

## **General**

Orkney Fisheries Association represents 51 vessel owners and 2 Shellfish processors . The Association is tasked with protecting the interests of its members and the wider industry as it impacts on our members.

OFA welcome the opportunity to respond to the Consultation on prospective Marine Protected Areas.

OFA have been involved in the series of workshops instigated by Marine Scotland in the gestation of the pMPA process.

OFA must reflect the view of its members that the p MPA designations are not viewed with simple acceptance by fishermen as a development that will benefit them, but have been willing throughout the process to adopt the view that if pMPAs do not restrict current fishing then it would not be reasonable to oppose them per se. OFA find the position complex as in some respects and through pursuit of their own interests, it may mean that designation might limit their direct competitors, however it may also open up unwanted potential for future unwanted restrictions on themselves.

Notwithstanding the above OFA members are deeply sceptical given the history of land designations for SPAs and SSSIs which have resulted in the unscientific development of management measures often via the single interest objectives of NGOs which have resulted in the misalignment of species to the detriment of other species and limited the economic viability of legitimate human economic activity. We cite the increase in the Skua population in Hoy Orkney as an instance of management that has caused the predatory depletion of smaller birds as well as restrictions on animal grazing which has similarly caused unforeseen consequences in the available food sources to other species.

## **Legality**

Fishermen operate within one of the most highly regulated and policed industries there are and suffer significant economic penalties if they do not abide by the law. It is therefore their rightful expectation that others operating in the sea or planning potential restrictions to their activities also adhere to the law. Sadly this is not the case. In 2013 in Orkney it has become evident that the law as it stands fails to protect legitimate fishermen from loss of their potential fishery to illegal razor fish operators. While abuse of the law on this scale continues openly and unabated at local level with all the distortions economically and socially that this produces, it is even more vital that Marine Scotland itself does not stray outwith its jurisdiction.

The legal hierarchy is clearly on that and it begins in Europe and issues from there via the UK, then Scotland and then to local authority level.

It is of concern to OFA that the aspiration of MS to achieve a Scottish network of MPAs may stray outwith that which it legally has an authority in UK law to enact. The Marine and Coastal Access Act of 2009 requires a network of MPAs at the level of the UK Marine area. The UKJAS (Joint Administration Statement) 2012 proposes that a UK network is a contribution to the OSPAR ecologically coherent network, (ECN). There is no provision for a

Scottish network in the Act. It is further of concern that species which are not on the Oskar list of those 'threatened or declining' make an appearance on the list. MPAs are proposed with the purpose of conserving and recovering 'threatened and/or declining habitats and sessile benthic species at Global, Northeast Atlantic, or UK scales' and of 'conserving (and recovering) significant areas for geographically restricted habitats at global north east Atlantic or UK scales'. There is no provision for the protection of 'significant aggregations or communities of important native species in Scottish waters' nor 'areas contributing to the maintenance of ecosystem functioning'. For the reasons set out earlier it is paramount that neither the network nor the potential protected species extend beyond the remit that is legally provided for.

### **Evidence**

Fishermen are accustomed to working within a stringent, evidenced based system which controls a large proportion of what they are and are not allowed to do. This begins in Europe with ICES scientific research and stock evaluations and fishing opportunities calibrated on that advice. Recognising that without clean productive seas there can be no commercial fishery, OFA are working in evidenced based fishery-led science to measure the activity and quantities of stocks in Orkney. We are therefore most concerned to ensure that areas for juvenile fish and shellfish are protected from over exploitation and pollution.

As an organisation, our scientific evidence to be credible, must at least satisfy the robust test of Marine Scotland Science and thereafter ICES, so all our projects are planned methodically in this way. As we expect challenge to our evidence, should we use it to protect our position commercially and environmentally against the interests of others, it is obvious that we must use not only best evidence but credible evidence. It has been a concern to us since the outset of the pMPA project that evidence appears to have come from haphazard sources, some old and many without the robust test of objectivity. Sightings have been used that may simply have resulted from a frequency of humans using a particular ferry route or walk or divers using frequented leisure dive spots. This simply shows the incidence of humans in any one area who are minded to report sightings.

As a fishermen's organisation we know that the habitual activities of fishermen bring them into unintended contact with features which bear just as much credibility as any other human providing a sighting. In some cases fishermen attest to the proliferation of a feature being more widespread than suggested. It is also evidenced by fishermen that features deemed rare are indeed not so. It is simply that those providing the sightings of them to JNCC have not seen them in the abundance that those habitually using the sea for their work and not sporadically to garner sightings see them. However something that is perceived as rare when it may not be, and may affect the activities of fishermen through a misplaced designation of its rarity must only achieve this position through 'sound evidence' not simply 'best available evidence' as the latter may be not be credible at all.

Maerl and Horse Mussels are both features that fishermen describe as common. Where designation may restrict fishing there must be certainty that these are indeed rare and not that the infrequent encounters of SNH researchers with the features are the rarity not the features themselves.

## **Socio-Economic**

OFA acknowledge the importance of maintaining clean productive seas and the habitats that support commercial stocks.

At the outset we must point out that again the political drive to increase salmon farming with its use of a range of parasiticides and chemical additives to combat disease is in direct conflict with maintaining a diverse ecosystem and that industry will destroy organisms that make up the biodiversity of the marine environment. Marine Scotland should be consistent in its application of its policy especially where the activities of other legitimate marine users is affected.

We wish to draw Marine Scotland' attention to the unique physical context of and geographical reality of the islands that as an entity the Orkney islands have, because they are unattached to the mainland of Scotland, different issues to face for their continued economic survival and fishing is core to the underpinning of that survival.

The unsubsidised independent businesses of the numerous small scale fishermen that make up the fishery in Orkney survive against significant adverse conditions.

Fuel, freight, importation of bait and exportation of their catches are all additional costs they must bear which others in less remote and fragmented areas do not.

Taking the assumption that the existing static gear and dive fishery activities do not harm any of the protected features at pMPA for Rousay and Wyre Sounds, Papa Westray and North East Orkney, as they have flourished up until now with that degree of activity, it is necessary that the fishing pressure is established as a baseline so that it cannot be unscientifically changed by pressures from third parties with external agenda ambitions or by subsequent governments who may take a more extreme view of the protection of the features. This we fear has not happened and is absolutely essential prior to any continuation along the line of designation, that process having satisfied itself that it is legal in terms of the obligation set out in law and based on sound evidence as required.

There must be a clear economic evaluation of the commercial fishery with regard not just to its description in terms of GVA, but also the socio-economic worth it brings to the peripheral areas. Losses in island communities cannot be equated with models worked out and applied to mainland situations. Opportunities for flexibility between work types are severely limited and losses in isles jobs are more likely to result in additional welfare benefit costs impacting taxpayers and the nation as a whole and. Islands must retain a critical mass of practitioners and knowledge in their key core survival areas to maintain self- sufficiency and protect against overdependence on external supplies and resources.

## **Rousay and Wyre Sounds**

Should the legal thresholds be met in terms of credible evidence and network design for a p MPA in Rousay and Wyre Sounds including the essential but unmet need for comprehensive socio-economic study into the current and non-damaging nature of the fishing activity in the area, OFA would be in a position to consider whether fishermen were then properly protected against unscientific restrictions on their activities. Mindful of the economic damage some land designations have fostered, OFA would require substantial guarantees that current fishing would continue uninterrupted.

We find the designation for maerl beds/kelp and seaweed communities rather ambiguous as to the extent of this p MPA, infaunal bivalves have been singled out as potentially requiring careful management, but without adequate justification in either of the supporting documents. Furthermore we would like to know whether this only includes deep-burrowing bivalves (such as razor clams) or includes scallops (which are known to burrow in sand).

We also refute that the pMPA can make comment about extended fisheries management with regard to diver harvesting of burrowed bi-valves and that this stretches the direct link between primary and secondary pressures.

We note that the view of Scottish Government is to substantially increase salmon farming in Scotland and that Orkney is viewed by the foreign-owned salmon interests as 'under-developed'.

This is a view we would wholly refute as a fully exploited wild fishery exists here and within this specific area. It would therefore potentially be advantageous to OFA members if, given the caveats already stated, greater protection was afforded this particular area in order that harmful chemical effects resulting from Salmon Aquaculture were limited in this area.

The low impact, zero discard fishery dominant in Orkney has environmental interests to the fore, therefore any chemicals, parasiticides, heavy metals, organic enrichment and oxygen depletion of the sea or seabed is a grave concern.

In conclusion OFA are cautious of applying wholesale approval of this designation proposal but can see environmental and economic benefits to fishing if their outlined concerns are eliminated.

## **Papa Westray**

OFA are of a view that inclusion of Black Gulliemot in the p MPA for Papa Westray is a case in point where MS are straying beyond the remit of the pMPA network, in that black gulliemot is a bird not a marine species. However much the need may be for this bird to be protected the pMPA framework

is not the appropriate one for this to take place. It also sets a designation precedent which may in the future allow other species which are not marine species to become included in Marine designations. Such precedents should be eliminated from the pMPA designation process, to avoid the potential for additional ad hoc species designation 'creep' .

We are nervous about offering categorical support to a Marine Protected area which protects an avian species. However should a proven link be satisfactorily established the following should apply.

The proposed MPA overlaps with Draft Plan Option TN3 for tidal energy. Given that underwater installations present a collision risk to diving seabirds, any application for consent for tidal arrays within the MPA boundary should be discouraged. This would be conducive with SNH's risk-based approach and recognised in the management options paper.

### **North West Orkney**

pMPA for Sandeel larvae. Sandeels are already protected by fishing regulations elsewhere and there does not exist a sandeel larvae fishery. Sandeels do not appear on the Ospar list of threatened or declining species. OFA would question the legality of any designation on this basis and the need, but would also be concerned that mere designation in this case would lead to the bolting on of other designations that might limit fishing.

## **CONSULTATION QUESTIONS**

### **1. Do you support the development of an MPA network in Scotland's Seas?**

Yes  No

Provided that the network is based on sound scientific evidence and is supported by the local communities which may be affected (either positively or negatively) by the designation.

## **Individual possible Nature Conservation MPAs**

**2. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Clyde Sea Sill* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**3. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *East Caithness Cliffs* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**4. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *East of Gannet and Montrose Fields* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**5. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Faroe-Shetland sponge belt* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments



Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**6. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Fetlar to Haroldswick* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**7. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Hatton-Rockall Basin* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**8. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Loch Creran* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**9. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Loch Sunart* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**10. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Loch Sunart to the Sound of Jura* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**11. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Loch Sween* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**12. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Lochs Duich, Long and Alsh* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**13. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Monach Isles* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**14. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Mousa to Boddam* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**15. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *North-east Faroe Shetland Channel* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No



Comments

**16. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *North-west Orkney* possible Nature Conservation MPA?**

Designation:

Yes  No

See above

Management Options:

Yes  No

See above

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

See above

**17. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *North-west sea lochs and Summer Isles* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**18. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Noss Head* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**19. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Papa Westray* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

See above

**20. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Rosemary Bank Seamount* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**21. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Small Isles* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**22. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *South Arran* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**23. Do you have any comments on the case for designation, management options and socioeconomic assessment for *The Barra Fan and Hebrides Terrace Seamount* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**24. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Turbot Bank* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**25. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Upper Loch Fyne and Loch Goil* possible Nature Conservation MPA?**

Designation:

Yes  No

Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**26. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *West Shetland Shelf (formerly Windsock)* possible Nature Conservation MPA?**

Designation:

Yes  No



Comments

Management Options:

Yes  No

Comments

Socioeconomic Assessment:

Yes  No

Comments

All of the above:

Yes  No

Comments

**27. Do you have any comments on the case for designation, management options and socioeconomic assessment for the *Wyre and Rousay Sounds* possible Nature Conservation MPA?**

Designation:

Yes  No

Management Options:

Yes X No

We support the management option of removing or avoiding pressure from new finfish farms. The by-products of aquaculture can have damaging impacts on shellfish; therefore ensuring future aquaculture development within the MPA is curtailed will also confer a level of protection to the local fishery. We would draw attention to the current application for developing a finfish farm south of Wyre, which may impact on the maerl beds mentioned previously which lie to the south-

west. We would also draw attention to the tidal data used by the applicant in support of their application and our objection which shows serious flaws in the assumptions made over flushing and dispersal of pollutants.

With regards to fishing, we are currently obtaining information of fishing activity within the Wyre and Rousay Sounds MPA. The area is a locally important creeling ground for lobster, green and velvet crab, as well as for hand-diving for scallops. We do not believe that current levels of fishing activity are what would be considered 'high'.

While we are supportive of measures which ensure the sustainability of (burrowing) bivalve stocks, the contribution of limiting hand-diving on achieving the conservation objective of the site is not clear. We are aware that infaunal bivalves are an important component of biodiversity within maerl communities and that unsustainable diving can result in the removal of large, fecund individuals from the population brood stock. However, if conserving maerl is the objective of the designation then this management option would seem to be irrelevant.

Although dredging for scallops does not currently occur in this area, we are supportive of ensuring it does not present a risk in the future.

Socioeconomic Assessment:

Yes  No

Commentssee attached

All of the above:

Yes  No

Comments

See attached

## Choices to represent features in the MPA Network

**28. Recognising the scientific advice from JNCC included alternatives for representing offshore subtidal sands and gravels, ocean quahog and shelf banks and mounds in the Southern North Sea, do you have a preference or comments on the following combinations to represent these features, bearing in mind Turbot Bank will need to be designated to represent sandeel in this region:**

Firth of Forth Banks Complex

Turbot bank and Norwegian Boundary Sedimentary Plain

Or Firth of Forth Banks Complex, Turbot bank and Norwegian Boundary Sedimentary Plain

Comments

**29. Do you have any comments on the case for designation, management options and socioeconomic assessments for the preference you have indicated in the question above, regarding alternatives for representing offshore subtidal sands and gravels, ocean quahog and shelf banks and mounds in the Southern North Sea?**

Yes  No

Comments

**30. Recognising the scientific advice from JNCC included alternatives for representing the burrowed mud feature in the Fladens, do you have a preference or comments on the following combinations to represent these features, bearing in mind the part of Central Fladen (known as Central Fladen (Core)) containing tall seapen (*Funiculina quadrangularis*) will need to be designated to represent tall seapen in this region:**

Central Fladen pMPA only

The tall sea-pen component of Central Fladen, plus Western Fladen

Or the tall sea-pen component of Central Fladen, plus South-East Fladen.

Comments

**31. Do you have any comments on the case for designation, management options and socioeconomic assessments for the preference you have indicated in the question above, regarding alternatives for representing the burrowed mud feature in the Fladens?**

Yes  No

Comments

**32. Recognising the scientific advice from JNCC included alternatives for representing offshore subtidal sands and gravels, offshore deep sea mud, and burrowed mud in OSPAR Regions III and V, do you have a preference or comments on the following combinations to represent these features:**

South-West Sula Sgeir and Hebridean slope

Or Geikie slide and Hebridean slope

Comments

**33. Do you have any comments on the case for designation, management options and socioeconomic assessments for the preference you have indicated in the question above, regarding alternatives for representing offshore subtidal sands and gravels, offshore deep sea mud, and burrowed mud in OSPAR Regions III and V?**

Yes  No

Comments

## **Sustainability Appraisal**

**34. Do you have any comments on the Sustainability Appraisal of the MPA network as a whole?**

Yes  No

Comments

OFa believe that the Sustainability Appraisal fails categorically to attempt to understand the special circumstances that apply to island communities, their particular economic challenges and core needs for human self- sufficiency and where fishing fits in a holistic way within this dynamic. The blunt measures of national economics do not reflect the sustainability of isles economies.

## **Final Thoughts**

**35. On the basis of your preferences on which pMPAs should be designated, do you view this to form a complete or ecologically coherent network, subject to the completion and recommendations of SNH's further work on the 4 remaining search locations?**

Yes  No

Comments

See above

**36. Do you have any other comments on the case for designation, management options, environmental or socioeconomic assessments of the pMPAs, or the network as a whole?**

Yes  No

Commentssee above