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**Response from the Maritime Affairs Group of the Institute of Field  
Archaeology to the Scottish Historic Environment Consultation: The Marine  
Historic Environment**

***IFA Maritime Affairs Group***

*The Institute of Field Archaeologists (IFA) is the professional body for archaeologists. It promotes best practice in archaeology and has c 2,200 members across the UK and abroad. Archaeologists who are members of the IFA work in all branches of the discipline: heritage management, excavation, finds and environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching, and liaison with the community, industry and the commercial and financial sectors.*

*This response has been compiled by the IFA's Maritime Affairs Group, to which most professional maritime archaeologists belong. The Group exists to:*

- advance the practice of maritime archaeology by promoting professional standards for the management, conservation, understanding and enjoyment of the maritime archaeological resource;*
- provide advice and commentary to the IFA on matters relating to maritime archaeology;*
- aid in the development of professional guidelines and standards for the execution of maritime archaeological work;*
- promote the training of archaeologists and others in maritime archaeological practice; and,*
- facilitate the exchange of information and ideas about maritime archaeological and to communicate these to the wider profession.*

**General Comments**

IFA MAG welcomes the clear acknowledgment in the Consultation of the importance of marine historic environment, the pledge to manage the marine and terrestrial historic environment 'seamlessly' (p14), and the commitment to integration of historic environment management and legislation in 'planning, seabed consent licensing and environmental assessment procedures' (p15). Th

**Consulation Questions:**

**A. Section 4: Proposals for Policy**

Question 1: *Do you agree with Scottish Ministers' proposed policies for the marine historic environment?*

IFA MAG broadly supports the proposed policies for the Scottish marine historic environment.

Question 2: *Is anything missing?*

The proposed policies do not address the question of salvage of historic vessels or the need for clarification of this issue and the relationship between Scottish historic environment policy and legislation and the Merchant Shipping Act 1995. Consultation surrounding DCMS's Heritage Protection White Paper have highlighted that this issue is of equal concern to the commercial salvage sector, which seeks clarification of the current situation.

Question 3: *Is 'national importance' as defined in Annex A the appropriate criterion for designating marine historic assets?*

Overall, this criterion is welcomed by IFA MAG. Our only concern is that clarification is made over the notion of 'national importance' itself. There are many sites, and wreck in particular, which are of importance within a UK context or internationally, but not necessarily in a Scottish context. Although the criterion is seems to be intended to address all these dimensions, it would be useful to have this point clarified within the SHEP.

Question 4: *Are the guidance and criteria for determining national importance set out in Annex A those which should be applied? If not, what would you suggest?*

The guidance is comprehensive and easy to understand, and as such seems to be an improvement on previous criteria. It is sufficiently broad in its terms to cover all foreseeable issues, without being too vague to be implementable.

## **B. Section 5: Proposals for New Legislation**

Question 5: *Do you agree with proposals for new legislation in this area?*

IFA MAG strongly support the proposals to embed new heritage legislation in Scotland within the Scottish Marine Bill, and the consequent inclusion of the historic environment interests in the Sustainable Seas Task Force.

We also welcome the broader scope of the definition of marine historic assets. The inclusion of 'elements of human-altered landscapes now inundated' is for example a positive addition to the proposed legislation. Though this definition is very broad, and it should prove an advantage in implementation, rather than lacking precision, given the individually-tailored, site designation/management regimes proposed and the explicit objectives to make the system more flexible, diminish burdensome licensing and use the most appropriate management models/legislation for each site.

Question 6: *Do you have any views as to how duties in relation to the marine historic environment might be split between Historic Scotland and any Marine Management Organisation?*

The question of enforcement of licensing conditions remains a difficult issue for England, Wales and NI under the draft Marine Bill and Heritage Protection Bill, since there is no clear provision for the enforcement of heritage licensing conditions or designation in either draft Bill. In light of this, it seems important to emphasise the need for clarity over the duties relating to this in Scottish waters, and for the appropriate resources to be provided to whichever organisation undertakes those duties. Most sensibly in our view, this would be integrated into the duties of any 'Marine Management Organisation', alongside monitoring and enforcement of other marine licensing, fisheries and nature conservation systems so that resources could be better used. In contrast we feel that the curatorial role for the marine historic environment in EIAs (as well as in regard to designation) should remain with Historic Scotland as a named statutory consultee.

*Question 7: Do you consider that anything is missing? In your response, please note that matters relating to salvage are the concern of international maritime law and regulation of shipping. Such matters are reserved to the Westminster Parliament under the terms of the Scotland Act 1998.*

Though there is not scope for legislative reform to resolve the issues surrounding commercial salvage of historic vessels in Scotland, a clear policy lead on the questions would be of great benefit to implementation of the new legislation and its resulting management systems. Clarification, for example, over the role of the Receiver of Wreck and the problem of the existing 'commercial in confidence' system that has constrained the ability of the Receiver of Wreck to report sites of potential heritage importance in the past, would be valuable.

### **C. Section 6: Implementation**

*Question 8: What do you think might be the role of the local authorities and their historic environment advisors in relation to the marine historic environment and what are the key issues that need to be overcome?*

There is clearly a need for greater involvement of local authorities and their historic environment advisors in the management of the marine historic environment. However, there remains a basic geographical issue with regard to local authorities and marine heritage assets, as to where the division between authorities falls offshore. Similarly, there remains a key issue in relation to inter-tidal sites, and how they should be managed, (as well as those maritime sites which are terrestrial). These issues are not in themselves irresolvable, they are simply a matter of procedure and require consistency across Scotland. There is, however, a parallel problem of resource and expertise in maritime archaeology among historic environment advisors and within local authorities in general. This is to a large degree a resource and training issue; there needs to be more easily available maritime archaeological expertise for local authority historic

environment advisors, more integration in the management of sites and planning cases within their immediate waters and closer communication and integration with Historic Scotland's marine historic environment team. This cannot be achieved without additional resources – and the SHEP should acknowledge this issue.

*Question 9: What new mechanisms and procedures might be required to provide for the management of change in relation to planning matters in connection with Scotland's marine historic environment?*

The marine EIA process and the application of conditions and mitigation seems an appropriate mechanism. There are, however, curatorial resource implications for the proper implementation of the process, which need to be addressed. Similarly, the question of monitoring and enforcement of those conditions and required mitigation needs to be better addressed. Most sensibly this later issue, as suggested above (Q6), would be integrated into the duties of any 'Marine Management Organisation' alongside monitoring and enforcement of other marine licensing, fisheries and nature conservation systems.

*Question 10: Given that science and recording has a major role to play in improving knowledge about sites and monuments on the seabed, how can Scottish Ministers and agencies charged with relevant responsibilities best assist in progressing knowledge about Scotland's marine historic environment?*

There is still considerable knowledge gaps in the marine historic environment, particularly in less frequented/developed areas of Scottish waters. A strategic, and ongoing survey and research programme would be of immense value, both in providing secure baseline data for safeguarding the marine historic environment within the planning and development process, but also in establishing a sensible and measured programme of identifying, assessing and designating those sites that are of 'national importance'.