



marineharvest
excellence in seafood

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Development Management Consultation
Planning Directorate
Scottish Government
2H, Victoria Quay
Edinburgh
EH6 6QQ

1st April 2008

Dear Sir/Madam,

Re: Draft Regulations on Development Management Consultation

Marine Harvest is the world's leading seafood company and largest producer of farmed salmon. The company is present in 20 countries, has operations in all areas where salmon is produced and has approximately 9000 employees worldwide. The business unit Marine Harvest Scotland has farming, processing, smoking, distribution and sales activities along the west coast of Scotland and on the Western Isles. The head office is located in Edinburgh. Marine Harvest Scotland is one of the biggest producers of high-quality Scottish Salmon, which is sold mainly in the EU.

Marine Harvest is grateful for the opportunity to comment on the above consultation and is happy for the response to be made public.

While Marine Harvest welcomes any attempts to streamline and simplify the planning process, after careful consideration of the draft regulations, we have a number of key concerns with the proposed changes to the development management process, which we would wish to bring to your attention.

We have attached an annex to the end of this letter addressing these concerns in greater detail, however to summarise briefly here:

- Marine Harvest does not agree with the proposed categories of development to which the requirements for pre-application consultation apply. The requirement for all EIA developments, regardless of scale, to be subject to the new and lengthy consultation process is likely to stall future development in the industry. Marine Harvest would like to see a scaled approach to the level of EIA development which leads to this new consultation requirement (preferred) or a scaled approach to the level of consultation required depending on the level of development proposed.
- The majority of aquaculture sites are located in "sensitive" rural areas such as National Scenic Areas, Special Areas of Conservation or Sites of Special Scientific Interest. As a result EIAs are often requested for the slightest of changes. By proposing a blanket inclusion for all EIA

developments to undergo these additional consultation stages will unfairly add to the legislative burden for operators within these areas who are already subject to a vast array of demands from consultees employed to protect these sensitive sites.

- Marine Harvest has reservations about the proposal for each EIA development to undergo a pre-determination hearing which will allow all those who submitted a representation to present their opinions to the committee. While Marine Harvest welcomes the opportunity for representations to a development to be considered the company feels that this could be done as a paper exercise and not as a potentially emotive and biased debate.
- Marine Harvest is concerned that the changes proposed are adding unnecessarily to an already over-complicated system. The company highlights that both local authorities and consultees are struggling to meet deadlines at present; these plans will significantly add to the burden eventually making the system unproductive and ultimately slowing economic growth in the most sensitive industries.
- Marine Harvest is disappointed at the balance of power that is being apparently handed to opponents of development with these changes. The Development Management process appears now to be constricting development rather than promoting it.
- Overall, Marine Harvest feels that aquaculture developments have not been given due consideration when this legislation was drawn up. The company would like to see a system which incorporates aquaculture fully and would suggest the best example to follow would be the Scottish Environment Protection Agency's. As a statutory consultee which appears open to discussion, willing to meet deadlines and have a very clear and structured approach to the application process, Marine Harvest was disappointed to find they had not been approached for their opinion on the inclusion of all EIA developments into the Development Management Plan and feel their experience may have been of some benefit when drawing up the consultation paper.

I hope the comments provided will contribute in some way to creating a planning system that is fit for purpose and that places the correct level of importance on vital Scottish industries such as aquaculture. It is Marine Harvest's hope that the changes to the development management process will create a planning system which will encourage future development in these industries rather than suffocate it.

Thank you again for allowing us the opportunity to respond to these draft proposals and should you wish to discuss further any of the issues raised in this letter please do not hesitate to contact me.

Yours sincerely

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ANNEX 1 - MARINE HARVEST'S COMMENTS ON DEVELOPMENT MANAGEMENT PROPOSALS

- In response to question 1 & 2 – Marine Harvest does not agree with the proposed categories of development to which the requirements for pre-application consultation apply. It is Marine Harvest's opinion that to have a blanket requirement of all EIA developments, regardless of scale, requiring these new and lengthy pre-application consultations will be very damaging to the aquaculture industry. Marine Harvest requests this be reviewed with some consideration being given to the ease at which an EIA can be requested for a minimal change in an aquaculture development and the potential bottleneck that will be created if all EIA developments are subject to these delays.

- With regards (indirectly) to question 3 – Marine Harvest seeks clarification on the role of a screening request for pre-application consultation – is this suggesting that, although a development may meet the threshold for pre-app consultation a local authority can rule against it or, indeed vice versa? If not, is this then a stage which can be avoided if the outcome is obvious? Can this be combined with the screening/scoping conclusion, where relevant i.e. if a local authority decides an ES is required, they can then surely conclude that so too is pre-application consultation?

With regards to the level of information required – where necessary when a screening/scoping request has been provided this should surely be sufficient to decide on both the requirement for an ES and the requirement for consultation. Marine Harvest is adamant, however, that a requirement for an ES should not automatically lead to a requirement for the lengthy consultation process. There should either be a scale introduced within this category or a separate category should be introduced for a scaled approach to EIAs specifically pertaining to the aquaculture industry.

- With regards to question 4 - Marine Harvest is sceptical that many of the local authorities will meet the 21-day deadline as they currently struggle to meet the 8-week screening/scoping deadline expected of them. Marine Harvest would not want to see this deadline extended however as it is unlikely to be of any further benefit. The company is of the opinion that merging the two screening requests wherever possible would be a sensible approach.
- Question 5 - No comment
- In response to question 6 - Marine Harvest feels that, as well as contacting the statutory consultees via the screening/scoping stage, notifying community councils and neighbours should be considered sufficient (if not overkill). The application will be open to public consultation in due course and also, should these legislative changes go ahead, the public will be notified when the required public meeting is due to take place.
- With regards to question 7 – Marine Harvest does not agree with the minimum statutory requirements for pre-application consultation. The company is of the opinion that these requirements will be both time-consuming and costly with a complete

disregard to the scale of development being proposed. The company would wish to see a sensible scaled approach introduced to recognise the great disparity of changes which may result in an ES being requested in the aquaculture industry. Marine Harvest suggests either a scaled approach to the level of EIA developments which lead to pre-application consultation (preferred) or a scaled approach to the level of consultation which takes place, perhaps depending on local authorities' opinion on the scale of development.

- In response to question 8 – Marine Harvest does not agree with the requirements on the content of pre-application reports as the information already required to be submitted via screening/scoping and then the final application with ES is already overwhelming and time-consuming. To add the demand for an additional report is simply gratuitous. The concern would also be that local authorities will struggle to respond to the developer at each stage of the proposed process. (Marine Harvest is also wary about the likely requirement for proof of postage as evidence of consultation as this will be difficult to gather in a large company and, ultimately expensive if reliant on recorded delivery).
- In response to question 9 – Marine Harvest categorically does not agree with the classes of development which will be subject to pre-determination hearings. For every EIA development to be debated by irate, ill-informed or worse, anti-fish farming, members of the public, seems ludicrous and a complete waste of everyone's time. It is hoped that the relevant committees could make balanced judgements as to whether or not a development should be consented without relying on biased and emotive arguments which would, undoubtedly, be on display through a hearing. Representations should, of course, be considered but Marine Harvest would argue that paper copies of these representations should be perfectly sufficient to reach a decision.
- Marine Harvest would like to re-iterate that it remains of the opinion that EIA developments, without consideration of scale, should not require to go through the pre-determination hearing. Nonetheless in response to question 10 – the company is of the opinion that there should be a sensible limit placed on the number of people invited to speak at a hearing. Therefore, as an absolute maximum, the company feels that only those who have made a representation should be allowed to oppose the application at the hearing. The company also questions whether the developer will have the right to present supporters of the development at the hearing? The company would certainly wish to have the option of inviting third-parties to respond to representations where necessary. Otherwise the likelihood is that a hearing may be unfairly balanced against the developer.
- Q11 – no comment
- Q12 – Marine Harvest is supportive of realistic timescales and especially of those agreed with the relevant authority; however remains sceptical of the effect processing agreements will have on the local authorities which, at the moment, are struggling to respond on-time.
- Q13 – Marine Harvest agrees in principle to a time limit being placed on the production of a processing agreement, however is of the view that the 28 day limit may simply be seen as a way to extend the planning application deadline by local authorities under pressure. The company would certainly not wish for this to be extended and

preferably would be in favour of a maximum of 21 days for this agreement to be reached.

- Q14 - Marine Harvest is of the opinion that the complexity of a processing agreement should be minimised wherever possible and perhaps, for the more basic of major developments, a template could be created and followed which requires minimal effort to be completed. The company is concerned at the level of paperwork which will be required for one application and would wish to see a level of standardisation introduced wherever possible.
- Q15 – Marine Harvest is of the opinion that the processing agreement should only involve the local authority and developer. The deadlines given to statutory consultees are already generous and by responding to the screening and scoping requests the statutory consultees are already aware of the development and have had the opportunity at that stage to discuss the level of information required. The company would like to see more pressure placed on statutory consultees to respond within the existing legislative timeframes.
- Q16 – no comment
- Q17 – Marine Harvest considers the approach to the content of planning applications to be sufficient and certainly would not wish to see the requirements increased.
- Q18 – Marine Harvest is of the opinion that any further requirements would simply discourage potential developers and eventually slow down economic growth. At the moment Marine Harvest cannot see how the process will be at all efficient with the level of bureaucracy being introduced at every stage of a development. The company suggests that the process be standardised with templates wherever possible.
- Q19 – no comment
- Q20 – no comment
- Q21 – Marine Harvest is concerned that the requirement for design statements unfairly affects industry in rural areas – areas which are most reliant on the jobs created by industries such as aquaculture. There is a very high concentration of National Scenic Areas, Special Areas of Conservation and Sites of Special Scientific Interest which have only been designated fairly recently in areas where fish farms have been operating for decades. This could unfairly add to the legislative burden for operators within these areas who are already subject to a vast array of demands from consultees employed to protect these areas. The company suggests the option to ask for derogation where precedent has been set already.
- Qs 22-26 – no comment
- Q27 & 28 – yes
- Q29 – no comment
- Q30-Q34 – yes
- Q35 – As stated earlier Marine Harvest would wish to see more pressure being put on statutory consultees to conform to timescale requirements and to avoid defaulting to full EIA requirements when workloads are high – especially in light of these proposals. The company is concerned that an unnecessary request for an EIA will lead to a time-consuming, costly and ultimately avoidable programme of consultation.

- Q36 – Marine Harvest is in agreement with increasing these deadlines to 4 months (in line with an EIA development) however, as mentioned, offending local authorities must be pressurised into meeting these deadlines as many are failing to at present.
- Q37 – yes
- Q38 – n/a
- Q39 – While Marine Harvest welcomes any attempt to make the planning system more transparent and accountable, the company is concerned that by increasing the burden on planning officers this will potentially result in delaying the processing of future applications, unless additional resources are provided by the Scottish Government.
- Q40-Q46 – n/a
- Q47 – Marine Harvest is gravely concerned about the potentially significant detrimental impact these proposals will have on the development of the aquaculture industry in Scotland (to the advantage of overseas competitors supplying UK markets). The planning system is already struggling with the increased workload since the handover from the Crown Estate and these changes are unlikely to help a system apparently already overwhelmed by bureaucracy. In addition, from a developer's point of view, instead of promoting industry in this country, the impetus and control seems to have been passed to opponents of development. Marine Harvest feels this is a disappointing move from a government which has promoted Scotland as having the potential to be independently wealthy and internationally competitive.
- Q48 – Marine Harvest is deeply concerned about the potential impact these developments will have on the rural areas in which the company operates. These areas have very little year-round employment options and the introduction of legislation which undoubtedly threatens development in these areas is a concerning and unwelcome precedent. The abundance of sensitive sites in these areas means that EIAs are more likely to be requested for the smallest of changes – to add the need for: screening for pre-application consultation; pre-application consultation; pre-application notifications; public meetings; pre-application consultation reports (including proof of consultation); pre-determination hearings; design statements and processing agreements (if major development) in addition to the preparation of an environmental statement and final planning application seems likely to stall future development rather than encourage it.

Marine Harvest strongly urges the Scottish Government to reconsider the blanket inclusion of all EIA developments in these proposals. These proposals have the potential to jeopardise any future development within the aquaculture industry, especially when past experience has shown that regardless of the circumstances, or information requested, local authorities will simply not overrule a statutory consultee on the need for an ES; therefore leaving the industry dangerously exposed to the whims of a particular consultee on a particular day. Appealing to the Scottish Ministers against every EIA decision may be considered a necessary, but time-consuming, exercise to the industry but to the Scottish Ministers it will be an expensive and altogether avoidable down-side to the Development Management plan.

While Marine Harvest agrees in principle to making the planning system more open and transparent, the proposals in this consultation paper will potentially make the system unworkable. The level of paperwork which will be introduced for every EIA

development is very worrying and the company again requests that the Government seriously considers the impact this Development Management plan will have on the long-term viability of aquaculture when development will become so overly-restricted. From Marine Harvest's point of view consolidation to larger, more financially and environmentally sustainable, farms will potentially be unviable due to the delays which will occur should an EIA be requested by any of the statutory consultees. Marine Harvest, along with other fish farm operators in Scotland, already struggles to be financially competitive, at home and abroad, due to the disparity of legislative costs between the UK and other fish farming nations. To add lengthy planning delays would advantage foreign producers to the detriment of the Scottish Salmon producers, their staff and the Scottish economy as a whole.

In conclusion, Marine Harvest strongly urges the Scottish Government to review these proposals and, specifically, to consider the vital role aquaculture plays not only in the North of Scotland but in the country as a whole.

