

## **RURAL ECONOMY AND CONNECTIVITY COMMITTEE**

### **SALMON FARMING IN SCOTLAND**

#### **SUBMISSION FROM ANNE-MICHELLE SLATER**

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In *Aquaculture Law and Policy Global, Regional and National perspectives*, edited by Nigel Bankes, Irene Dahl and David L. VanderZwaag, Edward Elgar (2016), I contributed a chapter entitled “Aquaculture and the law: United Kingdom and Scotland”

In it I observed that the marine fish farming industry in Scotland had undergone a period of change, both organisational and regulatory. I reflected as to whether, as a result, the industry would now be able to grow and if the strongly voiced concerns about wild salmon had now been silenced. I concluded rather pithily, that only time will tell. Nearly three years later the call to submit evidence to the committee provides an opportunity to revisit the areas of uncertainty that I had identified in relation to aquaculture governance in Scotland.

I do this in the context of a research project, led by the University of Bergen, School of Law, in which I am a partner: Governance of land (and sea) use: Striking a balance between national and municipal power and between private initiative and public control. Currently, I am working with Professor Sigrid Eskeland Schutz (University of Bergen) on a paper entitled. “From Strategic Marine Planning to Project Licences: between foreseeability and adaptive governance: aquaculture and offshore windfarms”. We are analysing aquaculture law in Norway and Scotland through the lens of legal values and principles with a view, in the first instance to provide guidance for Arctic waters, but expect the findings to be relevant to our own jurisdictions and elsewhere.

The Areas of Uncertainty identified in 2018

1. Effective integration between marine spatial planning and aquaculture.
2. The further devolution of Crown Estate Scotland.
3. The balance between high growth targets for aquaculture and social and economic benefit of fish farm development in remote and fragile communities.

Each is now discussed in more detail.

#### **1. Effective integration between marine spatial planning and aquaculture.**

##### **1.1 Previous comments**

In 2015/16 I reflected that “the consent regime for aquaculture in Scotland predates the new marine planning system and thus perhaps was influential in the development of the aquaculture regulatory framework for Scotland and informed the implementation of the marine planning system”( p. 430) I observed that “ (an)

unusual feature of the current system .... is that as well as relying on the policies for fish farming developed by the local planning authorities.... the new marine planning process will increasingly provide policy guidance relevant for aquaculture regulation and the intention is that the two sets of policy will interact and work together.”(p.430)

### 1.2 Implementation of marine planning in Scotland

I was optimistic at that time about the implementation of marine planning in Scotland. The new marine plan had been adopted in 2015 (SNMP) and the Scottish Marine Regional boundaries were being finalised ahead of the creation of Marine Planning Partnerships which would undertake marine planning at a more local level. Progress on this, however, has perhaps inevitably been slow and it would seem to me that as yet little real impact has resulted from the Scottish marine planning regime and indeed perhaps there won't be until the regional marine plans are adopted and decisions in these areas reflect these plans.

### 1.3 Marine Planning Partnerships

When Marine Planning Partnerships are in place, I consider it essential to incorporate aquaculture into the marine planning regime rather than leaving it as part of the terrestrial land use system. Thus, existing highly developed aquaculture policy can be incorporated into new regional marine plans and aquaculture can be part of the marine planning system.

### 1.4 Ecosystem approach

The marine planning system is designed to be holistic which it cannot be if there is a substantial element (i.e. aquaculture), which is regulated under a different regime (i.e. the land use planning system). Furthermore, the marine planning system requires by statute that an ecosystem approach is adopted. The UK Marine Policy Statement has defined an ecosystem-based approach to the management of human activities as an approach which ensures collective pressure of human activities is kept within the levels compatible with the achievement of good environmental status; that does not compromise the capacity of marine ecosystems to respond to human induced changes; and that enables the sustainable use of marine goods and services. I consider that changing the aquaculture licensing system to be fully part of the marine planning system will ensure implementation of an ecosystem approach for aquaculture decisions.

### 1.5 Co-existence

Co-existence is increasingly being recognised as essential for sustainable marine planning (e.g. ICES Workshop on Co-existence and synergies in marine spatial planning, Edinburgh 4-6 April 2018). SNMP General Policy 4 promotes co-existence as follows: Proposals which enable coexistence with other development sectors and activities within the Scottish marine area are encouraged in planning and decision making processes when consistent with policies and objectives of the plan.

I consider that this will be most effectively achieved if aquaculture, which has potential to be a highly effective co-existing operator, is regulated through the marine planning process. The SNMP is actively promoting and looking at the potential for synergy through marine planning (SNMP General Policy 4: Co-existence).

## **2. The further devolution of Crown Estate Scotland.**

### 2.1 Previous comments

In 2015/6 I observed that changes to The Crown Estate were to be implemented following the Smith Commission, but at the time it was not known when they would occur nor about the wider ramifications of the change.

### 2.2 Crown Estate Scotland

The main devolution of The Crown Estate has now occurred, with the creation of Crown Estate Scotland. There is, however, potential for further devolution to local authority or regional planning partnership level. This would have implications for licensing decisions and for disbursement of revenue through the Coastal Communities Fund. There are therefore opportunities for increased accountability and local decision making. It is also important to maintain distinctions between the granting of leases and licenses in terms of process and public participation.

## **3. The balance between high growth targets for aquaculture and social and economic benefit of fish farm development in remote and fragile communities.**

### 3.1 Previous comments

In 2015/16 I noted that there is currently a strong relationship between the development and maintenance of fish farming and the sustainability of remote and fragile communities in rural Scotland. I questioned whether there would be a tipping point when increased development could outweigh the benefits.

In my conclusion, I stated that, "...the political climate for growth in the industry is positive," but observed that "marine aquaculture is more than the provision of high quality protein for export. There are social and sustainability issues for remote communities; there are wild salmon and rivers to protect, as well as a Scottish devolution agenda to deliver. A lot of asked of the law and policy for marine aquaculture in Scotland" (p. 431).

### 3.2 Utilisation of the existing legal and policy framework for aquaculture to deliver socio-economic benefits.

It would appear that the existing legal and policy tools are not being used effectively to deliver socio-economic benefits. Neither the content of the SNMP nor the process of decision making is maximising the opportunities provided by the marine planning framework in Scotland. This is explained in more detail below.

### 3.3 The role of SNMP in promoting socio-economic development

The benefits of aquaculture in delivery of social and economic benefits has been well documented. However, in reviewing Scotland's National Marine Plan, although the

targets for growth are set out very clearly, the socioeconomic benefits are not. There is a focus on employment and sustainable economic development. Relevant sections of SNMP are set out below

SNMP in Chapter 7, Aquaculture Part 1:

Objective 2: with due regard to the marine environment and carry capacity support for the industry's target to grow marine finfish (including farmed Atlantic salmon) production sustainably to 210, 000 tonnes and shellfish, particularly mussels, to 13, 000 tonnes by 2020.

Objective 3: A proportionate and transparent regulatory framework within the industry can achieve these targets.

Objective: 4 Quality employment and sustainable economic activity in remote rural areas, as well as more widely in Scotland.

It is acknowledged that the SNMP must be read in its entirety and with reference, in particular to the General Policies in Chapter 4. Nevertheless, there appears to be a missed opportunity to include explicit socio-economic policies in relation to aquaculture development in the plan.

### 3.4 Use of SNMP to guide marine licensing decisions

In a recent unpublished 'think piece' report for a UK government agency, Jim Claydon (Planning Consultant), undertook a limited review of licensing decisions by a variety of agencies including Marine Scotland, and by two Scottish council planning authorities on fish farm applications . He found that there was no reference to the Marine Plan policies in these licensing decisions by Marine Scotland nor in responses to the consultation on the applications by SNH and SEPA.

## **4 Conclusion**

4.1 There is in existence a marine planning regime in Scotland. Aquaculture development could benefit from being fully part of that regime. The existing marine governance system, however, requires to be fully utilised as a marine planning system, to guide marine development decisions for aquaculture and other marine activities around Scotland.

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## References

*Aquaculture Law and Policy Global, Regional and National perspectives* , Edited by Nigel Bankes, Irene Dahl and David L. VanderZwaag, Edward Elgar (2016) in *New Horizons in Environmental and Energy Law*, Chapter 17

Scotland's National Marine Plan: A Single framework for managing our seas (Scottish Government 2015)