

Draft Response from The Scottish Islands Federation

SCOTTISH GOVERNMENT CONSULTATION ON HIGHLY PROTECTED MARINE AREAS (HPMA)

15th March 2023

This draft response has been prepared using feedback from members of the Scottish Islands Federation (SIF), including directors of SIF. The final response will be submitted on 14th April 2023, which is 3 days before the revised consultation deadline. We welcome further feedback from members by 7th April.

The Scottish Islands Federation encourages all interested parties to read the full consultation documentation available at the link below and strongly urges any organisation or individual with opinions on this area to submit their own response by the deadline, regardless of whether you have also fed into our response. You are welcome to use anything within this draft response in your own submission.

<https://consult.gov.scot/marine-scotland/scottish-highly-protected-marine-areas/>

Please note – All comment in this response have been made on the basis that no areas have been ruled out for selection as HMPA areas and therefore the varied range of communities and activities related to this consultation require consideration.

Question 1. What is your view of the aims and purpose of Highly Protected Marine Areas as set out in sections 2 and 3 of the draft Policy Framework?

Position: Oppose

As there is no universally agreed definition of what a highly protected marine area is we should take the opportunity to ensure that the definition we use is fit for purpose in Scotland. The current alignment with the three most strictly protected categories set out in IUCN is unnecessarily restrictive and likely to lead to negative consequences for island communities.

Question 2. What is your view of the effectiveness of the approaches to manage the activities listed below, as set out in section 6 of the draft Policy Framework, in order to achieve the aims and purpose of HPMA's?

- Commercial fishing – Oppose.
- Recreational fishing – Oppose.
- All other recreational activities – neutral.
- Finfish aquaculture – neutral.
- Shellfish agriculture – Oppose.
- Seaweed harvesting – Oppose.
- Oil and gas sector – neutral
- Renewable energy – Oppose.
- Carbon capture, utilisation and storage – neutral.
- Subsea cables – neutral.
- Aggregate extraction – neutral.
- Ports and harbours – Oppose.
- Shipping and ferries – neutral.
- Military and defence – neutral.
- Hydrogen production – Oppose.
- Space ports – Oppose.

Comments

Our responses to this section are provided on the basis that proposed HPMA sites have not yet been selected. We therefore have tried to consider the impact on the range of areas which could be selected for HPMA, including those directly adjacent to existing communities and wider locations routinely used by islanders. These comments cover all of the areas raised by members where an opinion has been expressed above. With the exception of subsea cables, all areas marked 'neutral' have elicited no comment from members.

Members have highlighted that island fishing fleets can be a major part of the local economy with one calling their fleet 'a rare economic and socio-demographic success story on the islands' and going on to say:

"Since we redeveloped our harbours (with support from Marine Scotland and HIE) our fleet has grown to nine vessels, provides 15-20 full time jobs and supports the families of 16 children of school or pre-school age (the total school roll hovers between 50 and 60)."

In many of our island communities it is simply not possible to commute off-island on a daily basis for work and the jobs market is therefore limited. Given this, special consideration must be given to the level of impact the loss of even a small number of jobs can have on a fragile island community. If existing employment in any area (including commercial fishing and more widely) is made unviable by the implementation of a HPMA there is a very real chance that this will lead to islanders moving away to find work, reducing school rolls and contributing to the depopulation of Scotland's islands, as was indicated by feedback from one of our member organisations:

"An HPMA around these waters, if it entailed a total ban on commercial fishing as envisaged, would wipe out our fishing industry. It is reasonable to assume that multiple families would have to leave the island, exacerbating the ongoing population aging and decline, and hollowing out the school and other public services."

A ban on commercial fishing and shellfish agriculture fails to take into account small scale sustainable fishing which is a key part of many island economies. The proposal also fails to take into account the potential current / future economic development of sustainable seaweed harvesting for a variety of purposes, including activities which are beneficial to wider society such as the use of seaweed to create alternative materials to replace plastic packaging. To quote one of our member organisations:

"The consultation documents make little reference to the potential impact on small communities like ours. We are particularly concerned about the socio-economic impact assessment methodology which (Section 4.1.5) doesn't appear to distinguish small scale low impact fixed line fisheries like ours, from larger scale offshore fisheries. However the nature and scale of the impacts is vastly different: a larger operation will typically draw its crew from a wide area (often an international crew), and their vessels' size a range allows them cover a much larger area. Moving elsewhere to fish is an option for large operators, it is not an option for our boats."

There is no differentiation between types of commercial fishing within the proposal with a blanket ban on all fishing proposed. One member organisation noted that their island's fishing businesses are made up entirely low impact fixed-line lobster/crab creel fishing, and already subject to MPA restrictions.

We note that subsistence fishing or collection of shellfish or seaweed has not been included as a category but assume these activities will also be banned. This activity is neither a commercial or a recreational activity. This small-scale practice is an important part of cultural and economic life in many islands. This practice contributes to food security, promotes the sustainable use of local resources, assists decarbonisation through its focus on local food, and helps to combat the higher cost of living in many islands. In addition, these activities promote people-place connections and understanding of place, as well as health and wellbeing. These areas have been shown to promote resilience in small communities.

A focus on large-scale renewable energy developments in the consultation does not take into account potential small scale developments (either commercial or community-led) which can add to energy security and economic sustainability of island and coastal communities while also assisting decarbonization. For example, it is assumed that a community whose seas were subject to a HPMA would be unable to benefit from developing micro-tidal power sources or a district heating system using a closed-loop sea-based water source heat pump. Both of these examples have been actively explored in island communities in recent years.

In terms of subsea cable restrictions and exemptions, we assume that the exemption for power cables for distribution covers those cables which feed renewable energy generated in islands to the National Grid, not just distribution of services to these areas from the mainland. This is essential to avoid penalising island communities, which have a wealth of resources in this area which are as-yet underdeveloped. Penalising island communities in this way is likely to contravene the Islands (Scotland) Act.

It is unclear what it is considered to be a port or harbour under the proposals and there is concern that many smaller ports and harbours in island communities will be overlooked. In particular, one member noted that 5.3.6 mentions that 'Home Port Districts' will be used 'as a proxy for likely location of employment'. We are aware of a number of island-based fishing businesses whose vessels are registered in mainland ports such as Oban or Campbeltown. We are concerned that the impact assessment could therefore miss the impact to individuals islands.

There is also concerned that the restriction on new piers will have a detrimental impact on upgrading or further developing island infrastructure and transport networks to assist sustainability goals. Special consideration must be given to future plans and aspirations for the upgrading or development of new ports, harbours and piers to avoid contravening the Islands (Scotland) Act, given that this area affects islands in a substantially different way to the mainland.

We are concerned that a ban on hydrogen production will limit the development of renewable technology to generate hydrogen which is already a key part of sustainable economic development in some island areas (with potential for further development) as well as being important to national efforts to decarbonize.

Further information is needed on how a potential ban on space port activity would impact on islands who are already working on developments in this area.

We note that it is intended that MLWS will mark the boundary of any HPMA. We recommend this be amended to the low tide mark to ensure the language used makes the boundary clear to those not familiar with marine terminology. To this end, this consultation response has been prepared with the understanding that no activity above the low tide mark will be restricted or prohibited within a HPMA. Should the boundary extend beyond this it will be essential to consider and respect longstanding use of the shore by island communities including for the collection of shellfish for personal use and the widespread practice of seaweed collection for fertilizer. Both of these practices are historically significant to communities, are arguably more common than sea-based activities, and remain important to contemporary issues such as food security, the cost-of-living crisis and decarbonisation.

Question 3. What is your view of the proposed additional powers set out in section 8.3.2 of the draft Policy Framework: “Allow for activities to be prohibited from the point of designation to afford high levels of protection.”

Position: Strongly oppose

Our responses to this section are provided on the basis that proposed HPMA sites have not yet been selected. We therefore have tried to consider the impact on the range of areas which could be selected for HPMA's, including those directly adjacent to existing communities and wider locations routinely used by islanders. We oppose this proposal based on the following areas:

- The proposed restrictions fail to take into account the social and economic impact that the loss of even a small number of jobs in a key sector like commercial fishing is likely to have on some island communities
- The restrictions completely ignore activities related to subsistence including fishing and collection of shellfish and seaweed. These are important to the culture, wellbeing and economic sustainability of many island areas, including in the crofting counties.
- Restrictions on fishing may not only damage jobs and the economy but also efforts to tackle food security, decarbonisation and cost of living in island areas by removing the ability to catch / collect or buy locally available food, increasing the reliance on food imports to islands.
- Restrictions on renewable energy production will potentially limit development of small scale community renewables, for example closed loop, sea-based water source heat pumps, micro tidal and micro-wave power. This limits economic development potential of these resources which could be contributing to

decarbonization both on a local and national level as well as providing sustainable income for local communities.

- The proposal should consider allowing exemptions for low impact activity which benefits communities or contributes to the cultural well-being of areas.

Question 4. What is your view of the proposed additional powers set out in section 8.3.3 of the draft Policy Framework: “Establish processes to permit certain limited activities within a HPMA on a case-by-case basis for specified reasons.”

Position: Oppose

In line with previous answers we oppose blanket powers to restrict certain activities,. If restrictions are put in place the following points regarding exemption should be considered:

- In reference to new power distribution cables or broadband/telecommunication cables to an island or remote community – this should be clarified to confirm that this allows businesses and communities in islands to feed locally-produced energy into the National Grid as well as drawing energy from it from it.
- Exemptions should be widened to include low impact activities such as low-impact commercial and subsistence fishing, shellfish collection and seaweed harvesting. There should be no additional licencing cost for this activity.
- Exemption should be widened to include exemptions for the development of small scale renewables by / partnership with communities.
- Requiring a fee for activities such as subsistence fishing would mean that the proposal endorses charging people for access to local resources which have been freely available to them throughout history. This would appear to be at odds with wider government legislations, such as that pertaining to land reform and community empowerment, which seeks to recognise and strengthen a community’s rights over local resources.

Question 5. What is your view of the proposed additional powers set out in section 8.3.4 of the draft Policy Framework: “Activities which are not permitted in a HPMA but are justified in specified cases of emergency or force majeure.”

No opinion

Question 6. What is your view of the proposed additional powers set out in section 8.3.5 of the draft Policy Framework: “Measures for activities allowed and carefully managed in HPMA’s.”

Position: neutral

- Anchoring and mooring at specific locations must take into account existing locations including those owned and managed as community assets, and local plans for the development of these. These can be significant contributors to the local tourism economy.
- Any permit system should be at zero cost to local residents – they should not be charged further fees to access a local resource which is currently licenced in other ways.

Question 7. Do you have any further comments on the draft Policy Framework, which have not been covered by your answers to the previous questions?

No response.

(continues overleaf)

DRAFT SELECTION GUIDELINES

Question 8. What is your view of the proposal that HPMA site identification should be based upon the “functions and resources of significance to Scotland’s seas,” as set out in Annex B of the draft Site Selection Guidelines?

Note – the consultation asks for us to indicate our level of support or otherwise to using the following criteria to identify potential HPMA areas: Blue Carbon, Essential Fish Habitats, Strengthening the Scottish MPA network, Protection from storms and sea level rise, Research and education, Enjoyment and appreciation, Other important ecosystem services. We do not intend to indicate this but plan to provide the following in the comments section:

Community impact is not listed amongst the proposed selection criteria for sites. This is a massive oversight. Selection of sites should be viewed on a community by community basis - for example you cannot disregard the fact that losing 3 fishing jobs may not only have an economic impact within a small community but may also have knock on impacts - for example whole families moving away from the island due to the loss of employment which impacts the sustainability of schools and public services, and contributes to depopulation.

We note the following decision from Westminster concerning the designation of HPMA and would strongly recommend that Holyrood use community impact criteria relevant to Scottish islands to guide selection:

“Lindisfarne will not be designated due to the evidence showing there was a high level of dependency in the local area on employment opportunities provided by existing activities. One third of Holy Island residents are employed in commercial fishing. Many residents were concerned about losing their heritage, community and cultural identity through losing fishing. The geographical isolation of a large number of this site’s stakeholders provides additional cost implications, including that it is difficult for them to switch jobs. Additionally, due to the community’s isolation and self-dependency, the potential designation raised a number of health and safety concerns, including on mental health. Evidence of other impacts included reduced income from tourist activities, and the likelihood of the loss of school and coastguard provision due to fishers and families moving away from the island.” (see <https://www.gov.uk/government/publications/highly-protected-marine-areas/highly-protected-marine-areas-hpmas>, accessed 13th March 2023)

A number of members have raised concerns that HPMA site selection will favour sites with existing MPA designations without consideration of the local impact. SIF would strongly oppose any such approach to designation.

Question 9. What is your view of the general principles that are intended to inform the approach to HPMA selection, as listed below and set out in section 4.1 of the draft Site Selection Guidelines?

Note – the consultation asks for us to indicate our level of support or otherwise to the proposed principles for HPMA site selection as follows: use of a robust evidence base, HPMA scale and the use of functional ecosystem units, ensuring added value, delivering ecosystem recovery. We do not intend to indicate this but plan to provide the following in the comments section:

- We have concerns over the ability to use a ‘robust evidence base’ effectively to measure the impact on small communities given the lack of granular data in many areas. Detailed information gather is required for each area impacted on an island-by-island basis. This information should be gathered in partnership with islanders but should not add to the volunteer burden already placed on many island communities.
- Community impact is not listed amongst the guiding principles for sites which is a massive oversight, as per previous comments.

Question 10. What is your view of the proposed five-stage site selection process, found in sections 4.2 and 4.3 as well as Figure 2 and Annex A of the draft Site Selection Guidelines?

Position: Oppose

We note that this process looks at benefits of imposing HPMA area on communities, but does not appear to consider impacts. Furthermore, it appears that comparison of sites will be based on the contributions they can make to the HPMA plan, with no mention of comparing the relative impact sites may have on individual communities.

Question 11. Do you have any further comments on the draft Site Selection Guidelines, which have not been covered by your answers to the previous questions?

No response

Initial Sustainability Appraisal

Question 12. What is your view of the Strategic Environmental Report, summarised within sections 3 and 4 of the Sustainability Appraisal, as an accurate representation of the potential impacts, issues and considerations raised by the introduction of the draft Policy Framework and Site Selection Guidelines?

No response

Question 13. What is your view of the Socio-Economic Impact Assessment, summarised within sections 3 and 4 of the Sustainability Appraisal, as an accurate representation of the potential impacts, issues and considerations raised by the introduction of the draft Policy Framework and Site Selection Guidelines?

Position: Strongly oppose

This assessment fails to take into account key cultural practises and their impact on well-being and economy.

We have concerns over the fact that impacts have been quantified in monetary terms. This does not take into account the range of factors which impact on individual wellbeing and community sustainability.

Employment and tourism have been considered, but access to/ use of the waters by local people on a non-commercial basis (including subsistence activities) has been largely ignored.

We have concerns that the stakeholder mapping exercise will not take into account community level stakeholders (both geographic communities and communities of interest for example crofters). We believe we have strong grounds for this concern based on the stakeholders listed so far in the consultation.

ICIA

Question 14. What is your view of the partial ICIA screening report as an accurate representation of potential impacts, raised by implementation of the draft Policy Framework and Site Selection Guidelines?

Position: Strongly oppose

We strongly believe that the work carried out so far does not provide an accurate picture of the potential impacts in island communities for many of the reasons listed elsewhere. This is very likely down to the fact that no community level bodies or representative of community level bodies were included as stakeholders within the 'partial' ICIA.

Additional impacts which are relevant to islands legislation include but are not limited to the future development of piers and infrastructure to allow for development of island transport networks; the wider impact of losing a small number of jobs in a small island, given the limited employment opportunities on-island; and the impact on local, island-specific cultural practices. The impact of employment in the islands needs wider consideration given the very fixed boundaries that islands have, with many people unable to commute beyond the island on a daily basis for alternative work, even if they wanted to.

There has been no mention in the consultation of the impact on food security / cost of living / food miles on the islands if communities are unable to access local fish / seafood either from local fishing businesses or via subsistence practices.

Question 15. Do you think that the implementation of the draft Policy Framework and Site Selection Guidelines will have any significantly differential impacts - positive and/or negative - on island communities?

Position: Yes

SIF strongly believes that this proposal potentially has significantly differential impacts on island communities, as outlined in our wider consultation response. This includes impacts on the economy, transport, decarbonisation, food security and culture which have potential knock-on impacts for the sustainability of island life. Consideration has not been given to the fact that the sea is central to all areas of island life rather than a peripheral consideration.

BRIA

Question 16. What is your view of the partial BRIA as an accurate representation of the potential impacts, issues and considerations raised by the implementation of the draft Policy Framework and Site Selection Guidelines?

Position: Oppose

The BRIA states that communities of place may benefit from use of nearby HPMA's for recreational use but does not highlight the impact of the loss of use of communities within HPMA's related to key cultural, economic, subsistence, well-being and recreational activities.

We agreed that "a range of businesses will be affected by this legislation". We expect small, medium and large businesses to be affected directly and indirectly in a number of different sectors. Since the selection site for HPMA's has not taken place yet, we cannot estimate the costs to businesses. This is likely to have larger impacts on smaller, bounded communities (i.e. islands) with limited access to wider job markets (reiterate previous points). The true cost of this (not just in terms of monetary value but also in terms of actual impact on the community) must be considered when selecting each site. One member noted that the proposal has not factored in any compensation packages for fishermen who would be affected. However it should be noted that compensation packages aimed at individual businesses do not help counteract the wider socio economic impacts a HPMA designation may have on a community.

Societal impacts do not note that by placing additional burdens on fragile rural places HPMA's may threaten the very survival of communities with knock on impacts for the economic and cultural benefits they can provide to society.

We agreed that "HPMA's could also impose environmental costs, such as the concentrating of fishing effort next and around the boundary of HPMA's and the displacement of fishing effort to less managed areas where the stocks might also be vulnerable" and believe this should be taken into account when sites are selected.

Question 17. Do you think that the implementation of the draft Policy Framework and Site Selection Guidelines will have any financial, regulatory or resource implications - positive and/or negative - for you and/or your business?

Position: Yes

Question 18. If you answered "yes" to the previous question, please specify in the text box below, which of the proposals/actions you refer to and why you believe this would result in financial, regulatory or resource implications for your business.

We believe that this proposal will result in financial, regulatory or resource implications for SIF members and businesses represented by SIF members in a number of ways. Many of these impacts have been outlined in our wide response. However, we would like to reiterate the delicate balance of the economy in many of our island areas. While some businesses may not be directly affected by this proposal through, for example, restrictions on their activity any negative impacts felt by one section of an island economy are likely to ripple out to other local businesses such as shops, suppliers and service providers.

Our commitment

Question 19. Do you have any further thoughts on the Scottish Government's commitment to introduce HPMA's to at least 10% of Scottish waters?

While we are supportive of efforts to ensure responsible stewardship of our natural resources, any policy pertaining to our land or sea needs to take into account that these places have been routinely populated and used by humans throughout history. While we should seek to ensure that these areas are protected for future generations, and for the good of the wider planet, we need to recognise and value that humans make up a key part of these ecosystems. Protections should encourage responsible, sustainable use without damaging the fragile communities.

In terms of the wider policy context, although much work has been done on land reform and community empowerment in recent years, many island communities have not had the capacity or opportunity to gain better access to land to help facilitate sustainable futures. If HPMA's were to also restrict the ways in which communities can use the sea some islands communities could be effectively 'hemmed in' by restrictions on both land and sea. This would see their ability to utilise the natural resources which have helped sustain them for thousands of years severely curtailed.

We strongly advise that HPMA site selection excludes areas close to existing island and coastal communities due to the many known and unknown negative impacts such a designation could have on the future of these communities. However, even when located away from existing communities, we are highly concerned about the impact HPMA's are likely to have on island-based jobs and businesses, including those in the fishing and renewables sectors. Examples of the wider impact provided by our members include likely impacts on an island-based boat yard which repairs and maintains fishing vessels, and seafood processing factories. Any designation which leads to loss of jobs and depopulation will likely lead to impacts for a much wider range of businesses and services serving islanders such as shops, couriers and schools. The rippling impact of losing just one or two jobs in some small island communities should not be underestimated. More should be done to consult with the set of key stakeholders missing from this consultation so far – the communities and individuals in islands who use the sea.