

Response ID ANON-FB69-QXGG-E

Submitted to Scottish Highly Protected Marine Areas (HPMAs)
Submitted on 2023-04-17 14:45:49

Draft Policy Framework

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?

Oppose

Please explain your answer in the text box:

There are over 20,000 crofts registered with the Crofting Commission and most are situated in coastal and island-areas of the Western Isles, Shetland, Orkney, Highland, and Argyll & Bute. Crofting is essentially a part-time activity with households relying on income derived in many cases from complementary marine-based employment in sectors such as fishing and aquaculture. It is noted that reliance on additional income streams has historically always been the case and crofts were deliberately made too small to provide self-sufficiency. The direct and often long-term connection between marine activity and the land (stretching back generations) also means that relocation is likely difficult for many crofters. But the strong linkages between crofting and marine activities have many benefits for the natural environment. Doing two jobs means that fishing in these areas is done less intensively, as much time at sea is taken off for spring calving/lambing and harvest time, as well as for vet visits, dipping shearing, shifting livestock to islands for grazing and other crofting-related jobs. Where crofting is part of the equation, pressures on marine resources are reduced.

There is no universally agreed definition of what a highly protected marine area (HPMA) is but the suggested alignment with the three most strictly protected categories set out by the IUCN (IUCN Protected Area Management Categories) is unnecessarily restrictive and likely to lead to negative consequences for island and coastal communities including many crofters. Closing off areas of sea to any form of economic activity even low-impact activities will have detrimental impact on employment opportunities. If crofters and their families lose their livelihoods because of HPMAs they will likely need to leave the islands to find alternative means of employment. This not only negatively impacts on rural policy objectives to address population decline (e.g., Scottish National Islands Plan 2019) but also on the potential of crofting to contribute to many current policy outcomes such as local food production (Agriculture Bill) and resilient local economies (Good Food Nation Act) and nature and climate (Agriculture Bill) through, for example, appropriate management of High Nature Value areas.

Crofting areas are already heavily environmentally designated, which places restrictions on development, and closing off areas of sea to economic activity will have additional detrimental impact on local crofting communities. Instead, SCF supports an ecosystem-based approach in line with Scottish Government's Blue Economy Vision and international law (e.g., Convention on Biological Diversity, Decisions V/6 and VII/11, FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication) which obliges for management to be done in a "fair and equitable way" and embraces "the notions of comprehensiveness and sustainability of all parts of ecosystems as well as the livelihoods of small-scale fishing communities, and ensuring cross-sectoral coordination as small-scale fisheries are closely linked to and dependent on many other sectors" (FAO SSF Guidelines, par 11).

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 HPMAs?

Management approaches to activities - Commercial fishing (of any kind):
Oppose

Management approaches to activities - Recreational fishing (of any kind):
Oppose

Management approaches to activities - All other recreational activities:
Neutral

Management approaches to activities - Finfish aquaculture:
Neutral

Management approaches to activities - Shellfish aquaculture:
Oppose

Management approaches to activities - Seaweed harvesting:
Strongly oppose

Management approaches to activities - Oil and gas sector:
Neutral

Management approaches to activities - Renewable energy:
Oppose

Management approaches to activities - Carbon capture, utilisation and storage:
Neutral

Management approaches to activities - Subsea cables:

Neutral

Management approaches to activities - Aggregate extraction:

Neutral

Management approaches to activities - Ports and harbours:

Oppose

Management approaches to activities - Shipping and ferries:

Neutral

Management approaches to activities - Military and defence:

Neutral

Management approaches to activities - Hydrogen production:

Oppose

Management approaches to activities - Space Ports:

Oppose

Please explain your answer in the text box and if you think we have missed any activities, please suggest them here:

Our responses are based on the input that was gathered by the Scottish Islands Federation in relation to impacts of restrictions on local economies and local employment. Crofters find employment in almost all of the listed sectors. It is recognised that site selection has not yet been undertaken but the consultation states at least 10% of Scotland's seas will be designated as HPMA's and will include inshore 0-12nm and offshore beyond 12nm. If existing employment (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. Illustrative of wide socio-economic impacts is the case of Tiree (<http://tireecommunitycouncil.co.uk/hpma-consultation-joint-press-release/>) where it was said: "[...] the local fleet is now nine strong providing 20 full time jobs. The annual catch of crab and lobster has a value of around £1,000,000 and a quarter of the children in P4 and below come from fishing families". As stated above, loss of employment will directly impact on crofters and their ability to contribute to a wider range of policy objectives. As stated by one of SCF's members: "Small scale fishing and limited seaweed extraction, recreational fishing and use of boats are integral parts of the local Crofting community and are activities that support its existence."

Balance has to be struck between retaining rural populations dependent on employment provided by the marine environment and conservation of seas and seabed chosen because of limited impact of commercial activity. Why not select sites in obvious need of restoration rather than the 'easy hit' of preservation just to make up the 10%? The process of identification and selection of candidate HPMA's must be proportionate to the features designed to be protected in terms of restriction on differing needs of sectors operating in the area and in the geographical area of the site in relation to the extent of the protected feature. Similarly, the restrictions must also be proportionate to the impacts with much clearer distinctions between low-impact, small-scale and subsistence activities (e.g., fixed-line lobster/crab creel fishing) and high-impact marine activities.

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."

Strongly support

Please explain your answer in the text box:

As stated above, the proposed restrictions fail to take into account the impact the loss of even a small number of jobs in a key sector like commercial fishing is likely to have on many crofting communities. And the cumulative effects that the potential loss of crofting - as a part-time activity that is reliant on complementary income streams and as predominantly small-scale, extensive and responsible use of the resources that coastal and inshore habitats provide - will have on the achievement of many rural policy outcomes including population decline, environmental outcomes (e.g., climate and nature under the proposed Agriculture Bill) and local food production (adding to the loss of fishing itself).

The proposals should also be much clearer about key distinctions between different activities that are currently painted with the same brush, including low-impact, small-scale and subsistence marine activities. There is a whole body of international law that has been ignored by the consultation. This includes Target 14.b. of the Sustainable Development Goals - to: "Provide access for small-scale artisanal fishers to marine resources and markets". The ecosystem approach under the Convention on Biological Diversity recognises humans as an integral part to ecosystem management, requiring management to be done in a "fair and equitable way" with recognition of the rights and interests of local communities and promoting decentralised management to enhance "responsibility, ownership, accountability, participation, and use of local knowledge". The new draft Biodiversity targets (cited in Scottish Government's new Biodiversity Strategy) also oblige Scottish Government to: "Ensure benefits, including nutrition, food security, medicines, and livelihoods for people especially for the most vulnerable through sustainable management of wild terrestrial, freshwater and marine species and protecting customary sustainable use by indigenous peoples and local communities" (Draft CBD Target 9).

The FAO's Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries (par 5.15) also obliges States to "facilitate, train and support small-scale fishing communities to participate in and take responsibility for, taking into consideration their legitimate tenure rights and systems, the management of the resources on which they depend for their well-being and that are traditionally used for their livelihoods. Accordingly, States should involve small-scale fishing communities - with special attention to equitable participation of women, vulnerable and marginalized groups - in the design, planning and, as appropriate, implementation of management measures, including protected areas, affecting their livelihood options. Participatory management systems, such as co-management, should be promoted in accordance with national law".

In addition to international law, the Bute House Agreement between the Scottish Government and the Scottish Green Party emphasises a commitment to a just transition which is not only about compensation and which has to take account the cumulative impacts of a loss of jobs in one sector in remote 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."

Oppose

Please explain your answer in the text box.:

The listed potential exemptions primarily concern large-scale projects.

Exemptions should be widened to include low impact activities such as low-impact commercial and subsistence fishing, shellfish collection and seaweed harvesting/cutting. There should be no additional licensing 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 and which are an important part of communities' cultural heritage. 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. It would also be at odds with international law, notably Sustainable Development Goal 14b on small-scale artisanal fishers.

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."

Not Answered

Please explain your answer in the text box.:

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."

Neutral

Please explain your answer in the text box.:

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?

Please add your response in the text box:

SCF supports the exclusion of areas above the MLWS from the HPMA meaning that seaweed gathering can be continued but exemption should also be made for seaweed cutting below tide. The use of seaweed as an organic fertiliser for croft land is a traditional practice with both cultural and environmental value, notably for the unique and protected machair areas which, for their cultivation, are absolutely dependent on the use of seaweed. These traditional and sustainable practices should be actively promoted and not restricted, also taking into consideration rising costs of synthetic fertilisers and Scottish Government's commitment to increase the uptake of "low intensity farming methods" (Scottish Government's Biodiversity Strategy). The potential long-term impacts of restrictions on seaweed harvesting on the potential to further develop these sustainable crofting practices should be taken into consideration when HPMA's are designated and restrictions on activities are put in place.

Draft Site 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?

Functions and resources - extent of support - Blue Carbon:

Functions and resources - extent of support - Essential Fish Habitats:

Functions and resources - extent of support - Strengthening the Scottish MPA network:

Functions and resources - extent of support - Protection from storms and sea level rise:

Functions and resources - extent of support - Research and education:

Functions and resources - extent of support - Enjoyment and appreciation:

Functions and resources - extent of support - Other important ecosystem services:

Please explain your answer in the text box, including any suggested changes to the list:

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. The knock-on impacts on crofting and crofting communities, for reasons outlined under question 1, should be included in the identification of HPMA.

Inspiration should be taken from a Westminster decision where The Holy Island of Lindisfarne was not designated as HPMA and it was noted that: “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 6th of April 2023).

SCF disagrees with the focus of the guidelines on leisure, recreation and tourism as “likely to be the most significant economic driver associated with these protected areas” which disregards the interconnectedness between economic activities such as fishing and part-time land-based activities as crofting. SCF also disagrees with a ‘aesthetic, cultural and spiritual’ lens that only focuses on the positives of a no-touch approach (to “increase the appreciation and enjoyment of the beauty of such environments”) but disregards the historic and cultural value of active inshore/marine management and interconnected crofting activities.

Caution should be applied when using “the best available evidence” as quantitative and locally-focused evidence (e.g., including community and cultural values) may be more difficult to obtain and analyse than quantitative data (e.g., focusing on economic impacts) and may therefore be overlooked. Many of the current MPAs are surrounding the crofting counties. SCF opposes HPMA site selection based on existing MPA designations without consideration of the local impact, notably for crofters and crofting communities.

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?

Site selection - support of general principles - Use of a robust evidence base:

Site selection - support of general principles - HPMA scale and the use of functional ecosystem units:

Site selection - support of general principles - Ensuring added value:

Site selection - support of general principles - Delivering ecosystem recovery:

Please explain your answer in the text box, including any suggested changes to the list:

Caution should be applied when using “robust evidence” as quantitative and locally-focused evidence (e.g., including community and cultural values) may be more difficult to obtain and analyse than quantitative data (e.g., focusing on economic impacts). There is lack of granular data in many areas on the impact on small communities. Detailed information gathering 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 and coastal 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?

Oppose

Please explain your answer in the text box:

The process looks at benefits of imposing HPMA area on communities but does not appear to consider negative impacts. 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.

In the interests of avoidance of conflict and for conflict resolution, there is cognition of the interactions between different sectors and the natural environment. It will be essential that there is continual consultation with, for example, affected representative organisations like the Scottish Crofting Federation or adjacent coastal communities throughout the staged site selection process.

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?

Please add your response in the text box:

Although Marine Scotland will find proposals from third parties for identification of HPMA's useful, care must be exercised, and bias avoided as it should be borne in mind that many single-issue pressure groups will want their views and opinions put into practice.

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?

Oppose

Please explain your answer in the text box.:

SCF supports an ecosystem-based approach in line with Scottish Government's Blue Economy Vision and international law (e.g., Convention on Biological Diversity, Decisions V/6 and VII/11, FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication) which obliges for management to be done in a "fair and equitable way" and embraces "the notions of comprehensiveness and sustainability of all parts of ecosystems as well as the livelihoods of small-scale fishing communities, and ensuring cross-sectoral coordination as small-scale fisheries are closely linked to and dependent on many other sectors" (FAO SSF Guidelines, par 11).

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?

Strongly oppose

Please explain your answer in the text box.:

This assessment fails to take into account key cultural practices and their impact on well-being and economy. We have concerns over the fact that impacts have been quantified simply in monetary terms. This does not take into account the range of factors which impact on individual wellbeing and community sustainability, as well as impacts on cultural heritage, languages and traditional practices.

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. There is no concern for the potential economic and social loss of reduction in activities such as crofting which often complement small-scale and low-impact marine activities as part of a sustainable income mix. The interests of local communities, small-scale fisheries and crofters should be considered in human rights terms – as increasingly recognised at international level (e.g., FAO Voluntary SSF Guidelines and UNDROP – which explicitly includes small-scale fishers alongside land-based small-scale producers). This includes the right to an adequate standard of living and the right to food, which Scottish Government is looking to include in a new Scottish Human Rights Bill.

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

Partial Island Communities Impact Assessment (ICIA) Screening Report

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?

Strongly oppose

Please explain your answer in the text box.:

Every inhabited Scottish Island is within one of the Crofting Counties, and the proposals will have a disproportionate impact on islands. We, therefore, consider it significant that the Islands Community Impact Assessment makes no mention of crofting. Neither SCF nor any community level bodies or community representative bodies were included at the initial engagement stage. Additional impacts that should be considered include the impacts of losing a small number of jobs within remote communities (given the limits on alternative employment opportunities), the impacts of losing employment opportunities that support crofting as a part-time land-based activity and the impacts for the local communities, cultural heritage and natural environment if crofting practices were to disappear. Impacts on the fundamental human rights of local communities and small-scale producers should also be considered, thereby implementing international obligations.

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, or if crofting disappears because of the disappearance of additional income streams to support crofting as largely an extensive livestock system.

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?

Yes

Please explain your answer in the text box, including any additional impacts that have not been identified in the partial ICIA screening report.:

Crofting is a historical form of land tenure in the Scottish Highlands and Islands. The impacts outlined in our response to this consultation will, therefore, be particularly relevant for island communities where by definition the sea is central to all areas of life and where there is strong cultural relationship between the sea and the land, and between marine activities and land-based activities.

Partial Business and Regulatory Impact Assessment (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?

Oppose

Please explain your answer in the text box.:

The BRIA states that communities of place may benefit from use of nearby HPMA for recreational use but does not highlight the impact of the loss of use of communities within HPMA 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 has not taken place yet, we cannot estimate the costs to businesses. This is likely to have larger impacts on smaller, bounded communities (e.g., islands) with limited access to wider job markets (reiterate previous points). The true cost of this - not just in terms of monetary value for individual businesses but also in terms of actual impact on the community - must be considered when selecting each site.

Societal impacts do not note that by placing additional burdens on fragile rural places HPMA 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 could also impose environmental costs, such as the concentrating of fishing effort next and around the boundary of HPMA 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. But environmental costs may extend beyond the marine environment and will include impacts on fragile habitats and common grazings if crofting is abandoned in places due to the inability to access complementary income sources, and taking into consideration that HPMA-related issues add to many other pressures on crofting, including rising costs of inputs, uncertainties around agricultural subsidies, issues around adequate enforcement of crofting law etc.

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?

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.

Answer::

All of the proposals/actions in the consultation documents.

For details, see SCF's answers to previous questions in this consultation.

Our Commitment

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

Please add your response in the text box:

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, in line with Scottish Government's obligations under international law and notably the Convention on Biological Diversity. Protections should encourage responsible, sustainable use without damaging these fragile communities.

Access to and maintenance of crofts is not only a key priority of SCF. In Scottish Government's National Development Plan for Crofting it stated that: "We need to do all that we can to ensure full occupancy and purposeful use of crofts". It needs to be recognised that in order to achieve this goal one needs to look beyond crofting law to create a regulatory environment that is supportive of crofting. For many remote, coastal and island communities this will mean a regulatory environment that enables crofters to seek complementary employment - including marine-related activities - that allows them to make a decent living, stay in the area and maintain their crofts.

About you

What is your name?

Name:
Miranda Geelhoed

What is your email address?

Email:
miranda@crofting.org

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:
Scottish Crofting Federation

Sector and origin

Other (please specify in box below)

If you selected 'other' please describe your sector in the text box:
Representative organisation

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:
Slightly dissatisfied

Please enter comments here.:

SCF is disappointed that it was not included or consulted directly, for example, in the context of the Socio-Economic Impact Assessment.

This written consultation was almost impossible to get through due to the many cross references to different documents and the lengths of reports. It is not accessible to community organisations or individual crofters for this reason.

Whilst SCF appreciates the opportunity to make the voices of crofters heard through consultations, it needs to be recognised by ScotGov that it is running many consultations relevant to rural communities in parallel or back-to-back putting significant strain on the limited resources of small organisations.

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:
Neither satisfied nor dissatisfied

Please enter comments here.:

Final note: this response has been prepared independently by SCF in line with the needs and concerns of our members and after directly consulting with our members in island and coastal communities. We have also considered draft responses from other organisations, most notably the Scottish Islands Federation (SIF), in order to help us consider the issues involved. You may note that some sections of our response mirror those of SIF. Where this happens it is because SCF is in direct agreement with the response and we have drawn directly from the responses with full permission of those who drafted them.