



British Marine Aggregate
Producers Association

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Dear Sir

A Sea Change – A Marine Bill White Paper
Response from the British Marine Aggregate Producers Association

Introduction

1. The British Marine Aggregate Producers Association (BMAPA) is the representative trade body for the British marine aggregate sector. BMAPA represents 10 member companies who collectively produce over 90% of the 24 million tonnes of marine sand and gravel dredged from licensed areas in the waters around England and Wales each year.
2. Marine dredged sand and gravel is principally used by the construction industry, and the marine contribution represents around 7% of Great Britain's overall construction aggregate requirements. At a regional scale the contribution made by the marine aggregate sector can be very significant, providing 20% of overall sand and gravel demand in England, 90% of fine aggregate demand in South Wales, 35% of total construction aggregate demand in South East England and over 50% of construction aggregate demand in London. In this respect, marine aggregate supplies play a key role in supporting the delivery of various Government policies, including Sustainable Communities, the regeneration of Thames Gateway and the 2012 Olympic Games.
3. Marine dredged sand and gravel also provides a strategic role in supplying large scale coast defence and beach replenishment projects – over 25 million tonnes being used for this purpose since the mid 1990's. With the growing threats posed by sea level rise and increased storminess, the use of marine sand and gravel for coast protection purposes will become increasingly important.
4. In both cases, the marine aggregate sector is dependant upon identifying and licensing economically viable sand and gravel deposits to secure sufficient reserves to maintain long term supply to existing and well established markets. The location of such deposits is extremely localised around the waters of England and Wales, restricted to their geological distribution and their geographical position related to the markets location.



The British Marine Aggregate Producers Association is one of the constituent bodies of the Quarry Products Association, the trade association for the aggregate, asphalt and ready-mixed concrete industries. Secretary Mark Russell.

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Overarching Comments

5. BMAPA welcomes the publication of the Marine Bill White Paper, and the continued commitment from UK Government to improve the way in which the marine environment is planned, managed, regulated and protected. The marine aggregate sector remains in favour of an approach which is able to define and deliver a 'licence to operate' for all marine activities, guided by a long-term integrated marine policy statement. From an industry perspective, a more consistent approach would provide greater certainty when planning, consenting and managing operations – both now and into the future.

6. While recognising that the process still has some way to go, it is positive to see the approach proposed by UK Government to deliver the desired improvements starting to take shape. Equally positive is the degree to which many of the practical concerns and issues raised through the 2006 consultation process have been addressed. In particular, the recognition in both the vision and strategic goals that the Bill will have to deliver UK Governments commitment to considering the full range of social, economic and environmental needs across the UK marine area.

7. We also strongly endorse the acknowledgement that it will be necessary to develop not only an overarching marine policy statement but also supporting marine objectives that address the entire range of marine uses and pressures. This will be essential in order to both define and deliver the long term policy aspirations for all interests. It is worth noting that while many of the environmental objectives and aspirations are already well advanced, the majority of socio-economic components still need to evolve.

8. Given the aspiration to plan and manage UK waters on a more integrated basis, the marine aggregate industry would encourage every effort to be made by UK Government and the devolved administrations to ensure a consistent and joined up approach across all UK marine areas. An inconsistent approach – whether in policy, planning or management – will hinder the ability to manage UK seas at an ecosystem scale and provide major obstacles to the integrated consideration of economic, social and environmental demands which exist, many of which can transcend the notional administrative boundaries that exist offshore.

9. With so many aspects relating to the practical delivery of the various functions anticipated in the White Paper to be delivered under secondary legislation, at this stage it still remains difficult to comment in detail beyond the principles proposed. Having said that, we recognise that further opportunities to contribute to both the Marine Bill process, and the various components that underpin it, are proposed. As the precise details of delivery develop, BMAPA would welcome the opportunity to constructively contribute to this process.

10. The White Paper outlines some fundamental marine policy, planning, regulatory and administrative changes, yet these will take time to

be enacted, particularly if the marine plans are phased. In the meantime, operators and wider stakeholders will need to understand how ongoing activities will be dealt with in the transitional period that will inevitably exist. Some stakeholders could use the absence of the UK marine policy statement or the marine plans that stem from these to call for legitimate development activity to be delayed. To avoid the potential for planning blight in this interim period, it will therefore be important for the transitional arrangements to be clearly defined, including the means by which existing operations or developments will transfer into the new regime once established.

11. We recognise from the Regulatory Impact Assessment that there remain some gaps in data to allow a comprehensive consideration of the socio-economic uses of UK marine waters. BMAPA has recently commissioned the British Geological Survey to prepare a report examining the strategic importance of the British marine aggregate industry, which will include information on the overall value of the construction sector and the contribution made by marine sand and gravel. This report is expected to be published in July 2007, and we would be pleased to provide a copy to the Defra Marine Bill team for reference purposes.

12. The comments presented below relate to the principle section headings used throughout the White Paper.

Section 3. Environmental data and information

13. While the new consultation document acknowledges the importance of high quality data to underpin and inform the planning, licensing and protection components of the Bill, the absence of a costed commitment to improve the baseline understanding of the UK marine seas remains a key weakness. We note that indicative costs are presented for site investigation of proposed Marine Conservation Zones, but there remains a need to develop a more robust context against which these sites can be considered. Some of this can be achieved by making better use of existing data, but there remain fundamental limitations to the resolution and coverage of existing data sources. We would therefore suggest that there remains a very strong case for a centrally funded and coordinated UK-scale marine mapping programme.

14. The potential role of the MMO in coordinating this function is welcomed, but there must be the funds available to undertake the necessary data acquisition programmes, rather than simply relying upon what data already exists – both in the public and private sectors.

15. Similarly, the successful outcome of the work being undertaken by both UKMMAS and MDIP will be essential in delivering an effective and robust data management and archive infrastructure to ensure that maximum value can be derived from all data collected in UK seas.

Section 4. Planning in the marine area

16. We strongly support the Government's aim to develop a strategic marine planning system to clarify their marine objectives and priorities for the future. Only through a more integrated, forward looking approach can many of the current failings of marine management be addressed. Implemented effectively, this should offer benefits to not only the wider environment, but also to the range of interests that make use of it. From an industry perspective, this includes improvements in decision making and successful conflict resolution.

17. Building on the stated marine vision and goals, both of which acknowledge the importance of socio-economic elements of sustainable use, the creation of a UK marine policy statement would represent a significant first step. However, while the environmental quality marine objectives are already well developed, it is essential that equivalent objectives for the socio-economic components of marine use are also incorporated. In some cases these will be able to draw upon existing policies which exist, however in others – such as the marine aggregate sector – it is possible that new objectives will need to be developed.

18. Such objectives will need to be substantive and ultimately help to inform the sometimes difficult planning judgements that will inevitably result. This in turn should result in greater certainty for industry, regulators and wider stakeholders. BMAPA would very much welcome the opportunity to contribute to the development of the objectives for marine aggregates, building upon the existing minerals policy which exists in England (MPS-1) and Wales (MTAN). This would ensure that the detailed content not only recognises the national need, but also some of the practical constraints which exist.

19. We welcome the forward looking strategic approach that is being proposed by the White Paper – particularly with respect to future spatial requirements. From a marine resource management perspective, this provides an opportunity for the plan to consider the possibility of safeguarding areas of marine sand and gravel for future use.

20. While the White Paper suggests that the UK marine policy statement may be subject to SEA (para 4.29), there is no reference to any requirement for public examination of the proposals. We believe that this could be a useful step to ensure that the final policy is both robust and accurate. However, we also recognise that this process may itself have significant implications to the delivery timetable which is proposed.

21. Given the aspiration to plan and manage UK waters on a more integrated basis, the marine aggregate industry would encourage every effort to be made by UK Government and the devolved administrations to ensure a consistent and joined up approach across all UK marine areas. An inconsistent approach for policy, planning or management will hinder the ability to manage UK seas at an ecosystem scale and provide major obstacles to the integrated consideration of economic, social and

environmental demands which exist, many of which can transcend the notional administrative boundaries that exist offshore.

22. We welcome the proposal for a single plan to cover a defined regional sea area, and note the suggestion to integrate the marine regime with the terrestrial through an overlap at the inter-tidal zone. We would certainly support this approach as the most appropriate means to link the two regimes. We would not be in favour of any extension to the existing land-based regime beyond Mean Low Water, nor of responsibility for delivering the marine plans (or sub regions thereof) being devolved to a more local, terrestrially focused organisation.

23. The plan development process will be very important to all stakeholders who hold an interest in the marine area being considered. Consequently, all relevant stakeholders will want to play a full and active part in the development process to ensure that their interests are represented. This should include a requirement for plans to be subject to public examination – currently only an option. Associated with this, it is important to recognise that unlike on land the majority of organisations with interests in the marine environment operate at a national scale – including many within Government. As there is the potential for significant workload arising from marine planning, it is important for the regional plan development process to be phased so that the initial development and subsequent reviews of all plans do not take place simultaneously. It is equally important that the timetable for plan development not only takes into account UK Government plans, but also those being undertaken by the devolved administrations.

24. For the plan process to successfully deliver greater certainty for all marine users, it is absolutely essential for both developers and for regulators that it guides and shapes the decision making process. While this will be guided by the UK marine policy statement, it is also important that decision makers have the opportunity to adopt a flexible approach should other relevant considerations arise – particularly given the levels of data and understanding that will be initially available to inform the plan development process. If for example the initial plan is based on old data or data that provides poor resolution and an activity that requires a decision is able to provide refined scientific evidence to support their case, then we believe that it would be appropriate for the decision-maker to take this into account.

Section 5. Licensing activities in the marine area

25. We welcome the White Papers desire to deliver better regulation of marine activities by making the licensing system as effective, efficient and simple as possible through streamlining the licensing process and delivering it through a single body, the Marine Management Organisation. The desire for a customer focus is important, as is the desire for a more proportional approach to decision-making based on risk. The presence of both a UK marine policy statement and the marine plans which stem from

this should provide a more robust framework against which decisions can be taken.

26. Given the aspiration to manage UK waters on a more integrated basis, the marine aggregate industry would encourage every effort to be made by UK Government and the devolved administrations to ensure a consistent and joined up approach to licensing across all UK marine areas. An inconsistent approach to licensing will hinder the ability to manage UK seas at an ecosystem scale and provide major obstacles to the integrated consideration of economic, social and environmental demands which exist, many of which can transcend the notional administrative boundaries that exist offshore.

27. Statutory dredging regulations to control marine aggregate extraction were introduced in England and Northern Ireland in May 2007, and equivalent regulations continue to be prepared for Wales and Scotland. Under the White Paper proposals, we understand that these regulations are likely to be incorporated into a wider consent for dredging activity. The industry has actively supported the introduction of the current statutory regulations, on the basis that they provide a more robust and efficient means to determine dredging permissions. Central to this has been the introduction of a fee-based system which ensures that sufficient resources are available within Government to administer and advise both pre-application discussions and the decision making process itself. Although the new regime has not been tested as yet, we would be concerned if the revised arrangements under the White Paper reduced the resourcing capacity within Government.

28. Having said that, the marine aggregate industry recognises that there are advantages in having all dredging activity considered under a single system, to ensure consistency of approach. It will though be essential for there to be sufficient flexibility in the system to be able to account for the significant differences not only in the environments being considered (from estuarine to deep water offshore), but also the very different issues and risks posed by the various forms of dredging activity which take place.

29. The new statutory dredging regulations for England include the provision for consideration of decisions to be subject to public hearing to address substantive issues of concern which remain outstanding. This includes provision for costs to be awarded against parties that behave unreasonably, and we suggest that both of these be applied to the new licensing regime which is proposed.

30. We welcome the acknowledgement of the need for timely decisions to be made, and the benefits that a more robust (albeit flexible) timetable for the application process would provide for all parties. For this to succeed, it is essential that the authorities are able to provide clear and unambiguous guidance on the information applicants are required to provide to inform the decision making process. The importance of pre-application discussions between applicants and regulators and their advisors to identify issues of

concern and means to address these – whether in terms of understanding or management measures, must also be acknowledged.

31. The suggestion that compliance to regulatory requirements be enforced through administrative sanctions, rather than the courts is welcome. From a marine aggregate industry perspective, there are circumstances where requirements may be breached as a result of external factors beyond the operator's control. It is therefore important for licensees to have a clear understanding of the boundaries within which they are required to operate to prevent an unreasonably over cautious approach being taken.

Section 6. Marine Nature Conservation

32. As we stated in our consultation response to the first Marine Bill consultation, the marine aggregate sector would support the provision of new controls to allow sites of national nature conservation to be created, so long as such designations take place alongside potential socio-economic uses and the designations are bound by the same evidence-based approach that is required for marine licensing. The rationale behind this is that if marine industries know where such sites are located, they can make more informed business decisions before necessarily committing to a particular development. We welcome the proposal for the designation process for Marine Conservation Zones to be able to take account of not only the ecological importance of the site, but also the socio-economic factors which may exist.

33. While funds are identified for site investigation (£100-120k/site in the RIA) there remains concern that insufficient broad scale environmental context will exist to allow the overall significance of individual sites to be robustly defined. With a suggested further 92 sites of national importance covering an area of over 70,000km² suggested, the background context against which sites are able to be assessed becomes increasingly important as the designation process adopts a more proactive stance. Related to this is the concern that the socio-economic objectives and/or policies may not be sufficiently well developed to allow an integrated and balanced consideration of all the potential issues involved before making site designation decisions.

34. The proposals for reviewing existing licences which may interact with MCZ's acknowledges the desire to avoid unnecessary conflicts with Governments social and economic goals. Under the new licensing arrangements, a range of options are presented to mitigate existing activities which are potentially damaging to a site. This includes the ability to review, vary or revoke permissions. We would hope that revocation of an existing licence would represent the last possible option, and that should this be deemed necessary that there would be options for the licensee to seek some form of compensation for lost assets.

35. Given that the level of understanding at a regional scale is likely to change over time, it is important that sites retain the potential for evidence based review and modification.

36. Given the desire to create a more integrated, holistic approach for marine management in UK waters, we are a little surprised that the proposed protection measures for heritage features as set out in the DCMS consultation 'Heritage Protection for the 21st Century', would fall outside of the Marine Bill process. The current proposals suggest that the regime will continue to be administered by the national Government departments with heritage responsibility. We would suggest that it would be more appropriate for this function to fall under the remit of the MMO, drawing upon advice from the national heritage advisors.

Section 8. A Marine Management Organisation

37. We would very much welcome the establishment of a Marine Management Organisation to act as champion for the integrated management of UK seas and to act as the delivery mechanism for many of the changes set out in the White Paper. We also welcome the recognition that this organisation would have to deliver across the whole spectrum of sustainable development, and not just the environmental aspects and that this will be aided by the establishment of a Board to ensure the MMO fulfils the aims and objectives set by Government. BMAPA would welcome the opportunity to make a constructive contribution to this structure if it was felt appropriate.

38. The various functions of the MMO will be guided by the UK marine policy statement and the underlying objectives that support it. Inevitably though, a function of the organisation as a neutral organisation will be to resolve potential conflicts through both the planning and licensing processes. While the process for delivering this is outside of the remit of the current White Paper, it will be essential that the means by which this function is effectively and transparently fulfilled is robust and accountable.

39. The use, acquisition and management of data will be essential to the MMO's ability to successfully deliver across the various functions that are anticipated. As well as drawing upon and using existing data, it would be sensible for the MMO to coordinate new data acquisition programmes as well as coordinating the integration and archiving of external data sets, such as licence monitoring data for example.

40. While the MMO has to draw upon expertise from outside organisations, we could see some practical advantages to the organisation becoming a focus for marine science, planning and advice. In the case of the scientific advice provided by Cefas in support of licensing, the suggestion that aspects of the advice the organisation currently provides could be internalised within the MMO would certainly ensure that any tensions (perceived or otherwise) between function delivery and business development were removed.

41. Given the aspiration to manage UK waters on a more integrated basis, the marine aggregate industry would encourage every effort to be made by UK Government and the devolved administrations to ensure a consistent and joined up approach to management across the entire UK marine areas. An inconsistent approach to management and delivery will hinder the ability to manage UK seas at an ecosystem scale and provide major obstacles to the integrated consideration of economic, social and environmental demands which exist, many of which can transcend the notional administrative boundaries that exist offshore.

Conclusion

42. We trust that you find these comments helpful as the development of the various components of the Marine Bill White Paper. The marine aggregate sector recognise that the Bill represents an opportunity to make some significant and substantial improvements to the way that the marine environment is managed, and we are committed to constructively contributing to the ongoing development process.

43. BMAPA has also contributed to the discussions which have informed the Sea User and Developer Group position, which will be responding in their own right to this consultation.

44. If you require any further information or clarification of any of the points or issues raised, please do not hesitate to contact the undersigned.

Yours faithfully

[Sent by email]

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Director, Marine Aggregates

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