

**SEPA consultation – Regulation of marine cage fish farms, updating our approach to protecting the seabed**

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**1.0 EXECUTIVE SUMMARY**

- 1.1 The purpose of this report is to present the details of proposals by SEPA to update their approach to the regulation of marine fish farms, and present a draft Council response to the SEPA consultation for consideration and approval by PPSL Committee.
- 1.2 The draft response is largely supportive of the objectives of the new proposals but highlights some potential knock-on implications for other regulatory processes (including planning), potential economic risks for the fish farm industry, and a lack of information on the consideration of cumulative impacts.
- 1.3 It is recommended that the committee approve the draft response detailed in **Appendix 1** being submitted as a formal Council response.

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**2.0 INTRODUCTION**

- 2.1 SEPA launched a three month consultation at the end of June, seeking views on draft proposals to modernise and strengthen the way they regulate marine cage fish farming. Full details on the consultation can be viewed on the [SEPA website](#).
- 2.2 The report summarises the new regulatory proposals and key issues which form the basis of a draft response provided in **Appendix 1**.

**3.0 RECOMMENDATIONS**

- 3.1 That the Committee approve the proposed consultation response detailed in **Appendix 1**, as the Council's formal submission to SEPA.

**4.0 DETAIL**

**4.1 Background**

- 4.1.1 SEPA's role is to ensure that aquaculture in Scotland's marine environment operates responsibly and with minimum environmental impact. SEPA believe that to deliver the Scottish Government vision of a growing aquaculture industry that is 'sustainable, diverse, competitive, economically viable and which contributes to food security whilst minimising environmental impact', they need to modernise and strengthen the way they regulate aquaculture.
- 4.1.2 One of the risks posed by fish farms is to the health of the sea bed: Waste food and faeces can settle on the sea floor beneath and around fish farms. This build-up of organic matter can adversely affect marine wildlife. The tendency for large quantities of waste to settle and accumulate on the seabed is greatest in sheltered, inshore sites. Exposed sites with strong tides are much better able than sheltered sea lochs and bays to disperse the wastes before they can build up on the sea floor and pose a significant risk to marine life.
- 4.1.3 One step SEPA propose, is to regulate in a way that encourages fish farm businesses to locate production in such exposed waters rather than in more sensitive parts of the marine environment. SEPA propose to do this by revising the way they control the amount of waste farms can release into the sea. This proposed, revised approach is called Depositional Zone Regulation (DZR).

4.1.4 DZR will be underpinned by recent improvements in SEPA's ability to predict risks to the health of the sea bed and by new environmental monitoring arrangements. The latter will involve SEPA doing much more environmental monitoring around fish farm sites and using the results to help farm businesses control environmental risks, for example, by careful management of stocking levels.

### **4.3 Main views on the proposals**

4.3.1 Aquaculture makes a significant contribution to the Argyll and Bute economy and any changes to the regulatory framework should support and enable sustainable growth of the fish farming industry. SEPA's view that to deliver sustainable growth the industry should be encouraged to invest in innovative ways of farming which pose the lowest possible risk to the environment is supported. It is also recognised that in terms of impacts on the seabed and water column, there appears to be merit in encouraging salmon farming to develop in waters that are more exposed, deeper and with stronger tides.

4.3.2 While the proposed changes are broadly supported, concerns are raised with regards to how the new regulatory process will work in practice and how it will interact with other regulatory processes. With respect to planning consent for fish farming, concerns over the removal of a definitive biomass limit and the knock-on effects on assessment of environmental effects through the planning process and Environmental Impact Assessment (EIA) are raised. Further clarity is required from SEPA and Marine Scotland, with discussion needed between regulators and the industry to ensure proposals to amend SEPA's regulatory process do not result in unnecessary problems for other consenting processes.

4.3.3 While the main driver for changes to SEPA's process for regulating aquaculture should be environmental improvements, the draft response identifies potential economic risks associated with some proposals and highlights the importance of ensuring that the final regulatory proposals do not deter the industry, but rather encourage them to invest and farm in more exposed locations.

## **5.0 CONCLUSION**

5.1 The draft response is largely supportive of the objectives of the new proposals but highlights some potential knock-on implications for other regulatory processes (including planning), potential economic risks for the fish farm industry, and a lack of information on the consideration of cumulative impacts. It is recommended that the committee note the contents of the report and agree to the draft response detailed in Appendix 1 being submitted as a formal Council response.

## **6.0 IMPLICATIONS**

6.1 Policy                      None

6.2 Financial                      None

6.3	Legal	None
6.4	HR	None
6.5	Equalities	None
6.6	Risk	None
6.7	Customer Service	None

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## **Appendix 1 – Draft Consultation Response**

### **Question 1 – Do you support the principle of trying to make it easier and more attractive for fish farm businesses to develop in exposed, deep waters with strong tides?**

Aquaculture makes a significant contribution to the economy of Argyll and Bute and in particular to our more remote and fragile areas, providing year round jobs which are important for coastal communities and upstream and downstream jobs are also supported in research, transport, processing and other services. The Council supports the Scottish Government vision of a growing aquaculture industry that is ‘sustainable, diverse, competitive, economically viable and which contributes to food security whilst minimising environmental impact’. In order to achieve this vision we agree that fish farming businesses should continue to be encouraged and supported to invest in innovative ways of farming which pose the lowest possible risk to the environment. In this respect, when considering environmental impacts on the seabed and water column, we can see that there is merit in encouraging salmon farming to develop in waters that are more exposed, deeper and with stronger tides.

From an economic development perspective, it is likely to be more expensive and higher risk for an aquaculture company to develop a farm in deeper, more tidal and exposed waters and therefore allowing a greater biomass and scale of farm will be important in making these developments economically viable for the industry.

While more exposed, deeper and more tidal areas may be more suitable for larger scale marine fish farms with respect to the environmental implications of waste food and faeces and used medicines, it should be noted that they may not necessarily give rise to the lowest environmental impacts in relation to other factors considered by other regulatory regimes, such as effects on landscape, isolated and wild land character and interaction with wild migratory salmonids and other marine activities. It is considered that SEPA should have cognisance of all environmental factors when considering changes to regulatory policy, to ensure that any future change promotes wider environmental sustainability.

### **Question 2 – What are your views on our proposal to remove the current cap of 2,500 tonnes on the maximum fish biomass that a farm can stock?**

We support the proposal to remove the artificial 2500 tonnes cap for sites which environmentally can sustain a higher biomass of fish. This will assist encouragement of farming in the most suitable locations and potentially assist the industry in investing in more exposed locations if a greater scale and therefore economic return is possible.

### **Question 3 – Do you support our proposal to allow fish biomass to increase by up to 10% per production cycle, provided compliance with the proposed seabed standards is not threatened?**

While we support the concept of being able to gradually increase the biomass of fish on a farm subject to satisfactory monitoring results, we do have a number of concerns about how this will work in practice. This relates to the fact that fixed biomass limits set by the CAR licence process are currently used in the determination of planning applications and the EIA process for fish farms.

SEPA regulate biomass on marine fish farms but not in relation to all the environmental consequences of changes in biomass. For example, while SEPA considers the implications on the seabed and water column they do not consider the implications of an increase in biomass in terms of risk to wild salmonid populations.

For planning applications for new sites or expansions where biomass is increasing, the planning authority (and statutory consultees) currently use the fixed maximum biomass limit set in the sites CAR licence or that being applied for through CAR, to consider the risk posed to wild migratory salmonids, including whether the likely consentable quantities of sea lice chemotheraputents are likely to be sufficient to allow appropriate treatment options for sea lice.

Environmental Impact Assessment (EIA) sits with the planning process and covers environmental impacts considered under the SEPA CAR regime, such as cumulative nutrient levels and the Scottish Government locational guidelines, which identify potential for further development in more restricted water bodies. The proposed new SEPA approach only sets a biomass limit for the first production cycle and allows a farm to incrementally increase biomass subject to satisfactory monitoring. This is likely to make it more difficult to assess a long-term likely maximum biomass level. For EIA purposes, in the absence of a definitive biomass limit imposed under CAR, applicants for planning permission would be required to define a likely maximum limit as a worst case scenario for assessment purposes (the 'Rochdale envelope' approach) and if planning permission was granted this maximum biomass limit may need to be secured by condition. This may force an applicant to assess the implications of a scale of production that they may never be able to reach.

The Council is aware of concern from the industry that the potential to increase the biomass limit of a farm by 10% at a time is too small an increase to warrant the significant costs of expanding a site and therefore the industry may not utilise this mechanism for increasing production.

**Question 4 – What are your thoughts on our proposal that, for DZR sites, we will take on responsibility for monitoring the effects of the farms on the seabed?**

SEPA taking on the responsibility for seabed monitoring of fish farms seems an appropriate way forward to manage the risk of allowing a larger biomass at sites where conditions allow. It will be necessary for quick reporting of results from SEPA to the operators of farms to allow appropriate action to be taken in response to monitoring and allow farmers to avoid breaching seabed standards.

**Question 5 – What are your views on our proposal that there should be a break in production if seabed standards are breached to allow the seabed to recover?**

While it is considered necessary that appropriate remedial action is taken if seabed monitoring identifies that agreed standards have been breached, the complete cessation of farming until the seabed has recovered appears to be significantly stricter than interventions under the current regulatory process where it is understood that fish farm operators would be expected to reduce biomass levels on a farm rather than cease farming completely. For

the fish farm operator this is likely to present a much greater economic risk and may affect confidence in investing in new farms in more exposed locations where development and operating costs are likely to be higher.

**Question 6 – What are your views on our proposal that, under DZR, the maximum area of seabed that can be affected by the deposition of farm wastes would be standardised to 0.5km<sup>2</sup>?**

Given that there is both a cage edge standard and an edge of zone standard, the proposed maximum area of seabed of 0.5km appears reasonable. It is understood that the likely depositional footprint would still be modelled and that a maximum zone may be limited to a smaller area where environmental sensitivities are present, such as protected features of marine protected areas.

The consultation document makes little reference to how cumulative impacts on the seabed might be considered. Paragraph 2.22 makes reference to the need for the impact of aquaculture on the seabed to be controlled in a way that is consistent with the achievement of Scotland river basin management plans and that risks to the objectives of these plans may result if the total area of seabed affected by deposition from farms becomes sufficiently extensive. The Scottish Government's Locational Guidelines assesses the overall benthic impact and nutrient enhancement from fish farms in enclosed water bodies and identifies the potential for further development by categorising these water bodies. Clarification is needed by SEPA or Marine Scotland as to how the new DZR approach would affect Locational Guidelines and indeed whether the proposal not to have a fixed maximum biomass limit would make this guidance defunct.

**Question 7 – Are there any other comments or suggestions you would like to make about the proposals?**

The title of the consultation document clearly identifies that the DZR proposals are an update to SEPAs approach to protecting the sea bed from marine cage fish farming. While it is clearly important for SEPA to have a robust regulatory process for managing sea bed impacts it is also important to consider how changes to one regulatory process might affect another. With the aquaculture consenting regime having recently been reviewed and now subject to the implementation of a number recommendations to improve and streamline it, the Council is disappointed that no effort appears to have been made to consider how changes to SEPAs licensing regime might affect other consenting regimes or to look for opportunities in improving the overall consenting regime through changes to SEPAs regulatory process. The Council strongly suggests that Marine Scotland consider the implications of SEPAs new proposals and views from respondees to this consultation in relation to other consenting processes (including EIA) and the overall consenting review. This should involve discussion between regulators and industry, ideally through existing aquaculture working groups.

The potential interaction between the new DZR approach and other consenting regimes highlights difficulties of more than one regulatory process having to consider the implications of changes in biomass on fish farms. It is clear to the Council that the overall regulatory regime would be significantly simpler if one regulator and regulatory process considered all of the environmental implications of changes in biomass.