

Consultation: Meeting our '30 by 30' biodiversity commitment on terrestrial and freshwater sites: consultation on legislative proposals

Fisheries Management Scotland Response

Question 1: In Scotland, protected areas on land work by identifying individual natural features to be protected on a site (e.g. habitats, species populations or geology). Should the Scottish Government allow protected areas to also be designated on the basis of important ecosystems (including interactions between habitats, which recognise the importance of transitional habitats), in addition to individual natural features?

- Agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Disagree
- Unsure

Please explain the reasons for your response:

There is now an indisputable body of evidence that biodiversity is in real trouble. Here in Scotland, nearly half of our species have decreased in abundance and 11 per cent are under threat of extinction. Our iconic Atlantic Salmon are one of those species that have faced nearly a decade of declining populations and are at increased risk.

The 2023 provisional catches for wild Atlantic salmon are the lowest reported since records began in 1952. In the latest species reassessment by the International Union for Conservation of Nature (IUCN) Red List of Threatened Species, Atlantic salmon have been reclassified from 'Least Concern' to 'Endangered' in Great Britain (as a result of a 30-50% decline in British populations since 2006 and 50-80% projected between 2010-2025). Wild Atlantic salmon could be lost from many of our rivers within our lifetime if we do not act now.

Scotland's Biodiversity Strategy sets out a clear ambition: halting biodiversity loss by 2030 and reversing declines by 2045. Echoing this, Scotland's Wild Salmon Strategy sets out a vision where Scotland's wild Atlantic salmon populations are flourishing and an example of nature's recovery.

Salmon and sea trout are migratory anadromous species (i.e. adults migrate from the sea to breed in freshwater). This life cycle means they are exposed to a range of threats and pressures in streams, rivers, sea lochs, estuaries, coastal waters and the open ocean. Consequently, conserving the species requires adopting a "source to sea" approach in managing our protected areas long term and the condition of sites is crucial. It is also vital that the National Marine Plan is amended to ensure that wild salmon and sea trout (both Priority Marine Features) receive suitable protection during the marine phase of their lifecycle. The inclusion of 'national status' in General Policy 9 fails salmon and sea trout as it is almost impossible to identify a development that could impact the 'national status' of these populations. However, there are many developments that could impact important local populations.

Fisheries Management Scotland (FMS) strongly advocates that all current protected areas contributing to the 30% target must be in good condition or displaying clear signs of ecological recovery, supported by robust and regular monitoring.

Within Scotland's 18.3% coverage of protected sites on land and freshwater, 65% are currently deemed in favourable condition. There are concerns among our members regarding the accuracy and currency of this statistic. Particularly, within the 17 Special Areas of Conservation (SACS) designated for Atlantic Salmon, the latest condition assessment dates back to 2011 according to SiteLink. This assessment occurred during a period of unusually high salmon catches, which preceded a significant decline in salmon populations over the subsequent decade. Since then, Atlantic salmon has been reclassified in Great Britain by the IUCN as "endangered". It is the view of our members that this statistic may not accurately reflect the current condition of the SACs or SSSIs today.

Fisheries Management Scotland believes that greater priority should be given to the effective management of existing protected areas, and that this should be taken forward before, or in parallel with, expansion of the protected area network. In order to achieve this, we stress the necessity for increased resources to be allocated to monitoring and management of these sites long term.

In terms of expansion of the existing network of sites, the consultation document indicates that only limited areas of Scotland currently meet the qualifying standards for designation under the existing statutory regime. Therefore, only a small percentage of the additional sites required to achieve 30% coverage on land/freshwater will come from extending or designating new protected areas. It is proposed that the remaining coverage will come from areas outwith protected areas or Other Effective Area-Based Conservation Measures (OECMS). We support the proposal that these areas focus on restoration, providing they demonstrate clear management plans and paths to recovery.

We also support the approach of allowing protected areas to be designated on the basis of important ecosystems. Scotland's wild fish populations are deeply interconnected with their surrounding ecosystems. While protecting individual features is important, it is equally crucial to safeguard the entire ecosystem upon which these fish populations rely. Transitional habitats, such as river headwaters, woodland and vegetation in the riparian zone, and estuaries play a vital role in the life cycles of many fish species, serving as habitat provision, critical nurseries, and migration corridors. Ignoring these transitional habitats in protected area designations would be detrimental to the overall health of Scotland's fish populations. By recognising the importance of ecosystem interactions, we can better address threats such as habitat fragmentation, pollution, and climate change that affect fish populations at a broader scale.

We seek further clarity on the process for selecting "important" ecosystems and expect that this process will be subject to further consultation.

We seek assurance that existing protections for Atlantic salmon as a primary or secondary feature are maintained or enhanced as we move to a new system of ecosystem-based protection.

We also seek clarity on the long-term monitoring and evaluation of protected sites designated based on ecosystems, recognising the inherent complexity compared to individual priority features. In order to avoid the weakening of existing protections, Environmental Standards Scotland should be given an oversight role in the designation review process.

Question 2: Should the Scottish Government clarify the existing powers that require management and restoration of protected areas, to make it clear that this requirement also covers protected areas that are experiencing slow deterioration over a long period of time (e.g. invasive non-native species spreading over native habitats such as woodlands)?

- Agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Disagree
- Unsure

Please explain the reasons for your response:

Fisheries Management Scotland supports clarifying powers for managing and restoring protected areas, especially those experiencing gradual deterioration due to invasive non-native species and overgrazing.

We ask for further analysis of the factors and causes to slow deterioration on protected sites. During this designation review process, it is essential to consider the cumulative effects of neighbouring developments and land uses to ensure the effectiveness of the protected area designation in the light of these impacts.

The consultation specifically highlights Land Management Orders (LMOs) and Nature Conservation Orders (NCOs) under the purview of NatureScot as requiring clarification and strengthening. In order to ensure consistent and fair protection across terrestrial and freshwater sites, we would also expect a more robust approach to relevant regulation and enforcement from other regulatory bodies that have oversight over freshwater environments.

Resources and funding are an evident barrier for regulatory bodies in their ability to enforce orders beyond voluntary agreements with landowners. To support the clarifying and strengthening of powers as proposed in the consultation, we would expect to see commensurate additional support for oversight bodies to fulfil their duties.

Question 3: Should the Scottish Government expand the existing powers to enforce and incentivise management and restoration of protected areas, to cover other land in situations where it has been identified to have significant benefits to be achieved through nature restoration?

These powers would be subject to the following conditions:

- **Such areas would be identified through a defined and transparent process, including publication of the assessment material, consultation with interested parties, and Ministerial approval.**
- **The intervention would only be active for a specified period of time.**
- **There would be mandatory reviews of the progress made during the period it was active.**
- **The agreed conditions of the intervention could be adjusted in terms of their duration or geographical scope.**
- **There would be an appeal process.**
- **Advice would be provided on the available financial support throughout the active period of the intervention.**

- Agree
- Somewhat agree
- **Neither agree nor disagree**
- Somewhat disagree
- Disagree
- Unsure

Please explain the reasons for your response:

As mentioned in the response to Question 1, we believe that priority should be given to effectively managing existing protected areas before considering alternative measures. However, in the event that this process moves forward, developing clear guidance on site selection and inclusion criteria for Other Effective Area-Based Conservation Measures (OECMs) or areas outwith protected areas is crucial to ensure consistency and fairness in decision-making and we would like to engage further on this important issue.

In developing the selection process, it is crucial that areas qualifying as OECMs have demonstrable and ongoing benefits for nature and are governed and managed to achieve positive and sustained long-term outcomes for biodiversity.

In line with the 2019 report, “Recognising and Reporting Other Effective Area-based Conservation Measures” published by the International Union for Conservation of Nature (IUCN), we would expect that any forestry of a non-native species should not be eligible for OECM status. Similarly, any land owned and used for industry or commercial purposes, such as agriculture demonstrate an ability to recover viable populations of species in their natural surroundings to be considered for evaluation as a potential OECM. It is essential that OECMs prioritise biodiversity gain over accreditation of sustainable business use.

We also ask for further clarity on: the proposed route for incentive mechanisms for landowners and the connection to the natural environment bill; the proposed monitoring, maintenance, and enforcement regimes of OECMs; and the proposed oversight body.

Without these clarifications, we are unable to endorse the proposal at this time.

As the process for site selection evolves, we hope to see a prioritisation of nature restoration with a specific focus on freshwater environments, particularly in restoring headwaters and riparian habitats.

It is crucial that public engagement and communication regarding changes to existing protected area designations and OECMs are clear and consistent to ensure awareness and engagement from all parties, and to avoid unexpected outcomes, as occurred with the designation of highly protected marine areas, thereby ensuring a smooth rollout.

In summary, going forward in this process, we wish to see the following:

- Clear guidance on site selection and inclusion criteria
- Demonstrable and ongoing benefits for nature as qualifying criteria for OECMs
- Prioritization of nature restoration
- Clarity on incentive mechanisms

- Clarity on proposed management and oversight bodies
- Clear public engagement and communication