



Historic England

OWEIP Team
Department for Environment, Food and Rural Affairs

22nd March 2024

Dear Sir/Madam

Consultation on policies to inform updated guidance for Marine Protected Area (MPA) assessments

Thank you for the opportunity to comment on policies to inform updated guidance for Marine Protected Area (MPA) assessments, dated 09/02/24.

Historic England is the Government's advisor on all aspects of the historic environment in England. HE'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 include securing the preservation of monuments in, on, or under the seabed within the seaward limits of the UK Territorial Sea adjacent to England. Historic England also provides advice in relation to English marine plan areas (inshore and offshore) as defined by the Marine and Coastal Access Act (MCAA) 2009.

Historic England's principal activities relevant to MPAs include:

- Designation of heritage assets under the Protection of Wrecks Act 1973 and the Ancient Monuments and Archaeological Areas Act 1979.
- Managing these designated heritage assets, including consenting of activities restricted under heritage legislation.
- Advising public authorities on marine heritage assets and the historic environment, notably with respect to marine licensing, including environmental assessment and investigations required pre- and post-consent. Offshore wind is a major focus of our advice.



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- Compiling and maintaining heritage data including the National Heritage List for England¹ and the National Marine Heritage Record².
- Various other actions in support of our duties to conserve heritage assets, promote public enjoyment and increase knowledge, including commissioning marine archaeological research and encouraging activities associated with cultural and heritage sites.

With respect to the intended target of the guidance (p. 9), Historic England is a regulatory body responsible for decision-making in the marine area. Historic England is not a SNCB, but is one of the other public bodies whose functions are capable of affecting MCZs, SACs or SPAs, which the guidance is intended to assist. Consequently, we regard Historic England as a body that the guidance is intended to assist.

We note the list of bodies that Defra has engaged with in developing key terms and principles (p. 10): Historic England is not on this list and Defra appears not to have approached us on this matter. We do not appear to have been encompassed by the 'Opportunity to Comment' on the OWEIP in June-July 2022 (p. 5) although, as indicated above, we are heavily involved in advising on the environmental impacts of offshore wind.

We would be very grateful if Defra's OWEIP team could include Historic England within the scope of its engagement. In particular, we would welcome early dialogue on the following:

- Reforms to the environmental assessment process for offshore wind (p.29).
- Marine Recovery Fund (MRF) (pp. 5-6; 29).
- Offshore Wind Environmental Standards (OWES) (pp. 5-6; p.29).
- Strategic approach to environmental monitoring (pp. 5-6).

Much of the consultation document relates to MPA assessment and appears to be heavily focussed on marine flora, fauna and habitats. We appreciate that this reflects the conservation purposes of the principal forms of MPA. However, MCZs may include heritage assets among their protected features where protected features of geological or geomorphological interest also hold archaeological significance as prehistoric landsurfaces and deposits (e.g. Yarmouth to Cowes MCZ; Medway Estuary MCZ). Further, MPAs include heritage assets within their extents even where those heritage assets are not protected. Within Highly Protected Marine Areas (HPMAs), moreover, heritage assets are among the abiotic elements integral to the whole marine ecosystem that is the protected feature of HPMAs.

In previous correspondence with Defra, we have flagged that the designation of MCZs appears to have not considered the consequences of their designation for any sites of archaeological

¹ <https://historicengland.org.uk/listing/the-list/>

² <https://historicengland.org.uk/research/support-and-collaboration/heritage-information-access-simplified/national-marine-heritage-record/>



or historic interest, as provided by s. 117(7) and s. 117(8) of MCAA 2009. This omission is a major, potentially challengeable, flaw in MPAs and their assessment.

Some of the difficulties with the consultation document stem from it appearing to regard the marine environment as comprising only marine flora, fauna and habitats. The UK Marine Policy Statement, multiple statutory definitions, and the environmental assessment regulations applicable to onshore wind all make clear that the marine environment also includes the historic environment and its significant elements (referred to collectively as heritage assets). However, no reference is made in the consultation document to the historic environment or heritage assets, which makes it difficult to respond to the questions raised. Much of the content we would regard favourably, if it is understood to apply to the marine environment inclusive of the historic environment; however, if the marine environment is regarded as only flora, fauna and habitats, then we are bound to be more cautious.

Understandably, the consultation document focusses on development: especially large-scale development such as offshore wind. It is not clear how these policies to inform updated guidance on MPA assessment will apply to other marine activities, including both activities subject to marine licencing and non-licensable activities. Most archaeological and heritage activities, both licensable and non-licensable, are likely to present no significant risk to the protected features of MPAs: even where archaeological and heritage activities have discernible impacts, these impacts are very limited in extent and duration. Nonetheless, failures in evidence and method have led to ‘activities associated with cultural and heritage sites’ and ‘marine archaeological research’ to be categorised as ‘activities likely to hinder the conservation objective of an HPMA and should be avoided’ in High-level Conservation Advice for Public Authorities on Highly Protected Marine Areas published by Natural England and JNCC in November 2022. We continue to seek revision of the High-level Conservation Advice through positive engagement with Natural England and JNCC. In the light of this experience, however, Historic England is concerned that archaeological and heritage activities could become subject to policies informing MPA assessment that would be unduly onerous for the sector we champion.

Public access and engagement with the marine historic environment, and investigation and research into our human past, are desirable public benefits reflected in our statutory duties. Further, the protection and management of marine heritage is supported by our international commitments and by UK legislation and policy. This includes policies on the historic environment in the UK Marine Policy Statement to which public authorities must have regard in taking decisions capable of affecting the UK Marine Area. It is important that these obligations and policies with respect to marine heritage are supported, not impeded, by policies on MPA assessment.

We have noted in previous correspondence with Defra that there is significant potential for multiple positive interactions between the management of MPAs and the marine historic environment. We would welcome further dialogue with Defra on MPA assessment and OWEIP more widely to ensure that the public benefits provided by heritage assets, activities directed



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towards them, and by the wider historic environment are fully reflected in these important actions to accelerate offshore wind deployment.

Yours faithfully

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