



T: +44 (0)300 244 5046

E: MS.MarineLicensing@gov.scot

MARINE SCOTLAND LICENSING OPERATIONS TEAM'S ASSESSMENT OF THE
PROJECT'S IMPLICATIONS FOR A NATURE CONSERVATION MARINE
PROTECTED AREA FEATURE

APPLICATION TO VARY A MARINE LICENCE UNDER THE MARINE
(SCOTLAND) ACT 2010 TO INCLUDE THE REINFORCEMENT OF A JETTY

SITE DETAILS: ALLT ANAVIG QUARRY, KYLEAKIN, ISLE OF SKYE

Name	Assessor or Approver	Date
Neil Macleod	Assessor	12 November 2019
Louise Msika	Approver	28 November 2019

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SECTION 1: BACKGROUND

1 Nature Conservation Marine Protected Area ("NC MPA") assessment conclusion

- 1.1 This NC MPA assessment concludes that the proposed reinforcement of a jetty to form a permanent structure by Mowi Scotland is not capable of affecting (other than insignificantly) the protected features of the Lochs Duich, Long and Aish NC MPA and that there is not a significant risk of hindering the achievement of the conservation objectives of the Lochs Duich, Long and Aish NC MPA providing the conditions in Section 4 are complied with.

2 Introduction

- 2.1 The assessment has been undertaken by Marine Scotland - Licensing Operations Team ("MS-LOT") and is required under Section 83 of the Marine (Scotland) Act 2010 ("the 2010 Act"). MS-LOT, as the 'public authority' under the 2010 Act, has to be satisfied that the licensable activities are not capable of affecting (other than insignificantly) the protected features in the NC MPA or any ecological or geomorphological process on which the conservation of these features is dependant, before any consents can be granted.
- 2.2 A detailed NC MPA assessment has been undertaken and Scottish Natural Heritage ("SNH") has been consulted.

3 Details of proposed operation

- 3.1 Mowi Scotland (formerly Marine Harvest (Scotland) Limited) was granted marine licences in 2017 to extend an existing pier, construct a temporary jetty, install a long sea outfall, carry out capital dredging and reclaim land at Allt Anavig quarry, Kyleakin, Isle of Skye in connection with the construction of a fish feed mill. Further information regarding the project can be found [here](#). The initial dredging and marine construction works have been completed.
- 3.2 The temporary jetty was initially constructed in order to allow the berthing of a dredge barge and the unloading of dredge spoil. The initial dredging work has been completed to a depth of 6.5m below Chart Datum ("CD") however the final design depth is 8m below CD. The final design depth has not been achieved due to a lack of funding however, Mowi plans to complete the dredging once money becomes available. It is therefore proposing to reinforce the jetty to allow it to remain permanently to be used for the landing of dredge spoil during future dredging campaigns and also for small work boats or barges landing or collecting personnel and equipment from the site.

- 3.3 The original jetty consisted of a 8m wide rock-filled causeway protected by sloped rock armour ending in a 16m x 7.5m steel sheet piled box forming the head of the jetty. This proposal would see the jetty adapted into a permanent structure by capping the jetty head with concrete and re-dressing the rock armour with additional stone in order to raise the resistance of the jetty to bad weather conditions. Approximately 1500 additional tonnes of rock armour are to be added to the existing rock armour slopes. In order to carry out the additional work to the jetty, a 4 month extension to the construction licence is required, with works now due to be completed by 31 March 2020.
- 3.4 An NC MPA assessment was carried out for the initial licence and is available [here](#).

4 Consultation

- 4.1 SNH was consulted on the variation on 11 July 2019 and provided a response on 25 July 2019, to say that the proposal is capable of affecting other than insignificantly the flame shell bed protected feature of the NC MPA. However, their response was caveated by a number of uncertainties about the details of the proposal. Further information was submitted by the applicant and provided to SNH on 02 September 2019. SNH provided an updated response on 24 October 2019 confirming that the works are capable of affecting flame shell bed protected feature of the Lochs Duich, Long and Alsh MPA however these effects are not likely to be significant.

SECTION 2: INFORMATION ON THE NC MPA SITE

5 Background information and protected features for the relevant NC MPA site

- 5.1 This section provides links to the Scottish Natural Heritage Interactive website where the background information on the site being considered in this assessment is available. The protected features for the site are listed as are the conservation objectives.

Table 1 Name of NC MPA site affected and current status

<p>Lochs Duich, Long and Alsh NC MPA</p> <p>https://sitelink.nature.scot/site/10416</p>
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Table 2 Protected features

<p>Lochs Duich, Long and Alsh NC MPA</p> <ul style="list-style-type: none">• Burrowed Mud• Flame shell beds

Table 3 Conservation objectives

<p>Lochs Duich, Long and Alsh NC MPA</p> <p><i>(Taken from Article 5 of the Lochs Duich, Long and Alsh Conservation Marine Protected Area Order 2014 which can be accessed from https://www2.gov.scot/Resource/0045/00456828.pdf)</i></p> <p>(1) The conservation objectives of the Lochs Duich, Long and Alsh MPA are that the protected features—</p> <p>(a) so far as already in favourable condition, remain in such condition; and</p> <p>(b) so far as not already in favourable condition, be brought into such condition, and remain in such condition.</p> <p>(2) In paragraph (1) “favourable condition”, with respect to a marine habitat, means that—</p> <p>(a) its extent is stable or increasing; and</p> <p>(b) its structures and functions, its quality, and the composition of its characteristic biological communities are such as to ensure that it is in a condition which is healthy and not deteriorating.</p> <p>(3) In paragraph (2)(b) the reference to the composition of the characteristic biological communities of a marine habitat includes a reference to the diversity and abundance of species of marine flora and fauna forming part of, or inhabiting, that habitat</p> <p>(4) For the purposes of paragraph (1) any temporary deterioration in condition is to be disregarded if the marine habitat is sufficiently healthy and resilient to enable its recovery from such deterioration</p> <p>(5) For the purpose of determining whether a protected feature is in favourable condition within the meaning of paragraph (2), any alteration to that feature brought about entirely by natural processes is to be disregarded.</p>

SECTION 3: ASSESSMENT OF THE POTENTIAL TO HAVE A SIGNIFICANT RISK OF HINDERING THE ACHIEVEMENT OF THE CONSERVATION OBJECTIVES OF THE NC MPA.

6 Requirement for assessment

Is the proposal capable of affecting (other than insignificantly) the protected features of the NC MPA?

- 6.1 SNH initially advised that the proposal is capable of affecting, other than insignificantly, the flame shell bed protected feature of the Lochs Duich, Long and Alsh NC MPA. SNH concluded this as, while direct impact on the flame shell beds are unlikely given that the jetty does not extend to any nearby flame shell bed habitats (the jetty extends to 1.5m below CD and flame shell beds only occur below the 9.5m below CD contour), there is the potential for significant effects on the flame shell beds from indirect impacts. SNH identified the potential impact pathways as pollution arising from the concrete capping of the jetty and damage caused by vessels anchoring within the flame shell bed in connection with subsequent use of the jetty. This advice was based on a number of uncertainties about the applicants proposal.
- 6.2 Upon receiving further information from the applicant addressing the issues raised, SNH updated its advice. SNH confirmed that direct effects were unlikely for the reasons given previously and also advised that the indirect effects were unlikely to significantly impact on the NC MPA. This advice was based on the following points.
- 6.3 Pollution arising from pouring the concrete cap will be addressed by standard anti-pollution measures. Adherence to an approved pollution control plan was a condition of the MPA assessment for the original licence so this condition will remain on the varied licence.
- 6.4 Additionally, SNH understand that anchoring will not occur within the area of flame shell beds. This was confirmed by the applicant in response to the SNH advice of 25 July 2019 and is a condition of the existing licence as a result of the original MPA assessment.
- 6.5 SNH also noted that the flame shell beds would be sheltered from activity at the jetty by the main pier. Further, the transit of any vessel over the flame shell beds to the jetty was considered through the Environmental Impact Assessment ("EIA") process and in the Environmental Statement for the project. The original licence included a condition to require all mitigation identified through the EIA process to be implemented which will remain on the varied licence.
- 6.6 MS-LOT agrees with SNH's advice that the proposed works to the jetty are capable of affecting the flame shell bed protected feature of the Lochs Duich, Long and Alsh NC MPA, but that these effects will be insignificant providing that the conditions from the existing licence, identified in Section 4, are complied with.

Is there a significant risk of hindering the achievement of the NC MPA's conservation objectives?

- 6.7 MS-LOT concludes that any effects will be insignificant and therefore will not risk hindering the achievement of the conservation objectives of the NC MPA.

7 Assessment of the implications for the site in view of the site's conservation objectives.

7.1 No further assessment required.

8 MS-LOT conclusion

8.1 MS-LOT concludes that the proposal is not capable of affecting, other than insignificantly, the protected features of the Lochs Duich, Long and Alsh NC MPA and therefore does not pose a significant risk to the achievement of the conservation objectives of the Lochs Duich, Long and Alsh NC MPA.

SECTION 4: CONDITIONS

9 Requirement for conditions

9.1 The following conditions on the existing licence must continue to be enforced in order to ensure that any effects on the Lochs Duich, Long and Alsh NC MPA will be insignificant.

9.1.1 The licensee must ensure that, during the execution of the works, the risk of marine pollution is minimised by implementing the approved pollution control plan (Revision 1, 28 September 2017), or any updated pollution control plan in agreement with the licensing authority.

9.1.2 The Licensee must ensure that no anchoring of vessels associated with the licensable marine activities occurs within the flame shell bed feature of the Lochs Duich, Long and Alsh MPA. This includes the temporary pontoons/ platforms/ caisson. Any anchoring is to take place within the dredge area only during construction and only for emergencies.

9.1.3 The licensee must ensure that all required mitigation identified in the Environmental Impact Assessment ("EIA") process is implemented to address significant environmental effects.