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Ìrean Àrainneachdail na h-Alba

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Gillian Martin MSP
Cabinet Secretary for Climate Action and Energy
By email

20 August 2025

Dear Cabinet Secretary,

I am writing to share Environmental Standards Scotland's (ESS) response to the recent UK Marine Strategy Part One Update 2025 consultation. The consultation sought views on the third update to the UK Marine Strategy Part One on behalf of The Department for Environment, Food & Rural Affairs, the Department of Agriculture Environment & Rural Affairs Northern Ireland, the Scottish Government and Welsh Government.

ESS welcomes the publication of the Part One Assessment of progress towards Good Environmental Status (GES). The Assessment comes at a critical time for Scotland's seas, amid proposals for statutory nature targets under the Natural Environment (Scotland) Bill and the continuing pressures from human activity and climate change. The current Part One concludes that GES has been met in only two out of fifteen assessments. The previous Part One found GES was met in four assessments, indicating an overall picture of deterioration over the reporting period.

The Part One Assessment is a key component of the UK's marine governance system and should provide a means by which the competent authorities, including the Scottish Ministers, can identify the necessary measures to comply with their statutory duties to achieve Good

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Environmental Status under The Marine Strategy Regulations 2010. ESS considers that the published assessment and the associated consultation fall significantly short of the standards that we expect from public authorities. In their current form, the assessment and consultation process lack the rigour and transparency necessary to enable independent assessment of the state of UK seas, and to evaluate whether genuine progress towards Good Environmental Status is being made.

The Marine Strategy Regulations 2010 set out specific duties on UK Government and Devolved Administrations in relation to reviewing and updating the Part One Assessment. These duties set an expectation that the process is a collaborative effort between the UK Government and Devolved Administrations. ESS, therefore, consider that it is necessary to raise our concerns directly with you, alongside submission of our response via the DEFRA consultation platform. I provide you with a copy of ESS' consultation response (attached) in order to draw your attention to the issues that we have raised and the actions that we consider necessary to address our concerns. ESS' response identifies the following key issues:

- the assessment does not provide a detailed explanation of the differences in the methodology and presentation of results between the current and previous assessments. These differences, combined with a failure to provide access to the underlying analysis code and spatial data layers, mean that there is no common presentation of results between the two assessments. This prevents meaningful comparison and hinders the ability to evaluate progress
- the assessment does not describe the methods used to aggregate sub-assessments to determine whether GES has been met at the UKMS subregion level
- the justification for changes to the assessment methodology and presentation of results lack detail and appears to incorrectly state that the approach aligns with the EU in relation to threshold values for Good Environmental Status

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- there were delays to publishing some ‘detailed assessments’ underpinning the assessment of Good Environmental Status, meaning that they were not available for close to 50% of the consultation period.

Without timely disclosure of relevant data, and genuine opportunities for public input, the consultation process lacks the legitimacy and trustworthiness necessary to support informed debate and meaningful scrutiny. In its present form, the UK Marine Strategy Part One Assessment does not meet these essential conditions. This is not merely a procedural shortcoming—it is a fundamental barrier to ensuring that statutory commitments are met and that government is held to account on progress towards environmental targets.

ESS consider that the following are required to facilitate scrutiny of whether the Part One Assessment provides an accurate reflection of the state of UK seas and whether there has been progress towards Good Environmental Status:

- i. publication of all underlying data and methodology associated with the UK Marine Strategy Part One Assessment
- ii. detailed explanations of how and why the reporting methodology has changed
- iii. a direct comparison of how environmental status has changed between the previous assessment and the current one, either through retrospectively applying the new (2024) methodology to 2018 data or through replicating the previous methodology
- iv. publication of information on expert consultation, including details of the experts consulted, the requests that were made to the experts and the advice and recommendations received
- v. for future consultations, ensure that the consultation period is proportionate to the volume and complexity of information that is being consulted on, and provide a clearer description of the purpose of the consultation and how responses will be used

ESS has responded to the Part One Assessment consultation as part of our wider scrutiny of environmental law governing the marine environment. This includes an ongoing analysis of

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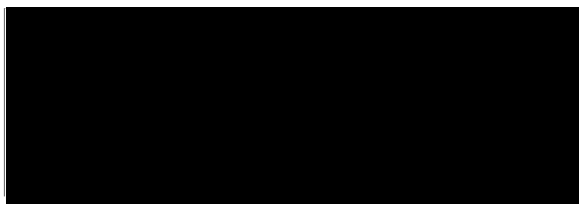
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the effectiveness of statutory duties relating to seafloor integrity and the extent to which public authorities are complying with those duties. As part of our next steps in the seafloor integrity project, ESS intends to seek further information from the Scottish Government on its involvement in the Part One Assessment and its process to develop measures for the UK Marine Strategy Part Three Programme of Measures.

I trust that ESS' response and ongoing scrutiny will be useful and informative, and will support the Scottish Government to achieve its ambitious targets for the environment, nature and climate change.

Your sincerely,



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**UK Marine Strategy Part One Update 2025 – Consultation Response
from Environmental Standards Scotland – submitted via Citizen
Space 15 August 2025**

1a) To what extent, if at all, does the information presented in these updated assessments provide an accurate reflection of the state of UK seas? What else, if anything, would be valid to include?

In their current form, ESS considers that the Part One Assessment and consultation lack the rigour and transparency necessary to enable independent assessment of the state of UK seas. There are four key reasons for this:

1. Differences in the assessment methodology and presentation of results between the current and previous assessments are not clearly identified or explained. For example, ESS' analysis of the assessment of the 2024 'Extent of Physical Disturbance to Benthic Habitat from Fisheries with Mobile Bottom Contacting Gears' has identified the following changes from the previous assessment:

- **changes to the reporting units for the BH3a indicator from grid cells to broadscale habitats.** The 2018 assessment reported the percentage area of grid cells [c-squares] predicted to be exposed to higher disturbance categories against eight subregions and gives an assessment against the threshold to evaluate whether subregions have achieved or not achieved Good Environmental Status (GES), or if it is unknown. The 2024 assessment reports the percentage of area exposed to high and moderate disturbance in each of 20 broadscale habitats within seven subregions, and presents a proportion of the habitats within each subregion "to achieve the dual threshold". This means that there is no common

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presentation of results provided between the two assessments to facilitate comparison and evaluate progress.

- **lack of clarity in assessment unit boundaries.** Comparing the maps of the subregion assessment units in the 2018 and 2024 technical assessments (published via the Marine Online Assessment Tool – “MOAT”) suggests that the spatial boundaries used in the two assessments are not the same. The boundary line between the Greater North Sea and Celtic Seas appears different (comparing figure 1, 2024 MOAT and figure 8, 2018 MOAT). Notably, a change from the “Northern North Sea” off the north coast of Scotland in 2018 to “Central North Sea” in the 2024 assessment. This is inconsistent in terms of terminology. Furthermore, without access to underlying spatial data it is not possible to understand the scale of change and the extent to which this may limit comparison between assessments.
- **change to thresholds used to determine whether GES is achieved.** The 2018 assessment applied a single threshold to the BH3a indicator, which specifies that GES is achieved when no more than 15% of the area of each assessment unit is subjected to higher levels of disturbance, with higher disturbance defined as ‘disturbance categories’ 5-9. The 2024 assessment applies a dual threshold to the BH3a indicator, which assesses GES against two conditions. Firstly, that no more than 15% of the total habitat area in assessment units is subjected to higher levels of disturbance. However, for the 2024 assessment higher disturbance is defined as only ‘disturbance categories’ 8-9. Secondly, that no more than 25% of the total habitat area in assessment units is subjected to moderate and high levels of disturbance, defined as disturbance categories 5-9.

The Marine Online Assessment Tool describes the change in the application of the 15% threshold to a smaller range of disturbance categories (compared to 2018) to determine when GES is met as enabling “a **stricter threshold to be applied to the highest levels of disturbance**”. Describing a change that redefines three disturbance categories (5-7),

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previously defined as representing ‘higher levels of disturbance’, to now represent moderate disturbance as ‘applying a stricter threshold’ is misleading. In ESS’ opinion, a more appropriate description of the changes would be that the definition of high disturbance has been relaxed in the 2024 assessment relative to the 2018 assessment.

The lack of a detailed explanation of the changes or access to the underlying analysis code or data mean that it is not possible to understand the significance of the methodological modifications (e.g. spatial boundary changes) in terms of interpreting the state of UK Seas. This falls short of the standards ESS expects and does not align with existing best practice guidance for public bodies, including guidance from the Office for Statistical Regulation, the UK Central Digital and Data Office and the Scottish Government Digital Service Manual.

2. There is a lack of clarity in how sub-assessments are aggregated to determine whether GES has been met at the UKMS subregion level. There are also apparent discrepancies between the stated methodology for aggregation and how the results are presented. For example, ESS’ analysis of the assessment of the 2024 ‘Extent of Physical Disturbance to Benthic Habitat from Fisheries with Mobile Bottom Contacting Gears’ has identified the following ambiguities and discrepancies:

- the assessment methodology states that “For broadscale habitats to achieve GES, the proportion of the total habitat area, within assessment units would have to meet both the 15% and the 25% threshold”. No description is provided of how the calculations within each assessment unit are aggregated to determine whether the two UK Marine Strategy subregions have met or not met Good Environmental Status.
- the broadscale habitat results section presents a count of the number of habitats within each assessment unit that achieve the dual threshold. The results describe whether there is a minority or majority (on a count basis) of broadscale habitats

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within each UK Marine Strategy subregion that achieve GES. This would imply that a simple majority threshold is being applied to the count of broadscale habitats within a subregion that have and have not achieved GES to conclude whether GES is met at the subregion level - i.e. if >50% of broadscale habitats achieve GES within a subregion, the subregion is considered to have met GES. It is not clear how such an approach would account for the varying spatial extent of each habitat type within the assessment units or subregions. There is further ambiguity over how the results of the broadscale habitat assessment and OSPAR threatened and declining habitat assessment are aggregated at the subregion level.

3. The justification provided for changes to the assessment methodology and presentation of results lacks detail and appears to state incorrectly that the approach aligns with the EU in relation to threshold values for Good Environmental Status

The 'Marine Online Assessment Tool' underpinning the Part One Assessment justifies the use of the new dual GES threshold for the BH3a indicator in the 2024 assessment on the basis of expert consultation and maximising interoperability with wider marine policy at international scales, with references made to aligning with OSPAR, the EU Marine Strategy Framework Directive and the UK's former reporting under the EU Habitats Regulations. The consultation provides no explanation or cross reference to the 2019 Part One consultation, and subsequent publication, which outlined the planned threshold values and reference levels for indicators in the 2018-2024 UK Marine Strategy assessment cycle. The quantitative and qualitative thresholds published in 2019 are not explicitly referenced in the 2024 assessment, and the criteria used in 2024 do not appear to immediately translate to the 2019 proposal for thresholds. The 2019 publication proposes quantitative thresholds for the maximum percentage of predominant habitats (15%) and listed habitats (5%) that can be in 'poor condition' under GES. This would appear to translate to two of the BH3a criteria used in the 2024 assessment. However, no explanation is provided as to why disturbance categories 5-9 would correspond to

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‘poor condition’ in relation to OSPAR threatened and declining habitats, whereas disturbance categories 8-9 would correspond to ‘poor condition’ in relation to broadscale habitats.

The UK Part One Assessment 2024 justifies the thresholds used for the BH3a indicator (in part) on alignment with wider marine policy at an international scale, citing that “In 2023, the EU agreed that for a broadscale habitat to achieve GES, no more than 25% of the habitat should be adversely affected by human pressures under Descriptor 6 in the EU Marine Strategy Framework Directive (MSFD).” The EU agreement referred to is derived from recommendations by the Technical Group on Seabed Habitat and Seafloor Integrity.

The Technical Group recommend that “The maximum proportion of a benthic broad habitat type in an assessment area that can be adversely affected is 25% of its natural extent ($\leq 25\%$). This includes the proportion of the benthic broad habitat type that has been lost.” However, this recommendation is made in relation to the Marine Strategy Framework Directive criteria ‘D6C5’, which describes the extent of adverse effects from all anthropogenic pressures on benthic habitat condition. The recommendation is made to fulfil the requirements under Commission Decision (EU) 2017/8481 for Member States to establish GES threshold values for D6C5 through cooperation at Union Level. The Technical Group make clear that the recommended threshold for D6C5 considers all relevant pressures, not just the pressure of physical disturbance from fisheries using mobile bottom contacting gear.

The MSFD D6C5 criteria corresponds to the UK criteria “Extent of adverse effects”, which is measured by eight condition indices in the UK Part One Assessment. It differs from the UK criteria “Spatial Extent of habitat type adversely affected by physical disturbance”, which instead corresponds to the EU Marine Strategy Framework Directive (MSFD) criteria D6C3. Under Commission Decision (EU) 2017/848, there is no required cooperation at Union level on threshold values for Good Environmental Status for D6C3. The Technical Group on Seabed Habitat and Seafloor Integrity therefore do not make

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recommendations in relation to D6C3 and the EU has not taken an agreed position on thresholds on the extent of physical disturbance from mobile bottom-contacting fishing gears. The UK Part One 25% threshold for the maximum extent of broadscale habitats that can be exposed to moderate or high disturbance from mobile bottom-contacting fishing gear cannot therefore be described as aligning with the EU position under Descriptor 6 of the Marine Strategy Framework Directive (MSFD).

In relation to the MSFD criteria D6C3 (spatial extent of physical disturbance), the Commission Decision (EU 2017/8481) dictates that Member States should establish threshold values through Union, regional or subregional cooperation, for instance by referring to existing values or developing new ones in the framework of the Regional Sea Conventions. This applies to the extent of physical disturbance criteria (EU D6C3, UK BH3) and in the context of UK waters the relevant Regional Sea Convention is the OSPAR convention. The UK 2024 Part One Assessment states that “the BH3 disturbance groups agreed in the Quality Status Report (QSR) 2023 (Zero, Low, Moderate, and High) were selected to represent the pressure and sensitivity elements of disturbance” as part of the explanation of the change from two groups of disturbance (higher, lower) in the 2018 assessment to three groups (low, moderate and high) in the 2024 assessment. The use of three disturbance groups, and the various disturbance categories within each group, is consistent with the approach taken by the OSPAR 2023 QSR and will help with interoperability in relation to the Regional Sea Convention. However, it should be noted that the OSPAR QSR states that disturbance categories are summarised into groups for “reporting purposes” and that “these groupings are not representative of thresholds and should be used for comparative interpretations of disturbance outputs across the OSPAR Maritime Area only.”

No further details are provided on the expert consultation used to agreed thresholds. It is not clear which experts were consulted, what questions and policy drivers they were asked to consider, and what recommendations they made. This contrasts to the clearly documented process for the EU’s expert consultation in relation to seafloor integrity thresholds, where information is publicly available on the membership and meetings of

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the Technical Group on Seabed Habitats and Seafloor Integrity. Recommendations by the Technical Group are published online, alongside a detailed rationale for the seabed habitat threshold values. Together, these describe how threshold values were developed in light of wider considerations relating to sustainable use of the sea and balancing the achievement of GES with the economic interests of the fishers and the social dimension of effects on local fishing communities

4. There were delays to publishing the ‘detailed assessments’ underpinning the assessment of Good Environmental Status.

The UKMS Part One Assessment and public consultation were published on the 20 June 2025. On that date, the Marine Online Assessment Tool (MOAT) website, which provides the supporting information for the consultation, showed that detailed assessments were “coming soon” for the nine ‘detailed assessments’ associated with the seafloor integrity descriptor. On the 16 July (four weeks into the consultation period), the full nine assessments became publicly available on the Marine Online Assessment Tool website.

ESS support the ambition to maximise coherence and interoperability with evolving international policy frameworks, which can ensure that national assessments contribute meaningfully to global environmental governance. The periodic revision of environmental targets and indicators, based on emerging scientific evidence, is critical for maintaining the credibility and responsiveness of environmental law. However, such revisions must be clearly documented and must not compromise comparability across reporting cycles. A lack of continuity or transparency in methodology undermines the integrity of long-term assessments and weakens accountability. The differences between the 2024 and 2018 Marine Online Assessment Tool and wider Part One Assessments, combined with a lack of supporting information prevent independent analysis and replication of the current assessment. As a result, it is not possible to determine whether the assessments accurately reflect the state of UK seas or whether progress towards achieving Good Environmental Status (GES) has been made.

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In order to determine whether the Part One Assessment provides an accurate reflection of the state of UK seas, in ESS' assessment, the following is required:

- i. publication of all underlying data and methodology associated with the UKMS Part One Assessment
- ii. detailed explanations of how and why the reporting methodology has changed
- iii. a direct comparison of how environmental status has changed between the previous assessment and the current one, either through retrospectively applying the new (2024) methodology to 2018 data or through replicating the old methodology
- iv. publication of information on expert consultation, including details of the experts consulted, the requests that were made to the experts and the advice and recommendations received
- v. for future consultations, ensure that the consultation period is proportionate to the volume and complexity of information that is being consulted on, and provide a clearer description of the purpose of the consultation and how responses will be used

1b) To what extent, if at all, does the information presented in these updated assessments provide an accurate reflection of progress toward Good Environmental Status. What else, if anything, would be valid to include?

In their current form, ESS considers that the Part One Assessment and consultation lack the rigour and transparency necessary to independently assess whether genuine progress towards Good Environmental Status has been made. The reasons for this are set out in our response to question 1a). To allow such an assessment to be made, the information identified in response to question 1a is required.

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2) Do you agree with the revised overarching targets (also known as characteristics) we have set for GES. If not, what would you change?

As a result of the issues referred to in response to questions 1a and 1b, ESS finds that insufficient information has been provided within a reasonable timeframe in order to understand the progress that has been made since the last assessment period. Without this understanding, ESS is not able to comment on the suitability of the overarching targets for the next assessment cycle.

3a) To what extent are the proposed criteria to be used in the next assessment cycle sufficient to guide progress towards achievement of GES? We would like your feedback on both those that have changed, and those that remain the same.

As a result of the issues referred to in response to questions 1a and 1b, ESS finds that insufficient information has been provided within a reasonable timeframe in order to understand the progress that has been made since the last assessment period. Without this understanding, ESS is not able to comment on the suitability of the proposed criteria for the next assessment cycle.

3b) To what extent are the proposed targets to be used in the next assessment cycle sufficient to guide progress towards achievement of GES? We would like your feedback on both those that have changed, and those that remain the same.

As a result of the issues referred to in response to questions 1a and 1b, ESS finds that insufficient information has been provided within a reasonable timeframe in order to understand the progress that has been made since the last assessment period. Without this understanding, ESS is not able to comment on the suitability of the proposed targets for the next assessment cycle.

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3c) To what extent are the proposed indicators to be used in the next assessment cycle sufficient to guide progress towards achievement of GES? We would like your feedback on both those that have changed, and those that remain the same.

As a result of the issues referred to in response to questions 1a and 1b, ESS finds that insufficient information has been provided within a reasonable timeframe in order to understand the progress that has been made since the last assessment period. Without this understanding, ESS is not able to comment on the suitability of the proposed indicators for the next assessment cycle.

4a) Do you feel that there are any policy gaps? If so, please identify the gaps and explain how these could be filled?

As a result of the issues referred to in response to questions 1a and 1b, ESS finds that insufficient information has been provided within a reasonable timeframe in order to understand the progress that has been made since the last assessment period. Without this understanding, ESS is not able to comment on whether there are policy gaps in the Part One Assessment.

4b) Do you feel that there are any evidence gaps? If so, please identify the gaps and explain how these could be filled? Further headings as needed, e.g. issues for consideration / risks / communications implications / next steps, etc. – select as

In order to determine whether the Part One Assessment provides an accurate reflection of the state of UK seas, in ESS' assessment, the following is required:

- i. publication of all underlying data and methodology associated with the UKMS Part One Assessment

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- ii. detailed explanations of how and why the reporting methodology has changed
- iii. a direct comparison of how environmental status has changed between the previous assessment and the current one, either through retrospectively applying the new methodology to 2018 data or through replicating the old methodology
- iv. publication of information on expert consultation including details of the experts consulted, the requests that were made to the experts and the advice and recommendations received

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