



**Department of Trade and Industry**

**Strategic Environmental Assessment of Parts  
of the Central & Southern North Sea  
SEA 3**

**SEA 3 Post Public Consultation  
Comments Received**

**January 2003**

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**Institute of Field Archaeologists**

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# **JOINT NATURE CONSERVATION COMMITTEE**

Christine Weare  
DTI Oil and Gas Directorate  
Atholl House  
86-88 Guild Street  
Aberdeen AB11 6AR

JNCC OIA Ref: 1840

15 November 2002

Dear Christine

**Strategic Environmental Assessment – Extension to 2<sup>nd</sup> Strategic Environmental Assessment of the Mature Areas of the Offshore North Sea and Environmental Assessment of the Central and Southern North Sea (SEA3)**

Thank you for consulting us on the content and conclusions of the extension to the 2<sup>nd</sup> Strategic Environmental Assessment and the 3<sup>rd</sup> DTI Strategic Environmental Assessment (SEA3). This response, on behalf of the Joint Nature Conservation Committee (JNCC), considers the conclusions of the SEA 2 Extension and SEA3. I have also attached a list of changes to factual information, produced by colleagues working on the designation of offshore potential SACs that we suggest anyone referencing the main SEA 3 Assessment document should be made aware of to avoid repetition of errors.

As you are aware, JNCC is a member of the steering group for oil and gas SEA and as such have fed our opinions into the planning and undertaking of this and past SEA. We continue to support this iterative and open process and look forward to being involved in future SEA.

We have broken our response into two specific areas – SEA 2 Extension and SEA 3

**SEA 2**

Overall, we would agree with the conclusion that ‘..it is not expected that significant environmental effects would be likely from extending the SEA 2 area and offering these blocks for licensing’. However, following a precautionary approach, we would prefer to see no or limited licensing within territorial waters to minimise the risk, in the event that an oil spill should occur, to coastal and inshore nature conservation sensitivities.

**3.3.4.2 – Offshore Conservation Sites**

We would like to highlight that although we concur that there are no known areas of potential habitat, suitable for future possible designation under the EU Habitats Directive (Annex I) in the SEA 2 extension blocks, there is potential that in the future, areas could be designated under the Birds Directive. Potential designations can be divided into three key areas:

- Seaward extensions of breeding colony SPAs beyond low water mark. Extensions to the seabird colonies in the North Sea are likely to encompass waters within close proximity of breeding colonies. While these possible extensions need to be considered, they are unlikely to be significantly closer to the SEA 2 extension area than the present SPA boundaries.
- Inshore areas used by birds in non-breeding season. Although analysis to identify the most important territories for non-breeding birds have not been completed, it is possible that inshore sections will be identified as important. Although it may be unlikely that these areas will encompass the SEA 2 extension blocks, this does not mean that areas in close proximity to the blocks will not be designated.
- Marine feeding areas. As discussed previously, the distribution of seabirds at sea is dependent partly on the proximity to breeding colonies, but also on the abundance of available prey. Analysis is currently underway to identify the most important territories for feeding seabirds. As these analyses are not yet complete, it is not possible to say whether the SEA 2 extension blocks will be located close to or within a proposed SPA.

## 5.2 – Noise

We would suggest that due to the potential for impacts on marine mammals from seismic surveys, particularly the population of bottle nosed dolphins within the Moray Firth, the extra mitigation of using hydrophones as well as visual observations should be adopted as specified for sensitive areas under the JNCC guidelines for minimising acoustic disturbance to marine mammals.

## SEA 3

Overall, we would agree with the conclusion that ‘..there are no overriding reasons to preclude the consideration of further oil and gas licensing within the SEA3 area’ given the current licensing and regulatory framework. Again, following a precautionary approach, we would prefer to see no or limited licensing within territorial waters to minimise the risk, in the event that an oil spill should occur, to coastal and inshore nature conservation sensitivities. We note that the risk of oil spill in the southern north sea (SNS) is further minimised as it is expected hydrocarbons are most likely to be gas. However, if an oil spill did occur (OBM for instance), mitigation measures, as stated in the SEA, may be limited ‘Minimum beaching times from some parts of the possible licence area with sustained 30 knot winds, are very short and may not provide sufficient time for full spill response mobilisation’.

We do have some concerns that at a local level potential operations could have an effect upon the integrity of habitats which may, in the future, be designated as Special Areas of Conservation (SAC) or Special Protection Areas (SPA) under the terms of the EU Habitats and Birds Directives. We would therefore urge that operators are encouraged to implement the mitigation measures as the DTI have stated in paragraph 10.3.5.7 ‘..potential effects from specific projects would require to be evaluated (through the Appropriate Assessment mechanism) and mitigation measures adopted.’

We feel that further analysis of intertidal and inshore sensitivities would have improved the SEA. For example in section 10.3.9.1 where there is good regard to the effect to birds and seals of accidental events limited consideration has been given to intertidal habitats despite sensitive habitats such as saltmarsh being present in the SEA 3 area. There was also limited

information on the physical damage to seabed habitats (10.3.3.2) with for instance, limited discussion of impacts on *Sabellaria spinulosa* which is highly sensitive to physical disturbance.

#### 4.2.3 – Estimates of potential activity

The DTI are currently consulting on the use of a new ‘Promote’ Licence to encourage oil and gas exploration which could increase the estimates of potential activity. We suggest this is considered in the conclusions on estimates of potential activity.

#### 6.3.5 – Offshore Sandbanks

It should be noted that to in order to maintain the structure and function of a sandbank or sandbank system the actual area considered for designation as Annex I habitat may be greater than the area of sandy sediment in less than 20 metres water depth. The areas designated may need to be increased to incorporate complete sandbank flanks, associated horizontal or sloping habitats and/or channels between banks. (*Natura 2000 in UK Offshore Waters, JNCC Report 325, Johnston et al, 2002*)

#### 6.3.9 – Species and Communities of Conservation interest

We suggest that, in this section, there should also be an appraisal of communities associated with the Annex I habitats of reef and sandbanks which are slightly covered by seawater all the time as they are of conservation interest.

#### 7.3.4.1 – Figure 7.1 – Main locations of offshore sandbanks and reef habitats

We are concerned that Figure 7.1 may lead to misunderstandings over which areas are under consideration for the identification of offshore SACs as it does not fully correlate with the information provided within *Natura 2000 in UK Offshore Waters, JNCC Report 325, Johnston et al, 2002*. We suggest that users refer directly to JNCC Report 325.

#### 7.3.4.3 – Birds Directive Annex I and Migratory Species

Please see comments above under SEA 2 Extension Section 3.3.4.2

#### 10.3.1.7 - Control and Mitigation

We note that all members of UKOOA have agreed to comply with the JNCC Guidelines for minimising acoustic disturbance to marine mammals. In addition, the recently issued DTI ‘*Guidance Notes for Procedures for Oil and Gas Surveys (including seismic surveys) and Shallow Drilling including Guidance implementing the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001*’ state that as a condition of the granting of a permit all operators/seismic companies must follow the JNCC Guidelines at all times for all seismic surveys. There are also draft guidelines available for the use of explosives in offshore waters.

#### 10.3.3.2 – Physical damage to biotopes and other seabed sensitive features

Consideration should be given to physical disturbance to all biogenic reefs.

### 11.1 Conclusions

Physical damage of the seabed – It is stated that ‘ The predicted spatial scale of physical disturbance of the seabed, resulting from activity scenarios for the potential licensed area, is very small in comparison with the total area of the North Sea’. As mentioned above, with respect to SAC, cSAC and habitat which has the potential to be designated as an SAC, it should be stated that the scale of impacts from oil and gas activities have the potential to be of greater significance to a ‘relevant site’. For instance, as stated in paragraph 10.3.5.5 ‘Circulatory residual currents around sandbanks result in accretions over bank crests and a proportion of water based mud cuttings discharges in the Southern North Sea may be deposited over such features’ which could have the potential to affect the integrity of a ‘relevant site’. The impacts of pipe laying on ‘relevant sites’ and surrounding areas should also be considered when considering licensing areas with habitat which has the potential to be designated as cSAC.

Please feel free to contact me if you wish to discuss any of the above points.

Yours sincerely

Zoë Crutchfield  
Senior Offshore Advisor

### SEA 3 – Comments on text.

The sentence to which the comment is attached is given in italics and the comments are in plain text. Paragraph numbers are counted from the beginning of the section rather than the beginning of the page.

1. Section 6.2.2 (page 56) para 2. *Much of this group consists of bacteria....* Bacteria are not plants and therefore not part of the phytoplankton.
2. Section 6.2.6 (page 59) para 1. *A number of planktonic organisms have been identified in the North Sea.* In order to make this a meaningful sentence non-native or alien should be inserted in front of planktonic
3. Section 6.3.5 (page 65) para 2. *Since some sandbanks in waters of 20m or less may be considered for inclusion in UK Natura 2000 sites (potential SACs)....* Potential should be deleted as these sites would be SACs eventually.
4. Section 6.3.5 (page 65) paras 3 & 4. These paragraphs need references. *Predominant species were .....* It should be dominant.
5. Section 6.3.9 (page 67) para 11. *Sabellaria spinulosa* reef has also been found c. 13 nm off the coast from Great Yarmouth (Newell *et al.* 2001).
6. Section 6.3.11.1 (page 68) para 2. *All parts of the SEA 2 ...* Should be SEA 3.
7. Section 6.3.11.3 (page 68) para 2. *There are no dumping grounds within SEA 2 area.* Should be SEA 3. Has the possibility that the Medway may be being used as a dumping grounds for dredged material been considered?
8. Section 6.3.11.5 (page 69) Despite the title to this section, there appears to be no consideration of wrecks despite the large number of them in the SEA 3 area.
9. Section 6.5.6 (page 80) para 1. Annex II fish (shad and lamprey) should be mentioned in this paragraph as they are subject to greater conservation priority than Annex IV.
10. Section 6.5.6 (page 80) para 3. *The basking shark, tope and porbeagle are likely to occur in small numbers throughout the North Sea....etc.* The species in this paragraph needs latin names and information as to the schedule or legislation they are designated under as ‘species of conservation significance’.
11. Section 6.5.6 (page 80) para 4. See comments for para 3.
12. Section 6.8 (page 96) para 1. Latin names need inserting.
13. Section 6.8.4 (page 106) para 1. The text should be related to SEA 3 blocks not SEA 2. There is a general lack of latin names for the species in this section.
14. Section 6.8.6 (page 108) para 1. *A number of terrestrial candidate SACs have been established for grey and harbour seals around the coast of the UK; there are currently no marine candidate SACs for seals.* SACs for seals are not purely terrestrial but generally have a marine component.
15. Section 8.8 (page 135) Figure 8.6. Figure is missing Sizewell B.
16. Section 9.2.2.2 (page 142) para 1. *Le Harve.* Spelling should be Le Havre.
17. Section 9.2.2.6 (page 143) para 1. *At the present time, the only area in Norway that is protected specifically because of its marine life are the Froan Skerries.* Suggest that this should read “the only area in the Norwegian North Sea ...”
18. Section 10.3.1.7 (page 155) para3. See comments for Section 6.8.6 and common seal should be changed to harbour seal for consistency.
19. Appendix 4 (page A4-I) para 4. *Tide-swept gravels and pebbles, offshore south of the Farnes, support a community of high nature conservation importance including hydroids, bryozoans and crustaceans.* By what criteria is this of high nature conservation importance - needs qualifying and a reference.
20. Appendix 5 Formatting odd and Latin names are needed for most of the species.

### References

1. Newell R C, Seiderer L J, Simpson N M & Robinson J E (2001) Distribution of *Sabellaria spinulosa*: Licence Areas 401/1 and 401/2. August 2000. Report prepared for Hanson Aggregates Marine Limited. Marine Ecological Surveys Limited, 20 pp.



## ENGLISH NATURE

RECEIVED  
13 DEC 2002

Kevin O'Carroll  
Head of Environmental Policy  
Oil and Gas Directorate  
Department of Trade and Industry  
Atholl House  
86-88 Guild Street  
Aberdeen AB11 6AR

5 December 2002

Dear Kevin

### **SEA 3 Consultation Document**

Thank you for the opportunity to comment on the Strategic Environmental Assessment of Parts of the Central and Southern North Sea (SEA 3) Consultation Document.

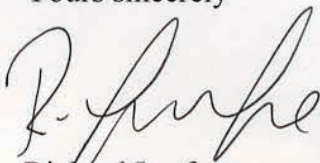
English Nature is satisfied with the general conclusion of the assessment that further development of the SEA 3 area, at the projected levels, will not result in significant adverse environmental impact and that licensing should continue as proposed.

English Nature particularly supports recommendations three and five (page 197) that address the need for coordination with strategic assessments being undertaken for other marine industries. English Nature is concerned that strategic assessments are currently underway for a number of different marine industries without reference to one another. A continuation of a sectoral approach could lead to cumulative impacts to the environment within in a given region from the expansion of a number of marine industries.

English Nature acknowledges that due to the pressures of each industry that it is not possible to conduct full regional assessment for all industries. However there is room for improvement in terms of linking the various assessments as they are completed and the formulation of revised management arrangements. This would be in keeping with the principles detailed in *Safeguarding Our Seas*. English Nature believe that DTI could take a lead on such an approach given that two of the current strategic assessment processes fall within its remit, i.e. offshore windfarms and oil and gas.

If you wish to discuss this matter further the contact officer on this matter is Jamie Storrie on 01733 455237.

Yours sincerely



Richard Leaf  
General Manager

## **ENVIRONMENT AGENCY**

**Our ref:** DK/KLR/SEA3cons  
**Your ref:**



**ENVIRONMENT  
AGENCY**

**Date:** 5<sup>th</sup> December 2002

Mr K O'Carroll  
Department of Trade and Industry  
Oil and Gas Directorate  
Atholl House  
86-88 Guild Street  
Aberdeen  
AB11 6AR

RECEIVED  
10 DEC 2002

Dear Mr O'Carroll

### **SEA 3 CONSULTATION**

The Environment Agency is delighted to have been included in the consultation process for the Strategic Environmental Assessment for the forthcoming round of oil and gas exploration licencing in the Central and Southern North Sea.

As a general comment on the consultation report, there seems to be a greater emphasis on describing the current environment of the study area of the North Sea than presenting an assessment of the likely impacts of the proposed consented activities. The Report therefore reads more as a state of the environment report rather than an Environmental Report needed to meet the spirit of Directive 2001/42/EC, the 'SEA Directive'. In particular, no specific mitigation measures or requirements for monitoring have been identified.

As indicated in our responses to the scoping consultation, there are few potential issues of concern to the Agency's statutory interests:

- Impacts on coastal processes important for flood protection
- Impact on migratory fish (salmonids, shad and eels)
- Limited sea fishery responsibilities (principally Thames Estuary)
- Pollution issues
- Potential for new terrestrial oil or gas infrastructure
- Coastal conservation.

The SEA consultation document in the main addresses the Agency's concerns and identifies these as of low risk, although we are disappointed that our fisheries concerns haven't been fully addressed.

Section 6.5.4 discusses migratory salmonids, but does not fully recognise the importance of the study area as a migratory route for salmon in particular, many of which pass through the area on their way to natal rivers on the east coast of Scotland, outside the study area. Shad and lampreys are discussed in Section 6.5.6., but the most recent information on distribution

Cont/d..

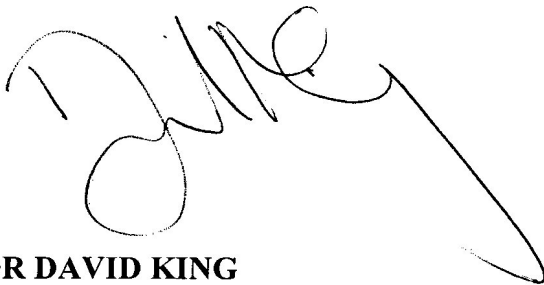
was not collated. The Agency has evidence that these are more common in some areas, especially the south-east, than the SEA Report acknowledges. The migration of eels receives no mention.

Having introduced these species as a component of the ecology of the North Sea, we would expect that this document would set out an assessment of the risk of proposed licenced activities to these fish. If there is no risk, then this should be stated with justifications, otherwise the risk together with the possibilities for mitigation should be assessed. The agency is disappointed that this has not been done and would encourage this risk to be properly assessed.

There appears to be a slight discrepancy between Section 4.2.3 (Estimates of potential activity) where it is indicated that any new production would be tied to existing infrastructure and Section 10.6.3 which indicates that existing infrastructure in the CNS is limited and there is uncertainty about the ability of new finds in this area to be linked up. This is not seen as a major constraint to the licencing round, however, since any new infrastructure and landfall would be subject to specific consents and any environmental issues would be covered at that stage.

In conclusion, the Agency would like to see an assessment of the risks to its fisheries interests, otherwise has no objections to the Government proceeding with the proposed 21<sup>st</sup> Offshore Licencing Round.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. King', with a long, sweeping underline that extends to the right.

**DR DAVID KING**  
**DIRECTOR OF WATER MANAGEMENT**

# ROYAL SOCIETY FOR THE PROTECTION OF BIRDS



for birds  
for people  
for ever

**From:**

**The Royal Society for the Protection of Birds**

The Lodge

Sandy

Bedfordshire SG19 2DL

13 December 2002

**SEA3 – Strategic Environmental Assessment of the Central & Southern North Sea.**

Dear Ms Weare

Please find enclosed a copy of the RSPB's comments on SEA3, the Strategic Environmental Assessment of the Central & Southern North Sea consultation. The RSPB welcomes the opportunity to comment on this SEA.

The RSPB strongly supports production of this SEA covering the implications of further oil and gas exploration in the North Sea. We see SEA as a key tool for integrating environmental considerations into strategic decision-making, thereby enabling the impacts of development on wildlife and habitats to be avoided and/or minimised.

We hope that the comments made here will be taken into account in the decision-making process for the 21<sup>st</sup> offshore oil and gas licensing round and reflected in the decision made. In addition, that they are used to help strengthen the future offshore oil and gas SEAs. If you have any queries about any of our comments please contact the RSPB for further information.

Yours sincerely

Dr Sharon Thompson  
Marine Policy Officer

Dr Helen Byron  
Policy Officer  
(Environmental Assessment & Regional Policy)

# SEA3 Central & Southern North Sea Consultation

RSPB Comments, 13 December 2002



The RSPB strongly supports production of this SEA covering the implications of further oil and gas exploration in the North Sea. We see SEA as a key tool for integrating environmental considerations into strategic decision-making, thereby enabling the impacts of development on wildlife and habitats to be avoided and/or minimised.

The RSPB therefore welcomes this opportunity to comment on this SEA. We have included our comments on both SEA3 and the SEA process in general below.

## SEA PROCESS

1. The Scoping Pamphlet (S2.3) – The RSPB welcomed the publication of a Scoping pamphlet for SEA3 and the associated consultation exercise. In our experience, an early and inclusive scoping process can greatly improve the quality of an SEA; achieving consensus at this stage can avoid delays due to objections as to an SEA's adequacy at a later stage. Hence, the approach adopted is welcomed. We were, however, disappointed that the pamphlet did not explain the estimates of the potential activity to be used in the SEA, especially as the pamphlet outline circulated previously indicated these would be included. We believe that this information should be included in the scoping documents for future SEAs, to provide consultees with a more detailed picture of the likely level of development arising from particular licensing rounds. Although, it was probably implicit in the list of further studies envisaged, it would have been useful for the Scoping Pamphlet to explicitly highlight the areas perceived as information gaps. This would enable stakeholders to easily identify and forward any data sources on these specific aspects.
2. The Experts Workshop (Appendix 2) – The RSPB also welcomed the Experts workshop. We believe that this meeting was a success and from the feedback we received from other participants, we think that it was a very valuable exercise to have undertaken. However, we would have liked to see the results from this workshop more fully integrated into the SEA report. We also believe that the experts attending the workshop would have greatly benefited from having the proposed licensing scenarios and development alternatives much earlier, preferably before they produce their expert/technical reports, thus producing SEA-specific reports and assessments and suggest that this approach is adopted for SEA4. This would enable the experts to produce SEA-specific reports on the predicted impacts, including cumulative and synergistic impacts, in the context of the given scenarios and alternatives, and would therefore facilitate production of an SEA report with a much stronger assessment component.
3. It may be clearer to refer to future Experts Workshops as scoping or initial assessment workshops, as SEA/EIA experts generally interpret the term 'screening' to mean the process of determining whether or not an assessment is required.
4. Stakeholder Dialogue Meeting – The involvement of stakeholders is an essential part of the SEA process and this type of public meeting is valuable to that process. This meeting recommended that the presentations from the Dialogue meeting and the Experts meeting should be available on the website. These are useful forms of background information and summaries of activities which would aid the stakeholders in reviewing future SEAs
5. As discussed at the Experts workshop, it would be helpful if the terminology used were standardised. We would suggest that, the level of development likely to result from a licensing



round was explained in terms of the “predicted level of potential development activity” and the different options proposed for licensing (*eg* not to offer any blocks for licence, to restrict the area offered, etc) were described as “alternatives”. It then makes more sense to explain the predicted levels of potential exploration and development activity first. Then to explain the licensing alternatives, as the estimated level of activity forms the background to the licensing round, *eg* geology affects number and location of potential reserves, etc. This then logically links the predicted amount of activity with the blocks likely to be licensed.

6. It would be beneficial to have more than just one predicted level of activity for the blocks/areas being licensed. For example, carry out the assessment on the predicted activity levels supplied but then have an expert opinion on the impact(s) to the environment if that predicted activity threshold is increased (or decreased). It would also be helpful to those looking at the assessment to know what level of confidence there was in the predictions. The alternative would be to adopt a worst-case scenario (*ie* highest level of development) for the impact assessment, which would therefore potentially lead to the highest level of environmental impacts. However, again, the SEA report would need to set out the confidence levels attached to the selection of the worse case scenario.
7. Transparency of the decision-making process – We are pleased to see that the consultation on SEA3 is to follow the Cabinet Office’s code of practice on written consultations. This code of practice requires the results of the consultation and the reasons for decisions finally taken, to be made widely available. We will therefore look forward to seeing a statement after the decisions have been made on the 21<sup>st</sup> offshore oil and gas licensing round that highlights the environmental reasons behind any of the decisions taken.
8. We were pleased to see the inclusion of the voluntary and statutory agreements and codes of practice that reduce the negative impacts of the industry on the environment (S3.3 Control of operations). These ‘standard-practice’ measures were taken into account when gauging the significance of an impact against the Assessment Criteria. This list will have been particularly useful for those stakeholders outside the industry who may not be aware of all or any of the mitigation measures already standard-practice for petroleum exploration and production. Even so, it would have been helpful if the text explained that the Assessment Criteria used to consider the potential effects of development assumed that the standard-practice in S3.3 were in place and that any mitigation mentioned is then above and beyond the standard-practice mitigation, *ie* cross reference to the relevant bits of S3.3 in Chapter 10.
9. The RSPB also welcomes the DTI’s commitment to the SEA process and the acknowledgement that further improvements will continue to feedback into the SEA process.

## ASSESSMENT

10. SEA3 (S6.7), the Stakeholder, the Scoping phase and SEA2 of the North Sea, all highlight again the age of much of the **seabird at sea data**. As this is of particular importance to the RSPB, we are taking this opportunity to highlight this again. (It must be noted that ‘Seabird 2000’ was a census of breeding birds in the British Isles while in their colonies, not the distribution of seabirds while at sea). This gap in bird data has been highlighted in each of the SEAs to date and will continue to be a problem for future SEAs, not only for oil and gas exploration and production but also for other offshore industries and aspects of the offshore marine SPA designation process. The need for this data at a strategic level is highlighted for the SPA designation work in S7.3.4.3, as “... *the European Seabirds at Sea (ESAS) database is likely to be the primary source of data for identification of such areas for those species [Birds Directive Annex I and migratory species] for which there is adequate information in the database*”, *ie* there are Annex I and migratory species that do not have adequate data in the database to allow marine SPA identification. We would therefore like to know what arrangements are being made to fill this gap in future SEAs. We do not believe that there is a

need to wait until the scoping phase of future SEAs before further seabird surveys are undertaken – this is an urgent data gap we can identify now for all the SEAs of the UKCS. Indeed, the statement in the last sentence in S6.7.6, “*Much of the available information dates from SAST [Seabirds at Sea Team] work in the early 1980s ... and it is possible that significant ecological change has occurred since then, as is known for plankton distribution*”, that much of the data is old and that ecological changes have occurred in the North Sea, supports our strongly held view that more strategic survey work urgently needs to be undertaken.

11. Potential activity/development levels – Chapter 4 and S4.2.3 in particular would be much clearer if it was linked more explicitly to the section(s) on the geology and what that means for this SEA. For example, the majority of the SEA3 area is unlikely to hold any hydrocarbon reserves, hence block uptake is likely to be low (approx. 10%). In this particular case, the blocks likely to hold hydrocarbon reserves are clustered together – it would be helpful if attention were drawn to the general location of this cluster. The geology also emphasizes that SEA3 is only likely to hold gas reserves, with little or no oil. This has knock on affects on the potential impacts and hence the assessments, *ie* the infrastructure required, the potential discharges, etc. If all these things are different between oil and gas production, then they need to be highlighted in SEA3 (and at the scoping stage). It must be remembered that although this may be obvious to those working in the oil and gas industry, it will not be to many of the stakeholders who may wish to comment on the SEAs.
12. If the assessment were re-organised on a receptor rather than impacts basis, it would make it more readily understandable to readers as well as facilitating easier assessment of cumulative impacts. It would enable the impacts of numerous small and in themselves insignificant impacts to be assessed through their action on the receptor. The SEA phase 1 for offshore wind energy development is adopting a receptor based-assessment approach and we would strongly suggest that this approach is adopted for SEA4.
13. Strategic auditing/ monitoring of the SEA – this issue was raised by all the work-groups at the Stakeholders Dialogue, and we strongly support this suggestion. Auditing of the offshore SEAs carried out to date would aid the predictions of activities and environmental impacts for future SEAs and EIAs. It would provide information about how the SEA assessment predictions compared with reality at the time of actual licensing implementation and over time, through the lifecycle of the development.

#### SPECIFIC COMMENTS

14. Figures and diagrams – Many of the figures and diagrams were difficult or in some cases impossible to read, especially once printed out, *eg* Appendix 2 matrices. The web site based version was only slightly clearer. As a lot of time and trouble went into producing these diagrams, it is essential that they are legible for stakeholder to read in the final report. Some Figures would not print out at all, *eg* Fig: 4.3, but were legible on the web site. Whereas, Tables 6.5 & 6.7 printed out properly but were difficult to read on the website, *ie* all the arrow symbols have been replaced with a ‘?’ symbol.
15. Potential additional conservations sites (S7.3) – no reference has been made here about the potential for national important sites. Although John Randall’s *Marine Wildlife Conservation Bill* never became law, the issue has now been made a priority through the RMNC (Review of Marine Nature Conservation) stakeholder group and the Irish Sea Pilot project will be taking these issues forward. In addition, what concessions are being made in the SEA for the marine Natura 2000 sites which have yet to be designated? The SEA needs to point out clearly how it is overcoming the problem of a lack of marine designations and how this is being fed into the decision making process, *ie* are the decision-makers liaising with JNCC, EN and SNH for the 21<sup>st</sup> Licensing Round? It is essential that this needs is made clear in future SEA reports, and

that the opinions from the statutory agencies are included published statement explaining the reasons for the 21<sup>st</sup> Round licensing decision when this is published.

16. Discrepancies in the SEA3 report:
  - S4.2.3 identified the level of well-drilling activity to be between 6-15 wells within 4 years, whereas S10.3.8 estimates that up to 22 wells will be drilled over four years.
  - The predictions of the number of developments likely to occur in the SEA3 area used in the Socio-economic section (S10.6) of the report are different to the estimates used in the rest of the report, *eg* S4.2. S4.2.3 states that the SEA3 area would hold an estimated 1-5 subsea tieback developments tied to existing infrastructure and up to 2 stand alone platforms also tied to existing infrastructure, thus giving a maximum of 7 new developments. Whereas, S10.6.1 estimates that under pessimistic conditions 4 fields will be discovered while under optimistic conditions it's 9 new fields. An explanation needs to be given for why these estimates are different and how this has affected the assessments
17. No estimation of the significance of either the direct or indirect job creation (S10.6) through the 21<sup>st</sup> licensing round is given in the SEA3 report. In addition, we believe that, the Non-Technical Summary is slightly misleading in its statement on job creation as it fails to mention that the 2007 peak in extra jobs is a brief peak that then falls sharply over the next 3 years (see S10.6).



for birds  
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**From:**

**The Royal Society for the Protection of Birds**

The Lodge

Sandy

Bedfordshire SG19 2DL

17 December 2002

**SEA2 Extension – Extension to SEA2 of the Mature Areas of the Offshore North Sea.**

Dear Ms Weare

Please find enclosed a copy of the RSPB's comments on the extension to SEA2 of the Mature Areas of the Offshore North Sea consultation document. We welcome the opportunity to comment on this document.

The RSPB strongly supports production of SEAs covering the implications of further oil and gas exploration in the North Sea and throughout the UKCS. We see SEA as a key tool for integrating environmental considerations into strategic decision-making, thereby enabling the impacts of development on wildlife and habitats to be avoided and/or minimised.

Public awareness – Stakeholders were not made aware that this document had been finalised or that it was available on the website. It would have been helpful if at least those stakeholders who had been involved in the original SEA2 consultation had been contacted to let them know about this formal consultation, the availability of the document and the deadline for consultation responses. We note that, as the document was not published until 6 November 2002, the deadline for response of 13 December 2002 is shorter than the 12 week standard minimum period for a consultation recommended by the Cabinet Office's *Code of Practice on Written Consultation* (November 2002).

Activity predictions – It is very useful to have the comparison of the predicted level of activity for SEA2 vs. actual SEAs licences and licensed activity to date (Table 3.1). Although the text states that "... *the predicted versus actual activity levels are in sufficient close agreement that the conclusions reached in SEA2 regarding potentially significant environmental effects are likely to remain valid*", we note that in some cases, it appears that the actual number of exploration wells is approximately 50% higher than the number estimated. As we have commented in relation to other oil and gas SEAs, it would be beneficial to have more than just one predicted level of activity for the blocks/areas being licensed. For example, base the assessment on the predicted activity levels supplied but then have an expert opinion on the impact(s) to the environment if that predicted activity threshold is increased (or decreased). It would also be helpful to stakeholders reading the assessment to know what level of confidence was attached to the predictions. The alternative would be to adopt a worst-case scenario (*ie* highest level of development) for the impact assessment, *ie* potentially produce the highest level of environmental impacts. However, again, the SEA report would need make clear that it is using the worst-case scenario and set out the confidence levels attached to the selection of that scenario.

Seabirds and Other Water Birds (S3.3.3) – The original response to SEA2 and the Scoping phase for SEA3 both highlighted the age of much of the seabird at sea data. As this is seen as a priority for the

RSPB, we are taking this opportunity to highlight this issue again, please refer to our original comments on the SEA2 consultation, and for further details see our comments on SEA3. This gap in bird data has been highlighted in each of the SEAs to date and will continue to be a problem for future SEAs, not only for oil and gas exploration and production but also for other offshore industries and aspects of the offshore marine SPA designation process.

Offshore Conservation Sites (S3.3.4.2) – We believe that it is premature for the SEA to say that the JNCC are in the process of identifying possible offshore SPAs and that SPA designations are unlikely for the SEA2 extension area. JNCC are only in the process of consulting on draft guidance on defining boundaries for marine SPAs (December 2002 – January 2003), specifically marine SPAs relating to the seaward extensions of existing coastal breeding colony SPAs. Within this consultation, JNCC states that “[g]uidance for defining boundaries for this type of possible SPA [aggregations of seabirds away from the coast] will be developed in parallel to identification of the sites themselves” and so for offshore sites, neither the boundary criteria nor the site criteria has been fully developed.

Yours sincerely

Dr Sharon Thompson  
Marine Policy Officer

Dr Helen Byron  
Policy Officer  
(Environmental Assessment & Regional Policy)

**JOINT MARINE PROGRAMME - THE WILDLIFE TRUSTS AND  
WORLDWIDE FUND FOR NATURE**

Date:2002-12-11 16:18:27

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Topic:10.4.9 Gas releases

Comment:I am submitting comments on behalf of the Joint Marine Programme of The Wildlife Trusts and WWF-UK. All comments are submitted here, as compiling comments across two organisations does not lend itself to splitting the comments across the consultation document. In addition, it is time consuming to break the comments down and resubmit each item seperately.

The Wildlife Trusts and WWF-UK are not in complete agreement with the conclusions and recommendations of SEA3. In particular, we believe that it is inappropriate to compare the impact of further offshore oil and gas licensing with existing impacts of a wide variety of other activities and conclude that the impact of new licensing will be negligible in comparison. The SEA process undertaken does not investigate systematically or in depth the impact of other activities. So while the impact of existing activities may in fact be greater no assessment has been undertaken that proves this to be the case.

Secondly, we do not agree with the proposal that all of the SEA3 area could be opened up for licensing. Indeed we are amazed at this recommendation. Some parts of the SEA3 area are likely in the future to be identified as offshore SACs under the Habitats and SPAs under the Birds Directives. While we do not yet know which sites will be included in the list of proposed sites, we do have a good knowledge of the extent of the reefs and sandbanks resource in the area. Until the sites are identified (due in 2003) we believe that the potential sites should be excluded from oil & licensing.

Indeed, we feel that some areas of the SEA3 area should be restricted spatially e.g. SAC / SPA sites, coastal waters, and specifically Block 42 where interest has been indicated . See comments below.

Due to a large number of SACs identified in the coastal zone in SEA3 area, we recommend that there should be no licensing in coastal waters in close proximity to SACs or SPAs (bearing in mind that the foraging areas for birds in SPAs is likely to be relatively close to the SPA site).

The SEA identifies the potential for conflicts with marine mammal populations. The Wildlife Trusts and WWF-UK support this concern and believe that where there is good information, important sites for cetaceans and seals should be avoided, in particular the more northern part of the SEA 3 area for cetaceans populations. We welcome the recognition that there is a gap in information on the foraging behaviour of seals. This should be filled as a priority, since at this stage it is very difficult to be certain which areas are important for seal species.

We are particularly concerned about the interest in Block 42 since this is close to an extremely important seabird area - Flamborough Head. The foraging behaviour of seabirds is likely to result in sites in Block 42 being of significant important for birds. In addition, this area is the site of a shelf front. These features are of extreme importance for marine wildlife as the congregate near these nutrient rich areas to feed. There is evidence of frontal systems in the North Sea changing and it is important

that more is known about the changes to these systems before licensing could be accepted. We recommend that no licensing is considered in Block 42 until more information is available.

More research is needed on frontal systems in the North Sea.

Another area where more research is required is on the cephalopod spawning areas in the North Sea. It is known that the North Sea is an important spawning area but virtually nothing is known about spawning grounds. The importance of more research is recognised by SEA3.

Finally, there are two other matters that we feel should be considered in licensing blocks in the SEA3 area.

DTI are currently undertaking an SEA exercise for offshore wind development. Two of the areas under consideration overlap with the SEA3 area - the Wash and the Thames Estuary. The Wildlife Trusts and WWF-UK propose that opportunities for collaborative efforts are investigated.

Finally, The Wildlife Trusts and WWF-UK suggest that when considering possible companies for licensing, recognition of a companies track record on exploring and developing renewable sources of energy is a prime consideration alongside their track record on offshore oil & gas development.



# MARINE CONSERVATION SOCIETY

**Marine Conservation Society's response to DTI's 3<sup>rd</sup> Strategic Environmental Assessment – Central and Southern North Sea**  
December 2002 p.1

**1. HABITATS AND SPECIES OF NATIONAL AND INTERNATIONAL CONSERVATION IMPORTANCE**

As detailed in SEA 3 and the accompanying document 'Conservation Sites in the SEA 3 Area', Britain has yet to fully identify and designate offshore marine habitats and species of national and international conservation importance, whether under the Habitats Directive, OSPAR or national conservation plans. The DTI hence needs to be wary of licensing activities that could have a significant effect, either individually or in combination with other activities on all potentially important marine habitats and species. This includes those sites being identified by the JNCC under the Habitats Directive, but will also need to include other species and habitats such as gravel being identified as important through OSPAR and DEFRA's Review of Marine Nature Conservation. If the DTI does not avoid such sites the oil and gas companies will come into conflict with conservationists; have to undertake lengthy and expensive appropriate assessments and if it is found that an oil and gas development is likely to have an adverse affect on site or species integrity a public enquiry will be needed and the development may not be permitted to proceed.

**MCS therefore believes that the DTI must restrict the area licensed spatially.** Not to do so would be to ignore national and international measures to conserve habitats and species.

**1.1 Habitats Directive**

MCS requests that the DTI should take account of any areas *that may be designated* as marine SACs under the EC Habitats Directive, when considering individual block licences not just sites *that are designated*. No licenses should therefore be given for sites that support features of interest under the Habitats Directive. These sites should be treated as designated to ensure that their conservation status is not compromised by oil and gas activities.

**1.1.1 Marine mammals**

MCS disagrees with the SEA 3 conclusions that state that physical damage or significant behavioural disturbance of marine mammals is unlikely to occur. MCS believes that oil and gas activities may have a significant effect on marine mammals protected under the habitats directive, namely harbour porpoise, bottlenose dolphin, grey seals and common seals. MCS is particularly concerned that SEA 3 may have a potential significant effect on harbour porpoise populations that reside in the SEA 3 area. The potential cumulative and synergistic effects on this species are as follows:

**Disturbance:**

- from oil and gas activities in the 21<sup>st</sup> licensing round in combination with existing activities
- from noise from seismic surveys, additional vessel movements, drilling and decommissioning explosions all of which could effect feeding patterns and reproduction.

**Contamination:**

- from toxic discharges arising out of existing and proposed oil and gas activities (thousands of tonnes of chemicals are discharged in produced waters) and other industrial landbased sources which could have an effect on the reproductive and immune systems of the dolphins.
- From oil discharges in produced waters and oil spills or from oil spill from shipping

Potential for direct mortality:

- as a fishery bycatch in the case of harbour porpoise. "The removal of target and non-target species impacts the whole North Sea ecosystem" SEA 3, 8.3.3.
- from decommissioning explosives
- from collisions with shipping.

While research is still needed on the distribution of marine mammals and the cumulative and synergistic effects of all activities in the North Sea on these creatures, the precautionary approach must be adhered to. Due to the difficulties in identifying sites for mobile Annex II species further special conservation measures will be required to ensure the conservation of the species. These special conservation measures must include reducing activities that have an impact on the species either directly (fishing) or indirectly (oil & gas, aggregates, industrial pollution). The EU can take action against the UK if wider conservation measures don't protect habitats and species.

**1.1.2 Habitats**

The DTI should avoid licensing on sublittoral sandbanks which may be designated within the SEA 3 site under the Habitats Directive. Although the JNCC's interprets the Habitats Directive as only permitting sandbanks in waters of 20m or less to be considered as SACs, obviously sublittoral sandbank habitats extend much deeper than this and the wider areas should be seen as the boundaries to these sites. This is in keeping with other Member States such as Germany, who plan to designate the whole sublittoral sandbank habitats.

**1.2 OSPAR's MPA's programme**

To meet commitments under OSPAR's Sintra Statement Britain will need to identify, select and manage MPA's to protect important habitats and species not included in the Habitats Directive. This is in order that Britain can meet the OSPAR commitment of having identified MPA sites by 2006 and having a well managed ecologically coherent network of MPA's established by 2010. Work on identifying habitats and species under OSPAR is ongoing. The DTI should hence avoid licensing sites that may crossover with habitats or species identified under OSPAR.

**1.3 Species and communities of conservation interest**

Section 6.3.9 of SEA 3 covers species and communities of conservation interest. It details work to list nationally rare and scarce marine benthic species, but questions their conservation importance. MCS support the conservation of nationally important marine habitats and species in addition to internationally important habitats and species and hopes that the DTI does too. It should be remembered that without action at this level too, such habitats and species can become endangered.

MCS would also like note taken of the work being undertaken as part of the Review of Marine Nature Conservation (RMNC) to develop rationale and criteria for the

identification of nationally important marine nature conservation features (we could not find mention of this in SEA 3, but may have missed it). At the 11th meeting of the RMNC Working Group it was agreed that JNCC would take forward the work identified in the RMNC work programme on nationally important sites, habitats and species. This was to be undertaken, in the first instance, through the preparation of a 'criteria' paper for the identification of such features, and was to be developed through a sub-group of the RMNC.

The rationale and criteria paper states that the key aims for a national series are:

- a. Sites which best represent the range of seascapes, habitats and species present in the UK – nationally important sites
- b. Protection for those seascapes, habitats and species for which we have a special (national/regional/global) responsibility – nationally important seascapes, habitats and species
- c. Additional protection measures for those seascapes, habitats and species that have poor status.

The RMNC had asked that a subgroup: Refine the criteria outlined in *Nationally important marine seascapes habitats and species* so that they can be applied to the Irish Sea as part of the Pilot Scheme with the aim of identifying and mapping nationally important sites, species and habitats by 3 March 2003 (minutes of 11<sup>th</sup> meeting, RMNC).

## **2. SOCIO-ECONOMICS**

MCS was pleased to see that the SEA acknowledges that it is possible that the tax relief given could outweigh the income gamed from taxing oil and gas exploitation in the SEA 3 area.

Given that exploitation of reserves on the UKCS is unsustainable, in that reserves will run out (leaving aside climate change), MCS believe that the government should be holding back in licensing some blocks so that productive reserves are maintained for future generations to exploit.

## **3. MARINE SPATIAL PLANNING**

For cumulative and synergistic effects of developments and activities in the North Sea to properly be assessed at the ecosystem level, Marine Spatial Planning is needed which would be informed by an SEA. MCS with other partners in Wildlife and Countryside Link have developed a discussion paper on Marine Spatial Planning to help inform discussions by the UK and devolved administrations on how we might meet international commitments on MSP under the North Sea Conference and OSPAR.

For a copy of this paper please contact MCS

## **CONCLUSION**

**The Marine Conservation Society believes that SEA 3 does not provide sufficient justification to 'proceed as proposed'. Instead the DTI should 'restrict the area spatially' to those sites that will not impact on nationally and internationally important habitats and species.**

Melissa Moore, December 2002  
Marine Conservation Society  
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## **ENGLISH HERITAGE**

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English Heritage is the Government's advisor on all aspects of the historic environment in England. It was established as The Historic Buildings and Monuments Commission for England by the National Heritage Act (1983). Although sponsored by the Department for Culture, Media and Sport (DCMS), which has overall responsibility for heritage policy in England, English Heritage works closely with other Government Departments responsible for planning, housing, transport and the constitutional framework within which most decisions affecting the historic environment are made.

English Heritage's work falls into three main categories: identifying buildings of historic or architectural interest and ancient monuments for protection; assisting owners and other bodies with conservation responsibilities to secure the future of England's historic environment; and helping the public to appreciate, understand and enjoy their heritage.

The National Heritage Act (2002) enabled English Heritage to assume responsibility for maritime archaeology in English coastal waters, modifying the agency's functions to include securing the preservation of ancient monuments in, on, or under the seabed, and promoting the public's enjoyment of, and advancing their knowledge of ancient monuments, in, on, or under the seabed. Initial duties will include those formerly undertaken by DCMS in respect to the administration of The Protection of Wrecks Act 1973.

English Heritage has published a vision of how the management of maritime archaeology in England should be taken forward in *Taking to the Water* which states that the current legislative and planning regime for maritime archaeology in England does not adequately permit the adoption of approaches and standards that are regarded as routine in terrestrial heritage management. This policy document is available from the English Heritage website ([www.english-heritage.org.uk](http://www.english-heritage.org.uk)).

#### **Inventories of archaeological sites**

A significant issue is the provision of adequate information about the location, nature, condition and significance of the surviving evidence of the submerged historic environment. The record of maritime archaeological sites comprises the maritime section of the National Monuments Record (NMR) database and a number of local databases that are part of, or complement, the Sites and Monuments Records (SMR) held by Local Authorities.

In contrast to the terrestrial situation, only a small number of coastal SMR extend into the marine zone. The NMR, therefore, not only provides a unique national archaeological record of maritime sites, but also represents the only systematically compiled record for the English coast. The NMR maritime record is widely regarded as an essential tool in the effective management and protection of the marine archaeological resource and as a key source of information for the pursuit of general maritime interests.

Many, including Government departments, environmental consultants, academics and the general public, make frequent use of the record. However, the record only represents a small percentage of the potential number of sites, some geographic areas and periods are under-represented (due to the bias in primary sources) and the remit has extended from a focus on shipwrecks to include other currently under represented areas such as submerged terrestrial sites and landscapes.

Comments by section:

#### 7.4.1

*The statement "The locations of most of these wrecks are known.." is incorrect, the current record of shipwreck sites recorded in the sources listed is only a small proportion of the resource and is*

*incomplete and of variable quality. Many of the locations are based on documentary evidence, which is only available for sites dating from c1750, and only a few locations of sites have been verified with any reliable position fixing or target interrogation technique. In addition our knowledge of submerged archaeological sites of other types is clearly incomplete.*

“The most valuable form of protection for archaeological sites in England is scheduling which gives legal protection to nationally important archaeological sites in England. Archaeological sites which are not scheduled monuments are protected by the planning process.” *This is not the case for marine sites. Scheduling of shipwreck sites has occurred in one case in Scotland, and although the Act is applicable to marine sites it has not been implemented for completely submerged non-shipwreck sites as yet. The Protection of Wrecks Act 1973 is also available to use on marine sites, but to date only 56 shipwreck sites UK wide have been designated.*

“Information regarding the location of wreck sites and historic wrecks comes from the UK Hydrographic Office and the Royal Commission on the Historical Monuments of England (RCHME),” *RCHME is now part of English Heritage.*

#### 7.4.2.1 Scheduled monuments in the SEA 3 area

‘Scheduling’ is the process through which nationally important sites and monuments are given legal protection by being placed on a list, or ‘schedule’. Scheduled monuments are protected by the Ancient Monuments and Archaeological Areas Act 1979, and scheduling is the only legal protection specifically for archaeological sites. Only deliberately created structures, features and remains can be scheduled.” *The Protection of Wrecks Act 1973 is also available although specifically applies to shipwreck sites which are of archaeological or artistic national significance.*

#### 7.4.2.2 Wrecks and historic wrecks in the SEA 3 area

“There are 8 historic wrecks within the SEA 3 area, of which 6 are located in the Thames Estuary and coastal waters off Kent (Figure 7.2; pers. comm. Steve Waring, RCHME).” *Again RCHME is now formerly part of English Heritage.*

#### 7.5 Implications for Strategic Environmental Assessment

“Given the difficulty in terms of cost and logistics of surveying large areas of the North Sea for archaeological remains, these offshore industries currently offer the best means of finding archaeological sites away from the coast.” *Until now that may have been the case. However in the light of English Heritage’s new responsibility this is no longer true. We have the opportunity to support research initiatives aimed at raising our levels of understanding of submerged historic environment.*

#### 10.3.3.1 Archaeology

“The recognition of the importance of prehistoric submarine archaeological remains has led to a number of recent initiatives. Draft guidance has been produced for the British Marine Aggregate Producers Association and the Royal Commission on the Historical Monuments of England.” *Again RCHME needs to be replaced with English Heritage.*

“This guidance aims to provide best practice and practical advice regarding the archaeological impacts of marine aggregate dredging. The SEA 3 report on marine archaeology includes some initial suggestions for discussion of protocols and a reporting regime relevant to the oil and gas industry.” *English Heritage is keen to be involved in such initiatives, and supports any suggestions for discussions of protocols and the development of guidelines.*

“In conclusion, while prehistoric marine archaeological remains will occur in the SEA 3 area, the benefits of new information that may flow from oil and gas activity in the area were judged to outweigh the potential damage to such remains.” *The damage to these remains and other any other type of archaeological site remains un-quantified and English Heritage feel that we are not currently in a position to accept that the ratio of information lost to the ratio of information gained is an acceptable compromise.*

## 11.1 Conclusions

### Physical damage at the seabed

“Prehistoric marine archaeological remains may be affected by pipelaying or other activities but it has been proposed (as a mitigation measure and as a way to obtain new information) to promote the awareness and reporting of archaeological finds during oil industry activities in the North Sea. It is therefore concluded that the potential incremental and cumulative effects of physical disturbance are not likely to be significant.” *In the light of our new responsibility EH is seeking to ensure that research into the overall nature, condition and extent of the marine archaeological resource is supported in order to enable us to quantify the resource and the rate at which it is diminishing. The awareness of the value of the historic environment and the need to adequately report its discovery should be promoted as a matter of principle. It is not acceptable to only justify them as a form of mitigation.*

In conclusion English Heritage very much welcomes the SEA initiative. We are keen to participate in the process as fully as possible and would welcome the opportunity of discussing the issues in more detail with the DTI and the oil and gas industry.

Yours sincerely,

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Head of Maritime Archaeology  
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# **INSTITUTE OF FIELD ARCHAEOLOGISTS**



# INSTITUTE OF FIELD ARCHAEOLOGISTS

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**Comment from the Institute of Field Archaeologists**  
on  
***STRATEGIC ENVIRONMENTAL ASSESSMENT***  
***OF PARTS OF THE CENTRAL AND SOUTH NORTH SEA***  
**SEA3**

## **The Institute of Field Archaeologists**

The Institute of Field Archaeologists (IFA) is the professional body for archaeologists. It promotes best practice in archaeology and has c 1700 members across the UK and abroad. Archaeologists who are members of the IFA work in all branches of the discipline: underwater and aerial archaeology, heritage management, excavation, finds and environmental study, buildings recording, museums, conservation, survey, research and development, teaching, and liaison with the community, industry and the commercial and financial sectors. Further information can be found at [www.archaeologists.net](http://www.archaeologists.net).

## **Scope of comments**

The Institute's comments cover primarily

- 7.4 *Marine and Coastal Archaeological Resources: Sites*
- 7.5 *Implications for Strategic Environmental Assessment*
- 10.3.3.1 *Physical Disruption; Archaeology*
- 11.1 *Conclusions*

Further information is provided to supplement chapter 1, on the framework of legislation, national and international agreements pertinent to underwater archaeology.

## **7.4 *Marine and Coastal Archaeological Resources: Sites***

The IFA welcomes the document's inclusion of marine archaeology in a document of this nature and particularly the document 'The Scope of Strategic Environmental Assessment of North Sea areas SEA3 and SEA2 in regard to prehistoric archaeological remains' and the subsequent raised profile

However the comments on shipwreck archaeology are incorrect and potentially dangerously misleading. It is not the case as stated in paragraph 7.4.1 that the location of most of the United Kingdoms shipwrecks is known. The case is that whilst the location of many of the more recent shipwrecks (post 1914) is known, information

about shipwrecks that occurred prior to that date is very limited and there is virtually no information about shipwrecks that occurred prior to the mid 18th century.

The potential for wrecks in Northern European covers all periods, and archaeological discoveries of boat finds and shipwreck sites around the North Sea Basin include vessels from as early as the Mesolithic (beginning 10,000BC). The current 'best guesses' for the volume of shipping losses around the coast of the England alone throughout time vary between 100,000 and 500,000, of which the location of approximately 13,500 is known within English territorial waters. This indicates that there are between 87,500 and 487,500 wreck sites to be located, many of which will lie within the SEA 3 area.

Additionally there is no mention of aircraft losses, which are both a component of the archaeological record and in many cases the final resting place of their crews. In most cases records of aircraft lost on military service do not record their place of loss, as this is often unknown. Given the level of air activity over the North Sea during both world wars there is a relatively high potential for aircraft or related material to be present on the seabed on any part of the SEA 3 area.

The lack of data concerning the number and location of shipwreck aircraft wreck sites should be noted in the list of information gaps in 11.2.

## **7.5     *Implications for Strategic Environmental Assessment***

We welcome the initiatives referred to in Paragraph 7.5 for the reporting of archaeological finds made during other works and we recognise the difficulties that would be encountered if an attempt was made to survey large areas of the North Sea for them. However this should not preclude the inclusion of archaeology within pre-development work. Experience has shown that if archaeology is included from the beginning of any project, costs and complications can be considerably reduced.

### **10.3.3.1     *Physical Disruption; Archaeology***

The IFA is pleased that the SEA team has recognised the potential for impact on prehistoric marine archaeology arising from oil and gas activities, and the potential that such activities may also provide beneficial new archaeological data from these activities. The report recognizes that the BMAPA and RCHME guidance produced for the aggregate industry is current best practice for seabed development, and the IFA recommends that the oil and gas industry considers developing a similar policy to suit its own particular activities. It should however be recognized that experience in other areas indicates that there is a very high probability that the SEA 3 area contains as yet undiscovered archaeological sites that are of regional, national and international importance. In these circumstances preservation *in situ* or at a minimum by record is appropriate.

As above, however, we are very concerned that no consideration is given to the physical disruption of shipwreck or aircraft remains that lie on the seabed of the SEA

3 area. Again experience in other areas indicates that there is a very high probability that the SEA 3 area contains as yet undiscovered archaeological sites that of regional, national and international importance. The recent identification and subsequent designation (under the Protection of Wrecks Act 1973) of the wreck of the American warship *Bonhomme Richard* in Filey Bay, and the recent designation (under the Protection of Military Remains Act 1986) of the German submarine U-12, believed to lie in the Dover Strait, both of which sites are within the SEA 3 Area illustrate this point.

## **Conclusion**

The IFA considers that in order for the SEA program to meet its obligations under international conventions, national legislation and best practice the issue of submerged shipwreck and aircraft crash remains within the SEA 3 should be given the same level of consideration as that afforded to submerged prehistoric archaeology.

## **Additional information on the legislative etc framework**

Chapter 1 *Overview of the legislation and agreements (UK, EU and international) that apply to UK marine and maritime prehistoric and archaeological remains of the Scope of Strategic Environmental assessment of the North Sea Areas SEA3 and SEA2 in regard to prehistoric archaeological remains* adequately explains much of the legislative framework surrounding submerged archaeology in the North Sea Basin. It does not, as it states, deal with salvage law or law regarding 'wargraves'. Information is appended to this document.

# Legislation Affecting Archaeology Underwater in the UK

## *Heritage Law*

### **Ancient Monuments & Archaeological Areas Act 1979**

This Act allows Secretary of State to protect by scheduling a monument (a structure, building, works, caves, excavations, vehicles and vessels of historic, architectural, traditional, artistic or archaeological importance) or archaeological area (an area known or thought to contain anything of historic or archaeological interest) of national (which may mean anything that had an impact on British history) importance.

Schedule Monument Consent is needed for any 'works' that would result in the demolition, destruction, alteration or addition to a monument or the disturbance or removal of artefacts from an archaeological area. Tipping on or flooding is also an offence as is the use of metal detectors.

Public access to any monument or area protected by the Act may be controlled or excluded where it is deemed necessary for maintenance or preservation of a monument or area and in the interests of public safety.

Section 53 part 3 includes 'any vehicle, vessel, aircraft or other movable structure' in the definition of monument but excludes those protected by the 1973 Act. In Scotland and Wales its use can be extended below the LW mark, in England this is not the case. The Act has been recently used in Scotland to protect the remaining 7 wrecks of the WW1 German High Seas Fleet. The ships were interned in the Royal Navy base at Scapa Flow in Orkney during the peace negotiations that followed the 1918 armistice, and scuttled by their crews in June 1919. English Heritage has stated that it has no plans to use the Act for underwater sites.

## **Salvage Law**

There is no coherent body of law on protection of maritime archaeological sites, only modifications grafted onto salvage law.

### **Merchant Shipping Act 1995 Section IX**

The purpose of this section of the Act is encourage the saving of persons, vessels, cargo and equipment from shipwreck, and to protect the owner of wreck (the law assumes that everything is owned by someone) by allowing him/her opportunity to recover property. It was drafted at the end of 19th century, in times when wreck was common and there was an economic need to recover shipwreck material. It did not foresee sports diving or archaeology.

The Secretary of State appoints a Receiver of Wreck who is currently an employee of the Maritime and Coastguard Agency based at their offices in Southampton. The term 'wreck' includes (ie can also cover other things, probably any maritime casualty)

jetsam (*goods lost from a ship which has sunk or otherwise perished which are recoverable by reason of the fact that they float*), flotsam (*goods cast overboard in order to lighten a vessel which is in danger of being sunk, not withstanding that it afterwards perishes*), lagan (*goods cast overboard from a ship which afterwards perishes, buoyed so as to render them recoverable*) and derelict (*property, whether vessel or cargo which has been abandoned and deserted at sea by those who were in charge of it without any hope of recovering it*) (The *Aquila* 1798). A derelict which sinks remains a derelict (The *Lusitania* 1986) found in or on the shores of any (inc. outside territorial waters) sea or in any tidal water. The International Convention on Salvage 1989 (Sch.11 of Merchant Shipping Act 1995) possibly extends the meaning of wreck to any property, with the possible inclusion of the personnel effects of passengers and crew. The Receiver has great powers, can call on any person to help, gain access or use to land and property. Refusal or hindrance is an offence. The Receiver has the power to pay informants.

#### Duties of finder

This includes the finder, not just the salvor of wreck. Under the act a 'salvage operation' is defined as any act or activity...to assist a vessel or any property in danger, which includes fixing its position.

- i) If owner – notify Receiver and provide a description. This is done by filling in a 'droit'.
- ii) If not owner - notify Receiver and provide a description. The Receiver decides if the finder holds it (ie has a duty to maintain its condition) or deliver it for storage.

#### Penalties

- Refusal to deliver is an offence punishable by a fine. The Receiver can recover by force if needed.
- Concealment, failure to report, or destruction of distinguishing marks is punishable by a fine, forfeiture of any claim and payment of twice the value of the wreck.
- Wreck taken to a foreign port can lead to 5 years imprisonment.

#### Duties of Receiver

The Receiver must attempt to find the owner by publishing details of the recovered wreck (advertisement will be delayed if necessary to preserve the security of the site).

If the owner comes forward within one year he has to pay salvage costs (decided by the Secretary of State), the Receiver's fees and expenses. Unclaimed wreck passes to the Crown, unless it originates from where the Crown has granted these rights to others (note 3).

Unclaimed wreck landed in UK originating from outside UK territorial waters (the Crown has no rights beyond this) passes to the salvor (The *Lusitania* 1986), less the Receiver's costs. In practice the Crown waives its rights and wreck is sold to compensate the receiver and salvor. Wreck may be granted to the salvor in lieu of a salvage award at the Receiver's discretion.

DTP has waived the requirement to sell historic wreck (defined as items over 100 years old). The Receiver has a strong commitment that historic wreck remains in the

public domain and will attempt to place it in a suitable museum. If this occurs the Receiver's fee may be waived (30% for coins and 7% for other finds) and the salvor will receive the full market value. The finder's wishes will be taken into account.

Note 1: Article 19 of the London Salvage Convention ruled that salvage is based in the public policy to bring salvaged property back into economic use (it only prohibits salvage if it is unreasonable). In the case of archaeology, if salvage is not to archaeological standards the salvor may be seen to be acting against the owner's best interests because of conservation costs.

Note:2 Article 8, Convention for the Unification of Certain Rules of Law Relating to the Assistance and Salvage at Sea, Sept 23 1910, 37 Stat. 1658, T.S.576. Article 3-2 of the Draft Convention on Salvage of the Commite Maritime Internationale, May 29, 1981, reprinted in 6 Benedict on Admiralty 4-12, 4-15 (1987) provides the following:  
The Amount of the Salvage Reward

- (2) The award shall be fixed with a view to encouraging salvage operations, taking into account the following considerations without regard to the order in which presented below:
  - (a) The value of the property saved
  - (b) The skill and efforts of the salvors in preventing or minimizing damage to the environment
  - (c) The measure of success obtained by the salvor
  - (d) The nature and degree of the danger
  - (e) The efforts of the salvor, including the time used and expenses and losses incurred by the salvors
  - (f) The risk of liability and other risks run by the salvors of their equipment
  - (g) The promptness of the service rendered
  - (h) The availability and use of vessels and other equipment intended for salvage operations
  - (i) The state of readiness and efficiency of the salvor's equipment and value thereof.
  
- (2) The reward under paragraph 1 of this article shall not exceed the value of the property salvaged at the time of the completion of the salvage operation.

Note3: These individuals are known as 'grantees', normally Lords of Manors eg Duchy of Cornwall. Normally right only applies to wreck which comes ashore, between HW & LW marks, but some Lords are claiming rights farther out to sea. The legal position is unclear at the moment. Four protected wrecks lie in such areas.

### **Salvor in Possession**

This is an aspect of the common law. Salvage is dangerous activity that was economically important. The common law encourages salvage by allowing salvor who takes possession of a derelict to exclusive possession of it. In order to enforce his possession a salvor has to go to court to seek an injunction denying access to other salvors.

### Relevant Case Law.

- The *Tubantia* (1924) Divers salvaging a steamer in the North Sea have buoyed it and cleared debris so were able to obtain an injunction against other divers who commenced diving operations.
- *Morris v Lyonesse Salvage Co Ltd* (1970) (Lloyds Report 59). Archaeological investigation of wreck site of HMS *Association* off the Scilly Isles had included a survey of the site, excavation of ships timbers and lifting of cannon. Expedition leader held to be salvor in possession. It appears from this case that court will take some account of differing nature of archaeological salvage.
- The *Lusitania* (1986) (Lloyds Report 1986). Salvor who recovered artefacts from wreck held to be salvor in possession. Court held that derelict, which was derelict on the surface, did not cease to be a derelict because it sank to the seabed. This confirms that salvor who engages, or intends to engage, in the recovery of artefacts from the seabed may claim exclusive possession of sunken derelicts or their sites.

As the principle of Salvor in Possession is based on case law, it can be overridden by legislation ie PWA, PMRA or AM&AAA.

### **Protection of Wrecks Act 1973**

This Act is included under the salvage rather than heritage law section as it was a development of the Merchant Shipping Act. The Act was passed in the 1970s when it was realized that there was no protection for heritage at sea.

‘Act to secure the protection of wreck (historic or hazardous) in territorial waters and sites of sunken wreck from interference by unauthorised persons’.

The Act protects wreck or site on or in the seabed of ‘historic, archaeological or artistic importance’. No non-statutory guidance is given as to how this should be interpreted, but it would include a ‘vessel’ (not defined in Act but defined in MSA as ‘including any ship or boat, or any other description of vessel used in navigation’, would not include aircraft except perhaps flying boats) or objects contained or formerly contained in it that may be lying in or on the seabed.

The Act designates a suitable area site of vessel lies, formerly lay, or is supposed to have laid. (The Act excludes any vessel lying above the High Water Mark). It makes it an offence to

- i) Tamper with, damage or remove any part of vessel.
- ii) Carry out diving or salvage operations or use equipment designed or modified for diving or salvage.
- iii) Deposit, or use anything that may be deposited, that might damage or obstruct access to the site.

The Secretary of State designates sites and must consult appropriate advisors before doing so. The advice is given by the Advisory Committee on Historic Wreck (which comprises of representatives of museums, sports divers, archaeologists, salvors, researches, the Royal Navy etc.). It is possible to designate a wreck in an emergency without such advice.



The role of the Advisory Committee on Historic Wreck is to provide the Secretary of State with advice on matters summarised below.

- 1) The importance of the sites proposed for designation and whether or not they should be designated.
- 2) The archaeological and underwater capabilities of applicants for licences to survey or to excavate designated sites; on the conservation and other resources available to them; whether or not such licences should be granted.
- 3) The standards of work on designated sites, including compliance with any conditions imposed upon licensee.
- 4) The periodic reports produced by licensee.
- 5) The state of designated sites not currently being worked by any licensee
- 6) Any *ex post facto* Designation order made in cases of immediate urgency

The ACHW has an archaeological diving contractor, currently the Archaeological Diving Unit based at St Andrews University in Scotland, that provides assessment of sites, inspects already designated sites and provides advice to licence holders.

#### Licence types

- Visitor's - This category of licence is used where the applicant is not involved in active investigation but is either visiting the site or monitoring it.
- Survey - This type of licence can include a wide variety of non-intrusive site investigations, such as compiling site plans; recording seabed topography; or recording the distribution of plants and animals on the site.
- Surface recovery - A surface recovery licence will not normally be issued until a completed survey of the site has been submitted to the Advisory Committee on Historic Wreck Sites. This licence limits the recovery of archaeological material to items exposed on the seabed that can be removed without significant disturbance of any underlying archaeological material or sediments.
- Excavation - Any activity that is likely to involve more serious disturbance of the site will require an excavation licence. An excavation licence will not normally be issued for anything other than sampling until a completed survey has been submitted to the ACHWS. In most cases the direction of excavation or sampling activities would have to be under the total control of an appropriately qualified and experienced archaeologist.

The enforcement of the Act relies upon licensees/the general public reporting breaches of it to the police who must investigate any formal complaint but proof of violation is difficult. Goodwill of diving and fishing communities is the best protection that sites have. Recent experience suggests that successful prosecution is difficult.

Site must be marked on navigational charts and have yellow historic wreck buoy and/or site posted at local launching sites.

The Act also covers hazardous wrecks eg the munitions wrecks *Castilian* (Anglesey) and *Richard Montgomery* (Thames Estuary) and *Braer* (Shetland) tanker. The *Castilian* was designated in 1997 following many years of complaints from MoD over irresponsible recoveries by divers that had endangered life. MoD has stated that in the future it will designate without the consultation.

## **Armed Forces Law**

### **Protection of Military Remains Act 1986**

This act is designed to prevent unauthorised interference of crashed, sunken and stranded military aircraft and vessels without authority. It applies to any UK vessel or aircraft regardless of location and foreign vessels or aircraft in UK waters.

The Secretary of State for Defence (MOD) may create

- Protected Place - Any aircraft that crashed or designated vessel that sank after 4/8/1914 whilst in military service, regardless of whether location is known or not.
- Controlled Site - Designated military aircraft or vessels lost in service that are less than 200 years old and whose positions are known.

Both can be applied to any UK vessel or aircraft regardless of location and foreign vessels or aircraft in UK territorial/waters.

The Act makes it an offence to salvage, tamper with, remove or unearth any remains, or enter any hatch or other opening which encloses part of the interior, or conduct diving or salvage operations for these purpose on any site that you have reasonable ground to believe is a 'protected place'. It is an offence to carry out any of these on a 'controlled site' and to conduct diving or salvage operations for the purpose of investigating or recording remains on site. This means a total ban on unlicensed diving.

The Secretary of State for Defence (MOD) can issue licences for suitable work to be carried out on these sites.

Section 2(3)c also prohibits any excavation in UK or UK waters if undertaken to discover whether the place comprises remains of a military aircraft or vessel whenever the casualty took place.

The MoD has recently announced plans to designate 21 named sites. These are mainly Royal Navy Capital units eg HMS *Hood* & *Royal Oak*, recent losses eg HMS *Ardent* & *Sheffield* etc, a nominal foreign vessel (a U-Boat).

## **Planning Policy**

### **Planning Policy Guidance**

Planning law only applies within the territory of local authorities which, as a general rule, extends only to the low water mark. However, English Heritage and RCHME included the following statement in *England's Coastal Heritage*, referred to below

*Although it remains government policy not to extend the Town and Country Planning system to the territorial sea, the principles set out in Planning Policy Guidance note 16: archaeology and planning should be applied to the treatment of sub-tidal archaeological remains in order to secure best practice.*

Planning Policy Guidance: Archaeology and Planning (PPG 16) sets out the Secretary of State's policy on archaeological remains. It acknowledges the potentially fragile and finite or irreplaceable nature of such remains, and states that the desirability of preservation of archaeological remains and their setting is a material consideration within the planning process. PPG 16 provides that there is a presumption in favour of the physical preservation of nationally important archaeological remains, and that where preservation in situ is not justified it is reasonable for planning authorities to require the developer to make appropriate and satisfactory provision for excavation and recording of remains.

PPG 16 suggests that it is in developers' own interests to include an initial assessment of whether the site is known or likely to contain archaeological remains as part of their research into the development potential of a site. 'Local planning authorities can expect developers to provide the results of such assessments ... as part of their application for sites where there is good reason to believe there are remains of archaeological importance'. PPG 16 also notes that in spite of the best pre-planning application research, there may be occasions when the presence of archaeological remains only becomes apparent once development has commenced.

Planning Policy Guidance: Coastal Planning (PPG 20) notes that the coastal zone has a rich heritage both above and below low water mark, which includes buildings and areas of architectural or historic interest, industrial archaeology, scheduled and other ancient monuments and other archaeological sites. PPG 20 also makes specific references to sites of archaeological and built heritage interest in the information required by local planning authorities in addressing coastal planning.

### **JNAPC Code of Practice for Seabed Developers**

The Code of Practice for Seabed Developers, which was prepared by the Joint Nautical Archaeology Policy Committee (JNAPC), extends the principles of development-led archaeology on land to development at sea and was endorsed by the Department of National Heritage (now DCMS) following discussion between archaeologists and many industry groups, including the British Ports Association and the Confederation of British Industry. The provisions of the Code are set below.

1. Seabed developers acknowledge the potential scientific value of archaeological evidence on, or concealed within, the seabed and will make every effort to report, promptly, unexpected discoveries encountered.
2. The practice of developers making provision for archaeological survey and investigation in advance of development on land is supported by Government, the CBI and local authorities. Seabed developers should therefore take account of the need for co-operation to record and assess the nation's maritime heritage.

3. At the earliest opportunity the developer should seek informed archaeological advice to establish whether potential development programmes would be likely to affect a site of archaeological interest. Normally, the developer will consult appropriate archaeological bodies.
4. The above bodies will make available to the developer information within the appropriate National Monuments Record and the coastal section of the Sites and Monuments Record maintained by the appropriate local authority or equivalent. This will enable the developer and the licensing authority to give due consideration to Government's desire to see archaeological sites physically preserved or recorded.
5. Where such consultation or the developer's own research indicate that important archaeological remains may exist, the developer may make provision for the carrying out by appropriately qualified archaeologists of an underwater survey of the area. The survey will be designed to ascertain the archaeological potential before development commences and what action should be taken to preserve any important archaeological remains located.
6. Consideration will be given to the physical preservation of important archaeological remains in line with the Government's archaeological policies. Where development is unavoidable because of economic or social needs and physical preservation is not possible, archaeological survey and investigation may be an acceptable alternative. Such work will include the establishment of a site archive and the publication of the results of the investigation and survey according to the recommendations in "The Management of Archaeological Projects" published in 1991 by English Heritage or an equivalent standard.
7. Seabed developers and archaeologists will recognise the laws relating to sites, including the Protection of Wrecks Act 1973, and the issues of reporting and ownership of finds under the Merchant Shipping Act 1894.
8. In co-operation with the Receiver of Wreck, seabed developers will ensure that archaeologists may, for the purposes of study and analysis, retain artefacts and records for a reasonable time. Seabed developers will also recognise the desirability of depositing all artefacts and records in an appropriate museum as a complete permanent archive for future study. Copies of all site records should be sent to the relevant local authority Sites and Monuments Record or equivalent and to the appropriate National Monuments Record.
9. The archaeologists will be conscious of the potential public relations benefits to developers of publicising their work and that in any publicity, financial or other support from the developer should be recognised in a manner agreed by the developer.
10. The developer will present to the licensing authority a copy of the advice provided by archaeological bodies consulted along with his own proposals for accommodating any archaeological constraints which have been identified.

*Copies of the JNAPC Code of Practice can be obtained from the Royal Commission on the Historical Monuments of England*

### **Policy Guidelines for the Coast (DoE 1995)**

The Department of the Environment has drawn together guidance on a range of coastal topics. The section on ports and harbours notes that regulation of the ports industry ‘requires that proposals take account of ... historic and archaeological interests’ (DoE 1995: 20). The section also notes that harbour authority powers ‘are exercised ... in all cases with regard to conservation, public access and features of historic and archaeological interest’ (DoE 1995: 21). A specific section on the historic environment sets out the Government’s aim:

- to identify and protect nationally significant aspects of the historic environment, on land and sea, and to increase access to them.(p 47)

The section on the historic environment includes the following key guidance:

- Conservation of all aspects of the historic environment should be considered as an integral part of the planning process.
- Developers and others should take full account of the need to preserve important archaeological sites – on land and underwater – and should seek informed archaeological advice to assess the impact of their proposals at the earliest opportunity.
- Where development affecting archaeological sites is unavoidable because of economic or social needs, a project to record and treat finds should be carried out.
- Unexpected discoveries of archaeological evidence should be reported so that they can be assessed and recorded as appropriate.

### **Local Plans**

Many local plans include commitments in respect of maritime archaeology, examples are Hampshire County Council *A Strategy for Hampshire’s Coast*, New Forest District Council *Coastal Management Plan*, the Solent Forum’s *Strategic Guidance for the Solent* and Environment Agency Planning Policy.

### **England’s Coastal Heritage**

England’s Coastal Heritage: a statement on the management of coastal archaeology was published in 1996 by English Heritage and the Royal Commission on the Historical Monuments of England (RCHME). The statement set out a number of principles for managing coastal archaeology:

The coastal zone of England includes a finite, irreplaceable, and, in many cases, highly fragile archaeological resource which by virtue of its value, variety, and vulnerability justifies a presumption in favour of the physical preservation in situ of the most important sites, buildings, and remains.

Although archaeological remains situated within inter-tidal and sub-tidal areas may be less visible and accessible than remains on dry land, this does not affect their relative importance and they should be managed in accordance with the principles which apply to terrestrial archaeological remains.

As historic landscapes can extend seamlessly from dry land, through the inter-tidal zone, and into sub-tidal areas, effective management of the coastal archaeological resource cannot be achieved without due consideration of marine as well as terrestrial archaeological remains.

Where economic development in the coastal zone is likely to impact on important archaeological remains, decisions should be taken with regard to the best available information and the precautionary approach should be adopted wherever possible.

The statement also included a number of detailed recommendations, which include the following

- **Development control and environmental assessment**

Coastal archaeological interests should be adequately reflected in structure and local plans, and consistently and comprehensively included in Environmental Assessment procedures for coastal and marine developments (including harbour works, mineral extraction, oil and gas related projects, capital dredging projects, cable projects, and waste water treatment and disposal) and other activities requiring sectoral consent.

- **Minerals**

Pending the outcome of the review of marine minerals licensing procedures, adequate consultation procedures for archaeological interests during the granting or renewal of licences should be promoted and, where appropriate, local authorities should consider the use of their powers under Section 18 of the Coastal Protection Act 1949 to prohibit or licence extraction of aggregate from the foreshore and seabed in order to secure the preservation of important archaeological remains.

### ***Miscellaneous Other Polices / Laws***

#### **Harbours Act 1964**

It is the duty of the harbour authority under Section 48A of the Act to when formulating or considering any proposals relating to its functions, to have regard to

- The desirability of maintaining the availability to the public of any facility for visiting or inspecting any building, site or object of archaeological, architectural or historic interest

**WESSEX ARCHAEOLOGY**

**Department of Trade and Industry**  
**3<sup>rd</sup> Strategic Environmental Assessment**  
**Central and Southern North Sea**

**Response to Consultation**

**Antony Firth**  
**Head of Coastal and Marine Projects, Wessex Archaeology**

These comments are based on references to archaeology in the SEA 3 documentation, notably Sections 7.4 and 10.3.3.1, and SEA3\_TR014 (*The scope of Strategic Environmental Assessment of North Sea area SEA3 and SEA2 in regard to prehistoric archaeological remains*, N.C. Flemming, August 2002).

For information, Wessex Archaeology is a major provider of professional archaeological services to both developers and to regulatory authorities. As well as being very well established in the provision of archaeological services on land, in recent years Wessex Archaeology has increased its capabilities in coastal and marine archaeology. We have direct experience of assessing the archaeological potential of many seabed areas around the UK, both for strategic purposes and as part of specific scheme proposals. A list of relevant projects is appended below.

Wessex Archaeology clearly welcomes the consideration of archaeology in SEA 3, and Dr. Flemming's report is already being circulated widely as a significant contribution to debate regarding the potential for submerged prehistoric material on the UKCS.

It is nonetheless in the nature of consultation responses that they focus on perceived faults rather than strengths. Wessex Archaeology has always sought to play an active and progressive role in understanding the historic environment of UK waters, so please receive the following points in the positive spirit that is intended.

Comments in both TR014 and in SEA3 suggest a degree of unfamiliarity with the framework within which development-related archaeology is carried out in the UK. References are made to oil and gas activities as a source of discovery and new information without recognising the responsibilities that arise from the potential for those activities to impact upon archaeological material. In this sense, attention to archaeology is not merely an opportunity, but also an obligation. This obligation is explicit both in the SEA directive and in the Environmental Assessment directive that is applicable to specific proposals. Lack of consideration of archaeology in EAs accompanying oil and gas proposals, and in earlier SEAs, might raise questions regarding their adequacy.

The obligation to consider effects on the archaeological heritage inheres in that heritage being an aspect of the environment. In this respect, the visibility of archaeological material and the likelihood of it being discovered by archaeologists is immaterial in considering possible impacts. There is an obligation on the oil and gas industry to consider its effects on the archaeological heritage throughout the horizontal and vertical extents of its footprint, however remote their likelihood of otherwise being discovered.

It may be advantageous to make reference to documents outlining frameworks relating to development-related archaeology, both terrestrially and as applied increasingly at the coast



and offshore. Key documents include *Planning Policy Guidance: Archaeology and Planning* [PPG 16] (Department of the Environment, November 1990), and *England's Coastal Heritage: a statement on the management of coastal archaeology* (English Heritage/RCHME, March 1996). We would be very happy to meet members of the SEA 3 team to discuss examples of how such frameworks are applied in practice.

An enhanced appreciation of the conduct of development-related archaeology might benefit the SEA 3 documentation, particularly sections 5-8 of TR014. The assessment-evaluation-mitigation sequence is very well developed in terrestrial archaeology, and is achieving considerable sophistication in its application to large, complex and/or environmentally-demanding construction projects. The lessons learned are being applied and further developed for coastal and marine schemes. There is, therefore, an increasing body of experience on which to base recommendations to the oil and gas industry regarding site investigations, reporting, mitigation measures etc. As above, we would be pleased to discuss such matters with the SEA 3 team.

As a final comment, we would suggest that further consideration is warranted in respect of some of the statements made in the SEA 3 documentation about human presence and inhabitation. Our knowledge of previous human use and occupation of the UKCS is very limited, and the grounds upon which areas are written-off should be kept under review. Further to this point, the considerable body of information on submerged marine sites both around the UK and internationally, so skilfully brought together in TR014, might be further enhanced by integration with a consideration of contemporary terrestrial sites from the UK and near-Continent. In particular, nominally 'terrestrial' investigations on major estuaries such as the Solent, Thames and Severn – and in the Netherlands and Belgium – are providing palaeo-environmental and archaeological evidence that is directly relevant to considering the archaeological potential of the North Sea. As a contribution to discussion of such matters, Wessex Archaeology will shortly be distributing copies of a report for English Heritage and the British Marine Aggregate Producers Association (BMAPA), entitled *Palaeolithic and Mesolithic Archaeology on the Sea-bed*, by Dr. Francis Wenban-Smith.

## FOR INFORMATION: WESSEX ARCHAEOLOGY

Wessex Archaeology is uniquely positioned as a large, established archaeological practice capable of carrying out coastal and marine projects. Wessex Archaeology is a charity, but derives most of its income from the provision of archaeological services to developers. In addition, Wessex Archaeology also carries out strategic projects for a variety of local and national public authorities. Coastal and marine projects still form a relatively small proportion of Wessex Archaeology's work, but over the past 5-6 years a considerable archaeological contribution has been made to many coastal and marine developments, as indicated by the following list of UK projects.

<p><b>Marinas</b></p> <ul style="list-style-type: none"> <li>• Clovelly Bay Marina, Plymouth</li> <li>• Town Quay Marina, Poole</li> </ul> <p><b>Wastewater Outfalls</b></p> <ul style="list-style-type: none"> <li>• Stade Outfall, Folkestone</li> <li>• Dover Long Sea Outfall</li> <li>• Sandown Long Sea Outfall, Isle of Wight</li> </ul> <p><b>Ports and Capital Dredging</b></p> <ul style="list-style-type: none"> <li>• Dibden Terminal, Southampton Water</li> <li>• Belfast Lough, Northern Ireland</li> <li>• London Gateway (Shell Haven), Thames Estuary</li> <li>• Remote Ammunition Facility Tamar, Plymouth</li> </ul> <p><b>Docks and Waterfronts</b></p> <ul style="list-style-type: none"> <li>• Great Western Dock, Bristol</li> <li>• Priddy's Hard, Gosport</li> <li>• Stonehouse Waterfront, Plymouth</li> </ul> <p><b>Offshore Wind Farms</b></p> <ul style="list-style-type: none"> <li>• Rhyl Flats, North Wales</li> <li>• Solway Firth, Cumbria</li> <li>• Barrow, Lancashire</li> <li>• Kentish Flats, Thames Estuary</li> <li>• Gunfleet Sands, Thames Estuary</li> <li>• Lynn and Inner Dowsing, Lincolnshire</li> <li>• Scarweather Sands, South Wales</li> <li>• Shell Flat, Lancashire</li> </ul> <p><b>Telecommunications Cables</b></p> <ul style="list-style-type: none"> <li>• Crooklet's Beach, North Cornwall</li> </ul> <p><b>Tunnels</b></p> <ul style="list-style-type: none"> <li>• South Hampshire Rapid Transit, Portsmouth Harbour</li> </ul>	<p><b>Marine Aggregates</b></p> <ul style="list-style-type: none"> <li>• Area 451, St. Catherine's, Isle of Wight</li> <li>• Area 407, St. Catherine's, Isle of Wight</li> <li>• River Tay, Fife/Perthshire</li> <li>• Areas 458 and 464, West Bassurelle, English Channel</li> <li>• Hastings Shingle Bank/South Hastings, East Sussex</li> <li>• Area 389, Culver Sand, Bristol Channel</li> <li>• Middle Ground / North Bristol Deep, Bristol Channel</li> <li>• Greenwich Light East, English Channel</li> <li>• Areas 474 and 475, Eastern English Channel</li> <li>• 372/1 North and 372/2 South East Nab, Isle of Wight / Hampshire</li> <li>• Area 254, Great Yarmouth, Norfolk</li> <li>• Area 466, North West Rough, North Sea</li> <li>• Area 480 (106 East), Humber</li> </ul> <p><b>Strategic Coastal Studies</b></p> <ul style="list-style-type: none"> <li>• Shoreline Management Plans and the Historic Environment</li> <li>• Tamar Estuaries Historic Environment</li> <li>• Hayle and Camel Estuaries Historic Audit</li> <li>• Bristol Channel Marine Aggregates Resources and Constraints</li> <li>• Historic Environment of the North Kent Coast</li> <li>• Lymington-Keyhaven Marshes</li> <li>• Historic Coastlines of Hampshire</li> <li>• Hampshire Salterns</li> <li>• Marine Aggregate Dredging and the Historic Environment</li> <li>• Royal Naval Bases at Portsmouth and Devonport</li> <li>• East Channel Region, Regional Environmental Assessment</li> </ul>
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