

Orkney Marine Planning Advisory Group



18 March 2021

2.pm

Virtual Meeting on Microsoft
Teams

Facilitator: Shona Turnbull (OIC) **Note taker:** Kay Gilmour (OIC)

Attendees: Cllr G Sinclair (Chair) (GS)
Mr R MacKay (OIC - Vice Chair) (RM)
Dr S Turnbull (OIC) (ST)
Mr J Green (OIC) (JG)
Ms K Gilmour (OIC) (KG)
Ms K McEwen (SNH) (KM)
Dr J Porter (ICIT) (JP)
Ms K Rydzkowski (OSF) (KR)
Ms V Clements (HES) (VC)
Mr D Sawkins (OIC Harbours) (DS)
Ms C Chapman (Visit Scotland) (CC)
Mr M Steward (SSPO) (MS)
Mr T Mallows (CES) (TM)
Ms J Wells (RSPBS) (JW)
Mr P Watson (SSE Networks) (PW)
Ms P Martin (Sub Aqua Club) (PM)
Mr B Kynoch (Orkney Marinas) (BK)
Captain D Thomson (Orkney Marine Services Assoc) (DT)
Mr G Davies (OREF) (GD)
Ms A Duncan (Marine Scotland) (Observer) (AS)
Mr D Hewlett (Marine Scotland) (Observer) (DH)

Apologies: Mr C Smith (Repsol Sinopec)

Item 1: Welcome, housekeeping & Introductions

ST opened the meeting and handed over to Cllr G Sinclair who provided a warm welcome to everyone to this inaugural Orkney Marine Planning Advisory Group meeting.

GS welcomed everyone and noted that going forward the group should aim to appoint a different Chairperson, but happy to continue for the short term. This introductory meeting is useful to appreciate everyone's roles and see how everyone fits into the bigger picture. GS handed over to RM to provide an introduction to the group and give some background to marine planning.

RM introduced himself to the group as Head of Service for Development Planning and Regulatory Services. He outlined the background to marine planning; the main driver being the Marine Scotland Act 2010, which set out the requirement for a National Marine Plan and made provision for regional marine plans across 11 marine regions. This would promote and sustain management of marine areas in Scotland. The delegates function is to produce a regional marine plan.

In 2017 the Cabinet Secretary decided Orkney should be next to establish a Marine Planning Partnership.

There was an enquiry by the Scottish Government ECCLR committee into progress in marine planning and the common theme was that stakeholders were not happy with the slow progress of the development of partnerships. Orkney is the third delegate in Scotland to obtain the delegated functions to prepare a regional marine plan.

OIC have taken a key role in development and marine planning, something that extends back to the 1980s when the Scapa Flow Management Strategy was established; the first of its kind in the UK. This was updated in 1999 by ICIT Heriot Watt.

In 2012 a working group was set up between OIC and Highland Council, with Marine Scotland as lead partner, to prepare the Pilot Pentland Firth and Orkney Waters Marine Spatial Plan (PFOW MSP). This was published in 2016 and is a material consideration of relevant planning, marine licence, section 36 and work licence decisions.

RM mentioned the OIC's Marine Planning Team. James Green was the lead on marine planning for OIC and Shona Turnbull was lead for Highland Council for the PFOW MSP. Shona, with her expertise in marine spatial planning, has since moved to OIC to join the Development and Marine Planning Team.

The team have recently appointed a graduate marine planner. This appointment, along with the advice and assistance from this Advisory Group, provides more hands in the progression of marine planning in Orkney.

The Group members then introduced themselves providing a brief outline on their role in their specific organisations.

Item 2: Presentation on Regional Marine Planning followed by Q&A

ST provided a presentation on the roles and responsibilities of Regional Marine Planning. This presentation is available to all as a separate document. Following the presentation, ST opened the meeting to questions.

GD asked about the link between the OIC being the delegate and the partnership. He noted it would be good to understand more about the boundary process and its limitations. Is there more information on the role of the plan outwith the authority?

ST further clarified the proposal for the delegate and the Advisory Group to be referred to as the Orkney Marine Planning Partnership (OMPP). OIC are seeking agreement to this proposal from the Advisory Group members; this can be agreed following finalization of the Terms of Reference.

ST advised that the regional marine plan is not just an OIC Plan. It is a plan with policies to guide development, activities and use in accordance with the requirements of the Marine (Scotland) Act. The plan will be used by a wide of public authorities, developers and wider stakeholders. It is applicable to OIC waters, but not just OIC functions. National Planning Framework 4 and other national policies are relevant here too.

The delegation of regional marine planning functions is to OIC from Scottish ministers.

JG added examples of development and activities that will fall within the scope of the Plan, such renewable energy, aquaculture and ports and harbours. JG explained that certain marine planning projects such as beach litter clean ups and environmental education and awareness, for example, would not form part of the statutory plan. These types of initiatives would be better placed under a separate strategy and/or projects.

GD mentioned that the energy sector is soon going to encounter its biggest project in UK waters, which might be within the 12 nautical mile limit. Any discussion of this Plan and/or any effect on projects like this? Will it be ready for projects like this and be able to cope with what's going to happen?

JG noted that one of the major energy development opportunities on the horizon is coming forward via the Sectoral Plan for Offshore Wind i.e. Scotwind. The National Marine Plan identifies opportunities for regional marine plans to further assess the Plan Options Areas for offshore wind to consider compatibility and interactions. The engagement and consultation process for the Plan will identify the opportunities for regional marine planning. The Plan will not be developed in isolation and will seek to align with other processes/frameworks.

GS felt it would be useful if ST could explain the difference between the Marine Plan and marine planning. ST explained that the marine plan is a statutory plan with the policies to guide decision making and marine planning is projects that can be done in the marine environment, such as litter and biodiversity.

DH added that we would expect to see policies on offshore wind/renewables and it was clearly within the scope of the regional marine plan to do this.

GS said the Plan would cover offshore wind but did not address other aspects. Is this going to fill the gap?

MS said he was unclear of the scope of the Plan. Does it also cover sustainable use?

JG confirmed that the Plan would cover sustainable development, use, and activities. The Plan would guide the associated decisions by regulators, developers and marine users. One of the core statutory purposes of the Plan is to inform the decisions of public authorities, particularly authorisation and enforcement decisions. JG added that for Plan policies to be effective, they need to have a clear mechanism for implementation.

MS added we do not want to shy away from policies where there is no current mechanism for implementation.

Item 3: Discuss draft Terms of Reference and Marine Planning Partnership

Most members of the group had indicated they were content with the Terms of Reference prior to the meeting or had not provided further comment on them. ST noted that she was aware of some individual questions which were going to be addressed directly with some Advisory Group members, but asked if there were any further points to be raised.

GD asked why Orkney is the sole local authority pathway. ST outlined that nobody else were prepared to do it. There was a lot of work done to engage outwith the authority in this respect but as the Islands Act allowed a local authority to go solo, this is what happened.

JG added that between 2016 and 2020, OIC engaged with many stakeholders to explore the potential for organisations to take up a delegate role. This included stakeholder interviews and meetings, and a statutory consultation. There were many factors that influenced stakeholder decisions regarding taking on a delegate role including the appetite to take on a statutory function, resource implications and the management of relationships with stakeholders. Detailed delegate role discussions took place with ICIT Heriot Watt University and Orkney Sustainable Fisheries. OIC were keen to find other delegate partners, though when the available delegate options had been exhausted, the decision was taken to proceed under the Islands (Scotland) Act, enabling the delegation of regional marine planning function to the Orkney Islands Council.

GD asked what is the appropriate remit for the OIC to cover? Are there areas that OIC has no statutory responsibilities for? JG confirmed that the delegated statutory responsibilities are for regional marine plan making functions, and that the Plan needs to be prepared within the scope of its statutory purpose. This is not to say that the MPP should not be ambitious regarding what can be delivered through other mechanisms, though there are clear limitations on the legal scope of the Plan.

DS asked if the Advisory Group would respond to a license question?

ST explained that OIC as the delegate are the statutory consultee on marine licenses not the Advisory Group. ST clarified that certain Advisory Group members are consulted directly on marine licence applications by Marine Scotland, for example NatureScot (SNH) and the Orkney Harbour Authority.

MS asked when would the delegate start to respond as a statutory consultee on marine licences?

ST confirmed that the OIC scheme of delegation is currently being updated to enable OIC to respond. This will go to committee in April 2021.

GS asked if the delegate responds on their own, can the Advisory Group members respond too? ST said yes anyone can make representations to a marine licence application, though whether an organisation is consulted by Marine Scotland would depend on the organisation and the nature of the application.

GD wondered if there should be a set of agreed objectives for the collective.

ST confirmed that the Advisory Group terms of reference contains draft objectives, which OIC sought feedback on in the weeks prior to this meeting.

JW highlighted Point 21 on the Term of Reference. How is it decided when the delegate asks for advice from the group in the preparation of the Regional Marine Plan? ST noted that as the delegate, they use their own professional judgement which is why this says 'may' and not must. JG suggested this word could be 'will' to be consistent with the wider clauses regarding delegate responsibilities.

JP noted that it would be good to understand how well the Clyde and Shetland Marine Planning Partnerships are working with reference to delegated function/advisory group arrangements? ST stated that we have looked at how these partnerships are working. The governance is different as Clyde have about 20 delegates and Shetland have two. We have contacted them and learn from them. It is clear that a one size fits all approach does not work and we need to develop arrangements that will work in Orkney. JG added that we have borrowed clauses from the Shetland Advisory Group Terms of Reference that we think work for the Orkney situation.

GD commented that from an OREF perspective, they should only be associated with advice/comments/ on which they have had the opportunity to comment on and where it was based on guidance they have agreed to.

Item 4: Draft Statement of Public Participation

ST presented a PowerPoint outlining the purpose of the Statement of Public Participation (SPP) and the process for its adoption. ST explained that the Draft Statement of Public Participation will be provided to the Advisory Group members for comment during the first week in April for a period of 3 weeks. The draft SPP will then be updated and submitted to Scottish Ministers for approval.

KR asked if a copy of this document could be emailed to the group.

Action – ST to email PowerPoint presentation

Joanne Porter left the meeting at 15.26

Brian Kynoch left the meeting at 15.28

GS asked if it would be worthwhile sharing the report then we could have a further meeting when people have responded?

ST was concerned about possibly not having enough time for another meeting before the draft SPP needs to be submitted to Scottish Ministers but would be happy to respond to any questions and comments directly with Advisory Group members.

ST explained that aligning the regional marine plan process with land use planning and NPF4 was key and that this alignment has affected the timeline within the SPP.

GD asked if it's always going to be a 'top down' process or would there be a role for 'bottom up'?

RM noted that this was a good question and there is and always will be the aspiration for more control at a local level. This is a good bit off still, but we will continue in the relevant discussions.

GS agreed that this always remains an aspiration and would like a joined up and local decision-making process. He stated that we all share that ambition.

MS asked if there was a central place on the OIC website for this subject/group? ST confirmed that this can be accessed from the Marine Planning landing page on the OIC website which would develop going forward.

DH wanted the group to not to underestimate the opportunity that the OMPP and regional marine plan presents. Things will evolve and this is a big, genuine opportunity to take forward marine planning at the local level.

GS agreed and mentioned he shared this enthusiasm.

David Thomson left the meeting at 15.47

Item 5: Agree frequency and timings of meetings

ST outlined the proposal to have 2 meetings a year as follows:

October 2021

April 2022

September 2022

March 2023

September 2023

In addition, ST emphasized the importance of discussion and engagement between OIC Development and Marine Planning and Advisory Group members outwith the Advisory Group meetings.

GS wondered if there was the need to have a second meeting sooner than October. There was a possibility that a bit of a gap between the first and second may lead to a loss of momentum?

GD noted he felt excited, but also worried about the planning here. He felt we need more than a meeting every 6 months if we are a partnership. We have to gain momentum as a collective and have more engagement with possible workshops.

There was further discussion on resources and timescales and views expressed that more than two meetings a year would be beneficial. It was suggested that as the purpose of the SPP is to outline opportunities for stakeholder engagement, OIC should await comment on the SPP and provide further comment/communication regarding future meeting regularity and wider engagement opportunities.

GS acknowledged that if they set a twice-yearly meeting as a minimum that would be a starting point and then take it from there after SPP comments received.

GD added that there were decisions that needed to take place sooner than 6 months' time. GS observed that the Plan would certainly not be produced in that time anyway therefore would not alter the current decision-making process.

RM suggested the group consider another meeting in 3 months' time.

KM agreed with the 3-month suggestion.

ST explained that she would be in touch with the group earlier should vital advice be required to inform decision making outwith the scheduled meeting cycle. It would also be possible to propose a meeting sooner if circumstances required.

GS concluded the meeting by thanking everyone for their attendance and contribution. He finished by reminding the group to think about a Chairperson going forward, but this could wait until the next meeting.

ST also thanked the group and closed the meeting.

Meeting closed at 15.57.