

## Review of the Mobile Fishing Permit Byelaw

### Officers' Recommendations

- a) **That the restrictions relating to the management of sand eel trawling are placed into the overarching re-made Mobile Fishing Permit Byelaw**
- b) **That drafting of the re-made Mobile Fishing Permit Byelaw takes account of information presented as part of the 5-Year Review of the Mobile Fishing Permit Byelaw and the relevant decision making of the B&PSC to date.**

### Background

The review (re-making) of the Mobile Fishing Permit Byelaw is one of the Key Tasks identified in the D&S IFCA's 2021-2022 Annual Plan. This "Management of Fishing Activity" task (005) is one of several tasks to be undertaken by the B&PSC and will extend into 2022.

In 2019 the B&PSC began a review of the Mobile Fishing Permit Byelaw. As the Byelaw and the Permit Conditions are interlinked, this adds complexity to the task. The required changes identified for the overarching Mobile Fishing Permit Byelaw have a bearing on the structuring and wording of the Permit Conditions.

In August 2019 the B&PSC were presented with the first planning report that set out key potential changes and agreed with many of them to form the basis for development of a re-made Mobile Fishing Permit Byelaw and the associated Permit Conditions. Agreed changes include:

- Interpretations (changes and their use within the Byelaw and Permit Condition paragraphs)
- Fees for a Permit (increase to £40 for a two-year period)
- Removal of a Deeming Clause (from the Byelaw)
- Limiting Category Two (Estuary Permits) to the Exe Estuary and the Salcombe Estuary
- A prohibition on the use of dredges over rocky reef and coarse sediment within the Hartland to Tintagel MCZ
- A prohibition on the use of demersal towed mobile gear on rock features (in specified areas) in the Bideford to Foreland Point MCZ
- To re-make all annexes (charts) that accompany the spatial permit restrictions

### MPA Assessments

Other aspects of potential change relating to activity within MPAs were deferred to enable MCZ assessments to be completed and for formal advice to be obtained from Natural England. It is the intention of Officers to recognise any formal advice that may be received from Natural England between October 2021 and early 2022 (in relation to these assessments) into the drafting work for the Permit Conditions. The Permit Conditions that contain the management measures (including spatial access) will be presented to the B&PSC before any decision making regarding "making" the Byelaw and the beginning of the formal consultation part of the process.

## Agreed Changes in 2020

In 2020 the B&PSC agreed to further changes that could potentially be reflected in new permit conditions and these included the following:

- A series of restrictions for commercial and recreational sand eel trawling
- Extension to an existing closed area (a restriction within Category One Permits) in Torbay to protect areas of seagrass

## Sand Eel Trawling

In 2019 it was the preferred option of the B&PSC to attempt to introduce management of the activity via the use of permit conditions, rather than the existing approach of using fixed provisions in the overarching Byelaw to manage and restrict the activity.

The activity is currently restricted; however, this is achieved via the overarching Byelaw, rather than restrictions within either the Category One (At Sea) or the Category Two (Estuary) Permit Conditions. The relatively small-scale activity can take place legally in and around estuaries, as closing lines do not apply, providing vessels used are below seven metres in overall length and use the correct mesh size to fish for sand eels only.

## Complications Regarding the Management of Sand Eel Trawling

Managing the activity via the use of permit conditions has advantages; however, the complications associated with introducing the framework to enable permit conditions to be introduced to function correctly has proved to be extremely complicated and time consuming.

The issue is that the activity is undertaken by commercial and recreational fishers legally “at sea” and on occasions past estuary closing lines into estuaries, in particular the Exe, Teign and Salcombe. The current categories of permit conditions represent activity either at sea (Category One) or within estuaries (Category Two). Officers have tested different permit drafting options including potentially introducing two new categories of permit (Cat 3 & 4), and more recently trying to absorb restrictions into Category One Permit Conditions and the use of a third category specifically for recreational fishers. Absorbing management into a Category One Permit is challenging when factoring in the use of Annexes (charts) that accompany the spatial restrictions (wording) within the Category One Permit Conditions.

All options have proved complicated, and this complication is now delaying process. Since 2019 the B&PSC has actioned pre-consultation to better inform decision making and to help determine the extent of restrictions to be placed on this activity. The initial consultation findings were discussed by the B&PSC during 2020 and have informed the types of restrictions that are appropriate to apply to sand eel trawling. Key measures agreed by the B&PSC include:

- A catch limit of 15kg for recreational sand eel trawling fishers
- A prohibition on recreational sand eel trawling fishers selling their catch
- A maximum mesh size of 16mm (cod end)
- A prohibition on recreational sand eel trawling fishers using mechanical assistance (hand haul only)
- A prohibition on the recreational sand eel trawling fishers operating as a pair team
- No sand eel trawling in areas that contain seagrass
- Commercial and recreational sand eel trawling fishers can operate in daylight hours only

Establishing a vessel length restriction relating to sand eel trawling had its complications and a further officers' paper was presented on 17<sup>th</sup> August 2020 to examine differing options. Vessel size restrictions and gear restrictions are interlinked and complications, from a drafting perspective, regarding access into estuaries remain.

### Moving Forward

It is the view of Officers that the process to re-make the Mobile Fishing Permit Byelaw must progress at greater speed. It was the intention to recognise a range of factors within the drafting work, many of which were highlighted in a recent planning report presented to the B&PSC on 22<sup>nd</sup> July 2021. A timetable for required action to move the process forward was also provided but is not now achievable.

### Revised Plan

A simplified approach can be taken which will still recognise key decision making to date, but rather than waiting to potentially include unknown factors within the drafting work, the intention is to proceed with information already collated.

Regarding the activity of sand eel trawling, there is no evidence that the activity of sand eel trawling has intensified during the last two years with D&S IFCA's District. The revised approach would still recognise the need for increased restriction for the activity of sand eel trawling; however, the restrictions would be placed into the overarching Mobile Fishing Permit Byelaw, rather than the Permit Conditions or additional categories of permit conditions. The flexibility lost by not using permit conditions can be balanced against a timelier introduction of the relatively small number of fixed provisions into the Byelaw that will still exceed current restrictions currently in place.

### Process

A revised approach will enable Officers, with potential assistance of the Byelaw Technical Working Group, to complete a more advanced draft of the Byelaw and the required permit conditions. The mandatory Impact Assessment can also begin with the completed package presented to the B&PSC in 2022. The key steps are shown below:

- Complete the drafting work of the Byelaw & Permit conditions
- Create the mandatory Impact Assessment
- The B&PSC to scrutinise the work
- Inform Defra about the intention to "make" the Byelaw
- For the B&PSC to "make" the Byelaw
- To Formally consult on the Byelaw/Permit Conditions
- The GIS Officer/outsourced provider to create new Annexes (Charts) to accompany the Permit Conditions
- To manage potential objections to the Byelaw/consider refinement to the Byelaw
- To create a final Impact Assessment
- To submit the Byelaw "package" to the MMO's QA team
- For Defra to potentially approve the Byelaw
- To undertake communication initiatives/amendments to website and on-line permit application facility
- To undertake the large administration requirement to issue new Permits

The process and work required to complete the whole task will extend well into 2022. Officers are confident that once the re-made Mobile Fishing Permit Byelaw is introduced, the

mechanism to potentially amend or introduce permit conditions can be used in due course to recognise the elements of management (still unknown factors) not initially incorporated during this process.

#### Background Papers (and links)

- [The Five-Year Review of the Byelaw \(Report\) – 30<sup>th</sup> July 2019](#)
- [BTWG - A Progress & Discussion Report for the B&PSC \(29<sup>th</sup> October 2019\)](#)
- [Sand Eel Trawling – Discussion & Decision-Making Report/Consultation Response \(29<sup>th</sup> January 2020\)](#)
- [Torbay MCZ Seagrass and Possible Changes to Access for Demersal Mobile Fishing Vessels \(3<sup>rd</sup> February 2020\)](#)
- [Sand Eel Trawling - Discussion & Decision-Making Paper for the B&PSC \(31<sup>st</sup> July 2020\)](#)
- [Progress & Revised Planning Report to Complete the 5-Year Review \(3<sup>rd</sup> June 2021\)](#)
- Minutes from B&PSC Meetings ([Section B of the website Resource Library](#))
- [D&S IFCA's 2021-2022 Annual Plan \(website page\)](#)

End.