



RTPI

mediation of space · making of place

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23 June 2006

Dear Sir/Madam,

**ROYAL TOWN PLANNING INSTITUTE RESPONSE:
MARINE BILL CONSULTATION**

This letter accompanies the Royal Town Planning Institute (RTPI) response to the Marine Bill Consultation. That consultation response is provided in 4 parts as follows:

- Part 1: a summary of key issues;
- Part 2: a policy paper recording the results of the RTPI's own investigations of and vision for marine spatial planning;
- Part 3: a response to the questions raised in the consultation that bear on marine spatial planning; and
- Part 4: a digest of the internal consultative and policy review processes that the RTPI has undertaken.

The RTPI is a membership organisation representing over 19,000 town planners. The RTPI exists to advance the science and art of town planning for the benefit of the public. It is strongly committed to a new vision for planning, which we consider should be spatial, sustainable, integrative and inclusive, embracing the wider environment as distinct from urban or terrestrial space alone. This vision closely informed the changes to the terrestrial spatial planning system for England provided for in the Planning and Compulsory Purchase Act 2004 and has informed similar reform processes and the development of national terrestrial spatial planning frameworks in Scotland, Wales and Northern Ireland.

The RTPI considers that the practice of spatial planning can offer much of benefit to our society when we use, develop and manage the marine environment. It can help us gather and systematise social, economic and environmental information to diagnose the state of the marine environment. It can track the marine environment and our relationship to it over time to identify trends. It can articulate our visions for the marine environment. It can help us develop a more sustainable relationship with it, notwithstanding that our demands to use and develop it and harvest from it continue to become more intense. It can programme action to safeguard, develop and enhance areas and infrastructures, whilst identifying and promoting opportunities for beneficial development.

Whilst it has traditionally been seen as supporting terrestrial practice, the RTPI has a considerable body of UK based and international experience in the emerging field of marine spatial planning. The RTPI has its own Marine Spatial Planning Task Group. This is a body of 33 senior planners with relevant experience. It has had a substantial role in formulating the enclosed consultation response. That being said the RTPI has also consulted its broader membership, and mention must also be made of a consolidated response received from the North West Region of England that has also been incorporated into the enclosed response.

The RTPI strongly values its opportunity to respond to this consultation, which it sees as being of great importance. It commends DEFRA on the breadth of issues addressed in the consultation paper, noting that these express an understanding of the marine environment and the opportunities offered by marine spatial planning that are integrative and inclusive and hold every potential for a sustainable future.

The RTPI notes that this consultation is intended to address key issues of principle and is likely to be followed by a more detailed technical consultation around the structure and means of implementation, should a new approach to marine spatial planning be supported in principle before the preparation of a draft Bill. The RTPI commends this approach and extends its willingness to participate fully in this further round or to assist DEFRA with any further advice or option testing that may be required.

If you have any questions about the enclosed response, please contact Rynd Smith on 020 7929 9478.

Yours faithfully



DIGITALLY SIGNED BY RYND SMITH
not for unauthorised use

Rynd Smith
Head of Policy & Practice

Enc.

THE MARINE BILL CONSULTATION A RESPONSE BY THE ROYAL TOWN PLANNING INSTITUTE

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PART 1: SUMMARY

The following points summarise the RTPI vision for marine spatial planning and its response to the Marine Bill Consultation.

- The RTPI strongly endorses the view that a marine spatial planning system should be developed for the UK.
- This should closely complement and integrate with systems developed to regulate marine waters within the devolved nations.
- It should also closely complement and integrate with terrestrial spatial planning, river basin and coastal zone management planning systems.
- Mechanisms of ensuring effective community involvement in plan making and decision making should be further explored, particularly in intensively used and densely populated regions such as estuaries.
- However, a plethora of overlapping plans, strategies and consultative processes should be avoided.
- Regulation should respond to demonstrated needs for control and should be as simple as possible.
- The RTPI considers that a marine spatial planning system should have a statutory basis in the proposed Marine Bill – which should provide a duty to plan and powers for plan implementation.
- The RTPI considers that the level of detail and control in any marine spatial plans should be set to meet spatial requirements, having regard to the intensity of existing and proposed use and development of the marine environment in particular regions and localities, together with the characteristics of their marine environment.
- Marine spatial policy should be transparently set out in a cascade, which should include UK and national policy, regional policy and local marine plans, where these are warranted;
- The policy in plans should establish a strong and transparent basis for an integrated approach to marine licensing and consent.
- Consideration should be given to marine zoning tools driven by policy as means of providing permitted development rights in the marine environment, where potential use, development or management appears to be beneficial and benign and are supported by the purpose of the zone. Similarly, such tools can set the triggers for marine consent, where the benefit or benignity of a proposal is not so clear cut, or provide that certain activities are prohibited in certain places, where they would conflict with established zone purposes.
- Some further evaluation of overseas approaches to marine and terrestrial zonation is warranted.

PART 2: MARINE SPATIAL PLANNING – AN RTPI VISION

2.1 INTRODUCTION

1. This section of the response represents an RTPI vision for marine spatial planning. It is drawn from a paper that was prepared by the RTPI Marine Spatial Planning Task Group (MSP TG).
2. The RTPI recognises that there will be resource and political constraints on creating and running the best possible system of marine spatial planning. Nevertheless, at a time when DEFRA is promoting a UK-wide Marine Bill which, inter alia, is proposing to introduce a system of marine spatial planning, the RTPI has sought to set out an 'optimal case' system. It notes that there is anticipated to be a further round of consultation on the framework and implementation of a marine spatial planning system, if the principles are agreed following the summer 2006 consultation process. The RTPI considers that such a further consultative round should be the point at which the trade-offs inherent in the balancing of competing resource, political and stakeholder considerations are best addressed.
3. It follows from this, however, that this current RTPI policy statement expresses principles on a broad scale and does itself synthesise a considerable diversity of views within the RTPI. While the RTPI believes that some elements of a system of MSP are fundamental and makes these clear below, this is a new and developing field and it would be unwise to adopt a policy and approach that is not capable of adaptation and adjustment as the debate proceeds. This statement has been adapted and refined through various processes in recognition of these issues to date, but nevertheless, it should still be seen as a broad vision with today's dateline rather than as a prescriptive statement of preferred structure and detail for all time.
4. The RTPI MSP TG was able to draw on the current experience of marine spatial planning in the UK: notably, DEFRA's Irish Sea Pilot Project; Highland Council's Atlantic Coast Pilot Project; and the debate in Scotland on the issues involved in bringing marine aquaculture under planning control. The MSP TG and the RTPI as a whole remain conscious that that this experience is relatively limited, when compared with international experience. That being said, we have had neither the time nor the resources, to examine developing practice and experience overseas in the depth we would have wished. The RTPI has identified the potential for additional comparative research in this field to inform emerging practice. It would be happy to work with DEFRA and other partners to assist in the design and implementation of such research.
5. The content of this paper is based closely on material prepared by David Tyldesley in December 2005, and the RTPI expresses its thanks to David for the clear focus and sense of direction given by his input. The valuable contribution of David Barraclough who retired as RTPI Policy Manager prior to the finalisation of this paper must also be acknowledged.

2.2 TOWARDS A POLICY STATEMENT ON MARINE SPATIAL PLANNING

6. The RTPI approach has been to consider possible policy options under a number of questions, and to come to a preferred conclusion on each, which are then set out as recommendations to DEFRA.
7. The seven policy questions considered by the RTPI are as follows.
 - What should be the broad concept of a marine spatial planning system and what processes should it include?
 - Should marine spatial planning be a statutory system with statutory purposes and duties for protection of the environment?
 - What should be the scope, jurisdiction and scale of marine spatial planning?
 - Should a marine spatial planning system operate in the same way over all areas of the sea?
 - What might be an appropriate hierarchy of policy frameworks and plan-making?
 - Are changes to existing regulatory frameworks necessary in order to deliver a marine spatial planning system?
 - How might a marine spatial planning system mesh with other planning systems?
8. Each of these is considered in turn in this paper, followed by the RTPI's overarching recommendation. Where necessary, some discussion of the detail of implementation is provided, although this should be read as subject to further consideration and participation in the anticipated later consultation. A final technical note considers developing practice in the continuous improvement, structure, format and electronic delivery of spatial plans.

2.3 WHAT SHOULD BE THE BROAD CONCEPT OF A MARINE SPATIAL PLANNING SYSTEM, AND WHAT PROCESSES SHOULD IT INCLUDE?

9. Marine spatial planning (MSP) should be conceived of as a discipline, or a process, that may result in several types of plans. The RTPI has considered a number of options before concluding that, to be fully fit for purpose, a system of MSP needs to incorporate three ongoing processes.
 - **Application of the discipline of plan-making:** generating and adopting one or more integrated plans or policy frameworks, based on sound evidence and with strong spatial dimensions, for the protection, enhancement and sustainable use, development and management of the sea and its resources. Plans would include:
 - policies and proposals for new use, development and/or management;
 - the programmes of infrastructure providers in respect of navigation, pipelines and cables, etc (including assets to be safeguarded); and
 - a policy framework that will be used to provide vision and set out a framework within which to determine applications and regulate change in the marine environment.

- **Implementation:** enabling change and encouraging improvement and investment through the execution of programmed works, and by the regulation and management of proposed changes and ongoing activities in, on, over and under the sea, all in accordance with the plan.
- **Enforcement, monitoring and review:** enforcing regulation, assessing the effectiveness of the plans, their timescales and implementation mechanisms, considering ways in which they need to be improved, and establishing review and adaptation procedures.

Recommendation A:

A system of marine spatial planning should involve:

- (a) the production of spatial plans, setting out policies and proposals for the conservation, enhancement and sustainable use of the marine environment, guidance for new development, and the management of ongoing activities;***
- (b) regulatory controls; and***
- (c) mechanisms for enforcement, monitoring and review.***

10. To provide an initial flavour of detail, it should be recorded that the RTPi MSP TG had no fixed view of the means by which the direction provided by plans should be brought to bear on decision making about the use, development or management of the marine environment. However, they were supportive of the view that plans and their implementation should where possible be as follows.

- **Visionary:** setting out and achieving visions for the marine environment and spatial sectors of the marine environment.
- **Integrative:** particularly that plans and decision making should seek to minimise the potential for marine use and development conflict and that any regulatory framework should move towards the concept of an integrated marine consent, reducing or removing the need for multiple licensing and consenting regimes.
- **Proportionate:** structuring approaches to regulation and decision making in a manner that is proportionate to the degree to which a use or development has the potential to cause significant harm to the marine environment or to result in conflict between uses or users of the marine environment.

This last point raises questions about the approach to regulation and decision making within a spatial planning framework that are returned to below.

2.4 SHOULD MARINE SPATIAL PLANNING BE A STATUTORY SYSTEM WITH STATUTORY PURPOSES AND DUTIES FOR THE PROTECTION OF THE ENVIRONMENT?

11. It is necessary to decide whether a system of MSP should be statutory or non-statutory, and whether statutory or non-statutory obligations should be placed on the competent authorities.
12. After much discussion, with varying views expressed by its members, the RTPI has decided to support a system that imposes a statutory duty on the competent authorities to prepare a plan with a statutory purpose.
13. The RTPI is well aware that the definition of a statutory purpose or purposes for MSP is likely to be fraught. Its MSP TG had difficulty in reaching a consensus on the relative weight to be attached to environmental protection and enhancement as against other important issues such as the role of port or energy infrastructures, marine transport and trade, navigational safety, or the national interest, and on whether and how the precautionary principle should be applied.
14. The RTPI is equally conscious of the problems involved in defining “sustainable development” with precision – something exposed in the deliberations on the Planning & Compulsory Purchase Bill. One way to resolve these issues is to express the duty in terms of “contributing to sustainable development”, analogous with the expectation in section 39 of the 2004 Planning & Compulsory Purchase Act as eventually enacted.

Recommendation B:

A system of marine spatial planning should impose a duty to prepare a plan with the statutory purpose of contributing to sustainable development in the public interest, including protecting, restoring, and enhancing the sustainable use and of the sea and its resources, managing them to achieve these ends.

2.5 WHAT SHOULD BE THE SCOPE, JURISDICTION AND SCALE OF MARINE SPATIAL PLANNING?

15. If it is to fulfil the aspirations of some prospective stakeholders, the system of MSP must embrace the management of ongoing activities, as well as the regulation of proposals for change. While this has synergy with the new spatial planning system as now in place, at least in England and Wales, it is markedly different from the traditional ‘land use planning’ system with which we are all familiar. The RTPI strongly advocates support for an MSP system that includes within its scope all forms of physical and spatial development, the assets of the sea and seabed, conservation and enhancement of the physical and historic marine environment, changes of use and all ongoing and proposed activities.

16. There is no magic formula to determine the geographical extent of MSP's jurisdiction. If the object was to plan for development and management of activities only in inshore waters, the 3 or 12 nautical mile limits would be appropriate. However, as the RTPI envisages a system of MSP that is able to take a strategic view of marine development and conservation, jurisdiction extending out to 200 nautical mile/edge of the continental shelf (ie the limit of UK marine competency) is recommended.
17. The RTPI has been unable to achieve a consensus on the recommended line of demarcation between terrestrial and marine systems in the inter-tidal area. It does agree that there is a clear distinction to be made between the boundary appropriate to plan-making and those used as the limits of competence of the regulatory regimes. Additional factors to be considered are the scope and extent of plan making and planning for Integrated Coastal Zone Management (ICZM) and for river basins required to be prepared by 2009 under the EU Water Framework Directive. There is a distinct potential for the 'over planning' and 'over regulation' of the interface between the land and the sea, particularly in the intertidal area and at the point of interface between river basin plans and the marine environment. Consideration will also need to be given in Scotland to the terrestrial spatial planning system and its exercise of control over marine aquaculture.
18. First addressing the simple issue of boundaries between the marine and terrestrial spatial planning systems, there is probably a balance of opinion in favour of staying with the status quo – ie leaving the boundary of the town and country planning system at MLWMOST. Not only is this the most pragmatic solution, but the RTPI believes that it would produce more democratic decisions on development and regulatory issues in the inter-tidal area, the use and development of which bears closely on many users and developers of the terrestrial environment. Nevertheless, there is a clear need for partnership and integration in the inter-tidal area (see further below) and a need to consider how the stakeholders in the inter-tidal area can obtain clear and simple expressions of policy direction and have proposals considered in an integrated manner.
19. Discussion about the appropriate scale of marine spatial plan-making was divorced from consideration of possible plan-making organisations, and from the post-devolution constitutional issues that it might raise. The RTPI considers the latter are outside its competence, but that, given the will, inter-governmental agreements and working arrangements could be devised to deliver the plan or plans.
20. The scales of plan that might be envisaged range from a trans-boundary (international) level, with different countries integrating into a single plan-making system, through a national level, to a coastal local authority level, with a number of possible permutations in between. Given the UK's geographical position, and in the light of the experience of the Irish Sea Pilot Project (which involved England, Wales, Scotland, Northern Ireland, and the Isle of Man, and might also have involved the Irish Republic), the Task Group concludes that the most appropriate way forward is the creation of a single, trans-national plan, with the UK devolved administrations co-operating in its preparation, and seeking early integration with similar plans for the seas around Ireland and the neighbouring European

nations. Issues about the relationship between this plan and regional and local plans and plan making are addressed further below.

Recommendation C:

The scope of a system of marine spatial planning should include –

- (a) all forms of physical and spatial development;***
- (b) the exploitation of the assets of the sea and the seabed;***
- (c) the conservation and enhancement of the ecological, physical and historic marine environment***
- (d) changes of use; and***
- (e) zoning for types and scales of activity as appropriate.***

Its jurisdiction should extend seaward to 200 nautical miles (or the edge of the continental shelf) – ie to the limits of UK marine competency – but with particular attention to the nearshore zone (within 3 nautical miles) and territorial inshore waters within 12 nautical miles.

Its scale should be trans-national, with the UK devolved administrations operating a single plan-making system, and mechanisms being sought for wider integration with neighbouring systems in Ireland and continental Europe.

2.6 SHOULD A MARINE SPATIAL PLANNING SYSTEM OPERATE IN THE SAME WAY OVER ALL AREAS OF THE SEA?

21. The RTPI considered whether forthcoming legislation should allow discretion about the way in which MSP is applied in different areas of the sea. For example, should it be possible to adopt different approaches to planning in particular situations, recognising spatial variations in the nature and intensity of marine developments and activities and the sensitivity of the marine environment? A related issue is whether a system of MSP should be applied only in areas where it is deemed necessary (or where the Government directs), or whether the system should be applied compulsorily throughout the area of jurisdiction.
22. On balance, the RTPI takes the view that a common head of power for MSP should be applied to the entire UK marine area. However, this does not mean that there would or should be a single approach to plan content or implementation. Mention must be made of the distinction between inshore and estuarine waters, where there are large numbers of stakeholders and community interests to be balanced and integrated, and more remote waters where there are fewer stakeholders and interests. This will have implications for the choice of plan area, the level of detail in the plan and mechanisms of community involvement.

23. Considerable support was given by the MSP TG to concepts such as those of marine permitted use or development, or marine spatial zoning. 'Permitted development' is an established concept within UK terrestrial planning systems, namely that there are particular forms of development that are generally of limited impact such that planning permission can be provided for them without the need for consideration of an application. Similarly, UK systems recognise a range of types of use change that are broadly benign and for which an application is not required. The terrestrial systems do this by way of a general provision that use and development are controlled, with orders specifying that certain types or classes of use or development are exempted from control. The terrestrial systems also include powers for the making of local development orders, which can define permitted development on a local basis, although these are still relatively rarely used.
24. Reference to overseas practice also highlights the use of zones that incorporate use and development order functions. A zone (as used in some planning systems in Australia or the United States) can spatially determine a basket of permitted development rights and use rights that apply to a location. Similarly, a zone can determine a basket of use or development classes for which permission is required and a further basket which are prohibited. The decision to place a given use or development into the basket of permitted, discretionary or prohibited uses can be taken centrally by government through the prescription of a standard zone ordinance, or more locally, by a planning authority compiling a bespoke zone ordinance. The balance between permitted, discretionary and prohibited uses can be set, having regard to the conditions of the environment to which the zone is applied and the objectives that any spatial plan may provide.¹
25. A sensible approach would appear to be for use and development seen as environmentally benign to be permitted, those seen as clearly environmentally adverse or contrary to policy to be prohibited and for all others to be subject to permit, enabling a decision to be made on the facts and subject to policy and conditions to be applied. It is possible for such a system to be performance based: namely to grant permission for activities on the basis that performance to certain objectives or values is maintained. It is also possible for such a system to integrate existing licensing consents and or to strip away layers of these, where it is deemed that these are no longer necessary, subject to the development of performance based controls.
26. The RTP1 considers that concepts of permitted, discretionary and prohibited use within a policy led zone system could assist an MSP system, by ensuring that licensing controls within zone areas are carefully attuned to a balanced appraisal of potential impacts against the degree to which use and development met plan objectives. Such a system has the benefit of responding to spatial variations in the nature and intensity of marine developments and activities and the sensitivity of the marine environment. It can also be fine tuned, to ensure a proportionate and justified relationship between the scale of regulation and the potential effects of use and development.

¹ Examples of such zones and their application in marine environments can be found in Victoria and Queensland in Australia, both through marine protected area planning and through the application of terrestrial zones to marine environments. See for example the Great Barrier Reef Marine Park Authority planning instrument http://www.gbrmpa.gov.au/corp_site/management/cns/caims_pom.pdf and approach to zone drafting and application in the Victoria Planning Provisions <http://www.dse.vic.gov.au/planningschemes> and the application of terrestrial zones to marine environments <http://www.dse.vic.gov.au/planningschemes/queenscliffe/Maps/queenscliffe04zn.pdf>

27. It should also be noted that some key benefits of a policy led zone system are as follows.

- The system does not apply control universally.
- Data and evidence based policy are used to determine where and to what degree controls are applied.
- Substantial areas where there are few substantial resource, environmental value, use or development considerations can be left subject to few or no licensing controls if this is deemed desirable.
- The system can be flexible.
- The provisions of zones can be changed.
- The extent of zones can be changed.

Table 1 below shows examples of the way in which zones might be drafted.

<p><u>Recommendation D:</u></p> <p><i>The system should be compulsorily applied throughout the area of jurisdiction, but with the flexibility to treat different areas in different ways, in recognition of spatial variations in the nature and intensity of marine developments and activities and in the sensitivity of the marine environment.</i></p> <p><u>Recommendation E:</u></p> <p><i>Careful attention should be given to the means whereby use, development and management prescriptions are driven by policy and set out spatially. An investigation of marine zone planning tools would be warranted.</i></p> <p><u>Recommendation F:</u></p> <p><i>Consideration should also be given to the way in which zones or other tools can provide performance based decision frameworks and permitted use and development rights that would support an integrated, policy driven and spatially directed marine licensing and consents system.</i></p>

2.7 WHAT MIGHT BE AN APPROPRIATE HIERARCHY OF POLICY FRAMEWORKS AND PLAN-MAKING?

28. The RTPI's views on plan hierarchies are in part coloured by the collective experience of terrestrial planning systems that have evolved over the past 50 years. Clearly, there are a wide range of possible combinations and permutations that might provide a hierarchy of marine spatial plans.

Table 1: Possible Approaches to Zone Drafting

ZONE COMPONENT	FUNCTIONS	LINKS
OBJECTIVES	<p>Each zone would have objectives or purposes. Examples could be:</p> <ul style="list-style-type: none"> ▪ To provide for the ongoing use, development and safeguarding of port shipping channels. ▪ To provide for the extraction of marine aggregate resources. ▪ To protect a marine battle location and archaeological/cultural materials associated with it ▪ To protect and enhance the biodiversity of an area. 	<p>Zone objectives or purposes would be drawn from an identified spatial plan.</p>
USE PROVISIONS	<p>Each zone would control use with reference to a table of uses.</p> <ul style="list-style-type: none"> ▪ Part 1 of the table would list uses for which marine consent (or consents) are granted. These would be uses that broadly support the zone objectives. ▪ Part 2 would list uses for which an application for marine consent would be required. These would be uses that could potentially support the zone objectives, but may not do so if (for example) they were carried out at a large scale or in conflict with other uses. ▪ Part 3 could list uses that were prohibited as incompatible with zone objectives (for example in a zone with conservation objectives) 	<p>Zone tables of uses would refer to a standard table of marine use definitions, prepared at a national level. These should be 'nested' with higher tier or more strategic uses containing groups of related lower tier or more detailed uses.</p> <p>They would also refer to a schedule of relevant use conditions, prescriptions and performance based planning tools, that would be found in the linked spatial plan or supplementary planning guidance.</p> <p>A simple zone would provide a greater number of permitted or discretionary uses. A more detailed zone (see section 2.7 below) might contain a more finely balanced range of permissions, discretions and prohibitions.</p>
DEVELOPMENT PROVISIONS	<p>Each zone would control development with reference to a table of development provisions, broadly structured as above.</p> <ul style="list-style-type: none"> ▪ Part 1 of the table would list types of development for which marine consent (or consents) are granted. These would be developments that broadly support the zone objectives. ▪ Part 2 would list development for which an application for marine consent would be required. These would be developments that could potentially support the zone objectives, but may not do so if (for example) they were carried 	<p>Zone development tables could refer to a schedule of relevant development conditions, prescriptions and performance based planning tools, that would be found in the linked spatial plan or supplementary planning guidance.</p> <p>Not every zone would need a development table. In a simple zone, it may be sufficient to provide that, for example, all development linked to a Part 1 use in the zone is also permitted, all linked to a Part 2 use is discretionary and all linked to a Part 3 use is prohibited, unless the use is an established lawful use, in which case development would remain discretionary.</p>

ZONE COMPONENT	FUNCTIONS	LINKS
<p>Development Provisions continued:</p>	<p>out at a large scale or without delivering performance based outcomes provided for in the zone or plan (see other particular provisions below).</p> <ul style="list-style-type: none"> ▪ Part 3 could list developments that were prohibited as incompatible with zone objectives (for example in a zone with conservation objectives) 	
<p>MANAGEMENT PROVISIONS</p>	<p>Each zone would control use with reference to a table of uses.</p> <ul style="list-style-type: none"> ▪ Part 1 of the table would list uses for which marine consent (or consents) are granted. These would be uses that broadly support the zone objectives. ▪ Part 2 would list uses for which an application for marine consent would be required. These would be uses that could potentially support the zone objectives, but may not do so if (for example) they were carried out at a large scale or in conflict with other uses. ▪ Part 3 could list uses that were prohibited as incompatible with zone objectives (for example in a zone with conservation objectives) 	<p>Zone management tables could refer to a schedule of relevant management conditions, prescriptions and performance based planning tools, that would be found in the linked spatial plan or supplementary planning guidance.</p> <p>Not every zone would need a management table. A simpler zone, particular for a sea area that is broadly sustainably used at a low intensity may require no management provisions.</p>
<p>OTHER PARTICULAR PROVISIONS</p>	<p>Where particular use, development or management is permitted (in Part 1 of the relevant table), permission may be subject to standard conditions. For example:</p> <ul style="list-style-type: none"> ▪ Marine aquaculture for (a species or group) is permitted on the basis that the enclosed volume of water does not exceed (a defined figure) and a management plan is submitted to and implemented to the satisfaction of the Marine Management Organisation or its delegate. 	<p>Particular provisions would refer to a schedule of relevant use, development or management conditions, prescriptions and performance based planning tools, that would be found in the linked spatial plan. For example, if a zone management table specifies that a use must proceed according to performance requirements, the particular provision would set out what that requirement was. This could be in terms of discharges, resource take volumes and periods or water quality in terms of measures such as turbidity.</p>
<p>DECISION GUIDELINES</p>	<p>The exercise of discretion under the zone would be supported by decision guidelines.</p>	<p>Decision guidelines would cross refer to applicable UK, nation and spatial plan policies and to supplementary planning guidance (if prepared).</p>

29. The RTPI envisages a system consisting of an overall UK-wide policy framework, supplemented by national (ie English, Scottish, Welsh or Northern Irish) policies, as necessary, or as required by post-devolution constitutional considerations. This policy would in turn provide a policy context for strategic or regional plans. The latter are seen as the most important level of marine spatial planning, because, unlike in the terrestrial system, the Task Group does not believe that 100% geographical coverage is necessary at the local level. Local plans should only be required where the complexity of marine issues warrants their preparation. Examples might be:

- where the sea is already well-used and there are potentially conflicting existing and/or new activities, development proposals, conservation requirements, etc - the Irish Sea Pilot Project identified much of the Irish Sea as such an area;
- where land, sea and river basin issues meet and give rise to potential conflicts over a small area – again parts of the Irish Sea and our major estuaries spring to mind;
- a topic plan (eg for marine aggregates);
- vertical plans (eg for the sea bed and the surface); or
- temporal plans (such as may be required to accommodate phenomena such as the seasonal migration of fish).

Where they are prepared, local plans should be in general conformity with the regional plans.

Recommendation G:

An appropriate hierarchy for marine spatial policy and plan-making would be:

- (a) a UK-wide expression of national objectives and principles for all the coasts and seas in the UK's competency;***
- (b) national policy frameworks for England, Northern Ireland, Scotland and Wales;***
- (c) a regional policy framework at sea region level; and***
- (d) a local policy framework, where circumstances require a more detailed approach.***

30. **Table 2** below is illustrative only, but indicates the RTPI's preferred hierarchy of marine spatial plans or policy frameworks alongside the parallels in the terrestrial planning system with which we are more familiar.

31. **Table 3** below is again illustrative. It examines the possible relationship between recommendations D to F in section 2.6 above and recommendation G. Its main focus is to examine the locations within a preferred plan hierarchy at which marine zones might be used and how these would drive decision making.

Table 2: Diagrammatic Representation of the RTPI's Preferred System of Marine Spatial Planning

SCALE	PLAN	STATUS	LOCALE	EXAMPLES IN LAND USE PLANNING
UK	UK Government Marine & Coastal Spatial Planning Policy	Non-statutory policy statement of principles for marine and spatial planning	UK-wide – all seas in UK competency to 200 nm	UK Strategies and White Papers on Sustainable Development, Climate Change, Biodiversity, etc
National	National Planning Framework and National Marine Policy Guidance for marine planning bodies	Marine issues statutorily required to be included in the National Planning Framework	England, Northern Ireland, Scotland and Wales	National Planning Frameworks, PPSs, PPW, TANs, SPPs, etc
Regional	Marine Spatial Plan	Statutory integrated marine spatial plan, each plan covering whole sea region from HAT to 200 nm, but not necessarily whole area at same scale/detail	Bio-geographical sea regions of the UK	RSS
Local	Local Maritime Area Action Plans	Statutory framework, but only as needed or directed. Likely to be focussed on complex or conflicting small areas and uses	Estuary, firth, loch, bay, areas under pressure, etc, out to, say, 3 nm	LDPs, DPDs, LTPs, Community Plans, etc

Table 3: Diagrammatic Representation of Possible Zone Use Within the RTPI's Preferred System of Marine Spatial Planning

SCALE	PLAN	ZONES EMPLOYED?
UK	UK Government Marine & Coastal Spatial Planning Policy	<p>No.</p> <p>Spatial direction could be provided by the identification of UK priority strategic locations (for example major ports and channels, oil and gas infrastructure, significant natural resource stocks or conservation issues with a spatial dimension).</p> <p>The policy statement sets objectives for marine subjects or areas that the zones and decision making should respond to. It would respond to UK wide matters and those driven by international obligations.</p>
National	National Planning Framework and National Marine Policy Guidance for marine planning bodies (NPF/MPG)	<p>No.</p> <p>Spatial direction would be provided by the identification of nation priority strategic locations.</p> <p>The NPF/MPG for each jurisdiction sets nation objectives within the UK wide framework. Again these should be responded to by zones and in decision making</p>
Regional	Marine Spatial Plan	<p>Yes.</p> <p>Spatial direction would be provided by responding to UK and nation strategic locations and identifying the broader spatial relationships between marine use, development and management objectives within the region</p> <p>The regional tier plan should be the level at which zones are generally applied within the framework of regional spatial policies. A broadly permissive zone implying limited use control could be applied to substantial areas of sea. Broad economic objective zones could be applied to safeguard and promote infrastructure development. Broad conservation zones could be applied to deliver natural systems and seascapes objectives. Areas which already have (or which may require) more detailed plan coverage would be identified in the regional plan</p>
Local	Local Maritime Area Action Plans	<p>Yes, but local plans would not be prepared for all marine areas.</p> <p>The local tier plan would only be prepared where specific detailed prescription or action was needed, over and above the regional tier plan. Locally specific special use and development zones or conservation zones might be justified as part of this process.</p> <p>Local and regional zones should not conflict or overlap. Where local zoning is justified, the RTPI considers that the planning authority should translate the objectives of the higher tier zone into the lower tier zone. Subject to a test of general conformity of objectives, the lower tier (or more detailed) zone would then prevail.</p>

2.8 ARE CHANGES TO EXISTING REGULATORY REGIMES NECESSARY IN ORDER TO DELIVER A MARINE SPATIAL PLANNING SYSTEM?

32. Any planning system requires a body, or bodies, to determine proposals for change and to manage and regulate ongoing activities that appear to need regulation in the light of policy and in the public interest. In the marine sphere - currently dominated by a diversity of sectoral interests - this is likely to prove the most controversial issue for many stakeholders.
33. The plan-making and regulatory body, or bodies, need not be the same, but the RTPI has concluded that the longer term objective should be to bring them together. Before coming to this decision, a number of scenarios were considered, ranging from a model which brought the existing regulators together to produce a plan and manage its implementation, through one which created a new plan-making body but left regulation with the existing parties, to a system that created a new marine spatial planning body to prepare and implement the plan, and replace the existing regulators.
34. The RTPI recognises that the establishment of a single marine planning and regulatory body at UK level, or a number of such bodies at sea region level, is likely to be hampered by trans-boundary constitutional difficulties, and that in the short term, at least, the best that can be achieved will be separate systems based on each of the devolved administrations, within a framework of UK policy. Mention has been made above of the need for community engagement in inshore or intensively used waters. The use of local government as the marine planning authority for such waters, maximising existing community accountability mechanisms. should not be ruled out.
35. Mention should again be made of the RTPI's view that such working should also aim to support a simplification and integration of existing marine licensing and consent regimes and procedures. This should be strongly oriented towards making interaction between marine environment users and the new system as simple and straightforward as possible. It should be oriented towards system efficiency and control over operating costs and times. It should also be oriented towards enabling integrated decision making in the context of a clearly expressed and spatially directed policy framework.

Recommendation H:

Plan-making should be undertaken by a single representative body, as directed by government (UK or devolved).

There is a need to simplify the current regulatory regimes in the marine sphere. The ultimate aim should be to establish an integrated marine consent, but with the existing regulatory bodies as statutory consultees.

2.9 HOW MIGHT A MARINE SPATIAL PLANNING SYSTEM MESH WITH OTHER PLANNING SYSTEMS?

36. The development of an integrated approach to marine spatial planning must be based on the recognition of the interdependence of terrestrial and aquatic systems. This has still to be fully implemented in the emerging relationship between marine spatial planning, the terrestrial planning system, Integrated Coastal Zone Management and the River Basin Management Plans required under the Water Framework Directive. It must also be recognised that functional and ecological marine regions and systems cross national boundaries.
37. The concept of the river basin fully integrates analysis of land and water at the level of the catchment with both associated groundwaters and coastal waters. The impact of flows from land and river into the sea critically determine chemical, morphological and ecological processes in both coastal and marine areas. The Water Framework Directive applies to the whole of national territorial waters in respect of chemical status in recognition of the overwhelming importance of land-based sources of pollutant. Current administrative arrangements fall far short of being able to make these fundamental connections. Spatial planning offers the framework upon which adequate provisions can be developed.
38. The RTPI expects the relationships to be recognised, and the necessary working arrangements to be put in place, by DEFRA, ODPM and the devolved administrations, as appropriate. It welcomes the European Commission's Strategy on the Protection and Conservation of the Marine Environment (SEC(2005)1290) and its proposal for a Marine Strategy Directive which will set the objective of good environmental status of Europe's marine environment by 2021. This date coincides with the first review of River Basin Management Plans under the Water Framework Directive, allowing for synergies on further implementation. Meanwhile, the Strategy emphasises the need for greatly improved monitoring and assessment programmes and a regional approach at the European level, fully recognising the complexity and scale of critical marine processes at which spatial planning and management must operate.
39. River Basin Management Plans (RBMPs) will be statutory plans prepared by the Environment Agency in England. The RTPI considers that care will be needed at the interface between RBMPs and marine spatial plans, particularly at the local tier. It may be possible that RBMP processes could be delegated power to act as means for the preparation of a local marine spatial plan, particularly in an estuarine area. However, again the overarching need is to ensure that the objectives of RBMP processes are met, but the danger of generating too many tiers of plans and strategies is avoided. This is also an appropriate location to note that if RBMPs are to take on a broader integrated plan role, careful consideration will need to be given to the means by which local communities can become involved in the plan making process. Areas such as intensively used foreshores and estuaries do give rise to a presumption that there should be stronger community involvement than is currently provided for in the RBMP process.

40. ICZM is intended to create a framework for the integration of the activities of all those involved in the development, management and use of the coastal zone. It aims to establish sustainable levels of economic and social activity in coastal areas, while protecting the environment. The EU adopted a proposal to implement ICZM in May 2002, commending to Member States a stocktake of their existing legislation, institutions and stakeholders in the coastal zone, and the development of national strategies to deliver ICZM. It states the principles of ICZM as :
- taking a long term view;
 - taking a broad, holistic approach;
 - adaptive management;
 - working with natural processes;
 - support and involvement from the relevant administrative bodies;
 - use of a combination of instruments;
 - participatory planning; and
 - reflecting local characteristics.
41. The RTPI sees possibilities in using ICZM as a means of meshing together the marine and terrestrial systems at the local level – perhaps by using it as a form of supplementary planning document common to both the terrestrial and marine spatial planning systems – but again remains very much aware of the danger of generating too many tiers and too many plans and strategies.
42. On balance the RTPI concludes that ICZM should remain non-statutory, and should be seen as a strategy or a means of implementation rather than a plan (as also envisaged by the EC recommendation). ICZM should link and co-ordinate the marine, river basin and terrestrial planning systems, but not displace or duplicate either. However, this is not to disregard the experience of some members of the MSP TG that there was a reluctance on the part of public bodies to participate in a non-statutory ICZM system, or take it seriously, given a pre-occupation with their statutory duties, and this issue needs to be taken into account in the detailed design of any system.
43. In respect of international relationships, the RTPI calls for the Bill to recognise the need for interregional co-operation across national boundaries, that may extend to the creation of shared marine plans, for example between France and the UK or the Republic of Ireland and the UK. Every effort should be made to frame legislation that anticipates and facilitates this likely development.

Recommendation I:

The key underlying principle must be the need for integrated and simplified mechanisms governing the interactions between terrestrial, coastal zone, river basin and marine spatial planning areas both within the UK and adjoining nation states. DEFRA should investigate the concept of plan power delegation, with the statutory or strategic function of one individual type of plan being delivered within the framework of a plan prepared under another power or for another purpose (e.g. the relationship between regional spatial strategies, river basin district plans and marine spatial plans)..

2.10 A TECHNICAL NOTE: CONTINUOUS IMPROVEMENT, STRUCTURE, FORMAT AND DELIVERY OF PLANS

44. Finally, the RTPI notes that in establishing a new system of marine spatial planning, the proposed Marine Bill has an opportunity to craft this in a way that addresses practice issues that have emerged in terrestrial spatial planning, but that are harder to remedy there without wholesale change to established planning systems and plans.
45. In relation to the planning cycle, the RTPI has set its view out above that plans should be put in place for a long period, providing reasonable certainty as to policy direction. However, it is now widely accepted that plans should continuously improve, consequent on new data gathering, monitoring and progress in analysis and evidenced based policy making. Further, plans should not be inflexible and should have a capacity to respond to new forms of use, development or management not anticipated by the plan. All of these considerations suggest that the planning process should continuously improve and provide for the preparation of plan amendments within the normal plan cycle.
46. The structure and format of existing terrestrial plan documents are based on approaches developed in the paper documentation of plans. Whilst it may well be necessary to retain paper marine plans for some time yet, computers are now widespread and it will also be possible to development a structure and format that enables effective electronic delivery.
47. Further, terrestrial plans do not have a specified format. As a consequence, multiple plan users have to learn to navigate each plan that they use, placing a knowledge and/or professional fee burden on them that can be reduced if the plan format becomes standardised. Standardised format and structure are also a necessary precursor to an effective means of electronic plan delivery.
48. Overseas practice² suggests that there are methods of specifying the structure and format of plans, which also facilitate sound electronic delivery and continuous improvement of plan content. For example, in Victoria, Australia, terrestrial planning schemes are fully

² See the Victoria Planning Provisions and Planning Schemes Online in Victoria, Australia, www.dse.vic.gov.au/planning

specified as to structure and format, by Ministerial Direction (equivalent to an Order under the primary legislation). They contain state, regional and local policy. A change to state or regional policy can immediately be delivered into all local plans through electronic syndication. This approach avoids the issues of plan textual conflict and out of date responses to higher tier policy that can afflict terrestrial statutory plans in UK systems.

49. Further, by specifying the structure and format of local content, all local plans can be made available through a single electronic gateway. Multiple plan users and policy researchers also become familiar with the shared format and structure of all plans and can easily locate and compare plan content on the same topic between plans. The RTPI considers that any new marine spatial planning system should take the opportunity to develop these new approaches to plan practice that have emerged in planning systems that postdate widespread computer use.

PART 3: RESPONSE TO THE CONSULTATION

GENERAL RESPONSE TO THEMES

1. The RTPI recognises the potential value of a Marine Bill in creating a framework for coordinating the various demands that we place upon the seas. This framework should have sustainable development at its heart (*response to the foreword*).
2. Planning is one of the main themes of the proposed Bill. The RTPI was attracted by the potential links between the proposed new system of marine spatial planning and that now introduced on land as a result of the Planning and Compulsory Purchase Act (2004). While the consultation is particularly interested in how terrestrial spatial planning systems might influence a maritime system, there could be a two-way benefit (*response to the summary ix*). A marine system provides opportunities to develop emerging practice approaches that may then be applicable for translation into terrestrial systems.
3. The RTPI has highlighted above its in principle view that the development of a marine spatial planning system starts from first base. Hence it can avoid some of the concerns emerging from the historic and current operation of terrestrial systems. Further, a marine system provides a potential testing ground for innovative approaches that could then inform the further development of terrestrial systems (see for example, the discussion of permitted development and zonation in Part 2 of this paper above).
4. While all 5 themes of the proposed Bill have close and complex links with each other, the RTPI is particularly interested in the spatial planning theme; marine nature conservation with its links to land-based nature conservation, and to a lesser extent the potential for a new marine management organisation (MMO).
5. The differences between marine and land areas are important to understand by way of background (2.4).
6. The decision to opt for an ecosystem approach to reconcile and integrate conservation goals, given the full range of demands that we place on the marine environment to help meet our economic and social needs is sound. Again, the possibility of such an approach informing terrestrial practice in due course must be raised (3.2)(8.46).
7. The RTPI fully supports the underlying principles of the Bill, in particular the links with the UK Government's Strategy for Sustainable Development (4.9)
8. The need to balance demands for development with those to protect the environment and to achieve social and economic objectives in an open and planned way, is a clear parallel with spatial planning on land (6.6). There are clear opportunities for these demands to be addressed in a spatial manner, applying policies and control regimes supportive of particular development approaches in one location, as against providing greater support

for seascape or marine natural systems conservation in other areas. The discussion of zonation tools in Part 2 above again provides a potential way forward here.

9. The RTPI agrees that a new marine spatial planning system would have to have a clear and transparently integrated relationship with other planning systems (6.7) All planning systems should be able to learn from each other and apply good practice in independent ways that best suit the individual systems.
10. A single and strong enforcement body would be the best way of helping to conserve marine ecosystems and biodiversity (6.23), but the structure of this may have to be moderated to accommodate the post devolution constitutional settlement.
11. Fisheries are the 'agriculture' of the seas and it is important that within the five key themes of the Bill, they are well protected. A network of marine protected areas and marine reserves, within a hierarchy similar to that employed on land, could be helpful, whilst a statutory spatial plan should enable their protection (7.5/8/9).

PLANNING IN THE MARINE AREA.

12. **Question 1:**
The Government should consider creating a new system of marine spatial planning.
13. **Question 2:**
Statutory provision is the best way forward, given the increased demand on both marine space and the UK Government's development controls.
14. **Question 3:**
The broad objectives for the proposed marine spatial planning system (*a to j*) are supported.
15. **Question 4:**
The RTPI recognises the importance of the marine spatial planning framework as a tool for promoting sustainable development, by steering future development to appropriate locations. The underlying approach set out in paragraph 8.34 is strongly supported. However, turning to paragraph 8.35, the RTPI is concerned that the proposed system appears not to fully avail itself of the benefits of spatiality. If places can be identified where particular forms of use or development are broadly considered to be beneficial and benign, these should be entitled to proceed without consent being required. Similarly, if places can be identified where particular forms of use or development would be strongly detrimental, there is an argument that there should be a power to prohibit these. These principles underlie the RTPI's approach to zonation as set out in Section 2 above.
16. There is an in part valid criticism of existing terrestrial spatial planning systems in the UK that they rely too strongly on the exercise of discretion and hence are insufficiently strategic and devote substantial resources to the management of relatively minor decisions. A new marine system has the opportunity to make positive strides away from such criticism and approaches such as the spatial definition of development objectives,

permitted use and development rights and prohibitions in addition to the establishment of a discretionary regulatory regime warrant serious investigation.

17. **Question 5:**
Option 4 is supported, which would make marine spatial plans a clear primary consideration in decision-making (a plan-led system).
18. **Question 6:**
The broad underlying principles are supported as being those which should underlie any good planning system, built on sustainable development and an ecosystem approach, and with better quality regulation (8.43 – 8.47).
19. **Question 7:**
Front-loading the regulatory burden onto the planning framework ought to reduce regulatory burdens at later stages in the process. The RTPI strongly supports the concept of a move towards an integrated marine consent and the endowment of substantial permitted use and development rights: using the system to simplify and deregulate, where this can be achieved, consistent with delivering appropriate economic and environmental/natural systems performance. The RTPI considers that a marine spatial planning system could also offer opportunities to develop performance based planning and regulatory approaches as set out in the Part 2 vision paper above.
20. **Question 8:**
There are clearly matters of constitutional jurisdictional competence as between the UK and devolved nations that will have to be addressed. The RTPI does not have simple answers to these. However, one possibly productive way forward would be to promote the concept of planning and regulation by inter-governmental agreement. This principle derives from federal entities such as Australia, where the historic pattern of constitutional settlement of powers between the Commonwealth (equivalent to the UK government) and the States (equivalent to devolved nations) does not always provide a sound basis for planning or administration. There is a healthy tradition of inter-governmental agreement whereby State powers are granted upwards to the Commonwealth and Commonwealth powers are granted downwards to the States by contract, but without any change in or with minimum change to the complex underlying legislative or constitutional settings. Such agreements can provide a basis for simplified and co-operative planning and management regimes.
21. **Question 9:**
The RTPI notes geographical overlap with the terrestrial planning system (8.56), and has raised concerns above about the potential for a plethora of overlapping terrestrial, river basin, coastal zone and marine plans. Fundamentally, the principle should be one of simplicity, with a need therefore to explore concepts such as delegation of functions from one to another plan, enabling one plan to do the job of several.
22. **Question 10:**
The overall approach seems acceptable, with a strategic marine planning policy statement followed by spatial plans, but perhaps it should be made clear that these spatial plans will

be at regional level and then sub-regional (where appropriate) and/or local levels. However, not all sub-regional or local areas ought to require plans to be prepared. Care will be required with devolved nations, again ensuring that there is a clear UK statement of marine planning policies and principles, but that nations planning policies are also integrated as relevant and that marine spatial policy is also set out at the devolved nation level. This issue is particularly relevant in Scotland.

23. **Question 11:**

The RTPI has drawn attention to issues and comparative practice examples arising from terrestrial spatial planning and overseas marine spatial planning in the Part 2 vision paper above.

24. **Question 12:**

The framework outlined is broadly supported by the RTPI. The proposed strategic marine planning policy statements (MPPS) would be likely to need supporting good practice guidance, whose structure would need to be in line with that of the main statement. The good practice documents would need to be reviewed and updated, alongside the policy statement. It may be that more than a single document will be necessary, with eg MPPS 1 covering the general principles and other more specific topic statements following on (e.g. Renewable energy as MPPS 2). However, where possible, the scale and level of detail of these should be limited to their strategic function, to ensure that they can be delivered and reviewed in a timely fashion. There have been suggestions that terrestrial Planning Policy Statements (PPS) in England and their PPG predecessors have become more detailed than is warranted by their function as national tier strategic policy statements. As a consequence, it has been suggested that their preparation and review cycle is too long. This issue should be avoided in the marine spatial planning system, where a subsidiarity principle should apply, with policy developed at each tier only so far as to set a sound context for policy or decision making in the immediately lower tier.

25. **Question 13:**

The RTPI supports the concept of a rational, evidence based and accountable policy development process, based on an assembly of data, identification of issues in consultation with users of the marine environment, setting of proposed objectives and controls, a test of fitness and planning merit, followed by adoption and approval. In terms of plan timescales, the RTPI considers that there would be merit in these being substantially longer than those typically used for terrestrial planning, to provide certainty and to address the longer timescales of many natural systems and processes and lifecycles of marine infrastructures. However, plans should include a regular monitoring cycle and also adopt a philosophy of continuous improvement and within cycle amendment, where necessary. Every effort should be made to give graphic and mapped expression to plan content. Reference should also be made to overseas practice to develop a consistent structure, format and content framework for plans that is designed to support e-delivery as the primary means of publication.³

³ See for example www.dse.vic.gov.au/planningschemes

26. **Question 14:**
If the Marine Management Organisation were to produce the marine planning policy statements, would this organisation be a part of DEFRA? If so, then this would continue to be out of step with the current terrestrial planning policy statements made in the DCLG. How might this help cooperation between the two? One possible approach would be to develop a planning policy agency hosted jointly by DEFRA and DCLG, although another would be to return to a departmental model that unifies planning and environment considerations.
27. Would the regional arm of the Marine Management Organisation produce the regional spatial plans? (Will there be a regional arm?) Will they also produce the sub-regional and local plans and how will the sub-regional and local factors be fed in to the equation? Equivalently, roles for and inputs from local government, the Environment Agency, SEPA etc. need to be considered with care. There may be some virtue in more localised bodies become marine planning authorities at the more detailed and localised level. Again, the potential role of local government as inshore marine planning authorities should not be ruled out, given their attachment and accountability to local communities. However, there would be resource transfer issues that would need to be addressed as a consequence of such an approach.
28. **Question 15:**
How will the seas around the UK be broken down into regional, sub-regional and local areas? A draft map would be a welcome addition as part of the next stage of policy development. This could propose provisional marine planning areas, within the framework of a more fully resolved proposal for the scope and content of particular policies and plans.
29. **Question 16:**
The RTPI does not consider that marine spatial planning should apply in the same way in all waters. There will be a need to respond to international and EU obligations, for co-operation across marine boundaries with adjacent European countries and for tailored responses to the particular social, economic and environmental circumstances of marine regions and marine local areas. There are locations where use and development of marine areas are intensive and where detailed planning provisions may be warranted. There are other areas where use and development are limited and are currently understood to be sustainable. Plan making and implementation should be proportional to the differential requirements of such areas. These factors all suggest the need to plan within a common statutory framework, but that the requirements and extent of plans will be different in different areas.
30. **Question 17:**
The approach taken to question 16 above also underpins the RTPI recommendation in Part 2 above that detailed local marine plans will not be required for all sea areas. However, there clearly will be a need for detailed local or sub regional plans in some areas. Examples provided to RTPI by its North West Region as being appropriate for sub-regional plans include Morecambe Bay, the Solway and the Dee.

31. **Question 18:**
The RTPI takes the view that the plans and marine consent processes should in principle apply to all existing and new use, development and management of the marine environment and to all resources within the plan area. However, steps should be taken to ensure that an appropriate suite of permitted use, development and management rights are provided for activities that are broadly beneficial and benign.
32. As is suggested above, a robust and nested classification for marine uses would be beneficial, as a basis for the construction of zones that permit, control subject to permit or prohibit classes of use.
33. The listed activities, developments and resources identified in the Irish Sea Pilot are likely to be helpful in moving towards such a classification.
34. **Question 19:**
The 'continuous improvement' basis and amendable plan concepts explained in Part 2 above are designed to ensure that a marine spatial planning system remains timely and responsive when faced with currently unforeseen use, development or technological change. Annual monitoring will also ensure that new issues and trends are identified and that plan performance in respect of them is considered.
35. In relation to the proposed zoning approach, it would appear sensible that any new use or development that was not encompassed within the framework of an existing classification of use or development would fall within Part 2 of any zone, requiring the exercise of discretion.
36. **Question 20:**
There are clearly substantial data gaps around the characterisation of the effects of use, development and management proposals on large areas of the marine environment. It will not be possible to respond to all data gaps by the assembly of data. Any marine spatial planning system will have to have a robust conceptual basis for its response to uncertainty. This will need to relate closely to guidance on the application of the precautionary principle that should be set out in UK wide policy.
37. One possible response to uncertainty would be to take an ecosystem capacity approach to planning, whereby the scale and repetition of certain actions would be controlled, having regard to our current state of knowledge about the regenerative capacities of the receiving marine environment and a policy presumption in favour of retaining this capacity at the ecosystem scale.
38. **Question 21, 22 and 23:**
Questions of data and uncertainty have been addressed above.
39. Questions about 'preferred areas' have been responded to in Part 2 above, where the RTPI has expressed a preference for a stronger plan framework, with a view to minimising the need for discretionary development management, where this is not warranted. The RTPI supports the concept of marine permitted use and development and the prohibition of

- some use and development to implement the objectives of the spatial plan, in addition to the exercise of discretion.
40. The RTPI considers that bilateral relations around marine policy and consents should be encouraged to be replaced by integrated and multilateral relations, policy and decision making.
 41. Conflicting demands on marine space should be addressed through the exercise of planning discretion in marine consent. Foreseeable but potentially resolvable conflict would be a basis for place a use or group of uses into Part 2 of a marine zone. Foreseeable but clearly irresolvable conflict could provide a basis for the prohibition of one use or group of uses. There should also be a strong focus on the integration of planning provisions for use and development with provisions for ongoing management.
 42. **Question 24:**
Maps and charts will play an essential role in identifying the spatial directions of marine plans and applying provisions to bodies of water. Three dimensionality poses challenges, but there is no reason in principle why these cannot be overcome using appropriate geographic information system (GIS) solutions. Again, this question points to the use of maps and charts are part of integrated electronic delivery of marine spatial plans.
 43. **Question 25:**
Sustainability appraisals and Strategic Environmental Assessment (SEA) should be integrated components of marine spatial planning. However, care will be required to ensure that these processes do not become overbearing or disproportionate to the scale of the plan or its likely effects.
 44. **Questions 26, 27 and 28:**
The RTPI supports the view that marine spatial plans should be made in a transparent and publicly accountable manner. The initial identification of plan issues and options should be open to public comment, with efforts made to address issues identified by stakeholders. A draft plan should be exhibited for comment before it is approved, and subject to a public examination of issues and its fitness. The examination should be able to consider questions raised about the degree to which the plan delivers or conflicts with higher tier policy objectives, the degree to which the plan supports existing or proposed economic uses of the sea or provides for the appropriate conservation of environmental values and capacities.
 45. The RTPI does not necessarily support the granting of universal rights of public appearance at an examination. It may be necessary to develop a 'test of proximity and material detriment', whereby an examination panel can determine whether a party who has made comment is sufficiently engaged with and knowledgeable of the issues raised to warrant invitation to the examination, or alternatively that they have an interest that might be subject to material detriment if the plan were to proceed to approval without changes.
 46. The entity providing the plan examination would need to be independent of the marine planning authority and the panel of examiners would have to be expert in its constitution.

Terrestrial planning systems provide a wide range of models, including the Planning Inspectorate (PINS) in England and Wales, The Scottish Executive Inquiry Reporters' Unit (SEIRU) the Northern Ireland Planning Appeals/Water Appeals Commission (PACNI) or An Bord Pleanála in the Republic of Ireland. Overseas jurisdictions such as New Zealand and New South Wales use the courts for these functions – an approach that the RTPI does not support. Victoria (Australia) uses a panel of independent experts, a mechanism that enables the provision of technically expert examinations at low cost.

47. **Questions 29 and 30:**

The RTPI has outlined above that plans should be prepared for a long period to provide directional certainty of policy and sound guidance for major use and development proposals, but that they should be within a continuous improvement framework that enables ongoing amendments to respond to environmental and technological change. This implies a need for regular topic monitoring and review. The RTPI supports the concept of plans identifying a range of performance indicators on which their objectives and performance to them will be tested. Annual plan monitoring reports should be prepared, although not all indicators may need to be monitored every year.

48. **Question 31:**

Working with other plans will be essential, with some structured coordination necessary at regional, sub-regional and local levels. This will need to address the interface with terrestrial planning in the inter-tidal zone, Integrated Coastal Zone Management (ICZM) and River Basin Catchment Planning (RBCP) under the Water Framework Directive. It will be important to ensure that the interface areas do not become 'over planned' by way of being subject to a plethora of conflicting policies and controls in different plans.

49. The ICZM approach will provide helpful experience of ways forward. In many ways this is the maritime equivalent of the rural/urban fringe within the terrestrial spatial planning system, representing the locations of greatest pressures and conflicts. Efforts should be made to ensure that plans in the interface areas can be as closely integrated as possible and these may include the delegation of powers to make multiple plan content to a single plan and planning authority.

50. **Regulatory Impact Statement Issues**

The RTPI considers that a marine spatial planning system would be most likely to deliver a positive balance of benefit once its social, economic and environmental costs and benefits have been identified and evaluated. However, the RTPI considers that the regulatory impact of a marine spatial planning system is not likely to be capable of effective assessment until the detailed structure of the proposed system is known.

51. The regulatory impact of any proposed system will depend on the types of use, development or management that are permitted without a consent requirement and the types that do require consent or are prohibited in certain locations. For example, if extensive permitted use or development rights were to be provided that could conflict with the maintenance of sustainable fisheries, unintended consequences could include the further decline of fishery viability. Alternatively, if insufficient permitted use or development rights are provided, there could be adverse impacts on SMEs in the fisheries industry. The balance needs to be got right. However, to achieve a correct balance, it is necessary to design and road test plan system options. The proposals presented at the conceptual level taken in the Consultation Document will be difficult to effectively assess.

PART 4: RTPI CONSULTATIVE PROCESSES

The RTPI has undertaken the following consultative processes as part of formulating its policy position on marine spatial planning and responding to the Marine Bill consultation.

RTPI through its Policy & Practice Committee formed a Marine Spatial Planning Task Group (MSP TG) in April 2005. The MSP TG is chaired by Jed Griffiths and has 33 members, collectively representing a considerable body of research, education and practice experience of planning for the marine environment.

The MSP TG has a remit to coordinate the gathering of data on the application of spatial planning to the marine environment, and develop advice on the Institute's policy.

The members of the MSP TG are as follows:

Alex Midlen	Jed Griffiths
Anne Cooper	Jim Claydon
Anne McCall	Jonathan Price
Anne-Michelle Slater	Karen Davenport
Annie Smith	Karen Morgan
Bill McKenzie	Keith Nicholson
Brian Shipman	Kerrie MacPherson
Colin Eastman	Mark Southgate
Colin Wishart	Martin Small
David Barraclough (until May 2006)	Nic Wheeler
David Tyldesley	Peter Bide
Deborah Peel	Robert Canning
Eugene Nixon	Ross Marshall
George Law	Rynd Smith (from May 2006)
Graham U'ren	Sean Stokoe
James Trimmer	Stephen Jay
Jane Taussik	

The MSP TG formulated an 'in principle' policy statement on marine spatial planning that provided the basis for Part 2 of this paper. The policy statement was prepared before the issue of the Marine Bill Consultation. It was revised following consideration by the RTPI Planning Policy & Practice Committee on 19 April 2006 and further revised following the release of the Marine Bill Consultation and the receipt of RTPI internal consultation responses to it, including a substantial consolidated response representing the RTPI North West Region. All of these inputs were considered by the MSP TG on 5 June 2006 before finalisation of this paper, which represents an RTPI vision for marine spatial planning combined with a detailed response to the questions relevant to spatial planning raised in the Marine Bill Consultation.