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Contact: Sarah Ward
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Date: 1 April 26

Dear Amy Musker-Heaton,

RE: Consultation on monitoring for MLA/2026/00065 Brighton Marina Maintenance Dredge & Disposal

Sussex Wildlife Trust has reviewed the application and associated documents for the above licence, and we **object** to the application for the Marine Licence as it stands due to the proposed continued use of the current disposal site at Rottingdean (WI020), within Beachy Head West Marine Conservation Zone (MCZ).

We are frustrated that the applicant is seeking to continue to use this sensitive, protected area as a disposal ground, and has provided no further evidence or data since their last application. It is the responsibility of the applicant to prove no negative impact on any of the designated features of the MCZ - they failed to do so previously, and nothing has changed since. Without this data, the precautionary principle¹ must be applied.

Whilst we appreciate that a pre-application EIA screening has been undertaken, we disagree with the opinion that this programme of works is scoped out of requiring an EIA. The nature of this project has significant and unquantified effects on a protected habitat. Without certainty on the impacts, it is not possible to suggest the impacts are low enough not to trigger requirement for an EIA.

We would like to raise concern regarding the language used by the applicant in the publication of this Marine Licence application. In public communications, and indeed the application itself, the applicant refers to the licence as a "one-year interim licence". We are aware from a conversation with MMO staff (23/03/26) that the term 'interim' is not used by the MMO regarding Marine Licencing and the use of this term by the applicant in this context is misleading. It suggests that this licence may be subject to different 'rules' and/or there may be less scrutiny or caveats given due to it being seen as temporary. Whilst the MMO will be treating this as a full licence application, we do not feel that misleading language should be used by the applicant, particularly given the high public profile of this case.

¹ The UK government is a signatory to the 1992 Rio Declaration. Its definition of the precautionary principle states that 'where there are threats of serious or irreversible environmental damage, a lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation'. The precautionary principle is applicable where there is plausible evidence of a risk that a particular policy could cause serious or irreversible damage to the environment, alongside a lack of scientific certainty about the likelihood or severity of this damage.
<https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement#definitions>

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In addition to our grounds for objection to the previous licence application (MLA/2024/00394), which remain unchanged (detailed below), we are seriously concerned by the applicant's suggestion that by reducing the maximum wet tonnage they are applying to dispose of, environmental monitoring should not be required. Whilst we fully appreciate that the previous monitoring scheme was insufficient, this does not negate the need for monitoring within the 12-month licence period applied for. The applicant writes that "*the continuation of the activity for a 12 month period... is not assessed as increasing risk to the MCZ or features and so should avoid any adverse impacts on the objectives of the MPA or the ecological coherence of the network*"; a similar comment is made in the MCZ Assessment document: "*a single 12 month campaign without monitoring is deemed appropriate*" and we would like to know by whom this has been assessed and how these conclusions have been drawn. As noted above, this is a full licence application, and we expect to see it considered and scrutinised to the same degree as any other licence - the short timeframe that the applicant is asking for is irrelevant. Similarly, by referring to "future dredging and associated licensing", the applicant seems to be suggesting that consideration of its future licencing needs is relevant here and should have some bearing on monitoring requirements for the licence under consultation. Any possible future licences are the responsibility of the applicant and should not be used to influence the outcome or monitoring stipulations of this application.

Further to the above, we would like to query how the quantity of disposed material will be measured and reported. The applicant discloses that the quantity applied for is lower than realistically required, thus increasing the need to monitor this regularly, should the licence be granted.

As per our comments to the previous application (MLA/2024/00394) for the use of Rottingdean as a disposal site for dredged sediment, Sussex Wildlife Trust disagrees on principle that disposal of dredged material should be licensed within an MCZ. We believe that the activity is fundamentally incompatible with the conservation objectives of the MCZ, as well as the Government's commitment to protect 30% of land and sea by 2030.

We do not see any justification for continuing this activity in this protected site. The financial considerations put forward by the applicant would not be an acceptable reason. We would like to see the activity removed from the MCZ and a suitable alternative disposal site to be sought. However, should the MMO be minded to grant this 12-month licence, we would expect to see:

- Full, formal commitment from both the applicant and the MMO to permanently end the use of Rottingdean as a disposal site by the end of the licence period
- A suitable alternative site being identified and opened within the 12-month timeframe of the licence
- Commitment to no further extensions to the 12 months applied for
- A suitable monitoring regime for the 12-month licence
- Appropriate stakeholder engagement and transparency
- Full accountability for all responsible parties to uphold the above conditions

Overall, Sussex Wildlife Trust **objects** to the application for this Marine Licence. In addition to the overarching concerns above, the following points detail our key areas of concern and recommendations.

MCZ Features and Condition

Presently, there is no up-to-date condition assessment for the MCZ available, making it impossible to determine whether the MCZ is reaching or failing its targets. As such, a precautionary approach to management should be taken, and this approach needs to exclude licensable activities that may have harmful effects on the features of the MCZ.

Updated Advice on Operations for Beachy Head West MCZ was published by Natural England on 24th September 2024, stating that the Risk Profile for Maintenance Dredging Disposal is now considered “Medium-High Risk” and that “the pressure is commonly induced by activity at a level that needs to be considered further as part of an assessment.” The Advice on Operations provides an initial assessment of whether a proposed plan or project (or ongoing activity) may have an impact on a feature in the site. The sensitivity assessments should be used at an early stage of a plan or project when considering potential impacts of an activity. This Advice shows that all of the habitat and species features for which Beachy Head West MCZ has been designated are sensitive to several pressures arising from maintenance dredging disposal. This activity-pressure-feature combination should therefore be taken to further assessment.

If the licence to continue disposing of dredged material here were to be granted, it would clearly undermine the positive work to protect the site undertaken by the Sussex Inshore Fisheries and Conservation Authority (IFCA) through their Marine Protected Area bylaw and monitoring of the area. These statutory duties undertaken by the Sussex IFCA create high expectations within the fishing industry and the wider community that other public bodies will ensure they fulfil their statutory functions with due diligence and take a precautionary approach in the absence of sufficient evidence.

We fundamentally disagree with the applicant’s suggestion that the proposal is in accordance with S-MPA-1 of the South Marine Plan; it has not been adequately proven that the proposal will not negatively impact the MCZ. The applicant also claims that the proposal is in accordance with S-MPA-2; we also disagree with this on the same basis of insufficient evidence that the proposal will not negatively impact the MCZ, therefore it has the potential to decrease the resilience of the site to adapt to climate change. We also disagree that the proposal is in accordance with S-MPA-3; the applicant refers to a condition assessment of the site which does not exist so therefore cannot make claims that the features of the MCZ are not deteriorating. Further, one feature of the site (Littoral Chalk Communities) has the conservation objective of “recover”, so it can therefore be understood that this feature is already in a deteriorated state.

MCZ Assessment

Sussex Wildlife Trust has serious concerns regarding the MCZ Assessment submitted with the application, which makes multiple assumptions and draws conclusions based on no real evidence. The level of assumptions made in the MCZ Assessment conflicts with the precautionary approach to management which is written into law.

We disagree with the applicant's belief that the disposal of dredged material at Rottingdean mimics the natural long-shore drift process that would occur if the marina did not exist. Long-shore drift and other natural

sediment movement processes are continuous, and although they may fluctuate, cannot be likened to seasonal dredging campaigns, which deliver concentrated disposal of sediment in particular locations. The applicant's assertions should be tested and modelled in order to be considered appropriate evidence.

The MCZ Assessment also makes reference to the dredge disposal activities having been undertaken prior to the MCZ's designation. Another assumption is made here: "*the disposal site and associated activity must have been considered to be part of the baseline MCZ categorisation*" (section 2). Dredge disposal is not referred to within any of the designation orders or MCZ documentation for Beachy Head West and the assumption made here by the applicant is untrue. Designation documents for Beachy Head West MCZ state:

"Current activities identified at this site which could be affected include commercial fisheries, port & harbour operations. Any future activities undertaken by the ports and harbour authorities will be regulated through the appropriate licensing regimes, which will take into consideration the MCZ designation when assessing environmental impacts of marine works as part of the licensing application process." This clearly indicates that all licensable activities are to be regulated and assessed against the objectives of the MCZ. There is no mention of pre-existing activities being part of the baseline or being allowed to continue due to historical licences.

Section 4.3 of the applicant's MCZ assessment makes a further assumption about the species and habitats present in the MCZ: "*The species and habitats present in the MCZ can therefore be assumed to be reasonably tolerant of such natural variations.*" This assumption is based on an unreferenced claim that the site is "highly dispersive." In order to prove no detrimental impact on the features of the MCZ, any suggestion about the nature of the habitats and species must be backed up by scientific evidence. These assumptions are further compounded when the applicant refers to their own monitoring review (OEL_PREBRI0420-REV) in which the disappearance of Blue Mussel (*Mytilus edulis*) beds is attributed to "extreme natural disturbance events." Again, this has been put forward based on no concrete evidence or suggestion of the specific natural disturbance event(s) this statement is referring to - and since the monitoring occurred over a discrete period of time, looking into major weather events or other natural disturbances would have been a straightforward addition to this monitoring. By using the term "likely due to" in reference to the supposed disturbance events, the applicant seems to lack confidence in their own conclusions.

The applicant makes reference to the Marine Licence afforded to Newhaven Port which does not require specific monitoring around the MCZ features. Whilst we concur with the applicant that this licence should also have monitoring stipulations attached to it, we do not feel it is appropriate for the applicant to refer to other licences in order to steer decision-makers towards their objectives. Marine Licences should be scrutinised under their own merit and it is the responsibility of the MMO to ensure consistency across its broader licencing decisions, not the applicant.

Historical Monitoring

None of the historical ecological monitoring documents have been provided as part of the supporting documentation for the licence. The applicant makes reference to these documents within the application and MCZ Assessment, so it is unacceptable they have not been provided.

The previous ecological monitoring has been widely challenged, with a report challenging the robustness of assessments carried out by Ocean Ecology Limited being presented to the MMO in 2020 by the University of Brighton Centre for Aquatic Environments. Prior to the quashing of the previous licence, it was agreed that a "comprehensive adaptive management plan" would be put into place, demonstrating that Natural England, as statutory advisors on the MCZ, agreed that historical monitoring efforts were inadequate.

The conditions of the previous licence (which expired in 2025) required a monitoring plan "*to ensure that the disposal of dredged material is not having a detrimental effect on the MCZ*"; any licensable activity should only be granted within or near to an MCZ if the MMO is satisfied that there is no significant risk of the activity hindering the conservation objectives. Sussex Wildlife Trust does not feel that the monitoring of the features of the MCZ was robust enough to be assured that the features of the MCZ were not affected by the disposal of dredge material and we have concerns regarding the rationale and conclusions drawn within the reporting. Further to this, monitoring only specifically covers three selected MCZ features. There are 12 features in this MCZ, and it is unclear why all of these features were not monitored and reported on.

The inadequacies of historical monitoring cannot be retrospectively re-monitored, and in the absence of historical or up-to-date MCZ condition assessments, there is no clear baseline for what a healthy, functioning ecosystem should look like, and indeed what the condition of the features of the MCZ should naturally be. Therefore, again, the precautionary approach to management must be applied.

Sedimentation and Smothering

The effect of increased sedimentation and risk of smothering is of principal concern to Sussex Wildlife Trust. This is a threat specifically to the Littoral Chalk Communities, Blue Mussels and Native Oysters in the MCZ. There is also growing evidence of the impacts of suspended sediment and smothering on essential fish habitats and associated species, and that these can be a causal factor in the decline of habitats such as kelp.

Additionally, the particle-size data for the dredged material indicate that there is a substantial amount of fine particle sediment, including very fine silt / clay and submicron material. These fractions are the most likely to remain suspended in the water column, to be transported beyond the immediate discharge point, and to settle as fine veneers on the chalk reef. Fine sediment veneers such as this are able to alter the surface of the reef habitat, which is vital stable substrate for sessile flora and fauna to adhere to. Native Oyster (*Ostrea edulis*) larvae, which are a feature of the MCZ, require clean, hard surfaces for settlement, and accumulated sediment layers as thin as 1–2 mm can inhibit spat settlement and effective recruitment, thus reducing the population over time ⁽¹⁾.

The previous monitoring regime does not cover the effects of sedimentation in any great detail, notably the effects of the fine particle sediment and effects of sedimentation on the health of organisms inhabiting the area. Increased sedimentation due to human activities is recognised as a major threat to marine biodiversity on a global scale ⁽²⁾; it can affect both growth and reproduction of benthic organisms through physical scouring and smothering, and by modifying light, nutrient and space availability ⁽³⁾.

Specific to this case, many of the fauna that form the Littoral Chalk Communities feature of the MCZ are sessile filter feeders, which are unable to move if conditions are no longer suitable. Marine algae are also highly sensitive to sedimentation; it is established that kelp in this area has seriously declined in extent over the last 10-15 years, with biotopes 'Laminaria rockpools' (LR.FLR.Rkp.FK) and 'Infralittoral fringe Laminaria' (IR.MIR.KR/Ldig) having both disappeared from the intertidal zone ⁽⁴⁾⁽⁵⁾. There is also an increase of the biotope characterised by filamentous red algae *Rhodothamniella floridula* (LR.FLR.BF.Rho), which is characteristic of areas of high sediment, across the intertidal zone in this area ⁽⁴⁾⁽⁵⁾.

Without historical data and MCZ condition assessments, it cannot be determined that any observed changes are attributable to natural processes, as is suggested in the historical monitoring report. No additional monitoring would be able to retrospectively gather the historical data needed to make comparisons to present day.

Blue Mussel beds

Further monitoring of Blue Mussel beds has been undertaken since the licence review in 2020. We cannot agree with the conclusions drawn in the report, specifically attributing the loss of Blue Mussel beds to natural processes and storm events. As per previous comments, these conclusions seem to have been made without substantive evidence.

The report also states that the *"exact cause of mussel bed decline across beds in proximity to the dredge disposal site could not be determined"* and that *"results presented indicate that disposal activities are unlikely to be the primary driver of the observed changes in mussel bed cover and extent"*; again, this suggests that the evidence is not clear, therefore the precautionary approach should be taken.

No monitoring or studies have been conducted to assess the health of the Blue Mussel beds, only extent has been looked at. Extent is not a direct indicator of good health, and in order to understand any possible links between the dredged material and mussels there must be monitoring which looks into their condition in regard to this, such as testing stressors.

Blue Mussels, although capable in some circumstances of limited upward migration through shallow burial, exhibit significantly increased mortality when buried beyond a few centimetres. Research has shown that the mortality of Blue Mussels increases with burial depth, duration, finer sediment fraction sizes, and organic content of the deposited sediment ⁽⁶⁾.

Littoral Chalk Communities

Amongst other features of the MCZ, this feature has not been reported on as part of any previous monitoring. This is an important omission as it means there is no evidence to support the applicant's suggestion that the disposal of dredged material does not have a negative effect on the features of the MCZ. Moreover, this feature has a conservation objective of 'recover', so it is not sufficient to simply not be affecting it. Evidence needs to show that the activity is not hindering recovery of this feature.

The MMO's remit includes being "responsible for ensuring that our decisions help further the conservation objectives of MCZs... and ensures that relevant activities are assessed for their impact upon the protected habitats and species of MPAs and the potential for these activities to hinder its conservation objectives." ⁽⁷⁾ Allowing this activity to continue in this MCZ would be in direct contradiction to this remit.

Pollutants

We believe that the previous regime of chemical sampling of dredged material every five years is not sufficient to adequately suggest there are no harmful chemicals within the material being disposed. As no changes have been suggested to this monitoring, comments submitted previously still stand and are as follows.

Heavy metals, as well as other bacteria and viruses, are known to have potentially detrimental effects on filter feeding organisms (including Blue Mussel beds, Native Oyster beds – both features of the MCZ) as well as having implications on human health.

The analysis of sediment provided in the application shows the presence of Trace Metals, PAHs (Polyaromatic hydrocarbons) and PCBs (Polychlorinated Biphenyls) which are banned and require hazardous waste disposal.

Sediment analysis for PAHs (polyaromatic hydrocarbons) indicates that total levels are above the CEFAS Action Level 1 and are therefore relevant to the issuing of a licence. OSPAR guidance states that measures such as separation of contaminated elements, deposit, management techniques to reduce or control impacts should be considered. Although the amount of different types of PAHs are below the CEFAS Action Levels, when totalled up, they exceed Action Level 1 (0.1 mg/kg) in mg/kg. Further to this, the template spreadsheet includes a field for the total PAH level but this has not been completed by the applicant (column AH). We would defer to the comments submitted by Surfers Against Sewage to provide further detail on the matter of pollutants and contaminants.

Additionally, we have concerns that the chemical assessment relies on disposal thresholds rather than ecological receptor risk. We defer to the comments submitted to the consultation by Marianne Glascott, who is an expert in this field.

We would like to ensure that the applicant and the MMO are aware that Rottingdean Beach is designated as a bathing beach, since 2024 under the Water Framework Directive. There does not appear to have been any reference to this within the application and this site has also been missed in the applicant's Water Framework Directive Scoping Report and Water Framework Directive Impact Assessment, both of which refer to Brighton Kempton as the only WFD protected area within 2km of the disposal site.

Fisheries

The previous licence had no conditions relating to the maintenance of a sustainable fishery in the area. We would like to know whether this may be a consideration for any renewal of the licence. This should be developed and agreed with CEFAS, with Sussex IFCA providing local evidence and information.

There is a wide body of anecdotal evidence from the local fishing community suggesting that siltation of the area and resuspension of anoxic sediments has become a problem for the fishing industry, particularly regarding catches of crabs and lobsters.

Sussex IFCA holds a 'problem profile' for Beachy Head West Siltation, which provides a log of all communications and observations from the wider community, with dates and photos where provided. This was provided to the MMO as part of the licence review consultation in 2020. We defer to Sussex IFCA to provide further detail on this Problem Profile and urge the MMO to consider the issue in greater depth.

Local communities

Many of the anecdotal comments from the local community have also been captured in the aforementioned Problem Profile. Key points raised by the local community include:

- Black sediment that smells of diesel on the beach following dredge campaigns (see Figure 1 below)
- Sea wall duct regularly being visible as it is floating on top of the water (the licence stipulates that it should be weighted)



Figure 1: Image courtesy George Sutton, 2024

We would also like to question whether the MMO considers the public engagement run by the applicant previously to have been conducted appropriately. Stakeholder groups that were invited to engage prior to the 2024 licence application were limited, with local residents outside of the marina itself being omitted. There was also very little representation from the environment sector; Sussex Wildlife Trust was not invited to any engagement events despite having been actively involved in licence consultations in the past.

For the licence currently in question, there appears to have been no public engagement from the applicant. This is an important element of the application process, especially for a case such as this with high public interest. Sussex Wildlife Trust directly invited Brighton Marina to meet with us, but received a response stating, “we remain open to meeting at the appropriate time but right now are focused on resolving the disposal site issue.”

Yours sincerely,

Sarah Ward

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Sussex Wildlife Trust

References:

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- 4 Tittley, I. (2024) The Decline of Kelp Beds in Kent. *Kent Naturalist – the Journal of the Kent Field Club*
- 5 Tittley, I. Saxby, C. Phillips, N. & Yesson C. (in prep) Are we losing our kelp in the south east?
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- 7 MMO Conservation Team (2020) How does the MMO protect MPAs. Available online (<https://marinedevelopments.blog.gov.uk/2020/12/11/how-does-the-mmo-protect-mpas/>)