



essential materials
sustainable solutions

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Dear Sir

Consultation on proposed minor amendments to the Conservation (Natural Habitats, &c) Regulations 1994

The British Marine Aggregate Producers Association (BMAPA) is the representative trade organisation for the British marine aggregate sector. The association represents 11 member companies who collectively produce around 90% of the 21.5 million tonnes of marine sand and gravel dredged from licensed areas in the waters around England and Wales each year.

Background

Marine dredged sand and gravel is principally used by the construction industry, and the marine contribution provides 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.

Marine dredged sand and gravel also provide 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.

BMAPA is part of the Mineral Products Association, the trade association for the aggregates, asphalt, cement, concrete, lime, mortar and silica sand industries

Registered in England as Mineral Products Association Limited No. 1634996
Registered at the above address

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.

At present 1344km² of seabed is licensed for marine aggregate extraction, of which around 135km² is dredged in a typical year. This represents around 0.15% and 0.016% of the total UK continental shelf area (867,000km²) respectively. A further 1931 km² of seabed is currently under application or covered by prospecting licence. In this respect, the marine aggregate sector is responsible for managing a significant area of the UK marine area.

Overview

As stated in our various responses during the development of the Marine & Coastal Access Bill, the marine aggregate sector remains supportive of government's proposal to create a network of Marine Protected Areas, comprising sites of national and international importance. At both scales, it is essential that a robust, science led approach is adopted that draws upon best available evidence.

Given the sectors direct involvement and interest in marine regulation and environmental protection, it was therefore disappointing not to have been consulted directly on the changes proposed, and to discover the consultation was underway via a third party.

Comments

Having considered the consultation paper, we understand the requirement to close an apparent loophole relating to the application of certain aspects of the existing Conservation (Natural Habitats, &c.) Regulations 1994, so they may apply equally to water as well as land. However, we would suggest it is essential that the wider consequences of the legislative changes proposed be considered appropriately and in full – this is particularly the case given the potential geographical extent of offshore European site designations (SAC's and SPA's), and the range of operations that these areas may encompass.

It would appear that the proposed amendments are likely to have little direct impact on marine aggregate dredging operations that are already or could be permitted, given that marine nature conservation provisions are already provided for under the Marine Mineral Dredging (EIA and Natural Habitats) Regulations 2007 for both Appropriate Assessment (Regulations 13(3) & 24 and Schedule 3) and Review of Consents (Schedule 3(3)-(7)).

However, we believe that the proposed changes to restrict or prohibit operations could result in some potentially serious, and less apparent, indirect impacts for wider marine aggregate activities. This is particularly the case for those activities which may not be captured under existing environmental protection regulation, such as vessels transiting coastal

waters while navigating between ports and licensed dredging areas, or site investigation works (intrusive and non-intrusive surveys) undertaken during the early prospecting and application phases of marine aggregate site development. Constraint on any one of these aspects could result in significant, and currently unquantified, impacts on the marine aggregate business.

At present, the consultation paper provides no definition or clarity over what may constitute an 'operation'. As a consequence, it is impossible to determine with any certainty whether the amendments as proposed would result in more significant impacts to the marine aggregate business. For this reason, we believe that it would be appropriate for a detailed Impact Assessment to be undertaken on the potential implications of the changes proposed in order to formally clarify and quantify the nature and potential costs to marine business.

Finally, we note that under the 1994 Regulations, Regulation 25 (Compensation for effect of order) contains a power whereby a nature conservation body can pay financial compensation in respect of an "agricultural unit". Given the intention to deliver a more consistent regulatory regime across land and water, we would suggest that the compensation arrangements should be extended to include orders made to cover operations on water.

We trust that you find these comments useful. If you have any further queries or require clarification on any of the points raised in this letter please do not hesitate to contact the undersigned.

Yours faithfully

A handwritten signature in black ink, appearing to be 'M Russell', is written over a vertical line that serves as a signature separator.

Mark Russell
Director BMAPA