

**Sustainable Seas For All: A consultation on Scotland’s first marine bill.**

*Consultation questions in italics. ---- Respondent Information follows Q57.*  
**CHAPTER 1 - SETTING THE SCENE**

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

Marine legislation is in disarray. This includes British and Scottish legislation, devolved and reserved. Too many disjointed, amended, re-amended or superseded pieces of legislation exist. Many were devised for times of different needs and different mechanisms. This disjointed legislation is made worse by being dealt with by different government departments or different government agencies, many of whom have difficulty in, or a track record of not communicating between each other.

**A change in the marine legislation is desperately needed, but one that addresses the needs and requirements and pressures facing the 21<sup>st</sup> Century. Not one that simply affords more powers to the commercial sectors.**

*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:*

**A workable framework has always been needed; one that addresses the holistic and dynamic nature of our seas and their resources. Bio-diversity and a full eco-system approach must be central to any changes if we are to leave a worthwhile legacy to future generations.**

*a) a new system of marine planning for the sustainable use of Scotland's seas;*

This has always been needed but not as a standalone entity. Most of our understanding about the oceans and seas has been discovered during the last 50 years and it is vitally important to include this up to date knowledge and understanding within marine planning. In order to bring our systems up to date these plans and framework should consider animal welfare and animal rights issues for both wild and farmed animals. These plans must include: no take zones; highly protected marine areas, which include no take zones; fishery production zones, which include no take zones. The Royal Commission has suggested 30% of the total sea area should be MPAs (Ref: Royal Commission on Environmental Pollution, 25<sup>th</sup> Report, “Turning the Tide”. TSO. 2004.).

*b) improvements to marine nature conservation to safeguard and protect Scotland's marine assets;*

**This is vital. The term “conservation” needs a working definition, one that is understood by all. The word “conservation” is also difficult to comprehend; its meaning has radically changed during the last one hundred years, from that of “fully utilise all resources to the benefit of man” to a more understood modern approach which includes eco-systems and bio-diversity. People’s understanding of “conservation” is different depending upon their viewpoint: commercial or environmental. All too often marine nature conservation is considered as a last resort. This last minute option for**

**conservation issues is counterproductive in terms of: productivity; marine assets; tourism; biodiversity; and our own wellbeing through biotechnology and the human “feel good” factor.**

In a recent poll over 70% of the Scottish public indicated that they were not in favour of killing seals and yet the marine bill consultation cites two options both of which involve the killing of seals. The Marine Bill should be making it illegal to kill any healthy seal in Scottish waters. Yet even within Special Areas of Conservation seals continue to be shot, not the best way to “look after” Scotland’s marine assets.

*c) a streamlined and modernised marine licensing and consents system;*

This is long overdue but it must have guarantees that it will enforce environmental protection. Self regulation must be prevented. Downloadable licences already signed are appalling and must not be allowed, as has recently been witnessed on-line and utilised by the Scottish Government. Licenses and consents must take into account local habitats and species especially those which other commercial industries have come to rely upon *e.g.* the positioning of fin fish farms next to seal haul-outs where seals are then shot, having an adverse effect on both seals and the tourist boat operators.

*d) better stewardship backed up by robust science and data; and*

**Robust science is always a good point to start but due to its very nature is testable as new ideas develop. Much in the marine environment is still not fully understood. This is why it is vitally important to fully utilise the Precautionary Principle (PP) as set out at the Rio Earth Summit in 1992. The PP requires no science and, to date, contrary to some commercial sectors statements is not used nearly enough.**

*e) a new structure, Marine Scotland, to deliver sustainable seas for all?*

The idea of a single entity to maintain and watch over the marine environment is a good idea but only if its make-up is balanced and accountable. The current indication of Marine Scotland, with 600 individuals from fisheries research, fisheries protection and Scottish Government, is neither balanced nor accountable.

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

A huge difference, potentially. In reality, due to the way the system has already bowed down to commercial interests, there is a danger of “business as usual”. The status quo is that the commercial sectors are given precedence.

*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?*

We are not sure whether there is a strong enough reason to extend the Scottish Governments legislative powers. The oceans, by their very nature, are dynamic and therefore planners and legislators will have to collaborate with other nations and agencies in order to be successful.

We would support further powers if it was felt the UK Marine Bill was not strong enough and was not providing any benefit to the marine environment and/or its use of the seas resources.

**Weak legislation will lead to over exploitation which will be detrimental to the commercial sectors as well as the environment.**

***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?*

The three tier system seems a little illogical already. A logical approach would be:- Regional; Scotland; International; with the addition of an independent ombudsman. All other sectors from telecommunications to banking have such an overseeing process in place.

*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?*

An overall national plan, with one overseeing body should ensure a joined up approach and greater consistency. History, past and recent, has shown that the commercial sectors drive the political process, but at what cost? The majority of people's greatest expenditure, their homes and their well-being, including the "feel good" factor is often overlooked. With the vast majority of Scotland's population living close to the sea we should not over look these benefits and their effects on human health.

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

Setting National objectives is essential. We wholly agree with the five guiding principles of sustainable development, *i.e.*

1. Living within environmental limits,
2. Ensuring a strong and healthy and just society,
3. Achieving a sustainable economy,
4. Promoting good governance, and
5. Using science responsibly.

And that Environmental Limits is at the top of the list and adhered to.

*Q8 Do you agree with the overall approach to planning at the international level beyond Scotland? Do you have any further suggestions or comments to add to the proposed approach, in particular on the UK high level objectives?*

The sea does not recognise any boundaries, therefore it is important that good collaboration exists between Member States and nations. The UK's High Level Objectives (Annex B) appear to be useful, and we hope can be achieved and not diluted due to compromise from policy makers and commercial interests.

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

Yes. It should be included within Marine Scotland. However, these obligations need a firm footing in law; one that is enforceable. All too often nature takes second place to industrialised processes which, by definition, cannot be sustainable.

*Q10 Do you agree with the overall approach and functions for Scottish Marine Regions? Do you have any further comments on the proposed approach to planning at a regional level?*

The main problem could be in the makeup of the SMR board. Who will decide the makeup of the board? The text mentions **Main Stakeholder Interests** in area – this implies only the commercial stakeholders. How is full representation going to be decided? We would like to see proportional representation of some description including: the commercial sectors; tourism and recreational; conservation; and an often overlooked group, members of the public (who can be very useful in keeping “in touch” with reality). This would overcome the issue of ‘choosing’ board members with the aim of avoiding potential conflict. Who would be the lead partner in these boards? To avoid disparity the SMR board must have national guidelines.

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

Yes. Planning and management should be co-ordinated and is why these boards should be comprised of a wide range of interests. Balance must be achieved. An holistic approach can only be achieved if the board can see the big picture. There must be knowledgeable representatives on the board who have no vested interest. There must be people on the board that have the interests of the animals and habitats at heart.

*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?*

Absolutely.

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

We agree that Marine Scotland should have an overseeing remit. ICZM should be fed back into marine planning. Currently, local ICZM is seen as “jobs for the boys”, with little involvement from environmental groups. This approach must change.

## **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?*

Yes. Activities should be licensed. Licenses should be issued by an independent body, one that is not “swayed” by economic growth.

A bigger concern is the “will” and cooperation to effectively licence and enforce.

*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? Are there other activities that should be licensed?*

Definitely – any activity that can change the environment should be licensed.

The current situation with scallop dredging within Natura 2000 sites is an example of current issues and problems. If the political will is not there, if the civil servants lack the drive to implement then there will be no change.

*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?*

We are undecided. What would happen if a planned activity is not on the list? Would this take place without the requirement to check? Any plan/project/activity should seek approval before commencement. A preferred method may be for a list of activities that do not require a license.

In most situations licences appear to be an acceptable system of operation. There needs to be an effective, regulated method of issuing such licences along with an effective method of policing such licences.

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

We are undecided. Marine Scotland’s remit appears to cover everything in the marine environment. Licensing should be independent and not swayed by any pressure, political or otherwise. We agree with the rationalisation of the licenses because it makes sense for the responsibility to be in one place, but the current proposition of Marine Scotland being comprised of fisheries research, fisheries protection and the Scottish Government could lead to conflict of interest issues. A method of accountability must be in place.

*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 numbers 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?*

**We agree reduction of red tape is advantageous. However, if licensing fails to prevent adverse impacts, or worse, actively or passively allows it, this could be a potential disaster.** Licensing for impacts would be the better system.

*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?*

Marine Scotland should act as co-ordinator. This has the advantage of one contact and utilizing the experience of existing regulators.

*Q20 Do you agree with the proposed approach to consultation involving local stakeholders? Do you have any further comments?*

Would the licensing consultation go to the SMR board or to any interested party? We agree that it is invaluable to have local opinion however, decisions should be made under a national umbrella.

The consultation booklet and presentation given by David Palmer where “**stakeholders include everyone**” is to be applauded. However, in reality the truth is far from this. It is compounded by civil servants and council employees and is influenced by government and its agencies apparently favouring commercial activities.

*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?*

In theory, we do not have a problem with focusing effort on the higher risk activities, but we would be concerned about a web based service. Would this be a question of downloading the registration form for lower risk activities? Who would assess and check this? There is potential for abuse by people wanting to avoid the licensing procedure.

*Q22 Scottish Ministers intend to provide Marine Scotland with powers to insert conditions into licences. Do you agree with this approach? In particular Scottish Ministers intend to create a standard condition on removal of redundant kit and installations, do you agree?*

Yes. There should be room for adjustment because the various activities and locations will rarely be standard. We also agree with conditions on removal of kit and installations, it should be noted however, that some installations provide habitats and restricted no take zones which if properly decontaminated could be an asset to the ecosystem. Where removal is preferable there should also be a condition that this is removed in a manner that causes least damage and disruption to the habitat and to species.

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

A review process is essential. However, we do not believe it should be limited to the applicant appealing against a negative decision; there should also be an appeals mechanism for a third party to appeal against a positive decision.

*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?*

Yes.

*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?*

One body ensuring compliance monitoring and enforcement activity should generate consistency and efficiency. Our concerns are with independence and accountability.

*Q26 Please provide any further comments you have on the licensing provisions in the consultation paper.*

Our main concerns are where licenses create a legal framework for an activity which adversely effects the environment, especially where this does not presently exist *e.g.* fin fish farming and seal predation conflicts.

#### **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?*

This could be a workable system, but more importantly the environmental pillars must be of sufficient priority to balance commercial pressures. Current legislation is often overlooked, ignored or “pushed” to legal limits and sometimes beyond (*e.g.* Issues raised by Hebridean Partnership resulted in a Letter of Formal Notice being issued to the UK Government by the EC).

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

MEOs using a scientific basis is to be welcomed. It is difficult to comment further at this time as we are unaware of what the “objectives” would entail. But once again, these measures must be high enough up the scale to be taken into consideration when dealing with commercial pressures.

We believe MEOs need to be flexible. They require monitoring (in some cases situations change) and require some form of power to stop any activity or development which has a negative effect.

**A truly holistic approach is the only way forward in the 21<sup>st</sup> Century.**

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

Yes. This is part of the holistic programme.

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

The environment should be a priority, especially in special areas and MPAs where it must supersede commercial pressures.

*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?*

Yes. However existing scientific literature may not cover everything. There should be scope to investigate/consider any issue that is raised by any local individual or group.

Good robust science should under-pin proposals, but proposals should not be blindly dependent upon science. The Precautionary Principle, agreed to by 150 Counties including our own, must take precedence.

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

How many marine species prosecutions have there been? Protection must be backed up by enforcement with teeth in order to deter any infringements. Punishment must be large enough to deter large multinational companies from committing crimes.

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

There must be powers to introduce new sites and to amend the boundaries of existing ones on an urgent basis. The Moray Firth SAC designated for dolphins is a prime example, should the designated species move, protection should follow.

*Q34 Do you agree with the assessment of the three main types of requirements for site protection? Do you have any further comments on this?*

Yes. But a protected site should be just that. The Lismore SAC is an example where the protection appears to be in name only. Lismore is designated for seals with a fish farm situated a matter of meters from a known designated haul out. Evidence suggest that this farm has shot a significant number of seals and uses acoustic seal scarers 24/7, which has implications for the designated species and for other marine mammals. It is not surprising that there are no seals anymore at this site. Lack of government intervention suggests that any designated site may be open for people to continue with their activity regardless.

Lamlash Bay is a tiny area, but it took more than 15 years of campaigning from the community before it was recognised as a special site. Protected areas have been proven to enhance productivity in nearby areas, but no-go plans are aggressively resisted, especially by fishing organisations. Fishing bodies need to compromise and relinquish some areas.

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

A single approach should be taken. Site protection procedures are similar whatever the focus may be. This would avoid duplication of responsibilities.

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

Any procedure and designation needs to have a certain degree of flexibility in order to account for changing circumstances or new information obtained.

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

In an ideal world a single integrated body would be better placed to be more efficient, more consistent and have the ability to see the whole picture. Our concern is that Marine Scotland is the amalgamation of existing organisations that already carry out many of these functions in relation to the fishing industry.

The status quo is currently that these various bodies *e.g.* Scottish Government and its Agencies, combined with government funded scientific resources fail to get to terms with local issues. While there appears to be a “lack of will to deliver” there will never be any change.

*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?*

We are in favour of sustainable development provided it does not have a detrimental effect on the environment. If an activity cannot conduct its business without being detrimental to the reason why the site was protected, then that activity must be stopped. Economic pressure must not be allowed to overrule the good proposals outlined in this document. If this is allowed to continue the Marine Bill will be useless.

*Do you have any additional comments?*

**Real stakeholder involvement is a must, a balanced approach that is open to all. It will be interesting to see if this ever occurs.**

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

We believe that the identification of Marine Protected Areas should be separate from the wider marine planning system as is suggested in the text but included within the holistic plan. MPAs should be selected on merit and not by planners identifying areas not used commercially. Natura 2000 already provides an indication of species and habitats designations, many of which would be suitable for MPAs. Separation from the planning system should mean identification would be more independent.

**MPAs have different meanings to different people. In addition, there are MPAs, Highly Protected MPAs, No Take Zones and Fishery Production Zones, to name but a few variations. It is important to include areas which include and enforce: - “No Take”. The Royal Commission recommended 30% of the sea area as an MPA.**

(Ref: Royal Commission on Environmental Pollution, 25<sup>th</sup> Report, “Turning the Tide”. TSO. 2004.).

MPAs must have an important part in any future marine developments. They have a proven track record for success. They have appeared to fail in only a few locations due to poor management and/or abuse by commercial sectors *e.g.* assets plundered by unscrupulous companies and individuals.

*Q40 Do you have any other comments or suggestions for making improvements to Pillar III - site protection?*

Sites that are protected will require some form of independent assessment/policing. Additionally there must be action taken on any infringement otherwise these sites will be designated in name only, rather than offer any real protection.

*Q41 Would you agree with the principle that the offence against damage to Natura sites should apply to marine sites? What are your views on whether a similar offence should be introduced for damage to other Marine Protected Areas?*

Currently Natura 2000 sites are afforded very little “actual” protection and there would be limited benefit from applying these “principles”, as they stand to the marine environment. There is not a problem with the legislation, this concerns the Scottish Authorities and their apparent lack of will to enforce current legislation. The government appears to avoid applying the Habitats Directive or transposed legislation into action that provides protection. The police maintain that they have few powers in Natura 2000 sites. Currently it appears that Scottish officials have convinced the EC that weaker Articles should be applied rather than the more stringent sub-sections which would require further assessment and prevention of selected activities.

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

**We believe that having no take zones will reduce fishing effort and increase catch diversity and volume (constrained by quota). A “no take zone” could be “SOLD” as a Fishery Production Area. The enhanced production will overflow the boundaries and this overflow could be targeted by fisheries which would decrease effort which, in turn, should make economic sense.**

Tourism is a huge area for Scotland’s economy. A protected wild marine environment could be more of a magnet not just to tour operators. Sailors, divers, canoeists, naturalists *etc* also bring money into the area.

The coastal economy could boom under National Parks such as a Hebridean Islands National Park. This could have the biggest single positive impact on the economy in coastal Scotland. Because internationally this suggests that, - “this is a very special environment of sea and coast, a top destination for any ecotourist”.

Tourism accounts for 85% of all cash coming into the Argyll and Islands area. The underpinning of this via a Marine Protected Area such as a Marine National Park, which includes islands, would increase revenue hugely to everyone's benefit including the overall Scottish economy. With Parks now at Loch Lomond and Cairngorm it is simple logic that a Western Highlands and Islands National Park must follow.

Add the current financial crises and remoteness of these areas, we need immediate action for the next few years and this could be addressed by National Park Status. National Park pronouncements are to the benefit of local Scottish people and would connect them with the marine bill exercise and create involvement.

Being able to advertise Scotland's prestigious marine environment, as protected by the Marine Bill, may attract visitors to Scotland instead of holidaying further afield, particularly with today's economic uncertainties and that of climate change.

To have sustainable fisheries and aquaculture, and to use these as labels, could improve the selling of products, particularly as the general public becomes more aware of protection and climate change issues.

***APPENDIX TO CHAPTER 4 - SEALS FORUM REVIEW OF THE CONSERVATION OF SEALS ACT 1970***

*Q43 Do you have any views or comments on the options for improving conservation measures for seals?*

**Currently there are very few "conservation" measures for seals. The British seal populations are globally significant, and as such they deserve the same protection that is available for cetaceans.**

One of the problems is that abuse often occurs in remote marine environments, and is seldom reported. The commercial industries that routinely kill seals should not be given legal loopholes as is seen under Section 9 of the Conservation of Seals Act 1970, or the Annexes within the Habitats Directive which allow for killing. We do not agree that seals need to be shot, other measures should be undertaken, *e.g.* predator nets. It is morally wrong to place a fish farm near a seal colony and then to shoot the seals because they swim close to the nets. It has been proven that only a very small percentage of seals actually target nets.

Scotland has the vast majority of Europe's grey seals, and we also have 45% of Europe's common seals. Scotland should take more steps than other Member States to protect these important and charismatic animals. Politicians ignore this at their peril. The recent EC Import of Seal Products Consultation highlighted the abuse of seals and raised a massive response in favour of protection of the seals. The responses were over double the next highest interest ever recorded.

*Do you have any specific comments on:*

- a) equal treatment across all sectors (licensing and seal conservation orders);*

**The killing of seals is unacceptable and should not be permitted. Advancements in net construction and materials should make this killing unnecessary. Should the killing of seals be allowed then it must be licensed, recorded and reports made publicly available. Our concerns are that aquaculture will kill more seals under license than they do currently rendering licensing ineffective and killing legalised and acceptable. The proposed requirements in the consultation document will not give our globally significant seals the protection that they deserve or require.**

- b) welfare issues;*

How do you shoot a seal humanely? Much legislation already covers “moving vehicles and aircraft” therefore why have boats been excluded. Wounding is common place. How long does it take a wounded seal to die? These animals are capable of slowing down their metabolic rate and therefore death may be extensive and painful. What happens to the carcasses? Children have found dead bodies with holes in their heads on the local beaches. What happens to pups when their mother has been shot? The current “closed seasons” are not long enough. We have plenty of photographic evidence to show shot mothers with partly aborted fetuses showing. There are “standards” set in law concerning the killing of both wild and bred animals; these standards highlight the minimum levels of stress, pain and fear. We feel that these concerns are routinely flouted in the case of seal shooting, seal drowning and especially for those pups left to starve to death as a result of their mother being shot before the pups have been weaned.

Furthermore, welfare issues should include physical harassment at haul-outs, by individuals, structures and acoustic deterrents.

*c) The "Netsmen's defence";*

New scientific evidence proves that seals can be identified and GPS tracking shows that very few seals are actually responsible for attacking nets of fin fish farm structures. This makes this clause out dated and irrelevant.

For many years fish farms have been using the Netsmen’s Defence illegally. It appeared that the government “turned a blind eye” to this activity. Since at least 2002 fish farms have been denied the legal protection of the Netsmen’s Defence and have not been able to shoot seals during the closed seasons or during Conservation Orders. However, we have evidence to prove that at least some of these fish farms have disregarded both the closed season and Conservation Orders.

The only real users of the Netsmen’s Defence are operators of wild salmon netting stations. They cannot use anti-predator nets and sonic seal scarers would be difficult to utilise at netting stations. With the dire state of Scottish wild salmon the ideal solution here is to ban the commercial netting of wild salmon throughout Scotland. Salmon are of far more commercial value once they reach their breeding rivers and shot seals are of negative value to our tourism industry. Banning salmon netting stations would protect declining numbers of wild salmon as well as seals and would also make economic sense.

*d) reporting and monitoring;*

Should not be self regulated.

Reporting must be clear, open and accountable. Monitoring must be open and independent. Reports must be made available to the public.

*e) relationship with the EU Habitats Directive; and*

Government needs to address its own problems with the Habitats Directive before answering this question in relation to the marine environment. Is it to be yet another paperwork exercise

or do the government and, more importantly, do the heads of government departments and government agencies want it to succeed?

We believe the Scottish Government is in breach of numerous Articles within the Habitats Directive in relation to seals and other Natura 2000 sites. As a result of the lack of action by the Government Agencies, Scottish Government and Scottish Ministers, the Hebridean Partnership has already brought a successful case where a Letter of Formal Notice was issued to the UK Government. According to the Scottish Government the seals issue within our complaint has been dealt with. By utilising an inappropriate Article sub-section, this is still under investigation and a report is currently residing with the EC.

In addition, the police maintain that it is the government that is required to act in breaches of the Habitats Directive. To date the police have not taken action using transposed legislation concerning offences under the Habitats Directive. This raises the question: Has the Habitats Directive been transposed correctly, an offence in itself, or have the Scottish Government and its agencies failed in its duty to ensure that the conditions within the Habitats Directive are maintained?

*f) any other comments?*

The killing of seals is an emotive subject. Several polls have shown the extremely high level of public support for seals. There are now enough groups and NGOs with a network capable of publishing the atrocities of the Scottish seal killings to the wider populace. This has had an effect on the food industry and may well affect political positions.

Both options, one and two (Appendix to Ch.4) within this consultation and the direction of the Scottish Seals Forum (SSF) specify only about the “shooting” of seals. No other methods of dealing with “rogue” seals are discussed. In the SSF this has been due to the lack of environmental groups being able to attend or make comment. For this consultation to have meaningful interpretation, this biased question in favour of shooting must be taken into account, ignored or be re-constructed.

How would licenses be issued? Would a fish farm have to provide evidence of a rogue seal attacking its nets? Photo ID's? Having a licensing system is an improvement from the current situation as it could generate greater accountability.

**However, licenses MUST NOT be available in the form of a signed downloadable document. Licenses must include conditions such as proof that ALL preventable processes have previously been tried, including anti-predator nets, before any individual seal could be considered for shooting.**

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

*Q44 Do you agree that Scottish Ministers should develop a marine science strategy and to create a framework for wider stakeholder input?*

Ministers should create a strategy for marine scientific effort, but this should be available for tender rather than just FRS. There are other independent bodies such as the Scottish

Association for Marine Science that would make a valuable contribution. Socio-economic considerations are of vital importance, but they should not outweigh environmental considerations.

A framework for wider stakeholder input is necessary. The current pilots *e.g.* SSMEI working groups are closed to extra interested parties. We believe there is a danger of imbalance in the regional levels, and that scientific evidence may be ignored by certain stakeholders.

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

Scientists are becoming more aware that their research needs to be better communicated to lay people. This will improve as time goes on. Within the management groups there needs to be members who can interpret the science and communicate the findings to the public.

The integration of scientific evidence could be achieved by scientists communicating to more stakeholders and local people at a “lay” level. The board members could facilitate this by good co-ordination from the lead person and members.

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

- 1. Promote the benefits of Marine Protected Areas; in order to provide more information to the industry doubters and**
- 2. Provide up to date scientific findings *e.g.* how many seals actually attack fish farm nets. Recent scientific reports suggest that only a small number of identifiable seals attack fish farm nets. This needs to be communicated to the aquaculture industry.**
- 3. Ecosystem monitoring is essential with methods in place to address any shortcomings.**

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

It is essential that the seas are monitored and assessed, but we are not convinced that Marine Scotland should co-ordinate **and** conduct the work. This may be too “in house”.

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

Yes, a GIS system that can consider the whole area would be invaluable, however it is important to use a system that is readily viewable (or provide the software) at an affordable price to the general public.

## **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?*

**We believe one organisation could indeed provide a better integrated and streamlined management of marine issues. We are concerned that the organisation, if comprised of Fisheries Research Services, Scottish Government and Scottish Fisheries Protection Agency, as suggested, may be imbalanced in favour of commercial interests.**

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

Again, there are many advantages to the marine planning proposals being overseen by one responsible body.

*Q51 Do you agree with the approach set out for fisheries and aquaculture management? Do you have any further comments in connection with this approach?*

With the exception of excluding SNH and SEPA there appears to be little change. The approach must ensure sustainable use and provide holistic environmentally friendly methods.

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

We feel that the control for aquaculture should lie with Marine Scotland as they should have a broad holistic view from the marine viewpoint. There should be good collaboration with the local authorities, SNH, SMR boards to ensure that any development is satisfactory from the local terrestrial and environmental perspective.

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

We are concerned that if FRS became part of Marine Scotland, this one body would be responsible for the research **and** the decisions. In our view this is not the healthiest option. One body to oversee all marine related issues is the best way forward, but research needs to be independent.

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

**We would be extremely anxious if Marine Scotland was set up along the suggested guidelines i.e. Fisheries Research, Fisheries Protection and Scottish Government. There must be a dedicated section dealing with the environment and no take zones. There must be accountability and an overseeing independent body.**

If properly conceived, it should deal with all marine related issues. However it is important to have the environment as high a priority, if not higher than proposed levels for the commercial sectors.

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

This must be a reviewable process with the ability to amend its own shortcomings.

*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?*

The current situation with Scottish Government, be it Marine Directorate or Inshore Fisheries, is currently run by a few permanent heads or deputy heads of departments. These heads appear to influence all major current initiatives involved with marine issues. It appears that these heads are not accountable, and their line managers often tend to be uninformed and highly transient. If Marine Scotland is run in the same manner nothing will be gained.

**Marine Scotland should be run by a single entity and must have named and accountable people in charge. The importance of our marine environment dictates that there must be an independent regulating mechanism in place, one which actually has the powers to act.**

### **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?*

While we welcome the government's initiative in producing the Marine Bill we have concerns with a "potential" agenda. Is it for our sustainable future or is it a possible method of lining the pockets of the commercial sectors in order to gain votes?

The current system appears to lack the will to deliver sustainable, environmentally friendly practices. This is made worse in that there is very little transparency within government circles or politics in applying legislation of this kind. We currently have the Enforcement Concordat, but it seems few abide by it. Furthermore, it appears not to be enforceable. Environmental groups are often omitted from management groups, pilot schemes and consultation processes, e.g. why is the Hebridean Partnership not listed in Annex D, List of Consultees?

There has been little mention of the military throughout the document but this is one potentially damaging activity. But, also has the ability to enhance our Scottish seas and their sustainability by being "recording eyes" and could even take a more active role in actually enforcing issues on a more regular basis.

Scotland's seas were protected by a "three mile limit" reducing access to the mobile sector; this provided one of the best mechanisms for juvenile fish and fish nurseries to date. Divers have already reported the massive visual benefits in the Firth of Lorn SAC, following a ban on scallop dredging. Scotland's static fishermen would welcome the re-introduction of the three mile limit; it is easy to establish and enforce furthermore it would reduce many conflicts within the commercial industries.

This is the best opportunity for the marine environment for several generations; please let it reflect modern issues in the 21<sup>st</sup> Century. Much information already exists from the work done by the previous government concerning the Coastal & Marine National Parks

(C&MNP) and this could be utilised rather than be a waste of tax payers money. We have included our submission to the C&MNP process (Annex one) as we feel that much of this is relevant to the Marine Bill process.

The C&MNP process failed due to poor preparation and lacked proper promotion to either the public or the commercial sectors. A positive example of good promotion could be the Sea Eagle re-introduction scheme found on the west coast of Scotland, where these magnificent birds are seen as a great promotion for the area. Without proper presentation and effective promotion to the relevant sectors the Marine Bill is in danger of following the same fate as the C&MNP. The finalised Marine Bill could be so weak that it will not provide for a sustainable future.

This government is to be commended; it has grabbed the bull by the horns! But to go down in history as the government that produced a sustainable marine resource for the future it needs to alter the mind set of civil servants/agency officials and persuade the commercial sectors that they will benefit by truly working in harmony with nature.

**~~This submission has been completed by~~ Respondent Information  
Mark Carter  
on behalf of the Hebridean Partnership.**

**It includes input both from members of the Hebridean Partnership and  
Members of the general public.**

**Hebridean Partnership is an environmental group who's Aims include:**

*To Protect the Marine and Maritime Environment and  
To Promote Sustainable, Environment Friendly Use of Marine Resources.*

**This consultation response can be made available to the public.**

**For further details please contact:**

**Mark Carter, Chairman Hebridean Partnership,**

**Tigh-na-Mara,  
Eilean Duirinnis,  
Bonawe,  
OBAN,  
Argyll,  
PA37 1RL.**

**Tel: 01631 750 140 Email: [info@hebrideanpartnership.org](mailto:info@hebrideanpartnership.org)**