

MINERALS PLANNING & ENVIRONMENTAL



*ENVIRONMENTAL REVIEW*

*APPENDIX 3*



**Summary Report to Inform HRA**

## *ISLE OF LUING COMMUNITY TRUST*

### *SUMMARY REPORT TO INFORM HRA*

#### **1 BACKGROUND TO THE PROJECT**

A planning application has been submitted by the Isle of Luing Community Trust (the Trust) to re-open a slate quarry at Cullipool. This application is for 28 years allowing for slate extraction over a 25-year period.

An application is also made to Marine Scotland for a licence for the replenishment of the beach at Cullipool, using out of specification materials from the quarry as had been done historically.

The boundary of each proposal is shown outlined in red on the Site Location Plan, Figure 1.

The Inner Hebrides and the Minches Special Area of Conservation (SAC) lies adjacent to the beach replenishment project area at closest approach of around 22m to the application area.

The Firth of Lorn SAC lies partly within the beach project area, this overlap extends to a maximum of around 110m<sup>2</sup>.

## 2 THE CONSERVATION (NATURAL HABITATS, &C.) REGULATIONS 1994

Under the Habitats Regulations, all competent authorities must consider whether any plan or project will have a 'likely significant effect' on a European Site. If so, they must carry out an 'appropriate assessment' (AA). This process is known as Habitats Regulations Appraisal (HRA).

Any plan or project that could affect a European Site, no matter how far away it is, should be subject to HRA.

The competent authority must decide whether there is enough evidence to conclude that the proposals won't have adverse effects on a European Site's integrity.

In order to meet the requirements of Directive 92/43/EEC on The Conservation of Natural Habitats and of Wild Flora (the Habitats Directive), the Regulations impose a statutory duty on the competent authority, in this instance Argyll & Bute Council (ABC) and Marine Scotland (MS), to make an Appropriate Assessment of the implications of any plan or project which is likely to have a significant effect on a site designated for its European nature conservation interests, where that plan or project is not directly connected with the site or its management. The competent authority should grant permission for the plan or project only after having satisfied itself that the integrity of the site would not be affected.

### 2.1 Likely significant effect

It has been established that in the terms of HRA, unless a significant effect can be objectively ruled out with certainty, it is considered 'likely'.

Determining what constitutes a 'significant' effect requires an objective approach. This requires an understanding of the "*specific features and environmental conditions of the protected site concerned*". Each case must be judged on its own merits: what may be significant for one site (or qualifying interest) may not be significant for another.

In the case of this application, a significant effect on the qualifying interests may result from indirect effects including disturbance to qualifying species.

In considering the requirement for an AA it should be determined whether any likely significant effect can be objectively discounted, supported by evidence, this being the screening of the assessment. In undertaking a screening, specific mitigation measures to address effects on the European Site cannot be considered. Whether standard mitigation measures proposed to protect the environment fall into this category is a matter of some debate.

## **2.2 Appropriate Assessment**

Following guidance prepared by the European Commission (Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC), an appraisal of the Cullipool proposals has been prepared to assist ABC and MS in an AA, as may be required.

### 3 APPROPRIATE ASSESSMENT APPRAISAL

<p><b>Introduction</b></p>	<p>This appraisal informs the Appropriate Assessment which must be undertaken by ABC and/or MS, if as Competent Authority they judge it necessary.</p>
<p>Project Description</p>	<p>The proposals are:</p> <ol style="list-style-type: none"> <li>1 To re-establish a quarry at Cullipool (extraction and processing of slate prior to despatch from site).</li> <li>2 To replenish the beach at Cullipool with out of specification materials from the quarry.</li> </ol> <p>The key elements of this proposed programme of works are:</p> <ul style="list-style-type: none"> <li>• Soil stripping and blasting to excavate overburden;</li> <li>• Haulage of overburden and placement for initial beach replenishment;</li> <li>• Continued quarrying operations and processing of slate over a 25-year period;</li> <li>• Continued, intermittent placement of materials to replenish the beach over a 25-year period;</li> <li>• Reinstatement of the quarry, regrading of slopes, replacement of soils and limited seeding/planting to establish wildlife habitats.</li> </ul>

<b>Description of the European Sites:</b>	
The Inner Hebrides and the Minches SAC	Qualifying interests: <ul style="list-style-type: none"> <li>• Harbour porpoise (<i>Phocoena phocoena</i>)</li> </ul>
The Firth of Lorn SAC	Qualifying interests: <ul style="list-style-type: none"> <li>• Reefs</li> </ul>
<b>Conservation Objectives for the SACs</b>	
The Inner Hebrides and the Minches SAC	<p>1. To ensure that the Inner Hebrides and the Minches SAC continues to make an appropriate contribution to harbour porpoise remaining at favourable conservation status.</p> <p>2. To ensure for harbour porpoise within the context of environmental changes, that the integrity of the Inner Hebrides and the Minches SAC is maintained through 2a, 2b and 2c:</p> <p>2a. Harbour porpoise within the Inner Hebrides and the Minches are not at significant risk from injury or killing.</p> <p>2b. The distribution of harbour porpoise throughout the site is maintained by avoiding significant disturbance.</p> <p>2c. The condition of supporting habitats and the availability of prey for harbour porpoise are maintained.</p>
The Firth of Lorn SAC	<p>1. To ensure that the reefs at Firth of Lorn SAC are in favourable condition and make an appropriate contribution to achieving Favourable Conservation Status.</p> <p>2. To ensure that the integrity of Firth of Lorn SAC is maintained in the context of environmental changes by meeting objectives 2a, 2b and 2c:</p> <p>2a. Extent and distribution of reefs within the site.</p> <p>2b. Structure and function of reefs and the supporting environment on which it relies.</p> <p>2c. Distribution and viability of typical species of reefs.</p>
Description of the individual elements of the project (alone or in combination with other plans or projects) likely to	The elements of the proposed operations at Cullipool which have the <u>potential</u> to give rise to impacts on the SAC are:

<p>give rise to impacts on the European Sites.</p>	<ul style="list-style-type: none"> <li>• Direct impact on habitat, placement of material within the beach replenishment area which falls within the Firth of Lorn SAC;</li> <li>• Impacts from dust/fine sediment;</li> <li>• Disturbance to qualifying species.</li> </ul>
<p>Description of likely direct, indirect or secondary impacts of the project (alone or in combination with other plans or projects), including a consideration of standard (achievable) mitigation measures, on the European Sites by virtue of:</p> <ul style="list-style-type: none"> <li>• Size and scale;</li> <li>• Land take;</li> <li>• Distance from the European Site or its key features;</li> <li>• Resource requirements;</li> <li>• Emissions (to air, water or disposal to land);</li> <li>• Excavation requirements;</li> <li>• Transportation requirements; and</li> <li>• Duration of operations.</li> </ul>	<p>When consulted, NatureScot were satisfied that the proposal would have no significant effects on the SACs</p> <p>Inner Hebrides and the Minches SAC:</p> <p><b><i>“Our advice is that it is unlikely that the proposal will have a significant effect on the qualifying interest either directly or indirectly. An appropriate assessment is therefore not required.</i></b></p> <p><b><i>This is because these works will not produce any large scale underwater noise, and are mostly located above MHWS.”</i></b></p> <p>Firth of Lorn SAC:</p> <p><b><i>“Our advice is that based on the information provided, it is unlikely that the proposal will have a significant effect on the qualifying interest either directly or indirectly. An appropriate assessment is therefore not required.</i></b></p> <p><b><i>This is due to the location of the development in relation to the SAC, and the type of substrate found at the coastline near the site.”</i></b></p> <p><b>No direct impacts on the SAC are likely from the current proposal.</b></p> <p>The applicant welcomes this advice and proposes standard mitigation measures to address the potential for any pollution which may otherwise have potential to cause indirect impacts on the SACs.</p> <p><b>No significant indirect impacts on the SAC are likely from the proposals.</b></p>
<p>Description of any likely impacts on the European Sites, as a whole, in terms of:</p> <ul style="list-style-type: none"> <li>• Interference with the key relationships that define the structure of the site</li> <li>• Interference with the key relationships that define the function of the site</li> </ul>	<p>The proposed works shall not interfere with any of the key relationships that define either the structure or the function of the SACs.</p>
<p>Provide indicators of significance as a result of the identification of effects set out above in terms of:</p>	<p>There shall be no loss of habitat associated with the proposals.</p> <p>Placement of material for replenishment of the beach will disrupt</p>

<ul style="list-style-type: none"> <li>• Loss</li> <li>• Fragmentation</li> <li>• Disruption</li> <li>• Disturbance</li> <li>• Change to key elements (e.g. water quality)</li> </ul>	<p>habitat locally but not affect any qualifying feature of the SACs.</p> <p>No changes to key elements of either SAC are anticipated.</p>
<p>Describe from the above those elements of the projects where the impacts are likely to be significant or the scale or magnitude of impacts is not known</p>	<p>No significant direct or indirect effects on the SACs or their qualifying features are predicted as a result of the development.</p>



<b>Appraisal of Impacts on Site Integrity</b>	
Elements of project likely to give rise to significant effects on the European Sites	The risk of significant effects on the SACs is considered negligible.
Describe how the project will affect key habitats and key species	The projects will not lead to habitat loss within the SACs.  No significant disturbance or other effects on species, including indirect/offsite effects has been identified.
Describe how the integrity of the site (as determined by structure and function and conservation objectives) is likely to be affected by the project (e.g. loss of habitat, disturbance, disruption, chemical changes, hydrological changes and geological changes etc.).	The projects will not lead to loss of habitat within the SACs.  No significant direct or indirect effects on any of its qualifying interests has been identified and consequently no impact on the integrity, function, or structure of the sites.  No identified risk of any changes to the key elements of the sites.  The ability of the sites to sustain current habitats and species will not be affected by the proposal.
Describe the mitigation measures to be introduced to avoid or reduce the adverse effects on the integrity of the site.	Supervision of the works, in adherence with the design, will be the responsibility of operator.  Standard pollution prevention measures shall be in place at Cullipool Quarry and Beach.

<b>Findings from Consultation</b>	
Agency Consulted <ul style="list-style-type: none"> <li>• NatureScot</li> </ul>	When consulted NatureScot was satisfied that the proposal would have no significant impact on the SACs and that no AA is necessary.  In order to inform an AA, should this be necessary, information has been supplied in the ER, which accompanies the Planning Application, and summarised within this appendix.

#### **4 CONCLUSION**

The proposed programme of works at Cullipool has been considered in relation to the potential to affect The Inner Hebrides and the Minches SAC and The Firth of Lorn SAC .

The Cullipool Quarry site is some 60m from The Inner Hebrides and the Minches SAC and 30m from The Firth of Lorn SAC.

The beach replenishment site is some 22m from the The Inner Hebrides and the Minches SAC and overlaps The Firth of Lorn SAC by around 110m<sup>2</sup> in total.

The SAC's qualifying interests are:

- Harbour porpoises
- Reefs

No significant direct impact will result from the proposals.

Standard pollution prevention measures will be in place to ensure that no indirect effects will result from the proposals.