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Your ref: **Goodwin Sands**  
My ref: Goodwin Sands  
response150716

15<sup>th</sup> July 2016

For the attention of Morwenna See  
Marine Licensing Case Officer  
MMO  
Lancaster House  
Hampshire Court  
Newcastle-upon-Tyne  
NE4 7YH

Dear Morwenna

### **Consultation on Marine Licence: MLA/2016/00227**

#### **Goodwin Sands Aggregate Dredging Scheme**

We have now had the opportunity to consider the marine licence application, including the Goodwin Sands Aggregate Dredging Environmental Statement (May 2016). We would like to offer the following comments and would be grateful if you would take these into consideration, alongside those provided previously in our letter (reference *goodwinsands201015*) relating to the EIA Scoping Report (July 2015). Kent Wildlife Trust and The Wildlife Trusts **object** to this licence application due to the impacts on the Goodwin Sands recommended Marine Conservation Zone (rMCZ) through the removal of protected subtidal sand habitat from over 4% of the feature's area.

#### **Status of Goodwin Sands as an rMCZ**

We would like to acknowledge the content of your letter to our national office ("The Wildlife Trusts"), dated 2<sup>nd</sup> June 2016. We appreciate the clarification provided within this letter, that there is currently no statutory obligation for the MMO to undertake an MCZ Assessment for the Goodwin Sands rMCZ, as the site is not yet designated under section 116 of the Marine and Coastal Access Act 2009. However, we are pleased that it has been confirmed in this letter that "*the MMO will take into consideration the impacts of the proposed activity on the features of the rMCZ, in line with existing licensing procedures*". We believe that full consideration of the impacts on the rMCZ is necessary; given the high likelihood that the site will be designated in tranche 3 and that the proposed works would all take place following the consultation on tranche 3.

#### **Direct loss of valuable habitat**

Kent Wildlife Trust understands that the purpose of the proposed aggregate extraction at Goodwin Sands is to provide infill for the DWDR scheme, the proposal for which has already been approved by the MMO. However, Kent Wildlife Trust is very concerned for the potential **direct loss** of habitat at Goodwin Sands, the subtidal sand being of particular concern. This is an important ecological area in its own right and the subtidal sand feature of the rMCZ is a significantly under-represented habitat in the Marine Protection Area (MPA) network. This site has also been highlighted by JNCC for its importance as a transition site, lying on the boundary of two regional seas.



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We would like to repeat our concerns that we cannot support the direct loss of the protected feature of the rMCZ, as proposed in this licensing application. The dredging would remove 2.5 million m<sup>3</sup> of MCZ feature. **As the majority of the application area is subtidal sand, this equates to approximately 4.4% by area of the subtidal sand feature within the rMCZ.**<sup>1</sup> (and 1.4% of the whole rMCZ). We understand that the volume proposed to be dredged equates to 0.22% of the volume of the whole of the Goodwin Sands complex, however we cannot find any reference to the percentage volume of the subtidal sand feature within the rMCZ. The percentage volume of the subtidal sand that would be removed must be far higher than 0.22% given that other habitats are present within the rMCZ and that the Goodwin Sands extends beyond the boundaries of the rMCZ. In considering the impact on the rMCZ, it is important to distinguish the scale of the impact on the individual features. We disagree that the impact of the proposed removal of rMCZ feature is not significant and that it would not cause a significant risk of hindering the conservation objectives of the MCZ (Section 126 (6), Marine & Coastal Access Act, 2009). Whilst the Environmental Statement states that the area will quickly become recolonised, it does not predict the replenishment of the sand feature itself.

When considering the scale of the impact of the removal of the subtidal sand feature, the judgement in the *Sweetman* case should be borne in mind. Although this was the removal of a feature of an SAC rather than an MCZ, the principles behind the protection are comparable. In the *Sweetman* case it was determined that removal of 0.54% of the limestone pavement feature (and only 0.006% of the whole SAC) constituted an adverse effect on site integrity. There are numerous other examples where habitat loss of less than 1% (and as low as 0.03%) have been shown to constitute an adverse effect on integrity of a European site<sup>2</sup>. Similarly we believe that removal of this volume of sand would risk hindering the conservation objective of the rMCZ, regardless of whether this is to maintain or recover the features.

It appears that the assessment of impacts is based on a *minimum* depth of 0.5m of existing sediment being left after dredging, although an *average* of 0.5m is also mentioned. We do not feel that an average is adequate, or that 0.5m is adequate, and suggest that a minimum of 1m would be more appropriate (without expanding the geographic area beyond 3.9km<sup>2</sup>). An average would not account for the potential that less than 0.5m would be left in some areas, balanced by far greater depths in other areas. The industry practice of leaving 0.5m of the resource is typically used for much coarser sediment which is less dynamic, and much less appropriate for the relatively fine and readily mobilised nature of the sediment being targeted in this site. In the dynamic system of the Goodwin Sands, which is subject to significant water movements, there is the potential for a thin layer of remaining sediment to be redistributed, exposing the bedrock underneath. This would then equate to a complete loss of that area of subtidal sand habitat.

There is a lack of certainty that the nature of the sediment to be left will be the same as prior to the dredge and a subtle change in particle size could render the habitat unsuitable for the particular communities present, including one<sup>3</sup> which the ES reports is found only within the proposed dredge area and nowhere else. We are very concerned by the lack of evidence presented to back up the statements in section 6.6.6 of the ES and elsewhere, claiming that the bank will remain unchanged and that the features would remain the same after dredging. Indeed in a system with so little

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<sup>1</sup> dredge area = 3.9km, area of subtidal sand in MCZ = 89.48km (Defra surveys, 2015)

<sup>2</sup> HOSKIN, R., & TYLDESLEY, D. 2006. How the scale of effects on internationally designated nature conservation sites in Britain has been considered in decision making: A review of authoritative decisions. English Nature Research Reports, No 704.

<sup>3</sup> Faunal group G on page 141 of ES

replenishment, this would seem impossible with removal of 2.5 million m<sup>3</sup> (particularly when the area of intertidal sand has already been significantly reduced in the decade following previous periods of dredging). We are additionally concerned at the suggestion that the dredging operation could result in material being dredged to a depth of up to 4m, when neither modelling scenario assessed the impact of removing even half this depth of sediment. All the modelled predictions would be rendered unsound with such a depth of dredging activity.

It is difficult to determine from the ES overlays whether the refined dredge area still overlaps with the subtidal coarse sediment in the north eastern corner of the original area, and we would appreciate clarification of this. We are concerned that dredging of this broadscale habitat must be avoided as this is also recommended as a protected feature of the MCZ, and is of greater sensitivity than the subtidal sand.

As raised by the Environment Agency at the ecology meeting regarding this proposal, we are concerned that the sidescan sonar survey undertaken does not have the capability to detect with sufficient certainty the absence of *Sabellaria* reefs within the proposed dredge area. Since this biogenic reef habitat is a proposed Habitat Feature of Conservation Importance in the rMCZ, this would need to be further assessed to avoid any potential damage to this sensitive feature.

If it cannot be concluded that there is no significant risk to hindering the conservation objectives of the MCZ, further assessment of alternatives, public interest and measures of equivalent environmental benefit need to be made (Section 126 (7), Marine & Coastal Access Act, 2009). We do not believe this has been done (including the consideration of alternatives as detailed below) or could be adequately met and therefore the application should not be approved.

### **Precautionary Principle**

We think that the nature of this valuable marine area, the high level of assumptions made during modelling scenarios, in addition to the lack of certainty of the wider, indirect impacts of the scheme, means that under the **precautionary principle** it cannot be certain that the dredge application will not have a significant impact on the site. We would recommend that extraction sites should be sought elsewhere for this infill aggregate and that Goodwin Sands should only be considered as a “last resort”, after other alternatives have been thoroughly investigated and ruled out.

### **Consideration of Alternatives**

We would expect an Environmental Impact Assessment (EIA) to consider the environmental impacts of such a scheme, and give **equal weight** to this environmental impact against economic considerations. This information should provide the evidence for a well-balanced argument and an objective view to be drawn. However, we do not feel that this has been at all well represented in this Environmental Statement and that economic considerations are overshadowing consideration of the biodiversity value of the area, and the strategic importance of this site in the MPA network. The current assessment of alternatives appears to be based purely on distance from Dover and is built on a pre-judgment assumption that the environmental impact on the rMCZ is no greater than in other licenced areas.

A key part of an effective EIA is the consideration of **alternatives**. We feel that this Environmental Statement is too “light touch” on this area of work and this has not been supplemented since we commented on this shortcoming during the EIA Scoping stage. This is very disappointing, as we would expect to see further investigation of alternative sources of aggregate to have been more thoroughly explored at this advanced stage of the project development.

We do not agree with the conclusions regarding consideration of alternatives as presented by the applicant, as we do not agree with the criteria they have used to assess environmental impact. In considering the alternatives and their environmental impact, they only seem to have considered traffic, air quality and noise. As such, all other alternatives were ruled out. However, they did not consider the environmental impact of the works themselves, which we believe is a fundamental failing. The adequate consideration of alternatives is also relevant when considering the impacts on the rMCZ. If, as we believe, there is a risk of harm to the MCZ, it needs to be demonstrated that there is no other means of proceeding which would create a substantially lower risk of hindering the objectives of the MCZ (Section 126 (7a), Marine & Coastal Access Act, 2009). The consideration of alternatives as presented does not do this.

### **Monitoring and Mitigation measures**

Notwithstanding our objection to the granting of this licence application, in the event that it is approved by the MMO, we would need to see the following monitoring and mitigation measures incorporated into the conditions:

1. *Pre-dredge survey to be carried out to ensure avoidance of any Sabellaria reef formations;*
2. *An exclusion to be placed around any subtidal coarse sediment within the dredge zone.*
3. *Half a metre of material remaining in situ after dredging is recognised as good practice externally of protected sites. As the site is expected to be designated as an MCZ, and because this habitat is more mobile than the majority of dredged habitat, we believe conditions should be more stringent and would like to see this increased to a minimum of one metre depth of material remaining in situ on this unpredictable site (without extending the geographic extent beyond 3.9km<sup>2</sup>).*
4. *Dredging activity must not remove material to a depth deeper than the depths that were included in the models employed in the EIA, without undertaking further modelling to determine all the potential impacts of deepening the dredge depths.*
5. *Material left across the dredge area following dredging must be of the same physical character as before, so that it is capable of supporting the same communities.*
6. *In-depth monitoring for the entire period of licence, after each phase of dredging, and at least eight years beyond, methodology to be previously approved and supported by condition; (for example, this would require a higher density of sites to be sampled within the dredge area than were previously carried out in order to adequately inform the proposed new aggregate dredge monitoring scheme)*
7. *At the end of each phase of dredging a full review will be carried out of the monitoring carried out during and after each successive phase of works; if this is found to exceed pre-defined and pre-agreed “acceptable levels of change” then all activity will cease and a pre-agreed remediation process will begin. Each successive phase of dredging must not proceed before the results of monitoring of the previous phase have been reviewed to allow appropriate mitigation, remediation or cessation of future works.*
8. *Ongoing review of monitoring after the final phase of works and for the duration of the post dredge monitoring period to ensure any cumulative impacts are identified and a pre-agreed remediation process implemented.*
9. *Dredging activity to be timed to avoid disturbance to seals during critical periods of breeding and moulting.*

### **Recovery of application for determination by the Secretary of State**

We believe that the MMO should consider the referral of this application to Defra for ‘recovery’

and determination by the Secretary of State. This is because, whilst aggregate dredging itself is not a novel activity, this is a novel case. The activity to be authorised would actively remove a significant amount of the feature from a site which is highly likely to be designated to protect that feature. Yet because the site is not yet designated it is not considered a material planning consideration, despite the fact that by the time the activity was to take place it would be. The issue is of national significance as it is a test case for how MCZs are treated in the licensing process. This application will determine whether complete removal of a very significant tonnage over a 4km<sup>2</sup> area of a feature (not just damage to) is acceptable in an MCZ, which could have serious implications for the management of other activities in marine protected areas. Therefore even if a full MCZ assessment were to be carried out, we believe that it warrants examination in an inquiry.

We look forward to commenting further on future stages of development proposals.

Yours sincerely

Vanessa Evans  
Planning and Policy Officer  
Kent Wildlife Trust

Joan Edwards  
Head of Living Seas  
The Wildlife Trusts