



Marine Scotland

Seas off St. Kilda Special Protection Area (SPA) Business and Regulatory Impact Assessment

December 2020

Business and Regulatory Impact Assessment

Title of Proposal

Seas off St. Kilda 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.

The Seas off St. Kilda SPA is located in Scottish marine waters situated about 50 km northwest of North Uist in the Western Isles of Scotland. It covers 3,995 km² of mainly offshore waters and encloses the St Kilda archipelago, consisting of the four islands of Hirta, Dun, Soay and Boreray, and the sea-stacs of Stac an Armin, Stac Lee and Levenish.

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

- northern gannet (*Morus bassanus*),
- northern fulmar (*Fulmarus glacialis*) 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 St Kilda SPA supports regularly occurring populations of national importance of the following Annex 1 species, foraging at sea during the breeding season:

- European storm-petrel (*Hydrobates pelagicus*) as part of an assemblage.

In the site, water depths range mainly between 40m and 410m; shallow areas with less than 100m depth occur only at the very east of the site, while depths of more than 250m are reached only in the northwest (see Figure 2). The bathymetry

shows that Seas off St Kilda SPA lies very close to the continental shelf edge, with water depth quickly increasing to the west and to the north of its limits. Shelf-break fronts are a typical phenomenon at the shelf edge and, like almost all fronts, are regions of enhanced plankton production, leading to a higher fish production (Mann and Lazier 1991). Shelf edges might also have a function in concentrating marine organisms both in acting as a barrier to species confined to shallower waters, and as a geological feature guiding the migration of fish species (pers. comm. D. Tobin).

The combined effect of current and waves creates low-energy seabed environments in most of the site. In the vicinity of the archipelago, however, moderate-energy seabed environments also occur (McBreen *et al.* 2011). In the southwest of the site, rock and reef habitats are prevalent; the northwest is dominated by a mosaic of subtidal coarse sediments and sand and muddy sand habitats (McBreen *et al.* 2011).

Like most of the continental shelf edge, Seas off St Kilda is an area of high intensity nursery grounds of mackerel *Scomber scombrus* (Coull *et al.* 1998; Ellis *et al.* 2012). Northern gannets typically have a highly varied fish diet (Nelson 2002) and common species consumed in UK waters include mackerel *Scomber scombrus*, sandeel *Ammodytes marinus*, sprat *Sprattus sprattus* and herring *Clupea harengus* (Hamer *et al.* 2000).

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 St. Kilda 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

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

² Biodiversity Action Plan

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 will form part of an 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.

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 at 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 package³.

Options

Option 1: Do nothing

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

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

However failure to classify the “most suitable territories” as SPAs would leave the Scottish Government exposed to a high risk of EU 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

Option 2 involves the formal classification of the Seas off St. Kilda 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. Requisite management would be required to maintain the status of the site.

- **Sectors and groups affected**

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

- Commercial fisheries
- Military
- 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 EU 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 a 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 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.

⁴ Developing the Evidence Base for Impact Assessments, ABP Mer

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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⁸ Developing the Evidence Base for Impact Assessments, ABP Mer

- **Costs**

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 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, lines, whitefish trawls, pots and other gears (over-15m) and pots and other gears (under-15m vessels) operate within the Seas off St Kilda SPA. The value of catches from the SPA area was £5,406,000 (over-15m vessels) and £3,000 (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 (31% by value), Lerwick (17%) and Egersound (17%). For the over-15m fleet, pelagic and whitefish trawls operate across the north-west half and in the south-east corner, lines operate across the north and pots operate in the east part 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.

Upated ScotMap data (under-15m vessels) indicate that the annual average earnings from the Seas off St Kilda SPA was £44,000 for the period 2007-2011, with pots contributing the highest value. The ScotMap data only covers the south-

east section of the site; there is no under-15m fishing reported in the more westerly ICES rectangles. The coverage for ScotMap interviews in the region was around 87% (total value of reported landings from the Fisheries Information Network for those vessels included in the ScotMap value analysis expressed as a percentage of the total reported landings for all vessels <15m); the spatial representation of the value of fishing is more robust in regions where coverage is higher.

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 (11.9). ▪ Costs to <15m fishing (£ k): <ul style="list-style-type: none"> ▪ None. 	<ul style="list-style-type: none"> ▪ Costs to >15m fishing (£ k): <ul style="list-style-type: none"> - Streamer lines (11.9). ▪ Costs to <15m fishing (£ k): <ul style="list-style-type: none"> - None. 	<ul style="list-style-type: none"> ▪ Costs to >15m fishing (£ k): <ul style="list-style-type: none"> - Streamer lines (11.9). ▪ Costs to <15m fishing (£ k): <ul style="list-style-type: none"> - None.
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"> ▪ One-off costs for non-UK line fishing vessels of implementing by-catch 	<ul style="list-style-type: none"> ▪ One-off costs for non-UK line fishing vessels of implementing by-catch 	<ul style="list-style-type: none"> ▪ One-off costs for non-UK line fishing vessels of implementing by-catch

	mitigation measures <ul style="list-style-type: none"> ▪ Possible one-off costs of implementing by-catch mitigation measures for non-UK vessels with unknown gear types. 	mitigation measures <ul style="list-style-type: none"> ▪ Possible one-off costs of implementing by-catch mitigation measures for non-UK vessels with unknown gear types. 	mitigation measures <ul style="list-style-type: none"> ▪ Possible one-off costs of implementing by-catch mitigation measures for non-UK vessels with unknown gear types.
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Quantified Costs on the Activity of Classification of the Site as an SPA (£Million)			
Total costs (2015–2034)	0.012	0.012	0.012
Average annual costs	0.001	0.001	0.001
Present value of total costs (2015–2034)	0.012	0.012	0.012

Military

2 military practice areas (Hebrides (D701A) and Hebrides (D701C); both firing danger areas) overlap with the Seas off St Kilda SPA.

The features which overlap with military activities have not been described as vulnerable to MoD activities in this SPA. It is assumed that management relating to MoD activity will be coordinated through the MoD’s Maritime Environmental Sustainability Appraisal Tool (MESAT) which the MoD uses to assist in meeting its environmental obligations. This process will include operational guidance to reduce significant impacts of military activities on SPAs. It is assumed that the MoD will incur additional costs in adjusting MESAT and other MoD environmental assessment tools in order to consider whether its activities will impact on the conservation objectives of SPAs and also incur additional costs in adjusting electronic charts to consider SPAs. However, these costs will be incurred at national level and hence no site-specific cost assessments have been made.

Shipping

AIS data for vessels carrying hazardous cargoes, assumed to be all vessels >300GRT, transiting the Seas off St Kilda 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 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 10 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	1.843
Average annual costs	0.000	0.000	0.092
Present value of total costs (2015–2034)	0.000	0.000	1.330

Public Sector:

The decision to classify the Seas off St. Kilda 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	0.025	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	0.000	0.000	0.000
Total Quantified Public Sector Costs	0.005	0.005	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	0.012	0.012	0.012
Military	<i>See National Costs</i>	<i>See National Costs</i>	<i>See National Costs</i>
Shipping	0.000	0.000	1.330
Public Sector	0.005	0.005	0.005
Total Present Value of Costs	0.017	0.017	1.347

Total Non-Quantified Costs			
Scenario	Low	Intermediate	Upper
Sector/Group			
Commercial fisheries	<ul style="list-style-type: none"> ▪ One-off costs for non-UK line fishing vessels of implementing by-catch mitigation measures ▪ Possible one-off costs of implementing by-catch mitigation measures for non-UK vessels with unknown gear types 	<ul style="list-style-type: none"> ▪ One-off costs for non-UK line fishing vessels of implementing by-catch mitigation measures ▪ Possible one-off costs of implementing by-catch mitigation measures for non-UK vessels with unknown gear types 	<ul style="list-style-type: none"> ▪ One-off costs for non-UK line fishing vessels of implementing by-catch mitigation measures ▪ Possible one-off costs of implementing by-catch mitigation measures for non-UK vessels with unknown gear types

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 EU Wild 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', is written over a faint, illegible background.

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 St. Kilda

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	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 natural heritage associated with site, and contribution of the site to MPA network, have non-use value.	Non-use value of the site may decline	Low	Low - Moderate, protection of features of site from decline, possibly allowing some recovery, but parts of site already protected	Moderate - High, contributes to maintaining character of iconic site	Low - moderate	Moderate, response of feature to management measures, and value to society, uncertain	
Recreation	Low - Moderate, inaccessible site, with limited wildlife tourism.	Recreation value of the site may decline	Minimal, protection of features of site	Low, protection of site may increase visitors' values	Moderate - high, high travel cost suggests high value for visitors.	Minimal – Low	Low, extent of change from management measures, including in context of climate-induced changes uncertain.	
Research and Education	Moderate, features have research value, island has	Value of site may decline	Low	Low - Moderate, protection maintains future research opportunities. Classification may play role in communicating management needs.	Moderate – high, value of maintaining long term	Low - moderate	Moderate, extent to which research uses site in future 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			
	scientific programmes					scientific effort		
Total value of changes in ecosystem services			Minimal for lower scenario, Low - Moderate for intermediate and upper scenarios, mainly based on non-use and research values				Low - moderate	Moderate



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