

Department for Environment Food and Rural Affairs

Consultation on the Marine Policy Statement

Response by the Joint Nautical Archaeology Policy Committee

October 2010

Introduction

The JNAPC welcomes the opportunity to respond to this Consultation.

The JNAPC was formed in 1988 to raise awareness of the United Kingdom's underwater cultural heritage and to persuade government that underwater sites of historic importance should receive no less protection than those on land. The Committee represents a very wide range of interests in maritime archaeology including national societies, museums, archaeological associations and sports diving organisations. Observers are drawn from Government Departments, national heritage agencies, and relevant maritime organisations. Summary information on the JNAPC and its membership is attached in Appendices 1 & 2 below.

Response to Consultation and Questions

Introduction

Page 17 – The JNAPC welcomes the recognition that a sustainable marine environment encompasses protection and conservation of marine cultural heritage. The JNAPC wishes Defra to make quite clear that the use of the term “*heritage assets*” in the Marine Policy Statement (MPS) refers to both designated and undesignated assets consistent with PPS5. For the avoidance of doubt we recommend that the word “most important” be deleted from the bullet point three on page 17 so that this just reads “...*habitats, species and heritage assets; and*”.

Chapter 1

Question 1

Chapter 1 does explain the purpose and scope of the MPS

Chapter 2

Page 25 - The JNAPC welcomes the inclusion of cultural heritage in the higher level of marine objectives.

Page 26 – Defra and MMO should be aware that there is very little information on underwater cultural heritage on which to make evidence based decisions. Considerable work needs to be undertaken to improve this position.

Page 27 – The draft MPS states that “*The level of assessment undertaken for any project should be proportionate to the scale and impact of the project as well as the sensitivity of the environment concerned ...*” The JNAPC welcomes the recognition that the impact of any development upon the historic marine environment is not simply a product of the scale of the development, but also depends upon the sensitivity of the particular location in archaeological terms. Thus a small scale project can, in a sensitive archaeological location, have a significant impact which is not proportional to the project’s physical or financial scale. Consequently, even small scale projects, if undertaken in a potentially sensitive historic environment, can require careful assessment for their potential impact upon the historic environment.

In its response to the draft marine licensing exemptions the JNAPC has expressed deep concern that the exemptions are based purely upon the scale of the proposed activity and no regard is paid to the varying sensitivities of varying locations. To that extent the draft exemptions appear to be contradictory to the principle articulated by the draft MPS.

Pages 34 – 36 – The JNAPC welcomes Section 2.9 on the Historic environment and there are three observations here:

1. The draft MPS identifies elements of particular heritage significance as ‘heritage assets’. It then, correctly, goes on to point out that many heritage assets are not designated but are “*demonstrably of equivalent significance*”. This is to be welcomed, since many significant heritage assets are not designated or cannot be designated (e.g. non-shipwrecks under the Protection of Wrecks Act 1973). However, the draft MPS then goes on to state that there should be “*... a general presumption in favour of the conservation of designated heritage assets.*” Since the draft MPS has acknowledged that many significant heritage assets are *not* designated, it seems inappropriate and contradictory to then restrict the presumption of conservation to designated heritage assets only. The MPS should be redrafted so as to apply the presumption of conservation to all heritage assets, whether designated or not. The strength of that presumption should be proportional to the significance of the heritage asset, as advised by English Heritage.
2. The word “particular” should be deleted from the last line of page 34. The assessment of significance will determine whether or not the heritage asset is important.
3. Page 35 column 2 paragraph 1 refers to heritage assets or “*the potential for such assets to be discovered*”. We recommend that this be strengthened by adding “*the existence and/or location of many heritage assets are unknown prior to investigation preceding development. Consequently the assessment of potential is an important part of archaeological assessment.*” See JNAPC Code of Conduct for Seabed Development on www.jnapc.org.uk.

Much of the historic environment is covert. Its existence and/or physical location is presently unknown. When considering development proposals it is thus of equal importance to consider the potential for heritage assets to be present, as well the impact on known heritage assets. Although the draft MPS does refer to this potential in brackets, as discussed in above, the majority of references are to known heritage assets, giving the impression, undoubtedly inadvertently, that the emphasis of the MPS and of conservation is purely on known heritage assets. It is especially important when considering development proposals that concentration is equally placed on the potential for unknown heritage assets to be adversely affected. To this end it is essential that appropriate surveys and other investigations be made to ascertain what heritage assets are physically or potentially present. The MPS should be redrafted so as to give equal focus and emphasis upon the need to conduct appropriate investigations, as well as conserving known heritage assets.

4. It would be appropriate to make reference to PPS5 (and equivalents elsewhere) and the Government Statement on the Historic Environment for England 2010.

Page 39 – The references to ‘seascape’ and the principles of the European Landscape Convention are welcomed.

Question 2

In Chapter 2 JNAPC recommends that consideration of the historic environment be strengthened by the inclusion of the proposals made above.

Chapter 3

Page 41 – The MPS should acknowledge the difference in policy for the protection of the historic environment between Marine Conservation Zones (MCZ) in England and Marine Protected Areas (MPA) in Scotland. In its delivery there should be scope for Defra and MMO to increase protection of the historic environment in MCZs in the same way it is protected in MPAs in Scotland.

Page 44 – In line 3 the MoD acknowledges its commitment to the protection of the natural environment. This presumably extends to the historic environment and it would therefore be appropriate to include this in the text.

Page 48 – Final paragraph of Renewable energy gives the impression that renewable energy projects will always be permitted and that the only issue is one of mitigation of unavoidable negative impacts. We recommend that the second sentence of the middle paragraph could be revised to read: ‘Measures should be taken to avoid and, where *this is* not possible *but development is still justified*, to mitigate the potential negative impacts in line with legislative requirements.’

Pages 52-53 – The draft MPS states that the “... *operation of our ports and marinas is enabled through the creation, maintenance and development of channels for vessels.*” However, when

discussing “potential impacts” (page 53) the draft MPS fails to identify capital and/or maintenance dredging for ports as a potential impact. In fact such dredging can have a very significant adverse impact upon the historic environment, as evidenced by the Mary Rose (Portsmouth Harbour), Princes Channel wreck (Thames Estuary), Swash Channel (Poole Harbour) and Sunderland Flying Boat (Milford Sound). Ports and their approaches are often highly sensitive historic environments and such dredging can be an extremely adverse activity. The draft MPS needs to be amended to reflect this and the importance of avoiding such adverse impacts by appropriate investigations and mitigation measures, undertaken as an integral part of the dredging activity.

Note – Marine dredging is dealt with separately on pages 56 – 57, in which the potential adverse impact upon the historic environment is expressly identified. However, it is the JNAPC’s opinion that the matter would be better dealt with under ‘Ports and Shipping’ on pages 52-55 and reinforced by reference back to this on pages 56-57. As drafted the treatment of dredging, which for the historic environment is a major potential impact, is somewhat disjointed and it is not readily apparent to a reader that dredging in the context of ports constitutes a major threat to the historic environment.

Page 57 – Telecommunications marine cabling is spatially minor in impact but the ploughs used to bury cables, while affecting a small area, are immensely destructive of anything they encounter. Obviously if cultural heritage is encountered then it can be significantly damaged. Equally, the process of matting cables by covering them can bury cultural heritage or possibly damage it. The ‘*Potential Impacts*’ identified for cabling fail to identify any potential adverse impact upon the historic environment. Indeed, as drafted, the MPS appears focused entirely upon the need to prevent damage to cables and omits to identify the potential damage to the historic environment that the installation of marine cables can cause. This omission needs to be addressed.

Page 59 – Fishing is identified as a threat to the historic environment. However, the statement that it “*can cause extensive damage or destruction to ... the historic environment*” is somewhat broad. It is suspected that some methods of fishing e.g. bottom trawling and potting can, but clearly mid-water trawling is unlikely to. Moreover, the degree of damage caused by bottom fishing is a matter of debate, even within the marine archaeology community. Research into the degree and nature of the damage actually caused is urgently needed. The JNAPC would urge the MMO, in conjunction with DEFRA and English Heritage to consider commissioning such research, in a similar manner to that undertaken into ploughing in a terrestrial context.

Question 3

JNAPC agrees that this chapter identifies the key impacts, pressures and issues in marine planning but recommends that consideration of the historic environment be strengthened by the inclusion of the proposals made above.

Chapter 4

Page 81 – The topic study, in discussing ‘Cultural Heritage’, identifies shipwrecks and aircraft remains as constituting such heritage. The UK’s Underwater Cultural Heritage (UCH) consists of a far wider range of assets and it is misleading to create the impression that it consists solely or principally of these two forms. If the forms of UCH need to be referred to then terms which indicate the enormous range (e.g. ‘ *shipwrecks to submerged landscapes and evidence of past cultures* ’) would be better utilised.

Question 4

We believe that the scope of Cultural Heritage should be widened as indicated above.

Chapter 6

Page 97 – The proposal has been made in the ‘*Alternative policy wording or mitigation proposed*’ section but under the heading ‘ *Outcome for the MPS*’ the suggestion is rejected, on the basis that “*It is considered that the examples presented in the MPS are sufficient.*”. The JNAPC strongly disagrees with this Outcome and considers that the alternative advanced is correct. The MPS, as drafted, gives the impression to an archaeological lay person that cultural heritage consists solely or principally of ship and aircraft wrecks and the JNAPC recommends that the wording of the draft MPS is amended to take account of the alternative policy wording.

General comment

The JNAPC considers it relevant that the following international agreements, ratified by the UK, are referred to within the MPS:

- 1 Council of Europe Convention of the Archaeological Heritage of Europe 1992,
- 2 Council of Europe Landscape Convention 2000.

JNAPC

October 2010

JOINT NAUTICAL ARCHAEOLOGY POLICY COMMITTEE

THE JNAPC - PAST, PRESENT AND FUTURE

The JNAPC was formed in 1988 from individuals and representatives of institutions who wished to raise awareness of Britain's underwater cultural heritage and to persuade government that underwater sites of historic importance should receive no less protection than those on land.

The JNAPC launched *Heritage at Sea* in May 1989, which put forward proposals for the better protection of archaeological sites underwater. Recommendations covered improved legislation and better reporting of finds, a proposed inventory of underwater sites, the waiving of fees by the Receiver of Wreck, the encouragement of seabed operators to undertake pre-disturbance surveys, greater responsibility by the Ministry of Defence and the Foreign and Commonwealth Office for their historic wrecks, proper management by government agencies of underwater sites, and the education and the training of sports divers to respect and conserve the underwater historic environment.

Government responded to *Heritage at Sea* in its White Paper *This Common Inheritance* in December 1990 in which it was announced that the Receiver's fees would be waived, the Royal Commission on the Historical Monuments of England would be funded to prepare a Maritime Record of sites, and funding would be made available for the Nautical Archaeology Society to employ a full time training officer to develop its training programmes. Most importantly the responsibility for the administration of the 1973 Protection of Wrecks Act was also transferred from the Department of Transport, where it sat rather uncomfortably, to the then heritage ministry, the Department of the Environment. Subsequently responsibility passed to the Department of National Heritage, which has since become the Department for Culture Media and Sport.

The aim of the JNAPC has been to raise the profile of nautical archaeology in both government and diving circles and to present a consensus upon which government and other organisations can act. *Heritage at Sea* was followed up by *Still at Sea* in May 1993 which drew attention to outstanding issues, the *Code of Practice for Seabed Developers* was launched in January 1995, and an archaeological leaflet for divers, *Underwater Finds - What to Do*, was published in January 1998 in collaboration with the Sports Diving Associations BSAC, PADI and SAA. The more detailed explanatory brochure, *Underwater Finds - Guidance for Divers*, followed in May 2000 and *Wreck Diving – Don't Get Scuttled*, an educational brochure for divers, was published in October 2000.

The JNAPC continues its campaign for the education of all sea users about the importance of our nautical heritage. The JNAPC will be seeking better funding for nautical archaeology and improved legislation, a subject on which it has published initial proposals for change in *Heritage Law at Sea* in June 2000 and *An Interim Report on The Valletta Convention & Heritage Law at Sea* in 2003. The latter made detailed recommendations for legal and administrative changes to improve protection of the UK's underwater cultural heritage.

The JNAPC has played a major role in English Heritage's review of marine archaeological legislation and in DCMS's consultation exercise *Protecting our Marine Historic Environment: Making the System Work Better*, and was represented on the DCMS Salvage Working Group reviewing potential requirements for new legislation. The JNAPC has also been working towards the ratification of the UNESCO Convention with the preparation of the *Burlington House Declaration*, which was presented to Government in 2006.

The JNAPC continues to work for the improved protection of underwater cultural heritage in both territorial and international waters.

Joint Nautical Archaeology Policy Committee

Members

Chairman

Robert Yorke

Organisations

Association of Local Government Archaeological Officers
British Sub Aqua Club
Council for British Archaeology
EMU Ltd
Hampshire & Wight Trust for Maritime Archaeology
Institute of Field Archaeologists, Maritime Affairs Group
ICOMOS
National Maritime Museum
National Museums & Galleries of Wales
National Trust
Nautical Archaeology Society
Professional Association of Diving Instructors
RESCUE
Shipwreck Heritage Centre
Society for Nautical Research
Sub Aqua Association
United Kingdom Maritime Collections Strategy
Wessex Archaeology
Wildlife and Countryside Link

Paul Gilman
Jane Maddocks
Gill Chitty
John Gribble
Garry Momber
Vir Dellino-Musgrave
Christopher Dobbs
Gillian Hutchinson
Mark Redknapp
David Thackray
George Lambrick
Suzanne Pleydell
Stephen Appleby
Peter Marsden
Ray Sutcliffe
Stuart Bryan
Christopher Dobbs
Antony Firth
Joanna Butler

Individual representation

Sarah Dromgoole
Michael Williams

Affiliation

University of Nottingham
Wolverhampton University

Observers

Advisory Committee on Historic Wreck Sites
Cadw
Department for Culture, Media and Sport
Department for Transport
The Crown Estate
English Heritage
Environment Service, Northern Ireland
Foreign and Commonwealth Office
Historic Scotland
Maritime and Coastguard Agency, Receiver of Wreck
Ministry of Defence
Ministry of Defence
Royal Commission on the Ancient
and Historical Monuments of Scotland

Tom Hassall
Sian Rees
Annabel Houghton
Robert Cousins
Iain Mills
Ian Oxley
Rhonda Robinson
Richard Koizumi
Philip Robertson
Alison Kentuck
Peter MacDonald
Bob Stewart

Robert Mowat

