



Byelaw & Permitting Sub- Committee Meeting

Final Minutes from 15th
August 2019

Version Control and Drafting

Date	Comments
22 nd August 2019	1 st Draft of minutes completed for circulation to officer's present at the meeting for potential internal amendment and or additions
17 th September 2019	Minor amendments to reflect the comments of the B&PSC members at the meeting held on 12 th September 2019

Minutes of the Byelaw and Permitting Sub Committee Meeting
Held on 15th August 2019 at Larkbeare House, Exeter

Present: Professor Mike Williams (Chair)

Cllr Hellyer	Jon Dornom	Dave Saunders	David Morgan
Andrew Knights	James Marsden	Simon Toms	Cllr Hawkins*
Rachel Irish*	Jim Portus	David Cuthbert	

Also Present: ACO Mander, DCO Clark, PPO Townsend.

Apologies: Richard White, Stephen Gledhill

Note: * = arrived during the meeting as indicated in the minutes

Introduction

The Chair welcomed members to the meeting and thanked them for their attendance. It was noted that Tom Barnfield from the Marine Management Organisation (MMO) was present to observe the meeting and was also welcomed. The Chair asked all person's present to introduce themselves. It was noted that Tom Barnfield is involved in quality assurance work regarding IFCA Byelaws.

Agenda Item 1 To consider and approve minutes of the Byelaw and Permitting Sub-Committee meeting held on 13th June 2019. (Circulated by email)

The Chair invited members to raise any issues resulting from the draft minutes taken at this meeting. The minutes were examined page by page. James Marsden commented that an amendment should be made on page four. It was agreed that the words "charging fees" should be replaced with the words "full cost recovery". This was agreed by members and noted by PPO Townsend. There were no other amendments.

That the minutes (as amended) provide a true and accurate record.

Proposed: Andrew Knights Seconded: James Marsden

All in favour

Agenda Item 2 Business Arising

There was no business arising.

Agenda Item 3 To discuss the officer actions resulting from the last meeting (16th May & carried forward to 13th June 2019)

As the first action involved Rachel Irish, who was not yet present, the Chair suggested that Agenda Item 4 be discussed first and then discussions revert to Agenda Item 3. This was agreed.

Agenda Item 4 To elect a Chair and Vice Chair of the Byelaw & Permitting Sub-Committee.

The Chair explained that James Marsden had put his name forward and that Richard White, the current Vice-Chair, was prepared to continue in this role. As Richard White was not present, the Chair also informed

members that Richard had explained to him that in the short term, his other commitments were likely to impact on his ability to conduct this role if he was required to Chair a meeting. James Marsden then informed members that on reflection he had concluded that he may be able to contribute stronger as a member, rather than chairing a B&PSC meeting. The Chair explained that he and James Marsden would leave the room for the discussion and Cllr Hellyer volunteered to lead the discussions.

In the absence of the Chair and James Marsden, the other members discussed the topic and then the present Chair and James Marsden were called back in. Cllr Hellyer explained that the members had recognised the comments of James Marsden and would like Professor Mike Williams to continue as Chair if he was happy to continue. A proposal was formulated, and a vote was then taken.

That Professor Mike Williams be elected to continue as Chair of the B&PSC

Proposed: Jim Portus Seconded: David Cuthbert
All in favour

Discussions then began relating to the role of Vice Chair. Members acknowledged Richard White's current difficulties to attend meetings and his availability to chair a meeting if required. Members were confident that in the longer-term, Richard's circumstances would change, and he could continue in this role if he wished to do so which members preferred if possible. Members concluded that a temporary Vice-Chair could be identified if the Chair or Richard White could not attend a future meeting. A proposal was formulated, and a vote was then taken.

That Richard White be elected to continue as Vice-Chair of the B&PSC

Proposed: Cllr Hellyer Seconded: Andrew Knights
All in favour

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The Chair now asked members to continue discussions on Agenda Item 3 – Officer Actions

Agenda Item 3 (re-visited)

To discuss the officer actions resulting from the last meeting (16th May & carried forward to 13th June 2019)

Action 1 (from May & June 2019)

1	DCO Clark	To prepare and send an email to Rachel Irish that will include: <ul style="list-style-type: none">• A request for clarity regarding the content of any licences issued for the works within the Teign Estuary.• To highlight that the already issued licence may be suitable for a review.
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In June 2019, DCO Clark had previously informed members that an email had been sent to Rachel Irish. In June 2019, Rachel Irish reported that at this time she had not had time to address the content of the email but would update members at the next meeting (August 2019).

The Chair requested a verbal update on this and other actions. As Rachel Irish was still not present, ACO Mander provided an update on behalf of Rachel Irish. ACO Mander explained that the matter had been partially investigated to see if there was a licence and there doesn't appear to be one in place. Members were informed that Rachel Irish was doing further investigations into the Harbour Order to see if this criterion is being met and it would therefore be an on-going/new action item as follows:

New Action

1	Rachel Irish	To provide an update on this matter at the next B&PSC meeting
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DCO Clark was invited to provide an update on the second action.

Action 2 (from May & June 2019)

2	DCO Clark	To prepare and send a robust response to the Salmon Farm
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DCO Clark reported that the salmon farm had been contacted by email which was then read out to the members. Lengthy discussions were then had relating to the comprehensive review that will be undertaken at the end of the fishing season, the requirements and compliance of the Fully Documented Fishery and other related subject matter. James Marsden raised concerns about the populations and ecology of wrasse and the effects the fishery may have on the ecosystem. Andrew Knights felt confident that the 2019 research and the catch per unit effort (CPUE) data collected during the research period will be of upmost use to inform members and ultimately determine the future of the fishery in due course. Andrew Knights explained that if the trend in CPUE showed a decline then this would be used as an indicator of the likely impact on the populations, ecology and ecosystem function.

The Chair wished to have it noted that the members appreciate the on-going work survey being undertaken by D&S IFCA Officers.

Agenda Item 5 The Five-Year Review of the Mobile fishing Permit Byelaw

The Chair introduced this large and sub-divided agenda item by introducing the report ***(Mobile Fishing Permit Byelaw – The Five-Year Review of the Byelaw – Overview & Planning Report 30th June 2019)*** that would be referred to during the discussions.

ACO Mander highlighted the drafting work already completed by the Byelaw Technical Working Group in preparation for this discussion and the timetable for progress in the report that is dependent on decision making of members at the meeting. ACO Mander explained that the outcomes of the meeting would be recorded and then enacted by the BTWG so a draft replacement Mobile Fishing Permit Byelaw (and amended permit conditions) could be completed and re-presented to the B&PSC in November 2019.

Before discussions on agenda item 5.1, James Marsden commented that the members area of the website is his chosen method of accessing the papers produced for the meetings. In his view this facility is simple to use, well presented and felt that more members should consider using it, rather than relying on email or even hard copy information that adds stationary burden to the Authority.

5.1 To consider the discussion questions and recommendations relating to the review of the Mobile Fishing Permit Byelaw as set out in bold blue text within Part 2 of the *Mobile Fishing Permit Byelaw - The Five-Year Review of the Byelaw report (30th July 2019)*

a) To consider question 1.1 on page 6 that relates to recreational mobile fishing activity

Simon Toms reported that the activity of sand eel trawling is growing in other areas and there could soon be an increase in the D&S IFCA District. Although the activity is not restricted by the Mobile Fishing Byelaw for vessels below seven metres in length, discussions expanded into the difficulties of determining what is a commercial activity and what is not. Simon Toms asked officers to collate some data on sand eel landings and report back. This was noted as an action item.

New Action

2	D&S IFCA Officers	To collect landing data on sand eel landings in the D&S IFCA District
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Conversations moved onto recreational mobile fishing. ACO Mander explained that apart from sand eel trawling for vessels below seven metres in length, recreational activity is not authorised due to the present construction of the Mobile Fishing permit Byelaw. Members were generally content with this situation, but not the fact that recreational sand eel trawling could take place without a permit being issued. Simon Toms pointed out the benefits that the permit system could offer, in particular the ability to collect fisheries related information when required. ACO Mander added that there appeared to be no demand from anyone in the recreational sector to conduct other forms of mobile fishing activity. Members concluded that other forms of mobile fishing activity such as ring netting would not be consistent with what a recreational fishing activity should be, but Jon Dornom did highlight that recreational fishers do conduct sand eel trawling in the Salcombe area and should be permitted to continue the activity, providing there were suitable conditions imposed by a permit. Although persons conducting recreational sand eel trawling would be faced with a burden applying for and paying for a permit, members felt that this was appropriate so conditions of use could be established and D&S IFCA would be able to collect more fisheries information when needed. Discussions then focussed on conditions of use. Jon Dornom highlighted that engine size, gear size, mesh size would all be suitable conditions to manage the activity and suggested that manual hauling would be a suitable condition for managing recreational sand eel trawling. The Chair suggested a vote relating to agenda item 5.1 (a) which was also to answer the question asked in the report numbered 1.1.

That recreational mobile fishing activity be authorised via the issue of a permit.

Proposed:	Simon Toms	Seconded:	Cllr Hellyer
In Favour	9		
Against	0		
Abstain	1		

Considering the earlier discussions relating to catch collection data, members also formulated a second proposal as follows:

That the importance of a catch return provision in the Byelaw or Permit Conditions is recognised in any drafting work conducted by the BTWG on behalf of the B&PSC.

Proposed:	Dave Saunders	Seconded:	Cllr Hellyer
All in favour			

ACO Mander informed members that the vote taken to permit recreational mobile fishing activity needed some additional clarity. ACO Mander asked members to confirm if the third category of permit should include recreational sand eel trawling, but not other forms of recreational mobile fishing activity.

Without a vote, members confirmed that other forms of recreational mobile fishing activity would not be permitted.

b) To consider question 1.2 on page 6 that relates to the interpretation of “relevant fishing vessels”.

ACO Mander explained that the use of the phrase “relevant fishing vessel” was used in other D&S IFCA permit Byelaws. As the Mobile Fishing Permit Byelaw was the first such byelaw to be introduced, it had some differences as compared to more recent work. ACO Mander explained that the use of this phrase in the construction of the new Mobile Fishing Permit Byelaw would strengthen the requirements of commercial operators to meet the criteria that would be linked to this wording. The linked requirements would include the need for commercial fishers to have both a Certificate of Registry and a valid Fishing Licence in order to qualify for a commercial Category One and Category Two Permit After considering the explanation provided in the report, members formulated a proposal and voted.

That the term “relevant fishing vessel” be used in the Byelaw

Proposed: Dave Saunders
All in favour

Seconded: Cllr Hellyer

- c) To consider the BTWG recommendation 1.3 on page 7 that relates to the interpretation for “estuaries”.

Members were satisfied with the explanation provided in the report and the recommendation to add a schedule to the Byelaw listing the estuary areas rather than setting them all out on the face of the Byelaw. David Morgan highlighted that the review provided a good opportunity to double check the co-ordinates of the closing lines but inquired if any amendments would produce any further restrictions to fishers. ACO Mander explained that any amendments relating to the implementation of a schedule would not have an effect on fishers.

That “estuaries” is added to the interpretations and a schedule is created to list the estuary closing lines

Proposed: James Marsden
All in favour

Seconded: Simon Toms

- d) To consider question 1.4 on page 7 that relates to the interpretations “fishing” and “using”.

ACO Mander explained the rationale behind this discussion question and the relationship between strengthening the permit condition wording with the interpretation of fishing” and enforcement action and subsequent court cases. Jon Dornom enquired if this change would prohibit vessels anchoring on dredges. ACO Mander explained that the practice of anchoring on gear is already prohibited, but the BTWG would be examining the wording “setting” which also makes up part of the interpretation for “fishing”. ACO Mander added that those operating trawls would potentially be impacted by this change if approved. Jon Dornom pointed out that when trawl doors are up, the vessel is actually not fishing. ACO Mander acknowledged this information but it was explained to members that even in this scenario the vessel would technically still be fishing under this revised approach. ACO Mander added that although technically illegal, it may not be in the public interest to pursue the matter if this situation did arise. A proposal was formulated and subjected to a vote.

That the interpretation “fishing”, rather than “using” is to form the basis for permit condition wording

Proposed: Jim Portus
All in favour

Seconded: Cllr Hellyer

- e) To consider the BTWG recommendation 1.5 on page 8 that relates to the removal of the deeming clause from the Mobile Fishing Permit Byelaw.

Members acknowledged the background information set out in the report. A proposal was formulated and subjected to a vote.

That the deeming clause is removed from the Byelaw

Proposed: Cllr Hellyer
All in favour

Seconded: David Morgan

- f) To consider the BTWG recommendation 1.6 on page 8 that relates to the issue of a certificate disc.

Members acknowledged the background information set out in the report. A proposal was formulated and subjected to a vote.

That the provision to issue a certificate disc be removed from the Byelaw

Proposed: Simon Toms
All in favour

Seconded: David Cuthbert

- g) To consider the BTWG recommendation 1.7 on page 9 that relates to the wording “Impact Assessment” and its use in the review procedure section of the Mobile Fishing Permit Byelaw.

ACO Mander highlighted the information presented in the report. Members accepted that there was some potential confusion relating to the difference between the expectation of producing an Impact Assessment (IA) for Byelaw making using the MMO template and the work documenting permit condition amendments process followed, consultation responses, decision making and final outcomes. PPO Townsend explained that due to advice to follow the official I.A templates it was often the case that the Impact Assessments during Byelaw making are smaller documents than the separate D&S IFCA publications. Members concluded that although there were differences, a solution using a definition and small capital letters would suffice.

That a definition is formulated by the BTWG and added to the Byelaw for D&S IFCA’s interpretation of Impact Assessment for the process related to changes to permit conditions and lower-case letters i and a are used.

Proposed: Andrew Knights
All in favour

Seconded: David Morgan

- h) To consider discussion question 1.8 on page 9 that provides members the opportunity to raise additional discussion items related to the Mobile Fishing Permit Byelaw.

The Chair asked members if they had any other comments or issues to raise concerning amendments to the Byelaw, other than the charging of fees. Members had no further comments and no further action was required for agenda item 5.1.

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5.2 To consider the principles for the charging of fees for permits and the recommendations as set out in bold blue text within Part 3 of the Mobile Fishing Permit Byelaw - The Five-Year Review of the Byelaw report (30th July 2019)

The Chair introduced this item and provided members with his personal vision to champion D&S IFCA’s funding difficulties with Defra. The Chair made it clear that members should not be influenced by his way of thinking, and have a free vote, but the Chair did highlight that his challenge of addressing funding difficulties would not be helped by D&S IFCA not considering its costs associated with managing fishing activities via a permit-based approach. James Marsden echoed the comments of the Chair and stated that D&S IFCA must consider doing everything possible to secure maximum financial efficiency. James Marsden went on to explain that the principle of full cost recovery is widely accepted and has become standard practice across government departments and has been adopted by the Environment Agency.

ACO Mander highlighted the information presented in Part 3 of the report and informed members that although D&S IFCA is not alone in charging fees for permits, the background and rationale for differences in fees charged by the other IFCA’s is not totally clear in all cases. Regarding D&S IFCA’s own administration costs, ACO Mander informed members that the report presented to them has been used to present up to date, identifiable and accurate information relating to administration costs.

James Marsden commented that cost burden to the IFCA and the monetised costs to fishers will obviously be presented in an Impact Assessment used to accompany the Byelaw in a consultation period. With the Impact Assessment in mind, James Marsden highlighted the need to begin with the principle of full cost recovery, evidence the costs, set out a future projected cost and document the fact that D&S IFCA is already an efficiently run organisation. Cllr Hellyer agreed with the principle of full cost recovery adding that £20 fee

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every two years for a permit is low. James Marsden suggested that a direct debit may be a method to reduce D&S IFCA's administration costs with a discount available for applicants that wish to pay in this way. ACO Mander explained that Devon County Council would not sanction D&S IFCA to introduce a direct debit scheme and even it was, the fact that payment is taken at the point of issue would pose another complication. Simon Toms explained that the licence fee set by the Environment Agency must be agreed by the Minister annually, but for D&S IFCA the potential increase in fees would still be very low. Simon Toms went on to highlight that the administration costs set out in the report make no allowance for D&S IFCA's costs associated with data collection and the analysing of it. Andrew Knights added that maybe there should be scope for additional costs such as those raised by Simon Toms to be considered with the need to separate out costs for different scenarios. Discussions moved on to differences between permits such as commercial and recreational use. It was recognised that some recreational permits such as Netting and Potting require the issuing of tags for recreational fishers, but it was acknowledged that the permits by their nature are used in a different way and have different benefits for different user groups. ACO Mander pointed out that regardless of what category of permit is issued, the work conducted by the Permitting Officer cross checking the information provided is similar. PPO Townsend pointed out that there would be a delay in increasing permit fees across the entire suite of permits issued. The permit fees for other methods are set out in the other Byelaws and therefore the amount cannot be amended until those Byelaws are also reviewed. Members felt that it was important that a statement is added to the Byelaw (and others when reviewed) that a review will take place at least every five years. This was noted as an action item for the BTWG.

New Action

3	BTWG	When re-drafting the Mobile Fishing Permit Byelaw, to include in the explanatory note some wording to clarify that a review will take place at least every five years
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[At this point Rachel Irish joined the meeting]

Members including David Morgan and Jim Portus did pose the question if a discount could be established for fishers holding multiple D&S IFCA permits or fishers purchasing permits in different IFCA Districts. Members including David Cuthbert, David Saunders and Jon Dornom could see how fishers working areas close to IFCA borders may feel disadvantaged but conceded that even a £40 fee per two-year period would represent a minimal cost for a commercial operation. Considering the discussions, the Chair encouraged members to firstly formulate a new principle related to the charging of fees.

That the principle of full cost recovery for administration be adopted for the fees charged for permits

Proposed: Cllr Hellyer
All in favour

Seconded: Andrew Knights

Having developed a new principle, members now discussed the existing provision in the Mobile Fishing Byelaw that sets out a £20 fee. ACO Mander explained that a set fee wouldn't appear in the re-made Byelaw but would be established and documented in the Impact Assessment. David Morgan felt that the wording set out in the report was suitable for insertion in the Byelaw but as a point of clarity wanted other members to join him voting for an initial starting fee that could be documented in the minutes.

That a £40 fee for two years be adopted as the cost of a permit, at the time of next renewal, or on application, when the new Mobile Fishing Permit Byelaw is in place

Proposed: Jon Dornom
All in favour

Seconded: Cllr Hellyer

[Lunch break.]

[Cllr Hawkins arrived during the lunch break to attend the afternoon session]

5.3 To consider the discussion questions and recommendations relating to changes to permit conditions as set out in bold blue text within Part 4 of the Mobile Fishing Permit Byelaw - The Five-Year Review of the Byelaw report (30th July 2019)

ACO Mander introduced the next series of discussion items. As earlier in the meeting, ACO Mander explained that the agenda was broken into sub-sections that linked to the report. The decisions of members in this part of the meeting would provide clarity for the BTWG in further drafting work directed towards the permit conditions for mobile fishing activity. With no members commenting on the opening section to Part 4 of the report, the Chair asked members to consider items 5.4 (a - e) as set out on the agenda.

- a) To consider the BTWG recommendation 2.1 on page 17 that relates to the management of the Teign Estuary via Category Two Permit Conditions.

As the Category Two Mobile Fishing Permits are not used to manage any activity within the Teign, the members agreed with the recommendation of the BTWG to remove the reference to the Teign Estuary from the permits.

That the specific reference (and accompanying Annex) to the mobile fishing restriction in the Teign Estuary is removed from the Category Two Permits and the Teign Estuary area becomes one of the estuaries where no permits will be issued by D&S IFCA.

Proposed: Jim Portus **Seconded:** Cllr Hellyer
All in favour

- b) To consider the discussion items 2.2 and 2.3 on page 17 that relates to the management of mussel dredging within the Dart Estuary via Category Two Permit Conditions.

ACO Mander introduced this item, which had two discussion questions. Should access for the fishery remain and, if so, are the current time restrictions suitable to remain unchanged. ACO Mander explained that there was currently no demand for permits to be issued to enable this activity to take place and there haven't been any requests for several years. ACO Mander explained that it was possible for this fishing opportunity to be removed and importantly as it was an inherited measure from a legacy byelaw, no formal environmental assessment had been undertaken. ACO Mander added that if there was a future desire for a fisher or fishers to conduct the activity, then a new assessment could be conducted to investigate any impacts it may have within the estuary and members could examine the potential for the activity to re-commence.

That the fishing opportunity for mussel dredging in the Dart Estuary is removed from the Category Two Permit Conditions to allow assessment work to be conducted, if required, to establish if there would be an adverse impact caused by the activity.

Proposed: James Marsden **Seconded:** Jim Portus
All in favour

As members agreed that mussel dredging activity should be removed from the permit conditions, there was no need to discuss the second issue relating to the time conditions imposed by the current permit conditions.

- c) To consider the discussion item 2.4 on page 18 that relates to the management of scallop dredging within Salcombe Estuary via Category Two Permit Conditions.

PPO Townsend explained that the permit conditions had originated from legacy measures. Although there had been a time when the activity was prohibited due to a no trawling in estuaries Byelaw, coupled with a definition of trawling Byelaw (that included dredging), a subsequent legacy byelaw (Dredging in Salcombe Estuary 1998) once again provided fishing opportunity linked to a series of conditions. The conditions of use

were incorporated into the Mobile Fishing Byelaw Permit Conditions and the relevant legacy byelaws were then revoked. As the legacy byelaws had no Impact Assessment, the rationale for the conditions was not as clear as it could be. In the view of PPO Townsend several of the time restrictions were potentially developed to recognise an enforcement burden on Devon Sea Fisheries, rather than reducing the fishing effort on the estuary and therefore ensuring a sustainable fishery. David Morgan declared an Interest and would not vote. Jon Dornom declared an interest and although he would not vote on the matter, added to the discussion. Jon Dornom explained that the issue should be more to do with where fishers can operate within the estuary, rather than the other conditions. Andrew Knights explained that as the area is a Site of Special Scientific Interest (SSSI), complications would exist if a change of fishing area was considered. Jon Dornom was clear that the fishery should remain and as the conditions of use in the legacy byelaw were developed in conjunction with fishers from Salcombe and they should remain un-changed now they have been incorporated into the Category Two Mobile Fishing Permit Conditions. Other members agreed that fishing opportunities should remain. PPO Townsend attempted to clarify that the discussion item was not intended to be a discussion on potentially closing the fishery, but an opportunity to consider the time conditions and if they were suitable as compared to other estuary conditions. PPO Townsend was apologetic if this section of the report was potentially confusing. Jon Dornom again stated that his view there should be no changes at all to the present conditions.

That the restrictions for scallop dredging in the Salcombe Estuary remain the same in any amended permit conditions.

Proposed:	Jim Portus	Seconded:	Cllr Hellyer
In favour	10		
Against	0		
Abstain	0		
Declared Interest	2		

5.4 To discuss the information and discussion questions relating to environmental considerations and spatial access as set out in bold blue text within Part 5 of the Mobile Fishing Permit Byelaw - The Five-Year Review of the Byelaw report (30th July 2019)

DCO Clark introduced this section of the meeting by providing some background information. DCO Clark provided members with an overview about completed assessments done to date, more recent assessment work to examine interactions between fishing gear and features and also to highlight the formal advice received from Natural England (NE). Members examined the reports and DCO Clark began with discussion items 5.4 (a) as set out in the report.

- a) **To consider the discussion item 2.5 on page 19 that relates to the use of dredges over rocky reef and coarse sediment within the Hartland Point to Tintagel MCZ.**

DCO Clark explained that there had been a delay in completing the survey work to be carried out by Environment Agency/Natural England and at this time D&S IFCA is reliant on the limited data available. Both Jim Portus and Jon Dornom questioned if there would be any scallop dredgers attempting to operate in the area. DCO Clark reported that there was a lack of data, but it is believed that no scalloping currently takes place. There was also a lack of evidence relating to trawling in the site as a whole, but trawling activity does take place in the very north of the site for skates and rays. James Marsden took the view that a consistent approach to management should be taken which would demonstrate that the Authority manages different activity to protect vulnerable features. Cllr Hellyer commented that a removal of scallop dredge access from a precautionary stand point within the area would be unlikely to cause objection, especially if the activity is not conducted in that location.

That the use of dredges over rock reef and coarse sediment within the Hartland Point to Tintagel MCZ is to be prohibited.

Proposed: James Marsden
All in favour

Seconded: David Cuthbert

- b) *To consider the discussion item 2.6 on page 19 that relates to the use of demersal towed mobile gear on rock features within the Bideford to Foreland Point MCZ.*

DCO Clark made use of a projector screen to help inform members about this discussion item. The chart indicated the area from around Baggy Point to the east of the site was coloured red and showed the areas of rock features. DCO Clark explained to members that the assessments had concluded that the rock features are sensitive to both trawl and scallop dredge activity. David Morgan commented that the size and shape of the area in question would suggest that both activities are prohibited. David Cuthbert also remarked that the lack of effort on the site would therefore limit any impact on fishers if a prohibition was introduced. To clarify the situation, the Chair commented that a proposal could be formulated in relation to the red areas highlighted on the on-screen chart.

That the use of demersal towed mobile gear is prohibited on rock features, as demonstrated by the red areas, in the Bideford to Foreland Point MCZ.

Proposed: Jim Portus
All in favour

Seconded: Cllr Hellyer

- c) *To consider the discussion item 2.7 on page 20 that relates to the use of demersal towed mobile gear on other protected features within the Bideford to Foreland Point MCZ.*

DCO Clark used the projector screen to highlight areas displayed in a green colour. DCO Clark explained that it is known that three trawlers have operated in the area. In her conversations with Natural England it had been determined that demersal trawling at this level was unlikely to have a significant effect, however scallop dredging in the area could have an impact although the feature in this part of the site is sand including highly mobile sand.

Jim Portus declared an interest at this time as he is the Chair of the Scallop group of the SWFPO. A discussion occurred relating to the sand and coarse sediment features of the site. It was recognised that the area where the trawlers operate is highly mobile sand. Jim Portus explained that he knew the area well and that the area is shallow at less than 10m and prone to storm damage, which can extend to 40m depth. Cllr Hellyer agreed that storm damage is seen in the area. ACO Mander explained that the IFCA needs to be consistent in management of fishing activities on sand features but also needs to look at the activity on a case by case basis. DCO Mander described that scallop dredging in highly mobile sand is unlikely to have an impact, and that in other sites this has been allowed to continue. The Chair added that each site must be viewed on a case by case basis and consistency in policy is needed and that the IFCA must justify any departure from this. James Marsden explained that if the sediment is coarse sediment then the starting position is to use the precautionary principle. Andrew Knights described that the existing data does not cover the whole site and that the surveys undertaken by Environment Agency will provide more detail. He explained that the results of these surveys will be available shortly.

The Chair offered the option to defer the decision until the additional data is available and asked the timing of this. DCO Clark explained that the data may be available by the next meeting which would help inform this proposal. David Morgan asked if the data collected during the survey could take account of the conditions over a longer period and through different seasons of the year. Andrew Knights explained that no science is exact, but the sediment communities would reflect any seasonal variation and potential stresses caused by natural environmental processes. It was decided not to vote on this point at this time and await further data.

- d) To consider the discussion item 2.8 on page 25 that relates to options for access for demersal mobile fishing gear within the Start Point to Plymouth sound SAC.

ACO Mander and DCO Clark explained that D&S IFCA had always indicated its intention to review access to areas closed under the precautionary principle once the ability to monitor compliance through IVMS, increased reporting through IVMS/VMS and increased confidence in its use. The area to the north of the 'Triangle' or Zone 2 of the IPA within the Start Point to Plymouth Sound and Eddystone (SPPSE) SAC was closed to Mobile Fishing under precaution. At this point James Marsden declared an interest as during his time at Natural England he oversaw the designation of the site. The Chair added that now that the Mobile fleet have IVMS the IFCA can consider this as improved monitoring of fishing activity. Jon Dornom explained that he had heard that the use of IVMS is currently being challenged in court. ACO Mander explained that there are on-going court cases that cannot be discussed at this time. ACO Mander also explained that there had been a long-term commitment from the Authority to review access to areas once IVMS was in place. Dave Cuthbert commented that he could not support the proposal until IVMS was proven. James Marsden highlighted Emma Sheehan's paper, which describes the recovery of closed areas, the benefit of the areas between the reefs and how they act as a function of the reef. He felt that there are lots of unknowns and the Authority could explore further access opportunities but not at this current time. He expressed the view that gear in – gear out technology would help. He added that he could not support the approach to opening up access at this time for a number of reasons.

DCO Clark explained that D&S IFCA officers had undertaken extensive research to ground truth the sediment type in the area closed and from this evidence has mapped areas, which are not reef but coarse sediment and sand. ACO Mander added that any proposal would be subject to NE advice but that this is the first opportunity to review access into areas closed under precaution. DCO Clark explained that the assessment is near completion and would be sent to NE for formal advice and the results of this would be available by November. Jim Portus expressed the view that this proposal maybe be premature at this time. Andrew Knights explained that from an environmental perspective there may be some negative impact of opening up access. The Chair concluded that the B&PSC would wait for the outcome of the assessments and advice from NE and that the vote on this recommendation would be deferred until these are received. No vote was made.

- e) To consider the discussion item 2.9 on page 27 that relates to continuing access for demersal mobile fishing gear within the Skerries Bank and Surrounds MCZ.

DCO Clark informed to members that D&S IFCA is currently undertaking an assessment which, once complete, will be sent to NE for formal advice. ACO Mander asked the B&PSC for a steer on whether the current management measures for the Skerries Bank and Surrounds MCZ are maintained, (which exist under D&S IFCA Permit conditions and MMO Licence variation through the IPA). Both the Chair and James Marsden expressed the view that as the assessment has not been completed and that no formal advice from NE is available then at this time a decision cannot be made. Andrew Knights explained that it is a complicated issue and the MCZ assessment needs to be undertaken and may show that the demersal fishing activity in the site is not compatible with the conservation objectives, even though the management system has been fairly well adhered to.

DCO Clark explained that fishers proposed the site as an MCZ and described the process of designation of the site and the impact assessment that was undertaken under the Finding Sanctuary project. DCO Clark clarified that through the whole designation process there was a recognition that the management measures for the site, as maintained under the IPA, would remain in place and that there would be no change in management. This was reflected in the Impact Assessment that showed no financial impact of designation because the existing management would remain in place. The chair expressed the need for more information to make a decision. Andrew Knights explained that D&S IFCA is not required to act on NE advice and that NE advice is only from the environmental point of view not social nor economical point. The Chair highlighted the point that under MaCAA Ss. 153 and 154 that the IFCA must further the conservation objectives of MCZ, and also consider balancing social and economic needs. No vote or decision was made at this time.

Agenda Item 6 Managing Hand Working Fishing Activities

ACO Mander explained to members that there were two agenda items to discuss.

- a) To discuss the information and evidence relating to hand gathering as set out in the supplementary report – Managing Hand Working Fishing Activity – A Focus on Hand Gathering (30th July 2019)
- b) To establish an initial position for the management of hand gathering (and potentially crab tiles) which can be re-visited during an “option for management” phase later in November 2019.

Regarding the report, ACO Mander and PPO Townsend explained how the information had been collected and compiled ready for discussions. Although the information was hopefully of use to members at this time, it was explained that an “options for management” discussion would take place in November. DCO Clark further explained elements of the report relating to the multiple environmental assessments that had been conducted and highlighted the impacts on stock and the bird disturbance that can be caused by some of the methods. A further summary was provided on some of the public health issues that can arise from shellfish removal from un-classified beds, such as toxins that can enter the food chain.

Whilst examining the content of the report, several members including Dave Saunders and Jon Dornom concluded that a bag limit for several species may become the most appropriate action to take. Cllr Hellyer commented that the activity being conducted by gangs is obviously profitable, and the level of activity is clearly not consistent with what a recreational activity should be. ACO Mander highlighted that many stakeholders are expectant that there should be a byelaw or byelaws in place to manage at least some of the hand gathering activities. DCO Clark added that although D&S IFCA has in the past been able to give advice regarding the risks of shellfish removal from a health perspective, it has not been able to prevent shellfish removal of many species. ACO Mander explained that as part of this on-going review, members can examine the legacy measures and address any weakness that exists. Although in many cases, Natural England may be comfortable that impacts are minimal, the duties of D&S IFCA include balancing the needs of fishers. ACO Mander went on to explain that there may be potential to explore a threshold concept for the levels of shellfish that could be removed for personal consumption and cited the CIFCA Lobster, Crawfish and Crab Fishing for Profit Permit Byelaw as an example. The Chair added that it was possible for the BTWG to develop a draft byelaw of this type which will assist members to visualise what it could look like and thereby assisting members deliberations when formal “options for management” are considered. Members approved this approach. The Chair then proposed a form of words to record in the minutes, rather than having a formal vote on an initial position.

The view of the B&PSC is that officers prepare a paper to demonstrate how the activities could be managed in preparation for an option for management discussion.

Agenda Item 7 Verbal update on the Marine Pioneer Project

DCO Clark provided a verbal update to members on the North Devon Marine Pioneer. The main area that DCO Clark focussed on was the proposal to carry out a pot limitation trial in the Pioneer area. Members of the Marine Pioneer Steering Group, including D&S IFCA, Plymouth University, Blue Marine Foundation and the North Devon Biosphere, had attended meetings with many North Devon fishers at the various ports in the area and many of them had expressed concern over the number of pots being set and the apparent decline, in particular, in lobster catches. The Marine Pioneer is an opportunity to trial a pot limitation scheme working with Defra, to trial it across the whole pioneer area which extends outside the 6Nm. Defra is very interested in the trial as there have been indication from the Fisheries Minister and through the Fisheries Bill that there may need to be management of non-quota species. DCO Clark also gave an update on the Pioneer herring project, where herring from Clovelly and Minehead had been genetically tested and the preliminary results suggest that there may be sub-populations along the Bristol Channel.

Agenda Item 8 Verbal update on the formal consultation for the Exemptions Byelaw 2019

PPO Townsend informed members that the formal consultation period ended on 15th August. To date, officers are aware of two responses that have been submitted, both in support of introducing this Byelaw. PPO Townsend commented that one of the responses suggested that for increased transparency, a table could be created to demonstrate the following:

- what exemptions are being issued
- where they are for,
- for what purpose (typically scientific work)
- if any results of the scientific work are freely available to study

The Chair and other members concluded that providing the information is not of a sensitive nature, this potentially is a good suggestion.

Agenda Item 9 Any other business

DCO Clark reported that the 2019 seagrass surveys in the Torbay MCZ were now complete. The surveys this year had been completed by the Environment Agency and D&S IFCA have now received the results which were too late to place into the mobile fishing report that had been discussed at the meeting. The results indicate that an area of seagrass had expanded beyond the spatially restricted area within the Category One Mobile Fishing Permit Conditions. Due to this DCO suggested that the relevant annex (chart) and permit condition wording could be amended to protect the seagrass bed. The Chair posed the question, what would be the position if the seagrass beds reduced in size over time. Andrew Knights explained that even if the bed returned to its original size, the rhizomes (roots) may have remained in place, therefore there would still be the need to ensure adequate protection from permitted demersal trawl gear.

Agenda Item 10 Date of next meeting

BTWG

Considering the amount of work that had been delegated to the BTWG, David Morgan asked when the next meeting of this working group would be. PPO Townsend explained that at this time no date had been set. A date would be arranged via email. The Chair explained that all members of the B&PSC are welcome to attend the meetings and contribute to the drafting work which would then be presented to all members of the B&PSC at the meeting in November. David Morgan volunteered to attend the next BTWG meeting and was thanked by the Chair. PPO Townsend said he would give all members detail regarding the date and venue in due course.

Subsequent to the meeting the meeting of the BTWG was arranged for 10th September 2019.

B&PSC

PPO Townsend explained that the next B&PSC meeting would be a one agenda item and focussed on members considering submitting the Exemptions Byelaw 2019 to Defra for confirmation. The meeting would be arranged to coincide with the next Authority meeting:

- **Thursday 12th September 2019 @ Taunton Race Course**

The next full agenda meeting of the B&PSC was already scheduled for Thursday 14th November.