

Item: 4.2

Planning Committee: 6 July 2022.

Create Salmon Farming Site with Feed Barge (Replacement of Existing Equipment) at Bring Head, Hoy, Scapa Flow.

Report by Corporate Director for Neighbourhood Services and Infrastructure.

1. Summary

1.1.

A planning application with an Environmental Impact Assessment (EIA) Report is submitted for the replacement, enlargement and repositioned Atlantic salmon fish farming site, substantially subsuming and overlapping the east of the existing fish farm at Bring Head, off the east coast of Hoy. The proposal will require the removal and replacement of the presently consented equipment at Bring Head. The proposed fish farm would comprise 12 cages with a 120 metre circumference, configured in two groups of 2 x 6 formation, held in a 70 metre grid with a mooring area of 490,200 square metres, overlapping with a portion (168,645 square metres) of the existing mooring extent of the current farm, and an enlarged 420 tonne feed barge. An annual production tonnage of 2,500 tonnes is proposed. Objections from both NatureScot, a statutory consultation body, and Scottish and Southern Electricity Networks (SSEN) were resolved during consideration of the application through submission of additional information to inform matters arising from NatureScot and revised site boundary to account for proximity concerns to SSEN infrastructure. Objections have been received from two non-statutory consultation bodies: Orkney Trout Fishing Association and RSPB Scotland. No public representations have been received. The recommendation has been guided by the conclusions of the EIA Report (EIAR) and the proposal has been assessed against all relevant policies of the Orkney Local Development Plan 2017 and other relevant material planning considerations. On balance the objections are not considered to be of sufficient weight to merit refusal. Where unacceptable impacts have been identified, adequate mitigation has been provided. Accordingly, the application is recommended for approval.

Application Number	21/411/MAR.
Application Type	Marine Fish Farm.
Proposal	Create salmon farming site comprising of 12 x 120 metre circumference circular cages arranged in a 2 x 6 formation in a 70 metre mooring grid, with pole mounted top nets, underwater lighting, and 420 tonne capacity semi-automated feed barge (replacement of existing equipment).
Site	Bring Head, Hoy, Scapa Flow, Orkney.

Applicant	Scottish Sea Farms.
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1.2.

All application documents (including plans, consultation responses and representations) are available for members to view at the following website address:

https://www.orkney.gov.uk/Service-Directory/D/application_search_submission.htm

(then enter the application number given above).

2. Consultations

2.1. Statutory Consultation Bodies

2.1.1.

Statutory consultation bodies are as follows:

- Historic Environment Scotland.
- Marine Scotland (on behalf of Scottish Ministers).
- Scottish Water.
- Scottish Environment Protection Agency.
- NatureScot.

2.1.2.

NatureScot initially objected in respect of impacts arising to internationally important natural heritage interests as NatureScot could not complete its assessment on the impacts on features of the Special Protection Areas (SPA). This was addressed by the developer by provision of further information in relation to matters related to both Scapa Flow SPA (as proposed SPA at that time, and subsequently confirmed), and Hoy SPA. NatureScot concluded that whilst there are natural heritage interests of international importance on the site, the advice is that these will not be adversely affected by the proposal, subject to the proposed mitigation and appropriate planning conditions and as such an updated position of no objection was confirmed.

2.2. Other Consultation Bodies

Consultation responses were provided by other non-statutory consultation bodies. The non-statutory consultation bodies, RSPB Scotland and the Orkney Trout Fishing Association, both objected to the proposal. Objections from non-statutory consultation bodies are addressed in detail in section 3 below.

3. Representations

3.1.

Objections have been received from two non-statutory consultation bodies:

- Orkney Trout Fishing Association.
- RSPB Scotland.

3.1.1.

The Orkney Trout Fishing Association (OTFA) objection is 'due to the potential impact of this development on Orkney's wild sea trout population'. OTFA has provided data from the Scottish Government over the last nine months on sea lice counts for Scapa Flow salmon farms, including the existing Bring Head site, showing sea lice numbers which are often above industry target threshold. OTFA indicates that the sea lice count numbers across fish farms in Scapa Flow have been rising recently which, they state, has a cumulative impact on the wild sea trout population in Scapa Flow. Points raised include significant concern in relation to sea trout, and the potential for negative impacts in relation to the environment, and health of the local sea trout populations, together with present struggles that are presently being seen on this existing site with parasites and disease. OTFA highlight existing problems and lack of local policy to protect the environment and wild fish. OTFA see the value and management of an appropriate adaptive Environmental Management Plan (EMP) for the site; however, that does not adequately address its concerns. Therefore, OTFA maintains its objection, and continues that should the application be approved, an adaptive EMP should be provided that relates specifically to impacts on wild salmonids from the fish farm and not other pressures. The applicant has responded to points raised by OTFA in its correspondence dated 12 January 2022.

3.1.2.

The consultation response received from RSPB Scotland objects to the proposed development on a range of matters including the adequacy of measures to mitigate the predicted likely significant effect on avian species such as Northern Gannets from entanglement/entrapment in particular reference to pole mounted top nets both from the Scapa Flow SPA and other SPAs with connectivity to the site. The site is within both the Scapa Flow and Hoy SPAs; RSPB Scotland therefore highlight the Council's requirements to be satisfied beyond reasonable scientific doubt that the integrity of a European site is not being adversely affected. In addition, further concerns exist due to the impacts on habitat individually and cumulatively with other fish farms within the Scapa Flow SPA. Whilst RSPB maintains its objection, it recommends that if the application be approved, the monitoring and adaptive management scheme including in relation to use of pole-mounted top nets should be in place with key criteria including ensuring action is taken in the event of entrapment/entanglement issues occurring.

3.1.3.

During consideration of the application, the applicant amended the site boundary to address an objection from Scottish and Southern Electricity Networks (SSEN). This was in relation to proximity to the Scottish Hydro Electric Power Distribution (SHEPD) Mainland Orkney to Hoy South power distribution cable, with a further two similar SHEPD cables immediately to the north of this. The applicant revised the northernmost corner of the application site boundary to meet SSEN separation distance requirements. SSEN removed its objection. SHEPD suggests a planning condition to secure a proximity agreement to protect SHEPD assets; this is not considered appropriate through the planning process, noting the site area under

consideration has been revised to ensure separation between the proposed farm and SSEN infrastructure.

3.2.

The developer has responded to address additional information requests, for clarity and in response to points raised, to matters arising and as presented by consultation bodies.

4. Relevant Recent Planning and Site History

Reference.	Proposal.	Location.	Decision.	Date.
22/081/SCO	Scoping request to install onshore infrastructure related to an offshore windfarm, including export cable corridor and substation search areas	Hoy, Flotta and Fara, Orkney	Scoping Opinion adopted.	17.06.2022.
21/174/MARSS	Screening and scoping request to create a fish farming site (replacement of existing equipment)	Bring Head Fish Farm, Hoy, Scapa Flow, Orkney	EIA required	23.07.2021
14/129/MARAUD	Audit of marine finfish farm on site at Bring Head (consent by Crown Estates - prior to 2007)	Bring Head, North East Hoy, Orkney	Observations provided	01.05.2014
03/576/MAR	Renewal of works licence	Bring Head, Scapa Flow	Granted	24.10.2005

5. Relevant Planning Policy and Guidance

5.1.

The full text of the Orkney Local Development Plan 2017 (OLDP 2017) and supplementary guidance can be read on the Council website at:

<https://www.orkney.gov.uk/Service-Directory/D/Planning-Policies-and-Guidance.htm>

The policies listed below are relevant to this application.

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development.
 - Policy 2 – Design.
 - Policy 4 – Business, Industry and Employment.
 - Policy 8 – Historic Environment and Cultural Heritage.
 - Policy 9 – Natural Heritage and Landscape.
 - Policy 12 – Coastal Development.
 - Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance Natural Environment (2017):
 - Policy 9A – Natural Heritage Designations: Internationally Designated Sites.
 - Policy 9B – Protected Species.
 - Policy 9C – Wider Biodiversity and Geodiversity.
 - Policy 9D – The Water Environment.
- Supplementary Guidance Aquaculture (2017):
 - DC1 Landscape, coast, siting and design.
 - DC2 Natural heritage designations, protected species and the wider biodiversity.
 - DC3 Predator control and interaction with other species.
 - DC4 Wild salmonid fish populations.
 - DC5 Water quality and benthic impacts.
 - DC6 Historic environment.
 - DC7 Social and economic impacts.
 - DC8 Other marine users.
 - DC9 Construction and Operational Impacts.
 - DC10 Decommissioning and Reinstatement.

5.2. Scotland's National Marine Plan (2015)

5.2.1.

The National Marine Plan states: "Aquaculture contributes to sustainable economic growth in rural and coastal communities, especially in the Highlands and Islands. Many communities depend on the employment and revenue it provides and, as a growing industry, it has potential to contribute to future community cohesion by providing quality jobs in rural areas and helping to maintain community infrastructures such as schools, ferries and other services subject to the continued management of risk".

5.2.2.

The National Marine Plan contains 14 Policies related specifically to Aquaculture:

- AQUACULTURE 1: Marine planners and decision makers should seek to identify appropriate locations for future aquaculture development and use, including the potential use of development planning briefs as appropriate. System carrying capacity (at the scale of a water body or loch system) should be a key consideration.
- AQUACULTURE 2: Marine and terrestrial development plans should jointly identify areas which are potentially suitable and sensitive areas which are unlikely to be appropriate for such development, reflecting Scottish Planning Policy and any Scottish Government guidance on the issue. There is a continuing presumption against further marine finfish farm developments on the north and east coasts to safeguard migratory fish species.
- AQUACULTURE 3: In relation to nutrient enhancement and benthic impacts, as set out under Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters, fish farm development is likely to be acceptable in Category 3 areas, subject to other criteria being satisfied. A degree of precaution should be applied to consideration of further fish farming development in Category 2 areas and there will be a presumption against further fish farm development in Category 1 areas.
- AQUACULTURE 4: There is a presumption that further sustainable expansion of shellfish farms should be located in designated shellfish waters these have sufficient capacity to support such development.
- AQUACULTURE 5: Aquaculture developments should avoid and/or mitigate adverse impacts upon the seascape, landscape and visual amenity of an area, following SNH guidance on the siting and design of aquaculture.
- AQUACULTURE 6: New aquaculture sites should not bridge Disease Management Areas although boundaries may be revised by Marine Scotland to take account of any changes in fish farm location, subject to the continued management of risk.
- AQUACULTURE 7: Operators and regulators should continue to utilise a risk based approach to the location of fish farms and potential impacts on wild fish.
- AQUACULTURE 8: Guidance on harassment at designated seal haul out sites should be taken into account and seal conservation areas should also be taken into account in site selection and operation. Seal licences will only be granted where other management options are precluded or have proven unsuccessful in deterrence.
- AQUACULTURE 9: Consenting and licensing authorities should be satisfied that appropriate emergency response plans are in place.
- AQUACULTURE 10: Operators should carry out pre-application discussion and consultation, and engage with local communities and others who may be affected, to identify and, where possible, address any concerns in advance of submitting an application.
- AQUACULTURE 11: Aquaculture equipment, including but not limited to installations, facilities, moorings, pens and nets must be fit for purpose for the

site conditions, subject to future climate change. Any statutory technical standard must be adhered to. Equipment and activities should be optimised in order to reduce greenhouse gas emissions.

- AQUACULTURE 12: Applications which promote the use of sustainable biological controls for sea lice (such as farmed wrasse) will be encouraged.
- AQUACULTURE 13: Proposals that contribute to the diversification of farmed species will be supported, subject to other objectives and policies being satisfied.
- AQUACULTURE 14: The Scottish Government, aquaculture companies and Local Authorities should work together to maximise benefit to communities from aquaculture development.

5.2.3.

The National Marine Policy also contains seven policies related specifically to shipping, Ports, Harbours and Ferries.

5.3. Scottish Planning Policy (2014)

5.3.1. Supporting Aquaculture: Policy Principles

The planning system should:

- Play a supporting role in the sustainable growth of the finfish and shellfish sectors to ensure that the aquaculture industry is diverse, competitive and economically viable.
- Guide development to coastal locations that best suit industry needs with due regard to the marine environment.
- Maintain a presumption against further marine finfish farm developments on the north and east coasts to safeguard migratory fish species.

5.3.2. Development Management

Applications should be supported, where necessary, by sufficient information to demonstrate:

- Operational arrangements (including noise, light, access, waste and odour) are satisfactory and sufficient mitigation plans are in place.
- The siting and design of cages, lines and associated facilities are appropriate for the location.

This should be done through the provision of information on the extent of the site; the type, number and physical scale of structures; the distribution of the structures across the planning area; on-shore facilities; and ancillary equipment.

Any land-based facilities required for the proposal should, where possible, be considered at the same time. The planning system should not duplicate other control regimes such as controlled activities regulation licences from SEPA or fish health, sea lice and containment regulation by Marine Scotland.

5.4. Other Relevant Policy and Guidance

- Circular 6/1995 'European Protected Species, Development Sites and the Planning.
- The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.
- The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011.
- Circular 1/2007 'Planning Controls for Marine Fish Farming' 'Marine Fish Farming and the Environment' (SEERAD 2003).
- Planning Advice Note (PAN) 51- 'Planning, Environmental Protection and Regulation'.
- Scottish Executive – 'Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters' (2003 and updated June 2009 and December 2012).
- 'A Fresh Start – the Renewed Strategic Framework for Scottish Aquaculture' (2009).
- 'Guidance on Landscape/Seascape Capacity for Aquaculture' (SNH 2008).
- 'Siting and Design of Marine Aquaculture Developments in the Landscape' (SNH 2011).
- Orkney Harbours Masterplan.
- NPF3 highlights the Scottish Governments support the sustainable growth of the aquaculture sector and the significant contribution it makes to the Scottish economy, particularly for coastal and island communities.
- Pilot Pentland Firth and Orkney Waters Marine Spatial Plan (2016).

5.5. Other Matters

- UK Technical Advisory Group (UK TAG) consideration of recommendations on new environmental standards for Emamectin Benzoate.
- SEPA Fish Farm Survey Report – 'Evaluation of a New Seabed Monitoring Approach to Investigate the Impacts of Marine Cage Fish Farms'.
- Rural Economy and Connectivity (REC) Committee conclusions and recommendations arising from the Committee's inquiry into the current state of the salmon farming industry in Scotland.
- Scotland's 10 Year Farmed Fish Health-Marine Scotland Science - Scottish Government (2018).

6. Legal Aspects

6.1.

Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act) states, "Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise...to be made in accordance with that plan..."

6.2.

Annex A of Planning Circular 3/2013: 'development management procedures' provides advice on defining a material consideration, and following a House of Lord's judgement with regards the legislative requirement for decisions on planning applications to be made in accordance with the development plan, confirms the following interpretation: "If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted."

6.3.

Annex A continues as follows:

- The House of Lord's judgement also set out the following approach to deciding an application:
 - Identify any provisions of the development plan which are relevant to the decision.
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies.
 - Consider whether or not the proposal accords with the development plan.
 - Identify and consider relevant material considerations for and against the proposal.
 - Assess whether these considerations warrant a departure from the development plan.
- There are two main tests in deciding whether a consideration is material and relevant:
 - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land.
 - It should relate to the particular application.
- The decision maker will have to decide what considerations it considers are material to the determination of the application. However, the question of whether or not a consideration is a material consideration is a question of law and so something which is ultimately for the courts to determine. It is for the decision maker to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
- The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
 - Scottish Government policy and UK Government policy on reserved matters.
 - The National Planning Framework.

- Policy in the Scottish Planning Policy and Designing Streets.
- Scottish Government planning advice and circulars.
- EU policy.
- A proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance.
- Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act.
- Community plans.
- The environmental impact of the proposal.
- The design of the proposed development and its relationship to its surroundings.
- Access, provision of infrastructure and planning history of the site.
- Views of statutory and other consultees.
- Legitimate public concern or support expressed on relevant planning matters.
- The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

6.4.

Where a decision to refuse an application is made, the applicant may appeal under section 47 of the Act. Scottish Ministers are empowered to make an award of expenses on appeal where one party's conduct is deemed to be unreasonable. Examples of such unreasonable conduct are given in Circular 6/1990 and include:

- Failing to give complete, precise and relevant reasons for refusal of an application.
- Reaching a decision without reasonable planning grounds for doing so.
- Not taking into account material considerations.
- Refusing an application because of local opposition, where that opposition is not founded upon valid planning grounds.

6.5.

An award of expenses may be substantial where an appeal is conducted either by way of written submissions or a local inquiry.

7. Environmental Impact Assessment

7.1.

The current proposal was assessed in terms of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.

7.2.

The proposal falls within the definition of 'Schedule 2 development' of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, in that the proposed development exceeds the criteria (a) for Aquaculture, in that the proposed development is 'designed to hold a biomass of 100 tonnes or greater'.

7.3.

Having assessed the characteristics and location of the development and the characteristics of the potential impact as set out in Schedule 3 to the 2017 Regulations, the Council issued a Screening/Scoping Opinion, dated 22 July 2021, reference 21/174/MARSS, stating that, in its opinion, the proposed development is considered likely to have a significant impact on the receiving environment and that the submission of an Environmental Impact Assessment Report (EIAR) was required.

7.4.

Accordingly, this application is accompanied by an EIA Report in accordance with the 2017 Regulations. The EIA Report addresses all expected environmental effects associated with the proposed development and any proposed mitigation. The EIA Report includes information on the alternative sites locations and layouts considered.

7.5.

The EIA Report includes the undernoted matters, which fall within the regulatory control of other bodies, therefore limited weight can be given to those matters as part of any planning decision.

- Benthic (seabed) impacts due to feed and faeces falling to the sea floor are covered by the CAR licensing regime and with ecological advice provided by NatureScot. Any impacts on seabed protected species are a material planning consideration but are part of the CAR assessment first and foremost. Biomass and quantities of sea-lice therapeutants will be considered as part of the CAR application process.
- Water column impacts from nutrient enrichment and use of medicinal chemicals are also part of SEPA's CAR licensing regime.
- The health, handling and medicinal treatment of the farmed fish, control of predators and physical quality of nets and moorings are all matters regulated by Marine Scotland.

- Depositions from fish farms, to enable monitoring of benthic impacts is covered by SEPA under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended).
- Registration, authorisation and elements of operational regulation is undertaken / required from Marine Scotland under The Aquatic Animal Health (Scotland) Regulations 2009 and the Marine Scotland Act 2010, covering fish health standards and containment, including power to monitor for sea lice infestation.

7.6.

However, there is some important crossover with local planning authority regulation to the extent that, where these matters and associated measures have an impact upon protected species in the wider environment, the matters are assessed below.

7.7.

The EIA Report submitted was subject to peer review by an independent and suitably qualified environmental consultant on behalf of the planning authority, and it was found to comply with the requirements of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.

8. Habitats Regulations and Natural Heritage

8.1.

As competent authority, the Council must consider whether any plan or project would have a 'likely significant effect' on a Natura site before it can be consented, and if so carry out an Appropriate Assessment. That process is known as Habitats Regulations Appraisal (HRA). In considering likely significant effects, Revised Circular 6/1995 advises that HRA can be based on the information submitted in support of the application and informed by the appraisal on the appropriate nature conservation body, in this case NatureScot.

8.2.

This proposed development is situated within the bounds of the Hoy Special Protection Area (SPA) classified for the breeding birds Arctic skua, Fulmar, Great skua, Great-black backed gull, Guillemot, Kittiwake, Peregrine, Puffin, Red-throated diver and seabird assemblage. The proposal also lies within the Scapa Flow SPA,. Scapa Flow SPA is classified for its aggregations of breeding Red-throated diver and aggregations of non-breeding wintering waterfowl, including Black-throated diver, Eider, Goldeneye, Great northern diver, long-tailed duck, Red-breasted merganser, Shag and Slavonian grebe.

8.3.

It should be noted that the Scapa Flow SPA at the time of the application and the EIAR was a proposed SPA (pSPA); on 16 February 2022, the designation was confirmed as an SPA. However, the Scottish Government has a policy of protecting

proposed SPAs as if they were classified. Consequently, the Scapa Flow SPA has been considered throughout the planning process as if it was already classified.

8.4.

Advice from NatureScot is that this proposal is likely to have a significant effect on wintering waterfowl and breeding Red-throated divers and that the Council, as competent authority, is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interest(s).

8.5.

The Council, as competent authority, is required to carry out an Appropriate Assessment in view of the site's conservation objectives for its qualifying interest(s). Following the above advice from NatureScot, the Council has carried out this assessment. In consideration of the Habitats Regulations Appraisal, it is concluded that, were the development ('the project') undertaken in accordance with the proposed details, mitigation as proposed and appropriate planning conditions, the impacts arising from the operation of the development as proposed, and in combination will not, have a significant impact upon qualifying interests, and will not adversely affect the integrity of the SPAs. The Council's HRA is attached as Appendix 1 to this report.

8.6.

The EIAR recognised the proximity of priority marine feature (PMFs) maerl beds located 900 metres to the north-east of the nearest cage of the proposed expanded farm and records of the PMF Ocean Quahog (*Arctica islandica*) in proximity to the proposal. Note was also made by Development and Marine Planning that the relocation/expansion of the Bring Head site would result in it being closer to the PMF Horse Mussel beds (north of the Calf of Cava) to the east of the proposal. The submitted EIAR has not definitively identified any PMF within the predicted Mixing Zone and surrounds during the visual seabed survey with comment that the Ocean Quahog is not considered to be sensitive to the impacts of change in siltation rate and organic enrichment noting that the benthic impacts of the proposal are required to be assessed by SEPA, through the process of determining the CAR Licence.

9. Assessment

9.1. Proposal

9.1.1.

It is proposed to install a new Atlantic salmon fish farming site at Bring Head, Scapa Flow. This may best be expressed as an expanded and reconfigured fish farm from that currently found at Bring Head, with a significant overlap in application site with the currently operating site, and a relocation of the centre of the farm 190 metres north east from the current Bring Head site, as indicated on the Location Plan, attached as Appendix 2 to this report. The development is larger than the existing site, comprising 12 cages, with a 120 metre circumference, arranged in two groups of six cages set within a 70 metre grid. A 420 tonne feed barge would be moored

centrally and to the west of the proposed new cages, between the cage group and the shore of Hoy. The total surface area of the proposed installed equipment would cover 14,065 square metres as initially submitted, noting that this has been subject to reduction through the slight reduction in application site boundary, with a Mooring Containment Area (MCA) measuring 490,200 square metres. The top net on the current site, described as the 'hamster-wheel' design would be replaced by pole-mounted design on the proposed new farm. There would be no change to the existing service arrangements namely that the site would be accessed daily from Houton, the feed would be delivered by sea and all the fish movements would be by well boat. In larger part, a socio-economic case has been presented by the applicant for relocation to allow expansion of the existing site in an 'environmentally sustainable location(s), where it does not exceed carrying capacity of the water body within which it is to be located, and where it does not give rise to significant adverse effects upon nature conservation, wild fish, historic environment or other commercial or recreational users'.

9.1.2.

The proposed maximum biomass of Atlantic salmon for the site is 2,500 tonnes, an increase of 1532 tonnes from the current Bring Head site of 968 tonnes, with a production biomass of 3,750 tonnes per cycle, and a stocking density of 15 kilogrammes per cubic metre, a reduction from the current 19 kg m⁻³. The production plan is 24 months with a fallow period of 42 days within the 24-month cycle.

9.1.3.

No onshore facilities are proposed, with a continuation of current arrangements to service the site by boat typically from Houton proposed. Where additional shore-based facilities are required beyond those currently approved, such development would be subject to separate consideration and planning application as necessary.

9.1.4.

The site would operate 08:00 to 17:00 daily, including weekends, with two vessels operating at the site comprising a workboat and small speed boat, servicing the site from the Houton Pier with occasional travel to and from Stromness. Staff are cited as typically making one return journey to the site each day. Occasional out of hours working may be necessary at harvesting, fish movements or other unforeseen events. Smolts would be delivered directly to the site using a well boat from the hatchery. A well boat is used to harvest and transport live fish for processing, and, through harvest period and may be in use several times a week at the site. Well boats may also be used to undertake freshwater or medicinal bath treatments or other veterinary treatments as required. A site maintenance vessel would be used for decommissioning and installation activities. At harvest, the fish are transported alive within the tanks of the well boat to Scalloway, Shetland, where they are pumped ashore and processed. These matters are further detailed within the proposed vessel management plan for the site and within the supporting EIAR.

9.1.5.

The applicant has provided a non-technical summary forming part of the EIAR which sets out the basis for the development, and the assessment of relocation/alternative sites and a range of scenarios for the size, configuration and types of cages of the proposed fish farm.

9.2. Interaction with predators

9.2.1.

Management measures to minimise risk of predation by diving birds, seals and other marine mammals are included within the site-specific Predator Exclusion Plan. This includes well maintained tensioning of nets, regular monitoring and inspection of cages and nets both by underwater cameras and by divers, efficient husbandry and frequent removal of mortalities. Anti-predator net cage net designs which include two separated cage net panels are not proposed as the developer has stated that such systems pose a high risk of entanglement to diving birds and marine mammals.

9.2.2.

The site is in proximity to several recorded seal breeding colonies and many known haul-out sites as identified by Marine Scotland with support from the Sea Mammal Research Unit (SMRU) and as reproduced within Supplementary Guidance: Aquaculture. This is recognised and considered by the applicant in the EIAR together with supporting documents including the dedicated 'Bring Head Predator Protection Plan' and the 'Vessel Management Plan for Bring Head and Toyness Fish Farm Expansion'. Predator defence and mitigation is pursued following a hierarchical approach of control measures from the now established use of cage nets made of 'Sapphire' type netting which integrates strands of marine grade stainless steel and has a high cut and bite resistance to the tensioning of such through the use of an appropriately weighted Froyer ring or free weights to ensure appropriate net tensioning and to eliminate net bagging. Appropriate cage nets and tensioning are considered the first line of defence against predatory seal attacks.

9.2.3.

The applicant has stated that the use of Acoustic Deterrent Devices (ADDs) are not currently proposed. Concerns exist regarding the use of ADDs due to the risk of disturbance and disorientation posed to cetacean species. The applicant has confirmed that ADDs would only be deployed at the site following a risk assessment process and pursuit of appropriate licences noting the likely requirement for European Protected Species (EPS) licence from Marine Scotland to disturb cetaceans. This matter can be further secured by planning condition were the application to be considered favourably noting the likely additional EPS licensing requirements would also require to be addressed by the developer were the deployment of ADDs to be pursued by the developer at this site. It should be noted that the Scottish Government ceased granting licences to shoot seals to protect farmed salmon on 1 February 2021.

9.2.4.

It is proposed to use pole-mounted top nets on the new site as distinct from the 'hamster wheel' nets at the current site. It is recognised that the industry is increasingly adopting this form of top net. RSPB Scotland advise that the monitoring and adaptive management scheme for the deployment of pole mounted top nets should be secured with trigger points agreed for actions. NatureScot has provided comment that the mitigation measures listed in the Predator Exclusion Plan to lessen the risk of entanglement/entrapment would be appropriate if implemented in full and in accordance with the following:

- Maintain daily records of wildlife entanglement/entrapment using a standardised proforma provided by NatureScot and submit six-monthly returns to Orkney Islands Council, copied to NatureScot.
- Immediate notification to both Orkney Islands Council, and NatureScot in the event of any significant entrapment or entanglement of gannets. Significant entrapment is defined as involving three or more birds of any named species on any one day and/or a total of ten or more birds in the space of any seven day period and/or repeat incidents involving one or more birds on four or more consecutive days.
- Adaptive management approaches will be agreed between Orkney Islands Council, and Scottish Sea Farms in consultation with NatureScot, such measures may include:
 - Review of entanglement records and if bird entanglements occur then consider appropriate alterations to the top net design including changes in mesh size, net colour and marking the top nets to make them more visible to birds.
 - If bird entanglement continues despite alterations, top net design could be changed to the traditional 'hamster wheel' system.

9.2.5.

It is considered reasonable and proportionate to secure a management scheme in the interests of protecting natural heritage interests. Subject to securing the above, NatureScot has concluded that there would be no adverse effect on site integrity (no AESI). These matters can be secured by appropriate condition were the application to be considered favourably.

9.2.6.

The EIAR and additional information identifies the impacts and risks to natural heritage interests. The applicant has assessed that there are no significantly adverse impacts resulting from the proposed development in consideration of the following:

- Disturbance along vessel transit route.
- Direct displacement from cage area.
- Entanglement.
- Loss of, or damage to, supporting habitats.

9.2.7.

A Vessel Management Plan has been provided, in association with the Toyness fish farm expansion, which is covered under separate application. NatureScot reviewed and recognised the mitigation measures as listed in the Vessel Management Plan which will reduce potential interaction with protected species, as follows:

- Adherence with the Wildlife Watching Code' (SMWWC) when manoeuvring around and within the vicinity of important habitats, marine mammals and birds including:
 - Adherence to prescribed vessel transit routes.
 - Avoid marine mammals/birds where possible.
 - Reduce speed to less than 6 knots if marine mammals/birds are within or near to transit routes, where consistent with crew and navigational safety or unless there is an emergency and speed a prerequisite.
 - A steady speed and course will be maintained where possible if a marine mammal approaches a Scottish Sea Farms (SSF) vessel.
 - Minimum approach distances (as stated in the SMWWC) for vessels on approach to marine mammals and birds, where it is safe to do so i.e., a distance of at least 50 metres for birds and 300 metres for marine mammals will be maintained.
 - Sudden unpredictable changes in speed, direction and engine noise will be avoided to minimise disturbance to any marine mammals or birds in the vicinity.
 - Rafts of birds will not be intentionally broken up or flushed.

9.2.8.

Potential disturbance may arise due to both decommissioning of the existing farm and construction/commissioning works for the proposed site. This is again a matter of potential concern from natural heritage interests and potential impacts on the directly related SPAs, most significantly breeding red-throated diver (Scapa Flow SPA and Hoy SPA) in summer (particularly July and August). The development has been assessed by NatureScot, based on a relatively short overall works duration and mitigation methods proposed with respect to timing of works and/or routing and speed of vessel movements as included in the vessel management plan. The preference as stated by NatureScot is that installation and decommissioning activities at the site avoid taking place in the critical feeding period for breeding Red-throated divers (July and August) however the short-term nature of the activity and the mitigation measures provided in the proposal will not adversely affect the integrity of the site (no AESI).

9.2.9.

RSPB Scotland has objected on the uncertainties of potential individual risk and the in-combination risks, particularly in relation to diving marine birds. The European Shag is a qualifying feature of the Scapa Flow SPA and the Northern Gannet from one or more SPAs are the most notable species in respect of this risk. Given this

potential impact on a qualifying feature of the SPAs. NatureScot considered within their consultation response the risk of mortality/injury through entanglement/ entrapment associated with pole mounted top nets, and are satisfied that with the use of an adaptive EMP there would be no adverse effect on site integrity of Scapa Flow SPA. Such matters are also raised within the consultation response from RSPB Scotland. RSPB maintain its objection but advise should the development be consented a monitoring and adaptive EMP should be agreed prior to the installation of the pole mounted top nets. A monitoring and adaptive EMP can be secured by appropriate condition.

9.2.10.

It is concluded that the mitigation measures proposed within the Predator Defence and Mitigation Plan together with appropriate planning condition(s) would ensure no significant effects on the local seal population and qualifying interests of the SPAs. The decommissioning of the existing site and construction of the proposed site is considered to have temporary impacts in relation to additional vessel movements and seaborne activity in the area. NatureScot has no objection to the proposed development in relation to natural heritage interests subject to the mitigation proposed by the applicant, use of appropriate planning conditions and noting the other regulatory regimes in place (eg CARS).

9.2.11.

The development has been fully assessed individually and cumulatively taking account of consultation responses and objections. It is considered that this development would have no unacceptable impact on the natural heritage interests of the area. The proposals would be consistent with the requirements of Policy 9 and relevant Supplementary Guidance criteria relating to nature conservation designations (DC2), and potential effects on protected species (DC2 and DC3).

9.3. Carrying capacity and cumulative benthic and water column impacts

9.3.1.

The site is located within 'uncategorised' waters under Marine Scotland's Locational Guidelines, which indicates better prospects of fish farm developments being acceptable in environmental terms given the open situation, and the depth of water with unconstrained water exchange. SEPA is responsible for controlling water column impacts via its CAR licensing process under the Water Environment (Controlled Activities) Scotland Regulation 2011 (as amended). Under this licence, SEPA has the ability, if there is significant environmental stress from the biomass level on the site, to require the situation to be improved, through mitigation or reduction in biomass. The benthic impacts are assessed, to protect the marine environment, the quantity of wastes released from fish farms must be appropriately matched to the sea's capacity to disperse and assimilate them so that they do not reach levels that would result in adverse effects or harm marine life.

9.3.2.

Within the SEPA consultation response it is stated: 'Monitoring of the seabed has shown a history of non-compliance with SEPA's benthic standards. However, this was under the previous aquaculture regulatory framework and there is insufficient data to indicate whether this would continue under SEPA's new framework.' The developer seeks to expand and reposition the Bring Head farm in more dispersive and deeper waters where it does not exceed carrying capacity of the water body and is environmentally sustainable.

9.3.3.

Fish farms have an impact on the seabed through the settlement of waste fish feed, faeces and possibly chemical residue from licensed treatments collected beneath the cages. Localised areas of deposition are predicted by Hydrodynamic modelling, from this proposal and other farms in the area. Hydrographic data collected in 2018 and 2020, NewDEPOMOD modelling predicts a deposition footprint of 179,375m² (~82% of the Allowable Mixing Zone) with deposition within this area predicted to be below the intensity limit set by SEPA. The 2020 hydrographical data has not been deemed suitable for use in support of this application by SEPA modellers. SEPA has advised that 'as part of the CAR determination process NewDEPOMOD modelling requires to be re-run with a dataset accepted by SEPA modellers'. Comfort is derived from the fact that CAR licensing will be required which will set the maximum sustainable biomass and level of chemical usage (eg, from sea lice medicines) together with any additional modelling that may be required by SEPA.

9.3.4.

Mitigation proposed to reduce effects on the seabed and water column include monitoring fish feeding and terminating this when the fish are sated, site fallowing, equipment used and chemical use strategy.

9.3.5.

SEPA has no objection to the planning application noting that SEPA shall be considering the proposed increase in biomass to 2500 tonnes and level of chemical usage (eg from sealice medicines) as part of the CAR application process. Details of deposition are a matter for wider assessment by SEPA in relation to an application for a CAR licence under the Water Environment (Controlled Activities) Scotland Regulation 2011 (as amended). SEPA notes implementation of a new regulatory framework for fin fish farms which requires more intensive modelling and monitoring which will be required in support of CAR applications submitted to SEPA. SEPA has confirmed no objection.

9.3.6.

Several consultees including SEPA, MSS and NatureScot, raise and discuss matters of water quality and deposition which to a larger extent are considered via CAR authorisation process. CAR authorisation is intended to control impacts on the water environment, including mitigating any pertinent effects arising. Care is required to ensure that planning conditions that simply duplicate the effect of other legislation are avoided. It is however pertinent to consider the application in relation to the given

production outputs, mindful that these directly inform the EIAR and that environmental impacts arising may otherwise be matters of material planning concern.

9.3.7.

Given the seabed is designated as part of both the Scapa Flow and Hoy SPAs, of which the conservation objectives are to maintain the integrity of habitats for the qualifying bird species of these designations therefore any impact or loss of habitats need to be considered. The developer has provided further clarity on the impacts of the development on the benthic habitats. NatureScot has advised that the revised NewDEPOMOD model (as verified by SEPA), does not raise concerns with respect to potential for significant impacts on SPA features in the vicinity of the Bring Head site as a consequence of deposit of organic materials or export of chemicals from the farm site associated with the increase in production biomass as proposed. Additional information and clarification from the developer in response to NatureScot's holding objection and in relation to habitats regulations 'support a conclusion of Likely Significant Effect (LSE) but no Adverse Effect on Site Integrity (AESI) with respect to impacts of cumulative and in-combination deposition of exported organic materials on the supporting (foraging) habitats of the wintering waterfowl and breeding red-throated diver features of the Scapa Flow pSPA and breeding red-throated diver feature of the Hoy SPA' in relation to in-combination and cumulative impacts on loss of, or damage to, prey-supporting habitats. As such it is determined that the proposal will not have an adverse effect on site integrity for the relevant conservation objective of Scapa Flow SPA, ie to maintain the habitats and food resources of the qualifying features in favourable condition.

9.3.8.

RSPB has objected to the proposal including on grounds of impacts on supporting habitats (loss or damage) on foraging area for birds individually and in combination with other fish farms within the Scapa Flow SPA. In terms of impacts on habitats, NatureScot agree with the assessed impacts and the developer's conclusion of 'no adverse effects on-site integrity as a result of cumulative and in combination effects due to loss or damage to supporting habitats'.

9.3.9.

Marine Services, SEPA, NatureScot and Marine Scotland Science have no outstanding objections in relation to water quality, water column and benthic impacts. It is considered that the proposal would comply with Development Criterion 5 (Water Quality and Benthic Impacts) of Supplementary Guidance: Aquaculture.

9.4. Navigation

9.4.1.

No issues associated with navigation have been raised. The Northern Lighthouse Board has provided specifications for the lighting requirements at this site and raises no objections provided the site is marked accordingly. The Bring Head site lies within the Orkney Harbour Authority area. Marine Services has no objection although noted concerns with larger vessels using pier facilities. The developer has stated that no

changes to vessel sizes are envisaged. Marine Scotland Science is satisfied that the equipment, cages and moorings are suitable for the location based on the environmental data supplied.

9.4.2.

Taking account of the information supplied, it is considered that the development would accord with Orkney Local Development Plan 2017 Policy 12 and Supplementary Guidance: Aquaculture, criteria DC7 and DC8.

9.5. Interaction with Wild Salmonids

9.5.1.

The Planning Authority has a duty in the conservation of biodiversity which includes interaction with wild fish. Sea trout are a UK Biodiversity Action Plan (UKBAP) priority marine features and having regard to the division of regulatory responsibilities acknowledged in the National Marine Plan, and as part of its biodiversity duty, the Council in its capacity as Planning Authority must assume responsibility for consideration of the implications of aquaculture development for the conservation of these species. In considering aquaculture development, the Council has to satisfy itself that there is an effective sea lice strategy in place, which includes measures to ensure that necessary steps are taken in the event that sea lice levels prove not to be capable of being controlled in a satisfactory manner using the measures identified at the application stage. Similarly, the Council has to satisfy itself that proposed containment is adequate in order to minimise the risk of escape events.

9.5.2.

Consultation responses from Development and Marine Planning, Marine Scotland Science and OTFA have all raised matters in relation to wild salmonids, and specifically in relation to sea trout. Quantifiable records for wild Atlantic Salmon (*Salmo salar*) are scant within Orkney with the wild salmonid of most pressing relevance being potential impacts on the brown / sea trout (*Salmo trutta*). For the avoidance of doubt brown trout are the same species as sea trout, with sea trout being the anadromous form of brown trout, migrate to the marine environment whilst brown trout remain resident within freshwater habitats.

9.5.3.

Marine Scotland's Fish Health Inspectorate (FHI) has the responsibility for regulating the health of fish on the farm, however, this responsibility does not extend to the consideration of the effects of fish farming upon wild fish. Marine Scotland does nevertheless provide wild fish interaction advice to the Council to inform decision-making. SEPA is the regulatory body responsible for licensing biomass permitted to be held on farms and for the permitted use of chemicals, but the spread of sea lice into the wider environment from within farms is not construed to be 'pollution', and therefore wild fish impacts are not at present considered as part of their licensing process.

9.5.4.

The site lies within farm management area (FMA) (0-3). Marine Scotland Science (MSS) has advised that there is no history of sea lice affecting the health of the aquaculture animals at this site or in the FMA (0-3) to the knowledge of the FHI. Indicating that within FMA (0-3), which covers much of Scapa Flow, there are 11 active sites. Historically this FMA has had low sea lice levels (remained below the Code of Good Practice (CoGP) suggested criteria) however there has been an increase in the number of farms within this area and there has been an increase in sea lice levels in the most recent production cycle. MSS note within their consultation response that sea lice remain at a low level in this FMA 'with numbers of adult female *Lepeophtherius salmonis* remaining below the CoGP suggested criteria on this site for all but two weeks (one in August and one in October 2021) and also remaining under the MS increased monitoring level of 2'. The rise has been raised by OTFA as part of their objection.

9.5.5.

The applicant has provided the current Sea Lice Management Strategy for their sites in the (0-3) Scapa Flow Farm Management Area and a site-specific sea lice efficacy statement. Salmon farms in the FMA do not follow a synchronous fallow period nor the same pattern of stocking but are managed on a single year class basis. A risk assessment is as set out in the CoGP for the non-synchronous production farms within an FMA. The risk assessment was submitted which was satisfactory to MSS. It is noted that the farms within this FMA have been operating with non-synchronous production.

9.5.6.

Marine Scotland Science advises that scientific evidence from Norway and Ireland indicates a detrimental impact on sea trout and salmon populations from sea lice. Salmon fish farm operations can result in elevated numbers of sea lice in open water and as such has the potential to have an adverse effect on populations of wild salmonids in some circumstances. Information presently available from the west coast of Scotland suggests lice from fish farming may cause a risk to local salmon and sea trout. MSS states that 'the greater the number of lice on the farm the greater the risk to wild salmon and sea trout' with the caveat that 'while it is not possible to accurately predict the future lice levels on a farm the performance of existing farms within the area could act as a guide for future performance'. OTFA views the increase in lice numbers as a major cause for concern, with anecdotal reports from sea trout catches locally by anglers reporting higher numbers of lice on sea trout with 'visible signs of lice damage caught in the summer & autumn period of 2021'.

9.5.7.

In consideration of the relative risk to salmon and sea trout, and measures to mitigate, there are a number of factors:

- The siting of the farm and its ability to effectively control sea lice.
- The greater the number of lice on the farm the greater the risk to wild salmon and sea trout.

9.5.8.

While it is highlighted that although it is not possible to accurately predict the future lice levels on a farm, the performance of existing farms within the area could act as a guide for future performance. It identifies that this development has the potential to increase the risks to wild salmonids. However, it is noted that the developer is aware of the potential impacts on salmon and sea trout and has indicated that they intend to manage the site as part of the local FMA (0-3). They have undertaken to follow the industry CoGP practices recommended in regard to sea lice control and containment. MSS suggest that strict control of sea lice should be practiced throughout the year, although it should be noted that may not necessarily prevent release of substantial numbers of lice from aquaculture installations.

9.5.9.

MSS has considered the sea lice management strategy which outlines monitoring and reporting procedures: sea lice counts are conducted weekly from each pen and reported weekly to Marine Scotland in line with mandatory requirements. The applicant has confirmed that although not subject to the same mandatory reporting, the same procedures are followed for *Caligus* species. Interventions are considered when CoGP suggested criteria are reached and a flow chart is provided illustrating this. Interventions that could be used on site are outlined as follows:

- Use of stocks with improved resistance.
- Physical barriers (lice shields).
- Biological control with cleaner fish.
- Use of functional feeds.
- Physical control and medicinal control.

9.5.10.

With regard to reactive interventions, MSS advise that the applicant has sufficient resources to deploy physical measures across their sites, and own one hydrolicer and two thermolicers and further treatment vessels are available under contract. Should the application to vary the CAR licence be granted, the site will have chemotherapeutants available to conduct treatments with deltamethrin or azamethiphos in four days in full enclosure by use of tarpaulins or well boat. The applicant proposes to target specific pens at risk and therefore whole site treatments may not be conducted, further reducing time taken to treat. The applicant confirms in the Efficacy Statement that sufficient workboats and equipment for conducting treatments in 120 metre cages are available to the site. Furthermore, in feed treatment with emamectin, benzoate is also currently available at a level of one treatment at maximum biomass. MSS has considered the details of preventative sea lice management measures and are satisfied the application meets their requirements in terms of prevention, control and reduction of parasites on the site.

9.5.11.

In addition to the sea lice management strategy, the applicant has submitted an Environmental Management Plan (EMP). An EMP ensures that appropriate environmental management practices are adhered to during the construction and

operation of the development. Marine Scotland has set minimum requirements for the content of these EMPs and advise the planning authority if they consider that a particular EMP meets these requirements. MSS expects that as a minimum EMPs should be able to:

- Report on the level of lice released into the environment (ie both farmed fish and adult female lice numbers)
- Identify the likely area(s) of sea lice dispersal from the farm.
- Detail how and what monitoring data will be collected to assess potential interaction with wild fish.
- Detail how this monitoring information will feed back to management practice.

This plan should also include a regular review process to ensure that it remains fit for purpose.

9.5.12.

MSS has confirmed that they are satisfied with the information which includes the EMP submitted in support of this application. The EIA Report advises that SSF are currently in consultation with Cooke Aquaculture Scotland with regards to the potential development of a joint EMP and associated monitoring strategy for Scapa Flow. It is advised that if this is taken forward it could replace the existing submitted EMP. If agreed with the Council and MMS, a defined reporting and review process would enable an ongoing 'adaptive management' approach where appropriate changes to the EMP and associated farm management measures are informed by an agreed programme of farm and wild fish monitoring.

9.5.13.

OTFA has serious concerns with the industry's ability to control lice numbers within the existing level of production, previously claimed by the industry to be largely absent from Orkney farms, but which have increased dramatically. The interest group has reinforced this view with the data showing the increased levels of sea lice on farmed salmon on the existing Bring Head site and other sites within Scapa Flow in recent months. OTFA highlight that wild sea trout are widespread throughout Orkney and that nine of Orkney's 22 known spawning populations are located around Scapa Flow. OTFA indicate that within Scapa Flow, 'the unrestricted growth of the industry over the last few years has seen it become one of the most intensely farmed areas in Scotland' and point out that given 'the relatively poorly flushed waters of the Flow parasites and disease should get the opportunity to thrive'. Whether the industry can regain control in subsequent production cycles remains to be seen. The risks on the unrestricted expansion of fish farms in Scapa Flow has previously been raised by OTFA in relationship to previous developments. OTFA identify that there remains a complete lack of strategic planning when it comes to aquaculture in Orkney. They advise that there is a need for local policy that protects the environment and wild fish by simply separating aquaculture from vulnerable wild sea trout habitat due to the potential negative effect on nearby sea trout populations due to the risk of the spread of sea lice.

9.5.14.

The objection from the OTFA is acknowledged, however, current guidance from the Scottish Government is that EMPs should be used in order to manage and monitor the sea lice threat from farmed salmon to wild salmon. In support of this application, the planning authority received expert advice from Marine Scotland Science on the acceptability of proposed EMPs. SEPA has no objections to the development with neither NatureScot nor MSS also not objecting subject to appropriate conditions to secure necessary safeguards. Taking account on the above, it is considered that the proposal would accord with relevant policies of the Local Development Plan and Supplementary Guidance: Aquaculture.

9.5.15.

The Planning Authority must be satisfied that proposed mitigation would establish a robust control mechanism to ensure sea lice numbers remain low throughout the lifetime of the permission, thereby ensuring that any consent would not conflict with relevant planning policies and biodiversity duties as set out in the Nature Conservation (Scotland) Act 2004. The inclusion of an appropriate, adaptive Environmental Management Plan (EMP), along with the other mitigation proposed, provides sufficient assurance that greater understanding of impacts will be established, as a result of monitoring of wild fish interactions, and that action would be taken should trigger levels on sea lice be reached.

9.5.16.

Although the content of the EMP is broadly welcomed, OTFA although maintaining their objection, suggested the scope of the EMP could be widened by the developer. The EIA Report has undertaken further work to establish if a joint EMP with the other company farming within this FMA can be undertaken to further manage the potential interactions with wild salmonids relevant to operation of salmon farms in Scapa Flow. MSS has confirmed that the review process for the EMP as stated by the applicant would ensure that the EMP remains fit for purpose and relevant. Given that the scope of the EMP could be supplemented and broadened, it is considered reasonable to secure by planning condition that further detail within the EMP be secured.

9.5.17. Containment and risk of escapes

The EIA Report indicates that there has not been an escape event at a SSF farm in Scapa Flow Farm Management Area since the company took over the farms. An Escape Prevention and Recapture Strategy has been submitted in support of this application. Site specific attestations have also been submitted by the applicant which confirm that the equipment will be suitable for the conditions within the area. MSS has confirmed that these issues are acceptable following a request for further clarification on equipment attestations. Taking account of the above, it is considered that the measures for containment and dealing with the risk of escape is acceptable.

9.5.18.

SEPA has no objections to the development with neither NatureScot nor MSS also not objecting subject to appropriate conditions to secure necessary safeguards.

Whilst generally considered in accordance with minimum requirements, the proposed adaptive EMP proves valuable in monitoring and improving knowledge on wild salmonids interaction from farmed salmon; this could be secured by planning condition. The proposed development is therefore considered acceptable in relation to relevant policy considerations and criterion DC4 of Supplementary Guidance: Aquaculture.

9.6. Landscape and Visual Impact

9.6.1.

The site sits within the Hoy and West Mainland National Scenic Area (NSA). A Landscape and Visual Impact Assessment (LVIA) was submitted as part of the EIAR which identifies the visual impacts of the development. Landscape and visual impacts require consideration in the context that there is an existing cage site at the location together with cumulative impacts arising with other fish farms in the wider seascape. Key to the consideration is therefore the magnitude of change which would result from the enlargement and altered positioning of the proposed fish farm.

9.6.2.

The SNH-commissioned report 'Orkney landscape capacity study for aquaculture: Scapa Flow and Wide Firth' (2011) locates the development within the North East Hoy Coastal Character Area. The existing fish farm at Bring Head was extant at the time of the above report which considered that the "Outer cages of an existing finfish farm are visible from sections of the B9047, but cages closest to the shore are obscured". This is demonstrated from viewpoint 4: from the B9047 near Bring Head of the submitted LVIA and is subject to change noting that the proposal will be set further from the shore, consist of larger cages with pole mounted top-nets, covering a greater extent of sea area with a larger feed barge than the existing farm. In this closest view of the proposed farm from the seven viewpoints considered, the significance of effect would be a moderate and significant adverse effect. In consideration of landscape and visual constraints, both low lying and elevated views can be gained from distant northern, mainland shores and eastern extents of Graemsay, and the popular viewpoint on Lyrawa Hill. Further development would create cumulative issues resulting in development as a whole appearing more prominent.

9.6.3.

Given the NSA landscape designation the development should seek to blend in with the local, coastal cliff surroundings and not detract from the natural landscape. To achieve this, muted colours on the feed barge, as the most significant structure above water, would be considered necessary. As the low-lying and dark colour of the cages would be largely viewed looking out to sea, the barge would have the appearance of a boat at sea. Visually, it is considered that the development would be partly perceived as a repositioning and enlargement of an existing fish farm rather than introduction of a novel fish farm feature in the seascape, although the proposed pole and top net system would be more visible compared to the existing style of low support top nets. Development and Marine Planning has commented that 'as the proposal moves the much larger cages further out, they would likely be much more

prominent than the current configuration, which are partly screened by the cliffs and convex landform. Thus, these cumulative impacts, could erode the qualities of the NSA'. As a moored static installation and based on the proposed activities involved in the operation, including vessel movements and lighting, on balance the level of visual change is not considered to be significantly detrimental to the special quality of 'spectacular coastal scenery' of the Hoy and West Mainland National Scenic Area.

9.6.4.

Landscape and visual impacts of the proposed fish farm during the hours of darkness must also be assessed. The artificial sources of light include the navigational lighting to be installed on the fish farm for navigational safety. There would also be underwater maturation lights fitted to each cage. These would only be in use during the winter months of December to April when required. The specification and duration of lighting on the proposed barge and cages will not change from that of the existing farm, albeit that the change in location and scale of these elements will change the perception of such lighting within the wider seascape/environment. The effects of maturation lighting associated with the proposed farm would be localised, given that the submerged artificial lights are mainly confined to the cage structures. Given the experience of maturation lighting on fish farms to date, this matter is not considered to have a significantly adverse effect. It is however recognised that, in an area which presently has low levels of artificial lighting, the faint glow at the water surface has the potential to impact on the character of the area at night time.

9.6.5.

The LVIA identifies the visual impacts of the development. The LVIA considers a seascape area where aquaculture is already a characteristic feature and that views of the current site are long established. No significantly adverse effects are identified within the submitted LVIA, with little conflicting comment provided by consultation bodies, excepting points made by Development and Marine Planning as noted above. A degree of erosion of the special qualities of the NSA has occurred given the existing fish farming operation. The question then arising is whether an expanded and relocated fish farm would worsen this impact to a point where a significant effect on the overall integrity of the area or the qualities for which it has been designated occurs. The proposed development is not considered to have a significant effect on the special qualities of the NSA, and it would consequently therefore have no effect on the integrity of the area or the qualities for which it has been designated in terms of the test set out in Policy 9 of OLDP 2017 as stated by the submitted LVIA. No significant effects accrue to settlements or residential buildings given the sparsely populated character of the local area.

9.6.6.

Impacts to the Hoy and West Mainland National Scenic Area are acknowledged but are not considered to significantly affect the overall integrity of the area or the qualities for which it has been designated either as a development in its own right or in combination with other development in the area, most notably the recently approved Chalmers Hope to the south west. On balance the magnitude of landscape or visual change that would occur in the context of the landscape/seascape and

specifically to the qualities of the NSA would not warrant refusal. The application is therefore considered to accord with Policies 9 and 12 of OLDP 2017 and Supplementary Guidance: Aquaculture, criteria DC1 and DC9.

9.7. Socio Economic Impact

9.7.1.

The proposed development is a replacement for the existing Bring Head Fish Farm site. Should the application be approved, current levels of employment at the existing Bring Head site would be maintained with the site manned by a site manager and five staff members, three of which are full time employees, with the existing supply chain being maintained. It has been identified that there is commercial fishing interest in the area.

9.7.2.

As per the submitted LVIA, the development is not considered to be significantly detrimental in terms of visual impacts. Given the limited extent of the area occupied by the development, no significant loss of physical recreation area is considered to result. The proposed development is therefore considered to have limited impacts on the perceived enjoyment or use of the area in relation to recreation and/or amenity.

9.7.3.

The Scottish Government's National Marine Plan and Scottish Planning Policy together recognise the contribution of the aquaculture sector to the rural economy and seek to support sustainable economic development. The National Marine Plan and Scottish Planning Policy both support the expansion of marine fish farming where it can take place in environmentally sustainable locations, where it does not exceed the carrying capacity of the water body within which it is to be located, and where it does not give rise to significant adverse effects upon nature conservation, wild fish, historic environment or other commercial or recreational water users.

9.7.4.

Significant adverse effects to socio-economic and recreational receptors are not anticipated. Due to the anticipated low magnitude of the effects of the direct impacts of loss of access to fishing grounds and changes to the distribution and abundance of key target species, no significant indirect effects (adverse impacts on the income of individual fishers or the displacement of fishers) are anticipated as stated within the EIAR. However, it is recognised that impact on the under-15 metre local fishing fleet may arise. The number of fishing vessels that may be directly affected by the proposals is estimated to be between six and 11 crab and lobster pot fishing vessels (5 to 9% of the Orkney port district fleet) and between four and six scallop diving vessels (3 to 5% of the Orkney port district fleet) according to the submitted EIAR. This may increase to 20 overall in winter. No other significant impacts on commercial fishing or diving grounds are anticipated, in terms of displacement, employment or loss of fishing or diving grounds. In considering the competing socio-economic impacts, the benefits created by the development, on balance, are considered to outweigh any impact caused by change to the area.

9.8. Noise pollution

9.8.1.

The primary fixed source of noise is the operation of machinery on the feed barge. This will include cranes, generators and associated hydraulic systems, all of which sound like diesel engines. Noise on the feed barge will also occur due to feeding operations, with feed blowers on the barge introducing a background noise of a fan, comparable to a large air conditioning unit. The feed passing down pipes will manifest as an audible rattle, the degree of audibility varying with feeding depth. Feed selectors that serve to connect the feed outflow from the barge to the appropriate delivery pipe may introduce an occasional metallic thump (impulse) to the sound from the site. Although there will be a change in feed barge, the primary change will be the feed storage capacity; the barge will use the same potential noise sources, therefore it is advised that there is not expected to be any significant change in noise levels compared with the existing operation. In addition, it is advised that the use of newer technology and the noise sources being housed in internal or enclosed compartments, will act as acoustic enclosures reducing noise levels.

9.8.2.

The development would have minimal noise producing operations and practices and these would normally be confined to daily working hours. The site is also removed from any residential property. The EIAR notes that “all noise on site normally ceases during the period between 18h00 and 06h00. Potential noise levels will be comparable to those currently experienced at the existing farm. Generally, noise is intermittent and confined to the working hours of the site and is unlikely to be a nuisance to sensitive receptors along the coast taking into consideration background noise and noise levels from existing operations”. The residual risk of impact relating to noise emissions is considered low and unlikely to result in any significant effect. No record of noise complaint is noted in relation to the existing site. During construction and activities such as harvesting and fish movements, noise producing activities may occur outwith standard hours; however, these are likely to be very occasional. It is considered that the noise associated with the activities of the fish farm would not be significant and as such the proposal is considered acceptable in terms of Orkney Local Development Plan 2017 and criterion DC9 of Supplementary Guidance: Aquaculture.

9.9. Cultural Heritage and Historic Environment

This matter has been addressed within the EIAR and through the consultation process and no significant effect on cultural heritage has been identified nor commented upon by Historic Environment Scotland and the County Archaeologist. The applicant has advised should any archaeology be encountered during the process of construction, both Historic Environment Scotland and the County Archaeologist would be notified directly by the applicant for further comment/advice. Therefore, the proposal is considered acceptable in terms of Policy 8 of Orkney Local Development Plan 2017 and criterion DC6 of Supplementary Guidance: Aquaculture.

9.10. Roads and Transportation

9.10.1.

It is proposed that the fish farm would remain serviced from Houton, in conjunction with a feed barge on site. Marine Services notes the increased use of port facilities at Houton in conjunction with proposed works at Toyness Fish Farm, considered under separate application, with comment that the particular jetties are not suitable to the proposed increase in vessel size. This was queried with the developer with no alteration in vessel size noted and as such this point is not considered pertinent.

9.10.2.

Harvested fish are landed and processed at Scalloway, Shetland. No significant effect on the local road network is anticipated to result directly from this application, except for decommissioning of the existing farm with materials taken by sea to Burray boat yard for recycling or disposal with onward movement of material by road. Roads Services have requested that a condition/dilapidation survey is carried out jointly with the developer and Roads Services to assess the impact on the existing public road infrastructure. The applicant would be responsible for funding this survey and the cost of repairs should any damage to the public road be attributed to this development. A condition to this effect could be added to this proposal if consented. Therefore, the proposal is considered acceptable in terms of Policy 13 of Orkney Local Development Plan 2017 and criterion DC7 of Supplementary Guidance: Aquaculture.

9.11. Waste Management

A combined waste management plan has been provided for both Bring Head and Toyness, as subject to separate application. This details wastes arising, collection methodology, waste disposal contractor and the frequency of disposal. The waste management plan has been considered as a component of the submitted EIA report with no significant comment provided by consultees as to any deficiencies arising, noting that mortalities and moribunds arising are ultimately processed by Pelagia in Shetland.

9.12. Cessation of Existing Operation

9.12.1.

The application as submitted shall require the removal of the presently consented equipment at the existing Bring Head site which has been in operation since 2001, and 2007 under the current operator and applicant in this case. The operational site areas of the existing fish farm and the proposed site significantly overlap. It is also recognised that the existing fish farm at Bring Head was subject to an earlier approval regime, and whilst the planning history illustrates various developments at the existing site, the original consent is historic in nature dating to 2001. It is apparent from the EIAR, in relation to the existing site, that such a site in shallower/less energetic waters is less well suited to current expectations from both production and environmental perspectives.

9.12.2.

It is recognised that the current application provides an opportunity to replace an under-performing site, to be replaced with a larger site in deeper and more energetic waters which, based on information provided, and noting no objections from statutory consultation bodies, may improve the environmental performance of the operation, whilst providing scope for appropriate control of the removal of redundant equipment. However, this is balanced against the significant enlargement of operations at the new site, with an increase in pen number and size to 12 x 120 metre circumference circular cages, production biomass to 2,500 tonnes, and associated infrastructure including an enlarged feed barge and more visible pole mounted top net arrangement. On balance, the development is considered acceptable. It is also recognised that additional environmental control would exist through provision of an EMP.

10. Conclusion and Recommendation

10.1.

The Orkney Local Development Plan 2017 supports finfish development where it can be demonstrated, “with regard to SG and through appropriate mitigation where necessary, that there will not be unacceptable effects, directly, indirectly or cumulatively”. Supplementary Guidance: Aquaculture, Spatial Policy 1, sets out the spatial sensitivities that have potential to be affected by aquaculture developments, as well as the ten development criteria that all aquaculture development will be assessed against. In addition, the National Marine Plan supports sustainable growth of aquaculture, subject to the proposal complying with the relevant policies of the NMP and the 14 Policies which relate specifically to Aquaculture.

10.2.

In relation to the findings and outcomes of the Environment, Climate Change and Land Reform (ECCLR) Committee and Rural Economy and Connectivity Committee report, MSS and SEPA have made recommendations and actions relevant to their statutory remits. The inclusion of an Environmental Management Plan is welcomed in relation to planning function, including the understanding of interaction of this type of development and wild salmonids. NatureScot has provided clear advice on the impacts on natural heritage and concludes that the proposed development is acceptable, subject to the mitigation proposed.

10.3.

SEPA considers matters in relation to the receiving environment through The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR). MSS considers environmental impacts and aquaculture animal health and, in common with NatureScot and SEPA, has not raised any matters that have not been addressed within the submission or are otherwise ordinarily controlled by planning condition whilst noting the requirement for an agreed and appropriate EMP.

10.4.

The proposed location is considered suitable from an aquaculture perspective. The Council's Habitats Regulations Appraisal and appropriate assessment support the conclusion that the proposals would not have an adverse effect on the integrity of any sites of international or national importance for their habitats or species. The recommendation of this application has been guided by the conclusions of the EIAR and the proposal has been assessed against the policies of the Orkney Local Development Plan 2017 and Supplementary Guidance: Aquaculture, as well as other material considerations and policies within the plan.

10.5.

The application provides an opportunity to address environmental and condition monitoring under-performance at the existing fish farm at Bring Head site, through re-positioning of the operation to more dispersive and deeper waters. This has to be balanced with the enlarged nature of the development as proposed with a significant increase in production biomass from 968 to 2,500 tonnes, cage size and above surface infrastructure, including pole mounted top nets and a 420 tonne feed barge. It is recognised that the site is in a sensitive location in relation to both landscape and natural heritage interests, as it is situated within the bounds of the Hoy and West Mainland National Scenic Area, Hoy Special Protection Area (SPA) and the Scapa Flow SPA.

10.6.

The support of the Orkney Local Development Plan 2017 and National Marine Plan for sustainable growth of aquaculture in principle is a material consideration of significant weight in support of this application. The proposed development is acceptable subject to mitigation and would, on balance, comply with Policies 1, 2, 4, 8, 9, 12 and 14 of the Orkney Local Development Plan 2017, Supplementary Guidance: Aquaculture and the aims of the National Marine Plan. It is considered that the objections do not carry sufficient weight to justify refusal of the application. Accordingly, the application is **recommended for approval**, subject to the conditions attached as Appendix 3 to this report.

11. Contact Officer

David Barclay, Senior Planner, extension 2502, Email: david.barclay@orkney.gov.uk

12. Appendices

Appendix 1: Habitats Regulations Appraisal.

Appendix 2: Location Plan.

Appendix 3: Planning Conditions.

Appendix 1

Create salmon farming site comprising of 12 x 120 metre circumference circular cages arranged in a 2 x 6 formation in a 70 metre mooring grid, with pole mounted top nets, underwater lighting, and 420 tonne capacity semi-automated feed barge (replacement of existing equipment) at bring head fish farm, Hoy, Scapa Flow, Orkney

Planning Reference: 21/411/MAR.

Consideration of Proposals affecting European Sites

The proposal lies within the bounds of both Scapa Flow Special Protection Area (SPA) and Hoy SPA. The requirements of The Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") or, for reserved matters, The Conservation of Habitats and Species Regulations 2017 therefore apply.

This means that where the conclusion reached by the Council on a development proposal unconnected with the nature conservation management of a Natura 2000 site is that it is likely to have a significant effect on that site, it must undertake an appropriate assessment of the implications for the conservation interests for which the area has been designated. The need for appropriate assessment extends to plans or projects outwith the boundary of the site in order to determine their implications for the interest protected within the site.

This means that the Council, as competent authority, has a duty to:

- Determine whether the proposal is directly connected with or necessary to site management for conservation; and, if not,
- Determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; and, if so, then
- Make an appropriate assessment of the implications (of the proposal) for the site in view of that site's conservation objectives.

The competent authority can only agree to the proposal after having ascertained that it will not adversely affect the integrity of the site. If this is not the case, and there are no alternative solutions, the proposal can only be allowed to proceed if there are imperative reasons of overriding public interest, which in this case can include those of a social or economic nature.

It is evident that the proposal is not connected with or necessary to site management for conservation, hence further consideration is required.

Appropriate Assessment

While the responsibility to carry out the Appropriate Assessment rests with the Council, advice contained within Circular 6/1995 is that the assessment can be

based on the information submitted from other agencies. In this case, the Appropriate Assessment is informed by information supplied by NatureScot. It is also acknowledged that the developer has provided dedicated information to inform the HRA process for the application under consideration which is welcomed and has been considered together with all other relevant information as submitted.

In the view of NatureScot the proposal is likely to have a significant effect on the wintering waterfowl and breeding Red-throated diver of the Scapa Flow SPA and breeding Red-throated diver of the Hoy SPA. Consequently, Orkney Islands Council, as competent authority, is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interest(s).

It should be noted that the Scapa Flow SPA at the time of the application and the EIA Report was a proposed SPA (pSPA) however on the 16th Feb 2022 the designated was confirmed as a SPA. However, the Scottish Government has a policy of protecting proposed SPAs as if they were classified. Consequently, the Scapa Flow SPA has been considered throughout the planning process as if it was classified.

Based on the information provided, if the proposal is undertaken strictly in accordance with the details submitted including the mitigation measures will not adversely affect the integrity of either site.

Scapa Flow Special Protection Area

Appraisal

The proposal is assessed against the conservation objectives of the Scapa Flow SPA.

Conservation objective: Avoid significant mortality, injury and disturbance of the qualifying features, so that the distribution of the species and ability to use the site are maintained in the long-term. We have considered the following impacts.

Direct displacement (including cumulative displacement) of waterfowl from the Scapa Flow SPA;

Any significant, including cumulative, displacement of the qualifying interests of the Scapa Flow SPA, in particular from favoured foraging areas, would be of potential concern. The proposal equates to circa 1.3 to 2 times expansion relative to the existing mooring areas, which is substantial at a site level. However, the actual area affected (up to 0.2 square kilometres) is small in relation to the overall area of the Scapa Flow SPA (371 square kilometres) (SNH, 2016) and also, the direction of expansion is into deeper waters, of between 20 metres and over 30 metres depth.

Breeding Red-throated diver and non-breeding Black-throated diver, Goldeneye, Redbreasted merganser and Slavonian grebe typically forage in shallower waters. Eider and long-tailed duck can feed in deeper waters, but appear to be attracted to finfish farms rather than displaced by them. Great northern divers may also forage at depth, but the wintering population is largely concentrated in the centre of Scapa Flow. In addition, the overall distributions of these species, as indicated by the

surveys underpinning site selection (SNH, 2016) and by a subsequent survey in winter 2017/18 (Jackson, 2018), do not indicate the location as of critical importance to maintaining populations of these qualifying interests.

The available evidence therefore suggests that potential displacement, including cumulative displacement, is not a major concern with respect to this proposal.

Mortality/injury through entanglement/entrapment risks associated with pole-mounted top nets;

The proposed adoption of pole-mounted top nets increases potential entanglement or entrapment risk to a range of bird species, most notably: gannets from one or more SPAs and European shags from the Scapa Flow SPA.

The proposed 100mm mesh size for ceiling nets should theoretically reduce the risk to gannets though the 75mm mesh side panels may still pose entanglement risk to the European shag.

To minimise the potential risk of bird entanglement/entrapment, the following monitoring, reporting and adaptive management measures will be implemented by SSF:

- Maintain daily records of wildlife entanglement/entrapment using a standardised format and submit six-monthly returns to the Planning Authority copied to NatureScot.
- Immediate notification of both the Planning Authority and NatureScot in the event of any significant entrapment or entanglement incidents (e.g., involving three or more birds of any named species on any one day and/or a total of ten or more birds in the space of any seven-day period and/or or repeat incidents involving one or more birds on four or more consecutive days). Monitoring and reporting of entanglement/entrapment data will help to develop a robust evidence base which can be used to improve understanding of the nature and extent of bird interactions with pole-mounted top nets.
- Implement adaptive management approaches based on monitoring findings (as agreed with the Planning Authority in consultation with NatureScot), such measures may include:
 - If entanglement records show significant entrapment or entanglement occurring then consider appropriate alterations to the top net design including changes in mesh size, net colour and marking the top nets to make them more visible to birds; and
 - If bird entanglement continues despite alterations, top net design could be changed to the traditional 'hamster-wheel' system.

Potential disturbance during the decommissioning of existing site, construction and decommissioning of expanded site;

Installation

Vessel movements during mooring installation activities associated with the Bring Head expansion site will involve one return trip per day between the site and either

Stromness or Houton to transport materials to the site, with mooring installation activities anticipated to be completed within 3 - 7 days. Cages will be constructed on land at a site on Sanday and towed to the site by the site maintenance vessel. The cage installation process will involve approximately 10 – 12 days of towing and installation activities (possibly not consecutive days as time is required for the cages to be built and to allow for prevailing weather and tidal conditions). Although these vessel movements would pass through areas of importance to foraging red-throated divers during the breeding season, the vessel transit route would be the same as that used for the existing operational movements for Bring Head Fish Farm. The frequency of vessel activity during mooring installation would be a relatively small increase, but otherwise similar to, the current daily operational vessel movements already experienced at the existing Bring Head Fish Farm, with one return trip per day by the site maintenance vessel.

Decommissioning

During decommissioning activities, the site maintenance vessel will adhere to a specified vessel transit route that avoids key areas used by foraging red-throated divers when moving between the site and Burray boatyard.

Any disturbance from vessel traffic during decommissioning and construction activities would be temporary, of short duration and transient with no lasting effects anticipated from this low level of daily vessel movements.

Mitigation

The following mitigation measures will be implemented to minimise disturbance to red throated divers during the breeding season from vessel activities during decommissioning and construction activities

- Adherence to a specified vessel transit route during decommissioning activities that avoids key foraging areas for red-throated diver.
- Adherence to a specified vessel transit route during cage installation activities that avoids key foraging areas for red-throated diver.
- All vessels will adhere to the Scottish Marine Wildlife Watching Code (SMWWC) (within practical feasibility) when passing within the vicinity of red-throated divers.

Disturbance from vessels during operation phase of proposal.

The applicant states that there is to be no change from the existing route and therefore no additional impact from this activity.

Conservation objective to maintain the habitats and food resources of the qualifying features in favourable condition.

Potential risk of loss of or damage to prey-supporting habitats as a consequence of deposit of organic materials or export of chemicals from the farm site associated with the increase in production biomass.

The location of the proposed extension to the existing fish farm at Bring Head in relation to distributions and foraging depths of the qualifying marine bird features of

the Scapa Flow SPA means that benthic impacts associated with deposition of organic materials or chemicals in the vicinity of the site are unlikely to significantly impact critical benthic foraging habitats.

However, if there were substantial export and deposition of materials from the immediate area there could be potential for cumulative or in-combination impacts at more sensitive locations within the Scapa Flow SPA. The results from the NewDEPOMOD modelling in the Environmental Report are reported as there will “be a minimal degree of export (25.56 %) with no areas of significant solids deposition expected to occur outwith the Mixing Zone” This indicates that beyond the immediate vicinity of the farm risk of damage to benthic habitats arising from deposition of organic materials from the site is low. Given this, and the fish farm’s relative isolation from others operating in Scapa Flow (as illustrated by Figure 7.7 in the ER), we support the applicant’s conclusion of “no adverse effects on-site integrity as a result of cumulative and in-combination effects due to loss or damage to supporting habitats” with respect to the proposed extension of the Bring Head proposal.

Wider matters including consideration of Priority Marine Features (PMF) and European Protected Species (EPS) have also been considered, noting that no PMFs species of significance identified in the area of the proposal, whilst the potential use of Acoustic Deterrent Devices (ADDs) is noted and may be subject to further consideration through potential EPS licensing and appropriate planning condition. The licensed shooting of seals is discounted as this is now illegal in relation to the proposed development.

Conclusion

Whilst it is concluded that there are likely significant effects on some features of the Scapa Flow SPA were the development to proceed on the basis of the identified mitigation as detailed in the supporting EIAR and appendices therein coupled with appropriate additional safeguards through the application and adherence to appropriate planning condition(s) it can be concluded that there would be no adverse effect on site integrity.

Hoy Special Protection Area

Appraisal

The proposal is assessed against the conservation objectives of the Hoy SPA.

Conservation objective: Avoid significant mortality, injury and disturbance of the qualifying features, so that the distribution of the species and ability to use the site are maintained in the long-term. The following impacts have been considered;

Direct displacement (including cumulative displacement) of waterfowl, including breeding Red-throated diver from the Hoy SPA;

Any significant, including cumulative, displacement of the qualifying interests of the Hoy SPA, in particular from favoured foraging areas, would be of potential concern. The proposal equates to circa 1.3 to 2 times expansion relative to the existing mooring areas, which is substantial at a site level. However, the actual area affected

(up to 0.2 square kilometres) is small in relation to the overall area of the Scapa Flow SPA (371 square kilometres) (SNH, 2016) and also, the direction of expansion is into deeper waters, of between 20 metres and over 30 metres depth.

Breeding Red-throated diver and non-breeding Black-throated diver, Goldeneye, Redbreasted merganser and Slavonian grebe typically forage in shallower waters. Eider and long-tailed duck can feed in deeper waters, but appear to be attracted to finfish farms rather than displaced by them. Great northern divers may also forage at depth, but the wintering population is largely concentrated in the centre of Scapa Flow. In addition, the overall distributions of these species, as indicated by the surveys underpinning site selection (SNH, 2016) and by a subsequent survey in winter 2017/18 (Jackson, 2018), do not indicate the location as of critical importance to maintaining populations of these qualifying interests.

The available evidence therefore suggests that potential displacement, including cumulative displacement, is not a major concern with respect to this proposal.

Mortality/injury through entanglement/entrapment risks associated with pole-mounted top nets.

The proposed adoption of pole-mounted top nets increases potential entanglement or entrapment risk to a range of bird species, most notably: gannets from one or more SPAs and European shags from the Scapa Flow SPA.

The proposed 100mm mesh size for ceiling nets should theoretically reduce the risk to gannets though the 75mm mesh side panels may still pose entanglement risk to the European shag.

To minimise the potential risk of bird entanglement/entrapment, the following monitoring, reporting and adaptive management measures will be implemented by SSF:

- Maintain daily records of wildlife entanglement/entrapment using a standardised format and submit six-monthly returns to the Planning Authority, copied to NatureScot.
- Immediate notification to both Orkney Islands Council, and NatureScot in the event of any significant entrapment or entanglement of gannets. Significant entrapment is defined as involving three or more birds of any named species on any one day and/or a total of ten or more birds in the space of any seven day period and/or repeat incidents involving one or more birds on four or more consecutive days. Monitoring and reporting of entanglement/entrapment data will help to develop a robust evidence base which can be used to improve understanding of the nature and extent of bird interactions with pole-mounted top nets.
- Implement adaptive management approaches based on monitoring findings (as agreed with the Planning Authority in consultation with NatureScot), such measures may include:
 - If entanglement records show significant entrapment or entanglement occurring then consider appropriate alterations to the top net design including

changes in mesh size, net colour and marking the top nets to make them more visible to birds; and

- If bird entanglement continues despite alterations, top net design could be changed to the traditional 'hamster-wheel' system.

Potential disturbance during the decommissioning of existing site, construction and decommissioning of expanded site;

Installation

Vessel movements during mooring installation activities associated with the Bring Head expansion site will involve one return trip per day between the site and either Stromness or Houton to transport materials to the site, with mooring installation activities anticipated to be completed within 3 - 7 days. Although these vessel movements would pass through areas of importance to foraging red-throated divers during the breeding season, the vessel transit route would be the same as that used for the existing operational movements for Bring Head Fish Farm. The frequency of vessel activity during mooring installation would be similar to the current daily operational vessel movements already experienced at the existing Bring Head Fish Farm, with one return trip per day by the site maintenance vessel.

Decommissioning

During decommissioning activities, the site maintenance vessel will adhere to a specified vessel transit route that avoids key areas used by foraging red-throated divers when moving between the site and Burray boatyard.

Any disturbance from vessel traffic during decommissioning and construction activities would be temporary, of short duration and transient with no lasting effects anticipated from this low level of daily vessel movements.

Mitigation

The following mitigation measures will be implemented to minimise disturbance to red throated divers during the breeding season from vessel activities during decommissioning and construction activities

- Adherence to a specified vessel transit route during decommissioning activities that avoids key foraging areas for red-throated diver.
- Adherence to a specified vessel transit route during cage installation activities that avoids key foraging areas for red-throated diver.
- All vessels will adhere to the Scottish Marine Wildlife Watching Code (SMWWC) (within practical feasibility) when passing within the vicinity of red-throated divers.

Disturbance from vessels during operation phase of proposal.

The applicant states that there is to be no significant change from the existing route and therefore no additional impact from this activity.

Conservation objective to maintain the habitats and food resources of the qualifying features in favourable condition.

Potential risk of loss of or damage to prey-supporting habitats as a consequence of deposit of organic materials or export of chemicals from the farm site associated with the increase in production biomass.

The location of the proposed extension to the existing fish farm at Bring Head in relation to distributions and foraging depths of the qualifying marine bird features of the Hoy SPA means that benthic impacts associated with deposition of organic materials or chemicals in the vicinity of the site are unlikely to significantly impact critical benthic foraging habitats.

However, if there were substantial export and deposition of materials from the immediate area there could be potential for cumulative or in-combination impacts at more sensitive locations within the Hoy SPA. The results from the NewDEPOMOD modelling in the Environmental Report are reported as there will “be a minimal degree of export (25.56 %) with no areas of significant solids deposition expected to occur outwith the Mixing Zone” This indicates that beyond the immediate vicinity of the farm risk of damage to benthic habitats arising from deposition of organic materials from the site is low. Given this, and the fish farm’s relative isolation from others operating in Scapa Flow (as illustrated by Figure 7.7 in the ER), we support the applicant’s conclusion of “no adverse effects on-site integrity as a result of cumulative and in-combination effects due to loss or damage to supporting habitats” with respect to the proposed extension of the Bring Head proposal.

Wider matters including consideration of Priority Marine Features (PMF) and European Protected Species (EPS) have also been considered, noting that no PMFs species of significance identified in the area of the proposal, whilst the potential use of Acoustic Deterrent Devices (ADDs) is noted and may be subject to further consideration through potential EPS licensing and appropriate planning condition. The licensed shooting of seals is discounted as this is now illegal in relation to the proposed development.

Conclusion

Whilst it is concluded that there are likely significant effects on some features of the Hoy SPA were the development to proceed on the basis of the identified mitigation as detailed in the supporting EIA and appendices therein, coupled with appropriate additional safeguards through the application and adherence to appropriate planning condition(s), it can be concluded that there would be no adverse effect on site integrity.

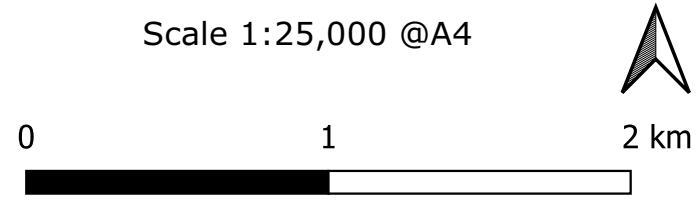


**Bring Head, Scapa Flow, Orkney
Location Plan**



- Key**
- Updated Mooring Extent
 - Pens
 - Feed Barge

Scale 1:25,000 @A4



Appendix 3.

01. No other development shall commence until an adaptive site specific Environmental Management Plan (EMP) for monitoring and managing the interactions between the operation of the farm and the wild fish environment within Scapa Flow is submitted to, and agreed in writing by, the Planning Authority in consultation with Marine Scotland Science and NatureScot. The EMP shall include the following information but not be limited to:

- Details of the monitoring scheme which shall report on the level of lice released into the environment to include both farmed fish numbers and adult female lice numbers.
- Identification of the likely area(s) of sea lice dispersal from the fish farm.
- Details of how and what monitoring will be collected to assess potential interaction with wild fish.
- Details on how this monitoring information will feed back to management practice.
- Detail of a regular review process to ensure that the EMP remains fit for purpose.
- Details of any changes proposed as a result of any collaboration with other fish farms operated with FMA 03.

Thereafter, the site shall be operated, monitored and managed thereafter in accordance with the duly approved EMP, or any subsequently approved variation thereof.

Reason: In the interests of conservation of wild salmonids.

Note: the applicant will require to obtain necessary permissions for the collection of wild salmonids

02. The adaptive EMP as required by condition 01 shall include a strategy for wildlife entanglement/entrapment management monitoring and reporting, which shall be subject to the same agreement in writing by the Planning Authority, in consultation with NatureScot. All agreed measures within this strategy shall be implemented no later than the date of installation of the pole mounted top nets. This strategy shall include, but not be limited to the following measures:

- Maintaining daily records of wildlife entanglement/entrapment using a standardised format and submitting six-monthly returns to the Planning Authority copied to NatureScot.
- Immediate notification to both the Planning Authority and NatureScot in the event of any significant entrapment or entanglement incidents (e.g., involving three or more birds of any named species on any one day and/or a total of ten or more birds in the space of any seven-day period and/or or repeat incidents involving one or more birds on four or more consecutive days). Monitoring and reporting of entanglement/entrapment data will help to develop a robust evidence base which can be used to improve understanding of the nature and extent of bird interactions with pole-mounted top nets.
- Details of future adaptive management to account for modifications to equipment to reduce or eliminate wildlife entanglement/entrapment, such as alteration of the

top net design, net type or mesh size and the triggers, thresholds and timescales for actions arising to be achieved together with the data management and recording associated with such actions.

Reason: In the interests of protecting shags, gannets and other aerial diving birds from entanglement in the nets and to limit impacts to the natural environment.

03. No development shall commence until details of cage top nets to be installed at this site, including mesh size and colour, are submitted to, and approved in writing by, the Planning Authority, in consultation with NatureScot. Thereafter, the development shall be carried out in accordance with those agreed details.

Reason: To ensure that birds do not become entangled in such nets and for the avoidance of doubt.

04. At all times when equipment is on site, the following navigational marks shall be provided:

- The site should be marked with 2 lit yellow poles fitted with yellow 'X' topmarks.
- The lights should display a character of flashing group four yellow every twelve seconds (Fl (4) Y 12s) with a nominal range of 2 nautical miles and be installed above the 'X' topmark.
- The poles should be positioned at the North and East seaward corners of the cage group.
- Each light should be 1 metre above the site equipment handrails and installed to be clearly seen by vessels approaching from all navigable directions.
- Poles should be ≥ 75 mm diameter, the 'X' topmark should be ≥ 75 cm length by 15cm width.
- The feed barge should exhibit an all-round fixed white light with a nominal range of 2 nautical miles from a point at least 1 metre above any other obstruction.

In addition:

- A weekly check of the site's marking equipment shall be performed and records kept of its physical and working status for audit purposes.
- Outlying anchor points should not be marked with buoys, unless specifically requested by local users, and alternative means to locate anchors should be utilised.
- Loose floating lines around site equipment are strongly discouraged as this can cause serious safety implications for other mariners.
- On completion of the development the UK Hydrographic Office (sdr@ukho.gov.uk) must be notified and supplied with the mooring grid coordinates in order that the appropriate chart can be revised accordingly.

Reason: In the interests of navigational safety.

05. All lighting above the water surface and not required for safe navigation or security purposes, should be directed downwards by shielding and be extinguished when not required for the purpose for which it is installed on the site. The maturing lights on site shall only be used between 1 December and 31 March each year, unless otherwise agreed, in writing, with the Planning Authority.

Reason: In the interest of visual amenity.

06. If lighting is required for security purposes on site, only infra-red lights and cameras shall be used, unless otherwise agreed, in writing, in advance of installation by the Planning Authority.

Reason: To avoid unnecessary lighting in the interests of visual amenity and to limit impacts to the natural environment.

07. The finished surface of all equipment above the water surface, including surface floats and buoys associated with the development, but excluding those required to comply with navigational requirements, shall be non-reflective and finished in black or a dark muted grey (except for the feed barge controlled by condition 09), unless otherwise agreed, in writing, by the Planning Authority.

Reason: To minimise the visual impact of the development.

08. All equipment and associated moorings hereby approved shall be wholly contained within the area identified within the Location Plan (OIC-01) attached to and forming part of this decision notice which confirms the mooring containment area, cage grid, site centre and barge. On first installation, the position of the corners of the cage group, corner anchors of the development and the location of the feed barge shall be recorded using Global Positioning System. These positions should be re-measured and recorded regularly, at least once every six months, and immediately following storm events. A record of all positional information must be maintained and made available on request to the Planning Authority.

Reason: To prevent the equipment moving beyond the location approved by this planning permission and to ensure the safety of maritime traffic.

09. Prior to the feed barge being brought onto site, details of the colours the feed barge shall be painted shall be submitted to, and agreed in writing by, the Planning Authority. Thereafter the barge shall be installed and retained throughout the lifetime of the development in accordance with agreed details, unless otherwise agreed, in writing, with the Planning Authority.

Reason: In the interest of visual amenity.

10. Upon the first use of the development hereby approved and thereafter, the maximum stocked biomass of the Bring Head fish farm shall not exceed 2,500 tonnes, with a maximum production biomass per cycle not exceeding 3,750 tonnes.

Reason: To ensure that the development is operated in accordance with the parameters as applied for and in the interests of the marine environment, to ensure that no unacceptable burden is placed on existing infrastructure.

11. The development shall be constructed, implemented and managed in accordance with the following documents, all forming part of the Environmental Impact Assessment Report:

- Predator Exclusion Plan.
- Escapes Prevention and Contingency Strategy.

- Containment Plan.
- Emergency Plan for Storms.
- Waste Management Plan Marine Production Toyness/ Bring Head.
- Non-native Species Biosecurity Plan.
- Salmon Husbandry Manual.
- Sea Lice Management Strategy – Scapa Flow, Orkney.
- Sea Lice Efficacy Statement.
- Sea Lice Attestation.

The development shall thereafter be operated and maintained in accordance with these documents throughout the lifetime of the development, unless otherwise agreed, in writing, by the Planning Authority.

For the avoidance of doubt all modifications, amendments or revocations of these Policies and Plans shall be submitted to, and agreed in writing by, the Planning Authority in advance of any such changes occurring on site.

Reason: To safeguard the natural heritage and biodiversity interests in the area and to protect the health of wild fish.

12. If any use of Acoustic Deterrent Devices (ADDs) is proposed at this site, prior consultation shall be carried out with the Planning Authority. This consultation shall include the submission of information regarding the specifics of the ADD system and any mitigation measures to be implemented on site. The Planning Authority, in consultation with NatureScot, will review the information supplied to determine the significance of any issues affecting natural heritage interests which may arise due to the ADD deployment at this site. Written guidance through site protocols and ADD usage shall be agreed, in writing, by the Planning Authority. The use of ADDs shall be carried out only in accordance with approved details.

For the avoidance of doubt this planning condition has no bearing on whether additional licence requirements require to be addressed for the deployment of ADDs, such as European Protected Species licensing, which is considered under separate legislation.

Reason: To protect internationally and nationally important natural heritage interests.

13. Static gill nets should not be deployed at this site, unless otherwise agreed, in writing, by the Planning Authority in conjunction with NatureScot.

Reason: To reduce the chance of entanglement of wildlife.

14. In the event of equipment falling into disrepair or becoming damaged, adrift, stranded, abandoned or sunk in such a manner as to cause an obstruction or danger to navigation, the developer shall carry out, or make suitable arrangements for the carrying out of, all measures necessary for lighting, buoying, raising, repairing, moving or destroying the whole or any part of the equipment, as agreed, in writing, by the Planning Authority.

Reason: To ensure that the development does not cause a danger to other users of the area.

15. Not less than three months prior to cessation of use of the site for fish farming, a scheme for the decommissioning and removal of all equipment shall be submitted to, and agreed in writing by, the Planning Authority. Upon cessation the approved scheme shall be implemented within an agreed timescale.

Reason: To ensure that decommissioning of the site takes place in an orderly manner and to ensure proper storage and disposal of redundant equipment in the interest of amenity and navigational safety.

16. In the event that the fish cages or associated equipment approved by this permission cease to be in operational use for the growing of finfish for a period exceeding three years, those cages and associated equipment shall be wholly removed, and the site restored to the satisfaction of the Planning Authority, within four months of being notified by the Planning Authority.

Reason: To ensure the development is removed, in full, from the site once operational use has ceased ensuring the development will not adversely affect the area.

17. In the event that HGV movements within Burray are required in relation to construction of infrastructure, and/or waste management or decommissioning works relating to redundant infrastructure, a condition / dilapidation survey shall be carried out jointly between the developer / developer's representative and Roads Services, prior to any such HGV movements occurring and again upon completion of the above stated works, on the existing public road infrastructure that will be used to access and egress the Burray Boatyard site. The applicant shall be responsible for funding the condition / dilapidation survey and the cost of any repairs following any damage to the public road which is attributed to this development which may have been caused by vehicles or plant related to the development. Any works identified to be carried out shall be carried out to the satisfaction of the Planning Authority in conjunction with Roads Services within three months of completion of works. The developer will also be responsible for maintaining any damage caused to the public road in such a manner that the roads always remain safe for other road users and until permanent repair works are agreed and carried out.

Reason: In the interest of road safety.

Informatives

01. The developer shall liaise directly with Scottish and Southern Electricity Networks (SHEPD) in relation to SHEPD infrastructure, noting that SHEPD requires the developer to enter into a proximity agreement with SHEPD. SHEPD can be contacted at; Scottish and Southern Electricity Networks, Henderson Road, Inverness IV1 1SN. T: +44 (0)1738 342470 M: +44 (0)7384 80347

02. The Aquatic Animal Health (Scotland) Regulations 2009 requires the authorisation of all Aquaculture Production Businesses (APBs) in relation to animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals. The authorisation procedure is undertaken on behalf of the Scottish Ministers by the Fish Health Inspectorate (FHI) at Marine Scotland Marine Laboratory. To apply for authorisation

for an APB or to amend details of an existing APB or any site that an APB is authorised to operate at, you are advised to contact the FHI as follows: Fish Health Inspectorate, Marine Scotland Marine Laboratory, 375 Victoria Road, Aberdeen, AB11 9DB. Tel: 0131 244 3498; Email: ms.fishhealth@gov.scot

03. All marine farms, whether finfish, shellfish or algal, are required to apply for a marine licence under Part 4 of the Marine (Scotland) Act 2010. To apply for a marine licence, or to amend details of an existing marine licence (formally Coast Protection Act 1949 – Section 34 consent), please visit the Scottish Government's website at <http://www.gov.scot/Topics/marine/Licensing/marine/Applications> where application forms and guidance can be found. Alternatively, you can contact the Marine Scotland Licensing Operations Team (MS-LOT) by emailing MS.MarineLicensing@gov.scot or calling 0300 244 5046.

04. It is an offence under Section 56 of the Roads (Scotland) Act 1984 to carry out any excavations within the boundary of the public road without written permission of the roads authority. Therefore, one or more separate consents will be required from the Council's Roads Services to carry out any works within the road boundary, prior to any works commencing. These consents may require additional work and/or introduce additional specifications. You are therefore advised to contact Roads Services for further advice as early as possible. Any damage caused to the existing road infrastructure during construction of the development shall be repaired to the satisfaction of the Planning Authority, in conjunction with Roads Services. It is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain beyond the working day, on a public road from any vehicle or development site.