



Killybegs Fishermen's  
ORGANISATION LTD.

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Co Donegal  
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Linda Bradley  
Objections Section – Designations Unit  
National Parks and Wildlife Service  
90 King Street North  
Dublin 7  
D07 N7CV  
13<sup>th</sup> February 2024

**NPWS Ref: NCDO / 5005 / 002267 / 5006 / 002278**

**Re: Killybegs Fishermen's Organisation Response and Objection to the Notice of Intention to Designate Porcupine Shelf (002267) and Southern Canyons (002278) as Special Areas of Conservation (SACs)**

Dear Linda

Sean O'Donoghue has now retired from the KFO and I am replying on behalf of the KFO and will be the point of contact for this ongoing process. Thank you for your letter, dated 12<sup>th</sup> February 2024, in which you informed us that the KFO Objection to the designation of the Porcupine Shelf and Southern Canyons as Special Areas of Conservation (SACs) was unsuccessful. This is a surprising and disappointing outcome given the clear lack of scientific evidence supporting the current proposed delineation of the candidate SACs. We would therefore like to appeal the Stage 1 internal review and appeal the decision to the Designated Areas Appeals Advisory Board. The report we submitted in our initial objection should be forwarded to the board without delay. We trust that the appeal and Stage 2 review processes will be conducted in an open and transparent manner, which was not the case with the Stage 1 review. We would also like to avail of the option to make a statement to the Appeals Advisory Board in support of the case and before the Board commences its formal consideration of the appeal, as is permitted under the site designation process<sup>1</sup>. Please contact us to arrange a suitable date for this meeting.

We note in your reply that you stated that "*objections can only be considered on scientifically based ornithological grounds*". Just to clarify that this is incorrect as the two areas in question are not proposed *Special Protection Areas* (SPAs), which are considered under the EU Birds Directive but are proposed Special Areas of Conservation under the EU Habitats Directive. Therefore, the objection does not need to be based on ornithological grounds but on scientific grounds, which it is.

<sup>1</sup><https://www.npws.ie/sites/default/files/publications/pdf/Site%20Designation%20Process%20%28October%202017%29.pdf>

<sup>2</sup><https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002278.pdf>

<sup>3</sup><https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002267.pdf>



As stated in the KFO objection the current delineation of the proposed SACs does not reflect the scientific evidence cited in the two Notices of Intention to Designate the two SACs and does not align with the designation basis, Reefs (1170). The evidence, cited as two *SeaRover* surveys in 2017 and 2019, indicates that this habitat type is only present in a small fraction of the defined areas, therefore the spatial scale of the proposed SACs is not supported by the scientific evidence.

It is thus surprising that in your letter you state that “NPWS has also collected over 15,000 records of reef habitat, both geogenic and biogenic, from the two sites. These have been collected from a range of scientific surveys over the Irish seabed that used both direct observation and extractive techniques.” If such additional data existed then it should have been included in the analyses underlying the designations and should have been cited in the original notices. Such data should also be cited in the Site Synopsis documents<sup>2,3</sup> on the NPWS website if it was the primary data on which the proposed designations were based but this is also not the case and only the 2017 and 2019 *SeaRover* surveys are cited.

*Part 3 - Conservation of Natural Habitats and Habitats of Species of Statutory Instrument No. 477 of 2011 European Communities (Birds and Natural Habitats) Regulations 2011* outlines the process for *Identification of sites for consideration as sites of Community importance* and details the *Information on candidate sites of Community importance*. Under Regulation 11 point 3 it states that “*The information compiled under paragraph (1) shall be made available in a readily accessible format, for inspection by members of the public by appointment during office hours of the Department and in electronic form on the Department’s website, as soon as is practicable*”. The only information available regarding the two proposed SACs were the Notices of Intention to Designate and the Site Synopsis documents, both of which only cited the *SeaRover* Surveys, provided very little information and neither of which mentioned the “15,000 records” and the “range of scientific surveys” referred to in your letter. If the additional records are new data that were not part of the original designation and as such were not made publicly available in the manner described above then it highlights that the designation has not followed the legal process defined in S.I. No. 477 of 2011 and should be considered invalid. We would like to know if this is the case and ask that the Appeals Advisory Board clarify the legal situation.

We would also like to officially ask the following questions which we also request are presented to the Appeals Advisory Board:

1. Will the origin of the “15,000 records” and specific details of the “range of scientific surveys” be made publicly available and open to scrutiny and appraisal?
2. Will this be done as part of the appeal process or in advance so that all data is open and transparent as is supposed to be the case according to S.I. 477 of 2011?
3. Will NPWS also present the analyses that underly the current delineation of the proposed SACs to the Appeals Advisory Board and explain how the polygons were derived as so far this has not been made public?

The KFO are committed to supporting an open and transparent process and are happy to have continued engagement. We would also like to reiterate that the KFO recognises the need for conservation and restoration of sensitive marine habitats and ecosystems and does not object to the protection of sensitive reef habitats. However we do object to the massive extrapolation of underlying data in order to increase

<sup>4</sup><https://www.irishstatutebook.ie/eli/2011/si/477/made/en/pdf>



spatial areas of the proposed SACs. We also object to the incorrect and baseless delineation of areas without provision of any supporting evidence.

As detailed in our objection report we would also like to again highlight the significant failings in the designation process to date. We understand that the Habitats Directive does not have provisions requiring public consultation on the designation of Natura 2000 sites. However, the EU Commission underlined in its 2022 Staff Working Document on *Criteria and Guidance for Protected Areas Designations* that **Member States should involve all relevant stakeholders, including sea users, local communities and NGOs in the identification, designation and management of new protected areas, in a fair and participatory way, in line with the Aarhus Convention and in accordance with national procedures.** Unfortunately, there was no stakeholder participation or consultation as part of the designation process and no transparency on the site selection and delineation. The only option available to stakeholders for input was to lodge an objection. No notification was received by finfish licence holders or their representative bodies as required under the notification provisions. There also appears to have been a complete lack on inter-departmental consultation despite that process being clearly defined under Regulation 12 of S.I. No. 477 of 2011.

It has taken twelve months of repeated requests to finally receive the outcome of the Stage 1 review which appears to have been conducted in secrecy and no reason has been communicated for the dismissal of the KFO objection apart from incorrect reference to “*scientifically based ornithological grounds*”. It is important for future designation processes that the failings of the current process are not repeated and for this reason the KFO will continue to try to engage with NPWS and to contribute to a scientifically supported designation process.

We look forward to continued communication with NPWS and are also available to meet in advance of the Designated Areas Appeals Advisory Board should you wish to discuss any of the above issues further.

Sincerely,

A handwritten signature in blue ink that reads 'Edward Farrell'.

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Dr Edward Farrell  
Chief Scientific & Sustainability Officer  
Killybegs Fishermen's Organisation

<sup>4</sup><https://www.irishstatutebook.ie/eli/2011/si/477/made/en/pdf>