MCZ Team
Nobel House
17 Smith Square
LONDON SW1P 3JR

30 March 2013

Dear Madam/Sir

MARINE CONSERVATION ZONES: CONSULTATION ON PROPOSALS FOR DESIGNATION IN 2013

Hutchison Ports (UK) Ltd ("HPUK") welcomes the opportunity to comment on this important policy development. HPUK is a member of the Hutchison Port Holdings ("HPH") Group, a subsidiary of the multinational conglomerate Hutchison Whampoa Limited ("HWL"). HPUK owns and operates the Port of Felixstowe, London Thamesport and Harwich International Port and, with over 3,000 employees, is the largest employer in the UK port industry.

- **Port of Felixstowe** is the largest container port in the UK. All the major container lines have a presence in Felixstowe and the port has over 90 services per week to every part of the world. It has a total of nine deep-water container berths, including the new Berths 8&9, opened in September 2011. The port handles over 3.5 million TEU of container traffic each year which represents more than 40% of all the UK's container trade. In addition to containers, Felixstowe handles roll-on/roll-off (Ro/Ro) ferry services to North West Europe.

  Felixstowe is also the UK's largest container rail terminal handling 58 freight train movements per day, connecting the port with 16 inland destinations. Felixstowe has two rail terminals and HPUK is investing £40 million (including a €5 million contribution from the EU TEN-T budget) in a third terminal. The new North Rail Terminal will open in mid-2013. It will be capable of accommodating longer trains and permit 35-wagon freight trains to use the port. Eventually, the new terminal will double rail freight capacity at Felixstowe.

- **Harwich International Port** is one of the UK's leading multi-purpose freight and passenger ports, with road and rail links to the Midlands, London and the South East. It is ideally located for North Sea freight and passenger traffic to and from Scandinavia and the Benelux countries, offering first class roll-on/roll-off, ferry, container and bulk operations. Harwich is also a leading port for the shipment and transfer of wind turbines to offshore wind farms.

  Consent was received in March 2006 for Harwich International Port to develop a new deep-water container terminal at Bathside Bay, adjoining the existing facility. The new container port will offer 1,400 metres of deep-water quayside, 11 ship-to-shore gantry cranes, and a total capacity of 2.1million TEU per annum.

- **London Thamesport** is located on the River Medway. The Port, which includes container and warehouse operations, covers a total area of 85 hectares. It offers automated secure container yards and modern warehousing. The quay is equipped with two deep-water container berths, dredged to a depth of 15 metres alongside.

Both Felixstowe and Harwich are located on the Stour and Orwell estuaries in an area known as the Haven Gateway. The Haven Ports and associated logistics directly employ some 32,000 people (with an after-tax income of £740 million) in the Haven Gateway sub-region, based on existing private inward investment of many hundreds of millions of pounds. This investment produces an annual turnover of approximately £3 billion and creates a further 1,000 jobs in local service sectors – providing a significant contribution to the local, regional and national economy.

HPUK has a history of working together with the natural environment and, in conjunction with other relevant organisations and NGOs, conserving and improving biodiversity during the development and operations of its ports. The Port of Felixstowe has been at the heart of significant improvements to the Stour and Orwell biodiversity. By working with other stakeholders in the Stour and Orwell estuaries, the growth of the Port of Felixstowe has been sympathetic to surrounding habitats and biodiversity, whilst at the same time creating jobs and generating wealth in the UK over a number of decades.

HPUK welcomes the proposal to develop a network of Marine Conservation zones, but has concerns regarding the evidence supporting the proposed Stour and Orwell estuaries MCZ and the potential socio-economic impact of this particular designation and, as a consequence, and until these issues have been resolved to the satisfaction of all parties, does not believe it should be designated as an MCZ.

Harwich Haven is probably the most important port complex in the UK. As noted above, HPUK has plans, and consent, for further development in the harbour. The lack of any clarity as to what management measures may be required if the sites were to be designated makes an informed assessment of the socio-economic impacts of a designation difficult, if not impossible to make. The economic impact assessment appears to assume that there will be no measures effecting port operations but there can be no certainty that this is the case.

Any detrimental effect on the ability of the world's largest container vessels to enter the Port of Felixstowe, or for the port to be further developed, will have a potentially major impact on the local and national economy. It is noted that the designation of the proposed Thames MCZ has been deferred for this reason despite it being a "site at higher risk". It is not clear why this precaution has not been applied consistently to the Stour and Orwell estuaries.

The proposal to designate the Stour and Orwell as an MCZ in 2013 should also take into account the impact on low-carbon supply chains and the ability of the UK to meet carbon-reduction targets.

HPUK ports are key hubs in international trade and fundamental components of a low-carbon supply chain. The Port of Felixstowe, for example, can accommodate the latest, cleanest and most carbon efficient vessels. In recent years the port has invested over £300 million to accommodate these vessels. The port is also developing a third rail terminal and is the largest container rail freight terminal in the UK with 58 freight train movements to all regions of the UK every day, moving around 11,000 containers by rail each week. Felixstowe's rail operations have a current carbon benefit of around 90,000-100,000 tonnes of CO_2/y to the UK, rising to 180,000 tonnes/y with the third rail terminal.

If these containers cannot move through Felixstowe there is nowhere else in the UK capable of providing low carbon modes of onward transport on this scale. There is, therefore, a risk of reverse modal shift from rail to road, increasing the UKs carbon emissions, deteriorating air quality, and further congesting the road network. The Port of Felixstowe is a significant mitigating factor in climate change.

Harwich International Port is a strategically important gateway for perishable goods from the Continent supplying UK markets and retailers as well as an important passenger route to mainland Europe and one of the UK's major cruise ports. It is a crucial component supporting economic growth and regeneration in an economically deprived part of North Essex.

In recent years Harwich has become the UK's leading port supporting the development of offshore wind farms. It has already shipped more turbines than any other port and supported the development of Greater Gabbard, Gunfleet Sands and London Array wind farms, and has a potentially important role to play in the development of the Round 3 projects that are central to the UK's renewable energy targets. The designation of an MCZ could impinge upon these developments and should be considered before any decisions are made.

HPUK does not believe that the balance of evidence supports the designation of the Stour and Orwell as an MCZ. The risk of significant socio-economic impact and other unintended environmental consequences cannot be ruled out, the estuaries already benefit from a high degree of environmental stewardship, and the environmental evidence supporting the designation is disputed; Harwich Haven Authority (HHA) has provided extensive evidence that the majority of the suggested habitat simply does not exist.

The concerns over the environmental evidence are detailed more fully below:

1. The proposed MCZ of some 87 square kilometres, including the whole of the Stour and Orwell estuaries, Dovercourt Bay and Hamford Water, is suggested to contain some 33 square kilometres of relevant habitats. The largest single habitat referred, based on just two samples, is suggested to account for no less than 31 square kilometres of the total 33 square kilometres of habitat. HHA has provided substantial evidence to the Balanced Seas Project and to Natural England, from more than thirty five samples, that the suggested large scale habitat simply does not exist. If this habitat was to be discounted, the area of the remaining habitats proposed for designation, total 2.04 km^2 out of a proposed MCZ area of 87 km^2 (2.3%).
2. The estuaries are already designated as SSSI, SPA and RAMSAR sites. The Stour and Orwell SPA and SSSIs are designated for their bird populations and the habitats which support them, such as inter-tidal mud and saltmarsh. The Harwich Foreshore SSSI is designated for the geological features of the Harwich Stone band exposure. Whilst not all the features proposed for designation in the rMCZ are specifically included in the other designations, it is difficult to understand how they are not, in effect, protected and how any activities which threatened them would not be restricted due to the existing designations. It is therefore unclear where any conservation gain will come from.
3. The proposed MCZ includes the whole of the operational approaches and berths of the Port of Felixstowe, Harwich International Port, Port of Ipswich, Harwich Navyard and Mistley Quay. These areas do not contain any features of any significance and as an absolute minimum these areas should be excluded from any MCZ under consideration.
4. The Stour and Orwell site is being recommended for designation in respect of 5 out of the 11 features which were originally considered, as there was a need for further study or information before the other features could be included. The consultation document states that these additional features can be added to the site feature list if the studies indicate this is appropriate, without any further consultation or discussion. This is unacceptable as there will be no opportunity to comment on the impact the inclusion of these additional features may have.

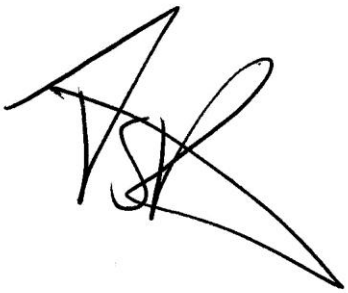
In conclusion, HPUK does not object to the principle of designating Marine Conservation Zones but does have serious concerns over the use of evidence in the specific case of the Stour and Orwell estuaries proposed designation.

The uncertainty regarding management arrangements for MCZs means it is not possible to predict the economic impact of MCZs, potentially massively understating the impact of designating an MCZ in the approaches to the UK's largest container port. The uncertainty regarding the impact on port development has been recognised in the consideration of the proposed Thames MCZ but not for the Medway, or Stour and Orwell. This is inconsistent and discriminatory.

HPUK believes that the Stour and Orwell should, at the very least, be excluded from those MCZs proposed for designation in 2013 pending a proper review of the socio-economic impact and of the reliability of the environmental evidence. It should not be resubmitted for designation until: there has been a review of the method for calculating socio-economic impacts of MCZ proposals so that there is a better and more informed basis for deciding on MCZ recommendations in port areas; it is clear that management measures associated with an MCZ would have no impact on the operation or foreseeable development of the ports in the estuary which are vital to support future economic growth; and the environmental evidence has been reviewed to remove errors and a reassessment of whether the corrected evidence justifies any consideration as an MCZ undertaken.

The answers to the specific consultation questions are included in the Appendix to this response.

Yours faithfully,



Paul Davey

Head of Corporate Affairs

Appendix

MARINE CONSERVATION ZONES: CONSULTATION ON PROPOSALS FOR DESIGNATION IN 2013; QUESTION RESPONSES

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

HPUK does not support the designation of the Stour and Orwell rMCZ in the first tranche.

a) HPUK believes that the designation will lead to significant uncertainty regarding management measures (until these are addressed) and could introduce additional and unnecessary restrictions to operation and development which will not produce any meaningful conservation benefit to the estuaries.

b) The estuaries are already designated as SSSI, SPA and RAMSAR sites. The Stour and Orwell SPA and SSSIs are designated for their bird populations and the habitats which support them, such as inter-tidal mud and saltmarsh. The Harwich Foreshore SSSI is designated for the geological features of the Harwich Stone band exposure. Whilst not all the features proposed for designation in the rMCZ are specifically included in the other designations, it is difficult to understand how they are not, in effect, protected and how any activities which threatened them would not be restricted due to the existing designations. It is therefore unclear where any conservation gain will come from.

c) As no management measures have currently been decided upon, or will be prior to designation, the economic impact of the designation could, in practice, be significantly different from the sums included in the IA. There is a fundamental lack of information on which to make an informed response to this proposal.

d) The broad scale habitat (A5.1: Sub-tidal coarse sediment) included as by far the largest area feature for designation (31 km^2 out of a total area of 87 km^2) is not present in the areas indicated and evidence was given to the Balanced Seas project team which confirmed this. From later discussions with Natural England, it appeared that the data quality criteria adopted by the project in arriving at the recommendations operated perversely. It discounted over 30 grab and core samples provided by Harwich Haven Authority (HHA) from within the area, in favour of two widely spaced samples from the Thames REC (aggregates) surveys because it included an element of remote sensing. This is completely unacceptable and throws serious doubt on the validity of other data used in the process.

e) HHA's specialist benthic consultants have queried whether the areas identified as *Sabellaria alveolata* are indeed this species or just inter-tidal examples of *Sabellaria spinulosa*. As *Sabellaria alveolata* is considered rare and is an important reason for the proposed designation of this site, this uncertainty should be cleared up before designation.

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

HPUK is not aware of additional features that should be included.

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

It is not clear why the conservation objectives for any of the proposed features (such as the Honeycomb worm reef (*Sabellaria alveolata*), the Rossworm reef (*Sabellaria spinulosa*), the Native Oyster beds or the sheltered muddy gravels) should be 'recover' rather than 'maintain'. HPUK has not been made aware of any evidence that suggests that these features are currently threatened or in a reduced condition that would require the 'recover' objective. It seems that the 'recover' status is based on an assumption that these habitats are considered likely to be under pressure even though there is no data to support this.

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

The rMCZ boundary includes the current SSSI and SPA boundaries for the Stour, Orwell and Hamford Water but joins them together by including the entire operational berth and approach areas of the ports of Felixstowe, Harwich International, ABP Ipswich, Harwich Navyard and Mistley. As the evidence suggests that the broad scale habitat A5.1 is NOT present in the harbour, the only significant feature present in this new proposed area is the *Sabellaria* on Harwich Shelf, covering an area of 0.04 km^2. This feature is well recorded and has been taken into account in recent development proposals (such as Felixstowe South Reconfiguration). HPUK does not believe that including this feature in a wider MCZ will in practice afford it any additional protection. If it was thought to be necessary, restrictions on anchoring or trawling in this area could be introduced using the existing bylaw powers of the IFCAs or the Haven Authority.

As stated above, HPUK does not support the designation of the proposed MCZ. If it was to be designated, HPUK would strongly urge that the site boundaries should be modified to exclude the operational port areas and in effect, be limited to the current SPA and SSSI limits.

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

Harwich Haven Authority holds extensive data in the rivers and harbour, some of which was not included in the Balanced Seas Project assessment due to data compatibility and handling issues.

HPUK understands that a number of other organisations, including the Environment Agency, IFCAs, Wildlife Trusts and Natural England hold data on the estuaries that may be useful but may not have been fully used in this process, also due to issues with data compatibility.

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

The Impact Assessment for the Ports and Harbour sector was limited to the inclusion of the rMCZ in studies for future development proposals and consents. It appeared to come to the conclusion that no current or future operations would be restricted by the proposed designation. It is possible that future assessments could conclude that current operations, such as maintenance dredging or the passage of deep drafted vessels, were having an effect on a designated feature. Any proposed new developments in the Haven could also be assessed as having an impact on the features. Any restrictions on these operations would have very significant economic impacts on a key international trade gateway which have not been considered at all in the Impact Assessment process.

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

The economic impact assessments appear to have made wide-ranging and unwarranted assumptions. As noted above, the impact on the Ports and Harbours was limited to including the rMCZ in studies for future development. It assumed that any proposal would have:

- no significant impacts on MCZ objectives,
- there would be no need for additional data collection,
- all existing data was available and of sufficient quality
- that the proposal was 'normal' for the site.

Given all these assumptions it is not surprising that a figure as low as £3K per year was determined. As future management measures are not yet determined, it is possible that the impact of the MCZ designation could be much more wide ranging and many times more costly than this. Any measures that constrain the current operation, or future development, of one of the country's major port clusters, one handling over 40% of all UK containerised trade, could have a massive impact on the UK economy as a whole. Whilst the Ports would be delighted if these low costs were correct, there is a pressing need for greater certainty regarding the proposed management measures and thus the economic impact before sites are designated.

HHA and the Haven port operators have extensive information on the costs of maintenance dredging, facility development and on-going mitigation and monitoring, all of which could be seriously impacted by future conditions or restrictions. The uncertainty as to what new measures may be adopted is already an issue with inward investors who enquire what an MCZ designation is going to mean for their existing as well as potential future investments. When this question cannot be answered with any clarity, it adds a further risk element to investing in the ports and facilities which is likely to have serious implications for future prosperity.

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

HPUK is unclear how the benefits of the designations have been or will be valued under the IA. The issue appears to have been largely avoided by the low assessment of the costs attributed to the proposals. As stated above, HPUK remains unconvinced that the costs really will be this low for itself or for other port users.

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

HPUK would like to comment on the following wider matters:

a) The first tranche sites are being proposed often for a partial list of features (five out of thirteen in the Stour and Orwell). It is indicated that when, or if further information becomes available, these other features may be added without any further consultation. HPUK considers this to be completely unacceptable as the addition of new features and their subsequent management measures could change the impacts on the current and future operations entirely. It is suggested that unless it can be agreed that the inclusion of new features will have negligible impact, it should be treated in the same way as the proposal for a new site in second or subsequent tranches.

b) The issue of Reference Sites has been difficult throughout the whole process, from the regional projects onwards. It is not clear whether they were intended to be highly protected, 'no-go' sites, due to the fragility and/or quality of what they contained, or were truly 'reference sites' - areas with very low levels of activity which would indicate what a habitat looks like in the absence of these impacts.

   If the intention was for a true 'reference site' then the criteria for their location would be very different and they would not be proposed adjacent to, or in the middle of, a busy commercial harbour (e.g. Holehaven Creek or Harwich Haven rRAs). HPUK considers that greater clarity is required before any proposals for reference areas are re-introduced.

c) HPUK is entirely supportive of the concept of providing a network of marine protected areas with appropriate management measures in place to support marine conservation objectives. However, difficulties have arisen due to the inclusion of currently designated near-shore and estuarine sites as potential easy-wins that add significant areas to the totals of habitats required, whilst providing little conservation benefit. Data will always be more available in the areas of past and current development and the lack of resources to acquire new data has led to a focus on these areas and inevitable conflict with commercial operators and developers.