Response to the Scottish Government Consultation on management proposals for the Luce Bay and Sands SAC

by the Scottish Environment LINK Marine Taskforce

August 2015

Comments on the Luce Bay and Sands SAC proposed Fishing Order

Introduction

LINK Marine Taskforce members (hereafter 'LINK') are fully supportive of a network of well-managed, ecologically coherent marine protected areas (MPAs) in Scottish seas. In that context, LINK views all nature conservation MPAs, SACs and SPAs for both their individual ecological merits and their contribution to the wider MPA network. The rationale for our preferred management approach for Luce Bay and Sands SAC can be found in our response to the consultation on management proposals for inshore MPAs and SACs (November 2014 – February 2015)[1] full protection for which from mobile demersal gear is proportionate to the ecological declines highlighted in Scotland's Marine Atlas Scotland's Marine Atlas[2]. The complex Luce Bay inlet system includes marine features which are capable of carbon sequestration but which are also sensitive to damage by some types of fishing gear (e.g. kelp biotopes, maerl beds), strong protection of which directly support the recommendations of the Marine Atlas.

LINK members are pleased to offer further comments on the revised management proposals for Luce Bay and Sands SAC.

Post-consultation review of proposals

We are concerned that proposals for the management of Luce Bay and Sands SAC remain unresolved and we will continue to engage with the Scottish Government and other stakeholders in the on-going consideration of this site. We are also concerned by clear messages from the Scottish Government that the option for a complete prohibition on mobile demersal gear throughout this site (Approach 1) was never a likely reality. This remains the case post-consultation, despite strong support for this option by ourselves, other marine stakeholders and members of the public through the 'Don't Take The P' campaign.

Our preferred option remains to prohibit mobile demersal fishing activities throughout the site, to protect the myriad of seabed habitats which make up the shallow inlet and bay for which it has been designated, and their inter-relationships that collectively contribute to site integrity. Many of these habitats, such as kelp beds, maerl beds and *Sabellaria* reefs, are important refuges, foraging grounds and nursery habitats for a range of other marine species, but they are also highly sensitive to physical disturbance (George and Warwick, 1985; Holbrook *et al.* 1990; Kamenos *et al.* 2004). We contend that continuation of mobile demersal fishing activity may compromise the overall site integrity of this SAC and increase the risk that its conservation objectives will not be met. This is highlighted in our original consultation response, where we stated that: '…the recent Sweetman ruling by the Court of Justice of the European Union that found "site integrity must be determined by reference to the lasting preservation of the *constitutive characteristics* of the site concerned that are connected to the presence of a

[1] http://www.scotlink.org/wp/files/documents/ScotLINK_MPA_management_consultation_response_0202151.pdf
[2] http://77.68.107.10/MarineAtlas-Complete.pdf

priority natural habitat whose preservation was the objective justifying the designation of that site" (emphasis added).[3]" Furthermore, if mobile demersal fishing gear is allowed to operate anywhere within the site, given the sensitivity of some of the features which form part of the bay ecosystem upon which there will be likely significant effects, an Appropriate Assessment under Article 6(3) of the Habitats Directive will be required.'

We do not agree with, or support, the alternative management proposal suggested by fishing industry representatives displayed in Figure 13.1 of the consultation analysis document. This proposal would allow scallop dredging on key sensitive habitats right up to the low water mark, not least the kelp beds which play an important role in carbon sequestration, and which are important nursery areas and foraging grounds for a wide range of marine species. We contend that this proposal is entirely inappropriate for this site and its conservation objectives.

Given that it has been made clear a total prohibition on mobile demersal gear within Luce Bay is not likely to be a viable option, we strongly urge Marine Scotland and SNH to ensure adequate areas of all seabed types are protected, and that these measures are proportionate to the vulnerability of the feature to demersal fishing activities, in order to maintain the integrity of the site. We are calling for:

- greater protection for all kelp habitats (including sugar kelp (*Saccharina latissima)* and seaweed on sediment habitats (as requested at the meeting on 26th June)
- greater buffers for mapped features (as requested at the meeting on 26th June)
- greater buffers for unmapped features, namely *Laminaria hyperbore*a forests on reef/boulders which are in the shallows around the bay but are not mapped.

There has clearly been some confusion between *L. hyperboea* on reef and *S. Latissima* on sediment communities (based on discussion at the meeting about Luce Bay on 26th June). Figure 1a, confirms records of *L. hyperborea* and *S. Latissima* off Port William and elsewhere in the Bay, which are validated and quality-assured. As intimated above, we do not support the operation of mobile demersal gear on kelp beds and forests, due to their sensitivity to disturbance and their high ecological value. Figure 1b shows that the extent of the kelps (*Laminariales*) in Luce Bay is likely to be more extensive than the mapped area shown in the revised consultation draft, probably occurring as a component of other habitats.

[3] http://www.clientearth.org/reports/natura-2000-site-integrity-briefing.pdf

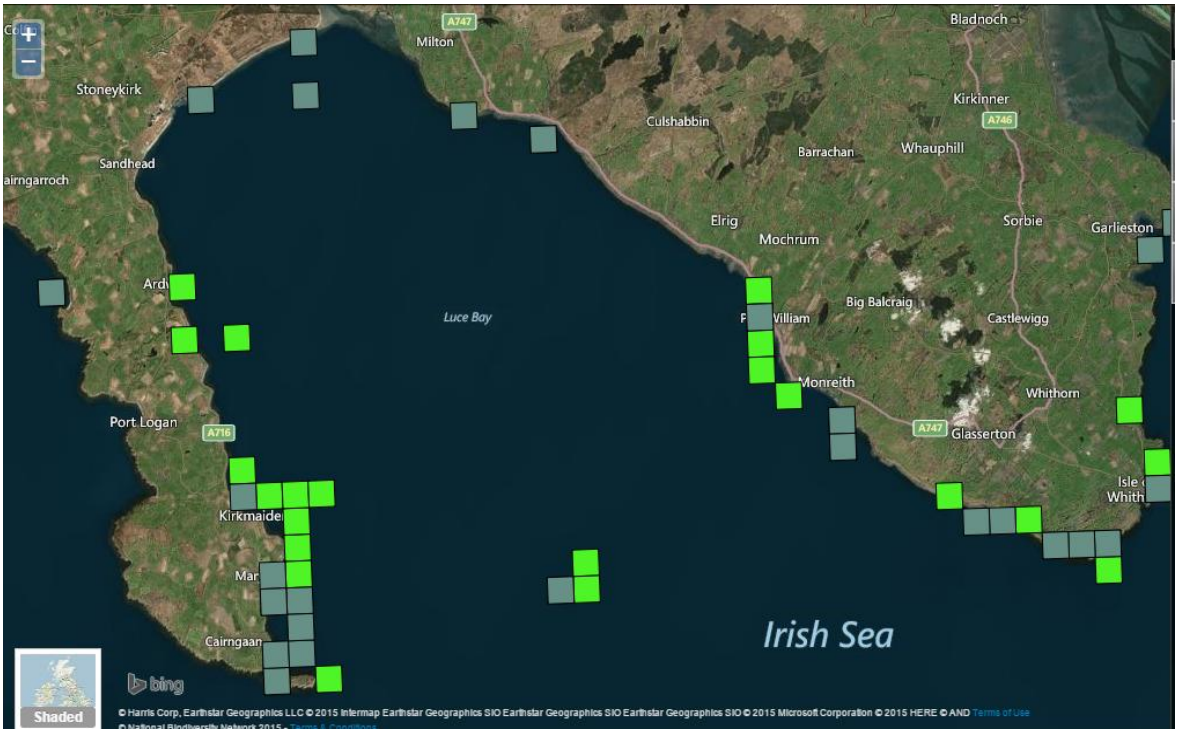

Figure 1a: *Laminaria hyperborea* (green) and *Saccharina laitissima* (grey) distribution record in Luce Bay (Source: https://data.nbn.org.uk , accessed 14/08/15)

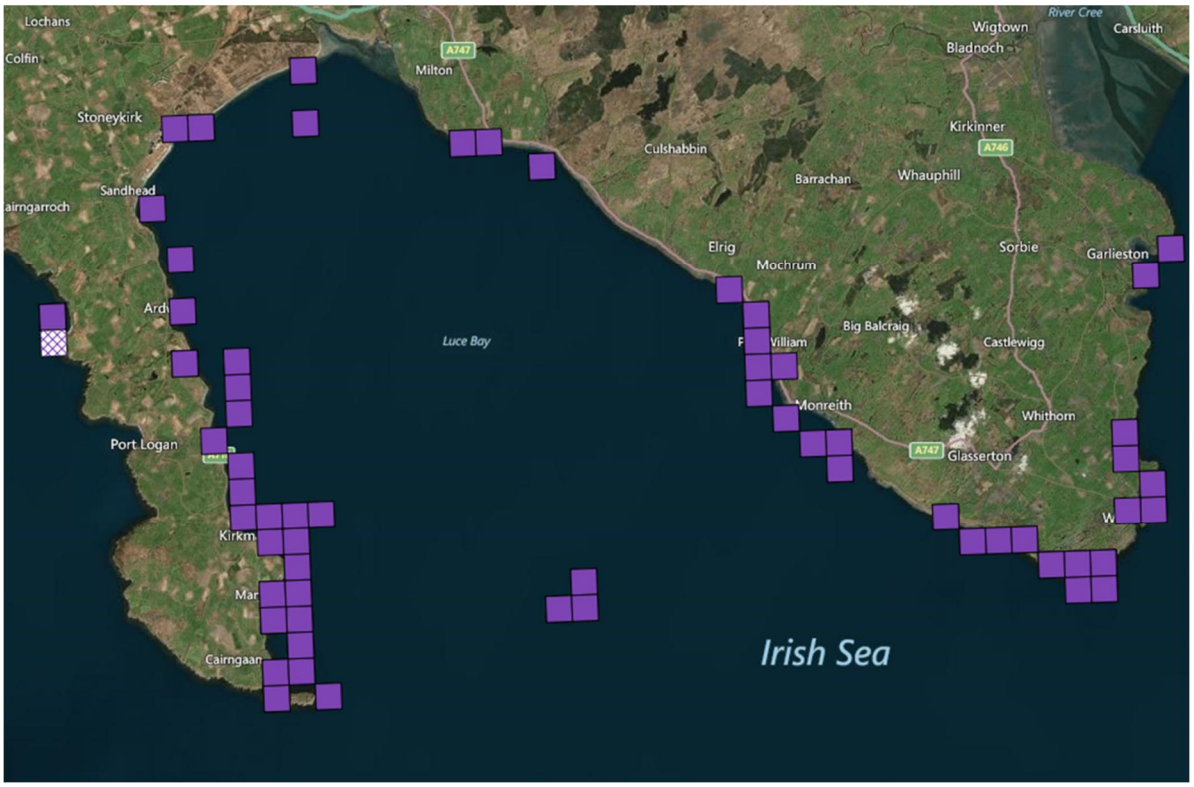

Figure 1b: All *Laminariales* distribution records in Luce Bay (Source: https://data.nbn.org.uk , accessed 14/08/15)

Comments on proposed Fishing Order (August 2015)

LINK Marine Taskforce members acknowledge the additional advice provided by SNH to support the revised management proposals for Luce Bay and Sands SAC and recognise that the proposed fishing areas have seasonal restrictions. We agree (as already stated) that both the *Laminaria* sp. and *Saccharina latissima* biotope are a high priority for protection from mobile demersal gear, but maintain that use of these gear types should be prohibited from the known area of *Laminaria* sp and *S. latissima*. We acknowledge

that SNH advice at consultation for other kelp biotopes (e.g. Kelp and seaweed communities on sublittoral sediment in Wyre and Rousay Sounds ncMPA)[4] was 'remove/avoid pressure', which we fully support and believe should apply to the kelp biotopes in Luce Bay.

Furthermore, we are wary of the 'trade off' in protection between biotopes that are not comparable, as per SNH comments on SS.SCS.ICS.MoeVen, the mapped extent of which is included in its entirety in the proposed permitted fishing area. Our preference would be that all biotopes are considered for their individual ecological merits in addition to the benefits they offer to the local bay ecosystem and their contribution to the overall integrity of the site. We firmly contend that for this site, 'the whole is greater than the sum of its parts'. The JNCC biotope description indicates that bivalves and other burrowing megafauna typical of this biotope a likely to be under-estimated by standard grab sampling techniques[5]. Furthermore, burying bivalves such as *Moerella* sp. form part of a highly productive system and perform key ecological functions, which include linking benthic and pelagic energy transfer, influencing phytoplankton biomass, sediment loading and water circulation, and bioturbation of sediment (Dame, 1996; Vaughn *et al.* 2001).

Whilst the mapped SS.SCS.ICS.MoeVen is just a small area, decision-makers and scientists cannot be certain of the historic range of the biotope in this site prior to pressures such as fishing activities, nor can they be certain of the ecological role of this biotope in relation to the wider ecosystem. Given this uncertainty, an appropriate application of the precautionary principle would be to exclude mobile gear from known and modelled areas for this feature, in order to provide the best possible opportunity for the conservation objectives of the site to be met.

LINK members therefore suggest an amended management approach. It should be emphasized that we remain concerned that any use of mobile demersal gear in this site risks both site integrity and conservation objectives being achieved. However, we offer this suggestion in response to the Scottish Government's decision to endorse a zonal approach despite the supportive responses for the no mobile demersal gear option to the consultation. We refer back to advice given to Marine Scotland by SNH at the 2011 consultation on the management of Luce Bay[6]. Figure 3 on page 8 of this letter (footnote 6) shows a map which displayed the biotopes according to their sensitivity to physical disturbance. We are not sufficiently convinced as to how the present consultation maps and management proposals relate to this previous assessment of sensitivity of the biotopes in Luce Bay. The revised management proposals at the present consultation overlap with both highly and moderately sensitive biotopes, which we consider to be an unacceptable risk of compromising site integrity and not achieving the conservation objectives. Any zonal approach for Luce Bay should not allow use of mobile demersal gear on biotopes classed as highly sensitive to disturbance, and should only be considered on minimal areas of moderately sensitive biotopes. For a site as complex as Luce Bay in the distribution of different biotopes, we recommend the management approach should be more precautionary and that mobile demersal gear can only be permitted in areas where resilience to disturbance can be proven that does not compromise the site integrity. A measure equivalent to the original Approach 2 (as presented in the stakeholder workshops, October 2014), commonly referred to as 'the polo model' would offer a lower risk of not achieving the conservation objectives and would allow fishing primarily on low sensitivity habitats.

LINK members expect the Scottish Government to undertake a Habitats Regulation Assessment (HRA) on the revised management proposals for this site, in accordance with the EC Habitats Directive. Where mechanical dredging, defined here as a 'plan' or

[4] http://www.gov.scot/Resource/0046/00462930.pdf
[5] http://www.jncc.gov.uk/marine/biotopes/biotope.aspx?biotope=JNCCMNCR00001981
[6] http://www.scallop-association.org.uk/pdf/SNH%20advice%20to%20Marine%20Scotland%20on%20Management%20of%20fishing%20in%20Luce%20Bay%20and%20Sands%20SAC%20-%2010%20June%202011.pdf

'project', will have a Likely Significant Effect, an Appropriate Assessment will be required under Article 6(3) of the same. LINK members will not support the adoption of any zonal management proposals until these requirements have been met and demonstrate that site integrity will not be compromised by the proposed management and that the conservation objectives can be achieved. Furthermore, if an Appropriate Assessment is required, LINK members request the opportunity to comment on a draft.

As with all components of the Scottish MPA network, ecological monitoring is now a key requirement for Luce Bay in order to assess the effectiveness of management and inform adaptive measures for both the features within the sites and the impact on the wider marine ecosystem.

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