



Diving Permit Conditions (Category One)

Formal Consultation

Amendments to the Permit Conditions to provide access to scallop stocks in July, August, and September

What is this about?

D&S IFCA is inviting you to respond to the formal consultation on proposed amendments to existing Category One (commercial) Diving Permit Conditions. The proposed changes constitute a package of management measures that relate to the removal of scallops from D&S IFCA's District during the months of July, August and September and the monitoring of the fishing activity. Category Two (Recreational) Diving Permit Conditions will not change. The formal consultation provides draft wording and formatting of the Permit Conditions (subject to refinement following legal advice and consultation responses), which are set out one by one, along with D&S IFCA's rationale for the potential change. The formal consultation includes links to further information and ends on 18th April 2022.

We are directly contacting everyone on our (email) mailing list and are giving you options on how to respond. Your view is important, and we also encourage you to forward this information or notify others that may have an interest in the consultation. All stakeholders can respond even if they do not conduct commercial diving for scallop within the D&S IFCA's District. Information is available on the D&S IFCA's website to support this direct email notification.

How can changes be made to the Permit Conditions?

The Permit Conditions are flexible and can be amended providing a process, as set out in the Diving Permit Byelaw, is followed. D&S IFCA's Byelaw and Permitting Sub-Committee (B&PSC) has considered information and evidence, including the findings of previous engagement work. On 24th February 2022, the B&PSC agreed that formal consultation be undertaken on specific changes to the Category One Diving Permit Conditions. The findings of this formal consultation will be documented and discussed by D&S IFCA's Byelaw and Permitting Sub-Committee before any changes are made to the Category One Diving Permit Conditions. If changes are agreed, they will come into force before 1st July 2022.

List of the Proposed Changes to Category One Diving Permits

- a) An increase in the Minimum Conservation Reference Size (MCRS) for scallop to 110mm that will apply to divers with a Category One Permit in July, August, and September.
- b) The introduction of a catch limit of 2400 scallop per vessel, per calendar day, that will apply to divers with a Category One Permit during July, August, and September.
- c) A Remotely Accessed Electronic Monitoring Device (IVMS), that transmits the required information, must be fitted to every vessel operating under a Category One Diving Permit.
- d) In July, August and September commercial diving for scallop will be restricted to those Marine Protected Areas where the use of scallop dredges is prohibited
- e) In July, August and September a Category One permit holder is not authorised to remove scallop from a fishery unless all scallop removed from a fishery, on that fishing trip, is from within the District.

Rationale for the proposed changes

The Permit Conditions enable tailored management measures to balance the needs of different fishers. The proposed changes reflect a package of management measures that supports the further development of a low impact commercial dive fishery for scallops; whilst maintaining the conservation status of the Marine Protected Areas. The proposed amendments reflect different drivers for change including D&S IFCA's own vision:

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.

Other factors 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, 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 [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.

The Questions

There is a total of 14 questions and the findings of the formal consultation are enhanced if detail is provided by those that choose to respond.

The first three questions help us to establish your interest in the subject matter and to help us evaluate the effectiveness of our communications.

1. Please provide your name and explain what interest you have in the formal consultation – for example are you a commercial diver with a Category One Diving Permit?
2. How did you find out about the formal consultation?
3. If you are not already a contact on D&S IFCA's data base, would you like to be added? – if so, please provide your contact details.

The Topics (A to E) - Information & Questions

A) Minimum Conservation Reference Size (MCRS) for Scallop

The proposal is that the MCRS for scallop will increase to 110mm; however, this will only apply during July, August and September when commercial divers will be given access to scallop in Marine Protected Areas within the District. At other times of the year the MCRS, (District wide) for scallops will remain at 100mm.

Previous engagement work has highlighted support from commercial divers for an increase in the MCRS for scallops. Divers can be selective regarding the size of scallops that can be removed from a fishery and dive caught scallops (over 100mm) are a premium product. A change to Permit Conditions is a stronger form of management as compared to voluntary measures and is simple to enforce. This Permit Condition will help limit exploitation to only some of the breeding population.

The anticipated permit conditions (relevant sections) will be as follows (or similar):

- 1.3 A permit holder or named representative is not authorised under this Permit to remove from a fishery within the District:
 - c) a scallop less than 100mm measured across the broadest part of the flat shell, except where paragraph 1.4.1 applies
- 1.4.1 A Category One permit holder or named representative is not authorised under this permit to remove from a fishery a scallop less than 110mm measured across the broadest part of the flat shell during July, August and September.

Questions on the MCRS for Scallop

- 4. Are you supportive of this proposed Permit Condition – Y/N
- 5. Please explain the reason for your answer to question 4.

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B) A Catch Limit of 2400 Scallops (per vessel, per calendar day in July, August & September)

The B&PSC has considered the pre-consultation response and the landing data from 2018 and 2019. The B&PSC has agreed a proposed catch limit of **2400 scallops - per vessel - per calendar day – to apply in July, August and September**. The catch limit is based on 20 bags each containing 10 dozen scallops.

The proposed permit condition recognises that a catch restriction per calendar per day is enforceable by D&S IFCA's Enforcement Officers; whereas catch restrictions over different time periods would be challenging or impossible to enforce.

A catch limit (removal from a fishery) per vessel, per calendar day to apply in the months of July, August, and September is not intended to and does not prevent commercial divers storing their catch in store pots/storage containers. A catch restriction in the months of July, August and September is not a "landing" restriction. Store pots that may contain more than 2400 scallops, can be emptied to supply markets whenever required.

It is envisaged that this proposed Permit Condition will balance the needs of the fishers to maximise landings through the summer months when there is highest demand, but also restrict fishing effort.

The anticipated permit condition (relevant section) will be as follows (or similar):

- 1.4.2 A Category One permit holder or named representative is not authorised under this permit to remove from a fishery, more than 2400 scallop per calendar day during July, August and September.

Questions on the Catch Limit for Scallop

6. Are you supportive of this proposed Permit Condition – Y/N
7. Please explain the reason for your answer to question 6.
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C) Introduction of Remotely Accessed Electronic Monitoring Device (IVMS/VMS)

The expected introduction of a Statutory Instrument later in 2022 will require all registered fishing vessels operating in English waters to have fitted a fully operational IVMS device. The requirement for this technology to be fitted to vessels will therefore remain, even if it did not become a condition in a Category One Permit.

The proposal is that the Permit Conditions will require any vessel used to commercially dive for scallop to have a fully functioning IVMS device fitted to operate in the District. Furthermore, the Permit Conditions set out required actions if an IVMS device fails to function correctly. Annex (5) (that can be [viewed here](#) with other supporting information) will list co-ordinates of ports and harbour areas where the device is not required to transmit information and where a unit may be repaired if it fails to function. If this change to the Permit Conditions is agreed, vessels used in the commercial dive scallop fishery may be required to have IVMS devices fitted earlier in the national roll out timetable to comply with the Permit Conditions.

The anticipated permit conditions (relevant sections) will be as follows (or similar):

- 2.1.1 A Category One permit holder or named representative is not authorised to use a relevant fishing vessel within the District; unless

- a) The Remotely Accessed Electronic Reporting Device on board the Relevant Fishing Vessel is fully functioning at all times; and
- b) the Required Information is transmitted at least every three minutes except when a Relevant Fishing Vessel is within an area as defined by the coordinates set out in the attached Annex 5; and
- c) The Category One permit holder or named representative has provided a copy of the Remotely Accessed Electronic Device manufacturer's approved engineer's installation report containing the following information;
 - I. Name of engineer and company
 - II. Date, time, and location of installation
 - III. Vessel details (name of vessel and owner, PLN)
 - IV. Model of device and serial number
 - V. Installation start and finish times
 - VI. Confirmation device transmitting data
 - VII. Photo evidence of device installed on vessel

Vessel Monitoring System - Failure of Device

- 2.1.2 If the Remotely Accessed Electronic Reporting Device installed pursuant to paragraph 2.1.1 above, has failed to transmit the Required Information, during July, August and September, for whatever reason, a Category One permit holder or named representative must not remove scallop, crab and lobster from a fishery within the District.
- 2.1.3 Where a Remotely Accessed Electronic Reporting Device has been repaired or replaced by the manufacturer's approved engineer, a copy of the engineer's report must be provided by the Category One permit holder or named representative containing the information set out in 2.1.1 (c).

The interpretations set out in the Category One Mobile Fishing Permit Conditions, will be replicated in the Category One Diving Permit Conditions as follows:

"relevant fishing vessel" means a fishing vessel:

- a) registered under Part II of The Registry of Shipping and Seamen as governed by the provisions of the Merchant Shipping Act 1995 (c.21) and the Merchant Shipping (Registration of Ships) Regulations 1993 (S.I. 1993 No. 3138); and
- b) in respect of which there is a valid fishing licence issued under the Sea Fish (Conservation) Act 1967.

"remotely accessed electronic reporting device" means a device that transmits the required information which must be received by the UK VMS hub;

"required information" means

- a) a report flag to indicate that the report is the result of the Authority's permit condition requirements and is not made under EU regulations;
- b) the most recent geographical position of the fishing vessel to 5 decimal places (in WGS84);
- c) date and time (in UTC) of the fixing of the most recent position;
- d) the instant speed and course of the vessel (equivalent to 0.1 knots and course expressed in degrees (true not magnetic) to 0.1 degree) at the time of the report;
- e) the unique serial number of transmitting device;
- f) a status code;
- g) an indicator of the strength of the positional report accuracy.

Questions on Remotely Accessed Electronic Reporting Device

- 8. Are you supportive of this proposed Permit Conditions? – Y/N
- 9. Please explain the reason for your answer to question 8.

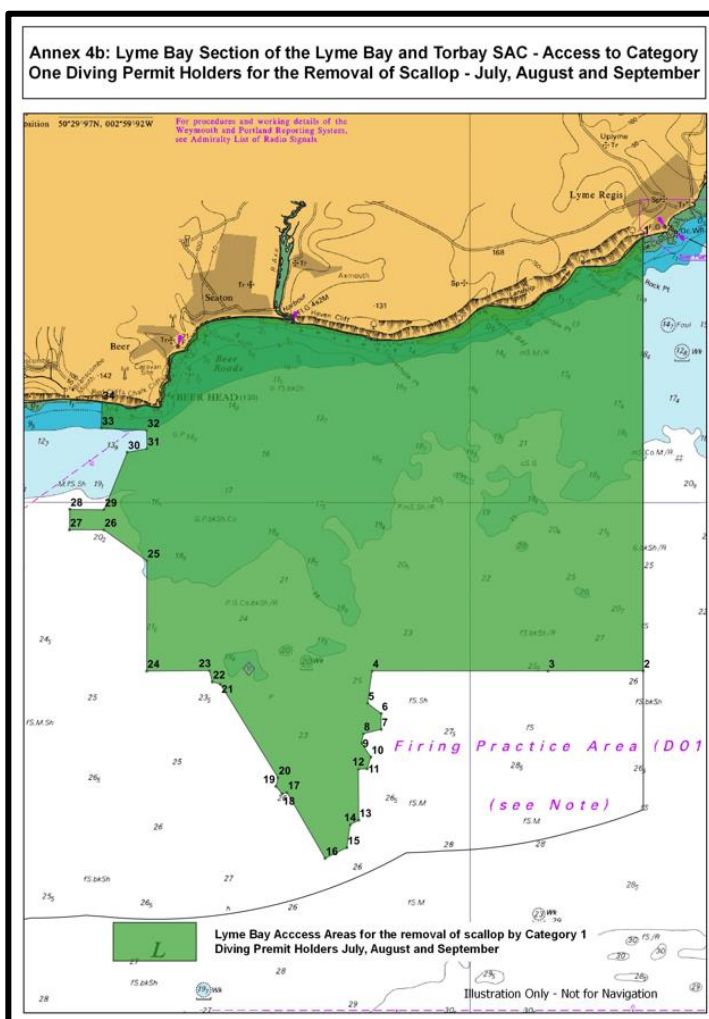
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D) Access Areas – Removal of Scallop in July, August, and September

The scallop closed season that applies in July, August, and September will remain in place (in part); however, it will not apply District wide for commercial divers. The proposal is that commercial divers will have the opportunity to remove scallops during July, August and September, providing the removal of scallops is from Marine Protected Areas within the District that are closed to scallop dredging.

Increased access for commercial divers to remove scallops from defined areas within Marine Protected Areas during July, August and September recognises that diving is a low impact fishery with respect to its interaction with designated features of Marine Protected Areas, as supported by Natural England's formal advice on the MPA assessments submitted by D&S IFCA.

The proposed areas are never accessible to fishers operating scallop dredges. In July, August and September Commercial Divers will only be able to remove scallops from the proposed areas or fish outside D&S IFCA's District.



To accompany the Permit Conditions multiple Annexes will be issued that set out the access areas.

During July, August, and September, only the areas shaded green on the charts will be accessible for commercial divers to remove scallop. Commercial divers cannot remove scallop from other areas in the District during July, August and September.

The image shows the access area (Permit Annex) for Lyme Bay. Images of all proposed access areas can be requested from D&S IFCA or can be viewed [here](#).

The other proposed access areas are as follows:

parts of Lundy Island SAC & MCZ

Torbay Section of the Lyme Bay & Torbay SAC

parts of the Start Point to Plymouth Sound and Eddystone SAC

parts of the Skerries Bank & Surrounds MCZ

parts of Plymouth Sound & Estuaries EMS
Severn Estuary SAC.

Explanation of Permit Conditions

The time restriction (paragraph 4.2) prohibits the removal of scallops in July, August and September, unless the scallops are removed from defined areas as set out in the spatial section of the permit.

The proposed permit conditions (relevant sections) will be as follows (or similar); however, the wording for each paragraph (a range of numbered paragraphs) will correspond with each access area. The example shown is for Lyme Bay.

4.2 A Category One permit holder or named representative is not authorised to remove scallop from a fishery within the District in the months of July, August and September unless the scallops are removed from the areas set out in paragraph 3.4.1 to 3.4.6.

3.4.2 the removal of scallop is from areas as defined by the coordinates set out in the attached Annex 4b of this Permit (the Lyme Bay section of the Lyme Bay and Torbay Special Area of Conservation).

Questions on the Access Areas

10. Are you supportive of this proposed Permit Conditions? – Y/N

11. Please explain the reason for your answer to question 10.

E) Additional Spatial Restriction – Removal of Scallop

Divers responding to the pre-consultation supported this proposal management measure which will assist enforcement – it supports the implementation of a catch limit per vessel, per calendar day.

Commercial divers will have a choice of where to remove scallops on any given day in July, August and September. If commercial divers choose to remove scallop from the access areas (a fishery) within the District, they must limit their fishing activity to the access areas within the District for the entire fishing trip.

The anticipated permit condition (relevant section) will be as follows (or similar):

3.6 In July, August and September a Category One permit holder or named representative is not authorised to remove scallop from a fishery unless all scallop removed from a fishery, on that fishing trip, is from within the District.

Questions on the Additional Spatial Restriction – Removal of Scallop

12. Are you supportive of this proposed Permit Conditions? – Y/N

13. Please explain the reason for your answer to question 12.

F) Any Other Comments

14. Do you have any other comments about the proposed changes to the Category One Diving Permit Conditions – if so, please let us know.

How you can have your say

1. Contact us via email – consultation@devonandsevernifca.gov.uk
2. Write to us: Devon and Severn IFCA, Brixham Laboratory, Freshwater Quarry, Brixham, TQ5 8BA.

- This information gathering exercise ends on 18th April 2022.

What do we do with your information – Privacy Policy

We protect any personal data that you may provide. Any personal data submitted in this information collecting process will not be shared with others. The content of responses will be summarised and anonymised where appropriate for documenting in reports that will be presented to the Byelaw & Permitting Sub-Committee and published on our website.

D&S IFCA has a privacy policy which can be found by visiting our website (home page) www.devonandsevernifca.gov.uk

- You can change your preferences at any time.
- We have a duty to consult with D&S IFCA Permit Holders.
- You can manage your preferences by contacting D&S IFCA.

Background Reports & Papers (Links)

Reports and Officers' papers of most significance to this review of Category One Diving Permit Conditions (Scallop Closed Season) are as follows:

- [Report - A Summary of Responses from the Pre-Consultation \(10th September 2020 to 9th Oct 2020\) on the Scallop Closed Season and Additional Information - 10th February 2021](#)
- [Agenda Item 7 – Scallop Closed Season – Officers' paper presented to the B&PSC in October 2021](#)
- [Agenda Item 6 – Scallop Closed Season – Category One Diving Permit Conditions – Officers' paper presented to the B&PSC in February 2022](#)
- [Report - A Summary of Responses from the - Have Your Say \(A Review of the Diving Permit Conditions\) Pre-Consultation \(19th November 2021 to 17th December 2021\) - 28th January 2022.](#)

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.

Further detail about the B&PSC, the work that they undertake, and how it is possible to amend permit conditions via a review process can be found in our [guide](#) that is posted on the D&S IFCA website or available upon request.

How to be kept informed?

We regularly post information about our work on our [website](#). Direct communication is often the best way to help you stay informed about our work and to highlight the opportunities for you to have your say on a range of topics or issues. If you are not already on our mailing list, then you can get yourself added by [contacting D&S IFCA](#). You will then be directly notified of all our consultations.

End.