

## CONSULTATION QUESTIONS

**Q1. What are your views on the overall costs and savings identified in the Business and Regulatory Impact Assessments?**

SNH has no comments to make on the overall costs and savings identified.

**Q2. Do you agree with the registration process as described?**

No.

At the moment the registration process identifies 5 classes of activity being considered for registration under new legislation. We provide advice below on what further consideration you may wish to give to these 5 classes and whether some or all of these should be considered for registration or as exempt activities.

**Q3. If not, what changes would you propose to the process?**

Further detail is required on the definition of the meaning of “specified threshold of environmental impact” before clear guidance can be provided on what activities may require registration. We would be happy to provide further assistance on this, particularly in respect of nature conservation interests. Clarity on the definition would assist with determining what information may be required within an application / registration process. It may be that information on the location of nearby Natura sites is not required for each registerable activity, but to judge this requires more definition of the thresholds of environmental impact. Please note we also have some comments regarding the 5 proposed classes of activity, please see our comments for question 5.

**Q4. Do you agree that the listed activities should be registerable, rather than licensable?**

Yes x No

**Q5. Do you have further comments regarding the activities listed above?**

In considering what activities may be subject to registration as opposed to being exempt it is not clear what criteria has determined the 5 classes and what threshold of environmental impact they trigger. For example the placement of temporary marker buoys for yacht racing and potentially the removal of deceased marine mammals (dependent on method), are all likely to carry a low environmental risk, in comparison to some activities which are already exempt. Depending on method of disposal for marine mammals (the methods could be clearly identified, the removal could then be classed as either a registration or exempt).

**Q6. Are there any other classes of activity that should be registerable?**

At this point in time without a definition of “specified threshold of environmental impact”, we are unable to provide any further activities that should be registered. It may be useful to include a caveat that covers as yet unknown, unquantifiable activities that may not require a marine licence, but may require registration. We also recommend that it would be useful to maintain a list of registrations to help inform cumulative and or in-combination assessment work and/ or an overview in terms of reporting marine activities for current and future emerging reporting requirements.

**Q7. Do you agree that statutory consultees should not be specified in legislation for the pre-application consultation process?**

Yes  No

**Q8. If not, which persons or bodies do you believe should be specified as statutory consultees for the pre-application consultation process?**

We do not consider it appropriate to mention pre-application consultation without mentioning that pre application consultation with statutory consultees will have occurred at an earlier stage in the application process. Therefore whilst we do not wish to be involved in the pre-application engagement with non statutory consultees, you may wish to consider that the developer provides a log of pre application engagement leading up to the pre application consultation procedure. This would allow non statutory consultees the opportunity to identify issues that may have already been raised and or resolved.

There may be good practice that can be identified from the equivalent terrestrial planning pre consultation procedures that could usefully be incorporated into both the legislation and accompanying guidance.

**Q9. Do you agree with the classes of activity that will be subject to pre-application consultation?**

Yes  No

**Q10. If not, what activities would you add or remove from the list?**

We do agree with 7 of the classes of activity identified for pre-application consultations, however it is the scale and other criteria identified for these classes that we have some concerns with. For example for renewable projects it identifies that only projects over 30MW would require pre application engagement. At the moment this does not accord with the thresholds identified in the Electricity Works (EIA) Regs and the section 36 Electricity Act requirements. We would recommend that the 30MW threshold is lowered to 1MW.

With regard to cables crossing the inter-tidal boundary, it is noted that this may also potentially duplicate terrestrial planning requirements and we

recommend that further discussion on this particular issue is carried out with Scottish Government Planning Division.

We welcome the inclusion of class 7 as this will help to future proof this legislation to include activities that can not be reasonably foreseen at this time.

**Q11. Do you believe that the above proposals discriminate disproportionately between persons defined by age, disability, sexual orientation, gender, race and religion and belief?**

Yes  No

**Q12. If you answered yes to Question 11, in what way do you believe the proposals to be discriminatory?**

N/A.