

Response ID

Submitted to Consultation on Offshore Wind Environmental Compensatory Measures Reforms
Submitted on 2025-09-01 17:52:30

Questions 1-9: about you

1a Would you like your response to be confidential?

No

1b If you answered yes to this question, please give your reason.

Answer:

2 What is your name?

Answer:

3 What is your email address?

Answer:

4 Are you responding to this consultation on behalf of an individual? If yes, please answer questions 6, 7, and 9 only. If no, please answer questions 5 and 8 only.

No

5a Which organisation or organisations are you responding on behalf of?

Answer:

Historic England

5b What is the position you hold at the organisation or organisations?

Answer:

Senior Policy Adviser (Environmental)

6 If employed, briefly describe the type of organisation or industry you work for (e.g. eNGO, developer, OFW industry, marine industry). If you are self-employed, or looking for work, please indicate what type of work you do. If retired, please indicate the type of work you undertook in your career.

Answer:

Historic England is the Government's advisor on all aspects of the historic environment in England, including its adjacent waters.

7 If responding as an individual, where do you live? [Please tick one of the following bullets]

Not Answered

8a If responding on behalf of an organisation headquartered in the UK, where is your organisation based or where are you operating? [Please tick one of the following bullets]

Not applicable

8b If responding on behalf of a multinational organisation headquartered outside the UK, where are you operating?

Answer:

9 Which of the following best describes where you live? [Please tick one of the following bullets]

Don't know or prefer not to say

Questions 10-17: wider compensatory measures

10 Do you agree with our proposal to enable wider compensatory measures which aim to benefit the UK MPA Network?

I don't know

Please explain your answer:

Historic England welcomes the proposal to enable wider compensatory measures to benefit the UK MPA network. However, we have two concerns: Firstly, in our experience opportunities are already being missed to benefit the UK MPA network by achieving greater integration with the historic environment. Historic England therefore believes the UK MPA network would benefit enormously by: • Actively encouraging the mutual benefits to the UK MPA network and to the marine historic environment of heritage assets within existing and future MPAs. • Actively encouraging the benefits to the UK MPA network of heritage assets outside MPAs, serving as Other Effective area-based Conservation Measures (OECMs) in the case of marine heritage assets subject to statutory designation, and as de facto MPAs where heritage assets offer physical protection to surrounding habitats. • Implementing more integrated management of the UK MPA network consistent with the principles of the Joint Statement between Natural England, the National Lottery Heritage Fund and Historic England on Integrating the Management of the Natural and Historic Environment (<https://historicengland.org.uk/content/docs/advice/joint-statement-naturalengland-historicengland-nlhf/>). Second, we feel it important that restrictions on activities in the UK MPA network – especially if the network is to be expanded by wider compensation measures – must not impede activities to conserve, understand, or enable public enjoyment of heritage assets. Our historic environment makes a major economic, social and environmental contribution to the UK and the wider world. This is recognised and reflected in international and domestic obligations, including through the UK Marine Policy Statement. The historic environment benefits from active engagement, including by the public and archaeological research and cultural activities have negligible impacts on habitats and species. They are in any case are often regulated in their own right. Failings in evidence and reasoning have, nonetheless, led to heritage activities being classified as potentially damaging by SNCBs. In our view, this has led to consequences which are not consistent with government policies on the historic environment. In some cases it could be argued that they have had directly detrimental impacts. Above all, we urge that the introduction of wider compensatory measures should be accompanied by a strategy to ensure that the very valuable opportunities for engagement with the marine historic environment are not curtailed.

11 We propose that wider compensatory measures should deliver positive benefits reasonably proportionate to the level of damage to the UK MPA network. Do you have any views on how “reasonably proportionate” should be defined and how it could be demonstrated?

Not Answered

Please explain your answer:

12 Do you agree with our proposed approach of how to demonstrate a wider compensatory measure has an ecological benefit to the UK MPA network? If not, how could it be amended?

Not Answered

Please explain your answer:

13 Do you agree with the proposal to have a legislative requirement that compensatory measures that ecologically benefit the impacted feature must be considered first, as part of a hierarchy of compensatory measures which must be followed sequentially?

Not Answered

Please explain your answer:

14 Is the hierarchy of compensatory measures, including the type of environmental compensation to be considered at each stage, clear?

Not Answered

Please explain your answer:

15 Do you support the proposal that, where a reasoned case can be made that there will be a greater ecological benefit to the UK MPA network, it is possible to move to wider compensatory measures (tier 2 or 3), where there may be measures available that directly benefit the impacted feature (tier 1)?

Not Answered

Please explain your answer:

16 Do you agree that wider compensatory measures must be approved by the relevant lead Departmental Ministers, noting that Ministers will need to show they have considered the advice of SNCBs prior to their approval?

I don't know

Please explain your answer:

Historic England would support mandatory approval of wider compensatory measures by relevant Ministers. In doing so, however, and in the interests of transparency, we think it would be important for Ministers to show how they have considered not only the advice of SNCBs but also the advice of other relevant statutory bodies, including Historic England. Wider compensatory measures have a range of implications for the historic environment: these should be actively taken into consideration by Ministers to give effect to s. 58(3) of the Marine and Coastal Access Act 2009, recognising that marine policy documents (UK MPS and marine plans) also include policies on the historic environment. Historic England notes that wider compensatory measures will be developed in collaboration with SNCBs and other interested stakeholders (para. 101). As the government's statutory adviser, Historic England should be included among the 'other interested stakeholders' as a matter of course when wider compensatory measures are developed. Early involvement of Historic England in the development of wider compensatory measures will help gain mutual benefits for both nature and heritage – aligning with principles set out in Nature Recovery and the Historic Environment (Natural England 2023)

<https://historicengland.org.uk/content/docs/advice/nature-recovery-historic-environment/>) – whilst avoiding unintended disbenefits or delays. We also note that – for the same reasons – Implementation and Monitoring Plans (para. 158) and adaptive management plans (para. 162) should also include consultation with Historic England.

17 Do you agree with our proposed approach for selecting and assessing wider compensatory measures based on the best available scientific evidence?

Not Answered

Please explain your answer, including what best available scientific data includes:

Questions 18-22: environmental safeguards

18 Do you agree that our proposed environmental safeguards for wider compensatory measures are suitable?

Not Answered

Please explain your answer, including alternative suggestions where you deem necessary:

19 Do you agree with the proposal that, in England, wider compensatory measures would not be suitable for impacts to locations with Marine Irreplaceable Habitats or features?

Yes

Please explain your answer:

Historic England welcomes acknowledgement of the increased risk of Marine Irreplaceable Habitats (MIH) from development pressure (para. 77, eighth bullet) and government's wish to avoid the loss of the certain habitats within our UK MPA network that could be described as MIH (para. 149). We also note the framing of MIH as habitats which are very difficult (or where it takes a very long time) to restore, create or replace once they have been destroyed (para. 152). Historic England would like to draw attention to MIH that are also heritage assets, notably:

- Exposures of peat or clay (e.g. *Ceramium* sp. and piddocks on eulittoral fossilised peat). Such peats and clays present former surfaces and deposits laid down in prehistoric periods when sea level was lower than today. Such deposits often contain prehistoric artefacts and environmental material (ranging from animal bone to microscopic indicators of environmental change) and even footprints left by our predecessors millennia ago. They are very sensitive to environmental and human pressures, and irreplaceable.
- Historic wrecks supporting habitats such as *Alcyonium digitatum* and *Metridium senile* on moderately wave-exposed circalittoral steel wrecks. The importance of wrecks as habitats and the ecosystem services they generate are still relatively poorly understood in UK waters. However, they are by definition long-established and may be slow to recover if destroyed.
- Historic marine structures at the coast, such as harbour walls, jetties and piers. Research shows that old masonry structures at the coast – many of which are protected under heritage legislation – support biodiversity equivalent to natural rocky shores; whilst historic piers such as at Swanage are a magnet for divers because of the abundance and diversity of marine life. Again, their biodiversity is likely linked to their longevity and would take a long time to regenerate if significantly disturbed.

Historic England would strongly welcome the publication of a list of MIH (para. 152) that includes MIH that are also heritage assets.

20 Do you agree that our proposal for guidance adequately clarifies adaptive management requirements, including for measures delivered through the MRF?

Not Answered

Please explain your answer:

21 Do you agree with our proposal that there should be a public register that documents OFW environmental compensation?

Yes

Please explain your answer:

Historic England would strongly welcome a public register that documents OFW environmental compensation. This public register should set how the implications of compensation for the historic environment have been taken into account and summarise the mutual benefits for both nature and heritage that the compensation will achieve.

22 Where could this register be hosted and who could be responsible for the register, including on-going updating and management?

Please explain your answer:

Questions 23-25: other aspects of proposals

23 Do you agree that our proposals for guidance provide clarity in how to assess whether environmental compensation can be considered additional?

Not Answered

Please explain your answer:

24 Do you agree with our proposals for guidance to provide clarity that, in certain circumstances, environmental compensation can be in place and operational after the impact to the site has occurred?

Not Answered

Please explain your answer:

25 Do you agree that our proposals for guidance provide clarity on when mitigation or compensation might be required for small levels of impact to a protected site?

Not Answered

Please explain your answer:

Questions 26-27: final comments

26 Do you agree that the approach described in this consultation will help to provide greater environmental compensation opportunities for OFW whilst protecting the marine environment?

No

Please explain your answer, including alternative suggestions where you deem necessary:

In UK policy and legislation, the marine environment expressly includes the historic environment (see e.g. MCAA 2009 ss. 54(4), 115(2), 117(8), 151(8)(a), 186(1); UK MPS section 2.6.6.; Fisheries Act 2020 s. 52(b - the marine and aquatic environment); EIP23 p. 256). The UK is also party to multiple international conventions with provisions applicable to heritage in marine areas, including the 1982 UN Convention on the Law of the Sea (ratified by UK in 1997), the 1992 Valletta Convention (ratified by UK in 2000) and the 2000 European Landscape Convention (ratified by UK in 2006). Currently, the consultation document states that the government is committed to protecting and restoring the marine environment, whilst accelerating the deployment of OFW (para. 131). Despite these international and domestic provisions and accepted legal definitions, however, the consultation document makes no explicit mention of the historic environment. Whilst Historic England welcomes the approach to wider compensation in general terms, we cannot conclude that it will protect the marine environment unless specific proposals and commitments are included that expressly recognise and address heritage as an integral facet of the marine environment. Without such measures, we fear that the approach to wider compensation could have disbenefits for the historic environment and people's engagement with it, as well as missing opportunities for mutual benefit. We note also that the Offshore Wind Environmental Improvement Package (OWEIP) has yet to engage with protecting (or improving) the historic environment as an integral aspect of the protecting the marine environment. We welcome OWEIP's aims to compensate for the adverse environmental effects of OFW at a strategic level (para. 39, second bullet), but there appears to have been no practical engagement at this level with the adverse effects of OFW on the historic environment. Similarly, OWEIP's aim to develop Offshore Wind Environmental Standards (OWES) has yet to encompass standards relating to the historic environment (para. 39, fourth bullet), or to develop a strategic approach to environmental monitoring of the marine historic environment (para. 39, sixth bullet). As a result, we feel that the government's very welcome approach to accelerating the deployment of OFW whilst protecting and restoring the marine environment – including these proposals on wider compensation – should include specific safeguards and measures on the marine historic environment to maximise mutual benefits whilst avoiding disbenefits.

27 Do you have any other comments on our proposals described above?

Please explain your answer:

Historic England welcomes the proposed review provision for the Secretary of State to publish a report that assesses the impacts of the proposed reforms through both the SI and guidance (para. 174). This review provision should refer expressly to heritage so that the report is required to assess the impact of the reforms on the historic environment and people's engagement with it. Historic England would very much welcome further engagement with Defra on the issues we have highlighted in this response.

Consultee Feedback on the Online Survey

1 Overall, how satisfied are you with our online consultation tool? Please give us any comments you have on the tool, including suggestions on how we could improve it.

Satisfied

Please give us any comments you have on the tool, including suggestions on how we could improve it. :