



**JNCC response to the Nature Recovery Green Paper:
Protected Sites and Species**

JNCC

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Background

This document outlines JNCC's responses to the questions asked in the consultation on the *Nature Recovery Green Paper: Protected Sites and Species*.

Questions 1 to 6 were introductory, and responses are not included.

Protected sites: a new consolidated approach

7: What degree of reform do we need to ensure a simpler and more ecologically coherent network of terrestrial protected sites?)

We would be particularly interested in your views of how we can have a coherent, effective and well-understood system of protections, as well as supporting the delivery of our legal binding species abundance target and other potential long-term targets. Please tick the option you prefer and explain your answer in the free text box.

- *Option 1: Reform including a tiered approach emulating the approach taken in the marine area for HPMAs and MPAs, consolidating existing protected site designations and the creation of highly protected sites.*
- *Option 2: Lighter touch reform including streamlining existing site designations (SACs, SPAs, and SSSIs).*
- *Option 3: Amalgamation into a single type of designation with a scale of protections.*
- *Other.*
- *No reform.*
- *Do not know.*

Response

Other

JNCC agrees that reform of protected sites policy would be beneficial, particularly to introduce more flexibility in order to respond to climate change. Any new system in England will still need to meet international commitments and be compatible with approaches in the other countries of the UK. In developing the reform policy, we advise that:

- there is strong engagement with the Governments in Northern Ireland, Scotland and Wales especially to maintain coherence of the protected site network
- there is no diminution of protection
- the costs are proportional to the benefits.

Terrestrial protected sites have been a cornerstone of nature conservation policy in the UK. Studies have shown the benefits they bring and the contribution they have made to preserving and enhancing the most important areas of biodiversity across the UK. However, only 39% of sites by area in England are in favourable condition and a similar picture is seen across the other countries of the UK (50%)

Whilst the UK's current suite of protected sites are described as a network, they are in effect, mainly a series of sites chosen individually to represent particular habitats or species and are often small, fragmented 'islands' that are ecologically dysfunctional. To achieve biodiversity goals and contribute to nature recovery, reform of protected sites needs to be considered as part of a broader suite of land use changes. Establishing them as a truly

integrated and interconnected network of sites, creating new sites to compensate for losses elsewhere, enlarging the size of existing sites, and improving the effectiveness of other areas, would provide a more flexible system with a more effective contribution to nature recovery.

The current system of multiple designations for the same land parcel is complex and there are several potential benefits of simplification as set out in the Green Paper. However, simplification on its own will not address the overarching issues preventing protected sites delivering for nature recovery.

Furthermore, we recommend the focus should be building greater flexibility into the current system, or a simplified system, to enable dynamic change based around natural functions and processes.

The UK Government provides assurance in the Green Paper that any review of legislation will maintain current levels of protection. An amalgamation of sites via options 1, 2 or 3 should take a precautionary approach and apply the highest levels of protection (i.e. those currently afforded to the SACs and SPAs) to avoid deterioration and support restoration.

The process of rebadging sites could require a substantial effort, including possibly a need for renotification and consequently risks diverting resources away from the delivery of nature recovery at this critical time. Furthermore, the nature of the current designations means that amalgamating sites into a single site type could have unintended consequences and needs very careful thought.

The current legislation for protected sites largely stems from international obligations (e.g. Ramsar Convention, Bern Convention and formally the EU Habitats Directive and Bern Directive) as well as the Wildlife and Countryside Act. As such, there is a common framework across the UK, including the criteria for site selection (SSSI/ASSI guidelines and Habitats Regulations site selection criteria). In the case of SAC and SPAs, these form the national (UK) network of sites, as defined under the Habitats Regulations 2017 (as amended) and there is a statutory requirement for the appropriate authorities of the four countries of the UK to cooperate to ensure effective management of the network. The sufficiency of the UK's SAC and SPAs in achieving an ecologically coherent network has been assessed at a biogeographic level (SACs) and at the UK level (SPAs). Therefore, reform of protected sites legislation in England could have significant consequences for protected sites in the other countries of the UK in terms of the management of cross border sites and of transboundary issues, and for the effectiveness of the site series across the UK. We recommend that this is a major consideration of the UK Government as it further develops its policy and should be done in consultation with the Devolved Governments. Reforms must also ensure that protected sites policy in England continues to meet international obligations.

The three options are presented in the Green Paper appear to be early in their conceptual development and at this stage it is not completely clear how they could be implemented and what the implications would be, making it impossible to support one option over another. The issues raised above apply to each option and further specific comments include:

- Option 1 introduces the idea of the “Highly Protected Sites” emulating the approach for Highly Protected Marine Areas. This would benefit from further thinking as to its purpose, as unlike marine, many terrestrial habitats and species generally rely on active management for their maintenance. If these continue to be valued, then Highly Protected Sites could rarely be a designation meaning minimal/non-intervention as is more the case with HPMAs. Further consideration would be

needed to define the purpose of Highly Protected Sites as distinct from “protected sites”. As such, it is difficult to comment further on this option at this time.

- Option 2 appears to be closer to the status quo and its benefits are unclear. This in itself could lead to confusion with different nomenclature in the other countries of the UK.
- Option 3 proposes a single type of protected site and suggests this could have scalable (tiered) levels of protection. Tiers of protection in a single site type would not necessarily achieve the aim of simplification compared with the current system.

8: What degree of reform for the marine protected area network do we need to meet our biodiversity objectives and commitments

Please tick the option you prefer and briefly explain your preference and what benefits or risks it may have in the free text box.

- *Option 1: Reform including a tiered approach consolidating existing protected site designations and the creation of highly protected sites.*
- *Option 2: Continuing to manage existing site designations (SACs, SPAs, and MCZs) similarly, streamlining our approach by to refer to them all as Marine Protected Areas (MPAs).*
- *Option 3: Amalgamation into a single type of designation with a scale of protections.*
- *Other.*
- *No reform.*
- *Do not know.*

Response

Option 2: Continuing to manage existing site designations (SACs, SPAs, and MCZs) similarly, streamlining our approach by to refer to them all as Marine Protected Areas (MPAs).

JNCC would be supportive of the reforms described in option 1 and option 3 at a UK scale, and such an approach would require engagement, collaboration and agreement with the Devolved Governments. However, as the reform being proposed is within England only, we believe option 2 to be the better approach.

The reforms described in option 1 and option 3 when implemented in England only would not reduce designation complexity for agencies, operators and regulators who operate across the UK and would not help us to better meet our international biodiversity objectives and commitments. Indeed, it is likely to add further complexity into the legislative and regulatory landscape at a UK scale; and make it more difficult to assess if our international biodiversity objectives and commitments are met.

The generic points from our answer to Q7 (terrestrial sites) summary also apply to this question.

9: Do you agree that there should be a single process for terrestrial designation?

We would be particularly interested in your views on how this might best be done for example, should decisions be vested in the appropriate authority [ministers] on the advice of

its nature conservation bodies? Please tick the option you prefer and explain your answer in the free text box.

- Yes.
- No.
- Unsure.

Response

Yes.

JNCC's recommendation is that the decisions should rest with the relevant Statutory Nature Conservation Body.

This is inextricably linked with the answers to the previous questions (7 and 8), and which option(s) is chosen. If there are separate designations, with separate legal frameworks and provisions, each one will need its own separate process. As stated in the Green Paper, the decision on notification of SSSIs currently rests with Natural England, whereas for other protected sites it lies with the appropriate authority. In either case, we strongly recommend designations should be based on the impartial scientific advice of the relevant Statutory Nature Conservation Body. They also bring broad expertise and knowledge of other local land-use and nature recovery actions through to the international context which can optimise the role of the protected area. If the decision is vested in the appropriate authority, this could be perceived as a risk of undermining the conservation case.

Furthermore, if there is reform to introduce alternative protected site types (as per question 7 and 8) in addition to establishing a process for new designations, a clear pathway to transition existing designations (and processes) into the new one would be needed.

10: Should we reform the current feature-based approach to site selection and management to also allow for more dynamic ecological processes?

We would be particularly interested in your views of how our sites can be made more resilient to climate and other natural changes and can encompass wider purposes such as carbon sequestration? Briefly explain your answer in the free text box.

- Yes, for both terrestrial and marine sites.
- Yes, for terrestrial sites only.
- Yes, for marine sites only.
- No, neither for marine not terrestrial sites.
- Unsure.

Response

Yes, for both terrestrial and marine sites.

There is a need to accept that, with climate change, other environmental factors and management constraints, there will be an inevitable shift in the distribution of species and habitats, that is better catered for through an adaptively managed site network. As part of this, it would be prudent to consider the processes for incorporating more flexibility in modifying features and/or site boundaries as part of a streamlined and proactive approach to adaptive management of the site network. This could include creating new sites to compensate for losses elsewhere, using buffer areas of sympathetically managed land and

sea, and enlarging the size of existing sites in order to better protect supporting dynamic processes and build flexibility into the system.

It is important that as changes are made in England, the UK Government is mindful of the existing approaches within the other countries of the UK and of international commitments. The issues described above are common to the four countries of the UK and there would be benefit from collaboration on this strategic approach even if the detail of implementation varies in each country.

In both terrestrial and marine a whole site approach to management would be welcome, as this would better enable nature recovery by encompassing other ecological components and natural processes beyond a sole focus on the designated features of a site.

In terrestrial sites, focusing on assemblages of species and habitats over a wider expanse (site and surrounding areas) rather than individual features of interest is a better reflection of how nature works. The flexibility available to change the notified interests or boundaries, and to de-notify sites, could be used to reflect the dynamism of natural systems and ensure protected areas remain relevant, particularly given the uncertainties of a rapidly changing climate. In tandem there needs to be better management of the surrounding countryside and improve linkages with adjoining ecological processes.

However, there are risks with an approach that moves away from a focus on features. Care is needed that the system does not become so changeable that it undermines site protection. Objectives for sites will still need to be evidenced based and set by an impartial authority i.e. the relevant Statutory Nature Conservation Body. For example, in offshore marine as fisheries by-law implementation work is well underway, legally-binding documents are all framed from a features basis (suggesting a need for re-consultation if this approach were to be undertaken) and there is significant risk of stakeholder push back as this will be perceived (if applied wholesale) as shifting the goalposts at a time where there are significant concerns already around implications from more stricter measures being considered for implementation (HPMAs).

There are approaches being developed in other countries of the UK which could be helpful in addressing questions around resilience.

11: How do we promote nature recovery beyond designated protected sites?

Response

JNCC believe it is very important to have a prioritised plan for how land will be used to optimise what can be delivered. As ~70% of England's land is farmed, England's new Environmental Land Management schemes present an important funding mechanism for nature recovery. There is an opportunity to ensure that these schemes direct funding to the most appropriate interventions on the most appropriate agricultural land. JNCC is supporting Defra in the development of models and tools to spatially prioritise actions through Local Nature Recovery and in the Landscape Recovery scheme design and assessment – promoting the use of evidence-based interventions.

Beyond public funding, there is also significant opportunity to use new policy measures such as Conservation Covenants and Biodiversity Net Gain as well as private finance/ecosystem service markets to finance Nature Based Solutions interventions. However, these are nascent mechanisms which will benefit from some degree of impartial environmental

oversight to ensure they represent genuine nature recovery, are informed by better advice on relevant management interventions to achieve outcomes, and have standardised monitoring, data flows and methods for measuring impact for investor and public confidence, and to avoid greenwash. Not all ecosystem service interventions, for example for flooding or woodland carbon will contribute to nature recovery unless designed to do so, and so it's important that markets are designed to be nature positive. Again maximising what can be delivered and aligning with public funding relies on spatial prioritisation.

Within and beyond protected areas, a reduction in pressures from human activities is essential to allow natural regeneration and restoration of ecological processes. For example, reducing nutrient pollution in terrestrial, freshwater and marine ecosystems and in marine systems, stopping, reducing or transforming how we extract and use marine assets (physical and biological) is critical.

Nature recovery does not just have a rural and marine context. Government policies for nature recovery need to explicitly include the urban environment, integrating green and blue infrastructure into developments, recognising the multiple benefits to human wellbeing that closer contact with nature brings. Furthermore, nature recovery needs all parts of society to be working together to avoid causing harm to nature and contributing to recovery and it needs to be integrated with other policy areas.

12: Do you see a potential role for additional designations?

Please provide detail in the free text box.

- Yes.
- No.
- Unsure.

Response

Yes.

JNCC welcome the concept of nature recovery sites and note that such sites could be considered as 'Other Effective Area-based Conservation Measures' if they met the required CBD criteria. They will need to be considered alongside other measures for nature recovery, such as LNRS and land use policy, to reduce fragmentation, increase connectivity and to have clearly focussed outcomes. Such sites would not necessarily have to have a formal designation, other forms of recognition or accreditation could be considered. Alignment of approaches across the UK would be useful in demonstrating how the UK is meeting international commitments.

Protected sites: site management and protection

13: Do you agree we should pursue the potential areas for reforms on assessments and consents?

- Yes.
- No – keep as it is.
- No – reform but not these areas or additional areas (please state why).

Response

No – reform but not these areas or additional areas.

JNCC provided evidence to the Habitats Regulations Assessment Review Group in September 2021. We focussed on issues which we consider would make the HRA process quicker and more effective. These issues largely involve improved evidence requirements, which in turn, would help improve the quality of information in HRAs, rather than changes to the legislation itself.

Any change needs careful management to avoid problems caused by lack of regulatory certainty and stakeholder engagement will be critical in designing a new process and tools.

Any reform, of the process and/or the legal provisions, must take into account the impacts on other countries of the UK. In terms of marine licensing, this is covered by the Offshore Habitat and Species Regulations which is UK wide and the Marine and Coastal Access Act 2009 which devolves matters to the different UK Governments. The current system is well understood by regulators, developers, consultants, SNCBs and other stakeholders. Making changes to the Offshore Habitat and Species Regulations either in England only, or just to the inshore area, will be confusing and slow down the consenting process in the short term, rather than speed it up. The Habitats Regulations 2017 (as amended) cover England and Wales and to a limited extent in Scotland (reserved matters) and Northern Ireland (excepted matters). The implications of changes to the regulations, including the HRA process, applying in England must be carefully thought through in terms of any potential unexpected impacts on provisions applying in the other countries. This is in addition to creating a confusing picture for developers and other stakeholders across the UK, where different regulations and process might apply for a single development where it cross borders.

Furthermore, under Regulation 36 of the Offshore Habitats and Species Regulations (as amended) and in similar provisions under the Habitats Regulation 2017 (as amended), compensatory measures could be undertaken in any of the four countries of the UK if they meet the requirement for maintaining the coherence of the national site network. If changes are made to the regulatory framework, so that there were differences between England and rest of the UK, consideration should be given as to whether this mechanism for UK-wide compensation would be affected.

Stakeholders, including industry (through forums like Seabed Users Development Group) have voiced concerns of the process becoming even more confusing and muddled. There are improvements that can be made, particularly around streamlining, and clarifying the process. We need to be careful to not ‘weaken’ assessment and consenting processes, rather see the opportunity to strengthen environmental protection and marine management, whilst clarifying existing grey areas which have historically been open to interpretation, with only learnings from previous case law to guide us. We also see issues around non-consistency in how the consenting process is dealt with by different regulators for different industries.

Requirements for reform will also depend on decisions covered under Q7 and Q8 and the options for site designations. If SAC/SPAs and SSSIs come under a single designation type a single assessment process will be required. In order to maintain or enhance the current level of protection, this will require protection levels for SSSIs to be brought up to those of SAC/SPAs. In any event, the different processes for SAC/SPAs and SSSIs currently would benefit from closer alignment and shared processes.

14: Should action be taken to address legacy consents?

If Yes', we would particularly welcome your views on how this might be done in a cost-effective and fair way explaining your answers in the free text box.

- Yes.
- No.
- Unsure.

Response

No response provided.

15: Should we move to this more outcomes-focused approach to site management?

Please tick the option you prefer and briefly explain your preference and what benefits it may have in the free text box.

- Yes, using Site Improvement Plans.
- Yes, but building on Site Improvement Plans to offer a holistic site outcome plan.
- No.
- Other.
- Unsure.

Response

Yes, but building on Site Improvement Plans to offer a holistic site outcome plan.

JNCC welcome a more outcomes-focussed approach to site management, noting that this must be set within the wider context of nature recovery and active enhancement of ecosystems.

For each offshore marine protected area in England, JNCC provide a suite of documentation as part of our formal conservation advice, including background Information, conservation objectives, supplementary advice on the conservation objectives, conservation advice statements and advice on operations. A holistic site outcome plan, building on the template of the Site Improvement Plans, would be useful addition to this suite of documentation identifying the actions needed to help achieve outcomes for the site.

16: Do you have suggestions for how regulation 9 requirements should be reformed to support delivery of England's 2030 species target or other long-term biodiversity targets and to improve our natural environment?

Please set out your answer briefly explaining what benefits it may have in the free text box.

- Yes.
- No.
- Unsure.

Response

Unsure.

Whether Regulation 9 is reformed depends on how far reaching the other reforms are and remains of the broader Habitat Regulations.

17: Do you have suggestions for how processes under Regulation 6 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 and sections 125-127 of the Marine and Coastal Access Act 2009 together could better deliver outcomes for the MPA network? Please explain your answer.

Please explain your answer, these regulations are shared with devolved administrations, and therefore careful consideration will be given to any potential effects on these duties, with full evaluation following this consultation.

- Yes.
- No.
- Other.
- Unsure.

Response

Yes.

In terms of processes there are three things under the two pieces of legislation that could better deliver outcomes for the MPA network. However, it has to be noted that any improvements may only be realised if changes were made at a UK scale and all regulators enacted the regulations in the same way. This would involve detailed discussions with the Devolved Administrations and regulators.

Firstly, Marine Spatial Prioritisation needs to be at the heart of regulatory decision making in the marine environment. Defra's Marine Spatial Prioritisation Project has a big role to play here in terms of meeting the planned objective of a 2050 vision for our seas.

Secondly, the processes around the use of the mitigation hierarchy and derogations/IROPI need to be strengthened to allow for the best outcomes for nature, rather than being held back by what regulations say. The recent Defra consultation on best practice guidance for developing compensatory measures in relation to Marine Protected Areas has tried to bring this together for the marine environment. Initially, it is imperative that the avoid, reduce, mitigate hierarchy is considered as widely as possible in the first instance and a clear and transparent process for this is developed and utilised in the same way across all industries. This will always be a cheaper and easier route than the derogations process and this point is frequently forgotten.

Thirdly, the derogations/IROPI process needs to be strengthened to ensure that compensation measures must be agreed with the SNCBs (rather than just taking their views into account). Projects are currently being approved with measures that we (SNCBs) do not believe will benefit the MPA network (as they cannot be linked back to conservation objectives and the improvement of feature condition) and therefore don't consider to be compensation.

Building in these considerations and potential solutions as early as, for example, the leasing process is key and the regulations/processes need to allow for the submission of so called 'without prejudice' options. The ability to trial measures, adapt them and therefore make some expert judgement on the probability of success is required, which is something the

current regulations are not flexible enough for. It may also be helpful to look at the possibility of other management options e.g. management byelaws rather than designation of new sites.

With all of this in mind we do need to ensure that we are maintaining the integrity of the UK MPA network and not undermining the protections of irreplaceable habitats (as has been said previously recreating offshore habitats is not an option for the management of the vast majority of MPAs).

18: Do you have suggestions for improving the EIA scope and process for the Defra EIA regimes?

We would particularly welcome your views on how they can more effectively help to reduce the environmental pressures outlined in chapters 3 and 4, deliver the objectives in the Environment Act, and facilitate sustainable development.

Please tick all regimes that apply and explain your answer in the free text box.

- Yes – Marine Works EIA regime.
- Yes – Forestry EIA regime.
- Yes – Agriculture EIA regime.
- Yes – Land Drainage EIA regime.
- Yes – Water Resources EIA regime.
- No.
- Unsure.

Response

Yes – Marine Works EIA regime.

The current process does not sufficiently prioritise assessing the scale and risk of the range of impacts arising from individual developments to enable greater attention on those which are likely to be more significant, particularly in relation to the impacts to the wider environment and adverse effects causing failures to Good Environmental Status (GES) for marine waters. To address this there should be more thorough initial assessments of proposed projects at the scoping stage. The ability to build in legally binding mitigation to the assessment could also allow for issues to be ‘scoped out’. This would then allow the detail of the EIA to be focused on the key elements which are of the biggest concern and their likely potential impacts on the delivery of broader environmental targets such as those under the Environment Act and GES in the marine environment. The approval process should lead to mandating the monitoring that is required to assess and mitigate the impacts. The results of these monitoring programmes should be required to be made openly available to support the assessments of status and inform the broader research agenda around how the marine environment is being impacted.

19: What are your views on our proposal to establish priority areas for afforestation?

Response

JNCC recognises the importance of woodland creation which, if appropriately designed and sited, can contribute to multiple outcomes including Net Zero, amenity, climate adaptation

(for example flood mitigation) and biodiversity objectives. A strategic landscape scale assessment should be used to identify areas where woodland can be created to have the strongest contribution to the 25 Year Environment Plan, carbon sequestration and green jobs. Priority areas for woodland creation are one aspect of a broader land use strategy which would take into account the total demands for land and establish where, in order to meet them, land use needs to accommodate multiple objectives, including nature recovery.

30 by 30

20: What are your views on our proposed criteria to achieving our 30 by 30 commitment?

We are keen to hear views on the proposed approach for assessing Protected Areas set out under 4.1 and suggestions for areas of land we should consider as OECMs in England under section 4.1.0.

Response

JNCC has been working with all four countries of the UK, through the Four Countries Biodiversity Group, to help consider how to deliver 30 by 30. This has included provision of evidence notes, convening workshops, and supporting the development of a set of cross-UK principles. These principles, and further cross-UK collaboration, could enable the four countries to show common purpose and facilitate consistency of monitoring (especially in terms of effectiveness) and of collective reporting of protected areas and OECMs to international targets, whilst also recognising the devolved nature of environmental policy implementation in each country. There is a balance to be struck in the amount of detail needed to designate a protected area, and the amount needed to recognise an OECM. Key issues in OECM recognition include developing clarity over what should count as an OECM across the UK, as well as how they are assessed as being both 'long-term' and 'effective', but this should be no more difficult than is currently the case for protected areas.

From a factual perspective we should note that the figures quoted for extent of PAs already include NNRs, AONBs and National Parks. Whilst there is more that can be done to make these designations effective for biodiversity protection, especially for AONBs and NPs, that will not of itself change the percentages protected. We note that the Green Paper states that these areas "cannot be said to contribute towards 30 by 30 at this time", but that "should the appropriate reform, investment and management be implemented by 2030, National Parks and AONBs will contribute more towards the 30%". If areas are to be deducted from statistics and then re-included once areas are deemed to meet the criteria (as either a protected area or OECM), a clear process needs to be in place.

We also note that, in the Green Paper, one of the conditions that an area contributes to 30by30 is that the area has "a clear purpose of conserving biodiversity (although this may not be their primary purpose)". It may be important to clarify that, in addition to a primary or secondary purpose, for OECMs "their contribution in situ conservation of biodiversity [may be] a co-benefit to their primary intended management objective or purpose" (CBD Decision 14/8). Examples of sites where this could be relevant are Ministry of Defence land which is managed for defence but achieves effective conservation of biodiversity as an ancillary outcome. OECMs provide an opportunity to recognise the value of diverse governance and management approaches in achieving international targets. Aligning the assessment criteria to international criteria could also support accessibility and communication.

21: What are your views on our proposal to reform forestry governance and strengthen protections for the Nation's Forests?

We are keen to hear views on any additional powers and statutory duties we should consider that would help to deliver on the benefits of woodland beyond timber production.

Response

JNCC recognises the importance of the existing forest area in contributing to nature recovery, given its scale of land cover, proportion of species of principle interest associated with trees and, within its overall footprint, ancient woodlands. Given the importance of England's forest cover, nature recovery needs to be one of a set of key objectives for forestry governance, balancing the contribution forests can make to amenity, climate adaptation, biodiversity, carbon and green jobs.

22: What are your views on our proposal to adjust forestry permanency requirements for certain project types?

Response

JNCC recognises that forest permanency requirements can help retain biodiversity where the forest has the composition, structure, function, and management to provide for woodland and transitional habitat species. The silvicultural techniques that are the subject of the consultation, such as short rotation practices and agro forestry, are unlikely to support significant biodiversity or contribute to its recovery. The target total output and area for such practices, largely to meet net zero requirements, is one factor to include in land use strategy to identify what is feasible whilst meeting other land objectives including nature recovery.

30x30: UK Marine Strategy

23: Do you agree with the proposed changes to the UK Marine Strategy (UKMS) delivery programme, and if not, what other changes would you make to streamline the reporting of UKMS?

Please explain whether you agree with these changes and provide reasoning. If required, please outline any additional proposed changes that will help us achieve the stated goals.

When you respond please highlight your experience and make us aware of any evidence you can share that supports your view.

- Yes.
- No.
- Unsure.

Response

Yes.

JNCC agrees with the proposed changes to the UK Marine Strategy (UKMS) delivery as they will enable timely access to information and reductions in reporting burdens. Replacing the 6-yearly publication of our monitoring framework (part two) with a live online repository is

welcome, but it must build on and be integrated with existing data governance infrastructure to avoid duplication. In particular, it should consider the role and function of the United Kingdom Directory of Marine Observing Systems (UKDMOS), an unique internet-based searchable database of marine monitoring conducted by UK organisations, which is managed and updated by the Marine Environmental Data and Information Network (MEDIN). Integrating UKMS part one and part three will bring together evidence and data to understand the efficiency of the measures as well as evaluate progress on implementation, allowing a closer interaction between the data products produced by the indicator led assessments and the actions taken to address impacts from pressures.

24: Do you support the approach set out to split the high-level Good Environmental Status (GES) target into individual descriptor level GES targets?

- Yes.
- No.
- *Unsure.*

Response

Yes.

JNCC support the approach set out to split the high-level Good Environmental Status (GES) target into individual descriptor level GES targets. The split of targets, particularly if part one and part three of the UKMS are integrated, will allow a more tailored, quantifiable and meaningful approach. For the biodiversity descriptor we agree it is appropriate to split the target by each biodiversity component (i.e. cetaceans, seals, birds, fish, pelagic habitats and benthic habitats). Such a split would allow the consideration of relevant ecological factors, such as resiliency of a group of species, or recoverability times of a habitat, and also could consider environmental factors, such as the known effects of climatic drivers.

Protecting Species

25: Do you agree we should pursue the potential areas for reforms for species?

- Yes.
- *No – keep as it is.*
- *No – reform but not these areas or additional areas (please state, why).*

Response

Yes.

Yes, consolidation and rationalisation of species legislation is essential to improve species protection. For example, the Wildlife and Countryside Act and Habitats Regulations both protect the same species against different pressures/ offences. This is confusing and creates confusion among the public as well as logistical challenges especially for the issuing of licences. Depending on the species and the legislation, multiple licences may be required from different authorities for the same species. A simplified and tiered approach to protection

would help stakeholders understand their duties relating to protected species and therefore potentially benefit biodiversity in the longer term.

Species legislation relies on accurate understanding of species status and listing of species. This understanding changes over time as species status changes and our scientific understanding improves. There needs to be clear and robust criteria relating to how species are chosen for protection at the required level. Currently the legislation is unclear and predominantly set up for larger, mobile animal species and in the case of birds, there is no clear mechanism to adapt the lists of species. Any criteria developed should maintain an international perspective as many of our avian species are migratory and as such should be protected in that context.

Proposed changes in legislation in the paper focus specifically on licensing, enforcement and wildlife offences, that show these to be of major importance. These tools are important, however achieving species conservation and halting biodiversity loss will not be achieved through enforcement alone, and therefore the tiered approach becomes the critical focus for species conservation (and needs to be different for different species groups). Protection from predation and persecution can be achieved through existing mechanisms, however, there need to be additional initiatives that address other direct threats to species. This includes well-known threats like habitat loss, invasive species and development. The proposal under tier 1 as currently set out (lowest level of protection) does not accommodate for long term decliners where additional wider environmental measures are essential to halt their decline.

26: Based on your knowledge and experience please can you tick the criteria below that you think we should use to determine what level of protection a species should be given?

You can tick more than one box.

- *Threat of local or national extinction*
- *Welfare of wild animals*
- *Controls in trade*
- *Importance to the ecosystem (a species that has a disproportionate beneficial effect on an ecosystem and if they are not present the ecosystem will be in danger of collapse).*
- *Promoting recovery (a species with a low or declining population, which may not yet have a threatened conservation status, but could be protected to support recovery and increased distribution).*
- *Importance to genetic biodiversity (endemic species or sub-species within England that are important for the wider genetic diversity of the species).*
- *Management requirements (a species where management is required for public health, to protect agriculture, commercial interests and to protect habitats)*
- *Socio-economic importance (a species that could be protected to benefit people and communities, for example, to promote tourism)*
- *To support efforts to reintroduce species or rewild habitats.*
- *Unsure*
- *Other – please state why*

Response

- Threat of local or national extinction
- Welfare of wild animals
- Controls in trade

- Promoting recovery (a species with a low or declining population, which may not yet have a threatened conservation status, but could be protected to support recovery and increased distribution).
- Importance to genetic biodiversity (endemic species or sub-species within England that are important for the wider genetic diversity of the species).
- To support efforts to reintroduce species or rewild habitats.
- Other

Other includes:

- International status and UK contribution to population status; rarity (including localised distribution in UK) (see Birds of Conservation Concern criteria for birds).
- Species demonstrating clear evidence of long term decline due to ecosystem deterioration and habitat fragmentation/ destruction.

27: What proposals should we look at to improve our current licensing regime?

When you respond please state what you think is not working under the current licensing regime, which principles you think should be brought out in any new regime. Please highlight your experience, as well as making us aware of any evidence you can share that supports your view.

Response

No response provided.

28: What proposals do you think would make our enforcement toolkit more effective at combatting wildlife offences?

When you respond please highlight your experience, as well as making us aware of any evidence you can share that supports your view.

Response

No response provided.

Delivering for nature through public bodies

29: What are the most important functions and duties delivered by Defra group ALBs to support our long-term environmental goals?

Response

To support long term environmental goals, it is essential to have impartial scientific advice on the state and change of nature. Defra group ALBs provide professional, quality-assured scientific advice, often based on collaborative monitoring and R&D, to turn science into action for nature conservation and recovery. ALBs also set standards, and provide regulatory and delivery functions to implement policy, working with scientific advisors to

evaluate policy. Where these functions are statutory, this both provides public assurance and a transparent way of holding government to account.

The arm's length nature of these public bodies provides public assurance that government departments and their Ministers have the best available evidence on what works and what doesn't to achieve environmental goals, and thereby evidence for effective use of public funds and spending review bids.

Given that domestic environmental policy is devolved to the four countries of the UK, the case for having JNCC as an SNCB is even stronger in terms of the need for robustness and consistency of evidence across the UK, effectively able to act as an honest broker.

30: Where are there overlaps, duplication or boundary issues between ALBs, or between ALBs and government? How could these be addressed?

Response

There is legal clarity on the statutory nature conservation functions of the five SNCBs of the UK.

Historically, nature conservation has been a separate discipline but the development of our understanding of ecosystems and their services has highlighted the interdependence of natural, economic and social systems. This, in turn, has led to the mainstreaming agenda, which has drawn in ALBs without statutory nature conservation origins and remits, and with different perspectives and legislative bases, into nature conservation and recovery. The biodiversity crisis and scaling up of government ambition requires clarity on organisational (ALBs and governments) purpose, roles and responsibilities to enable coherent integration across the systems we work in with clear lines of accountability to drive outcomes.

Given the urgent need to bend the curve on biodiversity loss and to scale up action collectively – whether statutory or non-statutory – across ALBs and governments, in line with the mainstreaming agenda, strengthened ways of working would help to improve effectiveness, efficiency and resilience.

31: What are the benefits and risks of bringing all environmental regulation into a single body?

Response

In England, if we want to optimise regulation, there are benefits of integration under a common nature recovery purpose to reduce the risk of divergence and accelerate the nature recovery agenda. For example, it would enable better data sharing across current organisational boundaries.

32: What are the opportunities for consolidating environmental delivery functions into a single body? Which programmes and activities would this include?

Response

In England, ensuring common nature recovery purpose for relevant organisations, ensuring greater integration of functions and enabling efficiencies would support delivery of environmental goals.

Cost recovery

33: Please provide your views on how more effective cost recovery for regulation would affect: a) environmental protections b) businesses

Response

Any of the cost recovery options suggested will likely involve an additional cost and impose a burden on business. Additional regulation will undoubtedly carry a cost in the short term, and it's possible that this extra cost is non-trivial for small and medium businesses. However, depending on the specific design of regulation, and considering the proposed transition towards a regulatory system of transparency and simplicity, it would be hoped that these costs fall over time. To the extent that costs increase, it should be anticipated these costs will be passed down to intermediate and final consumers via price increases where businesses are able to do so. This may not be possible in farming where most businesses are price-takers, for example. Where costs cannot be transferred to consumers (due to high price elasticity), there will be an impact on annual profit, company surplus (for reinvestment) and/or workforce retention. There needs to be careful analysis of the impacts based on segmentation of the market, which must involve assessing and mitigating impact for small and medium business. For larger corporations measures should be taken that the burden of the regulatory costs are not transferred to the final consumers.

In all cases, whether in relation to new and additional cost recovery options or existing arrangements, charge payers should have confidence that regulators and advisers have appropriate powers to recover costs, that charges are transparent and clearly explained, and that chargeable services are consistently and fairly applied and offer fair value for the services provided.

34: What is the most efficient way of ensuring businesses and regulated persons pay an appropriate share of the cost of regulation?

Response

No response provided.

Financing nature recovery

35: What mechanisms should government explore to incentivise the private sector to shift towards nature-positive operations and investment?

Response

JNCC broadly agrees with the proposals presented in the consultation document. As mentioned in our response to previous questions, before the stage of incentivising private sector investment we need to better understand total land resource, current use and the

priorities for that land (e.g. nature recovery, food production, more housing) in delivering the benefits required. From this we can better understand, map and minimise the trade-offs from competing priorities across space and time, underlining the role which finance can play in combining these priorities and what this means for land management with multiple stakeholders. With competing interests and demands, it becomes even more important to develop baselines against which nature recovery can be assessed. Standardised methods also provide confidence to the private sector in genuine nature recovery and impact, but management must be designed to clearly outline how nature will be recovered, and measure this, as well as how and in what dimensions biodiversity is improving.

The green paper is addressing markets that will be established in England but that for investors, and providers, and the public, we should be recognising where the enabling of investment will work better if the standards are cross border/UK.

In addition to the above, we have listed below the following measures which will be required to help enable not only an increase in private sector investment, but the right investments which manage competing local and national priorities:

- Tracking investment into markets - Developing a UK-wide registry and tracking private investment flows into ecosystem services.
- Data collaboration - Building greater collaboration on public and private sector data. To put simply, government and public sector bodies hold a lot of the monitoring and ecosystem assessment data while the private sector have large ESG databases on investment/returns on projects. Working together collaboratively and openly, to merge and bring together these data sets, will help inform better investment decisions and track impact. Where location data does not exist, it is imperative that standards and protocols are developed for monitoring to measure outcomes.
- Growing skills and capability across the public and private sector – This can be done by setting up exchange programmes and secondments and ensuring there is a healthy exchange of knowledge and understanding of ecological assessments and financial markets.
- Open forums with representation from Statutory Nature Conservation Bodies – Setting up forums and platforms that encourage exchange of knowledge and encouraging representation across sectors and public bodies will be key

36: What level of regulation is needed to incentivise private investment in nature while ensuring additionality and environmental integrity?

What else should government be doing to facilitate the development of a market framework that provides investors, farmers and land managers, regulators and the public with confidence in the quality of privately financed nature projects?

Response

Before regulating private investment in nature, it will be important to recognise that there is already a flow of finance into activities that are harming nature. Regulating these investment flows by putting appropriate measures on financial institutions and insurance firms will be a key first step.

Additionally, and as recommended in Target 18 of the draft Global Biodiversity Framework, all subsidies and perverse incentives likely to be harmful to the environment and biodiversity must be identified and either eliminated in their entirety or reformed to specifically target nature-positive outcomes.

All legislation and regulation across government departments must be coherent and explicitly integrate, elevate and promote the inclusion of the multi-dimensional value of nature and biodiversity in decision-making processes and options appraisal, including the recognition of the impacts of business activities on nature and biodiversity, as well as the societal dependency on its natural resources. Care will also need to be taken to understand the extent to which any domestic regulation leads to offshoring of investment or negative impacts for the environment and biodiversity, as well as the livelihoods of those most dependent on natural assets. Not all ecosystem markets, such as wood carbon and sustainable designed appropriately and biodiversity can be a co benefit. But if not we need to ensure investments do no harm, so this is the same as the 'priority areas for woodland (question 19) and then are directed within an overall land use strategy

In addition, it will be important to ensure that new investments into nature recovery are being directed into the right geographical areas to incentivise priority activities and actions for the environment, climate and people, mitigate local and landscape impacts of biodiversity loss from those harmful activity, and/or increase the cumulative benefits from strengthening the network of ecological habitats. It follows that any regulation which seeks to incentivise private investment should be linked to land use policy (as described in responses to previous questions), directing and prioritising investment flows in the appropriate geographical areas. Regulation will also likely be required by government to ensure that the sale of multiple ecosystem services on a given parcel of land represents additional investment and improvements for nature and biodiversity. There will also need to be a long-term commitment to the right regulations to provide all stakeholders (businesses, landowners, private investors, government) with confidence in the decision-making process.

37: What financial impact do you think the proposals set out in this Green Paper would have either on business (e.g. landowners) or government?

Please let us know if you feel these proposals would have a significant impact on your business area, or if you think they would have an impact on public funds. For example, this could be about costs or if you think certain proposals would have a positive financial impact or create opportunities. Please tell us in what way you think these impacts would come about, which proposals would drive that change, and try to evidence any financial estimations of costs or benefits.

Response

JNCC supports the actions being proposed to increase private investment in nature. In addition, across all the measures it would be important that Defra engages closely with the country governments to ensure there is no inconsistency of approaches leading to misalignment or distortion of market incentives across the UK.

It will be necessary to develop methods and data collection, for example via the natural capital ecosystem assessment programme, that help to disentangle the wide breadth of benefits arising from the protection and restoration of key habitats, how these are linked to ecological functions and over what timescales, and inform investment decisions by public and private organisations in nature-based solutions. Accurate quantification and standardised monitoring, data flows and methods for measuring the protection and restoration benefits, e.g. carbon storage and sequestration, healthy soils or marine sediments, and naturally-functioning ecosystems, is crucial to encourage investment. The latter is often more relevant for blue ecosystems where measurement and quantification are an issue.

When looking at directing finance investment and building novel methods to create markets, the focus should be on both protection and restoration of habitat, such there is evidence that both social and private returns on investments from restoration are often significantly lower than protection due to high restoration and opportunity costs (arising from incumbent land use), lagged accrual of benefits from restoration projects, and variable probability of recovery of those key ecological functions underpinning benefits to society.

There is a need for a more comprehensive and standardised evidence base to ensure a coherent, level playing field for private investors across UK. Ensuring that we are working with government and UK country conservation bodies to achieve this will be key.