

Proposed management measures for Marine Protected Areas and Special Areas of Conservation

1.0 EXECUTIVE SUMMARY

- 1.1 In July 2014 Scottish Government designated thirty Nature Conservation Marine Protected Areas (MPA) across Scotland which alongside existing marine Special Areas of Conservation (SAC) and Special Protection Areas (SPA) created a Scottish Marine Protected Area network. Since then, significant stakeholder involvement led to the development of management approaches for individual MPAs and SACs which were consulted on by Government in 2014.
- 1.2 A ministerial announcement in June 2015 set out the Scottish Government's decisions on management proposals for some MPAs and SACs and initiated further consultations on new management proposals for two MPAs affecting Argyll and Bute, through Marine Conservation Orders (MCO).
- 1.3 Scottish Government have gone further than expected and discussed with stakeholders for restrictions on fishing activity. In some instances proposed measures are no longer considered proportionate, with a resulting elevated economic risk to coastal communities.
- 1.4 In addition to concerns over localised economic impact a number of other issues have been identified including a perceived shift in the level and scale of management restrictions on fishing activity; new proposals which were not presented as management approaches during the 2014 consultation; lack of justification and evidence for some measures; and lack of consideration of existing SAC management plans and agreed processes for Firth of Lorn Special Area of Conservation (SAC).
- 1.5 It is recommended that the committee note the contents of the report; approve the detailed draft responses to the MCO consultations and agree to officers submitting further representation on the issues identified in order to influence parliamentary scrutiny of the management proposals in early autumn.

Proposed management measures for Marine Protected Areas and Special Areas of Conservation

2.0 INTRODUCTION

- 2.1 This report outlines the management proposals for some Marine Protected Areas (MPA) and Special Areas of Conservation (SAC) recently announced by Scottish Government, and identifies a number of concerns relating to proposals affecting Argyll and Bute. The report seeks approval of draft responses to Government consultations on draft Marine Conservation Orders (MCO) which seek to implement management proposals for the Loch Sunart to Sound of Jura MPA and South Arran MPA.
- 2.2 The deadline for responses to the MCO consultations was 9th of August and therefore an officer's response, prepared in consultation with the policy lead was submitted to Scottish Government. It was agreed with Scottish Government that the Council's formal response would be submitted following consideration of the matter by this committee.
- 2.3 Colour copies of the maps in Appendix 3 of this report will be presented at the Committee meeting and colour hard copies have been made available in the Members room.

3.0 RECOMMENDATIONS

- 3.1 That the committee:
- (i) note the contents of the report;
 - (ii) approve the draft responses to the Marine Conservation Order consultations, detailed in Appendices 1 and 2; and
 - (iii) agree to officers preparing additional representation on MPA/SAC management proposals, in consultation with the policy lead, in order to influence parliamentary scrutiny of proposals in Autumn 2015.

4.0 DETAILS

4.1 Background

- 4.11 In July 2014 Scottish Government designated thirty Nature Conservation MPAs across Scotland which alongside existing marine SAC and Special Protection Areas (SPA) created a Scottish Marine Protected Area network

- 4.12 The Scottish Government subsequently consulted on different management approaches for a selection of MPAs and marine SACs between November 2014 and February 2015. For the long established SACs this looked to deliver new management or revise previously agreed management. This consultation covered two SACs and five MPAs either within Argyll and Bute or relevant to our coastal communities. The Council submitted an officer response to this consultation which was consistent with the approved response to the 2013 consultation on the designation of a suite of Marine Protected Areas across Scotland.
- 4.13 The Government's [MPA Handbook](#) states that the five guiding principles for sustainable development as detailed in Scottish Planning Policy also apply to management of Nature Conservation MPAs. The five principles are –
- living within environmental limits,
 - ensuring a strong, healthy and just society,
 - achieving a sustainable economy,
 - promoting good governance, and
 - using sound science responsibly.
- This was the context within which the development of management proposals and stakeholder engagement was framed.
- 4.14 On Thursday 11 June Richard Lochhead announced the Scottish Government's proposed management measures for the MPAs and SACs covered by the consultation. The announcement included a [report](#) which summarised the main views from the consultation and the Government's decision on proposed management measures for each MPA/SAC and initiated the publication of four [draft Marine Conservation Orders](#) (MCO) for consultation until 9 August 2015.
- 4.15 Scottish Government identified the following key themes from the consultation that were reflected in the intended measures:
- The need for measures to be as simple and understandable as possible.
 - That the measures should be more ambitious.
 - The measures should remain as proportionate as possible.
- 4.16 The management measures proposed relate mostly to restrictions on fishing activity and for four of the six MPAs relevant to Argyll and Bute, fishing restrictions will be implemented using powers under the Inshore Fishing (Scotland) Act 1984, taking effect on 1 November 2015 with no further formal consultation stage.
- 4.17 For the Loch Sunart to Sound of Jura MPA and South Arran MPA it is intended to use powers under the Marine (Scotland) Act 2010 to implement measures through specific Marine Conservation Orders (MCO), as the proposed measures are considerably different from those that were in the consultation. Using this legal process Scottish Government are required to publish draft Orders to enable interested parties to review and comment on them. Scottish Ministers must also assess the potential economic, social and environmental implications of any displacement of activity resulting from management restrictions.

4.2 Summary of proposed management for individual sites

- 4.2.1 For four of the six MPA/SACs relevant to Argyll and Bute Scottish Government has agreed on the Management Approaches from the 2014 consultation which had the

higher level of restrictions on fishing activity. These sites are Loch Creran, Loch Sween and Upper Loch Fyne & Loch Goil MPAs; and Treshnish Isles SAC. Overall these proposals are not significantly out of line with the Council's response to the 2014 consultation.

4.2.2 For the Loch Sunart to Sound of Jura and South Arran MPAs, management approaches not considered in the 2014 consultation have been proposed. The proposals for these two MPAs outlined in the draft MCOs are at odds with the Council's response to the initial consultation. **Appendix 3** shows the difference in extent of the proposed closed areas for mobile gear fishing from the 2014 proposals to the current proposals for the Loch Sunart to Sound of Jura MPA and South Arran MPA.

Loch Sunart to Sound of Jura MPA (including Firth of Lorn SAC)

4.2.3 The management approaches outlined in the 2014 consultation for the Loch Sunart to Sound of Jura MPA included closing three small areas to mobile gear fishing equating to an estimated 2% of total annual landing value of the MPA and a second approach joining these areas up which equated to around 5%(16.5K) of the annual landing value. The Council response favoured the first approach as it was considered there was no clear scientific evidence presented in support of the larger closed areas.

4.2.4 The Government's proposed approach following the 2014 consultation is to close the entire MPA to mobile gear fishing and open under derogation four smaller areas where trawling and dredging would be allowed. The economic value of the areas closed to mobile gear fishing now equates to around 45%(200K) of total annual landings within the MPA, not including an additional closed area outwith the MPA. The precise reasons for the significant change in approach are not clear but it is assumed that the new proposal is seeking to limit the potential for bycatch (unwanted marine creatures caught in nets while fishing for other species) or disturbance of skate from bottom gear fishing (trawling along the sea floor). The new proposals which restrict 71% of the area of the MPA suggest that mobile gear fishing (prawn trawling & scallop dredging) is incompatible with the protected feature Common Skate, whereas the management approaches proposed in the 2014 consultation suggested that this type of fishing may interact with skate based on SNH advice that spatial or temporal limitation of activity should be considered.

4.2.5 The draft MCO for Loch Sunart to Sound of Jura MPA also includes the Firth of Lorn SAC as these two designations significantly overlap. The 2014 consultation made no reference to any management proposals for the SAC but the draft MCO proposes closure of the SAC to trawling and dredging without any clear justification or evidence being provided to support the proposals.

South Arran MPA

4.2.6 The draft MCO for South Arran MPA proposes that scallop dredging is restricted throughout the MPA and that prawn trawling is permitted in three areas of the MPA. The proposals represent a similar level of restriction on trawling activity to that proposed in the 2014 consultation but a greater level of restriction (total exclusion) for scallop dredging. The proposals represent an estimated loss of annual catch value of 42% (£400K) compared to 33% (£340K) in the 2014 consultation.

4.3 Overall concerns

Proportionality of proposed measures

- 4.3.1 Based on the evidence presented on management approaches during the 2014 consultation it is considered that some of the individual measures now proposed and the potential cumulative impact of all MPA/SAC management on the inshore fishing industry in Argyll and Bute are not proportionate and do not reflect an appropriate balance of the five guiding principles which apply to management of nature conservation MPAs. These proposals also appear to be at odds with other policy areas seeking to protect island communities and fishing activity, including the 'Empowering Scotland's Island Communities' and the National Marine Plan. The environmental and economic sustainability of proposed management measures at both a local and a network scale must be considered by Scottish Government both in the short and long term.

Lack of evidence/assessment

- 4.3.2 Under the Marine (Scotland) Act, Scottish Ministers must assess the potential economic, social and environmental implications of any displacement of activity resulting from management restrictions. This assessment and supporting information was presented for each management approach in the 2014 consultation but has not been presented for the significantly different management approaches detailed in the draft MCOs and supporting Business and Regulatory Impact Assessments (BRIA). This lack of information makes it very difficult for those responding to the MCO consultation to understand the Government's position and effectively present their point of view.

Local economic impact

- 4.3.3 The Scottish Government have estimated the cumulative impact of proposed management measures on fishing activity to equate to less than 2% of the combined annual income of affected fishing vessels across Scotland, stating that impact in the vast majority of cases will mean modest changes to fishing patterns with very limited economic impact, given the ability of vessels to fish elsewhere. In Argyll and Bute the loss in annual catch value is estimated to be 45% within the Sound of Mull to Sound of Jura MPA and 42% within the Sound of Arran MPA which is significantly higher. Cumulative impacts from management restrictions from the three Clyde MPAs are also a concern for fishing communities in Tarbert, Carradale and Campbeltown.
- 4.3.4 The financial implications of the proposed management proposals have been assessed largely on the proportion of annual catch value lost. The economic impact is however much wider than just the value of catch as reductions in catch can have knock on effects on a range of supply chain businesses including processing, transport and food retailers. It is accepted that many stakeholders believe that there will be significant wider long-term economic benefits of providing greater protection for the marine environment, however the specific economic impacts at a local scale can be significant to individual communities and should not be ignored.
- 4.3.5 Local fishing associations and supply chain businesses which represent prawn trawling and scallop dredging are concerned about the local economic impacts which go much further than initial catch value with small local processing businesses likely to be at risk in addition to individual vessels. Other fishing interests such as creel fishermen and shellfish divers may view the proposed

restrictions on mobile gear fishing as an economic opportunity but this also brings the potential for increased competition within the smaller areas to remain open to all types of fishing which could in itself have a detrimental impact if unmanaged.

4.3.6 Many assumptions and statements in the Business and Regulatory Impact Assessments (BRIA) supporting the draft MCO consultations give a false impression that economic impacts to existing fishing activities can easily be mitigated by displacement elsewhere or replacement by more sustainable methods of fishing activity. The reality is much more complex and these statements need to be challenged.

4.3.7 If current measures are implemented as proposed then some form of financial assistance will be essential to mitigate the local economic impact on individual fishing businesses and the local supply chain. A specific package of measures should be created and made available by Scottish Government to directly support fishing businesses adapt to change. This should include support to modify or change vessels and/or gear, to diversify into other maritime activity and decommissioning.

Other implications

4.3.8 The proposals for the Loch Sunart to Sound of Jura MPA and South Arran MPA present other issues which have not been considered by the draft MCO consultations. These include potential impacts from displacement of existing fishing activity in terms of conflict for space and increased effort in some areas and the environmental implications of this. Closure of areas to mobile gear fishing may result in significant increases in creel fishing effort which would need to be carefully managed to avoid impacts on shellfish stocks and the environment.

5.0 CONCLUSION

5.1 Taking a balanced view of the potential environmental benefits and economic impacts of the new proposals for MPA and SAC management, it appears that Scottish Government have gone further than expected with restrictions on fishing activity and in some instances proposed measures are no longer considered proportionate, with a resulting elevated economic risk to coastal communities. It is considered important for the Council to express the concerns set out in section 4 of this report by responding to the individual formal MCO consultations and by making further representation to the Scottish Parliament in order to influence parliamentary scrutiny of the management proposals in early autumn.

6.0 IMPLICATIONS

6.1	Policy	Positively influencing the proposed management of a Scottish network of marine protected areas assists the Council deliver the SOA outcome for a diverse and thriving economy, and its commitments for the environment.
6.2	Financial	None
6.3	Legal	None
6.4	HR	None

6.5	Equalities	None
6.6	Risk	Some proposed MPA management measures are likely to result in local economic impacts on coastal communities in Argyll and Bute.
6.7	Customer Services	None

Executive Director of Development and Infrastructure – Pippa Milne
Policy Lead – David Kinniburgh
13th August 2015

For further information contact: Mark Steward; Marine & Coastal Development Manager; mark.steward@argyll-bute.gov.uk; 01631 567972

Glossary of terms

Mobile gear fishing – Fishing activity which involves towed gear such as trawling or dredging.

Marine Conservation Order (MCO) - may be made by Scottish Ministers to further the conservation objectives of a Marine Protected Area by regulating activities.

Marine Protected Areas (MPA) – Scottish marine designated site to protect specific nature conservation features including habitats, species and geological features.

Special Areas of Conservation (SAC) – European nature conservation designated site protecting habitats or species of conservation importance at European level.

Special Protection Area (SPA) - European nature conservation designated site protecting bird species of conservation importance at European level.

Appendix 1 – Draft response to Loch Sunart to Sound of Jura MPA Marine Conservation Order

1. Introduction

The Council welcomes the opportunity to respond to the management proposals for the Loch Sunart to Sound of Jura MPA and Firth of Lorn SAC as detailed in the draft Marine Conservation Order consultation. While the extension of the consultation period is welcomed it does not allow consideration of a draft response through the Council's committee process prior to 9th August 2015. The following comments therefore constitute an officers response from Argyll and Bute Council and a formal response will be submitted following consideration by the Council's Environment, Development & Infrastructure Committee on 13 August 2015.

There is no doubt as to the quality and diversity of Argyll and Bute's coast and inshore waters, making our coastal area one of our prime assets which requires protection and wise management and is critical to our economic success. It is therefore vital that this resource is used sustainably. While the Council is supportive of the principle of MPAs and the long term environmental and economic benefits that may arise from a well-managed network, it is vitally important that the right balance is struck between environmental protection and socio-economic impact on marine activities and coastal communities.

2. Summary of key views

Taking a balanced view of the potential environmental benefits and economic impacts, it is our view that Scottish Government has gone further with restrictions on fishing activity than expected and was discussed with stakeholders. While the Council agrees that proposed management measures for MPAs and SACs are ambitious, it is considered that some individual measures and the potential cumulative economic impact of all MPA/SAC management measures on the inshore fishing industry in Argyll and Bute are not proportionate when considered at a local scale.

It is our view that the proposed measures set out in the draft MCO have the potential to result in significant localised economic impact through a loss of important winter fishing ground, which will not be mitigated by the factors identified by Scottish Government. The Council is also concerned about the future implications of a growing MPA network on the economic viability and productivity of our coastal area due to the high number and geographic extent of existing and proposed designations and the potential for creeping strengthening of management over time.

To help mitigate and manage localised economic impacts on the fishing industry and its supply chain the Council requests that Scottish Government give immediate attention to the development of a specific package of measures to provide financial support to those affected by the proposed measures.

In addition to these views the Council also has concerns relating to a perceived change in focus of the process of developing MPA management measures, from a clearly defined focus on the protection of specific features to an increasing focus on potential benefits from wider management across an MPA. Finally the Council feels that the proposed fisheries management measures being consulted on have been developed without a full understanding of the spatial use of the MPA by common skate at different stages of their lifecycle, and have not been supported by evidence and justification

which clearly demonstrates that they are necessary to ensure conservation objectives for common skate will be met.

3. Ministerial announcement

Following the Minister's announcement on MPA/SAC management in June 2015 the Council has carefully considered proposals relevant to Argyll and Bute waters and our communities. Taking a balanced view of the potential environmental benefits and economic impacts, it is our view that Scottish Government has gone further with restrictions on fishing activity than expected and was discussed with stakeholders. The management approaches now proposed relate to the most restrictive options on fishing activity, or are entirely new and significantly more restrictive measures which were not considered during the 2014 consultation.

The Government's MPA Handbook states that the five guiding principles for sustainable development as detailed in Scottish Planning Policy also apply to management of Nature Conservation MPAs. The following five principles set the context within which the development of management proposals and stakeholder engagement was framed:

- living within environmental limits;
- ensuring a strong, healthy and just society;
- achieving a sustainable economy;
- promoting good governance; and
- using sound science responsibly.

The Scottish Government report which sets out a summary of responses to the 2014 consultation identifies the following key themes from the consultation which were reflected in the intended measures:

- The need for measures to be as simple and understandable as possible.
- That the measures should be more ambitious.
- The measures should remain as proportionate as possible.

The Minister's letter to the Convener of the Rural Affairs, Climate Change and Environment Committee also states that whilst the package of measures is ambitious it remains proportionate with the overall cumulative impact of measures estimated to be less than 2% of the combined annual income of affected fishing vessels.

It is the view of the Council that the proposed measures are indeed ambitious but it is considered that some individual measures and the potential cumulative economic impact of all MPA/SAC management measures on the inshore fishing industry in Argyll and Bute are not proportionate when considered at a local scale and would result in elevated economic risk to some coastal communities. Having been involved in the lengthy process of identifying new MPAs and discussing management options the Council had felt that this process was seeking to reflect the five guiding principles listed above. However, the measures now proposed for some MPAs including those outlined in the Loch Sunart to Sound of Jura draft MCO are not felt to reflect an appropriate balance of the guiding principles. These same measures also appear to be at odds with other policy areas seeking to protect island communities and fishing activity, including the 'Empowering Scotland's Island Communities' prospectus and the National Marine Plan. The environmental and economic sustainability of proposed management measures at both a local and a network scale must be considered by Scottish Government both in the short and long term.

Scottish Government had promoted the development of management approaches for MPAs as being driven primarily by the sensitivity of individual protected features to specific activities, whilst acknowledging that there are potential wider environmental and economic benefits from site protection across an MPA network. The core of this approach was a presumption of use within a MPA so long as the conservation objectives of the site can be met. It appears however that the potential for securing wider benefits has now directly influenced the development of management proposals to a much greater degree than at the start of the process. This is evident in the scope of some management measures and the report of the 2014 consultation which provides a 'site level' and 'added value' assessment of protection beyond the designated features. The Council is therefore concerned that some management proposals have become more restrictive due to a change of focus from protection of the specific features to being used to implement wider environmental management and perhaps even wider management of mobile gear fishing in inshore waters. This change in approach has led to the development of new management proposals without a full debate from all stakeholders on the positive and negative implications of wider seas management.

4. Difference between 2014 management approaches & MCO proposal

The management approaches outlined in the 2014 consultation for the Loch Sunart to Sound of Jura MPA included closing three small areas to mobile gear fishing equating to an estimated 2% of total annual landing value of the MPA and a second approach joining these areas up which equated to around 5%(16.5K) of the annual landing value. The Council response favoured the first approach as it was considered there was no clear scientific evidence presented in support of the larger closed areas.

The draft Marine Conservation Order (MCO) will now close the entire MPA, including the Firth of Lorn SAC to mobile gear fishing and open under derogation three smaller areas where trawling and dredging would be allowed. The economic value of the areas closed to mobile gear fishing now equates to around 45%(200K) of total annual landings within the MPA/SAC, not including an additional closed area outwith the MPA. The difference in percentage of the MPA area where mobile gear fishing would be excluded has also increased significantly from 12% for the most restrictive approach outlined in the 2014 consultation to 71% as proposed in the MCO consultation. The precise reasons for the significant change in approach are not clear but it is assumed that the new proposal is seeking to limit the potential for bycatch or disturbance of skate from mobile gear fishing.

The draft MCO for Loch Sunart to Sound of Jura MPA also includes the Firth of Lorn SAC as these two designations significantly overlap. The 2014 consultation made no reference to any management proposals for the SAC but the draft MCO proposes closure of the SAC to trawling and dredging without any clear justification or evidence being provided to support the proposals.

5. Justification for measures

Loch Sunart to Sound of Jura MPA

Under the Marine (Scotland) Act, Scottish Ministers must assess the potential economic, social and environmental impacts of an MCO and the implications of any displacement of activity resulting from management restrictions. The 2014 consultation on management approaches for MPAs and SACs presented different management approaches for each designated site with information on the management advice from

SNH, justification for each management proposal and details of the predicted economic impact on restricted activities. In addition the supporting Environmental Report provided an assessment of the environmental implications of displacement of fishing activity.

The new MCO proposals being consulted on for the Loch Sunart to Sound of Jura MPA and Firth of Lorn SAC were not management approaches proposed in the 2014 consultation and no new environmental justification has been provided within the draft MCO and supporting BRIA to support the substantially different management proposed. This makes it very difficult for those responding to the MCO consultation to understand the Government's position and effectively present their point of view.

The new proposals which restrict 71% of the area of the MPA suggest that mobile gear fishing (prawn trawling & scallop dredging) is incompatible with the protected feature Common Skate, whereas the management approaches proposed in the 2014 consultation suggested that this type of fishing may interact with skate based on SNH advice that spatial or temporal limitation of activity should be considered. It is our view that the management approaches proposed in the 2014 consultation must have been considered by Scottish Government at the time to deliver the conservation objectives for the MPA. The Government's report summarising the 2014 consultation responses seems to suggest that those presenting arguments for greater protection of common skate from bottom fishing were highlighting research reports which had already been used by Scottish Government and SNH in their consideration of the designation, advice on management and development of management proposals in the 2014 consultation. In our view, there does not appear to be any new evidence presented which supports the significant change in extent of management restrictions, particularly as the conservation objective for common skate is to 'maintain', rather than 'recover'.

The Management Options paper presented by Scottish Government during the 2013 consultation on the designation of this MPA identified that while common skate were at risk of capture in most mobile gears, current fishing regulations meant that targeted fishing for the species is not allowed and the mortality of fish caught as bycatch and returned to sea would depend on factors such as handling and the length of time exposed to air. The paper also went on to state that: *'..the eggs of common skate are thought to be laid unattached on the seabed and are sensitive to the kind of physical impact and abrasion caused by dredges and trawls. However, relatively little is known about the breeding behaviour of common skate and the habitat preference for egg laying. Future management measures may therefore be best focussed on ways of further reducing fishing-related mortality. For example, through better handling of by-caught skate, gear modification and / or spatial measures that reduce the risk of by-catch of skate within the site'*. Given that knowledge of the spatial distribution of skate in shallow waters and habitat preference for egg laying is largely unknown it is considered that it would be more appropriate for management to focus on improved handling of by-caught skate and gear modification prior to determination of whether spatial measures are required, based on an improved understanding on spatial use of the MPA by skate.

Firth of Lorn SAC

The draft MCO for Loch Sunart to Sound of Jura MPA covers the boundary of the Firth of Lorn SAC as these two designations significantly overlap. The 2014 consultation made no reference to any management proposals for the SAC and it was assumed by the Council and many other stakeholders that this was because the management of

this site was being considered separately. The draft MCO for the Sound of Mull to Sound of Jura MPA however seeks to deliver unexpected restrictions on fishing activity across the MPA and the Firth of Lorn SAC, including closure of the SAC to both scallop dredging and bottom trawling.

In 2006 Scottish Government decided to close Firth of Lorn SAC to scallop dredging whilst a research programme was undertaken to determine the effect of scallop dredging on the protected features. It had been agreed that Scottish Government would report back to the Argyll Marine SAC Management Forum on the outcomes of the research prior to Ministers making a decision as to whether the Firth of Lorn SAC could be reopened to scallop dredging. This Forum had developed a management plan for the SAC in 2006, facilitated by Argyll and Bute Council and is still waiting for the research work to be reported.

Granting of the proposed MCO would introduce new management of fisheries in the Firth of Lorn SAC prior to the research outputs being published. While it is accepted that Scottish Government are now consulting on the proposed measures for Firth of Lorn SAC the justification and assessment that was provided in the 2014 consultation for other SACs management proposals has not been provided in this draft MCO consultation. A lack of transparency and evidence of the Government's assessment in this regard therefore makes it difficult for stakeholders to make an informed representation on the proposals. The only references to the reasoning for the proposals are to regularise the management of trawling in the SAC in line with other SACs and a statement in the supporting BRIA which suggests that restrictions on mobile gear fishing have been put in place across SACs to avoid the prospect of an Appropriate Assessment having to be undertaken to assess the implications of continued fishing activity within the SAC. The latter reference is concerning to the Council as it seems to imply that decisions are being made to restrict activities using the precautionary principle before a full assessment of the implications for the sites conservation objectives has been undertaken. It is at the Appropriate Assessment stage that the precautionary principle should be applied in circumstances where an adverse impact on site integrity cannot be ruled out.

Government officials have stated that the MCO would not prevent management of the SAC being reconsidered once the scallop dredging research has been published and that therefore scallop dredging in the Firth of Lorn remains an open issue which is intended to be brought to a conclusion through the formal publication of outstanding scientific material and further dialogue. While this commitment to follow through on this previously agreed process is welcomed it should have been made clear in the consultation document that this was the case in order to prevent false expectations that the current MCO consultation will be the final consideration of the management of scallop fishing in the Firth of Lorn SAC.

Management restrictions outwith the Loch Sunart to Sound of Jura MPA and Firth of Lorn SAC

Given the level of proposed restrictions within the MPA and SAC it is concerning that an additional area of water has been included in the draft MCO in which mobile gear fishing will be restricted. The justification for this addition is that it will protect a deep water area known to be utilised by common skate. As a matter of process, if this area was considered important for the protection of common skate it should have been included within the boundary of the MPA when it was designated. Although this is a relatively small area in the context of the scale of the MPA it is one of the higher value

areas for prawn trawling within the boundary of the draft MCO, as shown by SCOTMAP.

6. Economic Impact

Inshore fishing is of significant cultural and economic importance and is a key component of the rural economy of Argyll and Bute. This industry is an important element of the key growth sector, food and drink which also directly supports our tourism product.

With over 500 people employed in the catching sector Argyll and Bute is a high fishing-dependent region with the second highest proportion of fishermen as a percentage of its total workforce in Scotland. With continually rising operating costs, loss of access to important fishing ground may put the economic viability of fishing vessels at risk, and potential knock on effects on onshore businesses and infrastructure. It is therefore considered extremely important that the economic impact on our fishing industry from proposed MPA/SAC management does not outweigh the environmental and wider predicted economic benefits of designation, risking socio-economic impacts on our coastal communities.

The financial implications of the proposed management proposals have been assessed largely on the proportion of annual catch value lost. The economic impact is however is much wider than just the value of catch as reductions in catch can have knock on effects on a range of supply chain businesses including processing, transport and food retailers. It is accepted that many stakeholders believe that there will be significant wider long-term economic benefits of providing greater protection for the marine environment, however the specific economic impacts at a local scale can be significant to individual communities and should not be ignored.

Following the Ministerial announcement on MPA/SAC management in June the following statements have been made in relation to the overall economic impact of management measures on fishing activity:

- Cumulative impact of measures equates to less than 2% of the combined annual income of affected fishing vessels across Scotland; and
- Impact will mean modest changes to fishing patterns with very limited economic impact, given ability of vessels to fish elsewhere.

In Argyll and Bute the loss in annual catch value is estimated to be 45% within the Sound of Mull to Sound of Jura MPA, equating to an annual loss of £200,000, which will represent a much greater proportion of lost annual income than 2%, at this local scale. While VMS and SCOTMAP data shows that the overall value of prawn trawling and scallop dredging is higher in other parts of the west coast it should be noted that the areas used by mobile gear vessels within the MPA are essential winter fishing grounds which offer sufficient shelter for these inshore vessels during the winter months. If these areas are no longer available, fishermen will have to either take additional risk and attempt to fish in more exposed waters over the winter, or more likely will have to reduce their fishing effort significantly over this period. The latter option presents a significant risk to the year round viability of fishing vessels.

The Council is aware of significant concern from local fishing associations and individuals about the potential economic effects of the closure of local fishing grounds with potential for a higher level of impact on island and other fragile local communities which are strongly dependant on fishing activity. The Scottish Sea Fisheries Statistics

2013 identify Argyll and Bute as having the second highest regional dependency on fishing as a percentage of the total labour force. This equates to 1.03% of the population in Argyll and Bute which is five times higher than the national average and second only to Shetland, Western Isles and Orkney Isles combined. An economic report and development plan for the aquaculture and fisheries sector on Mull was published in 2014. This report estimates that 3.5% of the working population are fishermen and 5.8% work in fishing and associated services such as processing. These figures clearly identify the local economic importance of fishing activity in Argyll and Bute and that restrictions on fishing activity have the potential for a much greater economic impact on island communities like Mull.

Fishermen based on Mull have identified that local vessels spend around 33% of winter fishing within area subject to restrictions under the MCO. Increases in the value of the catch from the area due to scarcity during bad weather amounts to 22% of annual turnover. Losing the availability of fishing areas currently included for designation under the draft Order proposals will affect the viability of boats in the short term whereas longer term displacement and increased fishing pressures on remaining safe winter grounds could see the demise of vessels. The loss of 22% of turnover will also impact negatively on processing facilities on Mull and on the full-time workforce in one of Tobermory's few privately owned all year round employers. Uncertainties created by the proposed MPA management have already led to the postponement of business plans to expand operations and there are concerns that if the proposed conservation measures proceed as per the draft Order this will inevitably lead to staff lay-offs.

Scottish Government state that the economic impacts from the proposed management measures will largely be mitigated by the potential to fish elsewhere or for vessels to change to more sustainable methods of fishing such as creeling and shellfish diving. While the Council recognises that there is potential for some of the economic impact to be offset in the long-term there are however an number of barriers and issues associated with this mitigation, including:

- Existing vessels designed to fish in specific locations and conditions in inshore waters which may not be able to fish in alternative areas;
- The significant costs of changing fishing vessel and fishing gear for fishermen changing from mobile gear to static gear;
- Increased fuel costs and lost time from having to fish in new areas further afield;
- Increased level of conflict between mobile and static gear fishing in areas remaining open to mobile gear fishing and from displacement of fishing within the MPA;
- Increased level of creel fishing which unless carefully managed could have a negative impact on stocks and the environment.

Specific comments on supporting Business and Regulatory Impact Assessments (BRIA)

Many assumptions and statements in the supporting BRIA give a false impression that economic impacts to existing fishing activities can easily be mitigated by displacement elsewhere or replacement by more sustainable methods of fishing activity. The reality is much more complex as identified above. The Council is also of the view that some of the predicted localised benefits identified in the individual BRIAs are speculative and based on a premise that features will always be degraded by human activity without MPA protection. This assumption is not justified for every MPA as some sites have been identified based on the presence of high quality features in the absence of MPA management.

Despite a suite of some 92 marine SACs and SPAs being in place for over 10 years we have not seen a significant increase in jobs relating to wildlife tourism, diving and other recreational activities which are directly related to their protection. If anything we have seen a decline in the level of recreational diving activity most likely a result of the economic climate. Whilst the potential for wider economic benefits is not refuted these figures should be considered with great caution.

Conclusion

It is our view that the proposed measures set out in the draft MCO have the potential to result in significant localised economic impact which will not be mitigated by the factors identified by Scottish Government. It is important to note that this concern is framed in the context of both the current and future implications of a growing MPA network on the economic viability and productivity of our coastal area. This is due to the high number and geographic extent of existing marine designated sites in Argyll and Bute, proposals for further large designations, and the potential for creeping strengthening of management over time, which we have seen to date with marine SACs and latterly with MPA management proposals.

Figure 1 below shows the extent of existing and potential protected areas in Argyll and Bute coastal waters. The percentage of Argyll and Bute coastal waters (out to 3 nautical miles) covered by existing designations is approximately 12% which will increase to around 53% if the latest proposals for MPAs and SPAs are designated. This figure does not include potential new SACs for harbour porpoise and if compared to the predicted coverage of 24% of Scotland's seas by all existing and proposed sites within the MPA network, the figure for Argyll and Bute is very high.

7. Next stages

Further discussion/negotiation with fishing interests

The Council urges Scottish Government to re-evaluate the proposed measures detailed in the draft MCO and give consideration to the points raised above. It is noted that a specific workshop was arranged to allow identification of important fishing areas and negotiation on areas covered by management. In this regard the Council would like see further discussion and negotiation between Scottish Government and fishing interests to consider the potential for alternative options for fisheries management which would meet conservation objectives for the site whilst minimising local economic impact.

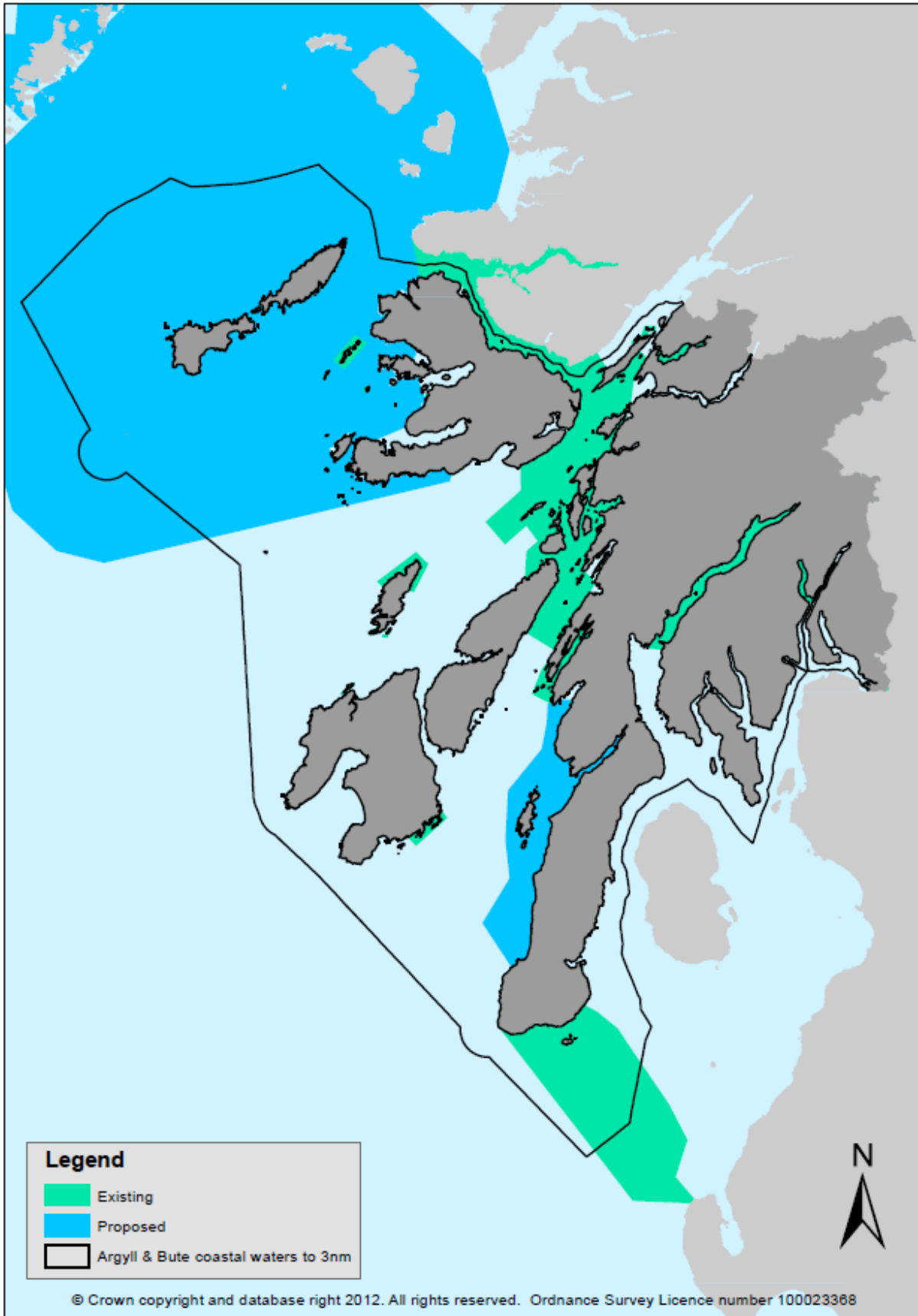
Financial assistance

If current measures are implemented as proposed then some form of financial assistance will be essential to mitigate the local economic impact on individual fishing businesses and the local supply chain. A specific package of measures should be created and made available by Scottish Government to directly support fishing businesses to adapt to change. This should include support to modify or change vessels and/or gear, to diversify into other maritime activity and decommissioning.

Review of measures

Would expect as detailed in MPA Handbook that management should be adaptive and respond as knowledge evolves. In this respect we would expect that the final management proposals will be under regular review and amended should new ways be found to limit interaction with skate from mobile gear fishing are found.

Figure 1 - Geographic coverage of existing & proposed marine designated sites



Appendix 2 – Draft response to South Arran Marine Conservation Order

1. Introduction

The Council welcomes the opportunity to respond to the management proposals for the Loch Sunart to Sound of Jura MPA and Firth of Lorn SAC as detailed in the draft Marine Conservation Order (MCO) consultation. While the extension of the consultation period is welcomed it does not allow consideration of a draft response through the Council's committee process prior to 9th August 2015. The following comments therefore constitute an officers response from Argyll and Bute Council and a formal response will be submitted following consideration by the Council's Environment, Development & Infrastructure Committee on 13 August 2015.

There is no doubt as to the quality and diversity of Argyll and Bute's coast and inshore waters, making our coastal area one of our prime assets which requires protection and wise management and is critical to our economic success. It is therefore vital that this resource is used sustainably. While the Council is supportive of the principle of MPAs and the long term environmental and economic benefits that may arise from a well-managed network, it is vitally important that the right balance is struck between environmental protection and socio-economic impact on marine activities and coastal communities.

2. Ministerial announcement

Following the Minister's announcement on MPA/SAC management in June 2015 the Council has carefully considered proposals relevant to Argyll and Bute waters and our communities. Taking a balanced view of the potential environmental benefits and economic impacts, it is our view that Scottish Government has gone further with restrictions on fishing activity than expected and was discussed with stakeholders. The management approaches now proposed relate to the most restrictive options on fishing activity, or are entirely new and significantly more restrictive measures which were not considered during the 2014 consultation.

The Government's MPA Handbook states that the five guiding principles for sustainable development as detailed in Scottish Planning Policy also apply to management of Nature Conservation MPAs. The following five principles set the context within which the development of management proposals and stakeholder engagement was framed:

- living within environmental limits;
- ensuring a strong, healthy and just society;
- achieving a sustainable economy;
- promoting good governance; and
- using sound science responsibly.

The Scottish Government report which sets out a summary of responses to the 2014 consultation identifies the following key themes from the consultation which were reflected in the intended measures:

- The need for measures to be as simple and understandable as possible.
- That the measures should be more ambitious.
- The measures should remain as proportionate as possible.

The Minister's letter to the Convener of the Rural Affairs, Climate Change and Environment Committee also states that whilst the package of measures is ambitious it remains proportionate with the overall cumulative impact of measures estimated to be less than 2% of the combined annual income of affected fishing vessels.

It is the view of the Council that the proposed measures are indeed ambitious but it is considered that some individual measures and the potential cumulative economic impact of all MPA/SAC management measures on the inshore fishing industry in Argyll and Bute are not proportionate when considered at a local scale and would result in elevated economic risk to some coastal communities. Having been involved in the lengthy process of identifying new MPAs and discussing management options the Council had felt that this process was seeking to reflect the five guiding principles listed above. However, the measures now proposed for some MPAs including those outlined in the South Arran draft MCO are not felt to reflect an appropriate balance of the guiding principles. The environmental and economic sustainability of proposed management measures at both a local and a network scale must be considered by Scottish Government both in the short and long term.

Scottish Government had promoted the development of management approaches for MPAs as being driven primarily by the sensitivity of individual protected features to specific activities, whilst acknowledging that there are potential wider environmental and economic benefits from site protection across an MPA network. The core of this approach was a presumption of use within a MPA so long as the conservation objectives of the site can be met. It appears however that the potential for securing wider benefits has now directly influenced the development of management proposals to a much greater degree than at the start of the process. This is evident in the scope of some management measures and the report of the 2014 consultation which provides a 'site level' and 'added value' assessment of protection beyond the designated features. The Council is therefore concerned that some management proposals have become more restrictive due to a change of focus from protection of the specific features to being used to implement wider environmental management and perhaps even wider management of mobile gear (trawling and dredging) fishing in inshore waters. This change in approach has led to the development of new management proposals without a full debate from all stakeholders on the positive and negative implications of wider seas management.

3. Difference between 2014 management approaches & MCO proposal

The draft Marine Conservation Order (MCO) for South Arran MPA proposes that scallop dredging is restricted throughout the MPA and that prawn trawling is permitted in three areas of the MPA. The proposals represent a similar level of restriction on trawling activity to that proposed in the 2014 consultation but a greater level of restriction (total exclusion) for scallop dredging. The proposals represent an estimated loss of annual catch value of 42% (£400K) compared to 33% (£340K) in the 2014 consultation.

4. Justification for measures

The Scottish Governments response to the 2014 consultation makes specific reference to the need to simplify management measures because they are considered overly complex and difficult to enforce without vessel monitoring for smaller vessels and that to a non-fishing audience varying zones for differing gear types may appear confusing. It is the Council's view that while simplifying measures may make them more understandable to a wider audience the most important thing is that those interests who need to comply with or enforce the measures can understand them. If more complex measures will work in terms of enforcement and meet the conservation objectives while allow economic activity to continue then this is considered a more sustainable and proportionate response than closing the entire MPA to this activity. In this respect scallop dredging could be managed by allowing fishing in the area

proposed in Approach 3 of the 2014 consultation under a permit scheme which would require full vessel monitoring to allow effective enforcement of a the zoning arrangement.

5. Economic Impact

Inshore fishing is of significant cultural and economic importance and is a key component of the rural economy of Argyll and Bute. This industry is an important element of the key growth sector, food and drink which also directly supports our tourism product.

With over 500 people employed in the catching sector Argyll and Bute is a high fishing-dependent region with the second highest proportion of fishermen as a percentage of its total workforce in Scotland. With continually rising operating costs, loss of access to important fishing ground may put the economic viability of fishing vessels at risk, and potential knock on effects on onshore businesses and infrastructure. It is therefore considered extremely important that the economic impact on our fishing industry from proposed MPA/SAC management does not outweigh the environmental and wider predicted economic benefits of designation, risking socio-economic impacts on our coastal communities.

The financial implications of the proposed management proposals have been assessed largely on the proportion of annual catch value lost. The economic impact is however is much wider than just the value of catch as reductions in catch can have knock on effects on a range of supply chain businesses including processing, transport and food retailers. It is accepted that many stakeholders believe that there will be significant wider long-term economic benefits of providing greater protection for the marine environment, however the specific economic impacts at a local scale can be significant to individual communities and should not be ignored.

Following the Ministerial announcement on MPA/SAC management in June the following statements have been made in relation to the overall economic impact of management measures on fishing activity:

- Cumulative impact of measures equates to less than 2% of the combined annual income of affected fishing vessels across Scotland; and
- Impact will mean modest changes to fishing patters with very limited economic impact, given ability of vessels to fish elsewhere.

The management proposals for the South Arran MPA are estimated to result in a loss in annual catch value of 42% for prawn trawling and scallop dredging, equating to an annual loss of £400,000, which will represent a much greater proportion of lost annual income than 2%, for individual fishing vessels. Approximately 37% of the value of prawn trawling within the MPA and 100% of the value of scallop dredging will be restricted.

The Council is aware of significant concern from local fishing associations and individuals about the potential economic effects of the closure of local fishing grounds with potential for a higher level of impact on fragile communities which are strongly dependant on fishing activity. The Scottish Sea Fisheries Statistics 2013 identify Argyll and Bute as having the second highest regional dependency on fishing as a percentage of the total labour force. This equates to 1.03% of the population in Argyll and Bute which is five times higher than the national average and second only to Shetland, Western Isles and Orkney Isles combined. These figures clearly identify the

local economic importance of fishing activity in Argyll and Bute and that restrictions on fishing activity have the potential for a much greater economic impact on small coastal communities such as Tarbert, Carradale and Campbeltown.

A number of fishing businesses in Kintyre have estimated between 25 and 50% loss in annual turnover as a result of lost access to current fishing grounds and subsequent increased competition from displacement. The grounds lost are also important winter fishing areas further restricting options for year round fishing. These businesses therefore feel that the MPA proposals present a significant threat to their economic viability and local employees, with one fishing business estimating a loss of £8000 per year for each crew member. The affected fishing businesses support a large number of different supply chain service and processing businesses which have also expressed significant concern relating to reductions in landings and supply of shellfish, with knock on impacts on the value of the shellfish industry and local employment.

Scottish Government state that the economic impacts from the proposed management measures will largely be mitigated by the potential to fish elsewhere or for vessels to change to more sustainable methods of fishing such as creeling and shellfish diving. While the Council recognises that there is potential for some of the economic impact to be offset in the long-term there are however an number of barriers and issues associated with this mitigation, including:

- Existing vessels designed to fish in specific locations and conditions in inshore waters which may not be able to fish in alternative areas;
- The significant costs of changing fishing vessel and fishing gear for fishermen changing from mobile gear to static gear;
- Increased fuel costs and lost time from having to fish in new areas further afield;
- Increased level of conflict between mobile and static gear fishing in areas remaining open to mobile gear fishing and from displacement of fishing within the MPA;
- Increased level of creel fishing which unless carefully managed could have a negative impact on stocks and the environment.

Specific comments on supporting Business and Regulatory Impact Assessments (BRIA)

Many assumptions and statements in the supporting BRIA give a false impression that economic impacts to existing fishing activities can easily be mitigated by displacement elsewhere or replacement by more sustainable methods of fishing activity. The reality is much more complex as identified above. The Council is also of the view that some of the predicted localised benefits identified in the individual BRIAs are speculative and based on a premise that features will always be degraded by human activity without MPA protection. This assumption is not justified for every MPA as some sites have been identified based on the presence of high quality features in the absence of MPA management.

Despite a suite of some 92 marine SACs and SPAs being in place for over 10 years we have not seen a significant increase in jobs relating to wildlife tourism, diving and other recreational activities which are directly related to their protection. Whilst the potential for wider economic benefits is not refuted these figures should be considered with great caution.

Conclusion

It is our view that the proposed measures set out in the draft MCO have the potential to result in significant localised economic impact which will not be mitigated by the factors

identified by Scottish Government. It is important to note that this concern is framed in the context of both the current and future implications of a growing MPA network on the economic viability and productivity of our coastal area. This is due to the high number and geographic extent of existing marine designated sites in Argyll and Bute, proposals for further large designations, and the potential for creeping strengthening of management over time, which we have seen to date with marine SACs and latterly with MPA management proposals.

Figure 1 below shows the extent of existing and potential protected areas in Argyll and Bute coastal waters. The percentage of Argyll and Bute coastal waters (out to 3 nautical miles) covered by existing designations is approximately 12% which will increase to around 53% if the latest proposals for MPAs and SPAs are designated. This figure does not include potential new SACs for harbour porpoise and if compared to the predicted coverage of 24% of Scotland's seas by all existing and proposed sites within the MPA network, the figure for Argyll and Bute is very high.

6. Next stages

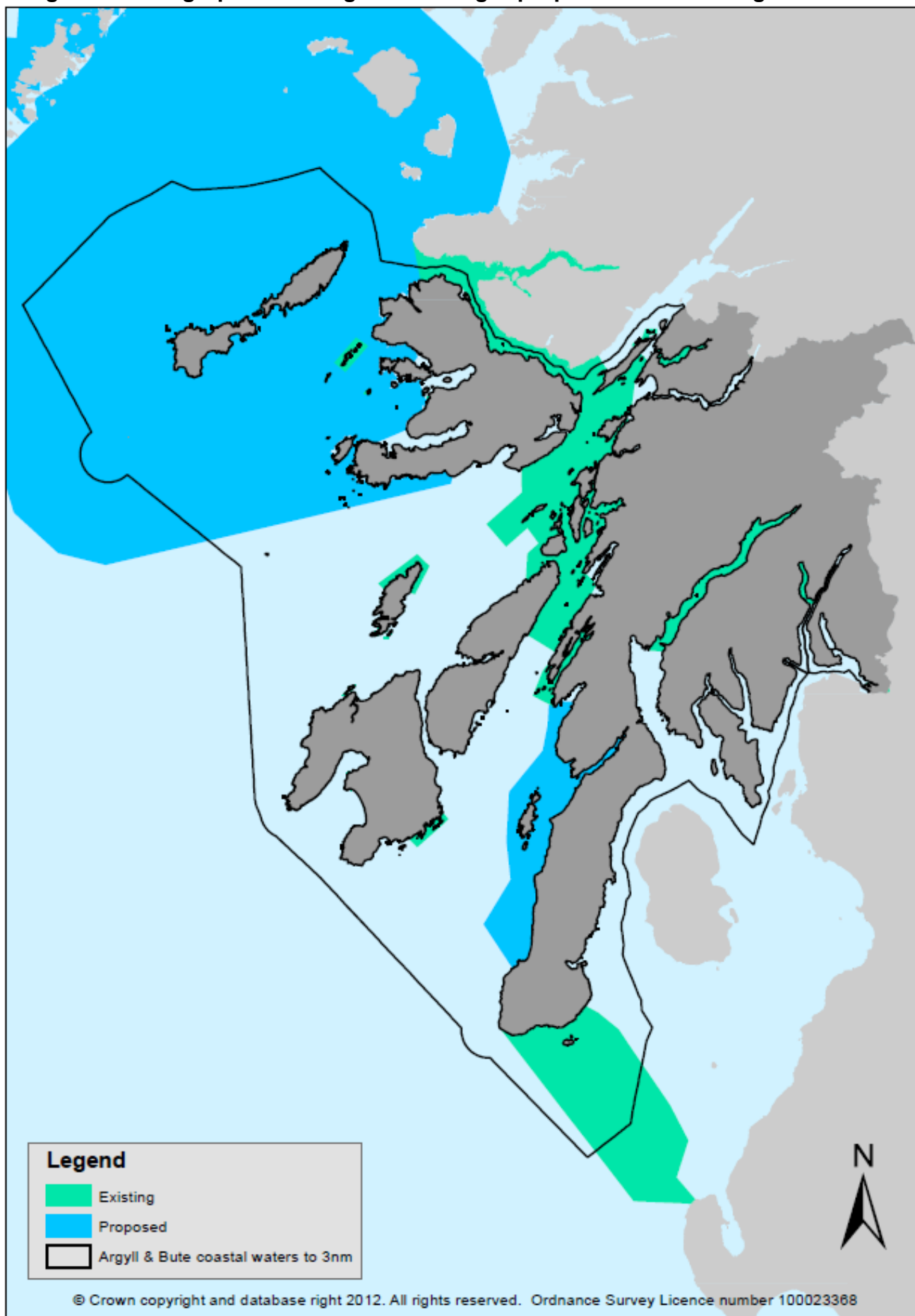
Further discussion/negotiation with fishing interests

The Council urges Scottish Government to re-evaluate the proposed measures detailed in the draft MCO and give consideration to the points raised above. It is noted that a specific workshop was arranged to allow identification of important fishing areas and negotiation on areas covered by management. In this regard the Council would like see further discussion and negotiation between Scottish Government and fishing interests to consider the potential for alternative options for fisheries management which would meet conservation objectives for the site whilst minimising local economic impact.

Financial assistance

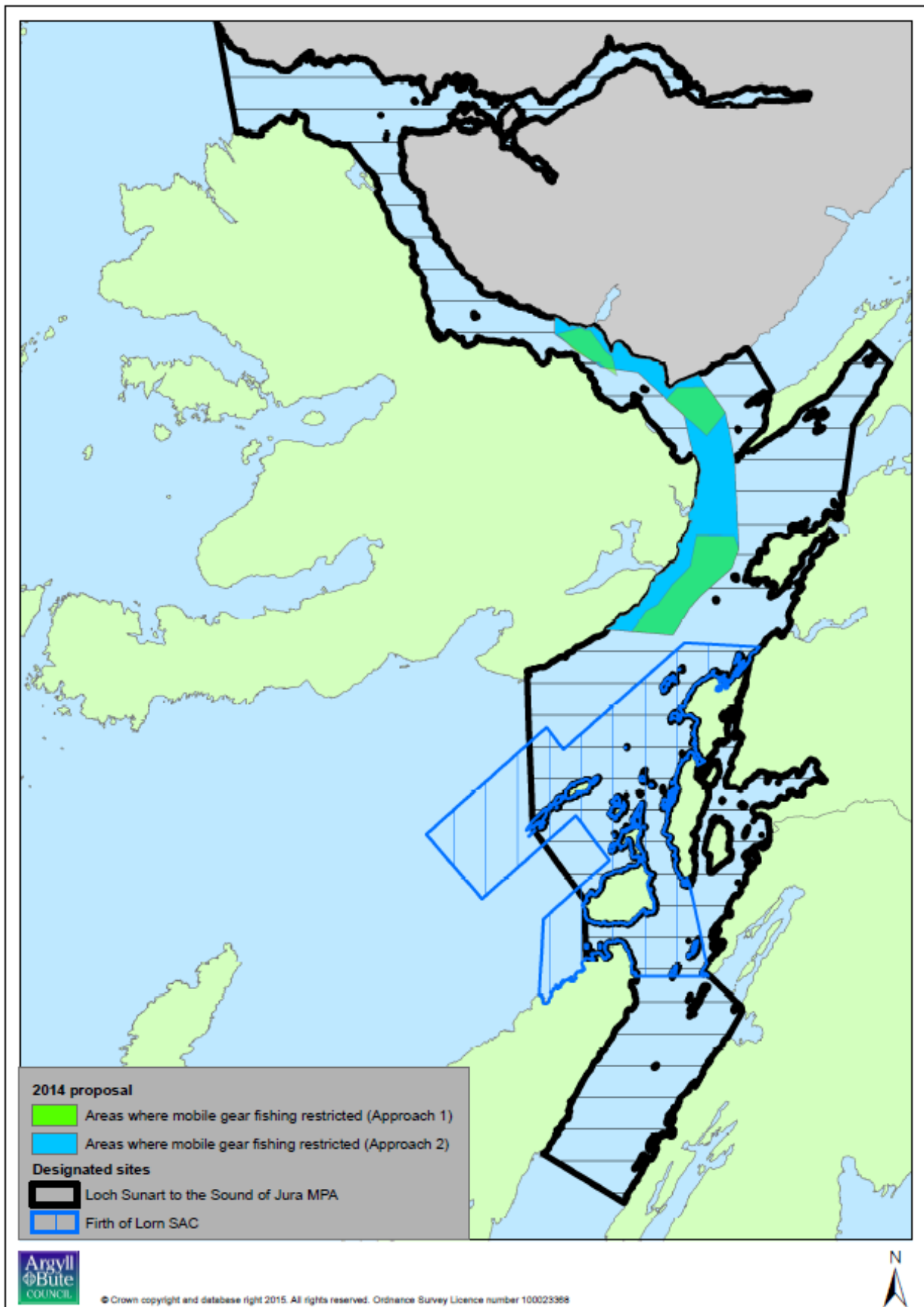
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Figure 1 – Geographic coverage of existing & proposed marine designated sites

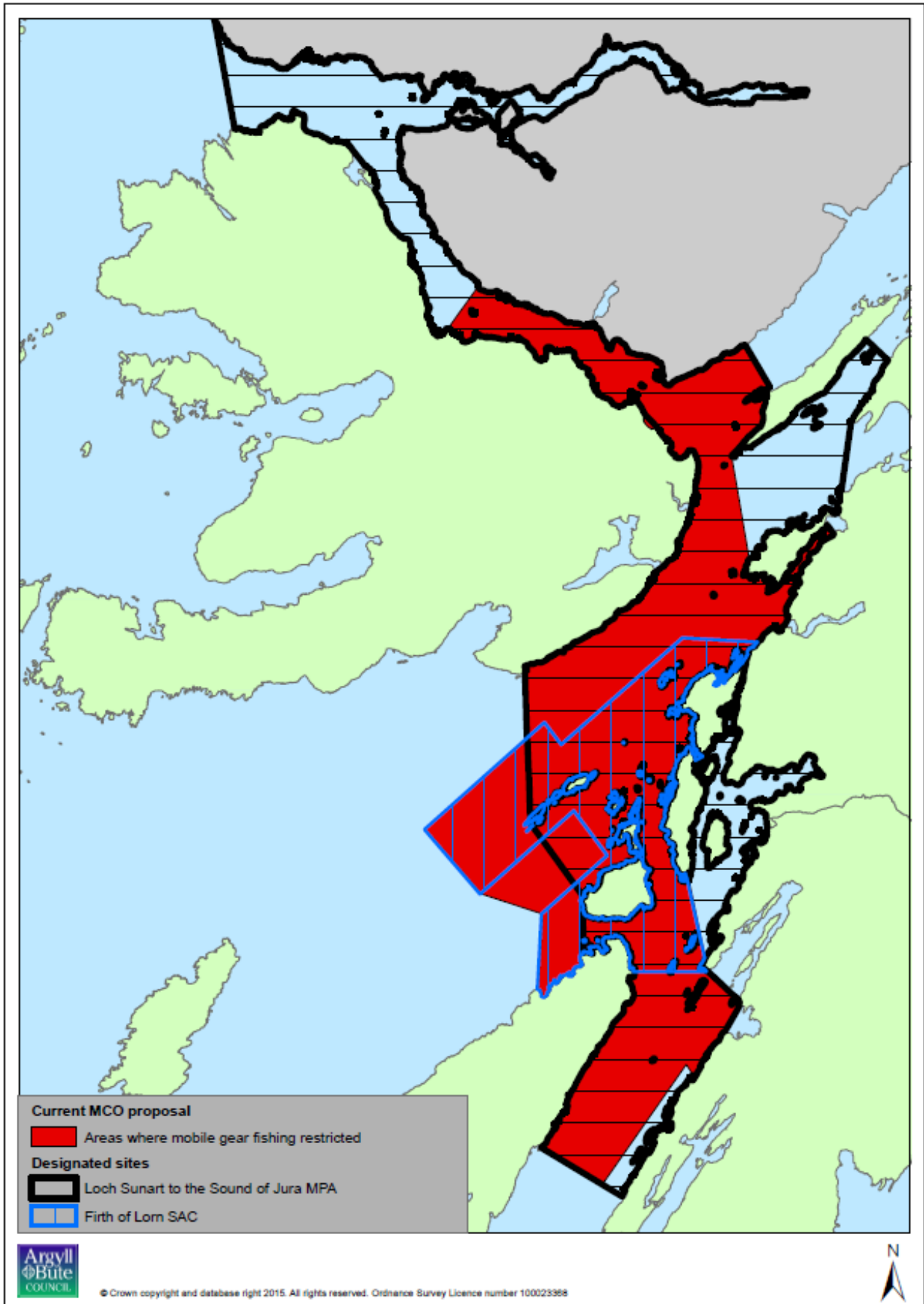


Appendix 3 – Comparison of 2014 management approaches and new proposals

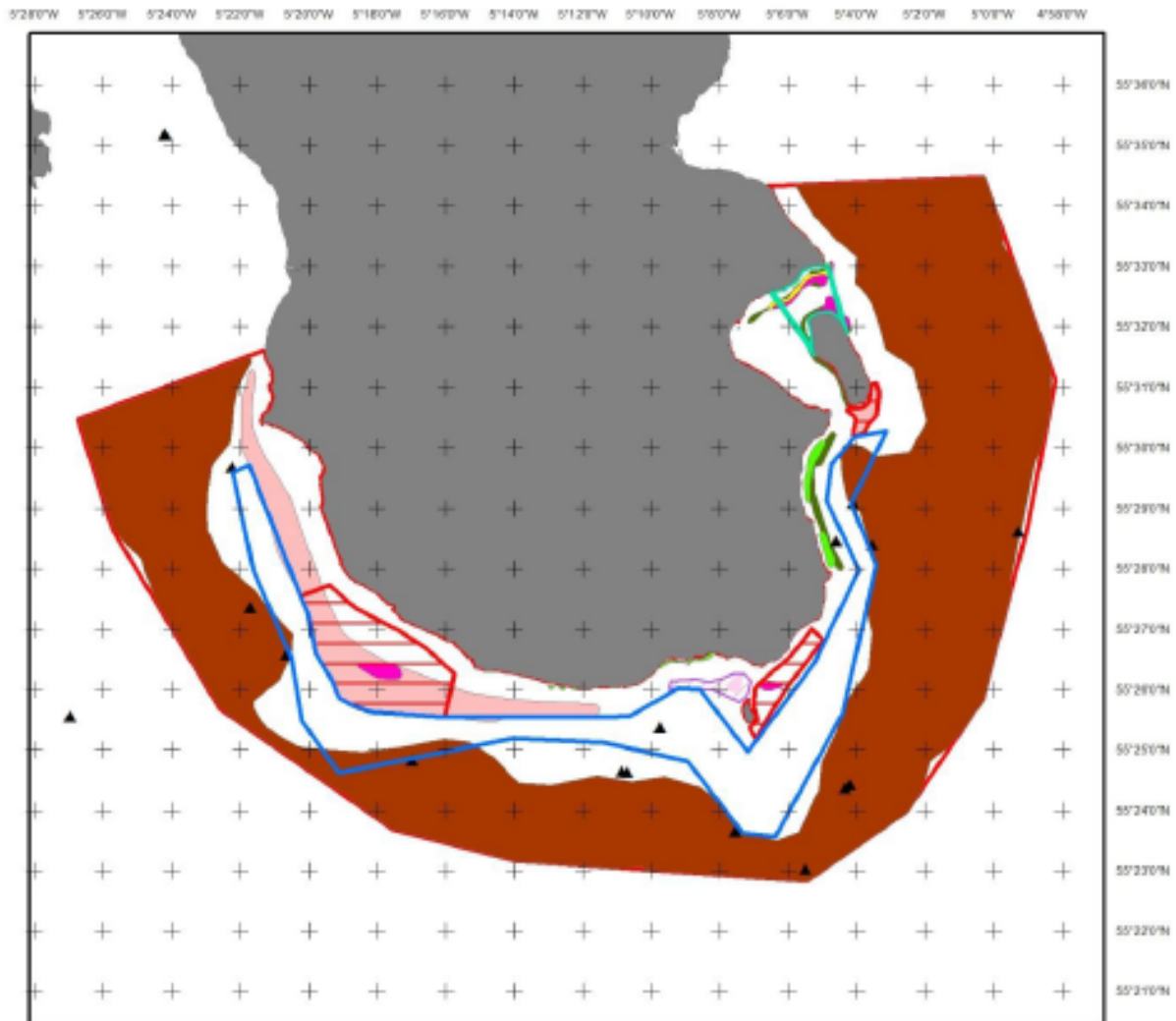
Loch Sunart to Sound of Jura MPA – 2014 proposal



Loch Sunart to Sound of Jura MPA – New MCO proposal



South Arran MPA – 2014 proposal



South Arran MPA

- Land
- MPA Boundary
- Designated scallop dredge fishing area
- Lamlash Bay NTZ
- CR 749 Maerl recovery areas
- maerl recovery area Sept 2014 survey
- maerl bed Sept 2014 survey
- Ocean quahog
- Burrowed mud
- Kelp and seaweed communities on sublittoral sediment
- Maerl beds
- Maerl or coarse shell gravel with burrowing sea cucumbers
- Seagrass beds
- Tide-swept coarse sands with burrowing bivalves

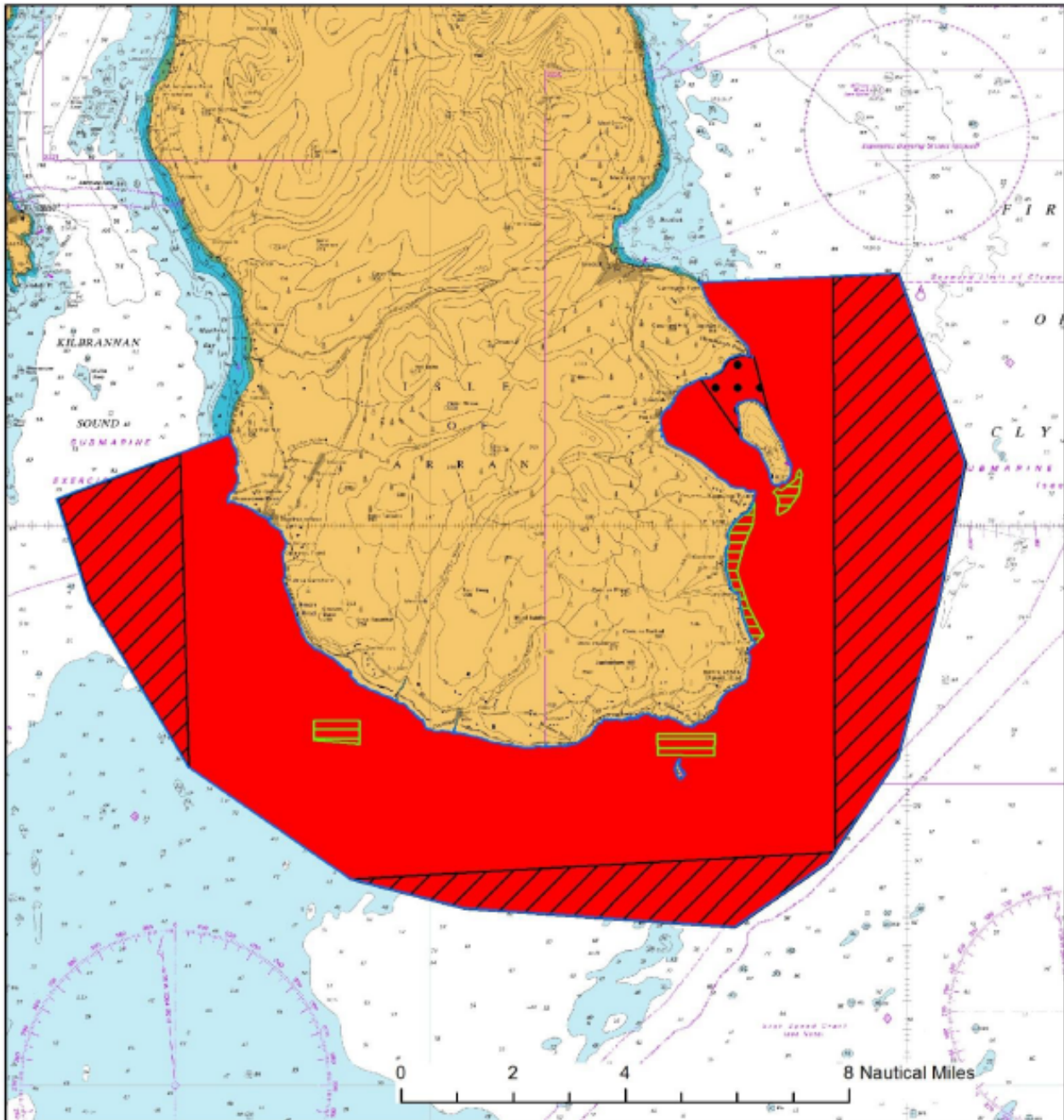
Approach 3

Designated scallop dredge area

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 License No. EK001-201404001.
 Not to be used for Navigation.
 Using Geodatabase of Marine Features
 Adjacent to Scotland (GEMS i12 - May 2014).
 Projection: Mercator Datum: WGS 1984
 Standard Parallel: 55°30'N Scale 1:175,000

Figure L7: Approach 3 – Designated scallop dredge fishing area

South Arran MPA – New MCO proposal



South Arran MPA

- | | |
|--|---|
|  MPA boundary |  no static gear |
|  Lamlash Bay No Take Zone |  derogated area |
| |  management area |

Within the red area no suction dredge, mechanical dredge, beam trawl, or demersal trawl (including seine net) is permitted.

By way of derogation demersal trawl will be permitted in the black hatched areas by vessels smaller than 120 gross tonnes.

No static gear (creels, bottom set nets, or long lines) permitted in the green hatched areas.

No fishing of any kind in the Lamlash Bay No Take Zone