

The Hand Working Permit Byelaw

Officers' Recommendations

a) That Members note the content of the Officers' paper

Background

The potential over collection of sea fisheries resources (umbrella term hand working) and its lack of current management is not unforeseen. Reports of "recreational" collection, that are viewed by many as excessive for personal consumption, have been provided to D&S IFCA for several years and they continue to be submitted to D&S IFCA. This awareness and the work undertaken to date by the B&PSC developing a Hand Working Permit Byelaw has ruled out the use of an Emergency Byelaw¹.

This issue, with focus on the Exe and Teign Estuaries, has been highlighted in a report (5th October 2021) to the Executive Committee of Teignbridge District Council. The report included a recommendation that:

"Devon and Severn IFCA adopt either a sectoral or geographical approach to prioritise the early adoption of an appropriate Byelaw".

Annual Planning and the Hand Working Permit Byelaw

The further development of the Hand Working Permit Byelaw is not a workstream that was included in D&S IFCA's 2021-2022 Annual Plan as other "Management of Fishing Activity" tasks have been prioritised, with many of those not expected to be complete until well into 2022. However, previous development work and decision making of the B&PSC has recognised a need for the introduction of the Byelaw.

Strategy and Principles

The Byelaw and Permitting Sub-Committee (B&PSC) has an agreed strategy and developed principles as documented in "A guide to the Work of the Byelaw and Permitting Sub-Committee" - (last updated in 2019).

If the recommendation as set out in the report to the Executive Committee of Teignbridge District Council is accepted, it **would not** harmonise with the Authority's Byelaw Review Strategy and agreed Byelaw Review Principles.

Wide Ranging Issues:

Issues relating to the management (or lack of management) for hand working extends beyond the Teign and Exe Estuaries and species taken are not solely for human consumption.

Development work to date has examined the legacy byelaws that are relevant to hand working. Public beds in both the Teign and the Exe have been closed to the removal of mussels since 1st May 2019 via the use of the legacy Temporary Closure of Shellfish Beds Byelaw.

The Temporary Closure of Shellfish beds only applies to mussels, oysters, clams, and periwinkles. The development of a Hand Working Permit Byelaw offers the opportunity to address weaknesses associated with legacy measures.

¹ Section 157 - Marine and Coastal Access Act 2009

Different sectors (stakeholder groups) engage in hand working throughout the District and D&S IFCA is committed to an activity-based approach to manage fishing activity **within the entire District**. Other factors associated with the development of a Hand Working Permit Byelaw include the following:

- to introduce flexible management measures through the development of permit conditions
- to remove laws which have become irrelevant from the statute book (Hampton Review)
- to balance the needs of various users and meet conservation duties.

Development Work to Date

D&S IFCA's officers set out an initial plan and presented it to the B&PSC in late 2018. The plan (refined in November 2018) explained how the required work would be divided into phases including a prolonged period of pre-consultation and environmental assessment work. Consultation work was conducted during 2019 and was divided into three phases². The findings were documented in three separate reports on crab tiling, bait digging and hand gathering that were presented to the B&PSC during 2019. The reports also highlighted what voluntary codes existed and a review of their potential effectiveness.

Byelaw Drivers

Section 153 and 153(2)(d) of the MaCAA 2009 sets out that the duties of IFCA's in respect to hand working. Section 153 sets out that IFCA's must manage the exploitation of sea fisheries resources in the District. Crab tiling for example is one of the most extensive fishing activities in the District and has a significant first sale value compared to other fishing activities in the District.

153(2)(d) requires IFCA's to seek to balance the different needs of persons engaged in the exploitation of sea fisheries in the District. Pre-consultation identified that there were significant variations between the needs of commercial and recreational fishers and within the recreational sector itself.

154 Protection of Marine Conservation Zones (MCZ) -The Authority of an IFC District must seek to ensure that conservation objectives of any MCZ in the District are furthered. Hand working activities take place in many of the MCZs in D&S IFCA's District.

Developing the Structure of a Hand Working Permit Byelaw

The B&PSC was presented with information on how a hybrid type of permit byelaw could function. A hybrid Permit Byelaw could introduce fixed provisions (bag limits) as well as associated permit conditions with tailored management. It would remove the requirement for fishers to obtain a Permit to remove relatively small amounts of sea fisheries resources (set as a threshold). A further consultation was undertaken (and documented) to seek the views of stakeholders regarding the setting of bag limits (suggestions were included in the consultation) for different sea fisheries resources.

Opposition to Bag Limits:

Consultation work has highlighted that large numbers of stakeholders are opposed to the bag limits as proposed. Most opposition came from the recreational angling sector that take significant quantities of sea fisheries resources for use as bait. This sector would potentially be better managed by a recreational form of Hand Working Permit, rather than being restricted by fixed provisions (and smaller bag limits) placed into the overarching byelaw. It was

² The use of crab tiles, bait digging and hand gathering.

determined that to develop the Hand Working Permit Byelaw further it would be advantageous to engage further with stakeholders, in particular the recreational angling sector.

Environmental Information/Stock Assessments

Marine Protected Area (MPA) assessments have been undertaken on the impact of hand working (crab tiling, bait digging and hand gathering) on designated habitats and species within the MPAs in D&S IFCA's District. This includes the Exe Estuary as it is a Special Protection Area (SPA). Other estuarine intertidal areas have been assessed such as the Severn Estuary and Plymouth Sounds and Estuaries European Marine Sites and intertidal areas of coastal MPAs. The Teign Estuary has not been assessed for the impact of Hand Working as it currently does not have any marine designation.

Bivalve stock assessments are carried out on the Exe Estuary, Teign Estuary and Taw Torridge Estuaries. Annual mussel stock assessments for the Teign and the Exe Estuaries indicated a severe decline in the abundance and extent of mussel beds since 2014. The large decrease in mussel populations in these estuaries was attributed to the severe storms in late 2013/early 2014.^{3,4} Due to this decline D&S IFCA introduced the Temporary Closure of the Shellfish Beds for the removal of mussels.

D&S IFCA has also undertaken annual cockle stock assessments on the Cockle Sands in the Exe Estuary up until 2018 when the decision was taken to undertake these survey biennially due to staff resources. The cockle stock assessments for the Cockle Sands vary year on year. There was a massive decline in 2011 due to disease causing mass mortality, and further in 2013/2014 due to the severe overwinter storms. The assessments⁵ show variation between years and a small decline between 2018-2020 (7 cockles per 0.1m² to 5 cockles per 0.1m²). The Cockle Sands area of the Exe Estuary does not experience the same level of hand gathering as the western side of the Exe Estuary at Starcross and Cockwood. Here there is hand gathering, including the removal of wild pacific oysters in particular. No cockle stock assessments are undertaken on this side of the Estuary, as it lies within a private fishery.

Cockle stock assessments have taken place on The Salty in the Teign Estuary in 2011, 2018, 2019 and 2020. Whilst there is some variation year on year, cockle density in the Teign Estuary the density has not significantly changed since 2018 and in fact showed an increased in density of adult cockles from 2.5 cockles per 0.1m² in 2018 to 3.5 cockles per 0.1m² in 2020 and a similar increase in density of juvenile cockles (<=15mm)⁶. Any impact of cockle removal from The Salty area of the Teign Estuary has not been evident in the stock assessments undertaken.

Limited Financial & Staff Resources

If the Hand Working Permit Byelaw is to progress, there are several importance factors that need consideration. Under the 2021-2022 Annual Plan D&S IFCA is committed to other areas for work outlined below. Secondly with the current limited financial and staff resources it is difficult to progress this area of work and even more relevant for consideration is the enforceability of any measures introduced. D&S IFCA has only four Enforcement Officers to monitor and measure compliance of all the fishing activities in the whole of D&S IFCA's District (North and South Coast). D&S IFCA uses a risk based targeted approach to enforcement. With the largest bottom-towed gear fleet in England and large areas of MPAs with sensitive

³D&S IFCA Exe Estuary Mussel Stock Assessment 2020 – Lauren Henly & Katherine Stephenson March 2021

⁴ D&S IFCA Teign Estuary Mussel Stock Assessment 2020 - Lauren Henly & Katherine Stephenson March 2021

⁵ D&S IFCA Exe Estuary Cockle Stock Assessment 2010-2020 – Lauren Henly May 2021

⁶ D&S IFCA Teign Estuary Cockle Stock Assessment 2018-2020 – Lauren Henley D&SIFCA

habitats such as reefs and seagrass much of the enforcement work is dedicated to these high risk areas.

Present Commitments for Officers and the B&PSC

As mentioned above Officers and the B&PSC are already committed to other areas of Byelaw Review related work that will extend into 2022 and beyond. These tasks must be completed as soon as possible and include:

- The review of the Mobile Fishing Permit Byelaw (and the Permit Conditions)
- To undertake the mandatory Three-Year Review of the Netting Permit Conditions
- To review the Netting Permit Byelaw (in tandem with the review of the Permit Conditions)
- To review (re-make) the Potting Permit Byelaw (and associated Permit Conditions)
- To review (re-make) the Diving Permit Byelaw (and associated Permit Conditions)

In the current climate, it is the view of Officers that D&S IFCA (the B&PSC) will not be able to further develop a Hand Working Permit Byelaw in 2022-23 unless significantly greater funding is obtained, or other work already identified to fulfil its Statutory Duties is no longer prioritised and gives way to other workstreams. The same can be said regarding the development of any other form of activity-based Permit Byelaw such as a Hook and Line Permit Byelaw.

Background Papers (& links)

- [Guide to the Work of the B&PSC \(Strategy & Principles\)](#)
- [The Plan](#) (Managing Hand Working Fishing Activity)

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Pre-consultation

- [Crab Tiles](#),
- [Bait Digging](#),
- [Other Hand Gathering Methods](#)

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Byelaw Development

- [Options for Management](#) report presented to the B&PSC in November 2019
- [Developing a Hand working Permit Byelaw \(Hybrid\) Report \(January 2020\)](#)
- [Bag Limit Consultation Report \(June 2020\)](#)
- B&PSC Minutes ([Section B of the D&S IFCA Website Resource Library](#))

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Stock Assessments

- [Teign Estuary Cockle Stock Assessment 2018 \(published August 2019\)](#)
- [Teign Estuary Cockle Stock Assessment 2019 \(published January 2020\)](#)
- [Teign Estuary Cockle Stock Assessment 2020 \(published May 2021\)](#)
- [Exe Estuary Cockle Stock Assessment 2010 – 2020 \(published May 2021\)](#)

End.