

CONSULTATION QUESTIONS

Please identify the main area of interest you identify with :

- Nature Conservation
- Fisheries
- Industry/Transport
- Energy
- Aquaculture
- Recreation/tourism
- Academic/scientific
- Local authority
- Community group
- Public sector/Regulatory body
- Local Coastal Partnership

Other (Please state)

Maritime archaeology, underwater cultural heritage, marine historic environment

Q1. Does the NMP appropriately guide management of Scotland's marine resources?

The Joint Nautical Archaeology Policy Committee (JNAPC) has only responded to questions in this document where it feels it can make comments about the marine historic environment.

Q2. Does the NMP appropriately set out the requirement for integration between marine planning and land use planning systems?

Comments

Q3. Does the NMP appropriately guide development of regional marine planning? What, if any, further guidance is required for regional marine planners in terms of implementation and how to interpret the NMP?

Yes. Further guidance on managing and protecting the marine historic environment

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

Q4. The Marine Regional Boundaries Consultation proposed that in addition to regional marine planning, further integrated management of key marine areas would be achieved by designating the Pentland Firth; the Minches and the mouth of the Clyde as Strategic Sea Areas.

Should the NMP set out specific marine planning policies for Strategic Sea Areas?

Comments

Q5. Are the objectives and policies in the NMP appropriate to ensure they further the achievement of sustainable development, including protection and, where appropriate, enhancement of the health of the sea?

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

Q6. Chapter 3 sets out strategic objectives for the National Marine Plan and Chapters 6 – 16 sets out sector specific marine objectives.

Is this the best approach to setting economic, social and marine ecosystem objectives and objectives relating to the mitigation of and, adaptation to climate change?

Comments

Q7. Do you have any other comments on Chapters 1 – 3?

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

General Planning Policies

Q8. Are the general policies in Chapter 4 appropriate to ensure an approach of sustainable development and use of the marine area? Are there alternative policies that you think should be included? Are the policies on integration with other planning systems appropriate? A draft circular on the integration with terrestrial planning has also been published - would further guidance be useful?

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

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

Moreover, the use of the word 'positively' in the 4th line of page 31 of the draft Plan may be taken (erroneously) to suggest that an undesignated heritage asset has to undergo some formal assessment of significance in order to be included or protected. It is sufficient simply to say that elements "*identified as holding a degree of significance meriting consideration are called 'heritage assets'*". Indeed, the *UK Marine Policy Statement* (at paragraph 2.6.6.6) refers solely to '*identified heritage assets*'. It also goes on to highlight the need to take into account '*the potential for such assets to be discovered*' in developing and implementing Marine Plans. The draft Plan does not refer to such potential and this omission should be rectified. It should also be made clear that provisions on the historic environment – especially undesignated assets – will apply also to the exercise of powers by port and harbour authorities (as noted on p. 10), which often have jurisdiction over areas that are of particular significance and sensitivity in terms of their historic environment.

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

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

should identify the records in question and make clear the need to consult them.

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

The coastal and marine historic environment can make a major contribution to well-being, place-making and community cohesion, and to sustainable recreation and tourism; but this contribution is often overlooked. In the light of the Scottish Government's objectives for Scotland's seas, more could be made in policy GEN 13 and the accompanying text to encourage the positive contribution that the historic environment can make, as well as seeking its protection for future generations.

Specifically, the National Marine Plan might expressly encourage development and use that promotes the historic environment as a source of social benefits, either as an incidental consequence of development / use, or directly.

Scottish Government should recognise in policy GEN 13 – and take urgent steps to remedy – the absence of an adequate evidence-base for decision-making or plan making in the offshore zone. The principal national records of the historic environment – including the inventory of heritage assets – extend only to the Territorial Sea. An evidence-base for the historic environment that encompasses all of Scotland's seas is essential to the implementation of Scotland's National Marine Plan.

Q9. Is the marine planning policy for landscape and seascape an appropriate approach?

The JNAPC welcomes the inclusion of seascapes. A direct cross-reference to policy GEN13 on the historic environment would be beneficial.

Q10. Are there alternative general policies that you think should be included in Chapter 4?

Comments

Guide to Sector Chapters

Q11. Do you have any comments on Chapter 5?

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

The marine historic environment should be identified as a key part of the marine environment.

Sea Fisheries

Q12. Do you have any comments on Sea Fisheries, Chapter 6?

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

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

Q13. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Aquaculture

Q14. Does Chapter 7 appropriately set out the relationship between terrestrial and marine planning for Aquaculture? Are there any planning changes which might be included to optimise the future sustainable development of aquaculture?

Comments

Q15. Do you have any comments on Aquaculture, Chapter 7?

Comments

Q16. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Wild Salmon and Migratory Fish

Q17. Do you have any comments on Wild Salmon and Migratory Fish, Chapter 8?

Comments

Q18. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Oil & Gas

Q19. Do you have any comments on Oil and Gas, Chapter 9?

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

Q20. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Carbon Capture & Storage (CCS)

Q21. Do you have any comments on Carbon Capture and Storage, Chapter 10?

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

Q22. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Offshore Renewable Energy

Q23. Should the NMP incorporate spatial information for Sectoral Marine Plans?

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

Q24. Do you have any comments on Offshore Renewable Energy, Chapter 11?

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

Q25. Are there alternative planning policies that you think should be included in this Chapter?

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

Recreation and Tourism

Q26. Do you have any comments on Recreation and Tourism, Chapter 12?

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

Q27. Are there alternative planning policies that you think should be included in this Chapter?

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

Transport (Shipping, Ports, Harbours & Ferries)

Q28. Should the NMP specifically designate national significant ports/harbours as described in Chapter 13: Marine Planning Policy Transport 2?

Comments

Q29. Do you have any comments on Transport, Chapter 13?

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

Q30. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Telecommunication Cables

Q31. Do you have any comments on telecommunications, Chapter 14?

Comments

Q32. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Defence

Q33. Do you have any comments on Defence, Chapter 15?

JNAPC welcomes MoD's commitment to the protection of the natural and historic environment (page 123 of the draft Plan)

Q34. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Aggregates

Q35. Do you have any comments on Aggregates, Chapter 16?

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

Q36. Are there alternative planning policies that you think should be included in this Chapter?

Comments

Business and Regulatory

Q37. Please tell us about any potential economic or regulatory impacts, either positive or negative, that you think any or all of the proposals in this consultation may have.

Comments

Equality

Q38. Do you believe that the creation of a Scottish National Marine Plan discriminates disproportionately between persons defined by age, disability, sexual orientation, gender, race and religion and belief?

Yes No

Q39. If you answered yes to question 23 in what way do you believe that the creation of a Scottish National Marine Plan is discriminatory?

Comments

Sustainability Appraisal

Q40. Do have any views/comments on the Sustainability Appraisal carried out for the NMP?

Comments