

# The Greater Wash potential Special Protection Area (pSPA)

## Report of Consultation by Natural England and the Joint Nature Conservation Committee (JNCC)

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## Version Control

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## Introduction

Formal consultation on the Greater Wash potential Special Protection Area (pSPA) ran from 18<sup>th</sup> October to 17<sup>th</sup> January 2017. The purpose of this Consultation Report is to set out all correspondence received by Natural England (NE) and the Joint Nature Conservation Committee (JNCC) during the public consultation and the associated responses provided. The site has both inshore and offshore elements and is therefore a joint site with Natural England and JNCC. Whilst Natural England led on the consultation process given it is largely an inshore site, the advice regarding the site and its classification is Natural England/JNCC joint advice provided to the Department of Environment, Food and Rural Affairs (Defra).

**Table 1: Summary of responses**

Site Name	The Greater Wash pSPA
Formal consultation period (13 weeks)	18 <sup>th</sup> October 2016 – 17 <sup>th</sup> January 2017
<b>Total number of stakeholder responses</b>	<b>36</b>
Organisations	20
Individuals/Unsolicited	4
Relevant/competent authorities	12
<b>Number of supporting responses</b>	<b>11</b>
Number of supportive responses that raise scientific concerns/queries	0
Number of supportive responses that raise socio-economic concerns/queries	3
Number of supportive responses that raise socio-economic and scientific concerns/queries	4
<b>Number of general enquiries/neutral responses</b>	<b>12</b>
Number of neutral responses that raise scientific concerns/queries	0
Number of neutral responses that raise socio-economic concerns/queries	4
Number of neutral responses that raise both scientific and socio-economic concerns/queries	2
<b>Number of objections</b>	<b>13</b>
Number of objections which raise scientific concerns/queries	0
Number of objections which raise socio-economic concerns/queries	2
Number of objections which raise both scientific and socio-economic concerns/queries	11
<b>Number of consultees with outstanding objections</b>	<b>9</b>

Details of Natural England's Non-Financial Scheme of Delegation (NFSoD) can be found in Appendix 1. Details of the Joint Nature Conservation Committee Schedule of Delegations (NFSoD) can be found in Appendix 2

## **Background**

Natural England works as the Government's statutory adviser to identify and recommend Special Protection Areas (SPAs) in England to meet the requirements of the European Birds Directive<sup>1</sup>.

The Joint Nature Conservation Committee (JNCC) is a statutory advisor to the UK Government and devolved administrations on UK-wide and international nature conservation. One of JNCC's roles is to identify and recommend Special Protection Areas (SPAs) in offshore waters (beyond 12 nautical miles) to meet the requirements of the European Birds Directive.

The Birds Directive requires the creation of a network of protected areas for important or threatened wildlife habitats across the European Union known as 'Natura 2000' sites. Once sites are identified as potential SPAs, they are recommended to government for approval to carry out a formal public consultation. Government decides which sites to classify and to put forward to the European Commission for inclusion in the Natura 2000 network.

### **The Greater Wash pSPA consultation**

The Greater Wash pSPA is located in the mid-southern part of the North Sea on the east coast of England, between the counties of Yorkshire and Suffolk. The site extends from Bridlington Bay in the north to Great Yarmouth on the coast, and further south offshore, where it meets the boundary of the existing Outer Thames Estuary SPA. The landward boundary extends to Mean High Water (MHW) and overlaps existing SPAs where terns are not existing features of those SPAs (e.g. The Wash, Humber Estuary, Gibraltar point, North Norfolk Coast and Great Yarmouth North Denes). When the pSPA meets existing SPAs where terns are already features of those sites, the pSPA abuts these sites (e.g. Humber Estuary SPA). The pSPA also abuts the northern boundary of the Outer Thames Estuary SPA as the distribution of red-throated diver is continuous between both sites.

The site has been recommended to protect important areas of sea used by waterbirds during the non-breeding period, and for foraging terns in the breeding season. Breeding tern colonies along the coast are already protected by a number of existing classified SPAs: Humber Estuary, Gibraltar Point, North Norfolk Coast, Breydon Water and Great Yarmouth North Denes. The Greater Wash pSPA boundary is a composite of the areas used by these foraging terns, common scoter and red-throated diver.

The Greater Wash pSPA qualifies under Article 4 of the Birds Directive (2009/147/EC) for the following reasons:

- The site regularly supports more than 1% of the Great Britain populations of three breeding tern species: **Sandwich tern** (*Sterna sandvicensis*), **little tern** (*Sternula albifrons*) and **common tern** (*Sterna hirundo*), and non-breeding population of **red-throated diver** (*Gavia stellata*) listed in Annex I of the EC Birds Directive. Therefore the site qualifies for SPA classification in accordance with the UK SPA selection guidelines (stage 1.1).
- The site supports a regularly occurring migratory species not listed in Annex I of the EC Birds Directive: **common scoter** (*Melanitta nigra*), and would therefore extend the currently insufficient range coverage of the current suite of SPAs for this species. The site is also identified as one of the most important areas for non-breeding individuals of the Annex I species **little gull** (*Hydrocoloeus*

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<sup>1</sup> EEC, 2009, Council Directive 2009/409/EEC of 30 November 2009 on the Conservation of Wild Birds. Official Journal L20, 26.1.2010, p.7-25

*minutus*). Therefore the site qualifies for SPA classification in accordance with the UK SPA selection guidelines (stage 1.4).

## **The Consultation Process**

### **Informal Dialogue**

Informal dialogue was carried out for a 12 week period starting from the 7<sup>th</sup> Sept 2015, to allow key stakeholders to input into the process and provide any additional information or data related to the proposal.

### **Formal Consultation**

A formal public consultation was carried out on the site proposals for 13 weeks from 18<sup>th</sup> October 2016 to 17<sup>th</sup> January 2017. The purpose of this consultation was to seek the views of all interested parties on the scientific case for the classification of The Greater Wash potential SPA, and the assessment of the likely economic, environmental and social impacts of the proposals, as set out in the Impact Assessment (IA).

The Habitats and Birds Directives do not permit socio-economic considerations to influence the choice of Natura 2000 sites (SPAs and Special Areas of Conservation) or their boundaries<sup>2</sup>. However, a full assessment of socio-economic impacts for the site was undertaken in the form of an Impact Assessment (IA) before the consultation, based upon the current understanding of existing and planned activities occurring within the pSPA, to inform government of likely impacts and benefits of a classification of the pSPA.

### **Raising awareness about the Consultation**

Natural England and the JNCC contacted all major stakeholders with an interest in the pSPA, as well as owner/occupiers and relevant Members of Parliament (MPs). A total of 679 stakeholders and owner/occupiers were contacted during the formal consultation. Approximately 430 stakeholders were contacted by email announcing the formal consultation and the remainder contacted by letter. Each stakeholder was provided with a covering letter and a link to the formal consultation package, which contained a consultation summary document, the Departmental Brief (describing the scientific case underpinning the proposal), the Impact Assessment and maps showing the proposed SPA boundary. Stakeholders were also provided with the option to respond via an online survey. 249 owner/occupiers were sent hard copies of the covering letter and formal consultation package by post. A meeting with Natural England staff to discuss the proposals was offered to all major stakeholders. Provision was made to send hard copies of the consultation documents on request to anybody who was unable to access the documents online.

A press release was distributed to relevant media at the start of formal consultation, which contained details of the proposals and information about the consultation. Reminder emails were sent to stakeholders two weeks before the consultation deadline to encourage responses before the closing date. The consultation questions were seeking views on the scientific evidence underpinning the pSPA and on the Impact Assessment produced for the pSPA (Appendix 3).

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<sup>2</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)

<sup>2</sup> 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)

## Consultation Responses

Natural England received **48** formal consultation response submissions during the formal consultation period. **12** were from authorities, **4** from individuals and **32** from interested organisations. **36** of these were full consultation responses, **8** of these were requests for shapefiles and **3** provided alternative contacts for future correspondence.

Of the **36** full consultation responses received, **seven** responses were highly supportive of the proposals, and **four** were supportive in principle but raised concerns about management of the pSPA. **12** responses were neutral, **two** of these requested information, and a further **5** were neutral with some concerns. **13** objecting responses were received, of these **4** were resolved during formal consultation, **9** are outstanding and relate to the scientific case for the pSPA.

The majority of scientific objections received were submitted by the wind farm community, aggregate industry representatives, and ports and shipping representative bodies. The majority of supportive responses were submitted by the fishing industry, the local planning authorities, marine regulators and NGOs.

## Consultation Conclusion; Natural England and JNCC's Advice to Defra

**Natural England and the JNCC have considered the principal issues raised by consultees, and noted the objections which are outlined below. Both Natural England and JNCC 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 the pSPA, respectively. Both statutory advisers confirm the recommendation of the Greater Wash pSPA to be classified on the basis of the available scientific evidence as set out in the Departmental Brief with the following amendment:**

### Issues for consideration by Defra

#### **Summary of the main scientific objections raised by respondents and Natural England/JNCC responses:**

A number of organisations raised similar issues with regard to the scientific case including the age of data, the abundance and distribution of red-throated diver, the complexity of the boundary, the criteria for classification, and limited little gull data. Furthermore, issues were raised with regard to the lack of a defined most important area for little gull, the timing of little gull surveys, underestimation of the common scoter population, the use of a disturbance halo<sup>3</sup> to define the boundary, re-analysis of the data set incorporating additional offshore wind farm (OWF) data and habitat mapping for the features. The Marine Management Organisation and The Eastern Inshore Fisheries and Conservation Authority did not object to the scientific case for the site although they are mentioned in the summary of issues below (and detailed in Table 3) as having outstanding points for consideration by Defra. Additionally, Scottish Power Renewables and East Riding Yorkshire Council recently confirmed their objection is no longer outstanding. Details of issues raised can be found in Table 3, a summary is provided below.

- Natural England and JNCC would like to highlight for Defra's consideration as unresolved objections issues raised by **Renewables UK** (page 31); **Centrica Lincs** (page 23); **British Marine Aggregate**

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<sup>3</sup> The BMAPA requested that an additional 2km disturbance buffer be applied to the Greater Wash boundary when assessing impacts of activities on red-throated diver.

**Producers Association** (page 42); **DONG Energy** (page 37); and **Race Bank OWF** (page 34) who **dispute the population number and distribution of red-throated diver**. Based on new (albeit commercially in confidence) data, these stakeholders are concerned that the abundance and distribution of red-throated diver within the pSPA has changed since the original survey data were collected (2002/03 to 2007/08). They refer in particular to lowered densities of this species in the middle of the pSPA around Lincs OWF and Lynn and Inner Dowsing OWF suggesting that this reduction would warrant a change of the pSPA boundary which excludes these OWF areas from the pSPA (for more details refer to Appendix 5). Natural England and JNCC have considered the proposal of the stakeholders, but maintain to recommend that the site should be classified as outlined in the Departmental Brief because (1) Seabird surveys conducted between the winter seasons 2002/2003 – 2007/2008 show that the areas of sea in and around Lynn, Inner Dowsing and Lincs windfarm supported some of the highest densities of red-throated diver in the pSPA. There is now an area of relatively low diver density in the centre of the pSPA at a location where diver density used to be high, relative to that in surrounding areas. This is likely to have been caused by a behavioural response by the birds which leads them to avoid OWF structures and associated human activities (Garthe & Hüppop, 2004<sup>4</sup>, Furness et. al., 2013<sup>5</sup>, Peterson et al. 2006<sup>6</sup>). Omitting this important core area (geographically) from the centre of the pSPA, where habitat characteristics are suitable for the birds (see Point 2), would compromise the integrity of the site, regardless of whether numbers of red-throated divers have recently been reduced in this core area or not. (2) The windfarm areas of concern overlay shallow water (< 30m) and sandbanks. Red-throated diver have been associated elsewhere in the UK with shallow waters (Skov et. al., 1995<sup>7</sup>; Stone et. al. 1995<sup>8</sup>) and the type of sandbank occurring in the area of the OWFs (Skov et. al., 2016<sup>9</sup>); they are likely to use that area because of these habitat characteristics. In addition, the marine licence granting consent for the operation and maintenance of the Lincs OWF is a non-permanent time-limited consent for a period of 25 years (up to 2038) at which time the OWF will be decommissioned (if there is no subsequent licence) in line with the Environmental Statement (ES)<sup>10</sup>. Unless the OWF were to materially alter the marine environment of the area beyond the time of decommissioning, there is a possibility that red-throated diver at least to some degree may recolonise the area, although the extent to which this might happen at present is unknown. (3) Assessments of post-construction monitoring data suggest that not all individuals will be displaced, some will stay in the area (DECC, 2013<sup>11</sup>; NIRAS Consulting, 2013<sup>12</sup>; Percival, 2010<sup>13</sup>).

- Natural England and JNCC would like to highlight for Defra's consideration an unresolved objection raised by **Renewables UK** (page 31); **Anonymous** (page 27); **Centrica, Lincs** (page 23); **British**

<sup>4</sup> Garthe, S & Hüppop, O. (2004) Scaling possible adverse effects of marine wind farms on seabirds: developing and applying a vulnerability index. *Journal of Applied Ecology* 41, 724-734.

<sup>5</sup> Furness, R.W., Wade, H.M. & Masden, E.A. (2013). Assessing vulnerability of marine bird populations to offshore wind farms. *Journal of Environmental Management* 119, 56 – 66.

<sup>6</sup> Petersen, I.K., Christensen, T.K., Kahelrt, J., Desholm, M, & Fox, A.D. (2006). Final Results of Bird Studies at the Offshore Wind Farms at Nysted and Horns Rev, Denmark. NERI report to DONG energy / Vattenfall A/S.

<sup>7</sup> Skov, H., Durinck, J., Leopold, M.F. & Tasker, M.L. 1995. *Important Bird Areas for Seabirds in the North Sea including the Channel and the Kattegat*. Cambridge, BirdLife International.

<sup>8</sup> Stone, C.J., Webb, A., Barton, C., Ratcliffe, N., Reed, T.C., Tasker, M.L., Camphuysen, C.J. & Pienkowski, M.W. 1995. *An atlas of seabird distribution in north-west European waters*. Peterborough, JNCC.

<sup>9</sup> Skov, H., Heinanen, S., Thaxter, C.B., Williams, A.E., Lohier, S. & Banks, A.N. (2016). Real-time species distribution models for conservation and management of natural resources in marine environments. *Marine Ecology Progress Series*, 542, 221-234.

<sup>10</sup> OWF are generally consented on the basis that they have long term temporary impacts and these impacts will be removed when the consenting period expires and the farm is removed.

<sup>11</sup> DECC 2013. Record of the Habitats Regulations Assessment undertaken under Regulation 61(1) of the Conservation of Habitats and Species Regulations 2010 (as amended) for an application under the Planning Act 2008 (as amended). January 2013. Department of Energy and Climate Change.

<sup>12</sup> NIRAS Consulting Ltd. 2013. Burbo Bank Extension Offshore Wind Farm. Paper 7: Red-throated Diver Displacement.

<sup>13</sup> Percival, S.M. 2010. Kentish Flats Offshore Wind Farm: Diver Surveys 2009-10. Ecology Consulting Report to DONG Energy.

**Marine Aggregate Producers Association** (page 42); **DONG Energy** (page 37); **Race Bank OWF** (page 34); and **British Ports Association** (page 40) who **queried the age of survey data used to inform the site classification**. The SPA selection guidelines (Stroud et al 2001<sup>14</sup>) do not provide guidance on age requirements for data used in SPA classification, however, care has been taken to use the best available data according to EC guidance<sup>15</sup> at the time of the analysis. To identify the Greater Wash pSPA, long-term comprehensive datasets derived from bespoke aerial surveys were used. More recent data collected by windfarm developers were unsuitable for the analysis (see the next paragraph). We therefore maintain that the aerial survey data used represents the best available evidence and is suitable to demonstrate the importance and extent of the site for the proposed features. Scottish Power Renewables (page 30) also raised this query although have confirmed in writing that their objection is no longer current and The Marine Management Organisation (page 16) also raised this query have noted their support for the proposal.

- Natural England and JNCC would like to highlight for Defra's consideration as unresolved objections issues raised by **Renewables UK** (page 31); **Scottish Power Renewables** (page 30); **Centrica Lincs** (page 23); **British Marine Aggregate Producers Association** (pages 42); and **Race Bank OWF** (page 34) who requested **a re-analysis of additional, more recent survey data on seabird distributions collected by the OWF industry as part of license condition requirements and incorporation of these datasets into the model to revise the site boundary**. We reviewed additional publicly available datasets but found these were not suitable for the purpose of SPA identification, due to their limited spatial extent which covered a more limited sea area than the Area of Search<sup>16</sup>. To identify the most important marine bird areas in a given area (e.g. Greater Wash Area of Search), it is necessary to collect survey data over that entire area to ensure all important bird areas are identified (see Appendix 6 for map showing the Greater Wash Area of Search). In contrast the OWF survey area is defined by the windfarm area of interest and therefore it is spatially limited and not suitable for identifying all important bird areas within the Greater Wash area. Apart from the publicly available data, no further datasets were provided by offshore windfarm developers during formal consultation which could have been considered. Scottish Power Renewables (page 30) also raised this query although have confirmed in writing their objection is no longer current and The Marine Management Organisation (page 16) who also raised this query have noted their support for the proposals.
- Natural England and JNCC would like to highlight for Defra's consideration as unresolved objections issues raised by **Anonymous** (page 27), who **queries the criteria for classification**. Although it is agreed that the SPA Selection Criteria (Stroud et al 2001)<sup>17</sup> have been met by the Greater Wash pSPA, stakeholders raised concerns that the population threshold is low and that for little gull, despite qualifying under 1.4 of the UK Marine SPA Selection guidelines, the data are not robust. We clarified that Webb & Reid (2004)<sup>18</sup> reviewed the guidelines for selecting SPAs in the United Kingdom as described in Stroud *et al.* (2001), and maintain these are adequate, appropriate and well established for site selection in the inshore environment for non-breeding waterbird

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<sup>14</sup> Stroud, D.A., Chambers, D., Cook, S., Buxton, N., Fraser, B., Clement, P., Lewis, P., Mclean, I., Baker, H. and Whitehead, S. 2001. The UK SPA network: its scope and content. Volumes 1-3. JNCC, Peterborough, UK.

<sup>15</sup> Guidelines for the establishment of the Natura 2000 network in the marine environment. Application of the Habitats and Birds Directive (Page 62): Available from: [http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine\\_guidelines.pdf](http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine_guidelines.pdf)

<sup>16</sup> See Appendix 5 for a map of the Greater Wash Area of Search.

<sup>17</sup> Stroud, D.A., Chambers, D., Cook, S., Buxton, N., Fraser, B., Clement, P., Lewis, P., Mclean, I., Baker, H. and Whitehead, S. 2001. The UK SPA network: its scope and content. Volumes 1-3. JNCC, Peterborough, UK.

<sup>18</sup> Webb, A. and Reid, J.B. 2004. Guidelines for the selection of marine SPAs for aggregations of inshore non-breeding waterbirds. Annex B in Johnston, C., Turnbull, C., Reid, J.B., and Webb, A. 2004. Marine Natura 2000: Update on progress in Marine Natura. Unpublished JNCC paper, March 2004. <http://www.jncc.gov.uk/PDF/comm04P05.pdf>



aggregations. Natural England and JNCC have followed the scientific criteria set out in the UK SPA Selection Guidelines (Stroud *et al.* 2001), as detailed in sections 5.2 and 5.6 of the Departmental Brief. While the data available for little gull were indeed unsuitable to be used for the definition of a boundary, due to the limited amounts of data and the variability in the little gull distribution, two years of winter surveys were robust enough and sufficient to establish that the area of sea within the boundary of the Greater Wash pSPA, as defined by its other features, holds one of the largest known wintering populations of little gull in the UK and merits classification as an SPA according to the UK SPA selection guidelines (Stroud *et al.* 2001).

- Natural England and JNCC would like to highlight for Defra's consideration as unresolved objections issues raised by an **Anonymous** stakeholder (page 27), who felt there were **insufficient data to produce a little gull population estimate**. They suggest data are insufficient to identify the most important sites for little gull in the UK. The respondent highlighted that a lack of a UK population estimate for little gull suggests that UK survey coverage for this species is incomplete, and other comparable, or even larger, populations of little gull may be present in other areas in the UK. Natural England and JNCC clarified that the lack of a UK population estimate for little gull does not diminish the relevance of the Greater Wash pSPA for this species. Current evidence (Table 6, Departmental Brief), including data from the comprehensive survey coverage in 46 Areas of Search around the UK during the work on SPA identification<sup>19</sup>, indicates the Greater Wash pSPA supports the 2<sup>nd</sup> largest known population of non-breeding little gull in the UK, and little gull therefore merits classification as a feature of this pSPA under stage 1.4 SPA selection criteria.

In addition to the above, individual stakeholders raised further queries around the scientific case for the site;

- Natural England and JNCC would like to highlight for Defra's consideration an issue raised by the **RSPB** (Page 47), who point out **the difference in tern citation numbers between breeding colonies and the Greater Wash pSPA**. The RSPB are concerned about disparity between tern populations cited, and populations cited at corresponding land colonies, and recommends they are made the same. Natural England and JNCC have used the most recently available data from breeding colonies to determine the pSPA population of each species. This ensures that any changes to breeding colony populations within existing SPAs since their classification are incorporated in the population abundance of the entirely new pSPA, and avoids using data from the time of classification of existing SPAs that are potentially 20-30 years old.
- Natural England and JNCC would like to highlight for Defra's consideration as unresolved objections issues raised by **Centrica, Lincs OWF** (page 23), who object to **the lack of the identification of a most important area for little gull within the site boundary as defined in the Departmental Brief and requested that important areas for little gull be identified upon publication of conservation objectives**. Natural England and JNCC clarified that no defined important area based on Maximum Curvature Analysis (MCA) was identified for little gull as two years of winter survey data was regarded as insufficient to confidently define a boundary (full rationale available in the Departmental Brief), but raw data are provided. Little gull is a feature of the site under selection guideline 1.4. In this case the 'little gull important area' is effectively the site boundary.

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<sup>19</sup> [http://jncc.defra.gov.uk/pdf/SAS\\_MN2KPG7\\_5\\_SPAnetwork\\_paper.pdf](http://jncc.defra.gov.uk/pdf/SAS_MN2KPG7_5_SPAnetwork_paper.pdf)

- Natural England and JNCC would like to highlight for Defra's consideration as unresolved objections issues raised by an **anonymous** stakeholder (Page 27) who **rejects the timing of little gull surveys, as surveys were undertaken later in the year than the expected peak passage period for little gull**. Natural England and JNCC accept this comment, however note that surveys were primarily focused on inshore wintering waterbird aggregations and not planned to coincide with peak passage periods of little gull. Therefore, we can confirm the little gull population supported by the pSPA refers to the lower, wintering population estimate. In spite of this the wintering population number is large enough to merit classification as a feature of this pSPA under stage 1.4 SPA selection criteria. In absence of bespoke little gull surveys during autumn, the survey data from the winter season represents the best available information on little gull numbers and distribution in the Greater Wash.
- Natural England and JNCC would like to highlight for Defra's consideration an issue raised by **RSPB** (page 47) that **the common scoter population may have been underestimated, as the near-shore area is often missed by visual aerial surveys**. RSPB recommended undertaking further survey effort post-classification. JNCC recognised some of the limitations of aerial survey in determining common scoter population abundance estimates (Lawson *et al.* 2016<sup>20</sup>) and the Departmental Brief made comparisons of the population estimate from JNCC surveys with other (shore-based) data sources. These found populations estimates to be broadly similar. It is likely that post-classification digital aerial surveys will be considered to produce revised population estimates of this feature (and others) that are based on the most up-to-date survey technology ie digital aerial imagery. For a number of reasons these are likely to result in increased accuracy of population estimates.
- Natural England and JNCC would like to highlight for Defra's consideration as unresolved objections issues raised by **Centrica, Lincs OWF** (Page 23), who suggest **that habitat mapping for species would strengthen the evidence base for classification**. Natural England and JNCC clarified that site-specific survey data are available which provides an accurate representation of species abundance and distributions. Information provided by habitat mapping, while useful, is not therefore required where direct evidence such as aerial survey data on the birds' distribution is available.
- Natural England and JNCC would like to highlight for Defra's consideration as unresolved objections issues raised by **British Ports Association** (page 40) who make the recommendation to **exclude all port statutory limits, shipping channels and marinas from all pSPAs/SPAs**. They queried the compatibility of including port limits within pSPAs/SPAs and suggested the boundary extends over much larger areas than the feeding grounds. Natural England and JNCC confirmed that the modelling demonstrates usage by foraging terns in areas such as port limits and shipping channels (verified through additional non-site specific surveys in 2015). Tern species are consistently scored as being amongst the least sensitive species to disturbance from vessel and helicopter traffic. Together with the verification survey findings, this demonstrates that tern species forage in areas in which noise and visual disturbance occurs. The areas which have been included within site boundaries including port, harbours and marinas is restricted to those areas considered to be of greatest importance to the birds whilst deliberately excluding areas of use that are of lesser importance.

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<sup>20</sup> Lawson, J., Kober, K., Win, I., Allcock, Z., Black, J. Reid, J.B., Way, L. & O'Brien, S.H. 2016. An assessment of the numbers and distribution of wintering red-throated diver, little gull and common scoter in the Greater Wash. JNCC Report No 574. JNCC, Peterborough

- Natural England and JNCC would like to acknowledge a point raised by Dudgeon Offshore Wind Farm Project and Dong Energy who have noted inaccuracies in the draft citation which is found in the Departmental Brief. Dudgeon Offshore Wind Farm project noted that the description in the draft citation is not clear with respect to the SPA selection guideline stage that little gull qualifies under. Dong Energy reported a discrepancy between the site area figure reported in the site map and the area figure in the draft citation. Natural England and JNCC have considered the observations and recommend that the final citation is amended to (1) be clear with respect to the guidelines under which the different species qualify (suggested rewording presented in Appendix 4), and (2) correct the total site area in the final citation from 3,443 km<sup>2</sup> (344,267 ha) to 3,606 km<sup>2</sup> (360,640 ha). These changes do not affect stakeholder's views or alter the scientific basis for the site or the boundary itself.

### **Main socio-economic objections raised by respondents:**

In addition, a number of socio-economic concerns were raised, as outlined below. As highlighted previously, socio-economic considerations cannot influence the designation of SPAs or their boundaries which must be based on scientific evidence. As a result, the information provided below is an overview and does not describe each issue in detail although all stakeholders raising socio-economic queries/concerns were responded to in writing. Further detail of the stakeholders that raised each concern can be found in Table 3, the socio-economic concerns raised included:

- Seeking clarification on the requirement and process for a review of consent and the associated timeline and costs;
- Querying the cost to developers of a Habitats Regulation Assessment, varying an existing consent and the worst case scenario for the renewable energy industry;
- Querying why conservation objectives and or management were not set prior to classification;
- Questioning the use of a replacement cost approach and the inclusion of existence value in the Impact Assessment;
- Querying why OWF costs were not considered in combination with other N2K designations being progressed in parallel;
- Concern that the classification is biased against the commercial fishing industry stating that the rationale is biased towards more restriction and closures;
- Querying the costs to IFCA's for a by-catch study and bye-law/ enforcement activity;
- A request to further qualify the benefits of the pSPA;
- A request to develop cost scenarios for recreational boating activity within the pSPA;
- A request to include the costs of developing voluntary codes of conduct;
- Querying the cost burden to existing European Marine Sites for any future management requirements and questioning who the lead authority will be;
- Seeking clarification that the pSPA would not impact upon coastal defence in The Wash or require compulsory purchase of land to provide compensatory habitat;
- OWF developers provided updates to the status and number of OWF projects in the pSPA and provided cost estimates to inform the sunk costs.
- The response to the requirement for an MPA management group was mixed; eleven stakeholders were supportive of establishing a new group, eight objected and the remainder made no comment.

Where appropriate the Impact Assessment has been updated to incorporate information provided at informal dialogue. Multiple stakeholder groups, notably partner organisations such as the IFCA's, feel that the Impact Assessment would have benefited greatly from prior informal discussion to inform figures and assumptions. Natural England requested comments on the Vulnerability Assessment findings and socio-

economic impacts to business during informal dialogue. The IA presented at consultation was therefore based on a number of assumptions which were tested during formal consultation. We recognised that more detailed engagement regarding cost estimates during informal dialogue may have been helpful although we are content the assumptions have been sufficiently tested during formal consultation.

## Detail of Consultation Responses

**Table 2: Response categories**

Categories of Responses	
Number	Type
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 – not outstanding

The stakeholder's representation is outlined together with Natural England and JNCC's response and recommendation to Defra in Table 3 below. Natural England and JNCC will provide Defra with a consultation package including copies of all consultation responses received, as required, and Natural England and JNCC's 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 categorised as follows:

- A - Local authorities/other competent authorities
- B - Interested parties/Organisations
- C - Members of the public and unsolicited response

**Table 3: Consultation responses**

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
<b>A. Local authorities/other competent authorities</b>				
Trinity House – General Lighthouse Authority	Neutral response.  1. Informed Natural England and JNCC of Trinity House’s statutory activities and property within the proposed SPA area.	1	1. Acknowledgment provided. Natural England/JNCC clarified that whilst Trinity House’s activities are highly unlikely to impact the features of the pSPA, management may be required if the activities were found to have an adverse impact on the site.	None
Norfolk County Council	Supportive of the proposals (online survey)  1. Rejection of need for new SPA management group. No explanation given.	2	1. Acknowledgment provided.	None
North East Lincolnshire Council	Supportive of the proposals (online survey).  1. Rejection of need for new SPA management group. No explanation given.	2	1. Acknowledgement provided.	None
The Crown Estate	Neutral response.  1. Outlined relevant licensed activities occurring within or near the pSPA, and requested clarification that Natural England/JNCC consulted with any projects which may be impacted.	1	1. Acknowledgement provided.	None
East Riding of Yorkshire Council	Objecting response. Ongoing discussions with East Riding of Yorkshire Council have removed all objections except the landward boundary (Point 1 below).  1. Disagrees with landward boundary on scientific grounds. Considers it should be	5/6/8	Acknowledgement and detailed response provided as follows;  1. Clarified that the pSPA landward boundary is set to Mean High Water (MHW) in accordance with UK marine SPA Selection guidance. Webb & Reid (2004) state that where the distribution of birds is likely to meet land,	None

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
	<p>Mean Low Water (MLW), rather than Mean High Water, in areas which are being classified for red-throated diver only and note that this is the case for the Outer Thames Estuary SPA.</p> <p>2. Queries the complexity of the seaward boundary of pSPA north of Spurn Point as it is based on red-throated diver data collected over only 2 seasons, which may miss year on year variation.</p> <p>3. Considers that the IA underestimated additional costs of the pSPA for maintaining coastal defences, due to Habitat Regulation Assessment (HRA) requirements. Also concerned that additional ecological surveys would be required prior to any coastal defence work.</p>		<p>landward boundaries should be set at MHW “unless there is evidence that the qualifying species make no use of the intertidal region at high water”. Expert accounts of the general habits of red-throated diver corroborate the use of intertidal habitats.</p> <p>2. Clarified that based on full coverage survey data, the area north of Spurn Point was objectively identified as important, supporting higher density aggregations of red-throated diver and therefore included within the SPA boundary. Additional data from a third year (2006/07) reflect a similar distribution, and corroborated the proposed boundary.</p> <p>3. Clarified that maintenance of existing hard coastal defences are unlikely to impact on the populations of red-throated diver, common scoter and little gull as the density of these species is lower in the coastal zone. In this context, we do not anticipate that a detailed Habitats Regulation Assessment would be needed to consider impacts on the pSPA from small-scale maintenance works.</p> <p>East Riding of Yorkshire Council confirmed in writing in April 2017 that all concerns are now resolved and no longer considered as outstanding for Defra’s consideration.</p>	
South Holland District Council	<p>Neutral response.</p> <p>1. Noted that the Council is not a relevant authority for the Greater Wash pSPA and unable to comment on the proposals.+</p>	1	Acknowledgement provided.	None
Maritime and Coastguard Agency	Neutral response.	1/3	Acknowledgement provided.	None

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
(MCA)	1. Outlined MCA's statutory activities in the area.		1. Clarified that the pSPA would not introduce any new requirement for MCA to seek prior consent from Natural England to perform statutory duties. Noted that in the unlikely event that the MCA cannot exclude the risk of likely impacts to tern species, an 'appropriate assessment' of likely impacts may be required.	
Historic England	Neutral response.  1. Noted that the pSPA will not impact Historic England activities.	1	Acknowledgement provided.	None
Department for Business, Energy and Industrial Strategy (BEIS) – Oil and Gas, Environment and Decommissioning (OGED)	Neutral response accepts the scientific proposal for the site although raised the following concerns:  1. States that the pSPA boundary is particularly complicated, and suggests it should be simplified for administrative reasons.  2. Raised a number of socio-economic concerns including; the IA not including the impact upon oil and gas provisional awards; disagrees with the cost estimates for potential oil and gas sector mitigation measures; and notes that the cost of HRA assessments for new developments should be included within the IA  3. Rejects the need for a new SPA management group	1/5/8/9	Acknowledgement provided and detailed response provided as follows  1. Boundary follows guidance using standard methodology applied for SPA suite. Boundary is a compromise between simplified straight lines & minimising the inclusion of lower density areas beyond the important areas identified by the analysis.  2. Natural England determined no significant interaction between SPA features and oil and gas activity; acknowledged that mitigation costs exist although a significant interaction with current activity is unlikely; and clarified that the IA only considered costs associated with current and ongoing activities and not unknown future planned activity.  3. Acknowledgement provided.	None
Marine Management	Supportive response and accepts scientific	2/6/8	Acknowledgement provided and detailed response as	None



CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
Organisation (MMO)	<p>proposal, with some comments/concerns.</p> <ol style="list-style-type: none"> <li>1. States there is additional offshore wind farm scientific monitoring data available which should be used.</li> <li>2. Concerned with the age of some of the data.</li> <li>3. Raised a number of socio-economic concerns including; estimates for worst case scenario offshore wind farm costs should be much higher, the full range of fishing methods in the area is not adequately represented in the IA, nor are the costs of mitigation measures to fishers if required. Queried why there are not best/worst case scenario estimates for shipping.</li> <li>4. Disagrees with need for new SPA management group</li> </ol>		<p>follows:</p> <ol style="list-style-type: none"> <li>1. Additional data sets were requested but not received from the offshore wind industry. All available additional data were reviewed, but are not of adequate spatial scale to include in analysis.</li> <li>2. The SPA selection guidelines (Stroud et al 2001) do not provide guidance on age requirements for data used in SPA classification, however, every effort is made to use the best available data at the time of the analysis. We have used long term comprehensive datasets derived from aerial surveys (2002/3 – 2006/7) which adhere to the required SPA selection guidelines and European Commission guidance More recent data collected by windfarm developers were unsuitable for the analysis. We therefore maintain that the aerial survey data used represents the best available evidence and is suitable to demonstrate the importance and extent of the site for the proposed features.</li> <li>3. Acknowledgement provided. Further discussion held with offshore wind farm community to update estimates for worst case scenario. Further information from the MMO and IFCA's has been incorporated into the IA to describe fishing activity within the site and estimates for mitigation and enforcement costs have been included in the Impact Assessment. Clarified that port and shipping activity pre-dates the pSPA bird surveys, therefore activity will be reflected in the survey data i.e. birds were already displaced or habituated. Although there may be an impact of shipping on the distributions, this is incorporated into the 'baseline' and therefore scenarios were not developed.</li> </ol>	

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
			4. Acknowledgement provided.	
Eastern Inshore Fisheries and Conservation Authority (EIFCA)	<p>Broadly supportive of proposals, but raised several queries.</p> <ol style="list-style-type: none"> <li>1. Queried why no little gull data sets were recorded during 2002/03 surveys; were there none or just not recorded?</li> <li>2. Suggests additional data are available for fishing activity within the site, from EIFCA and NEIFCA</li> <li>3. Raised a number of socio-economic concerns including: rejecting the cost of bycatch study &amp; the byelaw advertisement costs. Questioned the timescale for the national prey availability study and recommended using tourism figures to inform the Impact Assessment benefits chapter. Recommends that Natural England and the JNCC contact partner authorities prior to consultation regarding cost estimates.</li> <li>4. Supports some type of coordinated management between authorities, whether in form of a board or potentially a new management group</li> </ol>	2/6/8/	<p>Acknowledgement provided and detailed response as follows:</p> <ol style="list-style-type: none"> <li>1. Natural England/JNCC clarified that observers were not requested to record little gull data in 2002/03.</li> <li>2. Clarified that both IFCAs were contacted regarding additional fisheries activity sightings data, which was provided. The data were sparse / non-existent and of low quality.</li> <li>3. Further discussions during formal consultation held with IFCAs to update by-catch study and byelaw costs, and develop estimates for mitigation and enforcement costs. Impact Assessment updated. Clarified that there is currently no national timescale for the prey availability study. Acknowledgement of benefits comment provided but no further site specific information available to update the Impact Assessment. Natural England/JNCC note that views were sought prior to formal consultation regarding site proposals although acknowledges that discussions with partner organisations prior to consultation regarding specific cost estimates would be beneficial when possible. Natural England is supportive of this proposal for future marine designations.</li> <li>4. Acknowledgement provided.</li> </ol>	Not explicitly stated, but consultee may consider their issue to be current.
North Eastern Inshore Fisheries and Conservation Authority (NEIFCA)	<p>Supportive of proposals, provided the following comments.</p> <ol style="list-style-type: none"> <li>1. States the site boundary is overly</li> </ol>	2/5/8/9	<p>Acknowledgement provided and detailed response as follows:</p> <ol style="list-style-type: none"> <li>1. Boundary follows guidance using standard</li> </ol>	None

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
	<p>complex, and that a simpler boundary would make management and enforcement measures easier.</p> <p>2. Disagrees with the costs of by-catch study and the byelaw advertisement costs stated in the IA.</p> <p>3. Recommends that Natural England and the JNCC contact partner authorities prior to consultation.</p>		<p>methodology applied for SPA suite. Boundary is a compromise between simplified straight lines &amp; minimising the inclusion of lower density areas beyond the important areas identified by the analysis.</p> <p>2. Further discussion held with IFCA's to update by-catch study and byelaw costs and develop estimates for mitigation and enforcement costs. Impact Assessment updated.</p> <p>3. NE/JNCC note that views were sought prior to formal consultation regarding site proposals although acknowledges that discussions with partner organisations prior to consultation regarding cost estimates would be beneficial when possible. NE is supportive of this proposal for future marine designations.</p>	

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
<b>B. Interested parties/organisations</b>				
<p>██████████ National Farmers Union (NFU)</p>	<p>Objecting response with the following comments:</p> <p>1. Raised a number of socio-economic concerns including; objection on potential</p>	8/5/9	<p>Acknowledgement provided and detailed response as follows:</p> <p>1. Clarified that Water Framework Directive Targets exist irrespective of the pSPA. Clarified that The Wash</p>	None

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	<p>impact on farming arising from restriction of pollutant discharge, Coastal Defence and seawall maintenance and compulsory purchase for compensatory habitat for the pSPA may infringe on farmland and farming.</p> <p>2. Concern that the pSPA may be underpinned by further terrestrial SSSI designations and associated management measures.</p>		<p>is an existing SPA and that the pSPA is unlikely to represent a constraint to the maintenance of seawalls. Provided assurances that compulsory purchase of compensatory habitat for the over-wintering features is an unlikely option.</p> <p>2. Explained that the pSPA boundary only extends to Mean High Water and will abut, but not overlap with terrestrial designations. Therefore the establishment of terrestrial SSSI's is unlikely. Natural England confirmed that the designation programme does not include any proposals for SSSI notification.</p>	
British Sub Aqua Club (BSAC)	<p>Supportive of the proposals</p> <p>1. Supportive of need for new SPA management group.</p>	2	1. Acknowledgment provided.	None
The Wash Fishing Industry Association.	<p>Objecting response with the following comments:</p> <p>1. Rejected the scientific proposal as 'completely biased' towards more restrictions and closures for the commercial fishing industry.</p> <p>2. Rejected the validity of the Impact Assessment, especially when estimating the impact of the pSPA upon the commercial fishing industry.</p> <p>3. Supportive of the need for a new SPA management group.</p>	4/7/8/	<p>Acknowledgement provided and detailed response as follows:</p> <p>1. Clarified that the scientific case for the Greater Wash pSPA cannot take account of socio-economic factors. Noted that the IA aims to set out likely socio-economic costs (and benefits) of the pSPA and makes it clear that restrictions or closures would be an unlikely last resort. Also clarified that any management measures would only be implemented following discussions with all interested parties, including the commercial fishing industry.</p> <p>2. Acknowledgement provided and the offer of a meeting to discuss points further was made.</p> <p>3. Acknowledgement provided.</p>	Not explicitly stated but consultee may consider their issue to be current.
Flamborough	Neutral response, with the following	8/9	Acknowledgement provided and detailed response as	None

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
European Marine Site Project	<p>comments;</p> <p>1. Raised a number of socio-economic concerns including; the suitability of existing codes of conduct for the pSPA and of monitoring and management of recreational disturbance. Rejected the minimum scenario (£0) for national coordination of management and that costs could be absorbed by relevant authorities. Requests that local authorities be included in the small group of relevant authorities suggested in the best estimates. Noted that the MPA national steering group is already in place.</p> <p>2. Rejects that EMS management schemes would be willing to take on management of local coastal issues without prior discussion.</p>		<p>follows:</p> <p>1. Clarified there is currently no structure in place for future management of the pSPA. Acknowledged cost and time requirements for developing voluntary codes of conduct and sought further information to update the Impact Assessment. Clarified that monitoring of recreational disturbance is not an automatic requirement of the classification but will depend on the findings of the proposed study. Acknowledged request and noted discussions regarding future management would be held with all interested parties, should the site be classified.</p> <p>2. Clarified the Impact Assessment states that relevant and competent authorities will be fully consulted on all management requirements.</p>	
The Wash and North Norfolk Coast European Marine Site Project	<p>Generally supportive and accepted the scientific proposals, although raised the following socio-economic and management concerns.</p> <p>1. Believes the pSPA, and its offshore location, will increase costs (time and financial) for EMS management schemes due to increased need for recreational disturbance monitoring and mitigation.</p> <p>2. Supports the need for a new SPA management group, so to enable 2-way dialogue between management groups and local community. This group could be a subset of an existing group.</p>	2/9	<p>Acknowledgement provided and detailed response as follows:</p> <p>1. Clarified there is currently no structure in place for future management of the pSPA, nor does the Impact Assessment assume one. Acknowledged cost and time requirements. Edited Impact Assessment to reflect <i>de minimis</i> costs.</p> <p>2. Acknowledgement provided.</p>	None

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
Dudgeon Offshore Wind Farm Project, Statoil	<p>Neutral response accepts the scientific proposal for the site although raised the following points:</p> <ol style="list-style-type: none"> <li>1. Suggested minor changes to formatting of the Departmental Brief and the Impact Assessment</li> <li>2. Raised a number of socio-economic comments including; that Dudgeon OWF has generated first power and will be fully operational by July 2017, and that the Impact Assessment should reflect this. Welcomes the conclusion that the interaction between Dudgeon and the pSPA will be extremely limited, and that a Review of Consent is highly unlikely.</li> <li>3. Noted the description in the citation of the Departmental Brief is not clear with respect to the SPA selection guideline stage that little gull qualifies under as there is no UK population estimate for little gull.</li> </ol>	1/9	<p>Acknowledgement provided and detailed response as follows:</p> <ol style="list-style-type: none"> <li>1. Updated the IA to reflect the project being considered as operational for the purposes of the assessment.</li> <li>2. Updated the IA to reflect the project being considered as operational for the purposes of the assessment. The IA acknowledges that under the Offshore Regulations 2007 Dudgeon would require a review of consent, but if or how this will occur will be dependent on BEIS as the competent authority.</li> <li>3. Acknowledged and recommend the description in the citation is amended in the final citation as outlined in Appendix 4.</li> </ol>	None
Uniper Energy, On behalf of E.ON Humber Gateway Offshore Windfarm	<p>Neutral response, raised a socio-economic concern.</p> <ol style="list-style-type: none"> <li>1. Concerned that the cost of varying or amending an existing consent has not been included within the Impact Assessment</li> <li>2. Support for new management group, to determine management, coordinate surveying and meet with local sea users</li> </ol>	1/8/9	<p>Acknowledgement provided and detailed response as follows:</p> <ol style="list-style-type: none"> <li>1. Dialogue with the MMO provided a generic cost of varying a Consent and the Impact Assessment has been updated accordingly.</li> <li>2. Acknowledgement provided.</li> </ol>	None

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	and interest groups, as it would benefit Humber Gateway OWF to have an input into site management.			
Lincs Wind Farm Limited, Centrica Energy	<p>Objecting response.</p> <ol style="list-style-type: none"> <li>1. Objects to the age of the data used for classification, especially of red-throated diver</li> <li>2. Suggesting that there is additional data, collected by offshore wind farms, which should be used</li> <li>3. Disagrees with the baseline red-throated diver data, distribution and population estimate, as these may have changed since the data were collected</li> <li>4. Concerned over the validity of conservation objectives if set using old and/or patchy data</li> <li>5. Suggests habitat mapping for species would strengthen the evidence base for classification</li> <li>6. Objects to no little gull boundary being defined in the Departmental Brief or</li> </ol>	6/7/8	<p>Acknowledgement provided and detailed response as follows:</p> <ol style="list-style-type: none"> <li>1. The SPA selection guidelines (Stroud et al 2001<sup>21</sup>) do not provide guidance on age requirements for data used in SPA classification, however, every effort is made to use the best available data at the time of the analysis. We have used long term comprehensive datasets derived from aerial surveys (2002/3 – 2006/7) which adhere to the required SPA selection guidelines and European Commission guidance<sup>22</sup>. More recent data collected by windfarm developers were unsuitable for the analysis. We therefore maintain that the aerial survey data used represents the best available evidence and is suitable to demonstrate the importance and extent of the site for the proposed features.</li> <li>2. We reviewed additional publicly available datasets but found these were not suitable for the purpose of SPA identification, due to their limited spatial extent, covering a smaller area than the Area of Search. To identify the most important marine bird areas in a given area (e.g. Greater Wash Area of Search), it is necessary to collect survey data over that entire area</li> </ol>	Outstanding scientific objection

<sup>21</sup> Stroud, D.A., Chambers, D., Cook, S., Buxton, N., Fraser, B., Clement, P., Lewis, P., Mclean, I., Baker, H. and Whitehead, S. 2001. The UK SPA network: its scope and content. Volumes 1-3. JNCC, Peterborough, UK.

<sup>22</sup> Guidelines for the establishment of the Natura 2000 network in the marine environment. Application of the Habitats and Birds Directive (Page 62): Available from: [http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine\\_guidelines.pdf](http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine_guidelines.pdf)

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	<p>consultation package. Requests important areas for little gull be identified upon publication of conservation objectives.</p> <p>7. Raised a number of socio-economic concerns including; rejecting the cost estimate for the Offshore Wind Farm sector, notably the requirement for additional post construction monitoring surveys and for varying/amending consent, suggesting figures should be significantly higher. Requests timeline for any Review of Consent.</p> <p>8. A further response was received from Centrica Renewable Energy Ltd (CREL) on 8th of June 2017 in response to Natural England and the JNCC's reply (10th March 2017) to their initial consultation response dated 10th January 2017.</p>		<p>to ensure all important bird areas are identified (see Appendix 6 for map showing the Greater Wash Area of Search). In contrast the OWF survey area is defined by the windfarm area of interest and therefore it is spatially limited and not suitable for identifying all important bird areas within the Greater Wash area. Apart from the publicly available data, no further datasets were provided by offshore windfarm developers during formal consultation which could have been considered.</p> <p>3. Natural England and JNCC have reviewed the available data and maintain that the 2002 to 2008 visual aerial surveys have shown that the areas in question supported some of the highest densities of red-throated divers within the pSPA and are therefore important areas for this species. There is now an area of relatively low diver density in a location where diver density used to be high, relative to that in surrounding areas. This is likely to have been caused by a behavioural response by the birds which leads them to avoid OWF structures and associated human activities. Omitting this important core area (geographically) from the centre of the pSPA, where habitat characteristics are suitable for the birds (see below), would compromise the integrity of the site, regardless of whether numbers of red-throated divers have recently been reduced in this core area or not. The windfarm area of concern overlies shallow water (&lt; 30m) and sandbanks. Red-throated diver have been associated elsewhere in the UK with shallow waters and the type of sandbank occurring in the area of the OWFs; they are likely to use that area because of these habitat characteristics. In addition, the marine licence granting consent for the operation and maintenance of the Lincs</p>	



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			<p>OWF is a non-permanent time-limited consent for a period of 25 years (up to 2038) at which time the OWF will be decommissioned (if there is no subsequent licence) in line with the Environmental Statement (ES). Unless the OWF were to materially alter the marine environment of the area beyond the time of decommissioning, there is a possibility that red-throated diver at least to some degree may recolonise the area, although the extent to which this might happen at present is unknown. Finally, assessments of post-construction monitoring data suggest that not all individuals will be displaced, some will stay in the area. Natural England and JNCC therefore maintain that the identification and delineation of the pSPA should rest on the data collected prior to the construction of the windfarms and recommend the boundary is unchanged. Please refer to Appendix 5 for further detail.</p> <p>4. A conservation advice package will be produced as soon as practically possible should the site be classified. The most recent data will be considered in setting Conservation Advice.</p> <p>5. Site-specific survey data are available which provide an accurate representation of species abundance and distributions. Information for habitat mapping, while useful is not required where direct evidence is available.</p> <p>6. Clarified that no MCA threshold boundary was produced for little gull (full rationale in Departmental Brief) as 2 years of winter survey data was regarded as insufficient to confidently define a boundary, but raw data is provided. Little gull is a feature of the site under</p>	

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			<p>selection guideline 1.4. In this case the 'little gull boundary' is effectively the site boundary.</p> <p>7. Dialogue with the MMO sought generic cost of varying a consent and the Impact Assessment was updated. Clarified that the requirement to conduct additional monitoring for Lincs OWF would exist irrespective of the pSPA. The pSPA species were identified as 'sensitive receptors' in the Environmental Impact Assessment and therefore included in the Ornithological Monitoring Plan required under the Lincs OWF marine licence. Clarified review of consent applies 'as soon as reasonably practicable' after classification. The competent authority (BEIS) is responsible for review.</p> <p>8. The additional Centrica response was received following finalisation of the Greater Wash pSPA Consultation Report, hence it is not part of the main report. The new response requested clarification regarding previous queries (as outlined above) and raised one new point of concern with regard to the geographic clustering of the red-throated diver population. A verbal update regarding this new response was provided to the Natural England Board on the 14<sup>th</sup> June 2017 and further JNCC approval was sought. NE and JNCC both agree the points raised in the additional letter do not alter our advice to classify the site as per the recommendations set out in this report. Natural England and JNCC responded in writing to Centrica's second response on 22<sup>nd</sup> June 2017 and an Addendum has been added to this Consultation Report (page 64) to reflect the raised objections and Natural England's and JNCC's response.</p>	

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
Anonymous [Confidential]	<p>Objecting response.</p> <ol style="list-style-type: none"> <li>1. Objects to the age of the data used for classification, especially of red-throated diver</li> <li>2. Suggesting that there is additional data, collected by offshore wind farms, which should be used</li> <li>3. Disagrees with Natural England's expert judgement to include common scoter and little gull, although accepts that these species pass the SPA selection guidelines, adding it's a low bar.</li> <li>4. Rejects the timing of little gull surveys, as surveys were recorded later in year than expected peak passage</li> <li>5. Highlights the lack of a UK population estimate for little gull and therefore that the Greater Wash is the 2<sup>nd</sup> most important site for little gull, as others could exist.</li> <li>6. Argues that conservation objectives should be set out prior to classification to ensure realistic and achievable aims</li> </ol>	6/7/8	<p>Acknowledgement provided and detailed response as follows:</p> <ol style="list-style-type: none"> <li>1. The SPA selection guidelines (Stroud et al 2001<sup>23</sup>) do not provide guidance on age requirements for data used in SPA classification, however, every effort is made to use the best available data at the time of the analysis. We have used long term comprehensive datasets derived from aerial surveys (2002/3 – 2006/7) which adhere to the required SPA selection guidelines and European Commission guidance<sup>24</sup>. More recent data collected by windfarm developers were unsuitable for the analysis. We therefore maintain that the aerial survey data used represents the best available evidence and is suitable to demonstrate the importance and extent of the site for the proposed features</li> <li>2. We reviewed additional publicly available datasets but found these were not suitable for the purpose of SPA identification, due to their limited spatial extent, covering a smaller area than the Area of Search. To identify the most important marine bird areas in a given area (e.g. the Greater Wash), it is necessary to collect survey data over a larger area, as demonstrated by the Greater Wash Area of Search (see Appendix 6), which is larger than the pSPA boundary proposed. Apart from the publicly available data, no further datasets were</li> </ol>	Outstanding scientific objections.

<sup>23</sup> Stroud, D.A., Chambers, D., Cook, S., Buxton, N., Fraser, B., Clement, P., Lewis, P., Mclean, I., Baker, H. and Whitehead, S. 2001. The UK SPA network: its scope and content. Volumes 1-3. JNCC, Peterborough, UK.

<sup>24</sup> Guidelines for the establishment of the Natura 2000 network in the marine environment. Application of the Habitats and Birds Directive (Page 62): Available from: [http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine\\_guidelines.pdf](http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine_guidelines.pdf)

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
	<p>7. Questions the logic behind connectivity between little gull populations inside the proposed boundary and outside the proposed boundary, as Appropriate Assessments require consideration of an area larger than the pSPA boundary, but there is no evidence of connectivity outside of pSPA boundary</p> <p>8. Raised a number of socio-economic concerns including; rejection of renewable energy worst case scenario, Review of Consent and HRA cost estimates, noting delays to project may result in increased risk and costs. Requests Natural England to update IA to reflect consultees more mature status. Disagrees with the use of the replacement cost approach when considering the worst case scenario for offshore wind farms. Believes that the cost of classification cannot be accurately assessed until management measures are determined. States that digital aerial survey best estimate scenario should be over 3 not 2 years.</p>		<p>provided by offshore windfarm developers during formal consultation which could have been considered.</p> <p>3. Clarified that Webb &amp; Reid (2004) reviewed the guidelines for selecting SPAs in the United Kingdom as described in Stroud <i>et al.</i> (2001), and concluded these are adequate and appropriate for site selection in the inshore environment for inshore non-breeding waterbird aggregations. Natural England and JNCC have followed the scientific criteria set out in the UK SPA Selection Guidelines (Stroud et al 2001), as detailed in sections 5.2 and 5.6 of the Departmental Brief.</p> <p>4. Accept this comment, surveys were primarily focused on inshore wintering waterbird aggregations and not planned to coincide with peak passage periods of little gull. However, the data from these surveys (part of a UK-wide programme of inshore visual aerial survey data collection) are currently the best available information on wintering little gull numbers and distribution.</p> <p>5. Acknowledged, but responded to note the proposal is that based on currently available data (Table 6, dept. brief). The Greater Wash pSPA is identified as supporting – the 2nd largest populations of the Annex I species little gull in the UK, and therefore merits classification as a feature of this SPA under stage 1.4 of the SPA selection criteria.</p> <p>6. Flagged that high level conservation objectives are available online, and the requirement for digital aerial surveys as above (3). A conservation advice package will be produced as soon as practically possible should</p>	

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
			<p>the site be classified. The most recent data will be considered in setting Conservation Advice.</p> <p>7. The methods by which impacts (of licenced activities) are assessed through Appropriate Assessment are outside the scope of this consultation. This process consulted on the scientific evidence base for the classification of the Greater Wash pSPA.</p> <p>However, it is highly likely that some/many of the little gulls found outside of the pSPA are in some cases the same individuals that are found inside the pSPA boundary and therefore potential impacts on the pSPA population arising from plans/projects outside the pSPA would need to be assessed through an Appropriate Assessment.</p> <p>8. Natural England and JNCC clarified that competent authorities would work with developers to minimise the impact of the review of consent process on the projects under review. Acknowledged HRA cost estimate provided during formal consultation and updated the project status and worst case scenario in the Impact Assessment. Clarified that the replacement cost approach is a standard and tested method for assessing the cost of classification. Directly estimating welfare loss is difficult for the subsidised offshore wind farm industry. Acknowledged and clarified that Impact Assessment does not prescribe the need for specific management measures prior to undertaking studies to inform the requirement for such management. If the pSPA progresses to classification Natural England will continue to work closely with appropriate authorities and sea-users to help identify and if necessary, secure any necessary management changes to the site.</p>	

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
			Responded that whilst two years of baseline surveys are not considered sufficient to set site boundaries, they are considered sufficient for Environmental Impact Assessments and establishing qualifying number of individuals within OWF arrays.	
Scottish Power Renewables	<p>Objecting response.</p> <ol style="list-style-type: none"> <li>1. Suggesting that there is additional data, collected by offshore wind farms, which should be used</li> <li>2. Raised a number of socio-economic concerns including; rejecting the Review of Consent and HRA cost estimates, noting delays to project may result in increased risk and costs. Rejects the use of a replacement costs approach, as opposed to directly estimating resulting welfare losses. Requests that Greater Wash costs should be considered in combination with the Harbour Porpoise pSAC costs. Requests inclusion of costs of traffic management for vessel movement in line with best practice (i.e. avoid rafting birds) within IA.</li> <li>3. Supports the need for a new SPA management group.</li> </ol>	6/7/8	<p>Acknowledgement provided and detailed response as follows:</p> <ol style="list-style-type: none"> <li>1. We reviewed additional publicly available datasets but found these were not suitable for the purpose of SPA identification, due to their limited spatial extent, covering a smaller area than the Area of Search. To identify the most important marine bird areas in a given area (e.g. Greater Wash Area of Search), it is necessary to collect survey data over that entire area to ensure all important bird areas are identified (see Appendix 6 for map showing the Greater Wash Area of Search). In contrast the OWF survey area is defined by the windfarm area of interest and therefore it is spatially limited and not suitable for identifying all important bird areas within the Greater Wash area. Apart from the publicly available data, no further datasets were provided by offshore windfarm developers during formal consultation which could have been considered.</li> <li>2. Competent authorities would work with developers to minimise the impact of the review of consent process on the projects under review. But it is acknowledged that the risk profile of some projects may be increased should project planning not account for the requirement of review of consent. Natural England is working with developers to ensure that assessments and ongoing planned monitoring appropriately considers the Greater Wash pSPA</li> </ol>	Stated no outstanding scientific objection

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
			<p>features. Acknowledged HRA cost estimate provided at formal consultation and updated. Clarified that the replacement cost approach is a standard and tested method for assessing the cost of classification. Directly estimating welfare loss is difficult for the subsidised offshore wind farm industry. Acknowledge that there are also other Natura 2000 sites being recommended to Defra. However, the Impact Assessment is not a strategic assessment. Attempts to account for management requirements for other recommended sites would undermine the worst case scenario. Acknowledged request and included the requirement to comply with vessel movement best practice in Impact Assessment but not quantified cost as it covers a larger geographic area than the pSPA.</p> <p>3. Acknowledgement provided.</p>	
Renewable UK	<p>Objecting response.</p> <p>1. Objects to the age of the data used for classification, especially of red-throated diver</p> <p>2. Suggesting that there is additional data, collected by offshore wind farms, which should be used</p> <p>3. Disagrees with red-throated diver data,</p>	6/7/8	<p>Acknowledgement provided and detailed response as follows:</p> <p>1. The SPA selection guidelines (Stroud et al 2001<sup>25</sup>) do not provide guidance on age requirements for data used in SPA classification, however, every effort is made to use the best available data at the time of the analysis. We have used long term comprehensive datasets derived from aerial surveys (2002/3 – 2006/7) which adhere to the required SPA selection guidelines and European Commission guidance<sup>26</sup>. More recent</p>	Outstanding scientific objection

<sup>25</sup> Stroud, D.A., Chambers, D., Cook, S., Buxton, N., Fraser, B., Clement, P., Lewis, P., Mclean, I., Baker, H. and Whitehead, S. 2001. The UK SPA network: its scope and content. Volumes 1-3. JNCC, Peterborough, UK.

<sup>26</sup> Guidelines for the establishment of the Natura 2000 network in the marine environment. Application of the Habitats and Birds Directive (Page 62): Available from: [http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine\\_guidelines.pdf](http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine_guidelines.pdf)

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
	<p>distribution and population estimates, because surveys were before the construction of multiple offshore wind farms, and they may have changed since the data was collected</p> <p>4. Questions the validity of common scoter and little gull data as not being robust enough for classification</p> <p>5. Raised a number of socio-economic concerns including; stating that the IA reads that 14 OWFs are located within pSPA, whilst only 12 do following the revision of the pSPA boundary, with Westernmost Rough and [Anon] now falling outside. Rejects the worst-case scenario sunk costs for OWF, Review of Consent and HRA cost estimates, noting delays to project may result in increased risk and costs.</p> <p>Rejects the use of a replacement costs approach, as opposed to directly estimating resulting welfare losses</p>		<p>data collected by windfarm developers were unsuitable for the analysis. We therefore maintain that the aerial survey data used represents the best available evidence and is suitable to demonstrate the importance and extent of the site for the proposed features</p> <p>2. We reviewed additional publicly available datasets but found these were not suitable for the purpose of SPA identification, due to their limited spatial extent, covering a smaller area than the Area of Search. To identify the most important marine bird areas in a given area (e.g. Greater Wash Area of Search), it is necessary to collect survey data over that entire area to ensure all important bird areas are identified (see Appendix 6 for map showing the Greater Wash Area of Search). In contrast the OWF survey area is defined by the windfarm area of interest and therefore it is spatially limited and not suitable for identifying all important bird areas within the Greater Wash area. Apart from the publicly available data, no further datasets were provided by offshore windfarm developers during formal consultation which could have been considered.</p> <p>3. Natural England and JNCC have reviewed the available data and maintain that the 2002 to 2008 visual aerial surveys have shown that the areas in question supported some of the highest densities of red-throated divers within the pSPA and are therefore important areas for this species. There is now an area of relatively low diver density in a location where diver density used to be high, relative to that in surrounding areas. This is likely to have been caused by a behavioural response by the birds which leads them to</p>	



CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
			<p>avoid OWF structures and associated human activities. Omitting this important core area (geographically) from the centre of the pSPA, where habitat characteristics are suitable for the birds (see below), would compromise the integrity of the site, regardless of whether numbers of red-throated divers have recently been reduced in this core area or not. The windfarm area of concern overlies shallow water (&lt; 30m) and sandbanks. Red-throated diver have been associated elsewhere in the UK with shallow waters and the type of sandbank occurring in the area of the OWFs; they are likely to use that area because of these habitat characteristics. In addition, the marine licence granting consent for the operation and maintenance of the Lincs OWF is a non-permanent time-limited consent for a period of 25 years (up to 2038) at which time the OWF will be decommissioned (if there is no subsequent licence) in line with the Environmental Statement (ES). Unless the OWF were to materially alter the marine environment of the area beyond the time of decommissioning, there is a possibility that red-throated diver at least to some degree may recolonise the area, although the extent to which this might happen at present is unknown. Finally, assessments of post-construction monitoring data suggest that not all individuals will be displaced, some will stay in the area. Natural England and JNCC therefore maintain that the identification and delineation of the pSPA should rest on the data collected prior to the construction of the windfarms and recommend the boundary is unchanged. Please refer to Appendix 5 for further detail.</p> <p>4. Natural England and JNCC clarified that whilst the little gull and common scoter data have limitations,</p>	

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
			<p>they are robust enough for classification, and that digital aerial surveys may provide updated population abundances post-classification.</p> <p>5. Acknowledged change of number of OFWs in the pSPA, and have updated the IA with revised numbers. However, there are not 12 as suggested by Renewable UK, but instead 13 consented or constructed, with an additional 3 cable routes in pre-application stage. Acknowledged the comment Natural England and JNCC sought cost estimates from the offshore wind farm community and updated the Impact Assessment worst case and HRA costs accordingly. Clarified that competent authorities would work with developers to minimise the impact of the review of consent process on the projects under review. It is acknowledged that the risk profile can be increase should project planning not account for the requirement of review of consent. Natural England is working with developers to ensure that assessments and ongoing planned monitoring appropriately considers the Greater Wash features. Clarified that the replacement cost approach is a standard and tested method for assessing the costs in environmental economics. Directly estimating welfare loss is difficult for the subsidised offshore wind farm industry.</p>	
Race Bank Offshore Wind Farm Limited	Objecting response	6/7/8	Acknowledgement provided and detailed response as follows:	Outstanding scientific objection

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
	<p>1. Objects to the age of the data used for classification, especially of red-throated diver</p> <p>2. Suggesting that there is additional data, collected by offshore wind farms, which should be used</p> <p>3. Disagrees with red-throated diver data, distribution and population estimates, because surveys were before the construction of multiple offshore wind farms, and they may have changed since the data was collected</p> <p>4. Raised a number of socio-economic concerns including; rejection of the use of existence value and the economic benefits from wildlife watching, monitoring and research. Rejects the worst case scenario and HRA costs for Race Bank OWF and the assumption that an OWF could be relocated. Provided updates on the project status and sunk cost estimates.</p>		<p>1. The SPA selection guidelines (Stroud et al 2001<sup>27</sup>) do not provide guidance on age requirements for data used in SPA classification, however, every effort is made to use the best available data at the time of the analysis. We have used long term comprehensive datasets derived from aerial surveys (2002/3 – 2006/7) which adhere to the required SPA selection guidelines and European Commission guidance<sup>28</sup>. More recent data collected by windfarm developers were unsuitable for the analysis. We therefore maintain that the aerial survey data used represents the best available evidence and is suitable to demonstrate the importance and extent of the site for the proposed features</p> <p>2. We reviewed additional publicly available datasets but found these were not suitable for the purpose of SPA identification, due to their limited spatial extent, covering a smaller area than the Area of Search. To identify the most important marine bird areas in a given area (e.g. Greater Wash Area of Search), it is necessary to collect survey data over that entire area to ensure all important bird areas are identified (see Appendix 6 for map showing the Greater Wash Area of Search). In contrast the OWF survey area is defined by the windfarm area of interest and therefore it is spatially limited and not suitable for identifying all important bird areas within the Greater Wash area.</p>	

<sup>27</sup> Stroud, D.A., Chambers, D., Cook, S., Buxton, N., Fraser, B., Clement, P., Lewis, P., Mclean, I., Baker, H. and Whitehead, S. 2001. The UK SPA network: its scope and content. Volumes 1-3. JNCC, Peterborough, UK.

<sup>28</sup> Guidelines for the establishment of the Natura 2000 network in the marine environment. Application of the Habitats and Birds Directive (Page 62): Available from: [http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine\\_guidelines.pdf](http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine_guidelines.pdf)

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
			<p>Apart from the publicly available data, no further datasets were provided by offshore windfarm developers during formal consultation which could have been considered.</p> <p>3. Natural England and JNCC have reviewed the available data and maintain that the 2002 to 2008 visual aerial surveys have shown that the areas in question supported some of the highest densities of red-throated divers within the pSPA and are therefore important areas for this species. There is now an area of relatively low diver density in a location where diver density used to be high, relative to that in surrounding areas. This is likely to have been caused by a behavioural response by the birds which leads them to avoid OWF structures and associated human activities. Omitting this important core area (geographically) from the centre of the pSPA, where habitat characteristics are suitable for the birds (see below), would compromise the integrity of the site, regardless of whether numbers of red-throated divers have recently been reduced in this core area or not. The windfarm area of concern overlies shallow water (&lt; 30m) and sandbanks. Red-throated diver have been associated elsewhere in the UK with shallow waters and the type of sandbank occurring in the area of the OWFs; they are likely to use that area because of these habitat characteristics. In addition, the marine licence granting consent for the operation and maintenance of the Lincs OWF is a non-permanent time-limited consent for a period of 25 years (up to 2038) at which time the OWF will be decommissioned (if there is no subsequent licence) in line with the Environmental Statement (ES). Unless the OWF were to materially alter the marine environment of the area beyond the time of</p>	

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
			<p>decommissioning, there is a possibility that red-throated diver at least to some degree may recolonise the area, although the extent to which this might happen at present is unknown. Finally, assessments of post-construction monitoring data suggest that not all individuals will be displaced, some will stay in the area. Natural England and JNCC therefore maintain that the identification and delineation of the pSPA should rest on the data collected prior to the construction of the windfarms and recommend the boundary is unchanged. Please refer to Appendix 5 for further detail.</p> <p>4. Clarified that the Impact Assessment is a cost benefit analysis and one of the pSPA benefits is the existence value of the species that it protects. Clarified that in the context of the IA existence value is distinct from intrinsic value and reflects the desire by some individuals to preserve and ensure the continued existence of certain species.</p>	
DONG Energy	<p>Objecting response.</p> <p>1. Objects to the age of the data used for classification, especially of red-throated diver</p> <p>2. Disagrees with red-throated diver data, distribution and population estimates, because surveys were before the construction of multiple offshore wind farms,</p>	6/7/8	<p>Acknowledgement provided and detailed response as follows:</p> <p>1. The SPA selection guidelines (Stroud et al 2001<sup>29</sup>) do not provide guidance on age requirements for data used in SPA classification, however, every effort is made to use the best available data at the time of the analysis. We have used long term comprehensive datasets derived from aerial surveys (2002/3 – 2006/7)</p>	Outstanding scientific objection

<sup>29</sup> Stroud, D.A., Chambers, D., Cook, S., Buxton, N., Fraser, B., Clement, P., Lewis, P., Mclean, I., Baker, H. and Whitehead, S. 2001. The UK SPA network: its scope and content. Volumes 1-3. JNCC, Peterborough, UK.

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
	<p>and they may have changed since the data was collected</p> <p>3. Raised a number of socio-economic concerns including; rejecting the replacement cost assumption that revoked consent could be easily resolved by displacing windfarm to another location and the HRA costs. Furthermore rejects the worst case estimate for Race Bank OWF.</p> <p>4. Noted a discrepancy between the site area figure reported in the site map and the citation in the Departmental Brief.</p>		<p>which adhere to the required SPA selection guidelines and European Commission guidance<sup>30</sup>. More recent data collected by windfarm developers were unsuitable for the analysis. We therefore maintain that the aerial survey data used represents the best available evidence and is suitable to demonstrate the importance and extent of the site for the proposed features</p> <p>2. Natural England and JNCC have reviewed the available data and maintain that the 2002 to 2008 visual aerial surveys have shown that the areas in question supported some of the highest densities of red-throated divers within the pSPA and are therefore important areas for this species. There is now an area of relatively low diver density in a location where diver density used to be high, relative to that in surrounding areas. This is likely to have been caused by a behavioural response by the birds which leads them to avoid OWF structures and associated human activities. Omitting this important core area (geographically) from the centre of the pSPA, where habitat characteristics are suitable for the birds (see below), would compromise the integrity of the site, regardless of whether numbers of red-throated divers have recently been reduced in this core area or not. The windfarm area of concern overlies shallow water (&lt; 30m) and sandbanks. Red-throated diver have been associated elsewhere in the UK with shallow waters and the type of sandbank occurring in the area of the OWFs; they are likely to use that area because of these habitat</p>	

<sup>30</sup> Guidelines for the establishment of the Natura 2000 network in the marine environment. Application of the Habitats and Birds Directive (Page 62): Available from: [http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine\\_guidelines.pdf](http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine_guidelines.pdf)

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
			<p>characteristics. In addition, the marine licence granting consent for the operation and maintenance of the Lincs OWF is a non-permanent time-limited consent for a period of 25 years (up to 2038) at which time the OWF will be decommissioned (if there is no subsequent licence) in line with the Environmental Statement (ES). Unless the OWF were to materially alter the marine environment of the area beyond the time of decommissioning, there is a possibility that red-throated diver at least to some degree may recolonise the area, although the extent to which this might happen at present is unknown. Finally, assessments of post-construction monitoring data suggest that not all individuals will be displaced, some will stay in the area. Natural England and JNCC therefore maintain that the identification and delineation of the pSPA should rest on the data collected prior to the construction of the windfarms and recommend the boundary is unchanged. Please refer to Appendix 5 for further detail.</p> <p>3. Clarified that the replacement cost approach is a standard and tested method for assessing the costs in environmental economics. Directly estimating welfare loss is difficult for the subsidised offshore wind farm industry. Updated project status and incorporated the sunk costs supplied by Race Bank as the best available proxy for the replacement costs. Acknowledged estimate of £10,000 provided at formal consultation and updated Impact Assessment.</p> <p>4. Acknowledged and recommend the final citation is amended as outlined in Appendix 4.</p>	

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
National Grid Viking Link	<p>Neutral response.</p> <p>1. No comment on the pSPA proposal, but would like to be remain informed on the progression of the SPA</p>	1	Acknowledgement provided.	None
UK Chamber of Shipping	<p>Neutral response, accepts the scientific proposal for the site although raised some socio-economic concerns. 1. Raised the socio-economic concern that the pSPA may result in greater costs for dredging activities as the pSPA boundary passes close to ports and harbours</p> <p>2. Does not believe a new SPA management group is needed.</p>	1/8/9	<p>Acknowledgement provided and detailed response as follows:</p> <p>1. Clarified that this is unlikely to be the case as dredging is a long standing activity which is unlikely to result in an increased detrimental impact upon the features of the pSPA. Dredging mostly occurs within existing SPAs (such as Humber Estuary SPA) so further costs are unlikely to occur as a result of the Greater Wash pSPA.</p> <p>2. Acknowledgement provided.</p>	None
British Ports Association (BPA)	<p>Objecting response including the following:</p> <p>1. Generic concern for all pSPAs currently in process including the Greater Wash which queried the compatibility of including port limits within pSPAs/SPAs. Noted there is no model, estimate or projection for what the pSPAs hopes to achieve by designating these areas, often over areas much larger than the feeding grounds or habitats they are seeking to protect.</p> <p>2. Highlighted the BPAs current "Port Zone" policy suggestion to exclude all statutory harbour limits from marine protected areas.</p>	4/5/6	<p>Acknowledgement provided and detailed response as follows:</p> <p>1. Provided a generic response to clarify that the tern modelling demonstrates usage by foraging terns in areas such as port limits and shipping channels. Clarified that tern species are generally considered to be amongst the seabirds that are least sensitive to disturbance from vessel and helicopter traffic and that this has been confirmed during the recent fieldwork conducted to verify the inclusion within model-based boundaries of several other pSPAs of ports, harbours and marinas. These surveys found terns foraging in many such places ie areas in which noise and visual disturbance occurs, confirming the appropriateness of</p>	Not explicitly stated but consultee may consider their issue to be current.



CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
	<p>3. Noted the data in many cases was published more than a decade ago using even older data and that newer data sources which have been quoted seem to be small scale and ad-hoc surveys..</p> <p>4. Highlighted statutory duties in respect of navigational safety and conservancy, noting that existing activities must be allowed to continue unhindered.</p> <p>5. Highlighted that BPA feel very strongly that proposals must be placed in a context of wider Government policy – namely Marine Plans and the UK Marine and Ports Policy Statements.</p>		<p>the inclusion of such areas within pSPAs provided usage levels indicate them to be areas of sufficient importance to the well-being of the birds to merit inclusion.</p> <p>2. BPA are in direct contact with Defra regarding the “Port Zone” policy suggestion; as such we have not commented in detail on these proposals. We do note that decisions for SPAs can only be influenced by the scientific/ornithological criteria, and that socio-economic factors cannot be taken into account.</p> <p>3. Natural England and JNCC note that the query was a general comment not directed specifically to a particular pSPA or species. However, the Greater Wash pSPA surveys were carried out over five winter seasons (2002/03, 2004/05, 2005/06, 2006/07 and 2007/08) for waterbirds and JNCC coordinated a programme of survey work between 2009 and 2013 to identify important foraging areas for terns at a number of UK tern colonies. Natural England and JNCC provided clarification that all data sets used in the delineation of pSPA site boundaries meet with marine UK SPA selection guidelines and Natural England’s and the JNCC’s evidence standards. We explained that we are committed to using the best available data and survey techniques although noted that it is inevitable that an amount of time is required between data collection and consultation on potential sites which is unavoidable as time is required for analysis, reporting, and development of proposals.</p> <p>4. Provided clarification regarding statutory harbour duties and demonstrated that additional management for existing activities is not recommended.</p>	

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
			5. Highlighted that UK government is committed to halting, and where possible reversing, the loss of marine biodiversity by creating a coherent network of Marine Protected Areas (MPAs) in the UK which aims to achieve the balance required for sustainable development.	
British Marine Aggregate Producers Association (BMAPA)	<p>Objecting response.</p> <ol style="list-style-type: none"> <li>1. Rejects the age of red-throated diver data used for scientific criteria</li> <li>2. Suggests there are additional datasets, collected by offshore wind farms, which should be used</li> <li>3. Queries why an additional 2km disturbance buffer was not applied to the Greater Wash boundary when assessing impacts of activities on Red-throated diver.</li> <li>4. Rejects the abundance and distribution of red-throated diver on the basis that it has changed since 2002-08</li> <li>5. Raised a number of socio-economic concerns including; questioning the requirement for Review of Consent for the</li> </ol>	6/8	<p>Acknowledgement provided and detailed response as follows:</p> <ol style="list-style-type: none"> <li>1. The SPA selection guidelines (Stroud et al 2001<sup>31</sup>) do not provide guidance on age requirements for data used in SPA classification, however, every effort is made to use the best available data at the time of the analysis. We have used long term comprehensive datasets derived from aerial surveys (2002/3 – 2006/7) which adhere to the required SPA selection guidelines and European Commission guidance<sup>32</sup>. More recent data collected by windfarm developers were unsuitable for the analysis. We therefore maintain that the aerial survey data used represents the best available evidence and is suitable to demonstrate the importance and extent of the site for the proposed features</li> <li>2. We reviewed additional publicly available datasets but found these were not suitable for the purpose of SPA identification, due to their limited spatial extent,</li> </ol>	Outstanding scientific objection

<sup>31</sup> Stroud, D.A., Chambers, D., Cook, S., Buxton, N., Fraser, B., Clement, P., Lewis, P., Mclean, I., Baker, H. and Whitehead, S. 2001. The UK SPA network: its scope and content. Volumes 1-3. JNCC, Peterborough, UK.

<sup>32</sup> Guidelines for the establishment of the Natura 2000 network in the marine environment. Application of the Habitats and Birds Directive (Page 62): Available from: [http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine\\_guidelines.pdf](http://ec.europa.eu/environment/nature/natura2000/marine/docs/marine_guidelines.pdf)

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
	<p>aggregate industry and rejecting lack of cost estimate. Concerned that the size of the pSPA will require additional operational and economic burden for aggregate industry</p>		<p>covering a smaller area than the Area of Search. To identify the most important marine bird areas in a given area (e.g. Greater Wash Area of Search), it is necessary to collect survey data over that entire area to ensure all important bird areas are identified (see Appendix 6 for map showing the Greater Wash Area of Search). In contrast the OWF survey area is defined by the windfarm area of interest and therefore it is spatially limited and not suitable for identifying all important bird areas within the Greater Wash area. Apart from the publicly available data, no further datasets were provided by offshore windfarm developers during formal consultation which could have been considered.</p> <p>3. The inshore SPA selection guidelines set out that the most suitable areas support the highest densities of birds and the boundary has been defined by these densities. Whilst it is recognised that human activities outside of the boundary can impact the features, any area included as a buffer or halo as suggested would not represent the “most suitable territories” for these species, due to lower densities.</p> <p>Therefore, a classification of these areas could not be scientifically defended on this basis. Any potential impacts on the pSPA population that might arise from activities taking place within (or indeed beyond) such a “halo” around the site boundary would need to be considered in an HRA of plans and projects, regardless of inclusion of such a “halo” within the site boundary.</p> <p>4. Natural England and JNCC have reviewed the available data and maintain that the 2002 to 2008</p>	

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
			<p>visual aerial surveys have shown that the areas in question supported some of the highest densities of red-throated divers within the pSPA and are therefore important areas for this species. There is now an area of relatively low diver density in a location where diver density used to be high, relative to that in surrounding areas. This is likely to have been caused by a behavioural response by the birds which leads them to avoid OWF structures and associated human activities. Omitting this important core area (geographically) from the centre of the pSPA, where habitat characteristics are suitable for the birds (see below), would compromise the integrity of the site, regardless of whether numbers of red-throated divers have recently been reduced in this core area or not. The windfarm area of concern overlies shallow water (&lt; 30m) and sandbanks. Red-throated diver have been associated elsewhere in the UK with shallow waters and the type of sandbank occurring in the area of the OWFs; they are likely to use that area because of these habitat characteristics. In addition, the marine licence granting consent for the operation and maintenance of the Lincs OWF is a non-permanent time-limited consent for a period of 25 years (up to 2038) at which time the OWF will be decommissioned (if there is no subsequent licence) in line with the Environmental Statement (ES). Unless the OWF were to materially alter the marine environment of the area beyond the time of decommissioning, there is a possibility that red-throated diver at least to some degree may recolonise the area, although the extent to which this might happen at present is unknown. Finally, assessments of post-construction monitoring data suggest that not all individuals will be displaced, some will stay in the area. Natural England and JNCC therefore maintain that the</p>	

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
			<p>identification and delineation of the pSPA should rest on the data collected prior to the construction of the windfarms and recommend the boundary is unchanged. Please refer to Appendix 5 for further detail.</p> <p>5. Clarified that the assessment envelope for aggregate industry wouldn't change and that Review of Consent by the MMO would be required to ensure compliance with the Habitat Regulations. Acknowledged but clarified that it would be disproportionate to set out scenarios given the conclusions of the nearby Outer Thames Estuary SPA review. Natural England and JNCC assume with confidence that similar conclusions (of no Adverse Effect on Integrity alone) would be reached for the aggregate industry in the Greater Wash pSPA and therefore the production of a more detailed assessment was deemed disproportionate, although the key conclusions were presented.</p>	
<p>North Sea Wildlife Trusts</p> <p>(Northumberland, Durham, Tees Valley, Yorkshire, Sheffield &amp; Rotherham, Lincolnshire, Leicestershire &amp; Rutland, Norfolk, Suffolk, Derbyshire, Nottinghamshire, Bedfordshire-</p>	<p>Strongly supportive of the proposals.</p> <p>1. Raised a number of socio-economic concerns including; suggesting that the IA summary should better reflect the benefits from the pSPA, which are considered underestimates. Stated that benefits from an ecologically coherent MPA network may be 5-26 times higher than the costs. Recommends qualifying the benefits include maintaining/increasing human health and well-being by engagement in the natural environment</p>	2	<p>Acknowledgement provided and detailed response as follows:</p> <p>1. Acknowledged and advised that the Impact Assessment sets out all available evidence on the specific benefits of the pSPA. Natural England and JNCC are aware of national assessments that estimate the value of marine protected area networks, but the impact assessment is a cost benefit analysis specific to the pSPA being recommended. It would be disproportionate to attempt to allocate a proportion of this value to the Greater Wash pSPA. Without site specific accompanying evidence it is not possible to edit the Impact Assessment to reflect the points raised.</p>	None

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
Cambridgeshire-Northamptonshire Wildlife Trusts)	2. Does not believe there is a need for a new SPA management group, but support the creation of a forum to link management groups		2. Acknowledged.	

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
RSPB	<p>Strongly supportive of the proposal.</p> <ol style="list-style-type: none"> <li>1. Concerned about disparity between tern populations cited, and populations cited at corresponding land colonies. RSPB recommends they are made the same.</li> <li>2. Concerned that common scoter population may have been underestimated, as the near-shore area is often missed by visual aerial surveys. RSPB recommends further survey effort post-classification.</li> <li>3. Supports the creation of a new SPA management group</li> </ol> <p>Verbally:</p> <ol style="list-style-type: none"> <li>4. Queried the notch in the pSPA boundary around Humber mouth and why the area around Spurn Head is not included within the boundary.</li> </ol>	2/9	<ol style="list-style-type: none"> <li>1. The most recently available data from breeding colonies have been used to determine the total pSPA population of each species. This ensures that any changes to breeding colony populations at existing colony SPAs since their classification are incorporated in the population abundance of the new pSPA, and avoids using data that is potentially 20-30 years old.</li> <li>2. JNCC recognised some of the limitations of aerial survey in determining common scoter population abundance estimates (Lawson <i>et al</i> 2004) and the Departmental Brief made comparisons of the population estimate from JNCC surveys with other (shore-based) data sources. These found populations estimates to be broadly similar. It is likely that post-classification digital aerial surveys will be considered to produce revised population estimates of this feature (and others) that are based on the most up-to-date survey technology ie digital aerial imagery . For a number of reasons these are likely to result in increased accuracy of population estimates.</li> <li>3. Acknowledgement provided</li> <li>4. Summarised the boundary methodology and aim to identify most important areas, but exclude areas which have insufficient densities of birds. Clarified that the boundary (set around the MCA threshold) is a compromise between simplified straight lines and modelled bird densities, avoiding the inclusion of large areas supporting lower densities of bird usage, which would provide limited protection benefits but potentially increase management requirements.</li> </ol> <p style="text-align: center;">47</p>	None

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
Royal Yachting Association (RYA)	<p>Neutral response, with some concerns.</p> <ol style="list-style-type: none"> <li>1. Accepts scientific proposal for the site</li> <li>2. Raised a number of socio-economic concerns including; a lack of confirmation of previous Natural England reassurance that recreational boating activities are highly unlikely to be impacted. Requests scenarios be developed for costs to recreational boating. Rejects the methodology for the planned use of aerial surveys to identify recreational boating activity levels. Rejects IA benefits as increased environmental improvement may lead to increased use of areas by non-boaters, which may negatively impact boaters by reducing the tranquillity and spatial capacity of the North Sea</li> </ol>	1/8	<p>Acknowledgement provided and detailed response as follows:</p> <ol style="list-style-type: none"> <li>1. Acknowledgement provided.</li> <li>2. Clarified that the Impact Assessment assumes with high confidence that a study to assess the disturbance of recreational activity concludes no restriction or prohibition of activities is required and therefore there will be no increased costs to recreational vessels as a result of the pSPA. Given the high confidence it was deemed disproportionate to set out a range of scenarios and assurances for each individual recreational activity. Clarified that the impact assessment focuses on the need for management of recreational activity for the three over-wintering species and concludes that digital aerial survey can provide a snapshot of recreational vessels activity. Natural England and JNCC acknowledge the limitations of this technique and would use it in combination with other recreational activity data and consultation with appropriate sea user groups. Natural England and JNCC acknowledged the concerns of the RYA, but believe that classification of the pSPA is unlikely to significantly increase visitors to an extent that they significantly impact the tranquillity or capacity of the North Sea.</li> </ol>	None
CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA



CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
<b>C. Members of the public and unsolicited responses</b>				
██████████	<p>Objection on socio-economic grounds.</p> <p>1. A number of socio-economic concerns were raised, including; querying the implications of the proposed SPA upon traditional coastal activities, including fishing and shoreline foraging. Requested clarification on how local activities may be impacted by the pSPA</p>	8	<p>Acknowledgment provided with response noting Natural England's awareness of traditional coastal activities.</p> <p>1. Assurance provided there will be very little overlap between traditional activities and the proposed protected area. Natural England has high confidence that no restriction or prohibition of traditional unlicensed activities will be required, unless activities intensify which causes disturbances for the feature species.</p>	None
Anonymous	<p>Supportive of the proposals (online survey).</p> <p>1. Supportive of scientific rationale for the site designation and the accuracy of the Impact Assessment</p> <p>3. Rejects the need for a new management group. No explanation given.</p>	2	Acknowledgement provided.	None
██████████	<p>Supportive of the proposals (online survey)</p> <p>1. Supportive of scientific rationale for the site designation and accuracy of the Impact Assessment</p> <p>2. Supportive of the need for a new management group.</p>	2	Acknowledgement provided	None
██████████	<p>Objecting response with the following comments:</p> <p>1. Object to the location of the boundary to</p>	5/8	<p>Acknowledgement provided and detailed response as follows:</p> <p>1. Explained that the area north of Spurn Point is</p>	Not explicitly stated but consultee may consider their issue to be current.

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND AND JNCC RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
	<p>the north of the site, beyond Spurn Point, due to perceived lack of scientific importance.</p> <p>2. A number of socio-economic concerns were raised including; the potential impacts upon recreational and sea users within the pSPA.</p>		<p>important for red-throated diver. Little tern also breed at Easington Lagoons and forage along the Holderness coast.</p> <p>2. Clarified that the IA generally focusses on activities which may require additional management in the future. Activities which are deemed unlikely to have a significant effect are not included within the IA.</p>	

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

The Non-Financial Scheme of Delegation 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>33</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.

- 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.

<sup>33</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.

## **Appendix 2: JNCC 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

Governance and assurance				
Reserved for Committee	Delegated to Chairman	Delegated to Committee sub-groups	Delegated to the Company	Delegated to the Chief Executive
<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 3: Consultation Questions**

### **Online survey**

- Q1: What is your name?
- Q2: What is your email address
- Q3: What is your organisation?
- Q4: Would you like your response to be confidential?  
Please explain why you need to keep details confidential.
- Q5: Do you accept the scientific rationale for the site proposal?  
If no, explain why
- Q6: Do you have any additional information that's not included in the departmental brief about The Greater Wash distribution and populations of red-throated diver, common scoter, little gull, Sandwich tern, little tern and common tern?
- Q7: Do you have any further comments on the scientific rationale behind the site proposal?
- Q8: Does the impact assessment accurately reflect the likely socio-economic effect of the pSPA on human activities in and around the site?  
If not, please provide further details to include: the type and scale of activity affected; effect on business, organisations, communities, local economy; location of the impact and extra management needed at the site.
- Q9: Do you have additional information that's not included in the Impact Assessment that would improve the estimation of costs and benefits of the proposal?
- Q10: Please refer to Section 8.1 Approach adopted to assess costs. Are the assumptions made accurate and reasonable?
- Q11: Referring to the industry specific sections of the Impact Assessment (8.3-10), are the likely impacts identified?  
Please provide information on any unidentified impacts, and specify which industry(s) your answer refers to.
- Q12: Please refer to Section 11 Benefits of the pSPA. Are the assumptions made accurate and reasonable?
- Q13: Is there a need for a new management group for the SPA?  
Please provide any further comments relating to the need for a new management group for the SPA



## **Appendix 4: Proposed amendments to the final citation**

We recommend the final citation is amended to update the total site area as currently detailed in the draft citation of the Departmental Brief<sup>34</sup> (scientific recommendation). The area figure in the final citation should be amended from 3,443 km<sup>2</sup> (344,267 ha) to 3,606 km<sup>2</sup> (360,640 ha). The correct area figure was communicated via the site map<sup>35</sup> which was provided during formal consultation.

In addition, we recommend the citation description under the heading: **Qualifying Species** should be amended to provide clarity regarding which stage of the UK SPA selection guidelines each species qualifies under, as follows:

### **Current version:**

- The site regularly supports more than 1% of the GB breeding populations of three species, and the non-breeding populations of two species listed in Annex I of the EC Birds Directive. Therefore, the site qualifies for SPA Classification in accordance with the UK SPA selection guidelines (stage 1.1, 1.4).
- The site supports a regularly occurring migratory species not listed in Annex I of the EC Birds Directive extending the (currently insufficient) range coverage of the current suite of SPAs for this species. Therefore, the site qualifies for SPA Classification in accordance with the UK SPA selection guidelines (stage 1.4).

### **Proposed amendments (highlighted changes in bold):**

- The site regularly supports more than 1% of the GB breeding populations of three **breeding tern species: Sandwich tern (*Sterna sandvicensis*), little tern (*Sternula albifrons*) and common tern (*Sterna hirundo*), and the non-breeding population of red-throated diver (*Gavia stellata*)** listed in Annex I of the EC Birds Directive. Therefore, the site qualifies for SPA Classification in accordance with the UK SPA selection guidelines (**stage 1.1**).
- The site supports a regularly occurring migratory species not listed in Annex I of the EC Birds Directive: **common scoter (*Melanitta nigra*)**, extending the (currently insufficient) range coverage of the current suite of SPAs for this species. **The site is also identified as an important area for the Annex 1 species little gull (*Hydrocoloeus minutus*)**. Therefore, the site qualifies for SPA Classification in accordance with the UK SPA selection guidelines (stage 1.4)."

These changes do not materially affect stakeholder's views or alter the scientific basis for the site or the boundary itself. **We therefore recommend the final citation is amended accordingly should the Secretary of State approve the classification of the site as SPA.**

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<sup>34</sup> [https://consult.defra.gov.uk/natural-england-marine/greater-wash-potential-special-protection-area-com/supporting\\_documents/V9%20FINAL%20Greater%20Wash%20Departmental%20Brief%2017%20October%202016%20ready%20for%20consultation.pdf](https://consult.defra.gov.uk/natural-england-marine/greater-wash-potential-special-protection-area-com/supporting_documents/V9%20FINAL%20Greater%20Wash%20Departmental%20Brief%2017%20October%202016%20ready%20for%20consultation.pdf)

<sup>35</sup> [https://consult.defra.gov.uk/natural-england-marine/greater-wash-potential-special-protection-area-com/supporting\\_documents/The%20Greater%20Wash%20pSPA%20site%20map.pdf](https://consult.defra.gov.uk/natural-england-marine/greater-wash-potential-special-protection-area-com/supporting_documents/The%20Greater%20Wash%20pSPA%20site%20map.pdf)

## **Appendix 5: Natural England and JNCC recommendation with regard to the baseline red-throated diver data, distribution and population estimates used in the Departmental Brief.**

Renewables UK, Anonymous, Centrica Lincs Offshore Wind Ltd, British Marine Aggregate Producers Association, ██████████, Scottish Power Renewables, DONG Energy, and Race Bank Offshore Windfarm Ltd. raised concerns during the formal consultation regarding a perceived change in the abundance and distribution of red-throated diver and thus objected to the classification of the pSPA. All of the above stakeholders consider the objection to be outstanding and for Defra's consideration except Scottish Power Renewables who have since removed their objection. The consultees all cited monitoring data, some of which is commercially in confidence to support their objection.

The objections on this issue primarily arise because a number of offshore windfarms (OWF) have been consented and constructed<sup>36</sup> within the pSPA boundary since the visual aerial surveys were carried out but before the site was protected and became a material consideration (i.e. "potential" SPA) at the start of formal consultation. As part of OWF compliance under marine licences for consented/constructed OWF, further survey data sets have been collected by OWF developer/operators. The 3<sup>rd</sup> year post-construction monitoring data from the Lincs OWF in particular indicates a potential change in the distribution of red-throated diver. This post-construction data may show lower numbers of red-throated diver in the Lincs OWF survey area than indicated by the visual aerial surveys. The stakeholders comments received on this matter infer that the areas with lower red-throated diver numbers do not merit protection anymore.

**Natural England and JNCC have considered the proposal of the stakeholders, but maintain to recommend that the site should be classified as outlined in the Departmental Brief (and supporting consultation documents) for the following reasons:**

- The areas of sea in and around Lynn and Inner Dowsing and Lincs offshore windfarms have in the recent past supported some of the highest densities of red-throated divers recorded across the entire pSPA as recorded by surveys (2002/2003 – 2007/2008). However, the construction and operation of these windfarms has been coincident with a marked reduction in the relative importance of these areas to red throated divers. There is now an area of relatively low diver density in the centre of the pSPA at a location where diver density used to be high, relative to that in surrounding areas. This is likely to have been caused by a behavioural response by the birds which leads them to avoid such structures and associated human activities (Garthe & Hüppop 2004<sup>37</sup>; Furness *et al.* 2013<sup>38</sup>; Petersen *et. al.*, 2006<sup>39</sup>; Percival, 2010<sup>40</sup>; APEM, 2014<sup>41</sup>). This area is in a core part (geographically ) of the divers' distribution where habitat characteristics are suitable for the birds (see below) and it's omission would compromise the integrity of the site, regardless of whether numbers of red-throated divers have recently been reduced in this core area or not
- The windfarm area of concern overlies shallow water (< 30m) and is located within the Inner dowsing, Race Bank and North Ridge marine Special Area of Conservation (SAC), notified for the Annex 1 habitat 'Sandbanks which are slightly covered by seawater all the time'. Various studies in

<sup>36</sup> <https://www.thecrownestate.co.uk/estates-map/map?lat=55.75&long=-4.0&zoom=6>

<sup>37</sup> Garthe, S & Hüppop, O. (2004) Scaling possible adverse effects of marine wind farms on seabirds: developing and applying a vulnerability index. *Journal of Applied Ecology* 41, 724-734.

<sup>38</sup> Furness, R.W., Wade, H.M. & Masden, E.A. (2013). Assessing vulnerability of marine bird populations to offshore wind farms. *Journal of Environmental Management* 119, 56 – 66.

<sup>39</sup> Petersen, I.K., Christensen, T.K., Kahelrt, J., Desholm, M, & Fox, A.D. (2006). Final Results of Bird Studies at the Offshore Wind Farms at Nysted and Horns Rev, Denmark. NERI report to DONG energy / Vattenfall A/S.

<sup>40</sup> Percival, S.M. 2010. Kentish Flats Offshore Wind Farm: Diver Surveys 2009-10. Ecology Consulting Report to DONG Energy.

<sup>41</sup> APEM. 2014. London Array Offshore Wind Farm: Ornithology Aerial Survey Report 2013 / 14. APEM Scientific Report 512696. London Array Ltd, 77 pp."

the UK have associated red-throated divers with shallow waters (Skov *et al.*, 1995<sup>42</sup>; Stone *et al.*, 1995<sup>43</sup>) and the type of sandbank occurring in the area (Skov *et al.* 2016<sup>44</sup>) of the OWF. Hence it is possible that the area is used by red-throated diver because of these habitat characteristics and therefore likely to be present if the windfarm was not. In addition, the marine licence granting consent for the operation and maintenance of the Lincs OWF is a non-permanent time-limited consent for a period of 25 years (up to 2038) at which time the OWF will be decommissioned (if there is no subsequent licence) in line with the Environmental Statement (ES)<sup>45</sup>. Unless the OWF were to materially alter the marine environment of the area beyond the time of decommissioning, there is a possibility that red-throated diver at least to some degree may recolonise the area, although the extent to which this might happen at present is unknown. Given the tangible importance and suitability of the area for red-throated diver, recolonization to some degree must be considered to be a possible outcome.

- Assessments of post-construction monitoring data suggest that not all individuals will be displaced, some will stay in the area (DECC 2013<sup>46</sup>, NIRAS Consulting Ltd. 2013<sup>47</sup>, Percival, S.M. 2010<sup>48</sup>).

It is also worth noting the following points, although these are not of material concern for Natural England's and JNCC's recommendation regarding the suitability of the pSPA for classification. These additional points refer not only to Lincs OWF post-construction monitoring data, but also more widely to data collected by OWFs in and around the pSPA:

- Natural England and JNCC have reviewed additional OWF data, but do not consider it suitable for the purpose of refining either the baseline population abundance for red-throated diver or the boundaries of the pSPA for the following reasons:
  - a. the red-throated diver abundance and proposed boundary of the pSPA (as described in the Departmental Brief) are based on analyses of a series of surveys which, in combination over a period of several years (2002/2003 – 2007/2008), provide repeated coverage of the Greater Wash Area of Search, an area larger than the entirety of the pSPA boundary currently proposed (See Appendix 6). In contrast, the more recent offshore windfarm data focused on the OWFs themselves and were gathered over a more limited sea than the Area of Search. The OWF data therefore does not assess diver numbers, distribution, and regularity of use over the required spatial extent.
  - b. All of the classification surveys employed a single survey method (i.e. visual aerial surveys) over a number of wintering seasons whereas the bulk of the more recent survey data was gathered using a variety of methods (including boat-based and digital aerial survey methods) over varying and inconsistent time periods. If the OWF data were to be used in combination with the older aerial survey data, data obtained by different methods would be combined to assess distributions, which is by no means straightforward and is not recommended. If

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<sup>42</sup> Skov, H., Durinck, J., Leopold, M.F. & Tasker, M.L. 1995. *Important Bird Areas for Seabirds in the North Sea including the Channel and the Kattegat*. Cambridge, BirdLife International.

<sup>43</sup> Stone, C.J., Webb, A., Barton, C., Ratcliffe, N., Reed, T.C., Tasker, M.L., Camphuysen, C.J. & Pienkowski, M.W. 1995. *An atlas of seabird distribution in north-west European waters*. Peterborough, JNCC.

<sup>44</sup> Skov, H., Heinanen, S., Thaxter, C.B., Williams, A.E., Lohier, S. & Banks, A.N. (2016). Real-time species distribution models for conservation and management of natural resources in marine environments. *Marine Ecology Progress Series*, 542, 221-234.

<sup>45</sup> OWF are generally consented on the basis that they have long term temporary impacts and these impacts will be removed when the consenting period expires and the farm is removed.

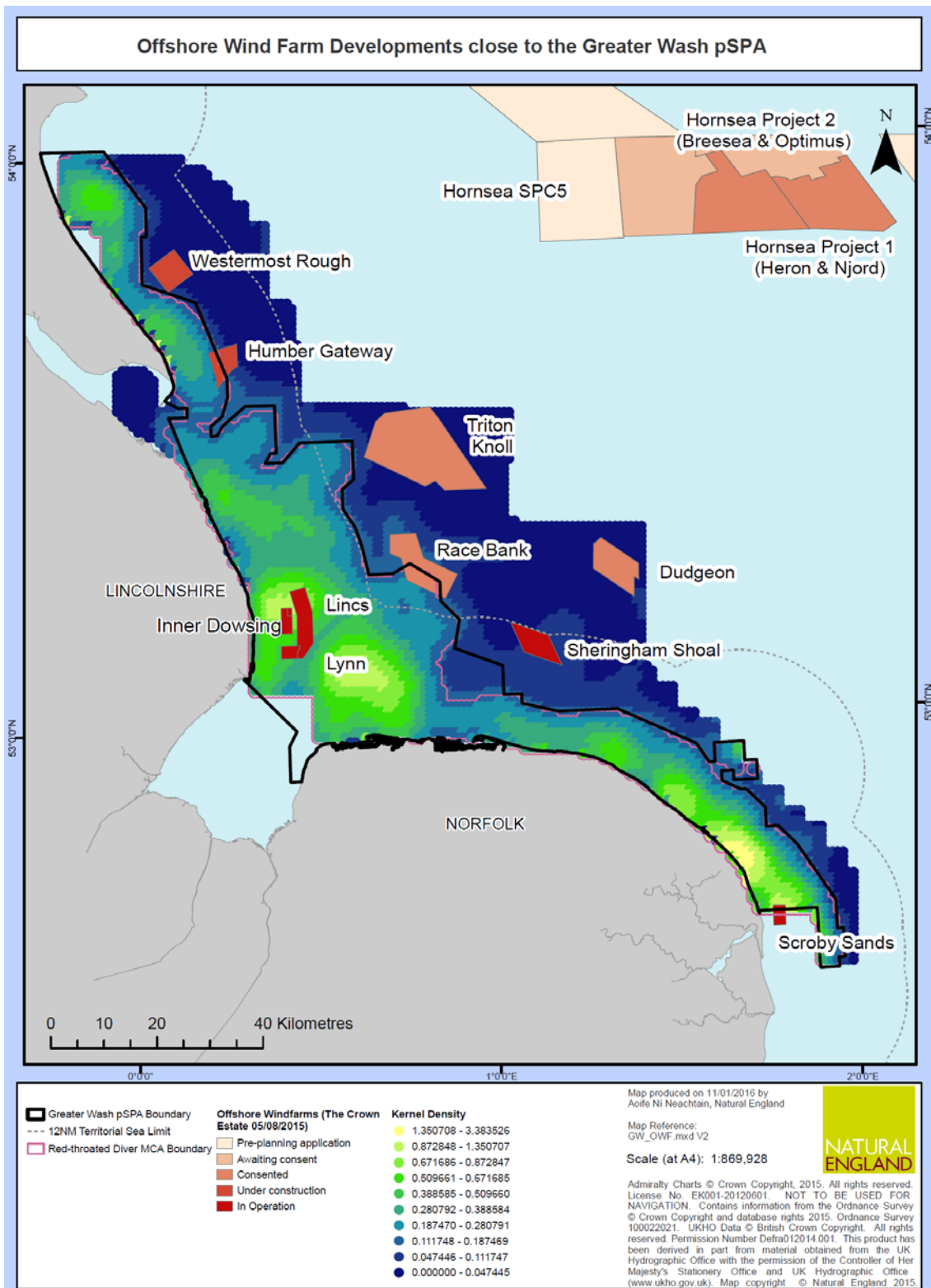
<sup>46</sup> DECC 2013. Record of the Habitats Regulations Assessment undertaken under Regulation 61(1) of the Conservation of Habitats and Species Regulations 2010 (as amended) for an application under the Planning Act 2008 (as amended). January 2013. Department of Energy and Climate Change.

<sup>47</sup> NIRAS Consulting Ltd. 2013. Burbo Bank Extension Offshore Wind Farm. Paper 7: Red-throated Diver Displacement.

<sup>48</sup> Percival, S.M. 2010. Kentish Flats Offshore Wind Farm: Diver Surveys 2009-10. Ecology Consulting Report to DONG Energy.

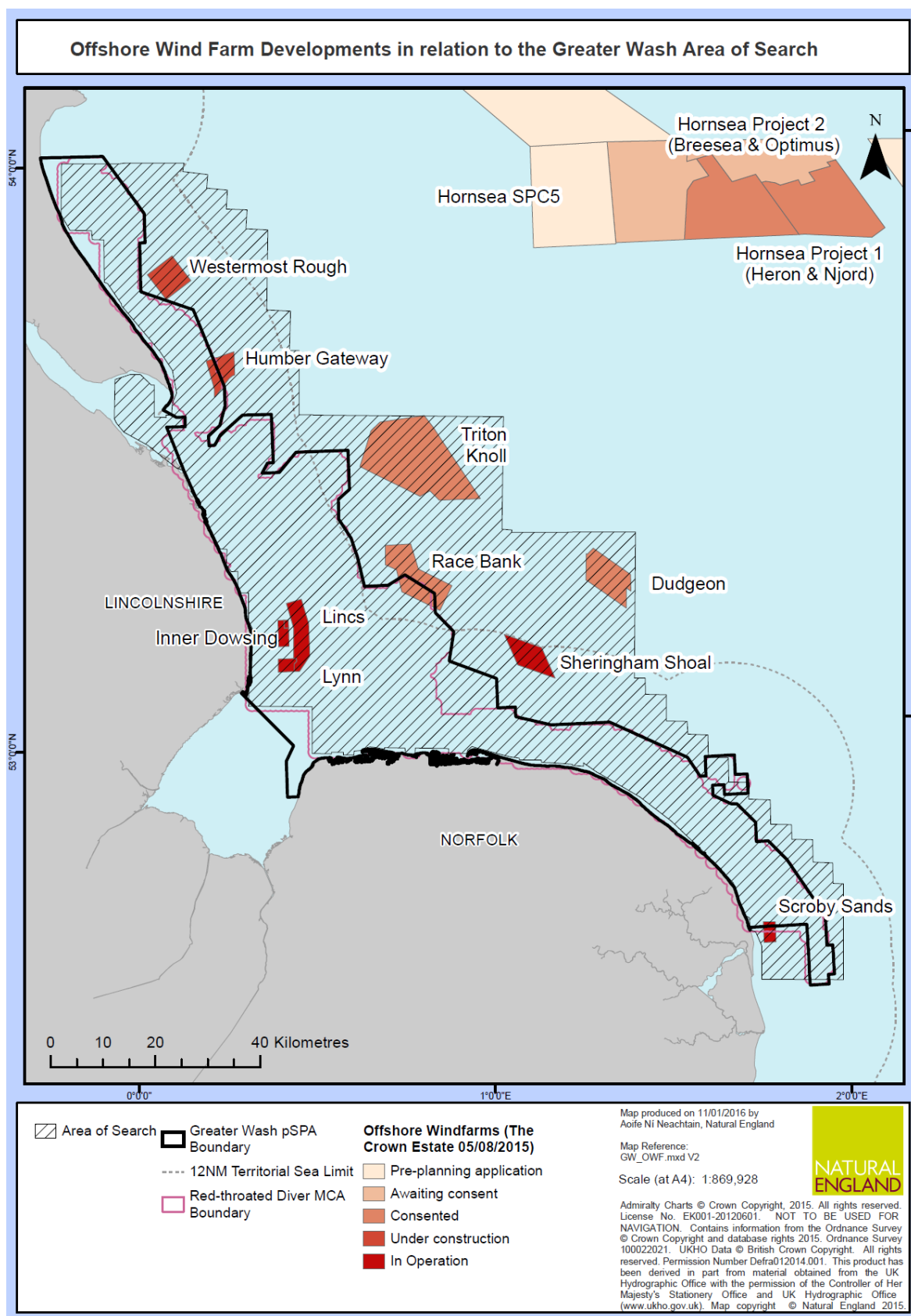
considering the OWF data on their own, they are insufficient to provide the evidence required for SPA identification due to spatial and temporal limitations. The OWF data has not been collected for the purpose of SPA identification and would not meet Natural England's and JNCC's evidence standards for SPA identification and can therefore not be used for this purpose.

**Natural England and JNCC therefore recommend the site should be classified in line with the Departmental Brief and supporting consultation documents.**



**Figure 1:** Map displaying the locations of offshore wind farms in relation to the Greater Wash pSPA boundary and estimated mean density surface for red-throated diver as identified by Maximum Curvature Analysis (adapted from Lawson *et al.* 2015a, available from <http://jncc.defra.gov.uk/page-7104> and Crown Estate offshore wind farm location data, available from <https://www.thecrownestate.co.uk/energy-minerals-and-infrastructure/downloads/maps-and-gis-data/>).

**Appendix 6: Greater Wash pSPA boundary map displaying the Greater Wash Area of Search and Offshore Wind Farm developments within the Greater Wash Area of Search.**



## Addendum 1: Additional Response received from Centrica Renewable Energy Limited

On 8<sup>th</sup> of June 2017 Centrica Renewable Energy Ltd (CREL) the owner of Lincs, Lynn and Inner Dowsing offshore wind farms (OWFs) submitted an additional letter in response to Natural England and the JNCC's reply (10<sup>h</sup> March 2017) to their initial consultation response dated 10<sup>th</sup> January 2017. The response was received following finalisation of the Greater Wash (GW) Consultation Report and therefore, instead of addressing it in the report, a verbal update was presented to the Natural England Board on the 14<sup>th</sup> June 2017. Natural England and JNCC responded in writing to Centrica's second response on 22<sup>nd</sup> June 2017 and this Addendum has been added to this Consultation Report to reflect this. CREL sought clarification on the interaction of Lincs, Lynn & Inner Dowsing OWFs with the Greater Wash pSPA as detailed in the below table.

CONSULTEE	REPRESENTATION	TYPE	NATURAL ENGLAND RESPONSE	OUTSTANDING SCIENTIFIC ISSUES FOR CONSIDERATION BY DEFRA
Centrica Renewable Energy Ltd (CREL)	<p>Maintain their objection with the following comments:</p> <ol style="list-style-type: none"> <li>1. Suggests that within the GW pSPA the evidence indicates there are two distinct geographic clusters of red-throated diver which could be considered to be 'sub-populations'. CREL also highlight a perceived inconsistency in terms of the Outer Thames Estuary (OTE) pSPA which exhibits similar geographic clustering and a proposed boundary which is divided between three discrete areas. CREL requested information on the exchange of birds between the clusters they have identified and requested information regarding the exchange of red-throated divers between the GW and OTE pSPAs. CREL asked that NE/JNCC consider the two red-throated diver sub-populations that they identified in setting conservation objectives and management guidance for</li> </ol>	6/7/8	<p>Acknowledgement provided and detailed response as follows:</p> <ol style="list-style-type: none"> <li>1. <i>This is a new concern raised on 8<sup>th</sup> June 2017.</i> NE/JNCC advised that the GW pSPA boundary reflects the application of Maximum Curvature Analysis (MCA) to the underlying bird distributions and does not constitute evidence that the birds present within the two discrete areas represent 'sub-populations'. MCA seeks to include areas with the highest densities of red-throated diver, assuming that these are of greatest importance for the well-being of the birds, and exclude areas with low densities. All areas included in the GW pSPA boundary exceeded the MCA threshold as they were all high density areas. NE/JNCC advised that the same MCA approach was consistently applied to both the GW pSPA and the OTE SPA. In the case of the OTE SPA, the areas with highest red-throated diver densities appear in three separate clusters, while in the GW pSPA highest densities are contained in one single cluster. In neither case do we consider there is evidence suggesting that red-throated diver has formed distinct geographic sub-populations within the overall site boundaries. To</li> </ol>	Outstanding scientific objection

	<p>the GW pSPA so as not to misrepresent (skew) any assessments of the effect of plans or projects on the pSPA.</p> <ol style="list-style-type: none"> <li>2. CREL sought confirmation that the GW pSPA population numbers for red-throated diver are determined by surveys undertaken by JNCC prior to the construction of the Lincs, Lynn &amp; Inner Dowsing wind farms.</li> </ol> <p>CREL sought also clarity on whether NE will advise the Department for Business, Energy and Industrial Strategy (BEIS) that a Review of Consent (RoC) is required for Lincs, Lynn &amp; Inner Dowsing OWF.</p> <ol style="list-style-type: none"> <li>3. CREL expressed concern that the 3<sup>rd</sup> year post-construction wind farm monitoring data, which shows an increase in the surface density of red-throated diver and a change in their distribution within The Wash Approaches is being disregarded.</li> <li>4. CREL note that no specific little gull boundary has been defined in the Greater Wash pSPA Departmental Brief and request confirmation that clear spatial use (mapping) of the pSPA by little gull will be provided within the final management advice package.</li> <li>5. CREL asked whether there is any intention to map the areas used by little gull within the pSPA boundary.</li> </ol>		<p>illustrate this, NE provided evidence from the DIVER project<sup>49</sup> which tracked tagged red-throated diver moving widely between Great Yarmouth and North Denes SPA and The Wash SPA, and indeed more widely between SPAs in south-east England and north-west Liverpool Bay. NE/JNCC acknowledge that the conservation objectives for the site should reflect spatial clustering where relevant. NE confirmed that the spatial heterogeneity of birds within a site will be a factor in assessments of the effect of plans or projects on a site. NE and JNCC may consider SPA-wide digital aerial surveys in the future, which would help inform the site conservation objectives. A conservation advice package will be produced as soon as practicably possible if the Secretary of State classifies the site.</p> <ol style="list-style-type: none"> <li>2. <i>This point was initially raised in previous correspondence and addressed at the time.</i> NE/JNCC confirmed that the best available data for the SPA identification was the JNCC aerial survey data obtained in surveys prior to the construction of the Lincs, Lynn &amp; Inner Dowsing wind farms.</li> </ol> <p>NE advise that Lincs and Lynn and Inner Dowsing wind farms would not be required to undergo RoC, given their location within 12nm. This advice is based upon guidance published by the Department of Energy and Climate Change (DECC) in May 2016<sup>50</sup>, which Natural England shared with CREL previously. This guidance states that ROC would not be required for projects within 12nm which are completed before the site is classified as an SPA. "Completion" is defined as "fully built out" which all three projects are.</p> <ol style="list-style-type: none"> <li>3. <i>This point was initially raised in previous correspondence and addressed at the time.</i> NE/JNCC acknowledge the</li> </ol>	
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<sup>49</sup> The DIVER project has tagged and tracked the movements of individual red-throated divers over the last three years: [http://www.divertracking.com/?lang=en\\_gb](http://www.divertracking.com/?lang=en_gb)

<sup>50</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/525765/Final-Guidance\\_on\\_when\\_new\\_marine\\_Natura\\_2000\\_sites\\_should\\_be\\_taken\\_into\\_account\\_in\\_offshore\\_renewable\\_energy\\_consents\\_and\\_licences.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525765/Final-Guidance_on_when_new_marine_Natura_2000_sites_should_be_taken_into_account_in_offshore_renewable_energy_consents_and_licences.pdf)



			<p>additional data although have determined that due to the data's limited spatial extent, a coverage smaller than the Greater Wash Area of Search, these data are unsuitable for an analysis of the red-throated diver densities and distribution throughout the Area of Search. However, these data may be considered as corroborative evidence. NE/JNCC cannot redefine the size of the pSPA population based on the higher number of red-throated diver observed in recent Lincs monitoring because the SPA Selection Guidelines (Stroud et al., 2001) require a determination of the pSPA population based on several years of data, ideally obtained by a single survey method. Finally, the number recorded within the Lincs post-consent monitoring survey area is unlikely to be an adequate representation of the number of divers throughout the entirety of the pSPA due to the data's spatial and temporal limitations and variable survey technique (boat-based, aerial etc). NE/JNCC acknowledge that the mean of peak population (1,511 individuals) cited in the Departmental Brief is smaller than the Lincs post-construction monitoring figure. However, the case to revise the current estimate is not compelling as the new figure falls within the 95% confidence limits around the estimated population from the Departmental Brief. The approach to re-survey the entire GW pSPA using the most up-to-date survey method could, as in the case of the OTE pSPA, provide a more compelling case for re-considering the target for the population abundance attribute for red-throated diver through the site's Conservation Objectives.</p> <p>4. <i>This point was initially raised in previous correspondence and addressed at the time.</i> NE/JNCC are confident that the site-specific data for little gull are sufficient to determine if the species qualifies under the SPA selection guidelines (Stroud et al., 2001) for classification, even though the variability in the data does not allow for the identification of a boundary based on the little gull distribution. Figure 4 in the GW pSPA Departmental Brief presents the raw count data for little gull in the two winters of 2004/05 and 2005/06 which represent the best</p>	
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			<p>available information regarding the spatial distribution of little gull in the area.</p> <p>5. <i>This point was initially raised in previous correspondence and addressed at the time.</i> NE/JNCC advised that at present there are no firm plans to map the areas used by little gull within the pSPA boundary. Therefore, the raw distribution data presented in the Departmental Brief may be considered as the best available information for Impact Assessment purposes for the time being.</p>	
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