

## **Item: 13**

**Policy and Resources Committee: 25 September 2018.**

### **Orkney Islands Local Marine Asset Management and Local Governance Pilot Scheme.**

**Report by Chief Executive.**

#### **1. Purpose of Report**

To advise of progress with an application to Crown Estate Scotland in respect of a local marine asset management and local governance pilot scheme.

#### **2. Recommendations**

The Committee is invited to note:

##### **2.1.**

That Crown Estate Scotland invited applications for pilot schemes which proposed how, by managing Crown Estate assets, local authorities can improve the economic, social and environmental well-being of their local area.

##### **2.2.**

That the Council submitted an application, to Crown Estate Scotland, for an Orkney Islands Local Marine Asset Management and Local Governance Pilot Scheme, by the deadline of 16 August 2018.

##### **2.3.**

That, should the Council's Stage 1 application to Crown Estate Scotland be successful, then it will be invited to submit a Stage 2 application by 14 January 2019.

**It is recommended:**

##### **2.4.**

That, should the Council's Stage 1 application to Crown Estate Scotland, in respect of the Orkney Islands Local Marine Asset Management and Local Governance Pilot Scheme, be successful, the Chief Executive should submit a Stage 2 application.

##### **2.5.**

That the Chief Executive should submit a report, to the Policy and Resources Committee in due course, in respect of proposed governance arrangements of the decision-making process relating to the Orkney Islands Local Marine Asset Management and Local Governance Pilot Scheme.

## **3. Background**

### **3.1.**

Political commitment to explore a pilot scheme was given by the then Transport and Islands Minister, Derek Mackay, at the 12<sup>th</sup> Island Areas Ministerial Working Group on 22 February 2016. The proposed application builds upon discussions since 2016 between Our Islands Our Future campaign and Marine Scotland – and more recently Crown Estate Scotland.

### **3.2.**

The purpose of the Crown Estate Scotland Pilot Scheme is to empower local communities and give them a real say over how their local areas are used. Crown Estate Scotland invited applicants to bring forward ideas as to how, by managing Crown Estate assets, they can improve the economic, social and environmental well-being of their local area.

### **3.3.**

The Scottish Parliament is currently considering the Scottish Crown Estate Bill which will determine how Scottish Crown Estate operates in the future. The pilot schemes will help test different approaches to management and inform how aspects of this legislation may be best implemented.

### **3.4.**

A proposed pilot scheme was reported to the Special General Meeting of the Council on 17 January 2017 when it was envisaged that the Islands Councils (Orkney, Shetland and Western Isles) would administer a single pilot scheme, applying to all three island areas, involving a body empowered to sign leases.

#### **3.4.1.**

A further report was submitted to the Policy and Resources Committee on 20 June 2017 with a recommendation that the Council endorse the Our Islands Our Future campaign and its work. An update of campaign work, attached as an appendix to that report, included details of the then proposed scheme which was based on a single model, with three local variants to reflect the differences in powers currently held by the three Islands Councils. Following further discussions between the Islands Councils and Crown Estate Scotland, it was agreed that each Islands Council would develop its own model.

## **4. Application for Local Pilot Scheme**

### **4.1.**

The Council's Stage 1 application, attached as Appendix 1 to this report, is to deliver enhanced local decision making on seabed leasing in the Orkney Islands Scottish Marine Region. The region extends from the Orkney coastline at Mean High Water Springs out to 12 nautical miles (Appendix 2). The pilot proposal is for the Council to deliver enhanced local decision-making on seabed leases without initially taking on

the full burden of management responsibilities. The option to extend the initial scope of the pilot scheme after one year has been requested and this may include, for example, the future granting of leases and other administrative arrangements. The pilot will not be concerned with the level of income from leases, rental levels or the collection of rents.

#### **4.2.**

The Orkney pilot application proposes an innovative approach to deliver local decision making on seabed leasing through an Orkney Islands Marine Planning Partnership. It is proposed that the Council will lead the Partnership with advisory support from stakeholders representing the commercial, environmental, community and recreational interests within the Orkney marine region. This proposed approach would enable seabed leasing decisions to be made through Council committee processes with provision for formal consultation with local stakeholders.

#### **4.3.**

The proposed decision-making process is attached at Appendix 3. A Flow Chart showing the process overview is attached at Appendix 4.

#### **4.4.**

Crown Estate Scotland's Pilot Scheme criteria excludes:

- Rights to offshore wind energy and gas and carbon dioxide storage out to 200 nautical miles (this does not exclude wave and tidal energy projects) but does allow for local control of 'small scale' Renewable Energy assets out to 12 nautical miles.
- Leases covering nationally important infrastructure such as communication cables and pipelines.

#### **4.5.**

The Council's application covers all assets not specifically excluded from the Scheme.

#### **4.6.**

Stakeholder engagement was carried out prior to the application as detailed in the application. It is envisaged that should the Stage 1 application be successful, then further stakeholder engagement will be carried out for the purposes of a Stage 2 application.

## **5. Shetland and Western Isles Applications**

### **5.1.**

Shetland Islands Council submitted an application for The Sullom Voe Harbour Area, stating that it would offer a fresh perspective on management of the seabed in this key area, engage with the varied current and potential activity in those waters and offer community engagement. It would add value and offer advanced local decision making. It would inform future management options for other areas of Shetland and for other coastal communities around Scotland.

### **5.2.**

Comhairle nan Eilean Siar submitted an application for decision making powers across the entire foreshore and seabed, out to 12 nautical miles. The local decision-making process would be overseen by the Comhairle and Community Land Scotland and be delivered by a new regional Marine Planning Partnership. Under the terms of the application, the Marine Planning Partnership would consider all foreshore and seabed lease applications and recommend a decision to a Committee of the Comhairle.

## **6. Next Steps**

For the purposes of a Stage 2 application, successful applicants will be requested to submit a business plan based on their Stage 1 application. Should the Stage 1 application be successful, then a further report will be submitted to the Policy and Resources Committee in respect of governance.

## **7. Human Resource Implications**

It is anticipated that the additional workload would be absorbed within existing resources, with the Council's Planning, Estates, Marine, Legal, Committees and Finance teams all contributing to the new responsibilities.

## **8. Links to Council Plan**

### **8.1.**

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Council Plan strategic priority themes of Thriving Communities and Enterprising Communities.

### **8.2.**

The Council Plan identifies the Orkney Crown Estate Pilot Scheme and the local delivery of marine planning as strategic actions.

## **9. Links to Local Outcomes Improvement Plan**

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Local Outcomes Improvement Plan priorities of Strong Communities and A Vibrant Economy.

## **10. Financial Implications**

### **10.1.**

The Crown Estate Pilot Scheme consultation states:

“The assets, and the income derived from them, remain the responsibility of Crown Estate Scotland throughout the Pilot Scheme. It is possible for managers of pilot projects to negotiate a fee, appropriate to their costs, for their management activities.”

### **10.2.**

It is anticipated that during the pilot scheme, the Marine Planning Partnership would operate on a cost-recovery basis, with records being kept of time spent on Crown Estate business. An efficient and effective mechanism would have to be found for recharging costs to Crown Estate Scotland. Such an arrangement would require to stand up to external audit scrutiny.

## **11. Legal Aspects**

### **11.1.**

The Scottish Crown Estate Bill was introduced to the Scottish Parliament on 24 January 2018. One of the purposes of the Bill is to establish provisions to allow Scottish Ministers to transfer management of Scottish Crown Estate assets to local authorities and community groups. The Pilot Scheme, which has been submitted to Crown Estate Scotland, and which does not require any legislation, is independent of the Parliamentary process, although the outcomes of the Scheme may help to inform the final terms of the Bill and any supporting legislation.

### **11.2.**

A direction from Scottish Ministers under sections 12 and 13 of the Marine (Scotland) Act 2010 would still be necessary in the formal establishment of the Marine Planning Partnership and the delegation of regional marine plan functions. Formal notice would be required giving 28 days for representations stating reasons for supporting, or objecting to, the intention by Scottish Ministers to delegate regional marine plans functions to a delegate.

### **11.3.**

Although a formal Marine Planning Partnership has not yet been established, the proposed pilot would operate as if it has been, with the Council as a single partner and the lead delegate.

## **11.4.**

Section 27 of The Islands (Scotland) Act 2018 will enable the Council to deliver regional marine planning as a single public authority. The Council awaits confirmation from Scottish Government as to when this section will come into force. Council officers have had discussions with Marine Scotland regarding the process for an application under Section 27.

## **12. Contact Officers**

Alistair Buchan, Chief Executive, extension 2102, Email [chief.executive@orkney.gov.uk](mailto:chief.executive@orkney.gov.uk)

Paul Maxton, Our Islands Our Future Project Manager, extension 2213, Email [paul.maxton@orkney.gov.uk](mailto:paul.maxton@orkney.gov.uk)

## **13. Appendices**

Appendix 1: Stage 1 application – Orkney Islands Local Marine Asset Management and Local Governance Pilot Scheme

Appendix 2: Orkney Islands Scottish Marine Region.

Appendix 3: Proposed decision-making process.

Appendix 4: Flow Chart showing the process overview.

## Appendix 1

### Stage One application form

| CONTACT DETAILS                               |  |
|---|--|
| What is the name of your organisation / group | Orkney Islands Council   |
| What is the name of your project?             | Orkney Islands Local Marine Asset Management and Local Government Pilot Scheme |

Please tell us about your project proposal

#### Question 2: What is the nature of your proposal?

Orkney is an innovative and forward-thinking island community with abundant natural resources and rich cultural heritage. Its exceptional coastal and marine environment co-exists alongside a vibrant and diverse marine economy which is imbedded within the local community. A clustered approach to marine activities and management is the norm with local expertise and experience driving innovation in marine energy, fisheries, aquaculture, marine planning and resource management. We also have extensive experience in local governance having been a unitary Authority with responsibility for a wide range of public services for our community since 1974. Under the Orkney County Council Act 1974 we also have relatively unique experience of managing our marine service activities in a manner which has ensured environmental and economic security of our community over many decades. Orkney Islands Council (OIC) believes that Orkney is uniquely positioned to deliver world leading marine estate management and governance alongside regional marine planning to empower the local community to unlock the estate's full potential.

The Empowering Islands Communities Prospectus reaffirmed the Scottish Government commitment to the principles of subsidiarity and local decision-making, not least in the area of marine resource management and utilisation. The Prospectus recognised that the marine assets of island communities are key to their future and the wealth that is generated should be reinvested to safeguard that future. The Scottish Government therefore committed to ensure that 100 per cent of the net income from the islands seabed is passed to island communities and that decisions on sea bed leasing are taken at a local level.

OIC's proposal is to deliver enhanced local decision making through an Orkney Islands Marine Planning Partnership "MPP" for sea bed leases in the Orkney Islands Scottish Marine Region from the Orkney Islands coastline at Mean High Water Springs out to 12 nautical miles. The boundary coordinates are defined within The Scottish Marine Regions Order 2015 section 8 (Appendix 1).

Section 27 of The Islands (Scotland) Act will enable OIC to deliver regional marine planning as a single public authority. OIC awaits confirmation from Scottish government when this section comes into force. OIC has had discussions with Marine Scotland regarding the process for an application under Section 27. As noted above, we have direct experience of operating as a unitary Authority and Harbour Authority since 1974.

A direction from Scottish Ministers under sections 12 and 13 of the Marine (Scotland) Act 2010 would also be necessary in the formal establishment of the MPP and the delegation of regional marine plan functions. Formal notice is required giving 28 days for representations stating reasons for supporting or objecting to the intention by Scottish Ministers to delegate regional marine plans functions to a delegate.

Orkney Islands MPP could be operational by the beginning of financial year 2019/20.

Although a formal MPP has not yet been established, the proposed pilot would operate as if it does, with OIC as a single partner and the lead delegate. Decisions would only be taken after consultation with designated stakeholders through an advisory group.

It is anticipated that the OIC pilot scheme would in effect provide a pilot within a pilot in so far as the role of the Marine Planning Partnership advisory group would inform the governance and democratic accountability of the formal Marine Planning Partnership. This is considered to be a major benefit of trialling the Marine Planning Partnership model within this scheme.

The aim of Crown Estate Scotland's pilot scheme is to achieve a set of pilot projects which will test new or innovative approaches to asset management. OIC believes that its proposal is innovative and an excellent fit for the aim of the scheme.

The initial scope of the proposed pilot scheme would be:

- That it covers all marine assets within Orkney Islands SMR not specifically excluded by the scheme This would include developments on the foreshore and seabed but not any land-based assets (It would not appear that there are currently any land-based assets in Orkney).
- It would not be concerned with the level of income from leases and rental levels, provided that there is a mechanism in place to at least cover the costs of the Council delivering the administrative systems associated with these responsibilities.
- It would be concerned with enhanced local decision making and not any other administrative arrangements (for example, the collection of rents or the issuing of leases).
- OIC would make, after consultation with its MPP stakeholders, a decision on whether to grant a new lease option and any special conditions that should attach to the grant of the lease.
- OIC would make, after consultation with its MPP stakeholders, a decision pertaining to existing leases. For example; an assignation or enforcement of an existing lease condition.
- For the avoidance of any doubt, in all cases OIC would, after consultation with its MPP stakeholders, be making a decision for implementation by Crown Estate Scotland and not a recommendation.
- Crown Estate Scotland would be responsible for implementing the decision made (for example, the issue of a lease).

The proposed decision-making process is attached at **appendix 2**.

A Flow Chart showing the process overview is attached at **appendix 3**.

It is understood that at present there is no formal appeal process where Crown Estate Scotland decide to refuse a lease, but rather this is done on an ad hoc basis. It is anticipated that if the OIC stage 1 application is successful, then OIC would consult further with stakeholders on a formal appeals process which may be to Marine Scotland or Scottish Ministers. It is anticipated that the various review/ appeals processes which are familiar to land-based planning would be explored in this regard.

OIC would also wish to retain the option of extending the initial scope of its pilot scheme after one year. The extension of the pilot scheme may include, for example, the granting of leases and other administrative arrangements.

**Question 3: How does the project maintain and enhance the value of the estate and the return from it and support the sustainable development of Scotland?**

The Pilot consultation document states:



“The assets, and the income derived from them, remain the responsibility of Crown Estate Scotland throughout the Pilot Scheme. It is possible for managers of pilot projects to negotiate a fee, appropriate to their costs, for their management activities.”

During the pilot scheme, the MPP would operate on a cost-recovery basis, with records being kept of time spent on Crown Estate business. An efficient and effective mechanism would have to be found for recharging costs to Crown Estate Scotland. Such an arrangement would require to stand up to external audit scrutiny.

The value of the estate will be maintained and enhanced as follows:

**Government:**

- Better integration between national and regional planning arrangements (policy, data, spatial planning etc) and seabed leasing process;
- The stimuli for economic development;
- Optimal use of public assets;
- Community empowerment, through the Council as a unitary authority with a mature stakeholder communications experience,
- Subsidiarity.

**Local Authority:**

- Subsidiarity and decision making at local level;
- Harnessing new economic developments and sustaining a vibrant local economy;
- Achieving best value in the use of public resources;
- Maximising the income achievable from effective management of sea-based resources with contribution to community wellbeing;
- Embracing the potential for community use of public assets as envisaged in the Community Empowerment Act 2015;
- Fair and comprehensive regulatory roles

**Community Interest:**

All of the above; and in addition:

- The ability to integrate local development planning, regional marine planning, local consenting/regulation with the use of marine property assets;
- Build local capacity and experience since the 1970's of unitary authority and harbour authority governance to engage in such use;
- The right to be consulted on matters having effect on their localities and for Islands the means to support or challenge the use of the marine environment by early engagement in the grant or refusal of consents, licences and leases;
- The holding to account of those responsible for decisions taken at local level;
- To gain the benefit from sound local decision making, seeking considered, sensitive outcomes focused on community benefit, including the realisation of a long-held objective to share the wealth generated from local developments;
- Decisions taken with good local governance arrangements in an open transparent and accountable manner, potentially with rights of appeal, to Scottish Ministers, or the supervisory justification of the Courts.

**Developers' / Investors' Interests:**

- A structured and efficient decision-making process

- A mechanism to reduce risk the consenting by front loading local consultation, giving greater certainty to investors before significant resources are committed to a project
- Development projects can benefit from local knowledge and information from the outset
- A comprehensive source of advice on existing neighbouring land/sea use both onshore and marine with contact names of a range of pre-application consultees who may be affected by local based developments
- A platform for local stakeholder engagement to win broad support for proposals and / or alleviate concerns for example through Community Councils, the Orkney Renewable Energy Forum, Orkney Fisheries Association and Orkney Sustainable Fisheries
- The relative certainty that on achieving appropriate permission that the ancillary components of the development will fall into place, enabling developers to give assurances to investors when establishing a business case for development.

#### **Question 4: Is the proposal in the public interest?**

The management of the seabed in Orkney has historically been distant from the local community. Decisions to lease seabed have happened in the community with no means to participate or influence what is often significant change; no means for local priorities, local concerns or local knowledge to be heard or valued. The Pentland Firth and Orkney Waters Wave and Tidal Leasing Round was a stark example of the how the current system of seabed management can bypass the local community and disenfranchise local stakeholders. The leasing round allocated vast areas of marine space around Orkney to bring forward 1.2GW of commercial scale wave and tidal energy development. Not to say that significant inward investment of this kind is not welcome, though this happened with **no** engagement with the local fishermen that earn their living from the affected fish grounds and **no** engagement with adjacent coastal communities. The first the public became aware of these proposals was in the newspapers following announcement by the Crown Estate.

The OIC Pilot Scheme would help the integration of management of the seabed asset and regional level marine planning. It would also, through a MPP, allow a more local democratic approach to management of the sea bed and wider marine resources.

It is anticipated that in developing the future Orkney Islands Regional Marine Plan through the MPP, that stakeholders would make a significant contribution to local marine policy, spatial planning and data collection. The integration of local seabed decision making and marine planning at the local level will greatly enhance the alignment of asset management with local polices for sustainable development. For example, in recent discussions with Orkney Sustainable Fisheries, it was clear that the regional marine plan could encompass OSF's Management plan and scientific data, which could in turn inform sea bed asset management decisions It is envisaged that through closer collaboration through a MPP that this would result in a more robust system of marine management at the local level.

The Orkney pilot scheme will make a direct contribute towards the following National Marine Plan General Policies:

- **GEN 2 Economic benefit:** Sustainable development and use which provides economic benefit to Scottish communities is encouraged
- **GEN 3 Social benefit:** Sustainable development and use which provides social benefits is encouraged
- **GEN 4 Co-existence:** Proposals which enable coexistence with other development sectors and activities within the Scottish marine area are encouraged in planning and decision-making processes

- **GEN 15 Planning alignment A:** Marine and terrestrial plans should align to support marine and land-based components required by development and seek to facilitate appropriate access to the shore and sea
- **GEN 17 Fairness:** All marine interests will be treated with fairness and in a transparent manner when decisions are being made in the marine environment.
- **GEN 18 Engagement:** Early and effective engagement should be undertaken with the general public and all interested stakeholders to facilitate planning and consenting processes.
- **GEN 19 Sound evidence:** Decision making in the marine environment will be based on sound scientific and socio-economic evidence.
- **GEN 20 Adaptive management:** Adaptive management practices should take account of new data and information in decision making, informing future decisions and future iterations of policy

The pilot scheme will also support the sustainable growth of multiple marine sectors including marine energy, aquaculture, commercial fisheries and marine tourism in accordance with the National Marine Plan Sectoral Policies.

The pilot scheme will directly support the delivery of the following Pentland Firth and Orkney Waters Marine Spatial Plan guiding principles and objectives (this Plan has been adopted by Scottish Ministers and Orkney Islands Council in advance of the future statutory regional marine plan):

### **Guiding Principles**

- Sustainable development
- An ecosystems approach to the management of human activities, climate change adaptation and mitigation
- Multiple use of marine space, supporting coexistence of marine development and activities
- Partnership working and stakeholder involvement

### **Objectives**

1. Support long-term productivity in the marine environment that provides benefits and prosperity for local communities and wider stakeholders.
2. Support the transition to a low carbon economy.
3. Encourage a sustainable coexistence and synergies between existing and new marine activities and developments, to the mutual benefit of multiple stakeholders.
4. Provide reliable information on existing and proposed marine activities.
5. Promote best practice to manage and make use of natural resources within sustainable limits.

6. Within an ecosystem approach, protect and enhance the biological, chemical and physical functioning of the marine and coastal environment, the scenic quality and coastal character.
7. Promote an ecosystem based approach to the management of human activities to support the achievement of Good Environmental Status of marine and coastal waters under the Marine Strategy Framework Directive.
8. Support the cultural and social wellbeing of local communities including the maintenance and enhancement of quality of life, and visual amenity in coastal areas.
9. Support management of the marine environment, marine development and infrastructure that mitigates and is resilient to the effects of climate change.
10. Support sustainable management of the coastal zone and inshore waters, including minimising and mitigation of cumulative impacts from marine developments.
11. Identify marine planning and/or governance related issues to inform the future regional marine planning process.
14. Provide a clear strategic direction and greater certainty for prospective developers, investors and local communities in the Pentland Firth and Orkney Waters area.

There is a renewed focus on partnership working between local and national government with the National Performance Framework. The proposed OIC pilot scheme offers a way of formally embedding, deepening and giving permanence to this partnership as part of the wider commitment to empowerment and subsidiarity that both national and local government want to see across the democratic system.

**Question 5: How has the community (including tenants) been engaged in the development of the proposal?**

Political commitment to explore a pilot scheme was given by the then Transport and Islands Minister, Derek Mackay, at the 12<sup>th</sup> Island Areas Ministerial Working Group on 22 February 2016. The proposed application builds upon discussions since 2016 between Our Islands Our Future campaign and Marine Scotland – and more recently Crown Estate Scotland.

Public consultation on the Islands (Scotland) Bill made clear that there was enthusiasm locally for devolution of the Crown Estate.

Consultation regarding the Marine Planning Partnership has been ongoing with extensive consultation since 2014.

OIC undertook semi-structured stakeholder interviews between July-August 2016 with a range of environmental, economic and recreational interests in the Orkney Islands Scottish Marine Region. The participants were Cooke Aquaculture, European Marine Energy Centre (EMEC), Orkney Ferries, Orkney Fisheries Association, Orkney Harbour Authority, Orkney Islands Council (Convenor), Orkney Sustainable Fisheries/Inshore Fisheries Group (equivalent), SEPA, SNH, RSPB, SSPO and Visit Scotland (Orkney).

The interviews considered whether stakeholders see significant benefits from establishing an Orkney Marine Planning Partnership (MPP) and subsequent regional marine planning. The interviews gauged levels of awareness of how stakeholders could potentially participate in an Orkney MPP and if/how they would like to participate. Interviews queried whether there were any barriers to their participation in a MPP and how regional marine planning should be

funded.

More specifically in regard to the proposed pilot scheme, OIC has had discussions with key stakeholders, some of whom have expressed support in principle while reserving their position until further information is available.

OIC has also recently consulted with key stakeholders seeking letters of support and to demonstrate from previous engagement/experience why the current system of sea bed asset management is not working for the local community in Orkney. Stakeholders consulted were:

Orkney Fisheries Association – Fiona Matheson  
Orkney Sustainable Fisheries (IFG equivalent) – Stewart Crichton  
EMEC – Neil Kermode  
Cooke Aquaculture – Chris Webb  
Scottish Sea Farms – Richard Darbyshire  
Orkney Harbour Authority – Brian Archibald  
Orkney Marinas – Leesa Guthrie

SSPO – (Julie Hesketh-Laird, CX)  
Repsol Sinopec (Ian Tulloch and Gary Marshalsey, Flotta Oil Terminal Managers)  
Scotrenewables (James Murray, Business and Environmental Consents Manager)  
DP Energy – Robin Burnett

Marine Scotland (David Pratt)  
Northern Lighthouse Board (Mike Bullock, CX)  
SNH (Graham Neville)  
SEPA (Eilidh Johnston)  
Historic Environment Scotland (Philip Robertson) and HIE Orkney (Graeme Harrison).

Responses received to date are included at Appendix 4. These are from:

- Aquatera
- Orkney Fisheries Association
- Northern Lighthouse Board
- Historic Environment Scotland

Further responses will follow when received.

#### **Question 6: How have conflicts of interest and impact on tenants been addressed?**

The Islands Councils in conjunction with Marine Scotland worked towards a pilot scheme identifying problems and nuances as they affect the different islands areas. This was particularly so in regard to the issue of conflict of interest.

Local Authorities have a strong track record and experience of dealing with issues where there is a perceived or real conflict of interest between their regulatory functions and a position as either landowner or developer. This principally relates to, but is not confined to, land planning matters. The latter are considered under a Scheme of Delegation which sets out the level at which decisions can be taken, what course should be taken where the Authority is the developer/landowner and the development is contrary to the Local Development Plan (LDP), and how to deal with representations from statutory consultees or Government agencies. Both the Scheme of Delegation and the LDP are subject to Ministerial scrutiny and approval, and a notification to Scottish Ministers is required in certain circumstances.

The Scottish Government has published a Planning Advice Note (PAN 82) on the subject to assist local authorities to deal with the expected standards of assessment and scrutiny of development proposals in which local authorities have an interest together with an indication of situations in which Scottish Ministers may need to get involved in the decision making process. If the stage 1 application is successful, further consultation with stakeholders will be used to explore and develop a robust process for the determination of a local authority lease.

Under current planning regulation local authorities have to notify Scottish Government when they are minded to grant planning permission for a development in which the local authority has an interest, and where that proposed development is significantly contrary to the development plan for the area.

In conclusion, to avoid conflicts of interest in land-based planning, there are numerous checks and balances in place to ensure the regulatory functions of local authorities are kept separate and distanced from their other corporate roles.

It is considered that the proposed decision-making process attached at appendix 2 is a strong foundation to proceed in respect of governance and transparency - and demonstrates democratic accountability which was previously absent from the process.

It is acknowledged that this is a work in progress. For example, OIC is exploring an appeal process. However, it is considered that if the present application is successful, then further consultation with stakeholders will provide the opportunity to further explore any stakeholders' concerns and make for a robust process. OIC is acutely aware that there are multi-million pound investments in its locale and a key requirement for serious investment is confidence in the process to deal with a prospective development appropriately and consistently. It is considered that such consistency will be enhanced through the proposed integrated approach to seabed/foreshore leasing, marine planning policy and consenting at the local level.

**Question 7: Evaluation and reporting. Please tell us how you plan to evaluate and report on your project to Crown Estate Scotland.**

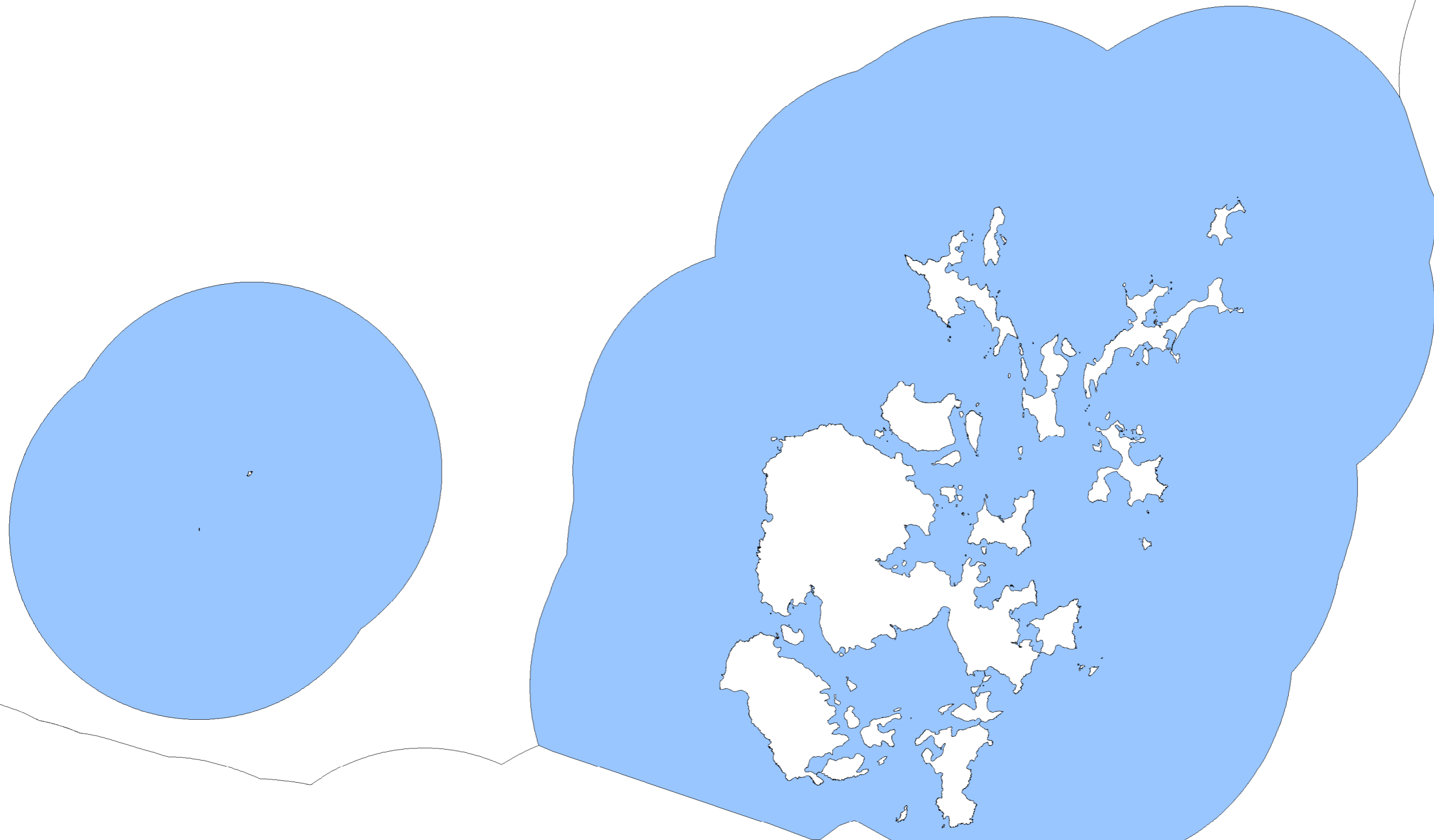
It is important to measure outcomes, especially as the Crown Estate Scotland Act will make provision for the longer term management arrangements to consider socio-economic impact alongside financial concerns. It is considered therefore that any measurement should be weighted in favour of outcomes rather than value.

It is considered that the main outcome will be the success of the process itself and the interaction with the MPP.

It is anticipated that the scheme will be monitored and reviewed on a yearly basis using feedback from Stakeholders.

Moreover, monitoring the success of the pilot scheme will be integrated with the social, economic and environmental monitoring for the regional marine plan. A Comprehensive State of the Environment Assessment, to establish social, economic and environmental data for monitoring purposes, will be delivered by OIC for the Orkney Islands marine region through 2019-20.

# Orkney Islands Scottish Marine Region



## Scottish Marine Regions

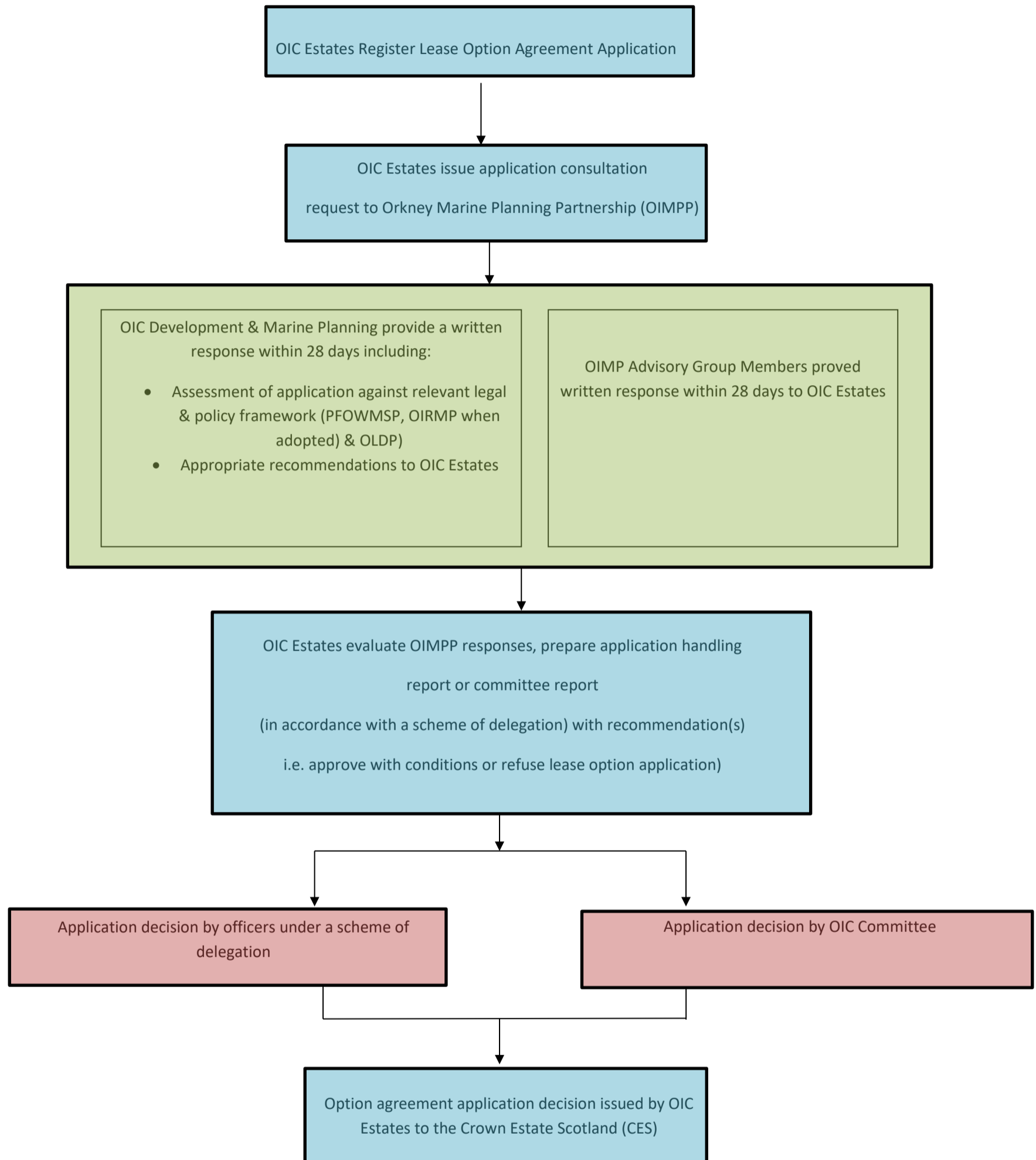
 Orkney Islands

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Development & Marine Planning: 10/05/2018

ORKNEY ISLANDS LOCAL ASSET MANAGEMENT PILOT SCHEME-ENHANCED LOCAL DECISION MAKING PROCESS



Key:

- OIC Estates
- OIMPP
- OIC Decision



Appendix 4

