

Date: 03 February 2016
Our ref: 173880
Your ref: D&S IFCA Lundy SAC HRA – Formal Notice



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BY EMAIL ONLY

Dear Sarah,

Formal Advice to D&S IFCA. Fisheries in EMS Habitats Regulations Assessments for Amber Activities, European Marine Site: Lundy SAC UK0013114.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

In 2012, the Department for Environment, Food and Rural Affairs (Defra) announced a revised approach to the management of commercial fisheries in EMSs¹. The objective of this revised approach is to ensure that all existing and potential commercial fishing activities are managed in accordance with Article 6 of the Habitats Directive. This document states that for 'amber' risk activities a site level assessment will be required to assess whether management of an activity is required to conserve site features. The Department's strong preference is that site level assessments be carried out in a manner that is consistent with the provisions of Article 6(3) of the Habitats Directive. Appropriate management measures should be put in place to ensure that the fishing activity or activities either 1) have no likely significant effect on a site in view of its conservation objectives or 2) following assessment, can be concluded to have no adverse effect on the integrity of the site.

Thank you for the Habitats Regulations Assessment (HRA) for the following interactions within Lundy SAC, submitted to us on the 8th December 2015:

- **Sandbanks which are slightly covered by sea water all the time:** Towed (demersal) (Only relating to Beam trawl (whitefish, shrimp, pulse/wing), Heavy otter trawl, Multi-rig trawls, Light otter trawl, Pair trawl, Anchor seine, Scottish/fly); Towed (demersal/pelagic); Dredges (towed) (Only relating to Scallops, Mussels, Clams, Oysters).
- **Sandbanks which are slightly covered by sea water all the time:** Static (pots/traps) (Only relating to pots/creels).

¹Defra revised approach:

<https://www.gov.uk/government/publications/revised-approach-to-the-management-of-commercial-fisheries-in-european-marine-sites-overarching-policy-and-delivery>

- **Grey Seal (*Halichoerus grypus*):** Towed (demersal) (Only relating to Beam trawl (whitefish, shrimp, pulse/wing), Heavy otter trawl, Multi-rig trawls, Light otter trawl, Pair trawl, Anchor seine, Scottish/fly); Dredges (towed) (Only relating to Scallops, Mussels, Clams, Oysters).

Natural England has considered the HRAs prepared by D&S IFCA for the purposes of making an assessment consistent with the provisions of Article 6(3). Please accept this letter as Natural England's formal advice on the assessments and the conclusions they make. Our key points are set out in Annex I that accompanies this letter.

It is Natural England's view that on the basis of the information presented in the assessments, likely significant effects on the EMS cannot be excluded.

Please do not hesitate to contact me if you have any questions or require further information.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Andrew Knights', written in a cursive style.

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The comments below are separated into three sections, corresponding to the three tLSE documents that were reviewed as part of this formal request for advice.

1. Towed demersal vs sandbanks

- 1.1. Section 3.1 of the fishing activities report for Lundy says that there are very low levels of towed (demersal) gear within the SAC with only occasional otter and multi-rig trawling. This leaves some room for misunderstanding as different people may have different understandings about what is meant by 'occasional'. It would be useful if you could clarify what you mean and frame it within a certain timescale (e.g. approximately once a year? 5 times a year? etc.) so that it is clear what level of activity is considered to be 'occasional'. This will also provide a clear reference point that can be easily verified once iVMS becomes available.
- 1.2. Also in section 3.1 of the fishing activities report, it says that the known activity is restricted to the north east corner of the SAC. It goes on to say that due to the Mobile Fishing Permit Byelaw, mobile fishing gear is restricted to the north east corner shown within Annex 1. As I understand it, these do not refer to the same area, the part being fished being much smaller than the existing open access area shown in Annex 1. This needs to be clearer, perhaps including a map delineating the area currently trawled compared to the existing open access area.
- 1.3. Linked to the point above, within table 5.1, section 4, it states that the area where trawling currently occurs in the top north-east corner of the site is characterised by infralittoral mobile clean sand with sparse fauna. No habitat map has been provided. It is important to establish definitively that the area currently trawled does indeed overlap with this habitat only and does not also include the coarser more stable sediments to the south and west. This would be best done by overlapping the area currently trawled with the habitat map for the site.
- 1.4. NE does not consider that the evidence provided within table 5.1 section 4 is set out in a manner that allows a conclusion of no LSE to be reached for a number of reasons:
 - 1.4.1. It is not as clearly set out as it could be and would benefit from being put into the context of what is being assessed at Lundy. In addition any limitations to the studies referenced should be considered. For instance, two of the studies (Kaiser *et al.* 1998 and Kaiser *et al.* 2006) are quoted as showing no detectable impact. However, it is important to be clear if they were conducted within similar conditions to Lundy and over what time scales the studies took place. Dissimilarities between the study and what is being assessed does not mean they have no value, but it does allow for a more transparent assessment.
 - 1.4.2. Two other studies (Collie *et al.* 2000, Lambert *et al.* 2014) are quoted with reference to recovery times. Statements around relative recovery times (e.g. area of higher seabed energy showed notably shorter recover times) would benefit from clarifying what those recovery times were and if the higher energy seabeds in question were similar habitats to what is being assessed here (i.e. A5.231 or similar).
 - 1.4.3. With reference to Collie *et al.* 2000, the assessment states that in general recovery time was rarely less than 100 days if damage occurred. This does not support the conclusion that there would be little to no effect. If re-exposure occurs at a higher frequency than

the time taken to recover, it would not allow full recovery to take place.

- 1.4.4. The use of Hall *et al.* 2008 is good to see but I am not sure reference to unstable coarse sediment or sand and gravels with long lived bivalves is pulling out the correct information as these are not the community that is being assessed. A5.231 falls within their category 24 'dynamic, shallow water fine sands'. Hall *et al.* gives this as more sensitive than unstable coarse sediment but less than sand or gravel with long lived bivalves. The sensitives you have quoted have been in reference to light otter trawls. Can you confirm that you think this is more relevant than standard trawl category given your knowledge of the vessels under consideration? It may also be beneficial to define what level of activity it being considered according to the criteria given in Hall *et al.*'s Appendix 3, as this will then give a clearer indication of sensitivity of this biotope, according to this reference.
- 1.4.5. NE notes that much of the evidence provided is around short recovery times rather than there being little to no effect. NE advises that the IFCA consider if setting this out within an Appropriate Assessment would allow for a more robust assessment. Framing the question around whether the very low level of activity on mobile sediments will have an adverse effect on site integrity within an Appropriate Assessment is arguably more suitable and defensible.
- 1.5. While the justification provided in Table 5.1 section 4 appears to largely focus on the impact of current known trawling in the far north east, this only accounts for a proportion of the area currently open to mobile gear, as set out in Annex 1 of fishing activities report. Is it the IFCA's intention that this whole area (including the more stable coarser sediments) remains open? While sections 3.1 to 3.3 in the fishing activities report does state there is no known activity currently in this part of the site, section 4 in the tLSE suggests there is a low level of activity in the vicinity and NE is aware of unconfirmed reports of scallop dredging within the site in the past². NE feels that the risk from scallop dredging to the coarser more stable sediment within the site should be explored to determine if maintaining the current open access area is appropriate.
- 1.6. As the conclusion reached appears to be based largely on the current low level of activity within the site, this conclusion may no longer be valid if activity levels increase in the future. It is therefore important to have systems in place that can monitor activity levels and trigger reassessment or management if activity levels increase. Our understanding is that the Mobile Fishing Permit Byelaw will soon require the installation of iVMS on all vessels using bottom towed gear and this will allow you to monitor activity in real time and over longer periods. NE would recommend including outline details of this within your assessment and what conditions could trigger either reassessment or additional management.

2. Seals vs towed demersal

- 2.1. The point raised above (1.1) about there being room for misunderstanding when describing levels of fishing as low or occasional is also relevant to this tLSE. However, it is seen as less critical to the assessment. Once this is clarified, NE anticipates agreeing with D&S IFCA's conclusion of no Likely Significant Effect.

² http://www.lundy.org.uk/download/ar62/LFS_Annual_Report_Vol_62_Part_11.pdf

3. Sand vs pots

- 3.1. In the screening justifications for pressures (Annex 5), you have followed the guidance NE provided on 21/07/15 using our draft Advice on Operations and screened in Abrasion / disturbance only for further consideration. However, this has recently been updated (please refer to the email from Heidi Pardoe on 18/01/16). The pressure 'removal of target species' has been added as an additional pressure that needs consideration. This pressure should be considered with reference to the attributes 'presence and spatial distribution of communities' and 'species composition of component communities' which along with other attributes, describe integrity.
- 3.2. In table 5.1 section 4, it states that potting occurs mainly on the reef feature, however pots may come into contact with the sandbanks in certain locations. In order to justify this, it would be useful to compare the potting locations (figures 1 to 6 in the fishing activity report) with a map showing the distribution of habitats within the SAC.
- 3.3. The evidence used in Table 5.1 section 5 (Eno *et al.* 2001 and Coleman *et al.* 2013) are stated as being studies on the impact of potting on reef. Rather than considering impacts on reef and then drawing conclusions about the impact on sediment, NE advises assessing this interaction on its own merit. NE suggests looking at the literature review in the potting impacts study commissioned by Defra's marine Biodiversity Impact Evidence Group ³. As it currently stands, NE does not feel the conclusion of no Likely Significant Effect is adequately justified by the evidence presented.
- 3.4. In table 5.1, section 4, it says that potting occurs at high levels within the site, except within the NTZ. Is it possible to clarify what is meant by high? Is this according to any specific criteria (e.g. high = x pots per area per day) or down to expert judgement based on knowledge of the industry within the district?
- 3.5. On a similar theme, the figures presented in section 3.4.1 are from the study carried out in 2008. Can you confirm that you believe activity levels are similar now? We appreciate that given the small number of fishermen involved this is likely to be based on expert knowledge through conversations you have with the industry rather than hard data or a repetition of the 2008 survey.