

Title: Devon and Severn IFCA Mobile Fishing Permit Byelaw 2022 IA No: D&S IFCA 006 Lead department or agency: Devon and Severn Inshore Fisheries and Conservation Authority Other departments or agencies: MMO	Impact Assessment (IA)
	Date: 26th September 2022
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary Legislation
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Summary: Intervention and Options	RPC Opinion: Opinion Status: N/A

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB on 2016 prices)	In scope of One-In, Three-Out?	Business Impact Target Status
			No	n/a

What is the problem under consideration? Why is government intervention necessary?

The making of the Mobile Fishing Permit Byelaw 2022 represents the evolution of management, rather than the introduction of management. The Mobile Fishing Permit Byelaw, introduced in 2014, was the favoured option at that time for the Authority to manage mobile fishing activity, rather than the use of legacy measures (Devon Sea Fisheries Committee Byelaws) or the introduction of voluntary measures. The Mobile Fishing Permit Byelaw created a legislative framework for the issue of two types of permits containing different management measures applicable to mobile fishing activity at sea and within estuaries. D&S IFCA must review its byelaws and the Authority (acting through the Byelaw and Permitting Sub-Committee) has identified that changes are needed to the overarching Mobile Fishing Byelaw in terms of its structure and content. The proposed Mobile Fishing Permit Byelaw 2022 retains the permit-based model as the framework to enable the issuing of two categories of permit; however, areas of change within the Byelaw include the interpretations, application, provisions, fees for a permit, the review of permit condition procedure and the exemption clause. As the Byelaw provides a direct link to the Permit Conditions, there is a need for these to be amended to harmonise with the proposed changes within the Mobile Fishing Permit Byelaw 2022. Further to proposed changes to the structuring of the associated permits (including paragraph arrangement and Annexes for spatial management), the review has incorporated proposed changes to the management of mobile fishing activity as set out in the associated Permit Conditions and a new Schedule No.2 in the Byelaw itself. The primary use of the proposed legislation is to spatially manage the mobile fishing fleet and prevent unauthorised fishing activity within the Marine Protected Areas (MPAs) to protect the sensitive features of these sites.

What are the policy objectives and the intended effects?

1. To manage mobile fishing activity in an effective and appropriate way, having regard to D&S IFCA's statutory duties.
2. To continue to manage the mobile fishing activity within the District and use Remote Electronic Monitoring technologies to improve knowledge of the spatial use of the District and monitor activity effectively.
3. To continue to balance the needs of fishers, to limit gear conflict, and to restrict unauthorised

access within coastal mariculture sites.

4. To recognise D&S IFCA's duty regarding the protection of Marine Protected Areas and their designated features, and heritage asset sites (historic wrecks).
5. To provide flexibility in management and continuation of a permit-based model with a revised review of permit condition review process.
6. To continue with an inclusive form of management that enables stakeholder participation.
7. To utilise the Byelaw making provisions afforded to D&S IFCA as set out in sections 155, 156 and 158 Marine and Coastal Access Act 2009.
8. To revoke the Mobile Fishing Permit Byelaw (introduced in 2014) and introduce the Mobile Fishing Permit Byelaw 2022 (with identified required changes and improvements)
9. To add new management measures to both categories of the Permit Conditions.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

0. Do nothing (retain the Mobile Fishing Permit Byelaw – introduced in 2014)
1. Revoke the Mobile Fishing Permit Byelaw (2014) and replace it with voluntary measures.
2. Create a new Mobile Fishing Permit Byelaw 2022 and retain existing management measures (within the Permit Conditions).
3. Create a new Mobile Fishing Permit Byelaw 2022 and make changes to the Permit Conditions (from a structure only perspective)
4. Create a new Mobile Fishing Permit Byelaw 2022 and make changes to the structure and the management measures within the associated Permit Conditions.

All options are compared to Option 0, the preferred option is Option 4.

Will the policy be reviewed? Yes. If applicable, set review date: The Mobile Fishing Permit Byelaw 2022 will be reviewed no later than five years after the byelaw comes into force.

Does implementation go beyond minimum EU requirements?			Yes		
Are any of these organisations in scope?	Micro Yes	< 20 Yes	Small Yes	Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

I have read the impact assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits, and impact of the leading options.

Signed by the Chair of the Authority

Date: xxxx

Summary: Analysis & Evidence Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV) (£)		
2016	2016	10 ¹	Low:	High:	Best Estimate:
					-

COSTS (£)	Total Transition (Constant Price) Years		Average Annual (excluding transition) (Constant Price)	Total Cost (Present Value)
Low	6500	5 years	1300	2600
High	8200		1640	3880
Best Estimate				-

Description and scale of key monetised costs by 'main affected groups'

The Mobile Fishing Permit Byelaw 2022 builds upon the current Mobile Fishing Permit Byelaw 2014 and therefore only new monetised costs are referred to in this Impact Assessment.

Fees for a Permit

The Mobile Fishing Permit Byelaw 2022 sets out that the Authority may charge a fee for a Permit in accordance with Section 156(4) Marine and Coastal Access Act 2009 (as amended). The exact cost of each Permit is not stated as a figure in the Byelaw; however, it has been established that a fee can only be charged to offset administration costs incurred by the Authority. The Authority (Byelaw and Permitting Sub-committee decision) have recommended an increase in fees from £20 to £40 for each Permit that can remain valid for a period of up to two years. Costs associated with the permit-based byelaw model include Officer time to cross check permit applications and the subsequent issuing of the permits to successful applicants. Other administration costs include printing of the permits and associated Annexes (charts) in hard copy format. The Byelaw provided the flexibility for the Authority to vary the cost of a permit however it is expected that the cost of the permits will remain at £40 until the next review of the Byelaw.

This Impact Assessment does not account for the cost burden to the Authority associated with consultation and the advertising of the Mobile Fishing Permit Byelaw 2022, or the management, research, monitoring and enforcement of the Byelaw.

Other key non-monetised costs by 'main affected groups'

Sand Eel Trawling

The Mobile Fishing Permit Byelaw 2022 does include a Schedule No.2 that is relevant to trawling for sand eel and this is the only form of mobile fishing activity that is not managed via the two types of permits. The Schedule No.2 lists conditions that are tailored to both commercial and recreational fishers and these go beyond the control measures present in the original Mobile Fishing Byelaw (see

¹ The standard timeframe for analysis is 10 years unless the situation requires a different amount of time for example the benefits will occur over a much longer period. If there is deviation from the standard 10 years this must be clearly explained in the main evidence section

evidence base). The conditions within the Schedule No.2 limit the activity, rather than prohibit the activity, and could be seen by fishers to be a non-monetised cost as fishing opportunity and the catch taken by recreational fishers would be more restrictive.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				
High				
Best Estimate	0		0	0

Description and scale of key monetised benefits by ‘main affected groups’

The Mobile Fishing Permit Byelaw 2022 introduces a revised review process for changes to the Permit Conditions which will potentially provide a monetised benefit to the Authority and by extension the local authorities and Defra that contribute to the Authority’s Revenue Budget. There are times when changes to the Permit Conditions are required due to changes to national legislation. Byelaws (and the associated Permit Conditions) cannot be less restrictive than national legislation and therefore imposed changes to avoid an ultra vires scenario should not be hampered via a relatively long, consultation process that in effect is a notification of change. The revised review process caters for this eventuality and will reduce costs, however; the monetised benefit cannot be accurately estimated.

The Mobile Fishing Permit Byelaw 2022 includes an exemptions clause that widens the scope for the issue of authorisations relating to maintenance. Although it is not possible to accurately quantify the potential monetary benefits to vessel owners, masters and crew, the exemptions clause will produce a monetised benefit. Maintenance activity is hindered by the meanings of the Interpretations within the Byelaw. Interpretations such as “fishing” or “mobile fishing gear” impede the ability of vessels to conduct gear maintenance at sea within the District and these vessels must therefore transit to areas outside of the District.

Fishers often have a legitimate need to conduct maintenance activity at sea. The exemptions clause will enable the Authority to potentially issue authorisations (with conditions) for maintenance. The Authority will be able to determine the suitability of the authorisation request and consider what types of maintenance are suitable, where within the District it can be conducted and at what time it can take place.

Depending on the types and suitability of maintenance required, the exemption clause in the Byelaw (a granted authorisation) will remove the need for mobile fishing vessels to transit to areas outside the District to conduct essential maintenance work; thereby losing fishing time taken for the repairs, spending more money on fuel and increasing their carbon footprint.

Other key non-monetised benefits by ‘main affected groups’

The structure, layout and revised presentation of the Byelaw represent non-monetised benefits. All readers of the Byelaw benefit from the use of capitalised bold italic font that is present within the Byelaw to clearly demonstrate key words (the Interpretations) and avoid confusion regarding the meaning of different words and their context within the paragraphs. The same styling idea is present within both categories of the Permit Conditions. The Annexes (charts) that accompany the Permit Conditions have improved presentation and are consistent with Inspire Regulation requirements.

Other non-monetised benefits for the Authority and stakeholders relate to the scope of the Byelaw and its expansion to enable additional management measures to be added within the Permit Conditions. The Authority has recognised its duties and objectives of Marine Policy (South and South West Marine Plans) with the inclusion of management that extends to mariculture and heritage asset sites. Relevant sections of the Permit Conditions, in conjunction with Annexes, prohibit mobile fishing activity in specified coastal mariculture sites and a historical wreck site (the South Australian Heritage Assets Site) within the District.

Key assumptions/sensitivities/risks**Discount rate (%)**

3.5

Dredge Gear (at sea)

The Category One (at sea) Permit Conditions restrict the use of dredges at sea within the District. The dredge type that has been authorised for use in the District as set out within a Category One Permit (also subject to spatial conditions) is based upon the type used by fishers that target scallops. The restrictions for gear type (a dredge) make no allowance for the differing types of dredge gear that in theory may be operated at sea to target different sea fisheries resources. Fishers wishing to use dredges to target other species such as clams or mussel (at sea) would only be able to operate dredge gear that is normally used to target scallop and authorised via the Category One Permit. There is evidence that one fisher has in the past operated dredges suited to target clams; however, this fisher no longer has a Category One Permit. There are no other fishers that operate alternative types of dredges.

The inability for fishers to potential operate alternative types of dredges, could result in a monetised cost to those fishers from lost income, however this is impossible to quantify. In the event of a new fishery emerging, the flexibility afforded by the permit conditons allows the Authority to consider changes to Permit Conditons to accommodate other types of dredges if required.

MPA Spatial Restrictions

The additional spatial restrictions set out in the Permit Conditions are required to protected sensitive designated features of MPAs from the interaction of demersal mobile fishing gears. The available evidence that has been considered by the Authority leads it to assume that demersal mobile fishing activity does not take place in these areas.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £:			In scope of OI30?	Measure qualifies as
Costs	Benefits 0	Net –	No	N/A

Evidence base

1. Introduction

This Impact Assessment is for the Mobile Fishing Permit Byelaw 2022 developed by Devon and Severn Inshore Fisheries and Conservation Authority (D&S IFCA). The Mobile Fishing Permit Byelaw 2022 builds upon the existing Mobile Fishing Permit Byelaw that came into force in 2014

and will be revoked as part of this process. For the development of the Mobile Fishing Permit Byelaw 2022, the Authority has continued with its approach of using a permit-based model that provides flexible, adaptive, and inclusive management of mobile fishing activity. The Byelaw utilises the provisions provided by Sections 156 and 158 of the Marine and Coastal Access Act 2009 and the key management measures are located within the Permit Conditions, that can be amended via a review process. The Permit Conditions that are issued to fishers have, to a large degree, been maintained with no material changes; however, the additional management measures are explained in this Impact Assessment. All the Permit Conditions will be reviewed when necessary and within a time not exceeding three years. The cost for a Permit will be £40, with each Permit valid up to two years.

The Mobile Fishing Permit Byelaw 2022 includes a Schedule (No.2) that sets out conditions for sand eel trawling. This is the only type of mobile fishing activity that is not directly managed via the associated Permit Conditions. It also remains as the only form of mobile fishing activity that can be undertaken on a recreational basis. The conditions of use for sand eel trawling are not flexible; however, the Byelaw (including these conditions) can be reviewed when necessary and will be reviewed within a time not exceeding five years after its in-force date.

2. Rationale for government intervention

D&S IFCA has duties specified in the Marine and Coastal Access Act 2009. To meet those duties and to manage fishing activity, D&S IFCA has different management options at its disposal including the use of Byelaws and voluntary measures. The existing Mobile Fishing Permit Byelaw has been used to manage mobile fishing activity since its introduction in 2014. The existing Byelaw harmonises with national legislation and where required goes beyond national measures to provide localised management of mobile fishing. The current management measures that have been introduced by the Authority helps to effectively monitor mobile fishing activity in different parts of the District including Marine Protected Areas (MPAs). Most of the management measures are set out within the two differing types of Permit Conditions (Category One – at sea and Category Two – Estuaries) and where appropriate the conditions have recognised formal advice from Natural England during their development.

The review of the Mobile Fishing Permit Byelaw (introduced in 2014) has highlighted that changes are required which can only be addressed by revocation of the Byelaw and the making of another (a replacement). Policy objectives cannot be achieved via the use of voluntary measures and therefore the use of voluntary measures has not been determined to be a credible option. The Mobile Fishing Permit Byelaw 2022 will build from the original and is the preferred option. During the review period the Authority has also determined that amended Permit Conditions are required to manage the fishing activity. The formal consultation of the Byelaw offers the opportunity for changes to the Permit Conditions to be highlighted (as a package) alongside the new proposed Mobile Fishing Permit Byelaw 2022.

3. Policy objectives and intended effects

D&S IFCA must not only review all its inherited Byelaws (legacy measures), but it must also review newer Byelaws it has introduced as an IFCA. The original Mobile Fishing Permit Byelaw (introduced in 2014) has enabled the Authority to meet its policy objectives and the principles that have been developed for the management of fishing activity. The existing Permit Conditions have been amended on several occasions via the review of permit condition process set out within the overarching Byelaw

which has saved time and money compared to revocation and re-making of the Byelaw. Due to the types of changes required, it is now appropriate to remake the Mobile Fishing Permit Byelaw.

The policy objectives, suited to the development of the original Mobile Fishing Permit Byelaw are applicable to the remake of the Byelaw and include, but are not limited to, the following:

- To continue with a flexible management approach incorporating conditions of use based on the provisions as set out within Sections 155, 156 and 158 of the Marine and Coastal Access Act 2009 (MaCAA).
- To continue with an inclusive type of management that enables stakeholders to engage with the Authority regarding the management measures and potential changes to them.
- To be able to adapt to change in a timely way.
- To be equipped to recognise and react to changing circumstances or evidence as documented in environmental assessments and the advice received from Natural England relating to such assessments.

Changes and intended effects (new effects)

3.1 Style, presentation, and structure:

Capitalised, italic, and bold font has been used within the Byelaw and both categories of Permit Conditions. This is to help all readers navigate through the documents and to provide greater clarity regarding key words (interpretations) and their meaning within each relevant paragraph.

The Authority when issuing a Permit has the power to include, prohibitions, restrictions, or requirements as a condition of the Permit provided the prohibitions, restrictions or requirements are within the Provisions that may be made by a byelaw contained in Sections 156 and 158 of MaCAA. As the Permit Conditions include a range of management measures, new sub-titles have been used, in conjunction with revised paragraph numbering to help separate different sections of the Permit Conditions.

Charts associated with Annexes that accompany the Permit Conditions have been updated with assistance from the University of Southampton and are consistent with Inspire Regulation requirements. Other new Annexes include guidance and images that help to explain how to measure marine organisms.

The Byelaw provides the mechanism to issue different types of Permits – Category One (at Sea) and category Two (Estuaries). To be able to separate the Permit Categories, each estuary must firstly be defined, irrespective of any fishing opportunity that may be authorised within each estuary. Schedule No.1 in the Byelaw delivers this requirement and for completeness a greater number of estuaries have been included in the table detailing each estuary closing line. This change represents no material change to fishers.

3.2 Review Procedure for the Permit Conditions:

The review procedure remains a robust and transparent process. All intended changes to the Permit Conditions are fully documented and consultation with stakeholders is the cornerstone of this management approach. The decision making of the Authority (the Byelaw & Permitting Sub-Committee) is conducted in meetings open to the public, with papers and minutes from those

meetings available on the website as part of the Authority's Publication Scheme. A change to the established review process relates to forced changes due to amendments to national legislation. Byelaws (and by extension the Permit Conditions) cannot be less restrictive than national legislation and although attempts are made to avoid duplication, there are times when national and local management are similar or the same. A review of the Permit Conditions, that includes consultation, is a thorough process and is time consuming. It is not in the interests of stakeholders or D&S IFCA's resources, if time is taken consulting on a change that must be made to harmonise with changes to national legislation. An amended review of the Permit Condition process within the Byelaw allows for changes to the Permit Conditions without consultation if this situation arose

3.3 Fees:

The Authority may charge a fee for a Permit in accordance with Section 156(4) MaCAA and the Byelaw specifies this within its provisions. The Authority intends to set a fee of £40 for a Permit and each Permit can remain valid for up to two years. The £40 fee is for administration and will help to offset costs incurred by the Authority for operating the permit-based model. Administration costs include the offsetting of a proportion of the salary paid to D&S IFCA's Marine Development Officer, whose job role includes cross checking of permit applications, issuing of Permits and maintaining secure databases. Other costs include some printing or documentation in hard copy format. The Byelaw provided the flexibility for the Authority to vary the cost of a permit however it is expected that the cost of the permits will remain at £40 until the next review of the Byelaw.

3.4 Sand eel trawling:

The management of sand eel trawling is the only form of mobile fishing that is directly managed by the Byelaw, with conditions set out in Schedule No.2. Sand eel trawling continues to be the only form of mobile fishing that can be undertaken by recreational fishers within the District, subject to the conditions. During the development of the Mobile Fishing Permit Byelaw 2022, it was envisaged that sand eel trawling may be suited for management via new categories of Permits. This concept and the proposed restrictions for both commercial and recreational fishers were highlighted in pre-consultation conducted during 2019 and 2020. The consultation findings were documented and informed D&S IFCA's Byelaw and Permitting Sub-Committee's (B&PSC) decision making. All Officers' papers, reports presented to and considered by the B&PSC and minutes from those meetings are published on the Authority's website (Section B of the website Resource Library/publication scheme). Although attempts were made to continue drafting work with a view to creating additional categories of Permit Conditions specific to sand eel trawling (Category Three and Category Four), this was later abandoned as the relatively small number of restrictions were more suited for inclusion within the Byelaw itself. This fishing opportunity, without a Permit, is limited to vessels that are below seven metres in overall length, as per the existing regulations as set in the Mobile Fishing Permit Byelaw (2014).

New conditions for recreational fishers include a catch limit of 15kg of sand eel per calendar day and the catch must be intended for personal use. Other new restrictions for recreational fishers includes prohibitions on pair trawling, and the prohibition of mechanical assistance for hauling the trawl coupled with a restriction relating to the storage of the catch. Regarding tailored management for different fishing sectors (commercial and recreational fishers), the Authority has taken the view that the separation of different users (and appropriate restrictions for different groups) is not discriminatory; instead, it is a justified approach to secure the correct balance for different fishery users who have different needs. The Authority has taken the view that recreational catch restrictions are appropriate and are proportionate measures to apply.

New restrictions relevant to both commercial and recreational fishers include a prohibition on fishing after sunset and a prohibition on fishing on designated areas of seagrass. The size of trawl (cod end) will be 16mm, so it does not conflict with other legislation.

3.5 Exemptions Clause:

Defra has previously advised the Authority that all new byelaws developed by the Authority should include an exemptions clause set out in each new byelaw. Exemptions can be of benefit to both the Authority and stakeholders and enable activity to take place that would otherwise be in contravention of one of the Authority's byelaws or a permit condition established under that byelaw. Typically, exemption clauses limit authorisations (that can be issued by the Authority) to any person conducting scientific, stocking, or breeding purposes; however, this limited scope is considered too restrictive by the Authority.

The Mobile Fishing Permit Byelaw 2022 includes an exemptions clause that widens the scope for the issue of authorisations relating to maintenance which, although not quantifiable, will be beneficial to the Authority, the Fishing Industry and the wider environment.

Maintenance activity is hindered by the meanings of the Interpretations within the Byelaw. Interpretations such as "fishing" or "mobile fishing gear" impede the ability of vessels to conduct gear maintenance at sea within the District and these vessels must therefore transit to areas outside of the District.

Fishers often have a legitimate need to conduct maintenance activity at sea. The exemptions clause will enable the Authority to potentially issue authorisations (with conditions) for maintenance. The Authority will be able to determine the suitability of the authorisation request and consider what types of maintenance are suitable, where within the District it can be conducted and at what time it can take place.

Depending on the types and suitability of maintenance required, the exemption clause in the Byelaw (a granted authorisation) will remove the need for mobile fishing vessels to transit to areas outside the District to conduct essential maintenance work; thereby losing fishing time taken for the repairs, spending more money on fuel and increasing their carbon footprint.

3.6 Category One Permit Conditions:

Areas of change regarding restrictions on fishing activity at sea include spatial management and authorised gear type.

Marine Conservation Areas

New spatial restrictions have been developed for the following Marine Protected Areas (MCZ):

- Hartland Point to Tintagel MCZ
- Bideford to Foreland Point MCZ
- Morte Platform MCZ

Section 154 MaCAA sets out the Authority's statutory duties relating to the protection of Marine Conservation Zones (MCZs). Discussions and decision making of the D&S IFCA's Byelaw and Permitting Sub-Committee (B&PSC) relating to access for mobile fishing gear vessels within the MCZ areas listed above have been on-going since 2019. Decision making has been recorded and used to

inform drafting work and the subsequent Officers' papers support further decision making of the B&PSC. Detailed Officers' papers relating to access to the above MCZ areas were discussed by D&S IFCA's B&PSC on 9th June 2022. Each of the Officers' papers provided detailed background information and highlighted the content of the MCZ Assessments undertaken by D&S IFCA and the Formal Advice provided by Natural England. The Officers' papers set out the rationale for recommendations (management measures) which were considered by the B&PSC. The decision making of the B&PSC has been recognised in the drafting work and the new Permit Conditions that have been developed for consultation.

All three MCZ areas restrict demersal mobile fishing activity. Access is dependent on the designated features and habitat that are present and the risks that different gear types present to them. Greater access is provided for demersal trawl gear compared with dredge gear, due to where the activity is taking place and the sensitivity of the features or habitats, and this is clearly set out within the relevant paragraphs of the Category One Permit Conditions. Monitoring and Control Plans (M&CPs) are used where assessments have identified that more data are required and gathering these data is made possible because all mobile fishing vessels (at Sea) operating in D&S IFCA's District have remotely accessed electronic reporting devices fitted.

All information presented to the B&PSC to inform their decision making, including the relevant MCZ Assessments and Natural England's Formal Advice, is available to view and download on the Authority's website. Section B of the Resource Library also includes all minutes taken at B&PSC meetings.

Coastal Mariculture Sites

D&S IFCA has produced and published a Mariculture Strategy which represents the first steps in developing a sustainable mariculture industry in the D&S IFCA's District. The strategy outlines a set of key actions, one of which is the consideration to protect to protect mariculture sites within the D&S IFCA's District' from potential damage caused by mobile fishing vessels. The proposed Category One Permit Conditions prohibit access to vessels operating demersal mobile fishing gear in three mariculture sites as defined in the Annex. Further mariculture sites can only be added to the Annex following the Permit Condition review process.

The inclusion of this additional spatial management recognises D&S IFCA's duty under Section 153(2)(c) of MaCAA (sustainable development) and the Fisheries Act 2020 sustainability objective. Relevant policy objectives of both the South and South West Marine Plans have been referenced later in this Impact Assessment.

Heritage Assets Sites

Under Part 1 Chapter 1 Section 186 of MaCAA, the interpretation of 'marine environment' includes features of archaeological and historic interest when considering the duties of IFCAs. D&S IFCA has engaged with Historic England who has provided details of the protected and scheduled wrecks that lie within D&S IFCA's District.

The Protection of Wrecks Act 1973 allows the Secretary of State to designate a restricted area around a wreck to prevent uncontrolled interference. These protected areas are likely to contain the remains of a vessel, or its contents, which are of historical, artistic or archaeological importance. Scheduling is the oldest form of heritage protection. It began in 1913, although its roots go as far back as the 1882

Ancient Monuments Protection Act, when a 'Schedule' (hence the term 'scheduling') of almost exclusively prehistoric monuments deserving of state protection was first compiled.

Of the fifteen historic wreck sites within the coastal waters of D&S IFCA's District, thirteen lie within estuaries or in intertidal areas or already protected by prohibitions to demersal fishing gear under D&S IFCA's Mobile Fishing category Two Permit Conditions.

On 9th June 2022 the B&PSC concluded that one of the two sites at sea would be at risk of interaction and damage by mobile fishing vessels. The proposed Category One Permit Conditions prohibit access to defined Heritage Assets Sites (as detailed in the Annexes that accompany the Permit Conditions). It is proposed that the 'South Australian' wreck off Lundy Island in the Bristol Channel is the only site that is included within the Annex. Any further Heritage Assets Sites can only be added to the Annex following the Permit Condition review process.

Dredge Gear

The Category One (at sea) Permit Conditions restrict the use of dredges at sea within the District. The dredge type that has been authorised for use in the District as set out within a Category One Permit (also subject to spatial conditions) is based upon the type used by fishers that target scallops. The restrictions for gear type (a dredge) make no allowance for the differing types of dredge gear that in theory may be operated at sea to target different sea fisheries resources. Fishers wishing to use dredges to target other species such as clams or mussel (at sea) would only be able to operate dredge gear that is normally used to target scallop and authorised via the Category One Permit. There is evidence that one fisher has in the past operated dredges suited to target clams; however, this fisher no longer has a Category One Permit. There are no other fishers that operate alternative types of dredges. The inability for fishers to potential operate alternative types of dredges, could result in a monetised cost to those fishers from lost income, however this is impossible to quantify. In the event of a new fishery emerging, the flexibility afforded by the permit conditons allows the Authority to consider changes to Permit Conditons to accommodate other types of dredges if required. The formal consultation may identify fishers that have an interest using dredge gear that is not authorised as set out in the proposed Category One Permit Conditions.

3.7 Category Two Permit Conditions:

The existing Category Two Permit Conditions included provisions intended to manage mobile fishing activity in the Exe Estuary, Salcombe Estuary, Teign Estuary and the Dart Estuary.

The Exe Estuary

Regarding the Exe Estuary, the type of equipment that is authorised (an elevator dredge) will be based on equipment that has been previously operated in this area and assessed in a European Marine Site Habitats Regulations Assessment (HRA). The Category Two Permit Conditions set out that the specification of what type of elevator dredge is "approved by the authority" and this will be confirmed in writing. An additional impact on fishers operating within the Exe Estuary is the requirement to submit catch information relating to mussel taken in a calendar year and notification to the Authority relating to the start of fishing in a calendar year. Both these new provisions will enable the Authority to better monitor fishing activity in the Exe Estuary and the levels of stock taken from the public fishery.

The Teign Estuary

The Teign has no designations from an environmental perspective and no activity in the Teign Estuary has been authorised via the current Category Two Permit Conditions as there is no fishing in the public areas. Activity can only take place in the area defined by The River Teign Mussel Fishery Order 1966 as varied by The Mussel Fishery (Variation) Oysters Order 1996. The Authority has no management responsibilities for this area (private fishery) that would result in conditions needing to be placed in a Category Two Permit. Therefore, mobile fishing activity remains prohibited in the public fishery in the Teign Estuary.

The Dart Estuary

The limited use of one mussel dredge by a vessel below seven metres overall length is currently authorised in the Dart Estuary in existing Category Two Permit Conditions. Conditions include the following:

- No fishing is authorised on bank holidays
- No fishing is authorised on weekends
- Fishing is only authorised between 0800 hrs and 1800 hrs local time
- Fishing is authorised between 1st October and 31st March inclusive

The above restrictions originated from stand-alone byelaws inherited from Devon Sea Fisheries (DSF). The restrictions were transferred into the Mobile Fishing Permit Byelaw (Category Two Permit Conditions) and the legacy measures were revoked. As the conditions were developed from inherited measures, no formal environmental assessment was undertaken.

Since 2014, no fishers have taken advantage of a Category Two Permit to dredge (with conditions) for mussel in the Dart. In 2019 the B&PSC discussed an Officers' planning paper and concluded that conditions relating to mussel dredging in the Dart Estuary be removed from any re-made Permits. Therefore, mobile fishing activity will be prohibited in the Dart Estuary.

The permit-based model provides flexibility and 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 the Authority could examine the potential for the activity to re-commence (as per a review and changes to the Category Two Permit Conditions).

The Salcombe Estuary

The review of the Mobile Fishing Permit Byelaw and the associated Category Two Permit Conditions has highlighted an oversight regarding the size of a dredge that can be used by fishers within Salcombe Estuary targeting scallops. The existing conditions conflict with national legislation and the proposed conditions will address an ultra vires situation that exists by reducing the maximum width of an authorised dredge size to 85cm. Engagement with fishers (Permit Holders) has made them aware of the issue and the fishers have already adapted their fishing equipment to be compliant with national legislation. The ability for the Authority to correct oversights or make forced changes due to amendments to national legislation is currently hindered by the length of time required to fulfil all aspects of the existing review procedure to change permit conditions. This weakness, as discussed in Section 3 of this Impact Assessment, can be addressed with implementation of the Mobile Fishing Permit Byelaw 2022. Other than presentational changes to an Annex (chart for Salcombe Estuary)

there are no other material impacts for fishers operating within Salcombe Estuary under a Category Two Permit.

4. The options

0. Do nothing (retain the Mobile Fishing Permit Byelaw – introduced in 2014)
1. Revoke the Mobile Fishing Permit Byelaw (2014) and replace it with voluntary measures.
2. Create a new Mobile Fishing Permit Byelaw 2022 and retain existing management measures (within the Permit Conditions).
3. Create a new Mobile Fishing Permit Byelaw 2022 and make changes to the permit conditions (from a structure only perspective)
4. Create a new Mobile Fishing Permit Byelaw 2022 and make changes to the structure and to the management measures within the associated Permit Conditions.

All options are compared to Option 0, the preferred option is Option 4.

Option 0: (Do nothing (retain the Mobile Fishing Permit Byelaw – introduced in 2014)

The option of do nothing and retain the existing Mobile Fishing Permit Byelaw (from 2014) is not appropriate; however, the need for a permit-based byelaw to manage the activity of mobile fishing remained. The complexity that surrounds mobile fishing activity, including its scale, the harmonisation needed between local management and national legislation, and the multiple and differing risks associated with non-compliance are all contributing factors to the conclusion that voluntary measures could not be considered as a credible option.

Option 1: (Revoke the Mobile Fishing Permit Byelaw (2014) and replace it with voluntary measures).

The Authority must manage mobile fishing activity and has already introduced legislation, rather than developing voluntary measures. Although revocation of the current Mobile Fishing Permit Byelaw is appropriate, replacing it with voluntary measures is not a credible option. The scale of the activity, its complexity, and the need to spatially manage the mobile fishing fleet and prevent unauthorised fishing activity within the Marine Protected Areas (MPAs) is not possible without legislation.

Option 2: (Create a new Mobile Fishing Permit Byelaw 2022 and retain existing management measures (within the Permit Conditions)).

The Authority was made aware of potential changes that could be made to the original Byelaw and this would only be possible by its revocation and a re-making of it. This option (in part) would have delivered some of the policy objectives; however, the Permit Conditions are very much interlinked with the overarching Byelaw. This option would have severely limited the scope for change or risk impeding the functionality and legality of the associated Permit Conditions. Wording, including the interpretations within the Byelaw, sets up the wording and paragraph structuring in the Permit Conditions. It was appropriate to review both the overarching Byelaw and the associated Permit Conditions at the same time and therefore Option 2 is not appropriate.

Option 3: (Create a new Mobile Fishing Permit Byelaw 2022 and make changes to the permit conditions (from a structure only perspective))

The making of a new Mobile Fishing Permit Byelaw 2022, with compatible Permit Conditions was a credible option, but not the most efficient option. This option would have enabled changes to be made to all aspects of the Byelaw to meet key objectives. The Authority would have been able to re-issue Permit Conditions, that although re-styled would initially contain no material changes

regarding restrictions for fishers. The work needed to make potential changes to the re-issued Permit Conditions (management measures) could have been delayed until after the new Byelaw was in place. The review of the Permit Conditions is not without its demands on resources. During the time taken to develop a new Mobile Fishing Permit Byelaw 2022, Officers have highlighted changes to management measures (within the Permit Conditions) that are also required. It is therefore more cost and time efficient to consult on both the making of a new Byelaw and new Permit Conditions at the same time as set out in Option 4.

Option 4: (Create a new Mobile Fishing Permit Byelaw 2022 and make changes to the structure and to the management measures within the associated Permit Conditions).

This option is time and cost-efficient and is the Authority's preferred option. Advertising the making of the Mobile Fishing Permit Byelaw 2022 is relatively expensive and in this instance, it is logical to consult on the proposed changes to both Categories of the Permit Conditions at the same time as the Byelaw. Highlighting all changes in this Impact Assessment will help all stakeholders fully understand the changes and provide opportunity for them to comment on all aspects of proposed changes during the formal consultation.

5. Analysis of costs and benefits

Costs and benefits have been set out above.

One in Three Out (OITO)

OITO is not applicable for Byelaws as they are local government Byelaws introducing local regulation and therefore not subject to central Government processes.

Public goods and services: A number of goods and services provided by the marine environment such as natural capital and biological diversity are 'public goods' (no-one can be excluded from benefiting from them, but use of the goods does not diminish the goods being available to others). The characteristics of public goods, being available to all but belonging to no-one, mean that individuals do not necessarily have an incentive to voluntarily ensure the continued existence of these goods which can lead to under-protection/provision.

- D&S IFCA must seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way.

Negative externalities: Negative externalities occur when the cost of damage to the marine environment is not fully borne by the users causing the damage. In many cases no monetary value is attached to the goods and services provided by the marine environment, and this can lead to more damage occurring than would occur if the users had to pay the price of damage. Even for those marine harvestable goods that are traded (such as wild fish), market prices often do not reflect the full economic cost of the exploitation or of any damage caused to the environment by that exploitation.

- D&S IFCA must seek to balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from, or promote the recovery from, the effect of such exploitation.

Common goods: A number of goods and services provided by the marine environment such as populations of wild fish are 'common goods' (no-one can be excluded from benefiting from those goods however consumption of the goods *does* diminish that available to others). The characteristics of common goods (being available but belonging to no-one, and of a diminishing quantity), mean that individuals do not necessarily have an individual economic incentive to

ensure the long-term existence of these goods which can lead, in fisheries terms, to potential overfishing. Furthermore, it is in the interest of each individual to catch as much as possible as quickly as possible so that competitors do not take all the benefits. This can lead to an inefficient amount of effort and unsustainable exploitation.

- D&S IFCA must seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.

In summary, the Byelaws introduced by the Authority aim to redress these sources of market failure in the marine environment.

6. Environmental Impact

The Mobile Fishing Permit Byelaw 2022 (and the associated Permit Conditions) lessens environmental impact. The Permit Conditions enable the Authority to spatially manage the mobile fishing fleet and effective monitoring and enforcement prevents unauthorised fishing activity within the Marine Protected Areas (MPAs). Other benefits include recognising climate change. Existing areas of sea grass remain protected and expanding sites are recognised in the amended Permit Conditions. Seagrass beds are a productive and diverse ecosystem which are important for coastal biodiversity and are of considerable economic and conservation importance. They provide a range of environmental services and contribute to the primary productivity of oceans via photosynthesis. The proposed exemptions clause with the inclusion of maintenance can lower the carbon footprint of fishing vessels that need to conduct maintenance activity at sea.

7. Other Material Considerations

As per Section 58(3) of MaCAA, D&S IFCA must have regard to the South and South West Marine Plans when undertaking any decision which is not an authorisation or enforcement decision. By definition, as per Section 58(4) of MaCAA, a Byelaw and the associated Permit Conditions would fall under the definition of ‘authorisation or enforcement decision’.

It is the view of the Authority that the Mobile Fishing Permit Byelaw 2022 will not have an adverse impact on the South Inshore Marine Plan or the South West Inshore Marine Plan and will be compliant with the objectives set out within those plans. Although they are not all key drivers for the development of the Mobile Fishing Permit Byelaw 2022, Marine Plan objectives are recognised either directly or indirectly. For example, spatial management of mobile fishing activity helps to reduce gear conflict to the benefit of aquaculture businesses and the development of this fishing sector. Another example would include the proposed wider scope of the exemptions clause (to include maintenance). The ability for the Authority to issue an authorisation for controlled localised maintenance at sea (with conditions) will avoid vessels having to transit outside of the District to conduct suitable types of maintenance. This will lower their carbon footprint and therefore supports objectives relating to the impacts of climate change.

South Marine Plan

Objective 1:

To encourage effective use of space to support existing, and future sustainable economic activity through co-existence, mitigation of conflicts and minimisation of development footprints. Specifically - S-CO-1 and S-AQ-1.

Objective 2:

To manage existing, and aid the provision of new, infrastructure supporting marine and terrestrial activity. Specifically - S-AQ-2.

Objective 3:

To support diversification of activities which improve socio-economic conditions in coastal communities. Specifically - S-FISH-1 and S-TR-1.

Objective 5:

To avoid, minimise, mitigate displacement of marine activities, particularly where of importance to adjacent coastal communities, and where this is not practical to make sure significant adverse impacts on social benefits are avoided. Specifically - S-FISH 2 and S-FISH 3.

Objective 7:

To support the reduction of the environment, social and economic impacts of climate change, through encouraging the implementation of mitigation and adaption measures that:

- Avoid proposals' indirect contributions to greenhouse gas emissions
- Reduce vulnerability
- Improve resilience to climate and coastal change
- Consider habitats that provide related ecosystem services

Objective 8:

To identify and conserve heritage assets that are significant to the historic environment of the south marine plan areas. The additional protection that the Mobile Fishing Permit Byelaw 2022, (Permit Conditions) provides to identified heritage asset sites clearly supports this objective.

Objective 10:

To support marine protected area objectives and a well-managed ecologically coherent network with enhanced resilience and capability to adapt to change. Specifically - S-MPA-1, S-MPA-2, S-MPA -3, and S-MPA-4.

South West Marine Plan

The topics, policy codes, text and aims set out in the South West Marine Plan are similar to those within the South Marine Plan. The Mobile Fishing Permit Byelaw 2022 does not detract from the objectives and either directly or indirectly recognises objective topics such as:

- Co -existence - SW-CO1
- Aquaculture -SW-AQ – (more than one code)

As with the South Marine Plan, the Mobile Fishing Permit Byelaw 2022 is compatible with objectives relating to:

- heritage assets
- fisheries
- marine protected areas
- climate change.

End.