

# **INSTITUTE OF FIELD ARCHAEOLOGISTS**

## **SUBMISSION TO THE JOINT COMMITTEE ON THE DRAFT MARINE BILL**

### **1. Summary**

1.1 This submission sets out the support of the IFA's Maritime Affairs Group for the objective of providing a cohesive, long-term and sustainable system for managing our marine environment but registers its serious concerns with regard to the provisions of the draft Bill insofar as they relate to the marine historic environment.

1.2 The Group's primary concern is to see underwater cultural heritage more prominently embedded in the draft Marine Bill so as to ensure that it receives proper consideration in all aspects of marine planning, regulation and management, generally, and is fully integrated into the framework for protection currently proposed for the natural environment.

1.3 The Group is also concerned that little consideration has been given to the integration of the provisions of the draft Marine Bill with those of the draft Heritage Protection Bill and that a lack of clarity in this regard may undermine the management and protection of our underwater cultural heritage.

### **2. Introduction**

2.1 The Institute of Field Archaeologists (IFA) is the professional body for archaeologists and related professions concerned with the study and care of the historic environment. It promotes best practice in archaeology and provides a self-regulatory quality assurance framework for the sector and those it serves.

2.2 The IFA has over 2,600 members and more than 60 registered practices across the United Kingdom and abroad. Its members work in all branches of the discipline: heritage management, planning advice, 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.

2.3 This submission 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
- facilitate the exchange of information and ideas about maritime archaeological and to communicate these to the wider profession.

### **3. General**

3.1 The IFA, through its Maritime Affairs Group, has responded to the consultations upon the proposed Marine Bill in 2006 (see the letter to Mr. David Bench of the Marine Legislation Division dated the 21<sup>st</sup> June, 2006) and upon the Marine Bill White Paper in 2007 (see the comments submitted on the 8<sup>th</sup> June, 2007) firmly supporting the proposals to introduce a new system of planning and management in the marine zone, but raising issues concerning the marine historic environment and our underwater cultural heritage which needed to be addressed within a cohesive, long-term and sustainable system of management. However, the Group remain gravely concerned about the draft Marine Bill.

### **4. The need for greater integration of underwater cultural heritage within the draft Bill, generally, and more specifically within the provisions for marine spatial planning, licensing and marine conservation zones**

4.1 Underwater cultural heritage has, in the past, not received the consideration it deserves in this regard and we would like to see it more prominently embedded in the Marine Bill. Under the current regime, the process of consultation, of producing conditions on licenses to mitigate impacts on the marine historic environment and then enforcing those conditions, has been patchy at best, with very limited success in some sectors. This is due in large part to the unsatisfactory legislative position we have been operating under. Yet, the Draft Bill provides no resolution of these problems. There are some references to 'historic or archaeological interest' and to consultation, but the heritage protection regime – and the draft Heritage Protection Bill – are in no way integrated into the Bill. (This is in marked contrast to the process of developing the Scottish Marine Bill, and the active inclusion of their heritage sector as well as integration of their new heritage legislation.) This gap in the Draft Bill gives rise to significant reservations within the heritage sector in England and Wales.

4.2 For example, the Licensing Section, in the Notes on Clauses 63 and 64, refers to the authority determining applications with reference to the environment which includes 'any site of historic or archaeological interest' (Note 175), yet there is no indication of whether this would allow English Heritage or other curatorial bodies to place conditions on these licenses, what the scope of those conditions might be and how they would be monitored or enforced. This kind of vague reference is seriously disquieting, since it creates more problems than it resolves: is there, for example, a need to

demonstrate a particular site as of archaeological interest, rather than an area having archaeological potential? Will there be new resources to deal with the implied consultation, which is a currently a significant problem in terms of providing a qualified person to look at each license application from a curatorial perspective (moreover, at the moment it is rare that applications from the oil and gas or fisheries sectors reach curatorial bodies for consultation, so this pressure can only increase)? In addition, how will the challenge of monitoring and enforcement of licensing conditions be resolved, since there is currently no mechanism in place and no resources to implement one? Are these small references in the Bill really going to resolve these problems?

4.3 There are also a number of questions concerning areas of overlap between heritage designations, and the draft Heritage Protection Bill, and those derived from the draft Marine Bill, in particular concerning which will be given priority in implementation (how will marine heritage assets and their management fair when they are within a marine conservation zone?). Fundamentally, the lack of integration and clarity on underwater heritage management in the draft Bill means that implementation will remain dependent upon the goodwill and motivation of the regulatory and management organisations involved. It seems our underwater cultural heritage will be in a more precarious, uncertain position under the new Bill than it is under the current, fragmented regime.

4.4 In closing, it is worth highlighting that IFA MAG are aware that this is also of concern to some sectors of marine industries - particularly those who have addressed marine historic environment issues within the current regime. The lack of clarity over the position of underwater heritage in the proposed licensing regime fuels uncertainty over industry obligations, and places it open to cost/time risks in assessing and planning application, survey and mitigation costs. From an industry perspective, there is a clear inconsistency between the full integration of nature conservation regimes and the failure to address heritage regimes in the Draft Bill. This discrepancy highlights where Government, and the Draft Bill, are still not delivering a joined up, consistent approach to policy and delivery.

## **5. Recommendations**

5.1 The IFA Maritime Affairs Group advises that the Committee offers its support to the intentions of the draft Marine Bill to introduce a new system of planning and management in the marine zone.

5.2 The IFA Maritime Affairs Group advises that the Committee strongly recommends government, in the interests of the marine historic environment, to include clauses within the Bill more clearly requiring consideration and protection of underwater cultural heritage in all aspects of marine management and regulation and to ensure that resources are available to fulfill such duties.

5.3 The IFA Maritime Affairs Group advises that the Committee strongly recommends government, in the interests of the marine historic environment, to ensure that the Bill is wholly consistent with and complements the provisions of the Heritage Protection Bill.