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1 May 2008



NORTH AYRSHIRE
COUNCIL

Daniel Brown
Sea Fisheries Management, Fishing Communities & Inshore Management Team
Marine Directorate
DG Environment
Scottish Government
Room 511
Pentland House
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Dear Sir

CONSULTATION ON A PROPOSED MARINE RESERVE IN LAMLASH BAY

I would advise that a report was submitted to The Executive of North Ayrshire Council on 22 April 2008 when it was agreed to approve the terms of the report as the Council's response to the above consultation.

A copy of the report is enclosed together with a completed version of your Annexe D Responder Information Form.

Yours faithfully,

Richard R Henry
Planning Officer

NORTH AYRSHIRE COUNCIL

Agenda Item 7

22 April 2008

The Executive of North Ayrshire Council

Subject: **Isle of Arran: Lamlash: Scottish Government Consultation on a Proposed Marine Reserve in Lamlash Bay**

Purpose: To advise the Executive of the Scottish Government Consultation on the proposed Marine Reserve in Lamlash Bay and to agree the response by North Ayrshire Council.

Recommendation: That the Executive approves the report and agrees that it be submitted to Scottish Government as the Council's response.

1. Introduction

- 1.1 The Scottish Government has issued a consultation document on proposals to establish a Marine Reserve in Lamlash Bay, off Isle of Arran. Responses to the consultation are requested by 5 June 2008.

2. Current Position

- 2.1 Work has been ongoing for a number of years by the Community of Arran Seabed Trust (COAST) on possible marine management in Lamlash Bay. Proposals for marine management were further developed with the establishment of the Lamlash Bay Working Group which is made up of representatives of COAST, the Clyde Fishermen's Association (CFA), the Firth of Clyde Forum and is supported by Fisheries Research Services (FRS), Scottish Natural Heritage (SNH) and Scottish Government.
- 2.2 The proposals put forward by Scottish Government are that part of Lamlash Bay would be a Marine Reserve (see Appendix for location plan), which would be a "no take zone" where fishing would be banned and that the Marine Reserve would be complemented by a Fisheries Management Area covering "the remainder of Lamlash Bay" restricting scallop dredging. The Marine Reserve would be underpinned by an Order made under the Inshore Fishing (Scotland) Act 1984 while the Fisheries Management Area would be implemented by a Regulating Order granted under the Sea Fisheries (Shellfish) Act 1967. Both statutory measures would be enforced by the Scottish Fisheries Protection Agency (SFPA). Collectively the sites would form a Community Marine Conservation Area.

- 2.3 The present consultation is solely for the proposed Marine Reserve. The proposed Fisheries Management Area will be subject to separate consultation.
- 2.4 The objective of the Marine Reserve is to prohibit all fishing within the area which will enhance the conservation of biodiversity. It would also contribute to the enhancement of fish stocks, in particular scallops. The rationale for government intervention is to introduce statutory legislation that will give the maximum protection for the area and ensuring, as far as possible, the integrity of the scientific monitoring to be carried out by the local stakeholders, which will be undertaken in conjunction with the designation. It will also mean that enforcement of the prohibitions will be undertaken by the Scottish Fisheries Protection Agency with any non-compliance liable to possible prosecution of up to £5000 and on conviction on indictment to an unlimited fine. The Scottish Government considers that the closure of the Reserve area to fishing will have a negligible impact on the fishing industry as very little fishing activity takes place within the area concerned. It is understood that some scallop diving takes place in the area.
- 2.5 The consultation document recognises that the establishment of a marine reserve is likely to have a positive social impact with opportunities to study and better understand the marine environment in the area and to help raise awareness of Scottish marine biodiversity more widely. The intention is that the statutory underpinning of the marine reserve would help to protect and enhance biodiversity. There also likely to be benefits from increased environmental tourism and recreational diving.

3. Proposal

- 3.1 The issue of designating a Marine Reserve within Lamlash Bay as an area worthy of marine conservation was raised at the time of the last Isle of Arran Local Plan. COAST formally objected to the Local Plan during its Finalised Plan stage on the basis that the Local Plan failed to recognise the objectives of their organisation and its specific plans to have part of Lamlash Bay designated as an area for marine conservation. The issue was considered at the Local Plan Inquiry and, while it was recognised that planning control has no jurisdiction beyond the low water mark, reference was subsequently included in the adopted Isle of Arran Local Plan (2005) to the COAST Project. Para. 10.8 of the Local Plan states "the Council is aware of COAST and is generally supportive of seabed regeneration and marine conservation within Lamlash Bay, where the continued existence of maerl beds is under threat".
- 3.2 On 1 April 2007, statutory planning controls for marine fish farms in territorial waters adjacent to Scotland came into force making the Local Planning Authority responsible for marine fish farming. A recent consultation by the Crown Estate for a salmon fish farm adjacent to the proposed Marine Reserve at Claunchlands, Isle of Arran, which pre-dated the above introduction of new planning controls was subject to an unfavourable view by the Planning Committee on 4 March 2008. One of the grounds was that "the precautionary principle should apply in light of the uncertain impact of the development on the integrity of the scientific evaluation of the COAST project".

- 3.3 The Council has therefore already recognised the COAST Project for a Marine Reserve at Lamlash Bay through the Isle of Arran Local Plan and more recently cited the project in its unfavourable view on the proposed fish farm at Clauchlands.
- 3.4 Scottish Government raises a number of specific questions in the consultation document and the proposed response is as follows:

Question 1: Do you agree or disagree with the proposal to establish a Marine Reserve in Lamlash Bay?

Response: The principle of marine conservation in Lamlash Bay has already been recognised and generally supported by the Council in the context of the Isle of Arran Local Plan. The proposed designation of a Marine Reserve in Lamlash Bay will be the first such new designation in Scotland and will possibly be further complimented with a wider Fisheries Management Area for the remainder of Lamlash Bay in due course. It will mean that the designated area will become a material consideration for any development proposal affecting the reserve area. The designation (if confirmed) will also need to be incorporated within the Council's new Local Development Plan.

The Council agrees to the proposed Marine Reserve designation subject to the Scottish Government Marine Directorate providing the following:

- a) guidance on the extent and influence of the marine reserve with particular reference to the Planning Authority's regulatory interests for fish farm developments along with land based developments including general economic development and tourism ventures important to the island's economy where issues of outfalls, and water quality may be raised;
- b) assurance that there will not be any significant implications for the existing salmon farm and nearby mussel farm at Kings Cross at the south end of Lamlash Bay; and
- c) clarification on whether the Scottish Government Marine Directorate should be consulted by the Planning Authority on proposals likely to have an impact on the Marine Reserve if formally designated.

Question 2: Do you think there would be any (a) positive or (b) negative implications should a Marine Reserve be established in Lamlash Bay?

Response: The positive advantages by way of enhanced opportunities for marine research, enhanced conservation of biodiversity, increased environmental tourism and educational benefits are recognised. However, the potential negative implications are not clear hence the request for further guidance and clarification to those aspects highlighted under the response to question 1 above.

Question 3: Are there any other points which you would like to make in relation to the proposed Lamlash Bay Marine Reserve?

Response: It would have been beneficial for the current consultation on the Marine Reserve to have taken place alongside that of the proposed wider Fisheries Management Area. This would have provided a better context and understanding for the overall objectives of the new fisheries legislation for Lamlash Bay. At present the proposed introduction of a wider Fisheries Management Area will be the subject of separate consultation and can only take place after an application has been submitted to Scottish Government by the relevant body for processing under separate fisheries legislation. I understand that no such application has been made at this point. The wider Fisheries Management Area will cover the remainder of Lamlash Bay and will only relate to the prohibition of scallop dredging other than for scientific purposes. This is unlikely to adversely impact on the two existing fish farm operations at the southern end of the bay.

The document indicates that monitoring of the designation will be carefully implemented to inform consideration of whether the measure is effective and should continue to remain in place. Monitoring will be undertaken through a partnership involving the parties on the Lamlash Bay Working Group referred to in section 2 of this report.

4. Implications

4.1 There are no immediate implications for the Council.

5. Conclusion

5.1 The report should be sent to Scottish Government as the Council's response to the current consultation.

IAN T MACKAY
Assistant Chief Executive (Legal and Protective)

Reference : ARRAN/10/2/RRH/JP

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Consultation on a Proposed Marine Reserve in Lamlash Bay

