

**Department for Environment, Food and Rural Affairs**

## **Marine Conservation Zones: Consultation on proposals for designation in 2013**

### **Annex H – Consultation response form and data submission form**

#### **Consultee Information**

Please provide the contact details as stated below, in order that we can acknowledge that we have received your response, and inform you once the Government response to the consultation is published.

Name: M.V.Williams

Organisation: Nautical Archaeology Society

Email address:

When providing evidence/data as part of a response to a question please note that:

- When providing environmental or socio-economic evidence/data as part of your consultation response, please complete the Data Submission Form at the end of this document
- Evidence provided as part of consultation responses should meet Defra's definition of Evidence as defined by Defra's Evidence Investment Strategy<sup>1</sup> and be 'reliable and accurate information that Defra can use to support decisions in developing implementing and evaluating policy'. Therefore it is important that all evidence provided should be able to be independently scrutinised and verified.
- As part of the consultation process please consider the questions below. When responding to a site-specific question please state clearly which site(s) you are referring to.
- Although we are only specifically requesting information and responses in respect of those MCZs proposed for designation in 2013, we would welcome your responses to Q2-8 in respect of all other sites recommended by the

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<sup>1</sup> <http://www.defra.gov.uk/publications/2011/04/27/pb13471-evidence-investment-strategy/>

Regional MCZ Projects. Any responses or information provided will assist us in decisions and on future MCZ designations which will be subject to full public consultation.

## **For sites and features proposed in the 2013 tranche**

Q1. Do you agree that this site and specified features should be designated in the first tranche? Please explain and provide evidence to support your views as necessary.

A 1.

Site Name: All proposed sites in UK waters adjacent to England

The Society has no specific comments to make on designated features, since it lacks the expertise to do so. However, the Society wishes to place on record its support for the principle of a healthy, sustainable biologically diverse marine environment. The Society's reservations, set out below, centre upon the robustness of the process of MCZ designation to date, the adequacy of the Impact Assessment in relation to underwater cultural heritage and what it believes is the failure to abide by the principles of balancing the desirability of maintaining a balance between the demands of managing the natural and the historic marine environment, as enunciated in S.117(7) & (8) of the 2009 Act.

Q.2 Are there any additional features (not recommended by the Regional MCZ Projects) located within this site that should be protected? Please explain and provide evidence to support your views as necessary.

A.2

Site Name: All proposed sites in UK waters adjacent to England

It must be recognised that the proposed sites will contain many elements of the historic environment, as defined in section 2.6.6 of the UK Marine Policy Statement. The historic environment includes all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged.

It is important to recognise that these heritage assets (as defined in section 2.6.6 of the UK Marine Policy Statement) represent a unique aspect of our cultural heritage. In addition to its cultural value, paragraph 2.6.6.2 of the UK Marine Policy Statement notes that heritage assets are of social, economic and environmental value. When designating Marine Conservation Zones, Defra may have regard to the economic or social consequences of doing so, inclusive of the historic environment, so it is important to precisely define what kind of activities might be considered to adversely affect the condition of an MCZ interest feature, and whether access to, and investigation of, heritage assets are included in this definition.

Q.3 Do you have any comments on the proposed conservation objective(s)? Please provide evidence to support your comments as necessary.

A.3

Site Name: All proposed sites in UK waters adjacent to England

It must be recognised that the proposed sites will contain many elements of the historic environment, as defined in section 2.6.6 of the UK Marine Policy Statement. The historic environment includes all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged.

It is important to recognise that these heritage assets (as defined in section 2.6.6 of the UK Marine Policy Statement) represent a unique aspect of our cultural heritage.

In addition to its cultural value, paragraph 2.6.6.2 of the UK Marine Policy Statement notes that heritage assets are of social, economic and environmental value.

When designating Marine Conservation Zones, the Secretary of State may have regard to the economic or social consequences of doing so, inclusive of the historic environment, so it is important to precisely define what kind of activities might be considered to adversely affect the condition of an MCZ interest feature, and whether access to, and investigation of, heritage assets are included in this definition. In this context it is essential to note that the historic environment has a positive and significant relationship to sense of place. Paragraph 2.6.6.3 of the UK Marine Policy Statement importantly notes that the view shared by the UK Administrations is that heritage assets should be enjoyed for the quality of life they bring to this and future generations. It has been proven that:

- Adults who live in areas of higher concentrations of historic environment are likely to have a stronger sense of place.
- Adults who are more interested in the historic environment are more likely to have a stronger sense of place.
- Adults and young people who cite a local building or monument as special are likely to have a stronger sense of place.
- There is a positive and significant link between the historic environment and social capital.
- Both adults and young people who have recently visited a historic property are likely to have higher levels of social capital.
- Both adults and young people who cite a local building or monument as special have higher levels of social capital.

(Heritage Counts 2009 - A Sense of Place <http://www.heritagecounts.org.uk>)

Moreover the benefits of the historic environment are not merely social. The historic environment can bring very real economic benefits to communities. Research conducted in 2010 found that:

- £1 of investment in the historic environment generates £1.6 of additional economic activity over a ten year period.
- Investment in the historic environment attracts businesses, one in four businesses' agree that the historic environment is an important factor in deciding where to locate, the same as for road access.
- Investing in the historic environment brings more visitors to local areas and encourages them to spend more, approximately one in five visitors to areas which

have had historic environment investment spend more in the local area than before, and one in four businesses has seen the number of customers increase.

- Historic environment attractions generates local wealth. Half of all jobs created by historic environment attractions are in local businesses

(Heritage Counts 2010 - The Economic Impact of the Historic Environment <http://www.heritagecounts.org.uk>) and underwater cultural heritage assets.

While the above research was conducted in the terrestrial context, these factors apply equally to the maritime historic context. This is amply demonstrated by the number of recreational diving businesses (dive shops, accommodation and dive charter vessels) operating in areas such as e.g. Plymouth Sound, Poole, Weymouth, all of which cater for recreational divers visiting historic wrecks from the 18<sup>th</sup> to 20<sup>th</sup> Centuries. Such recreational maritime historic tourism is a significant local economic driver but it is predicated upon prior investigation of and published information about such wrecks.

Clearly the social and economic benefits conferred by the historic environment are considerable. Any adverse impact resulting from the designation of MCZ's must therefore be carefully weighed in the balance when considering the cost / benefit analysis of such designations. As noted above this has been expressly recognised by the legislature, since under s.117(7) & (8), in considering whether it is desirable to designate an area as an MCZ, the Secretary of State may have regard to any economic or social consequences of doing so and under s.117(8) the reference in subsection (7) to any social consequences of designating an area as an MCZ includes a reference to any consequences of doing so for 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 terms of what actually constitutes the historic environment it should also be noted that some heritage assets have a level of interest that justifies statutory designation, the purpose of which is to ensure that they are protected and conserved for the benefit of this and future generations. In coastal/intertidal zones and inshore/offshore waters designated heritage assets may include scheduled monuments (designated under the Ancient Monuments and Archaeological Areas Act 1979), protected wreck sites (designated under the Protection of Wrecks Act 1973) and Protected Places or Controlled Sites designated under the Protection of Military Remains Act 1986.

It should also be recognised that even those heritage assets which are not scheduled or designated will, nevertheless, be of some historic value, since scheduling or designation are reserved for only those assets of the highest significance, where there are no other appropriate management regimes. The absence of statutory protection therefore does not indicate an absence of cultural heritage value, and consequently social and economic value.

Q.4 Are there any significant reasons for alteration of this site's boundary? Please explain and provide evidence to support your views as necessary.

A.4

Site Name: All proposed sites in UK waters adjacent to England

Heritage assets designated under the Protection of Wrecks Act 1973 or the Ancient Monuments & Archaeological Areas Act 1979 and military remains designated under the Protection of Military Remains Act 1986 may comprise spatial management measures that may overlap with proposed MCZs.

Heritage assets are a finite and often irreplaceable resource and can be vulnerable to a wide range of human activities and natural processes. They are also often unique, so other examples will not exist elsewhere in the UK Marine Area and possibly not within the world. Paragraph 2.6.6.3 of the UK Marine Policy Statement notes that opportunities should be taken to contribute to our knowledge and understanding of our past by capturing evidence from the historic environment and making this publicly available, particularly if a heritage asset is at risk of being lost.

In some cases, when considering a MCZ for designation attention should be given to how the boundary of the designated area may need to be reviewed and altered to ensure that, where it is deemed culturally appropriate, opportunities to capture information from heritage assets is not compromised.

Q.5 Is there any additional evidence to improve data certainty for features within this site? If yes please provide evidence.

A. 5

Site Name: All proposed sites in UK waters adjacent to England

The known heritage sites are listed in the UK Hydrographic Office (UKHO) database which contains spatial data that is easily processed in a GIS. Additional potential data could be obtained from the UKHO AML database, looking at the database of Large Bottom Objects (>5m) and Small Bottom Objects (<5m):

(<http://www.ukho.gov.uk/Defence/AML/Pages/Home.aspx>). The National

Monuments Record (NMR) ([http://www.english-](http://www.english-heritage.org.uk/professional/archives-and-collections/nmr/)

[heritage.org.uk/professional/archives-and-collections/nmr/](http://www.english-heritage.org.uk/professional/archives-and-collections/nmr/)) is another extensive

source. The NMR also includes the contents of Richard Larn's extremely comprehensive wreck database, which has an immense quantity of reported wrecks with approximate positions. This should show the potential for an area. A typical record is like this one: [http://www.pastscape.org.uk/hob.aspx?hob\\_id=919773](http://www.pastscape.org.uk/hob.aspx?hob_id=919773)

Spatial data on designated heritage assets in waters adjacent to England is also available from:

<http://services.english-heritage.org.uk/NMRDataDownload/>

The national programme of Rapid Coastal Zone Assessment Surveys (RCZAS) by English Heritage can also provide further data (<http://www.english-heritage.org.uk/professional/advice/advice-by-topic/marine-planning/shoreline-management-plans/rapid-coastal-zone-assessments/>). Finally some work has been done in predicting where submerged archaeology feature may be located. For example see

[http://archaeologydataservice.ac.uk/archives/view/navigation\\_eh\\_2007/](http://archaeologydataservice.ac.uk/archives/view/navigation_eh_2007/).

It is abundantly clear that Historic Environment Records (HER) data held at both a national and local level, provide a large data set of qualified information regarding known sites and give an indication of archaeological potential. In short the data that the regional groups and DEFRA need to deliver a more quantifiable cost / benefit analysis of the adverse consequences posed by the designation of MCZ's is readily available and owned by government institutions. The Minister, in the Foreword to the Consultation Document of December 2012, stated that "A key aspect in formulating our plans has been the quality of the evidence base. ". There is no clear evidence whatsoever that the Regional MCZ Project groups have sought to access these data sets, notwithstanding that they are held within the public domain. In para. 3.3.10 of the Consultation Document it is stated that it has not been possible to quantify costs for the archaeological sector "because the necessary information to do so was not

available". As noted above there are in fact extensive data sets available and publicly accessible. It is conceded that these data sets will not give a precise location to within a few metres, but given the geographical scale of the MCZ's proposed such precision is not required. These data sets will give sufficient geographical accuracy for an impact assessment to be made of adverse restrictions being placed upon access, including intrusive access, to these cultural heritage assets. This apparent failure by the Regional MCZ Project groups to consult such evidentiary resources is considered a significant and fundamental, and extremely serious flaw in the process which requires addressing as a matter of urgency before further consideration can be given to the designation of any MCZ's.

Additionally, although the Impact Assessment of 13/12/2012 gives an indication of the extent of the evidence of archaeological features in rMCZ's (para. 3.2.20) the values expressed therein appear rather low. The resource around the coast of the UK has international significance because of its volume (more wrecks per mile of coastline than any other nation) and breadth and in terms of date and diversity. Many of the sites around the coast have significance for other nations, e.g. Dutch East Indiamen, German U-boats & aircraft, French merchant ships etc. Sites are often unique, they do not reproduce and they cannot be moved without the considerable expense of excavation, They do require monitoring and occasionally intervention. While it is accepted that exact quantification cannot be achieved, due to a lack of knowledge as to exactly what work will be required and / or permission applied for, there is little or no evidence that the MCZ process has convincingly attempted to address the quantity or volume of the archaeological resource from available data sets, nor that it has addressed the extremely serious consequences to and impacts on the effective management of the maritime historic environment of denying existing levels of access to underwater heritage assets in an MCZ. This raises the unfortunate spectre of a policy conflict arising between MCZ objectives and the heritage objectives of the UK Marine Policy. This potential conflict needs to be mitigated by further and adequate consideration being given to this matter by DEFRA prior to designation of rMCZ's.

Q.6 Are there any additional activities (that may impact the recommended features) occurring within this site that have not been captured within the Impact Assessment? Please provide evidence to support your views.

A.6

Site Name: All proposed sites in UK waters adjacent to England

It must be recognised that paragraph 2.6.6.3 of the UK Marine Policy Statement notes the 'view shared by the UK Administrations is that heritage assets should be enjoyed for the quality of life they bring to this and future generations, and that they should be conserved in a manner appropriate and proportionate to their significance. Opportunities should be taken to contribute to our knowledge and understanding of our past by capturing evidence from the historic environment and making this publicly available, particularly if a heritage asset is to be lost, due either to human intervention or natural forces'.

You are referred to the evidence set out in the comments in A.3 above. The Impact Assessment has not adequately taken account of the effect (economic and social) of MCZ designation on archaeological projects and activities nor addressed the full impacts of designation on heritage assets particularly where recommended MCZs conservation objectives might stop historic environment research, education and public enjoyment.

Q.7 Do you have any new information on costs to industry not covered in the Impact Assessment, that would be directly attributable to MCZs as opposed to costs stemming from existing regulatory requirements, or evidence that suggests the need for changes to the methodologies or assumptions used in estimating costs (including in relation to fishing displacement)? If yes please provide evidence.

A.7

Site Name: All proposed sites in UK waters adjacent to England

Written proposals in the Impact Assessment with respect to rMCZs state that 'it is anticipated that archaeological surface recovery of artefacts and full site excavations will be prohibited.'

Not only does this proposal conflict with the view shared by the UK Administrations set out in A.6 above, but there will also be non-monetary negative costs to society if archaeological material evidence is lost because intervention is prohibited.

Furthermore it is difficult to reconcile this Impact Assessment with the duty to take account of the socio-economic balance to be achieved between the objectives of the MCZ's and heritage management. The Impact Assessment (paras. 3.2.20 - 3.2.28) demonstrates quite conclusively a complete misunderstanding of heritage management. The aim of heritage management is to manage the resource and protect sites where needed and / or possible. Prevention of access to sites or areas means that risks and / or changes cannot be monitored and prevention of physical intervention work means that sites cannot be physically protected if required. The cost is not the expense of going elsewhere but the loss to society of archaeological resource that will occur if these activities are prevented.

It should be emphasized that archaeological sites are a delicate, often unique and a non renewable resource. This resource around the coast of the UK has international significance because of its volume (more wrecks per mile of coastline than any other nation) and breadth and in terms of date and diversity. Many of the sites around the coast have significance for other nations, e.g. Dutch East Indiamen, German U Boats and aircraft and French merchant ships for example. Sites are often unique, they do not reproduce and they cannot be moved without the considerable expense of excavation, They do require monitoring and occasionally intervention. All of the Protected Wrecks and Scheduled Ancient Monuments on the seabed around the coast of the UK occupy no less than 3 km(sq) of seabed, each Protected Wreck occupies an average of an average of 2.3% km(sq) of seabed. This of course does not include sites that are not protected, by far the majority of sites and those sites that are not yet discovered. But it does show that the area of seabed that archaeology covers is very small and activities conducted in these areas can only have a very limited impact in much larger coastal cells potentially covered by rMCZ's.

Q.8 Do you have any new information that was not available or used in the Impact Assessment to inform or quantify the value the benefits of MCZs?

A.8

Site Name: All proposed sites in UK waters adjacent to England

Paragraph 2.6.6.2 of the UK Marine Policy Statement notes that the historic environment of coastal and offshore zones represents a unique aspect of our cultural heritage. In addition to its cultural value, it is an asset of social, economic and environmental value. As noted above in A.3 it can be a powerful driver for economic growth, attracting investment and tourism and sustaining enjoyable and successful places in which to live and work. A further example very much in point is the success of the Diver Trail on the historic site of HMS Coronation off Penlee Point in Plymouth. This trail, since its inception, has proved extremely popular with recreational divers but that establishment is only made possible because of years of intrusive investigation by successive avocational maritime archaeological groups.

Also as noted above there is an evidentiary gap in the Impact Assessment for the 'Historic Environment' sector that has not been adequately addressed; there will be costs of MCZ designation with regard to capturing evidence from the historic environment. There will also be non-monetary negative costs to society if material evidence is lost because intervention is prohibited (as indicated in paragraph 3.2.22 of the Impact Assessment). The best estimated annual cost with regard to designated heritage assets is likely to be £0.5m/yr (in the absence of management measures coupled with potential material loss).

Paragraphs 3.2.20 to 3.2.38 of the Impact Assessment fail to adequately take into account heritage assets that do not have statutory protection: there are many thousands of archaeological sites around our coasts that have been positively identified as holding a degree of significance. The view shared by the UK Administrations is that heritage assets should be enjoyed for the quality of life they bring to this and future generations, and that they should be conserved in a manner appropriate and proportionate to their significance.

## General Comments

Q.9 You may wish to provide comments on other aspects of this consultation such as evidence requirements, identification and treatment of high risk sites. Where you disagree with the approach taken please provide evidence to support your views.

A.9

i) We note that the exact management measures required for each site will not be known until after designation. In considering management measures for each MCZ, it will be important to ensure that marine & coastal archaeological activities targeted at heritage assets are permitted to continue, particularly where a marine heritage asset is considered to be at risk and intervention is required. Such activities will be undertaken in accordance with the rules annexed to the UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage, which is declared UK government policy.

It must be noted that paragraph 2.6.6.3 of the UK Marine Policy Statement provides the recognition that heritage assets should be conserved in a manner appropriate and proportionate to their significance. This is further underpinned in the UK Marine Policy Statement which notes the need to record and advance our understanding of heritage assets for this and future generations.

In considering management measures for MCZs, we wish to highlight paragraph 2.6.6.3 of the UK Marine Policy Statement which notes that the view shared by the UK Administrations is that heritage assets should be enjoyed for the quality of life they bring to this and future generations.

ii) It is important to note that areas of the seabed designated (in England) under the Protection of Wrecks Act 1973, the Ancient Monuments & Archaeological Areas Act 1979 and the Protection of Military Remains Act 1986 should be recognised as 'Other Spatial Measures' for the purposes of conserving and improving the marine historic environment.

iii) We note that although proposed Reference Areas (RAs) identified by the Regional Projects will not be taken forward in the first tranche of MCZs, a 'fresh look' will be taken '...at requirements for RAs including size, number, location and management measures particularly in relation to long standing non-commercial traditional activities'. We suggest that 'non-commercial traditional activities' be defined and that adequate attention is given to archaeological projects aimed at capturing evidence from the historic environment and making this publicly available.

Paragraph 3.2.22 of the Impact Assessment (IA) states that 'it is anticipated that archaeological surface recovery of artefacts and full site excavations will be prohibited' in RAs. Further, paragraph 3.2.25 of the IA states that 'if archaeologists respond to the prohibition by seeking alternative sites for archaeological excavation elsewhere, this could result in additional costs to the sector'. This demonstrates a fundamental misconception about the nature of and need for archaeological work. While a primary principle of archaeological investigation has been missed in relation to the location of archaeological remains, the deficient judgments expressed in the IA (concerning archaeological heritage) conflict with the view shared by the UK Administrations, as set out in the UK Marine Policy Statement, that heritage assets should be enjoyed for the quality of life they bring to this and future generations, and that they should be conserved in a manner appropriate and proportionate to their significance.

We note that the IA states Defra's intention to commission further research on 'cultural services' as it is a recognised evidence gap in completing the IA exercise. Archaeological heritage must be included in the definition of 'cultural services' particularly as heritage assets (as defined in section 2.6.6 of the UK Marine Policy Statement) represent a unique aspect of our cultural heritage.

In conclusion we wish to state that we believe very strongly that the Regional Group process has been neither robust enough or vigorous enough to adequately inform this consultation process on the socio-economic costs to the historic environment entailed in the proposed designations of MCZ's. In particular the process failed to adequately encompass available data sets in formulating their assessments of the associated socio-economic costs. We are also firmly of the opinion that the Impact Assessment's understanding of the extent and nature of the underwater cultural heritage located in the UK marine area and the nature and process of archaeological investigation and of heritage management is fundamentally flawed. This entirely negates any meaningful evaluation of the socio-economic costs to the historic environment of the proposed designations of MCZ's. Indeed we would question whether, on the basis of this regional group process and the fundamentally flawed Impact Assessment, the Secretary of State can discharge the statutory power under Ss.117(7) & (8) to have due regard to the socio-economic costs to the historic environment of designating the proposed MCZ's.

Accordingly, we would urge DEFRA to immediately open a dialogue with DCMS, English Heritage and stakeholders in the underwater cultural heritage community in order that these fundamental deficiencies can be addressed before the designation process is taken any further.

## Data Submission Form

The submission of data to Defra during the Marine Conservation Zone Consultation confirms the Data Owner's agreement to grant "Defra Marine Family<sup>2</sup>" permission to access, hold and use the Material for the purposes of further informing the recommendations, designation and management of sites.

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<sup>2</sup> "Defra Marine Family" refers to Department of Environment Food and Rural Affairs ("Defra"); Natural England, Joint Nature Conservation Committee ("JNCC"), Marine Management Organisation, Inshore Fisheries Conservation Authority, Environment Agency and Cefas.

We encourage openness and transparency in the provision and use of data and information. Where material may be confidential and/or have commercial value and cannot be made widely available we must still make high level information on the data (e.g. metadata) publically available. Should there be any restrictions on the use of information submitted then please identify these within your response.

For further information on submitting data during the consultation please see the data factsheet on <http://www.defra.gov.uk/environment/marine/protect/mpa/mcz/>.

Please submit the following information in either the environmental or socio-economic sections to accompany any data submitted. **Please note that if the information requested is not provided we may be unable to use the data you submit.**

Contact name:

Email:

Telephone:

MCZ feature, site or regional area data relates to<sup>3</sup>:

Has this information been previously submitted as part of the MCZ process<sup>4</sup>? If so, please give details including dates of when the data was submitted and who to.

Please clarify any copyright restrictions or restrictions on use of data provided:

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<sup>3</sup> If National then please specify this.

<sup>4</sup> Either to the Regional MCZ Projects or separately to Natural England or JNCC

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**Section 1: Environmental data/evidence**

Data Owner:
Type of Survey (e.g. Geophysical/Bathymetric/Geotechnical/Environmental/SocioEconomic/Cost Information):
Date of Survey:
Survey Co-ordinates OR for full coverage maps, perimeter coordinates or GIS of area:
Survey contractor:
Purpose of survey:
Type(s) of data obtained (e.g. Geophysical/Bathymetric/Geotechnical/Environmental/Aspects of Socio Economic data):

Method(s) of acquisition (e.g. 0.1m <sup>2</sup> Hamon Grab samples / Survey Format):
Processing Method(s):
Output(s) (please include file names if possible):
Quality assurance/control Method(s), include reference to standards where possible and / or detail of peer review where relevant:

## **Section 2: Socio-economic data**

Data Owner:
Type of Survey (e.g. SocioEconomic/Cost Information):
Date of Survey:

Type(s) of data obtained (e.g. Aspects of Socio Economic data):

Method(s) of acquisition (Survey Format):

Quality assurance/control Method(s), include reference to standards where possible and / or detail of peer review where relevant:

**Non-Survey Socio-Economic Data** (please use this space for description of data, how data was derived, any quality assurance process)