



## ENGLISH HERITAGE

Marine Planning Team  
Defra  
Area 2C  
Nobel House  
17 Smith Square  
London SW1P 3JR

Our ref: Defra/MPS

26<sup>th</sup> April 2010

Dear Sir/Madam,

### **Response to Defra pre-consultation on the draft UK Marine Policy Statement a paper for discussion**

Thank you for your invitation to comment on the pre-consultation draft of the UK Government and Devolved Administrations' Marine Policy Statement.

Our response reflects our support of the *High Level Marine Objectives*, published in 2009, by the UK Government and Devolved Administrations which provide an essential starting point in the process of developing an integrated approach to marine management. Consequently, we value the attention paid to marine cultural heritage in these objectives and that a long term view is taken to promote appropriate management of this resource as a component of a healthy, productive and biologically diverse marine environment.

This response represents the collective view of English Heritage.

### **Introduction**

The National Heritage Act 2002 enabled English Heritage to assume responsibility for maritime archaeology in the English area of the UK Territorial Sea, modifying our functions to include securing the preservation of monuments in, on, or under the seabed, and promoting the public's enjoyment of, and advancing their knowledge of such monument. In the delivery of our duties we work in partnership with central Government Departments, other public bodies and the private sector to conserve and enhance the historic environment; broaden public access to the heritage; and increase people's understanding of the past in line with the Government's Statement on the *Historic Environment of England 2010*. Our mechanism to deliver this vision is through a framework of *Conservation Principles* which can be summarised as follows:

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- the historic environment is a shared resource;
- everyone should be able to participate in sustaining the historic environment;
- understanding the significance of places is vital;
- significant places should be managed to sustain their values;
- decisions about change must be reasonable, transparent and consistent; and
- documenting and learning from decisions is essential.

Our responsibility under Section 1 of the Protection of Wrecks Act 1973, within the English area of the UK Territorial Sea, is to consider applications and recommendations for designation, re-designation and de-designation of shipwreck sites. On the basis of our advice the Secretary of State (Department for Culture, Media and Sport) is responsible for designating restricted areas around sites which are, or may be, shipwrecks (and associated contents) of historic, archaeological or artistic importance. The Secretary of State is also responsible for the issuing of licences to authorise certain activities in restricted areas that otherwise constitute a criminal offence. At the end of the Committee's reporting year in March 2010 there were 46 sites designated in the English area of the UK Territorial Sea. Further information on the designated sites is available on the English Heritage web site: [www.english-heritage.org.uk/maritime](http://www.english-heritage.org.uk/maritime).

### **The marine historic environment**

Please note that the number of protected historic shipwrecks is very small (ranging from possible prehistoric seafaring craft with associated cargos through to prototype submarines) and they are only one aspect of English Heritage's interests in promoting the understanding, management and public enjoyment of the historic environment. It is therefore important for us to describe the marine historic environment as also comprising submerged and often buried prehistoric landscape areas and elements, together with archaeological sites and remains of coastal activities (e.g. fish traps) dating from all eras of history. We therefore consider it essential to ensure the management and use of the full range of the historic environment, is conducted in a manner that best serves the public understanding and enjoyment of the whole, and not just of the designated and protected sites.

We have provided a set of comments on the pre-consultation draft of the UK Marine Policy Statement in the following annex to this letter.

Yours faithfully,

**Christopher Pater**

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Cc Duncan McCallum (Policy Director, English Heritage)  
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### Annex I - Tabulated response

Questions	Comment
Does the document contain a clear statement of policy objectives applicable at the UK level for the marine environment? Are there any policy objectives that should be added, for clarity?	<p>We appreciate that the detail provided is set at a UK level, but we noted in paragraph 2.40 that “...inappropriate types of development are not permitted in areas most vulnerable to coastal change...” It is therefore important to ensure that paragraphs 1.14 and 1.15 while alluding to Integrated Coastal Zone Management principles also identify how national administrations will be capable of making decisions whereby inappropriate development does not occur (see also 3.47).</p> <p>We request that the heading above paragraph 2.41 is amended to “Cultural Heritage”. We also noted that the term “coastal and offshore zones” was used and we request that if the term “coastal” is taken to mean any area subject to terrestrial planning mechanisms that the term “inshore” is used to address the marine area to 12nm (the limit of the UK Territorial Sea).</p> <p>In paragraph 2.42 we consider it important that in addition to marine planning mention is also made to the reform of marine development licensing provided for in the Marine and Coastal Access Act (MCAA) 2009. We make this comment in reference to the statement made about capturing evidence if a heritage asset is to be lost which for assets within inshore regions (i.e. within 12nm limit of the UK Territorial Sea) should be addressed through marine development licensing.</p>
Is any further information required at the UK level to support marine planning?	We suggest that for illustrative purposes it would be helpful to include a table that sets out what information is available and what is absent at a UK level to support all aspects of marine planning and from whom such information should be obtained.
Does Chapter 3 set out the key high-level considerations that need to be taken into account when developing marine plans? Are the most significant impacts and pressures identified?	<p>Consistent use of terminology is necessary. We support the detail provided under “Historic Environment” in paragraphs 3.33 to 3.35, but we noticed that the terms “coastal areas” and “offshore areas” were used. We suggest that the use of the term “coastal” reflects paragraph 1.13 (i.e. areas subject to terrestrial planning mechanisms), 3.44 and 3.45 (coastal change) and that the terms “inshore” (i.e. within the UK Territorial Sea) is specifically used because it is only within “inshore” areas that a statutory mechanism can be used to designate a heritage asset. The situation is somewhat different for sites designated under the Protection of Military Remains Act 1986 which you may wish to explain through a footnote. We suggest that footnote 39 could be moved to earlier in the document to come under Figure I (in reference to the use of “significance” in the final bullet point under “Promoting good governance”).</p> <p>Paragraph 3.50 mentions “...landscapes with views of the coast</p>

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	<p>or seas” and we suggest that a footnote should be added to explain the definition used for “landscape” in the Council of Europe European Landscape Convention (ELC) as ratified by the UK. Paragraph 3.52 directly mentions the concept of “character” and so it is appropriate to consider the ELC definition of landscape and that consideration of such a concept should not be restricted to visual effects.</p>
<p>Does Chapter 4 set out the appropriate considerations for decision making for the marine area? Does it provide guidance on the factors to consider for specific activities in reaching decisions?</p>	<p>In paragraph 4.1, eighth bullet point – it is important to place the emphasis on determining “particular significance” which should include, but should not be restricted to designated sites.</p> <p>In paragraph 4.37 the statement regarding some small scale developments that do “not require development consent” should be clearly explained in reference to specific matters that might be exempted under reformed marine development licensing regimes across the UK. We suggest a footnote would be helpful to explain what the programmes are (across the UK) for delivery of the reformed marine development licensing and associated consultation programmes regarding exemptions etc. In this paragraph we also welcome the reference to port Master Plans although we understand that these are a voluntary initiative and that only a limited number have been produced.</p> <p>In paragraph 4.46 we appreciate the inclusion of features of historic environmental interest, but we note that such specific mention was absent in paragraph 4.50. In consideration of the subject matter of this section (capital and maintenance dredging) we consider it important to include statutory instruments which presently apply across the UK with particular reference to Protection of Wrecks Act 1973 (i.e. authorisation and enforcement provisions). Incidentally, you may wish to consider how the MPS should address sections 1 (historic shipwreck) and 2 (dangerous wreck) of the 1973 Act.</p> <p>Paragraph 4.51 should expand the reference to different regions to include international export and paragraph 4.55 should be amended as follows: “...potential changes and disturbance to historic environment features”.</p> <p>Paragraph 4.61 (aquaculture) makes specific reference to “...significant opportunities for co-existence...”, but also the requirement to assess suitability (4.62). We therefore suggest that a UK policy position on applying either formal impact assessment criteria or advocating a shadow system of assessment would provide useful supplementary information for the MPS.</p> <p>We support the UK Administrations’ view that the reform of</p>

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	<p>CFP should be to attain ecological sustainability (4.63), but we note that under “potential impacts” and “issues for consideration” that there is no specific mention of how potential impacts should be assessed to inform the decision-making process. We suggest that some UK wide assessment mechanism should be considered to support the UK Administrations’ objective for a long-term viable marine fishery. We add that any such system should consider the overall environment inclusive of cultural heritage features.</p> <p>The section on “tourism and recreation” (4.70) was very limited and we add that additional consideration should be given to education as a social factor whereby improving access could also increase educational opportunities (formal and informal) and not necessarily limited to those living in the immediate coastal area. It is therefore relevant to consider the opportunities associated with endorsing initiatives that promote wider understanding and awareness.</p>
Does the document provide an appropriate overarching framework for the development of marine plans and decision-making in the UK marine area?	Yes – it provides the overarching framework because it attempts to deliver the UK High Level Objectives through the MPS as well as other international obligations. However, it is more problematic to see how it can actually inform marine planning activities which are driven nationally and so require national-level planning detail. In regard to the final part of this question, it is only appropriate to confirm its high level status given decision-making that will be done by different parties in reference to different documentation (e.g. the IPC and National Policy Statements, the MMO and the MPS and other decision-making functions retained by the UK Government).
Is any additional information required at UK level?	It is understood from the MCAA (Part 2) that the provision exists for the UK to declare an Exclusive Economic Zone (EEZ). Consequently, the MPS should reflect how the declaration of an EEZ will affect its content and any change to decision-making functions that accompany EEZ status that do not presently apply.
<b>IMPACT ASSESSMENT</b>	
For option 1 - What costs do you/your organisation incur in complying with existing systems? What benefits do you/your organisation enjoy under the current system?	For the purposes of responding to this question we consider the “existing system”, from our perspective, to relate to the marine licensing systems under the Coast Protection Act (CPA) 1949 and Food and Environment Protection Act (FEPA) 1985. Under both these pieces of legislation we do not incur costs at present where projects that we support require license or consent.
For option 2 - what benefits do you foresee from having a coherent policy framework with a MPS in place? Do you foresee any costs arising from having a MPS in place?	There exists potential for multiple benefits with particular regard to the delivery of a reformed marine development licensing regime that is informed by the over arching policy framework offered by the Marine High Level Objectives. In particular, we are encouraged by how these objectives include consideration of the cultural heritage. We make this point given that the reformed system of marine development licensing will encompass

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	activities that could affect sites of historic or archaeological interest. We do not foresee any cost directly attributable to a MPS.
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### Other comments:

1. Paragraph 1.5 mentions national and regional Marine Plans for the first time and effort should be made to explain what is meant by these terms and the geographic areas of coverage. In particular in paragraph 1.6 regional marine plans are described (e.g. inshore and offshore), but the term “national” is only used to describe specific policy objectives and not an actual plan.
2. Paragraph 1.11 mentions that more detailed guidance will be available on decision making within a marine plan area and we look forward to receiving this guidance in draft. In particular we are keen to see how published documents for England such as Planning Policy Statement 5 (Planning for the Historic Environment) will be included where relevant.
3. In the “Impact Assessment of Marine Policy Statement” in the first text box (“What is the problem under consideration?”), we noted the reference to property rights and we offer the observation that in terms of rights vested in Government departments or The Crown Estate it would seem that property rights were understood and defined (e.g. mineral rights). It is therefore important that the Impact Assessment clearly explains what aspects of the marine environment as an “open access resource” are affected by undefined property rights.
4. In paragraph 5.16 of the Impact Assessment, add at end of first sentence: “...and the most important heritage assets.”

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