

Consultation on Registerable Marine Activities and on Marine Licence Applications Requiring Pre-Application Consultation

Scottish Environment LINK is the forum for Scotland's voluntary environment organisations, with over 30 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

LINK welcomes the opportunity to comments on this consultation and supports the new licensing regime introduced through the Marine (Scotland) Act 2010. We recognise it may be appropriate for certain classes of activity to be registered, rather than requiring a full marine licence, and our detailed comments on the proposals are set out below. Further, we strongly support the introduction of a formal pre-application consultation process. It is essential this process is effective and meaningful as early consultation, including with LINK members, should result in more successful applications being submitted. Again, please find our detailed response to the proposals below.

Question 1

No comment

Question 2 and 3

More detail on the thresholds of environmental impact for the activities to be registered is required. While the current activities proposed to be registered are unlikely to cause an adverse environmental impact, further detail for any new activities which may be added to this list will be important.

In addition to information relating to Natura sites, we would support information relating to nearby Marine Protected Areas designated under the Marine (Scotland) Act 2010 being included in application forms, as well as any relevant SSSIs. A definition of 'nearby' is also required.

While we support the registration of removal of deceased mammals as this will help to provide important data, there may be practical timing issues involved in the requirement to register before the carcass is removed, as often this has to be done with a degree of urgency. It may be appropriate in these circumstances to allow registration to occur after the event. The consultation states the applicant may carry on the activity 'once MS LOT has confirmed receipt of the application form and approves the activity for registration'. Guidance should be issued on target timescales from application to approval. If MS LOT does not intend to issue approvals ie the activity may occur following confirmation of receipt, this should be made clear.

Question 4

We question the necessity to register the removal of human remains from the foreshore. It may be more appropriate to exempt this activity.

Question 5 and 6

No comment

Question 7 and 8

We are comfortable not specifying statutory consultees at this stage. However, guidance should be produced which makes clear applicants are expected to consult as widely as possible at the pre-application stage. The benefits of early and broad consultation must be promoted to developers.

Question 9 and 10

We believe there should be provision for a formal pre-application process for all activities where an EIA is required. Items 1-6 provide useful guidance on the type of projects however, the environmental impact will be dependant on the characteristics of the project including cumulative impact with other projects and the sensitivity of location. While we support the inclusion of point 7 to capture novel technologies or unexpected scenarios, we also suggest that it is updated to make reference to all projects considered likely to have significant effects on the environment, as defined by the EIA Directive 85/337/EEC (as amended). This would make the requirements for marine projects more consistent with the provisions for pre-application consultation introduced by the Planning etc. (Scotland) Act 2006 and the Town and Country planning (Hierarchy of Developments) (Scotland) Regulations 2007.

It is essential there is a clear understanding of the interactions with consultation periods under the Town and Country Planning Act. This is particularly important for developments with both marine and terrestrial aspects such as renewable energy and aquaculture developments.

Further, we note the pre-application process relates only to activities licensed under the Marine (Scotland) Act 2020, therefore within the 12nm limit. Offshore projects from 12 – 200nm will be excluded from this process. We therefore encourage the Scottish Government to work with the UK Government, to introduce a similar pre-application consultation procedure for offshore developments. We also seek clarification for the process for oil and gas applications, and encourage pre-application consultation requirements to be extended to this industry.

Guidance must be developed on the nature of the pre-application report and what bearing this report will have on licence application decisions.

In order to ensure the pre-consultation exercise is meaningful, it is essential appropriate time periods are required for presentation and then consideration of responses. We therefore do not believe a twelve week pre-application consultation period is appropriate. At the moment, many developers carry out much longer consultations prior to application. Such good practice should be encouraged. Therefore, we believe a twelve week consultation period should be seen as a minimum, and a pre-application consultation period closer to six months should be considered.

This response was compiled on behalf of Scottish Environment LINK's Marine Task Force and is supported by:

Marine Conservation Society
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For further information please contact:

Sarah Archer
LINK Marine Policy and Advocacy
Officer
Tel: 01350 728200
email: sarah@scotlink.org

Lindsay Roberts
Senior LINK Marine Policy and
Advocacy Officer
Tel: 0131 3116544
email: lindsay@scotlink.org