



# Marine Proposed Special Protection Areas

## SEA Post Adoption Statement

March 2022

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Report prepared by:



For:



marinescotland

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# 1 Background

- 1.1.1 Marine Scotland is committed to a clean, healthy, safe, productive and biologically diverse marine and coastal environment that meets the long term needs of people and nature. The designation and management of Marine Protected Areas (MPAs), including Special Protection Areas (SPAs), will make a significant contribution to the protection, enhancement and health of the marine area<sup>1</sup>.
- 1.1.2 Following the UK leaving the EU, the Conservation (Natural Habitats, &c.) Regulations 1994<sup>2,3</sup>, the Conservation of Habitats and Species Regulations 2017<sup>4</sup>, the Conservation of Offshore Marine Habitats and Species Regulations 2017<sup>5</sup> and the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001<sup>6</sup> (collectively known as the Habitats Regulations) have been amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019<sup>7</sup>. These changes ensure that the requirements of the EU Birds Directive 2009/147/EC<sup>8</sup> are a part of UK domestic legislation, and continue to apply to how SPAs are classified and protected<sup>9</sup>.
- 1.1.3 Previous consultation exercises were undertaken in 2016/2017 on a proposed network of 15 marine SPAs in UK Waters<sup>10</sup>. Building on the work of the SPA Review Working Group and taking account of existing guidelines on the identification of SPAs<sup>11</sup>, NatureScot (formerly Scottish Natural Heritage), the Joint Nature Conservation Committee (JNCC) and Natural England identified 15 sites based on the scientific evidence and selection process which they considered essential for marine SPA status. These proposals included sites supporting wintering waterfowl, seabird

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<sup>1</sup> Scottish Government (2015) - [Scotland's National Marine Plan](#) (accessed 14/03/2022)

<sup>2</sup> [The Conservation \(Natural Habitats, &c.\) Regulations 1994](#) [online] (accessed 14/03/2022)

<sup>3</sup> UK Government (2022) - [Changes to Legislation Results](#) [online] (accessed 14/03/2022)

<sup>4</sup> [The Conservation of Habitats and Species Regulations 2017](#) [online] (accessed 14/03/2022)

<sup>5</sup> [The Conservation of Offshore Marine Habitats and Species Regulations 2017](#) [online] (accessed 14/03/2022)

<sup>6</sup> [The Offshore Petroleum Activities \(Conservation of Habitats\) Regulations 2001](#) [online] (accessed 14/03/2022)

<sup>7</sup> [The Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019](#) [online] (accessed 14/03/2022)

<sup>8</sup> European Commission (2009) - [Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds \(codified version\)](#) [online] (accessed 14/03/2022)

<sup>9</sup> Scottish Government (2020) - [EU Exit: habitats regulations in Scotland](#) [online] (accessed 14/03/2022)

<sup>10</sup> NatureScot (2021) - [2016-17 Marine bird proposed Special Protection Areas consultation](#) (accessed 14/03/2022)

<sup>11</sup> JNCC (2021) - [Selection guidelines for SPAs](#) [online] (accessed 14/03/2022)

aggregations, important areas for foraging breeding red-throated divers, breeding terns, and breeding and non-breeding European shag.

- 1.1.4 The proposal to classify these additional SPAs in the Scottish marine environment was subject to a Strategic Environmental Assessment (SEA) and an Environmental Report<sup>12</sup> ('the 2018 Environmental Report') was published on 14 September 2018 for consultation in accordance with the Environmental Assessment (Scotland) Act 2005 ('the 2005 Act').
- 1.1.5 Following substantive scientific objections raised during the 2018 consultation, NatureScot and JNCC's Final Advice<sup>13</sup> on the proposed network provided some recommended changes to the marine proposed SPAs (pSPAs), the most notable of which was the withdrawal of the Pentland Firth pSPA from the plan. In order to address this change and also other consultee responses, specifically with regard to the previous assessment of reasonable alternatives in the 2018 Environmental Report, the Scottish Government undertook a supplementary consultation based upon a revised and expanded set of SEA Reasonable Alternatives. These were subject to further assessment in an updated Environmental Report which was published for consultation on 17 June 2019 ('the 2019 Updated Environmental Report')<sup>14</sup>.
- 1.1.6 Following the supplementary consultation, 12 of the pSPAs were classified on 3 December 2020<sup>15</sup>. These sites were:
- Solway Firth;
  - Seas off St Kilda;
  - Seas off Foula;
  - Outer Firth of Forth and St Andrews Bay Complex;
  - Moray Firth;
  - Ythan Estuary, Sands of Forvie, and Meikle Loch (extension);
  - Bluemull and Colgrave Sounds;
  - East Mainland Coast, Shetland;
  - Sound of Gigha;
  - Coll and Tiree;
  - Rum; and
  - West Coast of the Outer Hebrides.

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<sup>12</sup> Scottish Government (2018) - [Consultation on the Strategic Environmental Assessment for 15 Proposed Special Protection Areas](#) (accessed 14/03/2022)

<sup>13</sup> NatureScot (2019) - [Marine Special Protection Areas - Final advice to Scottish Government](#) [online] (accessed 14/03/2022)

<sup>14</sup> Scottish Government (2019) - [Proposed Special Protection Areas for Scottish marine birds: Supplementary Consultation on SEA and site classification](#) (accessed 14/03/2022)

<sup>15</sup> Scottish Government (2022) - [Marine Environment: Marine Protected Areas \(MPAs\)](#) [online] (accessed 14/03/2022)

- 1.1.7 Marine Scotland engaged directly with Orkney Islands Council to address a number of objections they had to the proposals. As a result, the option to classify Orkney Inshore Waters as a single pSPA was discounted and on 16 February 2022, the alternative option was taken forward and two SPAs were classified<sup>16</sup>, namely:
- North Orkney; and
  - Scapa Flow.
- 1.1.8 Following on from this engagement, Marine Scotland has developed a working partnership with Orkney Islands Council and NatureScot. Together they have jointly funded a series of aerial and vantage point birds surveys to ensure there is a higher quality baseline dataset from which more robust decisions can be made on the management of these sites.
- 1.1.9 The location of the 14 additional marine SPAs that have been classified are shown in Figure 1. Following the classification of these SPAs, Scotland now has 58 marine SPAs, 55 of which are in Scottish inshore waters and three which overlap both inshore and offshore waters.




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<sup>16</sup> ibid

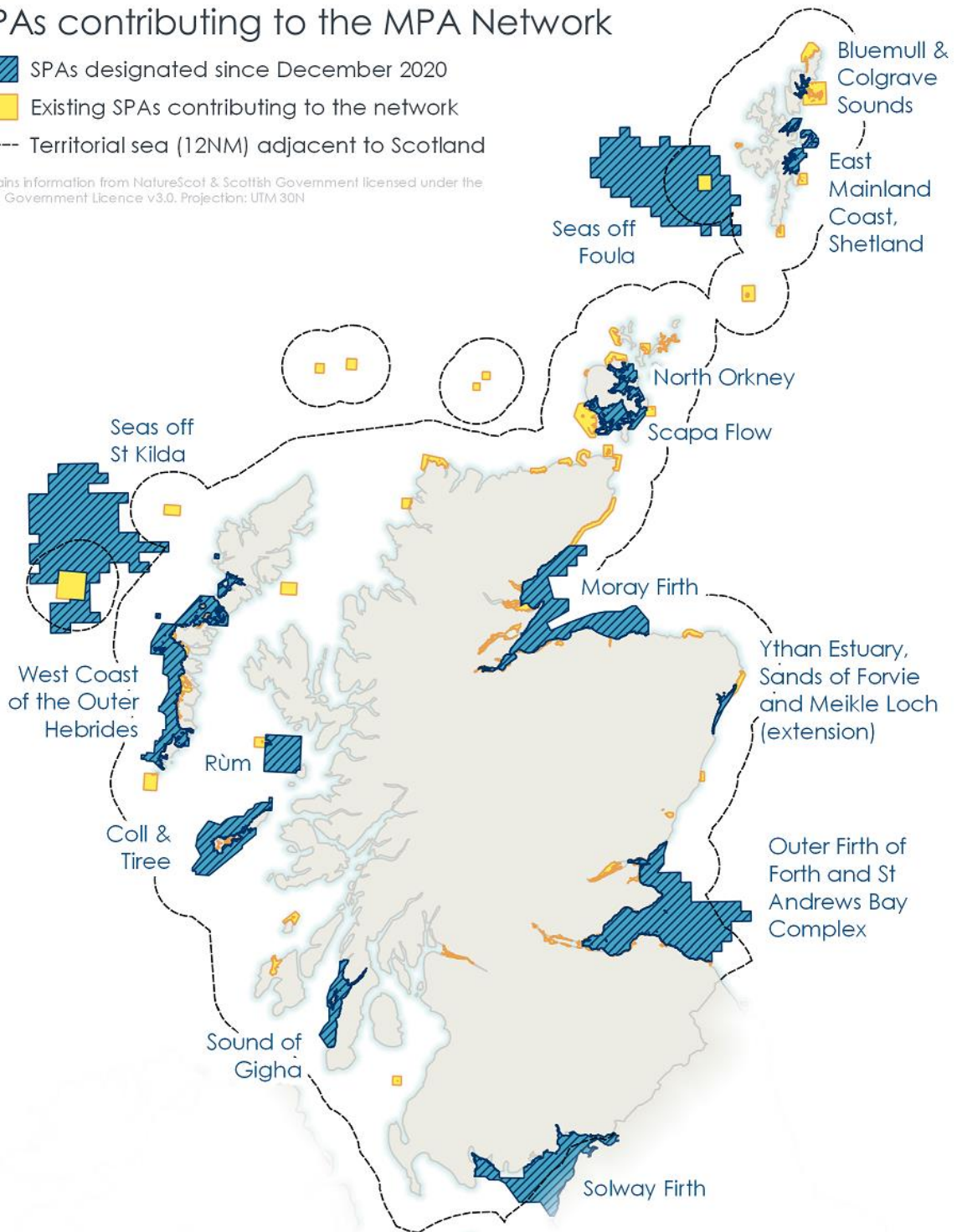
**Figure 1 Marine SPAs that have been classified**

Special Protection Areas

### SPAs contributing to the MPA Network

-  SPAs designated since December 2020
-  Existing SPAs contributing to the network
-  Territorial sea (12NM) adjacent to Scotland

Contains information from NatureScot & Scottish Government licensed under the Open Government Licence v3.0. Projection: UTM 30N



## 2 The Strategic Environmental Assessment Process

- 2.1.1 The 2005 Act requires public bodies in Scotland to carry out SEA on their plans, programmes and strategies<sup>17</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 March 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>18</sup> at the scoping stage 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 2018 Environmental Report was published for consultation on 9 November 2018<sup>19</sup>, together with a number of documents, including the following:
- Consultation paper on proposals to classify 15 pSPAs in Scottish Waters;
  - General policy and Business and Regulatory Impact Assessments (BRIAs);
  - Scottish marine SPA Network Assessment: Species Assessments; and
  - Scottish marine SPA Network Assessment.
- 2.1.4 In light of the comments received, the Scottish Government undertook a supplementary consultation to clarify and update its position on a number of points, including a revised and expanded set of SEA Reasonable Alternatives. These were subject to further assessment in the 2019 Updated Environmental Report which was published for consultation on 17 June 2019<sup>20</sup>, together with a number of documents, including the following:
- Supplementary consultation paper on SEA and site classification of pSPAs for Scottish marine birds;

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<sup>17</sup> Scottish Government (2005) - [Environmental Assessment \(Scotland\) Act 2005, asp 15](#) [online] (accessed 14/03/2022)

<sup>18</sup> Historic Environment Scotland, Scottish Environment Protection Agency and NatureScot.

<sup>19</sup> Scottish Government (2018) - [Consultation on the Strategic Environmental Assessment for 15 Proposed Special Protection Areas](#) (accessed 14/03/2022)

<sup>20</sup> Scottish Government (2019) - [Proposed Special Protection Areas for Scottish marine birds: Supplementary Consultation on SEA and site classification](#) (accessed 14/03/2022)



- Comments log presenting individual responses to comments received during the consultation on the 2018 Environmental Report; and
  - Final Advice from NatureScot and JNCC on a network of marine pSPAs.
- 2.1.5 Following consultation, the views expressed in the consultation helped to inform the plan to classify SPAs.
- 2.1.6 This Post Adoption Statement concludes the SEA process and sets out those ways in which the findings of the 2019 Updated Environmental Report, and the views expressed by consultees have been taken into account.
- 2.1.7 Section 18(3) of the 2005 Act 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 classify additional SPAs in the Scottish marine environment.
- 3.1.2 In addition to being legal requirements under the Birds Directive, marine SPAs are examples of MPAs in Scotland, others are Special Areas of Conservation (SACs), Ramsar Sites, Nature Conservation MPAs, Demonstration and Research MPAs, Historic MPAs, and Sites of Special Scientific Interest (SSSIs). The overall MPA network is intended to help protect nationally and internationally important marine wildlife, habitats, and underwater geodiversity, while also benefiting the greater marine environment, coastal communities, marine industries, and recreational users<sup>21</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<sup>22</sup>. They contribute to progress towards Good Environmental Status (GES) as set out by the Marine Strategy Regulations<sup>23</sup>. They also form part of the OSPAR Convention network of protected sites found throughout the North East Atlantic Ocean<sup>24</sup>. In addition, they aim to maintain and enhance biodiversity, which is a focus of the Habitats Regulations.
- 3.1.4 During the development of the plan to extend the MPA network, the Scottish Government drew on the Final Advice provided by NatureScot and JNCC which, based on the scientific evidence, selection process and public consultation identified sites and features which they considered essential for protection<sup>25</sup>. In some cases, the pSPAs were additional to the current SPA network, while others were an extension of existing SPAs to include additional species and/or habitat.
- 3.1.5 The process of site selection is presented in the Overview document<sup>26</sup> and the scientific case for each pSPA is summarised in its respective Site

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<sup>21</sup> Scottish Government (2022) - [Marine Protected Areas \(MPAs\)](#) [online] (accessed 14/03/2022)

<sup>22</sup> Scottish Government (undated) - [Marine Protected Areas in Scotland's Seas – Guidelines on the selection of MPAs and development of the MPA network](#) [online] (accessed 14/03/2022)

<sup>23</sup> UK Government (2010) - [The Marine Strategy Regulations 2010](#) [online] (accessed 23/03/2022)

<sup>24</sup> OSPAR Commission (2022) - [Marine Protected Areas](#) [online] (accessed 14/03/2022)

<sup>25</sup> NatureScot (2019) - [Marine Special Protection Areas - Final advice to Scottish Government](#) [online] (accessed 14/03/2022)

<sup>26</sup> NatureScot (2018) - [Overview of the Scottish marine Special Protection Area selection process](#) [online] (accessed 14/03/2022)

Selection Document<sup>27</sup>. The Network Assessment undertaken by NatureScot in 2018<sup>28</sup> addresses appropriate levels of representation for each species in the Scottish MPA network. In addition, details on the data, analysis methods, and general species ecology and behaviour that underpin the selection process are provided in the JNCC Reports series, while JNCC generic documents provide non-technical supplementary advice<sup>29</sup>. NatureScot and JNCC's Final Advice<sup>30</sup> on the proposed network also include some recommended changes to the pSPAs based on substantive scientific objections raised during the 2018 consultation. The most notable change was the removal of the Pentland Firth pSPA from the plan based on objections with respect to the site selection process and boundary setting.

3.1.6 The pSPAs were selected in accordance with the 'UK SPA Selection Guidelines'<sup>31</sup> and cover a range of species which use Scottish Waters:

- Inshore wintering waterfowl;
- Foraging areas for breeding terns;
- Foraging areas for breeding red-throated divers;
- Important areas for European shag; and
- Aggregations of seabirds.

3.1.7 Preference was given to areas that simultaneously satisfy several protection objectives (that is, 'hotspots'), rather than focusing on those that are used by only one or a few species<sup>32</sup>.

3.1.8 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 classify marine pSPAs. Subsequent consultation with the SEA Consultation Authorities assisted in confirming key environmental issues for further consideration in the assessment stage.

3.1.9 The pSPAs were subject to environmental assessment in 2018 (2018 Environmental Report)<sup>33</sup>. In response to the consultation, Scottish Government undertook a supplementary consultation based upon a revised and expanded set of SEA Reasonable Alternatives. Scottish Government

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<sup>27</sup> Scottish Government (2016) - [Special Protection Areas in the Marine Environment Q&A](#) [online] (accessed 14/03/2022)

<sup>28</sup> NatureScot (2018) - [Scottish proposed SPA network assessment - September 2018](#) (accessed 14/03/2022)

<sup>29</sup> Scottish Government (2016) - [Special Protection Areas in the Marine Environment Q&A](#) [online] (accessed 14/03/2022)

<sup>30</sup> NatureScot (2019) - [Marine Special Protection Areas - Final advice to Scottish Government](#) [online] (accessed 14/03/2022)

<sup>31</sup> JNCC (1999) - [Selection guidelines for SPAs](#) [online] (accessed 14/03/2022)

<sup>32</sup> Scottish Government (2016) - [Special Protection Areas in the Marine Environment Q&A](#) [online] (accessed 14/03/2022)

<sup>33</sup> Scottish Government (2018) - [Consultation on the Strategic Environmental Assessment for 15 Proposed Special Protection Areas](#) (accessed 14/03/2022)

also took the opportunity to update the preferred policy recommendation in light of Final Advice to Scottish Ministers from NatureScot and JNCC. The revised and expanded set of reasonable alternatives, and updated preferred policy recommendation for the classification of pSPAs were subject to environmental assessment in 2019 (2019 Updated Environmental Report)<sup>34</sup> with the results of the 2019 assessment informing their further development.

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<sup>34</sup> Scottish Government (2019) - [Proposed Special Protection Areas for Scottish marine birds: Supplementary Consultation on SEA and site classification](#) (accessed 14/03/2022)

## 4 The Findings of the SEA

4.1.1 The 2019 Updated Environmental Report<sup>35</sup> details the conclusions and recommendations of the assessment on the plan to classify additional SPAs in the Scottish marine environment. The key themes drawn from the assessment are discussed below:

- The SEA findings concluded that the increased protection that will result from the initial classification of the pSPAs will provide environmental benefits for the overarching topic 'biodiversity, flora and fauna' and contribute to the achievement of the SEA objectives. Classification of the sites will provide a statutory requirement to assess the impacts of plans and projects which have the potential to negatively impact pSPA features. The classification will further support developers to undertake more effective Habitats Regulations Appraisals (HRAs) and Environmental Impact Assessments (EIAs) that consider appropriate mitigation where necessary and therefore potentially reduce pressures associated with the regulated activity under assessment. Alternatively, in some cases, developers may look to site their projects some distance from the pSPAs to avoid undertaking further assessment and mitigation. This in turn would result in reduced harmful activities and potential environmental benefits within the pSPAs.
- 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 are achieved has the potential to result in significant environmental effects. If recommended options for management are implemented, specifically those that target activities and pressures that currently, or might in the future, occur within the pSPAs, these have the potential to result in beneficial environmental effects to both designated and non-designated features within the pSPA. In turn, these may also result in the potential for marginal spillover benefits beyond pSPA site boundaries. The implementation of recommended options for management may, however, also result in the potential displacement of an activity and its associated pressures and adverse effects outwith the boundaries of the pSPA. They could also result in increased levels of non-targeted activities within pSPAs.
- The range and scale of management measures that might be implemented are not currently known and therefore it is not possible to assess the significance of any environmental effects with any level of certainty. Should any specific management measures be subsequently

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<sup>35</sup> Scottish Government (2019) - [Proposed Special Protection Areas for Scottish marine birds: Supplementary Consultation on SEA and site classification](#) (accessed 14/03/2022)

required to meet the objectives of the pSPAs, 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.

- The classification and management of pSPAs would work cumulatively together with the wider MPA network and existing protection measures to further benefit the overarching topic 'biodiversity, flora and fauna' in Scottish waters and contribute to the achievement of SEA objectives. There will be beneficial cumulative effects as a greater proportion of birds will be protected across their range which in turn will provide greater resilience to human pressures. There may also be significant cumulative benefits for birds that move between SPAs as the pSPAs have the potential to improve the potential connectivity between protected areas for these features. There is also the potential for the classification and management of pSPAs to improve the connectivity of habitats across protected sites through the larval dispersal of benthic species.
- There is the potential for activities currently occurring in the pSPAs to be displaced to other areas, where such activities are not specifically managed. This could lead to negative environmental effects on these areas. For regulated activities, such as renewable energy or aquaculture developments, environmental assessments would be required before an activity could take place, thus limiting the potential for significant cumulative adverse effects to occur. A more detailed assessment of cumulative effects from the displacement of unregulated activities, such as fishing, will need to be undertaken should any specific management measures be subsequently required to meet the objectives of the pSPAs in future.

4.1.2 A key outcome from the SEA process was the reaffirmation that the classification of pSPAs offers an opportunity to protect species and habitats and provide wider environmental benefits. These principles are embedded in the plan to classify pSPAs 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 Marine Scotland held a supplementary consultation on the proposals from 17 June to 29 July 2019<sup>36</sup>. The 2019 Updated Environmental Report was published for consultation alongside the supplementary consultation paper, a comments log presenting individual responses to comments received during the consultation on the 2018 Environmental Report, and Final Advice from NatureScot and JNCC on a network of marine pSPAs.
- 5.1.2 Views were invited on the following four questions in relation to the pSPAs:
1. With respect to the SEA process, do you have any comments on the updated Environmental Report?
  2. Do you have any comments on the SEA Reasonable Alternatives?
  3. With respect to the classification of SPAs, do you agree with the preferred policy recommendation, and if not why not?
  4. Do you prefer the option to classify Orkney Inshore Waters pSPA or the alternative option to classify North Orkney pSPA and Scapa Flow pSPA? What are the reasons for your preference?
- 5.1.3 In total, nine respondents provided responses for the consultation. Eight of the respondents gave permission for their response to be made public<sup>37</sup>. The respondent categories comprised Environmental; Fishing Group or Organisation; Ports; Other Industry; and Regulator or Local Authority.
- 5.1.4 Two respondents considered the 2019 Updated Environmental Report to be far clearer and more comprehensive than the previous 2018 Environmental Report. Two other respondents had concerns over the robustness of the baseline description and assessment. The remaining respondents had no specific comments regarding the SEA process and 2019 Updated Environmental Report apart from those addressed by the other consultation questions.
- 5.1.5 Two respondents found the SEA Reasonable Alternatives to be more clearly set out and considered the updated assessment to more closely align with the requirements of the 2005 Act. Two respondents considered a number of the alternatives not to be reasonable as they reduce protection of marine birds and may not fulfil the aims of the Birds Directive. Three respondents considered some of the options to go above and beyond the statutory

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<sup>36</sup> Scottish Government (2019) - [Proposed Special Protection Areas for Scottish marine birds: Supplementary Consultation on SEA and site classification](#) (accessed 14/03/2022)

<sup>37</sup> Scottish Government (2019) - [Proposed Special Protection Areas for Scottish marine birds: Supplementary Consultation on SEA and site classification: Published responses](#) (accessed 14/03/2022)

requirements for SPA classification under the Birds Directive. Two respondents considered that the SEA had failed to comply with the 2005 Act as not all reasonable alternatives had been considered, including the option of not designating some of the sites. One respondent was unclear on the justification for certain alternatives.

- 5.1.6 Four respondents were supportive of the preferred policy recommendation to classify pSPAs, three respondents had no strong view or comment, one respondent did not agree, and one respondent did not answer the question but had concerns with the age and validity of the bird data used to underpin the proposals.
- 5.1.7 Three respondents preferred the option to classify Orkney Inshore Waters pSPA as this would result in benefits in terms of management, monitoring and protection. Four respondents did not have a strong view on the fourth question. One respondent preferred the alternative option to classify North Orkney pSPA and Scapa Flow pSPA due to the heterogeneity that they show. One respondent felt strongly that a case for classifying either 2 separate or a single marine SPA had not been made by NatureScot and JNCC.
- 5.1.8 Following the supplementary consultation, 12 of the pSPAs were classified<sup>38</sup>. Marine Scotland also engaged directly with Orkney Islands Council to address a number of objections they had to the proposals. Following this engagement, the alternative option of classifying North Orkney and Scapa Flow as two separate SPAs was taken forward<sup>39</sup>. In addition, Marine Scotland developed a working partnership with Orkney Islands Council and NatureScot. Together they have jointly funded a series of aerial and vantage point birds surveys to ensure there is a more up to date and robust baseline dataset to allow evidence based decisions to be made on the management of these sites.

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<sup>38</sup> Scottish Government (2022) - [Marine Environment: Marine Protected Areas \(MPAs\)](#) [online] (accessed 14/03/2022)

<sup>39</sup> *ibid*



## 6 Reasons for Classifying the Proposed Special Protection Areas 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 Following the comments made by respondents to the 2018 Environmental Report<sup>40</sup>, Marine Scotland developed a revised and expanded set of reasonable alternatives that are described in more detail in the 2019 Updated Environmental Report<sup>41</sup>. In summary these were:
- **SEA Reasonable Alternative 1** - classify all pSPAs with all species that regularly occur in qualifying numbers and at the same time identify additional conservation measures, including priority marine feature status for some species to further enhance conservation benefits for species;
  - **SEA Reasonable Alternative 2** - classify all pSPAs with all species that regularly occur in qualifying numbers;
  - **SEA Reasonable Alternative 3** – classify all pSPAs, removing the qualifying status of specified migratory species from relevant pSPAs and removing the qualifying status of breeding red-throated diver from neighbouring marine pSPAs; and
  - **SEA Reasonable Alternative 4** - classify all pSPAs, removing the qualifying status of specified migratory species from relevant pSPAs, removing the qualifying status of breeding red-throated diver from neighbouring marine pSPAs and reducing replication in the Scottish network for species already well represented in the existing UK marine SPA network and where the majority of their population is not in Scotland.
- 6.1.3 Marine Scotland also considered classifying either one or two SPAs in Orkney Waters:
- Option 1: Classify Orkney Inshore Waters pSPA; and
  - Option 2: Classify North Orkney pSPA and Scapa Flow pSPA.
- 6.1.4 The potential environmental effects associated with the four new Reasonable Alternatives and both Options 1 and 2 were identified and set out in detail in the 2019 Updated Environmental report. In summary, where the SEA Reasonable Alternatives offer increased protection, either through

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<sup>40</sup> Scottish Government (2018) - [Consultation on the Strategic Environmental Assessment for 15 Proposed Special Protection Areas](#) (accessed 15/03/2022)

<sup>41</sup> Scottish Government (2019) - [Proposed Special Protection Areas for Scottish marine birds: Supplementary Consultation on SEA and site classification](#) (accessed 15/03/2022)

additional conservation measures, a higher number of qualifying features and/or a greater spatial extent and/or a greater spatial extent, these have the potential to provide additional environmental benefits compared to the preferred policy recommendation. Where the SEA Reasonable Alternatives provide the same level of protection as the preferred policy recommendation, there would be no change in the potential environmental benefits. Where the SEA Reasonable Alternatives result in the site not being classified or a reduced number of qualifying features being protected compared to the preferred policy recommendation, this would result in the potential for reduced environmental benefits compared to the baseline situation.

- 6.1.5 Following the supplementary consultation on the 2019 Updated Environmental Report<sup>42</sup>, 12 of the pSPAs were classified on 3 December 2020<sup>43</sup> as per the preferred policy recommendation on the classification of the pSPAs in light of Final Advice to Scottish Ministers from NatureScot and JNCC<sup>44</sup>.
- 6.1.6 Following further engagement with Orkney Islands Council on their objections to the proposals, Option 2 to classify North Orkney pSPA and Scapa Flow pSPA was taken forward<sup>45</sup> and were classified on 16 February 2022.

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<sup>42</sup> Scottish Government (2019) - [Proposed Special Protection Areas for Scottish marine birds: Supplementary Consultation on SEA and site classification](#) (accessed 15/03/2022)

<sup>43</sup> Scottish Government (2022) - [Marine Environment: Marine Protected Areas \(MPAs\)](#) [online] (accessed 15/03/2022)

<sup>44</sup> NatureScot (2019) - [Marine Special Protection Areas - Final advice to Scottish Government](#) [online] (accessed 15/03/2022)

<sup>45</sup> *ibid*

## 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, JNCC and the Scottish Government are committed to continued data collection and monitoring under The Scottish MPA Monitoring Strategy<sup>46</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.
- 7.1.4 The results of MPA monitoring will be used to inform future decisions on the management of the classified SPAs. Any management measures that are proposed in future to meet the objectives of the SPAs 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>46</sup> Marine Scotland (2017) - [Scottish Marine Protected Areas \(MPA\) Monitoring Strategy](#) (accessed 15/03/2022).

## 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 classification of SPAs, 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 proposed classification of the additional marine SPAs.

## Appendix A Abbreviations

EC	European Community
EEC	European Economic Community
EIA	Environmental Impact Assessment
EU	European Union
GES	Good Environmental Status
HRA	Habitats Regulations Appraisal
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)
pSPA	Proposed Special Protection Area
SEA	Strategic Environmental Assessment
SPA	Special Protection Area
UK	United Kingdom



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**OGL**

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