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Finlay Carson MSP
Convenor
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The Scottish Parliament

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19 March 2026

Dear Finlay,

Water Environment (Shellfish Water Protected Areas: Designation) (Scotland) Order 2026 (SSI 2026/57)

Thank you for your letter of 6 March 2026 to the Cabinet Secretary for Rural Affairs, Land Reform and Islands seeking clarity on points related to the above Scottish Statutory Instrument (SSI). As the Cabinet Secretary responsible for this SSI, I have responded to the points the Committee has raised below.

1. Shetlands Islands Council, regarding the de-designation of certain sites and the potential economic consequences for the mussel industry in Shetland.

Our consultation sought views on the findings of an initial review that identified 15 potential areas for new or expanded SWPA designations, due to the production of economically significant shellfish production for the last 3 years. The initial review also identified the potential for 29 current SWPAs to be de-designated due to a lack of economically significant shellfish production over the past 3 years.

Having considered the feedback from stakeholders, we have made the new and expanded designations, which were strongly supported, through the above instrument. However, on the de-designations, our response to the consultation noted that we will work with stakeholders to undertake a review of the criteria used to assess how areas for potential de-designation are identified before making any de-designations. This decision is based on several factors, including concerns about the investments needed in sites to support future shellfish production.

2. Seafood Shetland, regarding a perceived lack of robust monitoring of SWPAs by the Scottish Environment Protection Agency (SEPA) as per its statutory requirements.

The delivery of appropriate monitoring is the responsibility of the Scottish Environment Protection Agency (SEPA) as the independent environmental regulator, under the Water

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Environment and Water Services (Scotland) Act 2003. However, our consultation response noted stakeholder's concerns.

SEPA uses Food Standard Scotland (FSS) Official Control data to classify SWPAs and target actions to investigate and improve water quality where necessary. A review of current practices on shellfish water monitoring and classification in Scotland showed that the current approaches are in line with regulatory requirements, but identified opportunities to better align with best practice, which regulators have considered.

As well as SWPA monitoring and classification, SEPA also undertakes environmental monitoring and classification for River Basin Management Planning (RBMP). Each SWPA is within a broader RBMP water body. RBMP monitoring and classification provides a picture of ecological and chemical status of water bodies and helps to identify where further action or monitoring is required.

SEPA has reviewed the current monitoring arrangements for SWPAs, engaged with industry on its findings, and is currently developing future monitoring approaches. SEPA is also considering how best to assess the potential deterioration in SWPAs. This work will help inform how any future changes in SWPA water quality are identified and interpreted.

3. What discussions have taken place between the Scottish Government and small inshore fishers to make them aware of any changes to SWPAs and how the Scottish Government intends to support any local fishers that have been displaced as a result of changes to SWPAs?

Our consultation setting out proposed changes was shared with relevant stakeholders and those responding included the Sustainable Inshore Fisheries Trust and the Scottish Fishermen's Federations, the latter responding on behalf of over 450 fishing vessels in membership of its constituent Associations. The Scottish Government will continue to engage with relevant stakeholders as we review the criteria used to identify sites for de-designation and make any future changes.

We do not anticipate any displacement of local fishers from the changes made to SWPAs through the above instrument. The new SWPAs have been designated where there is already well established, economically significant shellfish production.

However, the Scottish Fishermen's Federation did raise concerns regarding the potential for unintended bias during planning, where a shellfish farm is proposed within a designated SWPA. It is important to note that decisions on development proposals are made by local and national planning authorities. These authorities are best placed to consider potential impacts on fishing grounds and other stakeholders as part of the statutory planning process, ensuring that all relevant interests are appropriately assessed.

Yours sincerely,



GILLIAN MARTIN

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