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## Possible Nature Conservation Marine Protected Areas

### Response from The Crown Estate

November 2013

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#### Executive Summary

We welcome this consultation on proposals for Marine Protected Areas (MPAs) around Scotland's coast and we are pleased to have the opportunity to provide comments on the proposals. This response is one of four consultation responses submitted by The Crown Estate as part of the 'Planning Scotland's Seas' consultation package and should be considered in conjunction with our responses to the National Marine Plan, the Sectoral Plan for offshore wind, wave and tidal energy, and the Planning Circular on integration of marine and terrestrial planning. These responses are informed by The Crown Estate's extensive experience of managing activities within the marine environment and, within its core remit of balancing economic activity with stewardship of natural resources for future generations to use and enjoy.

The Crown Estate has been involved in the process to identify and designate MPAs in Scotland's seas since the earliest stages of the process. We have fed into the process via attendance at the MPA stakeholder workshops, participation in the MPA Sustainability Appraisal Project Advisory Group (PAG) and via our attendance at bilateral industry-government meetings. We welcome the thorough and inclusive consultation which has surrounded the MPA designation process so far, and we look forward to continuing to work with government, stakeholders and industry through to completion of the MPA designation process.

Our response focusses on the strategic issues in relation to the designation of the MPA network as a whole. We encourage efforts to ensure that decisions are made based on the best available evidence and where science-based alternatives which meet the objectives of the MPA network have been identified, then we would support the consideration of socio-economic factors in the decision-making process. We would also ask that where possible, management options are practical, proportional and deliver nature conservation objectives without overburdening current and future users of the marine environment.

Following designation, The Crown Estate will seek to continue our involvement in the development of the conservation objectives and management measures. Indeed as a Public Authority, The Crown Estate has a legal duty to consider MPAs when exercising our functions and our response sets out how we propose to ensure that we have met this duty.

We trust that you will find this consultation response constructive. We are happy to provide additional information on any of the points we have raised above and would be pleased to discuss these matters with you.

All of this response may be put into the public domain and there is no part of it that should be treated as confidential.

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## CONSULTATION RESPONSE

### Introduction

The Crown Estate manages a diverse portfolio. We operate on a commercial basis, taking a long-term perspective and managing assets sustainably at all times.

In Scotland, The Crown Estate manages around 50% of the foreshore and beds of tidal rivers, together with almost all the seabed out to the 12 nautical mile limit. In addition to this, we have the sovereign rights to explore and make use of the natural resources of the UK continental shelf, with the exception of oil, coal and gas.

Under the Energy Act 2004, The Crown Estate was vested with the rights to issue leases for development beyond the territorial limit within the Renewable Energy Zone (REZ) out to 200nm and the Energy Act 2008 vested us with the rights to sub-surface storage within the Gas Importation and Storage Zone (GISZ) out to 200nm. We are working with our partners to ensure that Scotland is well placed to take advantage of the socio-economic benefits that the development of offshore energy will bring.

The Crown Estate's Rural and Coastal portfolio includes around 850 aquaculture sites and 5000 moorings; and 42,000 hectares of rural land including the Glenlivet, Fochabers, Applegirth and Whitehill estates, with agricultural tenancies, residential properties and forestry. Our land management activities make a significant contribution to the local economies of coastal and remote rural areas. We also manage important mineral resources and almost 140 salmon fishing tenancies. The Crown Estate's urban estate in Scotland includes retail property in Edinburgh.

**The Crown Estate is committed to working with the Scottish Government, the Scottish Parliament, local authorities, communities and industry to support sustainable economic development in key sectors such as offshore renewables, carbon capture and storage, aquaculture, recreation and tourism, cables and pipelines and aggregates.**

### Key points

#### Designation of the MPA network

- We support the key objectives of the Marine (Scotland) and the Marine Coastal Access Acts, which include the designation of a network of well-managed MPAs. The Crown Estate has been actively involved in the process to identify and designate MPAs in Scotland's seas since the earliest stages of the process and we are pleased to see the pMPAs out for consultation as part of the 'Planning Scotland's Seas' consultation package.
- We would like to take this opportunity to welcome the thorough and inclusive consultation which has surrounded the MPA designation process so far, and we look forward to continuing to work with government, stakeholders and industry through to completion of the process.
- We have not commented on the specifics of the case for designation for each pMPA but have focussed on the strategic issues in relation to the designation of the network as a whole.

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### Socio-economic assessment

- We would encourage efforts to ensure that decisions are made based on the best available evidence. The legislative basis for the designation of MPAs in Scotland allows for consideration of socio-economic factors where appropriate. Therefore, where science-based alternatives which meet the objectives of the MPA network have been identified, then we would support the consideration of socio-economic factors in the decision making process.
- The socio-economic assessment as part of the Sustainability Appraisal will play a key role in the consideration of social and economic factors where science-based alternative exist. The Crown Estate has been actively engaged in the production of these documents through participation on the Project Advisory Group (PAG) and has provided relevant information and comments to inform this process where appropriate.

### Management options

- Lack of clarity around management options for MPAs can contribute to uncertainty for industry and stakeholders and we therefore welcome the production of draft management options to help inform the consultation process.
- In finalising the management options, we would ask that where possible, management options are practical, proportional and deliver nature conservation objectives without overburdening current and future users of the marine environment. We expect that significant liaison will be required with the relevant industries so that their specialist knowledge can inform the development of the management options; this will help to ensure that the management options are feasible and will deliver the required nature conservation benefits.
- The offshore wind industry is currently undergoing a period of significant uncertainty and any additional costs can have significant implications for project viability. While we realise that full costings are not always possible, we ask that consideration of the implications of management options is given in terms of project timelines and costs. For example, seasonal restrictions on activities could render a project unviable if it prevents construction activity during the summer months.
- When developing management options, it is also necessary to consider future cost implications for designation and we would encourage efforts to ensure management measures consider sustainable use within MPAs where appropriate. For example, when planning new power or telecommunications cables, there may be significant constraints as to where the new cables can be laid and it may not always be practical and or cost effective to route a power cable around MPA. Management options should seek to address way to minimise environmental impacts whilst, providing a practical solution to the business need.
- We would also suggest that further thought is given to how management options will be incorporated into the licensing process. We would like to emphasise the importance of clarification on this point to assist developers and regulators before any future designations are made.

### Interactions with other sectors and other plans

- There are a number of overlaps between the draft plan options in the Sectoral Plans for Offshore Wind, Wave and Tidal projects and the pMPAs. One of the mitigations in the SEA for the Sectoral Plans is that "*designated sites for species and habitats of nature conservation interest should be avoided*". We do not believe that direct overlap with MPAs should be avoided because we anticipate that there is the potential to achieve co-

location between MPAs and offshore renewable energy developments. Potential co-location can be effectively assessed at project level.

- In terms of the aquaculture sector, we refer to the targets and aspiration for growth set out in the draft of the NMP. In order to meet these growth targets, it is possible there will be some pressure to develop within pMPAs and the regulatory process will need to assess aquaculture applications and potential impact on MPAs on a case by case basis.
- For each pMPA we have provided a short summary of existing TCE assets and where we can, other assets such as oil and gas infrastructure, within the boundary of each pMPA. We would be happy to provide more detailed information, including maps of the locations of our assets in each pMPA, if this would be helpful to the process.

#### The Crown Estate's role in managing MPAs

- The Marine and Coastal Access Act (2009) and the Marine (Scotland) Act (2010) identify The Crown Estate as a Public Authority which means that The Crown Estate has a legal duty to ensure that in exercising our functions we must further or (if that is not possible) least hinder the achievement of the conservation objectives of MPAs .
- In practical terms for The Crown Estate, this means that when we enter into (or change) a seabed agreement, we must consider the potential effects of that agreement on the habitats and species for which MPAs have been designated. Where the activity will require a marine licence, then we will usually consider that any potential effects will be addressed sufficiently through the statutory planning process. If the activity will not be licensed through the statutory planning process and we believe that by entering into a seabed agreement there is (or could be) a significant risk to the achievement of the conservation objectives for an MPA, then we have a duty to inform the relevant statutory conservation body and Scottish Ministers before we make our final decision about making/changing the seabed agreement.

#### Next steps

- We will seek to continue our involvement in the subsequent stages of the development of Scotland's MPAs, including the refinement and designation of the MPA search areas.

### **Response to Consultation Questions**

#### **1. Do you support the development of an MPA network in Scotland's Seas?**

Yes. The Crown Estate supports the key objectives of the Marine (Scotland) and the Marine Coastal Access Acts, which include the designation of a network of well-managed MPAs. The Crown Estate has been actively involved in the process to identify and designate MPAs in Scotland's seas since the earliest stages of the process and we are pleased to see the pMPAs out for consultation as part of the 'Planning Scotland's Seas' package.

#### Individual possible Nature Conservation MPAs

To inform our response to questions 2 to 33 below, we have conducted a check of our internal database and for each site we highlight where we have found proposed or existing energy and infrastructure assets within the pMPA boundary. This includes oil and gas pipelines, telecommunications cables, power cables and renewable energy sites with leases or agreements for lease. However, this does not include details of TCE coastal assets such as moorings or aquaculture holdings. More information on aquaculture sites can be found on Scotland's Aquaculture website: <http://aquaculture.scotland.gov.uk/default.aspx>

**2. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Clyde Sea Sill possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio-economic assessment for the Clyde Sea Sill pMPA.

There are a number of existing TCE assets within the pMPA boundary including three telecoms cables, three power cables and a proposed transmission cable. Please contact us if you require further information.

**3. Do you have any comments on the case for designation, management options and socioeconomic assessment for the East Caithness Cliffs possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the East Caithness Cliffs pMPA.

There are a number of existing TCE assets within the pMPA boundary including a power cable. Please contact us if you require further information.

**4. Do you have any comments on the case for designation, management options and socioeconomic assessment for the East of Gannet and Montrose Fields possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the East of Gannet and Montrose Fields pMPA.

There are a large number of TCE assets within the pMPA boundary, including oil and gas pipelines and an interconnector. Please contact us if you require further information.

**5. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Faroe-Shetland sponge belt possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the Faroe-Shetland sponge belt pMPA.

There are a large number of TCE assets within the pMPA boundary, including telecoms cables, oil, gas and water pipelines. Please contact us if you require further information.

**6. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Fetlar to Haroldswick possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the Fetlar to Haroldswick pMPA.

There are a number of existing TCE assets within the pMPA boundary including two power cables. Please contact us if you require further information.

**7. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Hatton-Rockall Basin possible Nature Conservation MPA?**

There are no existing TCE assets within the boundary of this pMPA.

**8. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Loch Creran possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the Loch Creran pMPA.

There are a number of existing TCE assets within the pMPA boundary including a telecoms cable. Please contact us if you require further information.

**9. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Loch Sunart possible Nature Conservation MPA?**

There are no significant existing TCE assets within the pMPA boundary area.

**10. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Loch Sunart to the Sound of Jura possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the Loch Sunart pMPA.

There are a number of existing TCE assets within the pMPA boundary including a number of telecoms and power cables. Please contact us if you require further information.

**11. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Loch Sween possible Nature Conservation MPA?**

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We have no specific comments on the case of designation, the draft management options or socio economic assessment for the Loch Sween pMPA.

There are a number of existing TCE assets within the pMPA boundary including a power cable. Please contact us if you require further information.

**12. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Lochs Duich, Long and Alsh possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the Lochs Duich, Long and Alsh pMPA.

There are a number of existing TCE assets within the pMPA boundary including a number of power cables. Please contact us if you require further information.

**13. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Monach Isles possible Nature Conservation MPA?**

There are no significant existing TCE assets within the boundary of this pMPA.

**14. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Mousa to Boddam possible Nature Conservation MPA?**

There are no significant existing TCE assets within the boundary of this pMPA.

**15. Do you have any comments on the case for designation, management options and socioeconomic assessment for the North-east Faroe Shetland Channel possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the North-east Faroe Shetland Channel pMPA.

There are a number of existing TCE assets within the pMPA boundary including a number of telecoms cables. Please contact us if you require further information.

**16. Do you have any comments on the case for designation, management options and socioeconomic assessment for the North-west Orkney possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the North-west Orkney pMPA.

There are a number of existing TCE assets within the pMPA boundary including a number of telecoms cables and there is also a proposed transmission cable. This pMPA is also in close proximity to a number of sites with

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agreements for lease in place for wave and tidal development. Please contact us if you require further information.

**17. Do you have any comments on the case for designation, management options and socioeconomic assessment for the North-west sea lochs and Summer Isles possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the North-west sea lochs and Summer Isles pMPA.

There are a number of existing TCE assets within the pMPA boundary including a number of telecoms cables, telecoms cables, a proposed transmission cable, a proposed seaweed farm and existing aquaculture interests. Please contact us if you require further information.

**18. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Noss Head possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the North-west sea lochs and Summer Isles pMPA.

There are a number of existing TCE assets within the pMPA boundary including proposed transmission cable. Please contact us if you require further information.

**19. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Papa Westray possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the Papa Westray Isles pMPA.

There are no existing TCE assets within the pMPA boundary but there is a power cable with 1km of the boundary. Please contact us if you require further information.

**20. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Rosemary Bank Seamount possible Nature Conservation MPA?**

There are no significant TCE assets within the boundaries of the pMPA.

**21. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Small Isles possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the Small Isles pMPA.

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There are a number of existing TCE assets within the pMPA boundary including a telecoms cable. Please contact us if you require further information.

**22. Do you have any comments on the case for designation, management options and socioeconomic assessment for the South Arran possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the South Arran pMPA.

There are a number of existing TCE assets within the pMPA boundary including existing and proposed telecoms cables and a power cable. Please contact us if you require further information.

**23. Do you have any comments on the case for designation, management options and socioeconomic assessment for The Barra Fan and Hebrides Terrace Seamount possible Nature Conservation MPA?**

There are no active TCE assets within the boundaries for this pMPA.

**24. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Turbot Bank possible Nature Conservation MPA?**

There are no active TCE assets within the boundaries for this pMPA.

**25. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Upper Loch Fyne and Loch Goil possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the Upper Loch Fyne and Loch Goil pMPA.

There are a number of existing TCE assets within the pMPA boundary including telecoms and power cables. Please contact us if you require further information.

**26. Do you have any comments on the case for designation, management options and socioeconomic assessment for the West Shetland Shelf (formerly Windsock) possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the West Shetland Shelf (formerly Windsock) pMPA.

There are a number of existing TCE assets within the pMPA boundary including a telecoms cable. Please contact us if you require further information.

**27. Do you have any comments on the case for designation, management options and socioeconomic assessment for the Wyre and Rousay Sounds possible Nature Conservation MPA?**

We have no specific comments on the case of designation, the draft management options or socio economic assessment for the Wyre and Rousay Sounds pMPA.

There are a number of existing TCE assets within the pMPA boundary including a number of power cables. Please contact us if you require further information.

### **Choices to represent features in the MPA Network**

**28. Recognising the scientific advice from JNCC included alternatives for representing offshore subtidal sands and gravels, ocean quahog and shelf banks and mounds in the Southern North Sea, do you have a preference or comments on the following combinations to represent these features, bearing in mind Turbot Bank will need to be designated to represent sandeel in this region:**

- **Firth of Forth Banks Complex**
- **Turbot bank and Norwegian Boundary Sedimentary Plain**
- **Or Firth of Forth Banks Complex, Turbot bank and Norwegian Boundary Sedimentary Plain.**

See comments below in response to question 29.

**29. Do you have any comments on the case for designation, management options and socioeconomic assessments for the preference you have indicated in the question above, regarding alternatives for representing offshore subtidal sands and gravels, ocean quahog and shelf banks and mounds in the Southern North Sea?**

The legislative basis for the designation of MPAs in Scotland allows for consideration of socio-economic factors where science-based alternatives exist. Therefore, where appropriate science-based alternatives which meet the objectives of the MPA network have been identified, then we would support the consideration of socio-economic factors in decision regarding designation.

In terms of socio-economics, we would make reference to Table 11 in the Sustainability Appraisal which sets out the 'Present value (PV) in £ millions for quantified costs to energy generation'. This suggests there are substantial costs to the energy generation sector under the higher cost scenario (which estimates the upper level of potential costs of additional assessment and survey requirements and possible mitigation measures if designation of the Firth of Forth Bank Complex proceeds). It is also possible that the potential cost impacts could be more significant, should some of the planned investment be deterred as a result of the additional costs to development (however, this has not been estimated in these calculations). Given the potentially significant costs to the energy generation sector, we would support consideration of socio-economic factors in the decision-making around designations in this region.

### **Norwegian Boundary Sediment Plain**

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There are a number of existing TCE assets within the pMPA boundary including a telecoms cable and potential carbon storage sites with associated infrastructure. There are also a number of oil & gas pipelines within the proposed boundary. Please contact us if you require further information.

#### Turbot Bank

There are no TCE assets within the boundaries for this pMPA.

#### Firth of Forth

There are a number of existing TCE assets within the pMPA boundary including the Round 3 offshore wind zone, proposed power cable and a proposed transmission cable. Please contact us if you require further information.

**30. Recognising the scientific advice from JNCC included alternatives for representing the burrowed mud feature in the Fladens, do you have a preference or comments on the following combinations to represent these features, bearing in mind the part of Central Fladen (known as Central Fladen (Core)) containing tall seapen (*Funiculinaquadrangularis*) will need to be designated to represent tall seapen in this region:**

- Central Fladen pMPA only
- The tall sea-pen component of Central Fladen, plus Western Fladen
- Or the tall sea-pen component of Central Fladen, plus South-East Fladen.

No comment.

**31. Do you have any comments on the case for designation, management options and socioeconomic assessments for the preference you have indicated in the question above, regarding alternatives for representing the burrowed mud feature in the Fladens?**

#### Central Fladen

There are a large number of TCE assets within the pMPA boundary including telecoms cables, and oil and gas pipelines. Please contact us if you require further information.

#### SE Fladen

There are a number of TCE assets within the pMPA boundary including oil and gas pipelines. Please contact us if you require further information.

#### Western Fladen

There are a large number of TCE and non-TCE assets within the pMPA boundary including telecoms cables, oil and gas pipelines, water pipelines and other associated infrastructure. Please contact us if you require further information.

**32. Recognising the scientific advice from JNCC included alternatives for representing offshore subtidal sands and gravels, offshore deep sea mud, and burrowed mud in OSPAR Regions III and V, do you have a preference or comments on the following combinations to represent these features:**

- South-West Sula Sgeir and Hebridean slope Or
- Geikie slide and Hebridean slope

No comment.

**33. Do you have any comments on the case for designation, management options and socioeconomic assessments for the preference you have indicated in the question above, regarding alternatives for representing offshore subtidal sands and gravels, offshore deep sea mud, and burrowed mud in OSPAR Regions III and V?**

There are no active TCE assets within the boundaries of either of these pMPAs.

#### **Sustainability Appraisal**

**34. Do you have any comments on the Sustainability Appraisal of the MPA network as a whole?**

As mentioned above, The Crown Estate has fed into the Sustainability Appraisal (SA) process via participation in the Project Advisory Group (PAG). While the SA is based on a number of assumptions, we consider this a useful piece of work, bringing together environmental, social and economic issues for consideration within the decision-making process.

#### **Final Thoughts**

**35. On the basis of your preferences on which pMPAs should be designated, do you view this to form a complete or ecologically coherent network, subject to the completion and recommendations of SNH's further work on the 4 remaining search locations?**

While we are not providing detailed comments on the ecological representation of the network as a whole, we support efforts to ensure a robust evidence base to support the refinement of the search areas and future decisions on MPA designation.

**36. Do you have any other comments on the case for designation, management options, environmental or socioeconomic assessments of the pMPAs, or the network as a whole?**

Please see the first section of our response entitled 'key issues' – this includes comment on the strategic issues affecting designation, management options and the socio-economic assessments of the pMPA network as a whole.