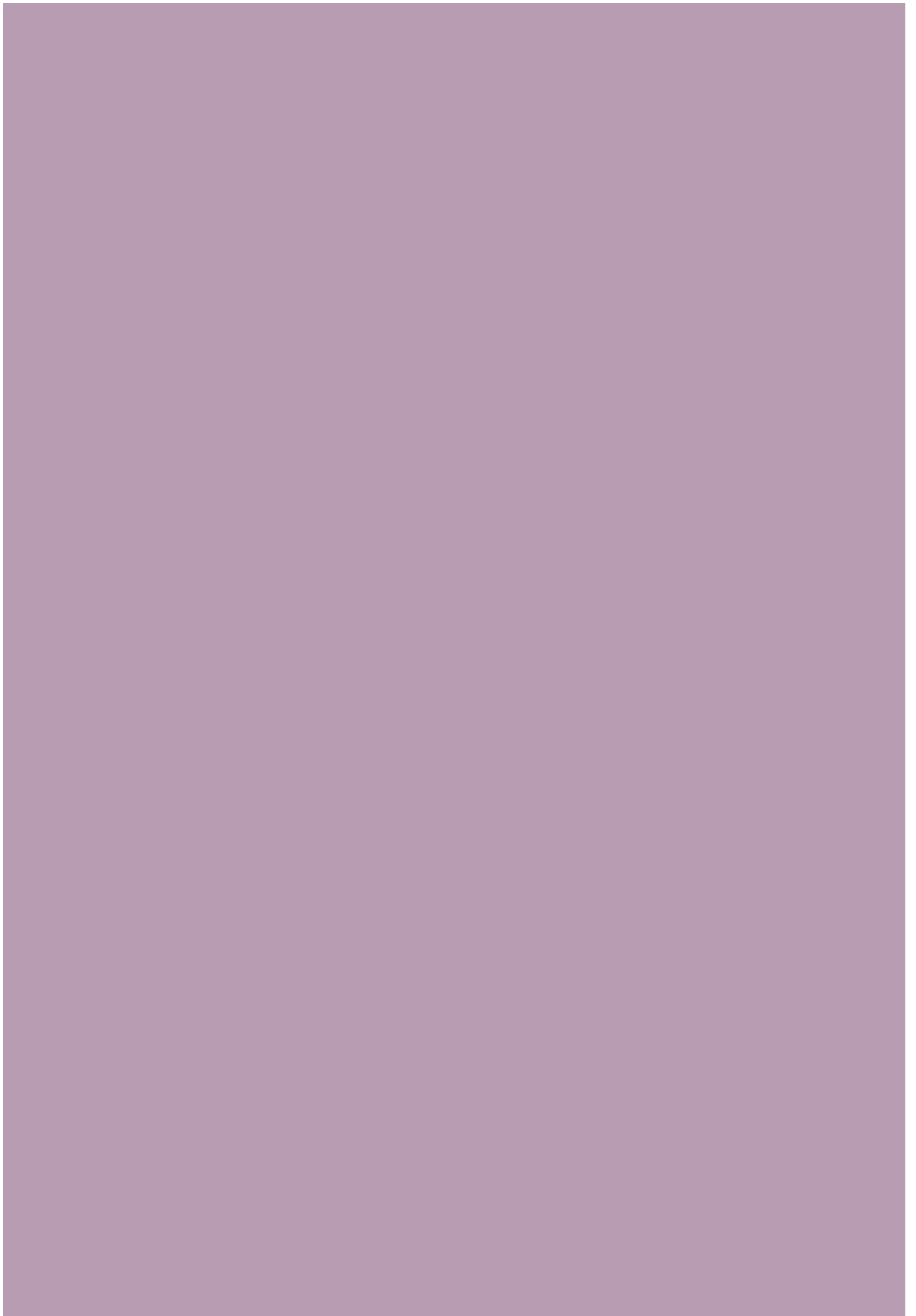
- S1 Planning permission will not be granted for shellfish developments situated within 500m (measured as the water flows) of the extents of any other approved marine aquaculture developments, or any water intakes/outfalls associated with shore based shellfish washing and/or depuration facilities.
- 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 Visit Shetland





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Scalloway
Shetland Islands ZE1 0UN

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