



Potential For Permitted Development Rights And Use Classes
For Finfish And Shellfish Developments

SARF040b



A REPORT COMMISSIONED BY SARF
AND PREPARED BY

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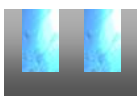
**POTENTIAL FOR PERMITTED
DEVELOPMENT RIGHTS AND USE
CLASSES FOR FINFISH AND
SHELLFISH DEVELOPMENTS**



FINAL REPORT

PROJECT SARF040b

September 2010



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Cover photo courtesy of Walter Speirs and Mark James: *Scottish Sea Loch with 15 active shellfish farms and 3 active finfish farms*

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SARF has agreed that references in this document may be cited as web links as appropriate.

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EXECUTIVE SUMMARY

This research project has considered a large amount of current and recent research into possible improvements to the planning system in Scotland and more widely in the UK. It has also taken into account Scottish Ministers' specific desire to reform the planning system as it pertains to aquaculture. It has asked the industry what sort of planning flexibilities it desires, screened the responses and consulted more widely amongst stakeholders and regulators.

On the basis of this evidence, and additional primary research and analysis, the study makes recommendations on what might constitute acceptable Permitted Development Rights (PDRs) for this industry, that:

- Allow it to continue to develop and deliver economic growth and related benefits to Scotland
- Ensure that it does so in a sustainable way.

It also makes recommendations that are related to the process of establishing or delivering PDRs, and also recommendations that relate to further research that is required.

The recommendations are summarised here, but it is important to note that more details are contained in Section 6 of the report.

Tables of Recommendations

Generic Recommendations

Number	Key Provisions
1	The Scottish Government should issue clear guidance (by way of its Aquaculture Planning Taskforce) as to the definition of 'de minimis' for this sector. <i>Examples are given.</i>
2.1	Taking into account the proposed comprehensive EIA PDR Screening Template Guidance (Recommendation 3), it is recommended the Scottish Government issue guidance to LPAs that they should conduct the majority of PDR EIA screening assessments without recourse to individual statutory consultee participation.
2.2	It is recommended that Local Planning Authorities (LPAs) take into account their obligation to consult SNH in connection with any PDR that is to be exercised within a European designated site.
2.3	It is further recommended that the guidance include an administrative provision for the LPAs to send notification of each EIA screening opinion, Prior Notification Application and simple notification to statutory consultee organisations.
3	The Scottish Government should commission additional research into developing detailed guidance for an EIA Screening (only) Template specifically designed for PDR use. The subjects that the Template should address include: <i>Examples are given.</i>
4	Where Prior Notification provision is attached to a finfish or shellfish PDR, its purpose is generally to allow the LPA to comment upon siting, design and external appearance of the equipment involved in proposed use of the PDR. Current PN application forms should suffice. In some circumstance Prior Notification may need to address additional potential impacts.
5	The Scottish Government should base its proposals for the creation of PDRs for aquaculture on the assumption, wherever possible, that PN is not required – on the basis that the proposed PDR is non-contentious and largely acceptable to the majority of interests in Scotland.
6	The Scottish Government should consider how to implement a ' simple notification ' procedure for use with aquaculture PDRs, and should provide guidance on the contents required in a standardised notification form.

Recommended PDRs – Finfish

Note: PN is Prior Notification; SN is Simple Notification (see Sections 5 and 6)

Number	Key Provisions	PN	SN
7	For all parts of Recommendation 7, provided: <ul style="list-style-type: none"> The development stays within the existing planning boundary A negative EIA screening opinion required from LPA a finfish farm may:		
7.1	Make changes to size, number and type of finfish pens , the main detailed provisions being: <ul style="list-style-type: none"> No circular pens larger than 100m in circumference The total surface area of the sea covered by the pens shall not increase by more than 5% of the original development, up to a maximum on any one site of no more than 500 m² Does not apply to existing farms >15,000 m² 	No	Yes
7.2	Change a feed barge for which there is existing planning permission, subject to the following provisions or restrictions: <ul style="list-style-type: none"> A replacement of an identical feed barge to that originally consented, in exactly the same location, may be made at any time, requiring simple notification A replacement of a feed barge with another of different design, colour and dimensions, and the relocation of any feed barge within the consented area, requires that the farmer shall use the standard Prior Notification application form, and pay the currently agreed fee Individual LPAs are entitled to produce their own guidance as to type, size colour and maximum height of feed barge that is appropriate for their area Farmers may replace feed barges on an annual basis to suit crop cycles 	No Yes	Yes No
7.3	Change or replace top nets and top net supports, subject to the following provisions or restrictions: <ul style="list-style-type: none"> Replacement of a top net with a new net of similar general colour and design may take place at any time Replacement of a top net support structure with a height no greater than 1.5m may take place at any time Replacement of a top net and top net support structure with units of different colour, or of a size larger than that stipulated above, requires Prior Notification. 	No No Yes	Yes Yes No
7.4	Install temporary ancillary equipment such as work rafts, etc, subject to the following provisions and restrictions: A Single Harvest Pen: <ul style="list-style-type: none"> Shall be no larger in surface area than one of the main production pens on the farm, and no larger than the smallest production pen if more than one type is on use on the farm Shall be present on the farm for no more than 10 months in any 24 month period Shall not be used to feed fish or treat fish with any form of therapeutants Any Other Equipment <ul style="list-style-type: none"> Shall not exceed 1% of the surface area of the pens consented and present on the site Shall not exceed a height above the surface of the water which is greater than 50% of any feed barge that is present on the site, or 2.5 m if there is no feed barge present Shall not exceed 3 separate items in number, at any one time Shall be present on the farm for no more than 3 months in any one year. 	No No	Yes Yes
7.5	Install temporary production pens following Prior Notification and subject to the following provisions and restrictions: <ul style="list-style-type: none"> No circular pens shall be larger than 100m in circumference 	Yes	No

Number	Key Provisions	PN	SN
	<ul style="list-style-type: none"> The total surface area of the sea covered by the pens (i.e. enclosed within them when seen in plan view) shall not increase by more than 20% of the original development, up to a maximum on any one site of no more than 1,500 m² Existing farms which currently have a total pen area greater than 15,000 m² are excluded from this permitted development right The additional pens shall not be present on the farm for more than 10 months This PDR can only be exercised once on any individual farm 		

Recommended PDRs - Shellfish

Number	Key Provisions	PN	SN
8	For all parts of Recommendation 8, provided the development stays within the existing planning boundary, a shellfish farm may:		
8.1	Make changes or adjustment to size and number of mussel or similar long lines , or any equivalent shellfish growing structures , subject to the following provisions or restrictions:		
8.1 a	If the farm is outside a European Designated Site the farmer shall use the simple notification procedure to inform the LPA and all statutory consultees of the intention to exercise this PDR	No	Yes
8.1 b	If the farm is inside a European Designated Site the farmer shall use the Prior Notification procedure	Yes	No
8.1 c	In either case: <ul style="list-style-type: none"> The total surface area covered by the structures (in the case of long lines assuming a long line, whether single or double headed, occupies a notional 1 m² of sea area for every 1m in linear distance) shall not increase by more than 10% of the original development, up to a maximum on any one site of no more than 500 m² The change in total growing structure surface area may only be exercised once during the lifetime of the farm, although it may be exercised in sequential changes. 		

Recommended PDRs – Change of Use

Number	Key Provisions	PN	SN
9	Provided the proposed development can be exercised within the area of sea above the existing planning boundary (generally taken to be the limits of the mooring system anchors on the seabed) and there is no change of equipment other than that provided for by a PDR, and provided a negative EIA screening decision has been received from the relevant authority, and subject to the need for simple notification , a marine finfish farm may:	No	Yes
9.1	If currently consented as a salmonid species farm, change production to any other species of salmonid provided that: <ul style="list-style-type: none"> Only one species of salmonid is present on the farm at any one time The farm is operated in accordance with any statutory management agreements in force in the area of the farm. 		
9.2	If currently consented as a whitefish species farm, change production to any other species of whitefish provided that: <ul style="list-style-type: none"> Only one species of whitefish is present on the farm at any one time The farm is operated in accordance with any statutory management agreements in force in the area of the farm. 		

PDRs and Use Classes Requiring Further Consideration

Number	Key Provisions
10	The Scottish Government should seek further advice on a PDR to allow finfish farms to become

Number	Key Provisions
	shellfish farms, possibly involving: <ul style="list-style-type: none"> • Additional primary research such as professional landscape/seascape assessment • A mechanism to assess cumulative impact by way of an extended Prior Notification/Prior Approval process <ul style="list-style-type: none"> ○ The use of Prior Approval, in this case, appears to be appropriate: if the cumulative impact study reveals potential problems, Prior Approval could be withheld, and any such change would then be unlawful, despite this being a PDR The Aquaculture Planning Taskforce might be the appropriate body to consider additional advice or research, and make final recommendations to the Scottish Government.
11	The Scottish Government should consider a future PDR allowing change in equipment type on a shellfish farm, once it has made a decision on the question of a PDR for finfish to shellfish. Taking into account stakeholder concerns about this possible PDR, it may be that Prior Notification would be appropriate in this case.
12	Individual fish farming companies should consider making formal planning applications for the capacity to have 'temporary pens' for all relevant existing sites, and this should also consider this as a component of all future new planning applications. Planning permission could be granted with appropriate conditions to ensure the relevant pens are only used on a temporary basis, and: <ul style="list-style-type: none"> • Could specify maximum amount/number of temporary pens • Could specify maximum duration on site • Could require simple notification <ul style="list-style-type: none"> ○ Thereby allowing the LPA to know that the PDR has been exercised ○ Thereby allowing the LPA to monitor that the use of the temporary pens is as per the site's planning permission ○ Thereby allowing the LPA the option to take enforcement action when required ○ Thereby allowing the LPA the opportunity to prevent 'temporary' pens becoming permanent by way of 'lawful development' rules
13	Scottish Government should consider whether there is an available means to limit finfish biomass increases under the GPDO, and if so, it should consider consulting on a possible PDR that: <ul style="list-style-type: none"> • Shares the general provisions of Recommendation 7.1 • Except in so far as it provides for a further increase in pen surface area of an additional 5% or no more than an additional 500 m² • With no additional biomass on the site, over and above the amount that might or might not have been added as a result of the provisions of Recommendation 7.1
14	If and when any aquaculture PDRs are created, the Scottish Government should, in parallel, produce comprehensive guidance, including decision flow charts, on how their use should be interpreted. The users of such guidance would include: LPAs; Statutory Consultees; Industry; other stakeholders. The possible PDRs are complex, as are the differing requirements for EIA screening, Prior Notification, Prior Approval and 'simple notification'.
15	The Scottish Government should consider how it wishes to define 'original development' for the marine aquaculture sector, and ensure that the chosen definition is included as important background context in any future consultation on possible PDRs for the sector.
16	The Scottish Government should consider how it wishes to apply PDRs, assuming some are created, to that part of the marine aquaculture sector that does not yet formally have 'planning permission'.

INTRODUCTION

1.1 Project Aims and Objectives

- 1.1 The **objectives of the project** are to consider and provide conclusions/recommendations regarding:
- The scientific and other justifications for a range of Permitted Development Right (PDR) options and any Use Classes – risks and benefits. The study considers all equipment used or deployed at a farm for which planning permission is required.
 - The question of ‘percentage’ changes in fish farm infrastructure that might be permitted by a broad PDR regime and how this will operate in practice alongside a ‘fixed’ numeric threshold indicator in the EIA regulations considering the varying sizes of fish farms;
 - The significance of such a range of PDR options and Use Classes in environmental terms.

1.2 Permitted Development Rights and Use Classes

- 1.2 The subject area of this study requires, in particular, consideration of the details of:
- **The Town and Country Planning (General Permitted Development) (Scotland) Order 1992¹** (as amended)
 - Hereafter referred to as the GPDO
 - **The Town and Country Planning (Use Classes) (Scotland) Order 1997²** (as amended)
 - Hereafter referred to as the UCO
- 1.3 The study also takes account of The Environmental Impact Assessment (Scotland) Regulations 1999 (as amended) (the ‘EIA Regulations’), and is broadly concerned with the Town and Country Planning (Scotland) Act 1997 (as amended) (the ‘TCPA’). Additional legislation, where appropriate, is also considered, as are various guidance, consultation and research reports published by government.

1.3 Approach

- 1.4 A detailed desktop study of all existing Scottish PDRs and Use Classes has been undertaken. It should be noted that research on the GPDO was published in March 2007 and account is taken of this. This study involves a comparative analysis of different PDRs and Use Classes to help determine whether PDRs or Use Classes could also be applied to fish farming developments. “Conditions”, “limitations”, “parameters” and “exceptions” applied to PDRs are taken into consideration. The research also examines “prior notification”. The fundamental principles of PDRs and Use Classes as they might apply in the marine or freshwater environment are addressed, justifying main differences to the current terrestrial regime while recognising that there may not be a direct like-for-like comparison. The Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (GPDO) and the Scottish Executive review of the GPDO 2007 help inform this study. An overview of other countries, including Norway and Chile and how they apply PDRs or proxy PDRs is also provided for comparison.
- 1.5 A specific investigation of the scale and type of PDRs which might be applied to the aquaculture industry in Scotland has been conducted, taking account of evidence from all

¹ http://www.opsi.gov.uk/si/si1992/Uksi_19920223_en_1.htm

² http://www.oqps.gov.uk/legislation/uk/si/si1997/ukxi_19973061_en_1

regulators and stakeholders, as well as industry. Similar investigation into Use Classes is also undertaken.

- 1.6 The research notes the “Baker Ruling” (*R (on the Application of Baker) v Bath and North East Somerset Council*) and subsequent guidance issued by the Scottish Government on the implications of this ruling for environmental impact assessment. The study takes this into account when making recommendations, with the focus being on what minimum information would be needed to seek a screening opinion if one was required. This would include a view on whether there was a need for a planning application and a fee.
- 1.7 The results from the above are used to produce a number of hypothetical scenarios to demonstrate how PDRs and Use Classes could be applied to fin and shellfish development. A number of issues are taken into consideration including scope of the PDRs, various types of fish farming e.g. salmon, cod, trout, mussels etc., the possibility of temporary PDRs and the regulatory issues associated with introducing PDRs. One scenario that is explored is changing from a finfish to a shellfish farm.
- 1.8 PDR and Use Classes ‘scenarios’ were presented to the steering group for comment along with views on the minimum information required to be submitted to support consideration of a screening opinion.
- 1.9 Table 1.1 summarises the methodology used.

Table 1.1 Key Methods

1. Literature review
2. Aquaculture industry – context-setting
3. Consult aquaculture industry on desired planning flexibilities
4. Screen industry requests with SARF040b steering group
5. Consult regulators and stakeholders on refined PDR & Use Class options
5b. Organise meeting with LPA officials to discuss consultation
6. Analyse consultation responses
7. Conduct further desk-based research (if appropriate)
8. Prepare draft report
9. Steering group meeting
10. Final report

2 THE GENERAL PERMITTED DEVELOPMENT ORDER AND RELATED LEGISLATION

2.1 Introduction

- 2.1 Section 2 provides an overview of the legislative instruments that provide for, or are associated with, the granting of permission for developers to make 'minor' modifications to existing premises, without the requirement to submit a formal planning application for a change or extension to the premises or operation. The types of changes or flexibilities that might be needed or requested by the aquaculture industry are discussed in more detail in Sections 4 to 6, but there is one fundamental principle that governs such planning flexibilities, irrespective of sector: "*permitted development and related approaches have been devised to exclude from planning controls minor development proposals which would generally have received planning permission, had an application been required.*"³ The other key phrase that is commonly used in connection with permitted development and related proposals is "*non-contentious*".⁴ Section 3 of this report considers the history of aquaculture planning decisions in relation to these two key drivers, and Section 4 considers, in particular, current stakeholder views on the potential for contention if PDRs are granted to aquaculture.
- 2.2 This section also reviews new research that has been recently undertaken in Scotland and the UK in relation to streamlining the planning system.

2.2 Permitted Development Rights

2.2.1 The General Permitted Development Order

- 2.2 The Town and Country Planning (Scotland) Act 1997 sections 30 and 31 provide that Scottish Ministers may make a development order granting planning permission for development of any class specified in the order, either unconditionally or subject to such conditions or limitations as may be specified by the Order.
- 2.3 The current GPDO came into effect on 13 March 1992⁵, following an extensive review of the 1981 General Development Order. It was intended to consolidate significant amendments since 1981, and to make the format and language of the GPDO more "user-friendly". It also reduced permitted development in certain areas in order to enhance environmental protection, and extended it in other areas in order to reduce burdens on developers and planning authorities.
- 2.4 On its introduction in 1992, the GPDO was divided into 25 parts, containing 72 classes of development. These replaced the former 28 broader Classes in the 1981 Order, resulting in a more detailed specification of permitted development, and associated conditions and limitations. Every Class of permitted development in Schedule 1 of the GPDO begins with a description of the permitted development (sub para 1), followed by the circumstances (if any) where permitted development does not apply (such as in Conservation Areas). Subsequent sub-paragraphs specify any conditions and limitations, and an interpretation of the Class where necessary. The first comprehensive review was conducted in 1983, by which time the GPDO had already been amended ten times.

³ Heriot Watt Report 2007; <http://www.scotland.gov.uk/Publications/2007/03/29102736/0>

⁴ See, for example:

http://www.planningni.gov.uk/index/policy/policy_publications/planning_statements/pps02/pps02_nature_conservation/pps02_sites_inter-national_nature_conservation_importance/pps02_european_sites_permitted_dev_rights.htm

⁵ http://www.opsi.gov.uk/si/si1992/uksi_19920223_en_1.htm

2.2.2 Aspects of the GPDO Possibly Relevant to Aquaculture

2.5 The GPDO is complex, and it is not appropriate for this study to review every aspect of it. Section 2.6 considers and discusses other studies that have looked at the wider aspects of the GPDO. The parts of the existing GPDO (as amended) that have most potential relevance – as guidance - to aquaculture are the provisions for:

- Part 6 Agricultural buildings and operations (classes 18 to 21)
- Part 7 Forestry buildings and operations (class 22)
- Industrial and warehouse development (classes 23 and 24)

2.6 Before going on to consider these classes of PDR in detail, it is important to highlight one definition contained in the GPDO in relation to Part 6 Agricultural Buildings and Operations:

For the purposes of Part 6—

"agricultural land" means land which, before development permitted under this Order is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business and excludes any dwellinghouse or garden or any land used for the purposes of fish farming;

"agricultural unit" means agricultural land which is occupied as a unit for the purposes of agriculture other than fish farming, but includes—

(a) any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit; or

(b) any dwelling on that land occupied by a farmworker;

"fish farming" means the breeding or rearing of fish or the cultivation of shellfish (including crustaceans and molluscs of any description) for the purpose of producing food for human consumption or for transfer to other waters;

On the basis of this (selected) extract from the GPDO, fish farming is specifically **excluded** from the provisions of Part 6 Agricultural Buildings and Operations.

2.7 However, the Heriot Watt Review⁶ also refers to some definitions (pp 28): *"The courts have held that "agricultural use" includes grazing horses (but not where the horses are kept for recreational purposes), allotments, fox farming, mink farming, fish farming, and the making and selling of wine made from grapes grown on the land, but not the breeding and training of horses for show jumping, the keeping and boarding of dogs, the establishment of a cheese making business, or the use of worms to turn droppings from intensively bred rabbits into compost (Rowan Robinson "Scottish Planning Law and Procedure 2001 para 5.144 et seq)."*

On the basis of this reference, fish farming is specifically **included** in 'agricultural use'.

2.8 The key points about fish farming and agriculture are:

- Immaterial if the Scottish Government intends at any future time to amend the GPDO to encompass aquaculture, and does so following full consultation on the prospects of creating **new** and well-defined classes for the industry
- On the other hand important, if the current trend to reduce rather than increase GPDO classes is maintained (see for example Table 2.6), and the expedient answer is to include 'fish farming' in the definition of an existing class – such as Agriculture or Industrial

2.9 Table 2.1 provides a summary of the PDRs that are granted to the most relevant classes within the GPDO. Table 2.2 provides a summary of the PDRs that are granted to some other classes, where 'type of use' is less relevant, but where other restrictions are of potential interest to aquaculture considerations. Table 2.3 attempts to summarise all numeric indicators in the GPDO – irrespective of sector or class. Table 2.4 looks specifically at PDRs granted for sectors where the main infrastructure is 'equipment' rather than buildings – since this is perhaps more relevant to many aquaculture installations.

⁶ See Table 2.6

Table 2.1 GPDO Details of Possible Relevance to Aquaculture Considerations

GPDO Class	Key Provisions (Summary)
Part 6 Class 18. (Agriculture)	<p>Works to erect, extend or alter a building (plus provisions for private ways and engineering operations), so long as:</p> <ul style="list-style-type: none"> • The land upon which the work is done must be greater than 0.4 hectare in area • The building cannot be a dwelling • The ground area covered by the erected building must not exceed 465 square metres • The height of the building must not exceed 3 metres if it is within 3 kilometres of an aerodrome • Any part of the building must not be closer to a metalled trunk or classified road than 25 metres • If the building is going to be used to house animals or store slurry or sewage sludge, it cannot be within 400 metres of the curtilage of any protected building (generally includes buildings occupied by people) <p>Note: Prior Notification is relevant – see Section 2.4 Note: There are further details on clarification as to how the exact details mentioned above should be calculated or otherwise interpreted.</p>
Part 7 Class 22 (Forestry)	<p>Works to buildings, ways and the land are permitted, so long as:</p> <ul style="list-style-type: none"> • The building cannot be a dwelling • The height of the building must not exceed 3 metres if it is within 3 kilometres of an aerodrome • Any part of the building must not be closer to a metalled trunk or classified road than 25 metres <p>Note: There is no specified maximum area for a building in this Class Note: Prior Notification is relevant – see Section 2.4 Note: There are further details on clarification as to how the exact details mentioned above should be calculated or otherwise interpreted.</p>
Part 8 Class 23 (Industrial)	<p>Extension or alteration of an industrial building or warehouse is permitted, so long as:</p> <ul style="list-style-type: none"> • The building (extended) is to be used for the same purpose as the original building • The height of the extension must not exceed the original • The floor area of the original building is not extended by more than 25% or 1,000 square metres, whichever is the greater • The external appearance of the overall building is not materially affected • No part of the extension is closer to the boundary of curtilage than 5 metres • There is no resultant reduction in car parking or turning space <p>Note: Prior Notification is not apparently relevant Note: There are further details on clarification as to how the exact details mentioned above should be calculated or otherwise interpreted.</p>
Part 8 Class 24	Development carried out on industrial land is permitted for the purposes of

GPDO Class	Key Provisions (Summary)
(Industrial)	<p>an industrial process consisting of—</p> <p>(a) the installation of additional or replacement plant or machinery;</p> <p>(b) the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus; or</p> <p>(c) the provision, rearrangement or replacement of a private way, private railway, siding or conveyor.</p> <p>So long as:</p> <ul style="list-style-type: none"> • It does not materially affect the external appearance of the premises of the undertaking concerned • Any plant or machinery does not exceed a height of 15 metres above ground level or the height of anything replaced, whichever is the greater.

Table 2.2 GPDO Details of Subsidiary Relevance to Aquaculture Considerations

GPDO Class	Key Provisions (Summary)
Part 13 Class 40. (Electricity)	<p>A variety of works in connection with the generation transmission and supply of electricity are permitted, so long as:</p> <p>There are a variety of exclusions, but of interest:</p> <ul style="list-style-type: none"> • Some types of development cannot be permitted in a national scenic area, or site of special scientific interest
Part 1 Class 1 (Household)	<p>A variety of works in connection with domestic dwellings are permitted, so long as:</p> <p>There are a variety of thresholds, but of interest:</p> <ul style="list-style-type: none"> • No greater than 24 square metres or 20% whichever is the greater • Except in conservation areas: 16 square metres or 10%

Table 2.3 Selected Numeric Indicators within the GPDO (Excluding Boundary Guidelines and Omitting Frequent Height References)

GPDO Class	Key Provisions (Summary)
Class 1 (Dwellings)	(Generally) 20% or 24 square metres whichever is the greater
Class 3 (Dwellings)	30% coverage of the total ground area within the curtilage
Class 5 (Oil tanks)	Not greater than 3,500 litres
Class 13 (Use)	Not greater than 235 square metres of the floor area of the building for change of use to class 4 or class 5
Class 18 (Agriculture)	Building not greater than 465 square metres 'Significant extension' is where the cubic content of the original building is extended by more than 10%
Class 22 (Forestry)	'Significant extension' is where the cubic content of the original building is extended by more than 10%
Class 23 (Industrial)	Building extension not greater than 25% or 1,000 square metres (whichever is the greater)
Class 30 (Local Authorities)	Any building not higher than 4 metres or 200 cubic metres in volume
Class 38 (Water Undertakings)	<p>Many changes possible, but not:</p> <ul style="list-style-type: none"> • Booster station > 29 cubic metres • Building extensions > 25% of volume

GPDO Class	Key Provisions (Summary)
	<ul style="list-style-type: none"> Floor area > 1,000 square metres <p>NB. The provision for installations for 'survey or investigation' – given 6 months of PDR, then require to be removed.</p>
Class 39 (Gas Suppliers)	No structure for housing apparatus > 29 cubic metres 15 metre height exclusion
Class 40 (Electricity)	<p>Many changes permitted: cables; chambers; buildings; etc</p> <p>Restrictions:</p> <ul style="list-style-type: none"> No telecoms line inside National Scenic Area Chambers etc not > 29 cubic metres The cubic content of the original building would be exceeded by more than 25% (or 10% in the case of any building situated in a conservation area or a national scenic area) The floor area of the original building would be exceeded by more than 1,000 square metres (or 500 square metres in the case of any building situated in a conservation area or a national scenic area)
Class 41 (Tramways)	No transformer boxes > 17 cubic metres
Class 44 (Airport)	A structure or building not > 4 metres in height or 200 cubic metres in capacity
Class 55 (Mining)	Buildings permitted but not > 25% of cubic content or 1,000 square metres of floor area
Class 59 (British Coal)	Buildings permitted but not > 25% of cubic content or 1,000 square metres of floor area
Class 67 (Telecoms)	Any building not exceeding 4 metres in height or 200 cubic metres in capacity

Table 2.4 PDRs That Focus on Equipment

GPDO Class	Key Provisions (Summary)
Class 24 (Industrial – replacement or addition of machinery, sewers, pipes, cables etc)	<p>Development carried out on industrial land is permitted for the purposes of an industrial process consisting of—</p> <p>(a) the installation of additional or replacement plant or machinery;</p> <p>(b) the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus; or</p> <p>(c) the provision, rearrangement or replacement of a private way, private railway, siding or conveyor.</p> <p>So long as:</p> <ul style="list-style-type: none"> It does not materially affect the external appearance of the premises of the undertaking concerned Any plant or machinery does not exceed a height of 15 metres above ground level or the height of anything replaced, whichever is the greater.
Class 69 (Amusement Parks)	Other than some height and boundary restrictions, almost any sort of booth, stall, or plant & machinery is permitted

2.10 There are a number of potentially important principles that can be learned from the existing GPDO, and some of these have been illustrated in Tables 2.1 to 2.4:

- For agricultural units there is a maximum surface area, 465 square metres (unit abbreviated hereafter as m²), but also a measure of 'significance' of alteration where it exceeds 10% of original volume

- Industrial and warehouse units have both a maximum surface area restriction for PDR, and also a percentage restriction: 1,000 m² and 25% respectively
- For other classes, the 25% restriction applies to total volume of the existing unit, although the 1,000 m² surface area restriction also applies
- Prior notification is appropriate for agriculture and forestry units, covering details of location, design and colour
- No prior notification is required for industrial PDRs
- There are relatively broad PDRs, with no numeric thresholds, for industrial equipment (as opposed to buildings) and amusement parks, so long as they do not affect the external appearance of the premises
- Designated Areas:
 - There are restrictions on some PDRs if they were to occur in a designated area such as a National Scenic Area (e.g. the electricity sector)
 - There are no apparent restrictions on farming and forestry PDRs with respect to designated areas
 - There are no apparent restrictions on industry and warehouses with respect to designated areas
 - There are restrictions on household (domestic) PDRs, if they are for properties within a 'conservation area'
- In general there are quite comprehensive restrictions to PDRs on boundary issues - good neighbour provisions
- **No percentage change greater than 25% is granted in any PDR where there is a numeric limit**
- **Usually also qualified by an absolute limit:**
 - **1,000 m² for industry**
 - **465 m² for agriculture, with the need for Prior Notification**

2.2.3 Other Important Aspects of the GPDO

Use Once

- 2.11 The GPDO provides for PDRs for a wide range of sectors, but it is important to recognise that for size limited additions to structures they are a 'one off' provision. For example, see Class 18, 4(b) of the GPDO: "*development consisting of the significant extension or the significant alteration of a building, may be carried out only once in respect of that building*". It is not clear, but can be assumed, that for other types of PDR (such as Class 24, for example) that the PDR can be exercised when required, and on more than one occasion. In some cases the 'use once' principle is related to the maximum allowed PDR. In a household development, it would theoretically be possible to add 3 separate 8 m² extensions, on different occasions, as long as the maximum overall PDR is not exceeded.

Original Development

- 2.12 The GPDO grants PDRs with respect to the 'original development'. In this context, the normal understanding of 'original development' is what was granted when the development obtained planning permission under the TCPA, or by default the development as it was on 1st July 1948 when the TCPA first came into being. Technically, whilst land-based aquaculture units were also granted such permission in the past, none of the marine finfish and shellfish units had 'planning permission' under the TCPA as it did not extend seaward

of the Mean Low Water Spring mark. Instead they had Crown Estate leases and therefore development consents (or Works Licences in the Northern Isles).

Article 4

- 2.13 Article 4 of the GPDO allows for a request by a local planning authority (LPA) to Scottish Ministers to have a specific class of PDR suspended within a defined geographic area. The relevance of Article 4 in the context of this study would seem to be that the LPAs should be all generally in favour of the relevant PDRs that are being contemplated for aquaculture. There are implications for LPAs with respect to Article 4 provisions, including planning fees and compensation⁷.

Production from the PDR

- 2.14 Where the GPDO allows for certain PDRs by sector, it does so in the sense of the physical structure of the relevant development. It makes no specific reference to the productivity of the development, before or after utilisation of the PDR. In the case of industrial units or warehouses (Class 23), there is, by default, an assumption that if the unit can increase its surface area by 25% (or 1,000 m²), it is perfectly free to use that area to increase production. This is a particularly important concept when considering PDRs for aquaculture, and is discussed in detail in Sections 4 and 5.

2.3 Use Classes

- 2.15 The TCPA requires planning permission to be obtained where development is proposed. The definition of development in the Act encompasses **material** changes in the use of land or buildings as well as operational development on or under land. What amounts to a material change depends on the facts and circumstances of each case. Guidance is however given in the form of the Town and Country Planning (Use Classes) (Scotland) Order 1997, which identifies various categories of land use. The 1997 Act provides that changes to use within the same class of the UCO can proceed without planning permission⁸.

- 2.16 The UCO has two aims:-

- To keep the number of use classes to a minimum while retaining effective control over changes of use which, because of environmental consequences or relationship with other uses, need to be subject to specific planning control
- To ensure that the scope of each use class is wide enough to take in changes of use which generally do not need to be subject to specific planning control.

“It serves no-one's interest to require planning permission for types of development that generally do not damage amenity. Equally, the Secretary of State is in no doubt that effective control must be retained over changes of use that would have a material impact, in land-use planning terms, on the local amenity or environment.”⁹

- 2.17 Classes 10-13 in Part 3 of Schedule 1 to the GPDO (as amended) permit certain changes of use without the need for specific planning consent. The changes permitted are shown in Table 2.5.

⁷ Personal communication: Scottish Government July 2010

⁸ Source material: http://www.aberdeencity.gov.uk/web/files/sl_Planning/Guide_UseClasses_PermittedChangesUse_Scotland.pdf

⁹ <http://www.scotland.gov.uk/Publications/1998/01/circular-1-1998-root/circular-1-1998-intro>

Table 2.5 Changes of Use Permitted by the General Permitted Development Order

From:	To:
Sale of hot food for consumption off premises	Class 1 (Shops)
Class 2 (Financial, Professional and Other Services)	Class 1 (Shops)
Class 3 (Food and Drink)	Class 1 (Shops)
Sale etc of Motor Vehicles	Class 1 (Shops)#
Class 3 (Food and Drink)	Class 2 (Financial, Professional and Other Services)
Sale of hot food for consumption off premises	Class 2 (Financial, Professional and Other Services)
Class 5 (General Industrial)	Class 4 (Business)
Class 6 (previously 11) (Storage or Distribution)	Class 4 (Business)
Class 4 (Business)	Class 6 (previously 11) (Storage or Distribution)*
Class 5 (General Industrial)	Class 6 (previously 11) (Storage or Distribution)*

* only where not more than 235 square metres of floor area will be used for storage or distribution.

only where the total floor area of the building does not exceed 235 square metres.

2.18 Circular 1/1998 provides additional guidance on a range of aspects of the UCO, of which a selection possibly relevant to aquaculture include:

- No 'development' is involved if the proposed change of use is to another use which is within the same class as the previous use. In other words, hypothetically, if a use class for aquaculture was "Finfish Pen Farming", then a change of finfish species within the farm would be permitted – but a change from finfish to shellfish or *vice versa* would not.
- Class 3, which reflects the breaking down of the traditional boundaries between different types of premises, enables the catering trade to adapt to changing trends and demands with greater speed and certainty in premises where the potential environmental nuisances such as smell, traffic and parking have already been accepted. Planning authorities should not seek to restrict the freedoms granted by this use class unless they can clearly demonstrate that serious environmental problems, which are not capable of control under other legislation, would result. This is potentially a key provision for aquaculture: presence of the industry has already been assessed and accepted when initial permission was granted; and 'other legislation' – typically the Water Environment (Controlled Activities) (Scotland) Regulations 2005¹⁰ (CAR) – control environmental aspects of the sector in so far as finfish species are concerned.
- If a proposed change of use is permitted development but other works such as building alteration or construction of a car park require planning permission, the change of use should not be an issue to be considered when determining the planning application. This might be relevant to aquaculture, where a change of species is desired, but where that would also involve a change of equipment, requiring planning permission (and see below).
- There has been an effort to streamline the UCO and reduce the number of use classes. In the case of the previous Special Industrial Use Classes, these have been deemed to

¹⁰ <http://www.opsi.gov.uk/legislation/scotland/ssi2005/20050348.htm>

be capable of incorporation into the general Industrial Use Class (5). This has in part been made possible by the emergence of additional environmental protection legislation and regulation. The point in terms of aquaculture is: would there be any justification for complicating the UCO further by creating new and very specific Use Classes for different types of aquaculture, or could the sector be included in the uses generally defined as Class 5 Industrial?

- The Circular provides an introduction to a section on unimplemented provisions, and contains the following specific wording: “*Any physical works associated with the change of use may, however, require planning consent.*” The relevance of this statement is of paramount importance to any consideration of applying the provisions of the UCO to aquaculture. Section 3 of this report describes the physical aspects of different types of aquaculture, but in summary: some species changes can be accommodated using exactly the same equipment as is already present on the site; some species changes might require only very minor changes to equipment; some species changes might require an entirely different type of equipment. The question is: at what point would planning permission be required?

2.19 It is possible that the provisions of the UCO are not necessarily relevant to the aquaculture sector, and that any ‘change of species’ is better covered by a specific PDR recommendation under the GPDO.

2.4 Prior Notification

2.20 In 1992, “Prior Notification” (PN) procedures were introduced in respect of the erection, or significant extension or alteration of agricultural and forestry buildings, in order to meet concerns which had been expressed about the siting, design and external appearance of some of these buildings which had enjoyed permitted development rights.¹¹

2.21 The GPDO is clear about certain conditions that pertain to certain classes of PDR. The extract in Text Box 1 is from Part 6 Class 18 (Agricultural Buildings and Operations), but is mirrored elsewhere in the GPDO for forestry.

Text Box 1 Extract from the GPDO relating to Prior Notification

(a) Development consisting of the erection of a building or the significant extension or significant alteration of a building or the formation or alteration of a private way is permitted by this class subject to the following conditions:—

(i) the developer shall, before beginning the development, apply to the planning authority for a determination as to whether the prior approval of the authority will be required to the siting, design and external appearance of the building or, as the case may be, the siting and means of construction of the private way;

(ii) the application shall be accompanied by a written description of the proposed development, the materials to be used and a plan indicating the site together with any fee required to be paid;

(iii) the development shall not be begun before the occurrence of one of the following:—

(aa) the receipt by the applicant from the planning authority of a written notice of their determination that such prior approval is not required;

(bb) where the planning authority gives the applicant notice within 28 days following the date of receiving his application of their determination that such prior approval is required, the giving of such approval;

(cc) the expiry of 28 days following the date on which the application was received by the planning authority without the planning authority making any determination as to whether such approval is required or notifying the applicant

¹¹ Source material: <http://www.scotland.gov.uk/Resource/Doc/156818/0042174.pdf>

- of their determination;
- (iv) the development shall, except to the extent that the planning authority otherwise agree in writing, be carried out—
- (aa) where prior approval is required, in accordance with the details approved;
- (bb) where prior approval is not required, in accordance with the details submitted with the application;
- (v) the development shall be carried out—
- (aa) where approval has been given by the planning authority, within a period of five years from the date on which approval was given;
- (bb) in any other case, within a period of five years from the date on which the planning authority were given the information referred to in sub-paragraph (a)(ii);

- 2.22 The relevance of prior notification procedures to aquaculture PDRs may or may not be significant. **Siting, design and external appearance** are all aspects of any PDRs that might be granted to the industry. Section 2.6 discusses this aspect in more detail, having taken into account recent research on the uses of prior notification.
- 2.23 More fundamental implications of the use of prior notification for proposed aquaculture PDRs can be found in recent e-planning guidance¹²:
- *“Unlike planning permission and other consents, Prior Notification is a procedure whereby a developer must notify the planning authority of proposals before he or she can exercise permitted development rights. This procedure will not result in an “approval”. The end result will be a determination that “prior approval” is or is not required. If the decision is that approval is required, further information may be requested by the planning authority in order for it to determine whether approval should be given”*
 - *“The form also cannot be used if the property lies within a “Natura 2000” site.”*
- 2.24 The fact that a Prior Notification form cannot be used if the development lies within a Natura 2000 site is a potential impediment to PN as it might be applied to aquaculture (see Section 5 in relation to approach to designated areas). The concept of a PN application being notified back to developers as requiring Prior Approval is also a potential area of concern. Delays might be incurred as a result of LPAs asking for additional information, and agreement might be difficult to reach. In an extreme circumstance, it is possible that Prior Approval is not forthcoming from the LPA. In this situation, whilst the LPA cannot ‘refuse’ the application – it is a PDR – neither can the applicant proceed with a lawful development without approval. Research published in 2001 suggested that *“the diligent application of the (PN) procedures is resulting in an increased level of control, that in most cases takes about the same time and effort as a full planning application, but is achieving far less than a full procedure, because of the limitations imposed on what the Planning Authority can do.”*¹³ The research goes on to point out that in the case studies it had considered, the eventuality of complete refusal of Prior Approval had never occurred (but it considered just 81 cases out of a total of 2781 PNs between 1996 and 2000). It also points out that in the event of failure to receive Prior Approval, an appeal may be made to Scottish Ministers.

2.5 Environmental Impact Assessment

- 2.25 Finfish farming is considered to be ‘intensive fish farming’, and therefore falls under Schedule 2 of the EIA Regulations in Scotland¹⁴. Planning Circular 8/07¹⁵ provides clear guidance as to the significance of this with respect to PDRs: *“Schedule 2 development does not constitute permitted development unless the planning authority has adopted a screening opinion*

¹² See for example: <http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=25218&slD=9107>

¹³ <http://www.scotland.gov.uk/Resource/Doc/156680/0042106.pdf>

¹⁴ See: SARF040a, for example

¹⁵ www.scotland.gov.uk/Resource/Doc/205337/0054660.pdf

to the effect that EIA is not required. Where the authority's opinion is that EIA is required, permitted development rights are withdrawn and a planning application must be submitted and accompanied by an Environmental Statement". There are some very specific exceptions to this provision, of which the most notable is Part 7 (of the GPDO) – Forestry.

- 2.26 At present shellfish farming is not classed as intensive fish farming, and is therefore excluded from the EIA Regulations.
- 2.27 EIA screening thresholds for finfish farming, and the implications of the Baker Case ruling, have been reviewed in detail (Slaski 2010)¹⁶. In summary, unless an existing finfish farm **plus** any proposed extension (under PDR or TCPA) remained below the thresholds of 100 tonnes of biomass or 1,000 m² of pen or equipment area, the proposal would have to be screened under the terms of the EIA Regulations. Circular 8/07 confirms this as a general provision for considering PDR for a Schedule 2 industry – it offers no exception to the need for EIA screening, except for the very specific GPDO classes mentioned above.
- 2.28 Circular 8/07 goes on to offer guidance: "A request for a screening opinion in relation to permitted development should be made in accordance with the provisions which apply to requests for a pre-application screening opinion set out in regulation 5. There are similar rights to request Scottish Ministers to make a screening direction if a developer disagrees with an opinion that EIA is required, or where the planning authority fails to adopt any opinion within 3 weeks (or such longer period as is agreed in writing). Such requests should be made in accordance with the procedures in regulation 6. Requests to the planning authority for a screening opinion can be made alongside any "prior notification" which may be required under the particular PDR".

2.6 New Research and Possible Trends

- 2.29 Sections 2.2 to 2.5 have discussed several legislative or regulatory regimes which pertain to planning PDRs and the possible application of Use Classes (for species changes) and Prior Notification (where appropriate). The descriptions of the regimes have been largely based on the current situation that applies to each. However, this study is considering whether or not changes to these regimes are appropriate, in so far as there is the possibility of adding the aquaculture industry to them. Since change is being considered, it is appropriate for this study to review other research that has been undertaken on these regimes – research which might have recommended other types of changes to the regimes. The rationale is that some of the new ideas that are being considered might be of relevance to the concept of aquaculture PDRs – and might therefore assist the project in making recommendations.
- 2.30 A broad range of literature has been reviewed, and where appropriate, reference to particular sources is made in footnotes. However, there are several major and relatively recent studies or reviews that offer some interesting observations about matters concerning PDR (or Use Classes or Prior Notification). The findings from one key study one are summarised in Table 2.6, which seeks to mainly highlight recommendations or ideas that are either generically relevant to possible aquaculture inclusion, or that are specific to other sectors which might be seen as 'similar' to aquaculture.

¹⁶ Slaski, R. J (2010) Environmental Impact Assessment (EIA) Thresholds For Marine Fish Farms. Report commissioned by the Scottish Aquaculture Research Forum, 60pp. SARF Project 040a.

Table 2.6 Heriot Watt Review

<p>Review Of The General Permitted Development Order 1992 Prior, et al. 2007 (Commonly referred to as 'The Heriot Watt Review') http://www.scotland.gov.uk/Publications/2007/03/29102736/0 ISBN 978 0 7559 6529 8</p>
<p>General Recommendations about PDR:</p> <ul style="list-style-type: none"> • making the GPDO easier to understand, interpret and use, including a new format for the presentation of PDR, easy-read and web-based versions in plain English, and separate user guidance • simplifying PDR as far as possible, reducing the uncertainties associated with interpretation of criteria and terminology, reducing the need for prior approval by the planning authority, and reducing the number of Parts of the GPDO from 25 to 20 • improving consistency across Classes where justified by circumstances (e.g. in relation to permitted development within designated areas) • clarifying permitted development for agricultural operations, and the PDR available to statutory undertakers • extending PDR for industrial and warehouse development. <p>Specific Recommendations:</p> <p><u>Agricultural</u></p> <ul style="list-style-type: none"> • Class 18 agricultural PDR should however continue to be withdrawn in National Scenic Areas, and should additionally be withdrawn in the remaining parts of National Parks. (<i>They also recommend this for ALL PDRs</i>) • Class 18(1)(a) PDR for agricultural buildings should be withdrawn within the setting of Listed Buildings and Scheduled Monuments. • Further work is required on polytunnels. Meantime, they should be treated as agricultural buildings. It may be helpful to refer to them explicitly in Class 18, but this will require a workable definition. <p><u>Industrial</u></p> <ul style="list-style-type: none"> • Delete '<i>materially affect appearance</i>' from both class 23.2.a and class 24.2.a • References to original building size should be deleted. Restrictions should be applied to site coverage (max 50% of site area to be occupied by buildings, plant or machinery) <p><u>Article 4 Directions</u></p> <ul style="list-style-type: none"> • Article 4 directions should be plan-led, that is, they should be promoted, monitored, reviewed and updated (and occasionally withdrawn) through the preparation, adoption and review of the Local Development Plan. • Where a planning authority wished to promote an Article 4 Direction independent of the development plan, they should, as at present, seek Scottish Ministers' approval, and follow current public advertisement requirements. However, in so doing, there should be a requirement for Article 4 Directions to conform to the development plan, and be kept under review. <p><u>Prior notification</u></p> <ul style="list-style-type: none"> • Whilst prior notification remains relevant for very specific instances, such as aerodrome safeguarding, where its purpose relates to siting, design and external appearance, it should be abolished. This would relate to the following Classes of permitted development: <ul style="list-style-type: none"> ○ Class 18 (4)(a)(i) farm buildings ○ Class 22 (3)(a)(i) forestry buildings ○ (Class 29 (2) development under local or private Acts or Orders ○ <i>Etc</i> • Alternative to the requirement for prior notification, planning authorities should: <ul style="list-style-type: none"> ○ establish protocols for consultation with statutory undertakers and other agencies with PDR to address issues of design and siting through more positive means ○ prepare and adopt local design guidance, specifying in advance design criteria for minor developments.

Review Of The General Permitted Development Order 1992
Prior, et al. 2007
 (Commonly referred to as 'The Heriot Watt Review')
<http://www.scotland.gov.uk/Publications/2007/03/29102736/0>
 ISBN 978 0 7559 6529 8

General

- All planning authorities should have up-to-date good quality local design guidance for minor developments.

2.31 It should be noted that although this research tends to concentrate on publications relating to Scotland and Scottish Law, there are some interesting aspects arising from other studies with a more UK or even English focus. They tend to mirror many of the conclusions from the Heriot Watt Review, and where relevant they are referred to later in Section 2. The main study reports are:

Non Householder Minor Development Consents Review

White Young Green Planning
 November 2008 (ISBN: 978 1 4098 0833 6)

Prior Notification Arrangements for Agriculture and Forestry Buildings in Scotland

Hunt *et al*, 2001 (ISBN 0 - 7 5 5 9 - 0 1 7 1 - 1)

The Killian Pretty Review¹⁷

(ISBN: 978 1 4098 07599)

2.32 The review summarised in Table 2.6 and considered in the other named research publications illustrates how complex the issue of PDRs are in general, and how complex they are in relation to the potential for Scottish aquaculture to be incorporated, whether the sector is viewed as:

- Agriculture – it is a primary producer of food, or;
- Industry – the largest part of it is commonly viewed as an intensive process; or
- Rural Business – it operates in relatively rural locations.

2.33 A number of key themes emerging from recent research in this general area of PDRs or 'minor developments' include:

- There is a desire to make the system clearer for all concerned, in order to avoid uncertainties
- Whilst upholding the principles of sustainability, there is a clear desire to offer as much flexibility as possible to different sectors, particularly those that can assist in growing the economy or in enhancing rural economic activity, without having to have recourse to the full TCPA system at every turn.

2.34 Taking into account the possible complexities of PN and Prior Approval (see Section 2.4), it is interesting to note the Heriot Watt recommendation: prior notification should be abolished except in the case of very specific instances.

Public Sector Resources

2.35 The final 'driver' that cannot be ignored is the current and foreseeable pressure on public sector expenditure. Increasing the number of 'developments' that can help to generate economic activity and at the same time be permitted without the cost burdens associated

¹⁷ <http://www.planningportal.gov.uk/england/professionals/policy/reform/parhome/>

with the TCPA system, whilst protecting the environment, would appear to be sensible. The review discussed in Table 2.6, and the other research projects, were all conducted before the recent economic situation began to unfold – but even so, there was a strong focus on efficiency and on reducing the burden of case work on LPAs.

2.7 Non-Material Variation and Minor Material Variation

2.36 Scotland has, until recently, been the only part of the UK where very small changes to existing developments could be formally made: Section 64 of the TCPA states: “Power to vary planning permission notwithstanding any other provision of this Part, a planning authority may, at the request of the grantee or a person acting with his consent, vary any planning permission granted by them, if it appears to them that the variation sought is not material”. The common term used is a **non-material variation**. The definition of “non-material” is related to the *de minimis* concept in law which is widely used in planning i.e. a change so insignificant as to have no discernible impact on a development. There is case law which relates to the definition of *de minimis* and also to the concept of materiality¹⁸. In practice, LPAs in England have been operating a variety of informal schemes which have attempted to achieve the same results, i.e. permitting very small changes to existing developments without a requirement to apply again for full planning permission.

2.37 It may be the case that some of the small ‘flexibilities’ requested by the aquaculture industry (see Section 4) are so small that they might be deliverable using Section 64. However, it is important to stress that ‘material’ is not defined in any UK Planning Acts, and we are unaware of any case law that covers this issue for aquaculture developments. Clear guidance would need to be developed, based upon industry-standard flexibilities that are agreed by consensus on the part of regulators and planners.

2.38 The Killian Pretty Review, in its wide ranging examination of opportunities to streamline the planning system, has taken the non-material variation concept one stage further, and has suggested the possibility of establishing procedures for **minor material changes**. Its Recommendation 8 is:

Government should take steps to allow a more proportionate approach to minor material changes in development proposals after permission has been granted, by amending primary legislation, if required, so as to allow:

- *discretion for a local planning authority to vary an existing permission where it considers that the variation is not a significant material change. This change should be supported by guidance for applicants and local planning authorities as to what does (and does not) constitute a minor amendment;*
- *a simple and quick process, using the Standard Application form, to deal only with minor amendments*

2.39 Killian Pretty amplifies this aim:

Recommendation 8 proposes that a way is found to avoid the need for a new full application for planning permission to deal with a small, but material change to an existing permission. The need for such an arrangement might arise, for example, where it becomes apparent that it is necessary to change the location of a building on a major development by a small distance, but where such a change would have no discernible impact on a third party or other interest of acknowledged importance, although it would constitute a material change to the approved scheme. This recommendation is likely to require primary legislation, but would allow a more proportionate approach to be taken for small changes.

¹⁸ Communities and Local Government: Minor Material Changes to Planning Permissions, Options Study, WYG July 2009. Hereafter: “WYG 2009”

2.40 The WYG 2009 study considers the opportunities for taking forward recommendation 8 of the Killian Pretty Review. It reviews the available literature and case law, and also reports on a comprehensive survey of organisations with expert knowledge, and discusses the implications of the survey feedback. A range of options are considered, and ultimately the study concludes that a system using a Section 73 application procedure could be adopted. The study has resulted in The Town And Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009.¹⁹ The WYG study does provide a definition of minor material in its conclusions, drawing in part on the so-called Wheatcroft Principles (case law), and this might be of interest to the current study:

'A minor material change is one whose scale and nature results in a development which is not substantially different from that which has been approved.'

2.41 In closing, it is important to note that:

- Non-material variation exists as a procedure available to developers and LPAs in Scotland
- Minor material changes have not yet been introduced as a formal procedure in Scotland
- Neither option replaces the provisions of the GPDO, and indeed in both case there is more of an emphasis on making small (minor) changes to an existing permission at a stage before the development has been completed, rather than making small changes to an existing completed development
 - Several respondents to the WYG 2009 survey believed that improvements in the GPDO provisions were actually **the best way** to tackle the 'streamlining' desires expressed by Killian Pretty in relation to minor material changes
- Permitted Development Rights are material changes to a development (See Section 2.1), therefore hypothetical new PDRs for the aquaculture industry are not automatically excluded from consideration because a particular consultation response uses the word 'material': the issue is the degree and significance of materiality, taking into account the Section 2.1 definition.

2.8 Planning Boundaries and Planning Units

2.42 LPAs²⁰ have advised that there may be an issue about the exercising of PDRs (if granted) which would partially move some aquaculture equipment outwith the boundaries of the 'planning unit', i.e. the physical boundaries of the planning permission that was granted to the farm. This is normally taken to mean (in plan view) an area bounded by the farthest extremities of the mooring system's anchor points. Figure 1 illustrates a hypothetical example of how this might look. It is also important to note that this issue is identical in terrestrial planning. Figure 2 shows a non-attributable example of a planning drawing for a dwelling. The red boundary of the 'planning unit' is clearly shown as the boundary of the house plus its garden, i.e. it is the entire piece of land that is owned by the developer. A subsequent exercise of Class 1 PDR for dwellings, for example an extension of 20% of floor area (shown in blue in the figure), clearly stays within the boundary of the land that has been assessed for and granted planning permission.

¹⁹ http://www.opsi.gov.uk/si/si2009/uksi_20092261_en_1

²⁰ Personal communication: Highland and Argyll Councils

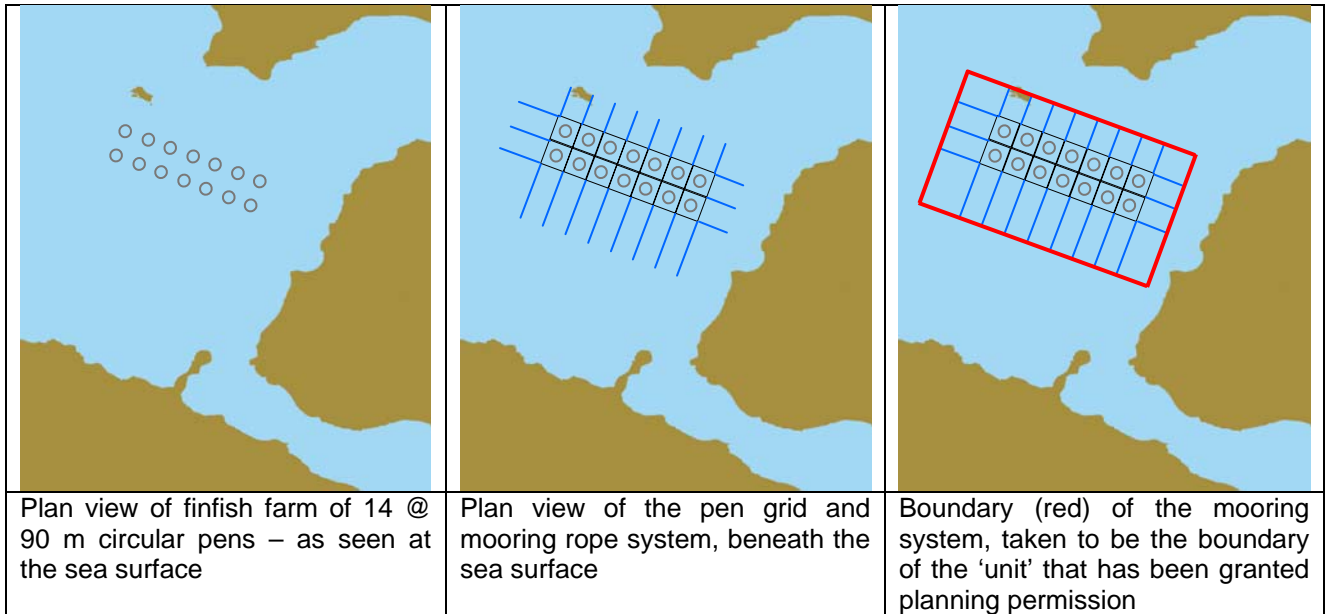


Figure 1. Boundaries of Planning Units – Marine Aquaculture Pens

2.43 It is important to note that Figure 1 is simply a hypothetical example, illustrating the concept of boundary-setting. Section 5 of the report includes an analysis of some actual industry examples of mooring area.

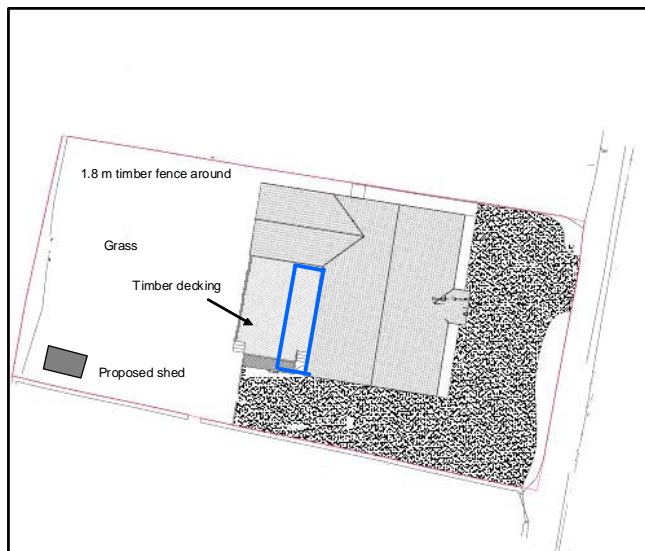


Figure 2. Example of planning unit boundary for a dwelling. (Note hypothetical utilisation of a Class 1 PDR extension – blue area – within the red boundary)

2.44 It is unclear to what degree this issue might constrain PDRs for this sector, but the principle of PDRs only being applicable in an area within the permission’s boundary is potentially fundamental in terms of planning law. Indeed, many of the LPAs surveyed consider that the area within the boundary has been properly assessed under the TCPA (and where appropriate, the EIA Regulations), and any area outside the boundary has not been assessed under these pieces of legislation. The GPDO clearly states (**Interpretation 2.**)

“(3) Any reference in this Order to the use of land for a specified purpose does not include a reference to the use of land—

(a) without planning permission; or

(b) in contravention of previous planning control.”

2.45 Resolution of this issue would be beyond the scope of this research project, if it did become apparent that aquaculture industry PDRs commonly needed to extend beyond planning boundaries. Sections 5 and 6 discuss this issue in more detail.

2.9 PDR for Aquaculture Units Prior to Review and Audit

2.46 PDRs are granted by Scottish Ministers to different classes of existing developments, i.e. developments that already have planning permission under the TCPA. Whilst the marine aquaculture sector in Scotland is now included in the TCPA system, not all the existing finfish and shellfish farms (established prior to Spring 2007) have yet been granted planning permission by Scottish Ministers. There is an ongoing process of review and audit of all existing units, but these will take some years to be completed for the entire industry. It is unclear how any PDRs that might be introduced for the sector can be applicable to those farms that have not yet completed the review and audit procedure, but Section 6 refers this question to The Scottish Government.

2.10 Clarity on Requirement for Planning Permission

2.44 It is important to consider PDRs and any other types of planning ‘flexibilities’ against a backdrop of a consistent understanding of when a planning application for a change on an aquaculture farm would ordinarily be required. The study has discovered that farmers in one part of the country have been directed to apply for permission to increase the depth of the nets suspended below their floating pens. LPA officials from two other parts of the country have clearly stated that such modifications to a finfish farm are not matters for the planning system. Section 6 of this report discusses this issue and makes recommendations.

3. THE AQUACULTURE INDUSTRY

3.1 Introduction

3.1 This section of the report provides an overview of the nature of the aquaculture industry in Scotland, taking into account:

- The different sectors – by species, by type of water body and by equipment used
- The physical appearance of the different parts of the industry
- The environmental footprint of the different parts of the industry
- The physical scale of typical units within the different parts of the industry
- The geographical spread of different parts of the industry

3.2 The section also considers the history of the industry in terms of planning permissions (or equivalent) that have been granted – or refused. This is important in setting the context for a consideration of the key drivers of PDR: ‘would have obtained planning permission if it had been applied for’, and ‘non-contentious’. It also considers the relevant areas of planning sensitivity and the key areas of interaction between the industry and the environment.

3.2 Aquaculture Industry Sectors – Nature and Scale

3.3 There are six broad ‘types’ of farms within Scottish aquaculture, based upon physical and locational criteria. These are:

- Marine Finfish Pens²¹ (M FP)
- Marine Shellfish Lines & Rafts (M L/R)
- Marine Shellfish Tidal & Sub-tidal (M T/ST)
- Marine Land-Based Tanks and Hatcheries (M LB)
- Freshwater Finfish Pens (FW FP)
- Freshwater Land-Based Tanks and Ponds (FW LB)

In most cases a range of different finfish or shellfish species can or could be grown in each type of farm, and in the future this could also possibly be extended to include macro-algae (seaweed) cultivation. Figure 3 illustrates the location of some of these types of farms in Scotland, and Table 3.1²² provides a summary of basic information about each type of farm.

Table 3.1 Aquaculture Sector Data from MSS Annual Surveys

Type of Farm	Species	Number of Farms (Producing)	Total Capacity (’000 Cubic Metres)	Production (Tonnes - for Table)	Production (’000s)	Number of Companies	Employees (FTE)	Total Value (£ million)
M L/R	Mussel			5,869		52		5.9
M T/ST	Pacific Oyster				3,785	32		1.5
M T/ST	Native Osyter				250	1		0.09
M T/ST	Queens				687	1		0.05
M T/ST	Scallops	152			15	2	248.5	0.01
M FP	Rainbow Trout	9		2,628				NA
FW LB	Rainbow Trout	28		2,480				NA
FW FP	Rainbow Trout	7		2,562		31	124	NA
FW LB	Salmon Smolts	77	64		19,385			NA
FW FP	Salmon Smolts	53	385		17,065	38	290	NA
M FP	Atlantic Salmon	256	14,769	128,585				NA
M LB	Atlantic Salmon	1	6	21		35	899	NA
Totals		583	15,224	142,145	41,187	192	1,561.5	7.55

²¹ This study elects to use the word ‘pen’ to describe floating finfish net units. These are also sometimes referred to as ‘cages’.

²² Source: http://www.marlab.ac.uk/Delivery/Information_resources/information_resources_view_documents.aspx?resourceId=39

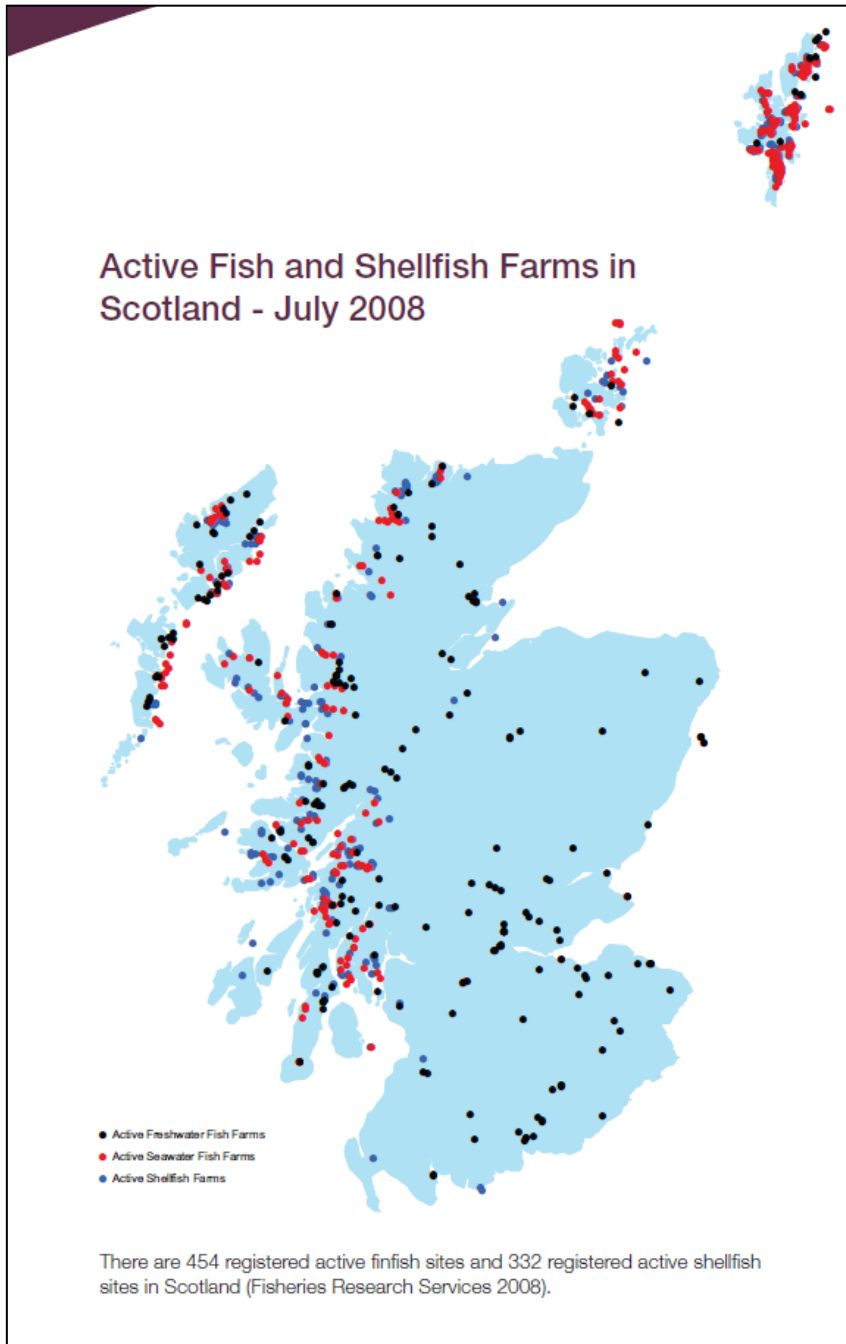


Figure 3. Locations for active finfish and shellfish farms. *Source: MSS*

3.4 Several important points from Table 3.1 and Figure 3 can be highlighted:

- Not all finfish and shellfish sites registered with MSS are 'active' in the sense of actually producing an output in any given year
- However, at any one time there would appear to be almost 600 units of one type or another in production. Many of these might wish to exercise any PDRs that might be granted to the industry
- Whilst there are a few freshwater sites located in most LPA regions in Scotland, the majority of the industry is located in just five: Shetland, Orkney, Western Isles, Highland and Argyll
- Atlantic salmon marine pen farms make up the largest physical part of the industry, both in terms of total number and in terms of total area occupied. Assuming an average pen

net depth of 10m²³, the total surface area of visible pens would be some 140 hectares (Table 3.1). On an average individual basis (for 256 farms), a salmon marine pen's surface area would be some 5,500 m².

- Not included in Table 3.1, there are:
 - 3 marine finfish hatcheries based onshore
 - 1 marine land based pump ashore halibut ongrowing farm (Isle of Gigha)
 - 2 marine pen finfish farms stocked with Atlantic halibut

3.5 Figures 4 to 10 illustrate the appearance of the different types of aquaculture farms.



Figure 4. Marine finfish circular pens. Note surface-visible buoys and feed barge. *Photo Courtesy of James Bromham, Highland Council.*

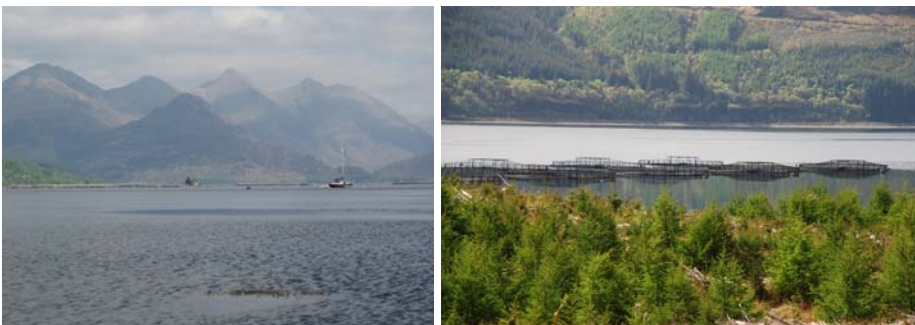


Figure 5a and b. Low-angle photos of marine finfish circular pens. Note feed barge (a) and net supports (b). *Photo Courtesy of James Bromham, Highland Council.*

²³ SARF 040a explains the method used to calculate surface area of pens from consented biomass, using standard assumptions of stocking density and net depth.



Figure 6. Marine finfish square pens. *Photo Courtesy of SEPA.*



Figure 7. Marine shellfish mussel long lines and rafts. *Photo Courtesy of Walter Speirs*



Figure 8. Marine shellfish intertidal oyster trestles. *Photo Courtesy of Walter Speirs*



Figure 9. Shellfish farming – a source of fascination for visitors. *Photo Courtesy of Walter Speirs*



Figure 10. Land based pump-ashore marine finfish farm (currently unused). *Photo courtesy of Richard Slaski*



Figure 11. Mussel Farms in Loch Eriboll. *Photo courtesy of James Bromham, Highland Council*

3.3 History of Planning and Other Permissions

3.3.1 Background

- 3.6 The following sub-section of this report draws heavily on analyses presented in Slaski 2010, and therefore confines itself to a relatively brief summary of the key points. Much of the discussion concerns marine pen fish farms.
- 3.7 Freshwater and any other land based aquaculture units in Scotland have been regulated, in locational terms, by the TCPA since the industry started. Marine and tidal/sub-tidal finfish and shellfish units were managed by way of a Development Consent from The Crown Estate (or a works licence in Orkney and Shetland) up until the introduction of The Town and Country Planning (Marine Fish Farming) (Scotland) Order 2007.
- 3.8 However, in recognition of the need for local involvement in locational decision making, the **interim arrangements for authorisation of marine fish farms** were introduced in 1999, and operated until 2007. In essence, applications to The Crown Estate for a development consent **were treated as if** they were applications for planning permission under the TCPA system, and the relevant LPAs were asked to review each application and provide The Crown Estate with a recommendation, which it implemented in all cases. Text box 2 discusses some of the approaches adopted with respect to minor modifications.

Text Box 2 Minor Modifications

Although the interim arrangements were in place, there is some suggestion that the Crown Estate operated a unilateral policy for what it perceived as ‘minor modifications’ during the period from 1999 to 2007 (Crown Estate, personal communication, 2009). Shetland did the same, with changes of less than 10% of surface area being treated as minor modifications (Shetland Islands Council, personal communication, 2009).

This approach was more in keeping with the concept of a **non material variation**^{24 25} than with the basic principles of PDR, in the sense that the competent authority was contacted by the developer, and the proposed minor amendment to the unit was discussed and considered. In the context of this study, however, the approach does have some relevance due to the fact that **prior notification** and **EIA screening** communications between developers and LPAs may be involved in any proposals to create PDRs or involve Use Classes.

The first key point is that there has been a good history of dialogue between developers and competent authorities for matters both parties considered to be ‘minor modifications’.

The second key point is that, because LPAs were generally involved in the process since the interim arrangements came into force, there is a recognition that some small scale adjustments to marine pen aquaculture units are indeed ‘minor’, and perhaps, therefore, that experience might be drawn-upon to support some very focused PDRs for the sector.

The disadvantage for this study is that it is unclear from The Crown Estate’s database as to whether all these ‘minor modifications’ were recorded as distinct transactions – making an analysis of the details of ‘minor changes’ (and probably ‘non contentious’ changes) somewhat more difficult.

3.3.2 Change in Marine Pen Types and Unit Areas – SEPA Data

²⁴ See for example: http://www.east-ayrshire.gov.uk/item_detail.asp?Letter=no&UIN=355

²⁵ Section 64 of the TCPA: 64.

3.9 SEPA’s main regulatory focus, and therefore its main record-keeping focus, is on consented biomass of finfish pen farms. However it does record, wherever possible, what the developer tells it about the equipment it is using or proposing to use on a farm. From an analysis of data provided by SEPA in 2009, it is possible to ascertain that from a total of **69** recorded ‘changes’ to a marine pen farm between 2006 and 2009:

- **6** changes involved replacing square pens with round pens
 - In which, only one change involved any significant increase in consented surface area – most were almost neutral, and one involved a significant reduction (see Figure 12 below)

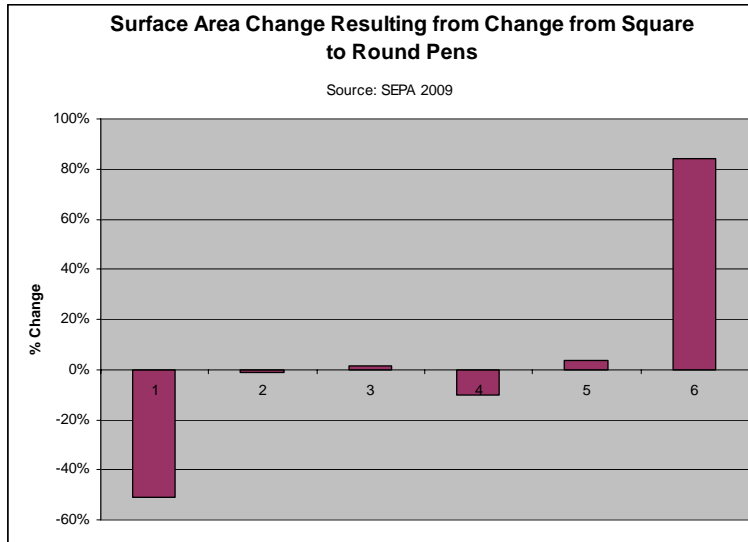


Figure 12. Interpretation of SEPA data on areas changes: square to round pens

- **23** changes involved moving to pens of larger unit size (70m circles to 100m circles was a common change)
 - In which 8 of the 23 changes involved small (<11%) changes in overall farm pen surface area (see Figure 13 below)

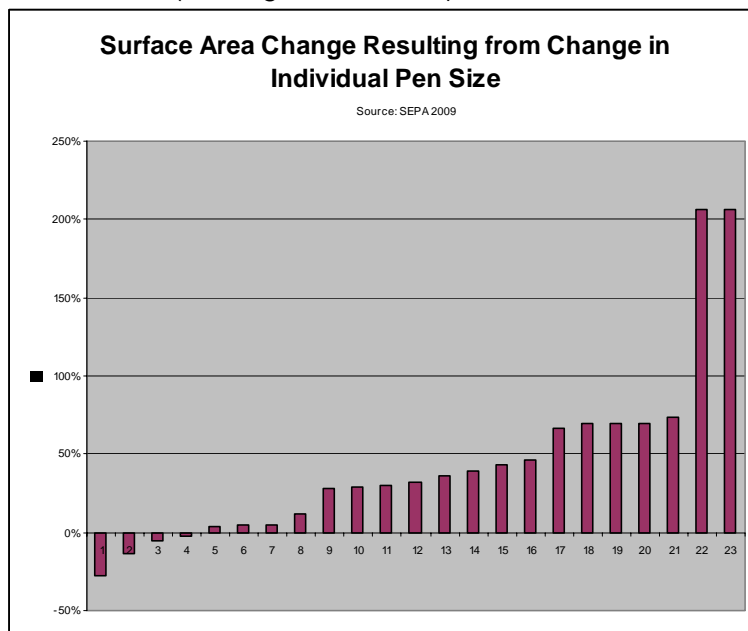


Figure 13. Interpretation of SEPA data on area changes: round to round pens

3.10 All of these changes would have required a Crown Estate equivalent of a TCPA planning permission under the interim arrangements (or a Works Licence). It is not possible to ascertain from any public body database whether the applications for these changes were 'contentious', but it is a given that 'planning permission was granted'. What is perhaps important to note is that:

- Changes to circular pens from square pens does not, in most cases, involve any major change in overall surface area of the farm unit
- 8 out of 23 cases (35%) of farms upgrading equipment to a smaller number of larger single pen units did not involve a very significant expansion of total pen surface area on the farm

3.3.3 Summary of Relevant Findings from Slaski 2010

3.11 In terms of planning success and other indicators – such as the frequency of positive EIA screening opinions – it is perhaps helpful to summarise the other main findings from Slaski 2010:

- The approval rate for Crown Estate applications of all types over the last 10 years has been 91% if withdrawals are excluded from the calculation. This compares very favourably with approval rates for 'major' developments in all industry sectors in England
- An Environmental Statement (ES) was definitely requested in 54 out of 139 cases, and definitely not requested in 61 out of the 139 cases. In 24 cases the ES status was unclear – but there is an assumption that the developer submitted an ES without requesting a screening opinion or scoping advice
- There has been some variation between the numbers of ESs requested in different parts of the country
- Time taken to determine all applications has been much longer than for 'major' developments in England and in Scotland:
 - Approvals have generally taken just over 40 weeks to determine, although those where an ES was required took over 60 weeks
 - Rejections and withdrawals, with or without the need for an ES, have taken considerably longer
- Out of 45 ES NTSs²⁶ examined for this project, not one concluded that there was a risk of a significant environmental effect after mitigation had been applied – but all of them contained large amounts of information about the possible types of aquaculture interaction with the environment
- Scoping advice from relevant authorities appeared to encourage this broad brush approach in ES preparation
- Where it was possible to ascertain scale of the proposal, the average pen surface area being considered in the ES was 5,400 m²

²⁶ Non Technical Summary

- The relationship between biomass consent and pen surface area is explored in different ways, and it is assumed that a salmon farm having 500 tonnes of biomass consent would require, on average, some 3,000 m² of pen surface area
- Pens appear to be growing larger in terms of individual surface area, and fewer of them are required per 'farm'.

3.12 It is difficult to see how this historical analysis of marine pen finfish aquaculture applications can necessarily accurately guide thoughts on possible future PDRs and other related provisions, but several concepts seem to arise:

- Whilst the level of positive EIA screening opinions for this industry was relatively high, the fact that there were many negative screening opinions does indicate that there are levels of 'change' possible, that do not raise undue concerns from an environmental impact point of view
- Taking into account the need for every utilisation of a finfish PDR (if granted) to seek an EIA screening opinion, it is important to ensure that the proposed PDRs are broadly acceptable to all regulators and stakeholders – in order to ensure that PDR 'requests' are not frequently prevented by positive EIA screening decisions
- The same degree of certainty would be required in terms of any proposed PDRs that might also attract prior notification requirements
- Most 'planning' applications resulted in the eventual awarding of permission. The degree of contention involved is not really possible to ascertain.

3.4 Environmental and Other Sensitivities and Implications

3.4.1 Previous Research

3.13 Slaski 2010 summarised the sensitivities that regulators or stakeholders might have in connection with the aquaculture industry as a whole – once again, with a major focus on marine pen finfish farming. The areas of concern are fundamental, but it is important to remember that this present study is focusing on '**minor**' changes to aquaculture installations, of the type that might be viewed as 'non material considerations' – or, ultimately, PDRs. The main findings were:

- **Visual and amenity** issues have been the main reasons for rejections of applications for finfish farms over the last decade, followed by **navigational concerns**
- There is good guidance on both planning for, and assessing, visual impact concerns
- Aquaculture does not appear to figure strongly in the Scottish public's concerns about the environment
- Two independent studies show that around 80% of visitors surveyed were either positive or neutral in their reactions to seeing fish farms in Scotland
- Wild salmonids conservation is important in the light of marine mortality and declining pre fishery abundance (PFA), but internationally recognised tools to accurately determine and substantiate specific local concerns have not been much used to date,

with the consequence that competent/relevant authorities are not well-advised on these issues

- Other areas of potential negative environmental impact are now relatively well understood.

3.4.2 Stakeholder Opinions Expressed Concerning PDRs for Aquaculture

3.14 The then Scottish Executive convened a stakeholder group to consider the concept of PDRs in 2006. A summary of the group’s deliberations is presented in Table 3.2

Table 3.2 Stakeholder Views on PDR in 2006

ORGANISATION	PDR COMMENTS
Scottish Quality Salmon	SQS proposed changes in Permitted Development Rights in the context of maintaining existing consented biomass and operational flexibility and support the change in E.I.A threshold from 0.1 ha to 0.35 ha.
Joint Marine Programme	Are concerned that allowing changes via General Permitted Development Rights without impact assessment may lead to unrecognised detrimental effects on the environment
Scottish Natural Heritage	Suggests that allowing flexibility in terms of permitted development to location of cages and equipment within lease areas could lead to adverse landscape and visual impacts
RTPI	Permitted Development Rights should have conditions attached to protect the amenity of the surrounding area
Shetland Islands Council	They were less receptive to industry calls for increased cage size and location, considering current stocking densities to adequately address fish welfare and husbandry concerns. They also stated that lowering stocking densities would not necessarily mitigate environmental concerns, rather spreading the same volume of waste over a larger area of seabed.
Highland Council	Voiced concerns over the proposed PDRs, particularly in relation to the potential for visual impact. They were opposed to industry requests for an increase in cage size and flexibility in cage/equipment positioning, believing consultation should be required in these cases, prior to changes being made
Association of Scottish Shellfish Growers	ASSG were cautious in their approach to PDRs. They considered that some of the PDRs raised might be needed, but that these should always require prior notification, registration and time limits.
SEPA	SEPA were generally supportive of industry calls for an increase in cage size (but not tonnage) and flexibility to locate cages and associated equipment within the lease area. They saw these changes as having the potential to make a substantial difference to the polluting impact of a fish farm. Prior notification would not need to accompany these PDRs, though SEPA suggested routine/common changes be outlined in a management statement to keep planning authorities better informed.

3.15 In a separate discussion with SEPA (personal communication, SEPA, 2006), evidence was submitted concerning the apparent reduction of stocking density and/or increased separation distances between pens, which have the effect of reducing the depth of fish farm sediment that collects on the seabed beneath the pens. SEPA’s prime objective in regulating the aquaculture industry is to ensure that, even in the so-called Allowable Zone of Effect (AZE), there is capacity for sediment reworking species to exist and to be processing the waste from the farms. Depth of sediment build-up is a key potential limiting factor for these reworking organisms, and thus any management practice which reduces sediment thickness is a positive environmental benefit. This concept addresses, in part, the comment about wider dispersion of the same volume of waste in Table 3.2 – wider

dispersion is in itself potentially a beneficial effect on the environment. The SEPA discussion was supported by work done by Cromey *et al* (2005) in the Mediterranean²⁷. It is clear that **there is the potential for some types of net environmental benefit if marine finfish pens can be extended in area, without any increase in biomass.**

- 3.16 Further considerations of the environmental implications of PDRs for aquaculture are covered in Sections 4 and 5 of this report.

3.5 Other Aquatic Production

- 3.17 There is a possibility that other forms of controlled biological production might start to take place in Scottish coastal waters, and in some cases (perhaps experimental) within 3 nautical miles of the shore. The Crown Estate is actively promoting such developments in relation to floating macro algae production²⁸. The question for marine planning is whether such developments are considered to be aquaculture, and therefore subject to planning control under the TCPA. If this proves to be the case, new developments would require planning permission. The specific question for this research is: once established, would such 'seaweed farms' require any type of PDR?

- 3.18 It is probably much too early in the development cycle for a view on PDRs to be taken. The Scottish Government could consider this issue at some future point.

3.6 Technical Standards

- 3.19 Research will be undertaken on the prospects for creating new technical standards for marine finfish pen aquaculture²⁹. If, in the fullness of time, new standards are created and implemented, some stakeholder and regulator concerns about containment issues might be alleviated to some degree. It is not clear whether this would lead to a slightly different view about proposed aquaculture PDRs, and once again it is too early for this to be a major consideration in the current PDR research.

3.7 International Experience

- 3.20 Aquaculture is practised in many countries, and it is inevitable that existing units will require to be 'modified' in some way during their lifetime. How this is administered by the appropriate regulatory body, and whether there are larger and smaller 'scales' of regulatory decision-making, are matters of interest to this research. However, it is important to remember that aquaculture in Scotland is:

- Regulated under Scots Law
- Regulated (in a locational sense) by what is generically termed a 'land use planning system' – which is not the case in other countries as far as marine floating structure aquaculture is concerned

- 3.21 Research into international experiences with aquaculture regulation was undertaken in 2006, by way of both web-based searches and direct contact with operators in different countries³⁰, and this has been augmented by additional new web-based research undertaken for this project.

²⁷ Potential farm management practices for the reduction of aquaculture impact; Cromey, C & White, P; 2005; Poster presentation by Scottish Association for Marine Science

²⁸ Crown Estate presentation to Minister's Group on Aquaculture, 22nd June 2010

²⁹ http://www.publiccontractsscotland.gov.uk/search/show/Search_View.aspx?id=JUN078834

³⁰ Unpublished research whilst on secondment to the Scottish Executive.

Norway³¹**Full Application Process**

The permission is based on the description in the application. (e.g. frames for circle cages 60m x 60m x 2 x 6 or steel cages 25m x 25m x 2 x 6, barges and moorings). The coordinates for the centre are specified and described in the permit. There is not an exact limitation of the area but the facility has to be in accordance with the plan described in the application and which is approved.

Neighbours and other interested parties have the possibility to give their opinion during the process and the entities involved in the process are the county, the Regional Country Governors Office, the Norwegian Food Safety Authority

(http://www.mattilsynet.no/portal/page?_pageid=54,40103&_dad=portal&_schema=PORTAL&language=english), the Norwegian Coastal Administration (<http://www.kystverket.no/?aid=9031370>) and the Regional offices of the Directorate of Fisheries. The Regional office of the Directorate of Fisheries has the power to grant a permit against the will of the others but normally accepts from all the entities are required.

There is no specific norm for the sea area used for a site. However circle cages are most common today and in an application will normally the mooring frames for the circles normally cover 120m x 360m to 420m. Steel cages will normally require 50m x 150m to 200m. Additional area for the moorings and a feed cage area will also be included in the application

Flexibility

A minor change in the location of the cages (movement of the centre is less than 100 m) can be granted by the Regional office of the Directorate of Fisheries alone. A larger movement (100m+) or a substantial increase in the used area will require the full application procedures described above.

Chile³²**Management of titles:**

Concession and authorization holders have the right to carry out works to improve the structures of the aquaculture facilities subject to an authorization of the competent authority. As a general rule, both are under an obligation to ensure the conservation of the ecological balance of the concerned area.

Concession and authorization holders may apply for modifications of the scope to include one or more additional species to the Sub-Secretariat for Marine Affairs and the Sub-Secretariat for Fisheries respectively.

Spain³³

In Spain the competent authority for granting permits are the regional governments. Situations vary a lot from one to another. The main difficulty when dealing with aquaculture permits is the obtention of the concession for the occupation of the water surface.

Further information from the bass and bream pen farming sector in the Canary Islands initially suggested that "a 10% change was acceptable without permission, but with notification". However, subsequent discussions have called this into doubt. It appears that fish farmers have been assuming they had the right to make changes, or perhaps thought they didn't, but would make them anyway and wait to see what happened with the authorities. Our latest information is that there is very little scope for altering a pen site without application for permission to do so.

- 3.22 Reference should also be made to the section on international experience with EIA in Slaski 2010, although it provides very little insight into minor amendments to sites.
- 3.23 In summary, international experience probably provides little hard information that can help to inform the research into PDRs for aquaculture in Scotland. It does appear that in most cases of 'modification' of a consent, application does have to be made to the appropriate authority. The Norwegian example of a small shift in cage group centre point requiring only

³¹ Source: *Mr. Leidulf Eide of Pan Fish Norway AS and translated by Botholf Stolt-Nielsen*

³² http://www.fao.org/fishery/legalframework/nalo_chile/en#tcNA007E

³³ Source: Javier Ojeda, APROMAR; Douglas Smart

one (simple) consent from one regulator suggests a sort of light-touch 'prior notification and PDR' approach.

4. CONSULTATIONS

4.1 Consultation 1: Industry Requests for PDR

4.1 The aquaculture industry was surveyed as to its thoughts about PDRs and related planning flexibilities using a short questionnaire (**Annex 1**). This was distributed to the industry with the assistance of the relevant trade associations:

- Scottish Salmon Producers Organisation (SSPO)
- British Trout Association (BTA)
- Association of Scottish Shellfish Growers (ASSG)
- Shetland Aquaculture (SA)
- British Marine Finfish Association (BMFA)
- Independent Smolt Group (ISG)

Shetland shellfish growers received their questionnaires with the assistance of the ASSG.

4.2 A total of 8 responses were received, which included the major companies involved in both marine finfish and shellfish farming. There was some repetition of certain concepts, so all responses were collated into ‘sets’ of individual requests, sub-divided into industry type. **Annex 2** of the report identifies these possible PDR and related requests and provides some further detail about the potential nature of them, including why industry requested them. It should be noted that the column of possible implications is an initial screening appraisal by ERM.

4.2 Summary of and Response to Initial Industry Request for PDRs

4.3 Tables 4.1 and 4.2 summarise the detailed industry requests for various PDRs and Use Classes. They also include a summary of the SARF040b Steering Group discussions about the various industry requests. Note that in all cases the issue of an acceptable solution to the question of **planning boundaries** was highlighted by the Steering Group.

Table 4.1 PDR Requests – Marine Pen Finfish

	PDR (or Use Class)	Steering Group Appraisal
1	Change of Pen Sizes	Consult on this. Note issue of top net support.
2	Change of Pen Sizes & Surface Area by 15%	Consult on this.
3	Increase pen surface area – no change to grid or moorings	A sub-set of 2, albeit with a built-in solution in terms of planning boundary.
4	Add a cage into an existing grid – no change to grid or moorings	As per 3.
5	Changes in pen design/type, with provision for 15% surface area increase	A combination of 2 and 6, therefore include in consultation.
6	Change pen shape from square to circular – no change in cage surface area	Consult on this.
7	Change pen shape from circular to square – no change or minor increase in cage surface area	Amalgamate with 6.
8	Change site location within licence area	Consult on this.
9	Change in net depth	Not a planning issue: <u>de-minimis</u>³⁴
10	Change in mooring matrix	Consult on this.

³⁴ **Note:** This study remains concerned that different LPAs are taking different approaches to what is and what is not ‘development’. Scottish Government should provide clear guidance.

	PDR (or Use Class)	Steering Group Appraisal
11	Change in feed barge type/colour/location	Consult on this.
12	Replacement, modification or renewal of existing equipment	Like for like replacement is not a planning issue (but see for example 15).
13	Net support systems	Consult on this.
14	Temporary allowance of extra pens	Consult on this.
15	Addition of ancillary equipment	Consult on this.
16	A single point mooring close by existing group	A sub-set of 15.
17	Temporary mooring of equipment	A sub-set of 15.
18	Change of species (Use Class) - various	Consult on this.

Table 4.2 PDR Requests – Marine Shellfish Lines & Rafts

	PDR (or Use Class)	Steering Group Appraisal
1	Double to single headline	Consult on this.
2	Headline float change	Consult on this.
3	Production line change	Consult on this.
4	Increasing or decreasing mussel farm equipment within consented area	Consult on this.
5	Change of equipment within a permitted area	Consult on this.
6	Relocation of permitted equipment consent from one permitted area to another, within reason.	Consult on this.
7	Tolerance for actual dimensions	Not a planning issue.
8	Multiuse: Finfish farm to Shellfish Farm & vice versa	Consult on this.

4.4 The initial feedback from the Steering Group, together with internal consideration within the project team, resulted in the second phase of **wider consultation** – see Section 4.3.

4.3 Consultation 2: Wider Regulator and Stakeholder Consultation

4.5 Following the Steering Group appraisal of the original list of potential PDRs, a shorter and more focused set of possible PDRs was created. Additional detail was included in the form of diagrams or photographs, together with some additional calculations as to the implications of some of the possible PDR ideas. These were compiled into a second consultation document, which is shown in **Annex 3**.

4.6 In addition to receiving written responses, ERM also organised a meeting (in person and by video conference) with representatives of 4 of the 5 main LPAs that have a significant interest in the aquaculture industry: Shetland; Orkney; Highland and Comhairle nan Eilean Siar. An Argyll representative could not manage to attend the meeting, but had previously shared relevant planning expertise through the Steering Group.

4.7 The project team of ERM and Bidwells also met and considered each of the possible PDRs in detail. Bidwells' expert planning advice is included as one of the consultee responses in the analysis.

4.4 Analysis of the Wider Regulator and Stakeholder Consultation

4.8 A detailed analysis of all the consultation responses is shown in **Annex 4**. The consultation was distributed to the organisations shown in Table 4.3. All responses in Annex 4 are presented on a non-attributable basis, with the exception of the combined views expressed by LPA experts during the meeting held with them.

Table 4.3 Organisations Consulted by Email on Potential Aquaculture PDRs

ORGANISATION	WRITTEN REPLY	MEETING
Local Planning Authorities		
• Highland	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Argyll & Bute	<input type="checkbox"/>	<input type="checkbox"/>
• Western Isles	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
• Shetland	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
• Orkney	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• North Ayrshire	<input type="checkbox"/>	<input type="checkbox"/>
Scottish Natural Heritage	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scottish Environment Protection Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scottish Government	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Marine Scotland Science	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Association of Salmon Fishery Boards/RAFTS	<input type="checkbox"/>	<input type="checkbox"/>
Industry Trade Associations ³⁵		
• Scottish Salmon Producers Organisation	<input type="checkbox"/>	<input type="checkbox"/>
• Association of Scottish Shellfish Growers	<input type="checkbox"/>	<input type="checkbox"/>
• Shetland Aquaculture	<input type="checkbox"/>	<input type="checkbox"/>
• British Trout Association	<input type="checkbox"/>	<input type="checkbox"/>
• Independent Smolt Group	<input type="checkbox"/>	<input type="checkbox"/>
• British Marine Finfish Association	<input type="checkbox"/>	<input type="checkbox"/>
Crown Estate	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Northern Lighthouse Board	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Highlands and Islands Enterprise	<input type="checkbox"/>	<input type="checkbox"/>
WWF Scotland	<input type="checkbox"/>	<input type="checkbox"/>
Environment LINK (RSPB) ³⁶	<input type="checkbox"/>	<input type="checkbox"/>
Marine Conservation Society	<input type="checkbox"/>	<input type="checkbox"/>
Bidwells		<input checked="" type="checkbox"/>

4.9 A summary of the Annex 4 consultation analysis is presented in Tables 4.4 to 4.5.

Table 4.4 PDR Consultation Analysis - Finfish

PDR 1a	Change of Pen Size a) Smaller to larger; No Significant Change to Total Area
Number of respondents in favour of this proposed PDR	10
Number of respondents opposed to this proposed PDR	0
Number of respondents in favour of Prior Notification (PN) for this PDR	7
Number of respondents opposed to Prior Notification (PN) for this PDR	2
Key Points:	
<ul style="list-style-type: none"> • The planning boundary issue must be resolved • PN and/or EIA screening must assess: <ul style="list-style-type: none"> ○ Visual issues 	

³⁵ Industry responded well to the first phase of consultation, and whilst it was re-consulted during this second phase, the main target of the consultation was the regulators and other stakeholders. It is probable that the industry associations took the same view, since they did not respond.

³⁶ RSPB did reply, to the effect that due to staff issues they were unable to provide a comprehensive response to the consultation.

PDR 1a	Change of Pen Size a) Smaller to larger; No Significant Change to Total Area
<ul style="list-style-type: none"> ○ Environmental issues for any new area of seabed that would be covered by equipment – especially if that is an area outwith the current planning boundary, and therefore not previously assessed ○ Attestation on fitness of equipment, details of how mortality disposal plans will be affected by the new pens, new stocking density levels and the implications for sea lice treatment methodologies ○ Navigation safety ○ Other users; wild salmonids ○ Implications for CAR licence and AZE ○ Design and colour issues: top net supports and top nets ● Whatever change is proposed, it should not take the total area of pens over 2 hectares (which would be classed as a ‘major’ development) ● There should be a specified maximum pen size within this PDR ● Mixed views on whether this PDR could be exercised only once per site, or whether it could be used on more than one occasion. 	
<p>NOTE: Many of these ‘key points’ are common to most other PDR consultation responses, and will not be repeated for every subsequent potential PDR.</p>	

PDR 1b	Change of Pen Size b) Larger to smaller, No Significant Change to Total Area
Number of respondents in favour of this proposed PDR	6
Number of respondents opposed to this proposed PDR	4
Number of respondents in favour of Prior Notification (PN) for this PDR	4
Number of respondents opposed to Prior Notification (PN) for this PDR	1
<p>Key Points:</p> <ul style="list-style-type: none"> ● As per PDR 1a, plus ● There may be implications for use of a greater amount of sea area with this PDR ● The increase in number (of smaller) pens might have more visual impact than PDR 1a 	

PDR 2	Change of Pen Size Smaller to larger, Up to 15% Increase in Total Area
Number of respondents in favour of this proposed PDR	4-5
Number of respondents opposed to this proposed PDR	4-5
Number of respondents in favour of Prior Notification (PN) for this PDR	4
Number of respondents opposed to Prior Notification (PN) for this PDR	
<p>Key Points:</p> <ul style="list-style-type: none"> ● As per PDR 1a, plus ● Increase in pen area <u>without</u> increase in biomass would bring benefits ● LPAs cannot regulate biomass, so if there was a subsequent increase, net environmental benefits would be lost ● If it were possible, it should it be for absolute limits (rather than %), and perhaps on smaller but not larger sites 	

PDR 3	Change of Pen Type (Square to Round & Vice Versa), with Up to 15% Increase in Total Area
Number of respondents in favour of this proposed PDR	6
Number of respondents opposed to this proposed PDR	4
Number of respondents in favour of Prior Notification (PN) for this PDR	4
Number of respondents opposed to Prior Notification (PN) for this PDR	0
<p>Key Points:</p> <ul style="list-style-type: none"> ● As per PDR 2, plus ● Mixed views of the visual (and other) significance of the change of type of pens ● Some consultees more amenable to this type of change <u>if no significant increase in area</u> <ul style="list-style-type: none"> ○ Other than small amount to allow for different pen geometry ● An increase in area and biomass could be assessed by EIA screening <ul style="list-style-type: none"> ○ Presumably SEPA would have to recalculate for CAR licence, and would not permit 	

- any change that caused concerns
- Possibly not allow this as a PDR in areas with designations for visual issues (e.g. NSA; AGLV)
 - NB. If industry could add (up to 15%) pen area within current mooring grid, that could deal with boundary concerns. Presumably SEPA would be required to give CAR licence consent for any change in biomass

PDR 4 Change of Site Location Within 'Licence' Area	
Number of respondents in favour of this proposed PDR	1
Number of respondents opposed to this proposed PDR	9
Number of respondents in favour of Prior Notification (PN) for this PDR	1
Number of respondents opposed to Prior Notification (PN) for this PDR	0
Key Points:	
<ul style="list-style-type: none"> • Generally unpopular with consultees: small changes should not really be necessary; large changes or reorientation of pen groups would be of such significance (in many respects) that a planning application would be required. • However, some sympathy (3 consultees) to 'very small changes' – as a one-off use. 	

PDR 5 Change of Mooring Matrix e.g. 50m Grid to 65m Grid	
Number of respondents in favour of this proposed PDR	7
Number of respondents opposed to this proposed PDR	2
Number of respondents in favour of Prior Notification (PN) for this PDR	2
Number of respondents opposed to Prior Notification (PN) for this PDR	2
Key Points:	
<ul style="list-style-type: none"> • Many of the PDR1a issues are relevant, plus: • Some sort of maximum threshold • Actual area of seabed covered by mooring grid is quite large <ul style="list-style-type: none"> ○ (Plus, of course, all 'boundary and non-assessed area' issues – see PDR1a) • Need specific attestation about integrity of new mooring arrangements 	

PDR 6 Change of Feed Barge Colour/Type/Location	
Number of respondents in favour of this proposed PDR	9
Number of respondents opposed to this proposed PDR	1
Number of respondents in favour of Prior Notification (PN) for this PDR	6
Number of respondents opposed to Prior Notification (PN) for this PDR	2
Key Points:	
<ul style="list-style-type: none"> • As long as the site had permission for a feed barge in the first place, this would be OK, with PN to assess colour, design and specific location • Also, swapping barges between sites in different years of production probably acceptable – subject to original consents, and this PDR with PN • Perhaps set size or design thresholds or limitations <ul style="list-style-type: none"> ○ Like-for-like would be perfectly acceptable without PN ○ Type-for-type (perhaps with colour/size change) might be acceptable with PN ○ Radically different types of barge of more concern ○ Different heights – perhaps restrict within PDR 	

PDR 7 Net Support Systems	
Number of respondents in favour of this proposed PDR	10
Number of respondents opposed to this proposed PDR	0
Number of respondents in favour of Prior Notification (PN) for this PDR	6
Number of respondents opposed to Prior Notification (PN) for this PDR	2
Key Points:	
<ul style="list-style-type: none"> • (See also discussion on this topic in PDR1a) • Generally supportive, but PN in order to assess (primarily) visual impact. 	

PDR 8 Temporary Allowance of Extra Pens	
Number of respondents in favour of this proposed PDR	5
Number of respondents opposed to this proposed PDR	5
Number of respondents in favour of Prior Notification (PN) for this PDR	4
Number of respondents opposed to Prior Notification (PN) for this PDR	1
Key Points: <ul style="list-style-type: none"> • A difficult one for some consultees: LPAs generally opposed to this for several reasons <ul style="list-style-type: none"> ◦ Amongst which, danger of them not knowing this has happened (if a PDR without PN), and the new cages becoming 'lawful' development after a period of time • Clear 28 day rule in the GPDO concerning 'temporary' issues – 6 months is too long • May be fish health & bio-security issues – pens moving in and out • One consultee: if it was given it should be for emergency/infrequent use, such as in disease crises, but not for routine over-stocking and good growth years • Plus all the normal PDR1a considerations about boundary issues and previous assessments 	

PDR 9 Addition of Ancillary Equipment	
Number of respondents in favour of this proposed PDR	9
Number of respondents opposed to this proposed PDR	1
Number of respondents in favour of Prior Notification (PN) for this PDR	6
Number of respondents opposed to Prior Notification (PN) for this PDR	1
Key Points: <ul style="list-style-type: none"> • Generally well-supported • Keep within existing 'consented area' • Set clear criteria and limits within the PDR - possibly • And/or back up with PN – important to assess type of equipment and duration required on site <ul style="list-style-type: none"> ◦ But would need some nationally-agreed guidance, if left entirely to PN 	

Table 4.4 PDR Consultation Analysis - Shellfish

PDR S1 Double to Single Head Line	
Number of respondents in favour of this proposed PDR	9
Number of respondents opposed to this proposed PDR	1
Number of respondents in favour of Prior Notification (PN) for this PDR	0
Number of respondents opposed to Prior Notification (PN) for this PDR	3
Key Points: <ul style="list-style-type: none"> • Generally well-supported • It may not actually be a 'development' or 'planning' issue – in which case clear guidance as to that should be issued 	

PDR S2 Head Line Float Change	
Number of respondents in favour of this proposed PDR	10
Number of respondents opposed to this proposed PDR	0
Number of respondents in favour of Prior Notification (PN) for this PDR	1
Number of respondents opposed to Prior Notification (PN) for this PDR	3
Key Points: <ul style="list-style-type: none"> • Generally very well-supported • It may not actually be a 'development' or 'planning' issue – in which case clear guidance as to that should be issued. LPAs used the term 'de minimis'. 	

PDR S3 Production Line Change e.g. Different Types of Dropper Ropes	
Number of respondents in favour of this proposed PDR	9
Number of respondents opposed to this proposed PDR	0
Number of respondents in favour of Prior Notification (PN) for this PDR	1
Number of respondents opposed to Prior Notification (PN) for this PDR	2

<p>Key Points:</p> <ul style="list-style-type: none"> • Generally very well-supported • It may not actually be a 'development' or 'planning' issue – in which case clear guidance as to that should be issued. LPAs used the term 'de minimis'.
--

PDR S4 Increase Production Area/Equipment e.g. by 25%	
Number of respondents in favour of this proposed PDR	3-4
Number of respondents opposed to this proposed PDR	7
Number of respondents in favour of Prior Notification (PN) for this PDR	3-4
Number of respondents opposed to Prior Notification (PN) for this PDR	NA
<p>Key Points:</p> <ul style="list-style-type: none"> • A difficult one, especially for LPAs • Understanding that 25% is a large change • There are environmental consequences of shellfish production – but cannot assess any PDR under EIA • PN would still be possible, but question the relevance if the issue to be assessed strays beyond the normal PN considerations of 'design' 'colour' and 'location' • May be possible to develop PDR with strict limits, and with PN, to take account of good growth conditions – provided developer can keep additional lines within consented area. • This would increase intensity of cultivation, and would require some sort of initial assessment – PN? • Alternatively this is too complex for PN, and a full planning application would be required for proper assessment. 	

PDR S5 Change of Equipment Type e.g. Rafts to Long Lines	
Number of respondents in favour of this proposed PDR	3
Number of respondents opposed to this proposed PDR	6
Number of respondents in favour of Prior Notification (PN) for this PDR	3
Number of respondents opposed to Prior Notification (PN) for this PDR	NA
<p>Key Points:</p> <ul style="list-style-type: none"> • A difficult one, especially for LPAs • Visual impact very different • Boundary issues – greater area of sea used, not previously assessed • Some support for this, with PN, if no overall change in production capacity • Perhaps possible on that basis, within existing consented area, with strict numeric limits, and with PN? 	

PDR S6 Relocation of Permitted Equipment	
Number of respondents in favour of this proposed PDR	NA
Number of respondents opposed to this proposed PDR	NA
Number of respondents in favour of Prior Notification (PN) for this PDR	NA
Number of respondents opposed to Prior Notification (PN) for this PDR	NA
<p>Key Points:</p> <ul style="list-style-type: none"> • If this relates to moving equipment into a site for which there is permission, but the equipment has not been installed up to the time of moving, then it is not a 'development' or 'planning' issue – it is simply the developer using his/her permission • Some concerns about the bio-security aspects of that, but difficult to regulate that under the GPDO • Any other change/introduction of equipment, if not previously consented for the site, requires a full planning application 	

Table 4.5 Use Class Responses

Possible Change Of Species	Available as Use Class	Requires Planning Application
Consultee Responses:	(Number)	(Number)

Atlantic Salmon to rainbow trout	6	0
Rainbow trout to Atlantic salmon	6	0
Atlantic salmon to Atlantic cod	2	4
Atlantic cod to Atlantic salmon	3	3
Atlantic salmon to Atlantic halibut	1/2	4/5
Atlantic halibut to Atlantic salmon	1/2	4/5
Shellfish - Finfish		
Change from finfish to shellfish production	2	8
Change from shellfish to finfish production	0	10
<p>Key Points – Finfish to Finfish:</p> <ul style="list-style-type: none"> • Relatively good consensus of views on finfish species changes - as long as there were no changes to equipment or consented area: <ul style="list-style-type: none"> ○ Changes between salmonid species were generally seen as acceptable as a Use Class provision ○ Changes between white fish species were generally seen as acceptable as a Use Class provision ○ Changes (in either direction) between salmonids and white fish were not viewed as acceptable for a Use Class provision • Various reasons were given for these views, including: <ul style="list-style-type: none"> ○ Very different environmental impacts when comparing white fish with salmonids ○ Sea lice (and potentially other parasites) issues <p>Key Points – Finfish to Shellfish:</p> <ul style="list-style-type: none"> • Generally poorly viewed by consultees • Some acknowledgement of potential environmental benefits e.g. nutrients in the water column • But generally more concern about: <ul style="list-style-type: none"> ○ Very different visual appearance ○ Planning boundary considerations ○ Environmental impact of shellfish is not completely benign: pseudofaeces; carbon input to sediment; too much nutrient extraction affecting wild shellfish and other farms • Future inclusion of shellfish within EIA Regulations was mentioned by several consultees – for some of the reasons outlined above • Planning application required for such a change. <p>Key Points – Shellfish to Finfish:</p> <ul style="list-style-type: none"> • No support: too different; too many unknown environmental implications. 		

4.10 In addition to the summary of consultation responses shown in Tables 4.4 to 4.5, reference should also be made to the other general points made by consultees. These are included in specific text boxes in Annex 4. They are not repeated in the main body of this report verbatim, but the ideas and concepts they discuss are fully considered in the analysis of PDR options in Section 5.

5. DISCUSSION

5.1 Introduction

5.1 This research has taken evidence from industry, regulators and key stakeholders. A range of possible or desirable PDRs has been suggested by industry experts, and assessed for suitability by planning and other regulatory experts. The possible environmental consequence of implementing different PDRs have been considered and described, where possible – see Section 4 and Annex 4.

5.2 Based on the expert responses received there appears to be a hierarchy of acceptability, suitability or even applicability of the different potential PDRs considered by this study:

- Not a planning or development control issue at all – **de minimis**
- **Broadly acceptable** as a PDR:
- **Possibly acceptable** as a PDR:
- **Unlikely to be acceptable** as a PDR

5.3 This section of the report considers some of the main concerns raised by consultees, and attempts to ascertain whether these concerns can be alleviated by revised proposals or by implementing other provisions, based upon current scientific knowledge and existing guidance and best practice approaches used in different regulatory regimes. It also considers areas where current knowledge is not sufficiently robust, and where further research might enable the creation of new classes of aquaculture PDRs in the future.

5.4 This study was not limited to any specific sectors of the aquaculture industry, and all sectors were included in the consultation process. Freshwater farmers (pen or land-based) and land-based marine farmers did not engage in any way during the course of this research, and it is concluded that they remain relatively content with the existing relationship they have with the TCPA system. **The remainder of this report therefore focuses on marine finfish and shellfish farming.**

5.5 It should also be noted that relatively little consideration *appears* to have been given to **intertidal shellfish cultivation**. This is partially because relatively little feedback was received during the initial industry consultation phase, and also because other stakeholders raised no concerns about this type of shellfish cultivation. Despite the apparent focus on floating shellfish growing structures, this research does also include its own consideration of fixed intertidal shellfish structures – and these are included in the relevant recommendations for shellfish in Section 6.

5.2 De Minimis or Non-Planning Issues

5.6 A range of actions or changes that aquaculture producers might want to instigate were considered by consultees, and the consensus with some of them was that they were not planning matters at all. In planning terminology they were thought to be ‘de minimis’ (see Sections 2, 4 and Annex 4). Section 6 discusses how this subject could be taken forward.

5.7 However, one specific ‘change’ did give rise to debate: increasing net depth in marine finfish pen farming. Several LPA representatives, and other consultees, felt that this was simply not a planning matter at all. However, others recognised that there were wider environmental implications from an increase in net depth. The main points to consider seem to be:

- In all normal planning terms, a change in net depth would not appear to give rise to any concerns: it isn't a visible change; it doesn't affect the planning boundary; it has no obvious implications for navigation safety or the interests of other users of the sea
- However, once a farm has chosen to increase net depth, it has the prospect of being able to hold a higher biomass than was originally licensed by SEPA under CAR, and considered and assessed by the LPA under the TCPA and EIA regimes. (Subject of course to a re-modelling of the site, and an application to SEPA for a variation to its CAR licence)
- One concern might be that wider-field or cumulative effects, ordinarily considered by way of the Locational Guidelines during the assessment of planning applications, could not be managed through this CAR process.

5.8 Further consultation with SEPA³⁷ has confirmed that CAR does give SEPA powers to consider 'whole loch' cumulative impacts. SEPA's policy in this situation is to ask MSS whether any proposed increase to a particular farm's licence would affect Locational Guideline categorisations. If so, it will refuse to grant a CAR licence for the additional biomass, or will, with MSS guidance, grant a lesser amount of biomass so as to ensure that a category boundary is not breached.

5.9 SEPA also stresses that whilst an increase in net depth may not be a planning issue, it is an issue of relevance to CAR. Developers should take note of this advice when considering any changes to pen net depth.

5.3 The Planning Boundary

5.3.1 SEPA Fish Farm Manual Annex F

5.10 Whilst some of the possible PDRs discussed in Section 4 could occur within the existing consented boundary of the fish farm (as shown in the map accompanying the farmer's planning permission), others *possibly* may not – and yet may be otherwise generally acceptable to consultees to this study.

5.11 Whilst the granting of a PDR to a developer for an area of 'land' (sea) that has not been given previous planning permission might be technically impossible in legal terms because of the wording of the current GPDO, the main **practical** issue is one of environmental impact concerns. The area of seabed outside the current planning boundary of a finfish or shellfish farm is unlikely to have been surveyed and assessed, and therefore there is no information about species or habitats that might be present. As Figure 14 illustrates, seabed habitats can be quite variable, type to type, over relatively short spatial distances. Without properly assessing what is on the seabed under the possible area to be utilised if a PDR is exercised by a developer, there may be a potential risk of an unacceptable impact on habitats or species that are protected by legislation e.g. the Habitats Directive³⁸.

³⁷ Personal communication: Douglas Sinclair, SEPA, 8th July 2010. Reference SEPA Policy 40.

³⁸ See, for example: <http://www.jncc.gov.uk/page-1374>

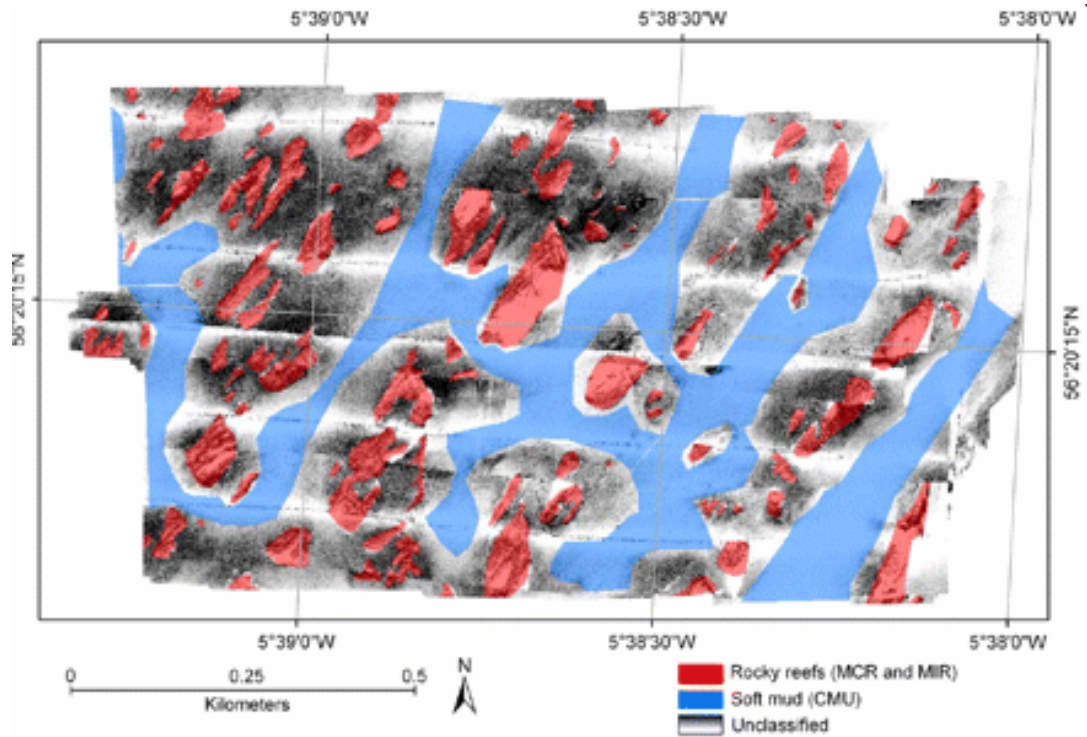


Figure 14. An example of seabed habitat variability³⁹

5.12 SEPA and SNH will generally take a pragmatic view on assessing the risk of there being an unacceptable impact on an area of seabed adjacent to an existing consented site. This approach is fully explained in **Annex F** of SEPA's manual⁴⁰. Thresholds are set for areas of seabed to be potentially impacted by a fish farm expansion proposal, below which a new visual survey would not be requested by SEPA or SNH. The thresholds are calculated in different ways depending upon whether the site is high or low energy, and Annex F provides a worked example for a low current speed site, illustrated here in Figure 15.

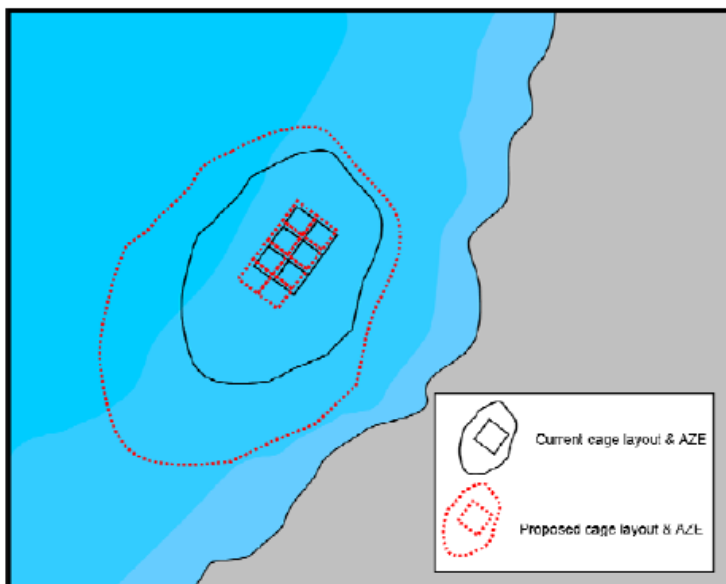


Figure 15. Worked example from Annex F of SEPA Fish Farm Manual

³⁹ <http://icesjms.oxfordjournals.org/cgi/content/full/62/4/790>

⁴⁰ http://www.sepa.org.uk/water/water_regulation/regimes/aquaculture/marine_aquaculture/fish_farm_manual.aspx

- 5.13 The maximum expansion threshold, of the type illustrated in Figure 15, is **40,000 m²** of ‘new’ seabed.
- 5.14 The area contained within the planning boundary of the hypothetical finfish farm example shown in Figure 1 (Section 2) is approximately 165,000 m². If the same SEPA/SNH pragmatic approach was taken to the status of the seabed immediately surrounding the existing planning boundary, then a further 40,000 m² would represent an increase in total area available for exercising a PDR of some **24%** over the original area.
- 5.15 SEPA’s guidance is variable depending upon the current speed at the site under consideration, but that relates to sedimentation issues on the ‘new’ area of seabed, and is not strictly relevant to this PDR consideration. The fundamental aspect of SEPA’s guidance is that SEPA and SNH recognise there are reduced risks to as-yet unassessed seabed areas immediately adjacent to areas which have been properly assessed and monitored. The same approach may be perfectly acceptable (within defined limits) to the concept of a PDR which might extend beyond the current limit of a planning boundary, for either a finfish or a shellfish farm.
- 5.16 However, the Annex F guidance is for SEPA and SNH when they are considering the implications of a formal ‘full’ CAR licence application on a case by case basis – not for a blanket PDR granted by Scottish Ministers. The GPDO cannot grant PDRs to Schedule 2 industries where a positive EIA screening opinion has been made. Finfish farms will have to undertake EIA screening before exercising any PDR, and so there is an opportunity to assess the chances of a significant effect, and therefore the need for preparation of an ES. The question is whether, in this situation, LPAs, SEPA, SNH and MSS would be content to take an Annex F approach to an un-assessed area of 40,000 m²?
- 5.17 Furthermore, any shellfish PDR can in theory proceed without EIA screening – and PDR rights are not automatically withdrawn in any event, since this is not a Schedule 2 industry. It is not overly surprising that consultees to this study expressed concern about shellfish PDRs that might take place over un-assessed areas of sea (and seabed).

5.3.2 Staying Within the Planning Boundary

- 5.18 If a PDR for finfish or shellfish were restricted to changes within the planning boundary, these would be changes to an ‘area’ that had been **previously assessed**. In the case of finfish, the area would already have been formally assessed in the context of the EIA Regulations. EIA screening would still be required (for finfish), but there would be no fundamental concerns about lack of prior knowledge about the area.
- 5.19 A sample of the ESs examined during an earlier study (Slaski 2010) were re-examined, and where information was available, details of finfish pens and the extent of their mooring systems were recorded. Table 5.1 illustrates the results of this analysis.

Table 5.1 Pen and Mooring Area Analysis from Sample ESs

Biomass	No. Pens	Circumference	Grid Size	Pen Surface Area	Mooring Area	Pen/Mooring Area
(t)		(m)	(m)	(m ²)	(m ²)	
950	18	70	35	7,018	180,000	4%
NR	18	70	35	7,018	82,000	9%
NR	14	100	50	11,139	267,900	4%
2000	16	100	50	12,731	180,000	7%
1350	14	80	40	7,129	107,500	7%
1400	12	80	35	6,111	79,800	8%
					Average:	6%

5.20 Using the average pen area : moorings area, Figure 16 illustrates (to scale) how a relatively large modern pen farm, and its moorings area, might appear in plan view – left hand drawing. Taking PDR 1b (larger to smaller pens – see Section 4) as an example, the right hand drawing illustrates how such a change might be accommodated within the same mooring area.

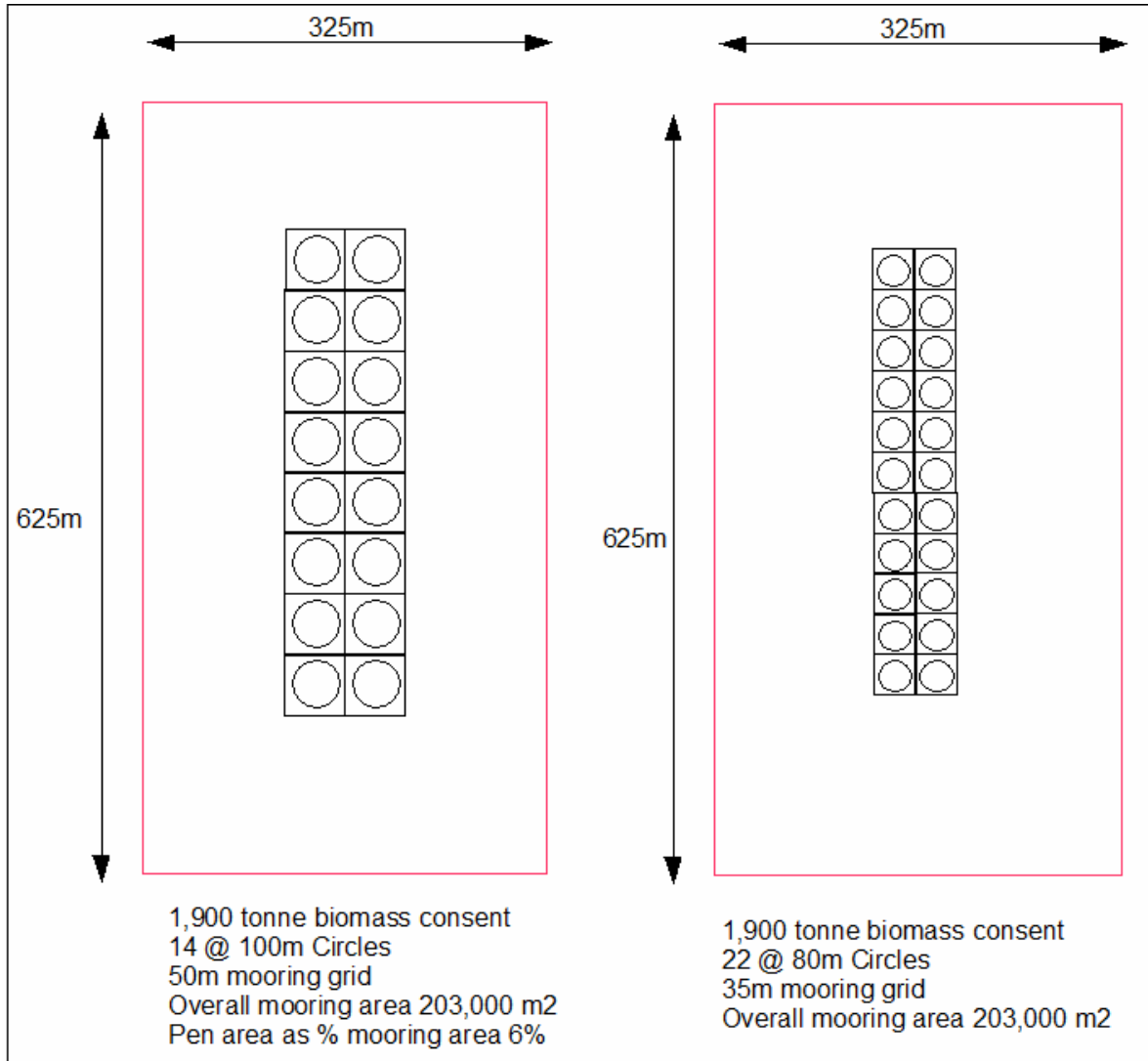


Figure 16. A hypothetical large finfish farm; mooring system boundary in red: larger pens to smaller pens

- 5.21 The key points arising from an example such as that illustrated in Figure 16 are:
- Assuming most current (circular) pen farms have relatively similar relationships between pen area and mooring anchor boundary area (and see Table 5.1 for some actual examples):
 - PDR 1b (larger to smaller pens) could be accommodated within the current boundary area
 - The reverse, smaller to larger pens (PDR 1a) would also be practical
 - It is likely that in some cases PDR 2 (change of up to 15% in pen area, with or without pen size change) could also be accommodated within the original mooring area
 - PDR 5 (increasing mooring grids from 50 to 65m) might be more problematic, although there might be different anchoring solutions/options

- Nearly all of the other finfish PDRs would certainly fit within the existing mooring anchor boundary
- The possible exception is PDR 3, change from square to circular pens. We have little knowledge of mooring boundaries for existing square pen operations. However, information from the Steering Group suggests that most of the ‘square to circular’ pen changes that the salmon industry would want to make have already taken place.
- PDR 8, temporary extra pens, might also be somewhat difficult, although if granted, it is possible that industry could find mooring solutions that kept within the original planning boundary.

5.22 It is also interesting to speculate (Figure 17) on the change-of-use PDR suggestion: finfish to shellfish. In this case the concept is based on a smaller finfish farm becoming a shellfish farm:

- Either permanently, in which case the shellfish farm needs to hold 3 year classes of mussels
- Or temporarily, as part of wider rotation policy between finfish and shellfish on a whole loch basis, in which case the shellfish arrangement would be a full yield of production from just one year class.

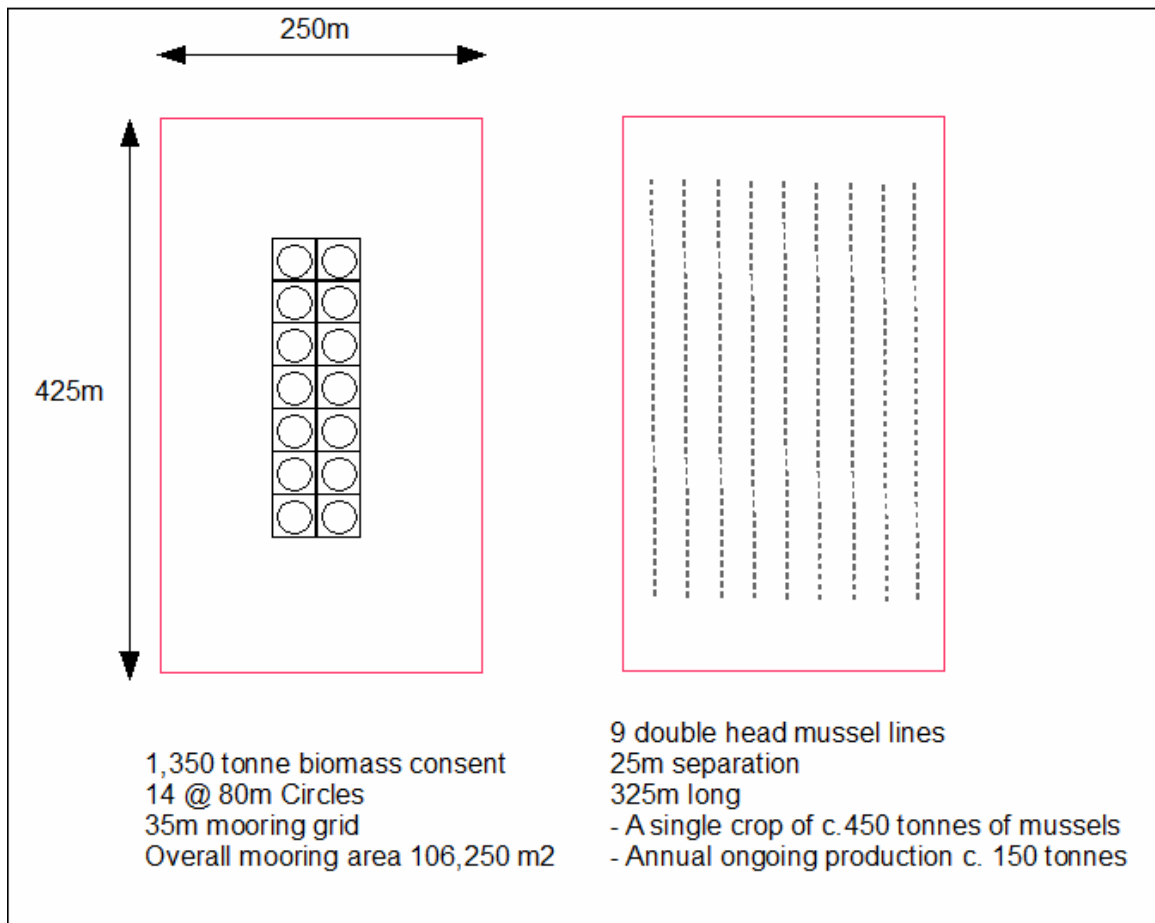


Figure 17. Change of use from finfish to shellfish (mussel lines)

5.23 In light of concerns expressed by many consultees about any PDR extending beyond a planning boundary, and in light of the analysis presented in this section of the report, it is tempting to say that any aquaculture PDRs that are to be **non-contentious should be limited to the current planning boundary of existing farms.**

5.3.3 Navigation, Other Users and Visual Implications

- 5.24 Whilst Section 5.3.2. provides guidance on how PDRs might be accommodated within current aquaculture planning boundaries in terms of environmental impacts on previously assessed seabed area, it does not address any concerns expressed by consultees in terms of **all the other impact/receptor issues** that are normally assessed whilst determining a planning application. These are just as relevant for a small change within a planning boundary area as they are for a brand new fish farm proposal, although:
- The scale of the interactions would be smaller
 - There is already good local knowledge about the impacts the existing farm is having
 - There is familiarity with the presence of the fish farm at that site, on the part of regulators, stakeholders and the public.
- 5.25 As discussed in Section 2, no finfish PDR can be exercised by a developer unless the competent authority has considered it in the light of the entire development, and issued a negative EIA screening opinion. Consultees to this study have presented a range of ideas about the EIA process (see Annex 4), and whilst on the one hand there is a clear desire to simplify this step so as not to burden statutory consultees unnecessarily, it is also clear that the developers would need to provide sufficient information about the implications of the proposed PDR in the EIA Screening Template they provide to the competent authority. This approach, whilst potentially somewhat burdensome to the industry, should provide reassurance to regulators and other stakeholders. Section 6 discusses possible EIA Screening Template guidance.
- 5.26 There is no equivalent obligation on the shellfish sector, since it is not defined as a Schedule 2 industry in terms of the EIA Regulations. Nevertheless, visual, navigation and most of the other impact/receptor considerations are equally valid for this sector, even if PDRs remain within the existing planning boundary. The solution may rest with PN, or perhaps 'Prior Approval' which is considered in Section 5.4 – or it may be that acceptable shellfish PDRs simply do not require PN.

5.4 Prior Notification

5.4.1 Prior Notification and Prior Approval

- 5.27 Several of the proposed PDRs (see Section 4 and Annex 3 and 4) have attracted suggestions from consultees that they be made subject to PN, although it is unlikely that many of the consultees were fully aware of the complex implications of PN and Prior Approval (PA) (see Section 2). In general terms, it would seem to be appropriate to seek to identify PDRs that are so non-contentious and so well defined in detail and condition that PN is unnecessary: the reported observation about PN/PA becoming as complex as full planning applications does not fit well with the ultimate purpose of this research.
- 5.28 Where PN is required, the GPDO is relatively clear in relation to the normal purpose of the PN: it is intended to allow the LPA to have an influence on the **siting, design and external appearance** of the proposed PDR. Some of the PDRs proposed for aquaculture could quite conceivably fall into the category of a change which requires LPA input to these three visual aspects.
- 5.29 It is **less clear** that PN is appropriate to act as a vehicle for assessing multiple and potentially complex impact/receptor interactions – unlike the EIA screening process.
- 5.30 The difficulties in interpreting the need for PN in the aquaculture industry are:

- Finfish farms will have to undertake EIA screening, and PN issues could perhaps be covered by the screening process – in which case PN becomes a potential **duplication of effort**
- Alternatively, PN could exist alongside EIA screening, and simply be used for its normal GPDO purpose: to advise on siting, design and external appearance
- However, the shellfish sector cannot make use of EIA screening – yet PN may be an inappropriate and unsatisfactory measure for considering complex interactions

- 5.31 Unless the shellfish sector is brought under the EIA Regulations, there is no easy solution to this problem. In Section 6 we make recommendations about how the EIA Screening Template might be used for the purpose of finfish PDR utilisation. The same issues, with the exception of wild salmonids and protected predators, will require to be considered for the shellfish sector – but without a mechanism for doing so. The questions then become:
- Can the shellfish sector be granted PDRs that require no form of assessment or PN?
 - Can normal PN considerations provide sufficient reassurance to regulators and stakeholders that a shellfish PDR can be safely exercised?
 - Can PN be expanded in its role with respect to shellfish PDRs, taking on the same issues (largely) that Section 6 recommends for EIA screening in the case of finfish?

5.4.2 Simple Notification

- 5.32 Whilst consultees from statutory bodies were rightly concerned to minimise workload and streamline the system, especially in the area of EIA screening, there was also clear evidence of concern about simply ‘not knowing’ that a farm had changed because a PDR had been exercised. This is a reasonable concern: most of these organisations maintain some sort of database in connection with sectors and individual sites they deal with, and ensuring that databases are kept up to date is important.
- 5.33 LPAs will certainly wish to know whether changes have occurred to farms in their area. If PDRs are created without any PN requirements, LPAs will still know that a change is taking place on a finfish farm because of the requirement for EIA screening. If shellfish PDRs are created without PN requirements, there is no obvious mechanism for the LPA to be kept informed of any changes.
- 5.34 Taking the various scenarios into account, it is tempting to consider some form of less-than-formal-PN ‘notification’ requirement. The key points are:
- If adopted, it would be a non-statutory administrative approach
 - It could be standardised into a simple ‘template’ or ‘form’
 - It could be used by the developer to notify the LPA and all statutory consultees that a PDR was being exercised (on the assumption that it was a PDR that did not already carry a requirement for formal PN or EIA screening)
- Section 6 considers this subject further.
- 5.35 There is a ‘notification’ precedent within the Planning Etc (Scotland) Act 2006, specifically: Part 3, 6, 27A – Notification of Initiation of Development⁴¹. Whilst not the same scenario as that potentially required for aquaculture PDRs, Scottish Government might be able to adapt this provision to sit within any amendment to the GPDO. This research has been encouraged to ‘think outside the box’, as have the consultees who have participated in the project. The concept of ‘**simple notification**’ in connection with use of any PDRs has emerged as a result of that unfettered approach. Such ‘simple notification’ is a good solution to several of the difficulties that arise when considering aquaculture PDRs.

⁴¹ http://www.oqps.gov.uk/legislation/acts/acts2006/asp_20060017_en_6

5.5 Maximum Finfish Pen Size

- 5.36 The concept of being able to change the size of pens used to hold finfish on a site (without any significant change in total surface area in the first instance) has been promoted as a possible PDR, and has been generally accepted by all consultees. It has been suggested that any PDR must include a written reference to a **maximum size** of pen that would be permitted.
- 5.37 It is important to stress that this section of the research is considering pen sizes that might be permitted as a PDR change. That does not limit developers for applying for any type or size of pen they might want under the full planning process.
- 5.38 No advice was given as to what a maximum pen size might be, based upon considerations such as visual impact, containment risks or operational aspects such as health treatments. In the absence of any such guidance from regulators, the study must default to the examples provided by industry in the first round of consultation: changes from smaller circular pens, or square pens, to circular pens of up to **100m circumference**.

5.6 Multiple Use of PDRs

- 5.39 In many cases a PDR granted by Scottish Ministers is clearly only appropriate for use once with any particular development, and the GPDO expresses this where relevant. Typically this would be where the PDR was intended to allow a defined amount of extension to an existing building – although it could be used on more than one occasion if there were sequential small increments up to the maximum permitted.
- 5.40 In other cases, such as the ability to switch to fewer but larger pens, there would be no reason not to allow:
- A further switch to even fewer even larger pens in the future – subject to the maximum pen size written in the PDR, and subject of course to EIA screening
 - A switch back to the original number and size of pens – for which planning permission was originally granted
- 5.41 This issue of single or multiple use of a PDR must be considered on a **case by case basis**, and this approach is taken in Section 6 of the report.

5.7 Major Development Thresholds

- 5.42 The Planning Etc (Scotland) Act 2006 made provision for a distinction between different scales of planning applications: major and minor. It is not necessary to provide details of the different ways such applications are treated, but it is important to recognise that aquaculture has remained in the 'minor' category. There are several types of threshold that define whether an application is major or minor – including surface area of the proposed development, which is set at **2 hectares**.
- 5.43 Several consultees raised this issue, and felt it necessary to ensure that no PDRs for the industry inadvertently took a site from minor to major category. An example might be if (hypothetically) the industry was granted a PDR to increase any finfish pen farm by 15%, with no other ceiling on absolute maximum increase. A large farm with 22 @ 100m circular pens, exercising its 15% PDR, would become a farm with a total equipment surface area of greater than 2 hectares.

5.44 This issue will be **addressed where appropriate** in Section 6. Sections 5.8 and 5.9 also address the issues of any percentage increase at all, and whether or not there should be absolute and not percentage changes.

5.8 Increase in Surface Area of Equipment

5.8.1 Finfish

5.45 Consultee response to the concept of allowing a fixed and 'reasonable' increase to surface area of finfish farms as a PDR was rather mixed:

- 50% of second phase consultees were opposed
- 50% of second phase consultees were supportive (with some caveats)
- 100% of first phase (industry) requested such flexibility

5.46 It is not surprising that the aquaculture industry requested some degree of 'increased scale' PDR, since they see it commonly granted to other sectors in the GPDO. Interestingly (and touched upon in Section 2), there are two sub-sets of thinking on this issue:

1. There is more support for the concept of permitting an increase in pen surface area **without allowing the site to carry any additional biomass**. Benefits might be:
 - Improved health and welfare
 - Improved seabed sediment distribution and impact
 - Ability to embrace new quality standards
2. Alternatively, a simple limited increase in pen surface area, with the farmer able to do whatever they wanted within it, would be more in keeping with the related provisions in the GPDO, none of which restrict the developer from conducting their core business following use of their PDR.

5.47 If a PDR is granted for any increase in surface area, there is currently no provision within the GPDO or the TCPA to enforce any limitation on biomass that might be held in the new part of the development. SEPA regulates biomass consent under CAR, but there is no legally enforceable link between CAR and anything that is granted under the GPDO or TCPA.

5.48 The PDR 1a/b concept, of change of pen sizes, was generally acceptable to consultees, but it carries two implications:

- **Pen Geometry:** Total surface areas of pens are not going to be exactly identical to the original, because the pens are not manufactured to suit that requirement. Even a very close match, such as swapping 22 @ 70m for 17 @ 80m involves an increase of 80 m² in total (1% of the original)
- **Pen Number Rounding and Neat Appearance:** Swapping an even number of pens to the closest equivalent total surface area might result in a new **odd** number of pens. In a single mooring line arrangement this would not be an issue, but in a typical double mooring row arrangement, it would leave an unused mooring grid, and give the site a more ragged appearance

Table 5.2 attempts to demonstrate numerically some of the changes in pen surface area (percentage and actual) resulting from changing pen types. It shows examples from small, medium and large farms. The assumption is that all pens have 10m deep nets, and that maximum stocking density is 17 kg/m³.

5.49 There are several points to note from Table 5.2:

- On the assumption that CAR licence conditions allow, losing some area and/or biomass consent would not ordinarily be desirable

- By not ‘rounding up pairs’, i.e. by allowing for odd numbers of new pens, the changes in total pen area can remain relatively small: not usually more than 3-5%. In large farms, the absolute change to odd pen numbers can amount to some 500 m² at most
- If ‘rounding up pairs’ is permitted, then changes could be in the order of up to 18%, with maximum absolute area changes (for large farms) coming close to 1,000 m²
- Large farms are getting close to the ‘major’ planning category – 20,000 m²
- Not all possible ‘changes’ are illustrated – changes that would generally result in a much lower area/biomass are not included

Table 5.2 Possible Area Implications of Changing Pen Sizes/Types

Biomass	No. Pens	Circumference (or square if <50)	Total Pen Surface Area	Total Pen Surface Area - Rounding	Absolute Area Change	Percentage Area Change
(t)		(m)	(m ²)	(m ²)	(m ²)	
Small Site: Square to Circular						
952	14	20	5,600			
952	11	80	5,602		2	0%
1,039	12	80		6,111	511	9%
986	9	90	5,800		200	4%
1,096	10	90		6,445	845	15%
947	7	100	5,570		-30	-1%
1,082	8	100		6,365	765	14%
Small Site: Circular to Circular						
928	14	70	5,458			
952	11	80	5,602		143	3%
1,039	12	80		6,111	652	12%
877	8	90	5,156		-302	-6%
1,096	10	90		6,445	987	18%
947	7	100	5,570		111	2%
1,082	8	100		6,365	907	17%
Medium Site: Circular to Circular						
1,458	22	70	8,577			
1,385	16	80	8,148		-430	-5%
1,472	17	80		8,657	80	1%
1,558	18	80		9,166	589	7%
1,424	13	90	8,378		-199	-2%
1,534	14	90		9,023	446	5%
1,488	11	100	8,752		175	2%
1,623	12	100		9,548	971	11%
Large Site: Circular to Circular						
2,519	38	70	14,815			
2,511	29	80	14,768		-48	0%
2,597	30	80		15,277	461	3%
2,684	31	80		15,786	971	7%
2,520	23	90	14,823		8	0%
2,630	24	90		15,468	652	4%
2,570	19	100	15,118		302	2%
2,705	20	100		15,913	1,098	7%

5.50 This research is being conducted against the background of a very clear intention of Scottish Minister to support the sustainable growth of the sector⁴². It is difficult to see why a small ‘increase in area’ PDR is **not** justified for this sector, where it is for many others, provided:

- There is a strict limit on:
 - Remaining within the existing planning boundary
 - A maximum % change:

⁴² See for example: <http://www.scotland.gov.uk/Publications/2010/02/26144110/0> (Delivering Planning Reform)

- which could be as low as 5% to incorporate geometry issues and odd cage numbers
- which could be as high as 15% - **with** or **without** an option to limit biomass
- And/or an absolute maximum area change – certainly no more than 1,000 m²
- An upper limit for the PDR in terms of the existing total pen area – probably 15,000 m²
- The EIA screening process assesses the implications of all the physical and biological changes that might result from the PDR – including cumulative impact
- The main environmental regulator (SEPA) models and permits – or not – any additional biomass, and monitors the industry closely on an ongoing basis.

5.51 Figure 18 provides an indication of how such a PDR might appear in plan view.



Figure 18. Change in pen size and total Area:

- From 16 @ 80m circles in 35m mooring grids for 8,148 m² total pen area;
- To 14 @ 90m circles in 50m mooring grids for 9,023 m² total pen area
 - 11% change in pen area
 - 875 m² absolute increase in pen area
 - If SEPA permitted under CAR: 1,385 tonnes to 1,534 tonnes

5.52 In the final analysis, LPAs seem to be comprehensively opposed to:

- Any significant change in pen surface area
- Particularly if that provides for a similar percentage change in biomass, without a full planning application

LPAs are the competent authority under the EIA Regulations, and any proposal to create a PDR that subsequently frequently received positive screening opinions would be a flawed one. This topic is considered further in Section 6.

5.53 SEPA has stressed the legal implications of any PDR to change finfish pen numbers and sizes: the farmer's CAR licence will require to be updated or possibly varied. It is therefore essential that finfish farmers contact SEPA and make these changes before exercising any relevant PDR.

5.8.2 Shellfish

5.54 Somewhat surprisingly, there was even more objection to the concept of a PDR that allowed for an increase in surface area in the shellfish sector: 70% of second phase

consultees were opposed to this. Admittedly the hypothetical increase in the consultation paper was higher than for finfish: 25%. However, from most of the comments received it is clear that it was the concept rather than the specific percentage increase to which consultees were opposed (see Section 4).

5.55 Without repeating the diagrammatic analysis undertaken for finfish, industry advice has been very clear on what might be possible **within** the existing planning boundary of a shellfish farm such as a mussel farm. Working spaces between sets of long lines have to be sufficient to allow work boat access, and the overall 'density' of long lines within an area is a matter of nutrient and therefore phytoplankton availability. If there was evidence of good plankton availability and good growth, a shellfish farmer could take a decision to try to optimise production in his/her consented area by adding some additional long line capacity, perhaps by moving lines closer together. The commercial wisdom of doing that would be a matter for the farmer to decide. Initially it would perhaps be an experimental approach, to see if there really was enough feed in the area. This would probably never happen if the farmer were to have to face a full and costly planning application.

5.56 The MSS Annual Shellfish Survey for 2008 confirms that there are still only 20 companies in Scotland producing more than 100 tonnes per annum of mussels, although it does not indicate the average size of those farms. Taking 150 tonnes per annum as an example of a commercially viable mussel farm:

- Holding 3 year classes of mussels at any one time, with equal numbers of long lines for each year class (and see Figure 11)
- The farm would need to have around 4,000 to 4,500 linear metres of double-head long lines
- Assuming they were 300m in length
- That would be some 13 to 15 long lines – say 15
- An additional **15%** as a PDR would mean:
 - 2 more long lines
 - At a 1m spacing between the head ropes, a 300 m long line occupies 300 m²
 - Therefore 2 @ 300m long lines occupy **600 m²**

This would not seem to be an unreasonable limit for a simple shellfish PDR. However, the study notes the unease registered by most consultees in this area, and Section 6 accommodates this to some degree.

5.57 Many of the issues that were discussed for finfish (Section 5.6.1) are equally relevant to the question of a shellfish PDR of this type: assessment of visual impact; navigation safety; other users; etc. The problem for shellfish is the lack of the EIA screening option. Section 6 provides some possible solutions to this challenge.

5.9 Percentage Change or Absolute Limit

5.58 Where there was consultation evidence of possible support for some PDRs that might involve a small amount of increase in consented equipment, it was stressed that this:

- Might be more applicable to smaller farms
- Might be better expressed as an absolute numeric maximum change, rather than a blanket percentage change

This has been discussed in detail in Section 5.7.1.

5.59 More generally, there was a request to consider clearly defined upper numeric limits for several of the other possible PDRs, such as **mooring grid changes** and **ancillary equipment**. These issues will be considered further in Section 6.

5.10 Temporary Additional Finfish Pens

- 5.60 The concept of allowing the finfish industry some latitude to cope with unexpectedly high survival rates or growth rates on particular crops of fish was also a 50:50 view in terms of second phase consultees. Once again the LPAs consulted were particularly opposed to this provision, whilst other consultees either supported the potential benefits in fish health or economic performance, or were supportive of this sort of PDR just for emergencies such as disease outbreaks – as opposed to routine use due to overstocking a farm.
- 5.61 Good practical reasons were given by LPAs and others as to why this was a difficult concept, including:
- Not knowing when these pens were going on and off farms, and running the risk of them remaining there long enough to become 'lawful development'⁴³
 - Any period longer than 28 days was seen as not generally acceptable in terms of the GPDO for something described as 'temporary'
 - Although there is a provision for a **6 month** installation for equipment to 'survey or investigate' in PDR Class 38 (Water Undertakings)
 - Environmental effects of additional biomass on the farm
- 5.62 Since the second phase consultation was rather split, this topic will be considered further in Section 6.

5.11 Change of Equipment Type

- 5.63 Once again there was more support (60%) for this in finfish than there was in shellfish (33%). Boundary issues aside, there was a strong feeling that such changes were quite significantly different in appearance. However, with clear guidance as to what would or would not be permitted, coupled with a robust approach to PN, it might be possible to suggest some sort of PDR that meets this need. See Section 6.

5.12 Movement of Pen Groups within Licensed Area

- 5.64 This proposal was opposed by almost all consultees. It will not be taken forward further in this study.

5.13 Use Classes

- 5.65 There was a strong recommendation that whilst the study might consider change of species as 'change of use', and therefore draw upon the term 'Use Class', in reality it would be much more appropriate to make specific instances PDRs under the GPDO. This provides for a better chance to specify exact details of what might be permitted⁴⁴.

5.13.1 Finfish to Finfish

- 5.66 There was a relatively good consensus on this issue, as indicated in Section 4, and taken forward in Section 6.

5.13.2 Shellfish to Finfish

- 5.67 This was overwhelmingly rejected by second phase consultees, and will not be taken forward in this study.

⁴³ See: http://www.opsi.gov.uk/si/si1992/Uksi_19922083_en_2.htm

⁴⁴ Personal communication, Scottish Government Planning

5.13.3 Finfish to Shellfish

- 5.68 This possible Use Class PDR was also generally rejected by second phase consultees, for the reasons listed in Section 4. However, there was more debate over this topic, because there was some appreciation of the potential implications of this in terms of diversification of the sector, reduced nutrient loading on coastal waters, and reducing the occurrence of unused salmon sites being used as ‘firebreaks’.
- 5.69 The nitrogen-balancing aspect of converting a finfish farm to a shellfish farm, or of locating shellfish farming near finfish farming, has been much-studied. The concept also includes the possibility of cultivating seaweeds as well, and the generic term commonly used is integrated multi-trophic aquaculture. The reality in terms of nitrogen is that mussel farming (for example) extracts relatively small amounts of nitrogen compared to the amount that finfish farming puts into the environment: a 1,000 tonne biomass consent salmon farm puts in as much nitrogen per annum as 7,700 tonne of mussels harvested per annum would extract.⁴⁵
- 5.70 However, that does not detract from the other potential benefits of using a disused salmon farm as a mussel farm, instead of having it lie empty and retained as a firebreak and therefore completely unproductive in terms of the Scottish economy. There is also ongoing industry discussion⁴⁶ about rotating sites between finfish and shellfish over full crop cycles, which has clear advantages in terms of extended finfish fallow periods.
- 5.71 There is no doubt that finfish and shellfish (mussel long line) farms look different, but the PDR question is: do they look so different that a change from one to another requires a full planning application? Figure 17 has already illustrated the implications of change from finfish to shellfish in terms of the planning boundary. Figure 19 is another example, and illustrates, to an approximate scale, how mussel long lines could be installed with 32m spaces between, on an area of sea just slightly wider than a finfish farm with 14 @ 90m pens – but well within the area covered by the 65m mooring grids used for the pens, and within the planning boundary of the finfish farm. 5 double head mussel ropes of 450m in length could yield (as a crop once every 3 years) some 360 tonnes of mussels (see Annex 3).

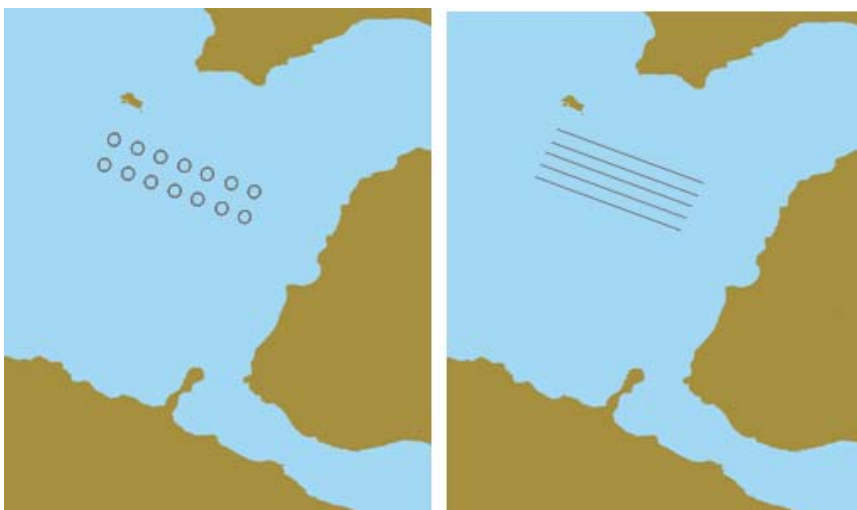


Figure 19. Plan view of conversion of finfish to mussel farm – similar scale of use of the sea surface

⁴⁵ Based on information available from SAMS and WWF.

⁴⁶ Personal communication: ASSG.

- 5.72 Mussel long lines are low in the water, and not as obtrusive as finfish pens. There is no feed barge associated with a mussel crop, and whilst there may be seabed sediment inputs from shellfish, they are much less than from finfish.
- 5.73 ASSG also advised that mussel farmers are discussing the prospects of putting in seed collector lines for just one season, on salmon farms that go through long term fallows. This is a potential solution to invasive species problems for the mussel sector, and also decreases crop cycles from 3 to 2 years on existing mussel farms. It also represents good economic use of the fallowed salmon farm.

5.14 PDR Restrictions in Designated Areas

- 5.74 Several consultees commented on the option to restrict or prevent aquaculture PDRs in designated areas (see Annex 4). This topic was also discussed during the Steering Group and LPA meeting, and has been considered internally by the project team.
- 5.75 The problem as far as this industry is concerned is the extent to which its farms are already located in designated areas such as Special Areas of Conservation (SAC) or National Scenic Areas (NSA). It has been estimated⁴⁷ that almost half the industry might be located in such areas. The problem would be compounded if the concept of ‘near to the boundary’ of an SAC is applied, and compounded yet further if other designations such as Special Protection Areas (SPA), Areas of Great Landscape Value (AGLV), Sites of Special Scientific Interest (SSSI) and Local Biodiversity Action Plan (LBAP) areas are included in any proposed restriction to aquaculture PDRs. It is doubtful that Scottish Ministers would want to reform the aquaculture planning system, in part by the application of the GPDO, if elements of that reform could only be usefully applied to a handful of sites.
- 5.76 The situation will potentially become more complex when Marine Protected Areas are identified and designated under the provisions of the Marine (Scotland) Act 2010, although in practice the disciplines required to assess possible PDRs within such areas will be the same as are currently required for existing designated areas.
- 5.77 There is precedent in the GPDO, where some Classes are specifically withdrawn in areas with some type of designation. However, this is the exception rather than the rule. On the other hand, SNH’s guidance on this issue is very clear: it considers that any permitted development likely to have a significant effect on a European Designated Site must be notified to the LPA for written approval. Written approval can only be given if it would not adversely affect the integrity of the European site. If this cannot be concluded then the PDR must be withdrawn and a planning application is required⁴⁸.
- 5.78 The LPA officials, who make professional judgements on this sort of issue regularly, and who are naturally and properly conservative and careful, offered advice on this topic during the meeting with them. They seemed to be broadly untroubled about the question of PDRs and designated areas. Key points were:
- The existing site has already been assessed in the context of its location in or near to a designated area, and provided that the physical effect of the PDR remains within the planning boundary, this degree of prior assessment is relevant
 - EIA screening (for finfish) and PN (if appropriate for shellfish) will allow further assessment of the proposed use of a PDR, and would no doubt be considered in the context of designated area status – and in this specific case, the LPA must consult with

⁴⁷ Slaski 2006 – unpublished analysis for the Scottish Executive. SNH also confirmed that it had the same belief, during the second project Steering Group meeting.

⁴⁸ See http://www.opsi.gov.uk/si/si1994/Uksi_19942716_en_5.htm#mdiv60, specifically regulations 60 to 63.

SNH under the terms of the Conservation Regulations, even if it is not obliged to do so under the EIA Regulations.

- 5.79 This is a complex issue, but this research must be finally guided by the LPAs, who are ordinarily the competent authority when it becomes a matter of assessing the significance of a proposal in the context of the Habitats Regulations and other similar regulations. EIA screening will have to take place for all **finfish** PDR implementations, and in our view, evidence of a likely significant environmental effect, whether within a designated area or outside a designated area, is the key issue. If the EIA Screening Template contains sufficient information for the competent authority to make an assessment, in consultation with SNH, then that assessment should be considered ‘appropriate’ under the terms of the Regulations⁴⁹.
- 5.80 The situation is not so clear for shellfish. The obligation of the LPA to consult SNH on any type of ‘general development order’ within a designated area arises from The Conservation (Natural Habitats, &c.) Regulations 1994. A PDR is a general development order. The EIA Regulations, and whether or not the shellfish industry is affected by them, are irrelevant. The key point is that for finfish they provided a mechanism to fulfil obligations under the regulations mentioned above: if SNH was sufficiently concerned to lodge a strong objection with the LPA, a positive EIA screening opinion could be issued and the PDR therefore withdrawn in that case. Section 6 considers possible solutions for the shellfish sector.

5.15 Fees Relating to PDRs

- 5.81 This research project was specifically asked to address “a view on whether there was a need for a planning application and a fee” (see Section 1). In Scotland, a request for an EIA screening opinion is normally a precursor to a formal planning or consenting process. The planning application requires the payment of a fee, but traditionally the EIA component of the work undertaken by competent authorities (and statutory consultees) has not required the payment of an additional fee.
- 5.82 Licences under the Food and Environment Protection Act 1985 (FEPA) do attract fees⁵⁰, as do licences under CAR. However, it is important to distinguish between EIA and other ‘environmental’ licensing activities: EIA is a ‘process’ and discipline used to assess likely environmental impacts, but it does not in itself result in the issuing of any sort of consent or licence to a developer. FEPA and CAR licences also involve quite a lot of investigatory work on the part of their respective competent authorities, but they result in a permission for the developer to invest in a profitable enterprise; paying some reasonable fee for an activity that allows a business to make a subsequent profit is something all commercial operators would understand.
- 5.83 It does appear that fees are chargeable to developers as a result of work undertaken by competent authorities in respect of some specific UK EIA regulations. The Marine Management Organisation (Prescription of Powers to Fix Fees and Charges) Order 2010⁵¹ is very clear in this regard, giving the MMO the opportunity to charge fees in relation to, for example, The Marine Works (Environmental Impact Assessment) Regulations 2007. Of specific interest to this research project are the following provisions:
- Schedule 2, paragraph 2(1): To charge a reasonable fee for the administrative expenses of providing a screening opinion; to charge a reasonable fee for carrying out

⁴⁹ See, for example, http://www.mceu.gov.uk/mceu_local/Ref-Docs/EN-HabsRegs-SigEffect.pdf, which provides guidance on assessment of significance, and which specifically refers (in part) to the implications for permitted developments.

⁵⁰ See: <http://www.marinemangement.org.uk/works/licensing/fees.htm>

⁵¹ http://www.opsi.gov.uk/si/si2010/uksi_20100603_en_1

examinations and tests necessary or expedient to enable the production of a screening opinion

- Schedule 2, paragraph 2(2): To require a reasonable advance payment in respect of fees for a screening opinion; to require payment of the determined balance of a fee payable for producing a screening opinion

5.84 There does not appear to be any intention on the part of the Scottish Government to amend the main EIA Regulations with regard to any fee for any part of the EIA process⁵², although it is proposing a number of other amendments and consolidations within its May 2010 consultation paper.

5.85 As Section 6 describes, it is envisaged that the developer will incur most of the upfront cost in EIA screening, by ensuring that a comprehensive EIA 'PDR Template' is submitted when asking for a screening opinion in relation to a proposed use of a PDR. Whilst this template should only contain the minimum amount of information necessary (see Section 1), it must contain all the necessary information to allow the LPA to make a screening judgement. Section 6 also covers the concept of routine LPA screening decision-making without the requirement to involve statutory consultees. These provisions should ensure that the LPA's administrative time commitment to PDR EIA activities is kept to an absolute minimum.

5.86 This study's conclusions on this matter will of course be subject to further consideration by the Scottish Government, and by many others if PDR consultation proceeds in due course. New evidence or ideas about cost-recovery may come to light. However, at the present time this study is **not able to make any specific recommendations about fees** in relation to PDRs (other than for PN), on the basis that:

- A request for an EIA screening opinion is not a 'planning application' in relation to the TCPA
- The exercising of a PDR is ordinarily the exercising (free of charge) of a 'planning permission' granted by Scottish Ministers
 - In neither of the above cases is a 'planning application form' required to be submitted to an LPA
- The EIA Regulations (specifically the Environmental Impact Assessment (Scotland) Regulations 1999 as amended) do not provide scope for any cost recovery by way of a fee
- Other administrative recommendations made in this report are designed to limit the cost of the PDR EIA screening process as far as the LPA and other public sector bodies are concerned.

5.87 PN is recommended (Section 6) for some of the possible PDRs, and a fee is payable.

⁵² <http://www.scotland.gov.uk/Resource/Doc/312585/0098844.pdf>

6. CONCLUSIONS AND RECOMMENDATIONS

- 6.1 This research project has considered a large amount of current and recent research into possible improvements to the planning system in Scotland and more widely in the UK. It has also taken into account Scottish Ministers' specific desire to reform the planning system as it pertains to aquaculture. It has asked the industry what sort of planning flexibilities it desires, and has received, generally, relatively sensible and well thought-out responses from industry. It has screened these and consulted more widely amongst stakeholders and regulators, and received a large amount of detailed and very well articulated responses back.
- 6.2 On the basis of this evidence, recommendations are made for what might or might not constitute acceptable PDRs for this industry, that:
- Allow it to continue to develop and deliver economic growth and related benefits to Scotland
 - Ensure that it does so in a sustainable way.
- 6.3 Section 5 has discussed many of the consultee responses, which are summarised in Section 4, and detailed in Annex 4. As with any consultation exercise, this study is to some extent guided by the numbers of consultees who agreed or disagreed with the proposals for specific PDRS, PNs and Use Classes. More importantly, however, the detailed arguments or opinions put forward in each case provide invaluable information when it comes to assessing the likely effects of recommending certain PDRs for the aquaculture industry.
- 6.4 A degree of continued adherence to what might be termed a 'traditional' view about aquaculture and locational regulation is evident, and not unexpected or unreasonable. Expert consultees are inevitably bound to provide evidence based on:
- The historic situation they have been familiar with, where their input to a decision-making process has been by way of participation in a 'full' assessment, such as a planning application
 - The particular area of aquaculture for which they have a statutory duty as a regulator or adviser
 - Their own understanding or interpretation of obligations to different legislative provisions
 - Their experience of the 'culture' within which they operate, and that culture's broader reactions to issues pertaining to aquaculture – they are well-placed to be taking a view on the issue of 'contention'.
- 6.5 This study has also had to take into consideration:
- Scottish Ministers' desires to reform the planning system for aquaculture
 - The thrust and direction of all the new research that is being undertaken in the field of reforming and streamlining the planning system in general – including a general encouragement to widen the scope for PDRs or similar 'less-than-full-planning-application' measures
 - The fact that PDRs are widely available for many other sectors within the Scottish economy
- 6.6 The study in no way dismisses the concerns or suggestions proposed by the consultees, but has to consider whether some of the concerns might be addressed in a more efficient manner in the case of minor changes that might become PDRs. A full planning application process, costing tens of thousands of pounds and taking almost 40 weeks⁵³ (on average) to

⁵³ Slaski 2010: SARF040a

determine, might not be the only way to assess the implications of a PDR proposal for an individual consultee's very specific interest-area.

- 6.7 The following recommendations take account of all the research undertaken during this project, and attempt to achieve a balance between the requirements and interests of all parties.

6.1 Process Flow Chart

- 6.8 One consultee helpfully suggested that some form of 'decision making flow chart' for aquaculture PDRs might help to improve general understanding of what is being proposed. Some LPAs have also concluded that PDR flow charts are helpful for individuals and businesses in their area⁵⁴. Such flow charts can be complex, depending upon their intended purpose, and development of them is well beyond the scope of this research. However, a recommendation about the development of flow charts is made later in the report.

6.2 Non-Planning Issues

- 6.9 It does seem that there is some concern within the industry about certain changes that might or might not be development or 'planning' issues. Consultees to the research have been very helpful with these issues, and it is important to attempt to provide some guidance as to what might be defined as 'de minimis' changes for this industry. In some examples considered there seemed to be wide consensus amongst consultees, but one particular issue became a point of discussion and debate: increasing the depth of nets in marine finfish pen production. As Section 5 suggests, SEPA's regulatory control should take account of the implications of this type of change.

Recommendation 1

The Scottish Government should issue clear guidance (by way of its Aquaculture Planning Taskforce) as to the definition of de minimis for this sector. Examples include:

- The installation of deeper or shallower nets on finfish pen farms
- The change from double to single head long lines in mussel farms (but not the reverse)
- The change/replacement of floats for mussel long lines
- The change of arrangement of dropper ropes in the sea below mussel long lines

6.3 PDRs and EIA

- 6.10 Utilisation of a PDR by a finfish farm will, in almost all circumstances, require an EIA screening opinion from the LPA. On the basis of the historical use of the EIA Regulations since 1999 (Slaski 2010), whilst PDRs for at least finfish aquaculture seem eminently feasible in terms the test of 'likely to obtain planning permission if it were applied for', there may be some risk of many of them being abandoned on an individual case by case basis if the trend for issuing positive EIA screening opinions continues.
- 6.11 This study makes no specific recommendations in connection with this wider issue of EIA screening, but would stress that it anticipates the specific PDRs recommended are balanced and will be **broadly acceptable to LPAs**, who have been widely consulted during the study, and whose views have been considered very carefully when striking the necessary balance.

⁵⁴ See, for example: <http://www.derby.gov.uk/Environment/Planning/Permitted+Development+Rights.htm>. Also the interactive tool at: <http://www.planningportal.gov.uk/uploads/hhg/houseguide.html>

- 6.12 There have been specific and legitimate concerns raised by statutory consultees about consultation burdens arising from PDR EIA screening. As above, it is hoped that statutory consultees will be reassured that their concerns have been taken into account by this research, and that the recommended PDRs have been framed in an appropriate way. In that context, a streamlined and standardised approach to EIA screening for PDRs would appear to be warranted. Some statutory consultee organisations, whilst broadly supportive of the burden-reducing implications of this approach, remained concerned that they might not even be made aware of a proposed (albeit small) change to an individual farm. It should be noted that in the case of PDRs to be exercised within a European Designated Site, the LPA must consult SNH for a view as to the likelihood of significant effects.

Recommendation 2

- 2.1 Taking into account the proposed comprehensive EIA PDR Screening Template Guidance (Recommendation 3), it is recommended the Scottish Government issue guidance to LPAs that they should conduct the majority of PDR EIA screening assessments without recourse to individual statutory consultee participation.
- 2.2 It is recommended that LPAs take into account their obligation to consult SNH in connection with any PDR that is to be exercised within a European Designated Site
- 2.3 It is further recommended that the guidance include an administrative provision for the LPAs to send notification of each EIA screening opinion, Prior Notification and simple notification to statutory consultee organisations.
- 6.13 Some proposed PDRs for finfish involve operational equipment rather than stock-holding equipment. This study takes into account the EIA thresholds that apply to this sector:
“(a) the installation resulting from the development is designed to produce more than 10 tonnes of dead fish weight per year;
(b) where the development is situated in marine waters, the development is designed to hold a biomass of 100 tonnes or greater; or
(c) the proposed development will extend to 0.1 hectare or more of the surface area of the marine waters, including any proposed structures or excavations”.
- 6.14 In such cases, where there is clearly no change in biomass, it is tempting to suggest that the Baker Case ruling does not apply, and that EIA screening would not be required. However the ‘area’ aspect of the thresholds remains relevant, and because the Baker Case ruling requires a consideration of the new proposed development, as added to the existing development, it is almost certain that all finfish farms will continue to require EIA screening, even for very small additions of ancillary equipment. The key phrase in the EIA regulations in terms of operational equipment as opposed to fish-holding equipment is *“including any proposed structures”*. There appears to be little scope for a lighter interpretation.
- 6.15 However, this provision is unhelpful with regard to the concept of small, non-contentious ‘recurring use’ PDRs of the type that might suit temporary ancillary equipment, or feed barges that are swapped backwards and forwards for different phases in the growth cycle. It seems unreasonable and inefficient to burden the developer and the LPA with additional paperwork in this situation, and the concept of the use of a **‘simple notification’** form serving as an automatic request for a negative EIA screening opinion is considered later in this Section, for such recurring PDRs.

6.4 EIA Screening Template

- 6.16 The legitimate concerns of all the consultees, as expressed in Section 4 and Annex 4, are important. EIA screening will require to consider all of these very carefully.

- 6.17 The onus must be very firmly on the developer to submit a suitably comprehensive EIA Screening Template, in order to reassure all parties that the proposal to use their PDR will not negatively impact on the interests or responsibilities of that party.
- 6.18 As noted in Section 5, it is essential that developers contact SEPA and make any necessary changes to CAR licence details before exercising any PDR. Even though current proposed PDRs are intended to remain within the 'planning boundary', this does not mean that surface equipment changes might not have navigation safety implications. Developers must therefore also seek advice from the Northern Lighthouse Board about any proposed changes to surface and sub surface equipment, and also The Crown Estate in respect of their lease. These important provisions must be recorded within any EIA screening template.

Recommendation 3

The Scottish Government should commission **additional research** into developing detailed guidance for an EIA Screening (only) Template specifically designed for PDR use. The subjects that the Template should address include:

- Assessment of the visual impact of the proposed PDR
- Suitable attestation that the equipment to be installed meets current standards for design
- Confirmation that the developer has made any necessary arrangements with SEPA with respect to CAR licence issues
- Details of changes to production operations: treatments; harvesting patterns, etc
- Confirmation that the developer has made any necessary arrangements with the Northern Lighthouse Board in respect of navigation safety issues
- Confirmation that the developer has made, or is making, any necessary arrangements with The Crown Estate in respect of any required amendments to their lease
- Assessment of potential impact on wild salmonids
- Amendments to site predator management arrangements
- Assessment of impact on other users: leisure or commercial
- Specific reference, if appropriate, to any relevant impacts on the integrity of any designated site, species or habitat

This guidance on EIA Screening Templates should be developed in conjunction with the guidance proposed in Recommendation 2, in order to ensure that the interests of statutory consultee organisations are comprehensively addressed at EIA screening without recourse to their direct input on a case by case basis.

6.5 Prior Notification and Prior Approval

- 6.19 Where PN is recommended as an integral part of a specific aquaculture PDR, then its use would generally be exactly along the same lines as PNs are currently used for agricultural buildings. All LPAs have a PN application form, and a fee is also associated with submitting an application for consideration.
- 6.20 Taking into account the concerns expressed about the potential for PN, and specifically PA, to become almost as burdensome to the LPA and to developers as a full planning application, it will be important to seek to develop PDRs that are so straightforward and non-contentious that PN is not in any way required. This provision would be in keeping with recent research in Scotland (the Heriot Watt Review).

Recommendation 4

Where Prior Notification provision is attached to a finfish or shellfish PDR, its purpose is generally to allow the LPA to comment upon **siting, design** and **external** appearance of the equipment involved in proposed use of the PDR. Current PN application forms should suffice. In some circumstance Prior Notification may need to address additional potential impacts.

Recommendation 5

The Scottish Government should base its proposals for the creation of PDRs for aquaculture on the assumption, wherever possible, that PN is not required – on the basis that the proposed PDR is non-contentious and largely acceptable to the majority of interests in Scotland.

6.6 Simple Notification

- 6.21 There is in theory at present no statutory obligation for a holder of a planning permission to notify anyone about an intention to exercise a PDR, unless it is one of the PDR classes that require PN. For finfish aquaculture the requirement for EIA screening deals in part with this omission, and as Recommendation 2 suggests, the competent authorities should agree to an administrative procedure that ensures that all statutory consultee bodies are informed of the proposed use of the PDR, even if they are not consulted during screening.
- 6.22 As Section 5 considers, there is perhaps a more all-encompassing additional or alternative option – the use of a **'simple notification'** form by a developer, at any point that a PDR is going to be exercised. The precedent would be the notification provisions contained within the Planning Etc (Scotland) Act 2006.
- 6.23 This concept would include the shellfish sector outside a European Designated Site, where EIA screening is not required, and where it is felt that PN is not required. It would also serve to trigger the automatic request for a negative screening (as the law requires) for a small 'recurring' finfish PDR that does not otherwise require formal PN. We make the following recommendation, but remain aware that the Scottish Government will require to consider how such a 'simple notification' procedure can be given a statutory basis.

Recommendation 6

The Scottish Government should consider how to implement a 'simple notification' procedure for use with aquaculture PDRs, and should provide guidance on the contents required in a standardised notification form.

- 6.24 It should be noted, however, that this research cannot recommend simple notification for a shellfish PDR that might be implemented within a European Designated Site. The Conservation (Natural Habitats, &c.) Regulations 1994 require that the LPA consider any PDR within such a site, and consult SNH. There must therefore be a matching ability for the LPA to prevent the use of the PDR if there is the risk of a significant environmental effect. The only mechanism available, as the law currently stands, is PN with the option of withholding of PA. The Scottish Government may wish to consider alternative proposals or amendments to legislation, but until it does so there can only be one solution to this problem.

6.7 PDR Recommendations

- 6.25 The following PDR implementations are recommended on the basis of the research conducted during this study, and specifically upon the analysis of, and further investigations undertaken into, the consultation responses.
- 6.26 It should be noted that the possibility of changing from finfish square pens to circular pens is provided for in Recommendation 7.1, on the understanding from consultee responses that whilst the physical appearance is different, there was more support for the concept if overall surface area increase could be limited to the very small amount required by pen geometry, and as long as the original planning boundary was respected.
- 6.27 It should also be noted, in that regard, that this study has acknowledged concern about the legal and environmental aspects of considering sea areas outwith the existing planning boundaries, and has undertaken some additional research to ascertain what might be feasible within them. It has concluded that in the first instance, the existing planning boundaries should be retained.
- 6.28 If subsequent feedback during later consultation can substantiate the opinion that most PDRs could not be accommodated within existing planning boundaries, The Scottish Government should consider alternative proposals, as a precursor to any further work on PDRs. The study makes no recommendations in this regard, but stresses the possibility of this potential additional requirement.
- 6.29 Temporary ancillary equipment is intended to be temporary, as requested by industry in its consultation response to this study. Any permanent additional structure needed on the farm (unless it specifically falls within one of the PDR recommendations in this section) requires a full planning application.
- 6.30 The study has concluded that some small increase in equipment on a finfish farm is warranted as a PDR, albeit with some important restrictions – Recommendation 7.1. However, the industry also requested a PDR to allow the temporary installation of **additional pens**, perhaps for only part of the second year of (salmon) production, in order to accommodate higher than anticipated biomass, arising from better than expected performance of a crop of fish. Consultees were generally nervous about this possible PDR, in some cases with a robustness that suggested previous negative experiences with this sort of eventuality on the part of LPAs. Other consultees were slightly more supportive, but still expressed considerable caution about the possible dangers. One consultee thought that an emergency introduction of pens in the event of a crisis such as disease was warranted, but not for routine over-stocking.
- 6.31 There was a view amongst consultees that poor advanced planning by the industry was not a good reason for such a radical PDR, and that if industry always planned for a true maximum biomass that could occur, when stocking a farm, this situation would never arise.
- 6.32 However, there was some support for this provision being allowable **once only** on any farm, in order for the industry to be given time to make permanent arrangements for the future (see Recommendation 12). The basis of recommendation 7.5 is that biomass should not, even in unforeseen circumstances, rise more than 20% above the predicted normal maximum biomass.

Recommendation 7

Provided the proposed development can be exercised within the area of sea above the **existing planning boundary** (generally taken to be the limits of the mooring system

anchors on the seabed), and provided a **negative EIA screening decision** has been received from the relevant authority, a **marine finfish** farm may:

- 7.1 Make changes to size, number and type of **finfish pens**, including mooring grids to support those pens, subject to the following provisions or restrictions:
- The farmer shall use the **simple notification** procedure to inform the LPA that it proposes to exercise this PDR
 - The orientation of the farm within the consented area must not change
 - The centre point (in plan view) of the new pen arrangement must coincide with the centre point of the original development
 - No circular pens shall be larger than **100m** in circumference
 - The total surface area of the sea covered by the pens (i.e. enclosed within them when seen in plan view) shall not increase by more than **5%** of the original development, up to a maximum on any one farm of no more than **500 m²** – as required by the geometry of available pen designs
 - The limit is absolute, and there is no specific recommendation with regard to odd or even numbers of pens
 - Existing farms which currently have a total pen area greater than **15,000 m²** are excluded from this permitted development right
 - The exercise of PDRs that increases total pen area to the limits indicated above is the maximum use of this PDR that can be exercised on the farm during the lifetime of the farm, although this does not limit developers from making sequential smaller adjustments, up to the maximum limit allowed by the PDR
 - The ability to change pen size and type, with **no additional increase** in total pen surface area, or with a small decrease in total area if required by pen geometry and design, may occur at any time, subject to simple notification to the LPA.
- 7.2 Change a **feed barge** for which there is existing planning permission, subject to the following provisions or restrictions:
- A replacement of an identical feed barge to that originally consented, in exactly the same location, may be made at any time without Prior Notification, but does require **simple notification**
 - A replacement of a feed barge with another of different design, colour and dimensions, and the relocation of any feed barge within the consented area, requires that the farmer shall use the standard Prior Notification application form, and paying the currently agreed fee
 - Individual LPAs are entitled to produce their own guidance as to type, size colour and maximum height of feed barge that is appropriate for their area, and developers should liaise with LPAs concerning this guidance (or be otherwise familiar with it) before submitting a Prior Notification application
 - On this basis, it is anticipated that LPAs and developers can agree on siting, design and external appearance by way of negotiation during the 28 day Prior Notification period. It is not anticipated that any LPA will notify a developer that Prior Approval is required
 - Farmers may replace feed barges on an annual basis to suit crop cycles, provided that: original planning permissions were obtained for each site; this Prior Notification process has properly occurred on the first time a change of feed barge was suggested; the feed barges to be utilised at each phase of the crop cycle are as previously considered under Prior Notification, and located in the same place as on the previous occasion they were used on the site

- For the avoidance of doubt, EIA screening remains an obligation on every occasion that a PDR is exercised. However, in this case of recurring previously-notified PDRs, the LPAs should accept a 'simple notification' form as a request for screening opinion, referring to the originally submitted EIA PDR Screening Template but not repeating all its provisions - unless there is a proposal to change size, colour design or location of the feed barge to be installed
- It should be noted that the movement of equipment between finfish farms is considered to be a health risk, and farmers should ensure that their bio-security arrangements are properly explained when completing the original EIA PDR Screening Template

7.3 Change or replace **top nets** and top net supports, subject to the following provisions or restrictions:

- Replacement of a top net with a new net of similar general colour and design may take place at any time, with simple notification
- Replacement of a top net support structure with a height no greater than 1.5 m may take place at any time with simple notification
- Replacement of a top net and top net support structure with units of different colour, or of a size larger than that stipulated above, requires that the farmer shall apply to the relevant LPA for guidance on **siting, design and external appearance**, using the standard Prior Notification application form, and paying the currently agreed fee

7.4 Install temporary **ancillary equipment** such as work rafts, etc, subject to the following provisions and restrictions:

A Single Harvest Pen:

- When installed for the first time following the creation of PDRs for aquaculture, shall require submission of a completed EIA PDR Screening Template
- When subsequently installed, shall be subject to a 'simple notification' to the LPA, such notification also serving the purpose of a request for a negative EIA screening opinion from the LPA, on the basis of a 'recurring PDR'
- Shall be no larger in surface area than one of the main production pens on the farm, and no larger than the smallest production pen if more than one type is on use on the farm
- Shall be present on the farm for no more than 10 months in any 24 month period
- Shall not be used to feed fish or treat fish with any form of therapeutants

Any Other Equipment

- When installed for the first time following the creation of PDRs for aquaculture, shall require submission of a completed EIA PDR Screening Template
- When subsequently installed, shall be subject to a 'simple notification' to the LPA, such notification also serving the purpose of a request for a negative EIA screening notification from the LPA, on the basis of a 'recurring PDR'
- Shall not exceed 1% of the surface area of the pens consented and present on the site
- Shall not exceed a height above the surface of the water which is greater than 50% of any feed barge that is present on the site, or 2.5 m if there is no feed barge present
- Shall not exceed 3 separate items in number, at any one time

- Shall be present on the farm for no more than 3 months in any one year.
- 7.5 Install temporary **production pens**, subject to the following provisions and restrictions: (*Note that the general provision of EIA screening applies, and that includes prior discussion with SEPA and agreement that the proposed change is acceptable. It is important, in the case of this PDR, to reinforce this requirement. If SEPA will not consent the additional biomass on any sort of emergency basis, it must inform the developer and the LPA, and recommend to the LPA that a positive screening opinion be given, in which case this PDR is automatically withdrawn*)
- The farmer shall apply to the relevant LPA for guidance on **siting, design** and **external appearance**, using the standard Prior Notification application form, and paying the currently agreed fee
 - No circular pens shall be larger than **100m** in circumference
 - The total surface area of the sea covered by the pens (i.e. enclosed within them when seen in plan view) shall not increase by more than **20%** of the original development, up to a maximum on any one site of no more than **1,500 m²**
 - Existing farms which currently have a total pen area greater than **15,000 m²** are excluded from this permitted development right
 - The additional pens shall not be present on the farm for more than **10 months**
 - This PDR can only be exercised **once** on any individual farm

Recommendation 8

Provided the proposed development can be exercised within the area of sea or foreshore above or within the **existing planning boundary** (generally taken to be the limits of the mooring system anchors on the seabed), a **marine shellfish** farm may:

- 8.1 Make changes or adjustment to size and number of **mussel or similar long lines**, or any **equivalent shellfish growing structures**, subject to the following provisions or restrictions:
- If the farm is **outside** a European Designated Site the farmer shall use the **simple notification** procedure to inform the LPA and all statutory consultees of the intention to exercise this PDR
 - If the farm is **inside** a European Designated Site the farmer shall use the **Prior Notification** procedure
 - The orientation of the farm within the consented area must not change
 - The centre point (in plan view) of the growing structure arrangement must coincide with the centre point of the original development
 - The total surface area covered by the structures (in the case of long lines assuming a long line, whether single or double headed, occupies a notional 1 m² of sea area for every 1m in linear distance) shall not increase by more than **10%** of the original development, up to a maximum on any one site of no more than **500 m²**
 - The change in total growing structure surface area may only be **exercised once** during the lifetime of the farm, although it may be exercised in sequential changes
 - Replacement or refurbishment of growing structures, with no increase in overall surface area, may occur at any time and is not a development issue
 - Reversion to the original consented long line installation is not a development issue

Recommendation 9

Provided the proposed development can be exercised within the area of sea above the **existing planning boundary** (generally taken to be the limits of the mooring system anchors on the seabed) and there is no change of equipment other than that provided for by a PDR, and provided a **negative EIA screening decision** has been received from the relevant authority, and subject to the need for **simple notification**, a **marine finfish** farm may:

- 9.1 If currently consented as a salmonid species farm, change production to any other species of salmonid provided that:
 - Only one species of salmonid is present on the farm at any one time
 - The farm is operated in accordance with any statutory management agreements in force in the area of the farm.

- 9.2 If currently consented as a whitefish species farm, change production to any other species of whitefish provided that:
 - Only one species of whitefish is present on the farm at any one time
 - The farm is operated in accordance with any statutory management agreements in force in the area of the farm.

6.8 PDRs Requiring Further Consideration

6.8.1 Finfish to Shellfish

- 6.33 The concept of permitting a finfish farm to become a shellfish farm without the need for a full planning application has prompted some interesting discussions between consultees, and has been analysed and assessed in more detail in Section 5 of this report. The authors are of the opinion that there is merit in the general idea of converting finfish farms to shellfish farms, either permanently or temporarily (as part of a wider rotation/fallowing policy). The question is whether this can be achieved by way of some sort of PDR, or whether it requires a full planning application.

- 6.34 Whilst this study has not relied on 'counting the number of responses' of consultees (see Section 4) in reaching its conclusions about PDR recommendations, it has broadly concurred with consultees views where these are more than 60-70% in one direction or another. The question of a PDR to permit a finfish farm to become a shellfish farm was generally opposed by consultees. In reality, not only would it be a change of species, but it would also involve more than just a minor alteration to the production equipment originally consented for the site. Furthermore, because shellfish farming is not a Schedule 2 industry, this possible PDR would in theory require no formal EIA screening – although Prior Approval might be appropriate in this situation. One legitimate concern expressed by several consultees is that without some sort of assessment of cumulative impact of such a change, in terms of nutrient and plankton availability for other shellfish farms and wild shellfish in the area, there is the risk of a significant environmental effect.

- 6.35 The authors take the view that Scotland's economy would benefit from this proposed PDR, as might the marine environment (sediments, nutrient) and fish health conditions (diseases, parasites) within most, but possibly not all, lochs and voes. We also take the view that Scotland's coastal marine environment, including aspects such as visual amenity, navigation, etc, would not be irreparably or materially damaged in any way by granting the PDR, particularly since it would have to remain within existing planning boundaries. However, this would seem to be a minority view, and it is clear that further consideration is required before this PDR could be recommended.

Recommendation 10

The Scottish Government should seek further advice on a PDR to allow finfish farms to become shellfish farms, possibly involving:

- Additional primary research such as professional landscape/seascape assessment
- A mechanism to assess cumulative impact by way of an extended Prior Notification/Prior Approval process
 - The use of Prior Approval, in this case, appears to be appropriate: if the cumulative impact study reveals potential problems, Prior Approval could be withheld, and any such change would then be unlawful, despite this being a PDR

The Aquaculture Planning Taskforce might be the appropriate body to consider additional advice or research, and make final recommendations to the Scottish Government.

6.8.2 Change of Equipment Type on Shellfish Farms

- 6.36 There was significant (66%) objection to a PDR allowing shellfish farmers to change equipment type, with the specific example of changing to or from mussel rafts and mussel long lines being considered. In many ways this is consistent with the views expressed in terms of a PDR to convert from finfish to shellfish: the equipment type, appearance and coverage of sea area is perceived to be so different as to require a full planning application. In that context, taking into account that this study has **not** rejected the finfish to shellfish PDR out of hand, the following recommendation is appropriate.

Recommendation 11

The Scottish Government should consider a future PDR allowing change in equipment type on a shellfish farm, once it has made a decision on the question of a PDR for finfish to shellfish. Taking into account stakeholder concerns about this possible PDR, it may be that Prior Notification would be appropriate in this case.

6.8.3 Temporary Pens on a Finfish Farm

- 6.37 The study has made a recommendation (7.5) that as an emergency provision, finfish farmers will be granted a single-use PDR to accommodate up to 20% more surface. However, in the longer term, this sort of flexibility, if required on a regular bases by the industry, should be subject to proper assessment under the TCPA and EIA Regulations.

Recommendation 12

Individual fish farming companies should consider making formal planning applications for the capacity to have ‘temporary pens’ for all relevant existing sites, and this should also be considered as a component of all future new planning applications. Planning permission could be granted with appropriate conditions to ensure the relevant pens are only used on a temporary basis, and:

- Could specify maximum amount/number of temporary pens
- Could specify maximum duration on site
- Could require simple notification
 - Thereby allowing the LPA to know that the PDR has been exercised
 - Thereby allowing the LPA to monitor that the use of the temporary pens is as per the site’s planning permission
 - Thereby allowing the LPA the option to take enforcement action when required
 - Thereby allowing the LPA the opportunity to prevent ‘temporary’ pens becoming permanent by way of ‘lawful development’ rules

6.8.4 Possible Additional 5% Increase to Finfish Pen Surface Area

- 6.38 The study has provided evidence from SEPA concerning the possible environmental benefits of being able to increase the pen area and therefore volume available on a finfish farm, provided the biomass does not increase. Other benefits such as welfare, fish health and new quality standards have also been considered. Consultees to this study have also made some positive comments with respect to this possibility. At least one LPA was tentatively supportive, for smaller farms and provided that biomass did not increase. For those remaining square pen finfish farms that do not yet have 'swim through' pens, this would be a positive step.
- 6.39 The challenge would appear to be one of finding a mechanism to limit biomass under the GPDO.

Recommendation 13

Scottish Government should consider whether there is an available means to limit finfish biomass increases under the GPDO, and if so, it should consider consulting on a possible PDR that:

- Shares the general provisions of Recommendation 7.1
- Except in so far as it provides for a further increase in pen surface area of an additional 5% or no more than 500 m²
- With no additional biomass on the site, over and above the amount that might or might not have been added as a result of the provisions of Recommendation 7.1

6.9 PDR Guidance

Recommendation 14

If and when any aquaculture PDRs are created, the Scottish Government should, in parallel, produce comprehensive guidance, including decision flow charts, on how their use should be interpreted. The users of such guidance would include: LPAs; Statutory Consultees; Industry; other stakeholders. The possible PDRs are complex, as are the differing requirements for EIA screening, Prior Notification, Prior Approval and 'simple notification'. Whilst it is recognised that government is tending to produce less rather than more central 'guidance', and that there are resource issues, there is a strong consensus amongst stakeholders that in this case clear guidance is essential if these possible PDRs are to function efficiently in the future.

6.10 Original Development

- 6.40 The GPDO grants PDRs to different classes of development, based upon the ability to make minor changes to something that already exists, and already has planning permission. In effect, the PDR can be used to add something to 'the original development'.
- 6.41 The 'original development' concept has not been defined for the marine finfish and shellfish sectors. It is not, properly, an issue that this study can address, because it requires a legal opinion and a policy judgement that Scottish Ministers must make.

Recommendation 15

The Scottish Government should consider how it wishes to define 'original development' for the marine aquaculture sector, and ensure that the chosen definition is included as important background context in any future consultation on possible PDRs for the sector.

6.11 Farms Without Planning Permission

- 6.42 Many existing and functioning farms do not yet formally have 'planning permission', since they are going through a process of review and audit. The GPDO appears to be clear: PDRs cannot be granted for 'land' which does not have planning permission. This is a technicality in many regards, and existing farms are clearly operating under some form of 'consent', by way of their Crown Estate development consent (or a Works Licence) and associated Lease.
- 6.43 Once again, this is not an issue this study can consider, since it requires legal advice and policy decision-making.

Recommendation 16

The Scottish Government should consider how it wishes to apply PDRs, assuming some are created, to that part of the marine aquaculture sector that does not yet formally have 'planning permission'.

ANNEXES

ANNEX 1 QUESTIONNAIRE FOR THE AQUACULTURE INDUSTRY

YOUR VIEWS ON PDR AND/OR USE CLASSES

Notes:

1. The tables will expand as you type, so do not be constrained by their initial size
2. Every PDR ‘idea’ will have to be individually and very specifically examined and justified, and eventually specified in any future legislation. Put down as many ideas as you want – there is no restriction in the number of them
3. To that end, you can add extra rows to the tables (*Table; Insert; Rows Below*)

YOUR DETAILS	
Name	
Position in the Company	
Company Name	
Telephone Number	
Email Address	
Main species of interest	

PERMITTED DEVELOPMENT OPTIONS		
<p>Note: where there is a proposal that adds to the ‘size’ of something, that could be quantified in actual units (e.g. “an extra 200 m² of surface area” or as a percentage change to the existing installation (e.g. “a 10% increase in surface area”). Please be specific as to what you want/need in this regard, and try to justify that decision.</p> <p>Note: Make a comment (in the Benefits column) about whether you feel that a specific proposal could reasonably be discussed with the planning authority in advance in terms of design – i.e. the option for Prior Notification</p>		
Proposed PDR: Name	Description – with Dimensions and Details	Benefits – Commercial, Environmental, Welfare

USE CLASS OPTIONS		
<p>Note: Although the heading is singular (‘Use Class’), this is probably mainly about a change from one species to another. Consider carefully the implications in terms of a ‘material’ change in how the farm would look after the proposed change of species. (Or any other ‘change of use’ you can envisage)</p>		
Proposed Use Class: Name	Description – with all Relevant Details	Benefits – Commercial, Environmental, Welfare

ANY OTHER COMMENTS:

ANNEX 2 INDUSTRY RESPONSES TO INITIAL PDR QUESTIONNAIRE

Table A2.1 PDR Requests – Marine Pen Finfish

PDR (or Use Class)	Description (as provided by industry)	Possible Benefits (as identified by industry)	Possible Implications (as identified by ERM)
Change of Pen Sizes	Replacing smaller pens with fewer larger pens, e.g. 70 m to 90 m circumference with the same (or very similar) surface works and mooring containment areas.	Reduced production costs, less visual impact.	For a hypothetical 'standard' 1,500 tonne biomass consent farm: <ul style="list-style-type: none"> • Reduce pen numbers from 23 to 14 • Visual impact improved • Less sea surface utilisation • Possibly more concentrated biomass over utilised area <ul style="list-style-type: none"> ◦ Offset by using larger mooring grids?
Change of Pen Sizes & Surface Area by 15%	Replacing more smaller cages for fewer larger pens, e.g. 70 m to 90 m circumference with slight increase in overall pen surface area	To improve and reduce stocking densities, to comply with standards and to improve economic performance.	(Same standard farm model) <ul style="list-style-type: none"> • Reduce pen numbers from 23 to 16 • Visual impact improved • Less sea surface utilisation • Possibly more concentrated biomass over utilised area <ul style="list-style-type: none"> ◦ Offset by using larger mooring grids? • Pen surface area increases: <ul style="list-style-type: none"> ◦ By 15% ◦ By 1,180 m²
			NOTE: The model used is for an 'average' current salmon farm. Industry's requested 15% comes very close to the relatively frequent GPDO absolute limit of 1,000 m ² .
Increase pen surface area – no change to grid or moorings	Cage size change within existing grid eg – change 10 x 90m circular cages in a 50m grid to 10 x 100m in same grid. (23% increase cage surface area)	Reduce stocking densities and/or increase production. Although the increase in cage area is quite large, this is minimal in visual impact, & could be PDR. Prior notification accepted	As per request above – but in this case request is 23% , and for an increase in absolute visible pen surface area of 1,500 m²
Add a cage into an existing grid– no change to grid or moorings	Eg add one cage to existing 2 x 5 grid to increase from 9 cages to 10 cages(10% increase in cage area & number, no change in moorings/grid)	Reduce stocking densities and/or increase production. Could be PDR. Prior notification accepted	Effectively another request for increased surface area – 10% , or 640 m² (for a 90 m pen). No other changes; small visual impact.
Changes in pen design/type, with provision for 15% surface area	Steel pens to circular covering same surface or similar surface works area within 15% of previous	Allows flexibility in pen installations, improves welfare conditions for fish and would see improvements in	(Same standard farm model) <ul style="list-style-type: none"> • Replace 2 groups of 20x20 m pens, 22 in total, with an array of 16 @ 90 m circles • Visually quite different:

PDR (or Use Class)	Description (as provided by industry)	Possible Benefits (as identified by industry)	Possible Implications (as identified by ERM)
increase	consent	benthos.	individual plastic circles replace two discrete floating 'structures' <ul style="list-style-type: none"> • The density of biomass over the seabed (in this scenario) would decrease where the pens exist • The area of seabed over which cages existed would increase • Implications for impact on areas of seabed that have not been impacted previously – what is there (designated species or habitats)? <ul style="list-style-type: none"> ○ (Possible solution via EIA Screening)
Change pen shape from square to circular – no change in cage surface area	eg change from 10 x 24m square to 10 x 80m circular in 40m grid. Cage surface area decreases from 5760 m ² to 5090 m ² . Area enclosed by moorings (assume 100m all round) increases from 82,560 m ² to 112,000 m ² (35% - can probably be reduced by changed mooring system)	Improved waste dispersion, seabed recovery, oxygenation Modelling may give increased tonnage. Prior notification accepted	<ul style="list-style-type: none"> • Decrease in visible surface area of pens • Increase in coverage of sea surface area and seabed • Visually different – several single circles, rather than one large compact unit
Change pen shape from circular to square – no change or minor increase in cage surface area	eg change from 10 x 80 m circular in 40 m grid to 10 x 24 m square. Cage surface area increases from 5090 m ² to 5760 m ² (11.6% increase) Area enclosed by moorings(assume 100 m all round) decreases from 112000 m ² to 82560 m ² (up to 26% decrease)	Permits swim throughs, & therefore reduced use of antifoulant. Possibly slightly reduced stocking densities. May increase stock security – heavy duty cages. Prior notification accepted	<ul style="list-style-type: none"> • Opposite of above • ?
As above – but with additional details supplied by industry	Conversion of 6 x 80m plastic circle pens to 12 x 15m square steel pens. 12 x 15m square steel pens with overall surface	Enables a company to operate a newly-acquired site in the way with which it is familiar (as opposed to using equipment that was provided-for	<ul style="list-style-type: none"> • Justification is reasonable in the sense of a 'familiar' operating system leading to better and more secure farming • ?

PDR (or Use Class)	Description (as provided by industry)	Possible Benefits (as identified by industry)	Possible Implications (as identified by ERM)
	area of 3298 sqm. (6 x 80m plastic circles will have had a surface area of 3564 square metres (includes 1m wide walkway)	when the site was put onto the market)	
Change site location within licence area	Change site location within licence area i.e. a small change +/- a few hundred meters	Allows site to be re-laid in a slightly different position if for example anchoring problems. Possible environmental or welfare benefits.	<p><i>(Same standard farm model)</i></p> <ul style="list-style-type: none"> • No change in pen type, size, number or total surface area • Visually non-contentious (?) • Small change in location of pen mooring group, and (possibly) in orientation • What is a 'licence area' – what limits could be set on how far the pen group can be moved? • Implications for impact on areas of seabed that have not been impacted previously – what is there (designated species or habitats)? <ul style="list-style-type: none"> ○ (Possible solution via EIA Screening)
Change in net depth	Change net depth without applying for permission, (which is currently required by some LPAs)	Allows flexibility to change between schemes e.g. organic etc	<ul style="list-style-type: none"> • No change in pen type, size or number • Stocking density choices are not regulated, therefore deeper nets could potentially result in increased biomass being held per unit surface area • Implications?
Mooring matrix	For example, in changing from a 50 m to a 65 m matrix there will be no other change to the site other than change in spacing between the pens	Increased spacing between the pens reduces the impact on the sea-bed and improves fish welfare	<ul style="list-style-type: none"> • No change in pen type, size, number or total surface area • Total grid area increased from 35,000 m² to 59,150 m² • Positive implications in terms of seabed • More sea surface area occupied – issue for other users? • New area of seabed impacted – see discussion above
Change in barge type/colour/location	This can include: Relocation within the site to improve efficiency of feed distribution; change of type of feed barge – including an increase in size within 10%; change in colour	Commercial benefit, increased flexibility and operation efficiency, refurbishment, new technologies, better feed conversion, reduced noise levels, improved feed capacity or staff facilities meaning reduced boat traffic.	<ul style="list-style-type: none"> • The change may be necessary to replace worn out equipment • The change in type and/or colour and/or location will appear different from the previous installation – significant? • Potential benefits as described left

PDR (or Use Class)	Description (as provided by industry)	Possible Benefits (as identified by industry)	Possible Implications (as identified by ERM)
Replacement, modification or renewal of existing equipment	<p>Replacement, renewal, modification or alteration of any consented equipment eg barge, feed system changes. Not sure how best to put a numeric limit on this. Typically have a number of barges in different shapes and sizes (60t - 350t capacity). These barges are quite often moved between sites. In the context of the whole site they are very small – typically 10m x 20m x 5m high, but can be visually prominent</p> <p>Type of ADD is specified on some Works Licences – should be possible to change this, perhaps after discussion with SNH/council.</p>	<p>Ability to implement the most effective technology, improve feed control, respond to changing circumstances, find the most cost effective solution</p> <p>Prior notification accepted</p> <p>Changes in feed systems also in this category – change or add system to barge, add or change individual cage systems or Quattros (serve 4 cages)</p>	<ul style="list-style-type: none"> • <i>For discussion/consideration</i> • Replacement of worn equipment with something that is not exactly the same as the old one (no longer manufactured, for example) must be an inevitable regular occurrence. • Replacement of worn equipment = better containment; more efficiency; etc • Need to be specific about items, sizes, etc ?
Net support systems	<p>Changing the height, size or colour of net support system</p>	<p>Companies are continually looking for improved protection, as new solutions are found the sooner they are able to be implemented the better</p>	<ul style="list-style-type: none"> • No change to pen area or biomass or location • Some difference in visual appearance – but low profile and small in relation to overall farm • Improved protection leads to improved welfare and improved containment
Temporary allowance of extra pens	<p>A pen increase (within a certain percentage of the existing allowance) on a temporary basis for up to 6 months</p>	<p>This will allow grading and thinning to occur more easily and allow sites to accommodate lower than expected mortality rates</p>	<p>Industry has <u>not</u> specified a desired percentage in terms of additional pen surface area.</p> <ul style="list-style-type: none"> • Visual appearance of farm is different for 6 months out of 24 (a normal salmon crop cycle) • Increased biomass • Increased seabed coverage/impact

PDR (or Use Class)	Description (as provided by industry)	Possible Benefits (as identified by industry)	Possible Implications (as identified by ERM)
			<ul style="list-style-type: none"> Improved welfare – densities would increase in the event of unexpected higher survival without capacity to install additional pen volume Improved welfare if grading is made easier Reduces need to move fish from seawater site to seawater site, therefore decreases fish health risks
Addition of ancillary equipment	Allowing sites to add mooring rafts or mobile harvest pens to the site on a permanent or temporary basis	The mobile pens allow splitting or grading of the stock and the raft can allow the storage of equipment or feed if required	<ul style="list-style-type: none"> Visual changes would be most relevant implication Relatively small scale change in comparison with overall farm
A single point mooring close by existing group	A single barge mooring close by the pen group to enable a harvest barge to be moored during the second year of an intake. Barge might be e.g. 40ft long and 14ft wide and hold harvest gear.	This option would be useful at times of high harvest levels. It would reduce towing time and fuel consumption.	<ul style="list-style-type: none"> This is a specific example of ‘ancillary equipment’
Temporary mooring of equipment	Installation or storage of temporary equipment (for up to 12 months) eg harvest cage, raft	Permit equipment to be trialled. Encourage technological innovation	<ul style="list-style-type: none"> Trialling of equipment is a good point – valuable in terms of innovation and development Depends on ‘scale’ and appearance of equipment
Change of species (Use Class)	Change from salmon to trout	Allows for greater flexibility in terms of site production strategies	<ul style="list-style-type: none"> No visual impact No biomass impact No physical infrastructure change To maintain fish health standards, would require single year class + fallow approach to trout production

Table A2.2 PDR Requests – Marine Shellfish Lines & Rafts

PDR (or Use Class)	Description (as provided by industry)	Possible Benefits (as identified by industry)	Possible Implications (as identified by ERM)
Double to single headline	Changing from double headlines to	May facilitate production in more exposed locations	<ul style="list-style-type: none"> Difficult to illustrate any difference in a diagram at this scale Unlikely to be any significant

PDR (or Use Class)	Description <i>(as provided by industry)</i>	Possible Benefits <i>(as identified by industry)</i>	Possible Implications <i>(as identified by ERM)</i>
	single headlines within the same consented area. The total length of headline and production line would not, necessarily, increase.	where the (previously consented) double headline is not viable.	visual effect • Benefits as described
Headline float change	Changing the type of headline float	Allows for improvements in technology to be employed without reference to planning authorities. Could result in slight change in visual impact.	• Ability to utilise new technologies • Unlikely to be any significant visual effect
Production line change	Changing the type of "dropper" i.e. production line. For example from single droppers to continuous line.	May increase the productivity of the farm with no adverse environmental impact, including visual impact.	• No visual impact • Increased productivity: <ul style="list-style-type: none"> ○ Good economic and efficiency benefits ○ Possible environmental effects – seabed deposition ○ Possible environmental effects – plankton availability within an area (other shellfish farmers impacted?)
Increasing or decreasing mussel farm equipment within consented area	Increasing the number of consented headlines where a site is found to be very productive or decreasing the number in a less productive site.	Allows for optimisation. Could result in slight change in visual impact.	No specific suggestion as to % or numeric change in headlines made by industry. <ul style="list-style-type: none"> • Technically, a double head line (1 m separation) at 250 m long has an 'enclosed' surface area of 250 m² <ul style="list-style-type: none"> ○ The relevance being that 1,000 m² or 25% is common in other current PDRs ○ A hypothetical maximum PDR could be 4 x double head lines (1,000 m²), which if it were 25% of an existing development would imply a unit harvesting 640 tonnes currently, increasing to 800 tonnes if the PDR is used. A good economic scale. • Increased productivity: <ul style="list-style-type: none"> ○ Good economic and efficiency benefits ○ Possible visual impact ○ Possible environmental effects – seabed deposition ○ Possible environmental effects – plankton availability within an area (other farmers)
Change of	Change from	Increased efficiency	• Primarily visual considerations

PDR (or Use Class)	Description <i>(as provided by industry)</i>	Possible Benefits <i>(as identified by industry)</i>	Possible Implications <i>(as identified by ERM)</i>
equipment within a permitted area.	mussel rafts to long lines, with no change to biomass, or from double long lines to new type of equipment, ie Smartfarm	and output, without prohibitive cost. Encouraging innovation	<ul style="list-style-type: none"> Increased coverage of sea surface area (?) Benefits as described
Relocation of permitted equipment consent from one permitted area to another, within reason.	Should a farmer have space on one site to utilise spare equipment consent from another, this could be a modification, rather than a full planning application.	Increased efficiency and output, without prohibitive cost. Encouraging innovation	<ul style="list-style-type: none"> Primarily visual considerations Increased coverage of sea surface area (?) <p>Additional Note 1: The implication is to be able to do this from time to time. PDR is for single use in relation to buildings – but may be more flexible in sectors such as Class 24 (Industrial – replacements) and Class 69 (Amusement Parks)</p>
Tolerance for actual dimensions	It is very difficult to accurately measure the length of a longline, or locate it exactly on stated co-ordinates, due to tide, etc. An acceptable tolerance would be helpful..	Avoid unnecessary disputes	<ul style="list-style-type: none"> There probably is no way to avoid what industry has described Not a PDR as such ?
Multiuse	Allow mussel farming on fallow fin fish sites, without losing fin fish consent, or a full planning application.	Encourage use of fallow sites. Help with nutrient balance. Additional income. Better use of site rotation.	ERM – No Initial Comment
	Permit fin fish farming on mussel sites as part of fallowing rotation, as long as SEPA/MSS consents are granted, without losing the shellfish consent, or a full planning application.	As above	<p>.Diverging Views Within Industry:</p> <ul style="list-style-type: none"> The concept of multiuse (as described above) supported by some Others comment: <ul style="list-style-type: none"> <i>“Finfish farms should not be permitted to change species to shellfish (or other) that survive on food produced by nature. The reason is that a finfish farm may be within relatively close proximity to a shellfish farm. Should that finfish farm then be permitted to change species to shellfish</i>

PDR (or Use Class)	Description <i>(as provided by industry)</i>	Possible Benefits <i>(as identified by industry)</i>	Possible Implications <i>(as identified by ERM)</i>
			<p><i>it could well create a "shadow of starvation" for the existing farmed shellfish.</i></p> <ul style="list-style-type: none"> • <i>Similar restrictions should apply to shellfish farms within a certain proximity of each other. Although arbitrary, suggest a radius of 5 miles apply in both these cases.</i> • <i>A further issue on finfish farms converting to shellfish operations is that a licence i.e. planning permission, application could be made for farming finfish at a given location in the knowledge that shellfish operations would not be permitted at that location for whatever reason. A short time later that farm could change species farmed without formal consent to farm shellfish. This scenario could occur where existing shellfish farms in that location are operating at maximum capacity in terms of food supply and where a further shellfish development would not be permitted by the usual planning process.</i> • <i>Of course, this scenario could equally apply (perhaps more so) where an application for planning consent is made for shellfish operations with a later species change to finfish".</i>

ANNEX 3 SECOND PHASE PDR QUESTIONNAIRE

We are asking for your organisation’s expert opinion on the possible introduction of Permitted Development Rights (PDR) and Use Classes for the aquaculture industry. This is part of the evidence-gathering required for SARF project 040b, and your feedback is essential to this project.

Please complete this form-field template and return by email, **no later than Monday 7th June**. (Save the document with your own unique file reference)

Return to: **Epsilon Resource Management Ltd**; email: RichardSlaski@aol.com

If you wish to discuss any issues contained in this paper, please do not hesitate to telephone: Richard Slaski, 01738 828170

<p>YOUR DETAILS</p> <p>Name: Organisation: Position in the organisation: Tel: Email:</p>	<p><i>(Please enter text in the form fields below)</i></p>	<p>Guidance on Completing This Document</p> <ul style="list-style-type: none"> • Please complete all the sections of the summary forms below. The fields will expand to take any amount of text you wish to enter, and there are supplementary sections for additional text • Details concerning all the summarised PDRs and Use Classes are contained in the relevant Annexes to this paper – please refer to these before completing the document
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BACKGROUND

We assume most consultees will have some familiarity with the concept of permitted development rights (PDRs) and uses classes: in effect, these are granted to sectors by Scottish Ministers, and allow developers (individuals or organisations that already have planning permission for an existing operation) to make small changes to their operation without a requirement to apply for full planning permission. Many sectors already benefit from PDRs – there are 72 different classes of PDR at the present time, ranging from domestic to agriculture to industrial to amusement parks. The purpose is to reduce unnecessary burdens to both developers and local planning authorities (LPA) in the case of small (non material, non contentious) changes that would have certainly received planning permission if it had been sought. Numeric limits on specific PDRs are common, and it is possible to find changes of, for example, up to 25% or 1,000 m² of surface area permitted (industrial buildings), or 10% of volume or 465 m² of floor area (agricultural buildings). Some PDRs can be restricted in designated areas.

In many existing PDRs, developers can exercise these without any discussion with LPAs, but in some cases (e.g. agriculture, forestry) there is a formal requirement to have a dialogue with the LPA: **prior notification**. The LPA can offer specific advice on colour, design and exact location of the PDR the developer proposes to use.

In **finfish** aquaculture, no PDRs (if created) can be used unless the developer has sought an **EIA screening opinion** from the LPA. This provision is a legal requirement, but does offer the opportunity for a different type of ‘prior notification’ – i.e. LPAs and all statutory consultees have an opportunity to reassure themselves that the proposed use of a PDR is acceptable – on a case by case basis. The advantage of having PDRs is that subsequent to receiving a negative EIA screening opinion (i.e. all is well with the proposal), the small change can be made without a lengthy and costly (for all parties) formal planning application. It should be noted that because **marine shellfish farming** is **not** subject to the EIA Regulations, any PDRs it may be granted will not be subject to this process of EIA screening on a case by case basis.

PERMITTED DEVELOPMENT RIGHTS (PDR)

FINFISH	Description	Suitable as PDR	Prior Notification	Discuss Your Decision <i>(the table will expand to fit your text)</i>
PDR 1	Change of Pen Size	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR 2	Change of Pen Size + 15% Additional Surface Area	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR 3	Change of Pen Type + 15% Additional Surface Area	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR 4	Change of Pen Location or Orientation	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR 5	Change of Mooring Grid	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR 6	Change of Feed Barge Size, Colour, Type, Location	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR 7	Net Support Systems	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR 8	Temporary Extra Pens	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR 9	Ancillary Equipment	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
SHELLFISH	Description	Suitable as PDR	Prior Notification	Discuss Your Decision <i>(the table will expand to fit your text)</i>
PDR S 1	Double to Single Head Line	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR S 2	Head Line Float Change	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR S 3	Production Line Change	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR S 4	Increase in Production Surface Area – 25% <i>(Or suggest alternative %)</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR S 5	Change of Equipment Type	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
PDR S 6	Relocation of Equipment Between Sites	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	

ADDITIONAL SUGGESTIONS ON PERMITTED DEVELOPMENT RIGHTS

If you have any additional thoughts or comments on PDRs, please discuss below. Are there any other types of PDR you might consider possible?

USE CLASSES⁵⁵

Possible Change Of Species	Is This Appropriate without Planning Permission?	Discuss Your Decision <i>(the table will expand to fit your text)</i>
Atlantic Salmon to rainbow trout	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Rainbow trout to Atlantic salmon	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Atlantic salmon to Atlantic cod	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Atlantic cod to Atlantic salmon	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Atlantic salmon to Atlantic halibut	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Atlantic halibut to Atlantic salmon	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<i>Suggest Other Changes (Finfish)</i>		
	Yes <input type="checkbox"/> No <input type="checkbox"/>	
	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Shellfish - Finfish		
Change from finfish to shellfish production	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Change from shellfish to finfish production	Yes <input type="checkbox"/> No <input type="checkbox"/>	

ADDITIONAL SUGGESTIONS ON USE CLASSES FOR AQUACULTURE

If you have any additional thoughts or comments on Use Classes, please discuss below.

⁵⁵ Use Classes relate to change of use of a premises, with or without the need to apply for planning permission. A typical example is that a shop unit could become a solicitors office without requiring a planning application, but to become a restaurant selling hot food, it would require planning permission.

ANNEX 3.1 Marine Finfish Pens

NOTE:

It is important to stress again that at this stage of the research, all the PDR and related concepts covered in Annexes 3.1 to 3.3 are **purely hypothetical**, and are presented in detail simply in order to stimulate discussion that will advise the research project.

This is the largest sector of the industry, and includes ongrowing farms for Atlantic salmon, rainbow trout (large) and Atlantic halibut. The PDR and related ideas arising from the industry are considered below⁵⁶. Points to note:

- The responses were from primarily salmon farming companies
- The Proposal, Description and Possible Benefits sections of the tables are based upon the text supplied by industry respondents

Core Assumptions – applicable to all PDR concepts

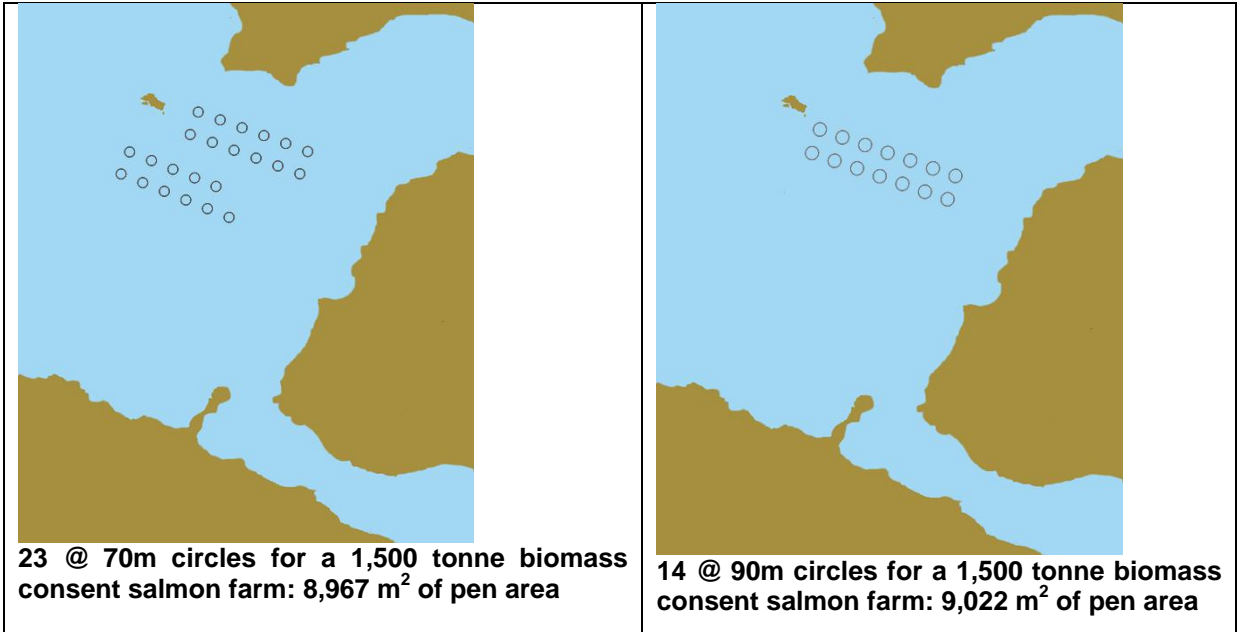
- **It is assumed** in all cases that the issue of ‘planning unit boundary’ (see Main Report⁵⁷) has been addressed to the satisfaction of all parties, and does not curtail the possible PDR
- **It is assumed** that the EIA screening process allows statutory bodies to ascertain what features might exist on the seabed in areas not previously covered with pens, as well as allowing opportunity for other assessments, such as visual impact
- **It is assumed**, unless specifically discussed in the examples, that organisations concerned with navigational safety and with access for ‘other users’ of the sea will have a general interest in these PDR ideas – and will be consulted appropriately

PDR 1

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
Change of Pen Sizes a)	Replacing smaller pens with fewer larger pens, e.g. 70 m to 90 m circumference with the same (or very similar) surface works and mooring containment areas.	Reduced production costs, less visual impact.
Change of Pen Sizes b)	Reducing the size of pens, but increasing the number – i.e. the reverse of the action above.	Enhanced ability to undertake bath treatments with licensed therapeutants.
Appearance 1 (approximate scale)		Appearance 2 (approximate scale)

⁵⁶ It should be noted that the hypothetical ‘plan’ used in Annex 1 and 2 is based upon an actual area in Scotland, where a 16 @ 20x20 m square cage group exists. The scales used in the Annex 1 and 2 diagrams are approximately correct.

⁵⁷ In summary, the issue is the fact that current ‘planning permission boundaries’ are delineated by the outer extent of the mooring anchors on the sea bed. This has been historic, but may not result in sufficient ‘area’ for any worthwhile PDRs for the industry. The Main Report considers this issue and suggests possible solutions. The point in terms of this consultation is to **assume that a solution has been found**, and that the issue does not hamper implementation of any proposed PDRs.



Discussion:

- Both scenarios are based on 50 m mooring grids – invisible at the surface
- The total number of pens (in this scenario) reduces from 23 to 14, or *vice versa* (Option b))
- The total surface area of pens changes by only 55 m², or some 0.6% of the original pen layout
- The area of sea (within the lease area) covered by 50 m mooring grids reduces from 57,500 m² to 35,000 m² (Option a))
- The density of biomass over the seabed (Option a)) would increase where the pens exist – therefore SEPA might have an interest in whether this is acceptable for the CAR licence terms, as might MSS
- However, it would be possible to ‘space out’ the 90 m pens, by using, for example, 65 m mooring grids (not illustrated but see PDR 5)

Consideration 1: Although not illustrated, the potential would exist to undertake a similar change in pen size (smaller to larger) for square pens, e.g. (assuming the same hypothetical 1,500 tonne farm):

- From 39 @ 15 x 15 m pens to 15 @ 24 x 24 m pens.

Consideration 2: The diagram does not illustrate one area of specific concern in terms of changes to the appearance to the finfish farm (Option a)): larger pens potentially require larger and/or higher top net support structures in the centre of the pen. A supplementary consideration is the emerging use of yellow top nets in order to discourage diving predatory birds. The combined effect could be construed as a relatively significant change in the visual appearance of the farm. The photograph below illustrates the type of modern top net in use on some farms.



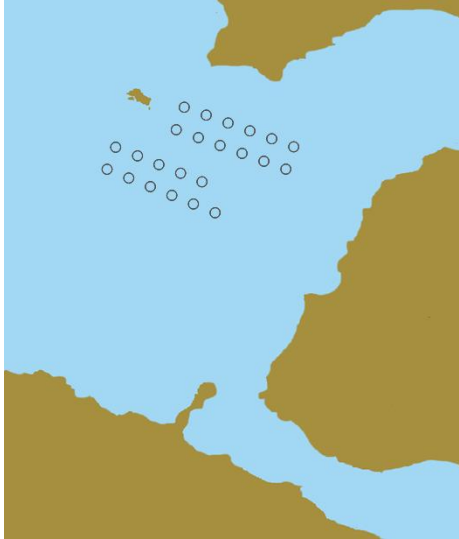
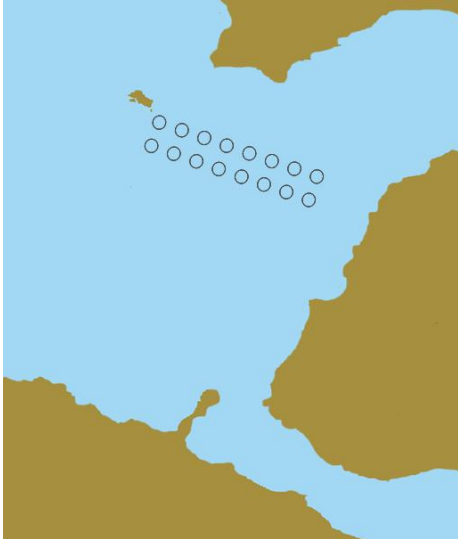
Prior Notification:

Possibly not applicable if a PDR was drafted so as to take into account ‘colour, design and location’. Case-by-case assessment would be enabled by EIA screening.

Single or Multiple Use of the PDR:
 As long as there is no material change in overall pen surface area, it might be appropriate for a PDR of this type to be granted for multiple use over the lifespan of the 'original development'. Option a) and Option b) indicate that there may be operational reasons for either increasing or decreasing pen size, and future technical developments might introduce further reasons for additional options in terms of pen size.

PDR 2

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
Change of Pen Sizes & Surface Area by 15% a)	Replacing more smaller cages for fewer larger pens, e.g. 70 m to 90 m circumference with slight increase in overall pen surface area	To improve and reduce stocking densities, to comply with standards and to improve economic performance.
Change of Pen Sizes & Surface Area by 15% b)	The reverse of the above	

Appearance 1 (approximate scale)	Appearance 2 (approximate scale)
 <p>23 @ 70m circles for a 1,500 tonne biomass consent salmon farm: 8,967 m² of pen area</p>	 <p>16 @ 90m circles for a 1,500 – 1,725 tonne biomass consent salmon farm: 10,147 m² of pen area</p>

Discussion:

- The total number of pens (in this scenario) reduces from 23 to 16
- The total surface area of pens changes by **1,180 m²**, or some 15% of the original pen layout
- The area of sea (within the lease area) covered by 50 m mooring grids reduces from 57,500 m² to 30,000 m². The density of biomass over the seabed (in this scenario) would increase where the pens exist – therefore SEPA might have an interest in whether this is acceptable for the CAR licence terms, as might MSS
- However, if stocking densities are lower, there may be net benefits in terms of benthic deposition?
- Note the option for larger mooring grids

Consideration 1: Although not illustrated, the potential would exist to undertake a similar change in pen size (smaller to larger) for square pens, e.g. (assuming the same hypothetical 1,500 tonne farm):

- From 39 @ 15 x 15 m pens to
- 18 @ 24 x 24 m pens.

Consideration 2: The same consideration as PDR 1 i.e. height and colour of top nets.

Consideration 3: The additional 15% of pen area would allow average maximum stocking density (in this hypothetical scenario) to reduce from 17 kg/m³ to 15 kg/m³. Alternatively, if the stocking density remained at 17 kg/m³, the maximum standing biomass could increase to 1,725 tonnes – subject to SEPA CAR consent.

Consideration 4: The scenario illustrated here is for an ‘average’ finfish pen farm, where a 15% change in surface area amounts to some 1,180 m². PDRs which have numerical limits are generally expressed as a % or an absolute measurement, whichever is the greater.

The matrix below illustrates what the implication of 15% (and 25%) change would be in absolute area terms for a range of possible marine pen finfish farms.

Biomass Consent (t)	Original Area (m ²)	15% incr. Area (m ²)	25% incr. Area (m ²)
500	2,941	441	735
750	4,412	662	1,103
1000	5,882	882	1,471
1250	7,353	1,103	1,838
1500	8,824	1,324	2,206
1750	10,294	1,544	2,574
2000	11,765	1,765	2,941
2500	14,706	2,206	3,676
3000	17,647	2,647	4,412
3500	20,588	3,088	5,147
4000	23,529	3,529	5,882

Note 1: All based upon a net depth of 10m and a maximum stocking density of 17 kg/m³.

Note 2: Area changes are numerically calculated, and may not coincide exactly with the actual area of pens required, due to the physical geometry of industry-standard pen designs.

Questions:

- Which % change in area (if any) is appropriate?
- Should there be a maximum area in absolute terms?
- And if so, what should that be?

Prior Notification:

Possibly not applicable if a PDR was drafted so as to take into account ‘colour, design and location’. Case-by-case assessment would be enabled by EIA screening.

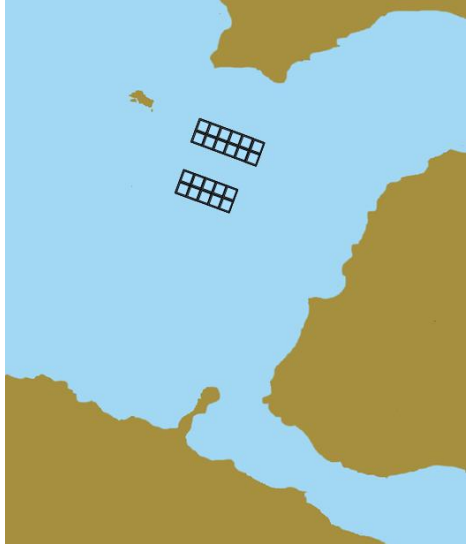
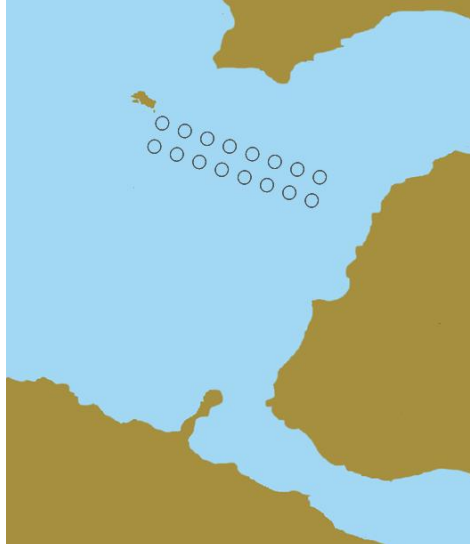
Single or Multiple Use of the PDR:

The ability to change pen types without additional surface area (PDR 1) could be multiple use of a PDR.

If a PDR relating to **increase** of pen surface area (whether as a % or an absolute amount) was granted, it is likely it could only be used once in relation to the original development, during its lifespan.

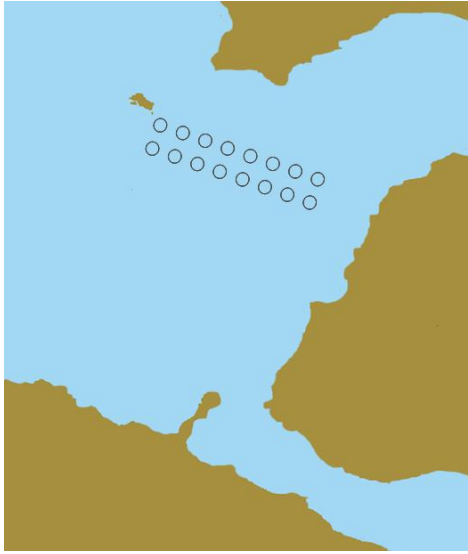
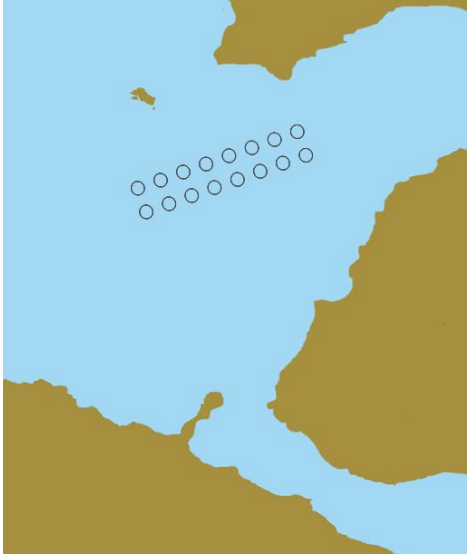
PDR 3

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
Changes in pen design/type, with provision for 15% surface	Steel pens to circular covering same surface or similar surface works area within 15% of previous consent	Allows flexibility in pen installations, improves welfare conditions for fish and would see

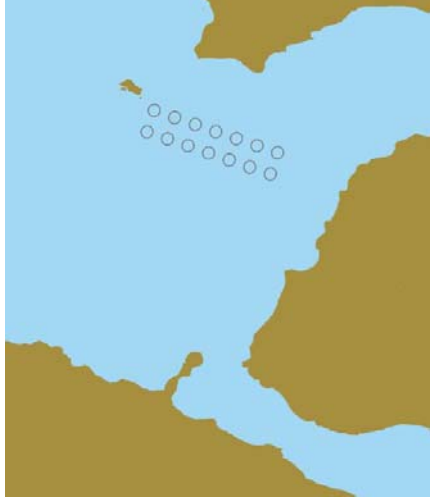
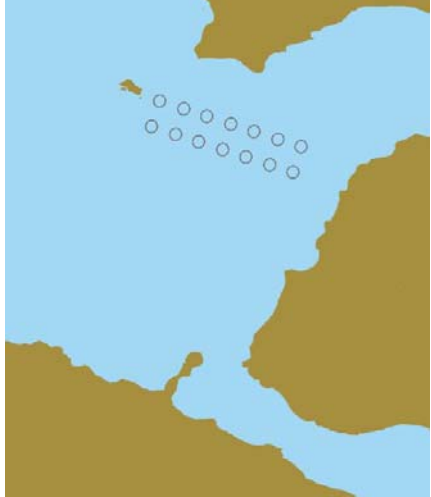
area increase a)		improvements in benthos.
b)	The reverse of the above – with or without any change in pen area	Some operators might be more familiar with farming in square pens, if a site changes ownership.
Appearance 1 (approximate scale)		Appearance 2 (approximate scale)
		
<p>22 @ 20x20 m square pens in two groups, for a 1,500 tonne biomass consent salmon farm: 8,800 m² of pen area</p> <p>Note: This is drawn as 22 pens, in two groups, fully utilised to produce fish. However, it is very possible that operators maintain a few additional ‘empty’ cages within or adjacent to groups, to allow swim-through net changing, and also to allow for grading.</p>		<p>16 @ 90 m circles for a 1,500 – 1,725 tonne biomass consent salmon farm: 10,147 m² of pen area</p>
<p>Discussion:</p> <ul style="list-style-type: none"> • The total number of pens (in this scenario) reduces from 22 to 16 • The sea surface appearance is quite different: individual plastic circles replace two discrete floating ‘structures’ • The total surface area of pens changes by 1,347 m², or some 15% of the original pen layout • The density of biomass over the seabed (in this scenario) would decrease where the pens exist • The area of seabed over which cages existed would increase • Implications for impact on areas of seabed that have not been impacted previously (EIA screening should address this) 		
<p>Consideration 1: Would the reverse change (i.e. from round to square pens – b)) be equally acceptable as a PDR?</p>		
<p>Consideration 2: Visually quite different, but both perfectly common ways of farming finfish, and requirement to make such changes, in either direction, relatively common within the industry</p>		
<p>Prior Notification: Possibly not applicable if a PDR was drafted so as to take into account ‘colour, design and location’. Case-by-case assessment would be enabled by EIA screening.</p>		
<p>Single or Multiple Use of the PDR: The ability to change pen designs without additional surface area (PDR 1) could be multiple use of a PDR, if one were created for this purpose.</p> <p>If a PDR relating to increase of pen surface area (whether as a % or an absolute amount) was</p>		

granted, it is likely it could only be used once in relation to the original development, during its lifespan.

PDR 4

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
Change site location within licence area	Change site location within licence area i.e. a small change +/- a few hundred meters	Allows site to be re-laid in a slightly different position if for example anchoring problems. Possible environmental or welfare benefits.
Appearance 1 (approximate scale)		Appearance 2 (approximate scale)
 <p data-bbox="245 1196 839 1256">16 @ 90 m circles for a 1,725 tonne biomass consent salmon farm: 10,147 m² of pen area</p>		 <p data-bbox="863 1196 1457 1330">16 @ 90m circles for a 1,725 tonne biomass consent salmon farm: 10,147 m² of pen area – displaced by c. 100 m to the west, and re-orientated.</p>
<p>Discussion:</p> <ul data-bbox="245 1361 1374 1559" style="list-style-type: none"> • No change in pen type, size, number or total surface area • Change in location of pen mooring group, and (possibly) in orientation • What is a 'licence area' – what limits could be set on how far the pen group can be moved? • Implications for impact on areas of seabed that have not been impacted previously – EIA • Possible benefit in terms of long term benthic impact if move is repeated from time to time • Possible benefit in terms of mooring security 		
<p>Consideration 1: Visual impact w.r.t. SNH guidance on design and location of marine finfish farms</p>		
<p>Prior Notification: Possibly not applicable if a PDR was drafted so as to take into account 'colour, design and location'. Case-by-case assessment would be enabled by EIA screening.</p>		
<p>Single or Multiple Use of the PDR: The ability to move pen groups, if acceptable as a PDR, might be advantageous in terms of long term benthic impact – and might therefore also be acceptable as a multiple use PDR</p>		

PDR 5

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
Mooring matrix	For example, in changing from a 50m to a 65m matrix there will be no other change to the site other than change in spacing between the pens	Increased spacing between the pens reduces the impact on the sea-bed and improves fish welfare
Appearance Before (approximate scale)		Appearance After (approximate scale)
		
14 @ 90 m circles for a 1,500 tonne biomass consent salmon farm: 9,022 m ² of pen area – in a 50 m mooring grid		14 @ 90 m circles for a 1,500 tonne biomass consent salmon farm: 9,022 m ² of pen area – in a 65 m mooring grid
<p>Discussion:</p> <ul style="list-style-type: none"> • No change in pen type, size, number or total surface area • Total grid area increased from 35,000 m² to 59,150 m² • Positive implications in terms of seabed deposition – SEPA (CAR) and MSS • More sea surface area occupied – issue for other users? • New area of seabed impacted – see discussion in other PDR options 		
<p>Prior Notification: Possibly not applicable if a PDR was drafted so as to take into account 'colour, design and location'. Case-by-case assessment would be enabled by EIA screening.</p>		
<p>Single or Multiple Use of the PDR: Might be acceptable as a multiple use PDR (if one is created) – future grid/mooring developments might require additional small changes</p>		

PDR 6

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
Change in barge type/ colour/location	This can include: Relocation within the site to improve efficiency of feed distribution; change of type of feed barge – including an increase in size within 10%; change in colour	Commercial benefit, increased flexibility and operation efficiency, refurbishment, new technologies, better feed conversion, reduced noise levels, improved feed capacity or staff facilities meaning reduced boat traffic.
Appearance		Appearance

	
<p>Gael Force: A Sea Cap 10 m diameter feed barge – 200 T capacity</p>	<p>Gael Force: A Sea Mate 14 x 10.5 m feed barge – 220 T capacity (Also available in 14 x 14 m – 400 T)</p>
	
<p>Ocea: BOW feedbarge (250 or 450 T capacity)</p>	<p>AKVASMART: Various sizes and capacities (160 to 400 T)</p>

Discussion:

- The change may be necessary to replace worn out equipment
- The change in type and/or colour and/or location will appear different from the previous installation

Prior Notification:
 Because colour, design and location are inherently important in terms of feed barges (they are the closest thing to a ‘building’ in marine aquaculture), prior notification dialogue with LPAs is probably warranted if a PDR is created – unless the proposed change stayed within close parameters to the original barge.

Single or Multiple Use of the PDR:
 Might be acceptable as a multiple use PDR – future improvements in sea barge design might necessitate further changes

PDR 7

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
<p>Net support systems (NOTE: See also PDR 2)</p>	<p>Changing the height, size or colour of net support system</p>	<p>Companies are continually looking for improved protection, as new solutions are found the sooner they are able to be implemented the better</p>
<p>Appearance Before (approximate scale) See PDR 2</p>	<p>Appearance After (approximate scale) See PDR 2</p>	

Discussion:

This requested PDR is a sub-set of the larger proposal discussed in PDR 2 – but just changes in the net supports/nets.

- No change to pen area or biomass or location
- Some difference in visual appearance – but low profile and small in relation to overall farm
- Improved protection leads to improved welfare and improved containment

Prior Notification:
Possibly not applicable if a PDR was drafted so as to take into account 'colour, design and location'. Case-by-case assessment would be enabled by EIA screening.

Single or Multiple Use of the PDR:
Might be acceptable as a multiple use PDR – future predator net & support system developments might require additional small changes

PDR 8

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
Temporary allowance of extra pens	A pen increase (within a certain percentage of the existing allowance) on a temporary basis for up to 6 months	This will allow grading and thinning to occur more easily and allow sites to accommodate lower than expected mortality rates
Appearance Before (approximate scale)	Appearance After (approximate scale)	
<i>Not applicable</i>	<i>Not applicable</i>	

Discussion:

Initial Steering Group discussions on this proposed PDR centred on the idea that responsible farmers should have planned for maximum possible survival when initially stocking the farm. The counter-argument is that, in business terms, this means 'aiming to underperform' with each crop, because routine levels of mortality are generally likely, and that would mean less production from the site than it is capable of achieving – unless the survival were unexpectedly good.

Implications:

- Visual appearance of farm is different for 6 months out of 24 (a normal salmon crop cycle)
- Increased biomass
- Increased seabed coverage/impact
- Improved welfare – densities would increase in the event of unexpected higher survival without capacity to install additional pen volume
- Improved welfare if grading is made easier
- Reduces need to move fish from seawater site to seawater site, therefore decreases fish health risks

Additional Note 1: Industry has not specified a desired percentage in terms of additional pen surface area.

Prior Notification:
Possibly not applicable if a PDR was drafted so as to take into account 'colour, design and location'. Case-by-case assessment would be enabled by EIA screening.

Single or Multiple Use of the PDR:
The Steering Group discussed the idea of allowing such a hypothetical PDR (details to be specified) to be exercised **once** per farm in any 6 year period, i.e. a recognition that these unexpected 'overproductions' can happen and should be accommodated on an emergency basis, balanced with a general expectation that industry ordinarily can and should plan crop cycles carefully and within pre-set limits.

PDR 9

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
Addition of ancillary equipment	Allowing sites to add mooring rafts or mobile harvest pens to the site on a permanent or	The mobile pens allow splitting or grading of the stock and the raft can allow the storage of equipment

	temporary basis	or feed if required
Appearance Before (approximate scale)	Appearance After (approximate scale)	
<i>Not applicable – no details; scale inappropriate</i>	<i>Not applicable – no details; scale inappropriate</i>	
<p>Discussion:</p> <p>In broad principle this is similar to several existing PDRs (e.g. Class 24, 69), where operational equipment can be installed or moved around within the boundary of the permitted development, but external to any fixed building structure.</p> <p>Implications:</p> <ul style="list-style-type: none"> • Visual changes would be most relevant implication • Relatively small scale change in comparison with overall farm in the case of rafts • Potentially larger scale change if the number of mobile harvesting pens is large in relation to the permitted number of pens on the site 		
<p>Prior Notification:</p> <p>Possibly not applicable if a PDR was drafted so as to take into account 'colour, design and location'. Case-by-case assessment would be enabled by EIA screening.</p>		
<p>Single or Multiple Use of the PDR:</p> <p>If granted as a PDR, it would be logical to assume similar operational requirements with each crop – so this might be a single-use PDR, carefully drafted to allow the necessary amount of equipment but no more, and allowing for the fact that the equipment might come and go each crop cycle.</p>		

ANNEX 3.2 Marine Shellfish Lines/Rafts

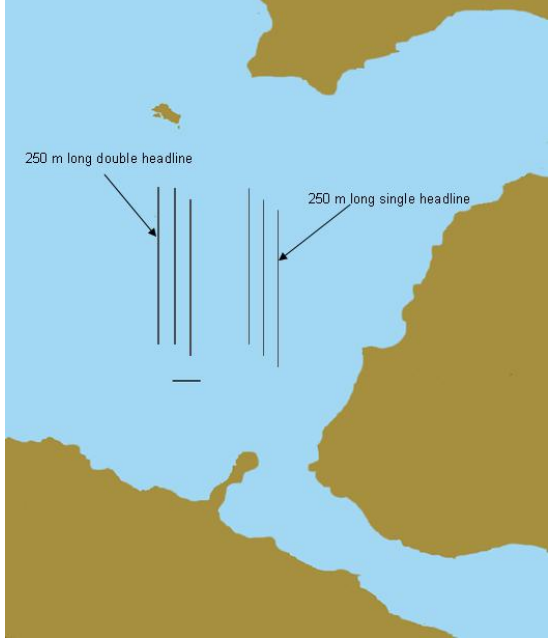

Mussel production, commonly using floating ‘long lines’, is the largest sub sector of the shellfish farming industry in Scotland (see Table 3.1). PDR and related suggestions are considered below. Points to note:

- The responses were from primarily mussel farming companies
- The Proposal, Description and Possible Benefits sections of the tables are based upon the text supplied by industry respondents
- The hypothetical ‘plan view’ diagram used in several tables is based upon an actual aquaculture area in Scotland. The scales used in the diagrams are approximately correct

Core Assumptions – applicable to all PDR concepts

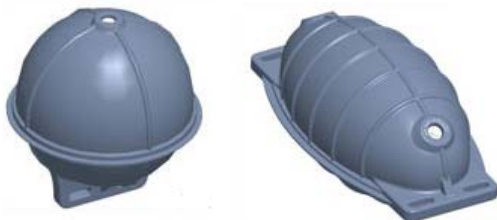

- **It is assumed** in all cases that the issue of ‘planning unit boundary’ (see Annex 1) has been addressed to the satisfaction of all parties, and does not curtail the possible PDR
- **It is assumed** that EIA screening is not required for shellfish, and that more emphasis might be placed on prior notification than would be the case for finfish
- **It is assumed**, unless specifically discussed in the examples, that organisations concerned with navigational safety and with access for ‘other users’ of the sea will have a general interest in these PDR ideas – and will be consulted appropriately

PDR S 1

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
Double to single headline	Changing from double headlines to single headlines within the same consented area. The total length of headline and production line would not, necessarily, increase.	May facilitate production in more exposed locations where the (previously consented) double headline is not viable.
Appearance Before & After (approximate scale)		
	 <p data-bbox="890 1720 1265 1749">Double Headline Mussel Ropes</p>	

<p>Discussion:</p> <ul style="list-style-type: none"> • Difficult to illustrate any difference at this scale • Unlikely to be any significant visual effect <p>Steering Group were generally supportive of this proposed PDR.</p>
<p>Prior Notification: Possibly not necessary.</p>
<p>Single or Multiple Use of the PDR: If PDR created: Single use, but with the option of reverting back to the original permission at some future time.</p>

PDR S 2

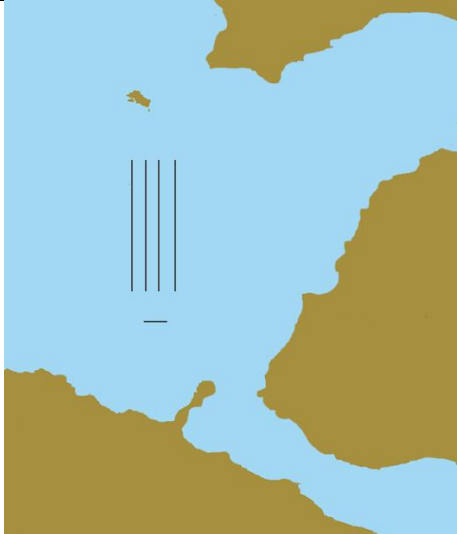
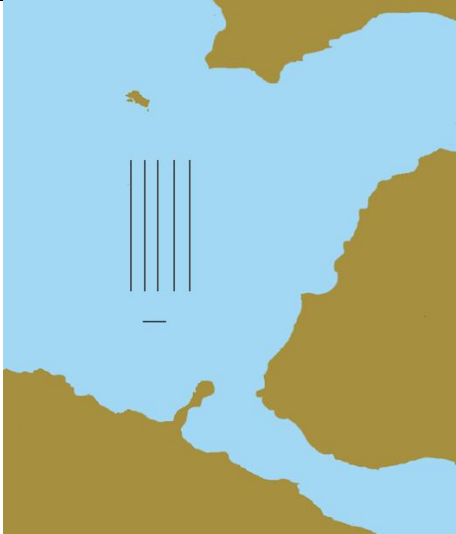
PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
<p>Headline float change</p>	<p>Changing the type of headline float</p>	<p>Allows for improvements in technology to be employed without reference to planning authorities. Could result in slight change in visual impact.</p>
<p>Appearance</p> <div style="display: flex; justify-content: space-around;">   </div> <p>Examples of mussel floats (http://www.jfcmarine.com/MusselsFloats.html)</p> <p>Typical mussel headline floats in situ</p>		
<p>Discussion:</p> <ul style="list-style-type: none"> • Ability to utilise new technologies • Unlikely to be any significant visual effect <p>Steering Group generally supportive.</p>		
<p>Prior Notification: Possibly not necessary.</p>		
<p>Single or Multiple Use of the PDR: If PDR created: Single use, but with the option of reverting back to the original permission at some future time.</p>		

PDR S 3

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
<p>Production line change</p>	<p>Changing the type of “dropper” i.e. production line. For example from single droppers to continuous line.</p>	<p>May increase the productivity of the farm with no adverse environmental impact, including visual impact.</p>
<p>Appearance <i>Not applicable</i></p>	<p>Appearance <i>Not applicable</i></p>	

<p>Discussion:</p> <ul style="list-style-type: none"> • No visual impact • Increased productivity: <ul style="list-style-type: none"> ○ Good economic and efficiency benefits ○ Possible environmental effects – seabed deposition ○ Possible environmental effects – plankton availability within an area (other farmers) <p>No concerns expressed by planners on Steering Group</p>
<p>Prior Notification: Possibly not necessary.</p>
<p>Single or Multiple Use of the PDR: If PDR created: Single use, but with the option of reverting back to the original permission at some future time.</p>


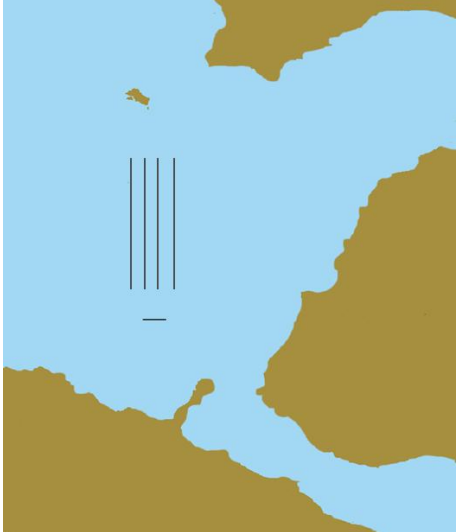

PDR S 4

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
Increasing of Production Area	Increasing the number of consented headlines where a site is found to be very productive or decreasing the number in a less productive site.	Allows for optimisation. Could result in slight change in visual impact.
Appearance Before (approximate scale)		Appearance After (approximate scale)
 <p>4 double head line units of 250m length, resulting in harvest of c. 160 tonnes after a 3 year growth cycle</p> <p>Assumptions: 575 @ 7 m droppers per single 250 head line, with yield of 5 kg mussels per 1 m of dropper.</p>		 <p>5 double head line units of 250m length, resulting in harvest of c. 200 tonnes after a 3 year growth cycle – 25% increase on initial development</p>
<p>Discussion:</p> <p>Note that industry did not make any specified numeric request, but the example given here is for 25% increase in productive capacity. Other % or absolute changes could be considered.</p> <ul style="list-style-type: none"> • No specific suggestion as to % or numeric change in headlines made by industry. The example above would be for the appearance of a 25% change on a small mussel farm • (Note: 4 @ double head lines would cover 1,000 m² of sea surface area) • Increased productivity: 		

<ul style="list-style-type: none"> o Good economic and efficiency benefits o Possible visual impact o Possible environmental effects – seabed deposition o Possible environmental effects – plankton availability within an area (other farmers)
<p>Prior Notification: Possibly appropriate in this case – assuming a PDR is feasible</p>
<p>Single or Multiple Use of the PDR: If PDR created: Single use for any site.</p>

PDR S5

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
Change of equipment type within a permitted area.	Change from mussel rafts to long lines, with no change to biomass, or from double long lines to new type of equipment, ie Smartfarm	Increased efficiency and output, without prohibitive cost. Encouraging innovation

Appearance Before (approximate scale)	Appearance After (approximate scale)
 <p>4 mussel rafts of 14 x 14.5 m, each capable of yielding 40 tonnes after a 3 year growth cycle. (http://www.kames.co.uk/products/shell.htm)</p>	 <p>4 double head line units of 250m length, resulting in harvest of c. 160 tonnes after a 3 year growth cycle Assumptions: 575 @ 7 m droppers per single 250 head line, with yield of 5 kg mussels per 1 m of dropper.</p>  <p>Smartfarm units with workboat (http://www.smartfarm.no/main.html)</p>

<p>Discussion:</p> <ul style="list-style-type: none"> • Primarily visual considerations – quite a significant change in appearance of the farm. • Increased coverage of sea surface area (?)
<p>Prior Notification:</p>

If this became a PDR, prior notification would almost certainly be appropriate.
Single or Multiple Use of the PDR: If PDR created: Single use for any site, reversion to original permission possible.

PDR S6

PROPOSED PDR	DESCRIPTION	POSSIBLE BENEFITS
Relocation of permitted equipment consent from one permitted area to another, within reason.	Should a farmer have space on one site to utilise spare equipment consent from another, this could be a modification, rather than a full planning application.	Increased efficiency and output, without prohibitive cost. Encouraging innovation
Appearance Before (approximate scale)		Appearance After (approximate scale)
<i>Not applicable</i>		<i>Not applicable</i>
<p>Discussion: Steering Group view was that if there were permission to take the extra equipment on the receiving site, this would not be a planning issue. There may be concerns about health and bio-security in terms of moving equipment from one location to another.</p> <p>However, it may be that industry is requesting relocation of equipment for which there is <u>not</u> specific permission on the receiving site – only physical space to install it. In this scenario, it would be similar to PDR S 4.</p>		
<p>Prior Notification: If this did become a PDR, prior notification might be appropriate</p>		
<p>Single or Multiple Use of the PDR: If PDR created: Single use for any site, reversion to original permission possible.</p>		

ANNEX 3.3 Use Classes

PROPOSED USE CLASS	DESCRIPTION	POSSIBLE BENEFITS
Change of species		Allows for greater flexibility in terms of site production strategies
All Species Options - Finfish		
<p>The industry feedback was for one specific change of species, but it would be appropriate to consider all possible changes of finfish species in marine pen aquaculture.</p>		
CHANGE OF SPECIES		CONSIDERATIONS
Atlantic Salmon to rainbow trout		No equipment changes; uncertain biological consequences; trout less amenable to single year class production in a 24 month cycle
Rainbow trout to Atlantic salmon		No equipment changes; uncertain biological consequences; more risk of infestation with salmon sea lice??
Atlantic salmon to Atlantic cod		No equipment changes; no risk of infestation with salmon sea lice; reduced biomass consent from SEPA therefore lower biomass and stocking density on the farm
Atlantic cod to Atlantic salmon		No equipment changes; increased risk of infestation with salmon sea lice; increased biomass consent from SEPA therefore higher biomass and stocking density on the farm
Atlantic salmon to Atlantic halibut		Possible use of sun-screen top covers; no risk of infestation with salmon sea lice; reduced biomass consent from SEPA therefore lower biomass and stocking density on the farm
Atlantic halibut to Atlantic salmon		Replace sun screen top covers with normal

	salmon top nets; increased risk of infestation with salmon sea lice; increased biomass consent from SEPA therefore higher biomass and stocking density on the farm
<p>Whilst there might be several material considerations about species changes, it is worth noting that:</p> <ul style="list-style-type: none"> • Atlantic salmon farmers are increasingly stocking cages with cleaner fish – wrasse, at up to 4% of the number of salmon in Year 2 • All marine finfish pens are prone to large ‘co-populations’ of wild species such as saithe <p>Other species might be farmed in the future, and consideration might be given to whether they fall into the Use Class Order provisions.</p>	
<p>Change from Finfish to Shellfish (and <i>Vice Versa</i>)</p> <p>Some industry feedback was in favour of being able to change from finfish production to shellfish production on a specific site, without recourse to an application through the planning system. Other industry input was opposed to this degree of flexibility, for several well-articulated reasons.</p> <p>The SARF 040b Steering Group generally considered that such a change would be significant in planning terms, and should probably require a planning application.</p> <p>We include it here as an option for consultees to consider.</p>	

ANNEX 3.4 Consultees

Local Planning Authorities

- Highland
- Argyll & Bute
- Western Isles
- Shetland
- Orkney
- North Ayrshire

Scottish Natural Heritage

Scottish Environment Protection Agency

Scottish Government

Marine Scotland Science

Association of Salmon Fishery Boards/RAFTS

Industry Trade Associations

- Scottish Salmon Producers Organisation
- Association of Scottish Shellfish Growers
- Shetland Aquaculture
- British Trout Association
- Independent Smolt Group
- British Marine Finfish Association

Crown Estate

Northern Lighthouse Board

Highlands and Islands Enterprise

WWF Scotland

Environment LINK (RSPB)

Marine Conservation Society

ANNEX 4 ANALYSIS OF SECOND PHASE CONSULTATION RESPONSES

PERMITTED DEVELOPMENT RIGHTS (PDR) - FINFISH

PDR 1 Change of Pen Size a) Smaller to larger, No Significant Change to Total Area			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Within boundary of 'area of interest', e.g. leased area.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Same orientation of cage group; within original grid mooring area; navigation markers repositioned correctly
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Within existing mooring grid, and no change in biomass. With PN, need to see: equipment attestation (containment) for the new structures, details of how mortality disposal plans will be affected by the new pens, new stocking density levels and the implications for sea lice treatment methodologies.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Must have an upper limit to size of new pens. One use only. (Other consents required)
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Within limit. One use only. NB must not breach 2ha rule for 'major' category. May need to change mooring grid to keep within original planning boundary e.g. 65m down to 50m. Top net support not a problem.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Definitely need PN. Possibly more visual impact. Within mooring grid. Avoid 2ha 'major' rule.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	PN should discuss potential changes in seabed impact/AZE (SEPA Manual issue?); and visual impact. [Or EIA screening?]
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Some concerns about 3 m hamster wheel. Net colour. Mixed views. Do net supports need to be 3m – 1.5m might be maximum
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	This one OK.
SUMMARY	Yes: 10 No: 0	Yes: 7 No: 2	PN or EIA Screening: seabed; visual Navigation & SEPA consent issues Not over 2ha Mixed views on multiple or one use

PDR 1 Change of Pen Size b) Larger to smaller, No Significant Change to Total Area			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	More problematic – possible over area not consented
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Same orientation of cage group; within original grid mooring area; navigation markers repositioned correctly

	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Within existing mooring grid, and no change in biomass. With PN, need to see: equipment attestation (containment) for the new structures, details of how mortality disposal plans will be affected by the new pens, new stocking density levels and the implications for sea lice treatment methodologies.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Must have an upper limit to size of new pens. One use only. (Other consents required)
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Definitely need PN. Within mooring grid. Avoid 2ha 'major' rule.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	PN should discuss potential changes in seabed impact/AZE (SEPA Manual issue?); and visual impact. [Or EIA screening?]
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Main concerns: area not yet assessed/consented; visual impact.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	This one probably OK.
SUMMARY	Yes: 6 No: 4	Yes: 4 No: 1	PN or EIA Screening: seabed; visual Navigation & SEPA consent issues Not over 2ha Mixed on multiple or one use [SEPA Manual AZE guidance?] Mooring grid boundary issues - generally

PDR 2 Change of Pen Size Smaller to larger, Up to 15% Increase in Total Area			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Within boundary of 'area of interest', e.g. leased area. Pragmatic issue of actual pen types and 'rounding up' to fill an existing grid area. PN should be required, to check the calculations and ensure no problems with previously unconsented sea bed. Should it be %, or absolute?
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	From a safe navigational stand point this PDR would not suitable as changing the location of site equipment could have an adverse impact on safe navigation and the recommendations originally given. A review will be necessary
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Within existing mooring grid, and <u>no change</u> in biomass. With PN, need to see: equipment attestation (containment) for the new structures, details of how mortality disposal plans will be affected by the new pens, new stocking density levels and the implications for sea lice treatment methodologies. How to ensure no change in biomass?
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Not in a sensitive area. One use only. (Other consents required). Not clear on biomass limitations
	Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	One use only. NB must not breach 2ha rule for 'major' category. May be suitable for some smaller sites – absolute limit? LA cannot regulate biomass, so that is not an option.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Biomass might increase later so net environmental benefit. Not fit within mooring grid.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Not know what the environmental effect would be – would ask for more info., slowing process

			down. [What if good guidance on PN/EIA Screening Template?]
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Boundary issue. Biomass issue. Unknown impacts issues.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Navigation safety; smolt migration routes; i.e. un-assessed area. PN/EIA might be the answer.
SUMMARY	Yes: 4-5 No: 4-5	Yes: 4 No: 0	PN or EIA Screening: seabed; visual Navigation & SEPA consent issues Not over 2ha One use Biomass or no biomass increase – how regulate, if require? SEPA would be main consentors of increase in biomass Not in sensitive areas? EIA Screening: need sea lice/containment Should be an absolute for 'smaller' farms

PDR 3 Change of Pen Type (Square to Round & Vice Versa), with Up to 15% Increase in Total Area			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Main issues: <ul style="list-style-type: none"> As per previous PDR – un-assessed seabed Might be acceptable as multi-use PDR without % increase in area % increase in area as a one-off?
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	From a safe navigational stand point this PDR would not suitable as changing the location of site equipment could have an adverse impact on safe navigation and the recommendations originally given. A review will be necessary. [EIA Screening; PN – all in template with NLB pre-consultation?]
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Within existing mooring grid, and <u>change in biomass assessed via EIA screening</u> . With PN, need to see: equipment attestation (containment) for the new structures, details of how mortality disposal plans will be affected by the new pens, new stocking density levels and the implications for sea lice treatment methodologies.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	No, as this generally means moving from squares to circles. This is a significant change to the site.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<u>No change in area</u> would be acceptable, with PN to deal with visual and any other aspects.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Would also have to consider visual impact and benthic impacts on 'virgin' areas of sea bed.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Not know what the environmental effect would be – would ask for more info., slowing process down. [What if good guidance on PN/EIA Screening Template?]
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Boundary issues, but otherwise check each one case by case using PN. (&EIA)
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Boundary issue. They seemed quite relaxed provided PN allowed case-by case assessment.

	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	What about restriction in a designated area?
SUMMARY	Yes: 6 No: 4	Yes: 4 No: 0	PN or EIA Screening: seabed; visual Navigation & SEPA consent issues Not over 2ha One use Biomass or no biomass increase – how regulate, if require? SEPA would be main consentors of increase in biomass Not in sensitive areas? Should be an absolute for 'smaller' farms

PDR 4 Change of Site Location Within 'Licence' Area			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<ul style="list-style-type: none"> • A big move would be over too much area • A small re-orientation should not be necessary • Possible one-off??
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	No.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Small change within the lease area should not be a problem.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Generally no. Some small movements possibly. SAC limitations. Not reorientation!
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Too different. Other users; visual impact; etc
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Definitely requires a planning application
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	GPDO 'no material change to visual appearance' – this would be the case here!
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	All said requires a planning application
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	This is a (significant) material change
SUMMARY	Yes: 1 No: 9	Yes: 1 No: 0	Not generally acceptable, except for one case No mention of SNH guidance.

PDR 5 Change of Mooring Matrix			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	The only issue would be the exact extent of the current mooring system, but in principle this is a perfectly sensible PDR.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	No.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	OK if no change in biomass. Need attestation about mooring arrangements along with PN.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes, but there should be some sort of maximum threshold
	Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Boundary of existing grid issue – but otherwise OK

	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Boundary of existing grid issue; not interfere with other users – but otherwise OK
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	This is actually quite a big change in area of seabed covered by mooring grid
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Generally OK, but: boundary issue; definitely no re-orientation of pen group.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Wondered about this sort of PD inside a visually sensitive area.
SUMMARY	Yes: 7 No: 2	Yes: 2 No: 2	Boundary issue. Attestation on mooring system (=PN or EIA) Maximum threshold? New seabed = EIA screening Visually sensitive area

PDR 6 Change of Feed Barge Colour/Type/Location			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	A no-brainer for a site large enough to need one, and a piece of equipment on the site that can be changed as required.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	No.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	No fish health or environmental issues.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes, but there should be some sort of size change threshold.
	Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Like for like swap of barges OK. Same type of greater scale might also be OK if similar colour. Change of type from a C-Cap to Sitenca probably no as scale, appearance, height etc radically different. Change downwards to a smaller barge of same colour OK
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	PDR for 'like for like' swap but prior notification for change of colour, change in size of same design and switch of location within site. If intent is to swap different barges in and out of site during production cycle requires application either at new site point or at point of adding barge for 1 st time.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Visual assessment in PN.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Like for like is OK, but in general need PN to assess impact.
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Generally OK, but certainly need PN on anything other than like for like. Switching not a problem, if site has permission for a feed barge, and if PN deals with colour design and location.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Like for like OK, but PN for anything else
SUMMARY	Yes: 9 No: 1	Yes: 6 No: 2	Like for like OK without PN. Any other change requires PN. (Navigation issue).

PDR 7 Net Support Systems

All Lass generally discussed this under PDR 1			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Should not even be a planning issue.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	As long as height does not interfere with seeing navigation markers, no problem.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	No fish health or environmental issues.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes, but there should be some sort of size change threshold.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Prior Notification maybe required in certain sites
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Need exact colour and design to be a matter for PN.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Visual assessment in PN.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Generally OK, but need comfort of PN.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	PN certainly. Question about this as a PDR in an NSA. Cumulative impact?
SUMMARY	Yes: 10 No: 0	Yes: 6 No: 2	Generally OK, but PN important to most. Restrict in NSA?

PDR 8 Temporary Allowance of Extra Pens			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	PN required to confirm requirement and nature of additional capacity requirement. Fish health and welfare – positive implications.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	From a safe navigational stand point this PDR would only be suitable if the orientation of the cage layout remained the same and within its original grid mooring area i.e. removing or adding cages at the ends of the established layout. Any recommended navigation markers would then need to be repositioned correctly.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Some concerns. Extra pens may initially arrive on site to alleviate stocking density but may end up adding to the (fish health) problem. Any 'temporary' equipment also has the potential to cause biosecurity risk if it is used on several sites. These issues can be addressed through prior notification / screening.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes as a once only or very infrequent usage to cope with disease issues. Over stocking and good growth years should not be accommodated by this PDR. .
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Difficult to regulate when temporary pens arrived/ and therefore to enforce when they require to leave; Danger of becoming lawful if not picked up in time
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	With current technology industry doesn't use temporary cage format for grading, swim thro' or harvesting therefore no PDR required.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	See pt 7 below. The same comments discussed in point 6 below also apply here – it is also dependant on how the increase in pen numbers relates to the new areas of seabed to be impacted. Surely the requirement for extra pens should be considered in original applications. Other classes within the GPDO have limits of 28 days for temporary developments, 6 months does not seem

			temporary in terms of benthic and visual impacts
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	LAs generally opposed to this, but others not. Issue about duration and them 'knowing', so that they can enforce. See below.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	"Expressed consent" in planning permission. Have PN so that the LPA knows when cages have gone in and gone out. Expressed consent (with clear time and number/area limits) allows them to enforce this. [Not clear if this needs amendment to every individual planning permission, or whether it can be written into GPDO]
SUMMARY	Yes: 5 No: 5	Yes: 4 No: 1	This is a difficult one. 28 days is common rule for 'temporary' Still need to deal with boundary issues and anything related to new seabed coverage, navigation, wild salmonids, visual, etc.

PDR 9 Addition of Ancillary Equipment			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Acceptable as PDR is undertaken within existing consented areas, and PN not required, possibly within agreed (industry wide) scope of size/number limits?
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	No.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Ancillary equipment that will remain on site during the cycle such as feeding systems or rafts is not too problematic. However, the use of mobile harvest cages is against best fish health practice as they increase the risk of spreading disease between sites.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes but only if strictly limited as could be used as a carte blanche otherwise. If it cannot be limited then should not be considered as PDR.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Rafts etc Ok within limits of site. No PN if can be controlled by criteria.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Would depend on type of equipment, its size and the length of time it is likely to be on site – would have to be done on a case by case basis
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Visual assessment required.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Requires further clarification: time limits; details of exactly what. If PN then it's case by case – if not, then need more details.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Limit on size and scale. May need PN, e.g. in NSA.
SUMMARY	Yes: 9 No: 1	Yes: 6 No: 1	No criteria details have been offered, so this would have to be by way of PN on a case by case basis, with clear guidance from LPAs as to what they consider reasonable.

ADDITIONAL SUGGESTIONS ON PDR FOR AQUACULTURE

If you have any additional thoughts or comments on Use Classes, please discuss below.

- If a PDR is used by an operator then this should be a one-off use and not a recurring use of it. Reference needs to be made at all times to the detail and scale of the original application for the development.
- We need to consider how to approach where an operator wishes to use multiple different types of PDR at one time or over a period - cumulatively, the different aspects allowed by PDRs could have a significant impact and should therefore require a planning application.
- The relationship between PDR and the EIA regulations should be carefully thought out. Although a finfish site will have almost certainly originally triggered the EIA thresholds, at some point in the development of the site, perhaps via PDR, then the presence and impact of the site will have changed such that the original ES does not then apply. At that point a revised ES should be prepared. For instance, if additional cages are allowed under PDR then the extra sea bed used may encroach upon a UKBPAS species/habitat, or upon a SAC/SPA designation.
- As a general point on the EIA process, there may be merit in separating the Scoping from the Screening steps for aquaculture as this must currently prove to be expensive for industry. In other areas of land use planning, Screening is seen as a separate process and the current practice is causing unnecessary expense to all parties. By de-coupling these two steps then the burden of bureaucracy may be lightened as the automatic Scoping step would not always then occur.
- There is a potential that by invoking a PDR system that every PDR notification could be sent to statutory consultees for comments under EIA Screening. This would be counter productive and add a significant amount of extra work to the statutory consultees and the planning authorities to deal with. It is assumed that there will be guidance to assist all parties in the process, and it should clarify that Planning Authorities should be able to determine most screening applications (as opposed to scoping), and most PDR notifications, without consulting consultees.
- As with the case with many land-based PDRs, it is possible that operators will contact LPAs to confirm with them whether a proposed site modification will in fact come under PDR. Operators would not wish to invest in for example extra cages in case their individual circumstance may then not be covered by the generic PDR options. This may then become a chargeable stage by the LPA.
- Along with the publishing of a list of PDRs there must be the production of a clear and comprehensive guidance note to LPAs on aquaculture PDRs.
- In any guidance it must be stated clearly that many of the PDRs (to be listed) require the operator to also contact SEPA to determine how (if at all) the CAR licence should be modified to accommodate the planning PDR – if in fact it is permissible at all. The guidance should state that it is the operator's responsibility to ensure that they inform SEPA of the need for the licence to be updated due to a change they are seeking under PDR.
- There should be an over-riding non-application of PDR where the aquaculture site is within or close to a SAC/SPA. The proximity issue is dependant upon the reasons for designation, mainly whether the reason is for a mobile or sessile feature.
- The use of LPAs Article 4 rights should be invoked where individual sites are apparently at their maximum constraints and should not be allowed to develop further despite PDR allowances.
- Any permitted development likely to have a significant effect on a European Designated Site must be notified to the PA for written approval (see the GPDO). Written approval can only be given if it would not adversely affect the integrity of the European site. If this cannot be concluded then the PDR must be withdrawn and a planning application is required. There is a similar situation for NSAs, any PDRs within NSA will go against the approach in terrestrial planning.
- Will the research look into the ability for PA to seek Article 4 Directions from SG in certain specified areas? This might be useful for areas that are not designated but have important areas for natural heritage or some other reasons?
- It would be helpful to produce a flowchart or other visual representation of the processes involved, it is not clear for instance, would we be consulted at the notification stage?, and if we were not happy - where does the process go after that? Will the route be the full planning permission process?
- Cores assumptions at beginning of document suggest that the EIA screening process should pick up the issues wrt areas of new seabed impacts

(footprint location). This maybe true, but most of the PDRs described above have impacts that could be significant environmental considerations - surely these would need to be addressed under the EIA regulations (ie full consultation etc), and not just solely through PDR?

- If there is any doubt about the environmental impacts from a proposed development, then it is my understanding that this cannot be permitted development?
- It is logical that the surface changes to equipment are being considered for PDRs, but as they don't relate to impacts associated with the seabed at present, it is difficult to see how they might speed up the process. We welcome the PDR approach, but we need to be confident that our concerns are addressed. The main issues for us lie with landscape (see point 7 below), and the more problematic issue in assessing the potential impacts on the new areas of seabed not previously impacted upon. This is more closely associated with the AZE, where both waste and chemical deposition can impact on important habitats and species, and the mooring area, where mooring blocks and associated chains or ropes can also have an impact. It would make more sense to focus PDR research in this approach, in a similar way to the visual survey thresholds that have been incorporated into SEPA's fish farm manual (agreed jointly between SEPA and SNH). PDRs would then be more meaningful and acceptable to all, by helping to show when there is considered to be no significant environmental effect? If this approach is not taken I predict that we will want further information for most of the PDRs presented here, as the full information needed to assess the impacts described above will be lacking - this will still hold up the process and not be all that helpful. If acceptable PDRs are found they would need to address both the surface area and the seabed surface areas (AZE/mooring), and potentially a third area of "planning unit boundary"?
- Landscape and visual considerations – None of the PDRs suggested look to be acceptable within NSAs. Out-with designated areas, the PDRs 1 to 5 could all result in significant environmental impacts dependant on locality and as such EIA screening would be necessary, therefore should probably not be PDRs. For PDRs 6 to 9, there might be some scope in these from a landscape perspective, although would need to be carefully worded and still have prior notification. In some GPDO Classes there is a requirement that external appearance should not be materially affected, an argument for inclusion for the suggested PDRs. The use of a height restriction might be appropriate too wrt net supports, feed barges and ancillary equipment. PDRs would probably be acceptable if changes were like for like or with modest increases in terms of landscape, although any changes suggested would need to be considered for scenarios within the most sensitive landscape areas for it to be PDR.
- Whilst it is recognised shellfish farms do not have the same impacts on the benthos as fish farms, there will still be some impacts from shell debris and natural waste products. It is difficult to ascertain these impacts (hence requirement of SARF053 research project) and is dependant on local conditions, farm management and possibly equipment and tonnage. It would be useful to try and draw on the science available to help with this PDR (as suggested in point 6 for finfish) and try to establish what might be acceptable in terms of additional benthic biodiversity impacts, rather than just focussing on an arbitrary increase in surface area. For instance, some concerns would be – the increased tonnage from single to double lines will cause more natural waste and therefore increase impacts on seabed but to what extent and will it also cause more shell debris? A 25% increase may be acceptable for one location but due to plankton availability (say) or the presence of other species/habitats may not be acceptable in another location. A 25% increase in area for one small farm may mean 1 extra long line, but could mean a further 18 lines for another (in one recent application!). Would reiterate that if there is any doubt as to environmental impacts from a proposed development, then it cannot be permitted development?
- The assumption that a lesser impacted but greater sized AZE is better than a heavily impacted contained AZE is highly dependant on what species and habitats lie beneath and their susceptibility. This is particularly so if the habitats and species are considered to be of conservation importance.
- The establishment of PDR's may reduce costs and workload of Local Planning Authorities, but consequently increase workloads on Statutory Consultees due an increased stream of notifications and EIA Screening opinions required as operators take advantage of the PDR options and start refining operating issues? This may have consequences for the developers as the time required to assess each PDR notification (as presented above) is likely to be the same as if assessing a new application in a new site – primarily because the impacts are not merely considered an 'adjustment'.
- It is unclear how the site history of PDR approvals (single and multiple use) will be made clear to those being consulted. Are there any scenarios where the approval of a multiple PDR with no notification required, would permit a single PDR that has a notification trigger to go through not notified? Perhaps single use PDRs are preferable.

- How might the implementation of PDRs fall into the Scottish Governments Fish Farm Review Process? Are PDRs likely to be signed off prior to the completion of the SG reviews?
- A key feature is just what implications changes that may be considered PDR for other marine uses and users, particularly in the locality, and the confidence of these being identified in any EIA screening & scoping of statutory consultees. Chief amongst this is the utilisation of additional space, particularly if there has been no prior developer interest (such as title) in the extra required.
- While there is the provision of EIA screening and scoping of statutory consultees, there is the risk that this does not, or more importantly is seen not to satisfactorily address the interests of local stakeholders with the consequence that PDR is possibly seen as a licence to expand without recourse to full consultation and so generate a potential 'backlash' in responses to planning applications further down the line.
- While the conclusions and outcomes may not differ in terms of what is consented, it is the process that is important with regard to being seen to be fair to all parties, and it is critically the expansion element at issue here– development within areas of 'existing interest' (?) will be far more readily accepted as PDR.

PERMITTED DEVELOPMENT RIGHTS (PDR) - SHELLFISH

PDR S1 Double to Single Head Line			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	No significant impact.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	No impact.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	No impact.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	No relevance.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	No increase in capacity; no visual impact
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Not even sure this is 'development' – if have permission for double and propose to reduce to single, it's not a planning issue (?)
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Cannot be certain of environmental impact so cannot be PDR. [Not clear this resopdee understood the proposal in this case].
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Not a planning issue
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Ditto
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Either it is written up as a straightforward PDR (no PN), or it is simply identified as 'not a development' under the terms of the TCPA.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Not a problem.
SUMMARY	Yes: 9 No: 1	Yes: 0 No: 3	Uncertain whether this is a planning issue at all.

PDR S2 Head Line Float Change			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	No significant impact.

	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	No impact.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	No impact.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	No relevance.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	De-minimis
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	De-minimis
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Want PN to assess visual impact.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	De-minimis
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	De-minimis
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	This is not a planning issue: de-minimis
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	If a PDR, perhaps specify colour
SUMMARY	Yes: 10 No: 0	Yes: 1 No: 3	Uncertain whether this is a planning issue at all.

PDR S3 Production Line Change			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Unlikely to increase production if happens without any change to surface head lines.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	No impact.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	There may be some increase in production, so want PN so that are aware of this. Otherwise not too concerned.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	OK, but should set some upper limits
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	De-minimis
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	De-minimis
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Unsure, but if increased production capacity it might be PDR + PN.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	De-minimis
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	De-minimis
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	This is not a planning issue: de-minimis
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	No concerns
SUMMARY	Yes: 9 No: 0	Yes: 1 No: 2	Uncertain whether this is a planning issue at all.

PDR S4 Increase Production Area/Equipment			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Extending over a significant new area (not assessed) needs planning application.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	However in the case of shellfish there is a variation in my opinion which might be considered potential PDR. If a location is found to be particularly productive (either permanently or temporarily

			– see PDR S 6), scope may exist to add (a fixed upper limit % ?) to the consented equipment, but on condition this takes place within the area of existing interest/consent. For example a site with 4 long lines spaced 40m apart, could accommodate 5 long lines spaced 30m apart (logistics permitting). So additional production capacity achieved without requirement for additional area, and hence far fewer potential impacts on other marine users. Would consider this variation to be multiple use. Intensity of production increases so this has to be accounted for in terms of possible ‘capacity’ issues – hence PN?
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Could be navigation safety issues; must be assessed/reviewed via PN.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	In the vast majority of cases such changes would be acceptable, but in some restricted systems where capacity is limiting increased production potential may be of concern. Prior notification would be essential to pick up on these issues on the very few occasions they are likely to arise.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	25% is too much of an increase. Requires proper planning control especially as sites that are already deemed to be at their upper limits of size; otherwise will need to rely heavily on application of removal of PDR at planning permission stage wherever it is considered that a site is close to its maximum capacity with relation to any constraint
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Increase in Visual impact. Unlikely to be within limits of originally consented site. Why would farmer apply and pay fees for full extent of site required if he can immediately secure 25% increase using PDR?
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Would require planning application for addition of extra lines – under this PDR (if available) could apply for 4 lines and then immediately add a 5 th from the outset
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Increased production; non-assessed area: visual; environmental.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Opposed
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Opposed
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	All opposed to this – needs a proper planning application in order to assess.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Might be possible, with PN – but very difficult boundary issue. Why 25% if finfish proposal 15% - consistency?
SUMMARY	Yes: 3-4 No: 7	Yes: 3-4 No: NA	Clearly not a popular one with LPA's, but others think it might be possible. Option within consented area, with strict limits and PN?

PDR S5 Change of Equipment Type			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Acceptable as PDR if undertaken within area of existing interest/consent. Farmers should be permitted to embrace technological advances in production techniques that do not create a need for additional space over and above that already occupied. Agree that PN should apply. It may be that some sort of “long-line equivalent” standard could be applied to allow switching between equipment types?
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Change in equipment and orientation – needs to be properly assessed.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	No concerns if equivalent production capacity

	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Could only be acceptable if the types of equipment change could be prescribed otherwise could give unacceptable degree of carte blanche to all future developments in this area. There must therefore be upper limits to what can be done under PDR; otherwise can't see how this can be acceptable as PDR.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Area likely to be radically different as will visual impact.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Would require planning application for addition of extra lines – under this PDR (if available) could apply for 4 lines and then immediately add a 5 th from the outset
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Consider a switch from rafts to lines or vice versa a material change therefore planning application required.
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Might be possible with PN??
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Opposed
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Generally opposed to this – needs a proper planning application in order to assess.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Generally not. Possible if 'similar' types of equipment. Consented area.
SUMMARY	Yes: 3 No: 6	Yes: 3 No: NA	Clearly not a popular one. Option within consented area, with strict limits and PN?

PDR S6 Relocation of Permitted Equipment			
Organisation	Suitable as PDR	Prior Notification	Discussion
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	As a straight upping of consented equipment and area I do not agree that this could be PDR. However there may be scope if transfer of equipment consent were accommodated within the previously consented area at another site – a combination of the suggestion proposed in PDR S 4. If this were a possibility, PN would be required.
	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Only if within consented area, and properly assessed for navigation safety via. PN.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	This has the potential to increase the risks from spreading disease. It would also interfere with business authorisation conditions by changing the amount of facilities on site. Might be acceptable reviewed on case by case basis but not as a PDR without notification.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	There are too many bio-security issues for this to be a PDR.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Uncertain.
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Not sure what this is about? Example given basically represents use of a site to its permitted maximum whilst leaving another site empty – this is not an issue (no disease implications, etc.)
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Unless it was already consented (or agreed under another PDR), then this is new equipment that must be assessed.
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Unsure
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Unsure
LPA's together	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Not sure what this one means.
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Unsure
SUMMARY	Yes: NA	Yes: NA	Not a PDR issue. If the site has unused permission for equipment, and the developer proposes to

No: NA	No: NA	bring it in from another site, it's not a planning issue – he/she already has permission.
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USE CLASSES

Possible Change Of Species	Is This Appropriate without Planning Permission?
Atlantic Salmon to rainbow trout	Y Y Y Y Y Y (PN)
Rainbow trout to Atlantic salmon	Y Y Y Y Y Y (PN)
Atlantic salmon to Atlantic cod	Y Y N N N N
Atlantic cod to Atlantic salmon	Y Y Y N N N
Atlantic salmon to Atlantic halibut	Y/N Y N N

	N N
Atlantic halibut to Atlantic salmon	Y/N Y Y N N N N
Shellfish - Finfish	
Change from finfish to shellfish production	Y N Y N N N N N N (?) N N
Change from shellfish to finfish production	N N N N N N N N N N N

ADDITIONAL SUGGESTIONS ON USE CLASSES FOR AQUACULTURE

If you have any additional thoughts or comments on Use Classes, please discuss below.

Change of use between species should be acceptable without planning permission, subject to no associated increase in consented area of interest and/or equipment, or previously agreed PDR.

Main implication is probably sea lice for salmonids, and impact mitigation measures will apply equally to both.

Two important considerations here for all species changes:

- (i) any change of salmonid species will have to be within existing Farm and/or Area Management Agreement terms and obligations, and preferably with the agreement of the Management Group
- (ii) this acquisition of agreement will apply to any species change where other interests in the immediate (biological) area are similarly affected, either same species fish farming or natural heritage in terms of nursery areas, etc, so some indication that such checks and been carried out and agreement/opinion sought would be appropriate, to cover biological implications – primarily disease. Hence a Prior Notice requirement might be similarly appropriate to ensure MSS agreement for example (as ‘guardians’ too of the Area/Farm management ethos).

In respect of the above – species changes should be subject to EIA screening & scoping as per PDR requirements.

Any change of species from non-salmonid to salmonid in areas where there were potential impacts on wild salmonid fisheries, particularly Atlantic salmon as a List II species under Habitats Regs (?) and BAPs, must be subject to EIA screening & scoping and any negative screening opinion unanimously agreed by all the statutory consultees.

There are named species on planning consent – but developers could apply to **vary** the consent

There are no ‘use classes’ in agriculture – can do what you want in your shed/barn

General: salmonid-salmonid OK (with PN); whitefish-whitefish OK (with PN); salmonid-whitefish-salmonid not OK.

ADDITIONAL DISCUSSION FINFISH-SHELLFISH-FINFISH

If you have any additional thoughts or comments on Use Classes, please discuss below.

Finfish to Shellfish:

While a change to a different class of animal, type of cultivation equipment, etc., if undertaken within the originally consented area, the biological, environmental and other marine use impacts are generally likely to be either no different or possibly significantly less than under the previous finfish culture operation. If undertaken within an area where there are other fin fish farms still in operation there may well be positive synergistic effects arising from such changes. There are also socio-economic advantages to be had, such as

- a. retention of aquaculture capacity and associated economic benefits, particularly locally where shellfish cultivation is more likely to be accessible to local/smaller companies and individuals than the more capital intensive requirements of finfish cultivation
- b. Salmon producers in particular are wary of relinquishing ‘unused sites’ where there may be a risk of another salmon operator taking occupancy with associated biosecurity implications. A readily available means of changing to shellfish production, either in their own right or by a third party protects their own salmon interests while making available the location for continued commercial use, and quite possibly, biological mitigation of existing fin fish nitrogen impacts. Essentially a means of addressing the ‘hoarding’ of locations without recourse to action on the part of regulators.

So in my view worthy of serious consideration as a PDR type right for irreversible, one-off changes.

In nearly all instances we would view this as a change with net environmental and fish health benefits and would be unlikely to object at planning anyway.

Requires full planning processes because very different impacts

While shellfish not under EIA at present this interpretation and the assumption of shellfish impact being a benign impact is under scrutiny.

Changes in either direction are material and therefore a planning application is required. Whilst shellfish do produce less waste than finfish there are still impacts, the extent of which are still under scrutiny by SARF research project. Impacts and equipment are very different therefore such changes require planning permission, and certainly prior notification.

Perhaps the main aspect is the one that covers points 1 and 3 – shellfish farms are considered environmentally friendly as there is no input of food or chemicals by the farmer. However the animals remove natural food from the water column and where there is too much production in a water body this can result in a reduction of food availability for both wild and farmed shellfish. There is experience in some areas – wild beds are not expanding at their usual rates and farmed stock are taking a year longer to reach market size. Tie this into shifts in plankton distribution and there is potential for dramatic events as a result of too much farmed shellfish biomass.

Mussels also produce a mix of pseudofaeces (rejected material) and faeces (digested material) covered in mucus – the mucus can influence plankton growth (to the extent it may cause an algal bloom). Whilst the amount of organic material from a mussel farm may be 1 -2 orders of magnitude less than that of a fin fish site (average shellfish 3g C/sq metre/day and finfish 2 – 78g C/sq metre/day depending on species, food digestibility, etc) it can still significantly affect benthic chemistry and biology.

At present there is no CAR licence needed from SEPA to farmed shellfish nor is there a need for EIA as they're considered OK environmentally – given the above it might only be a matter of time before this changes.

In terms of N exchange in lochs it may well be that having a farm that extracts a lower amount than one that inputs a lot is a net environmental benefit, however too much removal in an area can lead to disruption of the N cycle at the water/sediment surface layer leading to denitrification, loss of N into the water column and loss of availability for phytoplankton. Reductions in the latter mean less food for shellfish therefore less growth for wild and farmed stocks.

Shellfish to Finfish:

Biological, environmental and most other implications are such that impacts are generally likely to be of potentially greater significance with a move from shell to fin fish cultivation and as such should be subject to full consenting processes.

Negative EIA screening very unlikely. Will have an affect on the management areas (which are only for active finfish sites). All procedures and equipment for use in finfish site would also need to be assessed for fish health, containment and sea lice.

Requires full planning processes because very different impacts and also because shellfish sites not subject to EIA but finfish sites are. Environmental impacts can be considerable and so would need full assessment through EIA route

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