

Orkney Islands Regional Marine Plan – Purpose and Scope

1 Introduction

As one of the first steps in preparing the Orkney Islands Regional Marine Plan (OIRMP), the Orkney Marine Planning Partnership (OMPP) will need to draft a plan vision and identify objectives. This report provides information on the statutory purpose and scope of a regional marine plan, to help the Orkney Marine Planning Advisory Group shape the vision and objectives.

The OIRMP will support the delivery of a vision for Orkney's coastal and marine environment, economy and communities. This vision will be delivered through agreed objectives, implemented through decision-making made in accordance with the Plan policies.

2 The statutory purpose of regional marine plans

Regional marine plans have a specific statutory purpose set out in the Marine (Scotland) Act 2010. In summary, this is:

- Regional marine plans need to set economic, social and marine ecosystem objectives, and objectives relating to the mitigation of, and adaptation to, climate change.
- Regional marine plans state policies for and in connection with the sustainable development of the area to which the plan applies and policies on the contribution of Nature Conservation Marine Protected Areas, and other relevant nature conservation sites, to the protection and enhancement of the area.
- Public authorities must take any authorisation or enforcement decision in accordance with the appropriate regional marine plan, unless relevant considerations indicate otherwise.
- Public authorities must have regard to the appropriate regional marine plan in making any decision which relates to the exercise by them of any function capable of affecting the whole or any part of the Scottish marine area, but which is not an authorisation or enforcement decision.

Regional marine plans provide a statutory policy framework for public authorities, including planners, decision-makers and regulators, to make decisions on sustainable development and activities in the marine environment. The policies in the OIRMP will need to support decision making within the scope of the plan's statutory purpose set out above.

3 What is a marine planning policy?

Marine (Scotland) Act 2010 states that a regional marine plan is a document which states the Scottish Ministers' policies for and in connection with the sustainable development of the area to which the plan applies. More broadly regional marine plans and the associated policies are concerned with the sustainable management of the marine environment and how this environment, including socio-economic factors, is affected by development, activities and use. It is proposed that the OIRMP and its policies should focus on guiding decisions made on development, activities and use in the Orkney Islands marine region, to help achieve the Plan's agreed vision and objectives.

Marine planning policies:

- Are used to express intent and to guide decisions to help achieve a collective vision and objectives set out in a marine plan.
- Carry significant legal weight for public authority decision making e.g. for a marine licence, planning application and other statutory consents.
- Set out requirements for proposed development and activities in the relevant marine area.

4 How are regional marine plan policies used in decision making?

Without planning policies, decisions on future development and activities would be made in isolation. This would make it very hard to achieve a collective vision or set of objectives. Marine planning decisions in Scotland are 'plan led' meaning that any authorisation or enforcement decision made by a public authority needs to be made in accordance with the appropriate marine plan(s), unless relevant considerations indicate otherwise. A public authority must also have regard to the appropriate marine plan(s) in making other decisions capable of affecting the marine area.

5 What makes a good regional marine plan policy?

Before considering the plan vision, objectives and identifying policies, it is sensible to consider the factors that contribute to an effective marine planning policy. A good regional marine plan policy should be:

- Clear and unambiguous about the intended purpose of the policy.
- Shaped by stakeholder engagement, advice and consultation.

- Stemmed from a clear vision for the area and help deliver at least one of the plan's objectives.
- Capable of being implemented through a clear decision-making mechanism to deliver the intended purpose and objective(s).
- Responsive to the unique characteristics of the marine region.
- Able to add value to the existing statutory marine planning policy framework for the plan area.
- Clearly written and precise so it is evident how a decision maker should respond when determining applications for proposed development and/or activities and when carrying out relevant functions.
- Drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining applications or carrying out relevant functions.
- Appropriately aligned with other relevant statutory plans (e.g. National Marine Plan, National Planning Framework and Local Development Plans) to ensure legal compliance and consistency between the range of policies that need to be applied by decision makers.
- Supported by appropriate evidence.
- Used to set targets or provide indicators which can be monitored and evaluated.

6 Proposed Orkney approach to regional marine plan policy, terminology and definitions

Policy terminology and definitions

To ensure clarity and consistency for the preparation of the OIRMP, it is proposed that the following policy terminology definitions be adopted:

Development is defined as any construction, building, engineering, mining, operation and/or works that require authorisation from a public authority. This can include new development or alterations, extensions or changes in material use to existing buildings or land.

Activities are defined as any activity that requires authorisation from a public authority, for example but not limited to, marine licensable activities identified under the Marine (Scotland) Act 2010 e.g. dredging and activities licensed under the Water Environment

(Controlled Activities) (Scotland) Regulations 2011(as amended) e.g. discharge of polluting matter to the water environment.

Many sectors of the marine economy carry out development and activities in conjunction with one another in a single location e.g. aquaculture, ports and harbours. Therefore, the term '*development and/or activities*' is referred to with the Plan policies.

Use is defined as any use of the coastal or marine environment exercised under a public right and/or does not require authorisation from a public authority e.g. shipping/navigation or recreational activities.

Authorisation or enforcement decision is defined as the determination of any application (whenever made) for authorisation of the doing of any act which affects or might affect the whole or any part of the Scottish marine area, as detailed and further expanded in Marine (Scotland) Act 2010, section 15(4).

Marine users are defined as legitimate users of the marine environment for purposes such as, but not limited to recreation, fishing, shipping, transport and other economic activities.

General Approach

To accord with the statutory purpose of a regional marine plan, the OIRMP policies should relate directly to decision-making on development and activities, and the consideration of use in the marine environment. This mirrors the approach taken for the National Marine Plan and the Shetland Draft Regional Marine Plan. Wider issues, initiatives or projects such as data collection, research, education and awareness raising would be more appropriately addressed through other mechanisms e.g. strategies and projects.

Scotland's National Marine Plan (NMP) policies focus on guiding decisions made on development, activities and use in the marine environment i.e. the General Policies '*apply to all plan making and decision making in the marine environment*' (NMP, paragraph 3.10). '*The Sectoral Policies have been developed where issues beyond those set out in the General Policies require to be addressed in order to ensure sustainability of the activity*' (NMP, paragraph 3.11). It is proposed that the OIRMP should follow this approach.

The OIRMP will need to be made in accordance with the National Marine Plan and appropriately align with the relevant aspects of the National Planning Framework.

There are existing plans, strategies and programmes that address specific coastal and marine management issues that regional marine plans need to have regard to. For example:

- Fisheries management plans which are led by the Inshore Fisheries Groups (IFGs).
- Local development plans delivered by planning authorities.
- Orkney Local Biodiversity Action Plan – Marine Theme – includes projects to address biodiversity related research and data gaps.
- Programmes such as the North Isles Landscape Partnership Scheme deliver interpretation, education and heritage projects to improve understanding and management of the coastal and marine environment.

It is important to ensure that regional marine plans are appropriately aligned with wider relevant plans, strategies and programmes. Where specific marine management issues are currently being addressed by other bodies through existing plans, strategies and programmes (e.g. fisheries management by the Inshore Fisheries Group), it may not be appropriate for the OMPP/OIRMP to take forward policy on these matters. There will however be a requirement for appropriate integration and alignment.

Where there are identified gaps in provision to address specific issues, it may be appropriate for the Orkney Marine Planning Partnership to take forward a marine management strategy/action plan that would identify objectives, projects, research and funding to address wider management issues. This would need to be supported by partners, and appropriate resources and funding.