

East Mingulay possible Special Area of Conservation (pSAC) - consultation

Scottish Environment LINK is the forum for Scotland's voluntary environment organisations, with over 30 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

Introduction

Scottish Environment LINK's Marine Task Force (LINK MTF) welcomes the opportunity to comment on the proposal to formally designate East Mingulay as a Special Area of Conservation (SAC) under the EU Habitats Directive. In order to properly protect and recover our seas as part of a three-pillared approach to nature conservation and meet our international commitments under the EU Habitats and Birds Directives, OSPAR and WSSD, we support the designation of a well managed, ecologically coherent network of marine protected areas (MPAs), including new Scottish MPAs and new and existing marine SACs. We believe that without a sound, healthy and well-functioning marine ecosystem, many marine ecosystem goods and services beneficial to society and the economy will be lost. An ecologically coherent network of marine protected areas, designated according to sound science and managed according to conservation needs, will play an important role in ensuring the health of the wider marine environment.

Therefore, we warmly welcome and strongly support the proposed designation of East Mingulay as an SAC, and we encourage Scottish Ministers to accept the advice of their statutory advisors on nature conservation, Scottish Natural Heritage (SNH), in this regard, for the reasons set out below.

The scientific rationale for designation

We stress that according to case law of the European Court of Justice, decisions relating to the designation of SACs must be based *only* on science and a site's ability to meet the Habitats Directive Annex III criteria.

We believe SNH has set out a compelling scientific rationale for the formal designation of East Mingulay as an SAC. In particular we would highlight the following comments from the consultation documents:

- *Although it is the main reef-forming coral in the northeast Atlantic and is thought to be widespread, it rarely forms reef complexes in inshore waters. In fact, East Mingulay is unique in that it is the only known area with extensive cold-water coral reefs within UK territorial waters.*
- *During the surveys undertaken at the East Mingulay reef complex over 400 species have been identified, including a sponge (*Cliona caledoniae*), which was new to science (Van Soest and Beglinger, 2008).*
- *The East Mingulay reef areas currently contain 100% of the known UK resource of *Lophelia pertusa* reefs in territorial waters.*
- *The reef habitat to the east of Mingulay is considered as having a well conserved structure with good prospects for the conservation of the habitat functions.*
- *It should be noted that if the *Lophelia pertusa* reef areas are destroyed these would be virtually impossible to restore.*

We note that the scientific case potentially underestimates the area of the East Mingulay reefs compared to the total area of UK reefs, due to the difficulties encountered during scientific survey. However, as East Mingulay contains 100% of the known resource of *Lophelia pertusa* in UK territorial waters, it is clear that East Mingulay is of National significance. Therefore, the East Mingulay possible SAC (pSAC) must be urgently designated as a marine Special Area of Conservation under the Habitats Directive.

Socio-economics

We reiterate that the designation of an SAC must be based solely on scientific grounds. Socio-economic considerations can only inform matters concerning future management of the site.

Coral reefs are sites of great importance for biodiversity in Scottish waters and are highly vulnerable to damage from a variety of activities, notably the use of mobile fishing gear. Our understanding is that most fishing activity is currently conducted outside the proposed boundary and will therefore not be subject to any new restrictions as a result of designation. However, as set out in the scientific case for designation, the Mingulay reefs do show evidence of human fishing activity in the area.

While the hard structure of the reefs may have protected them from the attention of trawlers in the past, satellite positioning technology now means that boats can, and do trawl much closer to obstructions on the bottom. This damages the peripheral ecosystems and increases the risk of damage to the main reef. As stated in SNH's scientific case: "*it is normally the first pass of mobile fishing gear that causes most of the damage to biogenic habitats, including those formed by Lophelia pertusa (JNCC 2007)...if the Lophelia pertusa reef areas are destroyed these would be virtually impossible to restore.*"

It is therefore vital that fishing using mobile gear with the potential to adversely impact the reef, is managed in such a way to ensure that the *Lophelia* reefs are not damaged. As stated in the SNH report, the boundary of the SAC must take account of the need for the site to function as a whole for the conservation of the reef. The 2:1 horizontal/water depth ratio may be suitable in waters deeper than 200 metres, however, we understand parts of the reef complex to be shallower than this. For any part of the reef shallower than 200m we believe the boundary should be set at least at a 3:1 ratio¹ if that shallow area is near the margins of the reef complex.

The full range of potential management measures, including exclusion zones, must be considered, and where appropriate implemented, in order to ensure the conservation objectives of the site are met.

Government policy, supported by European case law, is clear that a pSAC should be protected in the same way as designated SACs. We therefore expect that the processes to manage such activities are currently underway. We would welcome confirmation of this and the opportunity to be involved in future management discussions.

There is a large body of evidence linking better marine health with economic productivity, social well-being and climate change mitigation. A 2009 report (*No charge? Valuing the environment*, Natural England) estimates that the potential benefits of a UK network of marine protected areas could outweigh costs by a factor of between 7 to 40, with estimated benefits of between £7 billion and £19 billion. More specifically, we reiterate SNH's comments that *'reefs formed by the coldwater coral Lophelia pertusa provide a complex three dimensional habitat for a wide variety of species. Fish, including some commercial species, use the reefs for feeding and shelter and in some cases for*

¹ Please see Table 10 of Marine Scotland's draft guidelines on the selection of MPAs and development of the MPA network available here: <http://www.scotland.gov.uk/Topics/marine/marine-environment/mpanetwork/draftmpaguide>

breeding. The conservation of such habitats therefore has a role to play in the sustainable management of fisheries'.

The *Lophelia pertusa* reefs at East Mingulay are without doubt incredibly important, both in National and International terms. We fully support SNH's scientific case, and believe in order to meet obligations under the Habitats Directive, and avoid potential infraction proceedings, the site must be formally designated as a marine SAC. Regardless of any strict legal requirement under the Directive to designate, in our view SAC designation is the most appropriate way to ensure that that this unique site is protected for future generations.

This response was compiled on behalf of Scottish Environment LINK's Marine Task Force and is supported by:

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