



Marine Planning
Marine Scotland
Area 1-A South
Victoria Quay
Edinburgh
EH6 6QQ

13 November 2013

Dear Sir / Madam,

Consultation on Scotland's National Marine Plan

Thank you for the opportunity to comment on this draft Plan.

The Institute for Archaeologists

The Institute for Archaeologists (IfA) is a professional body for the study and care of the historic environment. It promotes best practice in archaeology and provides a self-regulatory quality assurance framework for the sector and those it serves.

IfA has over 3,000 members and more than 70 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management, planning advice, excavation, finds and environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching and liaison with the community, industry and the commercial and financial sectors. IfA's Maritime Affairs Group (MAG) (to which most professional maritime archaeologists in the United Kingdom belong) and its Scottish Group (which has over 200 members practising in the public, private and voluntary sector in Scotland) advise the Institute on matters falling within their respective remits.

Furthermore, IfA is a member of the Built Environment Forum Scotland (BEFS), a network organisation that brings together non-governmental organisations and professional bodies that work with Scotland's built environment.

Scotland's National Marine Plan

General

IfA welcomes the publication of a draft National Marine Plan for Scotland as a key component in the development of an integrated system of marine planning and licensing. The Institute's primary concern is to ensure that the management and protection of the marine historic environment forms an integral part of that regulatory system. This is in line with the *UK High Level Marine Objectives* set out in *Our seas – a shared resource* (2009), which include:

'Promoting good governance

...

- *The use of the marine environment is spatially planned where appropriate and based on an ecosystems approach which takes account of climate change and recognises the protection and management needs of marine cultural heritage according to its significance.'* [HLMO 18]

It is also consistent with the *UK Marine Policy Statement* (2011) which confirms at paragraph 2.6.6.3 that:

'The view shared by the UK Administrations is that heritage assets should be enjoyed for the quality of life they bring to this and future generations, and they should be conserved through marine planning in a manner appropriate and proportionate to their significance.'

It is intended that such an approach should harmonise with terrestrial provision for the historic environment (see section 1.3 of the *UK Marine Policy Statement* in furtherance of the *UK High Level Marine Objective* that *'Marine, land and water management mechanisms are responsive and work effectively together'* [HLMO 15]).

The answers to the specific questions below relate to the provisions of the draft National Plan insofar as they affect the marine historic environment.

Specific Questions

Question 1: Does the NMP appropriately guide management of Scotland's marine resources?

1.1 Yes, subject to the comments below.

Question 2: Does the NMP appropriately set out the requirement for integration between marine planning and land use planning systems?

2.1 Yes (in the last paragraph of page 10 of the draft Plan).

Question 3: Does the NMP appropriately guide development of regional marine planning? What, if any, further guidance is required for regional marine planners in terms of implementation and how to interpret the NMP?

3.1 Yes. Further guidance on managing and protecting the marine historic environment would be helpful at a regional and local level (in addition to the marine elements of the *Scottish Historic Environment Policy* (2011) (SHEP). This exists in a terrestrial context in the shape of PAN 2/2011 *Planning and Archaeology* and might be supplemented in a marine context by further Government-endorsed, sectoral guidance and best practice (in addition to that which already exists or is emerging).

Question 4: The Marine Regional Boundaries Consultation proposed that in addition to regional marine planning, further integrated management of key marine areas would be achieved by designating the Pentland Firth; the Minches and the mouth of the Clyde as Strategic Sea Areas. Should the NMP set out specific marine planning policies for Strategic Sea Areas?

4.1 Yes, if there are specific planning issues unique to those areas.

Question 5: Are the objectives and policies in the NMP appropriate to ensure they further the achievement of sustainable development, including protection and, where appropriate, enhancement of the health of the sea?

5.1 No. The draft Plan should make clear that environmental limits encompass the marine historic environment and demonstrate clearly how the management and protection of heritage assets is integrated into an ecosystems approach to the management of Scotland's Seas (see further under question 6).

Question 6: Chapter 3 sets out strategic objectives for the National Marine Plan and Chapters 6–16 set out sector specific marine objectives. Is this the best approach to setting economic, social and marine ecosystem objectives and objectives relating to the mitigation of and, adaptation to climate change?

6.1 IfA does not object to the approach adopted, which is logical. Indeed, the setting of economic, social and marine ecosystem objectives and objectives relating to climate change is required by

section 5(4)(a) of the *Marine (Scotland) Act 2011*. Furthermore, the Institute welcomes Scottish Government's recognition (in its *'Approach to Policies'* at page 18 of the draft Plan) of the balance inherent in sustainable development (*'The aim is to create a supportive environment for businesses in every marine sector looking to operate or develop in Scottish Waters, while protecting Scotland's natural and cultural heritage and taking other users into account.'*)

6.2 *'The fundamental principle of sustainable development is that it integrates economic, social and environmental objectives.'* (Paragraph 35, *Scottish Planning Policy* (2010).) However the emphasis in the draft Plan is upon economic, social and marine ecosystem objectives (both in the text and graphically, through the use of symbols). Unless the draft Plan is explicit as to how the marine historic environment is integrated into an ecosystem approach, the full range of environmental considerations necessary to achieve sustainable development may not be apparent from this part of the Plan.

Question 7: Do you have any other comments on Chapters 1–3?

7.1 The draft Plan (at page 14) accurately describes the *EU Marine Strategy Framework Directive* which sets the framework for Good Environmental Status (GES) and sets out 11 descriptors which provide the outcomes that would constitute GES. However, none of those descriptors relate specifically to the marine historic environment. Although Scottish Government cannot unilaterally alter that fact, it can (and should) make clear in its National Plan that, notwithstanding this omission, the marine historic environment is an integral part of the marine environment which must be considered when assessing environmental limits.

Question 8: Are the general policies in Chapter 4 appropriate to ensure an approach of sustainable development and use of the marine area?

8.1 Yes, subject to the comments above and the following.

8.2 It would be useful to elaborate upon the meaning of sustainable development (either directly or by reference to other documents such as *Scottish Planning Policy* as quoted above).

8.3 Policy GEN 3 refers to development and activities providing social benefits, but fails to identify the important social benefits associated with the marine environment including the marine historic environment (see paragraphs 2.6.6.2 and 2.6.6.3 of the *UK Marine Policy Statement*).

8.4 IfA welcomes the inclusion of policy GEN 13 dealing specifically with the historic environment and, in particular the recognition of the significance of both designated and undesignated heritage assets. However, the inclusion of the words *'aim to'* weakens the policy and their use is inconsistent with the approach in the draft *Scottish Planning Policy* (2013) (see paragraphs 120-124 where the phrasing is simply *'should protect'*). The words *'aim to'* should be omitted from policy GEN 13.

8.5 Moreover, the use of the word *'positively'* in the 4th line of page 31 of the draft Plan may be taken (erroneously) to suggest that a heritage asset has to undergo some formal process in order to qualify as such. It is sufficient simply to say that elements *"identified as holding a degree of significance meriting consideration are called 'heritage assets'"*. Indeed, the *UK Marine Policy Statement* (at paragraph 2.6.6.6) refers solely to *'identified heritage assets'*. It also goes on to highlight the need to take into account *'the potential for such assets to be discovered'* in developing and implementing Marine Plans. The draft Plan does not refer to such potential and this omission should be rectified.

8.6 Furthermore, the second bullet point of the penultimate paragraph on page 31 of the draft Plan suggests by implication that only those undesignated assets *'that meet designation criteria and those that make a positive contribution to social and economic factors (e.g. tourism and recreation) should ... be protected in-situ, wherever feasible.'* This adds an unnecessary gloss to Scottish Planning Policy (see paragraph 124 of both the current SPP (2010) and the draft SPP (2013) – the latter simply states *'Non-designated assets should be preserved in situ, in an appropriate setting wherever possible.'* The text of the draft Plan should be revised to accord with Scottish Planning

Policy in this regard.

8.7 The last paragraph of page 32 of the draft Plan refers to archiving information with the Royal Commission on the Ancient and Historical Monuments of Scotland (or its successor if in existence at the date of publication of the Plan) or the adjacent Local Authority Archaeology Service. This is a crucial issue for the management and protection of Scotland's marine historic environment (see, for instance, Chapter 2 of *Towards a Strategy for Scotland's Marine Historic Environment*: <http://www.historic-scotland.gov.uk/marine-strategy.pdf>) and clear support needs to be provided in the Plan for both RCAHMS (and its successor) and Local Authority Archaeology Services and the records which they maintain and support. The Plan should identify the records in question and make clear the need to consult them.

8.8 IfA welcomes the reference to protocols for archaeological discoveries in the first paragraph of page 32 of the draft Plan. Such protocols have an important part to play in the management of the marine historic environment. However, their role is as a 'safety-net' to supplement, and not to replace, the mechanisms in place to ensure that the historic environment is considered and addressed in the earliest stages of the development process. This must be made clear in the Plan to avoid any (erroneous) inference that compliance with a protocol removes the need to assess and take appropriate steps to avoid or reduce harm to the historic environment.

Are there alternative policies that you think should be included?

8.9 See above.

Are the policies on integration with other planning systems appropriate?

8.10 Yes.

A draft circular on the integration with terrestrial planning has also been published – would further guidance be useful?

8.11 See paragraph 3.1 above

Question 9: Is the marine planning policy for landscape and seascape an appropriate approach?

9.1 Yes. This is welcomed.

Question 10: Are there alternative general policies that you think should be included in Chapter 4?

10.1 No.

Question 11: Do you have any comments on Chapter 5?

11.1 The marine historic environment should be identified as a key part of the marine environment, the limits of which must be respected.

Are there other sectors which you think should be covered by the National Marine Plan?

11.2 No.

Question 12: Do you have any comments on Sea Fisheries, Chapter 6?

12.1 Although '*the potential for loss or damage to heritage assets*' is identified on page 49 of the draft Plan, no further consideration appears to be given to this issue. The statement that '*fishers avoid these where possible due to risk of damage to gear*' is not a complete answer, particularly given the varied nature of archaeological remains (including submerged landscapes).

12.2 Consequently, the second bullet point of policy FISHERIES 3 should be expanded to deal expressly with archaeological remains and a further policy (or an extension of FISHERIES 7) should be introduced to ensure that fishermen work with stakeholders concerned with the marine historic environment to ensure that the marine historic environment is properly managed and protected.

Question 13: Are there alternative planning policies that you think should be included in this chapter?

13.1 See paragraph 12.2 above.

Question 14: Does Chapter 7 appropriately set out the relationship between terrestrial and marine planning for Aquaculture? Are there any planning changes which might be included to optimise the future sustainable development of aquaculture?

14.1 No comment.

Question 15: Do you have any comments on Aquaculture, Chapter 7?

15.1 Although there is reference in policy AQUACULTURE 6 to guidance on the siting and design of aquaculture in the landscape, there is no reference in this Chapter to other potential impacts of aquaculture and associated development upon the historic environment.

Question 16: Are there alternative planning policies that you think should be included in this chapter?

16.1 See paragraph 15.1 above.

Question 17: Do you have any comments on Wild Salmon and Migratory Fish, Chapter 8?

17.1 No comment.

Question 18: Are there alternative planning policies that you think should be included in this chapter?

18.1 No comment.

Question 19: Do you have any comments on Oil and Gas, Chapter 9?

19.1 The potential for offshore oil and gas exploration and development to impact upon the historic environment and the need for appropriate safeguards should be recognised in policy and supporting text. Although it is true that *'offshore oil and gas exploration and development is subject to a requirement for an environmental impact assessment'* (which will consider the impact of development, amongst other things, on the marine historic environment), this potential impact should be addressed in the National Plan.

Question 20: Are there alternative planning policies that you think should be included in this chapter?

20.1 See paragraph 19.1 above.

Question 21: Do you have any comments on Carbon Capture and Storage, Chapter 10?

21.1 The draft Plan at page 82, correctly identifies that *'Environmental impact will depend on the extent to which it is possible to use existing pipelines, installations and wells'*, but does not address the potential impact upon the historic environment if re-use is not possible.

Question 22: Are there alternative planning policies that you think should be included in this chapter?

22.1 See paragraph 21.1 above.

Question 23: Should the NMP incorporate spatial information for Sectoral Marine Plans?

23.1 Only if impacts upon the environment (including the historic environment) have been adequately assessed at this strategic level.

Question 24: Do you have any comments on Offshore Renewable Energy, Chapter 11?

24.1 Selection criteria for Scottish Offshore Renewables should continue to address impacts upon the historic environment and provide appropriate safeguards to ensure that heritage assets are adequately protected.

Question 25: Are there alternative planning policies that you think should be included in this chapter?

25.1 Policy RENEWABLES 5 should be extended to deal with impacts on the historic environment as well as the natural environment.

Question 26: Do you have any comments on Recreation and Tourism, Chapter 12?

26.1 This Chapter should highlight the value of the marine historic environment for recreation and tourism, whilst making clear that access to heritage assets must not put those assets at risk (the second bullet point of policy REC & TOURISM 1 is particularly relevant to the marine historic environment).

Question 27: Are there alternative planning policies that you think should be included in this chapter?

27.1 Either policy REC & TOURISM 4 should be extended or a new policy added to provide that marine recreation and tourism activity should not unacceptably impact upon heritage assets.

Question 28: Should the NMP specifically designate national significant ports/harbours as described in Chapter 13: Marine Planning Policy Transport 2?

28.1 No comment.

Question 29: Do you have any comments on Transport, Chapter 13?

29.1 Chapter 13 should address the potential for port development and navigational dredging to impact upon the marine historic environment and this should be addressed in policy.

Question 30: Are there alternative planning policies that you think should be included in this chapter?

30.1 See paragraph 29.1 above.

Question 31: Do you have any comments on Telecommunications, Chapter 14?

31.1 No comment.

Question 32: Are there alternative planning policies that you think should be included in this chapter?

32.1 No comment.

Question 33: Do you have any comments on Defence, Chapter 15?

33.1 IfA welcomes MoD's commitment to the protection of the natural and historic environment (page 123 of the draft Plan) and will continue to work with MoD and other stakeholders in an effort to ensure that the historic environment is adequately safeguarded.

Question 34: Are there alternative planning policies that you think should be include in this chapter?

34.1 No comment.

Question 35: Do you have any comments on Aggregates, Chapter 16?

35.1 IfA welcomes the recognition (under the heading '*Living Within Environmental Limits*') on page 128 of the draft Plan that environmental impacts which can arise from aggregate activity include '*loss of ... heritage assets*' and the inclusion in policy AGGREGATES 2 of provision seeking to ensure that '*all the necessary environmental issues are considered and safeguards are in place.*'

Question 36: Are there alternative planning policies that you think should be included in this chapter?

36.1 No.

Question 37: Please tell us about any potential economic or regulatory impacts, either positive or negative, that you think any or all of the proposals in this consultation may have.

37.1 No comment.

Question 38: Do you believe that the creation of a Scottish National Marine Plan discriminates disproportionately between persons defined by age, disability, sexual orientation, gender, race and religion and belief?

38.1 No.

Question 39: If you answered yes to question 38 in what way do you believe that the creation of a Scottish National Marine Plan is discriminatory?

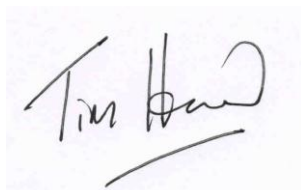
39.1 Not applicable.

Question 40: Do have any views/comments on the Sustainability Appraisal carried out for the NMP?

40.1 No comment.

If there is anything further that I can do to assist please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink that reads "Tim Howard". The signature is written in a cursive style with a horizontal line underneath the name.

Tim Howard LLB, Dip Prof Arch
Policy Advisor