

Review of the Netting Permit Conditions

1. Foreword

The decision making of B&PSC will identify which specific items go forward to formal consultation. In preparing their recommendations, Officers have considered a range of factors and information. The Officers' recommendations recognise, but also go beyond the key themes identified in the pre-consultation response by stakeholders.

The Officers' recommendations (1.1 to 1.6) set out potential material changes to the management measures for netting, rather than maintaining the status quo. However, Members can discuss all elements of the current management measures, including those that relate to estuary netting and the coastal headline restrictions. Members can formulate their own motions that are different to or go beyond the Officers' recommendations.

Changes will be required to the Netting Permit Conditions to add clarity to specific paragraphs and to improve presentation (including the Annexes that accompany the Permit Conditions). The Byelaw Technical Working Group (BTWG) will assist Officers with the required drafting work.

When the formal consultation ends, the responses will be collated, and a report will be produced for the B&PSC. At that stage the B&PSC will determine what material changes to the Netting Permit Conditions are required. Officers will then undertake re-drafting work with support from the BTWG.

2. Officers' Recommendations

1. That formal consultation is undertaken on the following changes to the Netting Permit Conditions as set out below:

1.1 Extending the bag limit for Category Two Netting Permits to include the species of sand eel with limits applied per calendar day of 15kg.

1.2 Extending the bag limit for Category Two Netting Permits to include a finfish bag limit of ten plaice, five sole, and three rays, per calendar day.

1.3 That the maximum length of net that can be operated at sea by a Category Two Permit Holder be increased from 25 metres to 50 metres.

1.4 That the combined net length used by Category Two Permit Holders on any single vessel is limited to 100 metres.

1.5 To prohibit commercial and recreational netting in the area defined in the Emsstrom Angling Code of Conduct.

1.6 To develop permit conditions relating to maximum soak times of nets.

3. Background & Officers Considerations

This Officers' paper should be read in conjunction with the following report (Agenda Item 7a):

- **Review of the Netting Permit Byelaw Permit Conditions – A Summary of Responses from the Have Your Say (A Review of the Netting Permit Conditions) Consultation – 18th August 2023.**

Officers have considered the responses submitted in the pre-consultation and provided additional commentary relating to the key themes and points made by stakeholders.

In preparing their recommendations for the B&PSC, Officers have considered a range of factors and information. As well as examining background information relating to the implementation of the Netting Permit Byelaw (and associated permit conditions), Officers have considered relevant new information such as the findings from research into bass survivability when caught and released from nets.

Officers have looked at available information from the SAMARCH work. Officers have also examined the content of the Bass Fisheries Management Plan, being circulated as part of a consultation by Defra, which has identified nine key goals to ensure effective management of bass stocks over the next six years.

The development of the Netting Permit Byelaw was fully documented in a single report that includes the Impact Assessments, hyperlinks to other relevant documentation, summary of past considerations and the views taken by the B&PSC during its development. Original policy drivers for the making of the Netting Permit Byelaw included:

- Protection of bass
- Balancing the needs of others catching sea fish species
- Protection of salmon and sea trout
- Achievement of sustainable development of the recreational angling sector

Other factors relevant to this review include:

- The capability of current technology to be used for effective management of netting.
- The resources available to D&S IFCA to effectively enforce the Permit Conditions.
- The position taken by the Authority regarding development of the Recreational Angling Sector (Angling Strategy Work)
- The effectiveness of voluntary angling zones.

In developing the Officers' recommendations, Officers considered what has changed to justify changes in management.

4. No Change

The pre-consultation highlighted some key themes, two of which were as follows:

- Access for netting within estuaries (including Salcombe Estuary).
- The headline clearance above fixed nets in coastal areas

Officers have considered these topics and a range of associated and relevant information. On balance Officers have concluded that there should be no material change in the existing management measures and therefore no requirement to formally consult on material changes.

4.1 Access for Netting Within Estuaries

As it stands, fixed and drift netting is prohibited in all estuary areas with the District. There is strong support for maintaining the current restrictions. One response from a commercial fisher provided suggestions for alternative forms of management to enable access for netting within Salcombe Estuary.

Current restrictions are well recognised and meet objectives and rationale for the introduction of the Byelaw. The present restrictions aid enforcement activity and the reporting of suspicious illegal activity. Technology (IVMS on all vessels and Remote Electronic Monitoring (REM)) is advancing but is not at a stage where it can be used effectively in the way it would need to be to accommodate limited and controlled access for netting within estuaries (or one estuary). Even with improved technology, it must be balanced against the drivers for introducing the Byelaw (& Permit Conditions) and the benefits the current management delivers.

Using a “what has changed” decision making process, Officers cannot find strong enough rationale to justify why there should be a change in management relating to estuary netting.

It is the Officers’ view that relaxation of the management measures that restrict netting in estuaries (albeit only Salcombe Estuary) is not a consideration that should be taken forward to formal consultation.

4.2 Three-Metre Headline Restriction

During the development of the Netting Permit Byelaw in 2016-18, information relating to the headline restriction (clearance of 3 metres/5 metres) was provided by the Environment Agency, examined by Officers, and considered by the B&PSC.

Responses in the consultation cited evidence acquired through the SAMARCH project. Officers attempted to seek further information from Bangor University and the Environment Agency, following the consultation, to determine the status of seatrout stocks. Additional limited information was provided relating to the behaviour of sea trout, but no further information was provided on sea trout stock status.

It is important to note that the introduction of the Netting Permit Byelaw added restrictions for coastal netting. The legacy measures (Devon Sea Fisheries Byelaw) enabled commercial netters to set a limited number of fixed surface nets within the defined coastal zones (a D&S IFCA Fixed Surface Net Permit). This permission for fixed surface nets was removed. The Netting Permit Byelaw resulted in a strengthening of the interpretation of a fixed net as set out in the Permit conditions – Interpretations. The interpretation means that drift nets must be operated in such a manner (and a location) as to avoid becoming fixed nets, and this has the effect of reducing the number of surface drift nets close to shore.

Permit Wording & Meaning

As highlighted in the report, there is a lack of clarity regarding the current wording in the Permit Conditions (paragraph 3.4). The present wording is as follows:

In the coastal areas as defined by the coordinates set out in the attached Annex 3 of this permit, a permit holder or named representative is only authorised to use a net where;

- a) the headline of the fixed net is set at least 3 metres below the surface of the water at any state of the tide;
- b) the net used is a seine net; or
- c) the net used is a drift net.

Current words such as “set” and “any state of the tide” can be read and interpreted in different ways. The management measure is in place so that at least 3 metres of water is provided above the headline of a fixed net (in specific areas) to assist the passage of salmon and sea trout. The permit condition is relevant when a fixed net is in position. D&S IFCA has received legal advice from its prosecution solicitor, which supports the application of the legislation set out above and is consistent with CIFCA’s approach.

Although not an attempt to re-draft paragraph 3.4 (a), the following words better describe the meaning of the present permit condition and how it is being interpreted.

“whilst the fixed net is in place the headline must be at least 3 metres below the surface of the water”.

- The BTWG can consider amendments for improved clarity, that will have no material effect on those operating nets, without the requirement for those changes to be subjected to formal consultation.

5. Restrictions for Recreational Fishers

The needs of commercial and recreational netters are different and the existing measures for recreational netters are relatively restrictive. Currently 65 Category Two (recreational) permits are issued, each costing £20, therefore there must still be value to some recreational fishers operating under these restrictions even though anecdotal information suggests otherwise.

The severity of the length restriction was recognised by a commercial fisherman as well as being highlighted by two recreational fishermen. In addition to the length restriction, a daily bag limit applies that consists of shellfish species. The Angling Trust commented that it is essential to preserve individuals' rights to gather and hunt for their own food and suggested that considering families rely on these resources (food for the table), the current limits (2 lobsters and 3 crab per calendar day) are low.

The current bag limit for shellfish was an Authority decision and based on a reasonable take for personal consumption. The level of crab and lobster that can be removed each calendar day and has been applied across other recreational permits – potting and diving.

It was recognised in the consultation that a bag limit for other species is not included in a Category Two Netting Permit. Officers recommend that a bag limit for other species is developed to balance a potential increase in the length of net that can be operated by a recreational netter.

The proposed Mobile Fishing Permit Byelaw includes a recreational bag limit for sand eel taken by a sand eel trawl of 15kg per calendar day. Officers recommend the same for a recreational sand eel seine net – used either at sea or within an estuary. For other types of net, Officers recommend a bag limit per calendar day for the following species:

- Ten plaice
- Three ray
- Five sole

This reflects the voluntary measures that are in place in the Skerries Bank Angling Zone code of conduct.

- Officers recommend that the maximum length of net that can be operated at sea by a Category Two Permit Holder be increased to 50 metres.

It is possible for Category Two Permit Holders to work together on a single vessel. D&S IFCA has produced Policy & Clarification documentation relating to the use of multiple Category Two Netting Permits on a single vessel.

Relevant wording from existing Policy is transcribed below:

Individual nets can be combined to form longer nets providing they are set and hauled while all individual permit holders are present. All individual tags must be fitted to the combined net and the combined net must be marked with all the relevant permit numbers that have been assigned to individual permits. The catch restrictions within the permit specify the total individual catch per person per calendar day. Total catch can also be combined if more than one permit holder is present. Netting permit holders may also have a valid permit for other fishing methods such as potting. Netting permit holders should be aware that the catch entitlement per calendar day specified in a Category Two netting permit can't be combined with catch entitlement per calendar day from other permits that may have been issued.

It is the Officers' view that Category Two Permit Holders should be able to continue to work together on a single vessel.

- The recommendation is that the combined net length on any single vessel is limited to 100 metres which would become a Permit Condition.

Permit Wording

Regardless of any change to the length of a recreational net, the wording within the Permit Conditions can be amended to add clarity. The Category Two Permit Conditions limit the length of a net, but do not state with or without attachments (e.g., bridles). It is the view of Officers that the length of netting does not include any attachments and the restriction is being enforced in that way.

- The BTWG can consider amendments, that will have no material effect on those operating nets, without the changes being subjected to formal consultation.

6. Angling Zones and Netting Restrictions

Officers are aware that there is a feeling from the recreational angling sector that the Authority should be doing more to balance differing needs.

Since 2015, three angling zones have been introduced in the District where voluntary codes of conduct apply. For the Burnham, Berrow and Brean Angling Zone and Emsstrom Angling Zone there is no netting. For the Skerries Bank Angling Zone there is no netting by vessels over 10m and no vessel can commercially target plaice by any method.

The existing Netting Permit Conditions do partially regulate the area at Burnham, Berrow and Brean (BBB) and netting is effectively prohibited from 1st April to 30th September. The area defined in the Permit Conditions (Annex 5) is a slightly larger area than the Burnham, Berrow and Brean Angling Zone. The Permit Conditions therefore support the Voluntary Code of Conduct.

Voluntary codes serve a purpose to try and reduce conflict between competing sectors with differing needs without formal regulation; however, it is the view of Officers that ultimately, they fail. Many voluntary codes go unnoticed and despite efforts to promote them there is an

inherent weakness - there is no penalty for failing to adhere to voluntary measures. The ineffectiveness of the codes is a cause of frustration to many anglers and commercial fishers which has been apparent in D&S IFCA's engagement work.

Skerries Bank

This is a high-profile angling site and D&S IFCA has undertaken monitoring work and produced a series of reports focussing on the area and species taken.

- [Temporal & Spatial Use of the Skerries Bank Angling Zone by Different User Groups: A baseline Report \(August 2019\).](#)
- [Blond Ray and Plaice Landings and Stock Assessment Report for Skerries Bank \(August 2020\).](#)
- [Temporal and Spatial Use of the Skerries Angling Zone by Shore - Based Anglers \(September 2020/re-published January 2023\).](#)
- [Developing Recreational Sea Angling Opportunities at Skerries Bank – Consultation Report \(April 2023\).](#)

Although engagement work has been undertaken, the response from all sectors was low and Officers' findings in the angling reports have largely been based on generalised information or anecdotal information.

There is a lack of detailed evidence regarding the level of commercial netting activity within the site and the catch taken. Officers intend to make greater use of the national roll out of IVMS and the Catch App to add to the evidence base and verify anecdotal information. Future opportunities exist for stronger management including spatial and time restrictions to be incorporated into the Netting Permit Conditions; however, it is the view of Officers that change cannot be justified at this time.

Emsstrom



The MV Emsstrom is a 77m vessel which sank in 2013 approximately 2.5 nautical miles east - northeast of Hopes Nose, Torquay in 23m of water. Wrecks are often attractive to commercial fishermen due to the habitat they provide for commercially valuable species of fish.

As a result, very few inshore wrecks are unknown and unfished. Inshore wrecks are particularly important to recreational sea anglers and local charter boat operators, who may be limited in their ability to fish wrecks further offshore. Initially MV Emsstrom was not a targeted commercial or recreational fishery however the Authority recognised that this would likely change as the ship became colonised by fish.

In recognition of the significance of the MV Emsstrom to the local RSA community the Authority established this site as one of the Angling Zones using the boundaries set up by the original exclusion zone. (Red diamond)

The [code of conduct](#) (2nd page of code not shown) introduced voluntary restrictions to exclude recreational and commercial netting and potting, leaving the relatively small area open to anglers and other non-extractive recreational users (such as divers).

Officers are aware that commercial netting activity is now taking place on the wreck. When informed about the voluntary code, the commercial operator that was observed working nets explained to D&S IFCA Officers that they had no intention of changing their fishing practice. The code is not recognised; however, no enforcement action can be taken, demonstrating the weakness associated with voluntary measures.

Officers believe that it is appropriate to reinforce this voluntary code by introducing regulation. Although there is commercial netting taking place on this relatively new wreck, it is not considered by Officers to be economically vital to the commercial sector to continue netting on the wreck.

Formal consultation regarding prohibiting netting on the Emsstrom wreck may provide more information for the B&PSC to base their final decision on. Formal consultation regarding prohibiting commercial and recreational netting in the area defined in the Voluntary Code of Conduct is therefore one of the Officers' recommendations.

7. Abandoned Nets and Soak Times

Lost, discarded, and abandoned gear is a concern to many and there has been an increase in reports relating to this issue. Abandoned, lost, or discarded fishing gear is associated with sensitive species entanglements and ghost fishing and tackling this issue is one of the objectives in the Bass and Crab and Lobster Fisheries Management Plans.

Officers will explore funding opportunities to help with retrieval and disposal; however firstly the powers D&S IFCA has at its disposal by way of additions to the Permit Conditions need to be strengthened.

- Officers propose that a maximum soak time be introduced and after a set period gear would need to be removed.

If the Permit Holder who is operating the net is identifiable it would be their responsibility to retrieve the net. The national roll out of vessel monitoring will assist monitoring and enforcement of any such measure.

Background Papers, Information & Hyperlinks

Netting:

[The Development of the Netting Permit Byelaw \(26th September 2018\)](#)

Review of the Netting Permit Byelaw Permit Conditions – A Summary of Responses from the Have Your Say (A Review of the Netting Permit Conditions) Consultation –22nd August 2023.

Angling:

[Burnham, Berrow and Bream Angling Zone in Devon & Severn IFCA's District - Shore Angling \(2016-2017\) Report \(December 2021\).](#)

[Angling code of Conduct – Burnham, Berrow and Bream](#)

[Temporal & Spatial Use of the Skerries Bank Angling Zone by Different User Groups: A baseline Report \(August 2019\).](#)

[Blond Ray and Plaice Landings and Stock Assessment Report for Skerries Bank \(August 2020\).](#)

[Temporal and Spatial Use of the Skerries Angling Zone by Shore - Based Anglers \(September 2020/re-published January 2023\).](#)

[Developing Recreational Sea Angling Opportunities at Skerries Bank – Consultation Report \(April 2023\).](#)

[Angling Code of Conduct - Emsstrom](#)

End.