SCHEDULED MONUMENT POLICY AND PROCEDURES

CONSULTATION ANALYSIS & REPORT
APRIL 2019

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INTRODUCTION

Background to the consultation

In 2016, Historic Environment Scotland (HES) committed to a review and replacement of the [Historic Environment Scotland Policy Statement](#) (HESPS). This was an interim document which was put in place when HES was formed, having itself formed an integral part of our predecessor organisations' policy framework for the past 15 years.

Building upon the findings of *[What's Your Heritage?](#)*, we held conversations with stakeholders on how to take this forward. We held an initial consultation on our approach to the review and replacement of this guidance in July and August 2019 and more recently held a public consultation on a draft policy document between 8 January and 19 February 2019.

This document supports and will coincide with the publication of the Historic Environment Policy for Scotland which is expected to be adopted in late spring 2019.

What is the purpose of this report?

The purpose of this report is to outline the findings of the consultation exercise between January and February 2019 and explain how we have taken these views into account.

The first part of this report (A) analyses and summarises the views expressed during the public consultation and related engagement activities that took place between 8 January and 19 February 2019. The second part of this report (B) describes what changes we have made in light of this feedback.

The following chapters document the substance of the analysis and present the main views expressed in responses. The consultation questions are included in Appendix 1.

PART A – CONSULTATION ANALYSIS

1.   APPROACH TO CONSULTATION

1.1.   How did we distribute and advertise the consultation?

The consultation was distributed as an online survey consisting of 34 questions. The survey was hosted on SurveyMonkey. A list of the questions asked is provided in Appendix 1.

A notification about the survey was sent to:

- Existing contacts of those already engaged with *What's Your Heritage?* project and the policy review process (123 individuals)
- National Parks and Local Authority Development Plan team mailboxes (34)
- Public bodies and agencies (18)
- The Built Environment Forum Scotland (**BEFS**) – who circulated the consultation amongst their members and included a link to it in their newsletter

The consultation was also promoted on social media (LinkedIn and Twitter) and was available to view on the current consultations section of the HES website.

1.2.   How did we encourage participation?

Those notified about the consultation were encouraged to complete the online questionnaire hosted by SurveyMonkey. The survey was also provided in other formats upon request (e.g. as pdf and Word documents). A reminder to complete the survey was issued shortly before the consultation closed.

Historic Environment Scotland staff also promoted the consultation during the course of their engagement with stakeholders in other contexts. Finally, discussions were also held with a number of consultees and interested parties before, during and immediately following the consultation period.

1.3.   How did we analyse the responses?

Comments given in response to each question were examined and main themes, similar issues raised or comments made in a number of responses were identified. In addition, we looked for sub-themes such as reasons for opinions, specific examples or explanations, alternative suggestions or other related comments.

Some questions contained an agree/disagree scale tick box option to allow respondents to indicate their response (typically ranging on a 5 point scale from strongly agree to strongly disagree). Results from these questions are presented in graph format. Where respondents did not use the questionnaire format for their response but indicated within their text their answer to one of the closed questions, these have been included in the relevant count.

The main themes were then looked at in relation to respondent groups to ascertain whether any particular theme was specific to one particular group (e.g. local authorities,

private businesses), or whether it appeared in responses across groups. When looking at group differences however, it must be considered that where a specific opinion has been identified in relation to a particular group or groups, this does not indicate that other groups do not share this opinion, but rather that they have simply not commented on that particular point.

The following sections of this report document the substance of the analysis and present the main views expressed in responses. Some quotes have been included to illustrate a range of views expressed.

2. EXECUTIVE SUMMARY

This section describes how many responses were given to the consultation, respondent group information and a summary of views expressed. This includes a combination of statistical information and emerging key themes.

2.1. How many responses did we receive?

We received 37 responses to the overall survey, of which 18 responded specifically to the Scheduled Monument Policy and Procedures section of the consultation.

The consultation paper and online survey included a list of organisation and individual groups, and respondents were asked to tick the group most appropriate for themselves or for their organisation. These sub-groups of organisation type were used to enable analysis as to whether differences, or commonalities, appeared across the various different types of organisations and/or individuals that responded.

As can be seen in the following table, the groups with the largest number of respondents were those responding on behalf of an organisation, public body or charity (13) followed by local authorities (10) and individuals (9).

Respondent group	No. of responses	Percentage of responses
Local authority	10	27%
Organisation, public body or charity	13	35%
Private business, such as architect or developer	2	5%
Individuals	9	24%
Other	3	8%
TOTAL	**37**	**100%**

While the consultation gave all those who wished to comment an opportunity to do so, given the self-selecting nature of this type of exercise, any figures quoted here cannot be extrapolated to the wider population.

The following paragraphs highlight the main themes that emerged in relation to each question posed in the consultation document.

2.2. What did people say?

Overall, there appears to be broad support for the Scheduled Monument Policy and Procedures across all the questions. Key themes that arose through the comments on the consultation are summarised below.

- Most respondents agreed with the **title** of the document but some suggestions were made to improve it, which would align the title better with other HES policy documentation

- Respondents generally felt that the **purpose** of the document was clear, but its status and how it fits into the broader policy landscape could be made clearer, as could the roles and responsibilities of HES.

- Suggestions regarding **scope** of the document include better and more consistent definition of key terms (Cultural Significance); use of infographics to explain the relationship between the various policy documents; reference to Local Authorities, and cross-referencing to other documents so that it is easy for readers to navigate between the various policies.

- As to how the **document works alongside the overarching Historic Environment Policy Scotland,** respondents generally felt that it works well, although there were some comments on some inconsistency in wording, uncertainty as to the status of this document in relation to HEPS, and a need for clear sign-posting to allow readers to navigate between the various documents, and to understand the policy hierarchy.

3.   ANALYSIS OF RESPONSES

3.1.   Scheduled Monument Policy and Procedures

3.1.1 **Title of document** Questions 1-2 invited respondents to comment on the proposed name for the policy – Scheduled Monument Policy and Procedures. They were invited to indicate to what extent they considered this to be a suitable title (Strongly Disagree, Disagree, Neither Agree nor Disagree, Agree, Strongly Agree), reflecting its content and status and to identify any alternatives.

The graph below, which removes those who expressed no view, indicates that the majority of respondents considered the title of the document to be appropriate.

To what extent do you think that 'Scheduled Monument Policy and Procedures' is a suitable title, reflecting the document's content and status?
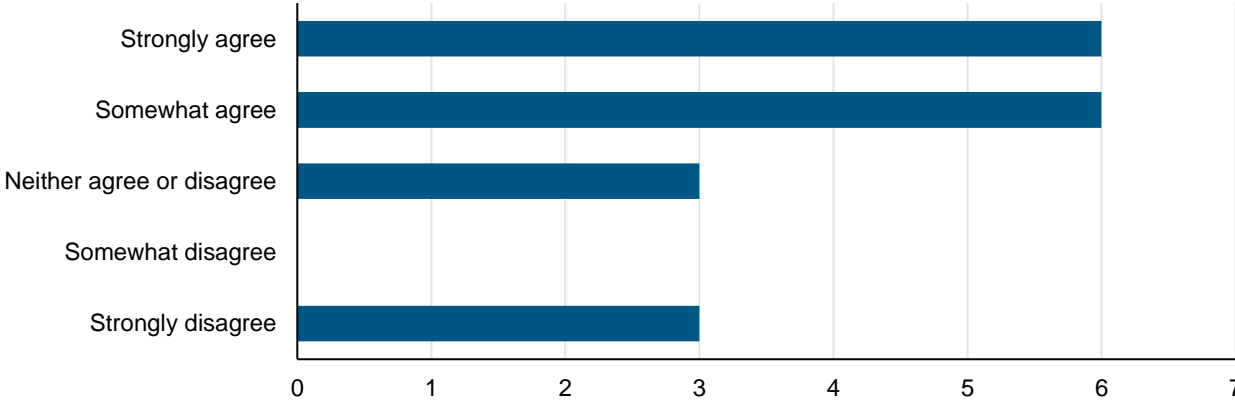
Some respondents commented on the need for a consistent approach to naming, and structure with other policies (e.g. the Principles and Practice for Designation), and also the importance of being clear on the status of the document. Suggested alternative titles for the policy, including:
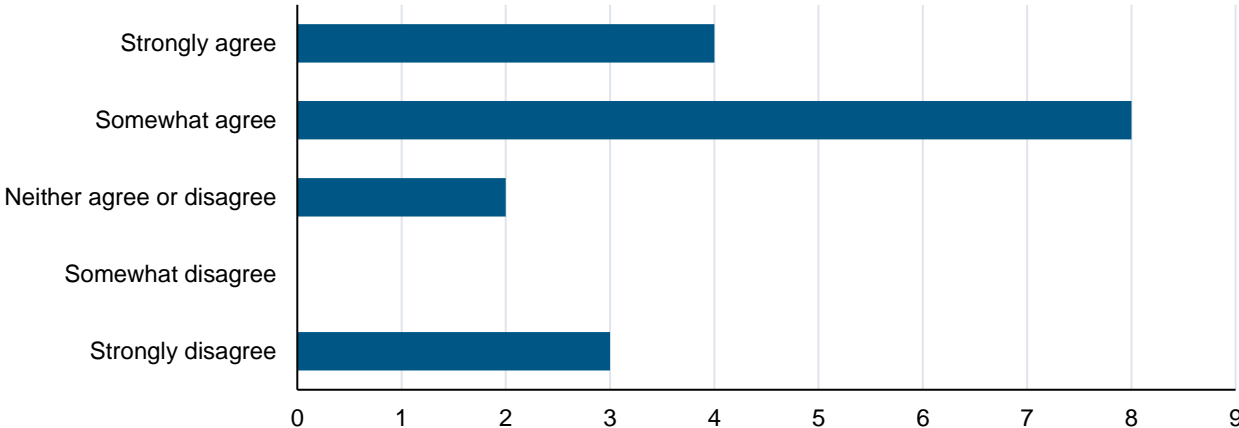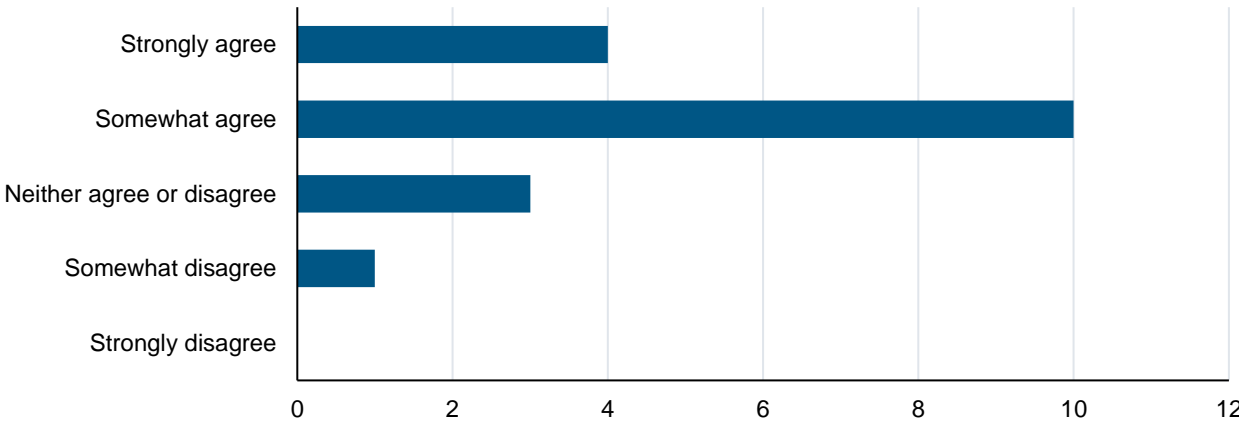
- Scheduled Monument Consent Policy and Procedures
- HEP: Scheduled Monument procedures
- Historic Environment Scotland: Scheduled Monuments, Policy and Procedure

3.1.2 **Scope of document** Question 3 asked respondents to comment on whether there was anything missing from the document. Of the 10 responses to this question, 30% indicated that nothing was missing; 70% indicated that there was something missing. Six respondents provided more detail:
- Clarification of Class consents;
- Notification of active SMC and transpacy of decisions
- Reference to other designations;
- Use of infographics to illustrate roles and responsibilities in the consent process;
- Reference to local authorities and the Historic Environment Records (HERs).

3.1.3 **Working alongside the Historic Environment Policy for Scotland** Question 4 invited comments on how the Scheduled Monument Policy and Procedures document works alongside the overarching Historic Environment Policy Scotland. These were generally positive, although individual comments generally indicated that there was some inconsistency in wording, uncertainty as to the status of this document in relation to HEPS, and a need for clear sign-posting to allow readers to navigate between the various documents, and to understand the hierarchy of documents.

To what extent do you agree that this document works alongside our Historic Environment Policy?

Response	Value
Strongly agree	4
Somewhat agree	8
Neither agree or disagree	2
Somewhat disagree	0
Strongly disagree	3

3.1.4 **Status and Purpose of the Document** Questions 5-6 invited comments on the Status of the document and specially the clarity of the document's purpose. It asked two questions:

To what extent do you agree that the purpose of the document is clear?, there were 18 responses to this question with 14 of the responses stating that purpose of the document was clear.

To what extent do you agree that the purpose of the document is clear?

| Response	Value
Strongly agree	4
Somewhat agree	10
Neither agree or disagree	3
Somewhat disagree	1
Strongly disagree	0

How clear do you find the purpose of this section? (Specifically the status section of the document) There were 17 responses to this question with 13 of the response broadly agreeing that the section on the status of the document was clear.

How clear do you find the purpose of this section?
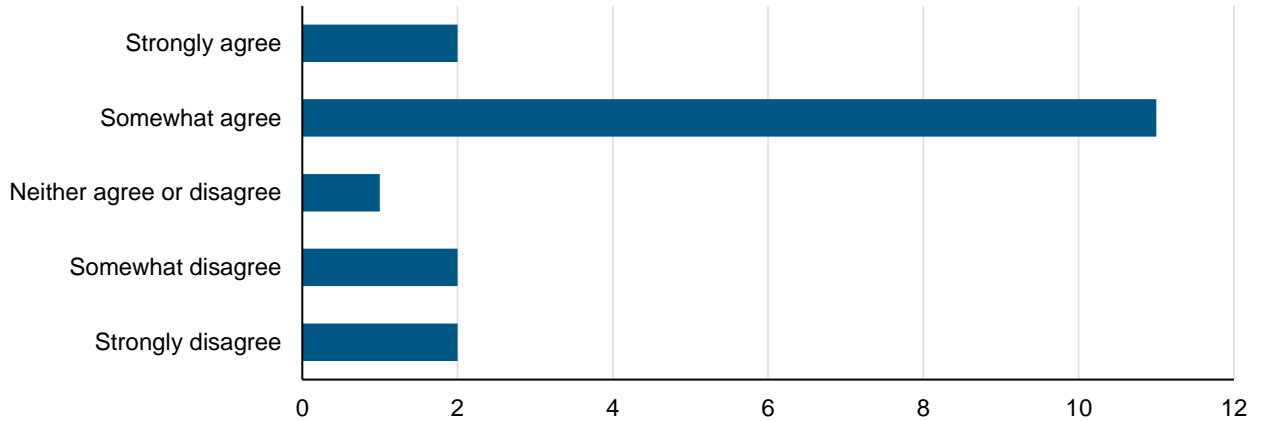
3.1.5 **Policy Background** Questions 7-9 asked respondents to comment on the policy background section of the document. The response indicate that there was a general agreement that the background section of the document was clear and adequately covered the necessary material. Overall, these responses indicate that there is wide agreement with the policy background. The comments focused on paragraphs 32 through 38, and the general view was that these sections did not have policy implications and should be cut from the document.

**How clear do you find the purpose of the Policy Background?**
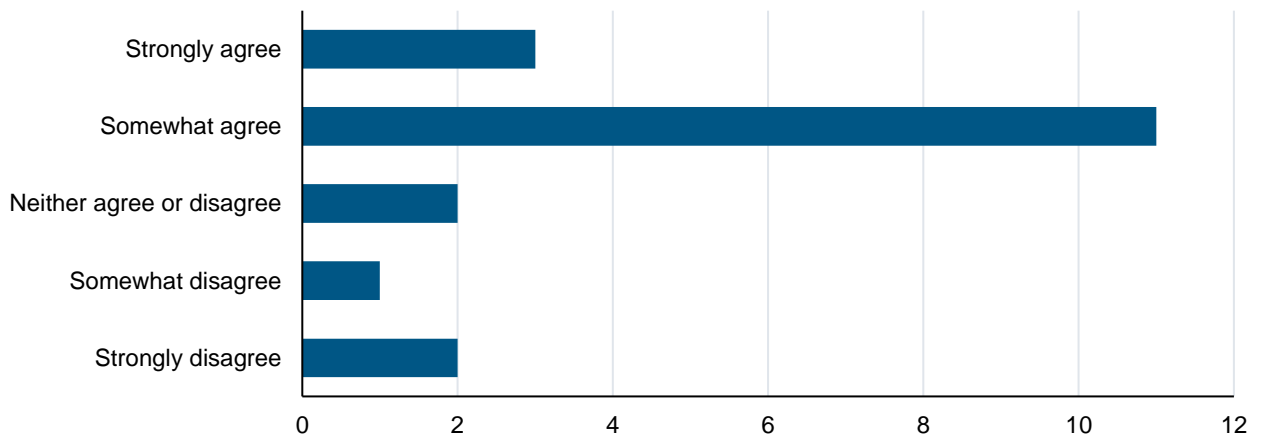
We have not added any new procedures to this section, but have tried to make them clearer and easier to understand. To what extent are these procedures clear?
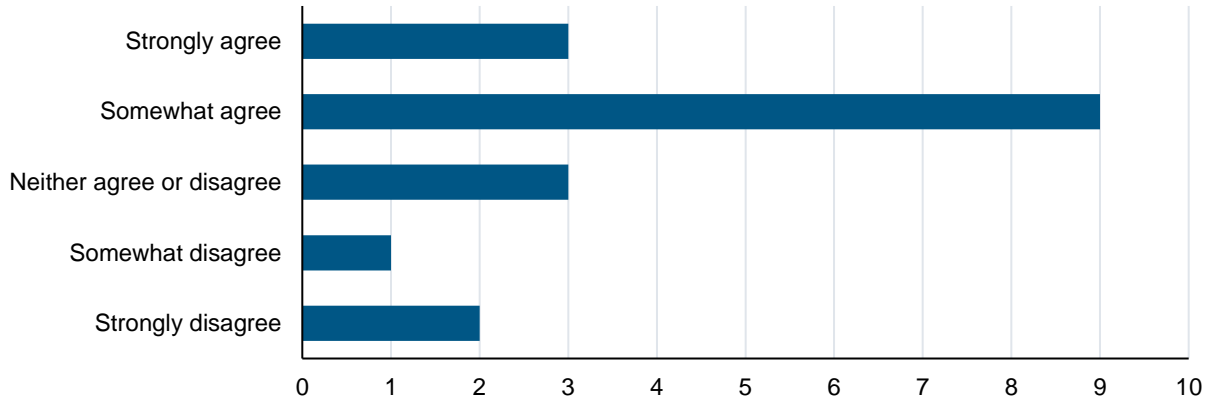

3.1.6 **Cultural Significance** Question 10– asked respondents to indicate if a definition of Cultural Significance should be included within the policy? There was 16 responses to this question of which 13 agreed that Cultural Significance should be defined within the policy document:

The policy tests rely upon an understanding of cultural significance. To what extent do you agree that a definition of cultural significance should be included within the policy?
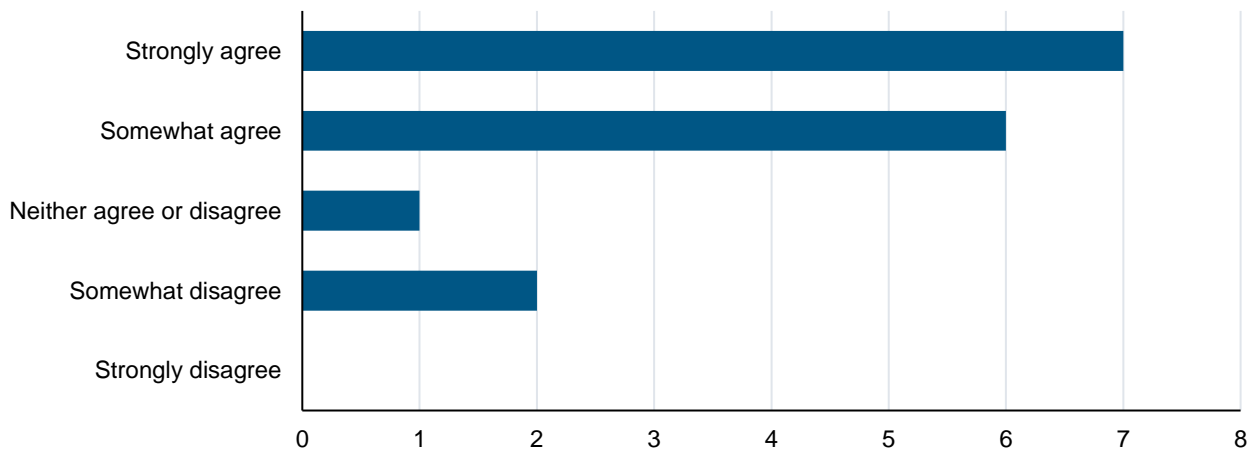
3.1.7 **Policy 8 on Carved Stones.** Question 11 asked for specific consideration of the inclusion of policy 8 on Carved Stones. This policy translates the "Carved Stones: Scottish Executive Policy and Guidance (2005)" into our own decision making. This policy is also a new addition to the existing policies on scheduled monument consent. The question asked to what extent do you agree with the policy and its inclusion, of the 14 responses 12 agreed with the policy and its inclusion in the policy document.

This question refers to Policy 8, which sets out how these policies are applied in relation to the management of certain kinds of Scheduled Monuments, such as carved stones. To what extent do you agree or disagree with this policy?
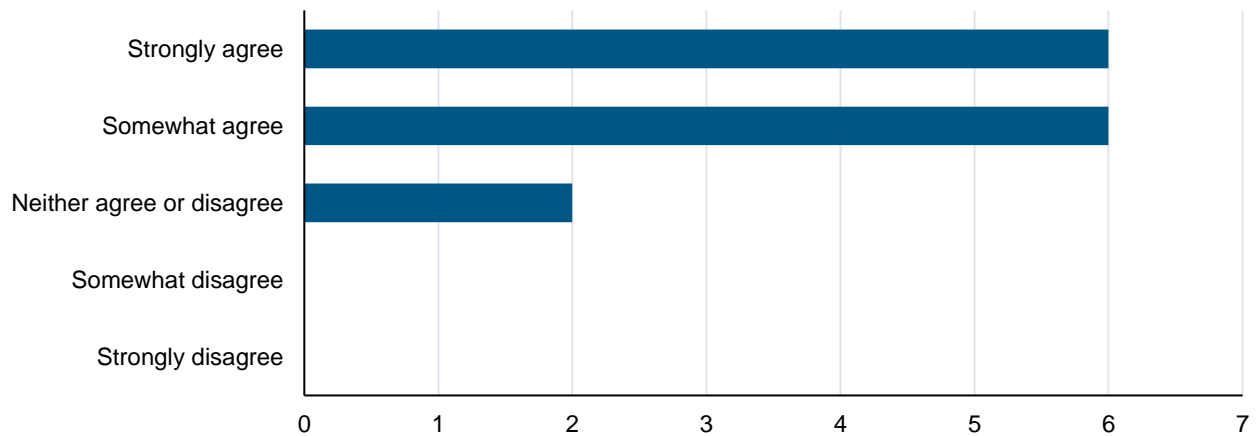
3.1.8 **The Policy Section** Question 12 invited comments on the policy section of the document, specifically asking if there was anything missing from the policy section of the document. There was broad support for the existing policies and the inclusion of the new policies on carved stones and Section 42 consent. There were further requests for definitions of specific terms. The key comments have been summarised below:

Comments covered the following aspects:
- Need to define Cultural Significance, this should be the same definition across all documents.
- Policy 9 needs further detail and should include references to existing standards.
- Excavation can enhance the cultural significance of a monument.
- Need to define National Significance.
- The need for a glossary.
- Need to define Intrinsic Value.
- Happy with the inclusion of the New Section 42 consent policy, though this could be clearer.
- Support for the inclusion of Policy 8, though this could be expanded further to acknowledge the biographies of the monuments.
- Section 42 policy 3 needs to define metal detecting.
- Use of 'Should' rather than 'Must' in sections that are not legal requirements.

3.1.9 **Compliance Procedures** Question 13 sought views about the section on Compliance Procedures. Of the 9 responses to this section 3 provided further comments.

Comments covered the following aspects:
- Clarity of how this document relates to the HEPs document in relation to both style and content.
- Annual review of SMC cases desirable.
- Definition of metal detecting and section 42 consent necessary.

3.1.10 **Managing and caring for Scheduled Monuments** Questions 14-15 focused on Part E, the section on managing and caring for Scheduled Monuments. Question 14 was about the clarity of the purpose of this section, there were 15 responses, 8 of which agreed that the section was clear while 3 responses stated that it was not clear. Question 15 asked for further comments on this section, of the 15 responses 10 provided further comments which are summarised below.

To what extent is the purpose of this section clear?
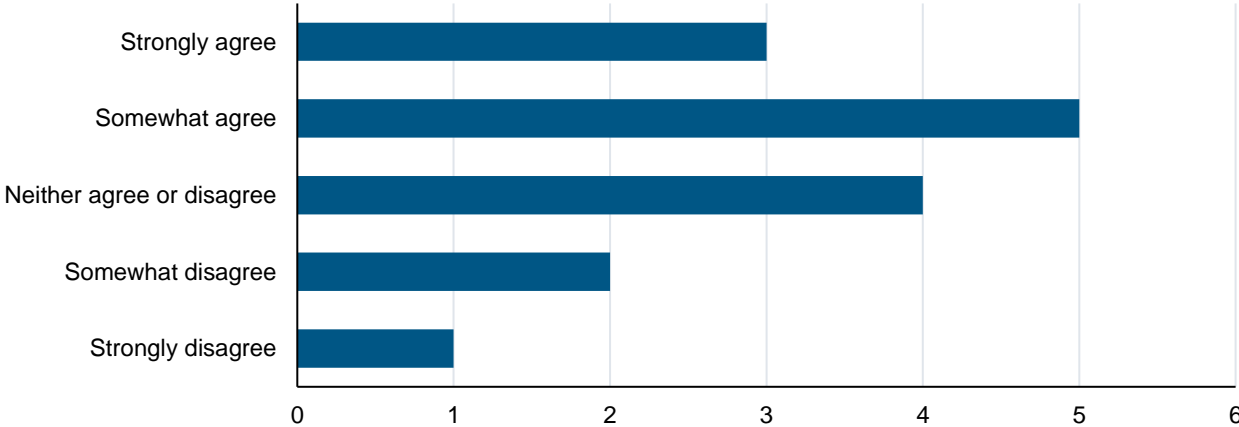
Comments covered the following aspects:
- Reference to Scheduled Monuments that are encompassed within other designated areas.
- Expanding the section on the importance of larger organisations developing conservation management plans to maintain the condition of their Scheduled Monuments.
- Need for a notification mechanism or lists to facilitate commenting on Scheduled Monument Consent applications before determination.
- The section on communities could be expanded, as local communities have much to offer in managing and caring for Scheduled Monuments.

PART B – CONSULTATION REPORT

4. APPROACH TO FINALISING THE DOCUMENT

This section describes how we have taken the views expressed during consultation into account in finalising the policy.

4.1. How have views and information been taken into account?

Each consultation comment was reviewed by the policy drafting team to assess whether it was relevant to the policy. The draft policy document was circulated to an internal HES peer review group to assess the nature of the comments. Changes were then made to address relevant comments submitted in consultation and which reflected the recommendations made by the peer review group. A final draft of the designation policy was agreed by the Board of HES and Director of Heritage in preparation for copy editing and publication.

4.2. Changes to Scheduled Monument Consents Policy

The editing and drafting changes to the policy following consultation were either whole scale changes that reflected questions about the status of the document, some of the language used in it, its relationship to other policies and guidance and how the document should be used.

4.2.1. Changes to the title and status of the document

The name of the document has been changed from 'Scheduled Monument Policy and Procedures' to 'Historic Environment Scotland, Scheduled Monument Consents Policy'. This addresses the status of the document as a policy belonging to Historic Environment Scotland and to provide a clearer understanding of the purpose of the document. It also addresses the point made in some comments about naming consistency.

4.2.2. Changes to the structure the document

The relevant Historic Environment Policy for Scotland polices (HEP 1, HEP2, HEP3 and HEP4) were referenced in the Scheduled Monument Consents Policy document, to create a direct link between this document and the Historic Environment Policy for Scotland.

Following consultation, which identified unnecessary text in the policy background section, a substantial section of this text was removed from the Scheduled Monument Consents Policy document. Sections relating to processes and procedures were also removed, allowing the document to focus solely on Scheduled Monument Consents Policy. There was a call for greater detail in the technical elements relating to process and procedures, by moving these elements to the circular and relevant managing change documents, it will allow a greater level of detail than would be afforded in this document. The policy section dealing with section 42 consent was renamed Metal and Mineral Detecting Consent to clarify what this consent covers.

4.2.3. Changes to the content of the document

4.2.3.1. Greater integration of the Scheduled Monument Consents Policy document with the Historic Environment Policy for Scotland

Comments received highlighted the need for this policy document to relate to the Historic Environment Policy for Scotland document in to both style and content. The Scheduled Monument Consents policy document was rewritten to match as far as possible the style of the other draft policy documents, although this was not always possible given the differing purpose of the documents and that this is designed to support our decision making. The relevant policies from the Historic Environment Policy for Scotland, were included in the Scheduled Monument Consents policy and directly reference so that it was clear how these policies informed and underpinned the Scheduled Monument Consents policies.

4.2.3.2. Confusion between the policy and procedures

Comments highlighted the need for further information on procedures and a need to clarify what was procedure and what was policy. To address this concern, the document has been redrafted to focus solely on the policy, removing reference to procedures and management practice. This information will be transferred to a **Manging Change Guidance Note document** which will allow a greater level of detail and should allow us to address all the of the consultees requests for greater detail.

4.2.3.3. Policy 8 on Carved Stones

Following comments, where there was a request to clarify policy 8, the policy on carved stones (now policy 5) was rewritten to add a greater level of detail.

4.2.3.4. Policy Background

There were several consultation comments stating that much of the text in the policy background section was unnecessary and didn't contribute to the overall document. When redrafting the document much of this section was removed to address these concerns.

4.2.3.5. The policy for Section 42 consent

Consultation comments indicated that it was unclear what this consent covered. In order to address these concerns, the consent has been renamed **Metal and Mineral Detecting Consent** and the section includes further information on what constitutes metal detecting and what the consent covers.
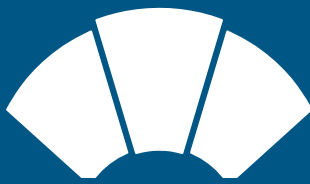
4.3. Language

Generally, there were some concerns raised about the tone and language used in the document and some respondents asked for further definition of the terms: national significance, cultural significance, and intrinsic remains. This has been addressed in the revised policy document and by adding clearer linkages with the other policy documents which contain definitions of these terms.

4.4.   What we are unable to respond to

We are unable to respond through revisions to the policy that would require legislative change.

Appendix 1: List of questions asked

Q1	To what extent do you think that 'Scheduled Monument Policy and Procedures' is a suitable title, reflecting the document's content and status?
Q2	Do you have any alternative suggestions for the name of this document?
Q3	This document sets out the policies and procedures applied by Historic Environment Scotland when undertaking its regulatory functions in regards to Scheduled Monuments. In your opinion, are there any priority areas that we have missed? If so, please let us know:
Q4	To what extent do you agree that this document works alongside our Historic Environment Policy?
Q5	To what extent do you agree that the purpose of the document is clear?
Q6	How clear do you find the purpose of this section?(the status section of the document)
Q7	How clear do you find the purpose of the Policy Background?
Q8	We have not added any new procedures to this section, but have tried to make them clearer and easier to understand. To what extent are these procedures clear?
Q9	Is there anything that is missing from this section on Policy Background?
Q10	The policy tests rely upon an understanding of cultural significance. It is intended that guidance on how to determine cultural significance should be set out in a separate document. To what extent do you agree that a definition of cultural significance should be included within the policy?
Q11	This question refers to Policy 8, which sets out how these policies are applied in relation to the management of certain kinds of Scheduled Monuments, such as carved stones. It translates "Carved Stones: Scottish Executive Policy and Guidance (2005)" into our own decision making. To what extent do you agree or disagree with this policy?
Q12	Is there anything that is missing from the policy? Please let us know your comments:
Q13	Compliance Procedures**:** In your opinion, is there anything that is missing from the policy? If so, please let us know:
Q14	Managing and caring for Scheduled Monuments: To what extent is the purpose of this section clear?
Q15	Managing and caring for Scheduled Monuments: Do you have any further comments? If so, please add them here: