



ENGLISH HERITAGE

Sue Goligher
Defra
Nobel House
17 Smith Square
London
SW1P 3JR

Our ref: Defra/MPS

19th January 2010

Dear Ms Goligher,

Response to Draft Marine Policy Statement

Thank you for the request (email dated 15th January 2010) to comment on the draft Marine Policy Statement prepared by the UK Government and Devolved Administrations, version reference: MPS v2 2010-01-141. This response represents the collective view of English Heritage.

Paragraph 1.16 – we note that all public bodies (other than Infrastructure Planning Commission) taking authorising or enforcement decisions that affect UK marine area must ensure it is taken in accordance with Marine Policy Statement and Marine Plans. However we are uncertain in how this is reflected in the other National Policy Statements (e.g. see the overarching energy NPS, paragraph 4.1.3). Clarity is required to show how the basic premise of the MPS will not be compromised due to the greater emphasis stated within paragraph 1.18.

Paragraph 2.22 – we note that use of the reference to “environmental and other relevant considerations”, we therefore consider it very important that marine planning must take account of environmental, social and economic impacts and to be clear when the term “environmental” includes the historic environment. For example, within the Marine and Coastal Access Act 2009, section 54 includes “cultural characteristics” as inclusive of historic or archaeological interests as matters to be kept under review within the MPS. However, section 115 defines the use of the term “environment” to be inclusive of “any site (including any site comprising, or comprising the remains of, any vessel, aircraft or marine structure) which is of historic or archaeological interest.” We also apply this comment to the use of the term “environment” as used in paragraph 2.24. Please note that “cultural heritage and landscape are factors for assessment with both the SEA and EIA Directives.

Paragraph 2.23 – A point of clarification: are shipping lanes subject to a licensing consent regime for which an application must be prepared?

FORT CUMBERLAND, EASTNEY, PORTSMOUTH PO4 9LD

Telephone 023 9285 6735 Facsimile 023 9285 6701 www.english-heritage.org.uk

*Please note that English Heritage operates an access to information policy.
Correspondence or information which you send us may therefore become publicly available*



ENGLISH HERITAGE

Paragraph 2.24 – Please note that Marine Minerals Guidance 2 is now also published.

Paragraph 2.28 – the term “marine spatial planning” is used which does not appear to be used elsewhere; we therefore recommend a standardisation in the terms used and what they mean.

Paragraph 2.31 – please explain the term “poly culture processes”

Paragraph 2.38 – the text should mention the Shoreline Management Plan process in England and Wales as supported by Defra and delivered by the Environment Agency and local authorities. The text should also allude to the CLG paper on planning policy for development and coastal change.

Paragraph 2.42 – particular attention is needed here to explain that statutory protection measures do exist and how the presence of any such sites should inform any decision-making process. In addition we suggest that mention is made of the educational benefits associated with cultural heritage and how this information informs many different audiences, professional and voluntary. In addition we suggest, in reference to the statement made in the final sentence that particular attention is given to sites designated under the Protection of Military Remains Act 1986 (the responsibility of the Ministry of Defence) and the weight afforded to such sites when proposals come forward.

Paragraph 3.5 – attention should also be given to educational benefits whereby more information is placed in the public realm. We also wish to comment that activities in the marine area can provide substantial economic benefits subject to the existence of effective planning and licensing. We consider this to be a very important matter given a presumed presumption in favour of development and that equal attention must address arguments and evidence for alternatives and/or that development is directed elsewhere. We note that the decision maker is instructed to give “substantial weight” to projects that are regarded as contributing to sustainable development. It is therefore necessary to illustrate (or demonstrate) how any argument in support of the historic or natural environment also contributes towards sustainable development.

Paragraph 3.12 – The application of SEA also needs to be fully explained. For example, the MPS is subject to SEA, but so is the plan/programme for offshore renewable power generation, however, marine aggregate extraction and inshore fishing is not required to conduct SEA, but they elect to apply shadow assessment exercises, e.g. the marine aggregate industry Regional Environmental Assessment (REA) programme.

Paragraph 3.25 – reference here should be given to how marine licensing or any proposed revisions will assess implications to the environment.



ENGLISH HERITAGE

Paragraph 3.33 – it should state here that in the absence of any agreed mitigation that the potential exists to damage, destroy or prevent access to historic environment interests.

Paragraph 3.34 – amend final sentence to “...historic, archaeological, architectural or artistic interest are known as ‘heritage assets’.”

Paragraph 3.35 – amend to “protected historic shipwreck sites,” Please note that the Protection of Wrecks Act 1973 affords statutory protection in Section 1 to historic shipwreck sites and Section 2 is for dangerous or hazardous shipwrecks which have access controlled through a licence system operated by the Maritime and Coastguard Agency. The control of works on sites designated under the Protection of Wrecks Act 1973 is outside the scope of the Planning Act 2008. If a development is likely to affect such a site the developer will need to apply to the Secretary of State or Minister for a licence and further advice should also be obtained by the developer from the respective national heritage agency.

Paragraph 3.37 – this process should be explained in the context of when a proposed project requires an EIA or any other project which requires assessment prior to the award of a marine licence. It should also be made clear that for areas not covered by local authority maintained Historic Environment Records that information and data should be obtained from the respective national heritage agencies; a similar amendment is also necessary in paragraph 3.40.

Paragraph 3.38 – the text of this section is to be revised to reflect that the purpose of a desk-based assessment is to qualify what historic assets are present or that might be present subject to further detailed analysis as confirms with accepted international and professional archaeological good practice.

Paragraph 3.39 – the reference to survey in this paragraph is too general. In the preparation of an EIA, surveys (e.g. geophysical, geotechnical and visual) will have been conducted. The important measure is to ensure that such surveys are planned with the inclusion of archaeological objectives to support detailed analysis from which mitigation measures can be identified.

Paragraph 3.40 – particular attention should be given in this paragraph regarding the fact that the statutory remit of English Heritage is limited to the English area of the UK Territorial Sea. English Heritage provides advice without prejudice and voluntarily for SEA exercises and EIA projects, when so requested, only on adjacent areas of UK Continental Shelf that are not the responsibility of any Devolved Administration. Our information and data holdings relate only to the English area of the UK Territorial Sea, other than broad-scale historic characterisation assessments. This matter is of particular relevance when considering the detail of paragraph 3.41 and the absence of any formal advice for offshore waters adjacent to England.

FORT CUMBERLAND, EASTNEY, PORTSMOUTH PO4 9LD

Telephone 023 9285 6735 Facsimile 023 9285 6701 www.english-heritage.org.uk

*Please note that English Heritage operates an access to information policy.
Correspondence or information which you send us may therefore become publicly available*



ENGLISH HERITAGE

Paragraph 3.42 – we recommend that the decision maker must be informed by accepted international standards and accepted archaeological good practice to directly support any judgement regarding “material harm” and any assessment of “significance” in terms of wider social, economic and environmental benefits. In particular care must be taken to differentiate between legitimate salvage operations and other activities that might be directed at historic assets.

Paragraph 3.55 – any reference to Shoreline Management Plans should be in the context of a strategic approach to delivery of sustainable flood risk management projects of which capital programmes are one component. Any reference to “protected sites” should include historic assets.

Paragraph 3.59 – requirement for the decision maker to pay particular attention to any adverse impacts on sites of national or international importance should also encompass the historic environment, e.g. listed/scheduled assets of national importance and World Heritage Sites of international importance.

Paragraph 3.60 – we note that you state how “seascape should be taken as meaning landscapes” and we must therefore refer you to The Council of Europe’s European Landscape Convention (the ‘Florence Convention’ – the ‘ELC’) which came into force in England on 1st March 2007 and which includes a definition of “landscape”. For you information, English Heritage published in 2009 an action plan for implementation of the ELC. We also have a Historic Seascape Characterisation programme supported by the Aggregates Levy Sustainability Fund.

Paragraph 3.90 and 3.91 – contains typos and you may wish to clarify the purposes for which a Marine Protected Area might be declared as provided for in the Marine (Scotland) Bill.

Paragraph 3.117 – should be expanded to include historic environment features and how the placement of turbines should be planned to avoid sites considered to be of historic environment interest.

Paragraph 3.135 – mention should also be made of non-statutory planning instruments used by this sector such as Port Master Plans.

Paragraph 3.141 – this paragraph should be expanded to include potential exposure, destruction or destabilisation of known or unknown features of historic environment interest. Paragraph 3.147 should also state the importance of advanced planning to inform capital dredge programmes, so that the necessary desk-based assessments and analysis of field survey data can inform the effective execution of the project with adequate and agreed mitigation.

Paragraph 3.153 – should be expanded to include historic environment features and how dredge programmes should be planned to avoid sites through declaring archaeological

FORT CUMBERLAND, EASTNEY, PORTSMOUTH PO4 9LD

Telephone 023 9285 6735 Facsimile 023 9285 6701 www.english-heritage.org.uk

*Please note that English Heritage operates an access to information policy.
Correspondence or information which you send us may therefore become publicly available*



ENGLISH HERITAGE

exclusion zones and that the industry has implemented an effective voluntary recording protocol for reporting archaeological finds.

Paragraph 3.175 – what is meant by “alteration of coastlines to facilitate access”?

We offer the following additional comments:

- There are quite a few topics which cover the same ground as the draft NPS e.g. offshore wind, electricity, oil and gas, ports, waste water, climate change. Therefore should these reflect the points made in the draft NPSs so that when decision makers have regard to the MPS they will be able to make appropriate decisions?
- In paragraph 2.19 it mentions that marine planning should consider the need to meet demand for natural gas, e.g. during cold weather periods. However, how should the envisaged marine planning framework conduct an assessment of “need”? We add that a similar argument to assess “need” could be extended to other sectors such as the need for access to public slipways to support leisure, sport and recreation requirements.
- The MPS must be clear when using the term “other legitimate users of the sea”
- No reference has been made to either PPG15, 16 or draft PPS15 which are applicable for the foreshore area or any enclosed subtidal areas within local authority planning boundaries. Consideration is also necessary of any offshore (manmade) structures that might be subject to local authority control and have designated status (e.g. the offshore forts within the Solent).
- An assessment should also be provided as to how the proposed marine planning framework will support delivery of the Council of Europe (Revised) Archaeological Heritage Convention 1992 (the Valletta Convention).

Yours sincerely,

Christopher Pater

Cc Ian Oxley (Head of Maritime Archaeology, English Heritage)
Pat Aird (Head of Planning and Regeneration, English Heritage)
Peter Murphy (Coastal Strategy Officer, English Heritage)
Beth Harries (Legal Advisor, English Heritage)
Owain Lloyd-James (Senior Policy Advisor, English Heritage)

FORT CUMBERLAND, EASTNEY, PORTSMOUTH PO4 9LD

Telephone 023 9285 6735 Facsimile 023 9285 6701 www.english-heritage.org.uk

*Please note that English Heritage operates an access to information policy.
Correspondence or information which you send us may therefore become publicly available*