

POLICY NOTE

THE RED ROCKS AND LONGAY URGENT MARINE CONSERVATION (NO. 2) ORDER 2021

SSI 2021/463

1. The Red Rocks and Longay Urgent Marine Conservation (No. 2) Order 2021 (“the Order”) is made by the Scottish Ministers in exercise of the powers conferred by sections 85(1)(a), (2) and (4), 86(1) and (3), 92(1) and 93(1) of the Marine (Scotland) Act 2010 (“the Act”) and all other powers enabling them to do so.

Policy Objectives

2. The purpose of this instrument is to revoke and replace The Red Rocks and Longay Urgent Marine Conservation Order 2021 (SSI 2021/131). This is due to the boundary of the Red Rocks and Longay Marine Protected Area (MPA) having been extended affording emergency protection to nationally important flapper skate egg laying habitat discovered outside the original MPA following further scientific research surveys. This is in furtherance of the conservation objectives of the Red Rocks and Longay Marine Protected Area¹ (“the MPA”). The designation of the extended MPA takes effect on the 16 December 2021.

Policy Background

3. Flapper skate (*Dipturus intermedius*) was historically abundant in the North-east Atlantic and widely distributed in the seas surrounding the British Isles. However its range has reduced significantly and catch rates declined throughout the 20th century. It now only occurs in the northern North Sea and off Scotland’s north-west coast. Part of the common skate complex (along with blue skate), flapper skate is on the OSPAR Threatened and/or Declining Species and Habitats List and the list of Priority Marine Features².

4. The Red Rocks and Longay urgent MPA was first designated on 10 March 2021, following provision of advice from NatureScot regarding the discovery of flapper skate eggs in the Inner Sound of Skye. This urgent site can be in place for up to 2 years, and stakeholder consultation is required before the site can be made permanent. An urgent Marine Conservation Order (MCO) was made on 10th March 2021 to further the conservation objectives within the Red Rocks and Longay MPA.³

5. Further surveys, carried out as part of the work to ensure there is sufficient evidence to support the scientific case for making the MPA permanent, has discovered flapper skate egg laying habitat outside the current site boundary with an estimated 725 eggs being observed.

¹ The Red Rocks and Longay MPA was designated as a nature conservation marine protected area by the Red Rocks and Longay Nature Conservation Marine Protected Area Order 2021, and re-designated by The Red Rocks and Longay Nature Conservation Marine Protected Area (No. 2) Order 2021, both of which are available at <https://www.gov.scot/policies/marine-environment/marine-protected-areas/>.

² Priority Marine Features are species and habitats which have been identified as being of conservation importance to Scotland. Most are a subset of species and habitats identified on national, UK or international lists. For further information, see [Scotland’s National Marine Plan](#).

³ The Red Rocks and Longay Urgent Marine Conservation Order 2021, SSI 2021/131.

6. Due to the high number of eggs being found and the vulnerability of the egg laying habitat NatureScot has advised the boundary be extended in the interim to afford protection to the eggs discovered outside the original MPA boundary until permanent designation and measures are consulted on and put in place.
7. According to section 3 of the Act, the Scottish Ministers must act in a way best calculated to further the achievement of sustainable development, including the improvement of the health of the Scottish Marine Area, when exercising any function that affects that Area under the Act.
8. Having identified further nationally important egg-laying habitat for flapper skate outside the original Red Rocks and Longay MPA, Scottish Ministers determined there was a need to include this egg laying habitat in the protection given by the MPA by extending the site boundary in the interim, and therefore improving the health of our seas. The extended site comprises the site of the original MPA and the newly identified-egg laying habitat, an addition of approximately 5.9 square kilometres to the MPA. This Order revokes and replaces The Red Rocks and Longay Urgent Marine Conservation Order 2021 to make reference to the MPA as designated under the new designation order instead of the original order, to further the conservation objectives of the MPA.
9. This Order restricts activities which may adversely affect the area in the same manner as the original urgent MCO, including all bottom contacting fishing gear, sea angling, aquaculture, anchorages & moorings, deposits on the seabed, recreational & commercial diving and marine infrastructure within the MPA.
10. This Order is being made on an urgent basis, under section 88 of the Act, due to the urgent need to put measures in place to protect flapper skate from impacts in the marine environment in the area outside the current MPA.

Consultation

11. As there is an urgent need to protect the flapper skate no public consultation has taken place on this Order. Section 88 of Act allows the Scottish Ministers to dispense with consultation when there is an urgent need to act. However, officials have undertaken targeted engagement with affected sectors and the Scottish Ministers have taken account of advice from NatureScot.
12. Public consultation on permanent management measures and site designation will be taking place before Scottish Ministers determine whether the site merits designation as a permanent MPA. The consultation is due to begin in early February 2022.

Impact Assessments

13. A Business and Regulatory Impact Assessment (BRIA) and Island Communities Impact Assessment (ICIA) have not been carried out for this Order due to its urgent nature.