



# Marine Scotland

## Development of four Marine Protected Areas Strategic Impact Assessment: Post Adoption Statement

December 2020

# Designation of four Marine Protected Areas in Scottish waters

SEA Post Adoption Statement

December 2020

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For:



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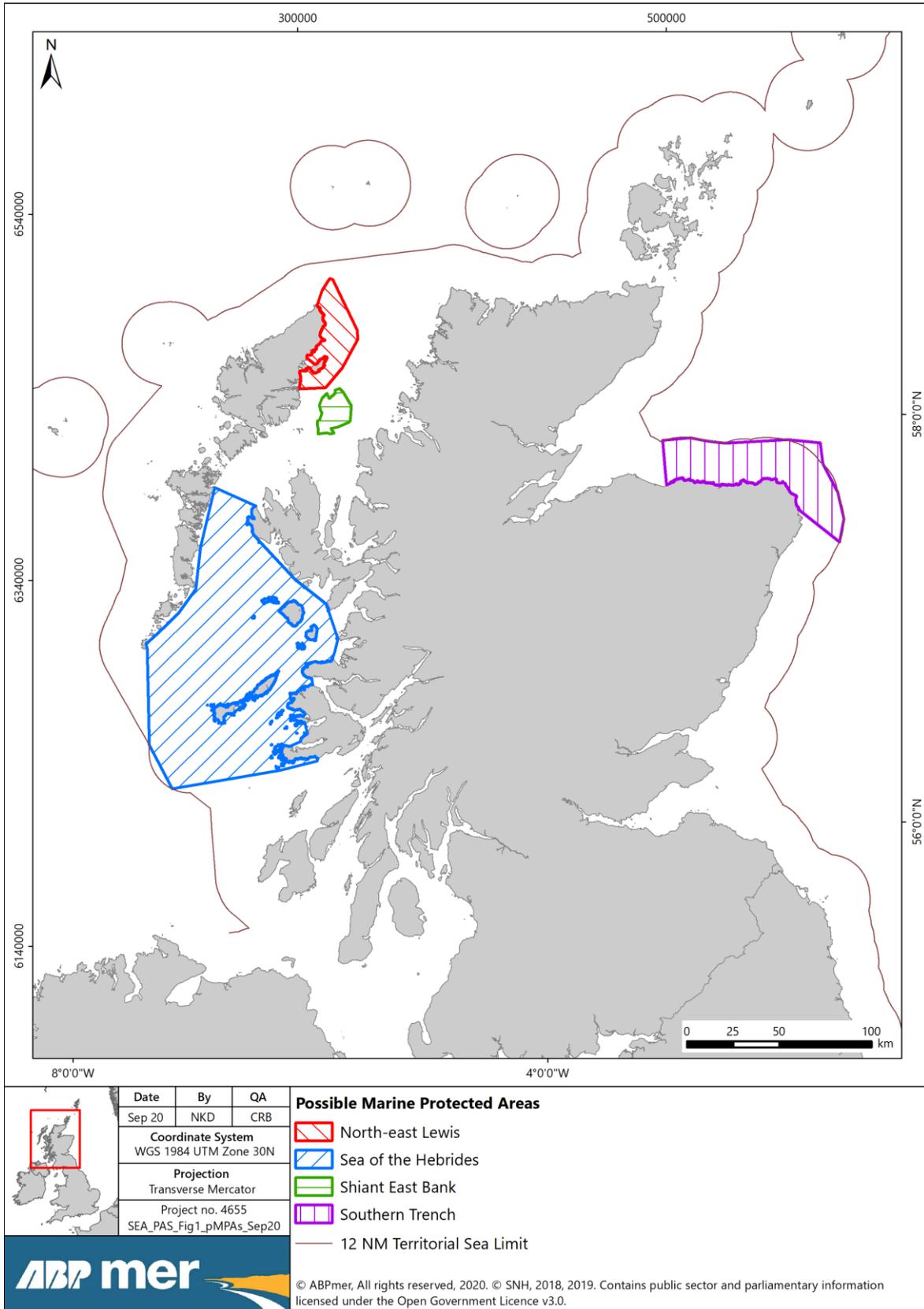
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# 1 Background

- 1.1.1 The Scottish Government has made a long-term commitment to ensuring the sustainable management of the marine environment by balancing the competing interests of use and protection of the sea. This has included developing and implementing a coherent network of Marine Protected Areas (MPAs) to benefit the conservation of vulnerable and characteristic marine species and habitats in Scottish waters. The designation of MPAs is a high policy priority and fulfils duties in domestic and European legislation, as well as contributing to wider UK and international networks of protected areas.
- 1.1.2 The Scottish Government proposed the addition of four possible Marine Protected Areas (pMPAs) to the Scottish MPA network (Figure 1). These sites are:
- North-east Lewis;
  - Sea of the Hebrides;
  - Shiant East Bank; and
  - Southern Trench.
- 1.1.3 The protected features of these sites include basking shark, minke whale, Risso's dolphin, as well as seabed habitats and geological features. Whales and dolphins, collectively known as cetaceans, as well as basking sharks are protected wherever they occur throughout Scottish waters. The four MPAs will offer additional levels of protection to locations important for the various life stages of these species.
- 1.1.4 The designation of these four MPAs was subject to Strategic Environmental Assessment (SEA). The associated Environmental Report was consulted on and the consultation ended on 30 August 2019<sup>1</sup>.
- 1.1.5 Following the public consultation, the boundary for the Shiant East Bank pMPA was amended, taking into account the views expressed during the consultation.
- 1.1.6 In addition, the boundary of the Southern Trench pMPA was refined in two respects:
- By rationalising the number of coordinates to optimise the practical implementation and management of this site; and
  - Excluding the portion of the site outside 12 nautical miles (NM), due to the requirements of the Marine and Coastal Access Act 2009 and delays caused by Covid-19.

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<sup>1</sup> Scottish Government (2019) A consultation on proposals to designate four Marine Protected Areas in Scottish waters. Available at: <https://consult.gov.scot/marine-scotland/four-new-marine-protected-areas/> (accessed January 2020)



**Figure 1 Map of four pMPAs at consultation**

## 2 The Strategic Environmental Assessment Process

- 2.1.1 The Environmental Assessment (Scotland) Act 2005 ('the 2005 Act') requires public bodies in Scotland to carry out Strategic Environmental Assessment (SEA) on their plans, programmes and strategies<sup>2</sup>. SEA is a way of examining plans, programmes and strategies as they develop, to identify any significant effects they may have on the environment. It ensures that environmental considerations are taken into account. SEA also aims to build in mitigation measures, to avoid or minimise any potentially significant adverse effects on the environment, and look for opportunities to enhance a strategy's environmental performance.
- 2.1.2 This SEA process began with the production of a combined Screening and Scoping Report which was published in June 2018, setting out the proposed approach to the SEA, including the proposed scope and level of detail. Representations received from the SEA Consultation Authorities<sup>3</sup> at the screening and scoping stage, confirmed the need for an SEA and helped to inform the following stages of the SEA process.
- 2.1.3 The assessment stage of the SEA was progressed, and the production of the SEA Environmental Report was published for consultation on 7 June 2019<sup>4</sup>, together with the following documents:
- Consultation paper on proposals to designate four MPAs in Scottish Waters;
  - Data confidence assessments of the scientific evidence;
  - MPA Selection Guidelines assessments;
  - Conservation and management advice;
  - Business and Regulatory Impact Assessments (BRIAs);
  - A Socio-Economic Impact Assessment (SEIA); and
  - A Sustainability Appraisal, combining environmental, social and economic effects.

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<sup>2</sup> Scottish Government (2005) Environmental Assessment (Scotland) Act 2005, asp 15 [online] Available at: <https://www.legislation.gov.uk/asp/2005/15/introduction> (accessed January 2020)

<sup>3</sup> Historic Environment Scotland (HES), Scottish Environment Protection Agency (SEPA) and Scottish Natural Heritage (SNH).

<sup>4</sup> Scottish Government (2019) A consultation on proposals to designate four Marine Protected Areas in Scottish waters. Available at: <https://consult.gov.scot/marine-scotland/four-new-marine-protected-areas/> (accessed January 2020)

- 2.1.4 Following consultation, an independent analysis of all consultation responses received was carried out and formed part of the report by the Scottish Government that outlines how the views expressed in the consultation helped to inform the plan to designate four MPAs.
- 2.1.5 This Post Adoption Statement concludes the SEA process and sets out those ways in which the findings of the SEA Environmental Report, and the views expressed by consultees have been taken into account.
- 2.1.6 Section 18(3) of the Environmental Assessment (Scotland) Act 2005 sets out the information that should be included in the Post Adoption Statement. This can be summarised as:
- how the environmental considerations have been integrated into the plan, programme, or strategy (Section 3);
  - how the Environmental Report has been taken into account (Section 4);
  - how the opinions of consultees have been taken into account (Section 5);
  - the reasons for choosing the plan, programme or strategy as adopted, in light of the other reasonable alternatives considered (Section 6); and
  - the measures to be taken to monitor the significant environmental effects of the implementation of the plan, programme or strategy (Section 7).

## 3 Integration of Environmental Considerations

- 3.1.1 This section explains how key environmental considerations were identified and how these were taken into account in the plan to extend the MPA network by designating four MPAs in Scottish Waters.
- 3.1.2 The overall MPA network is intended to help protect nationally and internationally important marine wildlife, habitats and underwater geodiversity, while also benefiting the wider marine environment, historic features, coastal communities, marine industries and recreational users<sup>5</sup>. Environmental considerations are therefore integral to the development of MPAs.
- 3.1.3 Furthermore, MPAs are a key element of the Scottish Government's commitment to ensuring the sustainable management of the marine environment and balancing the competing interests of use and protection of the sea. They contribute to progress towards Good Environmental Status (GES) as set out by the Marine Strategy Framework Directive 2008/56/EC<sup>6</sup>. They also form part of the OSPAR Convention network of protected sites found throughout the North East Atlantic Ocean<sup>7</sup>. In addition, they aim to maintain and enhance biodiversity, which is a focus of the Habitats (92/43/EEC)<sup>8</sup> and Birds (2009/147/EC)<sup>9</sup> Directives.
- 3.1.4 During the development of the plan to extend the MPA network, the Scottish Government drew on evidence from the Scottish MPA Project and formal advice from NatureScot<sup>10,11</sup> (formerly known as Scottish Natural Heritage) as a basis for ensuring MPAs are designated in the most appropriate locations for their particular objectives. Specifically, the four pMPAs would

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<sup>5</sup> SNH (2017) Nature Conservation Marine Protected Areas [online] Available at: <https://www.nature.scot/professional-advice/protected-areas-and-species/protected-areas/marine-protected-areas-mpas> (accessed September 2020)

<sup>6</sup> Scottish Government (2011) Marine Protected Areas in Scotland's Seas – Guidelines on the selection of MPAs and development of the MPA network [online] Available at: <https://www2.gov.scot/resource/doc/295194/0114024.pdf> (accessed January 2020)

<sup>7</sup> OSPAR Commission (2015) Marine Protected Areas [online] Available at: <https://www.ospar.org/work-areas/bdc/marine-protected-areas> (accessed January 2020)

<sup>8</sup> European Commission (1992) The Habitats Directive [online] Available at: [http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index\\_en.htm](http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm) (accessed January 2020)

<sup>9</sup> European Commission (2009) The Birds Directive [online] Available at: [http://ec.europa.eu/environment/nature/legislation/birdsdirective/index\\_en.htm](http://ec.europa.eu/environment/nature/legislation/birdsdirective/index_en.htm) (accessed January 2020)

<sup>10</sup> SNH (2012) Commissioned Report No. 547: Advice to Scottish Government on the selection of Nature Conservation Marine Protected Areas (MPAs) for the development of the Scottish MPA network [online] Available at: <https://www.nature.scot/naturescot-commissioned-report-547-naturescot-and-jncc-mpa-network-advice> (accessed January 2020)

<sup>11</sup> SNH (2014) Commissioned Report No. 780: Further advice to Scottish Government on the selection of Nature Conservation Marine Protected Areas for the development of the Scottish MPA network [online] Available at: <https://www.nature.scot/naturescot-commissioned-report-780-further-advice-scottish-government-selection-nature-conservation> (accessed January 2020)

extend protection to basking shark, minke whale, Risso's dolphin, burrowed mud, shelf banks and mounds and shelf deeps. The advice from NatureScot took account of the MPA Selection Guidelines and considered a range of criteria: representation, replication, resilience, range and geographic variation of features, and any key linkages<sup>12</sup>.

- 3.1.5 The preparation of the Screening and Scoping Report and environmental baseline for the SEA ensured that environmental considerations were taken into account in the plan to designate four proposed MPAs. Subsequent consultation with the SEA Consultation Authorities assisted in confirming key environmental issues for further consideration in the assessment stage.
- 3.1.6 The four pMPAs were subject to environmental assessment with the results of the assessment informing their further development.

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<sup>12</sup> Scottish Government (2011) Marine Protected Areas in Scotland's Seas: Guidelines on the selection of MPAs and the development of the MPA network [online] Available at: <https://www2.gov.scot/Resource/0051/00515466.pdf> (accessed January 2020)

## 4 The Findings of the SEA

4.1.1 The Environmental Report details the conclusions and recommendations of the assessment on the four MPAs. The key themes drawn from the assessment are discussed below:

- The SEA findings concluded that the increased protection that would result from the designation of the four MPAs would provide environmental benefits for the overarching topic of Biodiversity, Flora and Fauna and contribute to the achievement of the SEA objectives. This is because the designation of the sites would provide developers with a better understanding of the species and habitats that need to be protected.
- The MPAs would work cumulatively together with the wider MPA network and existing protection measures to further benefit the overarching topic of Biodiversity, Flora and Fauna and contribute to the achievement of SEA objectives.
- No significant adverse environmental effects were identified and therefore no mitigation or monitoring measures were proposed as part of the assessment process.
- The manner in which the sites are managed in the future to ensure that the conservation objectives for the protected features are achieved has the potential to result in significant environmental changes. Consideration was therefore also given to the potential impacts that could arise from different management scenarios at each of the MPAs as part of the consideration of reasonable alternatives. These would result in either no overall immediate environmental impact or an overall moderate immediate beneficial environmental impact, with potential for greater future benefits.
- There is the potential for cumulative adverse effects on the environment from the displacement of fishing activities. A more detailed assessment of cumulative effects will need to be undertaken should any management measures be proposed in future at the four MPAs.
- The management scenarios that have been considered as reasonable alternatives do not constrain future decisions and any management measures that may be adopted by the Scottish Government for individual sites. Should any specific management measures be subsequently required to meet the objectives of the MPAs, these will be subject to further consideration under the 2005 Act, involving a separate SEA and public consultation. Should significant adverse effects be identified as a result of any future proposed management measures, there will be a need to consider appropriate mitigation measures and monitoring proposals.

4.1.2 A key outcome from the SEA process was the reaffirmation that the MPAs offer an opportunity to protect species and habitats and provide wider environmental benefits. These principles are embedded in the plan to designate the four MPAs and is a key requirement to fulfil a number of environmental and conservation objectives (Section 3).

## 5 How the Opinions Expressed Have Been Taken Into Account

- 5.1.1 During the preparation of the SEA, Scottish Government hosted a stakeholder workshop in March 2019 to discuss the designation of the four sites. A range of organisations and business groups attended the event, and issues relating to the pMPAs, including environmental considerations, were discussed. A full report of the workshop is available<sup>13</sup>.
- 5.1.2 Following the publication of the proposals to designate four pMPAs, 14 'Public Drop-in Events' took place throughout Scotland at locations close to the proposed sites. These events presented an opportunity for Scottish Government and NatureScot to present to the public and stakeholders on the pMPAs.
- 5.1.3 The Environmental Report was published for consultation alongside the consultation paper, the data confidence assessments of the scientific evidence, MPA Selection Guidelines assessments, conservation and management advice for each site; BRIAs for each site, an SEIA and an SA. Views were invited on the following 5 questions:
1. Do you support the designation of these possible Marine Protected Areas?
  2. Do you agree that the scientific evidence presented justifies the case for the designation of each site?
  3. Do you have any comments on the Conservation and Management Advice for each site?
  4. Do you have any comments on the Business and Regulatory Impact Assessments for each site?
  5. Do you have any comments on the Sustainability Appraisal, including the Environmental Report and the Socio-Economic Impact Assessment?

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<sup>13</sup> Scottish Government (2019) Proposed Marine Protected Areas - Stakeholder Workshop: Workshop Summary. <https://www2.gov.scot/Resource/0054/00547368.pdf> (accessed January 2020)

5.1.4 In total, 222 respondents provided responses for the consultation. The respondent categories comprised Academic; Aquaculture Business/Association; Community Group; Energy Provider; Environmental; Fishing Group or Organisation; Individual; Other Business; Other Industry Association; Recreation and Tourism Business/Association; and Regulator or Local Authority. A total of 7,832 campaign responses were received from campaigns initiated by Marine Conservation Society, Scottish Wildlife Trust, and Whale and Dolphin Conservation.

5.1.5 The following provides a summary of the key outcomes of the consultation:

- Between 150 and 160 respondents (66% to 70%) stated that they ‘Strongly Supported’ the designation for each of the four sites;
- Between 10 and 15 respondents (4% to 7%) stated that they ‘Strongly Opposed’ the designation for each of the four sites;
- The level of support differed for each site but not considerably;
- 172 respondents (72%) stated that they agreed that the Scientific Evidence presented justifies the case for the designation of each site; and
- 77 to 102 respondents (35% to 46%) had further comments on the Conservation and Management Advice, the Business and Regulatory Impact Assessment and the Sustainability Appraisal for each site.

5.1.6 Key comments raised in consultation responses included:

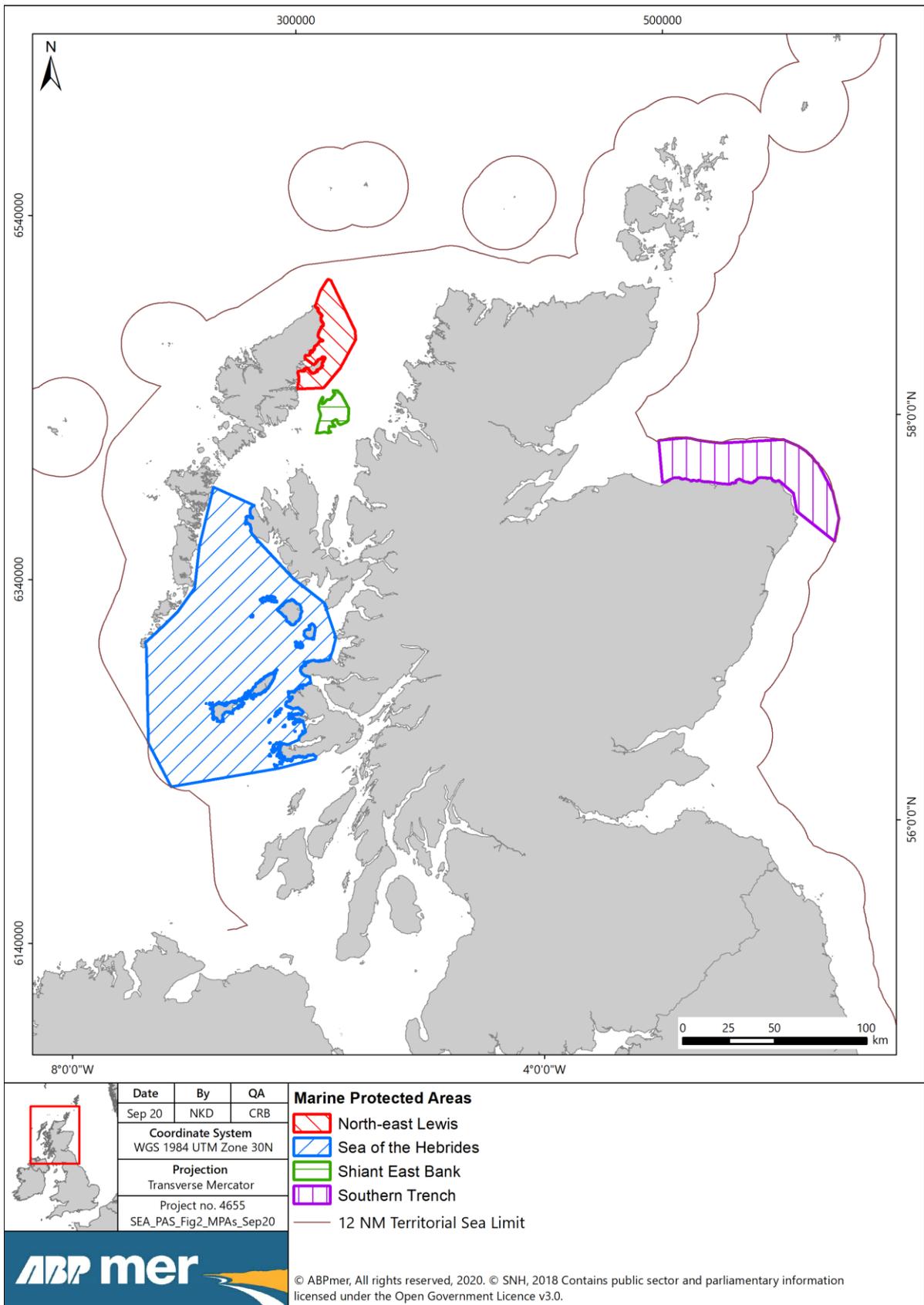
- The possible MPAs help to protect and enhance biodiversity;
- MPAs help to promote tourism;
- More marine areas around Scotland should be given MPA status or there should be more stringent Marine Protected Area regulatory controls;
- MPAs help to address national, regional and local environmental targets;
- MPAs help to protect areas from the negative environmental effects created by fishing;
- The possible MPAs may have negative economic impacts in areas where the main source of employment is fishing;
- The possible MPAs will fail to discourage the negative environmental impacts created by fishing; and
- Fishing has taken place in these areas for a significant period of time and has had few or no negative effects on biodiversity.

- 5.1.7 In terms of the Environmental Report, two respondents noted that the topic of Population and Human Health was scoped out of the SEA which may be appropriate at an individual designation level. This topic was scoped out on the basis that the designation of the pMPAs is unlikely to lead to any significant environmental impacts on this receptor. Potential economic and social impacts are addressed in the SEIA and Sustainability Appraisal, the latter of which the SEA is a part.
- 5.1.8 A small number of respondents noted that the Sustainability Appraisal did not include the status quo as a reasonable alternative. The Sustainability Appraisal considered the option for 'doing nothing' (i.e. maintaining status quo) but concluded that this would not help Scotland meet its international commitments regarding marine protection (Section 6).
- 5.1.9 Responses were received which questioned the distribution of the proposed protected features and the boundary of the Shiant East Bank pMPA. This was in relation to overlapping fishing activity. Following the consultation, plotter data was obtained from fishing vessels operating in the area, as well as a proposed revised boundary submitted by the Western Isles Fishermen's Association (WIFA). NatureScot reviewed this new information and as a result provided advice on a revised boundary for Shiant East Bank. Based on the views received during consultation and advice provided by NatureScot, the Scottish Government has revised the boundary for this site.
- 5.1.10 The comments received on management scenarios that were considered reasonable alternatives for the purposes of the SEA (Section 4) will inform the future development of any specific management measures that are required to meet the objectives of the MPAs. These will be subject to further consideration under the 2005 Act, involving a separate SEA and public consultation.

## 6 Reasons for Designating the Four MPAs as adopted

- 6.1.1 The 2005 Act requires that the Scottish Government identify, describe and evaluate the likely significant effects on the environment of any reasonable alternatives to the plan or programme, taking into account its objectives and geographical scope.
- 6.1.2 The Screening and Scoping Report identified some strategic reasonable alternatives to the designation of the four MPAs that might achieve the same protection outcomes. For example, the development of an overarching conservation plan or action strategy could ensure the protection of some or all of the proposed protected features for the four MPAs and the wider environment. The Scottish Government is currently leading on the development of a UK dolphin and porpoise conservation strategy which aims to ensure that cetaceans are maintained in favourable conservation status throughout the UK.
- 6.1.3 Furthermore, not designating the four MPAs could also be considered a reasonable alternative (i.e. the do nothing or status quo option) as the existing legislation offers a degree of protection for some of the proposed protected features, specifically cetaceans and basking shark, which assists their continued conservation.
- 6.1.4 Neither of these two alternatives, however, would extend the existing MPA network and therefore would not help Scotland to fulfil a number of legislative and conservation requirements (see Section 3). While the conservation strategy will provide UK-wide management strategies for cetaceans, designating the sites as MPAs will provide localised protection and ensure that the impacts on the proposed protected features are considered in sufficient detail when granting permission for activities within the MPAs.
- 6.1.5 In summary, the designation of the MPAs is required to fulfil the statutory duties of the Scottish Government and provide adequate protection to the sites' features. In the finalisation of the plan to designate the four MPAs, as previously detailed, the boundary of the Shiant East Bank MPA has been modified slightly to better reflect the available data on the distribution of proposed protected features (Figure 2).

- 6.1.6 The proposal for Southern Trench MPA as consulted upon would be designated under both the Marine and Coastal Access Act 2009 and the Marine (Scotland) Act 2010. The Marine and Coastal Access Act 2009 requires that a final decision is announced within one year of the public consultation launch, or the consultation becomes void. Reprioritisation of resources due to the Covid-19 pandemic caused the designation process to be delayed beyond this one year timescale. Therefore, a decision was taken by Scottish Ministers to amend the site boundary to only include territorial waters thereby removing the portion covered by the Marine and Coastal Access Act 2009, reducing the area of the site by approximately 3% (Figure 2). The area removed does contain some of the burrowed mud and shelf deeps features. However, the requirement to take this decision was necessary under the circumstances and taken on the basis of reducing burden on those who responded to the consultation and minimising waste of public resources.
- 6.1.7 In addition, the boundary of the Southern Trench MPA was refined by rationalising the number of coordinates to optimise the practical implementation and management of this site (Figure 2). These boundary changes do not necessitate a further SEA to be carried out as the integrity of all the proposed features remain intact and the environmental benefits will not significantly change.



**Figure 2 Map of four MPAs**

## 7 Monitoring

- 7.1.1 Section 19 of the 2005 Act requires the Responsible Authority to monitor significant environmental impacts arising as a result of the implementation of the plan, programme or strategy. The purpose of the monitoring is to identify any unforeseen adverse effects at an early stage and to enable appropriate remedial action to be taken.
- 7.1.2 No significant adverse environmental effects were identified in the Environmental Report and therefore no mitigation or monitoring measures were proposed by the SEA (Section 4).
- 7.1.3 It should be noted that NatureScot and the Scottish Government are committed to continued data collection and monitoring under The Scottish MPA Monitoring Strategy<sup>14</sup>. This sets out the drivers and direction for monitoring of the MPA network to ensure that appropriate information is collected to underpin assessment and reporting obligations. The strategy outlines the principles for prioritisation of monitoring efforts, how the data will be collated and data management. The public consultation identified that there was support for continued community-led marine monitoring, suggesting that this be used to assist in monitoring the MPA network. The promotion of collaborations with local coastal communities, industry, academia, and other marine stakeholders to deliver better co-ordination of monitoring activities is a key purpose of the Scottish MPA Monitoring Strategy.
- 7.1.4 The results of MPA monitoring will be used to inform future decisions on the management of MPAs. Any management measures that are proposed in future to meet the objectives of the MPAs will be subject to further consideration under the 2005 Act, involving a separate SEA. Should significant adverse environmental effects be identified as a result of any future proposed management measures, there will be a need to consider appropriate mitigation measures and monitoring proposals.

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<sup>14</sup> Marine Scotland (2017) Scottish Marine Protected Areas (MPA) Monitoring Strategy. Available at: <https://www2.gov.scot/Topics/marine/marine-environment/mpanetwork/MPAmonitoring> (accessed January 2020)

## 8 Conclusion

- 8.1.1 The Scottish Government is content that the level and scope of the SEA is proportionate and that, given the high-level nature of the proposed designation of the four MPAs, it has been pitched at the appropriate level.
- 8.1.2 This Post Adoption Statement concludes the SEA process, setting out the ways in which the findings of the SEA Environmental Report and the views expressed during the public consultation have been taken into account in the plan to designate the proposed MPAs.

## Appendix A Abbreviations

BRIA	Business and Regulatory Impact Assessment
EC	European community
ER	Environmental Report
GES	Good Environmental Status
IA	Impact Assessment
JNCC	Joint Nature Conservation Committee
MPA	Marine Protected Area
OSPAR	Convention for the Protection of the Marine Environment of the North-East Atlantic (Oslo/Paris)
SAC	Special Area of Conservation
SEA	Strategic Environmental Assessment
SEIA	Socio-Economic Impact Assessment
UK	United Kingdom