



ENGLISH HERITAGE

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

12th October 2010

Dear Sir/Madam,

Response to Defra consultation on marine plan areas within the English inshore and offshore marine regions adjacent to England

Thank you for your correspondence dated 21st July 2010 inviting us to comment on the proposed marine planning system for England. This response represents the collective view of English Heritage.

Summary of response

We highlight the following matters:

- That attention should continue to be paid to the historic environment in the development of the evidence base to support marine planning; the work done so far has been helpful although we urge a wider inclusion of landscape characterisation, as provided for through the European Landscape Convention (ELC);
- The detailed examination of the terrestrial planning system to identify mechanisms that could be adapted for the marine environment was useful (e.g. vision statements and policy maps);

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- We advocate careful consideration of Planning Policy Statements to ensure adequate account is taken of relevant policies, but careful use of terminology is required to provide clarity;
- We take this opportunity to request detailed consideration of how we (and others) may fully deliver the requirements of the Council of Europe European Convention on the Protection of the Archaeological Heritage (Revised) 1992 within the new marine planning system.
- The attention to other international requirements that affect the marine historic environment was important, but we are concerned that this consultation provided very limited detail about our responsibilities and functions across the UK marine area relevant to England; to address this matter we have provided further detail about our role which is important to support section 54 of Marine and Coastal Access Act 2009.
- We appreciate the effort made in this consultation to try and address the realities of overlapping terrestrial and marine planning law and we consider it important that effort is made to identify planning mechanisms that address large geographic areas and we wish to draw your attention to non-statutory planning mechanisms (e.g. Shoreline Management Plans), that are of particular relevance even more so now in the absence of statutory planning mechanisms such as Regional Spatial Strategies.

The role of English Heritage

English Heritage is the UK Government's statutory adviser on all aspects of the historic environment, including the English area of the UK Territorial Sea, as provided for under the National Heritage Act 2002. English Heritage is an Executive Non-Departmental Public Body sponsored by the Department for Culture, Media and Sport (DCMS) and we report to Parliament through the Secretary of State for Culture, Media and Sport. In the delivery of our duties we work in partnership with central government departments, local authorities, voluntary bodies and the private sector and we aim to carry out our duties within the framework of a set of *Conservation Principles*. These principles can be summarised as follows:

- 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.

In consideration that this consultation addresses planning matters within UK marine area adjacent to England any advice we offer is given without prejudice and we therefore advise you to contact us and DCMS should you wish to discuss such matters further.



Our responsibility under 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 is responsible for designating 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 areas covered by a designation that would otherwise constitute a criminal offence. In March 2010 there were 46 sites designated within the English area of the UK Territorial Sea; this total includes possible prehistoric seafaring craft with associated cargos through to prototype submarines.

Part 3 of the Marine and Coastal Access Act 2009 and the marine historic environment

The number of designated historic shipwrecks as a proportion of known losses is very small and these designated sites represent 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, 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 that 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 that of the designated and protected sites. In this regard, there is potential for all heritage assets to be taken into consideration, whether they are designated or not in accordance with the principles set out in Planning Policy Statement 5 (*Planning for the Historic Environment*).

We support the High Level Marine Objectives (*Our seas – a shared resource*), 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 planning. We therefore value the attention paid to marine cultural heritage and recommend that a long term view is taken to promote the appropriate management of this resource as a component of a healthy, productive and biologically diverse marine environment.

We understand that the new marine planning system for English waters will be based on a Marine Policy Statement (MPS), agreed between the UK Government and Devolved Administrations, and that this will have a status equivalent to a National Policy Statement. We therefore direct particular attention to section 54 of the Act which imposes a duty to keep certain matters under review within the marine plans, described in section 54(2)(a) as 'the physical, environmental, social, cultural and economic characteristics of the authority's region and of the living resources which the region supports'. Sub-section 54(4) defines 'cultural characteristics' as including a reference to characteristics which are of a 'historic or archaeological nature'.

The following table provides our responses to the questions in the consultation document.

Yours faithfully,



Christopher Pater
Marine Planning Unit

Cc Humphrey Welfare (Territory Director, English Heritage)
Ian Oxley (Head of Maritime Archaeology, English Heritage)
Pat Aird (Head of Planning and Regeneration, English Heritage)
Graham Fairclough (Head of Characterisation, English Heritage)
Elizabeth Ager (Head of Heritage Protection, DCMS)

Tabulated response to questions – Impact Assessment

Question	Comment
1)	<i>Do you have any comments on, or additional evidence to improve, the Impact Assessment?</i> We have no additional comment to offer
2)	<i>In particular if you carry out, or represent, activities that fall within the scope of marine planning, are you able to provide a view of how the proposed planning system is likely to impact those activities and are you able to provide an indication of the scale of any such impacts?</i> The primary concern is the resource cost to English Heritage to support the introduction of marine planning with particular regard to information resources. We must stress that we have no duty to support a national archive for the offshore UK marine area relevant to England. We consider this matter requires immediate attention to fully deliver marine planning objectives.

Tabulated response to questions – Marine Planning System

Question	Comment
1	<i>Do you agree that we have identified and captured within Chapter 1 all of the benefits of marine planning?</i> We agree that many potential benefits have been identified, and we are



	<p>encouraged by the inclusion of the historic environment in terms of reducing risk of damage, increasing knowledge and understanding. However, we must draw attention to the necessity of including the historic environment in the development of a supporting evidence base for marine plans (encompassing historic characterisation studies).</p>
2)	<p><i>Have we set out and appropriately considered in Chapter 2 and elsewhere the elements required before marine planning can begin?</i></p> <p>We are encouraged by the emphasis placed on developing an evidence base to support marine planning and we agree that the best mechanism to deliver these benefits within a marine planning system (over its full geographical extent) is the development of a supporting evidence base. We therefore offer our support in the development of this evidence base (as invited in 2.34) to:</p> <ul style="list-style-type: none"> • contextualise known heritage assets and provide assessment of the potential suites of undiscovered cultural heritage interests that may exist; • to assess the historic and archaeological characteristics of proposed Marine Conservation Zones (as provided for in s. 117(7-8) Marine and Coastal Access Act 2009); and • to inform general planning matters as relevant to future marine development proposals. <p>However, we are concerned that the intention for marine plans to represent the three-dimensionality of the marine environment (2.12) stands in contrast to the description of ‘seascape’ adopted by this consultation. We consider that the European Landscape Convention (ELC) approach to characterisation could help steer the development of the evidence base to support three dimensional planning. We also welcome the detail provided about a strategic scoping exercise and we draw your attention to Planning Policy Statement (PPS) 5 that encourages Local Planning Authorities to have an appropriate evidence base in relation to the historic environment (see Policy HE2) including access to a ‘historic environment record’ (i.e. a spatial information database); such an approach will also provide an important contribution to the Sustainability Appraisal and Strategic Environmental Assessment process (as mentioned in 6.13).</p>
3	<p><i>Does the proposed structure and content for Marine Plans provide appropriate clarity to enable the MMO to create effective Marine Plans in England (Chapter 3)? In particular, is the overall approach to planning recommended and outlined in paragraphs 3.7 to 3.9 appropriate?</i></p> <p>We welcome the detail provided in paragraphs 3.7 – 3.9 does encompass the high profile matters relevant to effective delivery and we were encouraged by the statement that a plan could address policy matters not directly addressed within the MPS but compatible with it.</p> <p>We also consider the concept of the ‘vision statement’ (3.19) to be important and we are keen to support the production of any such statement so that it provides an overview and context for area-specific policy and objectives identified by the MMO. In this regard the concept of the ‘policy map’ (3.29) requires our further</p>

	<p>attention to ensure that the historic environment (in its widest interpretation) is adequately accounted for in any such 'map'. We noted the mention made of UK Marine Monitoring and Assessment Strategy (3.36) and we consider it important to draw attention to the multiple components of this strategy and that the historic environment is included. We would also like to discuss further how you might see us contributing to any Monitoring Plan (3.46) and other strategies that may address information gaps (as mentioned in 3.49). We conclude that these recommendations to include the marine historic environment as an integral component of effective marine planning should enable delivery of section 54 of the Marine and Coastal Act (as mentioned in 3.67)</p>
4	<p><i>In Chapter 4 have we covered all steps required to draft Marine Plans?</i></p> <p>The detail provided seems to address the core components necessary to introduce marine planning (e.g. Statement of Public Participation, Sustainability Appraisal etc.) and we appreciated the reference to English Heritage in 4.10. We also note the spatial and temporal nature of marine planning and we are keen to see how spatial /temporal factors represented in three dimensions will be effectively realised through marine mapping. In support of this ambition we offer our methodological approach to historic seascape characterisation. In addition, we confirm that more specific socio-economic data is held by English Heritage (as alluded to in 4.30) pertaining to licensed activities on designated historic shipwrecks; we will supply this information to the MMO separately. However, we must advise that reference in the section to a series of spatial/temporal maps (4.27) and Policy Maps (4.40) requires absolute clarity to avoid confusion over their respective roles.</p>
5	<p><i>Are the roles and responsibilities of key stakeholders clear in Chapter 5?</i></p> <p>The reference to Sustainable Community Strategies (5.9) is important, but the approach adopted must not limit the strategy to only identifying bodies and individuals, but must contribute to the development of the long-term spatial vision. It is important to add that any such 'vision' requires wider participation beyond the coastal margin to tap into relevant national concerns. In this regard the inclusion of the historic environment is directly relevant to promote a sense of place as addressed by PPS5 (Policy HE 3.4). We noted with interest the possible promotion of marine planning advisory groups (5.16); in order to help to deliver optimum efficiency we strongly recommend that appropriate consideration is given as to how membership of any such groups should be balanced. In 5.26 we noted the reference to delivery of policy through marine plans particularly in order to complement the objectives of local authority (e.g. District and Unitary) plans 'beyond a development plan' and we recommend that careful consideration is given to how this might affect delivery at different spatial scales.</p> <p>Paragraph 5.39 requires the following clarification: English Heritage's general powers under section 33 of the National Heritage Act 1983 were extended (via the National Heritage Act 2002) to modify our functions to secure the preservation of monuments in, on, or under the seabed within the seaward limits of the UK Territorial Sea adjacent to England. The National Heritage Act 2002 enabled English Heritage to issue advice to any</p>

	<p>person in relation to any ‘monuments’ within those limits as may be designated under the Ancient Monuments and Archaeological Areas Act 1979. In addition, a number of duties were transferred directly from the Department for Culture, Media and Sport (DCMS), such as to act as the secretariat for the Government’s Advisory Committee on Historic Wreck Sites and the administration of the Contract for Archaeological Services in Support of The Protection of Wrecks Act 1973 (section 1 – Historic Shipwreck). The Secretary of State for DCMS retained responsibility for awarding designation of sites under section 1 of the 1973 Act. English Heritage, through the National Heritage Act 1983 (as amended by the National Heritage Act 2002), may also offer advice about ‘foreign monuments’; for example, English Heritage has provided advice to DCMS and to the Ministry of Defence about the wreck of HMS <i>Victory</i> (lost 1744) and has commissioned archaeological site investigations and supports on-going dialogue to address future management of this site located within the UK marine area adjacent to England. In addition to our case-by-case involvement with sites that can be considered as ‘foreign monuments’, we are actively involved with supporting Government objectives for offshore development and in providing advice to regulatory bodies through Environmental Impact Assessment exercises and subsequent marine development licensing. Our advice as relevant to the wider historic environment (other than ‘monuments’) is offered without prejudice and encompasses submerged and often buried prehistoric landscape features. Consequently, it is important to acknowledge our contribution to the delivery of the Council of Europe’s European Landscape Convention, and in particular our development of the Historic Seascape Characterisation programme.</p>
6	<p><i>In Chapter 6, is it clear how the marine planning system interacts with plans and processes on land?</i></p> <p>We accept that clarity is given regarding the interaction between terrestrial planning and the (UK) Marine Policy Statement and thematic National Policy Statements. However, the matter of respective planning scales between the land and sea remains unclear. We are encouraged by the statement made in 6.12 and we point to the guidance <i>Regeneration in Historic Coastal Towns</i> published by English Heritage in 2007 (product code: 51387). The statements made in 6.19 and 6.20 are very important. It is therefore clear that progress will depend on mutually agreed objectives that provide sufficient incentive for each party to commit the necessary time and effort. The reference to Shoreline Management Plans (6.30 and 6.33) and to other non-statutory coastal plans that cover wider geographic areas is pertinent and of direct relevance. It is particularly important to ensure that responsibility for such plans is correctly identified, which might be more effectively allocated to local authority staff at the county level, such as engineers and archaeologists rather than to planning departments within District or Unitary Authorities. The reality of expectations set out in 6.38 may therefore be difficult to achieve, as pointed out in 6.49</p>
7	<p><i>In Chapter 7, is the approach to decision making both during and after the adoption of Marine Plans clear?</i></p> <p>Yes, the approach described is clear. The attention to ‘relative’ and ‘material’ considerations was helpful and we consider it appropriate that full consideration is given to how our obligations under the Council of Europe European</p>

Convention on the Protection of the Archaeological Heritage (Revised) 1992 will best be served through the new marine planning system, mindful of other international obligations as highlighted in 7.31
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Additional Comments:

1. Figure 1 should expand the text box 'policy review & commissioning process' so that clarity is provided about how other agreed UK publications, such as the *High Level Marine Objectives* inform the Marine Policy Statement (as alluded to in 7.8).
2. We were pleased to see reference to UNESCO's *Marine Spatial Planning- A Step-by-Step Guide* as this guide does include matters related to cultural heritage as an integral component of delivering sustainable marine management.
3. We consider it important to address the separation of 'seascape' from the full description of 'landscape' contained in the Council of Europe European Landscape Convention definition. The marine historic environment extends continuously throughout the UK marine area and we are concerned that archaeological and historic seascape considerations could be discounted if not thought to be 'adjacent' to the coast. We therefore require clarification in terms of how 'adjacent' will be defined and how characterisation will be delivered for the territorial sea area and any wider marine area. We add that at the outer margins of the territorial sea it is not simply a case of 'out of sight, out of mind', as this approach could limit the effectiveness of a marine planning system the primary objective of which is to support delivery of sustainable use of the entire marine environment, in three dimensions as per the intention stated in 2.12. We are concerned that an emphasis on 'views' may direct attention only to the sea-surface when considering seascape and we must draw attention to the inclusion of submerged landscapes elements. It is important to emphasis that the ELC in its consideration of what comprises 'landscape' includes a combination of sensory and cognitive inputs beyond the purely visual. We are therefore keen to agree a delivery mechanism that addresses 'links' with culture, historic and archaeological aspects.
4. We noted in 2.6 that the MMO must have regard to '...any other type of plan prepared by a public or local authority in connection with the management or use of the sea, the coast, or marine or coastal resources...' as provided for in schedule 6 of Marine and Coastal Access Act 2009 and we hereby offer the following relevant references:
 - The European Landscape Convention: the English Heritage Action Plan for Implementation, Published by English Heritage, February 2009 (Product code: 51490); and
 - HM Government, 2010, The Government's statement on the Historic Environment of England, prepared by the Department for Culture, Media and Sport.
5. We appreciated the examples provided in chapter 6 as a means to illustrate an appropriate policy framework which is required to support site-specific licensing functions and the relationship with planning frameworks. We therefore see a

particularly important role for marine planning in providing a similar function to the former Regional Spatial Strategies and thereby provide important broad scale context for policy. In reference to the example of 'landscape designations' we must draw your attention to the English Heritage approach to characterisation.



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