



# RTPI

mediation of space · making of place

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Dear Vikki

### **Marine (Scotland) Bill**

Further to your conversation with Graham U'ren, I have attached comments from the Royal Town Planning Institute in Scotland which I hope may be of assistance to Members of the Rural Affairs and Environment Committee in consideration of the Marine (Scotland) Bill.

I am grateful to members of the RTPI in Scotland Task Group on Marine Spatial Planning for preparing these comments. Please get in touch with me if we can be of further assistance.

Yours sincerely

Veronica Burbridge  
National Director

## **Comments by the Royal Town Planning Institute in Scotland**

The Royal Town Planning Institute in Scotland (RTPIS) has been closely involved with the promotion of the concept of marine spatial planning in the UK and especially in Scotland through representation on the government advisory groups, AGMACS and SSTF, and the subsequent development of provisions for spatial planning within the Marine (Scotland) Bill.

RTPIS would like to comment on the following aspects of the bill and members of our Task Group on Marine Spatial Planning would be happy to give oral evidence at stage 1 should the committee desire.

This written evidence is in 5 parts: identification of areas in the bill that the RTPIS particularly welcomes; a reiteration of the principles of spatial planning as they apply to the marine environment; questions about the process and procedures for planning in the marine environment in Scotland; and the consideration of the role for local authorities and links to the terrestrial planning system. Each is now considered in turn.

### **1. Support for the Bill**

RTPIS welcomes the introduction of the concept of marine planning in the Bill. It considers that a potentially effective framework for marine spatial planning has been provided and acknowledges that the legislation and the processes that it will introduce are more or less unique. Many other jurisdictions are developing marine spatial planning systems, not least because of international and European requirements, but Scotland and the UK are at the forefront of this development.

In particular, the RTPIS welcomes the development of a three-tier approach to marine spatial planning: an international level (including the UK); the Scotland level and the regional level within Scotland to deal with local planning. It also welcomes the use of a national marine plan to set out strategic objectives for the marine environment in Scottish Waters and that this plan will be developed to cover 0 to 200 nautical miles through legislation within the Scottish Bill, the UK Marine and Coastal Access Bill and executive devolution. The requirement to have regard to the marine spatial plan in making discretionary decisions on individual licence/consent applications is also a fundamental benefit of the proposed system.

### **2. A reiteration of the principles of spatial planning**

*Sustainable Seas for All, a consultation on Scotland's first marine bill*, included at para 44 six fundamental principles of spatial planning promoted by the RTPI that could be applied to the development of marine planning, as well as terrestrial or any other form of spatial planning, notwithstanding the very different environments and, hence, different activity patterns involved. The RTPIS, in its response to the consultation welcomed such a recognition and it acknowledges that the Bill potentially provides a framework for an effective marine spatial planning system.

Such a framework contained in an enabling bill, however, does not provide detail. The policy memorandum that accompanies the bill, and the evidence taken at the committee stages thus far, reiterate that the bill is a framework bill and there are no statutory instruments proposed to provide detail on the marine planning part of the bill. In view of the intended operation of the system in Scotland by an executive agency of the Scottish Government, the lack of any further detail in the statutory framework means there is a need for greater clarity with regard to the government's intentions for the detailed operation of the system by Marine Scotland before the bill has completed its passage.

We have noted a number of provisions that not only draw on the concepts of spatial planning discussed during the preparation of this bill, but also on the lessons of reform of the Town and Country Planning system in Scotland. However, we feel that the recognition that the marine planning system will be far more concerned with marine management issues than with the physical development issues on land has led to the introduction of a different terminology which may lead to some confusion when integrating the two planning systems at operational level.

For example, firstly, regional plans must conform to the national marine plan (clause 3(5)). The national marine plan and the regional marine plan are both subject to the statutory regime which gives them primacy in the determination of any cases (clause 11(1)) and therefore they have similar status to the two tiers of development plans under the T&CP regime. [The National Planning Framework stands apart in both regimes as a statutory but non binding government policy document.] Under the Planning etc (Scotland) Act 2006, a local development plan (LDP) must be consistent with the SDP. This is deliberately a looser relationship than the requirement to conform generally with the higher tier plan under the original provisions of the 1997 Planning Act. We feel that the wording should be consistent as the basis of the relationship in marine planning is similar.

Secondly, while the marine plans are not exclusively spatial plans but mirror the statutory specifications for content in the T&CP system (clause 7(2)), we feel that there should be more specific reference to the inclusion of spatial characteristics in the policy outputs, such as in the use of maps and diagrams, vision statements and spatial strategies, as in the reformed T&CP system.

Thirdly, the term SPP (statement of public participation) is used in relation to the preparation of a marine plan. Its purpose is not discernibly different from the participation statement used in the 2006 Planning Act and over which such extensive debate took place at the committee stage of the bill in 2006.

### **3 The process and procedures for planning in the marine regions**

The Bill does not make provision for any secondary legislation to implement the arrangements for preparing regional plans. While clause 7(1) requires that ministers will keep under review the designation of any area as a Scottish marine region, there are no statutory provisions as to how this is to be done. Clause 8 also sets out a wide framework for the appointment of a body which will have delegated responsibility to prepare a marine plan on behalf of ministers. The RTPIS accepts that different parts of Scotland will deal with marine planning in different ways, but considers there is still a need for some firmer basis of guidance to secure uniformity of procedure and outcome.

Considerable work is being done behind the scenes by Marine Scotland with the assistance of stakeholders on the designation of marine regions and this work should be explained fully to the Parliament to ensure that the framework provisions for delegated plan preparation at regional level will be effective in meeting the desired outcome.

### **4 A consideration of the role for local authorities**

The evidence on the financial memorandum of the Marine (Scotland) Bill makes it clear that local authorities are uncertain as to their roles as respect to the Bill. The only aspect that is clear is that different areas may deal with marine planning and licensing in different ways. There are two alternatives for marine regions: either public authorities will lead planning or incorporated partnerships will provide a group means of leading planning. It is also anticipated that the marine plans will be created first in those areas with the most conflict, existing or potential. Linda Rosborough, Marine Scotland, in evidence on 2 June 2009, to the Finance Committee indicated that local authorities were considering what their role might be. Consultation procedures with local planning authorities will need to be further clarified.

## **5 Links to the terrestrial planning system**

The bill and the explanatory memorandum specifically refer to the need for the compatibility of the new regional marine plans with terrestrial plans. The role of Integrated Coastal Zone Management (ICZM) is also referred to in the Bill. ICZM will have an integral part in ensuring that the marine and terrestrial systems are appropriately integrated. An indication of how this will operate, again particularly in relation to the role of local authorities, is however, not apparent in the Bill.

The provisions of paragraph 3 of schedule 1 with regard to the requirement for compatibility of marine plans with development plans form the basis for formal integration of marine and terrestrial planning. In practice, there will be many issues on which integrated policy and procedure will be essential and Marine Scotland will require to put in place protocols and procedures with planning authorities and other agencies accordingly.

It might also be anticipated that marine issues will be dealt with more comprehensively in the National Planning Framework (NPF) in future and this should provide an important link with the national marine plan, proposed in the Marine Bill. Once again an opportunity to make the connection between the seaward and the terrestrial planning system should be indicated at an early stage, either in the primary legislation, secondary legislation or guidance. Furthermore, as the NPF develops as a strategic planning tool, the opportunity to remove the artificial boundaries between the terrestrial and the seaward systems is one that could appropriately be taken forward under arrangements consequent on the Marine (Scotland) Bill.