

**SCOTTISH
NATURAL
HERITAGE**



**Ascrib, Isay and Dunvegan
Special Area of Conservation**

Advice under Regulation 33(2)
of The Conservation (Natural Habitats, &c.) Regulations 1994
(as amended)

30 March 2006

About this Package:

Section 1 of this document provides a general introduction and Sections 2 and 3 fulfil Scottish Natural Heritage's duties under Regulation 33(2) of The Conservation (Natural Habitats, &c.) Regulations 1994 (Habitats Regulations) (as amended by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004). This requires that SNH advises other relevant authorities as to the conservation objectives of the site (see Section 2) and any operations which may cause deterioration of natural habitats or the habitats of species, or disturbance of species, in so far as such disturbance could be significant, for which the site has been designated (see Section 3).

Annexes A and B provide supplementary, non-statutory information. Annex A gives information on the sensitivity and vulnerability of the qualifying interest: 'Common seal *Phoca vitulina*'. Annex B gives some indication as to the extent, distribution, structure, function and processes that affect the qualifying interests. It should be noted that this is indicative and not definitive, and as more site information is gathered these sections may be updated.

Ascrib, Isay and Dunvegan was designated by Scottish Ministers as a Special Area of Conservation (SAC) on 17th March 2005. This site is also referred to as a 'European site' (Regulation 10(1)). A 'European marine site' is a 'European site' which is wholly or in part marine (Regulation 2(1)) and is hereafter referred to as a marine SAC.

Although the following statutory information is for the benefit of relevant authorities (see below for explanation of their role), it can also be used by other competent authorities when assessing plans or projects.

1 Introduction

1.1 Background

The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004), commonly referred to as the Habitats Regulations, transpose the EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (Habitats Directive) into domestic legislation. Regulation 33(2) gives Scottish Natural Heritage a statutory responsibility to advise other relevant authorities as to the conservation objectives for marine SACs in Scotland, and any operations which may cause deterioration of natural habitats or the habitats of species, or disturbance of species for which the site has been designated.

This document presents the Regulation 33 advice, plus supporting information, for the Ascrib, Isay and Dunvegan SAC to assist relevant and competent authorities, local interest groups and individuals in considering management of the site. This advice, plus supporting information, will also help to determine the scope and nature of any “appropriate assessment”, which the Habitats Directive requires to be undertaken for proposed plans and projects that are not connected to the conservation management of the site and are considered likely to have a significant effect. Where necessary Scottish Natural Heritage will also provide more detailed advice to relevant, and other competent, authorities to inform assessment of the implications of any such plans or projects.

1.2 Relevant and competent authorities

Within the context of a marine SAC, a relevant authority is a body or authority that has a function in relation to land or waters within or adjacent to the site (Regulation 5) and include: a nature conservation body; a local authority; water undertakers; a navigation authority; a harbour authority; a lighthouse authority; a river purification board (SEPA); a district salmon fishery board; and a local fisheries committee. All *relevant authorities* are *competent authorities*.

A competent authority is defined in Regulation 6 as “any Minister, government department, public or statutory undertaker, public body of any description or person holding a public office”. In the context of a plan or project, the *competent authority* is the authority with the power or duty to determine whether or not the proposal can proceed.

1.3 The role of relevant authorities

The Habitats Regulations require relevant authorities to exercise their functions so as to secure compliance with the Habitats Directive. A management scheme may be drawn up for each marine SAC by the relevant authorities as described under Regulation 34. For marine SACs with overlapping interests, a single management scheme may be developed.

Where a management scheme is in place the relevant authorities must ensure that all plans for the area integrate with it. Such plans may include shoreline

management plans, Sites of Special Scientific Interest (SSSI) management plans, local Biodiversity Action Plans (BAPs) and sustainable development strategies for estuaries. This must occur to ensure that only a single management scheme is produced through which all relevant authorities exercise their duties under the Habitats Regulations.

1.4 Responsibilities under other conservation designations

There are no other statutory nature conservation designations within or adjacent to the Ascrib, Isay and Dunvegan marine SAC.

1.5 Conservation objectives

Section 2 of this document contains the conservation objectives for the Ascrib, Isay and Dunvegan SAC, a site which consists entirely of a marine qualifying interest. The conservation objectives have been developed to ensure that the obligations of the Habitats Directive are met.

1.6 Advice as to operations

The operations, set out in Section 3, are those which SNH advise may cause deterioration of habitats of species, or disturbance of species, for which the site has been designated. This does not necessarily mean that the operations are *presently* ongoing or, if they are, that they are at levels incompatible with the conservation objectives.

1.7 Plans and projects

The Habitats Regulations require that, where an authority concludes that a development proposal is unconnected with the nature conservation management of a Natura site and is likely to have a significant effect on that site, it must undertake an appropriate assessment of the implications for the qualifying interest for which the area has been designated.

1.8 Review of Consents

Competent authorities are required by the Habitats Regulations to undertake a review of all consents and permissions for activities affecting the site as soon as reasonably practicable after it becomes a European site. This will have implications for discharge and other consents, which will need to be reviewed in the light of the conservation objectives.

2 Statutory advice given by SNH under Regulation 33(2) Conservation Objectives

2.1 Introduction

This section provides conservation objectives, which have been developed by SNH in agreement with the Scottish Executive and are to be provided to the relevant authorities in fulfilment of the requirements under Regulation 33(2) of The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004).

The conservation objectives ensure that the obligations of the Habitats Directive are met; that is, there should not be deterioration or significant disturbance of the qualifying interest. This will also ensure that the integrity of the site is maintained and that it makes a full contribution to achieving favourable conservation status for its qualifying interest.

The Ascrib, Isay and Dunvegan marine SAC has been designated for the species 'Common seal *Phoca vitulina*', which is listed on Annex II of the Habitats Directive.

The Ascrib, Isay and Dunvegan SAC consists entirely of a marine qualifying interest.

The conservation objectives for the Ascrib, Isay and Dunvegan marine SAC are as follows:

To avoid deterioration of the habitats of qualifying species (Common seal <i>Phoca vitulina</i>) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for the qualifying interest.
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To ensure for the qualifying species that the following are maintained in the long term:
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| <ul style="list-style-type: none"> • Population of the species as a viable component of the site • Distribution of the species within site • Distribution and extent of habitats supporting the species • Structure, function and supporting processes of habitats supporting the species • No significant disturbance of the species |
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3 Statutory advice given by SNH under Regulation 33(2) Operations

The following advice as to operations to be considered by relevant authorities is provided by SNH with respect to the Ascrib, Isay and Dunvegan marine SAC in fulfilment of the requirements under Regulation 33(2)(b) of The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004). The advice identifies those operations, either on or affecting the SAC, which may cause deterioration of the marine natural habitats or the habitats of species, or disturbance of species, for which the site has been designated. These include operations that may not be currently affecting the Ascrib, Isay and Dunvegan marine SAC.

Operations (in alphabetical order)

Aquaculture

Finfish farming
Shellfish farming

Coastal Development

Civil engineering

Fishing

Salmon or sea trout fisheries
Static gear: Creel / Pot fishing
Static gear: Netting

Gathering / Harvesting

Intertidal collection of shellfish
Intertidal gathering of cast seaweed

Marine Traffic

Commercial vessels

Military Activity

Military exercises

Recreational Activities

Charter / recreational vessels
Other recreational activities
Scuba diving
Sea kayaking and other non-motorised vessels

Scientific Research

Scientific research

Annex A

Non-statutory advice given by SNH Sensitivity and Vulnerability of the Ascrib, Isay and Dunvegan SAC 'Common seal *Phoca vitulina*' to activities listed in Section 3

The comments below are general and should not be considered to be definitive. They are made without prejudice to any comments SNH may provide or any assessment that may be required for specific proposals to be considered by a relevant authority. The level of any impact will depend on the location and intensity of the relevant activity. This advice is provided to assist and focus the relevant authorities in their consideration of the management of these operations.

Operations	Comments
Aquaculture	
Finfish farming	<p>Finfish farming has the potential to cause disturbance, injury or mortality to seals through entanglement in anti-predator nets or nets used to re-capture escaped fish, shooting (legal only outwith the close season) to protect fish farm stock from seal damage, or using acoustic deterrent devices (ADDs). Chemical treatments associated with finfish farming have the potential to adversely affect seals.</p> <p>Boat activity associated with finfish farming has the potential to cause disturbance to seals, particularly during breeding and pupping (late May to end June) and moulting (August) seasons.</p>
Shellfish farming	<p>Shellfish farming has the potential to cause disturbance, injury or mortality to seals through entanglement in anti-predator nets. Use of acoustic deterrent devices or other predator control methods (e.g. sonic canon, boat chasing) to prevent grazing by eiders on shellfish farms have the potential to cause disturbance to seals.</p> <p>Boat activity associated with shellfish farming has the potential to cause disturbance to seals, particularly during breeding and pupping and moulting seasons.</p>
Coastal Development	
Civil engineering	<p>The construction and maintenance of structures, both within and adjacent to the sea, have the potential to cause disturbance during the breeding, pupping and moulting seasons. This activity also has the potential to cause loss or deterioration of the habitats upon which the seals depend during the same critical periods.</p>
Fishing	
Salmon or sea trout fisheries	<p>The legal shooting of seals that occurs as a result of protecting salmon or sea trout stocks from predation has the potential to cause disturbance, injury or mortality to seals.</p>
Static gear: Creel / Pot fishing	<p>Creel / pot fishing has the potential to impact seals as they have been known to attempt to rob creels of their bait, consequently become entangled and subsequently drown.</p>
Static gear: Netting	<p>The use of tangle nets, bottom-set nets or salmon stake nets has the potential to cause seal injury or mortality through entanglement. The legal shooting of seals that occurs as a result of protecting salmon stake net equipment has the potential to cause disturbance, injury and mortality to seals.</p>

Gathering / Harvesting	
Intertidal collection of shellfish	Collection of shellfish from intertidal areas has the potential to cause disturbance to seals (particularly during breeding, pupping and moulting seasons), mainly caused by intense and prolonged human presence.
Intertidal gathering of cast seaweed	Gathering of cast seaweed from intertidal areas has the potential to cause disturbance to seals (particularly during breeding, pupping and moulting seasons), mainly caused by intense and prolonged human presence.
Marine Traffic	
Commercial vessels	<p>Commercial ferry services have the potential to cause disturbance to seals if these vessels pass and / or moor close to the seal haul out areas, particularly during the breeding, pupping and moulting seasons.</p> <p>Oil spills have the potential to cause damage to seal haul outs. Seals generally leave an area in which oil is spilled but a small number of individuals may suffer from respiratory problems and die as a result of the spillage of a large amount of oil. Oil tankers do not generally pass through the coastal waters of Ascrib, Isay and Dunvegan but there is always a risk that a fishing boat or container ship may run aground in the area spilling diesel and fuel oil. Local authority and harbour oil spill contingency plans should take into account the qualifying interests of Ascrib, Isay and Dunvegan and the importance of the marine SAC, particularly during the seal's breeding, pupping and moulting seasons, should such incidents occur.</p>
Military Activity	
Military exercises	The use of small landing crafts or boats, prolonged human presence or aircraft noise from low flying jets or helicopters has the potential to cause disturbance of seal populations, particularly during breeding, pupping and moulting seasons.
Recreational Activities	
Charter / recreational vessels	<p>Charter boats, especially on trips specifically designed to visit seal colonies, have the potential to disturb seals (particularly during the sensitive breeding, pupping and moulting periods) if appropriate guidelines for watching seals are not adhered to.</p> <p>Recreational vessels approaching seal haul outs at an inappropriate speed and direction have the potential to cause short-term disturbance to seal colonies if guidelines are not adhered to.</p>
Other recreational activities	Charter or recreational vessels may land on or leave visitors to explore offshore islands or more remote areas that are close to seal haul out sites. Land-based visitors have the potential to cause disturbance to seals, and deterioration to their associated habitats, if guidelines for watching seals are not adhered to. This is particularly so if visits are unmanaged, in large groups or with dogs, especially during the breeding, pupping or moulting seasons.
Scuba diving	Recreational diving and snorkelling in specific areas has the potential to cause disturbance to seals, particularly during the breeding, pupping and moulting seasons. The use of RHIBs and hard-boats associated with these activities also have the potential to cause disturbance to seals.
Sea kayaking and other non-motorised vessels	Sea kayaking and other activities such as sailing, canoeing and rowing have the potential to cause disturbance to seals, particularly during the breeding, pupping and moulting seasons. This disturbance will mainly be caused by seals being suddenly alarmed by the proximity of a quiet, approaching vessel.
Scientific Research	
Scientific research	Research activities have the potential to cause disturbance to seals, particularly during the breeding, pupping and moulting seasons.

Annex B

Non-statutory Advice given by SNH Site account

Site description

The Isle of Skye, the largest of the Inner Hebridean islands, is situated between the north-west coast of Scotland and the Outer Hebrides. Ascrib, Isay and Dunvegan European marine site is a composite site in North-west Skye encompassing the three main common seal haul outs in the region. The highest concentration of common seals is usually found on the islets, skerries and undisturbed mainland shores at the head of Loch Dunvegan. The Ascrib Islands, situated at the mouth of Loch Snizort, and the Isay island group, situated to the west of the Waternish peninsula, also hold notable numbers of common seals.

Western coasts are exposed to severe wave action but the highly indented nature of the coastline protects many locally sheltered areas including inner Loch Dunvegan. The site encompasses a wide variety of marine habitats, from moderately exposed reefs and shallow sandbanks adjacent to the Ascrib Islands to sheltered fine sediments at the head of Loch Dunvegan. The diversity of the associated floral and faunal communities is a reflection of the variation in exposure and tidal streams within the site. The range and types of habitats found are important to sustain the common seal *Phoca vitulina* populations within this area.

Qualifying marine interest

Annex II Species: Common seal *Phoca vitulina*

In 1996, the minimum size of the Isle of Skye common seal population was estimated at 1,728 individuals, of which nearly 35% occurred within Ascrib, Isay and Dunvegan European Marine Site. The Sea Mammal Research Unit (SMRU) compiled a 12-year data set demonstrating consistent use of the site by around 600 common seals. This represented the largest breeding colony in Skye and one of the larger discrete colonies of common seals in the UK equating to around 2% of the UK and 1% of the EU populations of the species. The data above were used for site evaluation purposes. Since then SMRU has carried out further surveys with the most recent one in 2004. This shows that numbers within the SAC have been used by an average of 600 to 650 individuals.

Large colonies are important in maintaining overall population size and are significant as sources of emigration to smaller or newly established groups. The population is representative of common seal colonies throughout Skye and north-west Scotland.

The highest concentration of common seals in North-west Skye is typically found on the islets, skerries and undisturbed mainland shores at the head of Loch Dunvegan. Notable numbers of seals also haul out on the Isay and Ascrib Islands. Adult common seals can remain very faithful to particular haul out areas, typically moving around the same group of favoured locations over a number of years. However, the use of particular haul out areas can vary according to the annual cycle and local weather conditions.