



Fjodr

Marine and Historic Environment Consulting

Marine Spatial Planning and the Historic Environment

Antony Firth
February 2013

A report for English Heritage

Fjodr Ref: 16030
English Heritage Ref: 5460



Title	Marine Spatial Planning and the Historic Environment
Fjordr Ref / Version	16030
External Ref(s)	EH 5460
Authors	Antony Firth
Derivation	
Origination Date	06/03/12
Date of Last Revision	14/02/13
Status / Required Action	Final
Circulation	EH
File Name / Location	Marine Spatial Planning and the Historic Environment - Final Report 140213

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Acknowledgements

The project was commissioned by English Heritage as part of the National Heritage Protection Plan. Fjordr would like to thank Christopher Pater, Marine Planner, and Edward Salter, Maritime Archaeologist, of English Heritage for their guidance and assistance. I would also like to thank Tim Cromack and the staff of the National Heritage Protection Commissions Programme.

For his warm welcome to the participants of the seminar Marine Spatial Planning and the Historic Environment Fjordr would like to thank Dr. Andy Brown, Planning Director – South East of English Heritage. Fjordr would also particularly like to thank the Chairs of the four sessions, Thijs Maarleveld (President of ICOMOS-ICUCH), Frederick Lüth (President of the European Association of Archaeologists), Adrian Olivier, and Andrea Otte-Klomp (Netherlands Cultural Heritage Agency).

Fjordr would like to extend its thanks to all of the participants of the seminar for their complete engagement in the day, and special thanks also to the respondents to the Background Questionnaire. Fjordr is grateful to Gillian Reading of Gillian Reading Business Services for maintaining a record of the meeting. Finally, Fjordr would like to thank all those forming part of the wider circulation list of the seminar that provided comments and assistance.

The project was carried out and this report was written by Antony Firth, Director of Fjordr Limited. The review elements of the project took place in January-July 2012 and the report reflects legislation and policy at that time.

Citation:

Firth, A., 2013, 'Marine Spatial Planning and the Historic Environment', *unpublished report for English Heritage*. Project Number 5460, Fjordr Ref: 16030. Tisbury: Fjordr Limited.

Executive Summary

Marine Spatial Planning and the Historic Environment is a consultancy project intended to inform English Heritage about the international, European and UK interpretation of marine planning methodology. This report is the main deliverable of the project.

The report reviews the character of the marine historic environment in the light of the conceptual framework of sustainable development and considers the different emphases that animate marine spatial planning. The report also looks in detail at the place of the historic environment in ecosystem-based management, ecological services and socio-economic assessment.

The report goes on to present an extensive account of law and policy relating to the historic environment within marine spatial planning in different domains, from global international law to locally-based planning.

The final part of the report seeks to provide practical guidance on how the historic environment is best addressed within marine spatial planning, taking into account in particular the wide scope of decision-taking by public authorities that is subject to marine plan policies, and the need for proactive policies that encompass all the guiding principles of sustainable development.

Five areas are identified as warranting further development:

- The quantitative evidence-base on the current and potential contribution of the marine historic environment to social and economic growth;

- Supplementary Planning Documents on the historic environment to support Marine Plans;

- Collation of local plan policies from authorities adjacent to marine plan areas, to facilitate the integration of MSP with land-based planning;

- Guidance for public authorities on the marine historic environment to reflect the role that the UK Marine Policy Statement and Marine Plans now play in public authority decision-making;

- The relationship between marine spatial planning and the protection and management of World Heritage Sites in England, given that so many WHS encompass or are adjacent to marine plan areas.

As well as comprising a major desk-based review, the project included a seminar on Marine Spatial Planning and the Historic Environment that was organised in London on 22 May 2012 to coincide with European Maritime Day. Participants attended from a wide range of institutional backgrounds in the UK and from the Continent. Outputs from the seminar are appended to this report.

A document has been prepared summarising law and policy relating to the inclusion of plan policies for the historic environment in regional Marine Plans in England. The document is entitled *Dealing with the Historic Environment in Marine Plans* and is appended to this report.

Part 1: Introduction

1. Background

Marine Spatial Planning and the Historic Environment is a consultancy project intended to inform English Heritage about the international, European and UK interpretation of marine planning methodology. The scope of the project was set out in a Project Brief by English Heritage dated 21 October 2011. A Project Design was prepared in response to this brief, dated 18 December 2011.

A common, comprehensive approach to marine spatial planning in waters off England has been introduced by the Marine and Coastal Access Act (MCAA) 2009. The legal and policy framework places special emphasis on adopting 'an ecosystem approach' to marine management, but the historic environment is also clearly recognised. Government recognition of the place of the historic environment in marine management, planning and licensing is now included in a raft of UK and national policies and guidance, including in documentation published in connection with the first two regional Marine Plans, East Inshore and East Offshore.

Although there are legal and policy drivers at UK, European and international levels that encourage or require marine spatial planning to take account of the marine historic environment, these drivers are ambiguous in themselves and in their relation to the ecosystems approach that predominates. Practice in respect of marine spatial planning and the historic environment – which might relieve some of the ambiguities – is relatively sparse. Further, the subject has received relatively little attention in commentary or guidance. Consequently, whilst the implementation of marine spatial planning is gathering place, and there is an obligation to address its relation to the historic environment, the corpus of available material upon which to base future policy and practice is disparate and under-developed within the UK, Europe and internationally.

England is not alone in facing complexity in the developing relationship between marine spatial planning and the historic environment. Wales, Scotland and Northern Ireland are in similar circumstances within the UK, but with important differences in some areas of planning policy. Elsewhere in Europe, in the Republic of Ireland and on the Continent, countries are subject to some of the same factors, such as EU law and the European and global conventions to which they are party. They also have their own land- and marine-planning contexts, which may share many common elements with England. Both in a UK context and more widely, therefore, there is scope to draw lessons from comparative analysis. However, even where the mechanisms are common there are likely to be very distinctive differences in interpretation, administration and tradition.

With this in mind, the project was intended as a follow-on from the EU Culture 2000 project 'Managing Underwater Cultural Heritage' (MACHU). The MACHU project included partners from the UK, Sweden, Netherlands, Poland, Belgium, Germany and Portugal. The MACHU project provided a forum for discussion of management issues of mutual relevance, including the emergence of EU action to develop integrated maritime policy and a marine strategy directive. The benefits of sharing similar experiences and discussing changes that affect partners in common are amongst the aspects of MACHU upon which, in the field of marine spatial planning, this project sought to build.

It has to be borne in mind, however, that the UK system of heritage management is based on more limited statutory protection than is often the case elsewhere in Europe. In

particular, in the UK there is no statutory provision for blanket / automatic protection of monuments meeting generally specified criteria, no general requirement for archaeological activities to be licensed, nor any requirement for automatic reporting of archaeological discoveries to the authorities. As statutory heritage protection in the UK is somewhat circumscribed whilst elements of the historic environment are widespread, recourse to the planning system has been a major characteristic of UK heritage management over the last 30 years. Planning-based archaeology has become important in other countries especially in respect of major development schemes, as reflected by the obligations introduced by the Valletta Convention, but in general terms recourse to the planning system has been less pressing because their statutory protection has been more comprehensive. One consequence is that planning-based archaeology in many countries is generally more diffuse and less well documented than in the UK.

The overall case for this project is, therefore, to collate and review relevant material, and to present a concise account of options going forward that directly inform English Heritage's decision-making on a topic that is both central to the protection and management of the marine historic environment, and very pressing. The project has been originated by English Heritage through the National Heritage Protection Plan (NHPP) relating to Knowledge Transfer (9B6). The business case for the project is supported by UK policy insofar as the project is intended to help give effect to the UK Marine High Level Objective (see below) that use of the marine environment should be spatially planned, recognising the protection and management needs of marine cultural heritage according to its significance.

2. Research Aim and Objectives

The aim of the project is to inform English Heritage's position regarding the interpretation of international, European and UK interpretation of marine planning methodology, with particular regard to the UK Government's programme to introduce marine planning of the English area of UK Territorial Waters and adjacent UK Continental Shelf.

As set out in the Project Brief, the objectives of the project were as follows:

- To set out a mechanism within marine planning that will address the historic environment within marine planning in a manner supportive of national, EU and other international agreements and accepted practices.
- To assess how the features that comprise the historic environment should also represent cultural services and how such services should be a component of marine planning using national, European and international examples.
- To consider the delivery of marine planning and other obligations as provided for through the EU Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA) Directives in comparison with approaches adopted by other European States.

The Project Brief also noted that a seminar was to be organised in England to serve as a primary means of gathering information. The seminar was to involve UK heritage bodies, relevant European bodies and members of the previous MACHU project (UK; Netherlands, Belgium, Germany, Poland, Sweden and Portugal).

On the basis of these objectives the project was understood in the Project Design to comprise the following overlapping elements:

- A clear synthesis of law and policy relating to the historic environment within marine spatial planning;
- An authoritative account of the marine historic environment in all its aspects as a cultural service;
- Practical guidance as to how the historic environment is best addressed within marine spatial planning processes (i.e. a mechanism);
- An account of how marine plan policies relating to the historic environment can be applied in development control decisions (i.e. consenting/licensing), including for major schemes.

These objectives provide the basic structure of this report. The work carried out to address the marine historic environment as a cultural service forms the basis of Part 2. Part 3 presents a synthesis of law and policy relating to the historic environment in marine spatial planning. The remaining two objectives of providing practical guidance and accounting for the application of plan policies are set out in Part 4, whilst Part 5 is formed of references and appendices.

3. Methodology

The project has been carried out primarily using desk-based methods, accessing documentation from Fjordr's own collections and from the web. As anticipated by the Project Brief, the seminar organised in the course of the project played a fundamental role. The seminar was held on 22 May 2012 at the British Academy in London, and was acknowledged as a European Maritime Day event. Twenty eight people attended the seminar but there was also a circulation list of a further 37 people who were approached or expressed interest but were not able to attend. The seminar was a major source of experience and perspectives from marine heritage management both from Europe and from the other home countries of the UK. In addition, the seminar also included participants representing non-heritage bodies with strong interests in marine spatial planning, encompassing consultants, public authorities and university-based researchers.

The decision was taken to focus the seminar very firmly on discussion to enable both exchange of experience and debate as to the place that the historic environment might take within marine spatial planning. There were to be no presentations of experience from individual jurisdictions, only a brief introduction to some of the concepts that it might be useful to employ, plus a short summary to conclude. The rest of the seminar was given over to four chaired discussion periods, each with a topic agreed in advance by English Heritage.

To fulfil the function that country-based presentations might have been expected to provide, a 'background questionnaire' was circulated to the heritage managers who were planning to attend. The questionnaire was structured according to the topics of the four discussion periods. The number and quality of the returned questionnaires was very encouraging. The results of each were collated and circulated to all the participants in advance of the meeting, so that they would all have a factual background in experiences across Europe as a basis for discussion.

Following the seminar a short summary was circulated to both the participants and the wider circulation list. A longer report on the proceedings was also prepared. A list of participants in the seminar is included as Appendix I. The short summary of the seminar is in Appendix II, and the longer seminar report forms Appendix III.

Part 2: The Historic Environment, Marine Spatial Planning, Ecosystems and Socio-Economics

4. The Historic Environment

4.1. *Scope*

The historic environment is defined in the UK Marine Policy Statement as follows:

The historic environment includes all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged. Those elements of the historic environment – buildings, monuments, sites or landscapes – that have been positively identified as holding a degree of significance meriting consideration are called ‘heritage assets’.

(HM Government 2011, 21)

In coastal and marine zones, the historic environment can be characterised as comprising the following principal types of heritage asset:

Maritime archaeology	wrecks of ships and boats and other structures and artefacts deposited through maritime activity, together with surrounding deposits.
Aviation archaeology	wrecks of aircraft and material arising from aviation activity, and surrounding deposits.
Submerged prehistory	artefacts, structures and deposits that are buried and/or submerged but originated from human activities on land.
Coastal archaeology	a very wide range of artefacts, structures and deposits that originated from inhabitation or use of the coastal zone.

It is important to bear in mind that coasts and seas have changed considerably within the timespans of interest to archaeologists, so there need be no relationship between the current position of the coast or form of the marine environment and the circumstances that pertained at the time the material entered the archaeological record. That is to say, ‘coastal archaeology’ need not be situated in today’s coastal zone. Coastal sites can be found many miles inland where there has been subsequent reclamation, for example. Equally, fragments of prehistoric landsurfaces upon which people once walked can be found miles out to sea, beneath several tens of metres of water.

It is not the intention here, however, to further characterise or describe the historic environment in terms of the sorts of things that can be found in or near the sea, and why they are of archaeological interest. Rather, the purpose of this section is to elaborate the historic environment in terms relevant to marine spatial planning and the wider aim of achieving sustainable development.

A key characteristic of the historic environment – one which is not shared in the same way by other historical disciplines – is its concern for the physical, material remains of past human activity. Material remains have primacy in how archaeologists seek to offer explanations about past human activity; in how archaeologists seek to share an appreciation of the past with others; and in how archaeologists try to ensure that the possibility of explaining and appreciating the past is available to future generations. This means that although archaeologists make heavy use of other sources of evidence – cartographic,

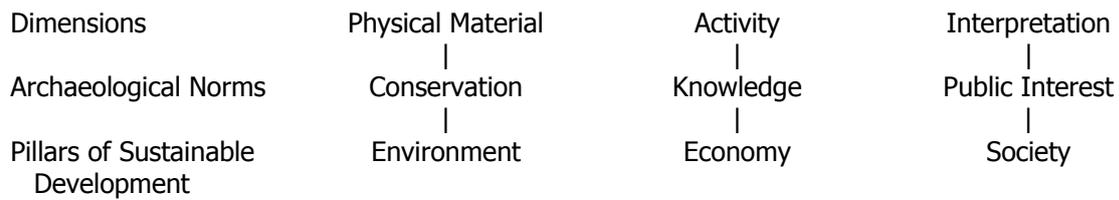
photographic, documentary, geophysical and so on – and also of other communications media – text, illustrations, video, computer graphics etc. – it is material remains that are central to how archaeologists interpret the past and make these interpretations available. Artefacts and structures in all their diverse forms are therefore very important to archaeologists; the relationships between artefacts and structures, which can be understood chronologically and spatially, are especially important.

Also of very great importance is the matrix within which artefacts and structures are situated. This matrix includes elements that are natural in origin but have characteristics that can inform us about the human past. The matrix can be physical, consisting of deposits of sediment in which artefacts and structures are found. Such deposits may contain indicators of the surrounding environment at different times relative to the artefacts/structures. Deposits can also have physical attributes and relationships (e.g. stratigraphy) that can provide data on how and when human activity changed the place in the past.

The matrix within which artefacts and structures are situated also comprises a wider environment including features of natural origin that can nonetheless inform us about the human past. The setting of heritage assets, landscape, and seascape are all terms that are used, in part, to help express and better understand the relationship between physical remains and their wider environment. Some elements of landscapes are clearly natural in origin, but this need not lessen their relevance to understanding the past.

In many cases, natural features have been influenced or modified by human activity, often to such a high degree that little of the landscape can be described as 'natural'. The degree – and age – of past human manipulation of the environment may not be apparent to many observers; human activity may be so heavily embedded that the landscape appears or is understood to be natural even though its human roots are just beneath the surface. However, landscapes – on their face – can be readily appreciated without special interpretation, and are often cherished (or loathed) irrespective of the fusion of human and natural processes from which they have resulted. The hidden fusion within landscapes has proved difficult to grapple with where dominant frameworks – legal, administrative, analytical, professional and so on – are characterised, as in the UK, by a dichotomous approach to nature and culture.

The paragraphs above have focussed upon the physical dimension of the historic environment, as indeed does the definition in the UK Marine Policy Statement and many other statutory and policy-related definitions. To understand the relationship between the historic environment and marine spatial planning it is important, however, to think about the historic environment in different dimensions also. This does not diminish the degree to which the historic environment should be considered in terms of their physical characteristics, which need to be planned for and managed. However, the historic environment also needs to be considered in terms of activity – something that people do things with – and in terms of interpretation – something that has meaning for people. Hence the historic environment can, concurrently, be conceived of in terms of physical material, activity and interpretation. From an archaeological point of view, these three dimensions correspond to three recurrent norms of archaeological practice, i.e. conservation, the creation of knowledge, and public interest. They can also be seen to correspond to the three pillars of sustainable development: environment; economy; society:



4.2. *Environment*

Archaeologists have an ethical responsibility to seek to ensure the survival of the physical remains of the past into the future; in other words they have a responsibility to conserve the historic environment. In this respect, the historic environment is often characterised in terms familiar to other aspects of environmental conservation: the historic environment is a fragile, non-renewable resource that warrants protection in its own right and in the interest of future generations. The historic environment is regarded as an aspect of the environment akin to other aspects, and is considered as such in environmental legislation such as the EIA and SEA directives. Many management frameworks are concerned principally with protecting the historic environment as a physical thing from various forms of impact. This is the predominant mode of considering the historic environment in land planning, and in the marine planning that is emerging. None of this is wrong, but it is only one dimension of the historic environment.

4.3. *Economy*

The historic environment is a focus of activity in two key respects. First, archaeologists investigate the historic environment to generate knowledge; the effort to gain knowledge requires resources to be expended. Hence archaeology as a knowledge-creating activity is an economic activity that has a value that can be measured in financial terms. In addition to research-oriented archaeology, the direct value of archaeological work carried out each year as a result of marine development (and therefore a consequence of marine planning) is many hundreds of thousands of pounds; the financial implications to developers of meeting archaeological requirements arising from marine planning is much more than this, taking into account the cost of time, changes to schemes, changes to operations and so on. Regulators and their advisors also have to find resources, so although archaeology may not be a big part of the marine economy it is nonetheless a sector in itself and is affected by marine planning.

Second, a much larger number of people amongst the public at large engage with the historic environment through a wide range of activities, especially through recreation, leisure and tourism. Gaining knowledge of the past may be an important motivation, but it may be more tacit than expressed; what is important is that people are choosing to actively engage with the environment because it has a historic dimension. Hence the historic environment may be an explicit focus for activity, or it may make a relatively unremarked contribution to why people choose to do something in one place rather than another. The contribution of the historic environment to place may also encourage economic activity in more routine circumstances than recreation etc., and the economic value of heritage-led regeneration has been examined in the context of land-based planning. The economic value of people's active engagement with the marine historic environment – as archaeologists or as members of the public – could have quite a high value given the overall value of leisure, recreation and tourism, and is also likely to have potential for further growth.

4.4. *Society*

The historic environment has also to be considered as 'interpretation' because it is not valued only for its role as a source of *knowledge*; the historic environment is also valued because it generates *meaning*. This is especially true of the historic environment within legal and administrative frameworks; archaeology is a focus for public law, policy and funding because it is considered to be important to the public as a whole, to society. Public interest in the historic environment has been a precondition of the emergence of heritage legislation and provides a rationale for the continued involvement of the state in its management. The historic environment is valued socially because it provides narratives for communities and countries, addresses questions of identity, helps to explain why things have happened, and provides an authentic, material basis both for remembrance, and for facing the future. The role of the historic environment in social cohesion and well-being has not been a focus of study with respect to marine and coastal zones, but it is certainly present – almost subliminally – in discussions of sense of place, local character and landscape. It is also attested by high levels of interest in broadcast media, both local/regionally and nationally/internationally.

4.5. *The Historic Environment and Sustainable Development Policy*

This conception of the historic environment as being simultaneously environmental, economic and social will inform much of the assessment below. It is important because the dominant mode of considering the historic environment in relation to planning has been in terms of environment, especially when it comes to directing decision-making. This is not to say that the economic and social dimensions of the historic environment are completely unrecognised; in fact, references are often made to these aspects of the historic environment in legislation and policy. However, the economic and social dimensions are usually presented – or asserted – as rationale for measures that are focussed on environmental protection; the environmental and social dimensions of the historic environment are rarely a focus for measures in themselves, and it appears that very little evidence of the historic environment's social and economic role in coastal and marine zones has ever been collated.

The characteristic of the historic environment having social and economic as well as environmental dimensions may have contributed to the difficulty that planners and policy-makers have had with 'placing' the historic environment in various documents. Understandably, a great deal of policy documentation is being brought into line with overarching strategies for sustainable development, and it must be tempting to put the historic environment under the heading of just one of the pillars. The key point here is that the historic environment has a direct relevance to all three pillars of sustainable development, and it is important to avoid historic environment being pigeonholed such that it can only be considered – and regarded as contributing – to one dimension alone.

Underpinning this concern not to be pigeonholed is a sense that where the historic environment is considered predominantly in terms of the environment, especially environmental protection, the historic environment appears to be reactive and constraining; the focus of legislation and policy is on preventing things from happening that might impact on archaeological material. In contrast, considering the historic environment in its social and economic dimensions facilitates a more proactive stance as to how the historic environment might be mobilised productively in economic growth and social change. For example, policies that address integration and streamlining of procedures in development-led archaeology could reduce consenting costs and investment risk for marine industries; policies that favour access to archaeological sites could boost recreation and tourism; policies that encourage

retention and greater awareness of heritage assets could contribute to well-being and place-making.

Although the UK Government continues to recognise sustainable development as having three pillars – environment, economy, society – it also identifies five guiding principles: environment, economy, society, sound science and good governance (HM Government 2005). The case for considering the historic environment equally in terms of environment, economy and society has already been made. It will be obvious, however, that sound science and good governance are also essential to the management of the historic environment in the public sphere. 'Sound science' is, for instance, the most relevant heading under which to consider and frame policy towards resolving uncertainties in our understanding of the marine historic environment and acquiring and managing data effectively. 'Good governance' is a suitable heading under which to consider how best to ensure that public administration of the historic environment is conducted transparently and promptly for both developers and other stakeholders, and to ensure that all elements of government – nationally and locally – are informed by appropriate historic environment advice.

5. Marine Spatial Planning

A commonly-cited definition of marine spatial planning is that provided by the Intergovernmental Oceanographic Commission (IOC) in *Marine Spatial Planning: a step-by-step approach*:

Marine spatial planning (MSP) is a public process of analyzing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives that are usually specified through a political process.
(Ehler and Douvère 2009)

In its Roadmap for MSP, the European Commission provided the following description:

MSP is a tool for improved decision-making. It provides a framework for arbitrating between competing human activities and managing their impact on the marine environment. Its objective is to balance sectoral interests and achieve sustainable use of marine resources in line with the EU Sustainable Development Strategy.
(European Commission 2008a)

In the UK, the Marine Policy Statement (HM Government 2011) describes the scope of marine planning as follows:

The process of marine planning will:

- Achieve integration between different objectives;
- Recognise that the demand for use of our seas and the resulting pressures on them will continue to increase;
- Manage competing demands on the marine area, taking an ecosystem-based approach;
- Enable the co-existence of compatible activities wherever possible; and
- Integrate with terrestrial planning.

These definitions and descriptions are broadly similar. Importantly, they contain several different elements, not all of which are necessarily consistent. Based on these definitions and others in the literature, MSP was characterised at the MSP Seminar on 22 May as encompassing the following emphases and aspirations (in no particular order):

Arbitrational	balancing (competing) interests to achieve a workable compromise
Technocratic	taking decisions on the basis of scientific evidence
Managerial	giving effect to higher level policies in the specific plan area
Empowering	developing policy on the basis of issues raised by stakeholders
Integrative	combining mechanisms to avoid inefficiency / increase effectiveness
Prescriptive	directing decision-making to support a particular objective
Synergistic	enhancing activities by combining them

By way of illustration, the IOC definition has a technocratic aspect (analysing and allocating) and a prescriptive element (achieving objectives determined outside the MSP process). The emphasis of the European Roadmap definition is more arbitrational (arbitrating ... balance). The UK Marine Policy Statement definition is integrative and managerial.

There certainly appears to be a tension between MSP being a process that does not have values or intended outcomes itself (other than processual values like transparency and equity), and MSP having specific purposes. The tension may be greatest if the intended outcomes are not inherently compatible. For example, in some cases MSP is intended to achieve Good Environmental Status (GES) or its equivalent, whereas in others it is intended to achieve (economic) growth. Clearly, the greater the degree to which MSP is intended to achieve a specific outcome – either handed-down managerially or in a prescriptive definition of its own – the less it will be capable of acting as a value-free process, empowering stakeholders, arbitrating evenly or having its decisions driven by scientific evidence.

There is a degree of consensus over marine spatial planning being a process, and it is possible that different emphases could be present at different points of the process. It might also be argued that some of these different emphases can co-exist, and that the real strength of MSP is its capacity to absorb such diverse pressures and achieve coherence overall. It is also possible that MSP has risen to prominence because it simultaneously promises different things to different people: certainty for developers; biodiversity safeguards for ecologists; a share in decision-making for stakeholder groups; a better evidence base for scientists and so on. The attractiveness of MSP might be maintained so long as its emphasis is obscure; once a firm pattern begins to take shape then it is possible that some parties may disengage. For the time being, it is perhaps best to see MSP as a forum within which the usual political processes continue to operate, but at least with a clear focus on the sea; a wider range of interests present; more comprehensive information to hand; an expectation that whatever is decided will take effect through subsequent licensing actions; and perhaps just sufficient buy-in amongst the parties for them to feel able to take some innovative steps.

A point worth considering further is the spatial element of marine spatial planning; how is MSP different from marine planning, given that planning is almost always spatial? At one level, 'spatial' underlines the extensive use of GIS in marine management, which is important in terms of the technological development of software but perhaps more so in the stimulation it is providing to the collation and creation of better quality spatial data. There are, of course, many weaknesses in available marine data, but these weaknesses are now being made clear and are prompting data-mining and data-acquisition that will result in more compatible datasets becoming available. At another level, 'spatial' might imply an expectation that failings in our use of the sea can be largely overcome by moving around interests and activities so that they do not coincide in the same patch of sea. Geographical zoning that distinguishes the surface, the water column and the seabed, and can be applied

temporally, might be seen as a key spatial solution to otherwise intractable conflicts over the use of any particular area of sea.

Unfortunately, although there might appear to be so much sea that it must be possible to arrange all the uses rationally so they avoid each other, MSP experience has quickly demonstrated that in fact there is not sufficient sea for every interest to have exclusive rights to activity in a 'patch'. This is an interesting contrast with land planning, which starts from a position of single-user exclusivity of use – through land-ownership – over much of the territory it covers; land planning can influence how exclusive use is exercised, but it does not have to sort out priorities amongst multiple users all having a right of access and use over the same patch. Another key attribute of the sea – surface, watercolumn and bed – is that it is not homogenous (Crowder and Norse 2008, 773); different places at sea have different attributes, making them more or less attractive to different users. As the sea is not uniform, some areas are of very little interest to sea-users; but in contrast some sea-areas are extremely important to several different users whose usages may not be compatible with each other or with sustaining future use. There is, therefore, scope for conflict where different uses coalesce around a single area of sea, for which the availability of more sea nearby is an irrelevance.

6. Ecosystem-Based Management

In the IOC Step by Step Approach, marine spatial planning is welded to ecosystem-based management by its subtitle (Ehler and Douvère 2009). According to the UK Marine Policy Statement, marine planning is to manage competing demands, taking an ecosystem-based approach (HM Government 2011, 4). The European Commission MSP Roadmap states that 'the ecosystem approach is an overarching principle for MSP' (European Commission 2008a, 9). This section looks at the question of what ecosystem-based management amounts to, how it relates to MSP, and what are the implications for the historic environment.

As with Marine Spatial Planning, a key question about ecosystem-based management is whether it is a value-free process, or if it has a normative agenda that predetermines certain decisions. This is not to say that there is anything unjustifiable in a predisposition to resolve issues in favour of maintaining biodiversity or protecting habitats, for example; it is simply a matter of being clear as to how EBM is expected to work. Again, as with MSP, the attractiveness of EBM may arise from a 'constructive ambiguity' about the balance between process and norms that enables many diverse players to engage.

Ecosystem-based management is the term often used in policy applications for the Ecosystem Approach (Sarda *et al.* 2011, 2). The Ecosystem Approach has been developed and codified through the infrastructure of the 1992 Convention on Biological Diversity, where it is described as 'a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way' (<http://www.cbd.int/ecosystem/description.shtml>). A normative element – promoting conservation – is consequently intrinsic to the Ecosystem Approach. Notwithstanding, much of the Ecosystem Approach is process-oriented; the Ecosystem Approach is regarded as having 12 principles, known as the Malawi Principles, which are as follows (<http://www.cbd.int/ecosystem/principles.shtml>):

Principle 1: The objectives of management of land, water and living resources are a matter of societal choices.

Principle 2: Management should be decentralized to the lowest appropriate level.

Principle 3: Ecosystem managers should consider the effects (actual or potential) of their activities on adjacent and other ecosystems.

Principle 4: Recognizing potential gains from management, there is usually a need to understand and manage the ecosystem in an economic context.

Principle 5: Conservation of ecosystem structure and functioning, in order to maintain ecosystem services, should be a priority target of the ecosystem approach.

Principle 6: Ecosystem must be managed within the limits of their functioning.

Principle 7: The ecosystem approach should be undertaken at the appropriate spatial and temporal scales.

Principle 8: Recognizing the varying temporal scales and lag-effects that characterize ecosystem processes, objectives for ecosystem management should be set for the long term.

Principle 9: Management must recognize that change is inevitable.

Principle 10: The ecosystem approach should seek the appropriate balance between, and integration of, conservation and use of biological diversity.

Principle 11: The ecosystem approach should consider all forms of relevant information, including scientific and indigenous and local knowledge, innovations and practices.

Principle 12: The ecosystem approach should involve all relevant sectors of society and scientific disciplines.

Of these 12 principles, only Principle 5 is normative with respect to the outcome that is to be sought, and even then 'conservation of structure and function' might be regarded as a technical objective, to maintain the delivery of ecosystem services. Large parts of the Ecosystems Approach are, therefore, concerned with process rather than outcome, and this is seen again in the Consensus Statement definition of ecosystem-based management:

Ecosystem-based management is an integrated approach to management that considers the entire ecosystem, including humans. The goal of ecosystem-based management is to maintain an ecosystem in a healthy, productive and resilient condition so that it can provide the services humans want and need. Ecosystem-based management differs from current approaches that usually focus on a single species, sector, activity or concern; it considers the cumulative impacts of different sectors. Specifically, ecosystem-based management:

- emphasizes the protection of ecosystem structure, functioning, and key processes;
- is place-based in focusing on a specific ecosystem and the range of activities affecting it;
- explicitly accounts for the interconnectedness within systems, recognizing the importance of interactions between many target species or key services and other non-target species;
- acknowledges interconnectedness among systems, such as between air, land and sea; and
- integrates ecological, social, economic, and institutional perspectives, recognizing their strong interdependences.

(McLeod *et al.* 2005)

In this definition, the notion that ecosystems have an intrinsic worth and warrant protection is implicit rather than explicit. Protection and maintenance are directed at ecosystem structure, functioning and processes for the purpose of providing humans with services, not simply because it is 'right'. Notwithstanding, the language of commentaries relating to the ecosystem approach and ecosystem-based management is more normative, as they are seen

as means to conserve nature and protect the environment. One interpretation is that these norms are in fact set at a higher level, in a range of international conventions and national/regional policies, and that ecosystems-based management is just a neutral mechanism to deliver these externally-determined norms. Another interpretation is that some of these norms are embedded within the mechanism, such that technical processes can only arrive at outcomes that fall within a predetermined range.

Returning to the broader issue, if there are norms embedded within ecosystems-based management which is itself embedded within marine spatial planning, then the range of outcomes at which MSP can arrive will be inherently constrained. Alternatively, major tensions are likely to arise if norm-led EBM is embedded within MSP but the MSP is directed at generating growth. Such scenarios are important for the historic environment because it will, at the very least, be buffeted by such tensions being played out. The historic environment is unlikely to be a weighty concern within MSP for the time being, so it may be relatively susceptible to such buffeting, even if only in terms of the time that can be made available to consider its needs and potentials. If nature conservation norms are embedded uncontestedly within MSP, then in circumstances where the interests of the natural and historic environments do not entirely coincide, there will be an invisible thumb on the scales when MSP seeks to balance them.

The degree to which the historic environment is affected by the character of ecosystems-based management and its role within MSP will depend on the place of the historic environment within EBM. There appear to be relatively few direct references to the historic environment in documents or commentaries relating to the ecosystem approach and EBM. However, EBM does seem to be attempting to overcome the prevailing nature-culture dichotomy in that there are numerous references to factors that can be termed cultural or social. To return to the earlier descriptions, the Consensus Statement starts by saying that EBM is 'an integrated approach to management that considers the entire ecosystem, *including humans*' (McLeod *et al.* 2005) (emphasis added), and there are repeated references in the Malawi Principles that underline the degree to which effective EBM has to engage with people.

Whilst EBM is concerned with change through time, this is usually configured in terms of current trends continuing forward, or the actions that might be taken to change the trajectory of an ecosystem towards a better state in the future. There does not appear to be a great deal of explicit attention to understanding how ecosystems have come to be in their present state, or to have gained the trends they currently exhibit; or indeed to understand the causality between past human activity and present status / trend of ecosystems. As indicated above, archaeological perspectives would suggest that human influence on current ecosystems has greater time depth than might be presumed, and that examining the time-depth of human-induced environmental change might be expected to have implications for managing those ecosystems in future – and for communicating the need for change to present and future populations. Although archaeologists might regard their discipline as being fundamental to achieving effective management of ecosystems in future, this is probably not a widely-shared view; there are references to the historic environment in EBM literature, but they are largely coincidental or seem to reflect an aspiration for EBM to be all-embracing in its application.

There are, however, some indications that EBM wants to engage more thoroughly with cultural and historical perspectives. For example, Douvere provides the example of MSP in Belgium that includes 'protection of wrecks valuable for biodiversity' and looks ahead to 'the protection of marine shipwrecks for archaeological, biodiversity, and ecological interests'

(Douvere 2008, 769). Gilliland and Laffoley identify 'a need for more recognition of cultural heritage' in setting objectives within MSP (Gilliland and Laffoley 2008, 792) noting also that 'whilst it is very challenging, objectives should be identified for the full suite of economic, environmental, and social interests' (Gilliland and Laffoley 2008, 795). Elliot and Norse note that 'marine space has typically been seen as "unpeopled"' and 'social scientists from a variety of disciplines (*anthropology*, geography, economics, political science) bring a diverse set of skills to understanding these issues' (Crowder and Norse 2008, 777; emphasis added - in US parlance, anthropology encompasses archaeology).

Both Douvère and Elliott and Norse also stress the importance of 'place' at sea, providing another possible point of contact between archaeologists and marine ecosystem managers (Crowder and Norse 2008, 772, 777; Douvère 2008, 764). This point is developed by St. Martin and Hall Arber, who are concerned that the growth in importance of geographical data and GIS in MSP could further relegate the social dimension of marine ecosystem management, despite recognition of the importance of community engagement. As the 'social landscapes' of the sea are not as readily mapped as environmental and economic attributes, they are in danger of being a 'missing layer' from GIS and the analysis and decision-making that results from their use. They detail an example drawn from engaging commercial fishers in mapping communities' use of the sea, concluding:

Coastal communities with economic and cultural ties to the marine environment are beginning to recognize that they need to make themselves (and their diverse practices, histories and local knowledges) visible within the environment itself; they need to put themselves on the map if they are to play an active role in emerging ecosystem-based and MSP approaches to marine resources.

Conversely, if institutions and authorities continue to overlook and 'silence' the intimate connections and long histories that exist relative to communities and the resource areas upon which they depend, opportunities for local participation in resource management as well as the facilitation of community stewardship will be lost.

(St. Martin and Hall-Arber 2008, 785)

Understanding the historic environment – the role that people have played in shaping our contemporary ecosystem through the millennia – may provide a firmer foundation for ecosystem-based management. On the one hand, it can help in comprehending the time depth of features or characteristics of the natural environment that are attributable to human actions; on the other, it can help engage today's populations in finding solutions and new practices that acknowledge the continuing role of people and communities in making valuable marine places sustainable.

7. Ecosystem Services

A further way in which ecosystem-focussed perspectives have sought to encompass culture and heritage is a consequence of the ecosystem services approach. Ecosystem services are the benefits that ecosystems provide for humans. Many ecosystems don't need humans, so this approach is less concerned with achieving a more fundamental understanding of how ecosystems work; rather, it is concerned with framing the importance of ecosystems in (predominantly monetary) terms so that they are more readily understood and appreciated in general policy-making. Insofar as ecosystem services approaches have an explicit intention – to influence policy-making – then they are more clearly normative.

Ecosystem services have come to the fore through the Millennium Ecosystem Assessment (MEA), which was intended to help provide the knowledge base for improved decisions. The MEA was published as a series of working group and synthesis reports in 2005 (Millennium

Ecosystem Assessment 2005). A framework for the assessment was published in 2003 (Alcamo, Bennett, and Millennium Ecosystem Assessment (Program) 2003), which set out a conceptual framework of four types of services, as follows:

Provisioning Services	Products obtained from ecosystems
Regulating Services	Benefits obtained from regulation of ecosystem processes
Cultural Services	Nonmaterial benefits obtained from ecosystems
Supporting Services	Services necessary for the production of all other ecosystem services

Cultural heritage is included in this framework, under Cultural Services. However, the character of cultural heritage as a cultural service arising from ecosystems is not elaborated in any detail in the framework. It is noted that 'Many societies place high value on the maintenance of either historically important landscapes ("cultural landscapes") or culturally significant species', and further observed that 'an ecosystem provides cultural services only if there are people who value the cultural heritage associated with it'. Examples of cultural services are given as totemic species (e.g. salmon; tigers) and landscape features ('sacred groves, trees, scenic landscapes, geological formations, or rivers and lakes') (Alcamo, Bennett, and Millennium Ecosystem Assessment (Program) 2003). Cultural heritage in its usual sense of referring to things made or shaped by people and passed down through succeeding generations is absent from the framework. From an archaeological perspective, the historical role of people in shaping the environment is also missed, except in the sense of damage done in 'recent decades'. Although human well-being is placed at the centre of a framework that seeks to achieve a full assessment of the interactions between people and ecosystems, the framework does not appear well-equipped to understand the breadth or time-depth of those interactions.

As well as the studies carried out as part of the MEA, other equivalent programmes have been undertaken and the ecosystems services approach has been more widely adopted. For example, the UK National Environmental Assessment (UK NEA) was carried out in 2009-2011 and is commencing a follow-on phase (<http://uknea.unep-wcmc.org/>). Ecosystems service approaches have been applied to the sea through the MEA, UK NEA and other initiatives.

Shortcomings in the ecosystems services framework have been addressed by Wallace, which distinguishes between ecosystem services and ecosystem processes in relation to four sets of human values: adequate resources; protection from predators/disease/parasites; benign physical and chemical environment; and socio-cultural fulfilment (Wallace 2007). Wallace notes that 'services leading to socio-cultural fulfilment ... require considerable further development'; and 'socio-cultural aspects of ecosystem services and human values ... need much more comprehensive analysis' (Wallace 2007, 241, 243). However, he also states that his classification of services 'was deliberately designed ... to allow decisions concerning natural and cultural resources to be integrated in the same decision process' because 'planning and decision-making generally involve ecosystems with a mixture of natural and cultural elements' (Wallace 2007, 243).

Beaumont *et al.* apply the ecosystem services approach to a series of marine areas, including Flamborough Head, the Isles of Scilly and five other sites in European waters. Cultural heritage and identity are flagged as a 'benefit of biodiversity that is of founding significance or bears witness to multiple cultural identities of a community', noting:

There is benefit associated with marine biodiversity for example for religion, folk lore, painting, cultural and spiritual traditions. Human communities living by and off the sea

often attach special importance to marine ecosystems that have played a founding or significant role in the economic or cultural definition of the community.

(Beaumont *et al.* 2007, 257)

However, they distinguish this from 'the economic importance of revitalised and commercialised cultural heritage which is included ... under the heading Leisure and recreation'. Perhaps surprisingly, the article notes that 'there was no information on the service cultural heritage and identity at three of the sites...', which is ascribed to 'a poor understanding of this service and very limited information availability'. This seems incredible given that one of the three sites is the Isles of Scilly. For all the sites 'the specific information provided on all the cultural services was very varied, and this possibly stemmed from a difficulty in understanding the exact nature of these services', concluding 'the definitions of the services cultural heritage and identity ... require further research ...' (Beaumont *et al.* 2007, 259).

The section on cultural services in the marine chapter of the UK NEA has a promising start:

The population of the UK is often cited as having a strong affinity for the sea, as much of our heritage is linked to maritime activities. Reminders of this maritime heritage are still in existence today: fishing villages, fish and chips, the large navy, lighthouses and museums, and literature on smuggling.

(UK National Ecosystem Assessment 2011)

The section is elaborated in terms of the role of the marine environment as a setting for education, research and development opportunities; leisure and recreation; health goods (mental and physical); and heritage goods. The sub-section on cultural heritage is, however, rather short and simply recounts a few details of statutory protection and contains the intriguing line 'to date, no assessment of the heritage value of the marine environment in UK waters has been undertaken' (UK National Ecosystem Assessment 2011, 483). Whilst this may be true in the strictest sense, there is plenty of material available from which the extent and character of the UK marine historic environment, and its value or significance, can be summarised.

The accompanying chapter of the UK NEA on Cultural Services is an entirely different proposition, though it only touches on the marine environment briefly in noting that 'the contribution of the Marine environment to culturally valued environmental settings is only partially understood', referencing EH's Historic Seascape Characterisation project (UK National Ecosystem Assessment 2011, 651). In its first key finding, the chapter notes:

Ecosystem cultural services are the environmental settings that give rise to the cultural goods and benefits that people obtain from ecosystems. Over millennia these environmental settings have been co-produced by the constant interactions between humans and nature. They are inscribed with not only natural features but also the legacies of past and current societies, technologies, and cultures. The continual change in these settings involves a range of complex cultural practices, such as the development of institutions, the application of capital, and human processes involving memories, emotions, the senses, and aesthetic appreciation.

(UK National Ecosystem Assessment 2011, 634)

Clearly, this observation is much more in-line with an archaeological perspective, and the chapter generally seeks to avoid a dichotomous approach to nature and culture, noting the following (citing Raymond Williams):

... cultural ideas of nature as 'other' are also associated with an aesthetic notion of the 'sublime' (awe and wonder) and an ethical belief in 'purity' (fresh air, clean air and water), derived from the considerations of nature by the Romantic movement of the early

19th Century. This sensibility grew as the need to believe that 'pure nature', untainted by industrialisation and the appalling conditions of life for the poor in Victorian cities, could still be found in the wild parts of the UK; it soon became an established ideological position.

(UK National Ecosystem Assessment 2011, 641)

The chapter develops an approach to understanding relationships between people and their environment that is informed by the ecological services approach but with far greater sophistication than is apparent elsewhere. As well as having a developed conceptual framework, the cultural services chapter derives practical policy-oriented findings. For example, the report notes that 'the intricacies and contingent nature of the relationship between needs, environmental settings and the past creates analytical challenges but is fundamental to understanding heritage goods'; and 'despite the highly personal and context-specific nature of heritage, it is widely felt that it should be preserved to be passed on to future generations, as a means of providing both children and adults with an understanding of their history and identity' (UK National Ecosystem Assessment 2011, 636–637). The chapter also notes the presence of knowledge gaps relating to ecosystem cultural services, and the need for collection of quantitative data.

In considering the marine historic environment in terms of cultural services, within an ecosystem services approach, it seems fair to conclude that there is little scope to accommodate the historic environment as a cultural service within configurations closely derived from the MEA. There are conceptual difficulties and, even if these could be overcome, it is unlikely that usable data would be forthcoming. However, the approach offered by the Cultural Services chapter of the UK NEA seems much more capable of incorporating the marine historic environment within its scope, and has the potential to produce real insights about the 'value' of the marine historic environment to UK society in a manner that could inform planning and decision-making.

8. Socio-Economics

8.1. *Socio-Economic Assessment*

Turner *et al.* have authored a report titled An Introduction to Socio-Economic Assessment Within a Marine Strategy Framework on behalf of Defra that draws together many of the points aired above. The report is principally concerned with supporting OSPAR (Convention for the Protection of the Marine Environment of the North-East Atlantic, 1992), which has adopted an ecosystem approach:

The socio-economic methods and techniques set out in this report can contribute to the protection of the marine environment and the sustainable use of the seas by identifying economically efficient and cost-effective policy options.

(Turner *et al.* 2010, 5)

The report is also framed by the EU Marine Strategy Framework Directive (MSFD) which requires Member States to carry out a social and economic analysis of the use of their marine waters as part of the Initial Assessment that is to precede the preparation of a marine strategy (see below). The Directive requires that marine strategies will apply an ecosystem-based approach.

Neither OSPAR nor MSFD make any particular reference to the historic environment and, correspondingly, the Turner *et al.* report is largely silent on the subject. Cultural assets are, however, identified as having 'existence effects' for human welfare and human health effects, and cultural assets and identity are flagged as examples of baseline ecosystem

services / goods. Although these benefits are identified, they are considered to fall outside the capability of the economic approach to socio-economic assessment that the report outlines. The authors make the following note:

... it will not be possible to place meaningful monetary values on all the benefits (and some of the costs) of outputs from the marine/coastal zone. In particular the symbolic and cultural values assigned to some marine/coastal features and land/seascapes lie outside the monetary calculus and are conditioned by social preferences and norms arrived at over time ...

Hence we consider that economic assessment provides just one strand of an overall integrated (sustainability) analysis with other strands being supplied by assessments from social/deliberative and ecological perspectives

(Turner *et al.* 2010, 21–23)

In sum, the approaches to socio-economic assessment introduced in this study are not capable of accommodating the historic environment, whilst recognising that it has value. Other methods are necessary to accompany socio-economics in analysing sustainability.

8.2. *Socio-Economic Benefits of Marine Planning*

The MMO commissioned three reports addressing the question of socio-economic benefits from marine planning. The three reports set out a new typology, an England-wide assessment, and an assessment of the East Marine Plan Area.

In order to address socio-economic benefits, the consultants had to develop a new typology of coastal communities, which is detailed in *Coastal typologies: detailed method and outputs* (Roger Tym & Partners and OCSI 2011a). The intention was to generate 'a set of "categories" which can be used at national level as a starting point to understand the socio-economic circumstances, and recent trends, of the coastal communities that marine planners will be working with' (para. 2.1). They note that the 'typology categories reflect how areas fare, at a point in time, on a range of social and economic indicators available on a consistent basis all round the English coast. They do not reflect ... issues for which data is not available on a consistent basis around the coastline, such as local wellbeing, needs or aspirations' (para. 3.5).

Two points should be noted: first, the approach is concerned with 'socio-economic circumstances' and 'a range of social and economic indicators'; second, the development of the categories is driven by the availability and consistency of data around England. Consequently, the typology (and resulting analysis) is heavily framed by national statistics and indices relating to aspects of social and economic status that are measurable. None of the statistics and indices used in developing the typology have a tangible connection to heritage; that is to say, heritage does not figure in the conception of socio-economic/social and economic as measured by the available national statistics. Unsurprisingly, therefore, no direct relationship is drawn between heritage and the ten community types that have been generated from the statistics.

The apparent lack of relationship between socio-economics and heritage in the methodology is intriguing insofar as the development of the typology was based expressly on the DCLG 'place typology toolkit', i.e. the methodology is concerned with the relationship between communities and places. Moreover, the characterisation that is offered of the different coastal community types clearly has a historical dimension, where the history of the place is relevant both to the community's present character and to its future trajectory. Photographs of the (often historic) environment associated with each coastal community type are used to

help to characterise the types. For example, Typology group B1 'Coastal challenges – Structural shifters' is characterised as follows, and accompanied by a photograph of a Victorian terrace:

Areas which have lost their primary markets, and are facing the challenge to find new ones. This group includes a range of single industry coastal towns, including seaside resorts, mining areas, industrial heartlands and former agricultural centres

In this and other types, there is clearly a relationship between the socio-economic circumstances the authors are seeking to address, and the material heritage of those communities. Awareness of the historic environment might reasonably be expected to help identify and explain some of the types of community affected by marine spatial planning, and might also present opportunities for maintaining or improving those communities.

The second report – *Maximising the socio-economic benefits of marine planning for English coastal communities* (Roger Tym & Partners and OCSI 2011b) – takes the typology and applies it across England. As with the typology discussed above, the report emphasises its focus on economics (para. 3.5):

Our chosen approach is to put economic productivity and competitiveness at the centre of wider explanations of the social and economic processes under way in different communities ... The argument goes that productivity and competitiveness is important for an area because more productive areas are not only wealthier, but also tend to provide a better social, cultural and environmental quality for their residents, compared to other less productive areas.

The report refers to three ways identified by the Treasury in which economic output can be achieved, grouped as 'labour resources' and 'labour productivity' (para. 3.9-3.10):

Labour resources: 'Increasing labour resources in an economy...'

Labour productivity: 'Increasing capital in use ...'

'Increasing what is known as "total factor productivity" (TFP). TFP is the part of productivity growth that cannot be attributed to the growth of labour or capital ... it can represent technology, ways of working and culture, management, economies of scale, competition and measurement error. TFP is best thought of as a measure of the efficiency by which capital and labour inputs are combined.'

Focussing on the growth of labour productivity, the report identifies five drivers (para. 3.11):

- competition;
- innovation (including technological progress);
- investment (physical capital);
- skills (human capital); and
- enterprise.

This approach provides the framework for an assessment of the socio-economic processes at work in coastal communities, how socio-economic performance is affected by marine activities, and how planning processes can be used to deliver improvements.

The report takes a particular approach grounded in economic productivity which – on the surface – does not mesh well with a concern for the role of the historic environment in

society. However, the report is certainly open to broader and different perspectives. Of their approach, the authors write 'it is certainly not blind to social or environmental factors; it sees them as important contributors to a productive environment' (para. 3.5). To some extent, this is provided for in the concept of 'total factor productivity' (TFP), above, which encompasses 'culture'. Elsewhere, the report acknowledges the relationship between communities and culture, and the limitations of the approach adopted (para. 2.7):

We have not studied the effects of marine activity on local culture. Whole communities, for example, have grown up around (say) fishing, and this has had an important bearing on the ways that those communities have developed. Whilst we attempt to take some account of these factors in the report narrative, we have not been able to provide hard evidence of these cultural impacts and outcomes of marine activity. Good evidence on these matters would need a different approach, perhaps involving ethnography or anthropology.

Further, the authors note that 'the relationship between economic productivity and other cultural, environmental and social benefits could be contested'. They provide examples from the coast where reduced economic productivity is being traded for other lifestyle benefits: 'a number of people in coastal communities have made what is a perfectly legitimate choice to trade a reduced income for a higher quality of life, and that their choice of a coastal environment is part of that choice' (para. 3.6). Examples later in the report show that rather than being a trade-off, culture, environment and society at the coast can have a role in driving economic productivity, reversing the report's premise that they are a consequence of productivity.

The report also considers favourably (para. 3.54-3.61) some recent work by James Simmie on the relationship between the social and economic conditions of areas today and their (economic) inheritance, with particular reference to innovation: 'it is difficult for new ideas to start in old industrial places. Nineteenth century industrial legacies can be difficult to overcome' (Simmie in Roger Tym & Partners and OCSI 2011b). The report outlines the 'path' that communities follow, flagging 'path dependence' where the community is 'locked-in' to an economic inheritance that inhibits future growth. The report quotes Simmie again: 'areas "must be able to escape their past to create new economic futures. Continual growth is never guaranteed. There is a continual need for constant change and innovation"'.

The consideration of 'paths' in the report is interesting on several counts. The acknowledgement of a historic dimension to socio-economic conditions at the coast is welcome, though from an archaeological perspective it is hardly surprising that there should be a relationship between a community's past, and its present and future. Manifested physically as 'the historic environment', it is likely that social and economic activity in a coastal area is more heavily embedded – and more persistent in structuring current and future activity – than the authors appreciate. Moreover, the assumption that an old economic path inhibits innovation – that communities 'must be able to escape their past' – is surely contestable. Where communities are identified as being path dependent or in decay there must be scope to look further back to phases of 'pre-formation' and 'path creation' where the community was characterised by novelty, innovation and investment. Indeed, the report goes on to describe circumstances where historical legacies and assets are being re-mobilised in coastal communities (see below).

In another strand, the report again recognises the role of place (paras 3.73-3.74):

... physical location and natural endowments has tended to matter less in explanations of economic development, and softer, place-based socio-cultural externalities matter more.

Amin and Thrift emphasise three aspects of these positive externalities which tend to allow places to capture higher levels of activity:

The ability to provide locations and context for face-to-face contact.

To provide for social and cultural interaction – “to act as places of sociability, of gathering information, establishing coalitions, [and] monitoring and maintaining trust”.

The ability to enhance knowledge and innovation through concentrating labour markets and expertise in particular places.

These concepts have never (to our knowledge) been specifically investigated by academic work with relation to coastal areas.

The coastal historic environment might be seen as a good source of ‘place-based socio-cultural externalities’, but the report takes a different tack by suggesting that coastal communities are in fact disadvantaged because the presence of the sea – the waterfront – creates ‘a natural limit’ so they are never centrally located and are not able to serve a ‘360 degree hinterland’ (para. 3.72). From a historical point of view this seems bizarre, because it is their exposure to the much greater hinterland of resources and communications presented by the sea that often caused coastal communities to develop in the first place. Whilst economists and planners might have lost sight of the fundamental role of the sea in the history of coastal communities, this is no reason to regard the sea as ‘a natural limit’ when it is in fact the opposite. Again, a historic environment perspective could help give direction to the development of places that make the most of their maritime links.

Examples provided by the report that indicate a more positive relationship between environment and socio-economic growth include Brighton, which ‘has successfully made the linkage between strong local environments, the attraction of a young, innovative population, and economic growth’. The report cites Florida: ‘Quality of place ... is absolutely vital in attracting knowledge workers and in supporting leading-edge high technology firms and industries’ and notes that ‘coastal areas may be particularly well placed in developing these attributes’ (paras. 3.22-3.24). The report also refers to work by the Coastal Communities Alliance, Walton and English Heritage, citing at length Walton’s account of Whitby (para. 3.84):

Walton is worth quoting extensively, as his work illustrates points made about the importance of maintaining and accentuating local distinctiveness in coastal areas elsewhere in the literature. Whilst Walton writes about Whitby, many of these points apply to the successful environments in a number of coastal towns, including Falmouth, Whitstable, Woodbridge, and Aldeburgh.

“The key to Whitby’s survival and success has been its atmospheric sense of history and identity ... Its current popularity with seekers after history, authenticity, atmosphere and the urban picturesque was not inevitable, but has been the outcome of a series of conflicts and accidents, which resulted in the survival of enough of the “Old Town” to sustain a sense of romance and mystery among a broad spectrum of visitors ... it is no good remaking everywhere in an identical image derived from the current fashions on the drawing-board, when you can build on existing historic identities, not preserving them in aspic, but modifying them ... to take account of changing standards, expectations and preferences.”

The report goes on to consider in detail the effect on socio-economic performance of the 11 key activities identified by the Marine Policy Statement. This consideration touches on the effect of each activity on local terrestrial environments, heritage and neighbouring uses. The report examines the ‘fit’ between coastal community types and key marine activities, and the relationship between marine planning and terrestrial planning. The report then considers

issues arising from its analysis, in particular the need to prioritise and to develop a delivery plan. It also raises 'other considerations' that are worth quoting at length:

Using marine planning to accentuate local distinctiveness (para. 8.24)

Some marine activities – such as fisheries and shipping – provide a central animating force to some coastal urban environments, and are very valuable assets. Marine planners can have an important role in defending and expanding these heritage and cultural assets which do so much to create positive local economic externalities. Equally, some projects may damage these assets. A careful look at the individual circumstances of a place will be required to understand the local context. Care must be taken to ensure that the expansion of marine activities does not create net negative impacts on a coastal economy.

Using marine perspectives to develop new strategies (paras. 8.25 – 8.27)

Research ... points out the importance of policies that facilitate the emergence of high-growth firms without requiring the government to try to pick winners; secondly, the literature emphasises the importance of local distinctiveness.

Marine planners bring a particular perspective to partnerships on innovation, new business areas, and emerging trends.

Bridlington, for example, is the UK's largest lobster port in the UK by weight. This high value catch is exported to high class restaurants across the UK and Western Europe. This element of local distinctiveness is being picked up by local regeneration strategies, in the way that oysters have created a separate "brand identity" for Whitstable. Similar opportunities might exist for seascapes. Marine planners may be able to flag up these and other opportunities which may remain unnoticed by others.

As well as the typology and national overview discussed above, the MMO project on socio-economic benefits included a specific document on the coast of the East marine plan areas (Roger Tym & Partners and OCSI 2011c). The document addresses each local authority area within the East marine plan area, plus a number of neighbouring local authorities that are likely to be affected by the East marine plans. The socio-economic characteristics of the coastal communities within each local authority area are summarised, as is the scope to integrate marine planning with local planning. For each area, selected issues and considerations are presented, based on consultation with local authority officers. Although there is no consistent consideration of the historic environment, there are examples of historic environment 'issues' (e.g. the management of historic military infrastructure on Spurn Head) and various references to tourism and place-making in which the historic environment might figure.

As with cultural services, socio-economic evaluations of our coasts and seas find it difficult to encompass the benefits of the historic environment to society in monetary terms. There is, however, clear recognition of the symbolic and cultural values of marine and coastal features and landscapes, and of the role that the historic environment plays in the creation of economically-vibrant places to live and work.

In this part, the character of the historic environment has been considered in its own right and in relation to Marine Spatial Planning, Ecosystem-Based Management, Ecosystem Services and Socio-Economics. The importance of regarding the historic environment as having relevance to all aspects of sustainable development – not just environment – has been highlighted, as has been the difficulty in accommodating historic environment within approaches that are ecological or economic in outlook. Nonetheless, such approaches recognise that the historic environment is something that they need to address, even if methodologies and available data are currently lacking. Explicit and implicit references to the

historic environment indicate the importance that the historic, human dimension to marine areas has played – and could play – in achieving sustainable social and economic growth in marine areas. Further work is required, however, to be able to achieve a quantifiable baseline understanding of the environmental, social and economic value of the historic environment at the coast and at sea, and to provide firm evidence of the scope for growth.

Part 3: Law and Policy relating to MSP and the Historic Environment in England

This part sets out the law and policy relevant to the relationship between Marine Spatial Planning and the historic environment in England. It is presented as a series of tiers, as follows:

- Global International Law
- European International Law
- European Union
- National (UK)
- Country / state (England)
- Local / regional

9. Global International Law

9.1. *World Heritage Convention*

General requirement to protect heritage through planning

The UK ratified the Convention Concerning the Protection of the World Cultural and Natural Heritage (The World Heritage Convention, 1972) in 1984. Article 5 of the World Heritage Convention provides the express requirement that:

To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavor, in so far as possible, and as appropriate for each country:

- (a) to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and *to integrate the protection of that heritage into comprehensive planning programmes*; (emphasis added)

This requirement is reinforced by the *Operational Guidelines for the Implementation of the World Heritage Convention* (UNESCO 2011) in the following terms:

States Parties to the World Heritage Convention, have the responsibility to: ...

- c) integrate heritage protection into comprehensive planning programmes;

The requirement to integrate heritage protection within comprehensive planning does not appear to apply only to cultural heritage of 'outstanding universal value' (OUV) or which have been inscribed on the World Heritage List as World Heritage Sites (WHS) or on the List of World Heritage in Danger; rather, it appears that states parties are required to integrate heritage protection within planning across the board, not just for OUV / WHS sites. The point here is that it would appear that the UK has obligations with respect to the inclusion of the historic environment in general within marine planning by virtue of the World Heritage Convention.

World Heritage Sites

Aside from this general requirement arising from the World Heritage Convention, there are specific obligations in respect of sites that are inscribed on the World Heritage List, several of which in England have boundaries immediately adjacent to tidal waters and/or buffer zones

that encompass tidal waters. Of these, most are adjacent to enclosed tidal waters, as follows:

Thames

- Maritime Greenwich
- Royal Botanical Gardens, Kew
- Tower of London
- Westminster Palace, Westminster Abbey and Saint Margaret's Church

Mersey

- Liverpool– Maritime Mercantile City

Cornwall and West Devon Mining Landscape

- Tamar Valley
- Charlestown
- Port of Hayle

As well as sites adjacent to enclosed waters, there are several instances where relatively extensive open coastline falls within World Heritage Sites, namely:

- Hadrian's Wall - west (Frontiers of the Roman Empire WHS)
- St. Just Mining District and St. Agnes Mining District (Cornwall and West Devon Mining Landscape WHS)
- Dorset and East Devon Coast WHS

Of these, Dorset and East Devon Coast is a 'natural' World Heritage Site whereas the others are 'cultural'. The Giant's Causeway and Causeway Coast is the only other 'natural' WHS in the UK; St Kilda is 'mixed'. All of the other UK WHS are 'cultural'.

On the Tentative List in England, both the Twin Monasteries of Wearmouth-Jarrow, and Chatham Dockyard and its Defences, are adjacent to tidal waters or encompass tidal waters within their buffers.

Interestingly, the application for the Dover Strait to be added to the UK Tentative List – which was turned down by the UK Independent Expert Panel (Young and Davies 2011) – included the sea area of the Dover Strait as well as the headlands on either side.

The Operational Guidelines of the World Heritage Convention refer to planning in respect of WHS at several points. As noted above, there appears to be a general requirement for heritage protection to be integrated with planning processes across the board, not just for WHS. With respect to WHS specifically, spatial planning is referred to as a mechanism to help protect and manage sites (UNESCO 2011 paras. 110, 132). Conversely, spatial planning is also flagged as a potential threat to WHS where regional or town planning may threaten sites (UNESCO 2011 para. 179). Finally, spatial planning is seen as a source of significance for some sites, where the historical relationship between town-planning and the site contributes to its outstanding universal value (UNESCO 2011 para. 77(ii); Annex 3 pp. 90-91).

States Parties are requested to provide periodic reports on their implementation of the World Heritage Convention to the UNESCO General Conference through the World Heritage Committee (UNESCO 2011 Chapter V; Annex 7). There is a six-year cycle for periodic reporting. The specified format requires that periodic reports 'provide information on the way the State Party or the relevant authorities has (have) taken steps to integrate the protection of World Heritage properties into comprehensive planning programmes' (UNESCO 2011 Annex 7 Section I.3(i)). With respect to specific World Heritage Sites, States Parties have to report on 'the implementation and effectiveness of ... management and/or planning control for the property concerned' (UNESCO 2011 Annex 7 Section II.4).

Marine World Heritage Sites

As noted above, the chief distinction between types of site in the World Heritage Convention is 'cultural', 'natural' and 'mixed'. Although appearing to have no formal status, WHS with a substantial marine component have also been grouped as 'Marine World Heritage Sites'. The first formal meeting of site managers from Marine WHS was held in December 2010 and reported in World Heritage Papers 28, at which point 43 WHS were recognised as Marine WHS. Of the 43 sites, 40 are 'natural' and three are 'mixed'. St Kilda is a UK example of one of the three 'mixed' Marine WHS. However, St Kilda's attribution as a Marine WHS is based only on its natural characteristics as it seems that the definition of Marine WHS is based on the 'natural' criteria for Outstanding Universal Value (OUV) alone (plus an 'integrity' test). Consequently, it would appear that a site in the marine environment that is of OUV by reason of a cultural criterion would not be considered to be a Marine WHS. Accordingly, attention paid to the management of Marine WHS has focussed overwhelmingly on their natural attributes. It is worth noting, however, that one of the 'natural' criteria includes 'areas of exceptional natural beauty and aesthetic importance', which invokes culturally-based perceptions.

Marine WHS – now numbering 45 – are being addressed through the World Heritage Marine Programme, which was established in 2005 (<http://whc.unesco.org/en/marine-programme/>). The mission of the programme is 'is to establish effective conservation of existing and potential marine areas of Outstanding Universal Value to make sure they will be maintained and thrive for generations to come' (UNESCO 2012).

UNESCO has a separate initiative on Marine Spatial Planning through the UNESCO Intergovernmental Oceanographic Commission (IOC) and Man and Biosphere (MAB) Programme. UNESCO published *Marine Spatial Planning: a step-by-step approach toward ecosystem-based management* (Ehler and Douvère 2009), quoted above, as part of the UNESCO/IOC/MAB Marine Spatial Planning Initiative.

Protection and Management of WHS in England

As is apparent, both the Convention and UNESCO require planning-based approaches to the protection of WHS. In fact, spatial planning figures heavily in the protection and management of World Heritage Sites in England. Paragraph 9 of Circular 07/2009 (Department for Communities and Local Government and Department for Culture Media and Sport 2009) states that:

Since 1994 it has been Government policy that the most appropriate way of meeting the UK's obligations to protect, manage, present and transmit to future generations the World Heritage Sites on its territory is through the inclusion of appropriate policies in planning documents including core strategies ... and through the development of management plans ...

Specific principles and policies for the protection of WHS through planning documents are set out in paras. 10-12 of Circular 07/2009. Having emphasised the role of management plans, paragraph 14 of Circular 07/2009 goes on to state that:

The Secretaries of State for Communities and Local Government and for Culture, Media and Sport expect planning authorities to treat relevant policies in management plans as key material considerations in making plans and planning decisions, to take them fully into account when devising core strategies and other development documents, and to give them due weight in their other actions relating to World Heritage Sites.

This means that there is a general expectation that plans – including, presumably, Marine Plans – need to take WHS management plans into account.

Circular 07/2009 also addresses the protection of setting of World Heritage Sites, where setting is 'the area around [the WHS] (including any buffer zone ...) in which change or development is capable of having an adverse impact on the World Heritage Site, including an impact on views to or from the Site' (Department for Communities and Local Government and Department for Culture Media and Sport 2009 para. 15). As indicated above, many WHS in England are located on the coast and sometimes included buffers that encompass marine areas. Where setting and/or buffers overlap marine plan areas, then marine planning will be relevant to managing impacts to WHS.

English Heritage has provided additional guidance to support Circular 07/2009, which 'sets out the importance of the planning system and sustainable community strategies in protecting and sustaining World Heritage Sites' (English Heritage 2009b para. 1.3). The guidance notes that 'the English approach is based on the use of the spatial planning system to protect World Heritage Sites and the development of World Heritage Management Plans' (English Heritage 2009b para. 5.1). It is presumed that English Heritage will expect marine planning to play its part as a component of the overall spatial planning system in protecting WHS, and that the guidance will apply to the MMO in respect of WHS that overlap or are adjacent to marine plan areas. Specific guidance included in the document includes the following:

Planning authorities should include policies in their local plan to protect the Outstanding Universal Value, authenticity and integrity of World Heritage Sites (para. 5.2).

Planning authorities should ensure that appropriate policies to protect and conserve World Heritage Sites and their settings, including any defined buffer zone or its equivalent, and maps are included in both Regional Spatial Strategies and Local Development Frameworks which together form the development plan for each planning authority (para. 7.2).

The policies in the development plan should clearly identify the need to protect the Outstanding Universal Value, including authenticity and integrity, for which the site was inscribed on the World Heritage List (para. 7.3).

Policies enabling control of development in the setting of each World Heritage Site, including any buffer zone, in order to protect its Outstanding Universal Value, including authenticity and integrity, should also be included (para. 7.3).

Given the need to protect the setting of World Heritage Sites, appropriate policies should be included as appropriate in the Local Development Frameworks of planning authorities bordering a World Heritage Site as well as of the authority in which the site is located (para. 7.4).

Local planning authorities ... should also consider impact on World Heritage Sites when giving screening opinions on whether Environmental Impact Assessments are needed (para. 7.8).

When considering planning applications within World Heritage Sites or their settings, including any buffer zone, planning authorities should carefully consider the impact on the Outstanding Universal Value, authenticity and integrity of the World Heritage Site (para. 7.10).

It is essential to consider the impact of each development proposal on the Outstanding Universal Value. For many significant development proposals this can be done as part of an Environmental Impact Assessment (para. 7.11).

The guidance also notes that the UNESCO World Heritage Committee has asked to be informed of proposals for major restorations or interventions which may affect the Outstanding Universal Value of a WHS. The decision on whether to refer cases to UNESCO is taken by DCMS, who seek advice from English Heritage. The guidance notes that it is helpful for planning authorities to consult the relevant regional office of English Heritage at an early stage on all cases with significant potential impact on Outstanding Universal Value (English Heritage 2009b para. 7.13). It is presumed that the MMO, as a marine planning authority, will be expected to consult English Heritage similarly.

With respect to the existing WHS in England, the Convention, Operational Guidelines and domestic policy in England all point to an express role for spatial planning. The role of planning encompasses not only each WHS but also its setting including but not limited to formal buffers, and including views to and from the WHS. Both the development of plan policies and decisions with respect to planning applications are expected to help manage and protect the Outstanding Universal Value of WHS.

As there are several WHS in England that border tidal waters, and whose buffers, setting and/or views clearly encompass marine areas, then it seems very clear that there is a requirement for marine spatial planning to address World Heritage Sites in their policies. The incorporation within MSP of policies towards WHS might be expected to be consistent with Circular 07/2009 and English Heritage's guidelines. Consideration should also be given to how MSP will add to the protection and management of the Outstanding Universal Value of existing WHS in England. As noted above in respect of the apparently general character of Article 5, there also appears to be a requirement for the UK to adopt a general policy to integrate heritage protection into marine spatial planning – not just for WHS – insofar as MSP is a comprehensive planning programme. In terms of enforcement, the UK might be expected to report on its implementation of the World Heritage Convention through marine spatial planning through its periodic report to the UNESCO World Heritage Committee.

Although at first sight, World Heritage Sites in England might not seem to be of any great concern to marine spatial planning, the overlap is in fact considerable. As has been shown, there is a general obligation arising from the World Heritage Convention for the UK to integrate heritage into marine planning. With respect to specific sites, the geographic extents of WHS in England encompass or immediately adjoin marine plan areas, and their buffers and settings certainly fall within the spatial extent of Marine Plans. In its implementation of the WHC, particular emphasis is placed in England on the use of planning to manage WHS, and specific policies on planning and WHS has been set out both by central government and English Heritage. There is a clear need to consider the implications of marine planning for WHS in England, in line with existing WHS policies. Internationally, the focus on marine WHS and on the use of marine spatial planning in their management has been almost exclusively concerned with the natural environment. Consistent with points made above about the historic environment and sustainable development, there is considerable scope for EH to take a lead internationally in demonstrating how cultural heritage aspects of marine / coastal WHS can be addressed through marine spatial planning.

9.2. *UNESCO Convention on Protection of Underwater Cultural Heritage*

The UK is not party to the UNESCO Convention on the Protection of Underwater Cultural Heritage (Paris, 2001), having abstained when the draft Convention was put to the vote at the UNESCO General Conference. In its explanation of vote, however, the UK stated that it could support most of the articles in the draft (Foreign and Commonwealth Office 2001). The 2001 UNESCO Convention entered force in 2009.

Article 5 of the 2001 UNESCO Convention sets out the following obligation:

Each State Party shall ...
use the best practicable means at its disposal ...
to prevent or mitigate ...
any adverse effects that might arise from ...
activities incidentally affecting underwater cultural heritage.

'Activities incidentally affecting underwater cultural heritage (UCH)' are defined in Article 1(7) as meaning activities which may physically disturb or otherwise damage UCH even though UCH is not their primary object, or one of their objects. 'Activities incidentally affecting UCH' include a very wide range of activities that might be expected to be subject to Marine Spatial Planning. Further, where MSP already exists it is likely to qualify as one of the best practicable means at a state's disposal. By directing and constraining patterns of sea-use, MSP undoubtedly has the capacity to prevent or mitigate adverse effects from marine activities.

It is worth noting that the obligation in Article 5 is not limited to specific UCH sites or to types or levels of UCH (e.g. 'significant' UCH); nor are there any specific territorial limitations. O'Keefe notes that the duty is imperative: 'States do not have any option in taking action'; and 'States cannot sit back and do nothing' (O'Keefe 2002, 65). Rather, the limitations on the duty are that they apply only to such means as are 'practicable' and at the disposal of the state, and the imperative to prevent adverse effects is moderated by the inclusion of 'or mitigate'. The state is not, therefore, under an absolute obligation to prevent adverse effects from activities incidentally affecting UCH; but where it cannot prevent, then it should at least mitigate.

The caveat 'at its disposal' means that it is unlikely that Article 5 could be read as a requirement to introduce MSP where it is otherwise absent. Hence, the 2001 UNESCO Convention does not create a requirement for the UK to introduce MSP to address activities incidentally affecting UCH. Nonetheless, if MSP already exists or is being introduced, it would appear that Article 5 creates an obligation to extend MSP to activities incidentally affecting UCH. Given that the UK has MSP at its disposal (and MSP is a 'best practicable means') then the Convention would seem to require the UK to use MSP to 'prevent or mitigate' activities incidentally affecting UCH, i.e. provision would need to be made for UCH within MSP that encompassed policies on prevention and mitigation.

These two examples of international law operating at a global scale, the World Heritage Convention 1972 and the Convention on the Protection of Underwater Cultural Heritage 2001, confirm that the historic environment has an importance that transcends national boundaries, and that international norms for the behaviour of states include expectations with respect to the protection of cultural heritage. Both conventions concern themselves not only with preventing intentional heritage crimes, but also with managing the wide range of human activities that can have unintentionally damaging consequences. For over 40 years,

the World Heritage Convention has expressly identified planning as a mechanism for dealing with such activities, whilst the UNESCO 2001 Convention extends concern for 'incidental' activities to the marine environment. Taken together, they underline the responsibility and – for state parties such as the UK in respect of the WHC 1972 – the obligation to use planning-based measures for managing the marine historic environment.

10. European International Law

10.1. Valletta Convention

Like the World Heritage Convention, the European Convention on the Protection of the Archaeological Heritage (revised) (Valletta 1992) is an international convention that creates obligations on the UK by virtue of its ratification, which came into force in 2001. The Valletta Convention applies to elements of the archaeological heritage 'which are located in any area within the jurisdiction of the Parties' (Article 1(2)(ii)) and it applies to archaeological heritage 'whether situated on land or under water'.. (Article 1(3)). The overall effect is that, insofar as the UK has territorial jurisdiction, the Convention generates obligations in respect of archaeological heritage within that jurisdiction.

Article 5 of the Valletta Convention makes the following provision:

Each Party undertakes:

- i) To reconcile and combine the respective requirements of archaeology and development plans by ensuring that archaeologists participate:
 - a) in planning policies designed to ensure well-balanced strategies for the protection, conservation and enhancement of sites of archaeological interest;
 - ...
- ii) to ensure that archaeologists, town and regional planners systematically consult one another in order to permit:
 - a) the modification of development plans likely to have adverse effects on the archaeological heritage;
 - ...
- iii) to ensure that environmental impact assessments and the resulting decisions involve full consideration of archaeological sites and their settings;
- iv) to make provision, when elements of the archaeological heritage have been found during development work, for their conservation in situ where feasible;
- ...

Article 6 of the Valletta Convention provides as follows:

Each Party undertakes:

- ...
- ii) to increase the material resources for rescue archaeology:
 - a) by taking suitable measures to ensure that provision is made in major public or private development schemes for covering, from public sector or private sector resources, as appropriate, the total costs of any necessary related archaeological operations;
 - b) by making provision in the budget relating to these schemes in the same way as for the impact studies necessitate by environmental and regional planning precautions, for preliminary archaeological study and prospection, for a scientific summary record as well as for the full publication and recording of the findings.

In plainer language, Articles 5 and 6 of the Valletta Convention create the following obligations:

- The respective requirements of archaeology and development plans must be reconciled and combined;
- States must ensure that archaeologists participate in planning policies;

- Planning policies must ensure well-balanced strategies for protection, conservation and enhancement of sites of archaeological interest;
- Archaeologists and regional planners must systematically consult one another;
- Consultation must occur to permit modification of development plans that are likely to have adverse effects on the archaeological heritage;
- EIA and licensing decisions must involve full consideration of archaeological sites and their settings;
- Elements of the archaeological heritage found during development must be conserved in situ where feasible;
- States must increase material resources for rescue archaeology;
- The total cost of necessary archaeological operations are to be provided for in major public or private development schemes;
- Budgets for major public or private development schemes are to provide for: a) preliminary archaeological study and prospection; b) a scientific summary record; and c) full publication and recording (as well as impact studies).

In summary, the Valletta Convention establishes specific requirements for state parties, including the UK, in respect of the scope of development-led archaeology, plan-making, and EIA and decision-taking. These obligations apply to any area within the jurisdiction of the state, and apply on land and under water. It follows that the UK's continued compliance with this piece of international law requires the UK to apply these obligations to marine planning and decision-taking.

10.2. European Landscape Convention

The UK's ratification of the European Landscape Convention (Florence 2000) entered force in 2007.

Article 1(a) defines landscape as meaning 'an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors'. The aims of the Convention, set out in Article 3, include 'to promote landscape protection, management and planning'.

Article 2 provides that 'this Convention applies to the entire territory of the Parties ... It includes land, inland water and marine areas'. The accompanying Explanatory Report states that the Convention 'applies both to inland waters (such as lakes and areas of brackish water) and marine areas (coastal waters and the territorial sea)' (Council of Europe 2000). It appears that 'entire territory' does not encompass zones beyond the territorial sea (e.g. Continental Shelf or EEZ), presumably because these zones are subject only to various sovereign rights, not territorial sovereignty.

When ratifying, the UK made a declaration under Article 15 about the territories to which the Convention applies. In its declaration, the UK states that it will 'initially apply the Convention to the metropolitan area of Great Britain and Northern Ireland' (<http://conventions.coe.int/Treaty/Commun/ListeDeclarations.asp?NT=176&CM=8&DF=21/03/2012&CL=ENG&VL=1>). The metropolitan area does not include the British Crown Dependencies (Isle of Man and Channel Islands).

With respect to planning, the key provision is in Article 5, as follows:

Each Party undertakes:

...

d) to integrate landscape into its regional and town planning policies and in its cultural, environmental, agricultural, social and economic policies, as well as in any other policies with possible direct or indirect impact on landscape.

The net effect of the ELC is that in the UK, the promotion of: a) protection; b) management; and c) planning of landscape should be integrated within Marine Spatial Planning by virtue of Article 5(d), where the character of landscape is recognised as sometimes being the result of the action of human factors.

English Heritage has stated that landscape policy in UK is already closely aligned with the ELC, and that existing procedures and practice are already compliant with the ELC's formal requirements. In 2009, English Heritage set out an action plan to further strengthen implementation of the ELC, setting out its proposed actions under five headings that follow the main articles of the ELC. In the action plan, EH stated (English Heritage 2009a):

We aim to use this Action Plan to promote more recognition of the historic dimension of landscape in the marine zone (for example in new legislation and procedures, and using our existing Historic Seascape work).

In short, there is already a clear commitment to strengthening in England the UK's implementation of the requirements of ELC with respect to marine landscapes.

10.3. FARO Convention

The Framework Convention on the Value of Cultural Heritage for Society (Faro 2005) entered force in June 2011. The UK is not a signatory but English Heritage states that the Faro Convention follows a line followed by EH through previous programmes (<http://www.english-heritage.org.uk/professional/advice/advice-by-topic/landscape-and-areas/european-landscape-convention/>).

The application of the Faro Convention to underwater cultural heritage or to marine areas is not explicit; the only references are in Article 5(f) which states that the Parties undertake to 'recognise the value of cultural heritage situated on territories under their jurisdiction, regardless of its origin' and the provision in Article 20 for Parties to specify in the course of ratification the territories to which the Convention will apply.

Article 8 of the Faro Convention provides that:

The Parties undertake to utilise all heritage aspects of the cultural environment to:

a) enrich the processes of economic, political, social and cultural development and *landuse planning*, resorting to cultural heritage impact assessments and adopting mitigation strategies where necessary; (emphasis added)

b) promote an integrated approach to policies concerning cultural, biological, geological and landscape diversity to achieve a balance between these elements;

Cultural heritage is defined in Article 2 as follows:

Cultural heritage is a group of resources inherited from the past which people identify, independently of ownership, as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions. It includes all aspects of the environment resulting from the interaction between people and places through time;

In the context of Marine Spatial Planning, the Faro Convention is important because of the emphasis that it places on access and participation, and on the role of heritage in social cohesion, education and economic development. Article 8 (a) and (b) create obligations to enrich landuse planning through the use of cultural heritage and to promote a balanced, integrated approach to environmental policies.

10.4. CEMAT

CEMAT is the Council of Europe Conference of Ministers Responsible for Spatial/Regional Planning. CEMAT 'brings together representatives of the 45 Member States of the Council of Europe united in pursuit of a common objective: sustainable spatial development of the European Continent' (Council of Europe 2003). CEMAT is informed by the 1983 Charter European Regional/Spatial Planning Charter (the Torremolinos Charter) and the Guiding Principles for Sustainable Spatial Development of the European Continent (Recommendation Rec (2002)1, 30 Jan 2002).

The 1983 Torremolinos Charter sets out concepts, objectives and implementation relating to spatial planning:

Regional Spatial Planning gives geographical expression to the economic, social, cultural and ecological policies of society.

It is at the same time a scientific discipline, an administrative technique and a policy developed as an interdisciplinary and comprehensive approach directed towards a balanced regional development and the physical organisation of space according to an overall strategy.

The Charter also states that 'regional/spatial planning should be democratic, comprehensive, functional and oriented towards the longer term'. Responsible management of the environment, paying special attention to the cultural and architectural heritage, is identified as a fundamental objective. Protection of natural, historical, cultural assets and resources is flagged amongst the sectors to be co-ordinated by spatial planning. The Charter states that 'the rehabilitation of the architectural heritage, monuments and sites must be an integral part of an overall town and country planning policy'. The Charter highlights 'coastal areas and islands' as one of the types of region that require specific policies.

The Guiding Principles of 2002 are wide-ranging and relatively detailed. The aim of the Guiding Principles is stated as follows (CEMAT 2002 Appendix para. 8):

They aim in particular at bringing the economic and social requirements to be met by the territory into harmony with its ecological *and cultural* functions and at contributing in this way to long-term, large-scale and balanced spatial development. (emphasis added)

The Guiding Principles set out Continent-wide challenges and prospects, which include its long coastline, the role of the sea in trade, transport, technology, marine resources and tourism. Europe's multiplicity of cultures is acknowledged as having shaped the diversity of landscapes, towns and settlement patterns, and the Valletta Convention, amongst others, is identified as containing 'important principles for the conservation and enhancement of the cultural heritage in the context of sustainable spatial development' (CEMAT 2002 Appendix para. 16).

The document sets out 'Principles of a planning policy for sustainable development in Europe' that include 'Enhancing the cultural heritage as a factor for development':

Increasing the appeal of localities and regions for investors, tourists and the general public by enhancing the cultural heritage makes an important contribution to economic

development and to strengthening regional identity. Spatial development policy should contribute to integrated management of the cultural heritage conceived as an evolutionary process protecting and conserving the heritage and taking into account the needs of modern society.

The same section includes an important acknowledgment of the non-exclusive, trans-national importance of cultural heritage:

In many Member States, there are aspects of the cultural and historic heritage which, on account of historical changes, events and changing frontiers, belong not just to one but of several nations, language communities and religious groups, some of whom no longer even live in the regions concerned. Spatial development policy has to preserve and respect the memory of every nationality, language community and religious group which has created a specific aspect of cultural heritage.

Turning to spatial development measures, landscapes are highlighted because they ‘... are a significant part of European heritage and witness of the past and present relationships between man and his natural and built environments’.

In line with the Torromolinos Charter, coastal and island regions are highlighted as a type of region where specific spatial development measures are required.

The CEMAT documents point to a conception of spatial planning that is focussed on the proactive role that planning can play in achieving both economic and social objectives. Cultural heritage is flagged as needing protection, but also as having a positive, instrumental role in identity and in economic development. Through ‘landscape’ in particular, the natural heritage and the cultural heritage are regarded in the Guiding Principles as being interrelated.

The CEMAT documents are especially relevant in developing the overall vision that MSP is intended to achieve, and in encouraging a vision for the historic environment in MSP that is broader than protection alone.

In this section it can be seen that through the Valletta Convention and the ELC, the UK has acceded to obligations under international law at a European level that have the effect of requiring marine planning to include the historic environment. The steps taken towards the historic environment in marine planning in the UK are already giving effect to these obligations, so no particular additional requirements are necessary to achieve compliance. It should always be recalled though, that in this respect proper consideration of the historic environment in marine planning is an international legal obligation, not a domestic indulgence, so current compliance needs to be maintained into the decades ahead. Although the UK is not party to the Faro Convention, it creates a similar expectation amongst European states that cultural heritage will be integrated within (marine) planning alongside other environmental concerns to the overall benefit of society. The CEMAT documents are important because they set out principles applicable to the marine environment in which the historic environment is not simply a constraint but can play a positive role both economically and socially.

11. European Union

11.1. Overview

The EU has a significant but complex and multifaceted influence on marine management, including Marine Spatial Planning. This influence encompasses legal, policy and financial mechanisms. As there are many different elements, some of which have occurred at different times and through different organs of the EU, the overall effect is not necessarily fully integrated, hence this overview seeks to set out the various interests and dynamics of the EU on coastal matters.

The activities of three of the European Commission's Directorates-General are of particular relevance to MSP and the historic environment. These are:

- DG MARE Directorate-General for Maritime Affairs and Fisheries
- DG ENV Directorate-General for the Environment
- DG REGIO Directorate-General for Regional Policy

In recent years, DG MARE has been taking a greater role in co-ordinating and initiating EU action with respect to the sea. DG MARE is taking the lead in the overall EU Integrated Maritime Policy (IMP), reform of the Common Fisheries Policy (CFP), and in initiatives on Blue Growth, marine data management, and Maritime Spatial Planning (*sic*: EU documents refer to Maritime rather than Marine Spatial Planning).

DG MARE's overview includes increasing co-ordination with DG ENV, which has a specific role with respect to coasts and seas through the Marine Strategy Framework Directive (MSFD) and in respect of Integrated Coastal Zone Management (ICZM). DG ENV also takes the lead on EIA and SEA and on Water (including Flood Risk Management; River Basin Management (Water Framework Directive – WFD); and Bathing Water).

With reference to spatial planning, DG REGIO seeks to strengthen economic, social and territorial cohesion. DG REGIO is responsible for major spending through the European Regional Development Fund (ERDF), which includes programmes under the European Territorial Co-operation objective (formerly the INTERREG initiative). Territorial Cohesion is a relatively new facet of EU cohesion policy, informed by the European Spatial Development Framework (ESDF – 1999) and the Green Paper on Territorial Cohesion (2008). Regional policy is informed by ESPON, which is the European Observation Network on Territorial Development and Cohesion. ESPON is funded predominantly by the ERDF; it supports transnational groups of researchers and experts to carry out applied research into the economic and social characteristics of territories at a range of scales, to provide evidence and analysis for policy-making.

Other Directorates-General with marine/maritime responsibilities include Energy (DG ENER – renewable energy; energy infrastructure), Enterprise and Industry (DG ENTR – shipbuilding) and Mobility and Transport (DG MOVE – maritime transport; safety). INSPIRE – which is intended to provide the infrastructure for spatial information to support policies and activities which have an impact on the environment – is a Commission initiative that combines DG ENV, Eurostat (ESTAT) and the Joint Research Centre (JRC – the Commission's in-house science service).

The Directorate-General for Research and Innovation (DG RTD) has provided a degree of direct support for historic environment research. DG RTD administers its Framework Programmes (FP - currently FP7) which include calls for projects to address maritime /

marine objectives, such as providing a science base to support initiatives like the Marine Strategy Framework Directive. A recent round of FP7 included a call for innovative projects in the field of marine archaeology. DG RTD also supports COST – which is funding the SPLASHCOS (Submerged Prehistoric Archaeology and Landscapes of the Continental Shelf) network – but COST is an intergovernmental programme outwith the EU that is governed by Ministerial Conference. The Council of the European Union (not the Commission) provides the COST Secretariat.

The Directorate-General on Education and Culture (DG EAC) encompasses cultural heritage but has had a limited role with respect to the historic environment, especially the marine historic environment. The Commission's working document *The European Agenda for Culture – progress towards shared goals* (European Commission 2010d) goes through an enormous variety of actions relating to culture across both the EU's internal policies and programmes and its external relations, but they occur largely through the programmes of Directorates-General other than DG EAC. Action on culture within the EU maritime policy is flagged, but reference is made primarily to the statements in the Blue Book (see below) on the role of the Integrated Maritime Policy in promoting Europe's maritime heritage. No reference is made to planning.

Following some background discussion of the EU Treaty and overall strategy, the remainder of this section focuses on DG MARE, DG ENV and DG REGIO.

11.2. EU Treaty

Before proceeding to consider EU legislation, policy and programmes of most direct relevance to Marine Spatial Planning and the Historic Environment, it is worth touching briefly on Article 167 of the Treaty on the Functioning of the European Union (TFEU) that underpins EU action on culture. Article 167 provides that:

1. The Union shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.
2. Action by the Union shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and supplementing their action in the following areas:
 - improvement of the knowledge and dissemination of the culture and history of the European peoples,
 - conservation and safeguarding of cultural heritage of European significance,
 - non-commercial cultural exchanges,
 - artistic and literary creation, including in the audiovisual sector.
3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe.
4. The Union shall take cultural aspects into account in its action under other provisions of the Treaties, in particular in order to respect and to promote the diversity of its cultures.
5. In order to contribute to the achievement of the objectives referred to in this Article:
 - the European Parliament and the Council acting in accordance with the ordinary legislative procedure and after consulting the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States,

– the Council, on a proposal from the Commission, shall adopt recommendations.

As can be seen, the emphasis is placed on 'bringing the common cultural heritage to the fore', improving knowledge and dissemination of the culture and history of Europe, conserving and safeguarding cultural heritage of European significance, and co-operating with third countries and competent international organisations such as the Council of Europe. The role of the EU in Article 167 is to encourage co-operation between Member States and, if necessary, support and supplement their action. Although the institutions of the EU can adopt incentive measures and recommendations, they are precluded from seeking harmonisation of Member State's laws and regulations in this sphere. This means that there can be no expectation that the EU will introduce a Directive or other measure that would require the UK and other members to adopt a common approach to laws with respect to the historic environment. Although limited with respect to Member States, Article 167(4) sets out an obligation to consider the implications for culture of the EU's own actions. As the EU's actions are potentially very wide, this provision could have a very great effect – as it has done in, for example, environmental impact assessment. As will be seen below, however, the EU's implementation of Article 167(4) seems to have been intermittent and there has been a variety of EU actions where the consideration of cultural aspects is not readily apparent.

11.3. EU Strategy

In order to understand the overall direction of EU activity, it is worth considering its developing focus and strategy, noting in particular its emphasis on growth and sustainability, as well as the development of maritime policy. EU activity is informed by *Europe 2020*, a strategy for 'smart, sustainable and inclusive' growth approved by EU Heads of States and Governments in June 2010 (European Commission 2010c). *Europe 2020* succeeded the Lisbon Strategy for the period 2000-2010; the Lisbon Strategy was given 'a new start' in 2005 (European Commission 2005a), drawing upon Strategic Objectives for 2005-09 (European Commission 2005b) which identified the need for a maritime policy.

Sustainable development – meaning that that the needs of the present generation should be met without compromising the ability of future generations to meet their own needs – became an overarching objective of EU policies in 1997. The EU Sustainability Strategy (EU SDS) was introduced in 2001 and revised in 2006. It was last reviewed in 2009 and monitored in 2011. The 2006 SDS (European Council 2006) states that:

It aims at the continuous improvement of the quality of life and well-being on Earth for present and future generations. To that end it promotes a dynamic economy with full employment and a high level of education, health protection, social and territorial cohesion and environmental protection in a peaceful and secure world, respecting cultural diversity.

Heritage might be expected to be relevant to quality of life, the well-being of future generations, social cohesion, environmental protection and respect for cultural diversity, as well as contributing to dynamic economies and a high level of education. Nonetheless, the EU SDS makes no reference to cultural heritage. The 2009 review acknowledges the contribution that the Integrated Maritime Policy (below) will make to the SDS, but makes no reference to heritage. Correspondingly, the 2011 monitoring report on the EU SDS – which is framed in term of indicators – makes no reference to heritage other than briefly in the context of adverse impacts of air pollution on monuments.

11.4. DG MARE: Directorate-General for Maritime Affairs and Fisheries

Integrated Maritime Policy

The EU's Integrated Maritime Policy (IMP) 'seeks to provide a more coherent approach to maritime issues, with increased coordination between different policy areas'. Bearing in mind the thematic separation of EU activities outlined above, the IMP addresses issues that do not fall under a single sector-based policy, or that require co-ordination between different sectors and stakeholders. Specifically, the IMP covers five sets of policies:

Marine Data and Knowledge	Helping industry, public authorities and researchers find the data and make more effective use of them; improving understanding of how the seas behave.
Integrated Maritime Surveillance	Providing authorities interested or active in maritime surveillance with ways to exchange information and data, to make surveillance cheaper and more effective.
Maritime Spatial Planning	Planning and regulating all human uses of the sea, while protecting marine ecosystems; focuses on marine waters under national jurisdiction and concerned only with planning activities at sea.
Blue Growth	Long-term strategy to support growth in the maritime sector as a whole.
Sea Basin Strategies	Promoting growth and development strategies that exploit the strengths and address the weaknesses of each large sea region in the EU: Baltic, Black Sea, Mediterranean, North Sea, Atlantic and Arctic Ocean.

The IMP can be traced back to the Strategic Objectives 2005-09 (European Commission 2005b, 9) proposed by the Commission, which included the following observation under the heading 'Solidarity with future generations':

In view of the environmental and economic value of the oceans and the seas, there is a particular need for an all-embracing maritime policy aimed at developing a thriving maritime economy and the full potential of sea-based activity in an environmentally sustainable manner. Such a policy should be supported by excellence in marine scientific research, technology and innovation.

The subsequent Green Paper Towards a future Maritime Policy for the Union: a European vision for the oceans and seas (European Commission 2006) led to the 'Blue Book' Communication on an Integrated Maritime Policy for the European Union (European Commission 2007a), which was accompanied by an Action Plan (European Commission 2007c). Following a Progress Report (European Commission 2009a; European Commission 2009b), a regulation was passed in December 2011 to provide financial support for the further development of IMP; the IMP Work Programme for 2011-12 came into effect in March 2012 (European Commission 2012).

The Green Paper put marine heritage firmly in the foreground of the incipient IMP. Its introduction started with a historical perspective, noting that 'from the earliest times, the oceans have played a leading role in the development of European culture, identity and history'. In setting out its aims, the Green Paper 'hopes to contribute to a new awareness among Europeans of the greatness of their maritime heritage'. The overall approach was to 'rest firmly on twin pillars': the Lisbon Strategy of stimulating growth and more and better jobs with continued investments in knowledge and skill; and maintaining and improving the status of the resource through ecosystem-based management. Heritage featured in the

sections of the Green Paper on developing coastal tourism, marine data, and financial support for maritime heritage activities through structural and cohesion funds.

Additionally, the Green Paper included an entire section on 'Reclaiming Europe's Maritime Heritage and Reaffirming Europe's Maritime Identity'. This section proposed that an 'EU Atlas of the Seas' ought to include 'an inventory of underwater archaeology sites' as an educational tool, and that an action programme should be developed for EU activities in this area. EU Member States were also encouraged to sign the 2001 UNESCO Convention and the Valletta Convention. The maritime heritage section of the Green Paper concluded by asking: 'What action should the EU take to support maritime education and heritage and to foster a stronger sense of maritime identity?'

The Blue Book also touched on heritage directly with respect to 'raising the visibility of maritime Europe'. As well as commitments relevant to maritime heritage on marine and maritime research, marine mapping and data management, and ratification of international maritime conventions, the Action Plan included the following specific commitments:

exchanging best practice	The Commission will move forward with proposals in 2008 to promote the establishment of networks of best practices between maritime stakeholders, for example ... on linking maritime heritage with other activities ...
application of Community environment legislation to port development	to ensure joined-up policy development regarding all aspects of ports, including their contribution to the culture and tourist potential of port cities.
sustainable maritime tourism	Tourism policy, together with initiatives taken in the context of the integrated maritime policy, such as the ... enhancement of maritime identity and heritage, will provide the basis to promote sustainability and competitiveness in the maritime and coastal tourism sector.
European Maritime Day	The Commission will make public its proposals for a European Maritime Day ... Another aim will be to bring together maritime heritage organisations, museums and aquaria, to exchange experiences.
European Atlas of the Seas	The Commission will launch a European Atlas of the Seas ... the development of tools to make visible the holistic nature of our maritime environment and heritage will contribute to raising a generation of citizens and stakeholders for whom an integrated approach to maritime policy is self-evident.

The 2009 Progress Report and accompanying document indicate that despite its strong start, the interest of the IMP in heritage had tailed off considerably. Heritage is addressed in the 2009 report only with reference to the European Atlas of the Seas and European Maritime Day. At the time of the Progress Report, the first edition of the Atlas was still awaited and its purpose as 'an educational tool and as a means of highlighting our common maritime heritage' as set out in the Blue Book was simply repeated. A 'first workshop' on maritime heritage at the Rome Stakeholder Conference for European Maritime Day 2009 in Rome was also reported, but no future action was indicated.

As well as in 2009, European Maritime Day (EMD) included sessions and events with a maritime heritage theme in 2010; DG MARE has also hosted or supported a number of one-off events relating to heritage. However, the extent of coverage of maritime heritage currently in European Atlas of the Seas includes only museums grouped through the European Maritime Foundation – the European association for traditional ships in operation.

The IMP Work Programme for 2011-12 includes specific measures concerned with Marine Spatial Planning, specifically MSP in the Mediterranean, Black Sea and Atlantic, and the relationship between MSP and ICZM. Although several strands of work are likely to have implications for how underwater cultural heritage 'fits' in terms of data and environmental protection, the IMP Work Programme makes no reference to culture or heritage.

IMP started with heritage at its core, but this has dropped away other than in relatively limited support for a few historic environment events. It is not clear why the IMP's interest in heritage has fallen away so quickly, and there may be scope for it to be re-kindled if the role of the historic environment in such valuable sectors as recreation and tourism, for example, can be demonstrated.

Blue Growth

As indicated above, Blue Growth is an initiative to focus attention on the scope for marine-related activity to boost Europe's economy. The Blue Growth strategy has the following objectives:

- Identifying and tackling challenges (economic, environmental and social) affecting all sectors of maritime economy;
- Highlighting synergies between sectoral policies;
- Studying interactions between different activities and their potential impact on the marine environment and biodiversity;
- Identifying activities with high growth potential in the long term and supporting them by removing administrative barriers, fostering investment in research and innovation, and promoting skills through education and training.

In her speech to the March 2012 meeting on Marine Spatial Planning in Brussels, Commissioner Damanarki underlined the purpose of MSP in facilitating Blue Growth:

We need concrete action, now, to make sure that the European Union delivers on growth and jobs. We need to set the scene now for those economic activities that will carry us into the future.

Blue Growth is about investing in maritime Europe, but focusing our efforts where it matters and working with emerging sectors to secure their development.

Blue Growth can also focus on how we can secure the health of our coastal economies, that depend on their maritime assets. We are trying to organise the operation of regional funds and policy in a way that supports the development of coastal communities to the greatest extent possible.

In sum, dear participants, we have to do what it takes to make sure that the right conditions exist for the "blue economy" to develop.

And maritime spatial planning is the right answer to secure and support Blue Growth for the European Union.

She also noted that the focus of Blue Growth initiatives would be on 'emerging maritime sectors that have the potential to serve Europe's future needs', referring in particular to aquaculture, seabed mining, offshore renewable energy and maritime tourism.

A public consultation on Blue Growth took place in the course of 2012, supported by a report entitled Blue Growth: Scenarios and drivers for Sustainable Growth from the Oceans, Seas and Coasts. Third Interim Report. The consultation was intended to gather the opinions of individuals and stakeholders that have an interest in, and would like to shape, EU actions in

the marine and maritime sectors. Passing reference is made in the Third Interim Report to heritage / archaeology / monuments with respect to coastline tourism in the Baltic and Black Sea, and to recreational diving. Coastline tourism and yachting is identified as the single biggest maritime economic activity, valued at 144 Billion Euros per annum and growing at 3-5%, followed by offshore oil and gas.

The focus within Blue Growth on recreation and tourism is potentially important to the coastal and marine historic environment, but whilst there is recognition of the role that heritage plays in this sphere, such recognition seems largely implicit. An overt commitment to heritage as an element of Blue Growth certainly has the potential to boost recreation and tourism, which are highlighted as such a major component of Europe's maritime economy. However, the opportunity to pursue positive strategies towards the historic environment component of recreation and tourism, which could be achieved through policies within Marine Plans, is not likely to obtain backing if heritage continues to be invisible in the principal measures of economic and social value.

Maritime Spatial Planning

EU documents relating to MSP to date include the following:

- 2008 Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU
- 2010 Maritime Spatial Planning in the EU – Achievements and Future Development
- 2011 Stakeholder Consultation on MSP and ICZM: Summary Results
- 2011 Study on the Economic Effects of Maritime Spatial Planning: Final Report

The 2008 Roadmap (European Commission 2008a) was intended to facilitate the development of MSP by Member States, setting out key principles and encouraging the development of a common approach. MSP is regarded as a framework for arbitrating between competing human activities and managing their impact on the marine environment. The EU Sustainable Development Strategy is invoked directly in respect of achieving sustainable use of marine resources, whilst the balancing of sectoral objectives is seen as its objective. MSP is also regarded as a process that includes stakeholder consultation and participatory development of a plan. The document states the benefits of a European approach firmly in terms of enhancing competitiveness, reducing the costs of non-co-ordination and reducing the cost of regulatory and administrative procedures. The cross-border dimension of maritime activities and the border-crossing complexities of marine ecosystems are also flagged. The MSFD is stated to be the environmental pillar of the Integrated Maritime Policy, and the ecosystem approach is referred to as an overarching principle for MSP. A series of further emerging principles is set out. No reference is made to the historic environment or cultural heritage.

The review *MSP in the EU – Achievements and Future Development* (European Commission 2010a) reports on a series of workshops intended to propose further steps and actions arising out of the 2008 Roadmap. The review concluded that there was broad agreement on the need for a common approach to MSP and interest in MSP being developed further at EU level. MSP processes were being developed by Member States, but on an ad hoc basis; a more coherent common approach would enhance the value of MSP for the EU as a whole. The review also concluded that MSP would also benefit the increased need for co-ordinated planning of sea-basins. The Commission considered that there was a clear need for, and value in, continued work towards a common approach to MSP, focussing on cross-border aspects and establishing a common process-oriented framework. Further action would have to be co-ordinated with the implementation of the MSFD and the development of ICZM,

whilst respecting the existing competencies and jurisdictions of the relevant authorities. Again, no reference was made to the historic environment, but the document noted that the EU had ratified the ICZM Protocol of the Barcelona Convention which, as noted below, includes express provisions on underwater cultural heritage.

The EU's stakeholder consultation on MSP and ICZM closed in May 2011 (European Commission 2011a). Despite the historic environment not having featured in the earlier roadmap or review, 'preservation of cultural heritage' featured as one of the issues to which participants felt that MSP would contribute.

The *Study on the Economic Effects of Spatial Planning* (European Commission 2011b) is a predominantly qualitative assessment that nonetheless includes the application of a methodology to provide an indication of the quantitative effects of MSP. Economic effects were identified in enhancing co-ordination and simplifying decision-making, enhancing legal certainty for all stakeholders, enhancing cross-border co-operation and enhancing coherence with other planning systems. Three main economic consequences were co-ordination efficiencies for government, reduced transaction costs for maritime activities, and an improved investment climate. The study encompassed a range of maritime activities, including marine (sea-based) tourism such as diving, recreational fishing, sailing, yachting and marine ecotourism. The historic environment did not feature in the study. One of the report's conclusions was that there was a lack of aggregated data, consistent definitions and consistent knowledge bases for maritime activities across Europe upon which fair and valid comparisons or analyses could be based. This conclusion is also true of heritage as a source of economic activity at the coast and sea, which will need to be addressed if an implicit awareness of the marine historic environment as 'important' is to achieve recognition in studies such as this.

DG MARE held a conference for stakeholders on 'The Case for MSP' in March 2012. Commissioner Damanaki gave a speech that emphasised the role of MSP in securing and supporting Blue Growth under the Integrated Maritime Policy. In the course of her speech, Commissioner Damanaki made the following commitment:

... I hope that we will be able to announce a proposal on the best way to further develop MSP in the course of this year. The main aim of this initiative will be to ensure that planning is ensured at Member-State level, that there is a common framework on how this is done and that there is a fully-functioning cross-border cooperation between States on planning issues.

No reference was made to an ecosystems-based approach; the only reference to environment was in passing:

If we do not give ourselves the means to manage the growing demand for sea space across our sea basins, these developments could be slowed, or even blocked. Their impact on the environment would be higher and they would cost more to set up.

Commissioner Damanaki noted the following caveats in the relationship between MSP, ICZM and national planning:

An additional element to consider is that all this is coherent with what happens at land. That's why I am working closely with my colleague, Commissioner Potocnic, to ensure coherence with their policy on integrated coastal zone management.

...

Rest assured however: our intention is not at all to interfere with concrete planning issues at national level. That's why the subsidiarity principle of the Treaty is relevant for this exercise.

MSP is being pursued by DG MARE as a key component of its Integrated Maritime Policy, very much focussed on the economic benefits of MSP but seeing it as a process that is also consistent with ecosystems-based management. It should be noted that economic and environmental objectives might not be entirely consistent. Also, it is not entirely clear as to whether MSP is a process that will allow stakeholders themselves to resolve conflicts in the course of consultation and participatory development of a plan, or a process that will in fact be used to reconcile stakeholders to objectives – economic or environmental – that are determined elsewhere. If the intention of the EU to continue to develop MSP is borne out by specific proposals, as suggested in March 2012, then the place of the historic environment within EU MSP will need to be strongly asserted. So far, it has not featured noticeably, but there is still scope to draw DG MARE's attention to the environmental, social and economic grounds for including the historic environment within MSP.

11.5. DG ENV: Directorate-General for the Environment

Marine Strategy Framework Directive

The Marine Strategy Framework Directive (MSFD – sometimes referred to as simply the Marine Directive – 2008/56/EC)(European Commission 2008b; European Commission 2011c) is intended to achieve Good Environmental Status (GES) for all EU marine waters by 2020. Marine waters comprise the sea, seabed and subsoil seaward of the baseline to the limits over which a Member State has or exercises jurisdictional rights, i.e. the territorial sea and the Continental Shelf / EEZ. For the EU as a whole, these waters are divided into four European marine regions: the Baltic Sea; the North-east Atlantic Ocean; the Mediterranean Sea; and the Black Sea. The marine regions are divided into sub-regions.

The principal mechanism is that each Member State has to establish a Marine Strategy to achieve or maintain GES for its own waters; Member States also have to co-operate with their neighbours in respect of the sub-regions and regions they share.

In developing their Marine Strategies, each Member State was required to carry out an initial assessment of their marine waters by July 2012. The initial assessment comprises three elements:

- an analysis of the essential features and characteristics and the current environmental status;
- an analysis of the predominant pressures and impacts, including human activity, on environmental status; and
- an economic and social analysis of the use of the waters and of the cost of degradation of the marine environment.

By July 2012, Member States must have established what GES would mean in their waters, and establish targets and indicators. Subsequently, Member States must establish a monitoring programme (2014) and a programme of measures (2015) to achieve GES by 2020. Each Strategy must also provide for a review phase for the 'second cycle' 2018-2021.

The MSFD gives statutory effect to ecosystem-based management, as follows:

Marine strategies shall apply an ecosystem-based approach to the management of human activities, ensuring that the collective pressure of such activities is kept within

levels compatible with the achievement of good environmental status and that the capacity of marine ecosystems to respond to human-induced changes is not compromised, while enabling the sustainable use of marine goods and services by present and future generations.

Good Environmental Status is determined by reference to qualitative descriptors set out in Annex I of the MSFD; an indicative list of characteristics (Table 2) and pressures and impacts (Table 2) is set out in Annex III. The Commission has subsequently made a decision on criteria and methodological standards for GES (European Commission 2010b). Supplementary technical information, concerning in particular the relationship between Annex I (qualitative descriptors) and Annex III (characteristics, pressures and impacts), is provided in *Commission Staff Working Paper: Relationship between the initial assessment of marine waters and the criteria for good environmental status* (European Commission 2011e). Further details of targets, monitoring and measures relating to GES are set out in Annexes IV-V of the MSFD.

Importantly, the scope of 'environment' in the MSFD does not correspond to the scope of 'environment' in other European Directives, notably the 'aspects of the environment' referred to in the EIA and SEA Directives, or indeed to the scope of the marine environment as expressed in the UK Marine and Coastal Access Act 2009 and associated policy. In particular, archaeological / cultural heritage and landscape are omitted from the descriptors that make up the MSFD definition of environment, and are therefore excluded from the scope of 'Good Environmental Status'.

It is worth noting that provision is made in Table 1 of Annex III – characteristics of the environment – for 'Other features' including 'a description of any other features or characteristics typical of or specific to the marine region or subregion'. References in the MSFD to the 'indicative lists of elements set out in Table 1 of Annex III' are framed, however, with the qualification 'and covering the physical and chemical features, the habitat types, the biological features and the hydro-morphology'. Whilst it might be argued, therefore, that 'other features' might reasonably include historic environment features if they are typical or specific, the reference to physical and chemical etc. might be considered to curtail the otherwise general scope of this phrase. Nonetheless, there might be scope to explore the possible inclusion of historic environment features in terms of their physical characteristics (e.g. scour from wrecks; morphological and geological characteristics of exposed and buried palaeo-landsurfaces etc.), chemical characteristics (potential contamination from wrecks), and habitats (wrecks as reefs etc.), for example. The scope of 'other features' is not elaborated in the Commission Staff Working Paper (European Commission 2011e, 26).

Although 'environment' in MSFD terms does not encompass the historic environment explicitly, it might be reasonable to expect archaeology to be acknowledged as a 'use' of marine waters in the social and economic analysis that is required as part of the Initial Assessment. Unfortunately – and in contrast to the elaboration of GES descriptors, targets, monitoring and measures – there does not appear to be any further detail about the scope of economic and social analysis within the MSFD or in other Commission legal documentation. However, the Working Group on Economic and Social Assessment – supported by the European Commission – has produced a guidance document on economic and social analysis for Initial Assessment (Working Group on Economic and Social Assessment 2010). The guidance document makes passing reference to the importance to local coastal communities of maintaining their marine heritage as a 'social' value in a footnote on direct use values as a link between ecosystem services and human welfare. The point is not elaborated and the guidance document appears otherwise silent on the social /

economic value of the historic component of the marine environment. It is worth noting (in passing) that an economic and social analyses for the MSFD conducted in the Netherlands acknowledges the richness of their marine waters in terms of different forms of archaeological remains, their scientific significance, and the popularity of wrecks as locations for recreational divers and sea anglers (Rijkswaterstaat 2012 p. 19).

In summary, the Marine Strategy Framework Directive seems to be a missed opportunity for the EU and Member States in respect of the historic environment. The adoption of a narrow definition of 'environment' that is not consistent with that of the EIA and SEA Directives effectively excludes cultural heritage from consideration within the frameworks that MSFD provides. The lack of recognition of the human historical dimension to the current status or future management of the marine environment seems unfortunate, and may inhibit consideration of the combined natural and cultural dimensions of the marine environment in future EU actions.

Implementation of the MSFD in the UK is discussed below.

Integrated Coastal Zone Management

The EU adopted a recommendation concerning the implementation of Integrated Coastal Zone Management in Europe in 2002 (2002/413/EC)(European Parliament and Council 2002). The Recommendation advocated a strategic approach to the management of coastal zones and set out principles, and recommended that Member States should undertake a national stocktaking and develop national strategies, whilst encouraging co-operation between Member States and with EU institutions. The Recommendation makes reference to the protection of cultural heritage, and acknowledges the cultural and social dimensions of coastal management.

ICZM in Europe was evaluated by the Commission in 2007 (European Commission 2007d), the only reference to culture being in the encouragement to coastal Member States to 'implement their national ICZM strategies ... directed at a balanced environmental, social, economic and cultural development...' (p. 9). New measures on ICZM have been considered and there was a public consultation, including a hearing, in 2011. Through the web-based consultation, there was strongly positive response to the statement 'Coastal zones are of strategic importance to the EU economy and they constitute a common natural and cultural resource. A common EU framework for ICZM facilitates development opportunities and improves effectiveness of preservation measures' (European Commission 2011d, 17).

In the meantime, the EU ratified the ICZM Protocol of the Barcelona Convention (Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean 1995), which is a Regional Seas convention of the UN Environment Programme (UNEP). The EU adopted the ICZM Protocol in 2010. The ICZM Protocol includes several references to cultural heritage and seeks to integrate social and economic concerns alongside environmental concerns. Specifically, Article 13 is devoted to cultural heritage, adopting some of the key clauses of the 2001 UNESCO Convention:

1. The Parties shall adopt, individually or collectively, all appropriate measures to preserve and protect the cultural, in particular archaeological and historical, heritage of coastal zones, including the underwater cultural heritage, in conformity with the applicable national and international instruments.
2. The Parties shall ensure that the preservation in situ of the cultural heritage of coastal zones is considered as the first option before any intervention directed at this heritage.

3. The Parties shall ensure in particular that elements of the underwater cultural heritage of coastal zones removed from the marine environment are conserved and managed in a manner safeguarding their long-term preservation and are not traded, sold, bought or bartered as commercial goods.

The next steps on ICZM at a European level appear to be being linked to Commission initiatives on Maritime Spatial Planning as a whole. The discourse to date, including EU ratification of the ICZM Protocol of the Barcelona Convention, suggests that there is clearer recognition at EU level of the interrelationship between natural and cultural dimensions of the marine environment through ICZM than is apparent in other aspects of other EU marine action. In particular, the inclusion of substantive clauses on the protection of underwater cultural heritage within measures focussed on ICZM suggests EU acceptance of the validity of a proactive stance towards the marine historic environment, at least in the ICZM aspect of marine planning.

Environmental Impact Assessment Directive

The Directive on the Assessment of the Effects of Certain Public and Private Projects on the Environment, better known as the EIA Directive, was consolidated recently as 2011/92/EU. It has been transposed into UK law through a variety of regulations that apply to marine development. The EIA Directive has several provisions relating to the historic environment, including both cultural / archaeological heritage and landscape, and has been the focus of a great deal of archaeological practice. The EIA Directive is principally concerned with decision-taking rather than planning and is invoked on a statutory basis through domestic regulations, rather than being a requirement of planning policy. As such, the EIA Directive is not discussed here in any detail, except to note that (marine) plans could include policies setting out details of how the Directive is implemented, such as thresholds for requiring EIA where this is at the discretion of Member States.

It is conceivable that policies in a Marine Plan could contribute to the necessary measures that Member States must adopt to require developers to supply information relating to the historic environment (archaeological heritage and landscape), elaborating for example the form of information that will be considered appropriate.

The EIA Directive is in the process of being revised.

Strategic Environmental Assessment Directive

The Directive on the Assessment of the Effects of Certain Plans and Programmes on the Environment (2001/42/EC), known as the SEA Directive, is similar in approach and some details to the EIA Directive. Rather than consider the environmental impact of individual schemes, however, the SEA Directive is concerned with the environmental impact of plans and programmes; specifically, those that are either prepared by an authority or required by law, regulation or administrative provision.

Consequently, the relevance to marine spatial planning of the SEA Directive is quite different to the EIA Directive, and two-fold. On the one hand, a Marine Plan might include policies on the application (for example, on scope, level of detail and quality of environmental reports) of the SEA Directive to plans and programmes that have environmental effects within the marine plan area. On the other hand, such a Marine Plan would itself be a plan or programme and will be subject to SEA. In the UK, the requirement to carry out SEA for Marine Plans is being met by the conduct of Sustainability Appraisals.

As with EIA, SEA includes requirements relating to the historic environment. In particular, information must be provided on the likely significant effects of the plan/programme on the environment, including on issues such as 'cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors'. With respect to the environment, including archaeological heritage, the required information encompasses:

- relevant aspects of the current state of the environment and the likely evolution thereof if the plan or programme is not implemented;
- the environmental characteristics of areas likely to be significantly affected;
- any existing environmental problems which are relevant to the plan or programme including, in particular, those relating to any areas of a particular environmental importance;
- environmental protection objectives relevant to the plan or programme;
- measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects of implementing the plan or programme;
- measures envisaged concerning monitoring.

In effect, the list of information contained in Annex I of the SEA Directive provides a template against which it is possible to gauge the adequacy of an SEA, or of a process such as Sustainability Appraisal intended to fulfil the obligation to conduct SEA. Insofar as SEA includes the archaeological heritage, then it will provide a means of gauging whether consideration of the historic environment within the Sustainability Appraisals that accompany Marine Plans for the English Inshore and Offshore Regions (see 14.1 below) are adequate.

11.6. DG REGIO: Directorate-General for Regional Policy

European Spatial Development Perspective (ESDP)

The *European Spatial Development Perspective – Towards Balanced Spatial Development of the Territory of the European Union* (Committee on Spatial Development 1999) was agreed by the Ministers responsible for spatial planning in each Member State meeting as an Informal Council of Ministers. Its intention was to serve as a policy framework for the Member States, their regions and local authorities, and for the European Commission, in their own spheres of responsibility. The purpose of spatial / territorial development in Europe is to address economic, social and environmental concerns through attention to, and co-ordination of, the spatial aspects of a wide range of policies. The aim expressed in 1999 is as follows (emphasis added):

The aim of spatial development policies is to work towards a balanced and sustainable development of the territory of the European Union. In the Ministers' view, what is important is to ensure that the three fundamental goals of European policy are achieved equally in all the regions of the EU:

- economic and social cohesion;
- conservation and management of natural resources and the *cultural heritage*;
- more balanced competitiveness of the European territory.

It is immediately obvious that cultural heritage is recognised explicitly as a facet of spatial / territorial development. This is not surprising as the opening paragraph of the ESDP reads:

The characteristic territorial feature of the European Union (EU) is its cultural variety, concentrated in a small area. This distinguishes it from other large economic zones of the

world ... This variety – potentially one of the most significant development factors for the EU – must be retained in the face of European integration. Spatial development policies, therefore, must not standardize local and regional identities in the EU, which help enrich the quality of life of its citizens.

The recognition that culture is not simply a side-issue but potentially a central strength for economic development and well-being in Europe is quite striking, and is borne out by the rest of the ESDP. The need for economic and social development is driven not only by competition with other major blocs globally as indicated above, but also by major disparities across the territory of the EU. Split into two, the ESDP comprises one part concerned with the factual and analytical basis for understanding Europe in spatial terms, and one part concerned with policy aims, options and the potential impact of existing EU programmes and enlargement. The factual and analytic basis includes a review of current conditions and trends, and an assessment of Europe-wide issues. Conditions, trends and issues in respect of cultural heritage are considered in some detail. Under Environmental Trends, for example, the ESDP notes (paras. 261-262):

The richness and diversity of landscapes are distinctive features of the EU. Landscapes are valuable in relation to the sustainable use of natural resources; as wildlife habitats; as open space or with regard to their beauty or the cultural elements they contain. They also yield economic benefits - for example they can form the basis of a tourist industry as in coastal areas and in the Alps ... the importance of conserving landscape in order to halt the loss of biodiversity and cultural identity is increasingly being recognised. This goes beyond the more limited objective of species or site protection.

'Increasing Pressure on Cultural Landscapes' and 'Increasing Pressure on Cultural Heritage' are both seen as distinct spatial development issues of European significance. On cultural heritage, which is under pressure from natural decay, over-concentration on 'hotspots', pollution, unsympathetic development and restricted access, the ESDP notes (para. 325):

The EU's cultural heritage is of major historical, aesthetic and economic value to local, regional and national communities. It relates both to individual objects such as monuments, buildings and archaeological sites and to historic town centres and villages. The quality and diversity of this heritage is of great importance for the EU, for Europe and for the world as a whole. The economic value of this cultural heritage lies not only in tourism but in the ability to attract investment.

Policy aims and options are presented under three headings:

- Polycentric Spatial Development and a New Urban-Rural Relationship
- Parity of Access to Infrastructure and Knowledge
- Wise Management of the Natural and Cultural Heritage

As well as having two specific sections on 'Creative Management of Cultural Landscapes' and 'Creative Management of the Cultural Heritage', the section on 'Wise Management ...' starts from a consideration of 'Natural and Cultural Heritage as a Development Asset' which merits quoting at length (paras. 133-134):

The cultural heritage of Europe – from the cultural landscapes of rural areas to the historic town centres – is the expression of its identity and is of world-wide importance. It is also part of the everyday environment of numerous people and enriches their quality of life. Rigorous protection measures, such as those envisaged for architectural conservation for certain areas and monuments, can only cover a small part of this heritage. For the greater part, a creative approach is required, to reverse in a number of areas the predominant trend of neglect, damage and destruction and thus pass the cultural heritage, including current achievements, on to future generations. It is important to

spread cultural life throughout the EU, in particular by supporting the development of cultural facilities, upgrading public spaces and reviving commemorative sites. In this respect cultural development can play a role of social and spatial balancing.

The natural and cultural heritage are economic factors which are becoming increasingly important for regional development. The quality of life of towns and cities, their hinterland and rural areas plays an increasingly important role in the location decisions of new companies. Natural and cultural places of interest are also an essential precondition for the development of tourism.

The ESDP reviews seven areas of EU policy that have implications for spatial development, including Trans-European Networks (TEN), Structural Funds, Environment Policy and Research, Technology and Development (RTD). Specifically coastal and marine aspects of EU policy are not recognised, perhaps underlining its date (1999) and the lack of recognition of a marine dimension to the EU that the Integrated Maritime Policy (see above) emerged to address from 2006-2007 onwards. Notwithstanding, the ESDP provides a firm basis for considering the historic environment as an integral component of EU regional policy as such policies move forward.

Territorial Agenda

The approach of the ESDP has continued to evolve, in 2011 becoming *Territorial Agenda of the European Union 2020: towards an inclusive, smart and sustainable Europe of diverse regions* (TA2020)(Informal Ministerial Meeting of Ministers responsible for Spatial Planning and Territorial Development 2011). The objective of TA2020 is stated as follows:

... to provide strategic orientations for territorial development, fostering integration of territorial dimension within different policies at all governance levels and to ensure implementation of the Europe 2020 Strategy according to territorial cohesion principles.

The broad scope of the intention of TA2020 with respect both to national governments (and layers of governance within Member States) and EU activity means that it is a potentially powerful document. It is split into four main sections, as follows:

- I Territorial Cohesion is a Common Goal: for a more harmonious and balanced state of Europe
- II Challenges and Potentials for Territorial Development: Driving forces and their territorial aspects
- III Territorial Priorities for the Development of the European Union
- IV Making EU Territorial Cohesion a Reality: the governance and implementation mechanisms

Perhaps reflecting attention in the ESDP, cultural heritage features repeatedly in TA2020. Under 'II Challenges ..' is the following section, worth quoting at length, not least because it illustrates the incorporation of marine considerations (para. 23):

Loss of biodiversity, vulnerable natural, landscape and cultural heritage

Natural and cultural heritage are parts of territorial capital and identity. Ecological values, environmental quality and cultural assets are crucial to well-being and to economic prospects and offer unique development opportunities. Overexploitation of these resources to provide for increasing demand, as well as industrial hazards can cause serious damage and may threaten territorial development. Urbanisation, intensification of agriculture and fisheries, transport and other types of infrastructure development, particularly where they take place in a territorially uncoordinated manner, can cause severe environmental problems. Increased and uncoordinated exploitation of maritime

space and marine resources may have consequences for sustainable territorial development. Changes in land- and sea use, urbanisation and mass tourism threaten cultural assets and landscapes and may lead to fragmentation of natural habitats and ecological corridors. In historic and cultural environments, as well as in areas for new development or constructions, attention paid to the character of the place can improve the coherence and quality of the built environment.

Under 'III Territorial Priorities ...' is a further section that merits inclusion at length (paras. 37-38):

6. Managing and connecting ecological, landscape and cultural values of regions

We underline that well-functioning ecological systems and the protection and enhancement of cultural and natural heritage are important conditions for long-term sustainable development. We are all responsible for ensuring they are well functioning, protected and enhanced ...

... Areas rich in natural and cultural landscapes may need special attention in order to make best use of these assets. Environmentally friendly job creation and strengthened recreational functions can complement conservation. The local, regional and trans-regional management of cultural and natural heritage is of key importance. We support the protection, rehabilitation and utilization of heritage through a place-based approach. Improving regional and local identity by strengthening awareness and responsibility of local and regional communities towards their environments, landscapes, cultures and other unique values is also important.

Another section of TA2020 worth quoting is intentionally peripheral, except when considering the role that seas and watercourses play as borders, and how in fact they have been central to communication and exchange through the centuries and will continue to be so in future (para. 31 – emphasis added):

3. Territorial integration in cross-border and transnational functional regions

(31) We consider that the integration of territories through territorial cooperation can be an important factor in fostering global competitiveness. In this way, potentials such as valuable natural, landscape and *cultural heritage*, city networks and labour markets divided by borders can be better utilized. Attention shall be paid to areas along external borders of the EU in this regard. Territorial integration and co-operation can create a critical mass for development, diminishing economic, social and ecological fragmentation, building mutual trust and social capital. Cross border and transnational functional regions may require proper policy coordination between different countries.

These extended quotes indicate the high degree to which the historic environment is integrated within EU policy for regional development as a positive contributor to social and economic development, as well as environmental protection. They indicate, perhaps, the role that the historic environment could also play in maritime policy and 'blue growth', if the opportunity presented by marine spatial planning is pursued.

ESaTDOR

Although a project rather than a broader policy or legal provision, ESaTDOR is included here because of the direct relationship it manifests between REGIO and Maritime Spatial Planning. ESaTDOR – European Seas and Territorial Development, Opportunities and Risks – is an ESPON project being led by the University of Liverpool, due to conclude in January 2013. The identification of this topic as warranting research is linked directly to the development of the Integrated Maritime Policy and Maritime Spatial Planning. ESaTDOR's main research areas are as follows:

Investigation of current uses of Europe's seas through mapping current sea use patterns, typologies, dynamics and inter-linkages.

Identification of patterns of sea use and of types of coastal regions: investigating the present state of European sea areas, identifying potential areas of conflict between the use of sea areas and their deterioration, distinguishing different types of coastal regions, studying employment patterns in sea areas and evaluating the present state of maritime clusters.

Analysis and identification of development opportunities in the respective areas, also taking into account issues regarding sustainability and climate change.

Analysis of the relationship between terrestrial and maritime planning seeking optimal practices for maritime governance

It is worth underlining the undoubted importance of the ESaTDOR project for the role that it is likely to play, via ESPON, in providing the framework for analysis and evidence base to support the implementation of TA2020 and the Integrated Maritime Policy. The evidence it collates – and the way that evidence is structured – is also likely to inform other economic and social analyses conducted at domestic and regional levels within the UK.

In summary, the EU's role with respect to the marine historic environment is extensive and complex. There are many positive pressures, some of which explicitly recognise the need to consider cultural heritage not only as an environmental concern but as a key attribute of what Europe offers economically and socially to its citizens and to the World. In other cases, the obvious inclusion of cultural heritage or extension of existing principles has dwindled or been omitted, with potentially damaging consequences – as well as missed opportunities – for the longer term. The Marine Strategy Framework Directive stands in contrast to the EIA and SEA Directives, for example, and the Integrated Maritime Policy in contrast to the Territorial Agenda. What might be concluded is that on land, the environmental, social and economic importance of the historic environment to the EU cannot be ignored, whereas the EU appeals to its marine heritage from time to time but has not converted this to coherent, consistent action. Given the fundamental role that marine heritage has played in Europe's past, and the potential it has to contribute to future growth in key sectors of society and economy, then it is to be hoped that EU action on MSP within the overall context of Integrated Maritime Policy includes a comprehensive approach to the historic environment across all the pillars of sustainable development.

12. National (UK)

This section addresses the main mechanisms affecting marine spatial planning that operate at a national level, where national is taken to mean UK-wide. National provisions that apply principally to England are addressed in the following section, on country/state level provisions. Consequently, this section deals with the Marine and Coastal Access Act 2009, the UK's High Level Marine Objectives and the UK Marine Policy Statement, whereas marine and land-based spatial planning across England are addressed in the following section. Although referred to as National Policy Statements (NPS), referring to the Nationally Significant Infrastructure Projects (NSIPs), the NPS/NSIP regime applies only in England (and, for ports and energy only, to Wales) and is therefore addressed in the following section. Similarly the National Planning Policy Framework (NPPF) is national with respect to England only, and is considered in the following section.

12.1. *Marine and Coastal Access Act 2009*

The statutory framework for marine spatial planning in the UK is provided by the Marine and Coastal Access Act 2009 (MCAA 2009). Part 3 of the MCAA 2009 covers marine planning, organised as follows:

- Chapter 1 Marine Policy Statement
- Chapter 2 Marine Plans
- Chapter 3 Delegation of Functions relating to Marine Plans
- Chapter 4 Implementation and Effect
- Chapter 5 Miscellaneous and General Provisions

In Chapter 1, a Marine Policy Statement (MPS) is defined as a document in which the policy authorities state their policies for contributing to the achievement of sustainable development in the UK marine area (i.e. tidal waters, UK territorial sea, EEZ / UK Continental Shelf). As well as policies, an MPS can also contain statements or information relating to those policies, though in the event of any conflict between the policies and statements/information, the conflict must be resolved in favour of the policy.

According to Chapter 2, a Marine Plan is a document that states the marine plan authority's policies for and in connection with the sustainable development of the marine plan area. Marine plans must be in conformity with the MPS unless relevant considerations indicate otherwise (MCAA 2009 s. 51(6)). As with an MPS, a Marine Plan may contain statements or information relating to its policies, though in the event of any conflict between the policies and statements/information, the conflict must be resolved in favour of the policy.

It is worth noting that, as well as providing a hierarchy such that historic environment policies in a Marine Plan must conform with those in the MPS, all other marine plan policies must conform to the historic environment policies in the MPS.

The MCAA 2009 acknowledges that the functions of a marine plan authority (including the preparation, adoption, review, amendment and/or withdrawal of Marine Plans) can be expected to be affected by a variety of matters. Marine plan authorities are expected to keep these matters under review, including:

- (a) the physical, environmental, social, cultural and economic characteristics of the authority's region and of the living resources which the region supports;
- (b) the purposes for which any part of the region is used;

- (c) the communications, energy and transport systems of the region;
- (d) any other considerations which may be expected to affect those matters.

Importantly, the Act makes clear that the matters to be kept under review include archaeology: there is an explicit provision to the effect that reference to the cultural characteristics of a region 'includes a reference to characteristics of that region which are of a historic or archaeological nature' (MCAA 2009 s. 54). In England therefore, the marine plan authority (i.e. the MMO) is under a statutory obligation to keep under review the characteristics of the English Inshore Region and the English Offshore region that are of a historical or archaeological nature.

The MCAA 2009 requires that all authorisation or enforcement decisions by public authorities are taken in accordance with marine policy statements and with Marine Plans (MCAA 2009 s. 58(1)). Otherwise, the public authority must state why it has not decided in accordance with the MPS/marine plan. In addition to authorisation / enforcement, public authorities must also have regard to the MPS / Marine Plan in any decisions relating to functions that are capable of affecting the UK Marine Area (MCAA 2009 s. 58(3)).

The overall effect of these provisions is very important, as all decisions by public authorities relating to authorisation, enforcement or the exercise of functions have to be in accordance with the MPS / Marine Plan, or have regard to the MPS / Marine Plan. This offers a key safeguard with respect to decisions by public authorities affecting the marine historic environment. It should also be borne in mind that across the board, English Heritage's decision-making must also be in accordance with or have regard to the MPS and Marine Plans.

Marine plan authorities are obliged to prepare and publish periodic reports on the effects and effectiveness of Marine Plans (MCAA 2009 s. 61).

To summarise, the Marine and Coastal Access Act 2009 has put in place a clear system of marine planning that provides a hierarchical relationship between the Marine Policy Statement, Marine Plans, and decision-making, and requires that both the MPS and Marine Plans are to be applied widely to decisions by public authorities affecting the marine environment, not just to licensing. There is only passing reference to the historic environment, but the more important consideration is that the framework can include the historic environment and will be comprehensive in its effect. English Heritage needs to remain mindful that as a public authority its own decision-making is subject to the MCAA 2009.

12.2. Our Seas – A Shared Resource: High level marine objectives

Our Seas – A Shared Resource (HM Government 2009) was published by HM Government in association with the Northern Ireland Executive, the Scottish Government, and the Welsh Assembly Government. Publication of the High Level Marine Objectives was intended to start the process of preparing an integrated Marine Policy Statement. In setting out a vision of what success would look like in 20 years, *Our Seas* includes the following aspirations (emphases added):

- ... society getting more benefit from the use of the marine environment than previously, whilst its rich natural and *cultural* heritage are better protected
- ... the integrity of marine and coastal ecosystems and *marine cultural heritage* is conserved.

People will respect the marine environment for its own sake, for the resources it delivers and for the role it has played *in shaping our culture*.

... management for the coastal zone will support sustainable development and the *cultural heritage* of coastal areas.

There will be appropriate protection for, and access to, our *marine heritage assets* ... The diversity of seascape character around our coastline will be maintained.

In order to overcome sectoral divisions, the High Level Marine Objectives are framed in terms of the five principles of sustainable development, i.e.:

- Achieving a sustainable marine economy
- Ensuring a strong, healthy and just society
- Living within environmental limits
- Promoting good governance
- Using sound science responsibly

Express reference is made to archaeology under only two headings, but the generic character of the objectives – understood in the light of the preceding aspirations – is such that archaeological concerns are encompassed within each of the five areas by reference to ‘marine environment’.

The two instances where archaeology is invoked directly are as follows. With respect to ensuring a strong, healthy and just society, the following objective is stated:

People appreciate the diversity of the marine environment, its seascapes, its natural and cultural heritage and its resources and act responsibly.

Of direct relevance to MSP, the following objective is included under promoting good governance (emphasis added):

The use of the marine environment is spatially planned where appropriate and based on an ecosystems approach which takes account of climate change *and recognises the protection and management needs of marine cultural heritage according to its significance*.

Paraphrasing, this suggests that spatial planning should be based on ‘an ecosystems approach that recognises the protection and management needs of marine cultural heritage’.

The High Level Marine Objectives are important because of the multiple references made to the historic environment in HM Government’s vision, because the structuring of the HLMOs in accordance with Sustainability creates space for the historic environment with respect to each pillar, and because of the explicit acknowledgement of the role of Marine Spatial Planning in the protection and management of the historic environment.

12.3. UK Marine Policy Statement

The UK Marine Policy Statement (UK MPS) (HM Government 2011) provides the framework for plan-making and decision-taking for decisions affecting the marine environment. It is intended to facilitate and support the preparation of Marine Plans and ensure that resources are used in a sustainable way in line with the High Level Marine Objectives. For plan-making, the UK MPS ‘provides the high level policy context within which national and sub-national Marine Plans will be developed, implemented, monitored, amended and will ensure appropriate consistency in marine planning across the UK marine area’ (p. 3). In short, the

UK MPS provides top level policy that is to be applied in all Marine Plans and other marine decision-making; it has, therefore, an overriding influence with respect to the marine historic environment.

With respect to decision-taking, the UK MPS sets out a series of principles, which include the principle that decisions should 'be sensitive to any potential impacts on sites of particular significance including those ... designated in relation to cultural heritage'. (para. 2.3.2.2). Special reference is also made to the relationship between cultural heritage and social and economic benefits (para. 2.5.4; emphasis added):

The marine environment provides national economic and social benefits *including for heritage assets, seascape and cultural services* of coastal and marine activities, as well as directly contributing to the quality of life and well-being of coastal communities. Marine planning will also therefore make an important contribution towards ensuring vibrant and sustainable coastal communities - helping to build strong local economies - improving quality of life, access to, and enjoyment of, their marine areas.

The UK MPS includes an extensive section on the historic environment. The core statement of policy – 'the view shared by the UK Administrations' – is as follows (para. 2.6.6.3):

- heritage assets should be enjoyed for the quality of life they bring to this and future generations;
- they should be conserved through marine planning in a manner appropriate and proportionate to their significance;
- opportunities should be taken to contribute to our knowledge and understanding of our past by capturing evidence from the historic environment and making this publicly available, particularly if a heritage asset is to be lost.

The UK MPS provides that the marine plan authority 'should adopt a general presumption in favour of the conservation of designated heritage assets within an appropriate setting'. Moreover:

substantial loss or harm to designated assets should be exceptional, and should not be permitted unless it can be demonstrated that the harm or loss is necessary in order to deliver social, economic or environmental benefits that outweigh the harm or loss. (para. 2.6.6.8)

There is recognition that many heritage assets are not designated but are of equivalent significance to those that are. In instances where non-designated assets are of equivalent significance, 'the marine plan authority should consider them subject to the same policy principles as designated heritage assets (including those outlined) based on information and advice from the relevant regulator and advisors' (para. 2.6.6.5).

The UK MPS requires the marine plan authority to do the following:

- take account of the desirability of sustaining and enhancing the significance of heritage assets.

in developing and implementing marine plans (para. 2.6.6.6) ...

- take into account the available evidence, including information and advice from the relevant regulator and advisors, in relation to the significance of any identified heritage assets (or the potential for such assets to be discovered), and consider how they are managed.

- take into account the historic character of the plan area, with particular attention paid to the landscapes and groupings of assets that give it a distinctive identity.

in considering the significance of assets and their setting (para. 2.6.6.7 ...)

- take into account the particular nature of the interest in the assets and the value they hold for this and future generations. This understanding should be applied to avoid or minimise conflict between conservation of that significance and any proposals for development.
- take into account the desirability of sustaining and enhancing the significance of heritage assets

in the event that the loss of the whole or a material part of a heritage asset's significance is justified (para. 2.6.6.9) ...

- identify and require suitable mitigating actions to record and advance understanding of the significance of the heritage asset before it is lost.

The UK MPS does not identify archaeology as a key activity as such in Chapter Three, but the section on tourism and recreation expressly recognises exploration of underwater and coastal heritage assets – and diving on wrecks – amongst the opportunities offered by the sea. Such activities are acknowledged by the UK MPS as generating a considerable amount of income for the economy and being a mainstay for many coastal towns with many local businesses relying on the marine environment for their livelihoods, whilst also supporting quality of life and providing health and well-being benefits (para. 3.11.2). The UK MPS includes the following observations (paras 3.11.5 – 3.11.6):

- marine plan authorities and decision makers should consider the potential for tourism and recreation in the marine environment and the benefits that this will bring to the economy and local communities
- onshore tourism strategies and plans will need to be taken into account
- the provision of slipways, coastal footpaths and ensuring coastal access for example could encourage economic growth
- considering the links between marine and terrestrial plans is important
- there may be opportunities for raising environmental awareness amongst coastal users
- local authorities, local tourism stakeholders, tourism destination management organisations, water based sports organisations and other marine and coastal users should be engaged and consulted before decisions are taken.

As well as statements relevant to the historic environment within the UK MPS, it should be noted that the UK MPS requires integration with the land-based planning framework. Specifically, Note 24 of the UK MPS requires that the marine plan authority must take all reasonable steps to secure that the Marine Plan is compatible with the relevant Planning Act plan. Most local authority plans include policies on the historic environment, hence the UK MPS requires that Marine Plans are also compatible with historic environment policies in local plans.

The UK MPS also invokes National Policy Statements (NPS) for Nationally Significant Infrastructure Projects (see below), requiring marine plan authorities to have regard to any relevant NPS in developing Marine Plans and advising other bodies. Specifically, where the significance of a heritage asset is to be lost in whole or in part, the UK MPS obliges marine

plan authorities to identify and require actions to record and understand the asset's significance that are consistent with policies on the recording of heritage assets set out in NPS (para. 2.6.6.9).

The UK MPS is a highly significant document, underpinned by the MCAA 2009, that sets out important requirements for both plan-making and decision-taking. Its relevance to the historic environment arises both from the framework and relationships that it sets out – which invoke historic environment provisions in other documents such as local plans and NPSs – and for its own express provisions on the historic environment.

12.4. UK Implementation of the Marine Strategy Framework Directive

The MSFD was incorporated into UK law through The Marine Strategy Regulations 2010 (SI 2010 No. 1627). The UK is currently carrying out the consultation process for its Initial Assessment, its proposals for the characteristics of GES and proposals for targets and indicators (HM Government 2012).

Consistent with the lack of recognition for the marine historic environment within the MSFD (see above) there is virtually no reference to archaeology in the consultation document. Only tangential reference is made to 'heritage' in the analysis of the economic and social of the use of UK seas, where it is acknowledged that 'uses of the marine environment play a key role for local coastal communities'. However, the column referring to 'effect on local terrestrial environment, heritage or neighbouring uses' appears to have been omitted from the table summarising the social analysis (HM Government 2012, 50). With respect to Annex III Table 1, the only reference to 'other features' is in respect of chemical contaminants.

Interestingly, the Initial Assessment identifies 'Leisure and recreation' as having a Gross Value Added of £1,289M [per annum] and being on a rising productivity trend. Leisure and recreation are ranked as the fourth largest sector after oil and gas, maritime transport, and telecommunications. The Initial Assessment also notes that 210,000 jobs are directly supported by seaside tourism in England and Wales alone, relative to 340,000 jobs (including supply chain and exports) for oil and gas across the whole of the UK. There is, however, no indication as to the contribution that coastal or marine heritage makes to leisure and recreation in terms of either value or jobs. Moreover, no further detail on the contribution of heritage to leisure and recreation is provided in the underpinning Feeder Report on Productive Seas as part of Charting Progress 2 (Saunders 2010).

Although the missed opportunity of the MSFD at European level has been compounded by UK implementation of the Directive, other national (UK-wide) provisions for marine spatial planning – the MCAA 2009, High Level Marine Objectives and UK MPS – all recognise and make express provision for the marine historic environment. Taken together, and articulated with land-based planning, these aspects of the UK-wide framework for marine management offer a powerful mechanism for achieving sustainable development in which the historic environment can contribute comprehensively.

13. Country/state (England)

As noted above, this section is concerned with mechanisms that operate at the level of the country, i.e. England-wide. National (UK-wide) mechanisms are discussed in the preceding section; local and regional (i.e. sub-England) approaches are addressed in the following section.

13.1. *Marine Spatial Planning*

MSP in England

The MCAA 2009 identifies two marine plan areas for England: inshore (corresponding to the Territorial Sea – generally 12 nautical miles) and offshore (corresponding to the UK Continental Shelf – generally to the median lines with adjacent countries, or to 200 nautical miles). These have subsequently been divided into inshore and offshore areas for the North East, East, South and South West, plus South East inshore and North West. The Act provides that the Secretary of State (for Food, Environment and Rural Affairs) is the marine plan authority for England Inshore and England Offshore; the relevant functions have subsequently been delegated to the Marine Management Organisation (Department for Environment, Food and Rural Affairs 2010).

The MMO is only responsible for the marine plan areas for England: the marine plan areas – inshore and offshore – for Wales, Scotland and Northern Ireland are the responsibility of the Welsh Government (Marine Consents Unit – MCU), Marine Scotland and the Department of Environment Northern Ireland (DOE NI) respectively.

It should be noted that the MMO's responsibilities vary geographically for different functions. For example, the MMO is responsible for marine licensing and enforcement in the offshore areas of Wales and Northern Ireland as well as England (inshore and offshore). Equally, within the English Inshore and Offshore Regions, consenting of nationally significant infrastructure projects are the responsibility of the Planning Inspectorate, whilst oil and gas consenting is the responsibility of the Department for Energy and Climate Change (DECC).

Strategic Scoping Report for Marine Planning in England

The MMO has carried out a strategic scoping exercise (SSE) that collates spatial information about natural resources and human activities, with the intention of informing the sub-national plans. The SSE is described as an ongoing process, with the first summary produced in June 2011 (MMO 2011, 33–34). Although the June 2011 report includes a section on the historic environment, it is very short and simply re-iterates points about designated and non-designated heritage assets. No spatial information on the historic environment is presented or discussed.

MMO Strategic Evidence Plan

The MMO has developed a Strategic Evidence Plan (SEP) to set the 'focus and direction of travel' for its evidence and research programme for 2011-2015 (MMO no date). The SEP is intended to bring together the needs of the MMO across its activities, including marine licensing, marine conservation and enforcement, and fisheries management, as well as marine planning. However, marine planning is flagged as a 'priority function'. The SEP priority areas for 2011-2015 for research are as follows:

- co-location
- cumulative effects

- fisheries management
- socio-economics
- seabed habitat mapping
- marine protected area management
- ecosystem services
- data mining to support all the above topics from government and industry

Short-term project priorities are identified for 2011-2012 that include recreational activities and the sustainability appraisal for the first marine plan areas. The accompanying table includes projects on socio-economic research on coastal communities (completed in September 2011); identifying, collating and analysing socio-economic data; and compiling available data on the spatial distribution of marine recreational activities. This may create opportunities to start examining how historic environment components can be discerned within socio-economic data and assessment.

At an England-wide level, it does not appear that much direct attention has been given to the historic environment within marine spatial planning. However, much of the focus at present is on the drafting of individual Marine Plans, which are addressed in the following section and do include explicit reference to the historic environment. The need for strategic evidence England-wide on the historic environment – not just the number and location of heritage assets, but on the current social and economic value of heritage and its scope for growth – will be recognised in due course. The MMO should be mindful also of its statutory obligation to keep under review the archaeological and historical characteristics of the English Inshore and Offshore Regions under s. 54 of the MCAA 2009.

13.2. Land-based Spatial Planning in England

National Planning Policy Framework

The Government's planning policies for England, and its expectations as to how these policies are to be applied, is set out in the National Planning Policy Framework (NPPF) (Department for Communities and Local Government 2012).

The NPPF has to be taken into account in preparing local plans and is a material consideration in planning decisions (para. 2). Much of the NPPF is concerned with delivering sustainable development through the planning system in its three dimensions: economic, social and environmental. The historic environment is identified in particular with the environment, but reference is also made to cultural well-being through the social dimension (para. 7). Importantly, the NPPF stresses that economic, social and environmental gains are to be sought jointly and simultaneously (para. 8). Pursuing sustainable development is stated to involve 'seeking positive improvements in the quality of the ... historic environment' (para. 9). A core planning principle expressed in the NPPF is: 'conserve heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations' (para. 17).

The NPPF distinguishes between Plan-Making and Decision-Taking and sets out policies on each (see below). There is a specific section on conserving and enhancing the historic environment (see below). Policies touching on the historic environment can be found throughout. For example, the section on requiring good design states that planning policies and decisions should aim to ensure that developments 'establish a strong sense of place' and 'respond to local character and history, and reflect the identity of local surroundings' (para.

58). It goes on to state that 'planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment' (para. 61).

In the section covering coastal change, the NPPF states (para. 105):

In coastal areas, local planning authorities should take account of the UK Marine Policy Statement and marine plans and apply Integrated Coastal Zone Management across local authority and land/sea boundaries, ensuring integration of the terrestrial and marine planning regimes.

With respect to the natural environment, the NPPF states that Local Authorities should 'maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes and improve public access and enjoyment of the coast'. Conservation of cultural heritage is stated to be an important consideration in National Parks and Areas of Outstanding Natural Beauty (AONBs) and 'should be given great weight in National Parks and the Broads' (para. 115).

Section 12 is entitled 'Conserving and enhancing the historic environment' and starts by stating that planning authorities should set out 'a positive strategy for the conservation and enjoyment of the historic environment'. Planning authorities are required to take into account (para. 126):

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the wider social, cultural, economic and environmental benefits that conservation of the historic environment should bring;
- the desirability of new development making a positive contribution to local character and distinctiveness;
- opportunities to draw on the contribution made by the historic environment to the character of place.

Section 12 includes specific policies on harm or loss to designated heritage assets (paras. 132-134) and notes that the effect of applications on the significance of non-designated heritage assets should be taken into account in determining applications (para. 135). Non-designated heritage assets that are demonstrably of equivalent significance to scheduled monuments are to be considered subject to the policies for designated heritage assets (para. 139).

Planning authorities are required to make information about the significance of the historic environment gathered as part of plan-making or development management (i.e. decision-taking) publicly accessible (para. 141).

Planning authorities must also require developers to 'record and advance understanding of any heritage assets to be lost (wholly or in part) in a manner appropriate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible' (para. 141).

The section of the NPPF on plan-making underlines the need for plans to be consistent with the NPPF and to have the objective of contributing to the achievement of sustainable development (para. 151). The NPPF states that supplementary planning documents (SPDs) should be used where they can help applicants make successful applications or aid

infrastructure delivery; but SPDs should not be used to add unnecessarily to the financial burdens on development (para. 153).

Plans are required to set out 'clear policies on what will be permitted and where' (para. 154) and set out strategic priorities for the plan area, including strategic policies to deliver 'conservation and enhancement of the ... historic environment' (para. 156). Plans should also 'identify land where development would be inappropriate, for instance because of its ... historic significance' and 'contain a clear strategy for enhancing the ... historic environment' (para. 157).

In the context of plan-making, planning authorities are required to have up-to-date evidence about the historic environment in the plan area and use it (para. 169):

- to assess the significance of heritage assets;
- to assess the contribution that heritage assets make to their environment;
- to predict the likelihood that currently unidentified heritage assets – particularly site of historic and archaeological interest – will be discovered in future.

Planning authorities are required to either maintain or have access to a historic environment record (para. 169), and (where appropriate) to prepare landscape character assessments that are integrated with assessment of historic landscape character (para. 170).

The section of the NPPF on plan-making notes that in marine areas, local planning authorities should collaborate with the MMO to ensure that policies are integrated across the land/sea boundary (note 36).

The section of the NPPF on decision-taking emphasises the point that the planning system is plan-led and that applications must be determined in accordance with the plan. The NPPF is a material consideration in planning decisions (para. 196).

Annex 2 of the NPPF is a glossary that provides explanations of 'archaeological interest', 'conservation (for heritage policy)', 'designated heritage asset'; 'heritage asset'; 'historic environment'; 'historic environment record'; 'setting of a heritage asset' and 'significance (for heritage policy)'.

The NPPF provides a comprehensive account of Government's expectations with respect to the provision that is to be made for the historic environment through the land-based planning system, including both plan-making and decision-taking. Importantly, the NPPF clearly identifies the positive role that the historic environment can play in communities, as well as providing safeguards for conserving significance and mitigating loss. Marine spatial planning is required to be consistent with land-based planning, so the policies with respect to the historic environment in the NPPF can be expected also to influence marine plan-making and decisions over marine licences and authorisation and enforcement more widely. The influence of the NPPF on marine planning will occur to some extent directly, but also through its effect on local (land-based) plans – discussed below – with which Marine Plans must be consistent (UK MPS note 24).

Local Plans and Supplementary Planning Documents

The system of local authority planning documents is currently in the course of a major revision. As it is in transition, planning documents generated under the current scheme and under the previous scheme – e.g. local development frameworks; core strategies – co-exist,

resulting in a fair amount of complexity. As indicated above, national planning policy is set out in the NPPF; 'local plans' have to be consistent with the NPPF and contain policies that have a critical role in the determination of individual planning applications. Local plans may be accompanied by supplementary planning documents; these are not part of the local plan, but provide further information relevant to understanding the application of policies.

Local plans often include policies on the historic environment, including the built historic environment and landscapes. By way of example, policies relating to archaeology from planning authorities bordering the East marine plan areas are provided below:

Policy DM31 - Archaeological Sites

A full archaeological assessment must be included with any planning application affecting areas of known or suspected archaeological importance to ensure that provision is made for the preservation of important archaeological remains.

Where proposals affect archaeological sites and other designated assets, preference will be given to preservation in situ unless it can be shown that recording of remains, assessment, analysis report and deposition of archive is more appropriate.

Development will not be permitted where it would, directly or indirectly, have a material adverse impact on a Scheduled Ancient Monument or other sites of regional importance.

(Waveney District Council 2011)

Policy EN 8: Protecting and Enhancing the Historic Environment

Development proposals, including alterations and extensions, should preserve or enhance the character and appearance of designated assets, other important historic buildings, structures, monuments and landscapes, and their settings through high quality, sensitive design. Development that would have an adverse impact on their special historic or architectural interest will not be permitted.

...

Where required, development proposals affecting sites of known archaeological interest will include an assessment of their implications and ensure that provision is made for the preservation of important archaeological remains ...

(North Norfolk District Council 2008)

Strategic Policy SP27 Historic Environment

The Council will maintain and enhance the local distinctiveness of East Lindsey's historic environment by supporting only those proposals that:

preserve or enhance the special character, appearance and setting of the District's Conservation Areas, and Historic Landscapes;

respect and preserve the special architectural or historic interest and setting of the District's Listed Buildings;

do not harm the site or setting of a Scheduled Ancient Monument; any unscheduled nationally important archaeological site or monument; or any locally important archaeological site deemed worthy of preservation in situ.

(East Lindsey District Council 2009)

It can be seen that these plan policies comprise a mix of policies that might be termed 'outcome', 'determining' and 'process' policies. That is to say, some policies set out the intended outcome (e.g. local distinctiveness of the historic environment will be maintained), some policies determine a decision (e.g. development that will have an adverse impact will

not be permitted), and some policies set out a process that must be followed (e.g. the planning application must include a full archaeological assessment).

Marine plan policies need to be compatible with local plan policies such as these in order to meet the requirements of Note 24 of the UK Marine Policy Statement.

Supplementary Planning Documents (SPDs) on the historic environment have been prepared by a number of local planning authorities. Havering in East London presents an example that explicitly includes both tidal and sub-tidal areas out to the centre of the Thames Estuary off Rainham (London Borough of Havering 2011). The Heritage SPD 'provides guidance on the implementation of those Core Strategy and Development Control policies of the Havering Local Development Framework (LDF) relating to heritage' (para. 1.4), because (para. 1.1):

Havering's built environment heritage is central to its cultural heritage and is valued both for its own sake and its wider contributions to quality of life within the borough. Heritage contributes to a sense of community identity, enhances the quality of daily life for residents through its enriching aesthetic value, and makes a positive contribution to the economic viability, environmental sustainability and regeneration of Havering, for example through visitor attractions.

The SPD is intended to have a direct influence on decision-taking (para. 1.8):

The SPD will form part of Havering's Local Development Framework (LDF) and supplement the policies contained within the LDF and the London Plan ... which together form the Development Plan for the Borough. The SPD will, therefore, be a material consideration for decisions on planning applications.

Havering's Heritage SPD provides further detail on the implementation of local plan policies, as well as providing national context, explaining significance and flagging sites that have statutory designations. The Heritage SPD also provides maps of Archaeological Priority Areas (APAs) and Archaeological Priority Zones (APZs), including an APZ that covers the coastal, intertidal and sub-tidal frontage of Havering.

The role of SPDs is circumscribed by paragraph 153 of the National Planning Policy Framework, but they certainly present an interesting model of how historic environment policies within a Marine Plan could be supported with context and detail about implementation. Such additional detail could help provide a level of rationale and certainty to developers and stakeholders that might not be achievable within a Marine Plan itself.

More broadly, years of experience of dealing with the historic environment through land-based planning, generating plan policies that have been carefully tuned in response to the experience of decision-taking, should be a very important source for marine plan-makers. Consistency of Marine Plans with local plans is required by the UK MPS, but this obligation should be less of a driver, perhaps, than the access to previous experience in dealing with the historic environment in the context of development that is manifest in local plans.

13.3. National Strategic Infrastructure Projects

National Strategic Infrastructure Projects (NSIPs) are large schemes that are subject to a different regime to marine licensing. Under the Planning Act 2008, decisions on proposed NSIPs are made by the relevant Secretary of State (for Energy, Transport, Environment etc.) by way of Development Consent Orders (DCOs). Each Secretary of State is assisted by the National Infrastructure Directorate of the Planning Inspectorate. The NSIP regime applies to major developments both on land and at sea.

Government policy on NSIPs is set out in a series of National Policy Statements (NPSs) published by the relevant Departments. NPSs provide the framework within which Secretaries of State takes their decisions. Relevant examples include the following:

DECC	July 2011	National Policy Statement for Renewable Energy Infrastructure (EN-3)
DfT	January 2012	National Policy Statement for Ports
DEFRA	March 2012	National Policy Statement for Waste Water

The Planning Inspectorate has also issued a series of Advice Notes (<http://infrastructure.planningportal.gov.uk/legislation-and-advice/advice-notes/>) that are non-statutory but provide advice and guidance to developers, consultees and the public. The Planning Inspectorate took over its role in respect of NSIPs from the Infrastructure Planning Commission (IPC), which was abolished by the Localism Act 2011.

In order to assist co-ordination with respect to marine NSIPs, The IPC convened an Offshore Consenting Forum on several occasions in 2010-2011 with the consultees / consultation bodies whose advice is normally obtained. The Offshore Consenting Forum, which included heritage agencies, has discussed generic points concerning interpretation and implementation of the regime including, for example, expectations for archaeological data gathering. Offshore and onshore consenting for a have been merged by the Planning Inspectorate.

Decisions on Development Consent Orders for coastal and marine NSIPs have to accord with the relevant NPS, but decisions must also have regard to the UK Marine Policy Statement (HM Government 2011, para. 1.3.2). The UK MPS notes also that the NPSs have to be taken into account in marine plan-making, and in any advice provided by the MMO to other bodies.

The NPSs include relatively detailed policies with respect to the historic environment, particularly in the Ports NPS and Waste Water NPS, which are closely modelled on corresponding policies in the National Planning Policy Framework (NPPF) for developments other than NSIPs. Historic environment advice in the Renewables NPS is split between offshore and onshore and is less detailed, pre-dating the NPPF.

By way of example from the Ports NPS, policies towards developers' applications include the following (Department for Transport 2012, para. 5.12.6 – 5.12.9):

As part of the ES, the applicant should provide a description of the significance of the heritage assets affected by the proposed development and the contribution of their setting to that significance.

As a minimum, the applicant should have consulted the relevant Historic Environment Record and assessed the heritage assets themselves using expertise where necessary according to the proposed development's impact.

Where a development site includes, or the available evidence suggests it has potential to include, heritage assets with an archaeological interest, the applicant should carry out appropriate desk-based assessment and, where such desk-based research is insufficient to properly assess the interest, a field evaluation.

Where proposed development will affect the setting of a heritage asset, representative visualisations may be necessary to explain the impact.

The possibility of damage to buried features from underwater disposal of dredged material should be taken into account.

The applicant should ensure that the extent of the impact of the proposed development on the significance of any heritage assets affected can be adequately understood from the application and supporting documents.

Clear and extensive policies are also set out for decision-taking (Department for Transport 2012, 5.12.10 – 5.12.20):

In considering applications, the decision-maker should seek to identify and assess the significance of any heritage asset that may be affected by the proposed development, including by development affecting the setting of a heritage asset ...

In considering the impact of a proposed development on any heritage assets, the decision-maker should take into account the particular nature of the significance of the heritage assets and the value that they hold for this as well as future generations.

The decision-maker should take into account the desirability of sustaining and, where appropriate, enhancing the significance of heritage assets, the contribution of their settings and the positive contribution they can make to sustainable communities and economic vitality.

The decision-maker should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment.

There should be a presumption in favour of the conservation of designated heritage assets and, the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be.

Loss affecting any designated heritage asset should require clear and convincing justification.

Substantial harm to or loss of designated assets of the highest significance ... should be wholly exceptional.

Where the application will lead to substantial harm to or total loss of significance of a designated heritage asset, the decision-maker should refuse consent unless it can be demonstrated that the substantial harm to or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm.

Where loss of the whole or a material part of a heritage asset's significance is justified, the decision-maker should require the developer to record and advance understanding of the asset's significance before this is lost.

Developers should be required to publish this evidence and deposit copies of the reports with the relevant Historic Environment Record. They should also be required to deposit the archive generated to a local museum or other public depository willing to receive it.

Where appropriate, the decision-maker should impose requirements on a consent to ensure that such work is carried out in a timely manner in accordance with a written scheme of investigation that meets the requirements of this section and has been agreed in writing with the relevant ... authority

Where the decision-maker considers there to be a high probability that a development site may include as yet undiscovered heritage assets with archaeological interest, the decision-maker should consider requirements to ensure that appropriate procedures ... are in place for the survey, identification, analysis and treatment of such assets discovered before and during construction

These policies towards NSIPs, which are broadly consistent with the NPPF, have to be taken into account in marine plan-making and in advice provided by the MMO by virtue of their inclusion in NPSs. They provide a further indication of the possible scope of each marine plan's own policies for the historic environment.

As noted above, the UK MPS regards the policies set out in NPS on recording heritage assets as providing a threshold with which mitigating actions to record and advance understanding of the significance of heritage assets must be consistent. Note 57 and paragraph 2.6.6.9 of the UK MPS obliges marine plan authorities to identify suitable mitigation actions consistent with NPS policies where the significance of heritage assets is to be lost in whole or in part.

The NPS/NSIP regime is to a large degree separate from marine planning, though it involves the largest and most complex developments that are likely to take place in coastal and marine areas. Decision-taking is by the minister of the relevant sector, in accordance with the relevant NPS, though there are mutual ties requiring consistency between NPS and UK MPS / Marine Plans. Fortunately, the NPS/NSIP regime – although separate from both marine- and land-based planning – has its own provision for the historic environment. In some NPSs these are not as comprehensive as they should be, but more recent examples – informed by the NPPF, are thorough. It is interesting that NPS provisions are invoked specifically for archaeology by the UK MPS, where NPS policies on recording provide a threshold for the mitigation actions to be identified where heritage assets are to be lost in whole or in part through marine planning processes.

The three England-wide regimes described here – marine, land and infrastructure – are broadly consistent, explicitly inter-related, and directly concerned with the historic environment. The experience of archaeology in the development process manifest in land-based plan policies and the provisions of the NSPs provide a firm foundation upon which marine planners might be encouraged to draw.

14. Local/regional

This section is concerned with marine planning at a local or regional level, focussing in particular on the Marine Plans for the East plan areas and the voluntary marine plan initiative for part of the Dorset Coast undertaken as part of the C-SCOPE project.

It is worth noting that in the Marine and Coastal Access Act 2009, 'region' equates to country, i.e. the English Inshore Region is the whole of the UK Territorial Sea off England. Here, 'region' is used to denote the sub-England scale.

14.1. East Marine Plans

Evidence and Issues Overview Report

In the course of developing the Marine Plans for the East Inshore and East Offshore marine plan areas, the MMO prepared a report on 'Evidence and Issues' (MMO 2012a). The report is intended to inform plan-making and also to serve as the scoping report for the Sustainability Appraisal that must accompany the plans.

Chapters 4-5 of the report are concerned with each of the key maritime activities as represented in the plan areas, and with the interactions between different activities and between activities and the environment. These sections include references to interactions between key activities and the historic environment, such as marine aggregates (p. 48) and marine dredging and disposal (p. 51).

Chapter 6 provides the Sustainability Appraisal element, based on a series of topics including 'cultural heritage'. Landscape and seascape are also addressed as a topic. The section on cultural heritage – like the other topics – includes a baseline summary and a list of issues and opportunities. 'Notable historic areas' at the coast are identified and designated wrecks are listed, though a relatively superficial understanding of the historic environment is displayed. The range of issues and opportunities is wide ranging, from concerns about levels of knowledge and understanding of features and areas, through to identification of specific impacts. Some of the points, however, are simply observations or aspirations rather than any form of assessment.

It is worth noting that an earlier draft of the report was put out to public consultation in November 2011. The content of the final version suggests that it may not have received widespread or detailed scrutiny from the historic environment community, which may reflect pressure on resources and a consultation process carried out over the Christmas period. This underlines the point that if plan-making with respect to the historic environment is to be carried out by people without specialist expertise, then it is very important that the historic environment community engages in consultation processes – and is encouraged and/or supported to do so. Otherwise, there is a real possibility that poorly-prepared plans will emerge without the checks or balances that consultation provides.

Draft Vision and Objectives

Following the evidence and issues report, the next stage of the plan-making process is the identification of objectives. The MMO put out to consultation a Draft Vision and Objectives for East Marine Plans in March 2012 (MMO 2012b). The results of the consultation process were incorporated into the Draft Vision and Objectives for East Marine Plans: Update of May 2012 (MMO 2012c), which also reported on feedback from the consultation exercise. The May 2012 Update is very firm on its status as a draft: 'It is not intended to be the final

version of the vision and objectives as these will be kept under review during the options development phase and subsequent drafting of the marine plan' (p. 1).

One important point to note is that the May 2012 document states that 'we have ensured that the production to date of Marine Plans embraces the core planning principles detailed in the NPPF' (p.5). Consistency with the NPPF as well as with the UK MPS seems therefore to be a reasonable expectation of the emerging East marine plans.

However, it should be recalled that the UK MPS and Marine Plans have a wider application than the NPPF. The NPPF is primarily concerned with framing planning decisions, both indirectly through development plans, and directly as a material consideration in its own right. The UK MPS and Marine Plans are also concerned with equivalent decision-taking for marine licences, but they are also binding on (non-licensing) authorisation or enforcement decisions that might affect the UK marine area taken by public authorities. That is to say, the scope of Marine Plans encompasses all public authority decision-taking as well as marine licencing. This broad scope has to be borne in mind when considering vision, objectives and plan policies, and comparisons that might be drawn with the NPPF and local plan policies.

The vision and objectives documents recap the UK Vision and propose both a vision and 'how this will look' for the East marine plan areas in 2033 (i.e. over a 20 year lifespan for the plan if it is completed in 2013). The draft vision for 2033 (as at May 2012) is as follows:

The East marine areas are providing a substantial part of the UK's wind energy as a result of collaboration and integration between sectors. Sustainable, effective and efficient use of our marine area has been achieved, taking the eco-system as a whole into account. This will all support considerable economic growth while living within environmental limits, offering local communities new jobs, wealth, and improved health and well-being.

'How this will look' in 2033 (as at May 2012) is as follows:

The East plan areas have good environmental status in accordance with the requirements of the Marine Strategy Framework Directive, with relevant habitats and species in favourable condition as required under the Conservation of Habitats and Species Regulations 2010. This is partly as a result of a well-managed ecologically coherent network of MPAs which protects the most sensitive areas. New activities, developments and uses have been implemented and managed to ensure, alongside environmental protection, that sustainability has been achieved.

These are quoted here in full for several reasons. Most obviously, there is no direct reference to the historic environment in either the vision or 'look' that is being sought by 2033. The vision emphasis development and economic growth 'taking the eco-system as a whole into account', whilst the 'look' is taken up predominantly by GES and the network of MPAs.

It is worth noting, perhaps, that the emerging East marine plans seem to appeal over the head of the UK MPS to the principles of sustainable development and the High Level Marine Objectives. This may be significant insofar as the MPS includes in its introduction the broader intention to:

Ensure a sustainable marine environment which promotes healthy, functioning marine ecosystems and protects marine habitats, species and *our heritage assets*; (emphasis added)

Hence it appears that an element of the UK MPS's intention at the broad level has been omitted in the vision and look for the East marine plan areas. Noting that the vision is to be

kept under review, it would be advisable to seek an amendment to the draft vision and 'look' for the East marine areas to include an explicit reference to the historic environment, consistent with the intention of the UK MPS.

Even if the vision and look remain unchanged for the East marine areas, there may still be space for the historic environment in terms of 'sustainable' use, 'environmental limits' and 'environmental protection'. There could also be space for the historic environment in a more proactive mode as a new activity and form of sea-use in its own right, in creating new jobs, wealth and economic growth, and in improving the well-being of local communities. It is important, therefore, that attempts to revise the vision and 'look' are accompanied by effort to ensure that the scope of the other terms is defined in a way that includes the historic environment, both in 'reactive' mode as a facet of the environment, and in proactive mode as a source of economic and social benefits.

Whatever their final form, both the objective(s) for the historic environment in the East marine plan areas, and the plan policies, must reference the vision and 'look' – and across the full breadth of these statements.

Objectives for the East marine plan areas are grouped according to the headings of the UK High Level Marine Objectives (HM Government 2009), which reflect the five guiding principles of the overall UK Sustainable Development Strategy (HM Government 2005) which are themselves based on the three pillars of environment, economy and society. The East marine plans also add a category on climate change, as follows:

Our seas – a shared resource. High level marine objectives, April 2009	Draft vision and objectives for East marine plans: Update, May 2012	Objectives
Achieving a sustainable marine economy	Achieving a sustainable marine economy	1,2,3
Ensuring a strong, healthy and just society	Ensuring a strong, healthy and just society	4,5,6
Living within environmental limits	Living within environmental limits	7,8,9
	Climate change: Adaptation and mitigation in the East plan areas	10
Promoting good governance	Promoting good governance	11
Using sound science responsibly	Using sound science responsibly	12

The Vision and Objectives include an explicit objective on the historic environment, Objective 6, which is classed as an objective 'directly in support of' ensuring a strong, healthy and just society. As at May 2012, Objective 6 reads as follows:

To conserve all heritage assets and ensure that marine development and use is in keeping with the character of the local area.

The May 2012 objective is a significant re-write from the November 2011 draft, responding to comments received during the consultation. Comments were also received to the effect that an additional objective on seascape should be introduced, but this was rejected and landscape / seascape is considered to fall within the 'local character' element of the re-written objective.

Objective 6 in its May 2012 form seems quite limited and reactive in its ambition, concerned with environmental protection and requiring development and use to be 'in keeping'. Despite being in the category 'directly in support of' the society pillar, there appears to be no

element of Objective 6 that suggests it will contribute to society being 'strong, healthy and just'. There are grounds, therefore, for giving further consideration to this objective, with the aspiration of making achievements with respect to all three pillars of sustainable development, if not all five guiding principles. This might be pursued by framing Objective 6 in terms of 'a positive strategy for the conservation and enjoyment of the historic environment', which is a requirement of planning authorities set out in the NPPF (para. 126), bearing in mind that the emerging East marine plans supposedly embrace the core planning principles of the NPPF.

The November 2011 draft included 'indicative or example potential plan policies' in three categories: signposting; strategic and spatial. The indicative policies under Objective 6 were as follows:

Policy 6.1: Protection will be given to all formally designated heritage assets within the plan area, with a recognition that designations change over time. Development will not be permitted unless the economic and environmental benefits outweigh the social loss and conform to the management guidance for the site in question. [Signposting]

Policy 6.2: To ensure that marine industry developments do not adversely affect the natural beauty of landscape and cultural heritage assets, which are subject to statutory protection for their features (such as areas of outstanding natural beauty, historic sites and monuments on land or protected wreck sites in the marine environment) or sites that are not designated for protection but have an intrinsic social value. [Spatial – dependent on location of site]

Policy 6.3: To ensure that development respects cultural heritage and seeks to improve heritage assets where possible given the social value placed on them. [Strategic]

Policy 6.4: Development or activities will need to take into account their visual impact and its appropriateness to the environs of the development. [Strategic]

Policy 6.5: Development in the marine area adjacent to terrestrial designations such as AONB and national parks should be sympathetic to or in-keeping with the terrestrial features. [Strategic]

Policy 6.6: Wind farm applications should take account of English Heritage (2005)37 guidance on development of wind farms. [Signposting]

The May 2012 Update reported on consultation responses to these indicative policies, but the Update did not present revised policies on the grounds that they were only illustrative and that draft planning policies would be developed during the options stage. The May 2012 Update summarised both generic comments on the indicative policies overall, and specific comments about the Objective 6 indicative policies.

The Objective 6 indicative policies of November 2011 exhibit many of the generic concerns raised by consultees, and might be expected to change substantially. There is certainly a clear case for revising the historic environment policies for the East marine plan areas from the indicative policies of November 2011. The document 'Dealing with the Historic Environment in Marine Plans' prepared as part of this project, and included here as Appendix IV, is intended to bring together the key policy drivers that might be expected to inform the historic environment policies for the East (and subsequent) marine plan(s).

14.2. C-SCOPE Marine Plan

C-SCOPE comprised in part a project-based marine planning process that resulted in the C-SCOPE Marine Plan (C-SCOPE 2012) for an area of the coast and sea off Dorset, between Portland Bill and Durlleston Head. Although it doesn't have the status of a Marine Plan as

currently being prepared by the MMO elsewhere, the C-SCOPE Marine Plan was developed in the context of the Marine and Coastal Access Act 2009, the High Level Marine Objectives and the UK Marine Policy Statement. It was also prepared in the context of land-based plans relevant to the Dorset coast, and broader national and international (including European) frameworks. Experience of developing the C-SCOPE Marine Plan has already informed the MMO's approach to the East marine plans (MMO 2012c, 10) and it seems likely that it may have an even more direct effect on the MMO's development of the Marine Plan for the South Inshore marine area.

The policies of the C-SCOPE Marine Plan are framed around eight objectives which reflect, but are adapted from, the High Level Marine Objectives:

High Level Marine Objectives	C-SCOPE	Policy prefix
Living within environmental limits	Objective 1: healthy, diverse, productive marine and coastal environment	HME
Ensuring a strong, healthy and just society	Objective 2: thriving, resilient coastal communities	TCC
Achieving a sustainable marine economy	Objective 3: successful, sustainable marine economy	SME
Using sound science responsibly	Objective 8: Using sound science and data ...	SD
Promoting good governance	... and ensuring integration with existing plans and policies	
	Objective 4: responsible, equitable and safe access	REA
	Objective 5: adaptation and mitigation for coastal and climate change	CAM
	Objective 6: strategic significance of the marine environment	SS
	Objective 7: valuing, enjoying and understanding the marine and historic environments, and wider cultural heritage	VEU

Although a specific historic environment objective – Objective 7 – is included, plan policies under other objectives also make explicit reference to the historic environment, as follows:

Objective 2: Thriving, resilient coastal communities

TCC 4: Development will be expected to respect the historic character of coastal villages and towns and the maritime occupations that exist there.

TCC 6: Developments and activities which encourage sensitive use of the coast and marine environment, promote community involvement and increase awareness of the value of the cultural and natural environment will be supported.

Objective 3: Successful, sustainable marine economy

SME 2: In addition to complying with the other policies in this plan, major development in the marine and coastal environment should be tested for its contribution to, and impact on, the criteria presented in Box A [includes cultural heritage].

SME 3: Development which would have an adverse impact, directly, indirectly or cumulatively on the criteria laid out in Box A [includes cultural heritage], and which can not be satisfactorily mitigated or compensated for, should be avoided.

The inclusion of a specific objective relating to the historic environment has a considerable effect on how specific policies are organised. The plan policies under the historic environment objective are as follows:

Objective 7: Valuing, enjoying and understanding the marine and historic environments

VEU 1: The design and scale of marine and coastal development should be appropriate to its setting and should not detract from the character of the area as defined within the Dorset Landscape and Seascape Character Assessment 2010.

VEU 2: Offshore development within 'Coastal Waters' seascape character areas should be avoided unless there are reasons of overriding national importance for its location, and a lack of alternative sites.

VEU 3: Development or activities must respect the purpose of international and national cultural heritage designations within the marine and coastal environment and contribute to their enhancement where possible.

VEU 4: Development in the marine and coastal environment will be expected to take account of cultural heritage sites and areas of archaeological interest as well as their settings. Opportunities should be taken to enhance these assets where possible.

VEU 5: Early engagement with English Heritage the Dorset Historic Environment Record keepers, and JCWHS team is required for any development which may disturb heritage assets.

VEU 6: Developments and activities which encourage public engagement in, and understanding of, the heritage assets of the Dorset coast and marine environment will be supported.

VEU 7: Developments which enhance the fabric, and public interpretation, of cultural assets with maritime connections will be supported.

The concentration of the majority of historic-environment policies under a historic environment objective (VEU) has the advantage of ensuring that policies towards the historic environment stand-out and have to be addressed in their own right. However, it might also have the effect of preventing further integration of historic environment considerations in decision-taking across the broader range of coastal and marine concerns, and across all three pillars / five guiding principles of sustainable development. The inclusion of policies relating to heritage under Objectives 2 and 3, as set out above, shows how this broader integration might be achieved. Elsewhere, policies on access (REA – including anchoring and mooring in sensitive areas) and sound science (SD – including information sharing) have an immediate relevance to the historic environment. On the other hand, the inclusion of a distinct objective on the historic environment seems to preclude integration elsewhere in the C-Scope Marine Plan, where there are provisions that would otherwise lend themselves to inclusion of the historic environment. For example, HME 1 and HME 2 are policies towards national and international environmental designations that are entirely apt to historic environment designations, but the latter are separated off into VEU 3.

There are two particular dangers of corraling policies on the historic environment under a separate objective: first, marine managers, developers, stakeholders and the public are not encouraged to think about the historic environment (as either constraint or opportunity) across the broad swathe of marine activity; second, archaeologists and heritage managers occupy themselves only with policies under 'their' objective and so also fail to consider the relevance of so many other aspects of sea-use.

The C-SCOPE Marine Plan is described in its Foreword as an experiment and it is of undoubted importance in this respect. It clearly points the way towards comprehensive and proactive coastal and marine decision-making, enabling public authorities, developers and a wide-range of other stakeholders to take informed decisions in a direction that is sustainable in the longer term. It also presents heritage managers and others with interests in the historic environment with a clear choice: either to safeguard its own distinctive coastal and

marine 'patch' to a degree that has never before seemed possible; or to engage with almost every facet of marine planning and decision-taking across the full breadth of sustainable development.

Both the emerging Marine Plan for the East marine plan areas and the C-SCOPE Marine Plan are starting to provide an indication of how marine spatial planning might take shape in England. There are some possible pitfalls to consider, and choices too; the way in which plan policies relating to the historic environment are articulated with respect to marine plan objectives, and to overarching policies on sustainable development, could have a profound effect on the place of the historic environment within marine spatial planning. Close attention needs to be paid to this overall structuring as well as to the detail of the policies themselves.

This part of the report has set out, in some detail, the tiers of law and policy that already apply to the relationship between marine spatial planning and the historic environment. The historic environment is certainly not taking its place within MSP in a vacuum; there are binding international, European and domestic requirements on MSP to fully incorporate consideration of the historic environment in plan-making and decision taking. This part of the report has also shown that the place of the historic environment in MSP is not to be understood by reference only to marine law and policy. Plan policies towards the marine historic environment have to take account of the much wider suite of law and policy applicable to the historic environment across all environments, whose provisions encapsulate decades of experience of addressing the historic environment through spatial planning systems on land.

Part 4: Processes, Policies and Implementation

15. A Comparison of Provisions: background information

In preparation for the seminar on Marine Spatial Planning and the Historic Environment organised as part of the project, background information on domestic provisions was sought from representatives of several national heritage agencies. Information was returned from the following agencies:

Country	Agency	Marine Jurisdiction
Belgium	Flanders Heritage Agency	Flanders: tidal waters, harbours and maritime part of rivers; Territorial North Sea is a federal responsibility
Germany	National Maritime Museum of Germany	None, but currently engaged in a research project covering German EEZ
Germany	Lower Saxony Institute for Historical Coastal Research	German Waddensee and coastal area
Netherlands	Netherlands Cultural Heritage Agency	Monuments Act: Territorial Sea (to 12 nm) and Contiguous Zone (to 24 nm). Advisory role towards other ministries in Territorial Sea and Continental Shelf.
Norway	Norwegian Maritime Museum	Ten of Norway's 19 counties and, semi-formally, Norwegian sector of the North Sea. Also consultant in development of Integrated Management of the Barents Sea and Sea Areas off Lofoten Islands.
Poland	Polish Maritime Museum	Level of protection varies depending on whether monuments are in inland, territorial waters or waters outside Polish territory
Portugal	Institute of Architectural and Archaeological Heritage	Not specified
Republic of Ireland	Underwater Archaeology Unit, National Museums Service	National Monuments Acts: Territorial Sea, possibly Continental Shelf.
Sweden	Swedish Maritime Museum	Municipal areas to the territorial limit fall under the responsibility of municipalities.
UK – England	English Heritage	Territorial Sea, and can offer advice and services in connection with monuments beyond the territorial sea and not within jurisdiction of other Devolved Administrations. Preferred source of information and data in support of MMO's marine planning function for inshore and offshore zone.
UK – Northern Ireland	Northern Ireland Environment Agency	NI Inshore Area to 12 nm.
UK – Scotland	Historic Scotland	Scottish territorial waters and, where appropriate, Scottish offshore region.
UK – Wales	Cadw	Territorial waters. Provides advice to marine branch of Welsh Govt. in respect of its wider responsibilities for marine policy, planning and licensing.

The information sought encompassed the main discussion themes of the seminar; as the focus of the seminar was on discussion rather than presentation, this information was circulated in advance to provide a factual background to the proceedings.

In addition to information about each agency and its jurisdiction over marine areas, information was sought about the following:

- overarching policy for the marine historic environment;
- overall frameworks for marine spatial planning and inclusion of the marine historic environment;
- maps of archaeological sites at sea and their availability;
- implementation of planning-related provisions of the Valletta Convention and 2001 UNESCO Convention;
- Implementation of the SEA Directive;
- Implementation of the EIA Directive.

Amongst the agencies that responded there is considerable variety in their situation, and in the way in which they interpreted the questions. There is not an overall pattern to the relationship between heritage agencies and marine spatial planning, nor an emerging consensus in practice. This is hardly surprising, because of the variety of circumstances in which the agencies are involved domestically, and because MSP is a novel – and therefore dynamic – dimension to marine heritage management. The variety of circumstances encompasses different relationships between agencies and (marine) ministries; and between different tiers of governance. The ‘tradition’ of heritage management also varies, with some countries having a history of – and therefore relying upon – strong and comprehensive primary heritage legislation. In other countries, primary heritage legislation is less comprehensive and policy and planning have a greater role. Equally, both the archaeological resource at sea (and knowledge of it) varies from country to country, as does the relative importance of impacts attributable to activities (such as development) that can be managed through planning systems.

Notwithstanding this variety, several patterns and themes are worth drawing out. Only in the UK – in England and Scotland – are there overarching policies for the marine historic environment. In Wales and the Republic of Ireland, the marine historic environment is encompassed by overall statements on heritage that do not distinguish between land and sea. Overall policy statements for the marine historic environment are being developed in Belgium and Germany, whereas in the Netherlands and Norway, policies on the MHE fall within other policy statements, and within management and research plans. Elsewhere, the overarching relationship between society and the (marine) historic environment arises from primary heritage legislation (i.e. it is statutory rather than policy). Statutory provision in primary heritage legislation might appear to be stronger in terms of enforcement, but policy that has been established consensually through engagement with the different parties might have a legitimacy that fosters implementation more readily in day-to-day decisions. A clear overarching policy on the marine historic environment might be especially helpful where there is a hierarchical relationship between policy and plans, as in the UK, but less necessary where historic environment policies within area- or sector-based plans are sufficiently strong in their own right. The relative merits of specific policies for the marine historic environment, rather than integrated policies for the historic environment as a whole, including marine, can also be debated.

Turning to MSP frameworks, most of the countries approached have a system emerging; MSP exists in Belgium, the Netherlands, Norway, Poland and across Britain, and is in preparation in Sweden and Northern Ireland. Only the Republic of Ireland has no current plan to introduce MSP. In most cases, MSP already encompasses the marine historic environment to some degree (or at least does not exclude it).

All of the countries have some form of map of archaeological sites at sea, generally covering all the main types of marine heritage asset. Maps showing wrecks predominate, but provision is also made, variously, for palaeo-landscapes, coastal site, stray finds, harbours and so on. In some cases there is more than one map, available from different agencies and not necessarily integrated. Many maps are GIS-based and their contents are available online, though the approach to availability does vary. In some cases the system is publicly accessible online and equally available to marine planners/policy-makers, developers and the wider public. However, in many cases availability is through requests to the heritage agencies who maintain the map. In fact, it seems that online availability (though possibly with restricted functionality) is greater for the public than for developers or planners, who have to request data. There are a number of reasons why heritage agencies may not be able or willing to make data openly available to planners and developers, which might generate legitimate concerns over approaches that associate better planning with greater availability of data.

There is no pattern evident in the response to questions about implementing the Valletta Convention and the 2001 UNESCO Convention, except perhaps that the requirements and roles of these conventions in respect of marine planning are not fully developed.

There are examples of Strategic Environmental Assessments encompassing the marine historic environment from The Netherlands, Norway, Republic of Ireland and UK (England, Northern Ireland, Scotland and Wales), though the archaeological element is considered to have been poor in some cases. Examples include the National Waterplan in the Netherlands, Integrated Management plans for sea areas off Norway, and for oil and gas exploration off the Republic of Ireland. It is presumed that other countries questioned have examples of SEA carried out for public marine plans and programmes, but these have not encompassed the marine historic environment, despite the requirements of the Directive.

The EIA Directive has been established much longer than the SEA Directive and, correspondingly, most countries report examples of EIA's encompassing the archaeological heritage arising both from public marine works and private marine works.

The comparison of provisions was intended to provide a factual basis for discussion at the seminar discussed below, as well as to provide comparisons with approaches that might be adopted in England. Detailed comparison is difficult and potentially of limited use because of differences in underlying systems and traditions of dealing with archaeology in planning-related contexts, and because actual practice in marine development-led archaeology is still relatively limited. Where comparison has proved most useful so far has been in illustrating a diversity of approaches and of experience, which in themselves provide limited scope for adoption or transposition to other countries but which do give rise to a range of common issues and concerns about marine spatial planning, as voiced at the seminar.

16. Sharing Experience: MSP Seminar

The seminar on Marine Spatial Planning and the Historic Environment held in London on 22 May 2011 provided a singular opportunity for matters of common interest to be discussed among a relatively small group of marine historic environment managers, marine planners and resource managers, and academics from across Europe.

The seminar was structured principally around four discussion periods, each with a specific theme – though obviously there was a degree of overlap between these discussions. A report on the seminar, which summarises the discussions, is included as Appendix III.

As with the background information, the seminar discussions demonstrated a wide range of circumstances and experience. Equally, there is no apparent consensus arising in respect of the relationship between the historic environment and marine spatial planning. This seems to be predominantly a consequence of the under-developed state of marine spatial planning at present, and therefore of the relationship to the historic environment. In short, because it is not yet clear what MSP will 'look like' from an archaeological point of view, there is no node around which opinion can coalesce. Whilst there is a certain amount of shared concern about common difficulties – the uncertainties that pertain to the historic environment, lack of data, difficulties with accessing data, relationships with ecological conservation and so on – there is little sign of an incipient vision about how the historic environment might contribute to marine spatial planning more positively.

17. Plan-Making and Decision-Taking

There is not yet a clear sense of what the relationship between MSP and the historic environment might amount to, but the account above has shown that there are numerous and diverse points of contact provided for by legislation and policy at all levels.

The original intention of this report was to provide practical guidance on plan-making and on decision-taking: how the historic environment is best addressed within marine spatial planning processes; and how marine plan policies relating to the historic environment can be applied in development control decisions. This is being achieved through a document accompanying this report on dealing with the historic environment in Marine Plans, which sets out the possible scope of marine plan policies that will inform decision-taking (Appendix IV).

Both the plan-making and decision-taking objectives are addressed simultaneously in the following paragraphs, because an appreciation of how policies can be applied to concrete examples of decision-taking is clearly very important in achieving satisfactory plan-making. The intention is not, however, to propose draft policies but to draw attention to the factors and considerations that need to be borne in mind in the course of drafting, drawing on the wide range of regional, national, European and international provisions and practices discussed above.

The following discussion is framed under three headings, as follows:

Marine Plan Policies and Decision-Taking	the factors and considerations to be borne in mind in drafting policies
Processes of Plan-Making	observations about the process that will have an effect on policies and decisions
Supporting Activities	observations about actions that might facilitate plan-making and decision-taking

17.1. Marine Plan Policies and Decision-Taking

To start with some general points, it is essential to recall that the UK Marine Policy Statement and Marine Plans have a broader role than plans on land, whose main purpose is to guide the determination of planning applications. Unlike planning on land, the UK MPS and Marine Plans are also binding on all authorisation and enforcement decisions taken by public authorities that might affect the UK marine area. It is highly important that the development of plan policies for the historic environment takes this broader scope into account; it is not sufficient to model policies on analogies drawn solely from land-based planning.

Marine Plans are also wider in their remit than documents whose focus is principally on development control. Marine Plans – like land-based plans – are not intended only to enable a reaction to proposals that come forward; they are expected to play a proactive role in giving direction to the future shape of the marine environment and use of the sea. Whilst the National Policy Statements provide a useful model for policies that can deal with specific schemes, policies that provide a framework within which individual schemes can be processed need to be accompanied by policies that enable developers and investors to make decisions about what schemes and initiatives they should contemplate in the first place. That is to say, there is a role for policies that are proactive with respect to conservation and enjoyment of the marine historic environment, and which guide stakeholders in this direction.

The scope for thorough integration of the historic environment within marine plan-making and decision-taking is very great. In consequence, it is unlikely that sufficient space within any particular Marine Plan to include adequate detail and explanation for planners, developers, other stakeholders and the general public. Rather than squeezing all the relevant detail into the Marine Plan itself, the model provided by planning on land of Supplementary Plan(ning) Documents (SPDs) merits serious consideration.

Among their advantages, SPDs could overcome the dilemma between concentrating provision for the historic environment in one place, and spreading it thinly but widely throughout other plan policies. That is to say, it should be possible to integrate the historic environment into many policy areas even if this means that the reference to historic environment is slight in each case, if the plan is accompanied by a historic environment SPD that pulls everything together coherently and comprehensively with firm guidance as to interpretation and implementation.

Consistent with points above, it is very important that the historic environment becomes engaged with marine planning across all the dimensions of sustainable development, whether as three pillars, five guiding principles or the six objectives of the East marine plan. It is essential that the relationship between the historic environment and both the social and economic pillars is examined conceptually, qualitatively and quantitatively. Weaknesses have been highlighted in the socio-economic and cultural services studies considered in the course of this project, but such studies have themselves made clear the degree to which the role of the historic environment is as yet poorly understood. Such studies have also indicated – either directly or indirectly – the potentially great importance of the coastal and marine historic environment in the UK in both social and economic terms.

Adding weight to the consideration of the social and economic pillars need not diminish recognition of the historic environment within the environmental strand of sustainable development. The majority of frameworks regard the historic environment as a facet of the environment as a whole, which requires protection. There are also positive relationships with aspects of the natural environment that deserve greater examination and collaboration, such

as the role of wrecks as habitats. Nonetheless, the close relationship between natural and cultural environments has been missed in some key frameworks that are undoubtedly going to be important in marine planning going forward. In particular, the scope to incorporate the historic environment within conceptions of Good Environmental Status, and therefore within Marine Strategies and their associated monitoring and reporting, seems very slight. Similarly, it is unlikely that cultural services within ecosystem-service based approaches, especially those modelled closely on the Millennium Environmental Assessment, can be re-wrought in a way that could accommodate the historic environment. Although it is hardly the place of archaeologists to critique nature conservation, environmental perspectives that are conceptually blind to the effects of human activity on coastal and marine environments over many centuries do appear to be seriously flawed. It would, at the very least, be helpful to have a formal statement on the relationship between these concepts in marine planning, if only to clarify that the limited scope of 'environment' for the purposes of GES and the MSFD does not constrain the scope of 'environment' when it is used elsewhere (e.g. EIA and SEA Directives; Marine and Coastal Access Act 2009).

The attraction of seeking assimilation with the MSFD, GES and ecosystem-services is that they appear so dominant in marine spatial planning, but this is to ignore the already strong requirements for MSP to engage with the historic environment, and to include adequate policies. These requirements arise partly from international obligations, partly from domestic implementation of these obligations, and partly from domestic arrangements, including:

- the European Convention on the Protection of the Archaeological Heritage 1992
- UK implementation of the World Heritage Convention 1972
- UK Marine Policy Statement
- National Policy Planning Framework

As the sections above have shown, the web of requirements and obligations is already such that a Marine Plan that does not provide for the historic environment would be open to challenge (and see Appendix IV).

Referring back to Supplementary Planning Documents, another purpose for preparing SPDs would be to ensure that these obligations are apparent and to raise awareness of the importance that has been invested in the historic environment globally, in Europe and domestically. SPDs present the opportunity to reiterate such obligations without needing to incorporate them within plan policies; where the statement already has force, it does not need to be duplicated. The same holds true for domestic statutory provisions in heritage legislation and related regulations, and for existing policies, including those within the UK MPS and NPSs. Although it may be tempting to use locally-oriented policies to reinforce national and higher obligations – as in the indicative 'signposting' policies that accompanied the draft vision and objectives for the East marine plan – the rationale for their inclusion has to be scrutinised. On the one hand, any variation in the terms of the signposting policy from the pre-existing requirement to which it points is likely to reduce clarity; on the other hand, such signposting could add to the length of a Marine Plan without actually adding to its substance. Plan policies should all be novel relative to existing policies or provisions; SPDs can remind plan users of everything else they need to be aware of.

As noted above, historic environment policies should be tailored to each of the three pillars of sustainable development, with proactive policies for social and economic development in addition to express policies on (environmental) protection. In addition, historic environment policies should be introduced that encompass the guiding principles relating to sound science

(e.g. integrated acquisition; management and best use of data) and good governance (e.g. commitments on delivery of archaeological advice to developers; consultation with local authority archaeologists).

Although they should avoid duplication, marine plan policies for the historic environment certainly need to be consistent with higher level statements. With reference to the different types of emphases in marine spatial planning discussed in Part II, MSP in England has a strong managerial thread, taking high level policies and applying them to more local circumstances. Hence historic environment policies for a marine plan area need to be consistent with relevant policies in the UK Marine Policy Statement, the National Planning Policy Framework, National Policy Statements for major marine infrastructure, and local plans on land. Consistency is also necessary within each marine plan, so historic environment policies should be consistent with the vision and 'look' for the marine plan area. In the case of the East marine plan area, it is to be hoped that the draft vision and 'look' will be amended to include explicit reference to the historic environment.

The effort to achieve consistency between the overall vision for a plan area and historic environment policies should help encourage the development of historic environment policies that encompass the whole vision, that is to say all 3-5 pillars and principles. Such a broad, proactive perspective should arise in any case from seeking consistency with the NPPF, which starts its section on the historic environment as follows:

... planning authorities should set out in their ... Plan a positive strategy for the conservation and enjoyment of the historic environment

(Department for Communities and Local Government 2012, para. 126)

The weight given in the NPPF to positive strategies is a reminder of the prescriptive emphasis of marine spatial planning. Marine plans are intended – to a degree at least – to provide some overall direction, indicating how higher level policies are to be applied to circumstances within the plan area. This reinforces the point that historic environment policies cannot only be concerned with process; they need to be specific to the plan area and impart a direction of travel to historic environment decision-taking for the area.

At least some historic environment policies can be expected to be spatial and have extents that deliver distinctive policies to different parts of a marine plan area. The marine historic environment is not spatially homogenous and higher level policies have underlined the need to manage the historic environment according to its (varying) significance. Whilst the development of properly spatial policies might seem daunting given the character of available historic environment data, its outright gaps and uncertainties, heritage managers need to give some kind of direction to plan users as to which marine areas are appropriate (and inappropriate) from a historic environment perspective for development or sea-use. In so doing, heritage managers must avoid the temptation to submit 'dot maps' that indicate little more than there being lots of heritage assets all over the place; Marine Plans are necessarily interpretive and, accompanied by the necessary caveats, archaeologists have to be prepared to offer spatial interpretations to marine planners – not just data – in order to guide sea-users.

Where there appears to be a need to provide more process-based policies, it may be worth considering if they can be set out sufficiently rigorously in other forms of guidance, including SPDs. Process-based historic environment policies are likely to be relevant to multiple marine plan areas, which suggests they should not be in individual Marine Plans. Detailed process-based policies are already set out in, for example, the more recent National Policy Statements, though these may need to be elaborated for smaller schemes.

One area of practical guidance of direct help to developers might be to set out expectations about different scales of schemes and impacts from a historic environment perspective, where thresholds are not already set down in regulations. For example, guidance might usefully be provided that helps developers and sea-users to understand the levels of supporting information that might need to accompany sub-EIA marine licence applications, EIAs for larger developments that are not National Strategic Infrastructure Projects, and EIA for NSIPs. Equally, policies and guidance could be set out on expectations regarding licence conditions, monitoring, compliance and enforcement.

17.2. Processes of Plan-Making

The intention here is to flag some of the processes through which historic environment interests and concerns can be brought to bear, which might influence the formulation of Marine Plans.

The highest priority is to engage fully with the MMO for the remainder of the period in which the East marine plans are being developed. As indicated above, it would be preferable to amend the vision and 'look' to accommodate the historic environment, but above all it is important to achieve a level of discourse that facilitates thorough incorporation of the historic environment as a positive attribute of the sustainable development of the East marine plan area. To some extent this could occur through mobilising the weight of existing frameworks that require provision for the historic environment in plan-making and decision-taking, but a better approach might be to develop an awareness of the contribution that the historic environment can make economically and socially as well as environmentally.

Experience of engaging with the MMO for the East marine plans should be drawn upon directly in respect of subsequent plan areas, starting with South inshore and offshore marine plan areas.

DG MARE has indicated that an EU measure on marine spatial planning is to be proposed shortly. It is likely that practice in England will already be in advance of whatever is proposed in the EU measure. Nonetheless, the scope and definition of marine spatial planning that is provided by the EU measure is likely to be influential in subsequent implementation of MSP in England, so whatever form the measure takes, it will be important to address it thoroughly. As noted above, the original conception of the Integrated Maritime Policy had a clear place for the historic environment, but this appears to have diminished. Further, the MSFD and GES are now playing a strong role, but do not acknowledge the historic component of the environment. In consequence, there is a real need for marine heritage managers – through the European Archaeological Council (EAC) or European Association of Archaeologists (EAA) for example – to engage with the European Commission, especially DG MARE and DG ENV, to re-establish the role of the marine historic environment in future European development. In this, reference should be made in particular to DG REGIO and the Territorial Agenda TA2020, where there appears to be greater recognition of the value of the historic environment as a positive source of growth.

Although engagement with the EU could (and should) be pursued as a concern for England, there is clearly merit in pursuing engagement more broadly from the perspectives of several European countries, and through Europe-wide and global institutions.

As a precursor to this, there may be merit in engaging with some of the many EU-funded projects that are currently examining aspects of marine management, to achieve greater

awareness of the historic environment and the role it might play. The ESaTDOR project (European Seas and Territorial Development, Opportunities and Risks) under the EMODNET programme has been flagged above, but there are several other projects whose outputs are likely to be influential in shaping MSP in Europe, including:

MESMA	Monitoring and Evaluation of Spatially Managed Areas	http://www.mesma.org/
COEXIST	Interaction in coastal waters: A roadmap to sustainable integration of aquaculture and fisheries	
ODEMM	Options for Delivering Ecosystem-Based Marine Management	http://www.liv.ac.uk/odemmm/
PISCES		http://www.projectpisces.eu/
KnowSeas	Knowledge-based Sustainable Management for Europe's Seas	http://www.knowseas.com/
MASPNOSE	Preparatory Action on Maritime Spatial Planning in the North Sea	https://www.surfgroepen.nl/sites/CMP/maspnose/default.aspx
SEAENERGY 2020		http://www.seaenergy2020.eu/

The MSP Seminar in May 2012 demonstrated the value of sharing experience between heritage managers who have marine responsibilities across the UK and the rest of Europe. In most cases, there are very low numbers of such heritage managers in each jurisdiction, and in some cases even their marine responsibilities form only part of each individual's brief. Opportunities to exchange experience and perspectives seem to be quite limited, and this might hinder the development of the historic environment as a facet of MSP in each country (including England) and across Europe, insofar as EU measures are influential in domestic marine management. Existing transnational networks and institutions should be encouraged to take up MSP as a focus for further exchange and mutual learning.

Returning to the domestic sphere in England, some consideration should be given to the remit of English Heritage in MSP in the offshore zone, i.e. beyond territorial waters. EH's role in MSP is governed by a Memorandum of Understanding with the MMO. This may need reviewing periodically to ensure that the legal basis for contributing to plan-making (including providing data and mapping) and for advising on the basis of plan policies in the course of decision-taking is secure against challenge, encompassing not only marine licensing but also the role of marine plan policies in framing other authorisation and enforcement decisions by the full range of public authorities.

In a similar vein, EH might be encouraged to examine the measures it has in place to ensure that its own authorisation and enforcement decisions – across the full range of its functions – take sufficient cognisance of the UK Marine Policy Statement and of Marine Plans.

The UK MPS and NPPF make clear the need for Marine Plans and land-based plans to be integrated across the land-sea boundary. As has been illustrated above, many land-based plans for areas that abut or enclose sea areas include policies on the historic environment. Facilitating integration between such land-based historic environment policies and Marine Plans could be a focus for English Heritage in the plan-making stage; in this, EH might seek to mobilise and encourage engagement by local government archaeological officers in marine planning, through EH's regional offices or collectively through ALGAO. Regional groups of local government archaeological officers with marine interests or responsibilities – such as the North East Maritime Archaeology Forum (NEMAF) could play a particularly strong role in this; EH might like to consider what might be done to encourage or facilitate

comparable groups to develop to reflect the extent of each marine plan area, especially adjoining the southern section of the East marine plan areas and the South marine plan areas.

In seeking to encourage and facilitate engagement in historic environment aspects of marine plan-making, consideration also needs to be given to the role of civil society. The preparation of Marine Plans – and of their accompanying sustainability appraisals – includes opportunities for public participation. It is important that public participation in marine plan-making encompasses the historic environment. The socio-economic / cultural service approaches considered in the course of this project all point to there being considerable interest in – and the valuing of – the coastal and marine historic environment by civil society, but it is difficult to get any sense of how this might be being deployed in marine plan-making. There is an enormous range of local archaeology and history societies based at or near the coast who might be expected to have views on marine management; and there are also relevant theme-based organisations with England- or UK-wide perspectives. It is not clear if there is any substantive awareness of the effect that Marine Plans are likely to play in management of the historic environment of their coasts and seas in coming years.

All the above require or imply a high degree of engagement by English Heritage at many different levels in the very near future, and for a sustained period whilst Marine Plans are in preparation in England. The question of how to properly resource this degree of engagement needs to be addressed. Undoubtedly, the introduction of marine spatial planning in England presents an enormous – perhaps the greatest ever – opportunity to achieve sustainable development with respect to England's marine historic environment. It is essential that the prioritisation of limited resources takes full account of the time-limited opportunity that the current situation presents. The prospect of the marine historic environment making a positive contribution to social and economic growth ought to be properly recognised in deciding how best to invest curatorial resources.

17.3. Supporting Work

The following pieces of supporting work are recommended:

There is a pressing need to more fully explore the relationship between the historic environment and social and economic development at the coast, to include collating quantitative evidence. Current approaches to socio-economics and ecosystem services acknowledge that they have not fully accounted for cultural heritage and that further research is required. At the same time, there is probably a large amount of quantitative data already available from which implications might be drawn about how the historic environment adds value both economically and socially. Such an examination should consider not only the current contribution of the historic environment, but also the potential contribution that might be achieved through plan policies designed to promote growth.

Even limited engagement in the plan-making process would be helped enormously by drafting a Supplementary Planning Document or its equivalent for the East marine plan areas. Taking into account the points made above about plan policies, the drafting of an SPD would help focus attention on the novel, substantive elements of policies for the East inshore and offshore zones by making space elsewhere (i.e. in the SPD) for the extensive range of legislation and policy that need not be duplicated in the plan, but of which plan users should be aware. A draft SPD could also help establish the 'positive strategy for the conservation and enjoyment of the historic environment' required by the NPPF and ensure that plan

objectives reflecting all of the guiding principles of sustainability take account of the historic environment.

Either to inform marine plan-makers directly or as an appendix to the SPD, it may be helpful to prepare a compendium of local plan policies relating to the historic environment adjoining the East marine plan areas. As noted above, Marine Plans are intended to integrate with land-based plans, and such a compendium should assist in land-sea integration.

Bearing in mind that the UK Marine Policy Statement and Marine Plans have a wider application than marine planning, encompassing a wide-range of decision-making by public authorities, it is recommended that EH reviews its existing guidance to public authorities and seeks to update it in line with the UK MPS and emerging Marine Plans, and supplements with new documentation for public authorities that have yet to receive guidance on their responsibilities towards the marine historic environment.

English Heritage may wish to give specific consideration to the implications of marine spatial planning for (cultural) World Heritage Sites that border marine plan areas, whose extents, buffers and settings may all be affected by the UK MPS, marine plan policies and consequent decision-taking.

A further point that might be borne in mind is the need to develop a broader corpus of background research into management of the historic environment in coastal and marine contexts in England. Very little academic work appears to have been carried out on themes that touch the scope of this project; conceptual frameworks and case-studies that concern themselves with UK coastal and marine heritage management are largely absent from peer-reviewed literature. This presents a significant gap when trying to frame more applied projects such as this, and may warrant discussion as to how it might be addressed. In view of this lacuna, it is recommended that a journal article on the results of this project is prepared for submission to a peer-reviewed journal, to help stimulate academic consideration alongside the literature on other marine management topics.

Part 5

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Appendix I: MSP Seminar – List of Participants



Marine Spatial Planning and the Historic Environment

22 May 2012
British Academy, London

List of Participants

Name	Job Title	Organisation	Country / Region
Belasus, Mike	Researcher	German Maritime Museum	Germany
Brady, Karl	Archaeologist	Underwater Archaeology Unit, National Monuments Service	Republic of Ireland
Brown, Andy	Planning Director, South East	English Heritage	UK - England
Eklöf, Nina	Acting Head of Archaeology Unit	Swedish National Maritime Museums	Sweden
Firth, Antony	Director	Fjordr Limited	UK
Fletcher, Steve	Associate Professor in Sustainable Management of Marine and Coastal Systems	Centre for Marine and Coastal Policy Research, University of Plymouth	UK
Groom, Polly	Regional Inspector of Ancient Monuments and Archaeology (South West Wales)	Historic Environment Branch, Cadw	UK - Wales
Hourd, David	Principal Consultant - Environment	Hyder Consulting (UK) Limited	UK
Jons, Hauke	Director, Archaeological Department	Lower Saxony Institute for Historical Coastal Research	Germany
Kidd, Sue	Senior Lecturer	School of Environmental Sciences , University of Liverpool	UK
Kvalo, Frode	Head of Archaeology	Norwegian Maritime Museum	Norway
Lüth, Friedrich	President	European Association of Archaeologists	Germany
Maarleveld, Thijs	President ICOMOS - ICUCH; Professor of Maritime Archaeology	University of Southern Denmark	Denmark
McErlean, Thomas	Senior Research Fellow	Centre for Maritime Archaeology, University of Ulster	UK - Northern Ireland
Missiaen, Tine	Physicist - Quaternary Scientist	Renard Centre of Marine Geology, Universiteit Gent	Belgium
Olivier, Adrian	Archaeologist		UK
Opdebeeck, Johan	Policy Officer Maritime Heritage	Cultural Heritage Agency	Netherlands

Name	Job Title	Organisation	Country / Region
Otte-Klomp, Andrea	Senior Maritime Policy Officer	Cultural Heritage Agency, Ministry of Education, Culture and Science	Netherlands
Oxley, Ian	Historic Environment Intelligence Analyst (Marine)	English Heritage	UK - England
Pater, Chris	Marine Planner	English Heritage	UK - England
Pieters, Marnix	Director	Flanders Heritage Agency – International Activities	United Kingdom
Pomian, Iwona	Head of Underwater Research	Central Maritime Museum, Gdansk	Poland
Reading, Gillian		Gillian Reading Business Services	UK
Robinson, Rhonda	Senior Inspector	Northern Ireland Environment Agency: Built Heritage	UK - Northern Ireland
Salter, Edward	Maritime Archaeologist	English Heritage	UK - England
Smith, Ness	C-SCOPE Project Officer	Dorset Coast Forum	UK
Tudor, David	Senior Marine Policy & Planning Manager	The Crown Estate	UK
Twidle, Sheila	Head of Environmental Services	National Infrastructure Directorate	UK - England & Wales

Appendix II: MSP Seminar – Summary



Marine Spatial Planning and the Historic Environment

22 May 2012

British Academy, London

Summary

v. 15/06/12

'Marine Spatial Planning and the Historic Environment' was an event organised in connection with European Maritime Day to provide a forum for marine and historic environment professionals from across Europe to discuss the relationship between archaeology and marine planning.

The seminar was part of a wider project commissioned by English Heritage to inform its approach to the development of marine plans by the Marine Management Organisation for the English Territorial Sea and adjacent UK Controlled Waters. The project is being carried out by Fjordr Limited. The event was intended to provide an opportunity to share experience, and it proved very clearly that many common issues are shared across different countries and interests.

The event started with a warm welcome from Dr. Andy Brown, English Heritage's Planning Director (South East), which was followed by a brief introduction by Antony Firth of Fjordr Limited. The rest of the day comprised four discussion sessions before a final summing up, and closing comments by Christopher Pater, English Heritage's Marine Planner.

The introduction drew attention to the relationship between marine archaeology and sustainable development, making the point that as well as being an important component of the environment, archaeology can also make an important contribution to the economic and social pillars of sustainable development through marine planning.

A Vision for Marine Archaeology: What outcomes for the historic environment should we be seeking within Marine Spatial Planning?

Chair: Thijs Maarleveld, President IUCN – ICOMOS, University of Southern Denmark

Archaeology currently has only a low profile in the development of Marine Spatial Plans internationally. At the same time, archaeology has a potentially large role to play in elaborating the relationship that people have with the sea, both in the past and in the present. Archaeology has been seen, quite rightly, as an environmental concern. The relationship with environmental interests should be intensified, especially as archaeological material is also 'habitat' and can provide an important ecological resource where, for example, wrecks of historic interest provide a stable hard substrate where the seabed is otherwise soft or mobile. Through marine planning, there is scope to explore archaeology as a component of multifunctional sites; shipwrecks, for example, can have historic character, an ecological value, specific social value for those connected with the ship through family ties, and also be a valuable focus for recreational diving, angling and other economic activities. A useful approach is to start with identifying places that have value, and then working out what their values are from different perspectives. Archaeologists have a specific responsibility to safeguard important sites, but this need not preclude a more outwardly-engaged approach with marine planners and other stakeholders to increase access and utilisation where it is consistent with the conservation of heritage assets. Archaeologists have an important role to play in telling the story of the sea, and this can encompass larger areas such as collections of wrecks associated with particular sea battles, or extensive submerged landscapes; that is to say, archaeologists need to be conscious of the scales at which marine

planners operate, and adapt their input to appropriate levels of detail. As archaeology has such a multi-faceted character, it can play a role in a wide range of marine plan policies: environmental, economic, and social.

Exclusion or Coexistence: How should we represent the historic environment in Marine Spatial Plans?

Chair: Friedrich Lüth, President European Association of Archaeologists, German Archaeological Institute

Marine plans are spatial, intended to indicate the most appropriate and inappropriate areas for development. They can also have a more creative and promotional role, and help capture the relationship between land and sea. Archaeology tends to be represented as 'spots' that are small and relatively few in number, and are protected and therefore to be avoided. The historic environment is much broader than this, but involves considerable uncertainties as to the presence, character and importance of features. Whilst these can be shown on maps using GIS, GIS does not necessarily respect the degree of uncertainty or interpretation involved, hence reverting back only to what is certain – a few dots. One alternative is to substantially increase seabed surveying with an archaeological component, so that spatial planning is based on better, more certain archaeological data. Another alternative is to map not what is known, but how development should proceed with respect to resolving uncertainties. That is to say, representing areas that are thought to have potential and in which specific survey requirements apply. Archaeologists' role is not just to protect, however, so there has to be scope to promote and correlate research and understanding spatially. We also need to find ways to map the values that people place on different sea areas, as several characterisation projects are seeking to achieve. Although there was strong acknowledgment that better planning will arise where archaeologists make more information available, respecting the distinctions between data and interpretation, there was also recognition that in some places, restrictions on archaeological information are used as a mechanism to impede damaging access. As in other spheres, marine archaeological mapping and GIS initiatives in the past have suffered because of the lack of common platforms to enable continuing access, updates and harmonised standards.

Conventional Thinking: How can Marine Spatial Planning help meet obligations arising from Articles 5-6 of the Valletta Convention and Article 5 of the UNESCO 2001 Convention?

Chair: Adrian Olivier

International conventions work on several levels simultaneously. They place legally-binding obligations on states, but often they include 'constructive ambiguities' that although they enable more countries to accede, render enforcement difficult. Nonetheless, such conventions present a powerful codification of the international community's expectations about how states should behave, and in this context they set out the principles and standards that states can be expected to apply to the relationship between marine planning and the historic environment. In other cases, conventions have directly stimulated the amendment of heritage law and policy, or provide a standard for 'best practice' that applies even if the state is not party. The Valletta Convention is being implemented in respect of planning decisions about marine developments around Europe, but it was also noted that this convention applies not only to planning decisions but also to plan-making. There is a clear expectation that archaeologists and marine planners should work together in marine plan-making, not simply that archaeology should be taken into account when decisions are made. In addition to Valletta, more recent instruments such as the European Landscape Convention and the Faro Convention have express provisions on planning that are more in-line with current thinking on heritage management than the 20-year old Valletta Convention, emphasising enhancement and enrichment and a more direct consideration of public and community benefit.

Planning and Assessment: How can Marine Spatial Planning best gain from Strategic Environmental Assessment (SEA) and facilitate Environmental Impact Assessment (EIA)?

Chair: Andrea Otte, Netherlands Cultural Heritage Agency

Marine plans are subject to SEA but may also set the scope of future SEAs carried out for public plans or programmes that fall within the marine plan area. For the SEA of the plan itself, there is considerable value in it being carried out in parallel with the plan as it provides a focus for stakeholders to discuss what is known about the baseline and to develop options for plan policies. The archaeological heritage has to be considered in the course of SEA when assessing marine plans, and SEAs have been useful in assembling baseline archaeological data for whole regions. However (as discussed above) there are problems in the archaeological data that is available to an SEA, and few SEAs will be able to carry out major acquisition of archaeological data. Given that SEA is strategic in outlook, it may be appropriate for the archaeological component to focus less on mapping what is known and more on the key archaeological themes that are important and may be affected – positively as well as negatively – by the plan or programme in preparation. EIA plays a fundamental role in addressing the potential archaeological effects of marine developments, and are a legal requirement for major schemes irrespective of marine spatial planning. Nonetheless, MSP could play an important role in guiding the scope of the archaeological component of EIA in any particular marine area, helping to provide certainty to developers. In return, the conduct of archaeological investigations in accordance with the findings of EIA can provide firm data about the marine historic environment that can help refine future marine plans, and the conduct of subsequent EIAs.

Further details of the event's proceedings, and about the project as a whole, will be made available in the project report. The project report will be available online later in 2012.

www.fjordr.com

Appendix III: MSP Seminar – Seminar Report



Marine Spatial Planning and the Historic Environment

22 May 2012

British Academy, London

Seminar Report

v. 12/07/12

'Marine Spatial Planning and the Historic Environment' was an event organised in connection with European Maritime Day to provide a forum for marine and historic environment professionals from across Europe to discuss the relationship between archaeology and marine planning.

The seminar was part of a wider project commissioned by English Heritage to inform its approach to the development of marine plans by the Marine Management Organisation for the English Territorial Sea and adjacent UK Controlled Waters. The project is being carried out by Fjordr Limited. The event was intended to provide an opportunity to share experience, and it proved very clearly that many common issues are shared across different countries and interests.

Welcome and Introduction

The event started with a warm welcome from Dr. Andy Brown, English Heritage's Planning Director (South East).

The introduction by Antony Firth of Fjordr Limited drew attention to the relationship between marine archaeology and sustainable development, making the point that as well as being an important component of the environment, archaeology can also make a significant contribution to the economic and social pillars of sustainable development through marine planning.

Discussion Topics

A summary of the discussions under each of the following headings can be found below:

- A Vision for Marine Archaeology: What outcomes for the historic environment should we be seeking within Marine Spatial Planning?
- Exclusion or Coexistence: How should we represent the historic environment in Marine Spatial Plans?
- Conventional Thinking: How can Marine Spatial Planning help meet obligations arising from Articles 5-6 of the Valletta Convention and Article 5 of the UNESCO 2001 Convention?
- Planning and Assessment: How can Marine Spatial Planning best gain from Strategic Environmental Assessment (SEA) and facilitate Environmental Impact Assessment (EIA)?

Summing-up and Closing Comments

The seminar concluded with a summary of key points by Antony Firth (see below), and the meeting was closed by Christopher Pater, Marine Planner, English Heritage.

Please note: This seminar report reflects discussion amongst the participants as a whole. The views and opinions expressed in this report have not been formally endorsed or agreed by the organisations represented at the seminar.

Further details of the wider project will be made available in the project report, which will be made available online later in 2012.

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A Vision for Marine Archaeology: What outcomes for the historic environment should we be seeking within Marine Spatial Planning?

Chair: Thijs Maarleveld, President ICUCH – ICOMOS, University of Southern Denmark

Archaeology currently has only a low profile in the development of Marine Spatial Plans internationally. At the same time, archaeology has a potentially large role to play in elaborating the relationship that people have with the sea, both in the past and in the present.

Archaeology has been seen, quite rightly, as an environmental concern. However, archaeology also has an economic and social relevance that should also be emphasised through marine spatial planning. Policies that weave archaeology into all three pillars of sustainability can be achieved.

Attention to the economic and social aspects of archaeology should not, however, be at the expense of the environmental perspective. The relationship with environmental interests should be intensified, especially as archaeological material is also 'habitat' and can provide an important ecological resource where, for example, wrecks of historic interest provide a stable hard substrate where the seabed is otherwise soft or mobile. This intensification also needs greater recognition that marine environments – even those distant from the coast – are not only natural but reflect human involvement in natural processes over centuries.

Greater communication between archaeologists and natural sciences will help increase awareness of, for example, the value to archaeologists of samples (such as cores) that were originally acquired for non-archaeological purposes.

The debate as to the relationship between nature and culture in the environment is not new or unique to marine archaeologists. The wetland archaeology community has been engaged in this debate for over thirty years, and experience has shown that it must be a two way process in which archaeologists have to adapt to natural environment perspectives, as well as vice versa. This may require archaeologists to become less precious about [blanket] protection of sites of archaeological interest.

Although archaeologists have a specific responsibility to safeguard important sites, this need not preclude a more outwardly-engaged approach with marine planners and other stakeholders to increase access and utilisation of the historic environment where it is consistent with the conservation of heritage assets.

It is important that archaeologists engage in the development of marine plans, to enable marine planners to understand archaeologists' concerns and perspectives, and to build relationships with stakeholders that have interests that overlap with archaeologists in – for example – diving communities and fishing industries.

Artefacts and landscapes present an opportunity to develop social aspects of marine planning, especially through recognition of the multi-functional character of landscapes. Through marine planning there is scope to explore archaeology as a component of multi-functional sites; shipwrecks, for example, can have historic character, an ecological value, specific social value for those connected with the ship through family ties, and also be a valuable focus for recreational diving, angling and other economic activities.

Although the above discussion is helpful in considering coastal areas, there are still questions about how to encompass the huge spatial areas that (offshore) marine planning addresses. Currently, English Heritage is turning the main thrust of its activities to telling the 'story of England'. By analogy, archaeologists across Europe have an important role to play in telling the 'story of the sea'. This story can encompass large areas such as collections of wrecks associated with particular sea battles, or extensive submerged landscapes. Large scale narratives can provide a stronger basis for balanced planning at, for example, scales that encompass the whole North Sea. Archaeologists need to be conscious of the scales at which marine planners operate, and adapt their input to appropriate levels of detail; for example, broad scale marine planning is not likely to address individual wreck sites in policies.

As archaeology has such a multi-faceted character, it can play a role in a wide range of marine plan policies: environmental; economic; and social. A useful approach is to start with identifying places that

have value, and then working out what their values are from different perspectives. Rather than reinforcing disciplinary silos, broad terms like 'value' can provide a common focus for discussions between sectors/planners and provide greater scope for integrated policies to arise out of collaborative planning.

Exclusion or Coexistence: How should we represent the historic environment in Marine Spatial Plans?

Chair: Friedrich Lüth, President European Association of Archaeologists, German Archaeological Institute

Marine plans are spatial, intended to indicate the most appropriate and inappropriate areas for development. However, MSP practice currently encompasses a great variety of spatial plans, all with different nuances.

Archaeology tends to be represented as 'spots' that are small and relatively few in number, and are protected and therefore to be avoided. However, mapping of heritage assets could start from an assumption of informed coexistence rather than exclusion.

The historic environment is much broader than spot maps imply, but it involves considerable uncertainties as to the presence, character and importance of features.

Whilst heritage assets can be shown on maps using GIS, GIS does not necessarily respect the degree of uncertainty or interpretation involved, hence reverting back only to what is certain – a few dots.

Faced with uncertainty, marine planners will look to archaeologists for advice: archaeologists need to be prepared to provide such advice as they can, despite the uncertainties, and not just reiterate the difficulties.

Planners and developers want to be informed and there is strong acknowledgment that better planning will arise where archaeologists make more information available. It may be necessary to provide data that also represents uncertainty by using different forms of display, such as the density maps of documented shipping losses (casualties) prepared for Republic of Ireland waters.

However, there was also recognition that in some places, restrictions on archaeological information providing a mechanism to impede access that may result in damage. Restrictions on providing archaeological information are reinforced legally in some jurisdictions.

One alternative to dealing with uncertainty is to substantially increase seabed surveying with an archaeological component in advance of plan-making, so that spatial planning is based on better, more certain archaeological data.

Another alternative is to map not what is known, but how development should proceed with respect to resolving uncertainties. That is to say, representing areas that are thought to have potential and in which specific methodological (e.g. survey) requirements apply.

Uncertainty can also be addressed by periodic re-evaluation of plans (e.g. every 4 years) so that they are amended or refined promptly. Areas can therefore be identified as having 'potential' even if the actual presence of archaeological material is not confirmed; such 'potential' need not preclude development if it is accompanied by survey and research, and such survey and research will in turn help resolve the question of potential. Where there are policies that provide a mechanism for survey data to be fed back into the plan, spatial planning can close the loop between research / interpretation and robustness.

In this configuration, archaeologists' role is less about exclusion and protection, and more about using and exploiting the historic environment and its narratives. 'Exploitation' may be an uncomfortable term to use, especially given that exploitation by private salvage and sale of underwater cultural heritage is being advocated by treasure hunters. Nonetheless, protection and exploitation can sit alongside each other in marine planning, so long as it is made plain that archaeologists are seeking to exploit information about sites etc. rather than the sites themselves. Archaeologists should be greedy for information, not just greedy to protect more areas. Faced with economic pressures to avoid restricting access to shipping traffic or to wind farm development, exclusion for archaeological purposes may not

be supported if the rationale is not understandable to others.

If the case is properly made, marine planning could present an important opportunity where there are policies that enable developers to address uncertainties themselves through extensive survey. That is to say, developers will see the merit themselves in carrying out archaeological survey to address uncertainties, so long as marine plans do not preclude developers from behaving proactively. As noted above, policies that encourage the investigation and the acquisition of data must be accompanied by policies that promote correlation of research and understanding spatially.

Archaeologists also need to find ways to map not just 'stuff' – wrecks, prehistoric landsurfaces etc. – but also to map the values that people place on different sea areas. Several characterisation projects are seeking to make progress on this point. Consequently, spatial plans could also have a more creative and promotional role as well as serving development control purposes. Through helping to capture the relationship between land and sea in particular, spatial planning could facilitate coastal heritage-led regeneration.

Where mapping is more value-based and sets out broader interpretations, it is important that the distinctions between data and interpretation are made evident to all users. Otherwise there is a danger that interpretations (which are often tentative because of uncertainties) come to be regarded as facts (e.g. as 'stuff'). It is, of course, necessary to offer broad-scale spatial interpretations, but in some cases these interpretations are perceived to show real features and the distinction between data and interpretation becomes obscured.

It is important that data is made available widely, but also that there are opportunities for people to add their own data. 'Open' marine data portals are important from this perspective. However, as in other spheres, marine archaeological mapping and GIS initiatives have suffered because of the lack of common platforms, and of the short-term character of many mapping projects. Project-based mapping/GIS has been very productive, but once the project is completed the data becomes out-of-date or inaccessible. There are initiatives underway in Europe to achieve common access and harmonised standards for marine environmental data (e.g. EMODnet <http://www.emodnet-hydrography.eu>; ESPON <http://www.espon.eu/main/>). Although promising, these initiatives are addressing major, complex problems and will take time to come to fruition.

Conventional Thinking: How can Marine Spatial Planning help meet obligations arising from Articles 5-6 of the Valletta Convention and Article 5 of the UNESCO 2001 Convention?

Chair: Adrian Olivier

International conventions work on several levels simultaneously. They place legally-binding obligations on states, but often they include 'constructive ambiguities' that enable more countries to accede but make it difficult to prove non-compliance.

Nonetheless, such conventions present a powerful codification of the international community's expectations about how states should behave, and in this context they set out the principles and standards that states can be expected to apply to the relationship between marine planning and the historic environment.

Conventions have directly stimulated the amendment of heritage law and policy, or provide a standard for 'best practice' that should apply even if the state is not party to the convention.

The Valletta Convention is being implemented in respect of planning decisions about marine developments around Europe, but it was also noted that this convention applies not only to planning decisions but also to plan-making. The convention sets out a clear expectation that archaeologists and marine planners should work together in marine plan-making, not simply that archaeology should be taken into account when decisions are made.

However, Valletta only requires consultation between archaeologists and planners; it is not especially prescriptive otherwise. Marine plans are at such a scale that they are strategic rather than prescriptive themselves, and there is an expectation that detailed concerns will continue to be addressed by EIA.

It should also be borne in mind that the Valletta Convention is 20 years old and reflects the

philosophies of the time. More recent instruments such as the European Landscape Convention (ELC) and the Faro Convention have express provisions on planning that are more in-line with current thinking on heritage management, emphasising enhancement and enrichment and a more direct consideration of public and community benefit.

The ELC is also important because it emphasises an overarching approach to the management of areas, on land and/or at sea, rather than designation of specific areas.

In some cases, such as the World Heritage Convention, there is a requirement for parties to report periodically on their compliance, which reinforces the need for states to give effect to the obligations they have entered into. In the UK several cultural World Heritage Sites are located at the coast and need to be taken into account in marine plans.

Conventions also play an important role in underlining the public interest that motivates state archaeology. We have to ensure that archaeologists' involvement in MSP generates public benefit, by putting knowledge that arises from implementation of MSP back into the public domain. It is for this reason that research and synthesis are an important component of marine planning, so that there is a tangible public benefit from planning.

Elaborating the relationship between research and MSP in the context of Conventions may need time and resources, as it may not be immediately clear to developers, for example, why they should be responsible for funding 'research' rather than 'mitigation'. Investigation and intervention are, however, necessary to address the uncertainties in data and understanding referred to above.

Notwithstanding limitations in respect of compliance and level of detail, the Conventions provide important phrases that can be mobilised in the course of setting expectations about policies within MSP.

Planning and Assessment: How can Marine Spatial Planning best gain from Strategic Environmental Assessment (SEA) and facilitate Environmental Impact Assessment (EIA)?

Chair: Andrea Otte, Netherlands Cultural Heritage Agency

Marine plans are subject to SEA but may also set the scope of future SEAs carried out for public plans or programmes that fall within the marine plan area.

For the SEA of the plan itself, there is considerable value in it being carried out in parallel with the plan. If undertaken in parallel, the SEA can provide a focus for stakeholders to discuss what is known about the baseline and to develop options for plan policies. Parallel engagement in a SEA process has therefore been very important in collaborative MSP.

The SEA Directive requires that archaeological heritage is considered in the course of SEA when assessing marine plans, and SEAs have been useful in assembling baseline archaeological data for whole regions. SEA has also been useful in identifying data gaps.

However (as discussed above) there are problems in the archaeological data that is available to a SEA, and few SEAs will be able to carry out major acquisition of archaeological data.

Although the SEA process is broadly the same in each case, SEAs vary in their level of detail according to the needs of the plan or programme that is being assessed. They may also vary from topic to topic within the SEA, and heritage in particular is difficult to assess as part of SEA because of the uncertainties in baseline data.

Given that SEA is strategic in outlook, it may be appropriate for the archaeological component to focus less on mapping what is known and more on the key archaeological themes that are important and may be affected – positively as well as negatively – by the plan or programme in preparation.

If further data is required for SEA, archaeologists should not be apologetic but need to make the case for adequate resources. This view, however, needs to take into account questions of overall scale and resourcing. The Republic of Ireland, for example, has undertaken a major seabed survey that has been made available for archaeological interpretation, and the US is gathering new data on a large

scale to facilitate development. In other cases, however, SEA will not be accompanied by extensive acquisition of new data.

EIA plays a fundamental role in addressing the potential archaeological effects of marine developments. EIA is a legal requirement for major schemes irrespective of marine spatial planning.

Nonetheless, MSP could play an important role in helping to provide certainty to developers with respect to EIA. MSP policies are unlikely to be specific with respect to the detail that is to be provided by an individual EIA, but they could help guide the scope of the archaeological component of EIA for any particular marine area, or establish whether a smaller scheme is over the threshold for EIA where EIA is not mandatory. MSP could also indicate – in general terms – what will be considered ‘adequate’ in considering the archaeological heritage, to discourage instances where the archaeological heritage is supposedly included in EIA but dealt with by just a short paragraph.

In return, the conduct of archaeological investigations in accordance with the findings of EIA can provide firm data about the marine historic environment that can help refine future marine plans and inform the conduct of subsequent EIAs. As indicated above, MSP policies could play an important role in ensuring that feedback from EIA-related investigations informs subsequent plan-making and decisions, bearing in mind that although EIAs are public documents it is not necessarily easy to access them centrally.

Summing-Up

Antony Firth, Director, Fjordr Limited

MSP is nebulous and likely to remain so. The relationship between the historic environment and MSP is unlikely to be made clear to archaeologists by others; archaeologists have to take the initiative.

Issues such as scale, resolution, level of detail and uncertainty are key to the historic environment within MSP.

There is work still to be done on engaging in discussions about the relationship between the historic environment and approaches that focus upon ecosystems, habitats and so on.

There is also work to do – and opportunities – in building up our discussion of the role of archaeology for communities, for local economies, and in terms of public value.

There is encouragement from the Conventions, but we have to be wary of taking them too literally.

There is clearly a role for data – both archaeological (re-)use of existing data, and acquisition of new archaeological data.

It is very clear that MSP could play a significant role in achieving feedback loops between strategic and specific scales.

MSP might present circumstances that are not of our choosing, but what should we make of it?

- The sea is not homogenous in archaeological terms. Sites, meanings, potential and significance are not uniformly distributed.
- We have to make decisions about different bits of sea.
- If archaeologists don't make those decisions, then someone else will.

A great deal of learning is still required. As this event has shown, it is helpful to share the learning amongst the marine archaeological community across different countries. But it also makes sense to share this learning process with our partners and policy-makers in other fields, and with the public at large.

To conclude, MSP is about the relationship between people – society – and the sea. This is also the relationship that marine archaeologists try to understand from a historical perspective. There is a tremendous opportunity, therefore, for our management of the seas to gain from an understanding of the historic environment through archaeologists' engagement in MSP.

Appendix IV: Dealing with the Historic Environment in Marine Plans

DEALING WITH THE HISTORIC ENVIRONMENT IN MARINE PLANS

INTRODUCTION

The **historic environment** comprises all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged.

Policy Reference

NPPF p. 52; UK
MPS para. 2.6.6.1

The historic environment is made up of **heritage assets**, which are buildings, monuments, sites, places, areas or landscapes identified as having a degree of significance meriting consideration in planning decisions because of their heritage interest.

NPPF p. 52

Heritage assets are a finite and irreplaceable resource and can be vulnerable to a wide range of human activities and natural processes.

UK MPS para.
2.6.6.2; NPPF
para. 126

The UK Marine Policy Statement recognises that the historic environment of coastal and offshore zones represents a unique aspect of our cultural heritage. It notes that heritage assets should be enjoyed for the quality of life they bring to this and future generations.

UK MPS para.
2.6.6.2-3

People appreciating the seascapes and cultural heritage of the marine environment is one of the Government's high level marine objectives for ensuring a strong, healthy and just society.

Our Seas p. 6

In addition to its cultural value, the historic environment is an asset of social, economic and environmental value. It can be a powerful driver for economic growth, attracting investment and tourism and sustaining enjoyable and successful places in which to live and work. Economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

UK MPS para.
2.6.6.2; NPPF
para. 8

The Government's vision is that the value of the historic environment is recognised by all who have the power to shape it; that Government gives it proper recognition and that it is managed intelligently and in a way that fully realises its contribution to the economic, social and cultural life of the nation.

GSHE p. 1

In its vision for our seas in twenty years' time, the Government sets out the following outcomes:

- The marine environment's rich cultural heritage will be better protected.
- The integrity of the marine cultural heritage will be being conserved.
- Management for the coastal zone will support the cultural heritage of coastal areas.
- There will be appropriate protection for, and access to, marine heritage assets.
- The diversity of seascape character around our coastline will be maintained.

Our Seas p. 5

English Heritage is the Government's statutory adviser on the historic environment in England. Its approach to making decisions and offering guidance on all aspects of the historic environment is set out in *Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment* (2008). This includes processes for assessing significance and managing change to significant places.

Conservation Principles pp. 35-40; pp. 43-48

THE RELATIONSHIP BETWEEN THE HISTORIC ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

The historic environment is often considered in terms of the environmental pillar of sustainable development. Additionally – as indicated by the Government policies above – the historic environment can also make a major contribution to the economic pillar and the social pillar of Sustainable Development. The historic environment is also an appropriate focus for good governance and sound science. It is important that marine plans encompass the historic environment in terms of all three pillars of Sustainable Development – Economic, Social and Environmental – as well as good governance and sound science.

Understanding the historic environment – the role that people have played in shaping our contemporary ecosystem through the millennia – may provide a firmer foundation for ecosystem-based management. On the one hand, it can help in comprehending the time depth of features or characteristics of the natural environment that are attributable to human actions; on the other, it can help engage today's populations in finding solutions and new practices that acknowledge the continuing role of people and communities in making valuable marine places sustainable.

Cultural heritage is recognised as a component of 'cultural services' in the ecosystems services approach. Specific landscapes and species can have cultural significance to people in addition to their role in provisioning, regulating or supporting society. Cultural heritage – including the history of human interaction with landscapes and their creation of habitats – also provides a fundamental context within which other ecosystem services can arise. However, the relationship between cultural heritage and ecosystem services is not well understood, especially in the marine sphere, and quantitative data on the value of cultural services arising from the historic environment is often lacking. Some studies, including the UK National Ecosystem Assessment, are starting to show how the value of the marine historic environment to UK society might be better recognised in informing planning and decision-making.

As with cultural services, socio-economic evaluations of our coasts and seas find it difficult to encompass the benefits of the historic environment to society in monetary terms. There is, however, clear recognition of the symbolic and cultural values of marine and coastal features and landscapes, and of the role that the historic environment plays in the creation of economically-vibrant places to live and work. Positive strategies that mobilise the historic environment through planning and development can contribute to the role that history, authenticity and identity can play in economic growth.

INTERNATIONAL OBLIGATIONS

The UK is obliged to make proper provision for the historic environment in marine planning by virtue of several international treaties to which the UK has acceded.	Policy Reference
The <i>World Heritage Convention 1972</i> , which the UK ratified in 1984, requires the UK to integrate the protection of cultural heritage into comprehensive planning programmes. This requirement is underscored in the Operational Guidelines for the Implementation of the World Heritage Convention	WHC 1972 Art. 5; Operational Guidelines 2011 para. 15c
The <i>European Convention on the Protection of the Archaeological Heritage (revised) 1992</i> – the Valletta Convention – requires the UK, which ratified in 2001, to provide for archaeology in planning policies and development plans. The Valletta Convention applies to archaeological heritage in any area within the jurisdiction of the UK, whether situated on land or under water.	Valletta 1992 Art. 5; Art. 1.2.ii; Art. 1.3
In 2007, the UK ratified the <i>European Landscape Convention 2000</i> (ELC). The ELC requires the UK to integrate landscape into its regional planning policies. Landscape is defined as an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors. The ELC applies to the entire territory of the UK and includes land, inland water and marine areas.	ELC 2000 Art 5.d; Art 1.a; Art. 2
There are a further two international treaties that require the historic environment to be addressed in marine planning. Although the UK is not party to these treaties, it has signalled its support for most of their provisions.	
The <i>UNESCO Convention on the Protection of Underwater Cultural Heritage 2001</i> obliges Parties to use the best practicable means at their disposal to prevent or mitigate adverse effects from activities incidentally affecting underwater cultural heritage. Marine planning is likely to be regarded as a ‘best practical means’ for dealing with a wide range of marine activities – dredging, construction, fishing, etc. – that may give rise to incidental effects.	UNESCO 2001 Art. 5
The <i>Framework Convention on the Value of Cultural Heritage for Society 2005</i> – the Faro Convention – requires Parties to utilise heritage aspects of the cultural environment to enrich the process of landuse planning and to promote an integrated approach to policies.	Faro 2005 Art. 8

EUROPEAN CONTEXT

The European Legislation with the most direct effect on the historic environment are the EIA Directive and the SEA Directive, both of which set out requirements for the assessment of likely effects on the archaeological heritage arising from individual schemes (EIA) and plans and programmes (SEA).	Policy Reference Directive 2011/92/EU; Directive 2001/42/EC
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<p>In contrast to the EIA and SEA Directive, the notion of environment ('Good Environmental Status') in the Marine Strategy Framework Directive does not include historic aspects of the environment. Heritage Assets might be considered among the 'other features' that characterise marine regions, or in the social and economic analysis that is required as part of the Initial Assessment that accompanies each Marine Strategy.</p>	Policy Reference
<p>The early development of the EU's Integrated Maritime Policy (IMP) put marine heritage firmly in the foreground, setting out proposals on 'reclaiming Europe's maritime heritage and reaffirming Europe's maritime identity'. European Maritime Day has become a focus for discussion of maritime heritage themes.</p>	<p>Directive 2008/56/EC</p> <p>Blue Book Action Plan section 8</p>
<p>The role of cultural heritage in social and economic growth is underlined by the Territorial Agenda of the European Union 2020 (TA 2020).</p>	TA 2020 para. 23; 31; 37-38
<p>The obligation on the EU to consider the cultural aspects of its actions, and its role in bringing the common cultural heritage of Europe to the fore, are set out in the <i>Treaty on the Functioning of the European Union</i> (Lisbon, 2007). The enormous variety of actions relating to culture across the EU's policies and programmes is set out in The European Agenda for Culture.</p>	TFEU Art. 167; Communication COM(2007) 242 final

SCOPE

The Role of Marine Planning

<p>One of the Government's high level marine objectives is that the use of the marine environment is spatially planned and based on an ecosystems approach (see above) which recognises the protection and management needs of marine cultural heritage.</p>	<p>Policy Reference</p> <p>Our Seas p. 7</p>
<p>Government has also stated that planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.</p>	NPPF para. 61
<p>As well as setting the direction for marine licensing, marine plans apply to all authorisation and enforcement decisions taken by public authorities with respect to the plan area. This means that the role of marine plans is much wider than development planning and control.</p>	UK MPS p.4

Relation to Terrestrial Planning

The Government has made it clear that the process of marine planning is to be integrated with terrestrial planning. The UK MPS and marine planning systems will sit alongside and interact with existing planning regimes. Integration of marine and terrestrial planning is to be achieved, in part, through consistency between marine and terrestrial policy documents and guidance. Terrestrial planning policy and development plan documents already include policies addressing coastal and estuarine planning. Marine policy guidance and plans are expected to complement rather than replace these. English Heritage has recently produced guidance entitled *Heritage in Local Plans: how to create a sound plan under the NPPF* (July 2012).

Policy Reference

UK MPS pp.4-5;
para. 1.3.1; 1.3.4

In coastal areas, local planning authorities are expected to take account of the UK MPS and marine plans and apply Integrated Coastal Zone Management across local authority and land/sea boundaries, ensuring integration of the terrestrial and marine planning regimes.

NPPF 105

Integration between terrestrial and marine planning is especially important for the historic environment because terrestrial planning plays a very major role in the management of the historic environment. In addition to national frameworks and guidance, the majority of local plans contain detailed policies on the historic environment. At the coast, such local plan policies will be immediately and directly relevant to activities within marine plan areas, and it is essential that marine plans take them into account.

Integration between marine and terrestrial planning is especially important where the different regimes overlap, between low water and high water, which is often a zone in which complex and significant heritage assets are found. It is also important where a development scheme or activity extends across both fully terrestrial and fully marine areas, because today's boundaries may not be relevant to heritage assets that were deposited centuries or millennia ago, and which have to be approached 'seamlessly' if their significance is to be understood and conserved. Integration is also necessary where heritage assets are located within either the terrestrial or the marine zone but those assets – including their settings and broader landscape context – are susceptible to changes in the other zone.

Relation to National Policy Statements

Decisions about applications for Nationally Significant Infrastructure Projects (NSIPs), including those that have marine elements, are taken by the relevant Secretary of State in accordance with the relevant National Policy Statement (NPS). Although they do not fall directly under marine plans, decisions about NSIPs must have regard to the UK MPS. In return, marine plan authorities should have regard to any relevant NPS in developing Marine Plans and in advising other bodies.

Policy Reference

UK MPS 1.3.2

Individual NPS contain detailed provisions on the historic environment. These include requirements on describing significance, sources of data, desk-based assessment, field evaluation, and visualisations, for example. They also include specific policies for decision-taking.

Policy Reference

e.g. Ports NPS
para. 5.12.6-9;
5.12.10-20

NPS provisions on the historic environment are cited in the UK MPS, which states that mitigating actions should be consistent with national policies on the recording of heritage assets set out in National Policy Statements

UK MPS note 57

WORLD HERITAGE SITES

Marine plans that border World Heritage Sites (WHS) should include appropriate policies to protect their setting.

Policy Reference
EH 2009 para.
7.4

World Heritage Sites have been recognised internationally as having outstanding universal value. The UK has obligations in international law for their protection, management, presentation and transmission to future generations by virtue of the World Heritage Convention 1972.

There are several World Heritage Sites in England that have boundaries immediately adjacent to tidal waters or have buffer zones that encompass tidal waters, including WHS bordering the tidal Thames, Mersey, Cornwall and West Devon coasts, Solway and Tyne, and Dorset and East Devon coasts. Of these, all are 'cultural' WHS except Dorset and East Devon, which is inscribed as a 'natural' WHS. In addition, further cultural WHS have been proposed at Wearmouth and bordering the Medway.

It is Government policy that the most appropriate way of meeting the UK's obligations is through the inclusion of appropriate policies in planning documents and the development of management plans.

Circular 07/2009
para. 9

Specific provisions on plan policies for World Heritage Sites their setting and any buffer zones are set out in Circular 07/2009.

Circular 07/2009
para. 10-12

Provisions on the development of Management Plans for World Heritage Sites are set out in Circular 07/2009. Planning authorities are expected to treat relevant policies in WHS Management Plans as key material considerations in making plans and planning decisions.

Circular 07/2009
para. 13-14

Specific provisions on protecting the setting of WHS, including the designation of buffer zones, are set out in Circular 07/2009. It is important to consider carefully how to protect the setting of each World Heritage Site so that its outstanding universal value, integrity, authenticity and significance is not adversely affected by inappropriate change or development. Protection may encompass the immediate setting of the WHS, important views and of other areas that are functionally important as a support to the site and its protection.

Circular 07/2009
para. 15-18

Policy Reference

As well as including appropriate policies in marine plans that border WHS, plan authorities, where applications are within the setting of a WHS, including any buffer zone, plan authorities should carefully consider the impact on the Outstanding Universal Value, authenticity and integrity of the WHS.

EH 2009 para.
7.10

Other detailed provisions relevant to plan-making and decision-taking in plan areas bordering WHS or encompassing their setting are set out in English Heritage guidance.

EH 2009

SIGNIFICANCE

Core Planning Principle

Policy Reference

Conserving heritage assets in a manner appropriate to their significance – so that they can be enjoyed for their contribution to the quality of life of this and future generations – is one of the Government’s 12 core planning principles.

NPPF para. 17

The fundamental role of significance in marine planning is underlined by the UK MPS, which states that heritage assets should be conserved through marine planning in a manner appropriate and proportionate to their significance.

UK MPS para
2.6.6.3

Gauging Significance

Policy Reference

Plan authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. Authorities should take into account the particular nature of the interest in the assets and the value they hold for this and future generations. This understanding should be applied to avoid or minimise conflict between conservation of that significance and any proposals for development.

UK MPS 2.6.6.7;
NPPF para. 129

In determining applications, plan authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.

NPPF para. 128

The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

NPPF para. 128

Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

NPPF para. 128

Avoiding Loss of Significance

Significance can be harmed or lost through alteration or destruction of heritage assets or development within their setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

Policy Reference

NPPF para. 132

Being sensitive to any potential impacts on sites of particular significance – including those designated in relation to cultural heritage – is a principle to be taken account in marine planning decisions.

UK MPA 2.3.2.2

Plan authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred. This policy is intended to prevent heritage assets being damaged in advance of developments that receive consent but do not go ahead.

NPPF para. 136

Conserving Designated Heritage Assets

Plan authorities should adopt a general presumption in favour of the conservation of designated heritage assets within an appropriate setting. The more significant the asset, the greater should be the presumption in favour of its conservation.

Policy Reference

UK MPS 2.6.6.8;
NPPF para. 132

Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional. Even substantial harm to or loss of a grade II listed building, park or garden should be exceptional.

NPPF para. 132;
UK MPS 2.6.6.8

Substantial loss or harm to designated assets should not be permitted; plan authorities should refuse consent unless it can be demonstrated that the harm or loss is necessary in order to achieve substantial public benefits – social, economic or environmental – that outweigh the harm or loss.

UK MPS 2.6.6.8;
NPPF para. 133

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal

NPPF para. 133

It must be borne in mind that designated heritage assets such as scheduled monuments and protected wreck sites are subject to statutory consent and licensing regimes in addition to marine licensing / development consent, the determination of which is the responsibility of the relevant Secretary of State

UK MPS note 56

Non-Designated Assets

Policy Reference

Many heritage assets with archaeological interest in coastal/intertidal zones and inshore/offshore waters are not currently designated as scheduled monuments or protected wreck sites but are demonstrably of equivalent significance.

UK MPS 2.6.6.5

The absence of designation for such assets does not necessarily indicate lower significance and the marine plan authority should consider them subject to the same policy principles as designated heritage assets based on information and advice from the relevant regulator and advisors.

UK MPS 2.6.6.5;
NPPF para. 135

The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

NPPF para. 135

Conserving Significance where Heritage Assets are to be Harmed or Lost

Policy Reference

Opportunities should be taken to contribute to our knowledge and understanding of our past by capturing evidence from the historic environment and making this publicly available, particularly if a heritage asset is to be lost.

UK MPS 2.6.6.3

Where the loss of the whole or a material part of a heritage asset's significance is justified, the marine plan authority should identify and require suitable mitigating actions to record and advance understanding of the significance of the heritage asset before it is lost.

UK MPS 2.6.6.9;
NPPF para 141

Mitigating actions should be based on advice from the relevant regulator and advisors and be consistent with national policies on the recording of heritage assets set out in National Policy Statements.

UK MPS note 57

The resulting evidence (and any archive generated) should be made publicly accessible. Copies of evidence should be deposited with the relevant Historic Environment Record, and any archives with a local museum or other public depository.

NPPF para 141

It should be borne in mind that the UK is obliged to take measures to ensure that major public or private development schemes include resources for preliminary archaeological study and prospection, a scientific summary record and full publication and recording of the findings, by virtue of the Valletta Convention.

Valletta 1992 Art.
6

Although the significance of a heritage assets can to some extent be conserved through mitigation, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

NPPF para 141

Sustaining and Enhancing Significance

Pursuing sustainable development involves seeking positive improvements in the quality of the historic environment, as well as in people's quality of life, including making it easier for jobs to be created in cities, towns and villages and improving the conditions in which people live, work, travel and take leisure.

Policy Reference

NPPF para. 9

In determining applications, plan authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

UK MPS 2.6.6.8;
NPPF para. 131

Plan authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably

NPPF para. 137

THE HISTORIC ENVIRONMENT IN MARINE PLAN-MAKING

Strategies and Priorities

In their plans, plan authorities should set out a positive strategy for the conservation and enjoyment of the historic environment; plans should contain a clear strategy for enhancing the historic environment

Policy Reference

NPPF para.
126;156

Plan authorities should set out their strategic priorities to deliver conservation and enhancement of the historic environment, including landscape, for their area in the Marine Plan.

NPPF para. 156

Supplementary Planning Documents

Supplementary planning documents can help applicants make successful applications or aid infrastructure delivery and should be used accordingly. However, they should not add unnecessarily to the financial burdens on development.

Policy Reference

NPPF 153

Evidence

Marine plan authorities have a statutory duty to keep under review the cultural characteristics of the region, including the characteristics of the region that are of a historic or archaeological nature.

Policy Reference

MCAA 2009 s. 54

Plan authorities should have up-to-date evidence about the historic environment in their area – either by maintaining or having access to a Historic Environment Record – and use it to assess the significance of heritage assets and the contribution they make to their environment.

NPPF para. 169

Historic Landscape Character (HLC) and/or Historic Seascape Character (HSC) assessments should be drawn upon where appropriate.

Policy Reference

NPPF para. 170

The plan authority should take into account the available evidence, including information and advice from the relevant regulator and advisors, in relation to the significance of any identified heritage assets, and consider how they are managed.

UK MPS para. 2.6.6.6

The marine plan authority should take into account the historic character of the plan area, with particular attention paid to the landscapes and groupings of assets that give it a distinctive identity

UK MPS para. 2.6.6.6

The plan authority should also take into account the potential for further heritage assets to be discovered, bearing in mind that existence and/or location of many heritage assets are often unknown prior to the investigation of an area. The plan authority should use the available evidence to predict the likelihood that currently unidentified heritage assets, particularly sites of historic and archaeological interest, will be discovered in the future.

UK MPS para. 2.6.6.6; NPPF para. 169

Local planning authorities should make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible.

NPPF para. 141

SPATIAL POLICIES

On the basis of evidence, advice, consideration and review, plan authorities should develop a spatial approach with respect to the historic environment, recognising that the character and significance of the historic environment is not uniform across all areas of sea. This spatial approach should be evidence-based and might include the identification of specific areas or zones in which particular policies might apply. The approach to areas or zones should be integrated with spatial policies for the historic environment in adjoining terrestrial plans.

Non-statutory designation of areas through marine plans may be an effective means of dealing with heritage assets that are grouped or associated; with areas where the presence of currently unidentified heritage assets is likely; or where specific areas are regarded as significant by people locally or in the region.

MARINE PLAN POLICIES ON THE HISTORIC ENVIRONMENT

Marine Plan policies on the historic environment need not reiterate or duplicate statutory provisions or higher-level policies set out in the UK MPS, National Planning Policy Framework, or National Policy Statements, for example. Should it be necessary to draw the attention of developers, stakeholders or the general public to these, they can usefully be set out in a Supplementary Planning Document (SPD).

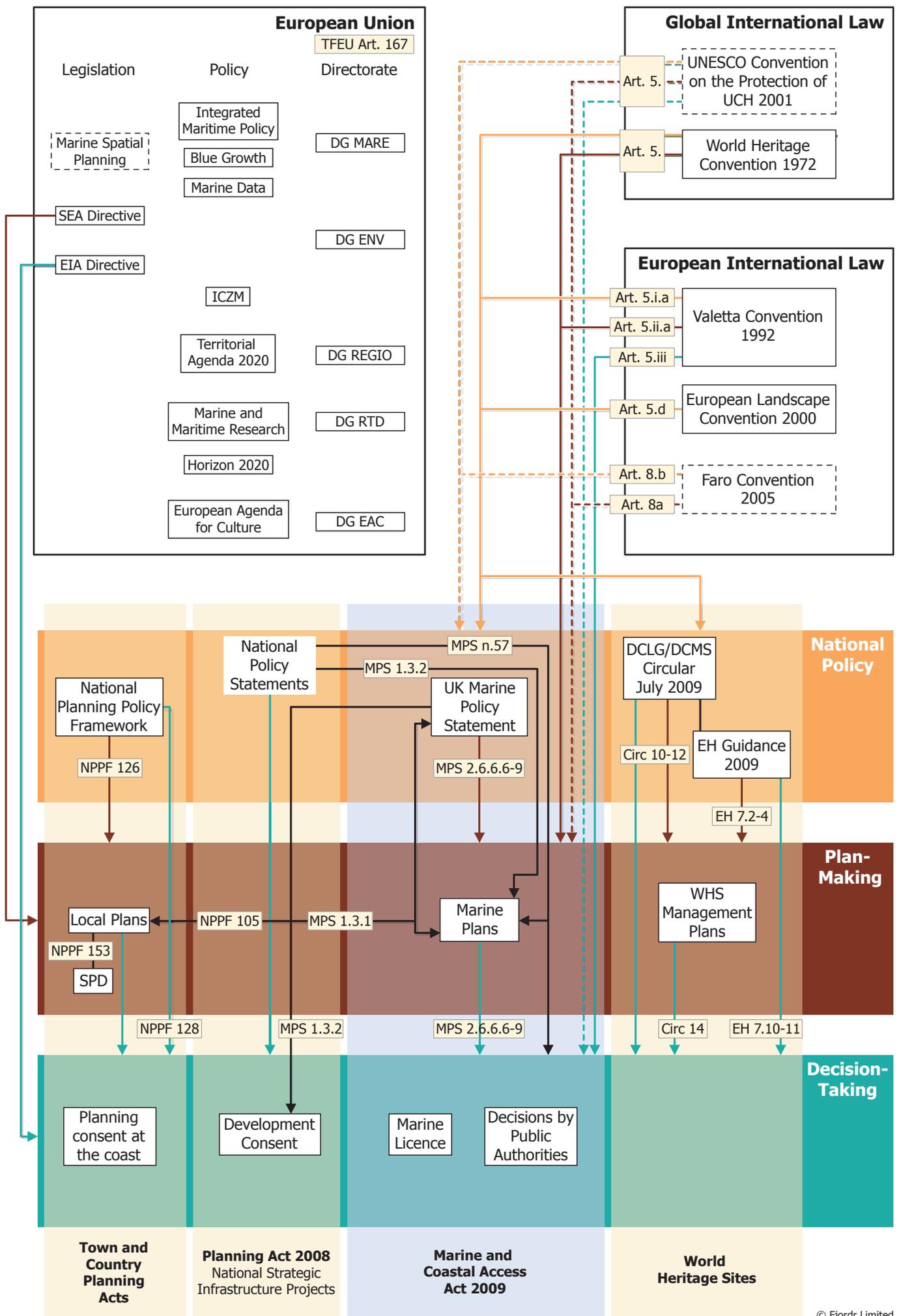
It is not necessary for Marine Plans to provide detailed advice in the form already set out in various 'best practice' guidance. Again, such detail can be signposted in an SPD.

Express policies relating to the historic environment might reasonably encompass the following:

- Strategy for the conservation and enjoyment of the historic environment.
- Strategy for enhancing the historic environment, including enhancing access, understanding and appreciation of heritage assets.
- Strategic priorities for conservation, enjoyment and enhancement of the historic environment, including landscape, in the marine plan area.
- Policies that enable the marine plan authority to meet its statutory duty to keep under review the historic and archaeological characteristics of the marine plan area.
- Policies on increasing the contribution of historic environment to economic growth through e.g. coastal and marine-related tourism.
- Policies on increasing the social contribution of the historic environment, including encouraging public access and engagement, and sustaining enjoyable and successful places in which to live and work.
- Policies on relationship between historic environment and other environmental concerns, including their protection and management (e.g. MCZs).
- Policies on early engagement with the Government's advisers on the historic environment and with Local Government Archaeological Officers (in order to achieve integration between marine and terrestrial planning).
- Policies with respect to public authority authorisation and enforcement decisions affecting the historic environment.
- Policies on World Heritage Sites within or bordering the marine plan area.
- Policies on conserving heritage assets, and on avoiding or mitigating harm or loss of significance of heritage assets.
- Policies on designated heritage assets.
- Policies on undesignated heritage assets.
- Policies on as-yet undiscovered heritage assets.
- Policies on information about the historic environment and significance of heritage assets to be provided by applicants, encompassing a) desk-based assessment; and b) field evaluation.
- Policies on measures for mitigating actions to record and advance understanding of the significance of heritage assets that are to be harmed or lost.
- Policies on making information about the historic environment publicly-available, including information gathered as part of the plan-making process, information submitted by applicants, and information that has arisen when heritage assets have been harmed or lost.

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Fjodr Limited
Post Office House
High Street, Tisbury
SP3 6LD, UK

email: info@fjodr.com
telephone: +44 (0) 1747 873806



www.fjodr.com

Registered Office:
Windover House, St. Ann Street, Salisbury, SP1 2DR

Company No. 07837575
VAT Registration No. 138 7501 05