

## **POLICY NOTE**

### **THE LOCH CARRON MARINE CONSERVATION ORDER 2019**

#### **SSI 2019/101**

1. The Loch Carron Marine Conservation Order 2019 (“the Order”) is made by the Scottish Ministers in exercise of the powers conferred by sections 85(1)(a), (2) and (4), 86(1) and (3) and 88(1), (2) and (6) of the Marine (Scotland) Act 2010 (“the 2010 Act”) and all other powers enabling them to do so.

#### **Policy Objectives**

2. The purpose of the Order is to prohibit the deployment and use of certain fishing gears in the Loch Carron Marine Protected Area (“MPA”). The Loch Carron MPA has been designated to recover the flame shell beds to a favourable condition and maintain maerl beds in a favourable condition.

#### **Policy Background**

3. It was reported on 23 April 2017 that the Loch Carron flame shell beds had been damaged by a scallop dredger. Flame shell beds are a Priority Marine Feature and are, therefore, given general protection by Scotland’s National Marine Plan. According to section 3 of the 2010 Act, Scottish Ministers must act in a way best calculated to further the achievement of sustainable development, including the improvement of the health of the Scottish Marine Area, when exercising any function that affects that area under the Act. In 2017, having identified the damaged flame shell beds in Loch Carron, Scottish Ministers determined that there was a need to act in a way that helped recovery, and therefore improve the health of our seas.

4. At the time of the incident, Loch Carron was not an MPA. However, in order to facilitate recovery of the damaged flame shell beds, it was designated as an urgent MPA (“the Urgent MPA”) on 19 May 2017. Pursuant to section 77(1) of the 2010 Act, a MPA made on an urgent basis can only last for two years.

5. At the same time as Loch Carron was designated as an Urgent MPA in May 2017, the Loch Carron Urgent Marine Conservation Order 2017 was implemented. That Order was later revoked and replaced by the Loch Carron Urgent Marine Conservation (No. 2) Order 2017 (“the Urgent MCO”). This was done in order to correct an error in the boundary definition of the Urgent MPA.

6. Following this, further survey work was undertaken to accurately map the full extent of the flame shell beds of Loch Carron. This led to the conclusion that the flame shell beds of Loch Carron are probably the largest in the world with good recovery prospects. Alongside this, good quality maerl beds were surveyed and considered to merit inclusion as a protected feature of the MPA.

7. Pursuant to section 88(2) of the 2010 Act, a marine conservation order (“MCO”) made on an urgent basis can only last for one year. However, the Scottish Ministers may extend such an order for a further year by making a continuation order in accordance with section 88(6)-(7) of the 2010 Act. If making a continuation order, the Scottish Ministers must have published notice of their proposal to make a permanent MCO. On this basis, the Scottish Ministers extended the Urgent MCO for a further year pursuant to the Loch Carron Urgent Marine Conservation (No. 2) Order 2017 (Urgent Continuation) Order 2018 (“the Continuation Order”) and published notice of their proposal to make a permanent MCO for Loch Carron. At the same time, the Scottish Ministers also published notice of their proposal to make a permanent MPA for Loch Carron.

8. Following this public consultation (as described further below), Scottish Ministers have determined that Loch Carron merits designation as a permanent MPA to protect both flame shell beds and maerl beds. To further the conservation objectives of the permanent MPA, the Order has been made to prohibit the deployment and use of bottom towed fishing gears. Both flame shell beds and maerl beds are highly vulnerable to damage from such fishing gears which means the Order is considered necessary to ensure that the permanent MPA can achieve its conservation objectives.

9. MPAs are designated using Ministerial Orders. The Loch Carron Designation Order 2019 (“the Permanent MPA”) can be found at: [www2.gov.scot/Topics/marine/marine-environment/mpanetwork/developing/CarronCO2019](http://www2.gov.scot/Topics/marine/marine-environment/mpanetwork/developing/CarronCO2019). The Permanent MPA takes effect at the same time as the Order as it provides the boundary of the sites and therefore defines the spatial extent of the measures. The Order and the Permanent MPA have been timed to take effect seamlessly upon the expiry of the Urgent MCO, the Continuation Order and the Urgent MPA.

### **Consultation**

10. A public consultation on the case for making the Permanent MPA took place between 20 March 2018 and 13 June 2018. At the same time, a draft of the Order was made available, and sent to all parties who have previously expressed interest in MPAs and their management. In addition it was sent to representatives of the fishing industry in accordance with section 87 of the 2010 Act. During the public consultation, two consultation events took place. One was held in Loch Carron on 22 May 2018, and the other was held in Plockton on 23 May 2018.

11. A total of 156 responses were received to the consultation, with 151 in support of and only two opposed to the Permanent MPA being designated and the Order being implemented. Those supporting the designation included individuals, fishermen, utility provider, NGOs, local community groups and the tourism industry. All those in favour also noted their support for the scientific evidence, which justifies the case for designation.

12. Following consultation, the area of Plockton Harbour was removed from the site boundaries of the Permanent MPA. This decision was made in response to consultation responses and after a review of the survey data, which showed that there is no historical nor current evidence that the area of the harbour supports the flame shell or maerl habitats. The full consultation report has been published at: [www2.gov.scot/Topics/marine/marine-environment/mpanetwork/developing/CarronCO2019](http://www2.gov.scot/Topics/marine/marine-environment/mpanetwork/developing/CarronCO2019).

### **Impact Assessments**

13. A Business and Regulatory Impact Assessment (“BRIA”) has been carried out for the Order and has been provided as a separate document. No evidence was received through the consultation that results in significant change to the BRIA. The introduction of management measures will not directly limit the number or range of suppliers in the aquaculture or recreational boating and tourism sectors, although additional assessment to support future planning applications could raise the costs for existing suppliers. Tourism may benefit from the designation of the MPA directly and indirectly as a result of benefits to water sports activities such as recreational angling.

14. The results presented in the BRIA represent a worst case scenario. In reality vessels are likely to react to any management measures in place in order to maintain profitability (i.e. by changing target species/gear type). It is important to note that fishing activity in the area may be linked to other economic activity, including tourism, and that such diversification is important for local economies. An equality assessment was not required.

Marine Scotland Directorate  
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