



Historic England

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24<sup>th</sup> April 2015

Dear Sir/Madam,

**Marine Conservation Zones – Consultation on Sites Proposed for Designation in the Second Tranche of Marine Conservation Zones (dated January 2015)**

Thank you for your invitation, received 30<sup>th</sup> January 2015, to comment on the second tranche of sites proposed for designation as Marine Conservation Zones within the English area of the UK Territorial Sea or adjacent UK Marine Area.

In the first instance, it is important we explain that on 1<sup>st</sup> April 2015, Historic England was vested (retaining the formal title of the Historic Buildings and Monuments Commission for England) and is now the government service championing England's heritage and giving expert, constructive advice. The English Heritage Trust (also established on 1<sup>st</sup> April 2015) is now a charity caring for the National Heritage Collection of more than 400 historic properties and their collections. All further requests for advice, as relevant to the proposed programme of Marine Conservation Zone designation, are to be directed to Historic England.

Historic England, as an Executive Non-departmental Public Body sponsored by the Department for Culture, Media and Sport (DCMS), has its general powers set out under section 33 of the National Heritage Act 1983, as amended by the National Heritage Act 2002, to include the preservation of monuments in, on, or under the seabed, within the seaward limits of the UK Territorial Sea (to 12 nautical miles offshore) adjacent to England and to promote the public's enjoyment of, and advance their knowledge of monuments and historic buildings.



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We appreciate that the focus for attention is on a second tranche of 23 Marine Conservation Zones (MCZs), which are proposed for designations and to add new features for conservation to 10 of the first tranche (designated) MCZs. We therefore offer the following response to the questions included within Appendix J (Consultation Questions) of the above referenced consultation document.

1. Do you agree that this site and specified features should be designated? Please explain and provide evidence to support your views as necessary.

*We have no comment to offer for any of the proposed MCZs in regard to how they were selected for nature conservation interests associated with marine flora, fauna, marine (natural) habitats or other geological and geomorphological criteria.*

2. Are there any additional features not currently proposed for designation located within this site that should be protected? Please explain and provide evidence to support your views and proposal.

*We have no comment or advice to offer regarding "additional features" as relevant to any criteria employed to identify marine flora, fauna, marine (natural) habitats or geological and geomorphological features as might merit protection within a MCZ.*

3. Should any changes be made to the boundary of the site? If so what changes would you propose? Please explain and provide evidence to support your views and proposal.

*We have no comment or advice to offer regarding any amendment to proposed MCZ boundaries as necessary to support the protection of any features for which a MCZ might be designated.*

4. Is there any additional evidence to improve scientific data certainty for features within this site? If yes, please provide evidence together with the data submission form.

*We have no response to offer regarding this question.*

5. Are there any additional activities (that may have an impact on the recommended features) occurring within this site that have not been captured within the Impact Assessment and site summary documents? Please provide evidence to support your views.

*It is important to state that in the delivery of our duties we work in partnership with central government departments, local authorities, voluntary 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. It therefore a directly relevant matter that when designating MCZs, the designating authority takes account of economic and social consequences of doing so (as provided through section 117(7) of the Marine and Coastal Access Act 2009), and that "social consequences" are considered inclusive of the historic environment. We therefore note that "archaeological heritage" was considered within Part G Impact Assessment (conclusion: "no cost"), but this conclusion seems to focus on economic aspects rather than social consequences of designation e.g. how management measures required to support MCZ conservation aims might affect academic research activities directed at heritage assets<sup>1</sup>.*

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<sup>1</sup> For a description of what the term Heritage Assets include see UK Marine Policy Statement (2.6.6.4 and 2.6.6.5)



6. Do you have any new information on costs to industry not covered in the Impact Assessment that would be directly attributable to these MCZs, as opposed to costs stemming from existing regulatory requirements? If yes, please provide evidence.  
*We have no response to offer regarding this question.*
7. Do you have any new information on the quantified benefits of designation? If yes, please provide evidence.  
*We have no response to offer regarding this question.*
8. Do you agree that the additional feature or features should be added to the existing MCZs? Please explain and provide evidence to support your views as necessary.  
*We have no comment or advice to offer regarding any additional feature(s) to be added to the existing and designated MCZs regarding the criteria employed to identify marine flora, fauna, marine (natural) habitats or geological and geomorphological features as might merit protection within a MCZ.*
9. Do you have any new information on costs to industry of these additional features not covered in the Impact Assessment? Please note that relevant costs are only those directly attributable to adding these features to the MCZs, as opposed to costs stemming from existing regulatory requirements or stemming from the existence of the MCZs with their current features. If yes, please provide evidence.  
*We have no response to offer regarding this question.*
10. You may wish to provide comments on any other aspects the MCZs proposed. Where you disagree with the proposed approach, please provide evidence where possible to support your views.  
*We noted in the Dover to Deal rMCZ and The Needles rMCZ Site Summaries that within "Sectors or activities likely affected by designation" included "archaeological heritage" with specific reference to "future investigation of site"; and that the "Best Cost Estimate (£) per year" was "unquantified". We must therefore encourage you to give full and detailed consideration to how the social consequences of designation of these rMCZs are reconciled with how activities directed at "archaeological heritage" (e.g. the Dover to Deal rMCZ includes the Langdon Bay historic shipwreck site designated under the Protection of Wrecks Act 1973), might be affected by subsequent management measures used to support delivery of the conservation aim(s) for either this rMCZ or the designated historic shipwreck sites within The Needles rMCZ..*

*We also noticed that other seabed historic sites were identified in both these rMCZs and other rMCZs (e.g. Utopia; Swale Estuary; and Mount's Bay), which might have status as UK sovereign vessels (i.e. Royal Navy), or perhaps not subject to any specific protection measures. We must also challenge the statement made regarding "...increase in the cost for carrying out EIA for future licence applications within this site." As far as we are aware there is no extant regulatory requirement for Environmental Impact Assessment (EIA) to be conducted in support of any licence application made under the Protection of Wrecks Act 1973 or for archaeological projects directed at non-heritage designated sites. We must therefore use this response to encourage Defra and Natural England to explain to us any*



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*requirement to conduct sensitivity exercises as necessary to support licensed activities directed at designated historic shipwreck sites for which we provide advice.*

*In the Site Summary documents reference was made to the English Heritage National Heritage Protection Plan (e.g. Hartland Point to Tintagel rMCZ) and we must explain that the National Heritage Protection Plan, which concluded in March 2015, supported a multitude of projects directed across the historic environment at land and sea. It is therefore relevant to highlight to the MCZ programme board that a principle factor informing archaeological activities are published research strategies which identify thematic areas of interest (e.g. prehistoric archaeology) and that projects supported by us, or others, might focus on sites within or outside designated rMCZs.*

*It therefore seems apparent from the information presented within the Tranche 2 MCZ consultation documents that a crucial matter is for Defra and Natural England to consider how targeted archaeological activities might affect conservation features, such as “subtidal sand” (e.g. Hartland Point to Tintagel rMCZ) and the associated general management approach of “maintain at favourable condition”. We must therefore take issue with the statement made within the Hartland Point to Tintagel rMCZ that “Following designation, these will need to consider the effect of the activity on the features designated at this site.” A Statement which seems to be counter to the Marine and Coastal Access Act 2009 where it states that when designating a MCZ the designating authority (i.e. Secretary of State, Defra) may have regard to economic and social consequences and how the term “social” includes “any sites in that area (including any sites comprising, or comprising the remains of, any vessel, aircraft or marine installation) which are of historic or archaeological interest.”*

*In conclusion, while we acknowledge responsibilities under S. 125 (and S. 126) of Marine and Coastal Access Act 2009 which sets out “duties of public authorities” whereby relevant public bodies must exercise their functions in a manner that best furthers the conservation objectives of a (designated) MCZ or least hinders the achievement of those objectives. We consider it to be of crucial and equal importance that Defra and their advisors consider how designation might affect other activities conducted in the public interest (i.e. the social consequences), and thereby acknowledge how a body such as Historic England proactively promotes the public’s enjoyment of, and knowledge about, the historic environment on land or at sea.*

Yours faithfully,



Christopher Pater  
Head of Marine Planning  
Historic England



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