



Marine Scotland

Seas off Foula Special Protection Area (SPA) Business and Regulatory Impact Assessment

December 2020

Business and Regulatory Impact Assessment

Title of Proposal

Seas off Foula Special Protection Area (SPA)

Purpose and intended effect

• Background

The Scottish Government 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. In order to meet this commitment our seas must be managed in a sustainable manner - balancing the competing demands on marine resources. Biological and geological diversity must be protected to ensure our future marine ecosystem is capable of providing the economic and social benefits it yields today.

The EU Wild Birds Directive (2009/147/EC as codified) requires Member States to classify as Special Protection Areas (SPAs) the most suitable territories for wild birds. Building on the work of the SPA Review Working Group and taking account of existing guidelines on the identification of SPAs (JNCC, 1999), Scottish Natural Heritage (SNH) and the Joint Nature Conservation Committee (JNCC) have identified 14 sites which they consider essential for marine SPA status. These proposals include sites supporting wintering waterfowl, important areas for red throated divers, terns, European shag and foraging seabirds.

Seas off Foula SPA (SPA) is located in Scottish marine waters, north of the Scottish mainland and Orkney, and about 15 km west of Shetland. It covers 3,412 km² of inshore and offshore waters and encloses the island of Foula.

Seas off Foula supports regularly occurring populations of European importance of the following migratory species, foraging at sea during the breeding season:

- great skua (*Stercorarius skua*),
- northern fulmar (*Fulmarus glacialis*) as part of an assemblage,
- Arctic skua (*Stercorarius parasiticus*) as part of an assemblage,
- common guillemot (*Uria aalge*) as part of an assemblage, and
- Atlantic puffin (*Fratercula arctica*) as part of an assemblage.

Seas off Foula SPA supports regularly occurring populations of European importance of the following migratory species, foraging at sea during the non-breeding season:

- great skua (*Stercorarius skua*) as part of an assemblage,
- northern fulmar (*Fulmarus glacialis*) as part of an assemblage, and
- common guillemot (*Uria aalge*) as part of an assemblage.

In the site, water depths range mainly between 50m and 150m; shallow areas with less than 50m depth occur only around Foula and 10km north of it, while depths of more than 150m are only reached in the northwest (see Figure 2). The medium

and shallow parts of the area are therefore within a depth range which is favoured by sandeel (30-80m, Wright *et al.* 2000).

Different studies suggest that the site fully (Ellis *et al.* 2012), or at least in its southern extent (Coull *et al.* 1998), overlaps with low intensity spawning and nursery grounds of sandeels *Ammodytidae*. Sandeels form, beside discarded demersal fish and other seabirds, an important part of the diet of great skua (Furness and Hislop 1981; Votier *et al.* 2007).

The combined effect of currents and waves creates moderate-energy seabed environments in the west, and high-energy seabed environments the east of the site (McBreen *et al.* 2011). Seas off Foula comprises a mosaic of subtidal coarse sediments and moderate-energy circalittoral rock, with some sand and muddy sand habitats in the northwest (McBreen *et al.* 2011).

In addition, the Shetland-Orkney thermal front overlaps with Seas off Foula, suggesting that this feature might create relatively predictable foraging areas (Begg and Reid 1997).

- **Objective**

The EU Wild Birds Directive requires member states of the EU to identify SPAs for:

- rare or vulnerable bird species (as listed in Annex I of the Directive); and
- regularly occurring migratory bird species.

And to do so in the geographical sea and land area where the Directive applies.

The EU Wild Birds Directive was adopted in 1979 by the EU member states due to increasing concerns about declines in Europe's wild bird populations caused by pollution, loss of habitats and unsustainable exploitation. The EU Wild Birds Directive recognises that wild birds, many of which are migratory, are a shared heritage of the member states and that their conservation needs international co-operation. The creation of a network of protected sites, including SPAs, is one of several conservation measures that contribute to the protection of rare, vulnerable and migratory bird species.

Further work is required to complete a marine UK-wide network of SPAs at sea in order to meet the needs of seabirds and waterfowl. The Joint Nature Conservation Committee (JNCC) has been working over the past decade on behalf of all the countries' Statutory Nature Conservation Bodies (SNCBs) to complete a programme of data collection and analysis to inform the provision of advice on possible sites. Natural England, Natural Resources Wales, and the Department of Environment Northern Ireland (DoENI) are considering several possible marine SPAs in English, Welsh and Northern Irish inshore waters, including extensions to existing seabird colony SPAs and entirely marine SPAs.

The network of marine SPAs in Scotland is being progressed by Scottish Natural Heritage (SNH) where these fall largely within 12 nautical miles from shore and by Joint Nature Conservation Committee (JNCC) where they fall largely beyond 12 nautical miles. SNH and JNCC have identified 14 sites which they consider essential for the completion of a list of marine SPAs. These proposals include sites supporting wintering waterfowl, important areas for red throated divers, terns, European shag and foraging seabirds.

Evidence in this BRIA is drawn from the work of statutory nature conservation bodies and consultants ABPmer and ettec¹. It brings together the science-led arguments for classification and the projected potential social and economic consequences of such action. This will inform Scottish Ministers of the possible impacts of classifying the SPA, and due to requirements of the Birds Directive this will be for informational purposes only as the decision to classify SPAs can only be on the basis of scientific evidence. The site has been identified for classification as an SPA due to the confirmed presence of biodiversity features detailed above.

This BRIA examines the socio-economic impact of classifying the Seas off Foula site as an SPA. The assessment period covers the 20 year period from 2015 to 2034 - reflecting the time horizon within which the majority of impacts are expected to occur. As with any socio-economic assessment related to environmental classifications, the findings should be considered as estimates, and in cases where greater uncertainty exists, such as for fisheries, are deliberately presented as worst-case scenarios to build in necessary caution.

In addition a range of scenarios are presented to account for the inherent uncertainty associated with such proposals. Lower, intermediate and upper scenarios have been developed to reflect the requirements for management measures, the spatial extent of features and the extent to which OSPAR/BAP² features are already afforded protection. The intermediate scenario is viewed as the best estimate. The estimated impacts across the three scenarios commonly vary quite significantly.

- **Rationale for Government intervention**

The EU Wild Birds Directive (2009/147/EC as codified) requires Member States to classify as Special Protection Areas (SPAs) the most suitable territories for wild birds. The Scottish Government is responsible for identifying SPAs for Scotland.

In addition, the Scottish Government has a number of international commitments to deliver a network of MPAs. Scotland's marine environment provides: food; energy sources (wind, wave and tidal power, minerals and fossil fuels); routes and harbours for shipping; tourism and recreational opportunities; and sites of cultural and historical interest. Scotland's seas contain important distinctive habitats and support a diverse range of species that require protection in order to be conserved or for recovery to be facilitated. Due to the competing demands placed upon Scotland's marine resources, more effective management is required so that a balance between conservation and sustainable use can be struck. Currently there is not sufficient protection in place to ensure that the marine environment is properly protected and complex ecosystems safeguarded.

The SPAs form part of an the ecologically coherent network of well-managed MPAs that is vital to conserve and regenerate our seas, in turn protecting the many goods and services they provide now, and for generations to come.

¹ The Scottish MPA Project: Second Iteration of Site Proposals – Developing the Evidence Base for Impact Assessments, ABPmer

² Biodiversity Action Plan

Consultation

Within Government

Consultation has been undertaken with policy colleagues within Marine Scotland, including aquaculture, nature conservation, marine renewables, fisheries and fresh water fisheries, and with Transport Scotland.

Historic Environment Scotland and the Scottish Environmental Protection Agency have also been consulted. Meetings were held with policy officials within these public bodies to discuss the development of these SPAs. We have also been working with Defra and other UK Departments on the join up between the Scottish MPA network, which includes SPAs, and the wider UK contribution to the OSPAR MPA network.

Public Consultation

A full public consultation took place in Autumn 2016. Further consultation took place in Autumn 2018 on the Network Assessment for the proposed set of sites and the SEA. An update to the SEA was consulted on in the summer of 2019.

Business

Routine updates are provided to the Marine Strategy Forum and are supplemented with bilateral meetings across sectors including the fishing industry, environmental NGOs, tourism and recreation, nature conservation, renewable energy, aquaculture, ports and harbours, defence and local community groups.

A National Workshop attended by a wide range of stakeholders was held in March 2016 to present the proposals and gather feedback on the proposed consultation package.³

Options

Option 1: Do nothing

This option is not predicted to create any additional costs to the sectors and groups outlined above.

However failure to classify the “most suitable territories” as SPAs would leave the Scottish Government exposed to a high risk of EU infringement proceedings, which may result in substantial one off and recurring fines.

In addition it should be noted that the societal cost of not classifying could be both large and irreversible relative to the current condition of the marine environment. The absence of management measures to conserve the identified features may produce future economic and social costs in terms of increased marine habitat and biodiversity degradation. The option to not classify holds the potential to undermine the overall ecological coherence of the Scottish SPA Network. This

³ <http://www.gov.scot/Topics/marine/marine-environment/mpanetwork/marinespas/spaworkshop>

potentially large and irreversible societal cost avoided is presented within the benefits section of the 'do classify' scenario (option 2) to avoid double counting the same impact.

Option 2: Classify site as a Special Protection Area

Option 2 involves the formal classification of the Seas off Foula site. Classification would provide recognition and protection to the natural features of the site while also contributing to the wider Scottish and UK SPA network.

- **Sectors and groups affected**

The following sectors have been identified as present (or possibly present in the future) within the Seas off Foula site and potentially interact with one or more of the features:

- Commercial fisheries
- Oil and Gas
- Shipping
- Public Sector

Affected sectors may be impacted to a greater or lesser degree by classification depending on which scenario is pursued and which management option is preferred.

- **Benefits**

Option 1: Do nothing

No additional benefits are expected to arise from this policy option.

Option 2: Classify site as a Special Protection Area

The extent and quality of habitat and available food around Scotland's coast supports huge numbers of different species of seabirds. Few countries can match this and we have an international responsibility to protect what we have around Scotland. Therefore the appropriate action is to protect and maintain Scotland's seabird and water bird populations and meet the requirements of the EC Birds Directive.

SPAs are created to meet international commitments under the EU Wild Birds Directive, which promotes the conservation of wild birds. SPAs are managed to safeguard the birds and avoid significant disturbance and deterioration of their habitats. This means that proposed activities likely to affect an SPA are assessed for their potential to cause such disturbance or deterioration. The relevant consenting authority must ensure beyond reasonable scientific doubt that any impact is not significant before permitting the activity.

While it may not be possible with current levels of research to monetise benefits with a satisfactory degree of rigour, it is clear that many of the benefits relate to aspects of our lives that we take for granted and for which it is good practice and common sense to maintain through protection measures such as SPAs.

Contribution to an Ecologically Coherent network

Scotland's seas support a huge diversity of marine life and habitats, with around 6,500 species of plants and animals, with plenty more no doubt to be found in the undiscovered deeps of the north and west of Scotland. Our seas account for 61% of UK waters and remain at the forefront of our food and energy needs, through fishing, aquaculture, oil and gas, and new industries such as renewables, as well as recreation activities and ecotourism. This SPA is a contribution to a wider network of Marine Protected Areas designed to conserve and regenerate our seas. This in turn will help ensure that ecosystem goods and services continue to support current and future generations. It is likely that an ecologically coherent network of marine protected areas is likely to provide greater benefit than the sum of its individual components.

Ecosystem Services Benefits

Ecosystems are very complex, and it is thought that the more complex an ecosystem is the more resilient it is to change. Therefore, if it is damaged or if a species or habitat is removed from that ecosystem, the chances of survival for those services reduce as the ecosystem becomes weaker. However, by conserving or allowing the species and habitats that make up that ecosystem to recover, we can be more confident of the continuation of the long term benefits the marine environment provides.

Non-Use Values

Non-use value of the natural environment is the benefit people get simply from being aware of a diverse and sustainable marine environment even if they do not themselves use it. We take for granted many of the things we read about or watch, such as bright colourful fish, reefs and strange shaped deep sea curiosities, to lose them would be a loss to future generations that will not be able to experience them. It is challenging to put a precise value on this, but the high quality experience derived from Scotland's seas can be better preserved through measures such as SPAs.

It is expected that non-use value will be attained as a result of classification and the support of wider conservation objectives. Whilst ecosystem services benefits at an individual site level cannot be readily calculated, the one-off non-use value to Scottish households of marine conservation in Scottish waters generated by the additional 14 SPAs is estimated to be in the region of £74 million.⁴ This figure uses valuation evidence across several sites with similar features and characteristics and highlights the significant positive non-use value that divers and anglers within

⁴ Developing the Evidence Base for Impact Assessments, ABPMer

the Scottish marine environment place on securing the quality of the marine resources they use as a result of protection against degradation.

Use Values

There could be a major transformative effect on inshore habitat and a significantly enhanced flow of environmental goods and services. We know the inherent capacity of the system and the flora and fauna that it could support. Achieving that could see the expansion of recreational activities such as diving, sea-angling, and other tourism alongside sustainable methods of fishing.

Research by Kenter et al⁵ has been used to estimate the use benefits to divers and anglers specifically, as a result of classifications safeguarding the total recreational value of the sites. The additional increase in recreational value as result of implementing management measures for the 14 new SPAs has an estimated total present value of £2.1-6.2 million over the 20 year assessment period.⁶

In addition there is likely to be increased activity for businesses in the marine wildlife and tourism sector. This includes those directly involved (e.g. operating boat trips) and those benefiting indirectly (e.g. accommodation providers). The scale of this increase across the proposed sites cannot be quantified, but it can be expected to be some increment of the existing value of these activities. Given the marine wildlife tourism market is currently estimated to be worth £100's of millions per year, an increment of this could be expected to be worth in the region of £10 million per year across the network to the Scottish wildlife tourism market.⁷

Summary of Benefits

The uncertainties in each of the benefits assessed result in a large range of estimated values. Based on the available evidence, the combined total present value of the benefits for the new network (based on the additional benefits of the 14 new SPAs and 4 MPAs combined) is tentatively estimated to be between **£130 million and £240 million** over the 20 year assessment period.⁸

For a qualitative summary of anticipated benefits to ecosystem services in this particular site see appendix A.

- **Costs**

Option 1: Do nothing

This option is not predicted to create any additional costs to the sectors and groups outlined above.

⁵ <http://uknea.unep-wcmc.org/LinkClick.aspx?fileticket=Mb8nUAphh%2bY%3d&tabid=82>

⁶ Developing the Evidence Base for Impact Assessments, ABP Mer

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However failure to classify the “most suitable territories” as SPAs would leave the Scottish Government exposed to a high risk of EC infraction proceedings, which may result in substantial one off and recurring fines.

In addition it should be noted that the societal cost of not classifying could be both large and irreversible relative to the current condition of the marine environment. The absence of management measures to conserve the identified features may produce future economic and social costs in terms of increased marine habitat and biodiversity degradation. The option to not classify holds the potential to undermine the overall ecological coherence of the Scottish SPA Network. This potentially large and irreversible societal cost avoided is presented within the benefits section of the ‘do classify’ scenario (option 2) to avoid double counting the same impact.

Option 2: Classify site as a Special Protection Area

Costs have been evaluated based on the implementation of potential management measures. Where feasible costs have been quantified, where this has not been possible costs are stated qualitatively. All quantified costs have been discounted in line with HM Treasury guidance using a discount rate of 3.5%. Discounting reflects the fact that individuals prefer present consumption over future consumption.

Commercial Fisheries

According to VMS-based estimates and ICES rectangle landings statistics, pelagic trawls, whitefish trawls, other trawls, whitefish seines, nets, pots, dredges and other gears (over-15m) and dredges, pots, whitefish trawls, lines, other trawls and nephrops trawls (under-15m vessels) operate within the Seas off Foula SPA. The value of catches from the SPA area was £11,800,000 (over-15m vessels) and £364,000 (under-15m vessels, indicated from ICES rectangle landings data) (annual average for 2009–2013, 2015 prices). Landings from the over-15m vessels are predominantly into Peterhead (23% by value), Lerwick (14%) and Selje (12%). For the over-15m fleet, whitefish trawls mainly operate in the south-east and north-west parts, pelagic trawls mainly operate across the central part of the SPA, to the south-east of the main area for pots and nets, and whitefish seines mainly operate in the most northerly and easterly parts of the SPA.

Management measures for the scenarios have been developed based on the sensitivity and vulnerability of the features to the pressures caused by different gear types and SNH recommendations.

Uprated ScotMap data (under-15m vessels) indicate that the annual average earnings from the Seas off Foula SPA was £185,000 for the period 2007-2011, with dredges and pots contributing the highest value. However, the ScotMap data does not cover this area, therefore, the scaled-up ScotMap data for the under-15m fleet is based solely on ICES rectangle landings data.

No landings based GVA calculation is required for this site since the management measures are only concerned with one-off costs of implementing by-catch mitigation measures.

Economic Costs on the Activity of Classification of the Site as a SPA			
	Lower Estimate	Intermediate Estimate	Upper Estimate
Assumptions for cost impacts	<ul style="list-style-type: none"> ▪ Reduce or limit the pressure by implementing by-catch mitigation measures e.g. streamers. 	<ul style="list-style-type: none"> ▪ Reduce or limit the pressure by implementing by-catch mitigation measures e.g. streamers plus additional measures such as night fishing, offal management, etc. 	<ul style="list-style-type: none"> ▪ Remove the pressure through 100% effective by-catch mitigation measures.
Description of one-off costs	<ul style="list-style-type: none"> ▪ Costs to >15m fishing (£ k): <ul style="list-style-type: none"> - Streamer lines (0.9). ▪ Costs to <15m fishing (£ k): <ul style="list-style-type: none"> ▪ Unknown 	<ul style="list-style-type: none"> ▪ Costs to >15m fishing (£ k): <ul style="list-style-type: none"> - Streamer lines (0.9). ▪ Costs to <15m fishing (£ k): <ul style="list-style-type: none"> ▪ Unknown 	<ul style="list-style-type: none"> ▪ Costs to >15m fishing (£ k): <ul style="list-style-type: none"> - Streamer lines (0.9). ▪ Costs to <15m fishing (£ k): <ul style="list-style-type: none"> - Unknown
Description of recurring costs	<ul style="list-style-type: none"> ▪ Loss of >15m fishing income (annual values, £ k): <ul style="list-style-type: none"> - None. ▪ Loss of <15m fishing income (annual values, £ k): <ul style="list-style-type: none"> - None. 	<ul style="list-style-type: none"> ▪ Loss of >15m fishing income (annual values, £ k): <ul style="list-style-type: none"> - None. ▪ Loss of <15m fishing income (annual values, £ k): <ul style="list-style-type: none"> - None. 	<ul style="list-style-type: none"> ▪ Loss of >15m fishing income (annual values, £ k): <ul style="list-style-type: none"> - None. ▪ Loss of <15m fishing income (annual values, £ k): <ul style="list-style-type: none"> - None.
Description of non-quantified costs	<ul style="list-style-type: none"> ▪ Loss of >15m fishing income (annual values, £ k): <ul style="list-style-type: none"> - None. ▪ Loss of <15m fishing income (annual values, £ k): <ul style="list-style-type: none"> - None. 	<ul style="list-style-type: none"> ▪ Loss of >15m fishing income (annual values, £ k): <ul style="list-style-type: none"> - None. ▪ Loss of <15m fishing income (annual values, £ k): <ul style="list-style-type: none"> - None. 	<ul style="list-style-type: none"> ▪ Loss of >15m fishing income (annual values, £ k): <ul style="list-style-type: none"> - None. ▪ Loss of <15m fishing income (annual values, £ k): <ul style="list-style-type: none"> - None.

Quantified Costs on the Activity of Classification of the Site as an SPA (£Million)

Total costs (2015–2034)	0.001	0.001	0.001
Average annual costs	<0.001	<0.001	<0.001
Present value of total costs (2015–2034)	0.001	0.001	0.001

Oil and Gas

There are ten 26th round licence awards (5/1, 5/2, 5/4, 5/5, 5/7, 5/8, 5/9, 205/18, 205/19 and 206/28) located within the Seas off Foula SPA boundary or within the 10km buffer; however, each of these 26th round licence awards has subsequently been relinquished.

There are four 27th round licence awards (205/20, 205/24, 205/25 and 205/30) located within the Seas off Foula SPA boundary; one of these 27th round licence awards (205/30) has subsequently been relinquished. In addition, there are four 27th round licence awards (205/15, 205/23, 205/28 and 205/29) located within 10km of the SPA boundary. None of the licence awards blocks contain a significant discovery and, therefore, costs are considered for progression of developments between phases 1 and 3 only.

Costs for the Seas off Foula SPA are associated with the requirement for additional assessment of exploration proposals in relation to the SPA features under the lower and intermediate scenarios. For the intermediate scenario, it is assumed that additional bird survey work will be required prior to any test wells being sunk. For the upper scenario, it is assumed that permission is not granted for any test or production wells within 10km of the SPA. The cost impact for this scenario therefore relates to the opportunity cost, but this has not been quantified.

Economic Costs on the Activity of Classification of the Site as an SPA

	Lower Estimate	Intermediate Estimate	Upper Estimate
Assumptions for cost impacts	<ul style="list-style-type: none"> ▪ Additional assessment of new development (26th and 27th licensing awards) within 10 km of SPA – Assessment Phases 1 – 3 only (as no 	<ul style="list-style-type: none"> ▪ Additional bird surveys to identify and avoid key feeding hotspots (prior to Phase 1); and ▪ Additional assessment of new development 	<ul style="list-style-type: none"> ▪ No further development of licence awards (i.e. no additional bird surveys or assessments for wells).

	significant discoveries present within awarded blocks).	(26 th and 27 th licensing awards) within 10 km of SPA – Assessment Phases 1 – 3 only (as no significant discoveries present within awarded blocks).	
Description of one-off costs	<ul style="list-style-type: none"> ▪ Additional assessment of new development (7 x 26th/27th round licence awards): <ul style="list-style-type: none"> - Assessment Phase 1: surveys and evaluation costs; consultancy fees and additional operator staff input - £2,144 per well (7 wells) in 2018; - Assessment Phase 2: drilling and exploration; consultancy fees and additional operator staff input - £4,288 per well (7 wells) in 2020; and - Assessment Phase 3: drilling and appraisal; consultancy fees and additional 	<ul style="list-style-type: none"> ▪ Additional bird surveys to identify and avoid key feeding hotspots - £120k per year in 2016 and 2017; and ▪ Additional assessment of new development (7 x 26th/27th round licence awards): <ul style="list-style-type: none"> - Assessment Phase 1: surveys and evaluation costs; consultancy fees and additional operator staff input - £2,144 per well (7 wells) in 2018; - Assessment Phase 2: drilling and exploration; consultancy fees and additional operator staff input - £4,288 per well (7 wells) in 2020; and 	<ul style="list-style-type: none"> ▪ None.

	operator staff input - £4,288 per well (7 wells) in 2020.	- Assessment Phase 3: drilling and appraisal; consultancy fees and additional operator staff input - £4,288 per well (7 wells) in 2020.	
Description of recurring costs	▪ None.	▪ None.	▪ None.
Description of non-quantified costs	▪ Costs of project delays during consenting; potential impact on investment opportunities.	▪ Costs of project delays during consenting; potential impact on investment opportunities.	▪ Benefit foregone whereby the licence award(s) led to significant discovery

Quantified Costs on the Activity of Classification of the Site as an SPA (£Million)

Total costs (2015–2034)	0.075	0.305	0
Average annual costs	0.004	0.016	0
Present value of total costs (2015–2034)	0.064	0.292	0

It should be noted that additional cost impacts could also arise as a result of consenting delays. The cost impacts and uncertainty associated with SPA classification may impact on potential investment opportunities. Under the upper scenario, no further progression of the licence awards is anticipated and thus no costs can be attributed (additional bird surveys or assessments). Therefore, no quantified costs are reported under the upper scenario as potential costs associated with the opportunity of finding a significant discovery are non-quantifiable.

Shipping

AIS data for vessels carrying hazardous cargoes, assumed to be all vessels >300GRT, transiting the Seas off Foula SPA boundary have been assessed to consider the establishment of a voluntary 'Area To Be Avoided' (ATBA). A potential cost is anticipated due to the additional steaming distance to avoid transiting the Seas off Foula SPA boundary. Cost of additional time to complete the extended transect are based on an estimated hourly cost of tankers (£1,215 per hour).

Economic Costs on the Activity of Classification of the Site as an SPA			
	Lower Estimate	Intermediate Estimate	Upper Estimate
Assumptions for cost impacts	▪ None.	▪ None.	▪ Establishment of voluntary ATBA - extra steaming time for all vessels >300GRT.
Description of one-off costs	▪ None.	▪ None.	▪ None.
Description of recurring costs	▪ None.	▪ None.	▪ Establishment of voluntary ATBA - extra steaming time for all vessels >300GRT. Assessment based on six weeks of AIS data (converted to annual cost) whereby 28 tankers transited the SPA boundary.
Description of non-quantified costs	▪ None.	▪ None.	▪ None.

Quantified Costs on the Activity of Classification of the Site as an SPA (£Million)			
Total costs (2015–2034)	0.000	0.000	4.541
Average annual costs	0.000	0.000	0.227
Present value of total costs (2015–2034)	0.000	0.000	3.277

Public Sector:

The decision to classify the Seas off Foula site as a SPA, would result in costs being incurred by the public sector in the following areas:

- Preparation of Marine Management Schemes
- Preparation of Statutory Instruments

- Development of voluntary instruments
- Site monitoring
- Compliance and enforcement
- Promotion of public understanding
- Regulatory and advisory costs associated with licensing decisions

Some of these costs will accrue at the national level and as such have not been disaggregated to site level.

Site-specific Public Sector Costs (£Million, 2015-2034)			
	Lower Estimate	Intermediate Estimate	Upper Estimate
Preparation of Marine Management Schemes	0.000	0.000	0.000
Preparation of Statutory Instruments	0.005	0.005	0.005
Development of voluntary measures	0.000	0.000	0.000
Site monitoring	0.000	0.000	0.000
Regulatory and advisory costs associated with licensing decisions	0.006	0.006	0.000
Total Quantified Public Sector Costs	0.011	0.011	0.005

Total Costs

Total quantified costs are presented in present value terms. Commercial fisheries costs are presented in terms of GVA.

Total Present Value of Quantified Costs (£Million, 2015-2034)			
Sector	Lower Estimate	Intermediate Estimate	Upper Estimate
Commercial Fisheries	0.001	0.001	0.001
Oil and Gas	0.064	0.292	0
Shipping	0.000	0.000	3.277
Public Sector	0.011	0.011	0.005
Total Present Value of Costs	0.076	0.304	3.283

Total Non-Quantified Costs			
Scenario	Low	Intermediate	Upper
Sector/Group			
Commercial fisheries	<ul style="list-style-type: none"> ▪ One-off costs of implementing by-catch mitigation measures; ▪ One-off costs for non-UK line fishing vessels of implementing by-catch mitigation; ▪ Possible one-off costs of implementing by-catch mitigation measures for non-UK vessels 	<ul style="list-style-type: none"> ▪ One-off costs of implementing by-catch mitigation measures; ▪ One-off costs for non-UK line fishing vessels of implementing by-catch mitigation; ▪ Possible one-off costs of implementing by-catch mitigation measures for non-UK vessels 	<ul style="list-style-type: none"> ▪ One-off costs of implementing by-catch mitigation measures; ▪ One-off costs for non-UK line fishing vessels of implementing by-catch mitigation; ▪ Possible one-off costs of implementing by-catch mitigation measures for non-UK vessels
Oil and Gas	<ul style="list-style-type: none"> ▪ Costs of project delays during consenting; potential impact on investment opportunities. 	<ul style="list-style-type: none"> ▪ Costs of project delays during consenting; potential impact on investment opportunities. 	<ul style="list-style-type: none"> ▪ Costs of project delays during consenting; potential impact on investment opportunities.

Scottish Firms Impact Test

This section is informed by evidence gathered during the consultation phase.

Businesses affected include some small and micro-sized firms. Additional costs imposed by the classification of the proposed site have the potential to fall on small businesses.

- **Competition Assessment**

Classification of the site as a SPA may affect marine activities where businesses operate within a given spatial area or require a spatial licence for new or amended operations.

Competition Filter Questions

Will the proposal directly limit the number or range of suppliers? e.g. will it award exclusive rights to a supplier or create closed procurement or licensing programmes?

No. It is unlikely that classification of the site as a SPA will directly limit the number or range of suppliers.

Will the proposal indirectly limit the number or range of suppliers? e.g. will it raise costs to smaller entrants relative to larger existing suppliers?

Limited / No Impact. Classification of the site as a SPA could affect the spatial location of commercial fisheries activity and may restrict the output capacity of this sector. However, restrictions on fishing locations may well be negated by displacement i.e. vessels fishing elsewhere. It is not expected that the distribution of additional costs will be skewed towards smaller entrants relative to larger existing suppliers.

Classification could affect the preparation of applications, location of marine developments and activities, or requirements for marine developments which would apply to any developer of an affected licensed activity when preparing and submitting an application. Additional costs will potentially be incurred by developers submitting new licence applications, but they will apply to both new entrants and to incumbents looking to expand or alter their operations.

Will the proposal limit the ability of suppliers to compete? e.g. will it reduce the channels suppliers can use or geographic area they can operate in?

No. Classification of the site will not directly affect firms' route to market or the geographical markets they can sell into.

Will the proposal reduce suppliers' incentives to compete vigorously? e.g. will it encourage or enable the exchange of information on prices, costs, sales or outputs between suppliers?

No. Classification of the site is not expected to reduce suppliers' incentives to compete vigorously.

Test run of business forms

It is not envisaged that classification of the site will result in the creation of new forms for businesses to deal with, or result in amendments of existing forms.

Legal Aid Impact Test

It is not expected that the SPA will have any impact on the current level of use that an individual makes to access justice through legal aid or on the possible expenditure from the legal aid fund as any legal/authorisation decision impacted by the SPA will largely affect businesses rather than individuals.

Enforcement, sanctions and monitoring

The relevant competent authorities for each activity / industry has responsibility for compliance, monitoring and enforcement of the requirement to protect the site. This must be done in accordance with Article 6 of the EU Habitats Directive.

Implementation and delivery plan

After classification of the site the relevant competent authorities must adhere to the legislative requirements so that adequate protection of the site occurs. Marine Scotland will be responsible for considering whether fisheries management measures are required.

Summary and recommendation

Option 2: Classify site as a Special Protection Area – is the preferred option.

The extent and quality of habitat and available food around Scotland's coast supports huge numbers of different species of seabirds. Few countries can match this and we have an international responsibility to protect what we have around Scotland. Therefore the appropriate action is to protect and maintain Scotland's seabird and water bird populations and meet the requirements of the EC Birds Directive.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

A handwritten signature in black ink, appearing to read 'Mairi Gougeon', written in a cursive style.

Date:

3 December 2020

Mairi Gougeon, Minister for Rural Affairs and the Natural Environment

Scottish Government Contact point:

marine_conservation@gov.scot

Appendix A - Ecosystem Services Benefits, Seas off Foula

Summary of Ecosystem Services Benefits arising from Classification of the Site as an SPA								
Services	Relevance to Site	Baseline Level	Estimated Impacts of Classification			Value Weighting	Scale of Benefits	Confidence
			Lower	Intermediate	Upper			
Fish for human consumption	Low, contributes to the food web	Stocks not at MSY	Nil	Nil	Minimal, small increase in fish stocks possible	Low	Minimal	Moderate
Fish for non-human consumption		Stocks reduced from potential maximum						
Gas and climate regulation	Nil	Nil	Nil			Nil	Nil	High
Non-use value of natural environment	Moderate, bird species, and contribution of the site to MPA network, have non-use value.	Non-use value of the site may decline	Minimal	Low, maintain features of site	Moderate, protection of features of site from decline, possibly allowing some recovery	Moderate, contributes to maintaining marine biodiversity	Low	Moderate, response of feature to management measures, and value to society, uncertain
Recreation	Low - Moderate, inaccessible site, but limited wildlife tourism, but features	Recreation value of the site may decline	Minimal, protection of features of site		Minimal, protection of site contributes to recreation, possibly allowing some recovery	Moderate, tourism supports jobs, but substitutes are available	Minimal	Moderate, significance of change from management measures uncertain.

Summary of Ecosystem Services Benefits arising from Classification of the Site as an SPA								
Services	Relevance to Site	Baseline Level	Estimated Impacts of Classification			Value Weighting	Scale of Benefits	Confidence
			Lower	Intermediate	Upper			
	contribute to Shetland tourism.							
Research and Education	Moderate, features have research value, but there are substitutes	Value of site may decline	Minimal, protection of features of site		Low, protection maintains future research opportunities. Classification may play role in communicating management needs.	Low	Low	Moderate, extent to which research uses site in future uncertain.
Total value of changes in ecosystem services			Minimal for lower scenario, Low for intermediate and upper scenarios				Low	Moderate



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