

The Netting Permit Byelaw



**Supplement to support the final impact assessment and
submission to the Secretary of State**

19th October 2017

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Overview

The creation of the Devon and Severn Inshore Fisheries and Conservation Authority (D&S IFCA) Netting Permit Byelaw has been a long process which began in 2015. The Authority has followed IFCA Byelaw Guidance published by the Department for Environment, Food and Rural Affairs (Defra) in 2011. During the process the Authority has liaised with the Marine Management Organisation (MMO) and other sources of legal advice to finalise the Netting Permit Byelaw and the permit conditions that will be used to manage the fishing activity. This supplement is intended to add some additional detail and clarity in regard to the byelaw making process, development of recommendations formulated and the decision making process. Due to the complexity surrounding the development of the Netting Permit Byelaw, the Authority have taken the view that the final impact assessment submitted and subjected to quality assurance by the MMO is potentially insufficient to document the process fully and satisfy the expectations of stakeholders.

Transparency

Throughout the process the Authority has made every attempt to be fully transparent with information. The Authority has undertaken a variety of different communication initiatives, to engage with all stakeholders during all consultation phases. The Authority has formulated a Byelaw and Permitting Sub-Committee to undertake Byelaw review work on behalf of the full Authority. Minutes have been taken of all full Authority and Byelaw and Permitting Sub-Committee meetings. The D&S IFCA website has served as the primary platform to inform all stakeholders of the Netting Permit Byelaw development and display all relevant material.

Pre consultation, stakeholder engagement and the options for management

Pre-consultation was divided between coastal and estuary netting. Responses in regard to estuary netting and officer papers provided members of the Byelaw and Permitting Sub-Committee with discussion material for the meeting held on 24th November 2015. An “options for management” paper was used at this meeting. This paper provided members of the Byelaw and Permitting Sub-Committee with discussion material used to address the various options for management that were available. Members were able to consider if access for netting within estuaries was appropriate when balanced against the existing evidence base, pre-consultation response, social impact (traditional fishing opportunities), the duties for D&S IFCA¹ and the application (where appropriate) of a pre-cautionary approach. The minutes from 24th November 2015 document the discussions and the outcome of those discussions. The “options for management” paper and the minutes from this meeting would later be used as annexes within the consultation impact assessment. A second phase of pre-consultation was actioned by members to maximise stakeholder engagement. The actions and communication planning for additional pre-consultation was

¹ Duties as specified in the Marine and Coastal Access Act 2009

also documented and would also be used as an annex within the consultation impact assessment.

Consultation impact assessment

Following pre-consultation, D&S IFCA developed a consultation impact assessment. The consultation impact assessment (and annexes) has remained a fixture on the D&S IFCA website since its formulation and remains posted on the website at time of writing. An initiative was taken by D&S IFCA to develop the mandatory impact assessment template provided by the MMO and expands to include 12 additional annexes in an attempt to fully document the process taken to date and present all available evidence used to date. Annexes of particular significance include the following:

- Annex 1 Actions and communications plan for netting pre-consultation
- Annex 2 Summary of response from the pre-consultation
- Annex 10 Minutes from the Byelaw and Permitting Sub-Committee (Nov 2015)
- Annex 11 Options for management discussion paper

The consultation impact assessment was used to support the second phase of the byelaw making process, with the Netting Permit Byelaw made by the full Authority on 16th June 2016. The consultation impact assessments (and annexes) were effectively “tested” during a six week “formal” consultation period in 2016. The proposed Byelaw and permit conditions were widely circulated during the “formal” consultation period.

Following the “formal” consultation period and summarising of the responses, the Byelaw and Permitting Sub-Committee concluded that very little new evidence had been presented to dramatically alter either the content of the existing consultation impact assessment, the proposed Netting Permit Byelaw or the permits that would be used to manage the fishing activity via the flexible conditions.

Objections to the Byelaw

Advice was provided and taken by the Authority in regard to managing the responses² to the proposed Netting Permit Byelaw. Although objection responses are common and expected during a byelaw making process, the proposed Netting Permit Byelaw received more support³ than opposition. Due to the volume of response, a report format⁴ was used by officers to respond to stakeholders and address the issues raised. The response report provided another opportunity for the Authority to not only address stakeholder responses, but also document rationale and process. The response report was circulated to all

² 329 responses were received during the formal consultation period

³ 263 responses were considered to be generally supportive of the proposed Byelaw and management measures

⁴ Response and recommendation report for stakeholders (22nd November 2016)

stakeholders who had submitted a response during the formal consultation period and was added to the D&S IFCA website where it remains at time of writing.

Finalising the Netting Permit Byelaw

A meeting of the full Authority was held on 9th December 2016. The recommendations offered to the full Authority by the Byelaw and Permitting Sub-Committee were neither accepted nor rejected at the meeting. Four stakeholders had made written requests to address members and were given the opportunity to verbally address members with presentations on either objection or supportive content. The Chair insisted that only new evidence not already documented in the impact assessment could be used to influence decision making. Following the presentations the agenda item was suspended and a decision was taken by members for officers to prepare additional documentation for the next full Authority meeting in March 2017. Between these two full Authority meetings there was a meeting of the Byelaw and Permitting Sub-Committee in January 2017. Sub-Committee members reiterated their position that no new evidence had been submitted to alter the original recommendations presented in December 2017.

An additional report⁵ was prepared for Authority members in preparation for the full Authority meeting to be held on March 16th 2017. The report had several aims and aspects as follows:

- a) Provide Members of the Full Authority with an overarching reference document to re-cap key information used within the process and an audit of when information was presented;
- b) To place particular focus on the proposal to prohibit fixed and drift netting within estuaries;
- c) To explain how and why a proposal was reached to prohibit netting within estuaries;
- d) To explain what alternative suggestions for netting within estuaries were suggested and why, on balance, these were discounted as a credible option;
- e) Provide all readers with relevant information in regard to the process and decision making to date that is simplified and therefore easier to understand

The Access for netting within estuaries & the decision making process was referred to by members during the full Authority meeting on 16th March 2017 and, at time of writing, remains posted on the D&S IFCA website. A slide show presentation was conducted at the meeting relating to the Netting Permit Byelaw and permit conditions. Each individual recommendation was subjected to formal voting procedure with the outcome recorded in the minutes. All recommendations made by the Byelaw and Permitting Sub-Committee in regard to the Netting Permit Byelaw and permit conditions were agreed.

⁵ Access for netting within estuaries & the decision making process (February 2017)

Final impact assessment for the Netting Permit Byelaw

The final impact assessment for the Netting Permit Byelaw has been subjected to quality assurance from the MMO and signed by the Chair of the Authority. To remain compliant with the advice provided by the MMO quality assurance team and documenting every aspect of the evidence base and rationale for the creation of the Netting Permit Byelaw has not been possible. Whilst the content of the final impact assessment may be suited for submission to Defra, the Authority has concerns that the reduced size and omission of annexes (previously used in pre-consultation) does not fully reflect the detail desired to satisfy all stakeholders in the District.

Subject to confirmation, the Authority remains confident that an additional D&S IFCA publication⁶ will offer more scope to fully document the complete process and potentially satisfy stakeholders who wish to explore the subject matter in more detail.

Supporting Documents

The documents highlighted in this supplement are displayed on the D&S IFCA website and hyper linked below:

- [Response and recommendations report for stakeholders \(22nd November 2016\)](#)
- [Access for netting within estuaries & the decision-making process \(February 2017\)](#)

And in regard to the consultation impact assessment:

- Annex 1 [Actions and communications plan for netting pre-consultation](#)
- Annex 2 [Summary of response from the pre-consultation](#)
- Annex 10 [Minutes from the Byelaw and Permitting Sub-Committee \(Nov 2015\)](#)
- Annex 11 [Options for management discussion paper](#)

Conclusion

D&S IFCA have taken the view that this supplement will help to strengthen the submitted final impact assessment. The additional information referenced in this supplement represents a detailed account into both the process and decision making process. Whilst the implementation of the Netting Permit Byelaw may not represent the desired outcome for all stakeholders, the correct process has been followed and evidenced.

End of report 19/10/17

⁶ Netting Permit Byelaw final impact assessment report