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Linda Rosborough
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23rd February 2016

cc: Michael McLeod, Marine Scotland
cc: Rob Gibson MSP, Convenor of Rural Affairs Climate Change & Environment Committee

Dear Linda,

Concerns over scallop dredging management measures for Luce Bay and Sands SAC

Earlier this month, the Inshore Fishing (Prohibited Methods of Fishing) (Luce Bay) Order 2015 came into force. It means that scallop dredging can continue across 30% of Luce Bay.

We are concerned that the Scottish Government's current zonal (and seasonal) approach to managing scallop dredging within Luce Bay and Sands Special Area of Conservation (SAC) is insufficient to prevent deterioration of the features for which the site was designated and there remains a risk that there will be an adverse effect on overall site integrity. Further, the overarching aim of designating and managing SACs is to achieve favourable conservation status of vulnerable habitats and management measures in SACs should be designed to achieve this. By leaving protected features and potential protected features exposed to damage in this SAC we fear that this goal cannot be achieved.

The Scottish Government's fisheries management measures for Luce Bay will expose areas of seabed to potential damage by scallop dredging at certain times of year, thereby, we believe, risking deterioration of the features for which the site was designated and risking an adverse effect on overall site integrity. Under the new measures scallop dredging will continue within seasonal fishing zones. It appears the derogations have been applied largely to areas where fishing has historically taken place, rather than where the ecology requires it. This provides only marginally more protection than a seasonal ban (March to October) that has been in place for 13 years.

The Habitats Directive requires that before a plan or project can be allowed in a SAC, an assessment of the impact on the site's integrity must be made - scallop dredging is considered a plan or project within the meaning of Article 6(3)¹. European court jurisprudence is clear – the decision-making authority must be certain that no adverse effect on the site's integrity will result. We query the

¹ <http://www.gov.scot/Resource/0049/00491358.pdf>

process by which Marine Scotland has assessed the potential impact of fishing activities on the seabed habitats within the site and **whether the scientific evidence used to inform Appropriate Assessment was sufficient to be certain that there will be no adverse effect** to the seabed caused by allowing scallop dredging within the derogated areas.

Our main concerns are twofold. First, **we are concerned that some examples of the most vulnerable designated feature, reef, will remain exposed to damaging scallop dredging.** The management advice for reefs from SNH is to ‘remove/avoid’ pressure from demersal trawl and mechanical dredges.² Assessments of seabed roughness and hardness catalogued in SNH Report No. 471 suggest there is an area of reef in the west of Luce Bay which falls within the proposed seasonal mechanical dredging zone. This area coincides with known sea angling marks and depth soundings that would also suggest there is some form of reef habitat present, whether stony or bedrock. This possibility of the presence of designated reef feature within the proposed seasonal dredge area was made known to the authorities. On this basis, the appropriate precautionary approach would have been to close this area to scallop dredging all year round.

Going forward, we are hoping to arrange Seasearch survey dives to ‘ground-truth’ the area and determine whether reef is in fact present. If reef is confirmed, we would expect this pressure to be removed from the area.

Secondly, we are concerned that the Appropriate Assessment determined that a certain proportion of sedimentary habitat could be mechanically dredged for four months a year without affecting site integrity or compromising the achievement of favourable conservation status.

This determination was based largely on an interpretation of ICES advice for a very different site - the Dogger Bank SAC, offshore in the shallow southern North Sea. In contrast, Luce Bay is a south-facing coastal embayment in the southwest of Scotland comprising a complex mosaic of habitats. **We do not think that the interpretation of ICES advice for Dogger Bank SAC can, nor indeed should, be applied to Luce Bay SAC.** (Indeed, sister organisations in England have outstanding concerns about this advice for Dogger Bank SAC itself).

We are not confident that the findings from Dogger Bank SAC can be applied to Luce Bay. Our concerns regarding sedimentary habitat relate to the overall proportion determined to be seasonally exposable to mechanical dredging, and particularly:

- the ‘sugar kelp (*Saccharina latissima*) and red seaweeds on infralittoral sediments’ habitat - exposed to mechanical dredging in the outer west part of Luce Bay, and;
- the only recorded patch of ‘*Moerella* spp with venerid bivalves in infralittoral gravelly sand’ in the middle part of the west of the Bay.

² <http://www.gov.scot/Publications/2014/11/9361/13>

We also note that the sedimentary habitat in the outer south west part of Luce Bay coincides with seabed deemed 'most sensitive' by SNH in 2011. Therefore, it is unclear why mechanical dredging would be allowed on such sensitive ground.³

In general, we are very supportive of the work the Scottish Government is undertaking to develop a network of well-managed MPAs including progressive management measures in the majority of inshore sites. However, in respect of Luce Bay and Sands SAC it is less clear that an approach has been taken that fully complies with the Habitats Directive. As set out in our consultation responses of summer 2015, the surest way to ensure compliance would be to prohibit all forms of mobile fishing gear from the entire SAC.

We acknowledge that the Environment Committee passed the Inshore Fishing (Prohibited Methods of Fishing) (Luce Bay) Order 2015 (SSI 2015/436) at their 26th January 2016 sitting, but, as outlined above, contend that there are grounds to believe these measures will be insufficient to ensure the protected habitats in Luce Bay and Sands SAC achieve favourable conservation status and that there will be no adverse effect on overall site integrity. **To that end, we would like to see a commitment to monitoring the effect of these measures, so that if further deterioration is taking place as a result of scallop dredging, immediate action can be taken as part of an adaptive management approach.**

In any event, further research and data collection is urgently needed, particularly on the extent of reef habitat and the degree to which overall site integrity is affected by seasonal scallop dredging. The results of that research should then urgently inform revised management measures for the site.

Yours sincerely,



Calum Duncan

(Head of Conservation Scotland, Marine Conservation Society; Convenor, [Scottish Environment LINK Marine Group](#))



Ian Burrett

(On behalf of the Trustees of the [Scottish Sea Angling Conservation Network](#))

This letter has been supported by the following Scottish Environment LINK member organisations:

Marine Conservation Society
National Trust for Scotland
RSPB Scotland
Scottish Ornithologists' Club

Scottish Wildlife Trust
Whale & Dolphin Conservation
WWF Scotland

³ <http://www.gov.scot/Resource/Doc/355784/0120191.pdf>