

Title: Consultation on management measures for the use of fast craft and personal watercraft (PWC) in marine protected areas.	Regulatory Impact Assessment (RIA)		
	Date: 17/2/2022		
	Type of measure: Secondary Legislation		
Lead department or agency: DAERA	Stage: Consultation		
	Source of intervention: Domestic NI		
Other departments or agencies:	Contact details:		
	DAERA Marine Conservation and Reporting		
	MarineConservation@daera-ni.gov.uk		

Summary Intervention and Options

What is the problem under consideration? Why is government intervention necessary? (7 lines maximum) DAERA has recently received complaints that the use of PWC is causing disturbance in to marine wildlife in marine protected areas (MCZ/SAC/SPA). Whilst The Department has received little evidence of actual disturbance, the increased activity involving PWC has led to an increased risk of actual disturbance to marine wildlife such as seals, porpoises, basking sharks and seabirds. Some of the complaints relate to areas that are designated for the protection of such species, indeed in the case of Strangford Lough the condition of the local seal population is reported to be unfavourable. It is important that DAERA takes action now before actual disturbance becomes commonplace, potentially permanently affecting / displacing marine wildlife in MPAs	
What are the policy objectives and the intended effects? (7 lines maximum) The primary objective of the policy is to provide protection from disturbance to designated marine species in MPAs. In most MPAs the proposals seek to achieve this objective through the education of stakeholders, to allow them to use the marine environment in a sustainable manner whilst providing the required protection for wildlife. In Strangford Lough an additional layer of protection is proposed in the form of prohibition zones to PWC around sites of key seal haul outs. The intended effects are that commercial and leisure operators of fast craft in MPAs will be able to do so in a manner that supports the conservation of marine species without the need for further regulation.	
What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) (10 lines maximum) Do nothing - This Option is not viable as DAERA is bound by national policies and legislation and international commitments, to introduce management measures to preserve the protected features within MPAs and support their recovery, where necessary. Option 1 – Prohibition of fast craft and PWC from all areas within MPAs where there is a risk of disturbance to marine wildlife. Option 2 – Management measures bespoke to each MPA where there is a risk of disturbance to marine wildlife. Measures considered are education of stakeholders, permitted access to MPAs for PWC, permitted access to MPAs for commercial operators, prohibition zones for PWC in areas of MPAs where condition of designated species is unfavourable Option 2 is the preferred option, option 1 has been discounted due to a lack of evidence Vs Impact of measures.	
Will the policy be reviewed? Yes	If applicable, set review date: 2027

Cost of Preferred (or more likely) Option		
Total outlay cost for business	Total net cost to business per year	Annual cost for implementation by Regulator
£100.00 per attendee at WiSe training course	£100. 00excl VAT for the first year then NIL for subsequent years	NIL

Does Implementation go beyond minimum EU requirements?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>		
Is this measure likely to impact on trade and investment?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>		
Are any of these organisations in scope?	Micro Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Small Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Medium Yes <input type="checkbox"/> No <input type="checkbox"/>	Large Yes <input type="checkbox"/> No <input type="checkbox"/>

The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.

Approved by: _____ Date: _____

Summary: Analysis and Evidence

Policy Option 1

Description: - Prohibition of fast craft and PWC from all areas within MPAs where there is a risk of disturbance to marine wildlife.

ECONOMIC ASSESSMENT (Option 1)

Costs	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		Nil	Nil

Description and scale of key monetised costs by 'main affected groups' The Department has no figures to assess the impact of option 1 on businesses. The proposals however were considered too restrictive especially in light of the limited evidence held by The Department of actual disturbance to marine wildlife. Option 1 was discounted at an early stage during the development of management measures following engagement with stakeholders as such the cost to affected groups has not been investigated. Option 1 has not been taken forward to consultation. If this option were to be pursued, a separate consultation to gauge the cost to those affected would be undertaken.

Other key non-monetised costs by 'main affected groups' Maximum 5 lines
NA

Benefits (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				

Description and scale of key monetised benefits by 'main affected groups' Maximum 5 lines

This option would have no benefits to the main affected groups

Other key non-monetised benefits by 'main affected groups' Maximum 5 lines
NA

Key Assumptions, Sensitivities, Risks Maximum 5 lines

The assumption is that the commercial operators and PWC users are causing disturbance to marine wildlife. This option would place significant risk particularly on businesses of Commercial operators such as wildlife tour operators in MPAs. There is a high risk that this option would not be received well at the consultation stage. This option may be considered to go against DAERA's mission statement of Sustainability at the heart of a living, working, active landscape valued by everyone.

BUSINESS ASSESSMENT (Option 1)

Direct Impact on business (Equivalent Annual) £m		
Costs: £0	Benefits:	Net: £0

Cross Border Issues (Option 1)

How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines

This option is more extreme when compared to other parts of the UK which often favours education over regulation. In areas of Wales and England with similar issues with PWCs, management is undertaken at very local levels as opposed to a blanket ban as described in option 1.

Summary: Analysis and Evidence

Policy Option 2

Description: - Management measures bespoke to each MPA where there is a risk of disturbance to marine wildlife.

ECONOMIC ASSESSMENT (Option 2)

Costs (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Nil		Nil	Nil

Description and scale of key monetised costs by 'main affected groups' Maximum 5 lines
The main affected group would be the providers of commercial tours in MPA eg. Marine wildlife tour providers. The relevant management measure proposes that each business gains accreditation in a wildlife observing scheme known as WiSe. There is an associated one time cost of £100.00 excl VAT per attendee at the training course. One of the consultation questions asks for additional impact that the proposal may have on operators business, this assessment may be revised pending responses to consultation.

Other key non-monetised costs by 'main affected groups' Maximum 5 lines
The department is seeking information of the impacts of proposals set out in the policy. One of the consultation questions asks for additional impact that the proposal may have on operators business, this assessment may be revised pending responses to consultation.

Benefits (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				

Description and scale of key monetised benefits by 'main affected groups' Maximum 5 lines

The benefits are mostly intangible and cannot be monetised.

Other key non-monetised benefits by 'main affected groups' Maximum 5 lines
Option 2 should help to ensure that commercial tour operators are able to carry out their business sustainably while providing protection for marine wildlife. Protecting marine wildlife from disturbance will help prevent its loss to marine protected areas. Such tour operators depend upon the presence of marine wildlife to maintain their key interest to consumers, protecting marine species therefore protects the operators' businesses.

Key Assumptions, Sensitivities, Risks Maximum 5 lines
The assumption is that the commercial operators and PWC users are causing disturbance to marine wildlife. There is the risk that the evidence received by DAERA has been presented with the intention of ridding the areas from users considered a nuisance by the complainant. This option in no way seeks to prevent fast craft or PWC users from enjoying their activity in MPAs, disgruntled members of the public may not be satisfied with the proposed management measures.

BUSINESS ASSESSMENT (Option 2)

Direct Impact on business (Equivalent Annual) £m		
Costs: £0	Benefits:	Net: £0

Cross Border Issues (Option 2)

How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines
This option is comparable with other regions of the UK where local regulation is preferable to national legislation. This option proposes the minimum required regulation with legislation considered only where a higher level of protection is deemed necessary.

Evidence Base

1. The policy issue and rationale for government intervention

Well managed Marine Protected Area (MPA) networks are recognised internationally as one of the ways of protecting our marine environment and international commitments have been made accordingly. The Department has established a network of 48 MPAs providing protection for 38% of Northern Ireland's inshore region.

Many of Northern Ireland's MPAs have been designated for the protection of marine species such as, wild birds, common seals, harbour porpoises and basking sharks. This policy is designed to protect such marine wildlife from potential disturbance arising from the use of fast craft and personal water craft in marine protected areas.

Since late 2020 there has been an increase in recreational activity across the Northern Ireland coastal area that is being attributed to the introduction of international travel restrictions associated with the Covid-19 pandemic. This has culminated in increased reports of marine wildlife disturbance, predominantly from the inappropriate use of personal watercraft (jet-skis). The main species affected are cetaceans (dolphins, porpoises and whales), seals (both Grey and Harbour) and to a lesser extent basking shark and seabirds.

If this increase of recreational activity continues then the risk of disturbance to marine wildlife will increase accordingly.

Marine wildlife is vulnerable to disturbance any time people are in its immediate area, there is a further risk of disturbance when our presence is accompanied by the noise or speed of a motorised vessel or when there are groups of people present. Under the Marine Act (Northern Ireland) 2013 the Department is required to exercise its functions in a manner which best furthers the conservation objectives of the MCZ / SAC / SPA.

Complaints have been received about personal watercraft disturbing marine wildlife in Strangford Lough SAC, Murlough SAC (Tyrella and Minerstown ASSI), Skerries and Causeway SAC and North Channel SAC (Cloughey). These four SACs have marine mammals as designated features (Harbour seals and Harbour porpoise). There have also been incidents of personal watercraft disturbing seabirds in Rathlin SPA. These complaints have occasionally been associated with other high speed craft.

The Department considers it necessary to protect our marine wildlife from such disturbance. The Department is proposing management measures for commercial marine tour operators

(such as marine wildlife spotting tours) and for leisure users of fast craft and personal watercraft in marine protected areas.

Commercial Tour operators.

The Department proposes permitted access to marine protected areas for all commercial tour operators conditional on the vessel's skipper gaining certification in the WiSe Scheme.

Users of fast craft and personal watercraft.

The Department is proposing tailored management measures bespoke to the specific marine protected area in question. Management measures are proposed for the following MPAs:

- Skerries and Causeway SAC
- Rathlin SPA
- Strangford Lough SAC
- North Channel SAC (Cloughey)
- Murlough SAC (Tyrella and Minerstown ASSI).

For each MPA bespoke management measures have been proposed.

Skerries and Causeway SAC

[Proposed Management Measures](#)

- Provision of Advisory Notice for the operation of fast craft in the SAC
- DAERA plans to commission a site specific survey to determine the level of risk of disturbance experienced by sensitive marine species.
- DAERA will continue to work with harbour masters and local authorities around the issues of slipway access.

[Rationale for management measures](#)

The Department's primary goal is to reduce the risk of disturbance to marine wildlife through the education of PWC users. The department has not received any evidence of actual disturbance to marine wildlife within the SAC, it is hoped that specific surveys will provide evidence of the current exposure levels experienced by marine wildlife to help inform future decision making.

Rathlin SPA

Proposed Management Measures

- Provision of Advisory Notice for the operation of fast craft in the SAC
- DAERA will continue monitoring the risk of disturbance to sensitive species within the SAC.

Rationale for management measures

The Department's primary goal is to reduce the risk of disturbance to marine wildlife through the education of users of PWC and other fast craft.

Strangford Lough SAC

Proposed Management Measures

1. The Department is proposing four Prohibition zones in Strangford Narrows (Cloghy Rocks, Granagh Bay, Bar Hall Bay and Angus Rock). The prohibition will apply to PWC and other leisure craft not used in navigation*. The prohibition zones will not apply to vessels fishing commercially.
- 2.1 Permitted access to the SAC for PWC users – OR
- 2.2 Permitted access to the SAC for PWC users, conditional on the user's agreement to abide by a code of practice for the operation of PWC in Strangford Lough SAC.
3. Provision of Advisory Notice for operation of fast craft in the SAC.
4. DAERA will, with its partners continue monitoring of the risk of disturbance to sensitive species within the SAC.

***Definition of "used in navigation" - Used in navigation means only a vessel that makes ordered progression over the water from one place to another.**

Rationale for management measures

The Department's primary goal is to reduce the risk of disturbance to marine wildlife through the education of PWC users. As such it feels that a permitting system that provides PWC users with the appropriate knowledge of best practice in the vicinity of marine wildlife is a reasonable measure to insure their sustainable enjoyment of the marine environment.

The latest condition assessment relating to common seals in Strangford Lough SAC indicates that the feature is at unfavourable status, the Department feels therefore that extra protection is necessary for seal colonies in close proximity to PWC use and is suggesting the four prohibition zones in Strangford Narrows. The four zones are the main haul out points for common seals in Strangford Narrows.

North Channel SAC

Proposed Management Measures

- The Department will maintain its monitoring programme and continue to gather evidence to help inform future decision making processes throughout the SAC.
- Provision of Advisory Notice for operation of fast craft in the SAC.

Rationale for management measures

The Department's primary goal is to reduce the risk of disturbance to marine wildlife through the education of PWC users. Harbour porpoises can be disturbed by the use of PWC however the Department currently has no evidence of any incidents of such disturbance within the SAC. The Department intends to continue with current monitoring efforts to increase its evidence for disturbance levels within the North Channel SAC to inform and guide future decision making.

Murlough SAC (Tyrella and Minerstown ASSI).

Proposed Management Measures - Minerstown

- The Department will continue its programme of outreach and engagement with recreational users of the Minerstown area to increase awareness of the risk of disturbance to marine wildlife.
- Provision of an Advisory Notice for the operation of fast craft in the SAC

Rationale for management measures

There are existing byelaws restricting access to Minerstown seashore to PWC. **Down District Council byelaws for the regulation of the seashore at Minerstown, County Down 2014**, state that, **"A person shall not bring any watercraft including a kite, surfing board, personal watercraft, inflatable boat or semi rigid craft within 200m of the restricted zone between 1 May and 31 October (both dates inclusive)"**. The Department has been working with Newry Mourne and Down District Council to raise awareness of marine wild life disturbance with users of the Minerstown area and will continue to do so.

Proposed Management Measures – Ballykinlar

- Provision of Advisory Notice for operation of PWC and fast craft in the SAC. This advisory note will offer guidance on the use of speed for planing craft including PWC approaching and travelling through the channel between Inner and Outer Dundrum Bay.

Rationale for management measures

The Department's primary goal is to reduce the risk of disturbance to marine wildlife through the education of PWC and fast craft users. The proximity of the seal haul out sites to the channel at Ballykinlar however places seal colonies at risk of disturbance from craft including PWCs navigating into and out of Inner Dundrum Bay. In an attempt to minimise the level of disturbance the Department considers it appropriate to issue guidance on the use of speed in close proximity to marine wildlife.

2. Policy objectives

As well as providing an opportunity for leisure activities, Northern Ireland's marine environment contains a diverse array of marine wildlife. This wildlife serves as the focal point for many commercial tour operators' business. The main objective is to ensure that fast craft and PWC users along with commercial tour operators have the required level of awareness and skills to carry out their activities in a sustainable manner while also protecting marine wildlife from disturbance.

Strangford Lough SAC is unique in respect of this policy, the common seal is a designated species within the SAC and one which is currently classified as in unfavourable condition within the SAC. As a result of this classification status, The Department considers it necessary to provide an additional layer of protection to the areas around key seal haul out sites in the Strangford Narrows, this is the area within the SAC where there has been the majority of reports of PWC activity. Protection is deemed necessary to prevent the further deterioration of the feature, if the seals experience actual disturbance there is the possibility that they may abandon the current haul out sites. It is proposed that the additional protection will take the form of prohibition zones for PWC around Cloghy Rocks, Granagh Bay, Bar Hall Bay and Angus Rock.

As part of the process of developing proposed management measures, The Department discussed its proposals with partners to inform the decision making process and help ensure its objectives were reasonable.

3. Policy options considered, including alternatives to regulation

The Department has considered the following options when developing its proposed management measures for each MPA.

- Do Nothing.
- Issue of Advisory Notices detailing best practice on the use of PWCs in MPAs where vulnerable marine species are a designated feature.
- Permitted access to marine protected areas for PWC use, conditional on the user's agreement to abide by a code of practice for the operation of PWC in specific MPAs.
- Permitted access to marine protected areas for commercial boat tour operators, conditional on the skipper attaining WiSE accreditation.
- Prohibition zones within an MPA where the use of PWCs are excluded in the vicinity of marine species sensitive to disturbance of entry to specific zones.

Do nothing option

This option has not been considered as The Department is bound by national policies and legislation and international commitments, to introduce management measures to preserve the protected features within MPAs and support their recovery, where necessary.

Issue of Advisory notices

Advisory notices are The Department's preferred management measure for the majority of marine protected areas for which it has received evidence of PWC activity. The notices will contain information on the wildlife present in the relevant MPA and will provide guidance to fast craft and PWC users on best practice to avoid causing disturbance to all marine species that can be found in the MPA. It is hoped that the issuance of advisory notices should prevent the need for further intervention in the form of regulations in the majority of Northern Ireland's MPAs.

Permitted access to marine protected areas for PWC use.

The Department has proposed this option in Strangford Lough. The objective is to gain the agreement of PWC users to abide by a code of practice, thus reducing the risk of their activity disturbing local marine wildlife. It is important that The Department provides this additional protection to prevent further decline in the size of the local seal population. It is intended that permits will be granted at no charge to users of PWC who agree to abide by the code of practice. The Department is proposing the use of powers granted to it by the Marine Act (Northern Ireland) 2013 to introduce this permitting system.

Permitted access to marine protected areas for commercial boat tour operators, conditional on the skipper attaining WiSE accreditation.

Wildlife Safe (WiSe) is a national scheme that provides accreditation to commercial boat operators in the safe methods and practices of observing marine wildlife. The Department proposes that all commercial marine tour operators gain WiSe accreditation if they wish to carry out their business in any of Northern Ireland's MPAs. There is a one off cost of £100.00 to anyone who wishes to attend a WiSe training course. On gaining accreditation the Department will issue a permit to the operator free of charge. This option is designed to allow operators to provide their service without causing disturbance to the marine species that they are observing. The Department is proposing the use of powers granted to it by the Marine Act (Northern Ireland) 2013 to introduce this permitting system.

Prohibition zones within an MPA where the use of PWCs are excluded in the vicinity of marine species sensitive to disturbance of entry to specific zones.

The Department has proposed this option in Strangford Lough. The latest condition assessment relating to common seals in Strangford Lough SAC indicates that the feature is at unfavourable status, the Department feels therefore that extra protection is necessary for seal colonies in close proximity to PWC use and is suggesting the four prohibition zones in Strangford Narrows. The four zones are the main haul out points for common seals in Strangford Narrows. Prohibition will apply to PWC and fast craft that are not engaged in navigation, the prohibition will not apply to commercial fishing vessels. The Department is proposing the use of powers granted to it by the Marine Act (Northern Ireland) 2013 to introduce the 4 prohibition zones.

4. Expected level of impact on business and government

Cost to Business

The only proposal that is expected to have an impact on business is the proposed permitted access to marine protected areas for commercial tour operators. The issue of permits will be conditional on the vessel's skipper gaining WiSe accreditation. There is a one off cost of £100.00 excluding VAT per person who wishes to attend the required training course. Once the operator have gained accreditation The Department will issue a permit with no additional charge.

The Department acknowledges that it does not have all the evidence of the potential impacts of its proposals on businesses, it has however asked commercial tour operators for details on how their business will be impacted in the consultation document. This assessment may be revised once responses to the consultation have been received.

Benefit to business

In providing protection for the marine species in MPAs, the proposals also safeguard the future of the businesses that depend upon them.

Cost to DAERA

There is not expected to be any additional impact to The Department as enforcement needs will be met through its existing resource.

Benefits to DAERA

- The proposals should provide the necessary protection to sensitive marine wildlife from disturbance to fast craft and PWC.
- The Department could benefit by gaining additional evidence of incidents of wildlife disturbance through responses to the consultation

- The Department will benefit by engaging with stakeholders through the proposed permitting schemes.

Risks

DAERA has limited evidence of incidents of disturbance to marine wildlife, it is hoped that this will be at least partially addressed by the consultation process, The Department has specifically asked for such evidence in the consultation document.

The Department's evidence of the increase in use of personal watercraft in marine protected areas has been received primarily in the form of complaints from members of the public. The nature of some complaints suggest that PWC users are considered a nuisance by the complainants. The Department's proposals consider PWC use only from a conservation point of view and therefore may not be sufficient to placate individuals who have made complaints.

5. Summary and preferred option

With the exception of Strangford Lough SAC, The Department is not proposing regulation through legislation as a means of protecting marine wildlife from disturbance caused by the use of fast craft and personal watercraft. Instead The Department is of the opinion that the best way to ensure the sustainable use of the marine environment is through the education and increasing the awareness of our stakeholders.

Strangford Lough requires an additional level of protection afforded to its population of common seals. The proposed permitting scheme and small prohibition zones are however in no way preventative to PWC users who wish to enjoy their activities in the SAC.

6. Other Impact Assessments

The proposed management measures have also been subject to a Habitats Regulations Assessment, an Equality and Human Rights Impact Screening exercise, and a Rural Needs Impact Assessment. The accompanying assessments are available to download from the Department's website.