

CONSULTATION QUESTIONS

SECTION 1 - THE SUSTAINABLE DEVELOPMENT OF AQUACULTURE

The Tay Western Catchment Partnership, (TWCP), Steering Group, shall not be responding to Questions 1. To 17. as the Members do not have the necessary expertise to form a suitable opinion.

Farm Management Agreements (FMAs)

- 1. Do you agree that we should, subject to appropriate safeguards, make it a legal requirement for marine finfish operators to participate in an appropriate Farm Management Agreement (FMA), with sanctions for failure to do so, or to adhere to the terms of the agreement? (Page 9)**

YES

NO

Appropriate Scale Management Areas (MAs)

- 2. Do you agree that operators should have primary responsibility for determining the boundaries (and other management arrangements) for Management Areas, but with Scottish Ministers having a fallback power to specify alternative areas? (Page 9)**

YES

NO

Management Measures and Dispute Resolution

- 3. Do you agree that an independent arbitration process should be put in place (with statutory underpinning) to resolve disputes related to Farm Management Agreements? (Page 10)**

YES

NO

- 4. How do you think such a system might best be developed? (Page 10)**

Unused Consents

- 5. Do you agree we ought to review the question of unused consents? (Page 11)**

YES

NO

What do you consider are suitable options to promote use or relinquishment of unused consents? (Page 11)

6. Do you agree that Scottish Ministers should be given powers, ultimately, to revoke, or to require or request others to revoke, consents? (Page 12)

YES

NO

7. Should any such power relate to all or to particular consents (and if the latter, which)? (Page 12)

Collection and Publication of Sea-lice Data

8. What in your view is the most appropriate approach to be taken to the collection and publication of sea-lice data? (Page 13)

Surveillance, Biosecurity, Mortality and Disease Data

9. Do you agree that aquaculture businesses ought to be required to provide additional information on fish mortality, movements, disease, treatment and production as set out above? (Page 16)

YES

NO

10. What are your views on the timing and frequency of submission of such data? (Page 16)

Biomass Control

11. Do you agree that Scottish Ministers should have powers to require SEPA to reduce a biomass consent where it appears to them necessary and appropriate – for example to address concerns about fish health and welfare? (Page 16)

YES

NO

Wellboats

12. Do you agree we should make enabling legislation giving Scottish Ministers powers to place additional control requirements on wellboats? (Page 17)

YES

NO

Processing Facilities

13. Do you think Scottish Ministers should be given additional powers to place controls on processing plants? (Page 17)

YES

NO

Seaweed Cultivation

14. Do you agree that the regulatory framework should be the same for all seaweed farms? (Page 18)

YES

NO

15. Do you agree that the most appropriate approach to regulation of this sector would be through marine licensing? (Page 17)

YES

NO

16. If not, what alternative arrangements would you suggest? (Page 18)

Commercially Damaging Species

17. Do you agree that we should provide for additional powers for Scottish Ministers in relation to commercially damaging native species? (Page 19)

YES

NO

If this refers to only Marine Aquaculture locations then this is out with the terms of reference for the TWCP.

However, if the clause includes inland freshwater loch based facilities, then where there is proven damage to the natural habitat, or sufficient grounds to believe a new facility may have an effect in the future, then the TWCP reserve the right to make representations and direct any such views to the appropriate authority rather than have additional powers to Ministers which could allow for action with out localised consultation.

SECTION 2 - PROTECTION OF SHELLFISH GROWING WATERS

The TWCP hold no views on this clause

18. Do you agree with the introduction of provisions to protect shellfish growing waters and support the sustainable growth of the shellfish industry? (Page 21)

YES

NO

SECTION 3 - FISH FARMING AND WILD SALMONID INTERACTIONS

The TWCP, while agreeing that controls should be strict hold no views on how this should be achieved. There will be no response to Questions 19 to 22

Sea-lice

19. Do you agree that there is a case for giving Scottish Ministers powers to determine a lower threshold above which remedial action needs to be taken, in appropriate circumstances and potentially as part of a wider suite of protection measures? (Page 23)

YES

NO

Containment and Escapes

20. Do you agree we should provide powers for Scottish Ministers to require all finfish farms operating in Scotland to use equipment that conforms to a Scottish Technical Standard? (The technical content of the standard would be defined separately.) (Page 25)

YES

NO

Tracing Escapes

21. Do you agree that there should be additional powers for Scottish Ministers to take or require samples of fish from fish farms, for tracing purposes? (Page 26)

YES

NO

SECTION 4 - SALMON AND FRESHWATER FISHERIES MANAGEMENT

Modernising the Operation of District Salmon Fishery Boards

22. Do you agree that we should introduce a specific duty on Boards to act fairly and transparently? (Page 29)

YES

It is the view of the TWCP that complete clarity must be coupled with full consultation, where any Board, purely responsible for migratory fish, are considering any action to existing conditions whether these are existing habitat or creation of new habitat or any action which may alter the natural cycle of any Freshwater Species.

There may also be a requirement for compensation if any work alters income or causes unbudgeted expense

23. Do you agree that there should be a Code of Good Practice for wild salmon and freshwater fisheries? (Page 29)

YES

In broad terms the TWCP would welcome such a Code with the provision that the aim and object are subject to wide consultation

24. If yes, should such Code of Good Practice be statutory or non-statutory? (Page 29)

YES

NO

It is a fact that Voluntary Codes are open to being used as it suits individuals or overseeing Organisations. However from the point of view that legislation once in place is more difficult to remove, in the first instance non statutory would be better with provision for statutory if found necessary.

Statutory Carcass Tagging

25. Do you agree that Scottish Ministers should have powers to introduce a statutory system of carcass tagging for wild Atlantic salmon and sea trout? (Page 31)

YES

NO

The TWCP are not commenting on this clause

Fish Sampling

26. Do you agree that Scottish Ministers should have powers to take or require fish and/or samples for genetic or other analysis? (Page 32)

YES

NO

If this clause is related to migratory species the TWCP have no comment to make.

There have been various so called studies involving sampling freshwater species, which have not had a specific reason or resulted in a defined result. Others have involved the culling of species to carry out the sample, which has further reduced endangered populations of specific species.

The TWCP would prefer local consultation through existing knowledge followed by a full debate before powers are taken by any organisation and the final decision be made based on whether the result will have a scientific and conservation result for the benefit of all species.

Management and Salmon Conservation Measures

The TWCP would suggest that Clauses 27 to 30 are developed to include aspects of all species spawning times so as to ensure the best natural undisturbed reproduction of all fish.

27. Do you agree that Scottish Ministers should have powers to initiate changes to Salmon District Annual Close Time Orders? (Page 32)

YES

NO

28. Do you agree that Scottish Ministers should be able to promote combined salmon conservation measures at their own hand? (Page 32)

YES

NO

29. Do you agree that Scottish Ministers should be able to attach conditions, such as monitoring and reporting requirements, to statutory conservation measures? (Page 32)

YES

NO

Dispute Resolution

30. Do you agree that we should introduce statutory provisions related to mediation and dispute resolution, to help resolve disputes around salmon conservation, management and any related compensation measures? (Page 33)

YES

NO

Improved Information on Fish and Fisheries

31. Do you agree that there should be a legal requirement to provide comprehensive effort data for rod fisheries? (Page 34)

YES

NO

If this clause includes non migratory species there will be problems in administration. Presently the requirement to provide migratory species information is based on beat records, kept privately, and not checked at source.

Any form of detail other than simple permit returns locally submitted would be costly to administer as well as being unsubstantiated.

However if funding were made available to collect more detailed data on a local basis and for a specific purpose then co-operation would be forthcoming.

32. What additional information on the fish or fisheries should proprietors and/or Boards be required to collect and provide; and should this be provided routinely and/or in specific circumstances? (Page 34)

The TWCP would suggest that all returns which are required for annual published reports should be compulsory. EG. Number of permits sold for each species etc.

33. Should Scottish Ministers have powers to require Boards and/or proprietors or their tenants to investigate and report on salmon and sea trout and the fisheries in their district? (Page 34)

YES

NO

The TWCP do not have a defined view on this but would suggest if this were necessary then an outside party or organisation should be employed for such an audit

Licensing of Fish Introductions to Freshwater

34. Do you agree that Scottish Ministers should have powers to recall, restrict or exclude the jurisdiction of Boards in relation to fish introductions, in certain circumstances? (Page 35)

YES

NO

35. If so, why and in what circumstances? (Page 35)

The TWCP has no specific response to Questions 34 and 35 but would comment that the introduction of any non native species not obtained from local stock and hatchery reared with type genetic strain should not be allowed.

SECTION 5 - MODERNISING ENFORCEMENT PROVISIONS

Strict Liability for Certain Aquaculture Offences

36. Do you agree that strict liability criteria should apply – where they capable of being applied – for offences related to Marine Licensing requirements insofar as they apply to aquaculture operations and, potentially, in other situations? (Page 37)

YES

NO

The TWCP has not comment to make on this clause

Widening the Scope of Fixed Penalty Notices

The TWCP has no comment to make on clauses 37 to 44 as these do not come within it's remit.

37. Do you agree that we should extend the use of fixed financial penalties as alternatives to prosecution in relation to marine, aquaculture and other regulatory issues for which Marine Scotland has responsibility? (Page 38)

YES

NO

38. Do you agree that we should increase the maximum sum that can be levied through a fixed penalty notice to £10,000? (Page 39)

YES

NO

39. Are there particular regulatory areas that merit a higher or lower maximum sum? (Page 39)

YES

NO

Enforcement of EU Obligations Beyond British Fisheries Limits

40. Do you agree that we should amend section 30(1) of the Fisheries Act 1981 as proposed? (Page 40)

YES

NO

Powers to Detain Vessels in Port

41. Do you agree that sea fisheries enforcement officers should be given specific power to allow vessels to be detained in port for the purposes of court proceedings? (Page 41)

YES

NO

Disposal of Property/Forfeiture of Prohibited Items

42. Do you agree that sea fisheries enforcement officers should be able to dispose of property seized as evidence when it is no longer required, or forfeit items which would be illegal to use? (Page 41)

YES

NO

Power to Inspect Objects

43. Do you agree that sea fisheries enforcement officers should have the power to inspect objects in the sea and elsewhere that are not obviously associated with a vessel, vehicle or relevant premises? (Page 42)

YES

NO

Sea Fisheries (Shellfish) Act 1967

44. Do you have any views on the proposals to amend the Sea Fisheries (Shellfish) Act 1967 to help make its application clearer? (Page 42)

YES

NO

SECTION 6 - PAYING FOR PROGRESS

45. Do you agree that there should be enabling provisions for Scottish Ministers to provide, through secondary legislation, for both direct and more generic charges for services/benefits arising from public sector services and activities? (Page 43)

YES

The principle has merits but the method used to fund and the definition of how the benefit will be distributed needs wide debate.

Presently there are statute costs on Riparian Owners for migratory fish, which with other overheads will be passed on to the Angler.

Protection Orders must fund the administration costs by various means but the money raised comes from Anglers, both Visiting and Local Club Members and Beat Owners.

At present funds raised by the above methods filters through in a variety of ways to maintain the fishery due to local control.

There is an argument that the protection and maintenance of walk ways, habitat and general environment control or conservation is for the benefit of all and therefore Public Funds should be made available for certain costed projects.

If the thinking is to have the provision for a similar 'Rod License' as is in place in England and Wales, then this must be the subject of in depth debate.

If such a charge was made then other funding provisions already in place would be under strain and may not be supported, particularly non statutory ones.

There would require to be safe guards that all money raised from such a scheme would be returned in proportion to local Boards and Protection Order Committees.

This subject as has been stated must be widely discussed and the TWCP would welcome involvement in such a process.

46. If you do not agree that there should be charging provisions, how do you envisage ongoing and new work to assist in management and development of the aquaculture and fisheries sectors should be resourced? (Page 43)

The TWCP has made comments at Question 45

47. If no new way of resourcing such activity can be found, what activities do you suggest might be stopped to free up necessary funds? (Page 43)

The TWCP has made comments at Question 45