

# Morecambe Bay and Duddon Estuary potential Special Protection Area (pSPA)

## Report of Consultation by Natural England

### Contents

Version Control .....	2
Table 1. Summary of responses.....	3
Background.....	3
The Consultation Process .....	5
Raising awareness about the Consultation.....	5
Consultation Responses .....	6
Detail of Consultation Responses .....	9
Table 2. Stakeholder response categories .....	9
Table 3. Consultation responses .....	10
A. Owners and occupiers.....	10
B. Local authorities/other competent authorities .....	13
C. Interested parties/organisations .....	18
D. Members of the public and unsolicited responses.....	23
Appendix 1: Non-Financial Scheme of Delegation.....	24
Appendix 2: Online Consultation Questions.....	25
Appendix 3: RSPB contemporary data query.....	26

## Version Control

Version & date	Drafted by	Issued to	Comments by
V1: 12/05/2016	██████ (Marine Adviser) Helen Ake (Marine Lead Adviser)	Chris Lumb (Senior Adviser)	CL
V2: 19/05/2016	██████ (Marine Adviser) Helen Ake (Marine Lead Adviser)	Mike Burke (Area Manager Team 4) Simon Humphries (Area Manager Team 2)	MB&SH: Signed off and will be notified of any significant material changes prior to submission
V3: 20/05/2016	Helen Ake (Marine Lead Adviser)	Chris Lumb Richard Cook	CL RC
V4: 10/06/2016	Helen Ake (Marine Lead Adviser)	N2K Project Board	Jamie Davies (Natural England, Senior Responsible Officer) – comments provided  Niall Malone (Defra) – no comments at this stage  Kerstin Kober (JNCC) – no comments
V5: 17/06/2016	Helen Ake (Marine Lead Adviser)	Jonathan Burney Marine Director	JB: Sign off provided based on proposed revisions
V6: 01/07/2016	Helen Ake (Marine Lead Adviser)	Senior Leadership Team	Approval provided by SLT on 8 <sup>th</sup> July 2016 for report to proceed to Natural England Board
V7: 11/07/2016	Helen Ake (Marine Lead Adviser)	Natural England Board	Approval provided by NE Board on 20 <sup>th</sup> July 2016 to submit recommendations to Defra

## **Introduction**

The purpose of this Consultation Report is to clearly set out all correspondence received by Natural England and the associated responses during the Morecambe Bay and Duddon Estuary potential Special Protection Area (pSPA) formal consultation which ran from 21<sup>st</sup> January 2016 to 21<sup>st</sup> April 2016.

**Table 1. Summary of responses**

<b>Site Name</b>	<b>Morecambe Bay and Duddon Estuary pSPA</b>
Formal consultation period (13 weeks)	<b>21<sup>st</sup> January 2016 – 21<sup>st</sup> April 2016</b>
Total number of stakeholder responses	41
Owners and occupiers	6
Relevant/competent authorities	14
Interested parties	17
Individuals/unsolicited	4
Number of supporting responses	8
Number of neutral responses/general enquiries	31
Number of objections	2
Number of supporting responses which raise points for clarification <sup>1</sup>	3
Scientific concerns/queries	3
Socio-economic concerns/queries	12
Number of consultees with outstanding objections	2

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

Details of Natural England's Non-Financial Scheme of Delegation (NFSoD) can be found in Appendix 1.

## **Background**

Natural England works as the Government's statutory adviser to identify and recommend Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) in England to meet the requirements of the European Birds and Habitats Directives.

The Birds and Habitats Directives require 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 proposed SPAs or possible SACs, they are recommended to government for approval to carry out a formal public consultation. Government decides which sites are put forward to the European Commission for inclusion in the Natura 2000 network.

## Morecambe Bay and Duddon Estuary pSPA consultation

Located on the Irish Sea coast of north-west England, the existing Morecambe Bay SPA and Duddon Estuary SPA were classified in 1999 and 1998 respectively as important sites for large numbers of wintering and passage waterbirds, as well as qualifying for breeding terns. Morecambe Bay and Duddon Estuary pSPA includes the existing Morecambe Bay and Duddon Estuary SPAs, areas of land and coast between the sites and additional marine areas important for a variety of purposes by the qualifying features. The justification for including the existing SPAs in the boundary of the pSPA is based on evidence of terns moving between nesting colonies in these SPAs, and the fact that terns breeding in these colonies use the same marine foraging areas.

The total area of the Morecambe Bay and Duddon Estuary pSPA is approximately 68,550 ha encompassing the intertidal areas of Morecambe Bay, Duddon Estuary and the Ravenglass Estuary together with the intervening Cumbria coast, and extending up to approximately 8km seawards. The existing SPA's of Morecambe Bay (36,985.47 ha) and Duddon Estuary (6779.9 ha) form 64% of the proposed pSPA area.

For the new designation, the landward boundary around the existing Morecambe Bay SPA and Duddon Estuary SPA remains unchanged. The existing seaward boundary for Morecambe Bay SPA, from Wyre Estuary to north Morecambe Bay, also remains unaltered and follows Mean Low Water. The landward boundary of the section of coastline previously outside the existing SPAs follows Mean High Water as identified by JNCC for Sandwich tern foraging requirements in accordance with UK marine SPA selection guidelines. The seaward boundary from north Morecambe Bay, around Walney Island and along the Cumbria coast to the Ravenglass Estuary will follow the JNCC identified maximum curvature threshold boundary based on the modelled foraging area for Sandwich tern.

The features of both the existing SPAs are to be retained and new qualifying features are added based on a review of current bird abundance information. Proposed new features are non-breeding black-tailed godwit, whooper swan, little egret, Mediterranean gull, lesser black-backed gull and ruff. For some features it is considered necessary to retain the original citation values as the basis for qualification (breeding Sandwich tern, common tern, seabird assemblage and herring gull; non-breeding golden plover, grey plover and sanderling), in line with Defra policy that indicates the feature should be retained until such time as the reasons for the reduction in population can be established. The Morecambe Bay SPA citation was updated in 1997, superseding that prepared in 1991. The new citation preserves the ambition established in both previous citations by retaining all original qualifying features meeting UK SPA selection guidelines, with one exception. Breeding common eider *Somateria mollissima* is no longer thought to fall within scope of Article 4 of the Birds Directive, as the UK breeding population is considered non-migratory, but will remain a main component of the waterbird assemblage.

## **The Consultation Process**

A 13 week formal consultation was carried out on the site proposals from 21<sup>st</sup> January 2016 to 21<sup>st</sup> April 2016.

The purpose of this consultation was to seek the views of all interested parties on:

- The scientific case for the classification of the pSPA

Socio-economic queries cannot be taken into consideration when deciding to classify the site. An assessment of socio-economic impacts for the site was undertaken before the consultation and is based on the current understanding of existing and planned activities occurring within the pSPA. As agreed by Defra, the assessment concluded that the socio-economic impacts resulting from the pSPA classification were relatively low. Therefore production of a full socio-economic impact assessment for the consultation was considered disproportionate and not developed.

However, to ensure all consultation responses have been considered, all socio-economic representations are reported briefly within this consultation report (Table 3) with further detail provided as an Addendum to the assessment of socio-economic impacts.

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

Natural England contacted all identified stakeholders and known owner-occupiers with an interest in the proposed SPA extension. Over 1000 stakeholders were contacted in total by email or post, announcing the start of formal consultation. Each stakeholder was provided with a covering letter, a consultation summary document that provided an overview of the proposal, detailed explanation of the consultation process, and ways to respond (Appendix 4) and an overview map of the proposed site boundary identifying the area covered by the existing SPAs. A link to the relevant page of the Natural England website was provided in the cover letter, which contained supplementary documents containing the scientific rationale for the site and a series of detailed maps of the boundary of the extension area (<https://www.gov.uk/government/consultations/morecambe-bay-and-duddon-estuary-special-protection-area-changes-comment-on-proposals>).

The following documents were accessible from the Morecambe Bay and Duddon Estuary Formal Consultation pSPA webpage:

- Morecambe Bay and Duddon Estuary pSPA: consultation summary
- Morecambe Bay and Duddon Estuary pSPA: Departmental Brief
- Morecambe Bay and Duddon Estuary pSPA: boundary map
- Extension area 1: Ravenglass to Silecroft (map)
- Extension area 2: Silecroft to west of Walney Island (map)
- Extension area 3: west of Walney to Newbiggin (map)

In the event that stakeholders were unable to access the worldwide web, hard copies were provided upon request. Prior to the start of the formal consultation period, a targeted informal dialogue period was carried out with relevant individuals and organisations during an 8 week period from the 17<sup>th</sup> February 2015 and 14<sup>th</sup> April 2015. Natural England staff continued to raise awareness of the proposals during Marine Management Organisation consultations, site specific advice to developers or regulators and discussion with stakeholders.

During the consultation Natural England area team staff led direct stakeholder engagement. This took the form of individual conversations with stakeholders where sought and attendance at a number of meetings including providing presentations on the proposals and our assessment of the implications for the future management of the site. A Natural England national team member attended the Environmental Committee meeting of the British Ports Association to represent all pSPA site consultations. Press releases were issued and included in local newspapers that circulate within the proposed site. Presentations and briefings were given to: the Duddon Estuary Partnership committee, Morecambe Bay Partnership and conference, Morecambe Bay Wildfowlers Liaison Group and Northern Coastal Sub-Group. During informal dialogue presentations were given to and discussions held with the Marine Management Organisation, Morecambe Bay European Marine Site Management Group and North Western IFCA. Natural England has made every effort to be available to discuss the pSPA via telephone or through email correspondence, and any further documentation has been made readily available on request. During the consultation period several interested parties made contact and consultation documents were subsequently provided.

Four weeks before the formal consultation deadline Natural England issued a reminder to stakeholders through e-mail and via a press release to encourage a response before the closing date. The consultation questions posed on the online Smart Survey, including those related to the scientific evidence, can be found in Appendix 2.

## **Consultation Responses**

Natural England was contacted by 41 stakeholders during the formal consultation period via email, letter, telephone or via an online response on Smart Survey. A total of eight stakeholders were supportive of the Morecambe Bay and Duddon Estuary pSPA, with three supportive of the proposals in principle although raising concerns about specific aspects of the recommendations. Two of the stakeholders objected to the proposals. Thirty one stakeholders responded neither supporting nor objecting to the proposals. Concerns expressed by two stakeholders may be considered outstanding and for Defra's consideration. Thirteen of all of the consultation responses required detailed consideration, with three of these concerning the scientific evidence supporting the recommendations.

Six responses were received from owners and occupiers. Four responses were categorised as neutral, and two were supportive of the proposals. The response from the RSPB, although supportive, did raise several concerns regarding the scientific rationale behind the pSPA extension.

Of the fourteen local authorities and other competent authorities that responded to the formal consultation, two objected to the proposals, two supported the proposals, and ten neither supported nor opposed the proposals. The objection received from Associated British Ports criticised the scientific methodology and use of modelled data defining the boundary recommendation of the pSPA. ABP suggested that the boundary should be moved to better reflect where there is a higher level of confidence for the presence of SPA features. Several stakeholders commented on their expectation of flood defences to be maintained and expressed concerns including possible, agriculture and recreational restrictions, restrictions on footpath use and relocation of proposed new National Grid pylons further inland should the site be classified.

Sixteen responses were received from interested parties/organisations; three were supportive of the proposals and 12 were neither supportive nor opposing and one is classed as an outstanding objection. Of the supportive stakeholder responses, the North West Wildlife Trusts' response was supportive in principle but queried the citation values used for several species and scientific methodology. One neutral response expressed some concern for possible restrictions on access for horse-riders and vehicles.

Three members of the public responded to the formal consultation. Two responses were neither supportive nor opposed the new extension and one was supportive of the proposals.

Ten online responses were received through the Smart Survey. Six responses were submitted but contained no answers to questions or contact details; these have therefore been excluded from the formal consultation report summary. Of the four remaining responses, two stakeholders also responded via email to the proposals; these responses have been combined and so one response is considered from each stakeholder.

All stakeholder responses were collated and reviewed by the local area team. Where there was a need to provide detailed responses to a specific scientific concern or issue particularly regarding the application of data or scientific evidence an evidence panel was consulted. Local evidence panels comprised of Area Team lead advisers, senior advisers and a site ornithologist. Where the stakeholder responses raised issues of wider national significance or presented new evidence, the Area Team forwarded these to a national evidence panel comprising national project team, senior ornithologists, specialists and external partners (e.g. JNCC) as required.

Natural England replied in writing to each stakeholder who raised issues during the consultation, addressing each of the points raised. Each stakeholder's representation and Natural England's response is outlined in Table 3, below, together with Natural England's recommendation to Defra. Where further communications were received, Natural England responded with further written correspondence and, in some cases, telephone conversations and face-to-face meetings. This dialogue has been captured in Table 3 under 'Further Representations and Discussions (outside the formal consultation period)'. Copies of correspondence and meeting notes can be provided if necessary.

## **Consultation Conclusion and Natural England's Advice to Defra**

The main concerns raised by stakeholders with regard to the scientific rationale behind the pSPA designation are outlined below. Natural England notes the concerns raised by a number of stakeholders regarding the assessment of qualifying features and the definition of the seaward boundary.

In relation to the seawards boundary, we note the alternative suggestions that have been made, for example, drawing smaller site boundaries around the discrete tern colonies, and concerns that the boundary was based upon modelling, had not been validated locally and does not clarify the functional importance of areas inside or outside of the boundary.

In relation to the assessment of qualifying features, it notes the alternative suggestions that have been made, for example, around the use of contemporary or historical population baselines for species that have declined since their inclusion on previous citations.

Despite the outstanding objections and concerns Natural England's advice is that the site should be classified in line with the Departmental Brief and supporting consultation documents because the scientific approach adopted to set the seaward boundary is appropriate.

As part of our conservation advice provisioning for this site the Area Team will look to review all of the species and look to set realistic and appropriate objectives based upon our historical knowledge of the site and application of robust additional

## **Issues for consideration by Defra**

Natural England received two objections on the designation of the Morecambe Bay and Duddon Estuary pSPA that we would like to highlight to Defra. Further detail is provided below:

Natural England would like to highlight for Defra's consideration the issues raised by **Associated British Ports** with respect to the proposed site boundary and the methodology used for defining it. Natural England responded to clarify that the area of interest was of particular importance for breeding little tern who nest on the adjacent Foulney Island and that modelled evidence that set the boundary was objective and robust. For a summary of these issues and how Natural England responded to the concerns raised, please refer to page 14 & 15 in the Detail of Consultation Responses chapter.

Natural England would like to highlight for Defra's consideration the issues raised by the **British Ports Association** with respect to the inclusion of port and harbour limits within the proposed boundary. Natural England responded in writing to clarify the boundary and the modelling method used to define the boundary was robust and demonstrated terns used these areas to forage. For a summary of these issues and how Natural England responded to the concerns raised, please refer to page 16 in the Detail of Consultation Responses chapter.

## Detail of Consultation Responses

Natural England replied in writing to each stakeholder who raised issues during the consultation, addressing each of the points raised. Each stakeholder's representation and Natural England's response is outlined in Table 3 in the Detail of Consultation Responses section below. Copies of stakeholder correspondence and meeting notes can be provided if necessary. Stakeholder response categories are explained in Table 2 below.

**Table 2. Stakeholder 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 – other

Consultees are grouped into the following categories:

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

**Table 3. Consultation responses**

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
<b>A. Owners and occupiers</b>				
The Crown Estate	<p>Neutral response.</p> <ol style="list-style-type: none"> <li>1. Requested further information containing a GI file of the proposed pSPA boundary.</li> <li>2. Provided comments on a number of potential socio-economic impacts: Expressed concern for the maintenance of cables and pipelines inside the pSPA. Also highlighted natural gas and liquid natural gas interests, and remarked on coastal interests including several leases related to the foreshore and rights granted for other activities</li> </ol>	1, 3	Acknowledgement provided and detailed response	None
[REDACTED]	<p>Do not understand the implications/request clarification/general views (responded by telephone).</p> <ol style="list-style-type: none"> <li>1. Concerned over the proposed size of the SPA and thought that the extension included landward extensions to the existing SPAs, which might have implications for management of the adjacent Lyth Valley.</li> <li>2. Wider concerns for conservation management.</li> </ol>	3	<p>Acknowledgement provided and detailed response sent.</p> <ol style="list-style-type: none"> <li>1. Explained the extent of the SPA extension and pointed out that there are no landward extensions to the existing SPA boundaries.</li> <li>2. Explained the main purpose of the extension and how NE is working with North West Inshore Fisheries Conservation Authority (NWIFCA) and local fishermen.</li> </ol> <p>[REDACTED] appeared content with the information provided and no additional comments were subsequently received.</p>	None

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
Lindale Meadow Ltd.	Request clarification  Query raised as to why Lindale Meadow Ltd. was contacted with regards to the pSPA	3	Acknowledgement provided and detailed response sent  Explained how Lindale Meadow Ltd. was contacted as a Land Registry search indicated that the company has holdings within or adjacent to the pSPA. No further correspondence received	None
	Supportive  Provided up-to-date contact details	2	Acknowledgement provided	None
Mitchell's Auction Land Company Ltd on behalf of Waberthwaite Land Owner	Neutral. Raised the following issues:  1. Asked for clarification of the extent of the pSPA boundary within the estuary of the River Esk (specifically Ravenglass) and whether it would include areas of saltmarsh owned by the landowner 2. Concerns that the new SPA designation would impact the management of land grazing activities and result in a loss of income from HLS and BPS.	1, 3	Acknowledgement of response provided and detailed response sent. Replied with the following information:  1. Explained that the boundary includes Ravenglass and the three estuaries Irt, Mite and Esk and is set at the mean high water mark and that saltmarsh was included within the boundary. 2. Confirmed that we expect the proposed SPA designation to have no impact now or in the future on the grazing of saltmarshes in the Ravenglass Estuary.	None

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
<p>Royal Society for the Protection of Birds (RSPB)</p> <p>Natural England Ornithologists met with RSPB on 10<sup>th</sup> May 2016 to discuss issues raised. RSPB confirmed support for the proposals.</p>	<p>Supportive of the pSPA extension and the qualifying features proposed. Highlighted the following concerns regarding the scientific rationale behind the designation:</p> <ol style="list-style-type: none"> <li>1. Seek clarification of the rationale for use of contemporary data for setting citation baselines, and seek reassurance that population trends over time will be taken into account when setting conservation objectives for the site, including the level at which populations should be maintained or to which they should be restored Encourage the use of contemporary value for golden plover rather than the lower 1991 citation value.</li> <li>2. Strongly encourage retention of 1991 citation value for lesser black-backed gull rather than proposed use of lower contemporary value.</li> <li>3. Emphasise the variable breeding success of Sandwich and little tern, reflecting their dependency upon dynamic coastal habitats and vulnerability to disturbance and need for pro-active conservation management</li> <li>4. The modelling methodology and boundary of the marine extension is considered suitable for the Sandwich tern colony at Hodbarrow, however the modelling data for the Hodbarrow colony is still not considered to be ecologically valid as it has no absolute tracking data to support it at this particular site i.e. there have been no tracking studies conducted at the site.</li> </ol>	2, 3	<p>Acknowledgement provided and detailed response sent.</p> <ol style="list-style-type: none"> <li>1. Clarified what the Departmental Brief seeks to do and NE's position on application of contemporary data vs historical data for citation and the use of WeBS data (See Appendix 3 for further information).</li> <li>2. Clarified the process of setting conservation objectives and conservation advice within Natural England and confirmed that we would look to set realistic and appropriate objectives based on all evidence and knowledge available.</li> <li>3. Explained that the amalgamation of existing sites is driven by affording great protection to little tern as currently not a feature of Duddon Estuary pSPA and allows for shift of usage of colonies across both sites. Confirmed Natural England's support and involvement in local tern recovery/management group for all tern species within Morecambe Bay and Duddon Estuary area.</li> <li>4. Confirmed that the adoption of a model-based approach is justified with a number of precedents. Demonstrated we are confident in the robustness of the model's predictions of patterns of tern usage, and satisfied with the objectivity that the application of the maximum curvature analysis approach has given to the boundary identification process.</li> </ol>	None

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
Royal Society for the Protection of Birds (RSPB) (cont.)	5. The RSPB identified that nationally significant numbers of post-breeding Sandwich terns have been recorded on the Cumbria coast of exploiting a bigger area than the pSPA and the proposed SPA boundary does not address their needs.	2, 3	5. Highlighted that the current designation work being undertaken by UK agencies was in part triggered by the SPA review reported in 2001 (Stroud et al, 2001). It was identified in the review that the network of sites for marine species was lacking and further work was required to identify additional areas for foraging seabirds to be considered was needed. There is another review of terrestrial SPA sufficiency ongoing at the moment. Should there be any requirement identified for additional (terrestrial) sites for seabirds on passage, further areas of the network found to be lacking such as for birds on passage or key passage species further work may be required at a later date to progress this.	
<b>B. Local authorities/other competent authorities</b>				
Arnside Parish Council	Requested further information so that the council could consider a response. Provided up-to-date contact details	3	<p>Acknowledgement of response provided.</p> <ol style="list-style-type: none"> <li>1. Provided the link to the consultation pages containing all relevant documents and offered to send hard copies.</li> <li>2. Confirmed that contact details had been updated.</li> </ol> <p>No further correspondence was received</p>	None

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
Associated British Ports	<p>Objection. Response included the following comments:</p> <ol style="list-style-type: none"> <li>1. Boundaries of these proposals require further examination to better reflect areas that warrant protection and therefore give rise to a better level of marine conservation overall.</li> <li>2. Concern that modelled boundary has not been validated locally</li> <li>3. Suggested that smaller site boundaries could be drawn around discrete tern colonies within the pSPAs to protect important foraging areas. ABP provided an interpretation of areas used by terns following a higher “relative usage contour” than that identified by application of the Maximum Curvature Analysis (MCA) method to the underlying relative usage data and shown in the maps provided in the Departmental Briefs. ABP’s justification is text within the JNCC report 500 (Wilson et al 2014<sup>1</sup>) which noted that for Coquet Island around 95% of usage by Sandwich terns was contained within 5% of the total available area within the species’ maximum foraging range.</li> </ol> <p>Further discussion with port stakeholders including ABP took place on 8<sup>th</sup> June 2016. All points of concern were discussed.</p>	4,5,6	<p>Acknowledgment provided and detailed response sent as follows:</p> <ol style="list-style-type: none"> <li>1. Demonstrated the modelled approach indicates that usage by foraging terns in areas such as port limits and shipping channels exceed the maximum curvature thresholds as outlined in the Departmental Brief. Demonstrated the objectivity that the application of the maximum curvature analysis approach has given to the boundary identification process and that the adoption of a model-based approach is justified with a number of precedents.</li> <li>2. Demonstrated confidence in the robustness of the models’ predictions of patterns of tern usage as verified through site-specific and non-site specific surveys carried out in 2015. Clarified that tern species are consistently scored as being amongst the least sensitive species to disturbance from vessel and helicopter traffic, which together with the verification survey findings, demonstrates that tern species forage in areas in which noise and visual disturbance occurs.</li> </ol>	Not explicitly stated, but consultee may consider their issue to be current.

<sup>1</sup> Wilson L. J., Black J., Brewer, M. J., Potts, J. M., Kuepfer, A., Win I., Kober K., Bingham C., Mavor R. and Webb A. (2014). Quantifying usage of the marine environment by terns *Sterna* sp. around their breeding colony SPAs. JNCC Report no. 500.

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
Associated British Ports (cont)		15	<p>3. We do not agree that it is appropriate to take comments made by Wilson <i>et al</i> (2014) to infer that the proposed pSPA boundaries as drawn and based on MCA can be further shrunk by the same proportionate amount. The application of MCA to derive the boundaries has already excluded large areas of sea within the species' maximum foraging ranges which are predicted to support no or very low usage. MCA provides an objective, repeatable and established method for defining a limit in the marine environment in which there is no scope to define boundaries based on limits to clearly defined habitats. In this instance, as in other applications of the MCA approach (e.g. Liverpool Bay SPA, Outer Thames Estuary SPA), MCA has resulted in the exclusion of large areas of sea that support some level of usage by birds from within site boundaries. In the case of terns, the boundaries as drawn based on application of MCA, have excluded areas which on average, across species and sites, support up to almost 10% of total predicted usage. The application of MCA has provided a pragmatic and conservative approach to boundary setting, particularly when viewed in the context of the far wider sea areas which the scientific literature indicates is within the foraging range for these species.</p> <p>NE do not agree that it is appropriate to take the comments made by Wilson <i>et al</i> (2014) to infer that the proposed pSPA boundaries can be further shrunk by the same proportionate amount without significantly reducing the likelihood that the site encompasses all of the</p>	

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
British Ports Association	<p>Objection</p> <p>Requested removal of all port limits Responded on behalf of all proposed pSPAs. States individual ports will have made contact where appropriate and asks that all ports and port limits, marinas and shipping channels be removed.</p> <p>Further discussion with BPA and other port stakeholders took place on 8<sup>th</sup> June 2016. All points of concern were discussed.</p>	1, 4	<p>Acknowledgment provided and detailed response sent as follows:</p> <p>Demonstrated the modelled approach indicates that usage by foraging terns of areas such as port limits and shipping channels exceed the maximum curvature thresholds as outlined in the Departmental Brief. The adoption of a model-based approach is justified with a number of precedents. Demonstrated confidence in the robustness of the models' predictions of patterns of tern usage (verified through additional surveys in 2015) and satisfied with the objectivity that the application of the maximum curvature analysis approach has given to the boundary identification process. Clarified that tern species are consistently scored as being amongst the least sensitive species to disturbance from vessel and helicopter traffic, which together with the verification survey findings, demonstrates that tern species forage in areas in which noise and visual disturbance occurs.</p> <p>Discussions on the 8<sup>th</sup> June resulted in consensus to develop site-specific agreements between NE and Port authorities to facilitate outcomes-focused discussions regarding future management of port activities if required. Discussions are ongoing.</p>	Not explicitly stated, but consultee may consider their issue to be current.
Cat Smith, MP, House of Commons	<p>Neutral but with the following queries and concerns:</p> <ol style="list-style-type: none"> <li>1. Requested clarification on map key.</li> <li>2. Concerns that the SPA would adversely affect future measures taken to reduce flooding. Requested assurance that the flooding protection would be prioritised over the protection of bird species</li> </ol>	1, 3	<p>Response sent containing the following information:</p> <ol style="list-style-type: none"> <li>1. Clarification provided on the green areas of the map.</li> <li>2. Confirmed that the addition of 6 bird species in the SPA would not alter existing management and that Natural England would continue to work with relevant regulators and stakeholders to manage flood risk and take statutory environmental duties into account.</li> </ol>	None

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
Department for Transport	Information request. Asked for additional details on which ports would be affected by the pSPA	3	Acknowledgement of response was provided. Provided information on all ports contacted	None
Fylde Borough Council	Neutral response, no further comments to offer	1	Standard NE reply acknowledging receipt of response	None
Lake District National Park Authority	Confirmed that correspondence from NE email had been sent to appropriate officers and that a formal response should be expected if the LDNPA had any comments to make on the pSPA	3	Standard NE reply acknowledging receipt of response. No further comments received	None
Lancashire County Council	Supportive	2	Standard NE reply acknowledging receipt of response	None
Marine Management Organisation (MMO)	Neutral Provided details of MMO's delivery functions and confirmed pSPA designations will be added to the marine planning evidence base.	1	Acknowledgement provided	None
Millom without Parish Council and Wickham Parish Council	Neutral Concerns expressed:  <ol style="list-style-type: none"> <li>1. Queried likely agriculture and recreational use impacts</li> <li>2. Likely restrictions on footpath user and countryside access</li> <li>3. Queried relocation of the proposed National Grid pylons further inland</li> </ol>	1, 3	Acknowledgement provided and detailed response sent:  <ol style="list-style-type: none"> <li>1. Confirmed that activities and farming are already under appropriate management through schemes and additional species will not impact</li> <li>2. Clarified that engagement with recreational groups including Duddon Estuary Partnership is performed to resolve any issue or concerns that arise from recreational activities. Provided information that NE is working on England Coast Path and encourage interpretation links to wildlife interests where suitable</li> <li>3. Confirmed that NWCC (National Grid Project) are aware of the pSPA and have considered it and existing designations within its current proposals. pSPA is thought to be unlikely to affect cable route.</li> </ol>	None

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
North Western Fisheries and Conservation Authority (NWIFCA)	Information request.  Question raised by a concerned local fisherman to NWIFCA regarding the implications of the pSPA on the Duddon Estuary set net and drift netting fisheries and their management. Verbal request was made by NWIFCA for a response in writing.	3	Acknowledgement provided and detailed response sent. Verbal response provided initially which was passed on to local fishermen.  Confirmed that as per our previous discussion during informal dialogue, NE were not aware of any management issues with this activity; no records to NE or IFCA knowledge of bycatch of terns. The existing activities in the existing SPAs are being reviewed individually which also suggests that further management would not be required.  Letter sent to confirm verbal response. No additional comments were subsequently received.	None
Pilling Parish Council	Supportive  Expects that the seaward channels at the River Broadfleet and River Cocker are maintained and cleared to prevent flooding inland	2	Standard NE reply acknowledging receipt of response	None
South Lakeland District Council	Neutral response with simple acknowledgment to proposal	1	Standard NE reply acknowledging receipt of response	None
Witherslack, Meathop and Ulpha Parish Council	Information request  Did not think that the proposed pSPA was applicable to them as outside of their Parish remit	3	Acknowledgement of response was provided. Verified that the part of the parish boundary does fall within the new pSPA site.	None
<b>C. Interested parties/organisations</b>				
Askham Village Hall Charity	Change of chairman details	3	Acknowledgement of response was provided	None

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
British Horse Society	Neutral with specific issues  Concerns raised regarding previous NE attempts to restrict horse riders, fishermen and vehicles on Pilling/Preesall Sands	1, 3	Acknowledgement of response and detailed response sent:  <ul style="list-style-type: none"> <li>Confirmed NE looking to work closely with Morecambe Bay Partnership and stakeholders to address known reactional disturbance issues identified through recent studies</li> <li>Clarified the statutory duties regarding plans or projects</li> <li>Confirmed that social-economic factors cannot be taken into account</li> </ul>	None
Duddon Estuary Partnership	Offer of an invitation to attend the Duddon Estuary Partnership meeting to discuss the pSPA in more detail.	3	Acknowledgement of response was provided. Accepted the invitation to attend the meeting and presentation given on the pSPA	None
Energy and Water Consultancy Services	Request for information on the proposed boundary	3	Acknowledgement of response was provided. Provided web link for additional information and gave a description of the extension boundary and the benefits for bird species.  No additional correspondence received	None
Grange and District Wildfowlers Association	Neutral response  Confirmed that they have no more additional scientific evidence to contribute and that the area is outside the boundaries of their association	1	Standard NE reply acknowledging receipt of response	None
Historic England	Neutral response  No advice or additional comments to offer	1	Standard NE reply acknowledging receipt of response	None
The Morecambe Bay Wildfowlers Association For Shooting and Conservation	Neutral response  Commented that the new extension is far enough offshore to not have an effect on their associations activities	1	Standard NE reply acknowledging receipt of response	None

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
The National Federation of Fishermen's Organisations (NFFO)	<p>Neutral response</p> <p>Comments that no information has been provided on the potential risk of fishing activities to the conservation features</p>	1	<p>Acknowledgement provided and confirmed that:</p> <p>The assessment of socio-economic impacts assumed no additional costs to the sector from the classification of the pSPAs. Whilst additional evidence may be required to confirm no impact on tern from bycatch, this would be required whether the pSPA was classified or not due to existing SPA protection.</p>	None
National Trust	<p>Supportive response</p> <p>Accepts the scientific rationale behind the designation and agrees on the NE summary of economic impacts</p>	2	Standard NE reply acknowledging receipt of response	None
Natural Energy Wyre	Asked how best to respond to the formal consultation and for them to be kept involved	3	<p>Acknowledgement of response was provided.</p> <p>Explained the extent of the SPA extension and pointed out that there are some additional features being added. Clarified that the consultation documents outline how to respond to the formal consultation</p>	None

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
North West Wildlife Trusts	<p>Supports the proposal to reclassify and extend the pSPA. Raises several concerns regarding the scientific rationale used for the designation:</p> <ol style="list-style-type: none"> <li>1. Questions the use of recent data for lesser black-backed gulls where a reduction in the citation value is not justified or evidenced</li> <li>2. The citation values for several species of whooper swan and some waders are likely to be underestimated and that there is a lack of data at specific sites.</li> <li>3. Questions if the recovery of tern species within the pSPA is scientifically feasible, and would need to be better encouraged and better resourced. Management concerns raised - for better breeding success NGOs are likely to have to spend more money?</li> </ol>	2,3	<p>Acknowledgement of response and detailed response sent.</p> <ol style="list-style-type: none"> <li>1. Clarified what the Departmental Brief seeks to do and NE's position on application of contemporary data vs historical data for citation and the used of WeBS data (See Appendix 3 for further information).</li> <li>2. Amalgamation of existing sites is driven by affording great protection to little tern as currently not a feature of Duddon Estuary pSPA and allows for shift of usage of colonies across both sites. Confirmed Natural England's support and involvement in local tern recovery group</li> <li>3. Clarified the process of setting conservation objectives and conservation advice within Natural England.</li> </ol>	None
Roa Island Boat Club	<p>Neutral response. Requested the following information:</p> <ol style="list-style-type: none"> <li>1. Clarification on whether the buoyed channel leading to Barrow docks was included in the pSPA</li> <li>2. If so, what effects would there be on dredging activities</li> </ol>	1, 3	<p>Acknowledgement provided, and confirmed that:</p> <ol style="list-style-type: none"> <li>1. The buoyed channel in question is inside the boundary of the pSPA</li> <li>2. The maintenance dredging undertaken by ABP Barrow in parts of the buoyed channel has been assessed under the Habitats Regulations. Maintenance dredging does not take place in the parts of the channel that support sensitive SAC habitats. It has been agreed with ABP that the dredging is not having any adverse effects on the SAC.</li> </ol>	None

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
Royal National Lifeboat Institution (RNLI)	Supportive response  Considers the RNLI would not have an impact on wildlife in the pSPA when undertaking lifesaving activities	2	Standard NE reply acknowledging receipt of response	None
Royal Yachting Association (RYA)	Neutral response  No objections to the proposals across the sites in principle, and would be very concerned if the designation or extension resulted in any additional proposals for management of recreational activities within and around the proposed SPAs, given the assurances set out in the consultations.	1,3	Acknowledgement provided, and confirmed that:  Confirmed that there is no evidence that boating activities, at current levels, are restricting the ability of terns to forage within the pSPAs.	None
Sunderland Point Community Association	Requested to informed of the work	3	Acknowledgement provided and confirmed that Sunderland Point Community Association had been added to the mailing list and would be informed of any future developments to the pSPA proposals.	None
Trinity House	Neutral response.  Requested clarification  1. duties as a relevant authority, 2. requested assurances in terms of traditional practices and customary rights and 3. requested removal of assets (rock lighthouses, navigation beacons etc.) from pSPA boundaries on a maintenance/emergency procedure basis.	1, 3	Acknowledgement provided and detailed response:  1. Provided clarification of statutory duties and customary rights. 2. Provided clarification regarding the justification for inclusion of the areas requested for removal. 3. Provided further clarity with respect to likely impacts to maintenance & emergency procedures which are considered to be minimal	None

Consultee	Representation	Type	Natural England response	Outstanding issues for consideration by DEFRA
Wyre Angling Boat Club	Requested to be informed of the work	3	Acknowledgement provided and detailed response:  Confirmed that Wyre Boat Angling Club had been added to the mailing list and would be informed of any future developments to the pSPA proposals.	None
<b>D. Members of the public and unsolicited responses</b>				
██████████	Information request by telephone.  Concerns for level of fishing activity that would be allowed in the new extension.	3	Explained the aim of the extension and associated benefits; including that the new site has the same level of protection as the present SPA. ██████████ appeared content with the information provided, but no additional comments were subsequently received.	None
██████████	Verbally requested information on the proposals and how to respond to the consultation whilst at a Duddon Estuary Partnership meeting  (Member of Duddon Estuary Partnership and Millom without Parish Council and Wickham Parish Council but enquired as an individual)	3	Email sent expressing thanks for attending the meeting and for requesting further information. A link to the consultation page was included in the email, containing additional documents and stating how to respond to the proposals	
██████████	Member of the public. Supportive although had some initial concerns for:  Rationale behind the proposed pSPA. Primarily concerned that the new designation would result in the existing protection being watered down. The new pSPA could result in more favourable conditions for future developments.	2, 3	Telephone discussion with follow-up email. Provided an explanation of how:  The new extension retains the existing protection of Morecambe Bay SPA and Duddon Estuary SPA, and extends it to protect little tern breeding on the Duddon Estuary and six new qualifying features. The extension will cover foraging areas for terns breeding in the SPA and will give more protection to the terns and their dependent habitats. The pSPA has a recover objective for species that have previously met qualifying levels and subsequently declined.	None
██████████	Member of the public. Requested a hard copy of the consultation package	3	Email sent to acknowledge receipt of request and confirm that a hard copy of the consultation package was posted. No further correspondence received	None

## Appendix 1: Non-Financial Scheme of Delegation

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

	Function	Delegation
<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>2</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>2</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: Online Consultation Questions

### Scientific Case

- Q1. Do you accept the scientific explanation for the site proposal?
- Q2. Do you have any additional information that's not included in the departmental brief about the distribution and populations of: Sandwich tern, little tern, common tern, herring gull, lesser black-backed gull, common redshank, red knot, northern pintail, bar-tailed godwit, ringed plover, whooper swan, golden plover, pink-footed goose, common shelduck, Eurasian oystercatcher, grey plover, dunlin, Eurasian curlew, ruddy turnstone, black-tailed godwit, sanderling, little egret, Mediterranean gull ruff?

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

## Appendix 3: RSPB contemporary data query

The Departmental Brief sets out the scientific case for classification of the SPA. Within those documents, where possible, we use contemporary data for those species that:

- Are being added to existing sites
- Are the basis for setting the boundary of the new/amended SPA
- Are the basis for the classification of an entirely new site
- Are a feature of the original SPA but the baseline has increased significantly solely due to a change in the size of the site
- Have seen significant increases in abundance since the classification of the original SPA and where the data that supports this meets our evidence standard

This applies to all new marine SPAs, including completely novel sites and those superseding or replacing existing SPA boundaries.

Where species have declined, or where selection thresholds have increased, or both, it is not always possible to demonstrate site qualification based on contemporary data. In such instances, where species were features of existing SPAs and where we cannot rule out site-specific factors for declines, we wish to preserve the ambition of the original SPA classification to support its features. In order to do this, we sometimes need to refer to data from an earlier time period to demonstrate the case for (re)classification of some features.

Once the site is classified, conservation advice packages will reflect our objectives for the site, including numerical targets for abundances of features, where we can establish them. For sites that have superseded existing SPAs but have witnessed declines in abundance in certain features over time, proposed objectives will usually reflect the original ambition of the SPA (i.e. the earlier citation value or some variant thereof). Natural England's Chief Scientist is responsible for signing off new conservation objectives, based on the evidence submitted by the relevant Area Team dealing with the site and with input from the ornithology specialists.