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Consultation on proposed Special Areas of Conservation (SACs) for harbour porpoise and marine Special Protection Areas (SPAs) for seabirds in Wales

Some questions and answers

Version 1: 19 January 2016

Please note that the contents of this document that relate to the proposed harbour porpoise SACs has been developed and agreed at a UK level. However content relating specifically to the proposed SPAs has been produced only by NRW.

The UK Statutory Nature Conservation Bodies (SNCBs) have identified important areas for harbour porpoise in UK waters, for possible designation as Special Areas of Conservation (SACs), and important areas for a number of species of seabirds for possible designation as Special Protection Areas (SPAs). These sites are a requirement under European Union legislation to enable the UK to contribute to the creation of an EU network of sites called 'Natura 2000', which aims to help conserve Europe's biodiversity.

This document provides answers to a wide range of questions you may have regarding this process, and the resulting possible site boundaries. A list of the questions is given first, followed by the questions and corresponding answers. Hopefully these will address most queries, or at least point you towards other sources of information where your questions can be answered. If your query is not answered below, please contact us for further information; details of how to do so are given at the end of this document.

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Key terms and acronyms

cSAC	Candidate SAC (site which has been formally submitted to the EC following consultation)
DOE (NI)	Department of the Environment (Northern Ireland)
EC	European Commission
FCS	Favourable Conservation Status
JCP	Joint Cetacean Protocol
JNCC	Joint Nature Conservation Committee
MCZ	Marine Conservation Zone (in England, Wales and Northern Ireland)
MPA	Marine Protected Area – collective term for all designated marine sites
NC MPA	Nature Conservation MPA (in Scotland)
NE	Natural England
NGO	Non Governmental Organisation
NRW	Natural Resources Wales
pSAC	Possible SAC. These are sites undergoing public consultation prior to a decision on whether to formally submit it to the EC.
pSPA	Potential Special Protection Area. These are sites undergoing public consultation prior to a decision on whether they should be formally 'classified' (designated)
SAC	Special Area of Conservation
SNCB	Statutory Nature Conservation Body (JNCC, NE, SNH, NRW and DOENI)
SNH	Scottish Natural Heritage
SPA	Special Protection Area

Questions and answers

A. Background

1. **What are marine protected areas (MPA)?** 'Marine protected area' is a general term, rather than a specific type of designation, that covers any form of protected area in the marine environment, including estuarine, coastal and offshore areas. The possible harbour porpoise SACs are a type of MPA designation.

2. **What is a Special Area of Conservation (SAC)?**

Special Areas of Conservation (SACs) are areas of land, freshwater and/or sea designated under the European Union Habitats Directive as being particularly important for the conservation of the natural habitats and species of plants and animals (other than birds) they support.

The Directive requires the establishment of a European network of important high-quality conservation sites that will make a significant contribution to conserving the habitat types and species identified in Annexes I and II of the Directive. The habitat types and species that are listed in the Annexes are those that are considered to be most in need of conservation at a European level (excluding birds, which are covered by Special Protection Area (SPA) under the EU Directive on the Conservation of Wild Birds).

3. **What is a Special Protection Area (SPA)?**

Special Protection Areas (SPAs) are areas designated (or 'classified') under the 2009 European Union Wild Birds Directive for the protection of nationally and internationally important populations of wild birds (originally enacted in 1979). All EU member states must classify the most suitable areas on land and at sea as SPAs.

4. **How are SACs and SPAs different to Marine Conservation Zones?**

Marine Conservation Zones (MCZs) are a specific type of designation which can be made under domestic law through the Marine and Coastal Access Act (2009) in English, Northern Irish and Welsh waters. In contrast, SACs and SPAs are measures to address the conservation of biodiversity and wild birds across the EU and are required under EU law. These different designations have different selection processes and management approaches but all contribute to an overall MPA network designed to support better management of UK/EU waters. A key difference between SACs and SPAs and MCZs is that SACs and SPAs must be identified and designated only on the basis of relevant scientific information, whereas decisions on whether to designate MCZ can take into account social and economic considerations.

5. **How many existing marine SACs are there in the UK and what do they protect?** There are currently 108 marine SACs in UK waters covering approximately 67,000km², protecting many habitats and species listed in Annexes I and II of the Habitats Directive. The full list of marine SACs, plus information on the features they protect can be found here: <http://jncc.defra.gov.uk/page-23>.

6. **How many existing marine SACs and SPAs are there in Wales?**

Information on the number, and area of Welsh seas covered by existing marine protected areas, including existing SACs and SPAs, is provided in the table below.

Area Type	Number of Sites	Area of Welsh	Percentage of Welsh seas under designation
SAC	11		31.41%
SPA	9		8.08%
SSSI	103		2.64%
	4		1.21%
Ramsar	1		0.08%

MCZ		Seas under Designation (sq km) ¹	
		5007	
		1314 ²	
		421	
		240	
		13	
Total	128	5592	35.08%

7. Why do we need any more SACs?

A series of SACs already exist in UK waters for most relevant habitats and species listed in Annexes I and II of the Habitats Directive, but only one exists at present for harbour porpoise with the species as a qualifying feature. This site (Skerries and Causeway in Northern Ireland) is not considered legally adequate to fulfil our obligations towards harbour porpoise under the Habitats Directive. Evidence has been periodically reviewed, and the latest review concluded there was sufficient evidence in order to proceed with the identification and recommendation of a network of sites, 5 of which are currently undergoing consultation.

8. Why do we need any more SPAs?

A series of SPAs has already been designated on land and sea in Wales and the rest of the UK, but we need to do more in the marine environment to reflect the particular importance of UK and Welsh waters for marine birds. This will ensure compliance with the UK's obligations under the Wild Birds Directive.

9. Why are there so many different designations?

Marine biodiversity conservation has been evolving for many years, in response to developments in domestic legislation and government policy, EU directives and international agreements. Each of these drivers has a different history and set of rules, resulting in a variety of protected area designations that each serves a different purpose or offers different levels of protection to the designated features. Individually they aim to conserve particular features and the environment that supports those features; together they create a site network for better protection and management across all UK waters.

10. Why are there two SAC consultations taking place?

This is a consequence of devolution and the need to provide each of the Governments of the UK with separate advice. Furthermore, the consultation on possible harbour porpoise SACs in Wales is taking place at the same time as consultation on a number of proposed SPAs, therefore this was deemed to be the most suitable approach. The Statutory Nature Conservation Bodies are working very closely together, so a comment in one consultation that is relevant to the other will be taken into account by the other agencies.

11. Do I need to reply to both consultations?

¹ 'Welsh seas' in this context means the Mean High Water to the 12nm limit =15,942 square km. ² This figure does not include the three marine SPA extensions made in 2014.

Two responses will be required (one to the NRW consultation and one to the JNCC consultation) if you have site-specific comments on individual pSACs in both consultations. However more general comments may be submitted through one consultation, given the coordinated approach NRW and JNCC will take towards reporting on the consultation. If commenting on the Bristol Channel Approaches site, which is covered in both the English (JNCC) and Welsh (NRW) consultations, you should respond to the English (JNCC) consultation unless your comments are specific to the Welsh inshore area. All the consultation documents for the NRW consultation can be accessed here: www.naturalresources.wales/mn2k. For information about the simultaneous consultation by JNCC on proposed SACs elsewhere in the UK please visit the JNCC website: <http://jncc.defra.gov.uk/SACconsultation>

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B. Harbour porpoise pSACs

12. What features are covered by the possible SACs?

The possible SACs are for harbour porpoise (*Phocoena phocoena*). These sites would be 'single feature' designations only applying to this species and managed accordingly. The Skerries and Causeway SAC is currently the only designated SAC within UK waters to list harbour porpoise as a qualifying species. Additionally, harbour porpoises are listed as present in 34 existing SACs as a non-qualifying feature, and therefore have no requirement of management measures specifically set in place for the species. However, management of the habitats will benefit the species indirectly through protection of features important to harbour porpoise that support their key needs. The harbour porpoise pSACs overlap with a number of existing MPAs, including marine SPAs and marine SACs designated for other habitats and species.

13. Where are the possible SACs?

There are 5 possible SACs for harbour porpoise undergoing consultation at this time. An indicative map of the boundaries under consideration is given below. Definitive boundary maps are also available from the relevant consultation pages of the NRW and JNCC websites.

14. How big are the possible SACs?

The 5 possible harbour porpoise SACs cover an area of 55,039km². Individual areas are presented below:

Site name	Site area (km ²)
Bristol Channel Approaches/ Dynesfeydd Môr Hafren	5,851
West Wales Marine / Gorllewin Cymru Forol	7,377
North Anglesey Marine/ Gogledd Môn Forol	3,249
North Channel	1,604
Southern North Sea	36,958

15. Will there be any other new sites for harbour porpoise in UK waters?

Further sites may be proposed in future in Scottish waters, however there are no further plans to identify more sites in English, Welsh and Northern Irish waters at this time. The 5 sites undergoing consultation have been derived using the best available evidence to identify

persistent high density areas of harbour porpoise, and the proposals meet a set of criteria designed to identify the best possible options to support the conservation of the species.

16. Are harbour porpoises protected in any other ways?

Harbour porpoises are protected under UK law in England and Wales through section 9 and Schedule 5 of the Wildlife and Countryside Act 1981. In addition, the 1992 EU Habitats Directive under which SACs are designated also prohibits deliberate killing, capturing or disturbance of harbour porpoise anywhere in European waters. The Directive is transposed into UK law through the Conservation of Habitats and Species Regulations 2010² and the Offshore Marine Conservation Regulations (Natural Habitats, &c.) Regulations 2007³ (as amended); and in Northern Ireland through The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). Additionally, harbour porpoise are considered through the provisions of the EU Marine Strategy Framework Directive (MSFD) which requires Member States to develop marine strategies for the management of human activities; the OSPAR convention for threatened species; and the EU Common Fisheries Policy Regulation 18 and Regulation 812/2004 concerning incidental catches of cetaceans in fisheries. Porpoises are also included in the international Agreement on the Conservation of Small Cetaceans in the Baltic, North East Atlantic, Irish and North Sea (ASCOBANS) to which the UK is a signatory.

17. Considering that harbour porpoise is already a European protected species, what protection do SACs provide?

A number of species, including harbour porpoise, are listed in the Habitats Directive as requiring both designation of SACs should suitable locations be identified as well as strict protection of the species wherever they occur, which means they are strictly protected from deliberate taking, injury, and disturbance under European and UK law regardless of whether they are in an SAC or not.

SACs help conserve the designated features, in this case, the harbour porpoise and its habitats, within the boundary of the site. Although the harbour porpoise is a highly mobile species, the pSACs identified are persistently used by the species at relatively higher densities than elsewhere, indicating the habitats within these areas are of greater importance than those outside the sites.

SACs provide a basis of ensuring that any management or regulation that may be necessary to protect harbour porpoise habitat is applied in the right areas. More specifically, SAC designation also triggers the process under the Habitats Directive requiring the assessment of plans and projects (proposals with potential to negatively impact the site), for which approval can only normally be given where they will not adversely affect the designated species or habitats. Many SACs for harbour porpoise have already been designated by other EU Member States.

18. As there are high numbers of harbour porpoise in UK waters and they are wide ranging, why do we need sites to protect them?

Based on best available data, the estimated population of harbour porpoise in UK waters of less than 200m in depth is approximately 130,000 individuals. This estimate is based on the results of a north west European cetacean survey covering the European continental shelf carried out in July 2005. Available data indicate that harbour porpoise are currently in favourable conservation status within UK waters. However, the harbour porpoise population is exposed to a range of pressures that are both ubiquitous (e.g. pollution) and patchy (e.g. bycatch) in nature, and protection is therefore required both within protected areas and through wider measures. Harbour porpoise are included in the Annex II list of species in the Habitats Directive, which require SACs to be designated. SACs for wide ranging species are intended to represent the areas which, according to the best available scientific evidence, are the most important for the species within its natural range. The areas identified for harbour porpoise are those within UK

² http://www.legislation.gov.uk/ukxi/2010/490/pdfs/ukxi_20100490_en.pdf

³ http://www.legislation.gov.uk/ukxi/2007/1842/pdfs/ukxi_20071842_en.pdf

waters that have persistently higher density of harbour porpoises following a comprehensive analysis of the evidence base. We do not currently fully understand what it is about these areas that make them particularly attractive to harbour porpoise, but it is likely to be related to greater availability of food resources, either on a year round or seasonal basis.

19. How much will these sites cost?

An assessment of the potential costs of these sites is provided in an Impact Assessment Evidence Base report which is available as part of the supporting material for this consultation. From this, an Impact Assessment has been developed and is available for comment as part of the consultation with a view to finalising before Ministers decide on the designation or otherwise of the sites.

20. Why are these sites so large?

The sites were chosen as representing those areas within three parts of UK seas (Management Units) persistently holding higher densities of harbour porpoise, while meeting the site selection criteria in the Directive and considering guidance provided by the European Commission. In order that the guidance was met as far as possible, sites needed to be large to ensure that sufficient numbers and sufficient habitat of this wide-ranging mobile species is included within the SAC network.

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C. Marine pSPAs

21. What features are covered by the possible SPAs?

The possible new SPAs will protect a number of different seabird species, including: Manx shearwater, Atlantic puffin, red throated diver, common tern, Arctic tern, sandwich tern and roseate tern.

22. Where are the possible new SPAs?

A summary map of the possible new SPAs is shown given below and in the NRW consultation paper.

The areas under consideration for seabird species in Welsh Waters are:

- Anglesey Terns / Morwenoliaid Ynys Môn for tern species – Arctic, common, sandwich and roseate (*Sterna paradisaea*, *Sterna hirundo*, *Sterna sandvicensis* and *Sterna dougalli*)
- Northern Cardigan Bay / Gogledd Bae Ceredigion – for red-throated diver (*Gavia stellata*)
- Skomer, Skokholm and the Seas off Pembrokeshire / Sgomer, Sgogwm a Moroedd Penfro - for Manx shearwater and Atlantic Puffin (*Puffinus puffinus* and *Fratercula arctica*)

Detailed maps of each of these sites are also available from the consultation page on the NRW website: www.naturalresources.wales/mn2k

23. **Will there be any other new SPAs, or changes to existing sites in Welsh waters?** JNCC has analysed the available data on birds in UK offshore waters around Wales, England and Northern Ireland and published a report showing hotspots of bird concentrations. Available at: <http://jncc.defra.gov.uk/page-5522>.

JNCC is continuing to provide advice to Defra on these areas in UK Offshore Waters, around Wales, England and Northern Ireland, although no decision has yet been made on whether to proceed with any site further proposals for the offshore area around Wales.

In addition to the current consultation on a proposed new SPA in northern Cardigan Bay and proposed extensions to two existing SPAs in Anglesey and Pembrokeshire, changes to the existing Liverpool Bay / Bae Lerpwl SPA are being considered, and may be formally consulted on at a later date.

24. **What changes are being considered for Liverpool Bay / Bae Lerpwl SPA and why is that not part of this consultation?**

Liverpool Bay / Bae Lerpwl SPA is a cross-border site, in both Welsh and English waters. Natural England undertook a period of informal dialogue in 2015 with key stakeholders over proposed modifications to the SPA. The possible modifications largely affect the English / offshore part of the site and hence the process is being led by Natural England and to a separate consultation timetable alongside other sites being progressed in England. The proposed changes to Liverpool Bay/Bae Lerpwl SPA are:

- To afford protection to little gull (*Hydrocoloeus minutus*)
- To add additional named features to the site to protect the foraging areas of common tern (*Sterna hirundo*) from the colony at Seaforth (Mersey Narrows and North Wirral Foreshore SPA) and little tern (*Sternula albifrons*) from the colony at Gronant (The Dee Estuary SPA)
- To amend the waterbird assemblage and add red-breasted merganser (*Mergus serrator*) and cormorant (*Phalacrocorax carbo*) as named features

For further information on these proposals please see Natural England's Technical Information Note:

<http://publications.naturalengland.org.uk/publication/5118471743471616>

25. **What protection do SPAs provide and how will the species in question benefit?** SPAs help conserve the particular bird species for which that they are classified.

The UK has the largest breeding seabird populations of any EU member state, with approximately 3.5 million birds across 26 species. Wales holds important populations of seabird, for example about 57% of the global population of Manx shearwater, and one of GB's largest populations of breeding lesser black-backed gull (*Larus Fuscus*) is found on Skokholm and Skomer.

The authorities responsible for these areas ensure protection through adopting policy and promoting good practice that safeguard the species and avoid disturbance and deterioration of their habitats, and through the assessment and control of any development in or affecting the areas.

SPAs ensure assessment of any new coastal or marine developments likely to affect the relevant bird populations, whether within the site or outside the site boundary. This assessment will look at any potential impacts on the birds themselves (e.g. through disturbance), or on the habitats on which they depend, both inside and outside the site boundary.

The designation of SPAs for the bird species under consideration is also intended to increase awareness about these species, and the areas where they live.

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D. Site identification process for harbour porpoise SACs

26. Who identified these areas?

Led by the UK Joint Nature Conservation Committee, the UK Statutory Nature Conservation Bodies have worked together to examine available evidence in order to identify persistently higher density areas of harbour porpoise in UK waters. It is now down to individual Administrations to continue the process to their own timetables.

27. How were the important areas for harbour porpoise identified?

The survey data used to identify the sites comprise the largest and most comprehensive dataset available, spanning an 18 year period (1994-2011), including Government commissioned survey data, and data from large and small NGOs, individuals and industry. Analysis of the data was undertaken through two contracts awarded by JNCC (See Reports no. 543 and 544, available at: <http://jncc.defra.gov.uk/page-2132>). The JNCC and UK SNCBs used the outputs from these peer reviewed analyses to apply site selection criteria and refine areas that now form the possible SACs.

Maps of the possible SACs currently undergoing consultation are available from the consultation page on the NRW website: www.naturalresources.wales/mn2k

28. Do any of the proposed SACs overlap with existing SACs and if so, why can't features be added to existing sites?

The areas of existing SACs show only limited overlap with the areas identified as having persistently elevated harbour porpoise densities throughout the UK. Therefore, adding harbour porpoise as a new feature to existing SACs would not be scientifically justified and sites would not represent most of the areas identified as having elevated harbour porpoise density. The existing SACs have been designated for specific habitats and species and boundaries designed for the qualifying features.

29. My data/report found other areas to be important: why have they not been included? The site identification process involved the use of data within the Joint Cetacean Protocol that met certain technical standards and for which JNCC had received permission to use for this purpose. Evaluation of individual reports/datasets that show harbour porpoise presence in a study area is insufficient in isolation as the significance of such data needs to be considered in relation to the wider UK population. For this reason, all available data from throughout UK waters were analysed to determine where relatively higher densities of harbour porpoises are present. The persistence of the higher density areas was considered prior to recommendations on sites being made This was considered to be a robust approach for determining areas of high density rather than reviewing all available reports, whose conclusions are very often highly focussed in a small area and not put into a wider UK context.

Note: Scotland are not consulting on sites in Scottish inshore and offshore waters at this time, therefore sites in Scottish waters identified through the process are not yet apparent.

30. What are the Management Units and why were three chosen?

There is a requirement in the Habitats Directive to conserve harbour porpoises within UK waters. This requirement takes no account of the "open" boundaries to all of our waters where they meet those of other Member States, nor does it take account of the very varied nature of UK waters. For international assessment purposes, the International Council for the Exploration of the Sea (ICES) has adopted a number of divisions of North West European Seas based in some cases on biological studies and in others on geographic separation. Three of those units are pertinent to UK waters and the UK parts of those units have been adopted by JNCC and the SNCBs as Management Units for the purposes of analysing harbour porpoise data:

<http://jncc.defra.gov.uk/page-6943>.

An additional advantage of using Management Units for modelling harbour porpoise density against environmental variables is that locally-defined and more relevant environmental variables can be used. For example, as the topography in the North Sea differs substantially from that in West Wales, the prey and preferred habitat of harbour porpoise in those areas may be dependent on different environmental variables, such as current speed and sediment distribution. Therefore modelling using the North Sea results would not be appropriate for the west of Wales.

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E. Site identification process for marine SPAs

31. How were the important areas for seabirds identified?

Led by JNCC, the UK nature conservation agencies have worked for several years to gather and analyse data on the numbers and distribution of species of birds that make use of the sea and which are not sufficiently covered by the existing network of SPAs. UK and Welsh waters hold significant proportions of the European populations of many marine species, including Manx shearwater, Atlantic puffin and lesser black-backed gull.

The data sets analysed comprise the largest and most comprehensive available. Analysis of the data has been conducted by JNCC at a UK level and is based on sound scientific reasoning.

The JNCC reports underpinning the site identification process are:

- An analysis of the numbers and distribution of seabirds within the British Fishery limit aimed at identifying areas that qualify as possible marine SPAs. JNCC report No. 431 Available at: <http://jncc.defra.gov.uk/page-5522>
- The identification of possible marine SPAs for seabirds in the UK: The application of Stage 1.1-1.4 of the SPA selection guidelines. JNCC report No. 461.

Available at: <http://jncc.defra.gov.uk/page-6268>

- Quantifying usage of the marine environment by terns *Sterna* sp. around their breeding colony SPAs. JNCC report No. 500

Available at: <http://jncc.defra.gov.uk/page-6644>

- Quantifying foraging areas of little tern around its breeding colony SPA during chickrearing. JNCC report No. 548.

Available at: <http://jncc.defra.gov.uk/page-6976>

- An assessment of the numbers and distributions of wintering waterbirds using Bae

Ceredigion/Cardigan Bay area of search. JNCC report No. 555

Available at: <http://jncc.defra.gov.uk/page-6992>

Maps of the areas under consideration are available on the consultation page of the NRW website: www.naturalresources.wales/mn2k.

32. Do any of the areas identified for birds overlap with existing SPAs and SACs?

The proposed SPAs overlap substantially with a number of existing SACs and, in the case of the proposed SPA extension around Anglesey, with another existing SPA (Liverpool Bay / Bae Lerwpl SPA). An SPA and an SAC cannot be combined even where they overlap, as they are different designations made under different European Directives.

The proposed SPA for red-throated diver in northern Cardigan Bay does not overlap with any other SPA but does significantly overlap with the Pen Llŷn a'r Sarnau SAC. The proposed

Anglesey Terns Morwenoliaid Ynys Môn SPA includes the tern breeding colonies of the existing Ynys Feurig, Cemlyn Bay and The Skerries SPA and is being taken forward as a significant marine offshore extension to the existing SPA. This extension also overlaps with Liverpool Bay / Bae Lerwpl SPA. The proposed Skomer, Skokholm and the Seas off Pembrokeshire / Sgomer, Sgogwm a Moroedd Penfro SPA is being taken forward as a further marine extension of the existing Skokholm and Skomer SPA.

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F. Data and analysis for possible harbour porpoise SACs

33. What data were used, and how can I get hold of them?

Owners of all at-sea harbour porpoise data collected between 1994 and 2011 that were present within the Joint Cetacean Protocol at the start of the project were contacted. If permission for use was given then those data were used. The contractors who conducted the analysis provided and own most of the datasets of environmental information that were used in the modelling. The contractors who undertook the land-based observations, separately contacted data owners and used as much data as was permitted. The data owners are acknowledged in both reports. Some data are owned by JNCC and the SNCBs and are freely available. Access to and use of the remaining data would need permission from the relevant data owners.

34. Is the evidence sufficient to designate the sites?

Yes. Collecting scientifically robust data on a wide ranging, highly mobile species, such as harbour porpoise, is costly in time and money. The dataset used for this process is the largest in Europe with multiple sources of data collated through the Joint Cetacean Protocol (<http://jncc.defra.gov.uk/page-5657>). These data were used to build a distribution model of porpoise density based on their relationships with environmental parameters such as water depth and seabed type. From this it was possible to identify areas with persistently higher densities of harbour porpoise in UK waters over the 18 years for which data were available (1994-2011). This process has been rigorously peer reviewed and is considered by the SNCBs as sufficiently robust to define areas as SACs. The report is published on the JNCC website <http://jncc.defra.gov.uk/page-6991>.

35. What if we have more data that haven't yet been used in the analysis?

The analyses were a rigorous process completed by the contractors using all suitable data available at the time the work was done. Data that were present, but for which permission had not been given, could not be included. The report and outputs have been peer reviewed and signed off as a sufficient basis on which to develop the proposed site boundaries. Further qualifying data now available should be submitted to the Joint Cetacean Protocol (JCP), in order to be considered in the future. Although the analysis is complete for the identification of possible sites for harbour porpoise, additional data have the potential to inform future management. If you have data that are not currently contained within the JCP but would like it to be included, please contact Tim Dunn at JNCC to discuss submission: tim.dunn@jncc.gov.uk.

36. What do the analysis outputs mean in terms of the presence of harbour porpoise in the selected areas?

The data analysis used to identify the boundaries of the possible SACs emphasised two key factors: identifying the areas with the *top 10%* of harbour porpoise density, and assessing the *persistence* of that relatively higher density over time. These outputs were deemed the most appropriate in order to best use the data to indicate areas important to harbour porpoise not only for any one point in time, but persistently over the time span of the available dataset.

37. Was the work subject to expert review?

The results of the analysis to determine areas of persistent high densities of harbour porpoise in the UK is published on the JNCC website: <http://jncc.defra.gov.uk/page-6991>.

A steering group consisting of SNCB staff was established to oversee and review the work throughout. A statistician working within Biomathematics and Statistics Scotland also provided advice and review of the analysis and draft reports. The draft report was also subject to review by two international experts in the field of marine mammal science (who wish to remain anonymous). On the basis of all comments, the draft report was reviewed by the contractors before the final report was accepted by the steering group.

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G. Consultation and designation process for SACs and SPAs

38. Why is there no consultation taking place on sites for harbour porpoise in Scottish waters?

The SNCBs have worked closely together in identifying the best possible areas in UK waters to propose SACs for harbour porpoise. Now this analysis is complete, the devolved Governments have been ensuring the process has been adequately reviewed in advance of public consultation. It is now down to individual administrations to continue the process according to their own internal timeframes, which may not be identical between Governments.

39. How fixed are the boundaries of the proposed sites and scope is there to change them?

The boundaries of the proposed harbour porpoise SACs are based on a comprehensive and detailed analysis of many years of data on harbour porpoise distribution in UK waters. The UK SNCBs consider these boundaries to represent the outcome of a robust scientific approach. Similarly, the boundaries of the proposed SPAs are based on what is considered to be a robust analysis of the best available data on numbers and distribution of the bird species concerned in UK waters. However, at this stage these are possible sites and changes to boundaries can be considered if there is a sound scientific basis and appropriate evidence for doing so. The UK SNCBs will carefully consider concerns about the way in which the data have been used to develop site boundaries, before making final recommendations to Government.

It is important to note however, that social or economic considerations, including for example the potential impact of SAC or SPA designation on existing or future commercial activities, cannot be taken into account in decisions about designating SACs or SPAs or defining their boundaries (in accordance with the Habitats Directive and Birds Directive). Such issues must be addressed through management decisions of the areas once they have been designated.

40. Has a decision already been made on which SAC and SPA sites will be designated? No.

For the proposed SACs, decisions will be made by the relevant Ministers once formal consultation has taken place and the UK SNCBs have provided a report on the consultation responses (and any consequent revisions to the advice). The decision on whether to submit candidate SACs to the European Commission must be made only on the basis of the scientific evidence for the sites under consideration. Likewise for the SPAs, the Welsh Ministers (and in the case of the proposed offshore area off Pembrokeshire, the UK Minister) will decide whether to formally classify the sites in light of the response to the consultation. As for SACs, the decision on whether to designate SPAs must be made only according to relevant scientific considerations.

41. How will any social and economic impacts of the sites be assessed and considered? As

part of the preparations for a formal consultation on the proposed SAC and SPAs, independent consultants have prepared an Impact Assessment Evidence Base describing the potential

social and economic implications if these areas are designated. This forms part of the supporting material for the public consultation.

The Impact Assessments, drafted on the basis of the evidence base, can help stakeholders understand the possible effect of new sites and can inform management once sites are in place, but the decision to designate must be made on the basis of the scientific evidence for the species under consideration and not on potential social or economic impacts.

42. Who makes the final decision on whether to designate sites?

Before SACs are designated they must be formally submitted to the European Commission (EC) as 'candidate SACs' (cSACs). This would occur after the consultation and on the basis of the final advice from the UK SNCBS to their respective Governments. The decision on whether to formally submit cSACs to the EC is made by the relevant Ministers in the UK and devolved governments. Once a cSAC is accepted as a Site of Community Importance (SCI) by the EC, the UK then has up to 6 years to formally designate the sites as SACs and have any necessary management in place. As with the submission of cSACs, subsequent decisions on whether to designate SACs are made by the relevant Ministers. Although it is not required by the Habitats or Birds Directives, it should be noted that when the consultation launches, it is Government policy that the pSACs and pSPAs are treated and managed as if they were designated. For SPAs the formal designation process is simpler: in light of the results of the consultation, the relevant Minister (or Ministers in the case of sites lying in the jurisdiction of more than one Minister) decides whether to formally classify the site. The European Commission is informed after the site is classified.

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H. Beyond the consultation

43. What is the timetable for the sites after consultation?

What happens after the consultation and when, will depend on the responses gathered during consultation. If changes or amendments to the proposed sites are minor or not required, the timetable should progress quickly and, subject to the agreement of Ministers, we would expect the SAC sites to be formally submitted to the EC as cSACs, and the SPAs to be formally designated, by summer 2016. If substantial responses or scientific objections are received, further time may be required in order to effectively respond to consultees, process any new information received and make any changes required to the SNCBs recommendations to Governments.

44. How are consultation responses taken into account?

During and after the consultation, responses will be carefully considered and responded to as necessary. The results of this process will be presented in a publically available report which summarises whether any changes could/should be made to the site proposals in light of the information and evidence submitted. Socio-economic considerations will be taken into account in revising the Impact Assessment Evidence Base but cannot be taken into account in the site recommendations as the legislation demands that the sites and boundaries are based only on relevant scientific evidence. Site management will be developed with socio-economic factors in mind, but the overall aim is to ensure the sites achieve the conservation objectives and therefore fulfil their purpose.

45. When is the decision likely to be made on whether to designate or not?

The decision on whether to formally submit the SAC sites to the EC as candidate SACs and to classify the SPAs will be made by Ministers after the public consultation, taking into account any

relevant scientific submissions made as part of the consultation. The number and nature of consultation responses may affect the timetable for further steps towards designation.

46. Do the sites have any kind of formal protection now?

Yes. At the point of formal consultation it is Government policy in all parts of the UK that possible SACs and SPAs should be treated as designated in terms of management decisions and assessment of new activities. If Ministers decide to submit the SAC sites to the EC as candidate SACs, at that point they become subject to legal protection under the various Regulations which transpose the Habitats Directive. SPAs are legally subject to protection once classified by Ministers.

47. Will the harbour porpoise SACs be adequate to fulfil obligations?

The provisions of the Habitats Directive require EU Member States to introduce a range of measures, including:

- Maintain or restore European protected habitats and species listed in the Annexes at a favourable conservation status as defined in Articles 1 and 2;
- Contribute to a coherent European ecological network of protected sites by designating Special Areas of Conservation (SACs) for habitats listed on Annex I and for species listed on Annex II.
- Ensure the necessary conservation measures are in place to appropriately manage SACs and ensure appropriate assessment of plans and projects likely to have a significant effect on the integrity of SACs.
- Report on the implementation of the Directive every six years (Article 17), including assessment of the conservation status of species and habitats listed on the Annexes to the Directive.

Further detail on the Habitats Directive: <http://jncc.defra.gov.uk/page-1374>

Designating and managing the SACs proposed in this consultation in accordance with the Habitats Directive is expected to fulfil the obligations of Wales, Northern Ireland and England in respect of SACs for the conservation of harbour porpoise.

48. Will the marine SPAs be adequate to fulfil obligations?

The Birds Directive requires EU Member states to introduce a range of measures, including:

- Taking measures to maintain the populations of species of wild birds at a level which corresponds to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements;
- Taking measures to preserve, maintain or re-establish a sufficient diversity and area of habitats for wild birds;
- Classifying the most suitable territories in number and size as SPAs for the conservation of birds species listed in Annex I of the Directive and regularly occurring migratory species;
- In respect of SPAs, taking appropriate steps to avoid pollution or deterioration of habitats or significant disturbance of the birds for which the SPAs are designated; □ Report regularly on the implementation of the Birds Directive.

In addition, under the Habitats Directive, member states are required to put in place appropriate management of SPAs, as well as SACs.

The sufficiency of the UK SPA network as a whole, including in relation to terrestrial and some coastal sites, is under ongoing review. However, based on currently available evidence, it is expected that designating and managing the SPAs proposed in this consultation in accordance with the Birds and Habitats Directives, together with consideration of possible changes to the existing Liverpool Bay / Bae Lerpwl SPA (see

<http://publications.naturalengland.org.uk/publication/5118471743471616>), would largely fulfil Wales' obligations in relation to marine SPAs.

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I. Management of designated SACs and SPAs

49. What are the conservation objectives of the sites?

The overall objective for the proposed harbour porpoise SACs, as set out in the legislation under which SACs are designated and managed, is to contribute to the maintenance of harbour porpoise populations and their habitats in a favourable conservation status. Harbour porpoise is currently considered to be in favourable conservation status, so the conservation objectives will be to maintain this status by managing activities and factors at site level which may affect harbour porpoises to ensure that pressures do not adversely affect the wider populations. Further detail on the conservation objectives can be found in the draft Conservation Objectives and Advice on Activities documents provided as supporting information for the consultation www.naturalresources.wales/mn2k.

For SPAs, the overall objective, as set out in the legislation under which SPAs are designated and managed, is to maintain the populations and their habitats at levels corresponding to ecological, scientific and cultural requirements. For the Anglesey Terns / Morwenoliaid Ynys Môn pSPA and the Skomer, Skokholm and the Seas off Pembrokeshire / Sgomer, Sgogwm a Moroedd Penfro pSPA conservation objectives already exist for the existing breeding colony sites and these will largely apply as they are without substantial change (other than in area of application) across these new seaward extensions. The Northern Cardigan Bay / Gogledd Bae Ceredigion pSPA is a new site and does not yet have formally established conservation objectives. Draft objectives for all three sites are available on the NRW website www.naturalresources.wales/mn2k.

50. Who is responsible for management of SACs and SPAs?

No single organisation has overall responsibility for management of marine SACs and SPAs. All authorities with existing responsibilities for planning and regulating marine activities (e.g. Marine Management Organisation, Inshore Fisheries Conservation Authorities, Welsh Government) in the marine and coastal environment are responsible for ensuring that marine activities do not have a detrimental effect on the site features (in this case harbour porpoise and marine birds).

51. How will the sites be managed?

Harbour porpoises are already protected wherever they occur in UK waters under European and UK law and already require appropriate management measures. The species is found throughout UK waters and ranges widely, but the proposed new SACs represent areas that appear to be of particular importance to the species. Likewise the bird species of the proposed SPAs range widely in UK waters, but the proposed SPAs (or extensions to existing SPAs) represent areas of particular importance, either during the breeding season or as over-wintering areas.

Designation of SACs and SPAs will ensure that new coastal or marine developments are assessed for their potential implications for the species and the habitats on which it depends. Existing activities would also be assessed in order to ensure the effects of the activity do not unduly hinder use of the sites by harbour porpoises or birds, or affect the wider populations. Some level of additional management may be required in or near the sites in order to reduce or remove negative effects, if present.

Guidance is under development in order to clarify what this may mean both for current and future activities. Most management will be on a site by site, and case by case basis. Generic management advice for harbour porpoise SACs from the SNCBs is described in the relevant papers for each site on draft Conservation Objectives and Advice on Activities, available on the consultation page of the NRW website: www.naturalresources.wales/mn2k.

52. How are cross-boundary sites being handled?

Sites that cross boundaries between different national jurisdictions within UK waters are the joint responsibility of the relevant governments and agencies, which will continue to exercise statutory functions within their respective areas of jurisdiction. For these cross border sites, the relevant agencies are working closely together to coordinate the consultation process, and will continue to work closely together in advising on and supporting any site management that is required, including the assessment of plans and projects. Specific questions about the arrangements for a particular site can be initially directed to any of the agencies involved. The relevant agencies will work together in order to provide advice on the sites they are involved with.

53. Will any current activities be affected?

SACs and SPAs are not intended to prohibit activities or become 'no go' areas. They are intended to define areas where activities that affect the designated feature(s) may need to be managed in order to achieve the conservation objectives of the sites. Existing SACs and SPA designated for a range of habitats and species are functioning marine areas with a variety of different uses, including shipping, energy, fisheries and recreational activities. While some activities and developments with the potential to impact designated features may need additional management, many marine and coastal activities coexist with the conservation of the marine mammals and birds. Designation of the possible SACs and SPAs should not significantly affect the management and regulation of current activities at current levels unless proven to have an increasing negative effect on the species. There will be further opportunities to discuss management of any the sites in the future.

The bird populations of the three proposed SPAs are in most cases considered to be in a healthy state, with population numbers generally stable or increasing over the past 10 years. The populations are not thought to be significantly affected by ongoing activities such as fishing, shipping and recreation. Therefore, unless new evidence emerges that our existing uses of the marine environment are adversely affecting these bird species, it is likely that ongoing activities will be able to continue at their current levels without the need for new management measures. In addition, most of the bird populations concerned are already subject to protection under the existing SPA designations on the Anglesey coast and Pembrokeshire islands. The important area for wintering red throated divers in northern Cardigan Bay lies mostly within the boundary of the existing Pen Llŷn a'r Sarnau SAC, which is already being managed for the conservation of a range of habitats and species. This means that the areas are already subject to a range of regulations designed to protect marine wildlife, so significant new regulation of existing activities is unlikely to be required.

54. How will any new activities be affected?

The presence of an SAC or SPA does not automatically prevent new activities, development or change. However, there is a statutory procedure that must be followed when considering plans or projects that could affect SACs or SPAs, whether the proposals are located within the site or outside. The statutory assessment process (known as a Habitats Regulations Assessment/Habitat Regulations Appraisal or HRA) includes the following steps:

- If a proposal is likely to have a significant effect on the features (species or habitats) of a SAC or SPA then the competent authority (i.e. the authority responsible for deciding whether

a proposal should proceed) must carry out an appropriate assessment to establish whether the proposal will adversely affect the integrity of the site.

- If it is shown that the proposal would not have an adverse effect on the site, the proposal can be allowed to go ahead (provided of course it complies with other relevant legislation).
- If it cannot be shown that the proposal would not cause an adverse effect, the proposal may need modifying in order to proceed, or approval would normally be refused.
- A proposal having an adverse effect may only proceed if there are no alternative solutions and if it is necessary for imperative reasons of overriding public interest. In addition, compensatory measures (of an ecological nature) must be taken.

These requirements already apply to any developments in or affecting existing SACs and SPAs.

55. Which activities will be managed?

Management has not yet been addressed fully, as this requires the sites to be designated and information regarding current activity to be collated in order to inform the need for management. Also, management of most marine activities is the responsibility of the relevant regulatory bodies rather than the SNCBs. However, the types of activity that may require management are likely to be those resulting in pressures that impact harbour porpoise or birds. For harbour porpoise, some initial consideration of the activities impacting the species and possible management that may be required can be found in the Conservation Objectives and Advice on Activities documents, available on the consultation page of the NRW website www.naturalresources.wales/mn2k.

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J. How to find out more

If your question is not listed above or if you would like more information, you are welcome to contact one of the following:

If your query is mainly in relation to a possible SAC in English inshore/offshore or Northern Irish inshore/offshore waters please contact the Marine Species Advice Team at the Joint Nature Conservation Committee (JNCC): porpoise@jncc.gov.uk Tel: 01733 562626.

If your query is mainly in relation to a possible SPA in offshore waters please contact seabirds@jncc.gov.uk.

If your query is mainly in relation to possible SACs or SPAs in Welsh inshore/offshore waters, please contact Natural Resources Wales (NRW): marine.n2k@naturalresourceswales.gov.uk Tel: 0300 065 3000.

