



[24/06/2021]

## **Irish Wildlife Trust Submission to the Consultation on the draft Fisheries Natura Plan for Cockle in Dundalk Bay 2021-2025 and the underlying Appropriate Assessment**

Via email to: inshore@agriculture.gov.ie; Brian.McSweeney@agriculture.gov.ie

The Irish Wildlife Trust makes the following submission with regard to the draft Fisheries Natura Plan for Cockle in Dundalk Bay 2021-2025 and the corresponding Appropriate Assessment (AA).

### **1. Importance of the SAC / SPA and status of the site**

The proposed cockle fishery is situated within Dundalk Bay SAC and SPA. The SAC is designated for its qualifying interests Estuaries [1130], Mudflats and sandflats not covered by seawater at low tide [1140], Perennial vegetation of stony banks [1220], Salicornia and other annuals colonising mud and sand [1310], Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330] and Mediterranean salt meadows (*Juncetalia maritimi*) [1410]. The SPA is designated for many wintering seabirds which rely on the estuary for food and shelter.

In the last Habitats Directive Article 17 report the Estuary in Dundalk Bay was classed as unfavourable-inadequate<sup>1</sup>. The reason for the inadequate status at this location is due to changes in sediment composition with an increase in the proportion of fine sediment grain size classes<sup>2</sup>. One reason for these changes is thought to be maintenance dredging to facilitate navigation<sup>2</sup>.

### **2. Cumulative pressures**

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<sup>1</sup> NPWS (2019). The Status of EU Protected, Habitats and Species in Ireland. Volume 2: Habitat Assessments. Unpublished NPWS report. Edited by: Deirdre Lynn and Fionnuala O'Neill

<sup>2</sup> Scally, L., Pfeiffer, N. and Hewitt, E. (2020) The monitoring and assessment of six EU Habitats Directive Annex I Marine Habitats. Irish Wildlife Manuals, No. 118. National Parks and Wildlife Service, Department of Culture, Heritage and the Gaeltacht, Ireland.



The type of fishing gear used to catch cockles and razor clams (suction and non-suction hydraulic dredging) is noted in the Appropriate Assessment to potentially cause “siltation downstream of activity”<sup>3</sup>. The cumulative impacts of the dredge fisheries (both razor clam and cockle) along with the known impacts of maintenance dredging have not been considered in the Appropriate Assessment. The fishing activity over the previous years could well have been a contributor to the decline in status of the estuary, which would be a direct breach of the Habitats Directive requirement to avoid deterioration of the habitats for which the Special Area of Conservation was designated. Certainly, the AA does not provide complete, precise and definitive findings and conclusions capable of dispelling all reasonable scientific doubt that the cockle fishery along with other plans or projects (e.g. maintenance dredging) **does not** adversely impact the conservation objectives of the site. Without this certainty, the fishery should not be operating within the Dundalk Bay SAC or SPA. This is especially pertinent given the decline in conservation status of the estuary is not even mentioned in the AA, so clearly the impacts on the estuary have not been properly assessed.

### 3. Reliance on the 15% disturbance threshold

The AA is based on a 15% disturbance threshold which is derived from NPWS guidance. The policy from the NPWS was loosely based on an EU guidelines document (which is not legally binding) on applying thresholds to describe the conservation status of habitats. The 15% threshold used by the NPWS is not mentioned in the EU guidelines and it is our view that the NPWS has misinterpreted the guidance. The application of the 15% policy has previously led to licencing of aquaculture and fisheries in SACs and has directly led to habitat deterioration (e.g. Roaringwater Bay)<sup>4</sup>. Licencing activities based on the 15% threshold is in breach of Ireland’s legal obligations under the Habitats Directive to:

- *“take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated”* (Habitats Directive Article 6 (2))
- Carry out “Appropriate Assessments” on plans or projects *“likely to have a significant effect”* on a protected site and to only authorise such a plan or project where it has

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<sup>3</sup> Report supporting Appropriate Assessment of a Fisheries Natura Plan for Cockle (2021 – 2025) in Dundalk Bay SAC and SPA, Marine Institute, 2021

<sup>4</sup> Classen, R (2020). Marine Protected Areas – Restoring Ireland’s Ocean Wildlife II. Report on Ireland’s Failure to Protect Marine Natura 2000 Sites. Irish Wildlife Trust.



been ascertained that it will not adversely affect the integrity of the site concerned (Habitats Directive Article 6(3)).

- To generally take measures under the Habitats Directive that are “designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest” (Article 2 (2)).

By allowing significant and ongoing disturbance on up to 15% of a protected habitat, the state is admitting deterioration in direct breach of Habitats Directive requirements.

#### 4. Other points

The Fisheries Natura Plan for Cockle in Dundalk Bay 2021-2025 mentions the closing of the fishing season on November 1<sup>st</sup> for the protection of waterbirds. The plan further notes that the fishery will only close on November 1st “provided this is preceded by a period of 14 weeks during which the fishery is open to allow sufficient fishing opportunity to take any available quota”. This sentence shows that the Plan accepts disturbance to waterbirds to avoid potential socio-economic impacts. The Habitats Directive is clear that member states shall avoid the disturbance of the species for which the SPA was designated. The Plan does not ensure this.

#### Conclusion

The AA does not ascertain beyond reasonable scientific doubt that the proposed fishing activity in conjunction with existing fishing activity and maintenance dredging will not cause further deterioration of the site. We submit that in light of the AA’s lack of scientific certainty and the reliance of the 15% disturbance threshold, to accept this plan would be in contravention of the Habitats Directive, particularly in light of the poor conservation status of the habitats that will be impacted by this development. The Irish Wildlife Trust is therefore of the opinion that the Fisheries Natura Plan for Cockle in Dundalk Bay 2021-2025 should not be accepted.

Regards,

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