

Changes to Category One Diving Permit Conditions

Officers' Recommendations

That Category One Diving Permit Conditions are amended as follows and to take effect from 1st July 2022.

- a) To increase access within specified sites (Marine Protected Areas) for the removal of scallops during the months of July, August, and September.**
- b) To introduce a Minimum Conservation Reference Size of 110mm for scallop within the District in the months of July, August and September.**
- c) To introduce a catch limit of 2400 scallops per vessel, per calendar day within the District during the months of July, August, and September.**
- d) To require a fully functioning Remotely Accessed Electronic Monitoring Device (IVMS/VMS) to be fitted to vessels and with additional requirements if the device fails to transmit the required information.**
- e) To introduce a catch restriction that means when diving for scallops in the District in the months of July, August, and September, no fishing outside of the District can take place on that fishing trip.**

Background

The Scallop Closed Season has been discussed by the B&PSC since 2020. Initial pre-consultation was undertaken to inform both the Mobile Fishing Permit Byelaw (Category One Permit Conditions) and the Diving Permit Byelaw (Category One Permit Conditions). Following decision making of the B&PSC, in February 2021, on-going consultation and the presentation of information became focussed on Category One Diving Permit Conditions.

On 24th February 2022, the B&PSC was presented with the findings of the further pre-consultation and an Officers' paper that recommended formal consultation be undertaken on a series of changes to Category One (commercial) Diving Permit Conditions. The Officers' paper set out rationale for those changes. The B&PSC accepted this rationale and agreed to the recommendation to undertake formal consultation on the changes.

Detail regarding the proposals and the response to the formal consultation is documented in a report:

Development of the Diving Permit Conditions – Formal Consultation Report - A Summary of Responses from the Formal Consultation on Changes to Category One Diving Permit Conditions 13th May 2022.

Rationale that underpinned the Formal Consultation

The proposed changes set out in the formal consultation reflect the Officers' interpretation of the Members' views that the development of a low impact commercial dive fishery for scallops should be balanced against maintaining the conservation status of the Marine Protected Areas.

D&S IFCA's Vision, as agreed by Members, is:

We believe in shared responsibility for the health and benefits of the marine environment and uphold our duties, now and in the future. We will be proactive in our management to restore

*and recover marine ecosystems, habitats and species. We envisage that the waters, under our authority, **will support sustainable fishing practices serving local, national and international communities. We will innovate, and champion the use of technology, the delivery of low impact fisheries and the UK Government's 'Net Zero' by 2050 carbon target. We embrace co-management and will drive change in inshore recreational and commercial fisheries, recognising their social and economic benefits, and securing a future for sustainable fishing in the coastal belt.***

The formal consultation listed factors that have been considered in the development of the proposals which include:

1. The level of commercial scallop diving in D&S IFCA's District is low, as supported by the MMO landings data and D&S IFCA's Diving Permit list.
2. Diving is a low impact fishery with respect to its interaction with designated features of Marine Protected Areas (MPA), as supported by Natural England's formal advice on MPA assessments submitted by D&S IFCA.
3. Marine Protected Areas being proposed for access to commercial divers removing scallops in July, August, and September are not "No Take Zones".
4. The Marine Protected Areas being proposed for the removal of scallop by commercial divers in July, August, and September are areas that are prohibited to scallop dredging all year.
5. D&S IFCA can monitor the level and location of commercial diving activity through the uptake of Diving Permits, and through IVMS.
6. D&S IFCA can monitor the level of scallop catches through boarding of vessels and data from the recorded catches
7. D&S IFCA's permitting system allows for adaptive management should further evidence come to light, including research and the monitoring of fishing effort.
8. D&S IFCA believes that the use of an [adaptive precautionary approach](#) is appropriate when considering management measures for the commercial dive fishery.
9. D&S IFCA is working with the University of Plymouth to investigate the spawning season of scallops in its District to inform any future recommendations for further changes in management measures.

Summary of the Formal Consultation

The formal consultation began on 21st March 2022 and ended on 18th April 2022. All stakeholders (1545) on D&S IFCA's contact data base were directly informed about the formal consultation and were invited to respond. This included all fishers with a Category One (commercial) Diving Permit and all other permit holders regardless of their own fishing activity (permit type) and geographical location. Recipients that opened the email totalled 986.

A total of 12 responses were received which included responses by commercial divers and conservation groups - Devon Wildlife Trust (DWT), Wembury Advisory Group (WAG) and the Blue Marine Foundation. There were mixed views on each of the topics by different interest groups and from within those interest groups.

Both DWT and WAG were opposed to change and considered that providing greater access to commercial divers to remove scallops from within Marine Protected Areas (MPA's) to be completely unacceptable. The Blue Marine Foundation expressed support for commercial diving as it is less damaging as compared to scallop dredging.

Views differed amongst commercial divers regarding the proposed catch limit of 2400 scallops per vessel, per calendar day – some felt this amount was too high, whilst others felt it was not

sufficient to make it commercially viable. The higher requests were for 3600 scallops, per vessel, per day (or 1500+ scallops per diver, per day, as suggested by the Blue Marine Foundation). There was strong support for an increase in the Minimum Conservation Reference Size (MCRS) to 110mm.

Fishers were not opposed to the proposal to introduce IVMS; however, it should be recognised that this will be a national requirement later in 2022. Regarding the implementation of IVMS (as a permit condition), concern was raised about potential failure of devices and the resulting loss of fishing time in the District, until the unit is repaired.

Decision Making

Although views differed in the responses, there is no new information to challenge the rationale accepted by the B&PSC for the proposed changes that led to the formal consultation being undertaken.

Some alternative suggestions were provided; however, these extend beyond the proposed changes as set out in the formal consultation and are therefore not relevant at this time. Other suggestions, such as a limitation on the number of commercial diving permits that can be issued, do not harmonise with agreed principles for byelaw review work.

Although there is opposition from Devon Wildlife Trust (DWT) and Wembury Advisory Group (WAG) to additional access for the removal of scallops from Marine Protected Areas (MPAs), in the months of July, August, and September, these areas are not No Take Zones and are not closed to diving for scallops all year. Diving for scallops is already concentrated within MPAs, because of their number, size, locations, and the fact that they are free from mobile fishing vessels (scallop dredgers) all year round. The only time that divers cannot operate in MPAs to take scallop is within the months of July, August, and September when the whole District is closed to their removal by mobile fishing vessels (scallop dredgers) and commercial divers. MPAs are protected from potential damage resulting from fishing activity (gear type), and not because they contain stocks of scallops which are not a “feature” of the sites.

Officers' Recommendation

It is the view of Officers that the proposed changes to the Category One Diving Permit Conditions represent an appropriate and balanced package of management measures that recognise D&S IFCA's duties and vision. Permit Conditions provide a flexible management approach.

Background Papers, Information & Hyperlinks

- [Officers' Paper \(24th February 2022\) recommending formal consultation](#)
- [The Formal Consultation - Amendments to the Permit Conditions to provide access to scallop stocks in July, August, and September](#)
- Formal Consultation Report - A Summary of Responses from the Formal Consultation on Changes to Category One Diving Permit Conditions 13th May 2022.
- [A Guide to the Work of the Byelaw & Permitting Sub-Committee \(Principles\)](#)
- [Precautionary Management \(D&S IFCA's Decision Making & the Precautionary Principle\)](#)

All reports presented to and discussed by the B&PSC can be found on the D&S IFCA's website in [Section B of the Resource Library](#) as well as all minutes from B&PSC meetings.