

Scottish Highly Protected Marine Areas

Consultation Paper

December 2022

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Ministerial Foreword



As Minister for Environment and Land Reform, I am delighted to be consulting with you on what Highly Protected Marine Areas (HPMAs) in Scotland should look like, how they should be selected and implemented, and how they will affect our lives.

In Scotland, we are understandably proud of our natural environment, whose beauty, richness and diversity is emblematic of our national identity. We also all recognise the urgency of action to address the twin crises of climate change and biodiversity loss. So, it is right that we lead the way in creating a coherent network of these protected areas for our most valuable ecosystems that will extend from our coasts to our deep seas.

Protecting and enhancing our marine environment by taking these actions is key to transforming the way we use our seas and manage our 'blue' resources. Our vision for shared stewardship of the blue economy requires us to make these investments. They are needed to ensure we truly maximise the benefits the sea can deliver to all of Scotland's society, and to live within sustainable limits.

There is still a vast amount of work to be done before we are ready to propose the location of HPMAs. With your help, we can ensure the right policy and legal frameworks are in place; supported by clear guidelines on how to identify the ecosystems that merit protection.

I am determined that those who may be affected by these proposals are involved from the outset. Our seas must remain a source of economic prosperity for the nation, especially in our remote, coastal and island communities. That is why I want to hear what you think. I want to take on board your concerns and your ideas. I want you to help shape the creation of these highly protected areas.

A handwritten signature in black ink, appearing to read 'Mairi McAllan'.

Mairi McAllan MSP

Minister for Environment and Land Reform

1. Introduction and consultation overview

1.1. Introduction

The Scottish Government's vision for the marine environment is for clean, healthy, safe, productive and diverse seas, managed to meet the long term needs of nature and people. Through the [Bute House Agreement](#), Scottish Ministers have committed to designate at least 10% of Scotland's seas as Highly Protected Marine Areas (HPMAs) by 2026. These sites will provide high levels of protection by placing strict limits on some human activities, such as fishing and aquaculture, while allowing non-damaging recreational activities to take place at carefully managed levels.

This consultation is seeking views and comments on a number of key documents that propose how HPMAs will contribute to this vision.

1.2. Background Information

Scotland's seas are some of the most biologically diverse in Europe, supporting thousands of plant and animal species, across a wide variety of habitats. But we are facing twin biodiversity and climate crises and have to act now in order to support the recovery and resilience of our marine environment.

The Bute House Agreement states that HPMAs aim to: "provide protection from all extractive, destructive and depositional activities, including all fisheries, aquaculture and other infrastructure developments, while allowing other activities, such as tourism or recreational water activities, at non-damaging levels."

In collaboration with all sea users, the Scottish Government want to ensure the rich biological diversity of our seas is protected, enhanced and where appropriate restored, to ensure that our marine ecosystems continue to provide economic, social and wider benefits for people, industry and society.

1.3. Consultation overview

In this consultation, we are seeking views and comments on a number of key draft documents, to help inform and shape HPMA policy development:

1. [Policy Framework](#) - sets out the Scottish Government's proposed definition of HPMA's and what this could mean for different activities taking place in Scottish waters. It also describes how we will account for socio-economic factors alongside ecological considerations. The framework sets out policy objectives for sustainable industries, net zero targets and provides context to existing conservation measures. Additionally, the framework details our proposal to, through primary legislation, give Scottish Ministers the necessary powers to introduce HPMA's in Scottish inshore waters.
2. [Site Selection Guidelines](#) - drafted by our statutory nature conservation advisors, NatureScot and the Joint Nature Conservation Committee (JNCC). The guidelines describe the proposed process for identifying and selecting HPMA's in Scottish waters.
3. [Initial Sustainability Appraisal](#) – Drafted by marine consultants ABPmer, the Sustainability Appraisal provides assessment of any cumulative impacts of the policy and is based upon the draft Policy Framework and Site Selection Guidelines. It comprises two parts: an initial [Strategic Environmental Report](#) which assesses the environmental impacts of the policy; and an initial [Socio-Economic Impact Assessment](#) (SEIA) which identifies and assesses potential economic and social effects of the policy and proposes a methodology for carrying out the site specific SEIAs.
4. [Partial Island Communities Impact Assessment \(ICIA\) Screening Report](#) - the partial ICIA screening report seeks to complete the first two stages of the ICIA process by identifying whether there are issues which merit further exploration. Consultation responses will be used to complete the screening report and determine whether a full ICIA is required once specific HPMA sites

are proposed. We will engage with island representatives throughout the HPMA site selection and designation process.

5. **Partial Business and Regulatory Impact Assessment (BRIA)** - the partial BRIA presents an initial assessment of the potential costs, benefits and risks of introducing HPMA's and their potential impacts on public, private or third sectors.

2. Current situation and what we are proposing

2.1. Current situation

Scotland's seas account for 61% of UK waters and are not only home to an array of marine species, but also provide for our food and energy needs as well as recreational activities and eco-tourism.

Scotland has a number of existing domestic and international commitments that the introduction of HPMAs will contribute to. These include the UK Marine Strategy¹, the [strategic objectives](#) set out by the OSPAR Commission for the protection of the marine environment and the aims for nature recovery under the [UN Convention on Biological Diversity](#).

Scotland has an existing Marine Protected Areas (MPA) network which covers 37% of our seas and includes sites of various designations: Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Sites of Scientific Interest (SSSIs) and Marine Protected Areas (including MPAs for Nature Conservation as well as Historic MPAs and Demonstration and Research MPAs).

This established network of protected areas has been developed around the concept of sustainable use, meaning activities can continue, providing they do not adversely affect specific, protected features.

Alongside the introduction of HPMAs, the Scottish Government is also working on delivering fisheries management measures for existing MPAs, where these are not already in place, as well as key coastal biodiversity locations outside of these sites, by March 2024 at the latest.

¹ The UK Marine Strategy is made up of three parts – [Part One: Assessment](#), [Part Two: Monitoring Programme](#) and [Part Three: Programme of Measures](#).

2.2. What is being proposed

The approach to designating and managing HPMA, rather than being feature based (as described above for MPAs), will be to strictly protect and leave undisturbed, all natural processes of the marine ecosystem within HPMA site boundaries, including the seabed, water column habitats and everything that lives in the protected area.

HPMAs will aim to add to the established MPA network by:

- facilitating ecosystem recovery and enhancement
- enhancing the benefits that coastal communities and others derive from our seas
- contributing to the mitigation of climate change impacts
- supporting ecosystem adaptation and improving resilience

HPMAs may overlap either fully or partially with existing MPAs in order to maximise the conservation benefits associated with stricter management approaches in a particular geographic location. HPMA may also be located outside the current MPA network.

More information on the proposed process and policy for selecting HPMA sites can be found in the draft [Policy Framework](#) and [Site Selection Guidelines](#).

Currently, the Scottish Government does not have the necessary legal powers to designate and protect HPMA. The intention is to deliver the necessary legislative and management framework for HPMA in both Scottish inshore and offshore waters.

For the Scottish inshore region (up to 12 nautical miles from the coast), there is full legislative competence within Scotland to introduce the necessary powers to designate HPMA through primary legislation. It is proposed that HPMA will be delivered within the legislative framework set by the Marine (Scotland) Act 2010, with new provisions delivered, as required, through primary legislation. With this

consultation, we seek views on the proposed policy for introducing powers to designate HPMA in Scottish inshore waters.

For the Scottish offshore region (beyond 12 nautical miles out to the outer limits of the UK continental shelf), powers over the marine environment are currently reserved to the UK Government (with some exceptions). We are seeking agreement from the UK Government to provide for equivalent powers for Scottish Ministers to designate HPMA in Scottish offshore waters. The UK Government would be responsible for any public consultation that included powers in relation to HPMA in offshore waters. The intention, however, is that the proposed policy framework and the site selection guidance will apply in relation to HPMA in inshore and offshore waters, subject to the necessary powers being transferred to the Scottish Government.

More information on the proposed policy can be found in the draft [Policy Framework](#).

3. Consultation Questions

3.1. Why your views matter

The Scottish Government is committed to realising our vision of the marine environment being clean, healthy, safe, productive, diverse and managed to meet the long term needs of nature and people. Your responses will help to shape and inform how we do this.

Respondents should take into consideration the information provided in this document alongside any other knowledge or personal experiences that could be relevant. All opinions are welcome.

You are invited to answer all the questions. However, if you are unable to answer any question then please feel free to skip and move on to the next.

The questions are asked in relation to specific documents: (i) Policy Framework; (ii) Site Selection Guidelines; (iii) Initial Sustainability Appraisal; (iv) Partial Island Communities Impact Assessment (ICIA) Screening Report; and (v) Partial Business and Regulatory Impact Assessment (BRIA).

We recommend reading the full suite of documents before starting to submit your responses.

3.2. Policy Framework

1. What is your view of the aims and purpose of Highly Protected Marine Areas as set out in sections 2 and 3 of the draft [Policy Framework](#)?

Strongly support Support Neutral Oppose Strongly oppose

Please explain your answer in the text box:

2. What is your view of the effectiveness of the proposed approaches to manage the activities listed below, as set out in section 6 of the draft [Policy Framework](#), in order to achieve the aims and purpose of HPMAs?

	Activity	Strongly support	Support	Neutral	Oppose	Strongly oppose
1	Commercial fishing (of any kind)					
2	Recreational fishing (of any kind)					
3	All other recreational activities					
4	Finfish aquaculture					
5	Shellfish aquaculture					
6	Seaweed harvesting					
7	Oil and gas sector					
8	Renewable energy					
9	Carbon capture, utilisation and storage					

	Activity	Strongly support	Support	Neutral	Oppose	Strongly oppose
10	Subsea cables					
11	Aggregate extraction					
12	Ports and harbours					
13	Shipping and ferries					
14	Military and defence					
15	Hydrogen production					
16	Space Ports					

Please explain your answer in the text box and if you think we have missed any activities, please suggest them here:

3. What is your view of the proposed additional powers set out in section 8.3.2 of the draft [Policy Framework](#): “Allow for activities to be prohibited from the point of designation to afford high levels of protection.”

Strongly support Support Neutral Oppose Strongly oppose

Please explain your answer in the text box:

4. What is your view of the proposed additional powers set out in section 8.3.3 of the draft [Policy Framework](#): “Establish processes to permit certain limited activities within a HPMA on a case-by-case basis for specified reasons.”

Strongly support Support Neutral Oppose Strongly oppose

Please explain your answer in the text box:

5. What is your view of the proposed additional powers set out in section 8.3.4 of the draft [Policy Framework](#): “Activities which are not permitted in a HPMA but are justified in specified cases of emergency or *force majeure*.”

Strongly support Support Neutral Oppose Strongly oppose

Please explain your answer in the text box:

6. What is your view of the proposed additional powers set out in section 8.3.5 of the draft [Policy Framework](#): “Measures for activities allowed and carefully managed in HPMAs.”

Strongly support Support Neutral Oppose Strongly oppose

Please explain your answer in the text box:

7. Do you have any further comments on the draft [Policy Framework](#), which have not been covered by your answers to the previous questions?

Please add your response in the text box:

3.3. Site Selection Guidelines

8. What is your view of the proposal that HPMA site identification should be based upon the “functions and resources of significance to Scotland’s seas,” as listed below and set out in Annex B of the draft [Site Selection Guidelines](#)?

	Function and Resources	Strongly support	Support	Neutral	Oppose	Strongly oppose
1	Blue Carbon					
2	Essential Fish Habitats					
3	Strengthening the Scottish MPA network					
4	Protection from storms and sea level rise					
5	Research and education					
6	Enjoyment and appreciation					
7	Other important ecosystem services					

Please explain your answer in the text box, including any suggested changes to the list:

9. What is your view of the general principles that are intended to inform the approach to HPMA selection, as listed below and set out in section 4.1 of the draft [Site Selection Guidelines](#)?

	General principle	Strongly support	Support	Neutral	Oppose	Strongly oppose
1	Use of a robust evidence base					
2	HPMA scale and the use of functional ecosystem units					
3	Ensuring added value					
4	Delivering ecosystem recovery					

Please explain your answer in the text box, including any suggested changes to the list:

10. What is your view of the proposed five-stage site selection process, found in sections 4.2 and 4.3 as well as figure 2 and Annex A of the draft [Site Selection Guidelines](#)?

Strongly support Support Neutral Oppose Strongly oppose

Please explain your answer in the text box:

11. Do you have any further comments on the draft Site Selection Guidelines, which have not been covered by your answers to the previous questions?

3.4. Initial Sustainability Appraisal

12. What is your view of the [Strategic Environmental Report](#), summarised within sections 3 and 4 of the [Sustainability Appraisal](#), as an accurate representation of the potential impacts, issues and considerations raised by the introduction of the draft Policy Framework and Site Selection Guidelines?

Strongly support Support Neutral Oppose Strongly oppose

Please explain your answer in the text box:

13. What is your view of the [Socio-Economic Impact Assessment](#), summarised within sections 3 and 4 of the [Sustainability Appraisal](#), as an accurate representation of the potential impacts, issues and considerations raised by the introduction of the draft Policy Framework and Site Selection Guidelines?

Strongly support Support Neutral Oppose Strongly oppose

Please explain your answer in the text box:

3.5. Partial Island Communities Impact Assessment (ICIA) Screening Report

14. What is your view of the [partial ICIA screening report](#) as an accurate representation of potential impacts, raised by the implementation of the draft Policy Framework and Site Selection Guidelines?

Strongly support Support Neutral Oppose Strongly oppose

Please explain your answer in the text box:

15. Do you think that the implementation of the draft Policy Framework and Site Selection Guidelines will have any significantly differential impacts – positive and/or negative - on island communities?

Yes No Not sure

Please explain your answer in the text box, including any additional impacts that have not been identified in the partial ICIA screening report:

3.6. Partial Business and Regulatory Impact Assessment (BRIA)

16. What is your view of the [partial BRIA](#) as an accurate representation of the potential impacts, issues and considerations raised by the implementation of the draft Policy Framework and Site Selection Guidelines?

Strongly support Support Neutral Oppose Strongly oppose

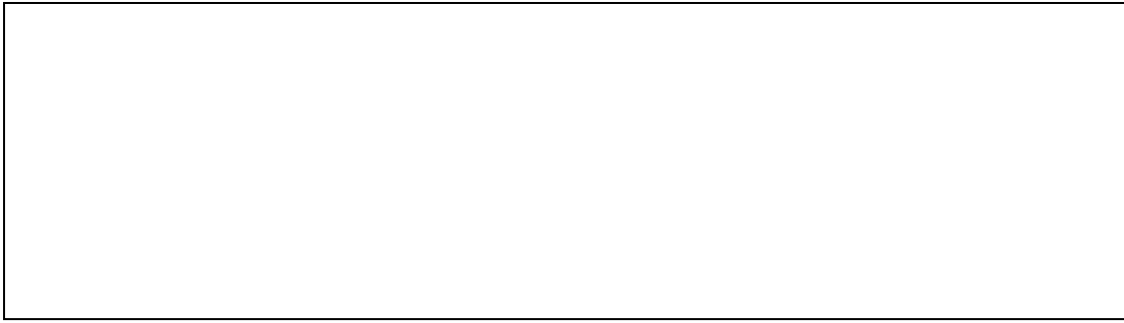
Please explain your answer in the text box:

17. Do you think that the implementation of the draft Policy Framework and Site Selection Guidelines will have any financial, regulatory or resource impacts – positive and/or negative - for you and/or your business?

Yes No Not sure

18. If you answered “yes” to the previous question, please specify which of the proposals/actions you refer to and why you believe this would result in financial, regulatory or resource impacts for your business.

3.7. Our Commitment



19. Do you have any further thoughts on the Scottish Government's commitment to introduce HPMA's to at least 10% of Scottish waters?

4. Responses and next steps

4.1. Responding to this consultation

We are inviting responses to this consultation by 20 March 2023.

Please respond to this consultation using the Scottish Government's consultation hub, [Citizen Space](#). Access and respond to this consultation online at [Scottish Highly Protected Marine Areas](#). You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 20 March 2023.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

HPMA Policy Team
The Scottish Government
Area 1B North
Victoria Quay
Edinburgh
EH6 6QQ

4.2. Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our [privacy policy](#).

4.3. Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at [Citizen Space](#). If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

4.4. Stakeholder Engagement

We have published our [Stakeholder Engagement Plan](#), which can be accessed via the 'Get involved and keep updated' section of our [HPMA website](#). This explains how and when the Scottish Government intend to engage with stakeholders on the identification and designation of HPMA's and sets out opportunities to participate and make a meaningful difference.

We will formally consult separately on proposals for the designation of specific sites. In order to deliver the ministerial commitment of designating at least 10% of Scottish seas as HPMA's by 2026, the formal public consultation on site proposals will likely take place in 2025.

4.5. Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at HPMA@gov.scot.

4.6. Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online at [Citizen Space](#). Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



Scottish Highly Protected Marine Areas

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
- Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email Address

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

Sector and origin

It would be helpful for our analysis if you could indicate which of the sectors you most align yourself/your organisation with for the purpose of this consultation

(Please tick **one** which is **most applicable** to you):

Academia

Aquaculture

Community group

Energy provider

Environmental Non-Governmental Organisation

Fishing group or organisation

Recreation and tourism business/association

Regulator or Local Authority

Rural business/organisation

Other (please specify below)



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