ENGLISH HERITAGE

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

12th October 2010

Dear Sir/Madam,

Response to the consultation on the UK Marine Policy Statement

Thank you for your letter of 21st July 2010 inviting us to comment on the UK Government and Devolved Administrations' Marine Policy Statement. This response represents the collective view of English Heritage.

Summary of response

Our response reflects our support of the *High Level Marine Objectives* (2009), which provides 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.

We understand that the purpose of the Marine Policy Statement (MPS) is '…to set out existing UK and EU requirements in relation to these important issues for marine planning, while also recognising that each Administration has responsibility for policies and processes

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which may go further.' However, we do consider it relevant that the following international agreements, ratified by the UK, are referenced within the MPS:

- Council of Europe Convention of the Archaeological Heritage of Europe 1992; and
- Council of Europe European Landscape Convention 2000.

The attention given to the historic environment across the UK within the MPS was appropriate and highlighted an important matter regarding the provision of advice about the vast majority of features of marine historic environment interest that are not subject to heritage protection legislation. We ask that the UK Government (with the Devolved Administrations) should now direct attention to resolving how advice should be provided across the UK marine area beyond established national responsibilities.

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 resouce;
- 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

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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 – when expressed 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 that it should be accepted that the marine historic environment consists of more than designated wrecks. It includes 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 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*).

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

Yours faithfully,

Christopher Pater
Marine Planning Unit

Cc Duncan McCallum (Policy Director, English Heritage)
Humphrey Welfare (Territory Director, English Heritage)
Adrian Olivier (Strategy Director, English Heritage)
Ian Oxley (Head of Maritime Archaeology, English Heritage)
Pat Aird (Head of Planning and Regeneration, English Heritage)
Peter Just (Parliamentary Liaison, English Heritage)

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Annex 1 - Tabulated response

Questions	Comment
1	*Does chapter 1 clearly explain the purpose and scope of the MPS and how it interacts with existing and emerging planning systems?* Sufficient clarity is provided of the mechanisms that exist across the UK
2	*Does chapter 2 clearly state the vision and how it will be achieved? Are the high-level principles and environmental, social and economic considerations to be taken into account in marine planning clearly expressed?* The *High Level Marine Objectives* are critically important in setting out how effective marine planning requires an integrated approach. Consequently, a vision must be developed that addresses these matters and which should encompass delivery of international agreements such as the Council of Europe Convention of the Archaeological Heritage of Europe 1992 and the European Landscape Convention 2000. We also appreciate the importance of a precautionary approach, within an overall risk-based decision-making framework, and we are keen to ensure that sustainable development strategies, as adopted within the UK, take the necessary account of the historic environment. The preparation of the 'vision' will be furthered by recognising devolved policy across the UK whereby the process of satisfying the Strategic Environmental Assessment obligations within the preparation of marine plans (as mentioned in 2.4) will support delivery of other measures such as the European Landscape Convention. To help provide clarity, we noted in 2.9 (historic environment) the use of the

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	term: '…that holds particular significance' and we recommend that appropriate reference is made to the terms and definitions used in Planning Policy Statement 5 in particular a heritage asset is defined as a 'building, monument, site, place, area or landscape positively identified as having a degree of significance meriting consideration in planning decisions. Heritage assets are the valued components of the historic environment and include designated assets and assets identified by the local planning authority during the process of decision making or through the plan making process...' We offer the following amendment to footnote 41: 'Significance is the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, historic or artistic.' We also recommend further clarity in the first two paragraphs on page 35 to avoid an interpretation that only designated heritage assets are worthy of conservation. Designation identifies certain features as having a level of significance that justifies special (i.e. additional) protection measures. In footnote 42 it should state 'respective national heritage agency'. We support the statement made under 'issues for consideration' that the responsible bodies should 'take into account the historic character of the plan area, with particular attention paid to the landscapes and groupings of assets that give it a distinctive identity', with the accompanying footnote that 'landscapes' are defined as per the European Landscape Convention (ELC). We therefore offer our Historic Seascapes Characterisation methodology as a mechanism to support delivery. In the first paragraph on page 36 (line 9), the text here must be clear that substantial harm to or loss of a heritage asset is exceptional, and that substantial harm to or loss of assets of the highest significance should be wholly exceptional. A mitigation package should be agreed with the respective local and/or national heritage agency (e.g. English Heritage) and secured as a condition of any statutory consent prior to any loss or harm occurring. We therefore offer the following text amendment to line 9 'Unless it can be demonstrated that the substantial harm to or loss of significance is necessary in order to deliver substantial public benefits that outweigh that harm or loss.' The following sentence should also be added: 'The ability to record evidence of our past should not be a factor in deciding whether a proposal that would result in a heritage asset's destruction should be given consent.' In this regard we noted in 2.13 (Seascape) the adoption of an approach to seascape with particular regard to '…landscapes with views of the coast or seas,…' and we recommend that this approach is qualified (in reference to the definition of 'landscape' in the Council of Europe European Landscape Convention), so that the concept of landscape 'character' is not restricted to visual considerations. Through this action it will enable the MPS to deliver the obligations of the ELC, as relevant to 'landscape', within the UK.
3	*Does chapter 3 provide a clear statement of policy objectives for the marine*

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	environment? Are the key impacts, pressures and issues for consideration in marine planning appropriately identified? We noted in 3.2 (Defence and national security) that in the statement outlining the MoD's commitment to the protection of the natural environment, no mention was made (here or in any other part of the MPS) of sites designated under the Protection of Military Remains Act 1986. We also draw your attention to the UK Government's support of the Rules of the Annex to the UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001 as best practice for underwater cultural heritage. The UK is not a signatory to this Convention, but the principles set out in its Annex merit attention in the MPS with particular regard to how the UK manages its property. In section 3.4 (port development) we welcome the reference to port Master Plans and how such (voluntary) plans could support a programme of works to be agreed with a licensing authority. In this regard the acceptance of any such programme in accordance with the MPS should ensure appropriate consideration of the historic environment and demonstrate the application (within England) of *Conservation Principles*, published by English Heritage in 2008. We noted in 3.9 the reference to visual impact associated with aquaculture developments and we recommend that equal consideration is given to heritage assets and how their setting might be affected (as mentioned in 2.9). The section on 'tourism and recreation' (3.11) was very limited. Further to this we recommend that additional consideration should be given to education as a social factor whereby improving access could also increase educational opportunities (formal and informal) and should not be limited to those living in the immediate coastal area. It is therefore relevant to consider and to support the opportunities associated with endorsing initiatives that promote wider understanding and awareness. We encourage more attention to be directed at this section as it represents a major factor in shaping people's awareness of the sustainability issues which the MPS proposes to address. Through such action it is to be hoped that they are sufficiently informed to deliver effective public accountability within the marine planning system itself. Just as the MPS includes specific topics that are restricted to certain parts of the UK (e.g. marine aggregate extraction as relevant to England), reference should also be made to the coastal access provisions of the Act which are of particular relevance to this section of the MPS.

ASSESSMENT OF SUSTAINABILITY

4	*Do you agree with the findings of the AoS?* The section on 'landscape and seascape' made an important reference to determining the capacity of a landscape to accommodate change through consideration of factors other than visual intrusion within the immediate coastal margin.

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5	*Do you think there are any areas in the AoS which have not been reflected properly in the MPS?* We are concerned by the statement made in Table 6.6 that 'the examples presented in the MPS are sufficient'. We must add that there are no examples of drowned former landscapes provided in the MPS, or of landscape in ELC terms. We hope that this matter can be addressed in a way that balances any consideration of visual factors in the coastal margin with full delivery of ELC objectives as relevant to the three-dimensional nature of the marine environment.
6	*Do you have any comments on any aspect of the AoS not covered by the previous questions?* We wish to draw your attention to Table 5.1 (summary assessment of alternatives) where we noted specific reference to high-level UK and EU policy; while we support the former, as set out in the *High Level Marine Objectives,* we consider that the reference to the latter is too restricted in that it does not include other international obligations/commitments. It was noted that the broader consideration of other relevant international agreements was included within the MPS. In Table 6.2 (proposed mitigation and enhancement for population and human health) we noted the mention made of socio-economic decline in seaside towns and we direct you to the following relevant guidance, *Regeneration in Historic Coastal Towns*, published by English Heritage in 2007 (product code: 51387)

IMPACT ASSESSMENT

7	*Do you have any comments on the IA and does it fairly represent the draft MPS?* Yes – the IA does seem to address the purpose of the MPS. We also offer the observation that in terms of benefits to government (central, devolved, local, agencies), we encourage the UK Government to consider the practicalities of delivery of the UK-wide MPS and what this therefore means in terms of additional resource requirement on public bodies, such as English Heritage, to service the information requirements of marine planning over a greatly expanded spatial area (i.e. as relevant to England) so that the objective of delivering consistent and coherent management can be achieved.

Other comments:

1. We offer no comment on the Habitats Regulation Assessment

2. We offer no comment on the Equalities Impact Assessment (EqIA) screening exercise

3. We support the comment made in 1.2 (cross-border planning) regarding the UK Marine Monitoring and Assessment Strategy and how the historic environment is a relevant component of this UK wide strategy.

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4. In section 2.11 (coastal change) we noted reference to 'Coastal Change Management Areas' which are mentioned in Planning Policy Statement 25 (Development and Coastal Change). However, we are aware that considerable effort is made in the MPS to use agreed policies across the UK and to defer to home nation policies where relevant. We therefore must encourage you to clarify if such nation-specific terrestrial planning concepts (statutory and non-statutory) are now agreed and accepted at UK level for inclusion within the MPS.

5. We welcome in 6.12 the recognition of 'tangible and intangible cultural resources' among the list of potential impacts under 'Cumulative and Transboundary Effects'.

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