

Final
Business and Regulatory Impact Assessment
January 2020

Title of proposal

Shetland Islands Regional Marine Plan (SIRMP)

Purpose and intended effect

Background

Marine planning matters in Scotland's inshore waters are governed by the Marine (Scotland) Act 2010 and in offshore waters by the Marine and Coastal Access Act. Following the creation of the National Marine Plan (NMP) in 2015, Scotland was divided into 11 Scottish Marine Regions extending out to 12 nautical miles (NM). Within these regions, regional marine plans will be developed by Marine Planning Partnerships in order to take account of local circumstances and smaller ecosystem units.

The Shetland Islands Regional Marine Plan (SIRMP) is being developed by the Shetland Islands Marine Planning Partnership. The NAFC Marine Centre UHI and Shetland Islands Council (SIC) form the 'Shetland Islands Marine Planning Partnership' and are guided by an Advisory Group which comprises a range of stakeholders covering environmental, community, recreational and commercial interests.

The SIRMP will conform to both the National Marine Plan and the Marine Policy Statement. It will add value to the existing policy frameworks outlined in the NMP by taking into account local circumstance and reflecting local challenges and opportunities. It will seek to achieve a balance between national and local interests. The SIRMP sits alongside, and interacts with, existing land use planning regimes, in particular the Shetland Island Council Local Development Plan (LDP). The SIRMP area overlaps with terrestrial planning boundaries to ensure that the marine and terrestrial environment are managed holistically.

The Shetland Islands is one of the first marine regions to develop a regional marine plan under the Marine Act.

SIRMP objectives

The SIRMP has been developed to help ensure that the use of the marine and coastal environment is sustainable. 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.

The objectives of the SIRMP are:

1. **Social** - Ensure a high quality, fully functioning marine and coastal ecosystem for the health, benefit and prosperity of local communities.
2. **Environmental** - Protect and enhance the local marine waters and

coastal environment particularly where there are regionally, nationally or internationally important marine biodiversity and geodiversity features whilst taking account of natural changes.

3. **Plan** - Identify in consultation with marine stakeholders the differing priorities for sustainable use (such as fishing, aquaculture, recreation & tourism, marine renewables, nature conservation etc.).
4. **Economy** - Promote sustainable economic marine development.

The objectives align with the shared vision of the UK and Scottish Governments as set out in the UK Marine Policy Statement and National Marine Plan respectively, for the marine environment: clean, healthy, safe, productive and biologically diverse oceans and seas, managed to meet the long-term needs of nature and people.

The main purpose of the SIRMP is to provide guidance and recommendations to assist current and future planning, regulation and management of marine and coastal activities.

Rationale for Government intervention

The marine environment around Scotland contains a wide variety of important and rare features and species, which support a range of valuable goods and services. The National Marine Plan provides a high-level strategic direction to marine decision-makers in Scottish Waters. The eleven Scottish Marine Regions and their subsequent plans aim to provide similar strategic direction to marine decision makers within their regions, of which Shetland is one. The SIRMP aims to provide a strategic framework for the management of current activities around the Shetland Islands and for future development decisions. By providing this framework a high level of detail will be available to developers to assist in their planning process, thus reducing costs and providing more certainty to their application process. It will ensure that decisions within the Shetland region will not be made in isolation and will consider both the complex nature, and the different uses and users of the marine environment.

As the SIRMPs' vision is that 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, this contributes to the objectives of the National Performance Framework and Purpose.

Consultation

Advisory group

Regular advisory group meetings have been held to discuss the development of the SIRMP. In addition, sectoral specific policy workshops were held (environment, community and industry) to review all policies, the results of which were reported back to the main advisory group, and subject to further discussion and refinement.

The advisory group comprises:

- Fisheries interest (SSMO¹, SFA²)

- Aquaculture interest (Seafood Shetland, SSPO³)
- Tourism
- Oil and gas
- Ports and harbours
- Environmental (RSPB Scotland, SAT⁴)
- Historic (SAT)
- Community

Within Government

Consultation with officials within Marine Scotland and the wider Scottish Government has been conducted from the outset of the plan-making process. In addition, the following have been consulted throughout the plan-making process and have representation on the Shetland Islands Marine Planning Partnership Advisory Group:

- Scottish Natural Heritage (SNH)
- Scottish Environment Protection Agency (SEPA)
- Marine Scotland Compliance

Public consultation

Early stakeholder consultation was undertaken in the form of eight meetings with community councils. As part of the community council meeting, community councillors are introduced to the principles of the SIRMP and its policies. Their opinions and comments were sought on a variety of issues including opportunities for business growth and areas where business growth is less suitable.

A formal public consultation was open from 9th September 2019 to 30th December 2019. Respondents were invited to comment on the SIRMP and its supporting documents including a Partial Equalities Impact Assessment, the Partial Business and Regulatory Impact Assessment, and the Environmental Report. A guidance document was produced to aid the general public in understanding the consultation process and to help them navigate through the SIRMP and its supporting documents.

The SIRMP, supporting documents and guidance leaflets were made available on the NAFC Marine Centre UHI's website¹ including a link to the online survey. Five public drop-in sessions were held in locations throughout Shetland (Scalloway, Aith, Yell, Brae and Lerwick) during September and October 2019.

Nineteen formal written responses were received from a range of sectors including government organisations, local authority, non-government organisations, industry, and community recreation groups. Two respondents answered the formal question relating to the Partial BRIA.

Business

Representatives from relevant sectors have frequently been involved in the

¹ <https://www.nafc.uhi.ac.uk/research/marine-spatial-planning/shetland-islands-regional-marine-planning-partnership/sirmp-2019/>

development of the SIRMP's aims, objectives and policies throughout its development. Representatives from oil and gas, aquaculture and fisheries are represented on the Advisory Group.

In addition, a number of informal meetings have been conducted with businesses and industry organisations. These include:

1. Shetland Fishermen's Association (SFA)
2. Shetland Fish Producers Organisation (SFPO)
3. Lerwick Port Authority (LPA)
4. Shetland Islands Council- Ports and Harbours
5. Shetland Shellfish Management Organisation (SSMO)
6. Visit Scotland

Initial discussions with the above organisations indicate that the predominant concern is the impact of European sites (SPAs and SACs) and associated regulation on their ability to develop business opportunities. European sites are afforded protected status by Scottish Law under *Conservation (Natural habitats, & c.) Regulations 1994*.

The potential impacts of implementing the SIRMP were discussed directly with six businesses during face-to-face interviews (in person and via conference call) held between November 2019 and January 2020. Businesses involved in these discussions included those potentially affected by the policies within the SIRMP from a broad range of sectors:

- Finfish Aquaculture Companies
- Wildlife Tour Operator
- Inshore Fisherman
- Utilities Company

A number of businesses from renewable energy, shellfish aquaculture and oil and gas sectors were invited to participate but chose not to engage with the BRIA process.

The meetings focused on drawing out the business impacts of the SIRMP and more specifically the new policies and those containing wording changes compared to the equivalent policy within the SIMSP.

The minutes of those meetings have been made available on the NAFC Marine Centre UHI's website². The results of these meetings have informed the costs detailed in **Table 2**.

The results of the informal and formal consultation with business including any results obtained during the public consultation will form the main part of the **Scottish Firms Impact Assessment**.

² <https://www.shetland.uhi.ac.uk/research/marine-spatial-planning/shetland-islands-regional-marine-planning-partnership/sirmp-2019/>

Options

Sectors and groups affected:

The SIRMP primarily affects the marine sector. However, considerations should also be extended to those working in marine-related areas: The marine sector in Shetland is a major contributor to the local economy through industries such as fishing, aquaculture, shipping, oil and gas, and leisure and tourism.

The aquaculture, fishing and fish processing sectors currently contribute the largest proportion to Shetland's economy. For example, in 2019 Shetland produced nearly 80% of Scotland's farmed mussels³ and one quarter of all finfish landed in Scotland and one sixth of all finfish landed in the UK were landed in Shetland, more than was landed in in all of England and Wales combined⁴.

Tourism is a growing industry in Shetland, with many businesses focusing on marine and coastal areas such as boat tours and wildlife tours. Many tourists are brought here by cruise ships of which there are more than 100 visiting every year disembarking approximately 90,000 passengers⁵.

The following people/businesses may be affected by the proposal:

- Oil & gas
- Renewable energy
- Ports & harbours
- Aquaculture
- All other licensable activities (these activities could be Scottish-owned, Rest of UK-owned or foreign-owned).
- Coastal communities
- Fishing
- Shipping
- Tourism, leisure and recreational activities)
- Public Sector

The options to be considered are:

Option 1 – Do nothing - continue under the current approach to management including using the SIMSP as Supplementary Guidance to the Shetland Islands Council's Local Development Plan (LDP).

Option 2 - Use the policies within the SIMSP to form a regional marine plan without update or additions.

Option 3 - Adoption of the SIRMP after a review and update of policies guided by the public consultation process and further consultation with key stakeholders.

OPTION 1 - Do nothing

Continue under the current approach to marine planning and management including using the Shetland Islands Marine Spatial Plan (SIMSP) as Supplementary Guidance to the Shetland Islands Council's Local Development Plan (LDP).

³ Marine Scotland Science. (2020). Scottish Shellfish Farm Production Survey 2019

⁴ Napier, I.R., (2020). Shetland Fisheries Statistics 2019. NAFC Marine Centre

⁵ www.lerwick-harbour.co.uk/cruise-ships

Under this option a regional marine plan would not be developed/ adopted and there would be no change to current arrangements. As the SIMSP is only used within local decision making, the disadvantage of this option is that a different suite of policies will be considered for different licences (depending on whether they are issued by Marine Scotland, Crown Estate Scotland or the Shetland Islands Council). This potentially creates uncertainty in decision making.

Option 1 does not bring marine planning in line with;

- the provision for Regional Marine Planning set out in the Marine (Scotland) Act 2010.

Option 1 is not perceived as a viable option.

OPTION 2 - Use the policies within the SIMSP to form a regional marine plan without update or additions

Under this option the SIMSP would be put forward, unamended, to be adopted as a regional marine plan. This would allow consistency between national and local decision making. However, this would not allow a review and refinement of the policies in the light of changing legislation. In addition, as the SIMSP was written for use by the Shetland Island's Council (SIC) many policy wordings reflect this and directly reference the local authority or SIC. This option therefore risks creating confusion.

Option 2 is not perceived as a viable option.

OPTION 3 - Adoption of the SIRMP after a review and update of policies guided by the public consultation and further consultation with key stakeholders

Under this option the SIMSP would be reviewed and refined, giving all stakeholders the opportunity to consider whether the Plan is fit for purpose as a regional marine plan. It would create consistency between national and local decision making and the impacts of the SIRMP would be fully assessed via SEA, HRA, BRIA, CREWIA and EQIA.

Sectors and groups affected

A range of sectors will be affected by the adoption of the SIRMP:

- Developers of licensed activities (including oil & gas, renewable energy, ports & harbours, aquaculture and all other licensable activities. These activities could be Scottish-owned, Rest of UK-owned or foreign-owned).
- Activities within the SIRMP area which do not require licences or that have licences that do not have a spatial component to them (i.e. those which are not connected to specific geographical locations e.g. fishing, shipping, tourism, leisure and recreational activities).
- Coastal communities

Benefits

OPTION 1

No additional benefits are expected to arise from this option.

OPTION 2

No additional benefits are expected to arise from this option.

OPTION 3

Adopting and implementing the SIRMP will build on the work of the SIMSP and help deliver the benefits of a marine planning system as set out in the Final Regulatory Impact Assessment for the Marine (Scotland) Act 2010. The potential benefits of the plan include:

- A reduction in planning uncertainty and associated risk.
- Informed site selection process.
- Efficient use of Shetlands' marine resources.
- Reduced conflict between marine users and developers.
- Increased stakeholder engagement and involvement of local communities in the area.
- Additional protection of internationally, nationally and locally important nature conservation and biodiversity sites and interests.
- Incorporation of environmental issues into the planning and management process.
- Creating a 'level playing field' for all of industry not disadvantaging either smaller or larger businesses

Costs

OPTION 1 – Do nothing

This option would not create direct additional costs on the sectors and groups outlined above as none of the existing policies or associated costs would change.

However, developers could face ongoing uncertainty with licence applications and marine planning, with differences in local and national decision making, which could result in higher indirect costs.

Planning applications can cost anywhere between £78 for minor changes to a site, up to the maximum £18,270 for a new fish farm. The average cost of a new mussel farm is in the region of £3,000. These charges are set out by the Scottish Government. There is no fee for a works licence application as set out in the Zetland County Council Act 1974. The SIC currently receives on average 40 applications per annum for works licence and marine planning applications combined. As mentioned above in the benefits of implementing Option 3, updating the Plan would add clarity, making submitted applications more likely to be successful thus reducing unnecessary costs to industry through submission of multiple/amended applications.

Also, failure to amend/update the SIRMP would result in other benefits identified above in relation to Option 3 not materialising.

OPTION 2: Use the policies within the SIMSP to form a regional marine plan without update or additions.

Should the Plan not be reviewed, and policies not amended to reflect changing legislative or national policy requirements, there is the potential to mislead developments on the legislative requirements. This has the potential to create unforeseen costs and delays in the licensing process.

OPTION 3 – Adoption of the SIRMP after a review and update of policies guided by the public consultation and further consultation with key stakeholders.

As previously stated, the SIRMP reiterates many existing policies, specifically those in the SIMSP. However, four new policies have been added to the SIRMP and other policies amended to provide clarity or further guidance.

The SIRMP will be a statutory document once adopted by Scottish Ministers after a period of consultation. The policies within the plan may influence:

- The preparation of licence applications by developers.
- The assessment of licence applications by licensing authorities.
- The choice of location of marine activities and developments.
- Specific requirements placed on construction, operation and expansion of marine developments.

Each of the policies within the SIRMP have been grouped under a thematic description. The potential impact and costs specifically generated by the creation of the SIRMP has been assessed and recorded in the partial BRIA on a thematic basis and are shown in **Table 1**.

Given that the SIRMP builds upon the existing SIMSP, many of the policies are the same and, as the SIMSP has already been adopted by the Shetland Islands Council, the majority of the policies are unlikely to impose additional costs on businesses. The SIRMP does include four new policies and others with amended wording which may have impacts on the developers of licensable activities and may require additional assessment resulting in additional costs in the form of employee time. At this stage it is not possible to estimate and quantify the additional costs to developers with any accuracy, therefore a qualitative approach has been used.

Following on from the formal consultation and face-to-face interviews, the costs and benefits of the new policies or those with amended wording have been more fully examined and are presented in **Table 2**.

During the consultation process and face-to-face meetings, respondents stated it was hard for them to quantifying costs at this time, therefore a qualitative approach has been taken.

Policy wording changes as an outcome of the BRIA consultation process including face-to-face interviews have been detailed in **Table 3**.

Table 1: Potential impacts on businesses of policies contained within the Shetland Islands Regional Marine Plan (SIRMP) (taken from partial BRIA).

Policy Section	Policy Theme	Costs
Clean & Safe	Water Ecology	<p>Limited/No Additional Costs to Developers</p> <p>The requirements associated with the water ecology policies are already contained within the SIMSP and also captured by the Water Environment and Water Services (Scotland) Act 2003.</p>
	Invasive Non-native Species (INNS)	<p>Limited/No Additional Costs to Developers</p> <p>The requirements associated with the invasive non-native species (INNS) policies are already contained within the SIMSP and also captured by the Wildlife and Natural Environment (Scotland) Act 2011.</p>
	Waste	<p>Potential Additional Costs for Developers</p> <p>The requirement for all applications for marine related development to include a waste minimisation and management plan, unless otherwise directed by the consenting authority or regulator, is a change in emphasis to the SIMSP. Previously, the developer was required to undertake a waste minimisation plan only if directed by the consenting authority or regulator.</p> <p>This change in emphasis may result in additional costs in the form of the creation of waste minimisation plans, these costs were further investigated as part of the face-to-face interviews the results of which can be found in Table 2.</p> <p>For clarity; developers are required to take vibration, in addition to noise, into consideration as part of their impact and other assessments.</p>

Clean & Safe	Navigational Safety	<p>Potential Additional Costs for Developers</p> <p>The line “developments which have the potential to restrict future expansion of important ports and harbours will be refused” has been added to the SIRMP.</p> <p>The requirement to investigate and consider the future potential of ports and harbours may incur additional costs.</p>
	New: Harbour Plans	<p>Limited/No Additional Costs to Developers</p> <p><i>All proposals for marine-related developments located within or adjacent to a designated harbour area must comply with any harbour plans, policies, directions and by-laws in place within such designated harbour areas.</i> All requirements contained within existing policies therefore there is no additional cost on developers.</p>
	Avoidance of Cables and Pipelines	<p>Limited/No Additional Costs to Developers</p> <p>The avoidance of activities which could damage oil and gas pipelines or telecommunication and electricity cables is already contained within the SIMSP and therefore there is no additional cost on developers.</p>
	Climate Change	<p>Limited/No Additional Costs to Developers</p> <p>The requirement to assess and minimise impacts that the development might have on climate change is already contained within the SIMSP therefore there is no additional cost on developers.</p>
	Coastal Defence and Flood Protection	<p>Limited/No Additional Costs to Developers</p> <p>The requirements associated with coastal defence construction and coastal defence demolition policies are contained within the existing SIMSP and therefore there should be no additional cost on developers.</p>

Healthy & Diverse	Natural Heritage	<p>Limited/No Additional Costs to Developers</p> <p>The requirements associated with the natural heritage policies are all covered by other legislation/policy documents including: The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) The Shetland and Orkney River Basin Plan Shetland Islands Council Local Development Plan</p>
	Habitat Protected Areas	<p>Limited/No Additional Costs to Developers</p> <p>The requirements associated with Habitat Protected Areas policies are contained within the existing Priority Marine Features regulatory framework, therefore there is no additional cost on developers.</p>
	Landscape and Seascape	<p>Limited/No Additional Costs to Developers</p> <p>The requirements associated with landscape and seascape policies are contained within the existing SIMSP, therefore there is no additional cost on developers.</p>
	Historical Assets	<p>Limited/No Additional Costs to Developers</p> <p>The requirements associated with historical assets policies are contained within the existing SIMSP therefore there is no additional cost on developers.</p>
	Community Assets	<p>Limited/No Additional Costs to Developers</p> <p>The requirements associated with community assets policies are contained within the existing SIMSP therefore there is no additional cost on developers.</p>
	Marine Recreation	<p>Potential Additional Costs for Developers</p> <p>There is a requirement not to affect the physical infrastructure which underpins a recreational activity, and any impacts to be appropriately mitigated.</p>

		The requirement to mitigate any impacts to physical infrastructure could result in additional cost to the developer.
Productive	Marine Developments	Potential Additional Costs for Developers Developments will not be permitted within stated geographical areas where they impact on specified characteristics. The clarification afforded by the new policy could generate savings to developers by indicating that pursuing a development in a restricted area will probably require additional resource.
	New: Restricted Areas	
	New: Decommissioning of Assets	This requires marine related developments to produce (where directed) a decommissioning plan to ensure the removal of redundant infrastructure. The requirement to produce a plan could result in additional cost to the developer.
	Commercial Fishing	Limited/No Additional Costs to Developers The requirements associated with commercial fishing policies are contained within the existing SIMSP therefore there is no additional cost on developers.
	Aquaculture Development including Seaweed Cultivation	Limited/No Additional Costs to Developers The requirements associated with aquaculture development policies are contained within the existing SIMSP therefore there is no additional cost on developers.
	Oil and Gas Extraction and Decommissioning	Limited/No Additional Costs to Developers The requirements associated with oil and gas extraction and decommissioning policies are contained within the existing SIMSP therefore there is no additional cost on developers.
Marine Renewable Energy	Limited/No Additional Costs to Developers	

Productive	Development	The requirements associated with marine renewable energy development policies are contained within the existing SIMSP therefore there is no additional cost on developers.
	Marine Aggregate Extraction	Limited/No Additional Costs to Developers The requirements associated with marine aggregate extraction policies are contained within the existing SIMSP therefore there is no additional cost on developers.
	Tourism and Leisure	Limited/No Additional Costs to Developers The requirements associated with tourism and leisure policies are contained within the existing SIMSP therefore there is no additional cost on developers.
	Infrastructure: Shore Access and Moorings	Limited/No Additional Costs to Developers The requirements associated with shore access and moorings policies are contained within the existing SIMSP therefore there is no additional cost on developers.
	Infrastructure: Cables and Pipelines	Limited/No Additional Costs to Developers The requirements associated with placement of cables and pipelines policies are contained within the existing SIMSP therefore there is no additional cost on developers.
	Infrastructure: Port and Harbour development	Limited/No Additional Costs to Developers The requirements associated with placement of port and harbour policies are contained within the existing SIMSP therefore there is no additional cost on developers.
	Future ferry/harbour development	Limited/No Additional Costs to Developers The requirements associated with future ferry/ harbour plans are contained within the existing SIMSP therefore there is no additional cost on developers.

	Dredging and Disposal	Limited/No Additional Costs to Developers The requirements associated with placement of dredging and disposal policies are contained within the existing SIMSP therefore there is no additional cost on developers.
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Table 2: Potential costs on businesses of new and amended policies contained within the Shetland Islands Regional Marine Plan (SIRMP) based on interview and consultation responses.

	Policy	Costs
Amended wording	MP WST1: Waste Minimisation	<p>The requirement to produce a waste minimisation plan is already part of the EIA process and therefore is already being created by many of the licence applicants.</p> <p>During the face-to-face interviews, businesses actively applying for licences stated it was already a company-wide operational procedure, it was not a burdensome task and did not require a large amount of employee time or additional cost to their businesses.</p> <p>The SIC will be developing guidance for businesses on creating waste minimisation plans which should assist businesses, reducing the amount of time, helping to define scope and therefore minimising cost implications of creating the Waste Minimisation Plan. This will be of benefit to developers who are not required to undertake EIA and so have therefore not produced a waste minimisation plan before.</p>
	MP SHIP1: Safeguarding Navigation Channels and Port Areas	<p>All of the aquaculture and utility companies interviewed were concerned about the wording of this policy. They felt it may limit their chance of developing near port and harbour areas thus reducing their ability to expand. No definition of the word ‘adjacent’ or ‘future’ which gives an unspecified area for an infinite amount of time.</p> <p>Developers are likely to take a proactive approach and consent early with the Harbour Master and Northern Lighthouse Board when looking to develop in harbour areas which avoids unnecessary costs from pursuing applications which are likely to be unsuccessful.</p> <p>Respondents also felt unnecessary costs and uncertainty may be further reduced if future use could explicitly be linked to documents such as Master Plans for harbour areas.</p>

	<p>MP REC1: Safeguarding Marine Recreation</p>	<p>The businesses interviewed did not foresee any additional costs associated with the amended wording of this policy.</p> <p>Aquaculture companies stated that they have no problem with recreational users using the infrastructure they have put in, and they actively encourage communities to use the piers and jetties they have provided.</p>
<p>New policy</p>	<p>MP PORT1: Harbour Plans</p>	<p>Developers have always had to comply with specific harbour policies, plans, by-laws etc. this policy has been included to add clarity.</p> <p>None of the interviewees thought there would be any additional costs associated with the inclusion of this policy.</p> <p>One business mentioned the need to define the terms ‘adjacent’, ‘future’ and ‘proximity’ as this would help add clarity and thus reduce costs.</p> <p>It was mentioned that it would save companies time and therefore costs if the policies and by-laws relating to an area were easily accessible in one place.</p>
	<p>MP MPA4: Habitat Protected Areas</p>	<p>There are currently 25, (plus one voluntary) habitat protected areas in the form of SSMO closed areas in Shetland waters covering a total area of approximately 30 km². As the area covered by habitat protected areas is relatively small, the likelihood of a potential development being sited in such an area is low, meaning the economic impact is therefore low.</p> <p>There is overlap between this policy and policy MP SPCON4: Priority Marine Features which is a duplicate of policy MSP HER6 within the SIMSP which protects priority marine features (PMFs) which habitat protected areas are designated to protect. It was stated by businesses during interview that as they already comply with the PMF policy, the inclusion of this policy would not result in additional costs. It was mentioned that the inclusion of the policy is beneficial as it adds further information and additional maps.</p> <p>One finfish aquaculture business stated they were worried about the wording of the policy as it does not state that it covers existing sites only and that a non-statutory</p>

New policy		<p>group have become involved in policy and that protected areas could be expanded or created without consultation, potentially in a way that may impact their business in the future. They would like to see the policy wording amended to state 'existing' habitat protected areas (i.e. those defined by 2019). All future closed areas they felt should only be added after additional consultation.</p>
	<p>MP DEV2: Decommissioning of Assets</p>	<p>Agreement for the inclusion of this policy from:</p> <ul style="list-style-type: none"> • the tourism sector as it could have positive impacts on their sector from visitor perception of the marine environment; and • the inshore fishing sector as removal of redundant equipment opens up areas for fishing activity. <p>The finfish aquaculture businesses stated that decommissioning is included in their EIA and they already actively remove redundant equipment when a site is finished.</p> <p>The utilities company already create decommissioning plans as part of their Crown Estate lease so no additional impact from this policy.</p> <p>Not foreseen by industry for there to be an additional cost associated with the inclusion of this policy.</p>
	<p>MP DEV3: Development Restricted Areas</p>	<p>There are currently three development restricted areas. The Whiteness Voe area is protected for its visual amenity and habitats and species; Weisdale Voe is protected for its visual amenity; and Busta Voe, to protect recreational opportunity. The total protected areas cover approximately 8.8 km squared.</p> <p>Tourism and fishing businesses stated they were in agreement with the inclusion of this policy as it is good that some areas have development restrictions in place.</p> <p>The finfish aquaculture businesses interviewed stated that this policy was not an issue for them and was beneficial as it added clarity.</p> <p>Not foreseen by industry for there to be an additional cost associated with the inclusion of this policy.</p>

Table 3: Summary of policy changes as a result of the BRIA consultation process.

Policy	Original wording	Amended Wording	Justification
MP SHIP1: Safeguarding Navigation Channels and Port Areas	<p>Development proposals that would have an adverse impact on the efficient and safe movement or navigation of shipping to and from ports, harbours, marinas and anchorages or the long-term operational capacity of a ferry operation will be refused. Where shipping may be displaced developers may be required to quantify and consider the impacts of increased fuel use.</p> <p>Developments which have the potential to restrict future expansion of important ports and harbours will be refused.</p>	<p>Development proposals that would have an adverse impact on the efficient and safe movement or navigation of shipping to and from ports, harbours, marinas and anchorages or the long-term operational capacity of a ferry operation will be refused. Where shipping may be displaced developers may be required to quantify and consider the impacts of increased fuel use.</p> <p>Developments which have the potential to restrict future expansion of important ports and harbours (e.g. where safeguarded in a local development plan or masterplan) will be refused.</p>	<p>Wording added to clarify that <i>'future expansion plans'</i> need to be justified through relevant documentation and that this documentation should be available to potential developers so that money isn't wasted pursuing an application that is likely to be refused</p>
MP PORT1: Harbour Plans	<p>All proposals for marine-related developments located within or adjacent to a designated harbour area must comply with any harbour plans, policies, directions and by-laws in place within such designated harbour areas.</p>	<p>All proposals for marine-related developments located within or adjacent to a designated harbour area must comply with any harbour plans, policies, directions and by-laws in place within such designated harbour areas.</p>	<p>Wording removed to add clarity as 'adjacent' was undefinable.</p>
MP MPA4: Habitat Protected Areas	<p>Developments or activities likely to have a significant effect on features protected within an SSMO closed area will only be permitted where it can be</p>	<p>Developments or activities likely to have a significant effect on features protected within an SSMO closed area* will only be permitted where it</p>	<p>Time frame added to clarify that the policy relates to previously identified areas.</p>

	<p>demonstrated that:</p> <ul style="list-style-type: none"> a) there will be no adverse direct or indirect effect to the feature's integrity or important physical features; or b) mitigation measures are included to minimise the impacts to the priority marine habitat or species including species behaviour such as breeding, feeding, nursery or resting; or c) there is no reasonable alternative or less ecologically damaging location; and d) the reasons for the development clearly outweigh the value of the feature by virtue of social or economic benefits of national importance. 	<p>can be demonstrated that:</p> <ul style="list-style-type: none"> a) there will be no adverse direct or indirect effect to the feature's integrity or important physical features; or b) mitigation measures are included to minimise the impacts to the priority marine habitat or species including species behaviour such as breeding, feeding, nursery or resting; or c) there is no reasonable alternative or less ecologically damaging location; and d) the reasons for the development clearly outweigh the value of the feature by virtue of social or economic benefits of national importance. <p>(*Those which were in place by December 2019)</p>	
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Scottish firms impact test

Face-to-face discussions were conducted with businesses representing various sizes and sectors. Questions relating to the potential costs and benefits of implementing the SIRMP, questions specifically targeting the new and amended policies and questions relating to competition and consumer assessment were covered in the interviews. A summary of responses is detailed in **Table 4**.

Most businesses interviewed did not anticipate any significant impact on the day-to-day running cost as a direct result of the policies within the SIRMP. The main concern from the businesses interviewed was the potential for double regulation (Marine Scotland Act 2010, National Marine Plan and regional planning) causing additional costs and delays. Concern was also voiced that in implementing policies, regulators have increased the amount of evidence required to support applications, including additional survey work, at sometimes significant cost resulting in time delays.

However, overall, the implementation of the SIRMP was welcomed on the basis it would have negligible negative impact on businesses and would offer a level of support to many industries who rely on the marine environment.

Table 4: Summary of responses from face-to-face interviews on costs/benefits of implementing the different options

Type of business	No. employed	Sector	Costs/benefit	Other comments
Wildlife Tour Operator	1	Tourism	<p>Agree to benefits and costs outlined in the Partial BRIA.</p> <p>Do not foresee any additional costs arising from implementing option 1.</p> <p>Will have both direct and indirect benefits to my sector</p> <p>Implement- Yes</p>	<p>If the marine environment is looked after this would have benefits to my sector. Tourists will continue to be attracted to Shetland for its wildlife and scenery.</p>
Inshore Fisherman	1	Fishing	<p>Agree to benefits and costs outlined in the Partial BRIA.</p> <p>Implement-Yes. I am in favour of it. No issue whatsoever</p>	<p>If there are additional costs on other developers (e.g. aquaculture) it is a good thing as increased cost helps me as marine areas are not filled with sites.</p>

Salmon farm company	340 (126 in Shetland, 214 in rest of Scotland)	Aquaculture	<p>Broadly in agreement with the benefits and costs outlined in the Partial BRIA.</p> <p>Implement- Yes. Economic growth balanced vs community and environmental objectives</p>	Streamlining the regulatory framework could save us money when preparing applications
Salmon farm company	185 (165 in Shetland, 20 Scottish mainland)	Aquaculture	<p>Agree to benefits and costs outlined in the Partial BRIA</p> <p>Implement- Yes. Only viable option.</p>	On the whole it is a good thing, but it could be restricting our chance to develop (a lot of new SACs limiting areas for development).
Salmon farm company	425 (105 in Shetland)	Aquaculture	<p>Agree in general to the benefits and costs outlined in the Partial BRIA.</p> <p>Some elements of policies don't provide a reduction in planning uncertainty.</p> <p>Implement: Yes, in favour</p>	<p>Don't see the SIRMP as economically burdensome but wider regulatory framework is becoming an increasing cost burden.</p> <p>There is a regulatory creep and the level of detail that regulators require is increasing.</p>
Electric Transmission company	Unknown	Utilities	<p>Believe there may be a risk of double regulation with three levels of overarching policy: Marine Scotland Act 2010, National Marine Plan and Regional Planning. Risk that one policy within a plan may push them into conflict with another policy/plan. As we are a regulated business, any</p>	Once the Plan is adopted it will provide a firm understanding of planning and consenting requirements in relation to Shetland's waters for all future developments, which we welcome.

			<p>additional costs would ultimately be borne by GB energy consumers.</p> <p>Implement: Yes, we are in favour and believe the Plan is a good thing. Generally supportive of the policies, subject to some wording clarifications and potential minor changes.</p>	
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Given that many of the policies within SIRMP are the same as those within the SIMSP which is Supplementary Guidance to the Local Development Plan, the majority of the policies are unlikely to impose additional costs on small/micro businesses. Any costs associated with new policies and those with amended wording will be mitigated by the production of guidance and support material aimed at helping to reduce the burden on small/micro businesses such as a guidance document assisting in the production of waste minimisation plans along with worked examples.

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

Competition assessment

Policies within the SIRMP may affect a variety of marine developments and activities, specifically those which already require a licence to carry out new activities or for amended operations such as renewable energy developments, aquaculture sites, ports and harbours.

The current fee for planning applications to SIC range between £78 and £18,270 dependant on the type of application. Fees for marine licence applications to MS-LOT range from £60 to £46,453 depending on the type, size and scale of the proposed development⁶. All fees for marine licence applications to MS-LOT and marine planning applications to SIC are set by the Scottish Government. There are no fees for works licence applications as set out under the Zetland County Council Act 1974.

It should be noted that application fees will not increase as a direct result of the SIRMP.

Competition filter questions

The questions relating to the competition assessment were asked to each of the interviewees during the face-to-face interviews. Their responses informed the

⁶ <https://www2.gov.scot/Topics/marine/Licensing/marine/feestructure>

answers below.

Will the SIRMP directly or indirectly limit the number or range of suppliers?

No- It is not likely that the number or range of suppliers will be directly limited by the adoption of the SIRMP. All policies will apply to new and existing developers in equal measure.

Will the SIRMP limit the ability of suppliers to compete?

No. The policies within the SIRMP will not directly limit a suppliers' ability to compete. The policies will not affect businesses' route to market or the geographical markets they can sell to.

Will the SIRMP limit the suppliers' incentives to compete vigorously?

No- The policies within the SIRMP will not affect a suppliers' incentive to compete vigorously.

Will the SIRMP policies limit the choices and information available to consumers?

No- Consumer choice and available information should not be affected by the policies within the SIRMP.

Consumer assessment

The questions relating to the consumer assessment were asked to each of the interviewees during the face-to-face interviews. Their responses informed the answers below.

Does the SIRMP affect the quality, availability or price of any goods or services in a market?

No/Limited- It is not envisaged that the SIRMP would have and affect on the quality, availability or price of and goods or services.

Does the SIRMP affect the essential services market, such as energy or water?

Potential additional costs- The large national businesses involved in the essential services market currently adhere to strict, higher environmental standards as those set out within the SIRMP. So, while some companies indicated that changes in policy could result in potential increased costs of development, these would only be minor.

Does the SIRMP involve storage or increased use of consumer data?

No- It is not envisaged that the SIRMP would involve storage or an increase in the use of consumer data.

Does the SIRMP increase opportunities for unscrupulous suppliers to target consumers?

No- It is not envisaged that the SIRMP would have an impact on opportunities for unscrupulous supplies to target consumers.

Does the SIRMP impact the information available to consumers on either goods or services, or their rights in relation to these?

No/Limited positive impact- May increase information available and create a

more transparent process of marine spatial planning for businesses and consumers.

Does the SIRMP affect routes for consumers to seek advice or raise complaints on consumer issues?

No- It is not envisaged that the SIRMP would have an effect on consumer issues.

Test run of business forms

No new forms will be introduced.

Digital impact test

Data will be available online via NMPi, data will be made available on request in a range of formats including Google Earth and ESRI. Applications can already be submitted online as well as paper format.

Legal aid impact test

It is not envisaged that the SIRMP will have any impact on the current levels of justice through availability of legal aid or on the possible expenditure from the legal aid fund.

Enforcement, sanctions, and monitoring

Monitoring of effectiveness of the SIRMP will be undertaken as part of the 5 year review process. Monitoring will be undertaken by the Shetland Islands Marine Planning Partnership (NAFC Marine Centre UHI and Shetland Islands Council). Monitoring of the Plan will be undertaken via the monitoring of licence applications, and a range of metrics (detailed in the SEA) which will be undertaken by the Shetland Islands Marine Planning Partnership.

Enforcement: The SIRMP policies will be implemented during the licencing process and through licence conditions. The licensing authorities (Marine Scotland and SIC) will be responsible for ensuring compliance with licence conditions.

Implementation and delivery plan

Once adopted by Ministers the SIRMP will be considered by Marine Scotland in Marine Licence applications within the Shetland Isles Marine Region. In addition, the Shetland Islands Marine Planning Partnership will use the policies within the SIRMP to guide their response to Marine Licence Applications, as a consultee. It is anticipated the SIC will use the SIRMP to assess Marine Planning and Works Licence applications.

Post-implementation review

Post-implementation review will be undertaken by Marine Scotland and the Shetland Islands Marine Planning Partnership on a 5 year cycle.

Summary and recommendation

OPTION 3 – Adoption of the SIRMP after a review and update of policies guided by the public consultation and further consultation with key stakeholders, is the option being recommended.

Under this option the policies within the SIMSP will have been reviewed and refined,

giving all stakeholders the opportunity to consider whether the Plan was fit for purpose as a regional marine plan. It creates consistency between national and local decision making and the impacts of the Plan will have been fully assessed via SEA, HRA, BRIA, CREWIA and EQIA.

Adopting and implementing the Shetland Islands Regional Marine Plan will build on the work of the SIMSP and help deliver the benefits of a marine planning system.

During the consultation process and face-to-face interviews, businesses stated that the implementation of the plan would have limited additional cost impacts on their sectors and were all in favour of option 3 as the preferred option.

Summary of costs and benefits

Option	Summary of Costs	Summary of Benefits
<p>1- Do Nothing</p>	<p>No direct additional costs however, there may be additional indirect costs to developers due to the uncertainty in decision making resulting from inconsistencies in local and national decision making.</p>	<p>No additional benefits envisaged.</p>
<p>2- Use the policies within the SIMSP to form a regional marine plan without update or addition</p>	<p>Potential additional costs to developers as this option is likely to cause confusion and reduced clarity resulting in unforeseen costs and delays for developers.</p> <p>There is also no scope within this option to review and refine policies.</p>	<p>Would add consistency between national and local decision making.</p>
<p>3- Adoption of the SIRMP after review and update policies guided by the public consultation and further consultation with key stakeholders.</p>	<p>Limited additional costs for developers.</p> <p>The consultation process and face-to-face interviews concluded that, with some wording changes to add further clarity, there would Limited to No additional costs associated with the adoption of the SIRMP.</p>	<p>Creates consistency between national and local decision making.</p> <p>Impacts have been fully assessed via SEA, HRA, CREWIA, EQIA and this BRIA.</p> <p>The new policies, and those with amended wording, add more clarity for developers thus reducing costs.</p>

Declaration and publication

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

Signed:

Date:

Minister's name:

Minister's title:

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