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Submitted to Consultation on the Principles of Marine Net Gain
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Introduction

1 What is your name?

Name:
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2 What is your email address?

Email:
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3 What is your organisation?

Organisation:
Historic England

4 Are you responding to this consultation on behalf of an organisation or as an individual?

On behalf of an organisation

5 If responding on behalf of an organisation, please briefly describe the main business activity of your company/organisation

Business activity:
Government's advisor on the historic environment

6 Which region of the UK do you live?

Region:
England-wide

7 Which of the following best describes where you live? Please select one of the below

Not Answered

Summary and Background

Section 1: Defining marine net gain

Principle 1: Marine net gain will measure impacts on habitats and species

8 Do you agree that marine net gain should assess impacts on species as well as habitats?

Yes

Please explain your answer:

Whilst agreeing with the question, Historic England is of the view that Principle 1 should provide that marine net gain will address impacts on 'other environmental features' as well as habitats and species.

'Other environmental features' should encompass features of geological or geomorphological interest, consistent with the scope of legislation protecting the marine environment (including MCAA 2009; Fisheries Act 2020), and including Pleistocene and Holocene surfaces and deposits that are important for understanding human history during periods of lower sea-level.

Historic England is of the firm view that marine net gain should expressly assess heritage assets, which are a further feature of the environment recognised in marine environmental law and policy, including: statutory definitions of 'marine environment' in the Marine and Coastal Access Act 2009, the Fisheries Act 2020 and others; provision for cultural heritage in Environmental Outcomes Reports (Part 5 of the Levelling Up and Regeneration Bill); statutory policies on the historic environment in the UK Marine Policy Statement and Marine Plans; and the framework of goals, targets and indicators set out in the 25 Year Environment Plan (indicator G2).

Encompassing heritage within marine net gain in accordance with domestic provisions will also help ensure that the UK meets its obligations as a party to the European Convention on the Protection of the Archaeological Heritage (Revised), 1992.

Principle 2: Marine net gain will seek to incorporate environmental benefits underpinned by biodiversity

Principle 3: Marine net gain will take a 'nature first' approach whilst recognising wider environmental benefits

9 Do you agree that marine net gain interventions should be assessed with reference to environmental benefits that biodiversity enhancement can yield?

Yes

10 Please explain which extra environmental benefits and services should be included within marine net gain assessment

Environmental benefits and services to be included within marine net gain assessment:

Historic England would like to note that heritage assets – not just natural assets – can give rise to provisioning and regulating ecosystem services. Historic structures such as wrecks provide ecosystem services that are important for commercial fishing, sea angling, recreational diving, and nature conservation, for example. While these are widely recognised in practice, their value has been under-studied in UK contexts. Similar ecosystem services arise from historic structures such as piers, jetties and harbour walls that, in addition, play a vital role in enabling people to access ecosystem services from the marine environment. (NB see also the points made below about artificial reefs under Principle 4).

Heritage assets also give rise to cultural ecosystem services. However, the understanding of cultural ecosystem services is as yet poorly developed and warrants further examination in the context of the marine Natural Capital and Ecosystems Services programme, alongside the application of Cultural and Heritage Capital (<https://www.gov.uk/guidance/culture-and-heritage-capital-portal>) to coastal and marine environments.

Principle 3 can be 'nature first' whilst still addressing the historic environment. That is to say, making proper provision for the historic environment does not detract from biodiversity; and in many circumstances is likely to contribute to achieving biodiversity objectives. The heritage sector can draw upon over 25 years of existing practice in the sphere of marine development on integrating marine heritage alongside the natural environment within environmental assessment.

An Environmental Net Gain (ENG) approach to marine net gain should encompass the marine historic environment - as noted under Principle 1 - in order to maintain consistency with statutory and policy provision for the marine environment. Benefits and services arising from the marine historic environment - regulating, provisioning and cultural - should be recognised in the principles and implementation of marine net gain.

Principle 4: Marine net gain assessments will not include potentially positive incidental impacts whose benefits are subject to significant uncertainty

11 Do you agree with our proposal to discount potentially positive incidental effects, whose benefits are subject to significant uncertainty, from marine net gain assessments?

Yes

Please explain your answer:

Whilst Historic England accepts this proposal, we would like to address in more detail the recognition in Principle 4 that the understanding of artificial reef effects remains relatively immature. Historic England would like to underline the pressing need to examine the role played by wrecks and other historic structures as distinctive forms of artificial reef. This is a data gap that Defra could quickly address to improve the understanding of artificial reef effects.

Historic structures (ship and aircraft wrecks; constructions such as piers, harbour walls, jetties etc.) are numerous in the Marine Area around England: they are present in a wide range of environments in terms of depth, currents, exposure, substrate and so on; they are likely to demonstrate network effects as well as acting as individual features; there is strong temporal control in respect of their history of immersion, typically representing 80-100+ years of assimilation with the marine environment; and they already generate a range of established ecosystem services in terms of nature conservation, commercial fishing, sea angling, recreational diving and so on.

Historic structures also offer exclusionary effects as physical obstructions. Where they are designated under heritage legislation (as Protected Wrecks, Scheduled Monuments and/or Listed Buildings, for example), they provide further discouragement to activities that may damage the seabed in their vicinity, which can be beneficial to species and habitats (see <https://www.nature.scot/doc/naturescot-commissioned-report-760-north-cava-island-and-karlsruhe-horse-mussel-bed-assessment>).

Research to examine the effects of wrecks and other historic structures as forms of artificial reefs would enable rapid progress in advancing the understanding of artificial reefs more generally, including the longer term future of structures recently introduced to the marine environment.

Principle 5: Marine net gain requirements will be proportionate and appropriate to the scale and type of development

12 Do you agree that we should prioritise a contributions-style approach, whilst still exploring a metric-style approach? Please specify and explain your answer

Prioritising a contributions-style approach, whilst still exploring a metric-style approach:

Historic England is confident that a contributions-style approach - through levies on marine development - could be successful in delivering net gain for marine heritage. We have previous experience of the effectiveness of a levy-based approach, namely the Aggregate Levy Sustainability Fund (ALSF), which increased sustainability with respect to the marine historic environment. The ALSF had a very significant impact with respect to the historic environment on core understanding, on capability, and on engagement with the public: not only with respect to aggregate extraction, but also more broadly across

different forms of marine development.

Experience from the ALSF suggests that third parties could create and sell marine net gain units that encompass net gain for the marine historic environment alongside species, habitats and other environmental features.

Historic England was directly involved as a distributing body in delivering greater sustainability for the marine environment through ALSF projects and programmes carried out by a wide range of third parties. We would be happy to share our experience where this might be relevant to implementing marine net gain.

13 Are there other approaches to measuring impacts that we should explore? Please specify and explain your answer

Other approaches to measuring impacts:

There is extensive experience in the heritage sector of measuring impacts on marine heritage through environmental assessment at both strategic and project-based levels, encompassing mitigation and monitoring as well as assessment relative to baselines. Building on this experience to support marine net gain should be relatively straightforward.

Socio-economic approaches to measuring change to heritage has been collected and analysed by the heritage sector over a number of years, and then published annually in Heritage Counts: see <https://historicengland.org.uk/research/heritage-counts/>.

Mechanisms to measuring impacts - and the benefits of interventions - are also being developed as part of the Culture and Heritage Capital initiative by DCMS: <https://www.gov.uk/guidance/culture-and-heritage-capital-portal>.

Section 2: Scope of marine net gain

Principle 6: Marine net gain will be a mandatory requirement. It will apply to all marine development, subject to any minimal thresholds and other exemptions

14 Do you agree that marine net gain should be a mandatory requirement for new development activities within the marine environment?

Yes

If you answered yes, do you agree with the list of consenting and licensing regimes that marine net gain requirements should be introduced within? Are there any others we should consider? :

Historic England agrees that marine net gain should apply comprehensively to marine development, including the three principal consenting mechanisms set out for strategic infrastructure, marine licencing, and oil and gas infrastructure.

Whilst Historic England agrees that only one net gain mechanism - either biological net gain or marine net gain - should apply to a development, we think that the boundary between them should be the landward limit of marine planning - i.e. high water and the tidal limit of estuaries - rather than low water as currently proposed. In every sense, we think there is greater commonality between sub-tidal and intertidal environments than there is between intertidal and dry land environments. We accept that there may be good reason to vary this for specific developments - where, for example, intertidal elements are being delivered through consents under the Town and Country Planning Acts. However, encompassing and integrating intertidal and estuarine environments within the scope of marine net gain ought to be the general expectation.

15 Are there activities and/or sectors that are regulated by these regimes which should not be covered by net gain requirements?

Yes

If yes, please explain your answer, including any relevant de minimis thresholds for each activity or regime :

Historic England would like to draw attention to archaeological activities that are in some cases subject to marine licensing but which are not 'development' and are not commercial in character. Archaeological activities subject to marine licence are intended to contribute positively to the (historic) marine environment and are often carried out by volunteer groups on their own time and expenses.

We would expect heritage activities such as marine archaeological investigations to be excluded from net gain requirements, even where those activities are subject to a marine licence.

Please note that commercial projects directed at wreck sites - to recover cargoes etc. for commercial sale or disposal - are fundamentally different in character to archaeological activities. Such commercial projects, which generally require a marine licence, should be subject to net gain requirements like any other form of licensed commercial development. The impact of commercial projects directed at wrecks - which may be deleterious to their characteristics as artificial reefs and/or increase the risk of releasing hazardous substances - warrants their inclusion alongside other activities for which marine net gain should be mandatory.

Section 3: Defining interventions

Principle 7: Marine net gain will incentivise both active interventions and appropriate pressure reduction measures

16 Which types of pressure reduction measures can be delivered by industry through marine net gain?

Please give examples where possible :

Principle 7 seeks to incentivise active interventions and pressure reduction interventions. Historic England strongly recommends that this principle also encompasses culture-based solutions, or at least nature-based solutions that pay attention to human dimensions of behaviour and their cultural and historical facets. Encompassing culture/heritage within interventions is likely to increase their effectiveness with respect to biodiversity.

17 Are there any other types of intervention that should be encouraged, including innovative emerging techniques?

Tell us about any other types of interventions:

Please see answers to Questions 18-22.

Section 4: Taking a strategic approach

Principle 8: Marine net gain will incentivise the delivery of strategic interventions in addition to meaningful site-based interventions

18 Do you agree with the principle of taking both a site-level and a strategic approach to marine net gain as set out above?

Yes

Please explain your answer:

As noted below, both site-level and strategic interventions have a role in addressing the impacts of development on marine heritage, so Historic England agrees with this principle. Heritage has been addressed comprehensively in environmental assessment and consenting processes in the marine environment for over 25 years, encompassing a wide range of scale and complexity. Both strategic and site level approaches to addressing impact have been applied successfully in close collaboration with developers, who generally appreciate the value of 'building in' consideration of marine heritage. Historic England is directly involved in the delivery of such mechanisms day-to-day. Consequently, there is extensive experience in the heritage sector and among developers on which the implementation of marine net gain for the historic environment can draw.

19 What types of site-based interventions should be incentivised through marine net gain?

Incentivising site-based interventions through marine net gain:

Site-based approaches to net gain for the historic environment would need to acknowledge that heritage assets, as receptors, do not regenerate. They are non-renewable: loss to the physical fabric of a marine heritage asset as a result of marine development is permanent. However, there is already extensive experience of offsetting or compensating for physical damage to marine heritage assets where such impacts cannot be avoided. Site-based net gain can be achieved by translating physical loss into enhanced significance, by - for example - recording and protecting material removed from the site; increasing understanding of impacted assets through analysis and research; and increasing public awareness of and engagement with the site's human history. The application of marine net gain to the historic environment would have relatively quick, tangible, and publicly-visible outcomes.

Site-based approaches that address habitats, species and heritage interests in combination could be mutually beneficial, such as: protecting seabed around shipwrecks; protecting features and exposures of geoarchaeological interest; encouraging maintenance of historic coastal structures rather than replacing them with new carbon-heavy structures; modelling modern structures on historic structures; and supporting public engagement and active participation through volunteering.

We note that all interventions – including those directed at species and habitats – will need to be consistent with policies in the UK Marine Policy Statement and Marine Plans, including policies on the historic environment, and be consented accordingly.

20 What types of strategic interventions could be incentivised through marine net gain?

Incentivising strategic interventions through marine net gain:

Principle 8 on strategic and site-based interventions recalls our earlier point about the ALSF where we noted that strategic approaches akin to net gain have previously proved highly effective in increasing the sustainability of development with respect to the marine historic environment.

More recently, the aggregate sector has taken a strategic approach to addressing the issues raised by the presence of internationally significant prehistoric material in and around specific licence areas. Site based approaches to individual licence areas are considered to present an insufficient understanding of the likely distribution of prehistoric material potentially affected by dredging; and also limit opportunities for learning between individual licences in a way that enables monitoring and mitigation to be tailored in response to new data. A strategic approach has been highly effective in enabling continued dredging in the East Coast region; a regional approach is now being developed for the East Channel region.

21 Should accessing strategic interventions be conditional in some cases?

Yes

If yes, which site-based features should be considered priorities ('prescribed features') ahead of strategic interventions? Please explain your answer :

Heritage assets are often unique in themselves and have a unique relationship to their location or context. Their relationship to a specific place may be a major component of their significance, which may not be capable of being adequately addressed by marine net gain sought through a strategic

intervention elsewhere. In some case, net gain in respect of the impact of marine development on a significant shipwreck or submerged prehistoric site, for example, could only be achieved by directing interventions towards the asset itself, not towards a strategic proxy. Significance-based decisions do not, however, lend themselves to generalisation (e.g. for a class of prescribed features); they usually have to be made case-by-case.

22 Do you agree that marine net gain interventions should not initially be restricted to the 'locality' of the main development?

Yes

Please explain your answer:

As noted above, heritage assets generally have a strong relationship to place, so it is likely that most interventions will be addressed to the locality of the development. However, there might be circumstances where net gain is more effectively achieved by non-local interventions. For example, net gain for a heritage asset that is being impacted - the wreck of a particular type of vessel - might be more effectively achieved by intervening on a similar heritage asset - e.g. a wreck of the same type - located elsewhere, if the asset elsewhere is in better baseline condition than the asset in the locality of the development.

Section 5: Marine Net Gain and additionality in Marine Protected Areas

Principle 9: Marine Net Gain will allow for improvements to designated and non-designated features of Marine Protected Areas to qualify as net gain interventions

23 Do you agree that the enhancement of designated features within statutory MPAs should be allowed in the marine environment as defined above?

Yes

Please provide evidence to support your view :

Principle 9 on additionality in Marine Protected Areas is welcome. Despite the scope for positive interactions, heritage assets and the historic environment more broadly are not recognised in MPA identification, management or evaluation. Insofar as MPAs provide little to no express benefit for heritage assets, marine net gain directed at the historic environment in MPAs would satisfy the principle of additionality by providing benefits that would not otherwise occur.

Glossary and Definitions

About this Consultation

24 Would you like your response to this consultation to be confidential?

No

25 If you answered yes, please give your reason. You may also specify particular parts of your response that you would like to keep confidential.

Reason:

Consultee feedback on the online survey

26 Overall, how satisfied are you with our online consultation tool?

Satisfied

27 Please give us any comments you have on the tool, including suggestions on how we could improve it.

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