



**RTPI**

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Dear Sir / Madam

### **Sustainable Seas For All: a Consultation on Scotland's First Marine Bill**

The Royal Town Planning Institute in Scotland is grateful for the opportunity to respond to this consultation which sets out proposals for a new statutory system of marine planning including the preparation of a national marine plan, the establishment of Scottish Marine Regions and the development of local plans; the streamlining of licensing and consents regimes; the delivery of practical conservation at the ecosystem level with policy measures to enhance species and site protection; the encouragement of a robust and informative science and research base; and the creation of a national body 'Marine Scotland.'

The RTPI is the UK body chartered to represent the planning profession and offers these comments from the point of view of a diverse and politically-neutral professional body committed to supporting devolved government in Scotland. The Institute has approximately 2100 members in Scotland, working across all sectors of central government, local government, government agencies, the voluntary sector, private consultancy, the development industry and academia.

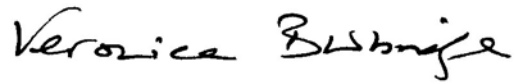
Since devolution, the Institute has empowered its RTPI in Scotland Office, together with its Scottish Executive Committee, with the responsibility for working with government and public bodies generally for the improvement of the planning system in Scotland. This is in accordance with its charter obligation to work for the public interest.

The response to this consultation has been led by the RTPI in Scotland's Policy Sub Committee and we are grateful to the members of the Marine Task Group, Graham U'ren, Anne-Michelle Slater and Colin Wishart, for their advice on the detailed response. Graham U'ren represented the RTPI on the AGMACS Ministerial Advisory Group and together with Anne-Michelle Slater represented the RTPI on the Sustainable Seas Task Force.

Our detailed responses to the questions raised are given in Annex 1 to this letter. We contributed to the response of the RTPI to the consultation by DEFRA on 'Our seas - a shared resource' and the text of that response is set out in Annex 2.

The Institute trusts that these comments are of assistance and has no objection to its comments being made available to the public in the usual way. Should you wish any clarification please do not hesitate to contact me at the RTPI Scotland, Edinburgh office: 57 Melville Street Edinburgh, EH3 7HL phone: 0131 226 1959, email: [Scotland@rtpi.org.uk](mailto:Scotland@rtpi.org.uk)

Yours sincerely

A handwritten signature in black ink that reads "Veronica Burbridge". The signature is written in a cursive style with a large, stylized 'V' and 'B'.

Veronica Burbridge

National Director  
The Royal Town Planning Institute in Scotland

## **ANNEX 1**

### **Sustainable Seas for All: response by the Royal Town Planning Institute in Scotland**

#### **CHAPTER 1 - SETTING THE SCENE**

##### **Q1 Do you agree that change is needed to the management and legislative framework for managing Scotland's seas?**

1. The Institute agrees that there is an urgent need for change in the management and legislative framework for managing Scotland's seas. Reasons for change were set out by the RTPI and RSPB in their report "Making the Case for Marine Spatial Planning" in 2004. The Institute agrees with the reasons for change set out in paragraph 13. We note the objective 'to give local communities a stronger voice in marine matters and to ensure accountability at the local and Scottish levels on marine decision making'. This objective has important implications for the distribution of planning powers in nearshore waters, for the operation of ICZM, relations with terrestrial planning systems and for the balance of related planning powers at local, regional and national levels.

##### **Q2 For each of the following areas, do you agree that Scottish Ministers/Scottish Parliament should put in place a new legislative and management framework to deliver:**

2. In general, the Institute agrees that a new statutory and management framework is required for the five areas: marine planning for the sustainable use of Scotland's seas; improvements to marine nature conservation to safeguard and protect Scotland's marine assets; a streamlined and modernised marine licensing and consents system; better stewardship backed up by robust science and data; and a new structure, including a new national body with overall responsibility to deliver sustainable seas for all. The extent to which objective (c) may be achieved through existing structures rather than a change in organisational remit should be further investigated. In addition, the Institute considers that under objective (e) the new structures for local management should be explained at an early stage: with the role of local authorities as key players being fully investigated.

##### **Q3 What difference would these changes make to your area of interest?**

3. The Institute considers that the new statutory and management framework must enhance the work of the planning profession by achieving greater spatial integration of policy and practice, more streamlined consents systems, a clearer expression of outcomes linking marine, coastal and terrestrial activities; and a better science base for the development of policy. The Institute is particularly concerned that the spatial aspects of marine planning should be recognised and that the resource needs of the new system including financing of new structures, training and skills development should be addressed.
4. The Institute has advocated a marine dimension to spatial planning as part of creating a UK wide spatial perspective. This approach has been developed in the RTPI's guidance on spatial planning 'Shaping and delivering tomorrow's places: effective practice in spatial planning' and in 'Uniting Britain - the evidence base, spatial structures and key drivers'.
5. In advocating the extension of spatial planning techniques to the marine environment, the Institute would particularly stress:
  - the importance of planning, not merely as a form of regulation, but as a creative framework which guides other decisions;
  - that as elsewhere, time, resources and skills are required to prepare and deliver plans in the marine environment;

- that while the atlas that accompanies the Shetland pilot is an excellent example, it sets out only what is already there, thus illustrating the difficulties in moving from data collection to making decisions about spatial strategies; and
- that utilising those with appropriate skills and making sure that appropriate training is available when there are skills gaps will be of immense importance.

**Q4 Scottish Ministers believe there are strong practical reasons for further discussion with the UK Government on the allocation of responsibilities around the seas of Scotland. Do you agree with this approach?**

6. The RTPI strongly supports a continuing dialogue with the UK Government. In our response to DEFRA's consultation on the Marine Bill, the RTPI strongly endorsed the view that a marine spatial planning system should be developed for the UK. We consider that this should closely complement and integrate with systems developed to regulate marine waters within the devolved nations. In this regard, the Institute considered that it was a matter of concern that the draft UK Marine Bill did not provide for a marine policy, plan making and licensing arrangement that was fully shared with Scotland and (in part) Northern Ireland. This could be reinforced by an intergovernmental agreement on UK seas, that could usefully engage sovereign nations with marine areas abutting the UK. Such considerations reflect the need to take an ecosystem approach to marine management which transcends political boundaries. The RTPI considers that marine spatial planning should also closely complement and integrate with terrestrial spatial planning, river basin and coastal zone management planning systems.
7. The RTPI responded to the draft UK marine bill consultation in June by emphasising the importance of designating a competent authority for marine planning in Scottish inshore waters to ensure a basis for integrated strategy and planning of the UK marine territory as a whole: this is seen as a crucial issue.
8. The RTPI response to the consultation on the UK Marine Bill noted that the range of mechanisms ensuring effective community involvement in plan making and decision making should be further explored. These should include the use of enabling powers in the Bill as drafted for marine plan making and license determination functions for sub-regions to be delegated to partnerships including terrestrial and environmental agencies, including devolved nation, region and local government. Such arrangements will be necessary in cross-border situations epitomised by the Solway. The RTPI considers that 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. We consider that the integration of planning issues across the 12Nmile to 200Nmile limit is most appropriately dealt with by collaboration and consultation at this time to ensure that there is a coherent marine planning system for all UK waters and a basis for a UK level marine strategy, such that this can be reflected in the UK legislation as well as the proposed Scottish legislation. This is covered in our response to the UK government's consultation on 'Our seas – a shared resource' which is set out in Annex 2.

**CHAPTER 2 - CREATING STABILITY: MARINE PLANNING AND INTEGRATED COASTAL ZONE MANAGEMENT**

**Q5 Do you agree with the overall 3-tier approach to marine planning in Scotland?**

9. The Institute agrees that a tiered approach is a necessary response to the scales of geographical coherence required in spatial analysis and policy making. However, the three Scottish tiers should address Scottish, regional and local levels and should nest within higher level tiers of the United Kingdom and Europe / wider international. This would recognise a five tier system in total.

10. The Institute considers that this section of the consultation document might have benefited from a summary of related experience in other European countries. We referred to experience in the Baltic and in the Wadden Sea in our response to the DEFRA consultation which is attached at Annex 2. In addition, reference might be made to Norwegian legislation passed in 1985 which enables local authorities to prepare statutory coastal plans covering inshore waters.

**Q6 Do you have any comments on the proposals for a National Marine Plan and the role of Marine Scotland in relation to planning at the Scotland level?**

11. The Institute considers that a National Marine Plan should have a spatial dimension and should be integrated into the National Planning Framework which already indicates marine and coastal strategies and proposals. Relevant detail will also require to be provided at regional and local levels.
12. A National Marine Plan for Scotland should encompass *all UK waters off Scotland*, whether on a jurisdictional or a collaborative basis. This could be achieved through administrative devolution. In this way planning powers could be extended to deal with key land-sea infrastructure issues such as renewable energy generation and transmission arrangements, and port development and related navigation. The purpose of the National Marine Plan should be (a) to deal with spatial implications of international obligations, (b) to create a framework for the local arrangements necessary for key cross border planning units such as the Solway; (c) to provide a spatial policy framework for relevant licensing regimes; (d) to designate marine protection areas; (e) to identify projects of national importance for the development of marine based infrastructure; (f) to identify nationally important conflicts in the use of marine space and set out criteria or mechanisms for resolving them. Such a plan might also identify areas where ICZM schemes should be prepared.
13. The Institute's comments on Marine Scotland are given in answer to questions 49 – 56. Marine Scotland will have an important integrating role to perform in its oversight of the marine planning and management strategy. The Institute agrees that the objectives for managing the marine environment should be based on the five principles of sustainable development as developed in the UK Sustainable Development Strategy. We would support Scottish ownership of the set of high level objectives, for the UK waters as a whole, which were developed in the DEFRA consultation paper.
14. At the national level, further consideration may be necessary in relation to the identification and approval of projects of national importance and to the status of policy guidance which is generated. It is of interest to note that the Key Physical Planning decision (PKB) in the Netherlands sets out the principle of sustainable use of the Wadden Sea and its ecosystems and that all levels of government and the private sector must follow this principle. Similar links may be made in Scotland to the National Planning Framework.

**Q7 Do you have any comments on the approach to setting out national objectives for marine planning?**

15. The Institute agrees that objectives for managing the marine environment are vital to set the direction for planning outcomes. These objectives will need to set an holistic framework for devolved and reserved activities. This would appear to be in line with approaches taken in other parts of Europe as in the Baltic and the Wadden Sea.
16. There is a clear need to link marine sustainable development objectives as developed in the EU Marine Policy with compatible objectives for integrated coastal zone management from the EU ICZM Recommendation and with the principles set out in the Water

Framework Directive. The possibility of attaining sustainable development will be increased by integration of policy objectives, management guidelines and plans of action that link terrestrial management with management of the marine environment. Efforts at UK and Scottish levels must provide a useful framework for the development of local plans within the Scottish Marine Regions.

**Q8 Do you agree with the overall approach to planning at the international level beyond Scotland?**

17. The Institute considers that it is not so much a planning regime but an integrated strategy with a spatial perspective which is required at international and UK levels.

**Do you have any further suggestions or comments to add to the proposed approach, in particular on the UK high level objectives?**

18. See answer to Q7 above.

**Q9 Should Scottish Ministers use the Marine Planning system to deliver Scotland's obligations under the Marine Strategy Framework Directive?**

19. Yes. See answer to Q7 above.

**Q10 Do you agree with the overall approach and functions for Scottish Marine Regions?**

20. The Institute considers that further clarification is necessary of the scale and territory of the regions being proposed and of the roles and responsibilities of the Scottish Marine Regions (SMRs) and of their relationship with Marine Scotland. Clarification is needed of the use of the terms 'regional' and 'local' in the consultation document and closer attention needs to be given to the specification of boundaries for Scottish Marine Regions at an early stage. The Institute notes the work done by the Scottish Coastal Forum on identifying suitable boundaries for ICZM regions in Scotland and would have liked to have seen more acknowledgement and discussion of this work and of the many existing local marine spatial plans.
21. With regard to functions, the role of SMRs as approved agents for the SMMO in the preparation of a regional plan and as an approved consultee for implementation through regulation will need to be more closely discussed and specified. If integrated with the existing coastal partnerships SMRs could be effective delivery agents for programmed actions for implementation of regional plans. Further discussion of the range of options would be useful. For instance, with regard to designation of regions, the options might include a regional division of the entire area of UK waters off Scotland. Any statutory policy framework as a basis for licensing and development consents must have permanence and scale to be transparent, accountable and manageable. The alternative is for the entire statutory policy framework to be contained in the National Marine Plan.
22. We understand that it is intended that the SMMO might be left to make arrangements as appropriate but we believe that there are some important principles concerning the role of a planning system, and hence its impact on the definition of regions or local planning areas, that need to be discussed further to ensure that the appropriate areas are selected and that there is a role for local authorities. There is not a one size fits all approach to take here, but local knowledge and the work of the coastal fora will assist. There will also be areas where there has been no call for marine planning or ICZM in the past *but where it will be required in the future*. This flexibility needs to be incorporated into the setting of any boundaries and areas. There also needs to be clear links to and full integration with the terrestrial planning system and plan delivery, including to the NPF, the new Strategic Development Plans, and Local Development Plans which will be particularly important in

the context of ICZM. In addition, aquaculture has been subject to a new regime since 2007 and it would seem appropriate to continue the local authority delivery of this with the added benefit of marine plans at a regional and national level. The Institute supports the leading role for local authorities in delivering integrated management at the Scottish Marine Region level identified in paragraph 18 of the consultation paper.

23. The Institute notes the expectation in Box 2.7 that each SMR Board will take into account the relevant IFG Fisheries Management Plan. We would expect this to be a two-way process with IFG Management Plans taking close account of, and nesting within the integrated regional plan.
24. Paragraph 65 suggests a very detailed level of involvement by SMRs in decision making and licensing conditions. This may be difficult to implement given the wide membership of SMRs.
25. The Institute considers that further consideration will need to be given to the operation of the 'principle of presumption' particularly in nearshore areas where a finer-grain zoning approach will be required. Other factors that will need to be taken into account include scale and intensity of activity.

**Q11 Do you agree that Scottish Marine Regions should be responsible for integrated coastal zone management?**

26. Integrated Coastal Zone Management has a pivotal role to play in the delivery of marine planning. It is essential to retain the excellent work that has been undertaken to date on ICZM. Any arrangements will need to address both the planning and management aspects of ICZM and the Institute considers that further consideration of the options available and of the flexibility required would be useful. The future role of local coastal partnerships should be more specifically addressed.
27. The Institute considers that local authorities and well-resourced local coastal partnerships should take the lead in delivering integrated coastal zone management. The greater importance to be attached to this sector of marine planning when compared with the offshore zones should be clearly recognised.

**Q12 Do you agree that Scottish Ministers should place a duty on Scottish Marine Regions to adopt the eight principles defining integrated coastal zone management?**

28. The Institute considers that the eight principles of ICZM are definitely helpful, but should perhaps be reflected in policy guidance rather than becoming a statutory duty. Scottish Ministers might be given responsibility for producing guidance as in the case of the Biodiversity Duty or the Sustainable Development Duty. Good practice continues to evolve and this would be best addressed through continuing guidance rather than laid down in the primary legislation.

**Q13 Do you have any other comments on the delivery of integrated coastal zone management alongside marine planning?**

29. Much will depend on the scale of the chosen regions and lessons from the pilot studies should help in examining further options.

**CHAPTER 3 - REDUCING THE BURDEN: LICENSING AND ENFORCEMENT**

**Q14 Does licensing remain an effective method of delivering both certainty for investment purposes, and protection for the marine environment?**

30. The Institute supports the streamlining of licensing and the proposed relationship with the planning system. However, we consider that further work on the detail of these relationships and on working practices will be required. It is essential that the plan upon which decisions are based is up to date and relevant. There has to be coordination with EIA and appropriate assessment requirements. The Institute considers that streamlining may be achieved within existing structures and this approach could be examined further. It is noted that most of the potentially damaging activities are caught by the existing licensing regime.
31. Reference is made to licensing throughout the consultation paper but this should be differentiated from the concept of development consent which is a permanent consent for capital development involving concerns not only about environmental protection but about competing uses of space. Electricity Act, Pipeline Act, Fish Farm planning, Transport and Works Act and other forms of consent which exist at the moment reflect this in the marine environment.
32. The Institute supports the proposal to introduce an appeal system. This would apply to development consents but it is less easy to see how a planning appeal system could apply to licensing. One practical way of integrating the licensing and planning regime might be to have a process whereby a license application, say a CPA application for placing an item of equipment on the sea bed, after initial sieving, would be converted into a development consent application thus switching to a planning type regime with appeal rights. This would allow much of the existing licensing activity to carry on unaffected by planning considerations.

**Q15 The existing licensing system covers most of the impacts on the seas from existing activities. One area of activity that has potentially large impacts and is not licensed is dredging. Scottish Ministers propose to license all new forms of dredging ( i.e. those forms that agitate the sea bed). Do you agree?**

33. Yes. We believe that the proposed capital dredging consent, which we support, should be regarded as a 'development consent'. It is quite feasible that there would be other types of development, especially if the 200Nmile limit came within the Scottish marine planning system, for which development consent would be required.

**Q16 Scottish Ministers intend to create powers to set out a list of licensable activities in regulations. Do you have any views on this approach?**

34. Ultimately it may be the impact rather than the activity which will matter. Coordination (and potentially enforcement) will be important, and thought will certainly require to be given to cumulative impacts which will need to be taken into account.

**Q17 The proposed Marine Scotland should have general responsibility for the delivery of the marine licensing system. Do you agree?**

35. A central approach to the delivery of licensing would appear sensible in offshore areas. However, any centralised approach should not operate to the detriment of ICZM nor take away existing controls and planning responsibilities from the local planning authority. All matters which require marine licensing will require to be fully coordinated within integrated marine plans.

**Q18 Scottish Ministers intend to reduce the numbers of marine licences that developers require to get before an activity can take place. There are two ways to reduce the number of licences either by creating a single licence for all marine impacts or by creating a single licence for each activity. Which system do you prefer?**

36. The Institute would prefer a single licence for all marine impacts, as this would encourage a consistency of approach.

**Q19 Marine Scotland could undertake the licence work itself or operate as a front door coordinating the work of others. Do you have any views on these options?**

37. Given the wide range of licensable activities, it would appear sensible for Marine Scotland to draw on the expertise of existing bodies. That would not preclude its having regional or even local presences as well as a national co-ordinating function.

**Q20 Do you agree with the proposed approach to consultation involving local stakeholders?**

38. Local consultation is essential at all stages of planning: survey, analysis, plan, implementation, monitoring and review.

**Q21 Do you agree that the revised licensing system should incorporate the simplified CAR model throughout, to focus scrutiny on higher risk activities/ impacts and reduce the regulatory burden?**

39. The licensing system should be based upon properly coordinated plans. Activities/impacts which are in accordance with the plans should require only a light touch. A positive and proactive approach to enforcement to ensure compliance would be essential.

**Q22 Scottish Ministers intend to provide Marine Scotland with powers to insert conditions into licences. Do you agree with this approach?**

40. The Institute agrees with this approach. Any conditions should be specific, measurable, attainable, relevant and timed.

**In particular Scottish Ministers intend to create a standard condition on removal of redundant kit and installations, do you agree?**

41. Not all redundant kit and installations will be troublesome, but where this is anticipated the powers to achieve appropriate remedial actions, including the total removal of evidence of activity, should be available: it will be appropriate as a condition, in possibly many cases, to insist on the provision of a suitable financial bond to ensure that this remediation actually occurs.

**Q23 Scottish Ministers believe an appeals procedure for those directly involved in the licence application would be a beneficial development. Do you agree?**

42. Yes. See paragraph 32 above.

**Q24 To provide an easy and transparent system, do you agree that a scale of charges related to cost recovery is the most appropriate way to recover the costs of assessing, issuing, monitoring and enforcing licences?**

43. No. The Institute would prefer if there was no link between the actual costs of the service and the charges levied, since the service exists for the wider public good. The Institute would prefer charges set at the minimum level required to discourage 'vexatious' applications, not established as in effect a tax on coordination, conservation, and marine management.

**Q25 The Scottish Government proposes a review of existing licence monitoring and enforcement provisions relating to the marine environment and wishes to consolidate them into a single set of coherent powers and remedies. Marine Scotland should be tasked with ensuring compliance monitoring and enforcement activity is carried out consistently and efficiently. Do you agree?**

44. This can only be achieved within a framework of up-to-date and relevant plans.

#### **CHAPTER 4 - SECURING THE FUTURE: NATURE CONSERVATION**

**Q27 Do you agree that our system of marine nature conservation should be based on the three pillar approach?**

45. The Institute generally supports the proposals for marine conservation. We would stress that the ecosystem approach and the intended approach to Marine Protected Areas (MPAs) requires an effective national spatial marine plan for implementation. The Institute considers that Pillar 1 might be more explicitly designated as an ecosystem approach to wider sea conservation. This would be in line with the Biodiversity Duty under the Nature Conservation (Scotland) Act 2004 and requirements for an ecosystem conservation approach.

**Q28 Please provide your views or comments on the application of Marine Ecosystem Objectives for marine nature conservation.**

46. The Institute considers that Marine Ecosystem Objectives should be central to the Marine Bill. This is linked to the expression of high level objectives that we have addressed in our response to the DEFRA consultation, given at Annex 2. If Marine Scotland is to address and deliver effective ecosystem management, it will be necessary to commit more resources to seabed habitat mapping which will be a basic initial information requirement. High level marine ecosystem objectives should underpin policy, and should be used to monitor the health of the marine environment. Marine Ecosystem Objectives (MEOs) and measures should be identified in relation to key features, processes and functions. Further consideration of suitable measures is required. These MEOs should underpin the whole Bill and not be limited to marine conservation.

**Q29 Do you agree it would be worthwhile to have a biodiversity duty in the offshore area around Scotland?**

47. The Institute supports the proposal to have a biodiversity duty in the offshore area.

**Q30 Do you have any other suggestions for making improvements to Pillar I - wider seas measures?**

48. As noted in our response to DEFRA, the Institute supports an integrated approach that reflects the five principles of sustainable development. The Institute supports the role of the objectives 'to steer Administrations and the wider public sector in their (joint) achievement of sustainable marine development'. This approach should underpin the marine planning system.

**Q31 Do you agree with the proposals for a science-based review of whether new marine species need to be added to the existing list of protected species?**

49. The Institute agrees with these proposals.

**Q32 Do you have any further comments or suggestions for making improvements to Pillar II - species conservation?**

50. The Institute considers that if marine nature conservation were extended to 200Nm, the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats&) Amendment (Scotland) Regulations 2004 and any associated legislation should also be extended and enforced to 200Nm.

**Q33 Do you agree with the overall principle of the introduction of a power to select new types of site?**

51. The Institute supports this proposal which would assist in meeting international commitments under the EU Marine Strategy Framework Directive, the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention) and the World Summit on Sustainable Development (WSSD). It will be important to deliver a network of sites rather than individual sites alone.

**Q34 Do you agree with the assessment of the three main types of requirements for site protection?**

52. The Institute supports the three main types of requirements for site protection. This approach should also contribute to wider marine ecosystem functioning and recovery.

**Q35 Do you have any views on whether or not a "single approach" should be taken for marine historic and natural environment site protection?**

53. A single approach is envisaged as appropriate in Marine Protected Areas for historic environments that are area based. Integration of the various requirements should be resolved at the detailed level. We broadly support the points raised by the Built Environment Forum (Scotland) with regard to the marine historic environment in their consultation response

**Q36 Do you agree with the proposals on how a new flexible site protection power will be used?**

54. The Institute would support a duty to identify and designate new types of sites and a duty to create an ecologically coherent network of MPAs. Any flexibility in site selection should reflect ecological and/or cultural needs and priorities, not changing economic imperatives.
55. The Institute considers that any proposals to allow de-selection of sites should be based on science-based ecological and/or cultural criteria. Any de-selection process based on socio-economic criteria would undermine the establishment of the MPA network.
56. As noted in our response to the DEFRA consultation, we consider that actions should be based on the precautionary principle as set out in the EU Treaty.

**Q37 Do you have any views or comments on whether a single integrated power should be used to deliver these proposals?**

57. The Institute considers that existing mechanisms should be used wherever possible and that effective management will require the support of all stakeholders.

**Q38 Do you agree with the proposals for how sites will be managed, including the site by site approach and overall context of sustainable development?**

57. Further clarification will be needed of structures of governance, of relations with terrestrial planning systems and of how local communities will be involved, as envisaged in Box 4.4 of the consultation paper.

**Q39 Please provide us with your views on the role that a wider planning system should have in the identification of Marine Protected Areas?**

58. The Institute considers that the identification and designation of sites should be an independent science-based process, similar to the designation processes already in place for on-shore protected areas. The Institute agrees with the proposal to have separate powers to create MPAs. The planning system will have a role in relation to protecting the ecologically coherent and representative network of sites and in the development of management objectives and the operation of management plans for all sites.

**Q41 Would you agree with the principle that the offence against damage to Natura sites should apply to marine sites?**

59. The Institute supports the wider application of this principle to all sites. Activities should have to demonstrate that a significant impact will not occur, either singly or cumulatively, to be allowed to operate within sites. This is in line with the precautionary principle. There should be a general offence of damage or disturbance to a site / feature (without consent).

**Q42 How can we enhance the contribution which the wild marine environment makes to Scotland's economy?**

60. The maintenance of a healthy marine ecosystem in which biodiversity is adequately protected is fundamental to the continuing provision of economic and social goods and services which flow from the marine environment. As noted in our response to DEFRA (see Annex 2), an overriding objective will need to be supported by effective management principles adopted by all stakeholders. The effectiveness of the current use of codes of practice in the different sectors of fishing, aquaculture and wildlife tourism might be examined.

**CHAPTER 5: UNDERSTANDING OUR SEAS: SCIENCE AND DATA**

**Q44 Do you agree that Scottish Ministers should develop a marine science strategy to focus marine scientific effort, integrate socio-economic considerations, and to create a framework for wider stakeholder input?**

61. Understanding the sea, a complex and dynamic primary force, is essential to its proper sustainable management. The Institute supports the proposed science strategy and the priority for improving data capture which is relevant to marine strategy and planning. The Institute notes the need for basic information on seabed habitat mapping as a basic requirement for the delivery of ecosystem management and the need for baseline assessments. However, we would stress that the collection of data is not an end in itself. Data collection must be guided by the needs of the new system, which will be strategy, plans and policies. In the absence of appropriate data, actions should be based on the precautionary principle.

**Q45 Do you have views on how to integrate scientific evidence with stakeholder and local knowledge?**

62. The Institute would support the involvement of stakeholders and locals in the assembling of 'evidence' as key elements of the survey stages of marine plans.

**Q46 What do you think are the potential priorities for further work?**

63. Priority work should be guided, wherever possible, by strategies, plans and policies already in place and should address the gaps in knowledge of the marine environment in relation to the information needs of its management for long-term conservation and sustainable use and in the development of ICZM. Research needs should draw on other available expertise in UK Research Councils, Universities and Government Departments.

**Q47 Scottish Ministers propose that the strategic role for the monitoring and assessment of Scotland's seas lies with Marine Scotland, do you agree?**

64. While Marine Scotland should undertake a strategic role in relation to monitoring, this should involve more independent monitoring by the Strategic Environmental Assessment Consultation Bodies.

**Q48 Scottish Ministers propose to instruct Marine Scotland to take forward the development of GIS as a matter of priority. Do you agree?**

65. The Institute agrees with the importance of developing GIS as a matter of priority. In the interests of encouraging transparency of information it should be presented on Web-based GIS systems, accessible to all. This will be particularly important if (as has been suggested elsewhere), there is to be a presumption of use. Such a presumption (or at least delineation of the areas which are to be protected from particular use) should be set in place only after an appropriate level of survey information is obtained – otherwise the precautionary principle should apply. Further consideration of existing systems and resources at UK as well as at Scottish levels should be investigated.

**CHAPTER 6 - MANAGING OUR SEAS: MARINE SCOTLAND**

**Q49 Scottish Ministers propose to develop Marine Scotland to champion the seas and their use and provide better integrated and streamlined delivery in the marine area. Do you agree?**

66. The Institute agrees that there is a case for effective coordination of the potentially complex activities involved in marine planning, and spatial planning and integration should be at the heart of this. Both options set out in the consultation paper could work if well resourced, with appropriate plans, strong leadership and a clear remit. It is essential that the championing is done well. There is no point in championing something which then fails to deliver or does not live up to expectations. It will be important to establish effective delivery mechanisms at all levels, to build on existing resources within agencies, and to ensure local commitment and involvement.

**Q50 Scottish Ministers propose that Marine Scotland deliver marine planning proposals as set out in Chapter 2. What are your views on this proposal?**

67. The degree to which these functions will be centralised requires further consideration particularly in relation to the different requirements of offshore and nearshore planning and the need for effective integration with terrestrial planning systems.

**Q51 Do you agree with the approach set out for fisheries and aquaculture management?**

68. The Institute supports the proposed arrangements for fisheries, but is concerned about the proposal to transfer aquaculture to Marine Scotland. This is a relatively specialised area and much time has been spent in getting the new arrangements in place. The current system will be further strengthened by marine plans, as at the moment there is only limited

policy guidance from local authorities. The current Scottish Government consultation on aquaculture *Scottish Aquaculture A Fresh Start: A Consultation on a Renewed Strategic Framework for Scottish Aquaculture* aims to focus and invigorate and industry. It may be appropriate to consider the transfer of aquaculture at a later date once marine planning is more established. However, given the land-based impacts of much aquaculture, including economic benefits, roads, other services, and visual impacts, the Institute is not yet persuaded that there is a case for such a transfer.

**Q52 What are your views on the arguments relating to where control for aquaculture should lie?**

69. See paragraph 68 above.

**Q53 Do you have any views on the role that FRS should take?**

No comment

**Q54 What are your views on the creation of Marine Scotland and the proposed range of functions it should deliver?**

70. The Institute considers that it is essential that there are clear links with the UK MMO, (and also with the other devolved administrations) and with the different arrangements that exist at an international level. We consider that arrangements should build on existing structures and resources where possible for instance the statutory heritage advisory duties should remain with Historic Scotland, SNH, and the Planning Authorities: this last should also be responsible for ICZM.

**Q55 Do you have any views on the development of Marine Scotland's role and functions over time?**

No comment

**Q56 Ministers believe Marine Scotland should form part of Scottish Government with appropriate safeguards for science and the appeals process. Do you have any views?**

71. On balance the Institute favours the option of Marine Scotland being established as a Non-Departmental Public Body, like SEPA and SNH, at a remove from Government, with a Board responsible to Ministers and to Parliament. This would greatly improve the prospects for role separation where there are appeal or call in issues; ensure transparency of decision-making; assist policy coordination at a UK level, where the UKMMO is an NDPB; and could introduce a range of management expertise for the whole range of MMO work, through the appointment of a Board.

**WHAT DO YOU THINK?**

**Q57 Are there any other aspects of the proposals in this consultation document on which you wish to add your views?**

72. The new arrangements for marine planning and management will have profound implications for many of the Institute's members and for the future of development planning at all levels. The Institute would be pleased to assist with any further consultations on matters of legislative and policy development as they emerge.



**RTPI**

mediation of space · making of place

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Dear Sir/Madam

### **Our Seas – a shared resource**

The Royal Town Planning Institute is grateful for the opportunity to respond to this consultation, which sets out high level marine objectives and a vision for the marine environment.

The Royal Town Planning Institute (RTPI) is the leading professional body for spatial planners in the United Kingdom. It is a charity with the purpose to develop the art and science of town planning for the benefit of the public as a whole. The RTPI has over 21,000 members who serve in government, local government and as advisors in the private sector. This consultation has been prepared in discussion with members of the RTPI's Marine Spatial Planning Task Group and with input from colleagues in the RTPI in Scotland.

In general, the Institute welcomes the development of high level objectives for UK marine areas as a whole, while taking account of the distinct circumstances and responsibilities of the UK Government and the Devolved Administrations. In the Institute's response to Defra on the UK Marine Bill, we noted 'it is a matter of concern that the draft bill does not provide for a marine policy, plan making and licensing arrangement that are fully shared with Scotland and (in part) Northern Ireland.' Whilst domestic marine legislation in these jurisdictions is anticipated, better enabling provisions at the UK level could be included in the draft bill. This could be reinforced by an intergovernmental agreement on UK seas that could usefully engage sovereign nations with marine areas abutting the UK.

In a similar way, the Institute considers that a joint statement of high level marine objectives on behalf of the UK Government and the Devolved Administrations is needed to provide comprehensive guidance to drive marine policy in a coherent and consistent way.

Our detailed points in response to the questions raised in your letter of 30<sup>th</sup> June are set out below.

### The scope of the high level objectives

The Institute supports the integrated approach taken in the UK Sustainable Development Strategy that reflects the five principles of the shared framework for sustainable development. The Institute supports the role of the objectives 'to steer Administrations and the wider public sector in their (joint) achievement of sustainable marine development'. We also consider that the objectives should 'enable the *engagement* of the public, business, voluntary and *community* sectors, and underpin the UK approach to negotiation and implementation of European and *wider* international marine policy'.

There is a clear need to link marine sustainable development objectives as per the EU Marine Policy with compatible objectives for integrated coastal zone management as per the EU Integrated Coastal Zone Management Recommendations and the principles set out in the Water Framework Directive. The possibility of attaining sustainable development will be strengthened by integration of policy objectives, management guidelines and plans of action that link terrestrial management with management of the marine environment.

The development of high level marine objectives based on sustainable development principles reflects approaches taken by European neighbours in the Baltic and Wadden Seas. The Institute notes the emphasis placed within the Vision and Strategies around the Baltic Sea on the need for sustainable, balanced and harmonious spatial development. We also note the ambitious programme of HELCOM (the Helsinki Commission - the Baltic Marine Environment Protection Commission) Baltic Sea Action Plan to restore the good ecological status of the Baltic marine environment by 2021. The new plan, takes an innovative approach based on a clear set of 'ecological objectives' defined to reflect a jointly agreed vision of 'a healthy marine environment, with diverse biological components functioning in balance, resulting in a good ecological status and supporting a wide range of sustainable human activities'. Lessons may also be drawn from the experience in the Wadden Sea where the trilateral Wadden Sea plan involving Germany, Denmark and the Netherlands has the shared vision of 'A healthy environment which maintains the diversity of habitats and species, its ecological integrity and resilience as a global responsibility'.

The Guiding Principle of the trilateral Wadden Sea policy is "to achieve, as far as possible, a natural and sustainable ecosystem in which natural processes proceed in an undisturbed way". In addition, seven Management Principles have been adopted which are fundamental to decisions concerning the protection and management within the Wadden Sea Area. These are:

- the Principle of Careful Decision Making, i.e. to take decisions on the basis of the best available information;
- the Principle of Avoidance, i.e. activities which are potentially damaging to the Wadden Sea should be avoided;
- the Precautionary Principle, i.e. to take action to avoid activities which are assumed to have significant damaging impact on the environment, even where there is no sufficient scientific evidence to prove a causal link between activities and their impact;
- the Principle of Translocation, i.e. to translocate activities which are harmful to the Wadden Sea environment to areas where they will cause less environmental impact;
- the Principle of Compensation, i.e. that the harmful effect of activities which cannot be avoided, must be balanced by compensatory measures; in those parts of the Wadden Sea, where the Principle has not yet been implemented, compensatory measures will be aimed for;
- the Principle of Restoration, i.e. that, where possible, parts of the Wadden Sea should be restored if it can be demonstrated by reference studies that the actual situation is not optimal, and that the original state is likely to be re-established;
- the Principles of Best Available Techniques (the RTPI would advocate Best Available Techniques Not Entailing Excessive Costs) and Best Environmental Practice.

Unreasonable impairments of the interests of the local population and its traditional uses in the Wadden Sea Area have to be avoided. Any user interests have to be weighed on a fair and equitable basis in the light of the purpose of protection in general, and the particular case concerned

It is also worth noting that the Key Physical Planning decision (PKB) in the Netherlands sets out the principle of sustainable use of the Wadden Sea and its ecosystems and that all levels of government and the private sector must follow this principle. Similar links may be made in Scotland to the National Planning Framework and the Institute has long campaigned for a UK spatial strategy to provide such a framework. International experience suggests the need to adopt a precautionary principle with regard to the sustainable development of shared marine resources

### **The description of what success would look like**

The Institute considers that it will be necessary to have some assessment of the current 'base-line' position from which to measure success and to establish clear and measurable objectives at an early stage. In the Wadden Sea example, objectives include clear water, an end to excessive algal blooms, and viable populations of species. Targets for 'good ecological status' are based on the best available scientific knowledge. The timeframe for reaching these targets is set through political consensus among the three Wadden Sea States. With the application of the ecosystem approach, the protection of the marine environment is no longer seen as an event-driven pollution reduction approach to be taken sector-by-sector. Instead, the starting point is the ecosystem itself, and a shared concept of a healthy sea with a good ecological status. This vision will determine the need for further reductions in pollution loads, as well as the extent of various human activities and will need to address appropriate management structures and legislative controls.

The HELCOM cross-sectoral plan identifies the actions needed to achieve agreed targets within a given timeframe for the main environmental priorities: combating eutrophication, curbing inputs of hazardous substances, ensuring maritime safety and response capacity to accidents at sea, and halting habitat destruction and the ongoing decline in biodiversity. The action plan distinguishes between measures that can be implemented at regional or national level, and measures that can only be implemented at EU level (e.g. Common Fisheries Policy, Common Agricultural Policy, controls over the marketing and use of chemicals) or globally (e.g. the shipping controls defined by the International Maritime Organization).

### **The coverage of objectives**

The Institute considers that outcomes will need to be clear and measurable. It may help if these are developed at different levels of administration and in relation to the achievement of action plans. The objective of 'ensuring a strong, healthy and just society' for instance should include opportunities for the involvement of people in marine planning at local, regional and national levels. Similarly, the objective of 'living within environmental limits', should also give recognition to the importance of historical, and archaeological heritage. The objective of 'promoting good governance' should note the important links with terrestrial planning systems through Integrated Coastal Zone Management and River Basin Management and this objective will also need to recognise the need for the development of skills in marine spatial planning.

A paper copy of this consultation will also be sent by post. If you require any further assistance, please contact Anna Morecombe, Planning Policy Officer on 0207 929 9493 or email [policy@rtpi.org.uk](mailto:policy@rtpi.org.uk) .

Yours sincerely,

Rynd Smith

**Director Policy and Communications**

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