



## 5. Designated Sites

### 5.1. Introduction

As part of the Marine Licence Application (MLA), the Applicants are required to demonstrate that the potential beneficial and adverse effects of the Project on European sites (Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Ramsar sites), Marine Conservation Zones (MCZs), Nature Conservation Marine Protected Areas (NCMPAs), Sites of Special Scientific Interest (SSSIs) and other national conservation designations have been considered.

To comply with this requirement, separate stand-alone assessments must be completed and submitted by the Applicants to support the competent authorities decision-making process under the relevant legislation.

This chapter explains the different assessment processes required for designated sites and how these will be undertaken by the Applicants. The findings of the assessments will be summarised in the MEAp.

### 5.2. International and National Conservation Designations

Sites can be designated under a range of different legislation in England and Scotland to conserve important habitats and species (JNCC, 2023). Table 5-1 lists the key international and national designations and provides a brief description of their scope. Typically, in the UK, sites which have been proposed as a designated site, but have not been formally designated, are treated as if already designated for the purposes of assessment.

Table 5-1: International and National Conservation Designations

Designation	Description
<b>European Sites</b> (Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar sites)	A collective term for sites protected up to 12 Nautical Miles (NM) from the coast under the Conservation of Habitats and Species Regulations 2017 (COHSR) (England) and The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) (Scotland). The Conservation of Offshore Marine Habitats and Species Regulations 2017 (COMHSR) which includes both English and Scottish jurisdictions, applied to designated sites greater than 12 NM from the coast. SACs are designated for the protection of habitats listed under Annex I and species listed under Annex II of the European Habitats Directive. SPAs with marine components are designated for the protection of bird species listed under the Birds Directive 2009 (as amended) as Annex I species or those which are regularly occurring migratory species dependent on the marine environment for all or part of their lifecycle and are associated with intertidal or subtidal habitats within the SPA. Ramsar sites are 'wetlands of international importance' which contain representative, rare, or unique wetland types or are considered to be of importance for conserving biological diversity (JNCC, 2019). They are designated under the criteria of the Ramsar Convention on Wetlands which was ratified in the UK in 1976. For the purposes of legislation and management Ramsar sites are generally designated in association with relevant European sites and conservation objectives and advice on operations are provided as part of the relevant European site/European marine site.
Highly Protected Marine Areas (HPMAs)	Areas of the sea that allow the protection and full recovery of marine ecosystems, including all habitats, species and ecosystem processes within the site boundary, encompassing the seabed and water column (Defra, 2023). HPMAs prohibit extractive, destructive and depositional uses, allowing only non-damaging levels of other activities to the extent permitted by international law (JNCC, 2023). Three sites were designated in English waters (June 2023); North East of Farnes Deep (northern North Sea), Allonby Bay (Irish Sea) and Dolphin Head (eastern English Channel). This policy is specific to English waters only.
Marine Conservation Zones (MCZs)	MCZs are designated in English, Welsh and Northern Irish territorial and offshore waters under the Marine and Coastal Access Act 2009 (MCAA) to protect a range of nationally important habitats and species.
Nature Conservation Marine Protected Areas (NCMPAs)	NCMPAs are a type of marine protected area that can be designated in Scottish territorial and offshore waters to protect nationally important habitats and species. The Marine (Scotland) Act and the UK Marine and Coastal Access Act 2009 include powers for Scottish Ministers to designate Nature Conservation MPAs.
Sites of Special Scientific Interest (SSSI)	SSSIs are designated for the protection of terrestrial or marine flora, fauna, geological, geomorphological or physiographical features of special interest (JNCC, 2022).



Designation	Description
	In England, they are designated by Natural England under the Wildlife and Countryside Act 1981 (as amended). In Scotland, changes to the Wildlife and Countryside Act 1981 apply through the Nature Conservation (Scotland) Act 2004 and Wildlife and Natural Environment (Scotland) Act 2011. Sites are designated by NatureScot.
National Nature Reserves (NNRs)/Marine Nature Reserves (MNRs)	<p>NNRs are managed by organisations including Natural England (in England), the National Trust, Forestry Commission, The Royal Society for the Protection of Birds (RSPB), Wildlife Trusts, and local authorities. In Scotland, NNRs are managed by similar national organisations including NatureScot.</p> <p>NNRs are areas of land which are set aside for the purpose of nature conservation as well as enabling public and educational access (Natural England, 2022). MNRs are designated under the Wildlife and Countryside Act 1981 for the conservation of marine flora and fauna and geological or physiographical features of special interest whilst providing opportunities for their study. MNRs may be established within 3 NM of the coast to the limits of UK territorial waters and encompass both the sea and the seabed.</p>
National Parks	National Parks are funded by central government and managed by their individual authorities. They are designated as protected landscapes with the broad purpose of conserving and enhancing natural beauty, wildlife and cultural heritage and to promote understanding and enjoyment of the special qualities of national parks by the public. There are 15 National Parks in the UK (National Parks UK, 2023).
Areas of Outstanding Natural Beauty (AONBs)	AONBs are landscapes in England which are designated for their distinctive character and natural beauty. Their purpose is the identification and protection of such areas from inappropriate development (Natural England, 2018). AONBs are designated by Natural England under the Countryside and Rights of Way Act (2000).
National Scenic Area (NSA)	In Scotland, landscapes of national importance are designated by Scottish Ministers as National Scenic Areas (NSA). The legislation defines NSAs as areas “of outstanding scenic value in a national context”, for which special protection measures are required. Part 10 of the Planning etc. (Scotland) Act 2006 gave NSAs a statutory basis by adding a new section to the Town and Country Planning (Scotland) Act 1997. The Town and Country Planning (National Scenic Areas) (Scotland) Designation Directions 2010 then brought this into force. NSAs are broadly equivalent to AONBs in England.
World Heritage Sites (WHS)	WHS are global sites identified by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) which are considered to be of exceptional importance for current and future understanding of cultural, scientific and environmental planetary issues (World Heritage UK, 2023). There are 33 WHS in the UK which are managed by local organisations.
UNESCO Biosphere Reserves	<p>“Learning areas for sustainable development” which enable the study of interdisciplinary approaches to the sustainable use of biodiversity whilst maintaining its conservation (UNESCO, 2021). Biosphere reserves are internationally recognised, including terrestrial, marine and coastal ecosystems and are nominated by national governments. Their main functions include:</p> <ul style="list-style-type: none"> <li>▪ Conservation of biodiversity and cultural diversity</li> <li>▪ Economic development that is socio-culturally and environmentally sustainable</li> <li>▪ Logistic support, underpinning development through research, monitoring, education and training.</li> </ul>
Marine Management Organisation (MMO), and Inshore Fisheries Conservation Authorities (IFCA) Bottom-Towed Gear Byelaws	<p>The MMO has the power to make byelaws within 0 – 200 Nautical Miles (NM) of the English coast to protect habitats and species from potentially harmful activities under the MCAA (MMO, 2023). Byelaws relating to fishing activities are managed by the IFCAs between 0-6 NM and by the MMO between 6 and 200 NM. Within 25 km of the Scoping Boundary both the NEIFCA, IFCA and MMO have established bottom-towed gear byelaws which prevent the use of certain fishing gear types to protect seabed habitats and species.</p> <p>There are no equivalent byelaws in Scotland, protection of marine habitats is enforced through their network of Marine Protected Areas and European Legislation to restrict fisheries, although the legislation is not intended to protect marine habitats specifically.</p>



## 5.3. Assessment Approaches

### 5.3.1. Habitats Regulations Assessment (HRA)

#### 5.3.1.1. Legislative Context

The 'Habitats Directive' (Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora) protects habitats and species of European nature conservation importance. Together with the 'Birds Directive' (Council Directive 2009/147/EC on the conservation of wild birds), the Habitats Directive establishes a network of internationally important sites (i.e., 'Natura 2000 Sites') designated for their ecological status. This includes SACs and SPAs and in accordance with the Office of the Deputy Prime Minister (ODPM) Circular 06/2005 (ODPM, 2005), Ramsar sites. Collectively SACs, SPAs and Ramsar sites are referred to as European Sites in UK legislation.

The Habitats Directives are transposed into UK law in the offshore area (>12 NM from the coast) by The Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) (COMHS) for both Scotland and England; and within the inshore area (<12 NM from the coast) by the Conservation of Habitats and Species Regulations 2017 (as amended) (COHSR) in England and The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) in Scotland. The legislation is collectively referred to as the Habitats Regulations.

Under the Habitats Regulations, the competent authority is required to undertake a Habitats Regulations Assessment (HRA) to determine whether there is potential for a plan or project to have an adverse effect on a European Site, alone or in-combination with other plans or projects. For the Project the competent authority in England would be the MMO and in Scotland it would be MD-LOT.

The HRA process comprises four key stages including Screening for Likely Significant Effects (LSE), Appropriate Assessment (AA), assessment of alternative solutions and Imperative Reasons of Overriding Public Interest (IROPI). The Appropriate Assessment is undertaken by the competent authority based on information provided by the applicant, usually in the form of a Report to Inform an Appropriate Assessment (RIAA) or an HRA Report. An important aspect of the process is that the outcome at each successive stage determines whether a further stage in the process is required.

There are four stages within the HRA process:

1. **Screening:** The process of identifying potentially relevant European and Ramsar sites, and whether the proposed project is likely to have a significant effect on the interest features of the site either alone or in-combination with other plans and projects. If it is concluded at this stage that there is no potential for LSE, there is no requirement to carry out subsequent stages of the HRA. In accordance with recent case law relevant to the Habitats Directive and summarised in European Commission (EC) Guidance (November 2018) screening is undertaken prior to the implementation of any potential mitigation measures.
2. **Appropriate Assessment and Integrity Test:** Where a LSE for a European or Ramsar site cannot be ruled out, either alone or in-combination with other plans and projects, it is necessary to provide further information to enable the competent authority to carry out an Appropriate Assessment of the implications of the project on the integrity of the site(s), either alone or in-combination with other plans and projects, in view of the site's conservation objectives. Where it is not possible to rule out an adverse effect on site integrity (AEol) (integrity test), the HRA must progress to Stages 3 and 4.
3. **Assessment of Alternative Solutions:** Identifying and examining alternative ways of achieving the objectives of the project to establish whether there are solutions that would avoid or have a lesser effect on the site(s).
4. **Imperative reasons of over-riding public interest (IROPI):** Where no alternative solution exists and where an adverse effect on site integrity remains, the next stage of the process is to assess whether the development is necessary for IROPI and if so, the identification of compensatory measures needed to maintain site integrity or the overall coherence of the designated site network.

#### 5.3.1.2. Assessment Approach

To identify relevant European sites for consideration in the shadow HRA the following approach will be adopted:

1. Identification of the potential impacts the Project could have on primary and qualifying features of European sites.
2. Identification of European sites that interact with, or potentially have connectivity with the Project.
3. Assessment of Likely Significant Effects.



The potential for likely significant effects will be assessed using a source-pathway-receptor model. The 'source' is defined as the individual elements of the proposed works that have the potential to affect the identified ecological receptors both within the European site and outside of it. The 'pathway' is defined as the means or route by which a source can affect an 'ecological receptor', defined as the Qualifying Features (for SPAs) or Qualifying Interests (of SACs) for which conservation objectives have been set for the European sites under consideration.

Screening will be informed by a review of the publicly available datasets and the available literature that allows the characterisation of the receiving environment and supports the identification and assessment of potential impacts and their significance.

The examination, analysis and evaluation of the relevant information that supports the Screening process will follow the precautionary principle throughout. Mitigation will not be considered during screening. Where there is any uncertainty in the conclusion, the potential impact and European site will be screened through to the Appropriate Assessment stage of the process. It is at this stage that mitigation measures to reduce the scale or likelihood of potential adverse effects can be proposed and incorporated into the assessment, along with the presentation of further information to inform the assessment.

Where Screening concludes that Appropriate Assessment is required, a Report to Inform Appropriate Assessment (RIAA) will be prepared and submitted with the Marine Licence Application. The RIAA would be informed by the results of the seabed surveys to be carried out (see Chapters 6 and 7 for details of scope). Consultation with the MMO, MD-LOT, Natural England, NatureScot and the JNCC will be undertaken throughout the assessment process to ensure that the RIAAs provides sufficient information for the MMO (England) and MD-LOT (Scotland) to carry out the AA.

The conclusions of the HRA process will be summarised in the MEAp. It is proposed that two shadow HRAs would be prepared; one for English waters and one for Scottish waters, which will be submitted in support of the relevant Marine Licence Applications.

### 5.3.2. Marine Conservation Zone (MCZ)/Nature Conservation Marine Protected Area (NCMPA) Assessment

Section 126 (6) of the MCAA and Section 83 (1) of the Marine (Scotland) Act requires that applicants seeking to undertake an activity must satisfy the competent authority that there is no significant risk of the proposed activity hindering the achievement of the conservation objectives stated for the MCZ/MPA. It should be noted that HPMAs also fall under this legislation and assessment process. There are three stages to the process for assessing the effects of a project on an MCZ/MPA.

1. Screening: The process of identifying whether S126 or S83 should apply to the project. Screening identifies whether the licensable activity is taking place within or near to an MCZ / MPA; and identifies whether the activity is capable of affecting (other than insignificantly) either the protected features of the MCZ/MPA or the ecological or geomorphological processes on which the protected features are dependent.
2. Stage 1 assessment: This stage considers whether there is a significant risk of the activity hindering the achievement of the conservation objectives stated for the MCZ/MPA. It considers whether there are alternative options of undertaking the activity that would create a substantially lower risk of hindering the achievement of the conservation objectives.
3. Stage 2 assessment: This stage looks at whether there are benefits to the public of proceeding with the project that clearly outweigh the damage to the environment and what measures the applicant will take to provide measures of equivalent environmental benefit to compensate for the damage which the project will have on the MCZ / MPA.

#### 5.3.2.1. Approach

To identify relevant MCZ/MPAs for consideration in the Assessment the following screening approach will be adopted:

1. Identification of the potential impacts the Project could have on protected features (including establishing the zone of influence of potential impacts).
2. Identification of MCZ / MPAs that interact with, or potentially have connectivity with the Project.
3. Assessment of potential for Project to hinder the achievement of conservation objectives for the relevant MCZ / MPAs.

A similar approach to that employed for European sites will be taken for MCZ / MPAs, in that assessment will use the source-pathway-receptor model. Screening will be informed by a review of the publicly available datasets and the available literature that allows the characterisation of the receiving environment and supports the identification and assessment of potential impacts and their significance. The precautionary principle will be followed throughout. Where there is any uncertainty the impact and site will be screened through to Stage 1 assessment.

If screening determines Stage 1 Assessment should be undertaken for an MCZ / MPA, the Applicant will provide sufficient information to inform the MMO (England) or MD-LOT (Scotland) assessment. The assessment provided by the Applicants will examine whether



the Project presents any significant risk to the protected features of the MCZ / MPA such that it will hinder the achievement of the conservation objectives for the MCZ/MPA. The assessment is an examination of the likelihood of the risk rather than a certainty of the risk. It is at this stage that mitigation measures to reduce the scale or likelihood of potential adverse effects will be proposed and incorporated into the assessment.

The conclusions of the MCZ/MPA Assessment process will be summarised in the MEAp. It is proposed that an MCZ Assessment would be prepared for English waters and a MPA Assessment for Scottish waters, which will be submitted in support of the relevant Marine Licence Applications.

### 5.3.3. Assessment of Impacts on Other Conservation Designations

Most other conservation designations identified in Table 5-1 are not present within the Study Area e.g., MNRs, NSAs, WHS, UNESCO Biosphere Reserves. Where a conservation designation is present, and the Project has the potential to impact the protected features, this will be discussed in the appropriate topic chapter of the MEAp. For example, impacts on habitats protected by a MMO/IFCA byelaw area will be assessed under the Intertidal and Subtidal Benthic Ecology Chapter, impacts on bird species cited in a SSSI designation will be assessed within the Ornithology Chapter, etc.

Table 5-2 presents the potential impacts which could result in an adverse effect on qualifying features of designated sites and therefore require consideration by the relevant topic chapter of the MEAp. Where applicable cross-reference has been provided to the relevant marine pressures established by the JNCC Marine Pressures-Activities Database v1.4 (2021) and Natural England or NatureScot's advice on operations for relevant designated sites.

Table 5-2: Other conservation designations - potential impacts to be assessed

Potential Impact	Relevant Marine Pressure(s)	Geomorphological Features	Intertidal and Subtidal Benthic Ecology	Fish and Shellfish	Intertidal and Offshore Ornithology	Marine Mammals and Marine Reptiles
Temporary habitat loss/seabed disturbance	Abrasion/disturbance of the substrate on the surface of the seabed Penetration and/or disturbance of the substratum below the surface of the seabed, including abrasion	✓	✓	✓	✓	✓
Permanent habitat loss	Physical change (to another seabed type or sediment type) Water flow (tidal current) changes including sediment transport considerations	✓	✓	✓	✓	✓
Temporary increase and deposition of suspended sediments	Changes in suspended solids (water clarity) Smothering and siltation rate changes (light) (heavy) Hydrocarbon & PAH contamination		✓	✓	✓	
Changes in distribution of prey or target species	-			✓	✓	✓
Visual disturbance	Above water noise				✓	✓
Collision with project vessels	Collision above water with static or moving objects not naturally found in the marine environment (e.g., boats, machinery and structures). Collision below water with static or moving objects not naturally found in the marine environment.					✓



Potential Impact	Relevant Marine Pressure(s)	Geomorphological Features	Intertidal and Subtidal Benthic Ecology	Fish and Shellfish	Intertidal and Offshore Ornithology	Marine Mammals and Marine Reptiles
Underwater noise changes	Underwater noise changes Vibration			✓		✓
Introduction or spread of marine invasive non-native species (MINNS)	Introduction or spread of invasive non-indigenous species		✓			
Electromagnetic changes/Barrier to species movement	Electromagnetic changes Barrier to species movement			✓		✓
Temperature increase	Temperature increase		✓	✓		
Accidental spills	Hydrocarbon & PAH contamination Transition elements & organo-metal (e.g., TBT) contamination	✓	✓	✓	✓	✓

#### 5.4. Identification of Relevant Sites

Each assessment will define a relevant search area within which relevant designated sites will be identified, using the following principles:

- Any designated site within or adjacent to the Project which, using the Source-Pathway-Receptor model as described in Section 5.3.2, may be affected by the Project.
- Any designated site within the likely Zone of Influence of the Project, following the Source-Pathway-Receptor model.
- Any European site that is designated for mobile Annex II species (under the Habitats Directive), Annex I bird species (under the Birds Directive) that have the potential to travel to and occur within the zone of influence and be affected by the Project.

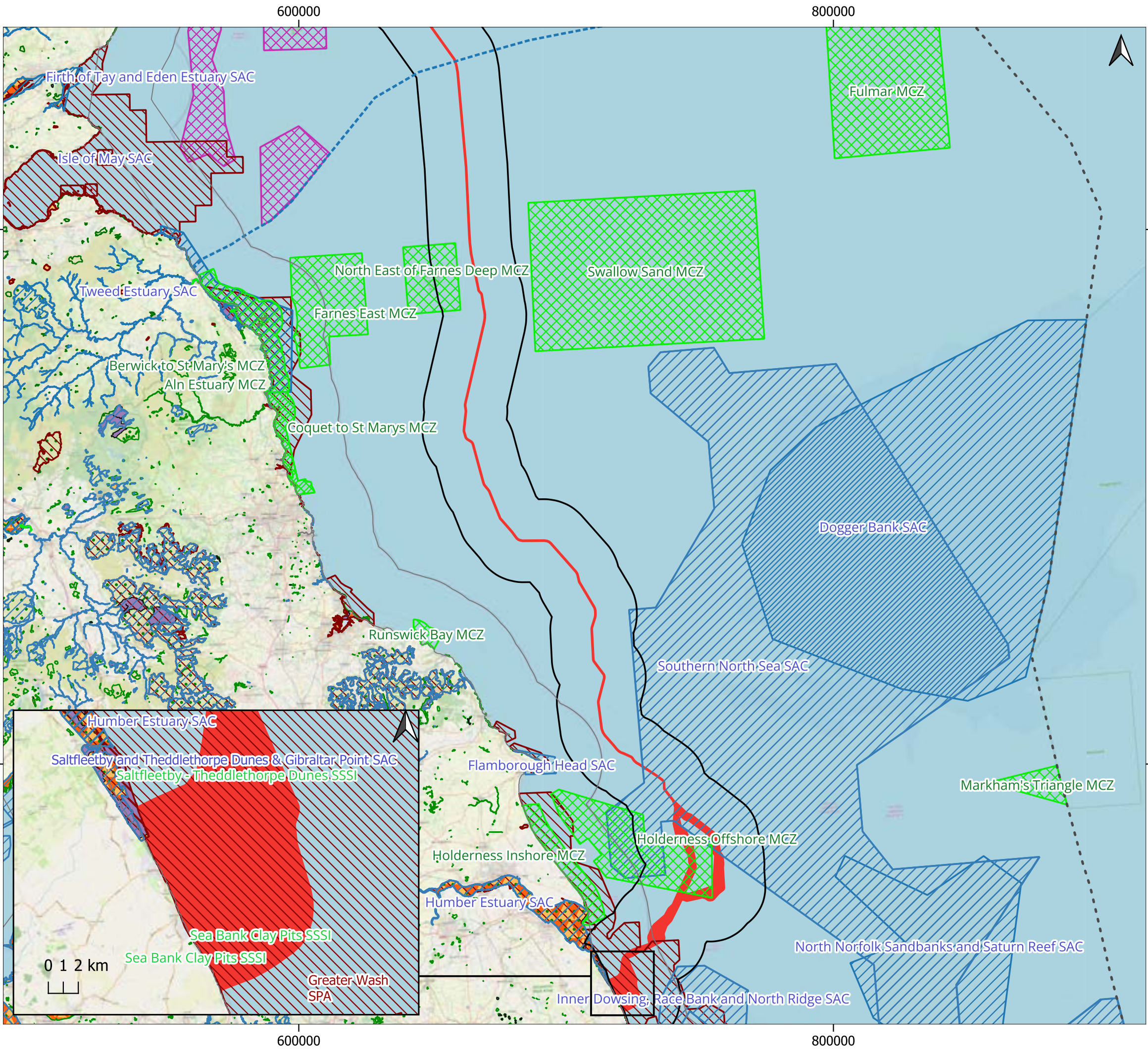
For the purposes of scoping, a preliminary search area of 15 km has been used to identify conservation designations with marine components. Sites within the 15 km search area from the Scoping Boundary are listed in Table 5-3. 15 km is the largest zone of influence identified in the topic chapters for potential impacts and is based on the maximum tidal excursion. This search area will be reviewed and refined for each receptor by the individual assessments as more detail becomes available on the project description, consultation is undertaken with the statutory nature conservation bodies and the marine environmental assessment is undertaken. Therefore, the list of conservation designations provided in Table 5-3, is a preliminary list and will be subject to change. Designated sites within England and Scotland are shown in Figure 5-1 (Drawing: C01494-EGL3-PROT-007) and Figure 5-2 (Drawing: C01494-EGL3-PROT-008), respectively.

Table 5-3: Conservation designations within 15 km of the Scoping Boundary

Site name & code	Designation	Intersects Scoping Boundary	Distance to Scoping Boundary
<b>England</b>			
Inner Dowsing, Race Bank and North Ridge SAC	SAC		6.75 km
Saltfleetby – Theddlethorpe Dunes and Gibraltar Point SAC	SAC	✓	
Humber Estuary SAC	SAC	✓	
Southern North Sea SAC	SAC	✓	



Site name & code	Designation	Intersects Scoping Boundary	Distance to Scoping Boundary
Greater Wash SPA	SPA	✓	
Humber Estuary SPA	SPA	✓	
Holderness Offshore MCZ	MCZ	✓	
North East of Farnes Deep HPMA	HPMA		4.88 km
Humber Estuary Ramsar	RAMSAR	✓	
Chapel Point – Wolla Bank SSSI	SSSI		2.09 km
The Lagoons SSSI	SSSI		
Humber Estuary SSSI	SSSI		4.34 km
Saltfleetby – Theddlethorpe Dunes SSSI	SSSI	✓	
Sea Bank Clay Pits SSSI	SSSI		0.16 km
Donna Nook NNR	NNR		6.26 km
Saltfleetby-Theddlethorpe Dunes NNR	NNR	✓	
<b>Scotland</b>			
Buchan Ness to Collieston SAC	SAC		1.86 km
Ythan Estuary, Sands of Forvie and Meikle Loch SPA	SPA		8.11 km
Buchan Ness to Collieston Coast SPA	SPA	✓	
Loch of Strathbeg SPA	SPA		13.74 km
Southern Trench MPA	MPA	✓	
Loch of Strathbeg Ramsar	RAMSAR		13.74 km
Collieston to Whinnyfold Coast SSSI	SSSI		10.54 km
Loch of Strathbeg SSSI	SSSI		12.34 km
Bullers of Buchan Coast SSSI	SSSI		1.88 km

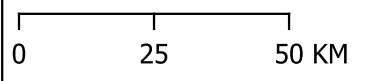
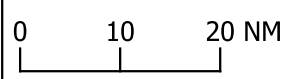


### Designated Sites Within English Study Area

**C01494-EGL3-PROT-007-F**



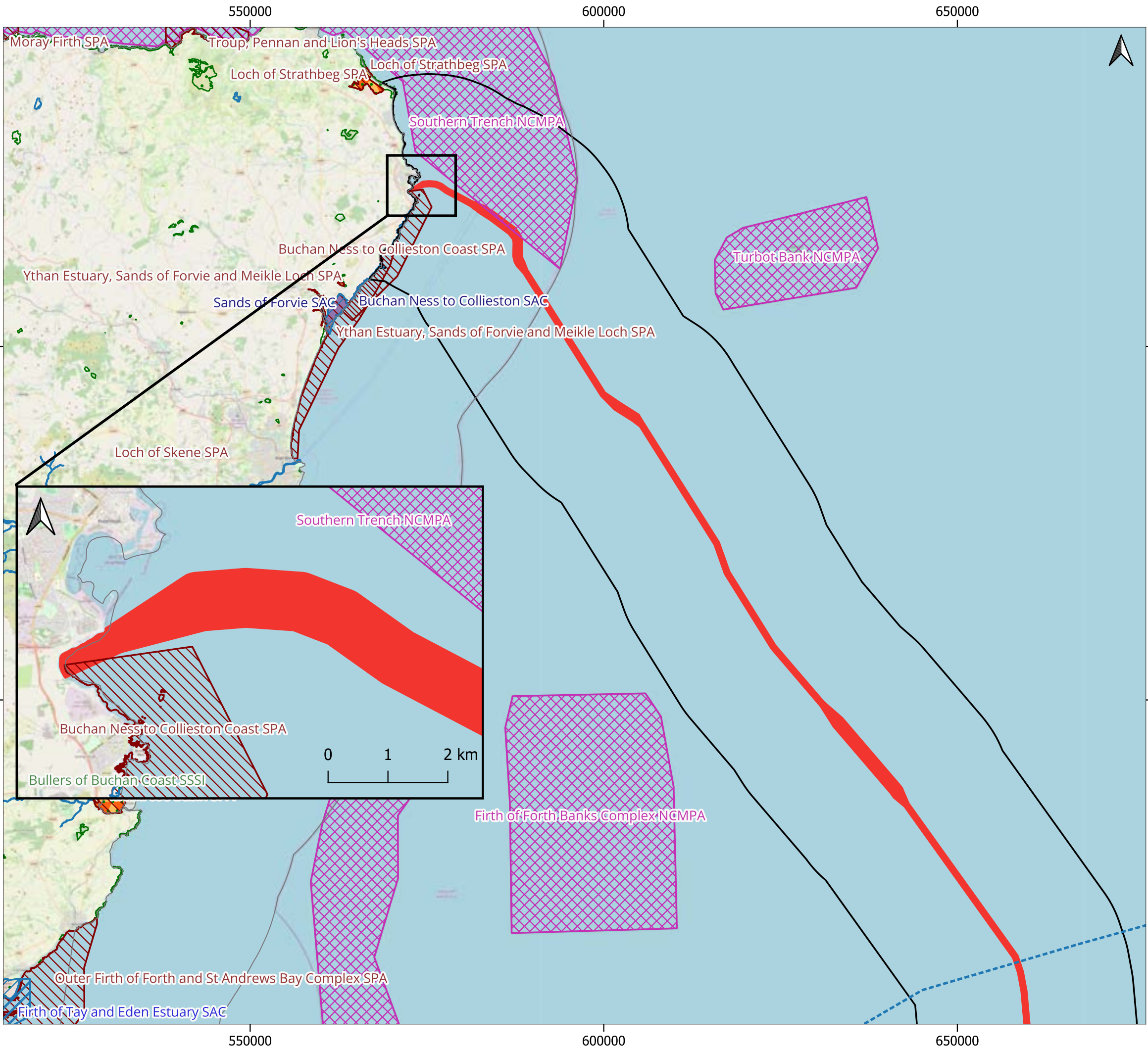
- Exclusive Economic Zone Limit (EEZ)
- 12NM Limit
- Scottish Adjacent Waters
- Relevant Designated Sites Search Area
- EGL 3 Scoping Boundary
- Protected Sites**
- ▨ Special Area of Conservation (SAC)
- ▧ Marine Conservation Zone (MCZ)
- ▩ Special Protection Area (SPA)
- ▤ Nature Conservation Marine Protected Area (NCMPA)
- National Nature Reserve (NNR)
- ▤ Sites of Special Scientific Interest (SSSI)
- ▨ RAMSAR Site



<b>Date</b>	11/10/2023
<b>Coordinate System</b>	ETRS89 / UTM Zone 30N
<b>Projection</b>	Universal Transverse Mercator (UTM)
<b>Unit</b>	Meters
<b>Scale at A3</b>	1:1,400,000
<b>Created</b>	JC
<b>Reviewed</b>	K Kean / S Pearce
<b>Authorised</b>	A Farley

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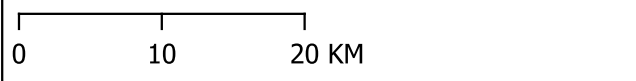
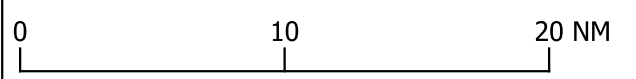


**Designated Sites Within Scottish Study Area**

**C01494-EGL3-PROT-008-F**



- 12NM Limit
- Scottish Adjacent Waters
- Relevant Designated Sites Search Area
- EGL 3 Scoping Boundary
- Designated Sites**
- Special Area of Conservation (SAC)
- Special Protection Area (SPA)
- Nature Conservation Marine Protected Area (NCMPA)
- Sites of Special Scientific Interest (SSSI)
- RAMSAR



<b>Date</b>	11/10/2023
<b>Coordinate System</b>	ETRS89 / UTM Zone 30N
<b>Projection</b>	Universal Transverse Mercator (UTM)
<b>Unit</b>	Meters
<b>Scale at A3</b>	1:529,200
<b>Created</b>	JC
<b>Reviewed</b>	K Kean/ S Pearce
<b>Authorised</b>	A Farley

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