



Byelaw & Permitting Sub- Committee Meeting

Final Minutes from 23rd
February 2023

Version Control and Drafting

Date	Comments
Version 0.1 15 th March 2023	1 st Draft of minutes developed by PPO Townsend for circulation to Officer's present at the meeting for potential internal amendment and/or additions.
Version 0.2 24 th March 2023	Internal amendments to v0.1 by DCO Clark and SEO Stewart.
Version 0.3 17 th April 2023	Amendments considered by Officers and amendments applied to version 0.2. Draft minutes 0.3 prepared for publishing on D&S IFCA's website
Final Version 11 th September 2023	Minor single word change (spelling error) on page 8. Minutes published as final on website.

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Minutes of the Byelaw and Permitting Sub Committee Meeting
Held at Exeter Racecourse on 23rd February 2023

Present:

Dr Emma Bean (Chair)	Professor Mike Williams	Rachel Irish
Dave Saunders	Jon Dornom	Felicity Sylvester
Simon Toms	Wayne Thomas	Guy Baker
Jay Boyle	Mark Day	

Present (officers):

Deputy Chief Officer (DCO) Sarah Clark, Principal Policy Officer (PPO) Neil Townsend, Senior Environment Officer (SEO) James Stewart.

Public Observing:

None.

Action Items:

Agenda Item 1

Apologies for Absence.

PPO Townsend read out the list of apologies, which included Cllr Dewhirst, Cllr Amil, Caroline Acton, Dr Pamela Buchan, Simon Thomas, and David Morgan. PPO Townsend reported that it was unclear if Cllr Wakeham (Plymouth City Council) would be attending the meeting.

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Agenda Item 2

Declarations of Interest.

There were no declarations of interest.

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Agenda Item 3

To consider and approve the draft minutes of the B&PSC meeting held on 20th October 2022.

The Chair invited those who were present at the last meeting to raise any issues associated with the accuracy of the draft minutes from the October meeting and the minutes were then examined page by page. No amendments were identified.

That the minutes provide a true and accurate record.

Proposed:	Mike Williams	Seconded:	Rachel Irish
In favour:	9		
Against:	0		
Abstain:	2		

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Agenda Item 4:

Matters requiring urgent attention.

The Chair consulted with Officers and there were no matters requiring urgent attention.

Agenda Item 5:

Members of the public – questions or comments for the meeting.

The Chair consulted with Officers and there were no questions or comments from members of the public.

Agenda Item 6:

Development of the Size of Fishing Vessels 2022.

Presentation

PPO Townsend elaborated on the Officers' paper, running through the process to date. Members were reminded how the Byelaw had been developed to the stage ready for formal consultation which began on 25th November 2022 and ended on 20th January 2023.

PPO Townsend highlighted the supporting Officers' report which documented how the formal consultation had been undertaken and detailed the response received. Members acknowledged that there had been no objections to the proposed Byelaw as advertised, with only a single response received by the Wembury Marine Conservation Area Advisory Group (WAG), that stated their support for the introduction of the Size of Fishing Vessels Byelaw 2022.

PPO Townsend highlighted the recommendation in the Officers' paper reflected the lack of response and that Officers could see no reason to make changes to the Byelaw as advertised.

PPO Townsend concluded by explaining that dependent on the decision making of the B&PSC, Officers would create a "final" Impact Assessment to accompany the Byelaw (as part of a package of information) to send to the Marine Management Organisation for quality assurance. In addition, Officers would respond to WAG to inform them how their response had been recognised by the B&PSC and the outcome of the B&PSC's decision making.

Debate, Questions & Comments

The Chair asked if Members had any comments or questions for Officers to address. There were no questions; however, Mike Williams highlighted an error on the Officers' paper. In the second paragraph instead of 20th October 2023, the paper should have read October 2022.

Decision Making

With no comments or questions the Chair asked if any Member would like to propose the motion.

That the Size of Fishing Vessels Byelaw 2022, as proposed in the formal consultation, is submitted to the Marine Management Organisation (byelaw quality assurance team) with a view to confirmation by the Secretary of State.

Proposed: Wayne Thomas Second: Simon Toms

There were no amendments offered and the motion was put to the vote.

In favour: All (11)

Agenda Item 7:

Development of the Mobile Fishing Permit Byelaw 2022

Presentation

As with agenda item 6, PPO Townsend acknowledged the error in the second paragraph of the Officers' paper which should have read October 2022, and not October 2023. PPO Townsend highlighted the accompanying Officers' report – Formal Consultation Report – A Summary of Responses from the Formal Consultation on the Proposed Mobile Fishing Permit Byelaw (and Permit Conditions).

PPO Townsend explained that four responses had been received by the closing date of 20th January 2023, as set out on page 9 of the report. Three of the responses raised points of objection associated with the Permit Conditions, and one response from the Wembury Marine Conservation Area Advisory Group (WAG) set out support for the Byelaw (and Permit Conditions) as proposed.

PPO Townsend explained that the proposed Category One Permit Conditions, as advertised in the formal consultation, had been drafted in such a way that all dredges must conform to a series of specific criteria. These criteria, as set out in the report, are suited to dredges typically used to fish for scallops, but not other species such as mussel and clams. The drafting of the proposed Category One Permit Conditions had recognised evidence that other forms of dredging were not currently being undertaken within the District at sea; however, it was not the intention to remove fishing opportunity using different types of dredge gear if fishers identified a need to target mussel or clams. Responses indicated that fishers would like the opportunity to fish for other species (clams and mussel) with dredges, which is currently not prohibited in a Category One Permit. Officers recognised this change in the proposed Category One Permit Conditions would present a new impact, but not an intentional one and therefore the recommendation is to amend the Permit Conditions.

Regarding the Category Two Permit Conditions (for mobile fishing within estuary area), PPO Townsend highlighted the single objection which related to fishing for mussel within the Exe Estuary. This objection related to the size of vessel that could be used (as a Permit Condition) when operating an elevator harvester within the estuary to remove mussel. PPO Townsend clarified that a 10-metre length restriction had been proposed based on the existing activity within the Exe; however, as highlighted by the fisher, in this case the equipment being operated is the key factor, rather than the size of vessel. The fisher had suggested that they would like to operate a larger vessel than 10 metres in overall length, but to continue using the same type of fishing equipment (elevator harvester) to remove mussel from public beds.

PPO Townsend explained that, in the view of Officers, the request was reasonable, and that Officers also recognised that re-drafting of the Category Two Permit Conditions could be undertaken to resolve this objection. The amendments would include defining the elevator harvester, with exact wording to be considered subject to an agreement in principle. PPO Townsend clarified that the Byelaw Technical Working Group could be tasked to oversee the re-drafting work.

DCO Clark clarified that the fisher, who had responded to the consultation, had been actively fishing for mussels in the Exe Estuary for many years and the type of equipment used had been assessed for its impacts on the features of the Exe Estuary through several Habitats Regulation Assessments. DCO Clark provided more detail regarding how the elevator harvester is used and the fisher's current operation using a vessel. It was clarified that most of the fishing activity occurs within privately leased areas, rather than the public fishery managed via the Category Two Permit Conditions. DCO Clark added that the fisher was keen to be able to use a larger vessel (<15m) on which the elevator would operate, and the catch could be sorted, rather than what is currently the case where he needs to operate a separate barge to clean and sort the mussels.

PPO Townsend concluded the introduction by explaining that dependent on the decision making of the B&PSC, Officers would create a "final" Impact Assessment to accompany the Byelaw and Permit Conditions (as part of a package of information) to send to the Marine Management Organisation for quality assurance. In addition, Officers would respond to all stakeholders that responded in the formal consultation to inform

them how their response had been recognised by the B&PSC and the outcome of the B&PSC's decision making.

Debate, Questions & Comments

Guy Baker and Mark Day enquired if the increase in vessel size would potentially lead to greater numbers of fishers operating within the Exe Estuary to harvest mussel. DCO Clark explained that this would be unlikely as the equipment (elevator harvester) is both specialist and relatively expensive. In addition, the existing operator conducts most of his commercial activity in privately leased areas that would not be currently accessible to new entrants who may acquire a permit from D&S IFCA. DCO Clark clarified that the Category Two Permit Conditions would not apply to the private fishery. DCO Clark provided Members with additional background information on how fishing operations and re-laying had been conducted in the past, which has been of benefit to maintain the mussel population within Exe Estuary.

Wayne Thomas asked questions relating to invasive species and DCO Clark informed Members about regulations associated with the movement of shellfish, biosecurity measures and the documentation required. It was confirmed that the existing operator in the Exe Estuary had previously Marine Stewardship Council (MSC) accreditation which required detailed biosecurity checks.

Felicity Sylvester highlighted that a mussel fishery exists within the Taw Torridge Estuary and whether any precedent is being set by the potential changes of Category Two Permit Conditions for the Exe. DCO Clark confirmed that although the current (and proposed) Mobile Fishing Permit Conditions do not authorise mobile fishing within the Taw Torridge, there is opportunity in the Taw Torridge regarding shellfish harvesting and aquaculture. DCO Clark provided further background information relating to the Taw Torridge Estuary, as a Site of Special Scientific Interest (SSSI). This included information on the mussel and cockle stock assessments undertaken by D&S IFCA and the bird food availability model that exists to ensure there is sufficient mussel and cockle available to the birds and estimates the amount of mussel that can be removed by commercial hand gathering.

Simon Toms highlighted the current closure of public intertidal beds within the Exe Estuary. DCO Clark informed Members that although there are no immediate plans to re-open the intertidal mussel beds, the use of the elevator harvester would be for the sub-tidal resource. In addition, the other conditions within the Category Two Permit would assist D&S IFCA to collect data regarding mussel removed. Simon Toms asked if the data collection would extend to mussel from the private fishery and DCO Clark confirmed that it would not. Jay Boyle explained that as the past Exe Estuary Officer he had knowledge of the activity undertaken in the Exe and how it has been of benefit to the estuary as a whole and that Natural England supports the continuation of the fishery using a regulated elevator harvester.

Felicity Sylvester commented that the number of responses received in each formal consultation was low and asked whether D&S IFCA's communications were effective. PPO Townsend explained that the total number of responses received, or statistics in general, is potentially not the best way to measure success; however the report does document how the consultation was conducted and the opportunity that did exist for stakeholders to respond. DCO Clark added that typically a greater response would be received if fishers want to raise objection rather than support. Members who have had experience working within communications suggested that anything over a 20% return would be deemed very high, and far lower response rates are typical for topics of a non-controversial nature.

Decision Making

With no other comments or questions the Chair asked if any Member would like to propose the motion.

That the Mobile Fishing Permit Byelaw 2022 (and Permit Conditions), as proposed in the formal consultation, are amended before they are submitted to the Marine Management Organisation (byelaw quality assurance team) with a view to confirmation by the Secretary of State.

Proposed: Simon Toms Second: Wayne Thomas

There were no amendments offered and the motion was put to the vote.

Agenda Item 8

Crab Management Update

Presentation

DCO Clark introduced the Officers' paper and highlighted a D&S IFCA Officers' news item, which had been posted on the website on the morning of the meeting that also provided information about three draft Fisheries Management Plans – Crab & Lobster, Whelk and King Scallop. The news item detailed two virtual on-line stakeholder engagement events where an overview of key points in the draft plans, including initial proposals for management approaches and an explanation of the next steps, would be provided to those interested in the draft FMPs.

Regarding the draft Crab and Lobster FMP, DCO Clark explained that four early management interventions have been highlighted, and these will be consulted on separately to the FMP itself. The proposed implementation of the FMP, in particular in relation to delivery of tasks and objectives, will be through an Annual Work Plan and production of an Annual Report.

DCO Clark informed Members that management measures will be discussed through the national groups, based on engagement and science, and developed to meet the objectives of the Crab and Lobster FMP. DCO Clark explained how important it is for D&S IFCA to maintain its position on the Management and Research Groups for the Tranche 1 FMPs and where possible on the Tranche 2 FMPs. Once the Crab and Lobster FMP is in place, DCO Clark said that Officers will be able to understand more as to what possible management measures are being considered for future iterations of the FMP.

DCO Clark highlighted the information in the Officers' paper relating to the outputs of the Project UK SW Crab and Lobster Management Workshops, running through the concerns raised by the industry in the on-line surveys, the suggestions for management that had been put forward in the surveys and the management options that fishers considered suitable or not for the South West crab and lobster fisheries and which had been discussed at five workshops.

DCO Clark ran through the next steps for D&S IFCA and how these actions would filter into D&S IFCA's 2023/2024 Annual Plan, which would be presented to the Authority in March 2023. DCO Clark explained that the expectation of Officers will be that communication and engagement will be the initial course of action and Officers will undertake in-person engagement with Fishermen's Associations and their members across the District to discuss, in more detail, what management the fishers believe would be appropriate for the crab stocks within D&S IFCA District. These discussions will be based on the outputs highlighted in the Project UK's workshops. These events will be followed up by further communication and engagement with all Permit holders to provide the opportunity for their opinions to be heard.

DCO Clark added that D&S IFCA, together with Seafish, the University of Bangor, and the South Devon and Channel Shellfishermen had received 'Fisheries Industry and Science Partnership' scheme funding to try and fill some of the evidence gaps outlined in the 'Evidence Needs' section of the FMP. Part of this work is to develop a methodology to measure the hardness of edible crab shell, with a view to determining if it is soft and how that is best monitored. DCO Clark explained how a Durometer device will be trialled on board fishing vessels working with fishers and a researcher, and that the time spent on the fishing vessels would also be used to gather further data on the catches and landings of crab and lobster. The research data could then feed into other research work packages, as highlighted as in the FMP.

Further work for D&S IFCA Officers includes obtaining MMO data on crab and lobster landings into ports in its District to look at changes in landings over time. DCO Clark said that information from Potting Permit applications will also be compared to previous years to look at changes in the level of effort in terms of pot numbers since the permitting system was introduced. Other actions will be for D&S IFCA to liaise with

Cornwall IFCA to seek information on how they plan to manage the pressures on stocks in its District and what measures they will be considering.

Debate, Questions & Comments

Mike Williams raised concern about the time scales involved and the risk of efforts gathering information and data to inform local management being superseded by national developments for management. DCO Clark informed Members that the evidence being gathered would look to fill gaps already identified in the FMP; however, the assembled information could still be advantageous to D&S IFCA as a local regulator. DCO Clark highlighted that the time frame for the nationally developed management outcomes may be seen as moving too slowly for fishers within the District, and therefore D&S IFCA may be able to react to some issues in a quicker time frame.

In response to a question from Mike Williams, DCO Clark confirmed that conversations will also be held with Southern IFCA as well as Cornwall IFCA. Mark Day highlighted his concerns regarding latent capacity and DCO Clark explained how this topic had been recognised in discussions to date for the FMPs. Jon Dornom raised his concern regarding timescales for action and suggested that many fishers are getting impatient with providing their support, time, data, and suggestions to inform fisheries managers, but with no signs of the required legislation. Jon Dornom highlighted how catches were now at extremely low levels which fortunately, in the short term, from an income perspective, have been offset by high prices for brown crab.

Simon Toms raised the use of 'cart' as bait. Cart is a product of the processing of female brown crab in the winter months and is especially highly valued when it contains large amounts of 'coral', which is a name given to the eggs inside of female crabs. The coral is removed and then frozen for use as bait for anglers. Simon Toms expressed his concern about the expansion of the use of cart and what this might be doing to crab stocks. Jon Dornom explained that female brown crab will contain coral, but this is not evident when looking at the live catch. This is only evident when the crab is processed at the factories, and is a by-product, and that the female crab will not be berried up and therefore can be landed. Jon Dornom also discussed the issue of poor quality and soft crab being used as bait and that it has a value and therefore it is retained and sold as bait. One main area where concern lies is the vivier boats that will keep everything that meets MCRS, and the soft-shelled crab is sold on for bait. Jon Dornom also explained that there needs to be education of the crew on the vessels to discern soft shelled crab and return it to the sea, and the benefit this would have to stocks.

Wayne Thomas, together with Dave Saunders, added that the issues appear to be market driven and relate to husbandry. DCO Clark responded that one of the proposed early intervention management measures as part of the Crab and Lobster FMP is the prohibition on the landing soft shelled crab, which was raised by D&S IFCA with support from the fishermen's associations which sit on the FMP groups. Banning the landing of soft-shelled crab nationally would be a fairly easy solution through amendments to the Sea fisheries (Shellfish) Act 1967. The limiting factor would be the availability of parliamentary time to do this. DCO Clark reiterated that as part of the FISP funding durometers will be used to test the hardness of brown crab shell, which are used by North American Fisheries Agencies as a monitoring and enforcement tool. This methodology could be used locally and nationally to measure compliance of any prohibition that was enacted. Mark Day highlighted that putting national developments aside, a regional IFCA approach would be seen by many fishers as the ideal scenario.

The Chair moved the discussion on to data gathering, data sharing and the publishing the research undertaken by D&S IFCA. DCO Clark informed the Members that all metadata relating to research undertaken was uploaded on to MEDIN and described the Inspire Directive by which metadata are recorded.

Decision Making

The Chair thanked Officers for the update, and it was noted by Members with no requirement for a formal vote.

Agenda Item 9

D&S IFCA's Scallop Spawning Research

Presentation

SEO Stewart introduced the Officers' paper and reported on the research that had been conducted by D&S IFCA's Environment Officers and a Master's student, from April to October 2022, to provide evidence on the king scallop spawning season in Devon. SEO Stewart explained that the final report for this research will be published by the end of March 2023; however, the Officers' paper provides an executive summary of the outputs from that research. SEO Stewart explained how three measures of spawning activity had been calculated from the dissection of over 1200 scallops that had been collected across 58 samples from three study sites. Each of these measures show a slightly different aspect of the spawning activity. These measures were:

- (i) the gonadosomatic index (GI);
- (ii) the proportion of mature scallops in a sample, based on the visual appearance of the gonad; and
- (iii) the proportion of scallops classed as recently spawned (spent or recovering from spawning), also based on the visual appearance of the gonad.

SEO Stewart highlighted table 1 in the Officers report, and as indicated in the data, informed Members that most scallops appear to spawn between early June and mid-September. Based on GI data, preparation for spawning peaks in early to mid-May, when many scallops have full gonads (roe), and that between early April to end of July more than 50% of the scallops have the visual appearance of being mature and ready to spawn. The proportion that have visibly recently spawned increased rapidly between the end of May and early September. The data collected so far, and the uncertainty around the estimates of spawning timing that are presented in the report, provides a clear indication of the period over which scallops are spawning in D&S IFCA's District. In response to a question on the possibility of variation in the timing of scallop spawning, SEO Stewart added that there are many factors, such as temperature and food availability, that may affect the timing of the king scallop spawning cycle and there may be interannual variation. Therefore, to develop a robust evidence base, D&S IFCA Officers propose to continue the research from April to September 2023 as set out in the recommendation and that the additional evidence gathering work will inform D&S IFCA's management considerations and will feed into the national scallop FMP.

Debate, Questions & Comments

Mike Williams asked about the likelihood of an annual variation in the findings of the research and Mark Day enquired if there should potentially be an extension to the closed season period. SEO Stewart responded and said that there are a lot of factors that can influence the findings and the need for a closed season depending on which aspects one seeks to protect via management. There is argument for an extension to the closed season and depending on the findings of additional research, this could potentially become a consideration for the B&PSC in the future.

Mark Day asked why samples were limited to those scallops taken by diving vessels. SEO Stewart explained that this aided the research as mobile fishing vessels were not authorised under their Permit Conditions to remove scallops within the District during the whole study period. To include samples from mobile fishing vessels would have required additional work by Officers to issue authorisations (Exemptions from the Byelaw/Permit Conditions), and decreased consistency in sampling method.

DCO Clark informed Members about other national developments relating to scallops and potential closed seasons. DCO Clark reported that D&S IFCA is preparing information and responding to the Call for Evidence by the Marine Management Organisation (MMO) for King Scallop. The subject matter relates to proposals for fishery closures in ICES Areas 7d and Lyme Bay section of 7e. DCO Clark explained that the different timings that are being considered for closures, that may or may not include the under 12 metre mobile fishing fleet, are likely to cause significant levels of displacement. This displacement, with some larger scallop

vessels working over 20 dredges per side, is likely to have an impact on fishing grounds for crab and the migration of crab. There are also other factors to consider such as a potential increase in fishing effort (netting) for species such as sole. DCO Clark said that the response by D&S IFCA will be finalised and submitted before the closing date in March 2023.

Decision Making

It was acknowledged that Members noted the Officers' paper and supported the continued scallop spawning research without undertaking a formal vote.

Agenda Item 10

Monitoring of the Commercial Scallop Dive Fishery 2022

Presentation

DCO Clark informed Members that as a result of changes to Category One Diving Permit Conditions in 2022 and the request by the B&PSC to monitor the fishery, Officers had produced an accompanying Report. The Report - Monitoring of the Commercial Scallop Dive Fishery 2022 Report (15th February 2023) – that been compiled by SEO Stewart and Environment Officer Lauren Parkhouse included a range of information:

- Analysis of IVMS data (locations of dive activity).
- Landings and Catch App data.
- Responses from commercial divers to a "Have Your Say" survey.

DCO Clark went through the summary of the Report as set out in the Officers' paper, clarifying that not all commercial divers with a Category One Diving Permit had made use of the additional access for the removal of scallops, as they had not had IVMS units (a requirement for access), fitted to their vessels. Of the eleven vessels that had IVMS fitted, only six vessels actively fished during July, August, and September 2022.

As a comparison of year-round fishing (diving) activity, DCO Clark reported that landings data for 2021 identified a maximum of seven vessels fishing in any one year and therefore, there was no identified increase in vessels wishing to take advantage of the opening of July, August, and September to the commercial divers.

DCO Clark highlighted the landings data for dive vessels per month and the total tonnage per fleet as compared to the mobile fishing gear sector. Regarding the analysis of data, DCO Clark reported that Officers have recognised issues, including a need in the future to get more sample weights of scallops to therefore better estimate numbers of scallops removed from the fishery. Regarding feedback from fishers, DCO Clark reported that fishers are pleased with the increased opportunity they have had to remove scallops during the summer months from specified areas, as part of the package of management measures introduced 1st July 2022. DCO concluded the presentation by highlighting the Officers' recommendation that the Category One Diving Permit Conditions should remain unchanged.

Debate, Questions & Comments

Jon Dornom, Dave Saunders, and Jay Boyle asked questions relating to the landings data, size of vessels and difficulties comparing weight of landings to a number of scallops (as per the 2400 scallop per day daily catch as a Permit Condition). DCO Clark answered the questions and acknowledged that there had been some challenges collecting, compiling, and comparing data.

Simon Toms raised concern from a data protection perspective regarding the use of IVMS data to demonstrate fishing locations. DCO Clark highlighted that individual vessel details had not been used in the chart images to show "hot spots" and these favoured locations are generally well known amongst fishers. PPO Townsend informed Members that the use of IVMS (collecting fisheries catch and effort data) is included

in D&S IFCA's overarching Privacy Policy. In addition, application forms to acquire a Category One Diving Permit include privacy notices that highlight how D&S IFCA may use anonymised IVMS data.

Dave Saunders highlighted feedback from divers, as set out in the Report, regarding the catch limit being applicable per vessel, rather than per diver and how this is felt to be a barrier to divers meeting health and safety requirements with the numbers of divers employed to undertake fishing operations.

Mark Day commented, that whilst he has sympathy for divers regarding challenges to adhere to health and safety requirements, D&S IFCA is not responsible to enforce health and safety regulations or adjust its management based on health and safety considerations.

Decision Making

With no other comments or questions the Chair asked if any Member would like to propose the motion.

That the Officers' paper is noted and that the Category One Diving Permit Conditions remain unchanged.

Proposed: Mark Day Second: Dave Saunders

There were no amendments offered and the motion was put to the vote.

In favour: All (11)

Date of the Next B&PSC Meeting.

PPO Townsend explained that the date of the next meeting would be confirmed in due course via email correspondence.

End.