



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 7 January 2015



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**RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE**  
**1<sup>st</sup> Meeting 2015, Session 4**

**CONVENER**

\*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

**DEPUTY CONVENER**

\*Graeme Dey (Angus South) (SNP)

**COMMITTEE MEMBERS**

\*Claudia Beamish (South Scotland) (Lab)

\*Alex Fergusson (Galloway and West Dumfries) (Con)

Cara Hilton (Dunfermline) (Lab)

\*Jim Hume (South Scotland) (LD)

\*Angus MacDonald (Falkirk East) (SNP)

\*Michael Russell (Argyll and Bute) (SNP)

\*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Bertie Armstrong (Scottish Fishermen's Federation)

Richard Ballantyne (British Ports Association)

Annie Breaden (Crown Estate)

Alan Broadbent (Scottish and Southern Energy Power Distribution)

Calum Duncan (Scottish Environment LINK)

Lucy Greenhill (Scottish Association for Marine Science)

David Leven (Scottish Enterprise)

Professor Phil Thomas (Scottish Salmon Producers' Organisation)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



# Scottish Parliament

## Rural Affairs, Climate Change and Environment Committee

Wednesday 7 January 2015

*[The Convener opened the meeting at 10:02]*

### National Marine Plan

**The Convener (Rob Gibson):** Good morning, everybody, and welcome to the first meeting in 2015 of the Rural Affairs, Climate Change and Environment Committee. I wish everybody a happy new year; let us hope that it is a healthy and successful one as well. I have received apologies from Cara Hilton.

Before we move to the first item, we should remember to switch off all mobile phones because they can affect the broadcasting system. Members may use tablets for the benefit of their work on the committee. That is the only purpose for which they should be on the table.

Agenda item 1 is an evidence-taking session, in round-table format, on Scotland's national marine plan. I very much welcome our witnesses. I am the convener of the committee and a member of the Scottish Parliament for Caithness, Sutherland and Ross.

**Annie Breaden (Crown Estate):** I am from the Crown Estate.

**Richard Ballantyne (British Ports Association):** I am from the British Ports Association.

**Claudia Beamish (South Scotland) (Lab):** I am an MSP for South Scotland and shadow minister for environment and climate change.

**Professor Phil Thomas (Scottish Salmon Producers' Organisation):** I am from the Scottish Salmon Producers' Organisation.

**Dave Thompson (Skye, Lochaber and Badenoch) (SNP):** I am the MSP for Skye, Lochaber and Badenoch.

**Lucy Greenhill (Scottish Association for Marine Science):** I am from the Scottish Association for Marine Science.

**Alan Broadbent (Scottish and Southern Energy Power Distribution):** I am from Scottish and Southern Energy Power Distribution.

**Alex Fergusson (Galloway and West Dumfries) (Con):** I am the MSP for Galloway and West Dumfries.

**Bertie Armstrong (Scottish Fishermen's Federation):** I am chief executive of the Scottish Fishermen's Federation.

**Jim Hume (South Scotland) (LD):** I am an MSP for South Scotland.

**David Leven (Scottish Enterprise):** I am from Scottish Enterprise.

**Angus MacDonald (Falkirk East) (SNP):** I am the MSP for Falkirk East.

**Calum Duncan (Scottish Environment LINK):** I am Scotland programme manager for the Marine Conservation Society. I also convene Scottish Environment LINK's marine task force.

**Graeme Dey (Angus South) (SNP):** I am the MSP for Angus South and deputy convener of the committee.

**The Convener:** Mike Russell will arrive shortly and will be sitting between Annie Breaden and Richard Ballantyne.

I welcome everybody. You should indicate to me if you wish to speak. The sound system works via the sound technician, so you do not need to switch anything on and off; he will do that—or I will, if you are speaking for too long.

As stakeholders, you have considered the draft national marine plan in considerable detail and have been consulted to a greater or lesser extent. There are questions in my mind about the clarity of purpose of the plan, when it applies and how it improves on current practice. Would anybody like to say what difference it will make to their sector's activities and to how they will operate in future?

**Professor Thomas:** Your point about clarity of purpose is a good place to start. The plan should provide two things. One is an overarching framework for planning, which is a public approach, and the other is a prospectus for investors, because it sets the tone for the whole of the investment environment in the development of marine facilities of whatever type. In terms of marine resources, Scotland is well placed for that development, and the plan is an element in that.

The plan is probably more advanced than those in any other European Union region. A number of people are working on similar plans, but Scotland is a bit ahead. However, it is still pretty grey in some areas and we would debate whether the balance is quite right. Also, it is being overtaken by events, because policy is moving around it quite rapidly. It is a good start. At this stage, I am not in a good position to tell you exactly what impact it will have on the aquaculture sector, although it is clear that it could have a significant impact.

**The Convener:** We will have a look at the various shades of grey in each of the sectors as

we go through our questions. For now, I ask Lucy Greenhill to make some general comments.

**Lucy Greenhill:** I do not represent a specific sector so I guess that I come from a broader perspective, and from the environmental perspective in particular. The main benefit that the marine plan and process could provide is the ability to assess cumulative impacts across multiple sectors. One point at which individual sectors struggle in the consenting and decision-making process is where it is necessary to assess the impacts of, say, a wind farm development and oil and gas together, or multiple wind farm developments. A broader marine planning process could provide a framework for dealing with that in a more streamlined way. However, at this stage, it is a potential opportunity. How it will actually work in practice has not been set out as yet.

**The Convener:** Bertie Armstrong?

**Bertie Armstrong:** Thank you, Mr Chairman.

**The Convener:** I am the convener.

**Bertie Armstrong:** I just wanted to mention that Marine Scotland's web page that collects all the documents that are relevant to the present inspection is helpful and well done.

I reiterate some things that other people have said. Clarity is important because we need to know where we stand; investment decisions are built on that. Our approach has been that there should be recognition of some form of protection for already established sustainable uses of the sea. That is clear in our deposition to the consultation.

We take a slightly different approach but use the same words as Lucy Greenhill with regard to cumulative effect. I assume that she was referring to the cumulative effect on the environment. For us, the cumulative effect of large numbers of small developments on the overall shape of the Scottish fishing industry is terribly important. Topically, we are keen that the section on cable laying makes proper sense. It contains most of our requirements, and we are pleased about that. The subject will increasingly be in the news.

In general terms, we are pleased with what has come out. We still want to see an even-handedness, with the plan recognising those sustainable industries that already exist instead of, as it does, giving an overall preference to new development.

**The Convener:** We will in due course come to cables—and, indeed, many other points.

**David Leven:** Scottish Enterprise's objective is to optimise the marine environment's economic potential, and we are quite pleased that the national marine plan will support that. My specific

remit relates to the energy sector, and we are pleased that the plan will play an important part in offering for the first time a full and ambitious statement of Scotland's ambitions for the economic potential of the marine environment. That is a good development.

We are also pleased that the marine plan will attempt to deliver—and, indeed, go some way towards delivering—a mechanism for better co-ordination of action and investment to support the sustainable exploitation of the marine environment's economic potential. We are also pleased that it will, to some extent, deliver clarity and certainty for investors in marine energy projects and, as part of that, support a faster and more efficient decision-making process. Those are our interests in the plan.

**The Convener:** And it makes a difference to your sector to have that clarity.

**David Leven:** Absolutely.

**The Convener:** Right.

**Calum Duncan:** We welcome the national marine plan as a step change in the management of our seas and as a great opportunity to address the concerns that have already been expressed about cumulative impacts. The plan's purpose has been improved from that in the previous draft, and it now says that it will make an important contribution to sustainable development. However, I put on the record our belief that the national marine plan should deliver sustainable development, which is ultimately about sound science, good governance and sustainable economic activity contributing to a just society that lives within environmental limits. I think, therefore, that there is still a slight framing issue with regard to what the plan should be for.

In fact, some of the sectoral chapters highlight some of the confused thinking on this matter. For example, we are concerned that the plan still contains a national target for aquaculture expansion and that, with regard to oil and gas, it does not appropriately recognise and address concerns about the impacts on climate change of continued fossil fuel extraction. There is some text about the need to transition to a low-carbon economy, but from our perspective the balance of the language is not quite right.

I am sure that I will have an opportunity to elaborate on some of these points, but lastly we think that there is much greater scope for the plan to be ambitious in enhancing our marine environment's health. If we look at the spectrum of environmental health, we find that, with regard to the baseline, we still have a very denuded marine environment. Once upon a time, the Firth of Forth had 129 km<sup>2</sup> of native oysters, and I still see no ambition to make enhancement commensurate

with what "Scotland's Marine Atlas: Information for The National Marine Plan" clearly shows are substantial areas of concern and on-going decline. That said, it is great that we now have a framework within which we can discuss how best to manage all the activities to deliver sustainable development.

10:15

**Alan Broadbent:** Good morning, and thank you very much for the invitation to give evidence this morning.

Our company is essentially concerned with chapter 14, which is new and was not included in the previous consultation. One could argue that we have some experience of how the plan might work with our recent installation of a cable between the mainland and Jura, which was not without its difficulties. As far as we could see, the plan was being adopted at that point and it caused us a lot of difficulties.

In essence, we have three issues to bring to the committee. First, we think that chapter 14 is new and has not been consulted on—certainly in relation to distribution cables. In our view, consultation is needed before the policy is put before the Parliament.

Secondly, the plan should reflect the overarching principles of the existing United Kingdom marine plan. It needs to be evidence based, risk assessed and proportionate, and it certainly needs to take proper account of distribution electricity cables.

Thirdly—this comes out of the mainland to Jura cable experience—we need to address the specific issue of faulty cables. That absolutely needs to be addressed in the plan; it is not there at the moment.

**The Convener:** We will have a chance to discuss cables later. Thank you for raising the issue.

**Richard Ballantyne:** I broadly echo the previous comments. We very much welcome the document and the interaction that we have had with Marine Scotland, which has taken on board ports' views. The plan sets the context against which planning decisions will be made in future. The main issue for us, I guess, is how regional plans will reflect that and follow on from the national plan, as we hope they will do.

**Annie Breden:** We also welcome the plan. In general, it provides a good vision for Scotland's seas. For us, it provides a clear framework within which we can undertake our leasing activities. Our objectives are generally very much aligned with those of the plan, which will make our leasing decisions easier, particularly in relation to

renewable energy, for which spatial areas have been identified.

**The Convener:** I am not expecting everyone to answer on every area that we cover, but I wanted to bring you all in at the beginning, because as we go through our questions it is important to bear in mind the difference that the plan will make to your sectors.

**Graeme Dey:** The Convention of Scottish Local Authorities expressed concern about ministers being able to overrule planning authorities' decisions and commented on the potential for conflict between the national marine plan and local marine plans, when they are developed. Do the witnesses share those concerns?

**Bertie Armstrong:** Yes, indeed, and the issue is slightly broader, in that it is not clear to us in the fishing industry how the regional areas will go about their business. Who will be on the committees, councils or other forums that comprise the planners? How will they go about their work? More important, what authority will they have to implement their plans? Our experience with inshore fisheries groups, which are a microcosm of that sort of thing, has been less than perfect.

There is a systemic difficulty with local planning, in that it will vary wildly from area to area. Shetland will be different from the Western Isles, which will be wildly different from the Firth of Forth, and so on. We have a concern about the coherence of plans, which is much more basic than the concern that ministers might overrule.

**Graeme Dey:** Let me broaden out my original question. Does the panel think that all the relevant local authorities will have the necessary experience and expertise to take on the duties that they will inherit?

**Professor Thomas:** No. There is not a prospect of that at the moment.

From an aquaculture standpoint, there are two concerns. First, I reiterate the point that Bertie Armstrong made: the notion that the regional bodies that are brought together will instantly become fully functional is slightly naive.

Secondly, there is an additional complication, because the recommendations from the Smith commission potentially, at least, change the role and functions of the Crown Estate in relation to local authorities. Suddenly, there could be a situation for aquaculture and other inshore elements in which the local authority becomes the proprietor of the seabed and the planning authority. There are governance issues in that regard, which I think are new and have not yet been considered at all.

The aquaculture sector has spent the past 10 years, since local authority planning came in, trying to get local authorities to ensure that planning is consistent between local authority planning areas, and the nightmare scenario as far as the industry is concerned is that the new arrangements take that in completely the opposite direction, with the result that we end up with localised policies in each area. That might be great for local democracy, but it will make life extremely difficult from the point of view of development in a general, national sense. I think that there are real problems there.

**Annie Breden:** The updated version of the plan provides a lot more detail about what will be expected of regional planning partnerships. That is good in a lot of respects, and is something that we asked for in our original consultation response. However, the detail that it provides includes, for example, the requirement for the planning partnership to refine the option areas for renewable energy. I do not see that the local authorities or planning partnerships would all have access to the technical expertise that is needed for that. There is also talk of the planning partnerships identifying strategic cable corridors and areas that may be suitable for the commercialisation of carbon capture and storage projects. A lot of those issues are quite strategic and will go beyond an area of 12 nautical miles. How to join up the strategic issues that go beyond 12 nautical miles and the planning partnerships needs some careful thought. Further, the Scottish Government, through Marine Scotland, needs to ensure that the planning partnerships have enough resources and expertise to deliver what the plan sets out for them to do.

**Graeme Dey:** That is a good point. This committee tends to ask the difficult questions and the witnesses identify the problems. We very rarely hear about solutions to the difficulties. Therefore, let me ask you another question. What do you think needs to be done to ensure that we can overcome the difficulties?

**Professor Thomas:** My answer will, in some ways, be almost a recitation of history. If you look at the published documents, you will see that there are two documents that go under titles like, "improved planning for aquaculture development". They were brought about through an initiative from the industry to say to local authorities that, if they are going to get involved in aquaculture planning in a serious way, they need to get the right level of expertise. There is a strong argument for local authorities to come together to set up some sort of strategic unit that would have all that expertise.

I am afraid that, in practice, the industry probably did not read local authority politics well enough, because although the local authorities

recognised the need to get the expertise, they probably did not fully accept the need to come together with that expertise. However, we have made some progress, and there is much greater sharing among local authorities than there has historically been. The solution to the problem would be a unit that ran across local authorities and had the expertise to do the work.

**Richard Ballantyne:** I share both of those concerns. Some local authorities own and manage ports, so they might be a bit better placed to deal with planning decisions relating to ports, if not necessarily to deal with other decisions.

The new partnerships will be statutory consultees on marine licence applications. In the ports sector's case, applications concern things such as dredging and disposal licences, which could be contentious.

On resourcing and how to solve the problem, one option might be to have a central person or team at Marine Scotland to bring everything together in one strategy that would ensure that local partnerships have central national support to rely on, and are not simply left to get on with things on their own.

**Lucy Greenhill:** I was going to say the same thing. Greater clarity is needed about Marine Scotland's on-going role as the central body in the process. I know from discussions that that is progressing.

I hope that when the final national marine plan is published there will also be guidelines. Early guidelines are being drafted for the regional marine planning partnerships based on the experience of Shetland and the Clyde, which are furthest ahead in the process. However, my concern is that their situations are particular. Shetland, for example, has its own planning powers. Other regions—for example, Argyll, where I am based, and the Highlands—would, given their resources, struggle to replicate what the Shetland and Clyde regions have done.

There seems to be a lot of emphasis on getting the regional marine planning partnerships up and running. Once they are all defined, they will go off and do the marine planning. However, if too many of the strings are let go centrally, the danger is that we will lose a lot of potential for marine planning to succeed at national level. Therefore, I would be keen that definitive principles be set out by Marine Scotland to provide a skeleton framework around which the regional marine plans would fit. I am thinking of actions that would make sense at national level, such as reporting on environmental conditions and, on my side, reporting on marine mammals whose populations are protected at national level. Such information needs to be held



centrally in order for reporting of it to be resource efficient and effective.

**Calum Duncan:** I agree with Lucy Greenhill about the importance of central oversight. The value of the national marine plan is in providing that framework and a clear steer.

On local level plans, I think that we would all agree that we want evidence-based and adaptive decision making and effective stakeholder participation.

For marine planning to work at regional level, it must be effectively resourced. That is probably a continual plea from all sectors, but such resourcing is an investment. Skilled planners delivering and facilitating ecosystem-based planning locally—including looking at the scope for enhancing the local area's environmental health, and improving goods and services in coastal protection, nutrient cycling, locking up carbon and food provision; all the things that flow from properly looking after regional areas of sea and sea bed—means that wider society and the local economy stand to benefit.

Therefore, we were slightly disappointed that the national marine plan does not provide a bit more guidance to regional planners. That links to the concern about the scope for enhancement. We were disappointed that no general policy has been included on encouraging sustainable development and marine activities that provide protection and enhancement opportunities. There could also be a greater steer to regional planners on taking opportunities to enhance the environmental health of their local plans, to look at the different sea beds that they have and the benefits that they provide so that instead of looking at conservation as a constraint, they look for opportunities for enhancing the services that those habitats provide. Greater resource for local planning is an investment from which everyone stands to benefit.

**The Convener:** I will bring in Mike Russell here because, at our previous meeting, he was suggesting the exact opposite: that there is a danger in becoming a little too specific about local activities in the national marine plan, and that

*"we are in danger of creating a cat's cradle of regulation and guidance."*—[*Official Report, Rural Affairs and Climate Change Committee*, 17 December 2014; c 27.]

**Michael Russell (Argyll and Bute) (SNP):** As far as I can see, there is more regulation and guidance in the document.

My point arises from Calum Duncan's point. In the best of all possible worlds, there would be a group of enlightened regional planners in all the relevant local authorities who were, in Calum's words, highly skilled and ready and able to produce detailed local and regional marine plans that involved all the stakeholders. That is not going

to happen: there is no such resourcing for that for local government and such people do not exist in the local authorities that are involved.

In my view—this is borne out in quite a lot of the submissions and in some of the remarks that have been made this morning—we have, in the national document, a curious conflict between the outlining of highly detailed and prescriptive actions on, for example, cables and, in other areas, the setting out of some very vague aspirations that do not give us much policy guidance.

10:30

I return to Lucy Greenhill's point. I made this point to officials at our meeting before Christmas and I would like to hear the witnesses' reaction to it. The national marine plan could be couched in terms of key principles that are to be observed in marine activity by all the stakeholders. Although the tone of some of Bertie Armstrong's submission was less than helpful, some of the content was quite useful. An example of such a principle would be a commitment to sustainable fishing as a key activity. The national marine plan could encourage people to apply those principles locally within the existing framework of regulation. There is a substantial existing framework of legislation, but when we read the national marine plan, it is often difficult to see where the links are between it and existing regulation. Bertie Armstrong's submission makes the point that a range of regulation governs fishing. I do not see where that fits in with some of the issues in the national marine plan.

I would like the witnesses to offer their reaction to the suggestion that the document might become something other than what it is—a declaration of clear principles to be applied on a regional basis by Marine Scotland staff working regionally and by local authority planners. That said, I have concerns about the capability of the key local authorities to take that forward when local government is under pressure and resources are very tight.

**Bertie Armstrong:** I have two apologies to make. I keep referring to the convener as "chairman". I will stop doing that right away; I beg your pardon, convener.

Secondly, I accept Mr Russell's point about the tone of our submission. One's worst problem is one's worst problem and one expresses it in such terms. I am very glad that that did not put anyone off reading the rest of the submission.

**Michael Russell:** As a professional writer, I find that an editor is always useful.

**Bertie Armstrong:** Right.

I reiterate the significant point that, when it comes to fishing, a "cat's cradle of regulation"

emanates from Europe that applies across the continental shelf that looks after us. Local distortions and interference will create difficulties—basically, we will be fighting on two fronts. It is not that we want to avoid regulation; it is that we want one coherent system.

The other point that has come out is about the matter of scale. We will not repair very much by concentrating on a few acres of this, that or the other. That is why it is extremely important to have an overarching policy rather than regional policies.

We remain frightened about the potential effect of lack of expertise. We have seen it time and again in the coastal forums and the inshore fishery groups. If we tell a group of people in an area to make a plan for their area, they will say that they want so-and-so's gear, because he is not from their area, and that they want him to stay away. I am generalising badly, but that is the danger that is presented by not having expertise everywhere.

We need to be realistic, as Mike Russell pointed out, and we need to remember the point about scale. It ought to be possible to have a national marine plan—given that Scotland is not a very big country—before we start dividing it up into eight.

**Calum Duncan:** As far as Mike Russell's point about expertise and resources is concerned, Shetland provides a very good example, as Lucy Greenhill said. There might be special reasons why Shetland is better resourced. We can look to what happens in Shetland as a good example of ecosystem-based planning.

We should also look at the potential for training, which often need not be difficult. It might be as simple as enlightening local planners and decision makers as to what is under the water. Presentations can be given and training can be provided. Those opportunities should be looked at.

**Michael Russell:** I am a fan of evidence-based policy making and so is Calum Duncan. Where is there evidence for your optimism that the resource exists in the other local authorities that will be greatly affected, including my local authority, to replicate what has happened in Shetland, which has been largely successful? Given the pressure on local authority resources, I do not think that there is any sign or evidence that that will happen. Indeed, planning departments with their current workload are suffering as a result of, for example, the increase in applications for renewables licences. I am not against the proposals; I just think that the evidence does not support your admirable optimism.

**Calum Duncan:** We can set out aspirations on the basis of resourcing opportunities that might be coming down the line as a result of changes in governance. I might say that Argyll provides a good example because of the expertise there

through the special area of conservation project officer who works at the local authority.

Mr Russell has talked about the “cat's cradle of regulation” and the tension between local policies and detail and wider strategic points. I take this opportunity to log to the committee a concern about the process of strategic environmental assessment of the plan. We are aware that the addendum to the sustainability appraisal that was lodged after the previous evidence session on the issue does not reference how it relates to the strategic environmental assessment process. Therefore, we do not think that the SEA has delivered in terms of influencing the plan. That links to the point about regional marine planning and the links to centralised oversight from Government. We are not aware of any avenues for holding planners to account that arise from the sustainability appraisal process. I flag that up as an issue that the committee might want to raise with the Cabinet Secretary for Rural Affairs, Food and the Environment.

**The Convener:** Thank you.

**Lucy Greenhill:** I want to add a comment on the idea of principles at central level, which could help to set out how we measure the performance and success of the marine planning process. Although it has set out to be an adaptive management process, the framework for reporting on it and by which it will be dealt with and developed, and its effectiveness determined, is not yet clear. We would struggle to develop that framework at a regional scale—it needs to be set on the basis of the core principles and objectives and what the marine planning process is for.

**The Convener:** Fine.

We have looked at some of the principles and practice. We need to look at some of the general principles—in particular on natural heritage and adaptive management. Claudia Beamish will lead on that.

**Claudia Beamish:** Good morning, everyone. I want to turn our minds to general planning principle GEN 9, on natural heritage, which Calum Duncan has touched on, and GEN 20, on adaptive management. In evidence, stakeholders have expressed concern about some of the general planning principles. Scottish Environment LINK focused on GEN 9. For clarification and for those who do not have a copy of the plan with them, GEN 9 states:

“Development and use of the marine environment must:

(a) Comply with legal requirements for protected areas and protected species.

(b) Not result in significant impact on the national status of Priority Marine Features.

(c) Protect and, where appropriate, enhance the health of the marine area.”

I am not sure whether the phrase

“enhance the health of the marine area”

is in bold in the plan, but it is in bold in my papers, as it is very important. I am sorry—I now see that my notes say in brackets, “bold added”.

Scottish Renewables is not giving evidence today, but it has submitted written evidence that states, with regard to GEN 20:

“ad hoc amendments to the Plan in light of new data would create uncertainty resulting in greater risks for project development and therefore would not be supported.”

One or two people here today have highlighted the issue of adaptive management. Perhaps we can turn to development and use of the marine environment from a natural heritage perspective, and consider adaptive management. Do the provisions in the draft marine plan set the right tone?

**The Convener:** We are talking in particular about the correct tone, as has been highlighted.

**Professor Thomas:** As a general principle, the idea of setting out the principles, the evidence and the science-based management approach at the beginning of the plan was good. However, the document was slightly disappointing as it went on, in the sense that some of those principles got lost. The tone—if I can use that term—of the later document is not as clear as the tone of the first document.

There is an issue in relation to the specific point that Claudia Beamish raises, because almost anything that one wishes to consider as a development in the marine environment requires substantial investment. Therefore, if any development is going to happen, we must have a framework and structure that give investors in every sector confidence that there is some stability around their investment.

Getting the tone right and ensuring that, in terms of adaptive management, the platform is not continuously moving are serious considerations. To be frank, there are a lot of other places in the world in which people can invest, and we need to attract investment to Scotland. Getting the tone and consistency elements sufficiently firmed up is important.

**The Convener:** I want to bring in David Leven at this point, because I think that offshore marine developments can learn from some of the things that have changed in the rules for onshore renewable developments. I wonder whether the principle of adaptive management needs to be spelled out much more clearly.

**David Leven:** We are considering the matter at two levels. To have certainty at the strategic level is very important, but we also need flexibility. We need adaptive management for the environment, but we need flexibility from a commercial perspective, so there is a different balance to be struck at the detailed level.

I cannot speak on behalf of the renewables industry, but Scottish Renewables has done so in its written submission, and I defer to its comments with regard to Claudia Beamish’s question.

**The Convener:** Does anyone else want to comment just now?

**Annie Breden:** On the potential for changing the areas for renewables development that are identified in the plan as more evidence emerges, it could, as Phil Thomas said, be very damaging to industry to identify areas and then take them away. That would create completely unacceptable risk.

However, there are opportunities—for example, in refining the option areas. The plan states that all the option areas are not expected to be developed, so in refining those areas there is an opportunity to feed in the new evidence that is emerging on the impact of offshore wind, wave and tide. It would be irresponsible not to take on board the new evidence that will emerge over the next couple of years as projects are deployed, but we need a clear framework for how that will be done so that the industry understands the process and it is not undertaken in an ad hoc manner.

10:45

**The Convener:** As a developer, Mr Broadbent, do you have a view on this?

**Alan Broadbent:** Funnily enough, I am not a developer in this context. We have 111 separate cables that are not going to expand; what we want to do is replace those cables efficiently, repair faults efficiently and keep the customers who are connected to those cables on supply securely and at least cost. That is our issue. I am not part of the renewables side, so I am sorry but I cannot comment on that.

**Richard Ballantyne:** The question about adaptive management is whether it goes both ways. In other words, does it balance environmental protection with sustainable development? It is a question for Marine Scotland, I suppose, but it is all to do with flexibility.

**The Convener:** The issue is now on the table and we will be able to raise it with the cabinet secretary.

**Claudia Beamish:** Perhaps at this point I can push those with development responsibilities to

comment on the natural heritage issue. Moreover, does anyone around the table have any specific comments about climate change and, looking to the future, whether the tone of the language in that respect is appropriate? In its evidence, the Association of Salmon Fishery Boards, which is not represented this morning, says that the plan comments on

“climate change effects on salmonid fish”

with regard to only the freshwater phase of their life cycle, not their time in the marine environment. In short, therefore, do the developers have comments on GEN 9, natural heritage and the protection and enhancement of our marine environment as well as on the issue of climate change?

**Lucy Greenhill:** I am not a developer, but I would like to make a few comments anyway.

As far as climate change is concerned, we have highlighted what seems to be a poor balance between adaptation to climate change and its mitigation. I think that, sometimes, the plan is a bit disproportionate, particularly, as Calum Duncan has suggested, with regard to the oil and gas sector, in relation to which there is a lot of emphasis on climate change adaptations—in other words, ensuring that your oil rig is not susceptible to rising sea levels—but an unequal emphasis on how we manage and assess the realities of the ultimate effects of oil and gas on climate change.

The problem that that raises—and it is also an opportunity for marine planning to address—is the need to look at the different temporal scales on which effects are elicited on the environment, either at the protected area or species level or at the climate change level. Given the way in which things are legislated for, decisions made and consents given, there is a real difficulty with offsetting things and basing decisions on the different relative scales of impact. Some clarity about how we balance ticking the various boxes with regard to compliance with protected area status, priority marine features status and so on with the wider benefits of, say, renewable energy projects, which obviously mitigate climate change on a broader scale, would, I think, be beneficial.

**Calum Duncan:** In response to Claudia Beamish’s first question, I flag up GEN 9 as a good example of what we see as a lack of ambition. For example, the plan’s policy on priority marine features, which are important species and habitats wherever they are found, is that developments should

“not result in significant impact”.

Instead of talking about opportunities to enhance the health or the extent of such features—and thereby recognising the links to the benefits that

they provide—the plan uses language that is very constraining.

We welcome adaptive management and the idea that we learn by doing, but decisions must be made on the best information available. In that respect, the Argyll array is an interesting example; had even more information been available, there might have been less risk to developer confidence and investment. I am not being critical of the process—after all, we do not live in a perfect world; I simply want to flag up the importance of having a proper environmental understanding. I recognise that such an understanding will never be complete, but it leads to good business, and the Argyll array is, as I have said, a good example of that.

I will jump quickly to the sentence prior to GEN 20, which is linked to adaptive management. The word “balance” has been used a bit, and the sentence says, in relation to sound evidence:

“The precautions taken should be considered based on risk, by balancing environmental, social and economic costs and benefits”.

Adaptive management—learning by doing—should start from a more precautionary basis because we often do not know enough about the impacts, including the cumulative impacts. So, we do not think that it is appropriate to be talking about balancing unknown risks in the context of the precautionary principle. By definition, the precautionary principle means that we must be precautionary on environmental grounds first because that is the envelope in which all the other activity happens.

**The Convener:** Before you go on—you do not need to go on, though—I want to underline this point. GEN 9 states:

“Development and use of the marine environment must ... Protect and, where appropriate, enhance the health of the marine area.”

That point is as important as the other points in the general statement in GEN 9. So, is Claudia Beamish’s question as relevant as she thought? Environmental protection is absolutely part of the envelope, and GEN 9 states quite categorically that it must be taken into account.

**Calum Duncan:** Perhaps it is a tone thing. It might sound like splitting hairs but we think that our criticism is appropriate because the plan does not link explicitly, for example, to the Scottish biodiversity strategy. There is also a biodiversity duty for bodies to promote biodiversity. It is incumbent on me to raise concerns about the degree to which the plan meets such legal tests, particularly in the absence of a clear strategic environmental assessment process, as I flagged up earlier.

**The Convener:** Okay. Before we move on to some more science, Bertie Armstrong wants to comment on this.

**Bertie Armstrong:** I will give a brief reaction to what has just been said. As users of the marine environment, we take comfort from GEN 20 in terms of GEN 9 because adaptive management practices can take account of new data—for instance, if we find that cumulative displacement of fishing is creating a local problem for someone. It depends on the size of the fishery, but people cannot always just fish somewhere else. Particularly in the case of small-scale inshore fisheries, if people are displaced, they are displaced and are gone.

To pick up on Calum Duncan's point, the reference in the sentence preceding GEN 20 to

“balancing ... social and economic costs and benefits”

in the local area is very important. At this point, there is always a ritual statement from the Scottish Fishermen's Federation about the precautionary basis. Precaution is necessary but it needs to be evidence based and make sense. For example, if we were to be precautionary about deaths on the road we would shut down road transport, but of course we cannot do that. It is the same with the sea bed, because we need to take some degree of risk here and there—not to play fast and loose with the environment but to be sensible about a precautionary approach.

**The Convener:** Thank you for that.

**Claudia Beamish:** Convener, I just want to ask Phil Thomas whether he could comment on GEN 9 in terms of enhancement. We are going to come to aquaculture more broadly later, but it would be helpful at this point to have something on the record about the industry's view of GEN 9.

**Professor Thomas:** I do not think that we would have too much difficulty with the wording of GEN 9. The EU has recently been looking at the application of the precautionary principle across marine development generally and aquaculture in particular. What emerges from that is that in Scotland, for example, there are a number of aquaculture developments in areas that were later designated as SACs or in some other way, but essentially there is no conflict there. The need to avoid particular natural heritage sites is built into the planning process and I think that the industry is already in that situation and accepts it. However, rather comfortingly, where the industry was already established in sensitive areas, there is no adverse impact as far as we can see. That is quite encouraging.

**The Convener:** Thank you for that. Lucy Greenhill has a comment.

**Lucy Greenhill:** I want to raise the issue of the role of marine planning in the licensing and decision-making processes, because there are perhaps different interpretations of what we mean when we talk about adaptive management.

Obviously, there is the plan level of adaptive management, which looks at how effective the marine planning process is and adapting the approach. However, from a developer's and consenting perspective, adaptive management is much more about the licensing body making a decision in the face of some uncertainty and then adapting the planned development as we learn about the particular development from monitoring at the site. The decision to move forward with that risk-based approach is very much the regulator's prerogative and responsibility.

I wonder how the marine planning process and that framework fit against the decision-making process and the Government's responsibilities on how much risk to deal with in adaptive management strategies.

**The Convener:** Thank you for that food for thought.

**Angus MacDonald:** Calum Duncan mentioned GEN 19, which is on sound science. It states:

“Decision making in the marine environment will be based on a sound scientific and socio-economic evidence.”

The submission from the Scottish Salmon Producers' Organisation questions whether a consistent evidence-based approach is maintained throughout the national marine plan. Scottish Environment LINK also has concerns. It argues that balancing economic, social and environmental concerns is difficult if there is little evidence or science on the environmental impacts of an activity. Are the panel members content with GEN 19, on the use of sound science? Are sound science and evidence-based policy making used consistently and appropriately throughout the national marine plan?

**Professor Thomas:** I can respond on the issue that is raised in our response. Curiously, it is not really a salmon producers issue; it is an aquaculture issue generally.

There has been a long-standing presumption against planning development for the north and east coast that is based on a very precautionary position on salmon farming in particular. That was adopted after the Nickson report in 1997, when there was no evidence of any sort at all.

We have not argued that that position should be shifted in relation to salmon farming although, in truth, we would question the basis on which it was taken. However, we find it extraordinary that it has been extended to all other forms of fish farming. On a scientific basis, we see no evidence at all.

The logic with salmon farming is that, because the same species is being farmed, there could be interactions between the farmed species and the non-farmed species. However, the logic of extrapolating that to all other forms of farmed species seems extraordinary.

The modifications report—I think that we quoted it—basically says, “We shouldn’t change it because we don’t know whether there are any effects.” The reality is that we really do not know whether there are any effects from wind energy development, alternative energy or shellfish farming and that, if we operate on the basis that we will do nothing when no evidence is available, we will always do nothing. That situation seems to be perverse. That is the point that we have been concerned about.

11:00

**Bertie Armstrong:** I will be brief. It goes without saying that sound science underpins attempts to address stock health. There will never be enough money in the world to do all the science that we would like to be done. We are trying our best—in the fish-farming industry and certainly in the wild-capture industry—to contribute as much as we can to the science base. We do that out of self-interest, of course. However, the science will never be completely adequate, and we are glad to see the socioeconomic evidence included in GEN 19.

**Richard Ballantyne:** Paragraph 4.3 of the plan says:

“The presumption in favour of sustainable development and use is presented as an overarching general planning principle of the Plan.”

That guides the whole thing. I wanted quickly to draw us back to that point.

**Lucy Greenhill:** As a general principle, it is right that decisions should be based on sound science. However, from my experience of consenting for offshore wind farms in particular, I can say that there is not enough science, and there will never be enough money.

People are therefore dealing with a huge amount of uncertainty in the planning and decision-making process. I share the concern that what happens very much comes down to the bodies and people who are involved in the process. Things can definitely be interpreted differently at the regional level. The approach needs to be managed much more centrally. I know that Marine Scotland is thinking about that and developing approaches for dealing with uncertainty and risk, but that should be much clearer in the national marine plan.

Another issue that needs to be handled at the central level is co-ordination of the objectives of science and the research, to ensure that a sound scientific evidence base is built up in a reasonable, effective and efficient way.

**The Convener:** We will move on to the national marine plan interactive tool.

**Jim Hume:** Some witnesses said in written evidence that there are things that are not mapped. What should be mapped that is not currently there, and why?

**Lucy Greenhill:** Just shut me up if I am talking too much. I link that point to Annie Breaden’s point about how the regional marine planners could need to refine plan options at the regional level. Those people will need the functionality that the Crown Estate has and which the Scottish Government used in the marine resource system—MaRS. As she said, if the national marine plan interactive tool does not have that functionality, as is currently the case, people at the regional level will struggle to replicate or improve on the quality of planning that is undertaken at the national level.

**Professor Thomas:** I will develop that point. In reality, there is never enough information. The most frustrating thing for a developer—usually in relation to natural heritage, to be frank—occurs when a potential natural heritage interaction is identified and the developer is asked to comment on that. The developer would normally ask Scottish Natural Heritage for such information, but it is SNH that asks the question. We get into cyclic discussions because there is simply not enough information.

Let me illustrate the point. What I have described happens frequently in relation to bird colonies when there is a potential threat of mortality to relatively few birds. Time and time again, the question that comes up is what constitutes a significant threat. The answer requires knowledge of the dynamics of the population in terms of reproduction and so on, but most of that data is not available.

**Michael Russell:** Lucy Greenhill mentioned the need for a national approach to the science, which is absolutely true. There obviously needs to be a national approach to mapping data so that there is one authoritative source. We seem to be hearing that that does not exist. Are there a number of sources, some of which are better than others, and is the danger that people are not using the best source? I do not know the answer, so I am looking for information. What is the situation?

**Annie Breaden:** If I understood it correctly, what Lucy Greenhill said was more to do with the scientific data that was used to inform the selection of the plan option areas than the wider

spatial data. Our marine resource system, to which she referred, is a sophisticated geographic information system tool. We put a lot of environmental, technical and other considerations into it to identify offshore energy projects. We share that system with Marine Scotland when Marine Scotland needs to use it and, in due course, it could be made available in some way to marine planning partnerships. The transfer of Crown Estate responsibility is going on, so I cannot comment on how that would work in the future. However, when necessary and when we can, we make the information available.

**Michael Russell:** I will press the point a bit with whoever is willing to answer. If we have a requirement for first-class data and first-class science—one cannot make an absolute distinction—as an imperative for decision making by local authorities, developers and existing users, surely we need to have access to a first-class resource. If that first-class resource is not the national marine plan interactive or whatever it is called, what is it? It seems foolish to go down the road that we are taking without having that information immediately to hand. I would go so far as to say that we should not go down it until the information is to hand. Do the witnesses agree and, if so, what should we do?

**Lucy Greenhill:** On data management, it is positive that Marine Scotland is now making the national marine plan interactive available for use by the regional marine planning partnerships, because that means that they will at least use the same tool. The initial risk was that they would have to go off and develop their own tools.

The regional marine planning partnerships are starting to pool their data into the national marine plan interactive, which is kind of a follow-up to “Scotland’s Marine Atlas: Information for the National Marine Plan”. They are discussing how to manage the quality of the data that goes into that central resource, so the idea of a central repository exists.

We went through the process of gathering national data to enable strategic planning for SEAs and renewable energy. The Crown Estate came up with the MaRS tool, which was the best available tool to do that because of the data that it held and the functionality that it had. That is why the Scottish Government started to use that for its own planning purposes. It would be best if that tool rather than the national marine plan interactive was shared for local use, as the national marine plan interactive is much more slimmed down and compromises our ability to plan in a similar way to how planning has been done so far.

**Richard Ballantyne:** I agree with Mike Russell’s concerns. We are going back to the points that we talked about originally, which

concerned strong project management by Marine Scotland. It has to take the lead, get something done centrally and consider what the best sources are.

To go back to the question on the data that is there, we in the ports sector recently had an email from Marine Scotland, which was looking to confirm where the statutory port limits of the major ports are, just to make sure that they are right. That is not Marine Scotland’s fault; the problem with finding out exactly where they are goes back through history. There are 200 or so statutory harbour authorities around Scotland. If each of them is slightly wrong, will they be affected? There is evidence that Marine Scotland is getting on top of certain things, which is good, but the issue for the committee is about Marine Scotland taking a strong lead on collating and using the sources.

**The Convener:** To add a layer of complexity to the question, I bring in Graeme Dey with a supplementary.

**Graeme Dey:** Lucy Greenhill referred to “Scotland’s Marine Atlas”. If I recall correctly, it included the shipping lanes, for example, and showed where the ships were. That impacted on where offshore renewable developments could be allowed. I was struck by the written evidence that we have received, because it is strange that commercial anchorages and navigational approaches are not part of the marine plan; I would have thought that that was a fairly obvious thing to include.

**Richard Ballantyne:** Yes. Several of our members made that point in their response to the committee. Some reference is made to those things in the plan, but perhaps it is not enough. You are absolutely right; that is a good point.

**Graeme Dey:** Surely such things require to be protected.

**Richard Ballantyne:** Absolutely, yes. As I said, our members raised the point. We did not do that because we did not make a response, but we agree.

**Graeme Dey:** To get that on the record, you think that it is important that it informs part of the marine plan.

**Richard Ballantyne:** Yes.

**Graeme Dey:** Thank you.

**The Convener:** In the context of providing complete information at a central point, which is what Michael Russell was getting at, can we focus on that point and give Jim Hume some comfort that the interactive approach will be of some value?

**Calum Duncan:** We want planning to be based upon as fine-scale resolution a data set as

possible. I cannot comment in detail about the extent to which the NMPI does that, but I want to take the opportunity to say that it is important that it takes it down to that fine scale and to give a brief example.

There are MPAs designated in the Firth of Clyde—South Arran, Loch Fyne, Loch Goil and Clyde Sea Sill—but outside of that are priority marine features such as quite denuded maerl beds around Inchmarnock and sea-grass beds off Skipness. Those are specific examples that paint a picture of where there are important sea bed habitats. We could look at the whole coast of Scotland similarly for little areas that do not necessarily meet national thresholds for becoming MPAs, and it is important for the NMPI to take on board areas of that scale.

I want to return quickly to something that Phil Thomas said about industry being asked to comment on natural heritage by Scottish Natural Heritage. Again, it is a resource issue. Our own sea search citizen science work contributes to that database, but everyone would agree that developers in the marine environment are gaining benefits from the use of public resources, whether it be clean water or a bit of sea bed or fish stocks or what have you. It is therefore entirely appropriate that industry helps to contribute to our evidence base about what lives where.

In doing that, the industry should be careful to look at what information is already available. I am sorry to pick on the Argyll array but it is quite a good example. Prior to the industry even doing surveys, we knew that it was likely that that area might possibly be globally important for basking sharks. That is just a plea for the committee to recognise that it is important to make best use of the data that we already have, as well as generating new data through industry surveys and citizen science.

**The Convener:** Before I bring in more witnesses, Michael Russell wants to take that point a bit further.

**Michael Russell:** I am just concerned that we still do not have a definitive view of what we need. We are at the final stages of looking at the national marine plan, and this is the final round of discussion. However, what we have opened up is that in terms of the data that is required for some very important decisions that will affect our existing activity and which, as Calum Duncan said, will have a huge impact on the environment and strongly influence future developments, including in renewables, we are still working on a range of different data, some of which will not be available to local or regional organisations. That is a big hole.

Obviously, the Crown Estate has one considerable contribution to make and SAMS has another contribution in some of the work that it is doing. However, it seems to me that the bodies that are represented round this table should also make their voices heard regarding the need for the data to be available not only for the planners but for those who intend to use the marine environment, because access to the data is vital for their decision making. However, that data does not seem to be available even to the decision makers let alone more widely. That must be a concern for Phil Thomas's members because, as I know from previous experience, although they hold a great deal of data, they are constantly asked for more by organisations such as SNH and SEPA.

11:15

**Professor Thomas:** That is true. One of the problems is that although various databases are coming together—there has been a lot of movement on that over time—the databases tend to reflect data that has been collected for whatever reason, which does not necessarily reflect all the data that we would ideally want to collect. There are some gaps.

I would not argue against the need for databases. However, I would be slightly cautious about one thing. We are looking at the data issue with slightly fresh eyes because it is about marine development. However, if we came back on to land—if I can put it that way—and looked for the equivalent databases on land, we would find that there are gaps there as well. Gaps in data are not unique to the marine environment; they happen in other places, too.

There can be no argument against having good sets of data of the type that we need to support decisions. That has to be brought into the equation.

**Michael Russell:** Given the difficulties in the planning system more widely, you would not start from there—to be blunt—if you were starting afresh. As you said in your introductory remarks, the plan is well in advance of what exists elsewhere so our approach should probably be that we need to have the right data before we start using the plan to make crucial decisions. That issue will require to be addressed.

**Professor Thomas:** I do not disagree with that at all. As an example, I refer to our earlier discussion about climate change. If we start to look for temperature mapping in the marine areas, we find that the data sets for that issue, which is fundamental, are quite patchy. The situation is the same with the pH of marine waters: some data is available, but it is quite patchy. For some of the



fundamental things that we would question in relation to climate change, the data just does not exist at the moment.

**The Convener:** I have a couple more people to bring in on this issue before I go back to Jim Hume to wrap it up. Bertie Armstrong is first, followed by Annie Breaden. We will then go back to Jim Hume, without anybody else jumping in.

**Bertie Armstrong:** This is just a brief intervention. We need to recognise the art of the possible here. We tend to contribute to a sense of completeness and neatness in our claim that we need all this information; of course we do, but we will never have it all because a God's eye view of the whole sea is not possible and it changes anyway. Therefore, we should move towards a single point to utilise all the databases—oil and gas has a gigantic one and we have a gigantic but very discrete set of data about some areas of the sea bed but not others. We also need to recognise the issue of scale. Small maerl beds in regional areas are not necessarily the most important thing; what is important around the northern continental shelf is whether it is relevant that we have maerl beds still in existence and how much should be protected across the whole thing rather than concentrating on the microscale—that is not in our gift.

**The Convener:** I will not mix metaphors by starting hares running at this particular moment on that point.

**Annie Breaden:** Calum Duncan referred to the Argyll array wind farm project a couple of times. That project gathered a lot of useful data on basking shark use of the area. When the developer handed back the site to us, we ensured that any of the survey data that had been gathered by the developer was made publicly available as quickly as possible. SNH and Marine Scotland were then able to use that survey data to help to inform their consideration of a potential MPA for basking shark in the area.

**Jim Hume:** I hope that I do not start the ball rolling again. The original question was about specific issues, such as commercial anchorage and navigational approaches that are not on the NMPI. There is a lot of data that we do not know about and there is data all over the place. However, does the panel think that there are specific matters that should be in the NMPI but are not? If anyone wants to jump in very quickly—

**The Convener:** One-word answers.

**Jim Hume:** Exactly. One-word answers would be quite useful. Are there items that should be in the NMPI? If there is no answer, that is fine.

**The Convener:** I think that you have made your point—I think that the panel would agree. Do you have a one-word answer, Calum?

**Calum Duncan:** It is about three words. I return to what Bertie Armstrong said. The NMPI must include all instances of habitats. I was just illustrating a point about where regional planning can help to fill gaps. I am sorry; that was more than one word.

**The Convener:** That is fine.

We turn to the subject of sea fisheries. Alex Fergusson will lead off.

**Alex Fergusson:** On the specific sector of sea fisheries, as has already been mentioned, whatever the tone of the Scottish Fishermen's Federation submission, the fact is that the core of it raises a number of concerns, particularly about the way in which the SFF's initial concerns were dealt with—or, in the SFF's terms, not dealt with—in the consultation process.

In direct contrast to that, at our meeting just before Christmas, Scottish Government officials assured us that they had received a great deal of information on the sea fisheries sector, which had led to the complete redrafting of the first three marine planning policies. Although my question is fairly specific, if anyone other than Bertie Armstrong wishes to comment, I hope that they will feel free to do so. Are stakeholders now content with the redrafting of the sea fisheries section? If not, what major concerns still remain?

**Bertie Armstrong:** This is an area in which I need to be careful and frank. Our worst concerns are our worst concerns. When we say that we were not consulted, in fact we had a lot of consultation events privately with Marine Scotland in the run-up to the pre-consultation and then the consultation draft.

We would have liked the national marine plan to be the national fishing plan. That is where we come from. Realistically, that will not happen—and it has not happened—but we were looking for a degree of even-handedness in the treatment of the fishing industry as an established and, with regard to local communities, very valuable national resource. In a nutshell, we would like complete assurance. The matter of fairness is in, as a general principle. The presumption for a certain way of addressing issues such as cables is in. We are comfortable that our comments have been taken into account.

We will always say, "You didn't do everything we wanted"—that is the nature of life—but we are relatively satisfied with where we stand and we will see what comes out at the end of the process. There were three points: one, even-handedness for established uses of the sea; two, please do not

build a whole new framework of legislation on top of the extremely comprehensive framework that exists; and three, make a presumption in favour of already sustainable use of the sea.

**Graeme Dey:** I want to pursue the issue, because in its written submission, the SFF has said:

“Marine Scotland did not seek to bring together interested parties to discuss how marine planning might lead to coexistence rather than confrontation.

This failure will have consequences. The SFF is certain that those consequences will not be happy, particularly as they have been brought about by those who have little or no experience of planning in the marine environment.”

On the subject of experience, I find that viewpoint interesting, given that only a few weeks ago the same organisation was quite content to have an inexperienced and unelected peer rather than an experienced Scottish Government minister represent its interests in Brussels. That aside, the language is fairly strong. Does the SFF stand by it?

**Bertie Armstrong:** Let me put this in context: the submission is a rerun of our response to the consultation draft. We are talking about the art of the possible with regard to timescales from receipt of Scotland’s national marine plan, which is now before the committee. The outcome of the independent inquiry into how evidence was treated and the very helpful breakdown of what had been changed as a result of the consultation were not available when those statements were made. When we went through the outcome, we found the picture to be very much better. The response was to the consultation draft, not to this particular call for evidence. Things have changed.

**Graeme Dey:** So, to be clear, the comments are out of date, and you are in a much better place now.

**Bertie Armstrong:** The comments are out of date, and we are in a much better place. That is a reasonable statement.

**The Convener:** We will hear from Richard Ballantyne, and then from Phil Thomas and Dave Thompson.

**Richard Ballantyne:** I will note a detail rather than make a point, convener. At first sight, the map in the sea fisheries chapter headed “Quantity of Landings into Scotland ... by District” is a little bit confusing, because you immediately think that the figures refer to ports, which is my sector. However, one or two ports have said that their figures are slightly out, perhaps because the figures relate to districts rather than ports, and I do not know whether there is any room for manoeuvre in that respect. I note, for example, that Kirkcudbright in Dumfries and Galloway is not on the list of ports on the map. I presume that it is

grouped with Ayr, but as I understand it there are no landings at Ayr; they all happen at Troon. It is, as I have said, slightly confusing in a planning context. The same is true with Aberdeen. The regional view takes over; perhaps a more detailed map should be made available to supplement the map that I am describing. I am sure that the data are available.

**The Convener:** We are talking about page 47 of the document, for those of you who have it open in front of you.

**Professor Thomas:** I want to make a couple of very specific points. First, with regard to fisheries and aquaculture the document is generally very light on recognition of food-security issues, which in my view are major issues. Secondly—this is due partly to a timing issue—the document has missed changes to the common fisheries policy, in particular the emphasis at European level on the development of aquaculture throughout the European Union. All member states are submitting multi-year plans to the process; my understanding is that the UK plan has been drafted, and the Scottish element of it has already been submitted. I simply recommend that the committee ensure that it sees the plan before it goes off.

**The Convener:** Dave, is your point related to this discussion?

**Dave Thompson:** Yes.

**The Convener:** I will take it now, and then I will bring in Calum Duncan and then Mike Russell, who I think wants to make a specific response to Bertie Armstrong’s comments.

**Dave Thompson:** Thank you very much, convener, and good morning, everyone.

I wonder whether I can get some clarification from Bertie Armstrong and the SFF. It has been good to hear that you feel that your comments have been taken into account and that some of the stuff in your submission is a wee bit out of date. It is always encouraging to see a sinner repent. Do you feel the same about your comments on where fishing sits in relation to sustainable development? You have gone into the issue in great detail and have specifically recommended that

“The presumption in favour of sustainable development over and against existing economic activity be removed.”

Does the plan now reflect what you feel to be appropriate, or do you think that further work needs to be done on that issue?

11:30

**Bertie Armstrong:** We would like assurance that existing economic activity, especially that which is connected with food security and the health of the local communities, is supported. We

always find ourselves slightly on the back foot on the socioeconomic aspects because of our bigger brothers in oil and gas and the potential of renewables. If you gross up the figures, we are always absolutely tinified. That is not the case in Dave Thompson's constituency, in Shetland or in villages on the west coast. We want to see a presumption that is at least even-handed, and we would like to see it specifically expressed for the protection of existing use. I am talking specifically about protection for wild capture fisheries, of course.

On the other hand, even-handedness and fairness are implied in the chapters. That takes us down to the tactical level, which is generally the licensing of individual developments. That is where we tend to run into difficulties, and that is why we are so concerned that the overall strategy should protect us. Generally, we have found ourselves cornered because of the capacity to lobby and the instincts relating to the sizes of the figures and the good bits of helping climate change, so we need to be careful about that.

Our comments have largely been taken into account. We did not expect the whole plan to be written on the basis of our response and, sure enough, that came to pass. However, we require protection. I think that Dave Thompson understands that from his constituency.

**Dave Thompson:** I do, indeed. I think that you are saying that implying protection in the plan is maybe not quite enough and that we need something a bit more explicit.

Fishing is probably the oldest economic activity that takes place in the seas, so it should be given a pretty prominent position. I certainly support your view that we need to firm up the value of fishing in relation to the plan and make it at least equal to other economic activities, if not put it at a slightly higher level.

**Bertie Armstrong:** I certainly agree with that and with Phil Thomas's point about food security. In the developed west, we can easily forget that we need to keep producing protein from the sea, which produces 16 or 17 per cent of the world's protein. We are a small part of that, but if we stop doing it, it will be necessary to lean more heavily elsewhere.

**Michael Russell:** I want absolute clarity on the point, because there is a bit of confusion in what I am hearing. What was your submission in response to? It refers to 25 July 2013. Was it in response to an original draft?

**Bertie Armstrong:** Our submission was in response to the five-part consultation. The marine plan is a different beast.

**Michael Russell:** Now that you have seen the marine plan, the seven bullet points that you put forward have been reduced to three. I will summarise them, because we need to be absolutely clear. The first is, essentially, on the right to fish, the second is on overregulation and the third is on what you now refer to as equity of treatment, although in the submission you went much further and talked about

"The presumption in favour of sustainable development over and against existing economic activity".

You are now saying that you just want equity between treatment of sustainable activity and that of other activities.

**Bertie Armstrong:** It is effectively the same thing. I would not demand or expect a presumption in favour of any one element of maritime activity over another. In the end, equity is bound to be in what is realistically demanded. We do not want precedence; we do not want to say, "We fish there. You can't put anything there or do anything to the sea bed." That would be silly.

**Michael Russell:** In other words, the seven points have been reduced to three. For example, you have dropped your demand that

"No part of fisheries control or management must be delegated to regional planners."

**Bertie Armstrong:** As we have explored, the role of regional planning partnerships is so untried, untested and, indeed, ill-defined at this stage that we will need to wait to see what happens in that respect. Regionalised fisheries management to that level simply will not work, but there may be things that can be done locally without damage. For example, Shetland has its own shellfish management order; that extra layer of management may be appropriate for other areas. We do not want to say that there should never be anything other than the common fisheries policy, but we do not want the gratuitous manufacture of extra management layers.

**Michael Russell:** But you like the Marine Management Organisation, which covers England's east region, and which you quote with great approval.

**Bertie Armstrong:** That is an example in which there seems to be an equitable approach. I would not overemphasise or underemphasise the MMO as a model for us because it is as different as—

**Michael Russell:** You say in the submission that the planning process should

"be arranged on the same principles as proposed by the Marine Management Organisation".

That appears to be an endorsement.

**Bertie Armstrong:** Yes. I am not quite sure where we are going with this.

**Michael Russell:** Fishing is an important sector not only for the committee, but for my constituency, so I want to be absolutely clear what your organisation is saying. In summary, you are saying that there should be a right to fish, that there should not be overregulation—which I certainly agree with—and that sustainability should be dealt with as a key issue.

**Bertie Armstrong:** Yes. Let me give you an example of how there is a wider scope to that. Shetland has been cited several times as an exemplar in the context of the marine plan. The problems for the Shetland wild capture industry go way beyond the national marine plan. The problem is the Faroese fleet fishing an unconscionable volume of mackerel 12.01 nautical miles from Shetland on a “Let’s see what happens in the dark” basis. Another problem is the constraints on days at sea. That means the fishermen cannot catch the amount of monkfish that they want. They sell their quota—they rent it annually, if you like—to someone else because they do not have time and they have had to modify their approach. Those are the real issues for wild capture fisheries—the issues are not necessarily what will or will not happen in the regional planning partnerships.

We have mentioned that the national marine plan is ahead of the game. On regional planning, the MMO is way ahead of us in the matter of inshore conservation fisheries areas or ICFAs—what we know as inshore fisheries groups. The MMO was cited simply as an example of how the national marine plan might work. It is not a prescription for anything that happens inside the regional planning partnerships because those are not properly defined yet.

**Michael Russell:** Fine. We are now clear on your position.

**Bertie Armstrong:** I think so.

**Michael Russell:** The seven points have been reduced to three.

**Bertie Armstrong:** Effectively so.

**Michael Russell:** Okay.

**Dave Thompson:** I will follow on from that discussion. Michael Russell and Bertie Armstrong might think that the position is clear, but I am not sure that I am totally clear on what it is. We are speaking to the cabinet secretary next week, and we have a wee while yet before we must come up with our final report on the marine plan. The SFF set out its position at the initial consultation. I am sure that it would be appropriate and helpful for the SFF to submit a relatively short document clarifying absolutely its position based on the latest draft plan.

**Bertie Armstrong:** We could do so, although the timescale is short.

**Calum Duncan:** I agree with Bertie Armstrong: the industry should be on a level footing, we should recognise that it contains a broad range of players, and fishing plans should be subject to strategic environmental assessment plans, as other plans are.

In our submission we called for displacement scenarios in the national marine plan to be subject to SEA. For those assessments to be made, and for fishing to be spatially managed and integrated with marine planning, as we think that it should be, we would welcome clear mapping of activity of vessels of both over 15m and under 15m. All that information is out there, but it is not being pulled together, and doing so would help to create a strategic level playing field.

**The Convener:** I do not think that we need another discussion on that, do we?

**Bertie Armstrong:** I need to say that I reject that out of hand. Fishing happens everywhere, and it is subject to climate change. The subjecting of fishing to inspection as part of a plan or project is specifically to do with Natura 2000 sites and is not about fishing in the northern continental shelf or anything that remotely resembles that. That is not the way to proceed at all.

**The Convener:** Both points are noted and we will take them to the cabinet secretary.

Mike Russell has a question on aquaculture.

**Michael Russell:** It is a brief question for Phil Thomas. I was a little surprised to see the national targets being reiterated in the plan because I am not entirely sure that that is where they should be. You have made it clear that you do not think that the national targets can be met without expansion on the north and east coasts, and you referred to the issue in your submission. If that does not happen, what is the potential for reaching the targets, which have been in place for some time without being reached?

**Professor Thomas:** There are two or three separate points to be made in that regard. First, the north and east coast issue is not an issue in relation to the targets. The targets can be reached within the existing area, largely through expansion of existing farm activity, for salmonids, trout and shellfish.

The issue about the north and east coasts is that currently there is, in effect, a planning blight on a large part of our coastal area. The reality is that in the areas on the west coast where we currently farm, nothing is going to be as profitable as salmon farming—certainly not at the moment. Therefore, the west coast will remain dominated by salmon farming.

If there are no opportunities to develop farming of other species on the north coast and the east coast, we are saying that Scotland is not interested in other species. As a general issue in relation to aquaculture—rather than just a salmon farming issue—we think that that is important.

**Michael Russell:** That is not well explained in the plan, which perhaps needs to have broader expectations of the industry, rather than being so specific.

**Professor Thomas:** The figures in the plan came about through the industry being asked what is a reasonable rate of development. I am not telling you anything that I have not said in public before when I say that this is how the figures and the targets came about: the rate of expansion in the market is, or has been, about 8 per cent per year, and the rate that we thought would be achievable in developing farming through the planning system was about 4 per cent per year.

My concern at the moment is that although we are nearly up to the rate of development that will get us to the 2020 target—we are slightly behind—the real question is about maintaining investment. That is why at the beginning I was keen to stress that the document is, in a sense, a prospectus for investors, because the reality is that there are lots of places in the world where investment can be made in marine development. If we are to remain competitive and move forward as we would like, we want to maintain our position.

**Graeme Dey:** As you know from our previous discussions, I am not an expert on aquaculture, so forgive me if I am wrong about this. My understanding is that aquaculture is predominantly based in the west because of the shelter that the islands provide for the industry. Is it not quite challenging to develop aquaculture in the north and, in particular, on the east coast? If I remember rightly, the most infamous and damaging escape from a fish farm happened in the north, in Shetland. Was not that escape weather related?

11:45

**Professor Thomas:** Shetland is a well-developed area already, of course. I think that you are referring to the incident a year or two ago when the seas were at such a level that a farm was carried away over a headland.

In short, the basis of your question is correct, in the sense that the reason why aquaculture developed first in the west was the high-quality and more sheltered water there. The pattern now is that the industry is progressively moving to more exposed positions because the technology has improved. Even with existing technology, there are areas along the north coast and down the east coast that would be appropriate for aquaculture.

Indeed, historically, there have been one or two farms in the Moray Firth, for example.

Existing forms of aquaculture such as salmon farming cannot be put in an area where there is water contamination, so areas on the east coast where there is significant marine contamination from effluent coming offshore are not available. Water must also be of appropriate depth, which largely rules out some areas on the south-west coast, where there tend to be shallow sandy beaches, and some but not all areas on the south-east coast.

There are opportunities, however. For us, there is an illogicality about saying that we should have a presumption against development, because nobody at the moment is looking to develop there. If that presumption was removed, I have no idea what species might be farmed and what might evolve, but the opportunity would be there for somebody to look for development.

**The Convener:** Without going into the history and development of the salmon farming industry and the industry for other species, I ask Calum Duncan to make a short comment on the issue before we move on to something else.

**Calum Duncan:** I want to flag up concerns that the habitats regulations appraisal results will show that an appropriate assessment of the national marine plan was not required. We are concerned about that. One concern is about the growth target in the aquaculture sector. We are in favour of sustainable development, but we think that the growth target is a concern. It is inconceivable to us that such growth would not potentially have an impact on European marine sites and therefore we would like to understand why an appropriate assessment of the plan was not required. The committee could perhaps ask the cabinet secretary about that.

**The Convener:** That is for the cabinet secretary. We have heard those two points of view.

**Professor Thomas:** My point of view is that the growth is actually very small. The reality is that the industry is just a few tonnes ahead of where it was in about 2001. We could almost argue that, taking 2001 as a reference point, there has been no growth up to now. The growth has been very small, but the growth potential is substantial, and part of that includes moving further offshore, which takes us into a wholly different set of technologies. Aquaculture is going to develop. The debate is about how much of it will develop in Scotland rather than elsewhere in the world, and that comes down to investment.

**The Convener:** We will leave that point for now, because I want to move on to the subject of

cabling. We have seen a number of comments about the statement in the marine plan that

“Cables should be buried to maximise protection where there are safety or seabed stability risks and to reduce conflict with other marine users and to protect the assets and infrastructure.”

Obviously, there are a couple of points of view on that. We know that global positioning systems can allow people who are travelling across areas where there are cables and pipelines to identify where they are. Therefore, from my point of view, there seems to be less of a problem and risk of conflict with other users. Alan Broadbent might want to deal with the question from the financial and environmental points of view.

**Alan Broadbent:** Our cables have been there for some time and we have no plans to expand the network unless another Scottish island, over and above the 59 islands that we supply, becomes inhabited. Then we would have to look at that. The cables are already there. There are 111 separate cables serving 59 islands, and they have been there for a considerable time. They supply tens of thousands of customers on the Scottish islands who would count themselves as, in Mr Armstrong’s words, established users of the sea. They need those cables to get their supply, and I think that they have every right to be concerned about what is in the plan.

We have some experience of the plan, which we believe was being employed when we tried to replace the mainland to Jura cable. I would be the first to admit that that took far too long and that we left those customers on diesel generation sets for far too long. There were faults because of that and we had to man the diesel sets 24 hours a day. It was a serious situation and such situations need to be addressed in the plan, but they are not.

On the subject of the environment, Mr Dey talked about electromagnetic fields at the committee’s previous meeting. EMFs are scientifically dealt with pretty well on land, and central Government has set exposure limits for that situation. I am no expert on the matter, but I assume that the same limits apply in the sea. There are no issues for humans that I am aware of, and the plan says that there is no evidence of issues for the marine environment. All that I can say is that, when we undertake inspections of our cables, we find significant marine life around them. That is not to say that having the cables there is necessarily a good thing, but we find a lot of marine life around our cables—that is a fact.

The other issue is the economic issue. We have just finished a price control review with our regulator, the Office of Gas and Electricity Markets—we are a heavily regulated business. Over the next eight years from April 2015, our income will be governed by the business plan that

we submit to Ofgem, although there will be a bit of negotiation along the way. In essence, Ofgem will tell us what it is going to give us and we will try to get a wee bit more on the basis of what we believe is the right level of expenditure to enable us to serve our customers going forward. Largely, we got what we asked for in the most recent price control review—Ofgem gave it to us.

However, when the mainland to Jura situation arose, we were in a completely different position. We had made a submission for £48 million both to replace and to repair some of the cables. The policy to protect or underground all those cables would add £280 million to, in effect, customers’ bills—that is the bottom line. That is the reality of it, although I am not saying that we are not prepared to conduct a cost benefit analysis of that policy.

After we had applied for a licence—indeed, it was when we were discussing with Marine Scotland the subject of a licence and Marine Scotland told us that we were going to have to underground the cable—we took the matter so seriously that we organised a meeting with the regulator and Marine Scotland, because we knew that we were far short of the amount of money that we needed for that in the current price control period. Ofgem came to the meeting, we talked about the issue and we agreed—at least, we thought that we had agreed—that a cost benefit analysis would be undertaken, that the work would be proportionate, that we would do the right thing on the basis of the evidence and that it would be risk assessed. However, we had to get the mainland to Jura cable in place more quickly than that, so we told Marine Scotland that we would be prepared to go through that process afterwards.

In every single case, we would be prepared to do that afterwards if there were a fault, for instance. We are perfectly prepared to talk to the stakeholders about their concerns and to see whether there are any safety issues. However, to our knowledge, there have been no safety issues with any of our cables that have resulted in either injuries or deaths. There are none in the marine accident investigation branch figures going back 20 years. As far as we are concerned, there is no safety issue. Nevertheless, we accept that each circumstance might be different and that we would need to discuss it with the stakeholders.

We believe that the implications of chapter 14 for distribution cables were not fully consulted on although they absolutely need to be. Mr Russell is correct in saying that the plan is both specific and explicit, and it takes some skill to make a plan that is both specific and explicit yet still unclear. That is what appendix 2 of our submission is about. We have made those comments before—we made them during the first and second consultations but,

as far as I am concerned, they were largely ignored.

As I said at the beginning, we need chapter 14 to be consulted on again, and we will contribute to that. We are perfectly happy to go forward with a cost benefit analysis, but we want evidence and a risk assessment to be included, because our primary concern is our customers on the islands. It is not about this business; it is about our customers on the islands, security and economics. There will be a downside for them if the plan goes through as it is at the moment.

**The Convener:** Okay, but there are lots of other cables and pipelines. For example, we have been joining up many of the islands with broadband. I am not sure whether those cables have been buried. I certainly know that there are lots of pipelines in the North Sea that are not buried. We are talking about something that is being put in a plan. It looks as though the best thing that can be drawn out is that we should consider the potential for burial on a case-by-case basis.

**Alan Broadbent:** That is essentially what we are saying, provided that the plan contains at the highest level proportionality, risk assessment and evidence. The evidence on the Jura cable was scant if not non-existent and we have been forced to protect it—or underground it—down to the 50m mark. I do not believe that that was right and I do not think that it was in our customers' interests, but we had to agree to it because we had to get the cable in. That was the reality of life.

We need the things that I mentioned to be in the plan. We are concerned that, as Mr Russell said today and in our previous discussion, if we are not specific at the high level and the matter gets moved out to be covered in local marine plans and during licensing, we will have a really difficult job getting this through, because that is what happened in the mainland to Jura case.

**Michael Russell:** The Jura example needs to be borne firmly in mind by members of this committee and those who are discussing the matter. I stress the point that Alan Broadbent made. For six months, the cable was not operating and the Bowmore diesel sets were operating flat out going into a winter. If members have been in Islay in winter they will know that it can be very harsh indeed. The people who live next to the Bowmore diesel sets were subjected to fairly intolerable conditions for six months—it sounds silly, but they were, and they were complaining about it—and the cost of operating the system was substantial. I am sure that Alan Broadbent will bear that out.

I want to press Alan on two points in the chronology that he has given in his evidence. There are two gaps where things appear not to

have been happening. One is 20 June to 28 July, when my assumption is that you were preparing the application for the licence. Am I right?

**Alan Broadbent:** Absolutely. It was at that point, when we discussed things with Marine Scotland, that we realised for the first time that we were going to be forced to put a cable underground.

**Michael Russell:** The second gap—this is where the worry about the plan exists—is 18 August to 28 October. That is 11 weeks. There had been a consultation, which had finished, and for 11 weeks there was inaction on supply. All the people in Jura, Islay and Colonsay—three islands were affected—were waiting to find out what was happening. What was happening during that period?

**Alan Broadbent:** You are not quite right about the dates. It was 13 November when we actually got a licence—

**Michael Russell:** Yes, but you got the draft licence on 28 October. Something happened.

**Alan Broadbent:** What was happening was that we were in discussions with Marine Scotland. At that point, it had said, "Underground the whole cable," so 8km had been undergrounded. It then changed that policy to the 50m contour—for a reason that I do not know, but at least it helped us because it made it easier to get the cable in.

There were a lot of discussions, one of which was at the Ofgem meeting. That was fundamental to us. I did not say what came out of that meeting, which is that Ofgem agreed to give us what is called a reopener in the price control. We can now recover whatever money we spend in the price control through the Ofgem reopener but, again, that goes directly on to customers.

A lot of things were happening at that point. We were obliged to speak to stakeholders because we also had to start developing a cable protection plan. That was difficult because, generally speaking, if we are going to put a cable under the sea bed as opposed to on it, where 110 of our cables already are, we have to do a completely different survey because we are not entirely sure what it is like under the sea bed. Some of that work had to be done and some discussions had to be held during that period.

We pressed for a licence at an earlier stage so that we could catch a neap tide, which we needed, and good weather. We were particularly fortunate to get good weather and a neap tide on 7 December.

12:00

**Michael Russell:** You did an extraordinary job to get the cable in in that time. I was astonished. I had barely turned round from getting the first email to say that you had started to lay the cable when I got an email to say that you had finished laying it. That was remarkable.

I will compress the arguments. You are arguing that there should be a special section in the plan on replacing cables. I think that that is correct—that has to happen, because in such circumstances we are talking about continuing an existing service. You are also arguing—rightly, I think—that the provisions of the marine plan that were operated during the time in question led to an unacceptable delay in ensuring that the community had the service that it needed.

**Alan Broadbent:** That is our belief. It is not often that there is a specific example that feeds into what is a draft policy. I believe that the two things were related.

**Michael Russell:** I know that the view on Jura and Islay—particularly on Islay—is that the marine plan was operating and did not operate well in the interests of my constituents. I support that, but there will be other views. I think that there needs to be special provision for replacement cables. Can you confirm that you are not planning to lay new marine cables?

**Alan Broadbent:** No, we are not planning any. We are in the distribution business. The transmission business and the renewables industry are quite different. They have different commercial imperatives, and I can fully understand why they would want to underground their cables. For the most part, the renewables industry undergrounnds its cables in the sea, as does the transmission business. However, they have different commercial imperatives, and the cables do different things.

**Michael Russell:** Therefore, you are saying that we should proceed on a case-by-base basis and that there should be a presumption that new cables will be buried but replacement cables, particularly in urgent circumstances, should be subject to a different set of regulations.

**Alan Broadbent:** When you refer to new cables, do you mean completely new cables?

**Michael Russell:** Yes.

**Alan Broadbent:** Yes, that is the case.

We have been replacing cables on the sea bed on a like-for-like basis for 60 years and we have not had a problem with that. All of a sudden, it is a problem.

**The Convener:** After we have heard from Bertie Armstrong, we will have a question from Claudia Beamish.

**Bertie Armstrong:** We are discussing a matter that relates to one licence. It is a tactical matter. Chapter 14 of the national marine plan, which is on submarine cables, is the strategic plan; as has just been mentioned, it does not apply to all cables that are laid across the sea bed—for example, it does not apply to the transmission cables from renewables.

There is indeed another point of view, and there are a number of suggestions that I take issue with. One is the suggestion that electricity cables contribute to our fish stocks—they do not. There might be anecdotal evidence of clustering, but we can lay that to one side. Secondly, it seems to be being implied that, because an accident involving the catching of cables has not been detected, there is no danger of death as a result of a fishing vessel catching an obstruction on the sea bed. That is not correct, either. In many cases—particularly with scallop dredgers—there is a danger of death from catching sea-bed obstructions. The argument that is being made is like saying, “I have nine years’ no-claims bonus on my insurance, so I don’t need it.” There is a danger of death, and we ought to look at the issue carefully.

For the life of me, I cannot see what is wrong with the objectives in chapter 14. I understand the plight of electricity users on Jura and the other islands, but we would be roundly frightened by a clause that made it possible to lay replacement electricity supply cables across the sea bed without further ado. I hope that that is not what is being asked for. We would strongly object to that.

I understand that the fact that it took six months to replace the emergency cable presented a problem for the users, but if there is to be a further consultation, we will certainly participate, because there are two sides to the argument. We are not saying that people should not even think of putting a cable where there was previously a cable and where no problems seemed to occur. However, we want the objectives that are laid down in chapter 14 to be properly looked at, particularly the objective about protecting

“submarine cables whilst achieving successful seabed user co-existence.”

**Alan Broadbent:** I will respond to that quickly. There is a general issue about people’s understanding of what the cables are and are not. I hope that I have explained today that they are quite different to renewables and transmission cables. They have been there a long time and we are asking to renew and replace them. They have existed alongside fishermen and other



stakeholders for a very long time with no particularly big issues, so I am okay with that.

The marine life point was just about the fact that the EMFs do not appear to be affecting the barnacles. It was not about attracting fish or anything else.

The accident statistics from the marine accident investigation branch included no Scottish cables at all but indicated that rocks were affected and that wrecks were being pulled. I accept that that could happen; what I am saying is that there is no evidence that it has happened so, if we are assessing risk, we may take that into account.

I recommend that you read appendix 2 of our submission, where we highlight why, although chapter 14 of the plan might be specific and explicit, it is unclear and confusing. We worry that, further down the line, it will impact badly on our customers. We are really concerned about that point.

I say to Mr Armstrong that I am certainly not saying that we will lay cables willy-nilly. I would like to do it in pretty much the way that we have done it for the past 60 years. We have had a really good relationship with the stakeholders and, indeed, Marine Scotland. We have got the cables in place in good time, customers have had their supplies restored and it has not put an undue burden on their bills. I would like to return to that situation and, if we can write that into chapter 14, so much the better.

**The Convener:** We have both of your points of view on the matter. Graeme Dey has a point on one of them.

**Graeme Dey:** I want to get some clarity on the matter. Safety is absolutely paramount—there is no doubt about that. Is not Alan Broadbent simply asking for arrangements that continue the existing co-existence between fishing and the submarine cables? As I understand it, all he is talking about is replacing cables as they require to be replaced in exactly the same location in the same way. If the fishing industry already knows where the cables are, I do not see what the problem is. I seriously question why fishermen would be scallop dredging in an area where there are known to be cables. Surely that just would not happen.

**Bertie Armstrong:** Point taken, but I am not sure why we would want to depart from the objectives that are laid down. Of course there needs to be co-existence. It is difficult to pick over one example when we are talking about a strategic principle. The mainland to Jura situation was not a shining example of co-existence. Meetings were called the night before work was due to happen. We knew for a fact that assets had been booked to carry out a lay before consultation had taken place with the local fishing groups. This

is an argument about licensing for a specific cable. We could go on for ever talking about that specific example.

**Michael Russell:** No, it is a very good example, Bertie, and it needs to be understood as such. In that example, a cable failed in June and there was an endless process with which the community got incredibly frustrated. There was discussion with the fishing community—as a local member, I know that it was going on in September and October; and we got to the stage at which an enormous push was required to get the cable in place before the winter weather came in to Islay—indeed, it was coming in already.

It is a very good example because the process was being run according to the principles of the plan. That is exactly the point that Alan Broadbent is making. Therefore, it tells us that the principles in the plan do not allow for the replacement of cables that break and require urgent replacement; therefore, change is required to that. Nobody is arguing for a blanket change, but a change is required in relation to like-for-like replacement when communities are disadvantaged. It is an excellent example.

**Bertie Armstrong:** Therefore, it might be entirely appropriate when the regulation or direction that you have just explained is made, to make another direction to the cable company to ensure that planned maintenance and the replacement of cables take place to mitigate the risk of creating such a blind emergency. How old was the cable and why did it break in June?

**Michael Russell:** You have just made a statement that indicates some doubt about the company's maintenance. Have you any evidence on that?

**Bertie Armstrong:** I did not make a statement; I made a suggestion. If you are going to say that we require in statute some means of rapidly replacing broken cable, which sounds reasonable, I would say that it would also be reasonable to place in statute a requirement to maintain the things and to schedule their replacement realistically.

**Alan Broadbent:** The statute does that, because the Electricity Safety, Quality and Continuity Regulations 2002 require us to do that. Of course, every regulation is at a very high level and will not say specifically what to do for submarine cables or anything else. That said, I am proud of our company's record in terms of doing the right things in relation to ESQCR.

The fact is that any cable or piece of equipment will fail at some point. If it does not, my regulator will say that I am not operating economically and efficiently, because I am replacing it too often. We must all face up to the reality that some things, including sub-marine cables, will occasionally fail,

and we will have to be able to replace them extremely quickly.

**Bertie Armstrong:** All of that is agreed. None of that explains why there would be any resistance to a statement in the statute, by way of balance, that would simply nod towards what is already there.

Why did the cable break in June?

**The Convener:** I think that we can ask those questions outwith this forum. We hear your point of view, Mr Armstrong, and we note what the cable company has said. We also note that, on cables, the national marine plan says:

"The following factors will be taken into account on a case by case basis"

and so on. I think that we are dealing with a lot of issues that will allow the situation to be quite clear. We will ask the cabinet secretary about the points that you have made.

**Claudia Beamish:** I have a brief question for clarification. Mr Broadbent, given that you are quoting a figure of an additional £280 million on customers' bills, which is a significant degree of pressure, what sort of cost benefit analysis, on a case-by-case basis, would come up with anything other than a suggestion that the cheapest option should be chosen? What sort of cost benefit analysis are you using?

**Alan Broadbent:** On the first part of the question, as I have said, we have just gone through a price control process with the regulator. Every piece of expenditure and investment that we proposed had to have a cost benefit analysis attached to it, and that work was, in essence, based on the UK Government green book. In the meeting with the Office of Gas and Electricity Markets, it suggested that that would be the way forward.

We have already begun to think about how we will do the same work in future. We will draw in a lot more expert advice than previously, and we might well discover issues that we did not previously realise were there. However, I take your point entirely: it is difficult for me, as an engineer who has laid a lot of these cables in his time, to see what particular situation could overturn the approach. It may be that we might choose to put underground or protect certain shorter cables or cables that are in particular areas of fishing intensity or of river stakeholder activity, but the fact is that a cost benefit analysis was done on the 110 cables that are already in place on the sea bed, and at that point there was no clear reason why we would spend up to six times more to put the cable under the sea bed.

**The Convener:** I will move on to what I hope will be the final point, which concerns the

relationship between the national marine plan and the Crown Estate.

As we know, the Smith commission has proposed the transfer of Crown Estate powers to Scotland and to particular local areas. Practical points have been raised in that regard, and the question of exactly how that will be done is a moot point. Do any of the witnesses feel that the marine plan has to be changed in the light of the Smith commission proposals? The marine plan will not be completed in any way until the heads of subject are agreed at the end of this month on the potential bill related to the Smith commission proposals.

12:15

**Annie Breden:** There are few direct references to the Crown Estate in the plan. There are some references to our functions in terms of leasing and renewable energy leasing rounds, so there might be a need to make some very minor semantic changes. On the whole, to be honest, I do not believe that much needs to be changed given the changes that will happen.

**The Convener:** Which may or may not happen in the form that has been outlined.

**Professor Thomas:** I am not sure that the plan will necessarily be the place to deal with the issues. As I was saying earlier, I think that the proposal throws up a series of new issues. My guess is that the easiest way to proceed is simply to make reference in the plan to the fact that changes are being considered or have taken place, and that the consequences of those changes will be dealt with in some other document.

**The Convener:** So everybody is happy with where we are in that regard. We are on a moving platform at the moment, but I thought that we would finish up with that question in case anyone else had a view.

You have given us a lot to think about and mull over, and you have provided us with a morning of considerable interest. I thank our witnesses for their effort and input. All submissions to the committee are valued—the written submissions as well as the ones that have been taken orally this morning.

We will have a short suspension in order for the witnesses to remove themselves and for us to have a short comfort break before we deal with the final item in public.

12:17

*Meeting suspended.*

12:23

*On resuming—*

## **Public Bodies Act Consent Memorandum**

### **Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015 [Draft]**

**The Convener:** Under the second item on the agenda, we will consider a Scottish Government memorandum relating to the draft Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015. It is a UK instrument and the Scottish Parliament must give its consent to the order. Do members have any questions?

**Members:** No.

**Michael Russell:** Did Alex Fergusson just say, "Please, no"?

**Alex Fergusson:** No, I did not; I just said no.

**The Convener:** Do members agree to recommend to the Parliament that the draft motion as set out in the public bodies act consent memorandum be approved?

**Members** *indicated agreement.*

**The Convener:** Next week, on 14 January, the committee will take evidence on the national marine plan from the cabinet secretary and will consider in private its draft report on part 4 of the Community Empowerment (Scotland) Bill.

*Meeting closed at 12:24.*



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