

**SCOTTISH
NATURAL
HERITAGE**



**Yell Sound Coast
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 marine qualifying interests: 'Common seals *Phoca vitulina*' and 'Otters *Lutra lutra*'. 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.

Yell Sound Coast 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 Yell Sound Coast SAC to assist relevant and competent authorities, local interest groups and individuals in considering management (including any management scheme) 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

Other designations within or adjacent to the Yell Sound Coast marine SAC are: Sullom Voe SAC; The Ayres of Swinister SSSI; Swinister Voe Marine Consultation Area; Yell Sound Coast SSSI. The obligations of relevant, and other competent authorities and organisations under such designations and legislation are not affected by the advice contained in this document.

1.5 Conservation objectives

Section 2 of this document contains the conservation objectives for the Yell Sound Coast marine SAC, a site which consists of marine qualifying interests. 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 interests. It should be noted that although otters within the SAC partly feed in the marine environment they are also dependent on terrestrial habitats.

The Yell Sound Coast marine SAC has been designated for the species 'Common seals *Phoca vitulina*' and 'Otters *Lutra lutra*', which are listed on Annex II of the Habitats Directive.

The conservation objectives for the Yell Sound Coast marine SAC are as follows:

To avoid deterioration of the habitats of qualifying species (Common seal <i>Phoca vitulina</i> and Otter <i>Lutra lutra</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 each of the qualifying interests.

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 Yell Sound Coast 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 Yell Sound Coast marine SAC.

Operations (in alphabetical order)

Aquaculture

Finfish farming
Shellfish farming

Coastal Development

Agriculture
Civil engineering
Lighthouse maintenance

Fishing

Static gear: Creel / Pot fishing

Gathering / Harvesting

Bait gathering
Harvesting of seaweed subtidally
Intertidal collection of shellfish

Marine Development

Oil exploration, operations and maintenance

Marine Traffic

Commercial vessels

Recreational Activities

Charter / recreational vessels
Other recreational activities
Scuba diving
Sea kayaking

Scientific Research

Scientific research

Annex A

Non-statutory advice given by SNH Sensitivity and Vulnerability of the Yell Sound Coast SAC 'Common seal *Phoca vitulina*' and 'Otter *Lutra lutra*' 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.

NB. References to deterioration in the comments section below should be taken to mean *deterioration of all the qualifying interests*. If specific qualifying interests are particularly at risk they may be referred to individually where relevant.

Operations	Comments
Aquaculture	
Finfish farming	<p>Seals: 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> <p>The placement of finfish farms can restrict available foraging habitats for seals.</p> <p>Otters: The development of finfish farming sites has the potential to cause disturbance to resident otter individuals or populations in the vicinity of such farms, mainly as a result of human activities such as noise and boat usage and through the use of ADDs. The construction, use and maintenance of shore bases built to support finfish farms have the potential to disturb otters and cause deterioration of their habitats through destruction and physical damage to shoreline holts.</p>
Shellfish farming	<p>Seals: Use of ADDs or other predator control methods (eg. 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> <p>The placement of shellfish farms can restrict available foraging habitats for seals.</p>

Aquaculture contd.	
Shellfish farming contd.	<p>Otters: The development of shellfish farming sites has the potential to cause disturbance to resident otter individuals or populations in the vicinity of such farms, mainly through human activities such as noise and boat usage. Use of ADDs or other predator control methods (eg. sonic canon, boat chasing) to prevent grazing by eiders has the potential to cause disturbance to otters.</p> <p>The construction, use and maintenance of shore bases built to support shellfish farms have the potential to disturb otters and cause deterioration of their habitats through destruction and physical damage to shoreline holts.</p> <p>The placement of shellfish farms within the 10m depth contour can restrict available foraging habitats for otters.</p>
Coastal Development	
Agriculture	<p>Seals: Stock movements and boat transportation of sheep and cattle around Yell Sound Coast have the potential to cause disturbance to seals, particularly during breeding, pupping and moulting periods.</p> <p>Otters: Agriculture practices such as peat cutting and ploughed re-seeding has the potential to disturb otters and cause deterioration of their habitats through destruction and inappropriate drainage leading to erosion of peat banks. Ploughed re-seeding could also affect accessibility of fresh water, which is essential for otters to clean their pelts and maintain them free from salt.</p> <p>Stock movements and boat transportation of sheep and cattle around Yell Sound Coast have the potential to cause disturbance to otters.</p>
Civil engineering	<p>Seals: 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> <p>Otters: Civil engineering has the potential to disturb otters and cause deterioration of their habitats through destruction and physical damage to shoreline holts.</p>
Lighthouse maintenance	<p>Seals: The use of helicopter for the servicing of the lighthouse has the potential to cause disturbance to seals, particularly during the breeding, pupping and moulting seasons. This would be through noise disturbance and human presence.</p>
Fishing	
Static gear: Creel / Pot fishing	<p>Seals: 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> <p>Otters: The use of creels and / or pots in water shallower than 10m has the potential to cause injury or mortality to otters should they get caught in creels when attracted to bait, as this will normally result in drowning.</p>
Gathering / Harvesting	
Bait gathering	<p>Seals: Bait gathering on the foreshore has the potential to cause disturbance to seals (particularly during breeding, pupping and moulting seasons) and physical damage and disturbance to associated habitats.</p> <p>Otters: Bait gathering on the foreshore has the potential to cause disturbance to otters in the vicinity of the collection area, as a result of intense and prolonged human presence.</p>

Gathering / Harvesting contd.	
Harvesting of seaweed subtidally	Seals: Harvesting of subtidal kelp has the potential to cause disturbance to seals by human presence. In addition, a reduction in the amount of subtidal kelp would lead to increased coastal erosion and a reduction in the foraging areas available to the seals.
	Otters: Harvesting of seaweed subtidally has the potential to cause disturbance to otters in the vicinity of the harvesting area, mainly caused by intense and prolonged human presence. This activity can also remove a key foraging habitat for otters.
Intertidal collection of shellfish	Seals: 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.
	Otters: Collection of shellfish from intertidal areas has the potential to cause disturbance to otters in the vicinity of the collection area, mainly caused by intense and prolonged human presence.
Marine Development	
Oil exploration, operations and maintenance	<p>Seals: Offshore and onshore oil related development and activities have the potential to cause disturbance to seals (particularly during the breeding, pupping and moulting seasons) and deterioration of their associated habitats through the increased risk of pollution, vessel movements and direct loss. This would include all operational aspects e.g. seismic surveys, exploration, installation or routine inspection and maintenance of any associated infra-structure, and any long term monitoring programmes in place.</p> <p>Accidental or deliberate discharge of oil by any type of operation has the potential to cause deterioration 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.</p> <p>Local authority and harbour oil spill contingency plans should take into account the qualifying interests of Yell Sound Coast and the importance of the marine SAC, particularly during the seal's breeding, pupping and moulting seasons, should such incidents occur.</p>
Marine Traffic	
Commercial vessels	<p>Seals: 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 generally pass through the coastal waters of Yell Sound Coast and 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 Yell Sound Coast and the importance of the marine SAC, particularly during the seal's breeding, pupping and moulting seasons, should such incidents occur.</p>

Marine Traffic contd.	
Commercial vessels contd.	<p>Otters: The pumping of bilges, discharge of ballast or accidental oil (or other chemical) spillage from commercial vessels could occur within or close to this SAC. Such incidents have the potential to cause disturbance to otters or deterioration to their habitats. Local authority emergency plans and oil spill contingency plans should take into account specific qualifying interests and recognise the importance of marine SACs should such incidents occur.</p>
Recreational Activities	
Charter / recreational vessels	<p>Seals: 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>Charter and recreational vessels may leave visitors to explore offshore islands or more remote areas that are close to seal haul out sites. Such human presence also has the potential to cause disturbance to seals if guidelines are not adhered to.</p> <p>Otters: Charter / recreational vessels have the potential to cause disturbance to foraging or resting otters if appropriate guidelines are not adhered to. Such disturbance may cause temporary displacement of otters from their territory.</p>
Other recreational activities	<p>Seals: 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.</p>
Scuba diving	<p>Seals: Recreational diving 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.</p>
Sea kayaking	<p>Seals: Sea kayaking and other activities such as 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 boat.</p>
Scientific Research	
Scientific Research	<p>Seals: Research activities have the potential to cause disturbance to seals, particularly during the breeding, pupping and moulting seasons.</p> <p>Otters: Otters are a European Protected Species and some research will require a licence. Advice should be sought from SNH if there is any doubt as to whether a licence is required.</p>

Annex B

Non-statutory Advice given by SNH Site account

Site description

Yell Sound is one of the major channels in the Shetland Islands, dividing mainland Shetland from Yell. Yell Sound trends more or less north to south-east, and is open to the Atlantic in the north-west and the North Sea in the south-east. It has a rocky coastline with numerous small islands and there are several voes on both shores of the sound. These include Hamna Voe on Yell and Gluss, Sullom, Orka, Dales and Swining Voes on the Mainland side. Yell Sound becomes narrower at the island of Bigga and shallows from a depth of over 60 m to 35 m south of Bigga and thus particularly strong tidal streams, reaching speeds of over 7 knots, flow through this part of the sound. The majority of the site is moderately exposed to wave action. The site consists of 11 separate areas: sections of coastline on Lunna Ness, the Ness of Copister, Mio Ness, Calback Ness and Cul Ness together with the headlands of Gluss Isle and Fora Ness and the islands of Orfasay, Brother Isle, Uynarey and Samphrey.

Qualifying marine interests

Annex II Species: Common seal *Phoca vitulina*

Common seals are widespread around the UK coast although population densities and numbers vary greatly. Yell Sound Coast European marine site supports over 300 common seals, which is more than 1% of the UK population. The uninhabited islands and reefs within Yell Sound supports one of the largest groups of common seals in Shetland and one of the most northerly groups in the UK. The seals use the offshore islands for hauling out, moulting and pupping. Further attributes of the site include ease of access to the breeding, pupping, moulting and haul-out sites and availability of undisturbed shores and adjacent areas of sea to facilitate adult social interactions, mating and to act as a nursery area.

The data above (based on moulting animals) were used for site evaluation purposes. Since then the Seal Mammal Research Unit (SMRU) has carried out further surveys, which show that the population is stable.

Annex II Species: Otter *Lutra lutra*

Scotland is generally recognised as a European stronghold for the otter *Lutra lutra*, particularly along the north and west coast. In conservation terms the otter is the most significant terrestrial mammal in Shetland. The site supports approximately 180 otters at higher densities than found anywhere else in Britain. This is thought to represent at least a fifth of Shetland's otters and is over 2.5% of the entire UK population. Yell Sound Coast European marine site contains the natural features essential for a thriving otter population – a low rocky coastline with shallow offshore waters for feeding, areas of peaty moorland for excavating holts, numerous freshwater areas enabling the animals to maintain their coats and availability of suitable marine habitats that support otter prey species.