

# Liverpool Bay / Bae Lerpwl potential Special Protection Area (SPA)

## Report of Consultation by Natural England, Natural Resources Wales and the Joint Nature Conservation Committee.

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## **Version Control Liverpool Bay Consultation Report**

<b>Version &amp; date</b>	<b>Drafted by</b>	<b>Action</b>	<b>Issued to</b>	<b>Comments by</b>
V1a 16/3/2017	Amanda Yeomans	Production of first draft consultation report document	N/A	
V1b 20/3/2017	Amanda Yeomans	Updated stakeholder table	Internal: Katherine Nisbet & Alice Kimpton	Alice Kimpton 21/3/17 Katherine Nisbet 23/3/17
<b>V1</b> 23/3/2017	Amanda Yeomans	Updated document following comments from AK and KN	External: NRW (Mary Roddick, Dafydd Parry) and JNCC (Kerstin Kober, Jen Lawson and	Mary Roddick, Adam Cole King, Dafydd Parry, Neil Smith and Patrick Lindley (NRW) + Jen Lawson and Kerstin Kober (JNCC) 10/4/2017
<b>V2</b> 10/4/2017	Amanda Yeomans	Updated version following comments from NRW/JNCC	12/4/17 Internal: Alice Kimpton and Richard Cook	AK and RC (12/4/17)
<b>V3</b> 18/4/2017	Amanda Yeomans & Katherine Nisbet	Updated version following further comments and suggestions	18/4/2017 Internal: Mike Burke (NE Area 04 Area Manager). External: NRW/JNCC	NRW 3/5/2017 (Patrick Lindley, Maggie Hatton-Ellis, Dafydd Parry, Mary Roddick) JNCC 25/4/2017 (Kerstin Kober)
<b>V4</b> 4/5/2017	Amanda Yeomans	Updated version following NRW /JNCC comments on (external) draft	5/5/2017 Internal: Richard Cook, Alice Kimpton.	Richard Cook (5/5/2017)
<b>V5 (N2K Board)</b> 10/5/2017	Amanda Yeomans	Updated version following internal comments from RC/ AK (5/5/17)	10/5/17: Internal: NE N2K Board. External: NRW & JNCC: 10/5/17	Comments received by NRW and JNCC (12/5/17) minor amendments to wording.
<b>V6 (NE Marine Director, NRW marine programme board &amp; JNCC sub-group)</b> 15/5/2017	Amanda Yeomans	Updated minor comments from NRW/JNCC on V5	NE Marine Director, NRW marine programme board and JNCC sub-group	Comments received by NRW and JNCC
<b>V7:</b> 07/06/2017	Amanda Yeomans	NE Board (14 <sup>th</sup> June 2017)		
<b>V8</b> 08/06/2017	Amanda Yeomans	Removal of TLP as objection following email confirmation from TLP.		

## **Introduction**

The purpose of this Consultation Report is to set out all correspondence received by Natural England (NE), Natural Resources Wales (NRW) and the Joint Nature Conservation Committee (JNCC) and the associated responses during the Liverpool Bay / Bae Lerpwl potential Special Protection Area (pSPA) formal consultation which ran from 9<sup>th</sup> November 2016 to 8<sup>th</sup> February 2017. The site includes both English and Welsh inshore areas as well as offshore elements and is therefore a joint statutory responsibility of NE, NRW and the JNCC. Whilst Natural England led on the consultation process given it is largely in English inshore waters, the advice regarding the site and its classification is NE/NRW/JNCC joint advice provided to the Department of Environment, Food and Rural Affairs (Defra) and the Welsh Government.

**Table 1. Summary of responses**

<b>Site Name</b>	<b>Liverpool Bay / Bae Lerpwl pSPA</b>
Formal consultation period (13 weeks)	<b>9<sup>th</sup> November 2016 to 8<sup>th</sup> February 2017</b>
<b>Total number of stakeholder responses</b>	<b>33</b>
Owners and occupiers	4
Relevant/competent authorities	8
Interested parties	11
Individuals/unsolicited	10
<b>Total number of supporting responses</b>	<b>24</b>
<b>Total number of neutral responses</b>	<b>8</b>
<b>Total number of objections</b>	<b>1</b>
Total number of information requests / general views	13
Number of supporting responses which raise points for clarification <sup>1</sup>	8
Number of respondents raising scientific comments and/or queries <sup>2</sup>	4
Number of respondents raising socio-economic comments and/or queries <sup>2</sup>	9
Number of consultees with outstanding objections	<b>1</b>

<sup>1</sup> Consultation responses recorded as being *supportive whilst raising points for clarification* are logged as a supporting response

<sup>2</sup> Includes those comments raised in both supporting and objecting response categories

Details of Natural England's, and the Joint Nature Conservation Committee's Non-Financial Schemes of Delegation (NFSoD), and NRW's internal approval process for Liverpool Bay / Bae Lerpwl SPA can be found in Appendices 1 to 3.

## **Background**

The UK is obliged under Article 4 of the EU Birds Directive (2009/147/EC) to classify as Special Protection Areas (SPAs) the most suitable territories on land and at sea for bird species listed in Annex 1 of the Directive and for regularly occurring migratory species. In order to identify marine areas suitable for consideration as SPAs, the Joint Nature Conservation Committee (JNCC) has led on work to highlight the areas within UK waters where marine birds aggregate. JNCC in collaboration with the four other Statutory Nature Conservation Bodies (SNCBs) Scottish Natural Heritage (SNH), Natural England (NE), Natural Resources Wales (NRW) and the Northern Ireland Department of Agriculture, Environment and Rural Affairs (DAERA) have undertaken extensive survey and data collection over many years. Rigorous data analysis has been undertaken to highlight the areas within UK waters where marine birds aggregate.

Natural England is the UK Government's statutory adviser on the identification of potential SPAs in English inshore waters (within 12 nautical miles). Natural Resources Wales advises the Welsh Government on such matters in relation to Welsh inshore waters. The JNCC has a corresponding duty to advise and recommend to UK Government SPAs in UK offshore waters (beyond 12 nautical miles). Once sites are identified as potential SPAs, they are recommended to government and approval is sought to carry out a formal public consultation. Subsequent to the consultation, decisions on whether to classify the SPA are made by the relevant Government Ministers. If approved, the site is then put forward to the European Commission for inclusion in the Natura 2000 network.

## **Summary of proposed changes to Liverpool Bay / Bae Lerpwl pSPA**

Liverpool Bay / Bae Lerpwl SPA was classified in 2010 as an important site during the non-breeding season for red-throated diver (*Gavia stellata*), common scoter (*Melanitta nigra*), and a waterbird assemblage. The proposed boundary change to the existing Liverpool Bay / Bae Lerpwl SPA has been recommended to include foraging areas for little tern (*Sternula albifrons*), and common tern (*Sterna hirundo*) breeding within existing coastal SPAs<sup>3</sup>, and the most important areas identified for non-breeding little gulls (*Hydrocoloeus minutus*). The existing Dee Estuary SPA (re-classified in 2009) protects breeding common and little tern. The existing Mersey Narrows and North Wirral Foreshore SPA (classified in 2013) protects breeding common tern and is an important area for little gull. Amongst other changes we are proposing to protect the foraging areas for breeding common and little tern and to protect the important areas for non-breeding little gull by extending the existing Liverpool Bay / Bae Lerpwl SPA (currently not classified for these features) by adding these features to this site.

The total area of the extant Liverpool Bay / Bae Lerpwl SPA is approximately 252,773 ha, while the proposed extensions comprise approximately 82,481 ha. A significant portion (17,825 ha (22.4%)) of the proposed extension is seaward of the 12nm boundary of territorial waters.

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<sup>3</sup>The Dee Estuary SPA and Mersey Narrows & North Wirral Foreshore SPA

The features of the existing Liverpool Bay / Bae Lerpwl SPA are retained and new qualifying features are added based on a review of current bird abundance information. Proposed new features are little gull, common tern and little tern. In addition, the existing waterbird assemblage will add red-breasted merganser (*Mergus serrator*) and great cormorant (*Phalacrocorax carbo*) as named component species.

The Liverpool Bay / Bae Lerpwl pSPA qualifies under Article 4 of the Birds Directive (2009/147/EC) for the following reasons:

- Three years of site specific data demonstrates the site will protect the foraging areas of more than 1% of the Great Britain population of little tern which breed in The Dee Estuary SPA. Therefore the site qualifies for SPA classification in accordance with the UK SPA selection guidelines (stage 1.1). A generic model (verified through site specific surveys in 2015) demonstrate the site will protect the foraging areas of more than 1% of the Great Britain population of common tern which breed in both coastal SPAs<sup>4</sup>. Therefore the site qualifies for SPA classification in accordance with the UK SPA selection guidelines (stage 1.1).
- The aerial surveys (2004/05 to 2007/08 and 2010/11) demonstrates the site regularly supports non-breeding little gull which is on Annex I of the Birds Directive but cannot be selected at Stage 1.1 of the SPA selection guidelines because there is no national population estimate for comparison. The site is identified as supporting the second largest aggregation of little gulls in the UK, and therefore qualifies for SPA classification in accordance with the UK SPA selection guidelines (stage 1.4).
- The aerial surveys (2004/05 to 2007/08 and 2010/11) demonstrates the site regularly supports more than 1% of the Great Britain population of red-breasted merganser and great cormorant which are added to the existing Liverpool Bay / Bae Lerpwl SPA assemblage of more than 20,000 individual waterbirds. Therefore the site qualifies for SPA classification in accordance with the UK SPA selection guidelines (stage 1.3).

## **The Consultation Process**

### **Informal Dialogue**

Informal dialogue was carried out during an 8 week period from the 13<sup>th</sup> July to 20<sup>th</sup> September 2015. Presentations were given to and discussions held with the Marine Management Organisation (MMO), North Western Inshore Fisheries Conservation Authority (NWIFCA), Peel Ports, RSPB, Lancashire Wildlife Trust and the Dee Estuary Shellfisheries Liaison Group. Natural England staff continued to raise awareness of the proposals during MMO consultations, when providing site specific advice to developers or regulators and during discussion with stakeholders.

Natural Resources Wales held six drop-in days across Wales in 2015 where proposed changes to the Natura 2000 network around the coast of Wales were discussed, including reference to the area noted as being important for foraging little tern at Gronant. Members of

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<sup>4</sup> Mersey Narrows and North Wirral Foreshore SPA and The Dee Estuary SPA

the Wales Marine Strategic Advisory Group (WMSAG) were informed of the proposed consultation.

### **Formal Consultation**

A 13 week formal consultation was carried out on the site proposals from 9<sup>th</sup> November 2016 to 8<sup>th</sup> February 2017. The purpose of this consultation was to seek the views of all interested parties on the scientific case for the re-classification of the SPA. The consultation undertaken in Wales also included seeking views on the social and economic Draft Impact Assessment of the proposed changes to the SPA.

The Habitats and Birds Directives do not permit socio-economic considerations to influence the decision to classify or re-classify Natura 2000 sites (SPAs and Special Areas of Conservation) or in determining their boundaries<sup>5</sup>. However, a preliminary assessment of socio-economic impacts for the site was undertaken before the consultation, based upon the current understanding of existing and planned activities occurring within the pSPA, to inform governments of likely impacts and benefits of an extension of the SPA.

This assessment carried out by Natural England and agreed by Defra concluded that the socio-economic impacts resulting from the pSPA classification were relatively low. Therefore, production of a full socio-economic impact assessment for the consultation was considered disproportionate and was not undertaken.

Natural Resources Wales drafted an assessment of the potential social and economic impact of the proposed changes to the Liverpool Bay / Bae Lerpwl SPA, insofar as they relate to Welsh inshore waters. This draft was included in the consultation to assist with identifying any additional information or evidence that would help improve the assessment.

Natural England, and the JNCC contacted all identified stakeholders and known owner-occupiers with an interest in the proposed SPA extension around England. Over 120 local stakeholders and over 340 national stakeholders were contacted in total by NE via email or post, announcing the start of formal consultation. Each stakeholder was provided with a covering letter, a consultation summary document that provided an overview of the proposal, detailed explanation of the consultation process, and ways to respond and an overview map of the proposed site boundary identifying the area covered by the existing SPAs. A link to the consultations webpage was also provided in the cover letter: (<https://www.gov.uk/government/consultations/liverpool-bay-bae-lerpwl-special-protection-area-extension-comment-on-proposals>).

At the launch of the consultation NRW sent 297 emails and 191 letters to various stakeholders. Social media were used to highlight the consultation to the general public and were shared in both England and Wales.

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<sup>5</sup> ECJ judgement of 2 August 1993, Commission v Spain, C-355/90 ECJ reports, p.4221, especially points 26-27; judgement of 11 July 1996, Regina v Secretary of State for the Environment, ex parte: Royal Society for the Protection of Birds, C-44/95, ECJ reports, p.3805, especially point 26) and; ECJ judgement of 11 September 2001, Commission v France, C-220/99, ECJ reports, p.5831; judgement of 11 September 2001, Commission v Ireland, C-67/99, ECJ reports, p.5757; judgement of 11 September 2001, Commission v Germany, C-71/99, ECJ reports, p.5811).

The following documents were accessible from the Liverpool Bay / Bae Lerpwl Formal Consultation pSPA webpage:

- Liverpool Bay / Bae Lerpwl pSPA: consultation summary document (overview of consultation process)
- Liverpool Bay / Bae Lerpwl SPA: departmental brief (scientific rationale of the boundary extension)
- Liverpool Bay / Bae Lerpwl SPA: proposed boundary map
- Liverpool Bay / Bae Lerpwl SPA: map of adjacent SPAs
- Liverpool Bay / Bae Lerpwl SPA: Mersey proposed extension map 1
- Liverpool Bay / Bae Lerpwl SPA: Mersey proposed extension map 2
- Liverpool Bay / Bae Lerpwl SPA: Gronant proposed extension map
- Link to the online survey in either Welsh or English
- Draft conservation objectives
- A link to the NRW website <http://www.naturalresources.wales/LiverpoolBay?lang=en> was also provided which further listed the following documentation:
  - Proposed changes to Liverpool Bay / Bae Lerpwl Special Protection Area: A consultation
  - NRW copy of the consultation letter
  - Statutory Notice from Welsh Government instructing NRW to carry out the consultation
  - Draft Impact Assessment

The consultation questions posed on the online Smart Survey can be found in Appendix 4. The online survey portal represented all three agencies and the survey was available in both English and Welsh languages. In the event that stakeholders were unable to access the internet, hard copies were provided upon request.

Natural England area team staff acted as a first point of contact for stakeholder engagement and submissions of consultation responses for stakeholders with interests in English inshore and offshore waters on behalf of both NE and the JNCC. NRW led stakeholder engagement in Wales. Engagement took the form of individual conversations with stakeholders wherever sought. Regular meetings between NE, NRW and the JNCC ensured that information was shared and joint responses agreed.

The agencies have made every effort to be available to discuss the pSPA via telephone or through email correspondence, and any further documentation has been made readily available on request. During the consultation period several interested parties made contact and consultation documents and links to Geographic Information materials were subsequently provided on request.

Two weeks before the formal consultation deadline a reminder was issued to stakeholders through e-mail and via social media to encourage a response before the closing date.

## **Consultation Responses**

### **Total numbers of responses**

Natural England and Natural Resources Wales received **33** formal consultation response submissions during the consultation period via email, letter, or via an online response on Smart Survey (Table 1). In total, 19 responses were made via the online survey whilst the remaining 14 were received via email or letter. The online responses were considered supportive when they responded positively to the first question in the survey which asked whether the respondent accepted the scientific explanation for the site.

A total of **24** stakeholders were supportive of the Liverpool Bay / Bae Lerpwl pSPA proposal. Some of these supportive responses further sought clarification over management for activities or requested further information. Of the 24 supporting responses, three responses further identified other species for consideration and highlighted evidence to support the inclusion of cormorant as a qualifying feature in its own right, rather than a named component of the assemblage, and non-breeding (passage) common tern and sandwich tern (*Sterna sandvicensis*) as qualifying features.

**Eight** responses were neutral responses, five of which stated that a formal response was outside of their organisations remit or further stated they would provide no further response. Two further neutral responses acknowledged the proposal and requested further clarification on potential management changes resulting from the extension of the SPA and were recorded as general enquiries. One further response queried the proposal on scientific grounds, although subsequently suggested the comments were provided for constructive input and confirmed it should not be regarded as an objection.

We consider that the response from **one** stakeholder constitutes an objection despite not explicitly stating this in their response. The objection is made on the basis of perceived socio-economic impact to business as a result of the proposals. The concerns expressed by this stakeholder is considered unresolved and for Defra and Welsh Government's consideration. Further information regarding this objection is provided below in the section "Issues for consideration for Defra and Welsh Government."

### **Number of responses by stakeholder category**

**Four** responses in total were received from **land owners and occupiers**, three of which were supportive of the proposals whilst the remaining one was neutral. The neutral response requested clarity regarding potential additional management measures which may impact their organisational activities. Two of the three supportive responses offered supporting evidence from site monitoring.

**Eight competent authorities** responded to the formal consultation, with four supportive and four neutral responses to the proposal. Four of the eight responses requested clarification regarding the socio economic assessment.



**Eleven** responses were received from **interested parties**, including nine supportive responses and the two objections as previously mentioned.

**Ten private individuals** (not affiliated to any organisation and not land owners or occupiers) responded to the formal consultation. Eight of these were supportive of the proposal whilst two requested further clarification over potential impacts to cockle and mussel fishing.

All stakeholder responses were collated and reviewed by NE, NRW and the JNCC. Where there was a need to provide detailed responses to concerns raised by stakeholders, a joint approach was taken. NE replied in writing to stakeholders who raised issues during the consultation, addressing the points raised. Each stakeholder's representation and the joint agency response provided by NE, NRW and the JNCC is outlined in Table 3 below, together with the joint agencies recommendation to Defra and Welsh Government. Where further communications were received, NE responded with additional written correspondence and, in some cases, telephone conversations and face-to-face meetings. This dialogue has been captured in Table 3. Copies of correspondence and meeting notes can be provided if necessary. It was agreed across the three agencies that an evidence panel was not required to review additional scientific evidence. Evidence submitted as part of the formal consultation process was not considered to be new or different from that presented in the Departmental Brief (scientific case).

In summary, the concerns raised by stakeholders mainly focused on the potential socio-economic impacts of the designation rather than the application of data to inform the classification. It is also noted that three respondents queried why other features which potentially qualified for inclusion were not included, please refer to Table 3 for further information.

## **Consultation Conclusion and joint agency advice to Defra and Welsh Government**

Natural England, Natural Resources Wales and the Joint Nature Conservation Committee have considered the principal issues raised by consultees, and noted the objections which are outlined below. All three statutory scientific advisors have assessed the objections and conclude that there are no scientific objections which would warrant any changes to the proposal in the inshore or offshore components of Liverpool Bay / Bae Lerpwl pSPA.

**Natural England, Natural Resources Wales and the Joint Nature Conservation Committee therefore recommend that Liverpool Bay / Bae Lerpwl SPA be reclassified in line with the Departmental Brief and supporting consultation documents**, for the following reasons:

- (1) the scientific approach adopted to set the seaward boundary is appropriate,
- (2) the area qualifies under the SPA selection guidelines as an important site for non-breeding little gull and for foraging little tern and common tern,

- (3) the area qualifies under the SPA selection guidelines for its waterbird assemblage, which includes red-breasted merganser and great cormorant as named component species.

### **Issues for consideration by Defra and Welsh Government**

There is one objection to the proposals that we would like to highlight to Defra and Welsh Government as outlined below.

***British Marine Aggregate Producers Association*** raised concerns regarding potential socio-economic impacts of the designation to existing and new aggregate extraction areas. Concerns were expressed regarding the impact on the aggregates sector as a result of the additional qualifying species and the proposed extension, including the potential requirement for a Review of Consents<sup>6</sup>. A joint agency response was provided (in writing on 30 March 2017) explaining the screening assessment of socio-economic impacts carried out by NE which considered the aggregate extraction areas in question. NE, NRW and the JNCC clarified that the location of the existing aggregate areas do not intersect with, or they are likely to be only at the edge of the foraging ranges for the species included within the pSPA and therefore are unlikely to be impacted. Decisions on existing and future aggregate extraction would need to consider potential impacts to existing SPA features regardless of the extended boundary so no additional costs to the aggregate industry are predicted. For a summary of these issues and how NE, NRW and the JNCC responded to the concerns raised, please refer to page 16 in Table 3 of the Consultation Responses chapter.

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<sup>6</sup> When European sites such as Liverpool Bay / Bae Lerpwl SPA are amended or changed in any way, competent authorities including Natural England, Natural Resources Wales and the Marine Management Organisation have a legal duty to not only review consents issued in relation to European Sites, but also make a judgement on whether those consents fit with conserving the special interest features. The Statutory Nature Conservation Bodies (SNCBs) then need to clearly state whether the Consent should be approved, changed or withdrawn.

## **Detail of Consultation Responses**

**Table 2. Stakeholder response categories**

<b>Categories of Responses</b>	
<b>Number</b>	<b>Type</b>
1.	Simple acknowledgement/neutral response
2.	Support
3.	Do not understand the implications/request clarification/general views
4.	Objection in principle to designation
5.	Objection on scientific grounds to the boundary (seaward, landward or east-west)
6.	Objection on scientific grounds regarding species or surveys
7.	Objection on other scientific grounds
8.	Objection on socio-economic grounds
9.	Objection – other

The stakeholder's representation is outlined together with Natural England's, NRW's and JNCC's response in Table 3, below. Natural England, NRW and the JNCC will provide Defra and the Welsh Government with a full consultation package to include copies of all consultation responses received, as required, and the response to the points raised.

The final column in Table 3 highlights whether the scientific objections raised are still considered outstanding. Objections are considered outstanding unless a response has been received from the stakeholder to indicate otherwise.

Consultees are grouped into the following categories:

- A. Owner/occupiers
- B. Local authorities/other competent authorities
- C. Interested parties/organisations
- D. Members of the public and unsolicited responses

**Table 3. Consultation responses**

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
<b>A. Owners and occupiers</b>				
The Crown Estate (Owners of the seabed and foreshore)	<p>Neutral response (Email)</p> <p>No comment about the scientific justification for the proposal</p> <p>Provided comments on a number of potential socio-economic impacts. The response sought reassurance and requested further discussions over the maintenance of cables and pipelines inside the pSPA to establish if there are likely to be any impacts on these activities with respects to the management measures and whether there will be any implications on consents for projects already provided.</p>	1, 3	Acknowledgement provided and reassurance given that NE had undertaken an assessment that showed the Crown Estate's activities are highly unlikely to be impacted by the proposed extension. Specifically, the new features of the pSPA are not particularly sensitive to the disturbance caused by installation and maintenance of cables and pipelines and therefore no new additional management measures would be required for such activities.	None
Scottish Power Renewables (West of Duddon Sands Windfarm)	Supportive response with offer of additional evidence from their site monitoring (Email)	2	Acknowledgement email provided	None

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
National Grid	<p>Supporting response (submitted online).</p> <p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals.</p>	2	Acknowledgement provided (online survey)	None
DONG Energy (Burbo Bank windfarm)	<p>Information request (email) for site boundary Geographic Information.</p> <p>Supportive response (submitted online)</p> <p>Request for the site boundary Geographical Information files.</p> <p>Detailed comments;</p> <ul style="list-style-type: none"> <li>• Accepted the scientific basis for the site proposal based on little gull data.</li> <li>• No further comment on the scientific explanation for the inclusion of tern foraging areas.</li> <li>• Provided information outlining commissioned and planned future digital aerial surveys for the marine licence of Burbo Bank Extension.</li> <li>• No further comments on the scientific rationale behind the site proposal.</li> </ul>	2, 3	<p>Geographic Information files sent as requested.</p> <p>Acknowledgement provided (online survey) and further email acknowledgement by NE for the detail of future surveys</p>	None

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
<b>B. Local authorities/other competent authorities</b>				
Canal and Rivers Trust	<p>Supportive response (submitted online).</p> <p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Additional request for an opportunity to agree management plan with NE to provide assenting framework for undertaking operational and maintenance activities in the site.</p>	2, 3	<p>Acknowledgement provided (online survey) and further detailed response provided by NE.</p> <p>NE response clarified the assessment of potential socio-economic impacts and offered a meeting with Canal and Rivers Trust to agree a management plan for their activities.</p>	None
Cefas	<p>Neutral response (Email)</p> <p>Seeking confirmation whether Cefas was simply being kept informed, and therefore any involvement would be voluntary, or whether they were required to provide advice.</p>	1	Response provided by NRW confirming that Cefas were invited to respond to the Liverpool Bay / Bae Lerpwl pSPA consultation if they wished to do so. It was also noted that potential SPA have the same degree of protection as SPA.	None
Historic England	<p>Neutral response (Email)</p> <p>Indicated that the proposals would not impact on responsibilities for protection and management of the historic environment and provided no additional comment.</p>	1	Acknowledgment provided.	None
Maritime and Coastguard Agency	<p>Neutral response (Email)</p> <p>Stated that no further response will be provided to the consultation as the consultation documents indicated that the</p>	1	Acknowledgement provided	None

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
	proposed extension is unlikely to impact shipping and safe navigation.			
Marine Management Organisation (MMO)	<p>Supportive response (submitted online).</p> <p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals.</p>	2	Acknowledgement provided (online survey)	None
North Western Fisheries and Conservation Authority (NWIFCA)	<p>Information request (email) for site boundary Geographic Information.</p> <p>Supportive response (submitted online)</p> <p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals.</p>	2, 3	<p>Geographic Information files sent as requested</p> <p>Acknowledgement provided (online survey)</p>	None
Offshore Petroleum Regulator for Environment and Decommissioning (BEIS)	<p>Supportive response (submitted online)</p> <p>Provided additional comment: wishing to understand how Natural England determined that an Impact Assessment is not necessary.</p> <p>Highlighted that NRW have undertaken an economic impact assessment, despite the</p>	2, 3	Acknowledgement provided and detailed response to provide reassurance that NE had also undertaken an assessment that showed minimal impact to existing developments in the pSPA due to the new features.	None

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
	majority of the SPA extension being in English / offshore waters.			
Trinity House	<p>Neutral response (email).</p> <p>The response provided information on:</p> <ol style="list-style-type: none"> <li>1. duties of Trinity House as a competent / relevant authority,</li> <li>2. maintenance and emergency activities and requested the agencies take note of the maintenance activities and the presence of Trinity House in the area of Liverpool Bay.</li> </ol>	1, 3	<p>Acknowledgement provided and detailed response which:</p> <ol style="list-style-type: none"> <li>1. Provided clarification of statutory duties and customary rights.</li> <li>2. Provided further clarity with respect to maintenance &amp; emergency procedures which are considered to be activities that are highly unlikely to be impacted by the proposed extension.</li> </ol>	None
<b>C. Interested parties/organisations</b>				
British Marine Aggregate Producers Association (Mineral Products)	<p>Objection (email) on socio-economic grounds:</p> <ol style="list-style-type: none"> <li>1. Concerns over socio-economic impact of the designation to existing and new extraction areas.</li> <li>2. Concerns regarding the impact of the additional species and extension, and the potential requirement for a Review of Consents.</li> </ol>	8,3	<p>Detailed joint agency response provided which:</p> <ol style="list-style-type: none"> <li>1. Clarified (in writing on 30 March 2017) that a screening assessment of socio-economic impacts assessment was carried out by Natural England which considered the potential impact of the proposals to the existing aggregate extraction areas. This assessment concluded that the location of the aggregate areas do not intersect with, or they are likely to be only at the edge of the foraging ranges for the species included within the pSPA and therefore are unlikely to be impacted. It was also clarified that little gull have low sensitivity to aggregate</li> </ol>	Not explicitly stated but consultee may consider their issue to be current.



Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
			<p>extraction activities so future licence applications are unlikely to be impacted.</p> <p>2. Explained that decisions on existing and future aggregate extraction would need to consider potential impacts to existing SPA features regardless of the extended boundary so no additional costs to the aggregate industry are predicted</p>	
Campaign for the Protection of Rural Wales (Clwyd Branch)	<p>Supportive response (submitted online).</p> <p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals.</p>	2	Acknowledgement provided (online survey)	None
Gwent Ornithological Society	<p>Supportive response (submitted online).</p> <p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals.</p>	2	Acknowledgement provided (online survey)	None
Lancashire Wildlife Trust (LWT)	Strongly supportive response (email) and general views provided:	2, 3	Detailed joint agency response provided which:	None

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
	<ol style="list-style-type: none"> <li>1. Great cormorant should be added as a feature in its own right due to the numbers being seen using coastal areas around Liverpool Bay. LWT jointly with RSPB submitted WeBS data supporting their comments.</li> <li>2. Concerned that non-breeding sandwich terns and common terns were not included due to significant roosting numbers on Hilbre Island and along the Sefton Coast and Fylde coasts.</li> </ol>		<ol style="list-style-type: none"> <li>1. Acknowledged the suggestion to include great cormorant. The data provided by RSPB and LWT have been reviewed, and the SNCBs conclude that the evidence does not support an inclusion of great cormorant under Stage 1.2 of the SPA selection guidelines: the flight line observations do not meet the evidence standards required for the application of the SPA selection guidelines and the EC Commission Guidelines, and the WeBS data indicate that highest numbers of cormorants are not found in the Liverpool Bay / Bae Lerpwl pSPA but in the existing adjacent estuarine SPAs. An adjustment of the adjacent estuarine SPAs during the SPA Review process would therefore be the more appropriate procedure to include cormorants under Stage 1.2 of the SPA selection guidelines, if supported by evidence. However, the SNCBs maintain that great cormorant should be a named feature of the waterbird assemblage of the pSPA as it meets the guidelines for inclusion under Stage 1.3. The item was discussed with LWT and in a meeting with LWT, RSPB, NE and NRW (3rd November 2016).</li> <li>2. With regards to the inclusion of sandwich tern explained that the preferred approach for this species and great cormorant would be that</li> </ol>	

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
			existing estuarine SPAs are amended to include these species as features. The agencies would seek to ensure that consideration of these species would be based on the Third SPA Review (phase 2 recommendations) <sup>7</sup> together with presentation of robust empirical survey data.	
North Wales Wildlife Trusts	<p>Supportive response (submitted online) and the following additional comments provided:</p> <ol style="list-style-type: none"> <li>1. The North Wales Wildlife Trust supports proposed reclassification of the Liverpool bay / Bae Lerpwl SPA.</li> <li>2. Highlights that the passage tern features should be included and that cormorant should have been added as a qualifying feature in its own right, in addition to its inclusion in the new named non-breeding seabird assemblage.</li> </ol>	2, 3	<p>Acknowledgement provided (online survey) and further response by NRW which:</p> <ol style="list-style-type: none"> <li>1. Acknowledged the suggestion to include great cormorant. The data provided by RSPB and LWT have been reviewed, and the SNCBs conclude that the evidence does not support an inclusion of great cormorant under Stage 1.2 of the SPA selection guidelines: the flight line observations do not meet the evidence standards required for the application of the SPA selection guidelines and the EC Commission Guidelines, and the WeBS data indicate that highest numbers of cormorants are not found in the Liverpool Bay /Bae Lerpwl pSPA but in the existing adjacent estuarine</li> </ol>	None

<sup>7</sup> This review (<http://jncc.defra.gov.uk/page-7309>) undertaken by the SNCBs has: i. further developed guidance and principles to assist the application of UK SPA selection guidelines; ii. assessed the adequacy of the SPA network for relevant species; iii. assessed gaps in data availability for species and made recommendations as to how these might be filled; iv. considered issues in relation to the inclusion of cropped habitats in SPAs; v. reviewed relevant EU case-law; and vi. undertaken an audit of the content of the network in the 2000s, assessing change since the second review in the 1990s. It also presents an assessment of current population sizes within individual sites, documents network-scale changes over a decade, and assesses future conservation needs.

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
			<p>SPAs. An adjustment of the adjacent estuarine SPAs during the SPA Review process would therefore be the more appropriate procedure to include cormorants under Stage 1.2 of the SPA selection guidelines, if supported by evidence. However, the SNCBs maintain that great cormorant should be a named feature of the waterbird assemblage of the pSPA as it meets the guidelines for inclusion under Stage 1.3.</p> <p>2. With regards to the inclusion of sandwich tern and great cormorant explained that the preferred approach for these species would be that existing estuarine SPAs are amended to include these species as features. The inclusion of these species would be considered under the Third SPA Review (phase 2 recommendations)<sup>7</sup> and subject to the presentation of robust empirical survey data.</p> <p>3. Currently passage/non-breeding terns are still protected as supporting habitat from their source breeding colony sites and furthermore within Natural England and Natural Resources Wales there are processes for ensuring that these species will be considered during any relevant assessment process.</p>	
Merseyside Ringing Group	Supportive response (submitted online).	2	Acknowledgement provided (online survey). Further email response provided to acknowledge detailed comments sent via online survey.	None

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
	<p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Additional supportive comments provided for common terns with information provided from the Merseyside Ringing Groups' observations of common terns at Shotton in the Dee Estuary SPA.</p>		<p>Site records provided of common tern observations support the proposals in this area.</p>	
<p>Merseyside Environmental Advisory Service</p>	<p>Supportive response (submitted online).</p> <p>Response on behalf of District Planning Officers for the Liverpool City Region</p> <p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals.</p>	<p>2</p>	<p>Acknowledgement provided (online survey)</p>	<p>None</p>
<p>Rhyl Foryd Harbour Forum</p>	<p>Supportive response (submitted online).</p> <p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals.</p>	<p>2</p>	<p>Acknowledgement provided (online survey)</p>	<p>None</p>

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
Royal Yachting Association (RYA)	<p>Supportive response (submitted online) and expressed the following points:</p> <ol style="list-style-type: none"> <li>1. RYA would be very concerned if the designation or extension resulted in any additional proposals for management of recreational boating within and around the proposed SPA, given that there is no need for management in the area at present.</li> <li>2. Requested formal confirmation that additional management measure are not required for terns.</li> </ol>	2,3	<p>Acknowledgement provided (online survey) and further detailed response provided which:</p> <ol style="list-style-type: none"> <li>1. Confirmed that there is no evidence that boating activities, at current levels are restricting the ability of terns to forage within the pSPA.</li> <li>2. If new evidence were presented then we would work closely with the RYA and other interested parties to ensure a suitable outcome could be reached.</li> </ol>	None
RSPB	<p>Supporting response (email) and made the following comments:</p> <ol style="list-style-type: none"> <li>1. Requested that great cormorant should be added as a qualifying feature because i) cormorant is a qualifying feature of Puffin Island SPA and Liverpool Bay /Bae Lerpwl pSPA completely surrounds Puffin Island SPA and ii) the numbers roosting on Hilbre island support <math>\geq 1\%</math> of the biogeographical population . RSPB jointly submitted WeBS data with LWT to support their comments.</li> </ol>	2, 3	<p>Detailed joint agency response provided which:</p> <ol style="list-style-type: none"> <li>1. Acknowledged the suggestion to include great cormorant. The data provided by RSPB and LWT have been reviewed, and the SNCBs conclude that the evidence does not support an inclusion of great cormorant under Stage 1.2 of the SPA selection guidelines: the flight line observations do not meet the evidence standards required for the application of the SPA selection guidelines and the EC Commission Guidelines, and the WeBS data indicate that highest numbers of cormorants are not found in the Liverpool Bay / Bae Lerpwl pSPA but in the existing adjacent estuarine</li> </ol>	None

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
	<p>2. Concerned that passage common tern and sandwich tern were not included as qualifying features due to significant numbers along the Sefton Coast and Ribble area</p>		<p>SPAs. An adjustment of the adjacent estuarine SPAs during the SPA Review process would therefore be the more appropriate procedure to include cormorants under Stage 1.2 of the SPA selection guidelines, if supported by evidence. However, the SNCBs maintain that great cormorant should be a named feature of the waterbird assemblage of the pSPA as it meets the guidelines for inclusion under Stage 1.3. The assemblage was discussed with RSPB and in a meeting with, RSPB, LWT, NE and NRW (3rd November 2016).</p> <p>2. Clarified that the preferred approach for sandwich tern and great cormorant would be to amend the existing estuarine SPAs to include these species as features in the future. Noted that the agencies would seek to ensure that consideration of these species is based on the Third SPA Review (phase 2 recommendations)<sup>7</sup> together with presentation of robust empirical survey data.</p> <p>3. Currently passage/non-breeding terns are still protected as supporting habitat from their source breeding colony sites and furthermore within Natural England and Natural Resources Wales there are processes for ensuring that these species will be considered during any relevant assessment process.</p>	

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
Tidal Lagoon Power Plc (TLP)	<p>Neutral response and request for clarification (email)</p> <ol style="list-style-type: none"> <li>1. Questioned whether the number of surveys to identify the pSPA boundary was sufficient to determine the foraging area of little terns at Gronant in particular when compared to the number of surveys required to inform a Habitats Regulations Assessment.</li> <li>2. Queried whether the surveys were sufficient to identify extension areas for other features (such as common terns) within the pSPA. Additionally queried why more evidence was not gathered to be used to model the foraging range.</li> <li>3. Boundaries were defined by the mean of the maximum foraging extents observed and they are concerned that there will be fewer birds using the areas further from the colony.</li> <li>4. Provided detail of their socio-economic concerns, including: additional cost for monitoring and undertaking</li> </ol>	1,3	<p>A joint agency response provided the following:</p> <ol style="list-style-type: none"> <li>1. Provided clarification (in writing on 30 March 2017) on the data type and quality required for SPA identification and provided reference to the Departmental Brief (scientific case) which demonstrated the proposed pSPA boundary for little tern was based on three years of site specific data (2009-2011) around The Dee Estuary SPA. These surveys collected 792 direct observations alongshore and 45 observations offshore. This evidence was determined as suitable for defining the boundary for foraging little terns as these data meet the data requirements of the SPA selection guidelines as applied to data on abundance, which indicate that three years' worth of data are required to demonstrate that the site is used regularly by the species we are considering for inclusion. The response also clarified that the proposed boundary, based on tern foraging observations, was smaller than if a generic modelled approach had been used as suggested by TLP. The boundary follows</li> </ol>	None



Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
	<p>Environmental Impact Assessments (EIA); and inhibition of investment to the area due to a perceived higher risk of obtaining consents. They requested that sufficient flexibility/adaptability be built into the sites management plan to facilitate future developments such as a tidal lagoon power generation.</p> <p>TLP submitted written confirmation on 07/06/2017 clarifying they do not object to the proposals and the comments provided were considered as constructive input.</p>		<p>guidance using standard methodology applied for the SPA suite and is of a different scale and scope to that required for a HRA.</p> <ol style="list-style-type: none"> <li>2. Established methods for marine SPA boundary setting (Distance Sampling; Kernel Density Estimation; Maximum Curvature) were used to define the most important marine areas for non-breeding little gulls using data from five comprehensive datasets derived from bespoke aerial surveys (2004/05 to 2007/08 and 2010/11). We maintain that this method and that for little tern described above along with the modelled approach for foraging common tern represents the best available evidence and is suitable to demonstrate the importance and extension of Liverpool Bay / Bae Lerpwl pSPA. EC Commission guidance requires that the best available data should be used. NE also commissioned a verification survey in the Mersey Estuary, which increases the confidence in the modelling approach used to determine the boundary for the most important foraging areas for common tern.</li> <li>3. Clarified that the proposed extension area is defined by the expected foraging area based on empirical evidence on where the majority of foraging birds are likely to occur. However, it</li> </ol>	

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
			<p>was noted that exact usage will vary depending on many environmental factors.</p> <p>4. Provided clarification regarding the Impact Assessment (IA) undertaken by NRW. No tidal lagoon development has been confirmed within and/or adjacent to the pSPA (no current application for a marine licence from NRW or for a DCO from the Planning Inspectorate) therefore it is not possible to assess impacts within the IA. Any such development would be required to assess the potential impacts to the original features of the SPA and little tern (a feature of the Dee Estuary SPA) in a HRA. Therefore, the current proposals do not represent an additional management measure.</p>	
<b>D. Members of the public and unsolicited responses</b>				
██████████	Supportive response (letter)	2	Acknowledgement letter from NRW, explaining that her views would be considered when we report our recommendations.	None
██████████	<p>Supportive response (submitted online).</p> <p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals.</p>	2	Acknowledgement provided (online survey)	None
██████████	Supportive response (submitted online).	2	Acknowledgement provided (online survey)	None

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
	<p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals. Although additional comment noting that adult Little Tern forage quite close inshore as detailed in the Departmental Brief.</p>			
<p>██████████</p>	<p>Supportive response (submitted online).</p> <p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals.</p>	2	Acknowledgement provided (online survey)	None
<p>██████████ Local fishermen (mussels and cockles)</p>	<p>Neutral response and request for clarification (email)</p> <p>Query seeking confirmation that the proposed changes to the pSPA would have no effect on the income of cockle and mussel fishermen.</p> <p>Query sent to NE and NRW</p>	1, 3	Acknowledgement provided and detailed response that both NE and NRW undertook an assessment and concluded that there would be no additional management measures for cockle and mussel fisheries.	None
<p>██████████</p>	<p>Supportive response (submitted online).</p> <p>Confirmed acceptance of the scientific basis for the proposals.</p>	2	Acknowledgement provided (online survey)	None

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
	<p>Provided no further comments on the scientific rationale behind the proposals.</p>			
<p>[REDACTED]</p>	<p>Supportive response (submitted online). Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals.</p>	2	Acknowledgement provided (online survey)	None
<p>[REDACTED]</p>	<p>Supportive response (submitted online). Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals.</p>	2	Acknowledgement provided (online survey)	None
<p>[REDACTED] Local fishermen (mussels and cockles)</p>	<p>Neutral response and request for clarification (email)</p> <p>Query whether the pSPA will have any effect on restrictions on cockle or mussel fishing (Byelaw 3 holder).</p> <p>Query sent to NE only.</p>	1, 3	Acknowledgement provided and detailed response that both NE and NRW undertook an assessment and concluded that there would be no additional management measures for cockle and mussel fisheries.	None

Consultee	Representation	Type	Natural England / Natural Resources Wales / JNCC response	Outstanding issues for consideration by DEFRA / Welsh Government
<div style="background-color: black; width: 100px; height: 15px; margin-bottom: 5px;"></div>	<p>Supportive response (submitted online).</p> <p>Confirmed acceptance of the scientific basis for the proposals.</p> <p>Provided no further comments on the scientific rationale behind the proposals.</p>	2	Acknowledgement provided (online survey)	None

## **Appendix 1: Natural England Non-Financial Scheme of Delegation**

The Non-Financial Scheme of Delegation in Natural England currently states the following for international site designation cases:

	<b>Function</b>	<b>Delegation</b>
<b>A</b>	Approval to submit formal advice (Departmental Brief <sup>1</sup> or Selection Assessment Document <sup>2</sup> ) to Secretary of State on the selection of a pSAC, pSPA or pRamsar site or proposed amendments to an existing cSAC, SCI, SAC, SPA or Ramsar site.	Chief Executive
<b>B</b>	Following the consultation, approval of final advice, with or without modifications, and report on the consultation, where:	
	a) objections or representations are unresolved	Board or Chairman on behalf of the Board
	b) there are no outstanding objections or representations (i.e. where no objections or representations were made, or where representations or objections were withdrawn or resolved)	Appropriate Director

<sup>1</sup>Departmental Briefs (for Special Protection Areas and Ramsar sites)

<sup>2</sup>Selection Assessment Documents (for Special Conservation Areas)

Part A – In the first instance the scientific case is developed and presented to the Chief Executive (and the Senior Leadership Team<sup>8</sup>) who discuss the case and approve sign off as Natural England’s formal scientific advice to Defra. Defra then seek Ministerial approval for Natural England to consult on these proposals on behalf of Government.

Part B – Once the formal consultation process has completed, Natural England considers any scientific objections to the proposals and endeavours to resolve any issues or concerns raised by stakeholders during the consultation. If, after a reasonable process of liaison with stakeholders, there are outstanding issues that cannot be resolved Natural England finalises the report on the consultation for Defra and sets out its final advice on the case in the report. There may be changes proposed as a result of the consultation and outstanding issues for Defra’s consideration.

<sup>8</sup>For this marine pSPA, the Natural England Senior Leadership Team (SLT) has delegated the responsibility for approval of Natural England’s formal scientific advice to the Chief Officer for Strategy & Reform. The Chief Officer for Strategy and Reform informs SLT when approval for Natural England’s formal scientific advice has been provided.

- i) Where there are no outstanding objections, representations or issues with respect to the proposals the relevant Director can approve the consultation report for submission to Defra.
- ii) Where there are outstanding issues which it has not been possible to resolve the responsibility for approval of the consultation report falls to Board, or Chairman on behalf of the Board.

## **Appendix 2: Natural Resources Wales (NRW) internal approval process for proposals to amend Liverpool Bay / Bae Lerpwl SPA**

Following public consultation on the proposals to amend Liverpool bay SPA, below is the NRW process for approval of our final site recommendations for submission to the Welsh Government.

1. Since Liverpool Bay SPA is a cross border site, the consultation is a joint exercise between Natural England, Natural Resources Wales and JNCC staff.
2. In NRW, all consultation responses received from stakeholders are reviewed by relevant specialists, supported as required by the local North Wales team with operational responsibility for the site. Comments are reviewed against the technical advice contained in the 'Departmental Brief' for the site which was published for the consultation. Prior to the consultation, that document was prepared jointly by relevant ornithologists in Natural England, NRW and JNCC, and approved for formal consultation by UK and Welsh Government Ministers.
3. A draft report on the consultation responses is prepared, noting issues and objections raised and comments received. All objections are progressed as far as possible with the stakeholders concerned and any outstanding objections noted within the report. The draft report includes NRW, NE and JNCC's final recommendations to the UK and Welsh Governments, taking into account the responses to the consultation.
4. The draft report and recommendations are submitted to NRW's Marine Programme Board (MPB) for discussion and approval, if appropriate subject to amendments. The role of the Board is to consider whether the consultation has been properly conducted, the responses to the consultation appropriately addressed and hence whether the final site recommendations are technically and scientifically robust. The recommendations can either be to progress with the proposed changes to the SPA as consulted over, to progress with a modified set of proposed changes to the SPA, or to withdraw the proposals.
5. If the MPB is content with the draft report and the final recommendation for the site, the report (with any amendments as instructed by the MPB) goes to NRW's Executive Director of Evidence, Policy and Permitting for final sign off on behalf of NRW prior to submission to WG, along with a copy of the final Departmental Brief, updated as required. Note that the main Board of NRW board has agreed that NRW's recommendations to Welsh Government on proposed SPA (or SAC) designations are a technical/scientific matter delegated to the executive of NRW. The NRW Board maintains general oversight of this work through members of the Board's Protected Areas Committee being kept informed of the progression of the site proposal throughout the pre-consultation, consultation and reporting stages.
6. Since Liverpool Bay SPA is a cross-border site within the jurisdiction of both UK and Welsh Government Ministers, the internal sign off processes within NRW, NE and JNCC are coordinated as far as possible.



## **Draft Impact Assessment (IA) Parallel Procedures for Liverpool Bay / Bae Lerpwl pSPA**

1. Welsh Government require the preparation and approval of regulatory impact assessments (IAs) to accompany any N2K/ Ramsar site proposals.
2. The process for developing and approving IAs is developing currently and is likely follow a similar process to NRW's advice procedures on designations.
3. Following consultation on the draft Impact Assessment, a summary report of stakeholder comments is prepared and discussed with WG, noting issues and objections raised and comments received and any outstanding issues are noted within the report.
4. The report is reviewed by relevant technical staff and if relevant, significant any issues raised with the relevant board (MPB or BREB)
5. Relevant technical, operational and policy staff approve the report before presenting to Government for their consideration.

## **Appendix 3: The Joint Nature Conservation Committee** **Schedule of Delegation**

### **Introduction**

1. Under the Natural Environment and Rural Communities Act 2006, and following approval from the Secretary of State, the Joint Committee set up the JNCC Support Co. as a company limited by guarantee. The purpose of the Company is to provide services to the Joint Committee in connection with the functions specified in sections 33 and 36 of the Natural Environment and Rural Communities Act 2006 and in connection with any other functions of the Joint Committee.
2. The Joint Committee has corporate responsibility for fulfilling its responsibilities as a statutory body and for controlling the Company as set out in paragraph 4.7 of the Management Statement.
3. The Chief Executive of JNCC Support Co. is also the JNCC's Accounting Officer and has responsibilities in that role.
4. This schedule sets out how the Joint Committee and Chief Executive discharge their responsibilities directly and through delegation. The JNCC has authorised Natural England to exercise specific advisory functions in offshore English waters in relation to the projects, or proposed projects relating to the provision of offshore renewable energy installations. This authorisation falls outside this schedule of delegations.
5. The schedule comprises:
  - Part 1 Delegations from the Joint Committee to the Chairman, Company, Chief Executive/Accounting Officer and sub-groups of the Committee.
  - Part 2 Delegations from the Chief Executive/Accounting Officer to staff and the Executive Management Board which supports him/her. This is supplemented separately by detailed financial delegations.
6. Each schedule shows the matters reserved to the delegating body/individual alongside the areas of responsibility delegated. The schedules also require the body/individual to whom responsibilities are delegated to refer back up through the line any matters that may involve either the Company or the Joint Committee in significant risk to their reputations, legal standing or financial positions.
7. Annex A sets out responsibilities under the Companies Act which can only be discharged by the Company. These therefore fall outside the Schedule of Delegations.

**Relevant Sections of Part 1. Schedule of Delegations from the Joint Committee to the Chairman, sub-groups of the Committee, Company and Chief Executive / Accounting Officer**

<b>Governance and assurance</b>				
<b>Reserved for Committee</b>	<b>Delegated to Chairman</b>	<b>Delegated to Committee sub-groups</b>	<b>Delegated to the Company</b>	<b>Delegated to the Chief Executive</b>
<p>Ensuring an effective framework of corporate governance is in place to ensure that the Joint Committee fulfils its responsibilities for promoting the efficient and effective use of staff and other resources by the JNCC. This includes effective systems of:</p> <ul style="list-style-type: none"> <li>• delegated authorities;</li> <li>• risk management and audit;</li> <li>• planning and monitoring;</li> <li>• programme and project management;</li> <li>• financial management;</li> <li>• staff management;</li> <li>• environmental management;</li> <li>• information management;</li> <li>• health and safety; and</li> <li>internal and external communications.</li> </ul> <p>Establishing, amending or dissolving standing sub-groups as may from time to time be appropriate, including agreeing their terms of reference and membership.</p> <p>Ensuring that the company is run in accordance with the intentions of the Natural Environment and Rural Communities Act 2006 and making recommendations as necessary to the Secretary of State on matters concerning establishing or winding up the company or changing its objects.</p>	<p>Establishing time-limited sub-groups of the Joint Committee where a clear need is demonstrated.</p>			<p>Maintaining a comprehensive system of internal delegated authorities which are notified to all staff, together with a system for regularly reviewing compliance with these delegations.</p>

Planning and delivery				
Reserved for Committee	Delegated to Chair	Delegated to Committee sub-groups	Delegated to the Company	Delegated to the Chief Executive
<p>Reviewing reports from the MPA Sub-Group on progress, key decisions made on the Committee's behalf and advice.</p> <p>Agree high-level strategies for work on MPAs, including those put in place to address strategic issues, after detailed consideration by the Sub- Group.</p> <p>Recommend to government offshore Natura 2000 sites and offshore MPAs designated under national legislation (including offshore components of transboundary<sup>1</sup> and/or cross- border<sup>2</sup>).</p> <p>Comment on inshore Natura 2000 sites and inshore MPAs as a contribution to the UK network.</p> <p>Giving guidance or information to any of the country conservation bodies on any matter arising in connection with the functions of that body, which, in the opinion of the Committee, concerns nature conservation for the UK as a whole or nature conservation outside the UK.</p>	<p>Signing off non-contentious Committee-level advice after consultation with full Committee where necessary.</p> <p>Signing-off reserved items (international work) that are of little relevance to country conservation body members.</p>	<p><b>Delegated to the MPA Sub-Group</b></p> <p>Advising on strategies to achieve an ecologically coherent site network to fulfil domestic and international obligations.</p> <p>Advising on how JNCC and the country conservation bodies can enhance efficiency and effectiveness through co-ordinating their efforts and providing consistent messages.</p> <p>Providing advice to ensure linkages are effectively made between MPA components of legislation and other aspects of that legislation, and between different MPA legislation.</p> <p>Maintaining a high-level overview of progress against plans for various MPA workstreams.</p> <p>Considering contentious proposals for offshore Natura 2000 sites and offshore MPAs designated under national legislation (including offshore components of transboundary and/or cross-border sites) and advise the Joint Committee accordingly, including conservation objectives and management advice where appropriate.</p> <p>Endorsing consultation reports on offshore Natura 2000 sites and offshore MPAs to be designated under national legislation (including offshore components of transboundary and/or cross-border sites) prior to formal submission to Government and consider any significant issues raised.</p> <p>Advising on the extent to which Natura 2000 network requirements (and those under other legislation in due course) are being met.</p> <p>Advising on the extent to which UK MPAs are contributing to international commitments.</p> <p>Maintaining sight of inshore Natura 2000 site proposals across the UK.</p> <p>Advising the Joint Committee and/or country conservation body councils/boards on specific inshore Natura 2000 and national specific inshore Natura 2000 and national MPA site proposals, if significant differences of opinion exist at officer level.</p> <p>Resolving any issues relating to MPAs designated under national legislation which have strategic implications, such as ability to fulfil UK's obligations for achievement of European and international networks which cannot be resolved at officer level.</p> <p>Advising on surveillance requirements to meet national, European and international obligations.</p> <p>Advising on strategic issues relating to the management of MPAs and the MPA network.</p> <p>Advising on contentious advice or proposals for MPA management.</p>	<p>Operational delivery of JNCC's functions and duties.</p>	<p>Delivering the Joint Committee's corporate and business plans. This includes the provision of any advice, information or other services necessary to fulfil the plan on behalf of the Joint Committee including that delivered through, or in partnership with, other organisations.</p> <p>Providing advice and information to the Joint Committee to enable them to deliver the matters reserved to them.</p>

<sup>1</sup> Trans-boundary refers to the boundary between inshore and offshore zones.

<sup>2</sup> Cross-border refers to the borders between UK administration marine waters

**Extract from Part 2. Schedule of delegations from the Chief Executive/ Accounting Officer**

NB. The Company Board is responsible for everything delegated to the Chief Executive/ Accounting Officer by the Joint Committee.

Responsibility	Responsibilities retained by the Chief Executive	Delegated to EMB	Delegated to other JNCC staff
<p>Providing any advice, information or other services necessary to fulfil the JNCC's corporate and business plans on behalf of the Joint Committee, including that delivered through, or in partnership with, other organisations.</p>		<p>Agreeing advice where this is novel, potentially contentious or involves any other significant implications for the JNCC.</p> <p>Agreeing a position/policy on complex issues that cut across programmes.</p> <p>To facilitate the above, reviewing key decisions to be considered by Directors and the position reached by them.</p> <p>Identifying matters that require Joint Committee consideration.</p>	<p>Staff competent to deliver the advice, information or service as determined by the relevant Project Manager for planned work or Programme Leader for unanticipated requests where this involves low risks for JNCC as a whole.</p> <p>The relevant Director(s) where advice, information or services involves moderate risks for JNCC as a whole.</p> <p>Identifying matters that require EMB consideration – the relevant Director</p>
<p>Providing advice and information to the Joint Committee to enable them to deliver the matters reserved to them.</p>	<p>Approving papers prior to them being submitted to Committee.</p> <p>Reporting to Committee, significant decisions made by EMB on Committee's behalf.</p>	<p>Agreeing a provisional forward programme for the Joint Committee including work on major cross-cutting strategic issues and new approaches.</p>	<p>Advising EMB on matters requiring Committee approval – Directors.</p> <p>Production of Committee papers – relevant Director(s) in conjunction with appropriate staff.</p> <p>Presenting to EMB for decision, scientific advice for the Joint Committee from the Chief Scientists Group – relevant Director.</p> <p>Obtaining agreement from the country conservation bodies, government administrations and others on matters of interest to them, prior to Committee approval – relevant Director.</p> <p>Production of Committee forward programme – Director of Corporate Services in conjunction with Directors and Programme Leaders.</p>

## **Appendix 4: Online Consultation Questions**

### **Scientific Case**

Q1. Do you accept the scientific explanation for the site proposal?

Q2. Do you have any additional information that is not included in the departmental brief about the distribution or populations of;

- Little gull
- Little tern
- Common tern
- Cormorant
- Red-breasted merganser

If yes, please comment in the box and/or Attach a file

Do you have any further comments on the scientific rationale behind the site proposal?