



Revised report for all D&SIFCA stakeholders

August 2017

D&SIFCA Mobile Fishing Permit Byelaw

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D&SIFCA Mobile Fishing Permit Byelaw

Part 1 Summary of D&SIFCA Officers' Recommendations

a) Management of demersal towed gear in Torbay MCZ

That the Byelaw and Permitting Sub-Committee consider whether a consultation is undertaken to review the conditions of the Mobile Fishing Permit to introduce further management of the demersal towed gear in Torbay MCZ, as described below. The consultation would aim to gather information on the impact of the management proposals to the fishing industry, as part of an impact assessment.

The recommendations for management are:

Dredges: D&S IFCA proposes to prohibit scallop dredging within the Torbay MCZ.

Trawls: D&S IFCA proposed to prohibit demersal trawling within the Torbay MCZ.
D&S IFCA proposes to prohibit pelagic trawling within the Torbay MCZ, where the foot rope comes into contact with the sea bed.

The IFCA officers will undertake an assessment of the economic impact of the removal of all demersal gears from Torbay MCZ and this will help the IFCA understand effective displacement caused by the introduction of these management measures.

b) Management of demersal trawl gear in Lundy SAC

That the Byelaw and Permitting Sub-Committee considers whether a consultation is undertaken to review the condition of the Mobile Fishing Permit with a view to allowing for the development of a Monitoring and Control Plan to gather data from the fishing industry to inform this plan.

c) Management of scallop dredge gear in Lundy SAC

That the Byelaw and Permitting Sub-Committee consider whether a consultation is undertaken to review the conditions of Mobile Fishing Permit with a view to introducing further management of the demersal towed gear in Lundy SAC, as shown in the chart within the evidence base section of this report. The consultation would aim to gather information on the impact of the management proposals to the fishing industry, as part of an impact assessment.

The proposals for management are:

D&S IFCA proposes to prohibit scallop dredging on the subtidal coarse sediment sub-feature of the Lundy SAC as shown in the map within the evidence base.

An alternative proposal, which might be considered, is to prohibit scallop dredging across the whole of the sand feature including the subtidal mobile sand sub-feature and subtidal coarse

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sediment sub-feature (which coincides with the area currently open to this gear type) The fishery does not currently exist in this area.

d) Management of the removal of spiny lobster from Tranche 1 and Tranche 2 MCZ by demersal towed gear

That the Byelaw and Permitting Sub-Committee considers whether a consultation is undertaken to review the conditions of the Mobile Fishing Permit, in respect of the future management of the demersal towed gear by prohibiting the removal of spiny lobsters in:

- i) Lundy MCZ, Skerries Bank & Surrounds MCZ
- ii) Bideford to Foreland Point MCZ.

The consultation would aim to gather information on the impact of the management proposals to the fishing industry, as part of an impact assessment.

e) Salcombe scallop fishery - extension of fishing area

That the Byelaw and Permitting Sub-Committee considers whether a consultation is undertaken to review the conditions of the Mobile Fishing Permit to introduce further management of the Salcombe scallop fishery; the proposed amendment would extend the fishery into the area of Salcombe Harbour known as 'The Bag'.

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Part 2 Overview of the three year review

1. Overview of the Mobile Permit Byelaw

The Mobile Fishing Permit Byelaw came into force on the 1st January 2014. Fishing methods included within this Byelaw are primarily trawling, beam trawling and scallop dredging. These fishing methods are conducted within the D&SIFCA District both at sea and to a lesser degree within the confines of some estuaries.

A key driver for the development of this Byelaw was so that the D&SIFCA could meet its statutory conservation responsibilities. European Marine Sites (EMSs) have been designated to protect habitats and species in line with the EU Habitats Directive and Birds Directive. To bring fisheries into line with other activities, the Department for Environment, Food and Rural Affairs (Defra) announced on the 14th August 2012 a new approach to manage fishing activities within EMSs. This change in approach aims to promote sustainable fisheries while conserving the marine environment and resources, securing a sustainable future for both. Defra produced a high risk activity matrix and as a result the IFCA, as the competent authority, must manage identified high risk fishing activities within European Marine Sites (EMSs). The majority of mobile fishing gear has been designated high risk within these areas.

Inherited byelaws were identified as being too rigid to fit this ever changing situation. The new permitting byelaw replaced six inherited byelaws that related to mobile fishing gear.

All vessels operating mobile gear now require a permit to fish within the Authority's district, except vessels less than 7 metres in overall length engaged in sand eel trawling.

The Mobile Fishing Permit Byelaw has provided a new approach for inshore fisheries and conservation management. The permitting byelaw has introduced the flexibility needed by setting out part of the management in the permit conditions rather than in the byelaw itself. Those affected by the legislation are safeguarded by the introduction of an open and inclusive management review system within the byelaw that describes the process by which changes to permit conditions will be made.

Through permitting byelaws the D&SIFCA is now able to limit the requirement for the possible introduction of emergency byelaws for managing un-foreseen circumstances whilst also reducing the need for an overly pre-cautionary approach.

2. Permits and review of conditions

To date the D&SIFCA has introduced several permitting byelaws. The introduction of activity based permitting byelaws will produce a regular opportunity for all management measures contained within the flexible conditions to be reviewed. The D&SIFCA has a duty to review all of the flexible conditions at least every three years but can review conditions within a shorter time period as considered necessary. A timetable for mandatory review of all permit byelaws is shown below in table 1.

D&SIFCA Mobile Fishing Permit Byelaw

Table 1

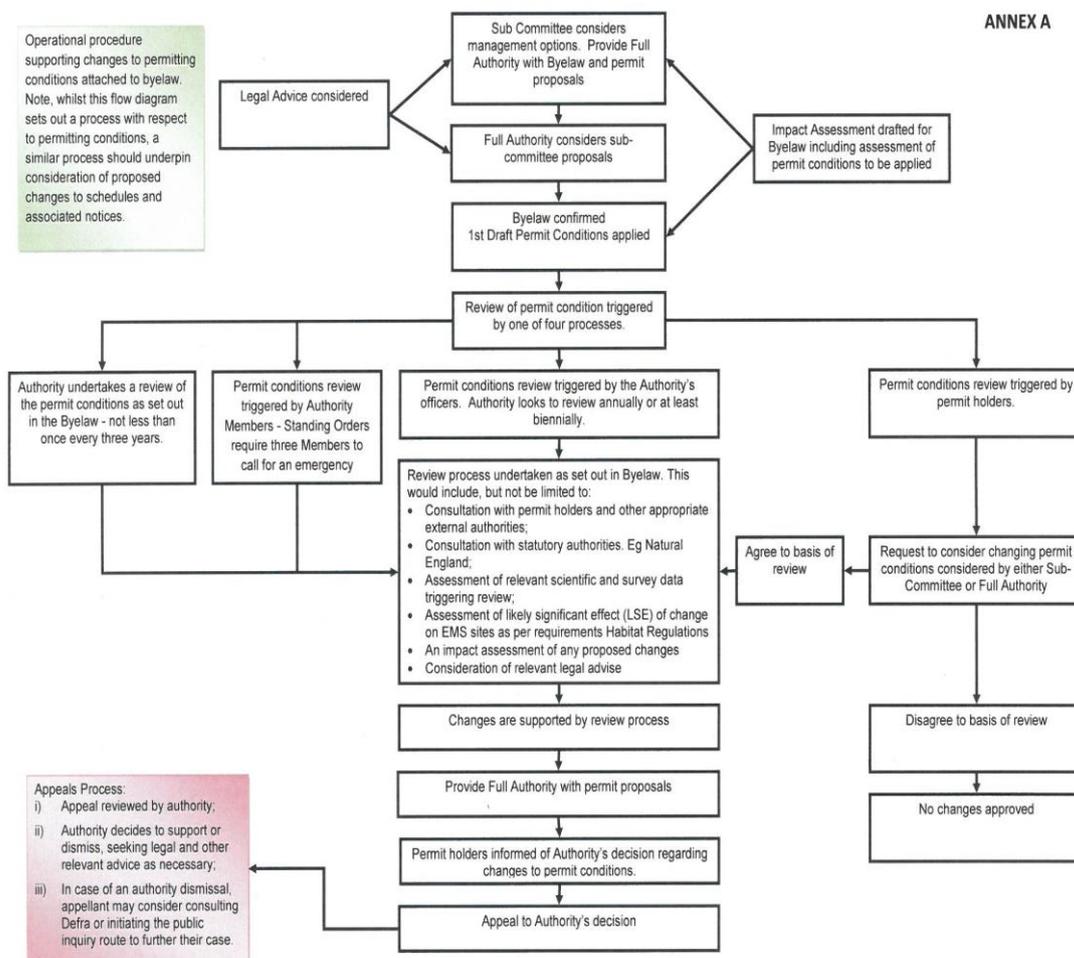
Byelaw	Review date	Process
Mobile Fishing Permit Byelaw	1st January 2017	Consult in writing with all permit holders.
		Consult with all organisations and stakeholders potentially affected by management
		Based on consultation - Authority make decision to introduce/remove/vary conditions
		After decision by Authority - all permit holders notified.
		Amend permits if required
Potting Permit Byelaw	1st March 2018	Consult in writing with all permit holders.
		Consult with all organisations and stakeholders potentially affected by management
		Based on consultation* - Authority make decision to introduce/remove/vary conditions
		After decision by Authority - all permit holders notified.
		Amend permits if required
Diving Permit Byelaw	1st March 2018	Consult in writing with all permit holders.
		Consult with all organisations and stakeholders potentially affected by management
		Based on consultation - Authority make decision to introduce/remove/vary conditions
		After decision by Authority - all permit holders notified.
		Amend permits if required
Netting Permit Byelaw	Not applicable	Byelaw under construction
Consultation information:		
Data from permit holders		
Scientific and survey data gathered by or provided to Authority		
Scientific advice (Cefas)		
An impact assessment of any proposed changes		
Advice from Natural England/Environment Agency etc.		
Any other information from relevant sources		

A review of conditions for any of the D&SIFCA permit byelaws is not limited to either a three year mandatory review or a direct trigger by permit holders. Other factors can influence a review of conditions including work undertaken by D&SIFCA officers such as Habitat

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Regulation Assessments (HRA) or MCZ assessments. This is of particular relevance in this review of the conditions for the Mobile Fishing Byelaw.

The Annex A flow chart below provides a display of the review process.



The Mobile Fishing Permit Byelaw provides scope for both fixed and flexible management measures via the conditions of use within the permits issued to fishers. The scope of the flexible conditions is limited to catch, gear, spatial and time restrictions as specified within paragraph 22 of the byelaw. The review procedure of the flexible conditions is detailed within paragraphs 25 to 27.

Permits provide fishers with conditions of use which help to simplify the legislative requirements for them. Annexes are incorporated within the permits which (via charts) refer to the spatial conditions.

Two separate types of permit are issued under the Mobile Fishing Permit Byelaw:

- Category One – At sea

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- Category Two – Estuary

3. Habitat Regulations Assessments (HRAs) & MCZ Assessments

The D&S IFCA Environment team has undertaken HRAs on fishing activities taking place within European Marine Sites in the IFCA district. These have been undertaken to fulfil Defra's revised approach on the management of commercial fishing activities in these sites. The objective of this revised approach is to ensure that all existing and potential commercial fishing activities are managed in accordance with Article 6 of the Habitats Directive. HRAs are used to determine whether there is a likely significant effect of the activity on the features of the site and an impact on site integrity. Conclusions and formal advice from Natural England will be used to inform any management measures that maybe be necessary to achieve the conservation objectives of the sites.

Similar assessments on the impact of commercial fishing activities in MCZs have also been undertaken. The IFCA's responsibilities in relation to management of MCZs are laid out in Sections 124 to 126, & 154 to 157 Marine and Coastal Access Act 2009. It is the IFCA's statutory responsibility to seek to further the conservation objectives of the site. Therefore, these assessments, their conclusions and formal advice from Natural England will be used to determine the future management of fishing activities in MCZs and therefore the conditions of use within the issued permits.

4. Communication for this review of permit conditions

To effectively communicate this initial three year review of conditions, Officers' developed a communication strategy. Although engagement with mobile fishing permit holders was the priority, other stakeholders were also encouraged to respond if they felt the need to do so. An area of the website was used to display relevant information and provide an e-mail link for responses by the closing date of December 31st 2016.

Other communication initiatives included:

Date	Action
30/11/2016	e-mail (Bcc) all mobile permit holders with e mail
	e-mail (Bcc) all potting commercial permit holders with e mail
	e-mail (Bcc) all potting recreational permit holders with e mail
	e-mail (Bcc) all diving commercial permit holders with e mail
	e-mail (Bcc) all diving recreational permit holders with e mail
30/11/2016	Letter prepared for all permit holders from every group with no e mail.

In total 820 permit holders were directly notified of this review of permit conditions. Direct communication with relevant statutory bodies is being conducted and will continue to be conducted when required. Engagement and advice received from Natural England is of particular relevance for this review of the conditions for the Mobile Fishing Permit Byelaw, and in particular considerations in relation to potential changes to spatial management.

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The information sent directly to permit holders provided background information and in addition explained how the D&SIFCA website could be explored to access additional material. In making a response, the recommendations for permit holders were advised as follows:

- ***Please indicate which of the conditions (if any) you feel is appropriate for the D&SIFCA Byelaw and Permitting Sub- Committee to consider formally reviewing***
- ***It is important that you explain why you feel change is necessary.***
- ***Please be prepared to submit evidence to support your view. All responses should be submitted (in writing or ideally e-mail format) by 31st December 2016.***

The Authority will endeavour to obtain information from a range of sources, including permit holders, CEFAS, Natural England, other organisations or persons the Authority shall think fit.

Your response along with information from other sources will be collated and based on the findings the Authority will make a decision whether to introduce, remove or vary any flexible permit conditions. Following a decision being made by the Authority, permits will be amended as necessary at no cost to permit holders.

Additional action (March 2017)

As approved by the Byelaw and Permitting Sub-Committee at the meeting on 16th February 2017, officers conducted a six week consultation focussing on specific proposals. This consultation (a 2nd phase) ended on 8th May 2017. During the consultation period details of mobile fishing proposals (a-d) were circulated to all mobile fishing Permit Holders. Other interested parties and relevant statutory bodies were also aware of the consultation. Details were provided to stakeholders of how to respond and also the deadline for the consultation on the specific proposals.

In addition to notifying permit holders directly, an updated website display was created detailing the proposals and evidence base to date.

5. Summary of responses from stakeholders (December 2016)

Eight responses were received to this review through the suggested and designated e-mail provided. One additional letter was received through the post.

The general response from permit holders was low in terms of total numbers. The significant information received (of use to the review) was limited to seven responses. From these the clearest theme related to the management of estuary based fishing activities. The D&SIFCA currently has only issued 12 mobile fishing estuary permits for activities based within the River Exe (2 permits) and the Salcombe Estuary (10 permits).

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- 58% of estuary permit holders raised an issue.

	Date received	Response type	Current Permit holder?	Type of permit holder	Issue raised	Focus - "At sea" or "Estuary"	Comments
1	30/11/2016	e-mail	Yes	Potting	No	None	Requested removal from mailing list
2	03/12/2016	Letter	Yes	Potting	No	None	Values inclusion but objects to electronic engagement
3	06/12/2016	e-mail	Yes	Mobile	Yes	At sea	Does not want additional restrictions applied
4	21/12/2016	e-mail	Yes	Multi	Yes	Estuary	Requested additional access to Salcombe scallop fishery
5	23/12/2016	e-mail	Yes	Multi	Yes	Estuary	Requested additional access to Salcombe scallop fishery
6	24/12/2016	e-mail	Yes	Potting	No	None	Pleased with permit based approach introduced
7	28/12/2016	e-mail	Yes	Multi	Yes	Estuary	Requested additional access to Salcombe scallop fishery
8	29/12/2016	e-mail	Yes	Multi	Yes	Estuary	Requested additional access to Salcombe scallop fishery
9	29/12/2016	e-mail	Yes	Multi	Yes	Estuary	Requested additional access to Salcombe scallop fishery

The majority of responses focussed on the management of the small scallop fishery within the Salcombe Estuary. 50% of the commercial fishermen exploiting this fishery responded within the review period. All of them requested changes to current spatial management. The

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permit holders want additional access provided so they can fish an area in Salcombe known as “The Bag”.

One response was focussed on the conditions imposed by the “At Sea” permit, explaining that Mobile Fishing, in particular scallop dredging already has enough control and addition measures would represent difficulties to fishers in this sector.

Officers had anticipated a greater response from permit holders utilising the Category One (At Sea) permits. In 2015 permit holders requested a review into the use of twin rig trawls (a prohibition) and additionally a restriction on the number of scallop dredges that can be used from twelve to eight.

In 2015, 142 (Mobile Fishing) permit holders were contacted and requested to engage with two separate proposals relating to the use of demersal fishing gear within the district. The consultation focussed on potentially reducing the total number of scallop dredge to eight and also the potential prohibition of using multi-rig trawling gear. The content of the responses were summarised and discussed by members of the Byelaw and Permitting Sub Committee during 2015 & 2016.

It was determined that the potential introduction of a voluntary code of conduct would be the most appropriate course of action with the D&SIFCA acting as a mediator in subsequent discussions requested from the industry.

6. Approval of officer’s recommendations for additional consultation and a timetable of action

Meetings of the Byelaw and Permitting Sub-Committee were held on 25th of January 2017 and 16th February 2017. The officer recommendations as set out in this report were discussed. It was agreed that officers should consult initially on proposals (a – d).

It was decided that permit holders should not be consulted with at this time in regard to potential extended access of the Salcombe scallop fishery. Salcombe Estuary is a Marine SSSI, and therefore Natural England must be consulted in relation to activities occurring in the SSSI and such activities may require Natural England’s consent. Following the request by fishermen to open up The Bag area of the estuary, D&S IFCA officers undertook an assessment of the potential impact of this activity and submitted it along with the proposal to Natural England. The formal advice from Natural England indicated that much more information about the activity and the impact to and the recovery of the interest features from the activity was required before an extension could be considered. Additional meetings will now be arranged between D&SIFCA and Natural England to address the multiple concerns they had raised in relation to the initial proposal.

Minutes of all meetings of the D&SIFCA Byelaw and Permitting Sub-Committee are taken.

Timetable for additional consultation in 2017

<u>Date</u>	<u>Action</u>
27 th March 2017	Permit holders notified for consultation on items (a-d)
8 th May 2017	Consultation period ends

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Responses summarised by officers/development of Impact Assessments

15th May 2017

Byelaw and Permitting Sub-Committee to consider options

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Part 3 Evidence base for the D&SIFCA Officers' recommendations

7. Management of demersal towed gear in Torbay MCZ

Devon & Severn IFCA officers have undertaken assessments in order to document and determine whether management measures are required to achieve the conservation objectives of all the Marine Conservation Zones (MCZs) in its district. The IFCA's responsibilities in relation to management of MCZs are laid out in Sections 124 to 126, & 154 to 157 Marine and Coastal Access Act 2009.

This section of the report focusses on the conclusions of an assessment, which was undertaken specifically in relation to demersal towed gear and trawling and scallop dredging on the subtidal mud feature of the Torbay MCZ. The subtidal mud feature has a 'recover to favourable condition' objective. For this feature, favourable condition means that, within the MCZ:

1. its extent is stable or increasing
2. its structure and functions, its quality, and the composition of its characteristic biological communities (including diversity and abundance of species forming part or inhabiting the habitat) are sufficient to ensure that its condition remains healthy and does not deteriorate

It is the IFCA's statutory responsibility to seek to further the conservation objectives of the site.

Demersal trawls and scallop dredges are likely to exert the following pressures on the subtidal mud feature:

- Abrasion/disturbance of the substrate on the surface of the seabed
- Changes in suspended solids affecting water clarity
- Penetration and/or disturbance of the substrate below the surface of the seabed, including abrasion
- Removal of non-target species
- Removal of target species

A copy of the assessment is attached below along with the formal advice received by NE in response to the MCZ assessment. The assessment considered peer reviewed studies and research, officer knowledge of the site, and fishing activity data to provide evidence of the likely impacts of demersal gear on the subtidal mud feature. The subtidal mud of Torbay is known to be very species rich and four biotopes have been recorded in the site associated with the subtidal mud. The D&S IFCA Mobile Fishing Permit Byelaw prohibited towed demersal fishing activities in 53.5% of the subtidal mud in Torbay MCZ. However, this leaves 46.5% unprotected from the impact of demersal fishing gear. Bottom towed gear is known to occur occasionally within areas of subtidal mud which are not protected under the current Byelaw. Some otter trawling takes place in the site and scallop dredging takes place in the areas open to bottomed towed gear. The stable nature of the subtidal mud makes it susceptible to disturbance from bottom-towed gear. Previous studies have highlighted that muddy sand habitats have the slowest rate of community restoration following disturbances from fishing. From the peer reviewed literature soft sediment habitats, in particular muddy sands have been found to be vulnerable to bottom towed gear. Predicted recovery times for

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muddy sand from beam trawls were 236 days; otter trawls 213 days and scallop dredging 589 days. Scallop dredging had a more negative impact on benthic biota than otter trawling, as dredges tend to penetrate deeper into the sediments than trawls. Additionally, scallop dredges have been found to have the most severe ecological effects

The D&S IFCA's MCZ assessment concluded that further management of the demersal towed gear activity taking place on the subtidal mud feature of the MCZ needs to be brought in to protect the subtidal mud feature of Torbay MCZ and ensure that the conservation objectives are furthered. The recommendations for management are:

- Dredges: D&S IFCA proposes to prohibit scallop dredging within the Torbay MCZ.
- Trawls: D&S IFCA proposed to prohibit demersal trawling within the Torbay MCZ.
D&S IFCA proposes to prohibit pelagic trawling within the Torbay MCZ, where the foot rope comes into contact with the sea bed.

The IFCA officers will undertake an assessment of the economic impact of the removal of all demersal gears from Torbay MCZ and this will help the IFCA understand any effective displacement caused by the introduction of these management measures.

- Marine Conservation Zone Assessment

Response from Natural England (summary)

It is Natural England's view that through their assessment, D&S IFCA officers appear to have appropriately identified those activities that are likely to hinder the conservation objectives of the feature. Natural England agree that the implementation of the proposed management measures will further the conservation objectives of the feature.

- Formal advice from Natural England

Recommendation for consultation

That a consultation is undertaken to review the conditions of the Mobile Fishing Permit with a view to introducing further management of the demersal towed gear in Torbay MCZ, as described above. The consultation would aim to gather information on the impact of the management proposals to the fishing industry, as part of an impact assessment.

8. Management of demersal trawl gear in the Lundy SAC

In 2012, Defra announced a revised approach to the management of commercial fisheries in European Marine Sites (EMS). The objective of the approach is to ensure that all existing and potential commercial fishing activities are managed in accordance with Article 6 of the Habitats Directive. Devon and Severn IFCA has a responsibility to assess all activity/feature interactions in EMS sites within the district to determine whether management of an activity is required to conserve site features. This has been done by completing Habitat Regulation Assessments (HRA).

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This section of the report focusses on the conclusions of a HRA, which was undertaken for demersal towed gear on the subtidal coarse sediment and subtidal sand sub-features of the Lundy SAC. The conservation objective for these sub features is to maintain:

- the extent and distribution of qualifying natural habitats and habitats of the qualifying species
- the structure and function (including typical species) of qualifying natural habitats
- the structure and function of the habitats of qualifying species
- the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely

Demersal towed gear could potentially exert the following pressures on the subtidal coarse sediment and subtidal sand sub-features:

- Abrasion/disturbance of the substrate on the surface of the seabed
- Penetration and/or disturbance of the substrate below the surface of the seabed, including abrasion

A copy of the assessment is attached below along with the formal advice received by Natural England in response to the HRA. The assessment considered peer reviewed scientific studies, officer knowledge of the site, and fishing activity data to provide evidence of the likely impacts of the gear on the features. Due to the Devon and Severn IFCA Mobile Fishing Permit Byelaw, permitted vessels have limited access to the Lundy SAC and are restricted to the North East of the Island.

There is a known squid fishery, which operates within the open access area (under the Mobile Fishing Permit) of the SAC. This is a seasonal fishery which operates for three months of the year from the end of May until the end of August. However the fishery has not taken place in the last few years as the squid have not arrived in numbers in the area. Five vessels are known to be involved in the fishery - these vessels operate otter trawls and multi-rig trawls. Demersal towed gear physically disturbs the seabed by dragging the fishing gear over it. The level of disturbance differs from gear type, to sediment type, intensity and natural processes. The evidence suggests that less stable, mobile sediments in shallow waters are more resilient to the effects of trawling than stable sediments. The area, where towed gear vessels operate, is made up of subtidal coarse sediments with moderate energy level at the seafloor, and subtidal sands which have high level energy levels at the seafloor. These environmental factors can lead to benthic communities that are more resilient to trawl disturbance.

Taking into account the available impact/recovery evidence, the current level of activity, and the moderate to high energy levels, D&S IFCA concluded that it is unlikely to have a significant effect on the features.

- Fisheries in EMS Habitats Regulations Assessment (HRA)

Response from Natural England (summary)

NE had a number of comments on the HRA and concluded in their Formal Advice that adverse effects from these interactions on the integrity of the EMS cannot yet be excluded and that there is a high degree of uncertainty in particular in relation to the exposure of the feature to trawling. It is Natural England's view that based on the information presented in

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the assessment, adverse effects from these interactions on the integrity of the EMS cannot yet be excluded. Taking into account the comments from NE, D&S IFCA propose to carry out a Monitoring and Control Plan to monitor the activity levels at the site and gather more information on the footprint and impact of the gear being used.

- Formal advice from Natural England

Recommendation for consultation

That a consultation is undertaken to review the condition of the Mobile Fishing Permit to allow for the development of a Monitoring and Control Plan and to gather data from the fishing industry to inform this plan.

If a monitoring and control plan is developed, D&S IFCA and NE will work together to develop this plan and the IFCA will implement it, working with the members of the fishing industry involved in the squid fishery.

9. Management of scallop dredge gear in the Lundy SAC

In 2012, Defra announced a revised approach to the management of commercial fisheries in European Marine Sites. The objective of the approach is to ensure that all existing and potential commercial fishing activities are managed in accordance with Article 6 of the Habitats Directive. Devon and Severn IFCA has a statutory responsibility to assess all activity/feature interactions in EMS sites within the district to determine whether management of an activity is required to conserve site features. This has been done by completing Habitat Regulation Assessments (HRA).

This section of the report focusses on the conclusions of a HRA, which was undertaken for scallop dredging on the subtidal coarse sediment and subtidal sand sub-features of the Lundy SAC. The conservation objectives for these features are to maintain:

- the extent and distribution of qualifying natural habitats and habitats of the qualifying species
- the structure and function (including typical species) of qualifying natural habitats
- the structure and function of the habitats of qualifying species
- the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely

Scallop dredges could potentially exert the following pressures on the subtidal coarse sediment and subtidal sand sub-features:

- Abrasion/disturbance of the substrate on the surface of the seabed
- Penetration and/or disturbance of the substrate below the surface of the seabed, including abrasion
- Removal of target species
- Removal of non-target species.

A copy of the assessment is attached below along with the formal advice received by Natural England in response to the HRA. The assessment considered peer reviewed scientific studies, officer knowledge of the site, and fishing activity data to provide evidence of the likely impacts of the gear on the features. Due to the Devon and Severn IFCA Mobile Fishing

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Permit Byelaw, permitted vessels have limited access to the Lundy SAC and are restricted to the North East part of the SAC. Although there is currently access for scallop dredging, there are no known confirmed reports of the activity taking place within the SAC. The area currently open to demersal gear includes the subtidal coarse sediment and subtidal sand sub-features. Dredging for scallops was found to have a number of impacts on benthic systems, including a reduced seabed habitat complexity and heterogeneity, shifts in community structure and trophic interactions, alterations to the physical structure of the sea floor, and an impact on by-catch species. However, the severity and recovery time from these impacts depend on a number of factors, including the intensity of activity and environmental influences. The evidence suggests that less stable, mobile sediments such as the subtidal sand feature of the SAC are more resilient to the effects of dredging than stable sediments such as the subtidal coarse sediment feature.

The HRA concluded that because the activity was not currently occurring there was no likely significant effect on the sub-features.

- Fisheries in EMS Habitats Regulations Assessment (HRA)

Response from Natural England (summary)

It is Natural England's view that on the basis of the information presented in the assessment, adverse effects from these interactions on the integrity of the EMS cannot yet be excluded. Natural England's formal response disagreed with this conclusion due to the possibility that the SAC could be targeted by scallop dredges in the future, and if this were to occur there could be a negative impact on the more stable subtidal coarse sediment sub-feature.

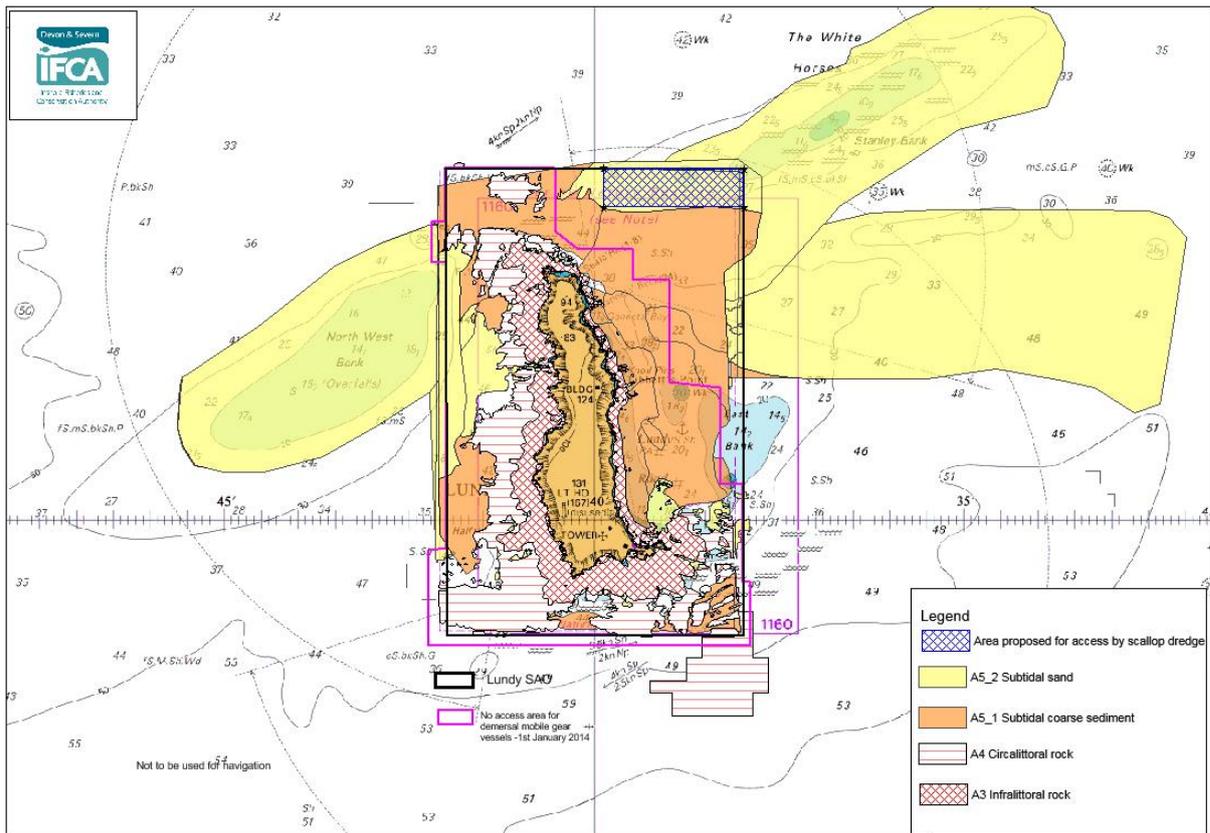
Taking into consideration the comments made by NE, it has been concluded that further management of the scallop dredge activity on the subtidal coarse sediment sub-feature is required to protect the feature. However, management is not currently required for the more mobile sediment of the subtidal sand sub-feature as this is more resilient to scallop dredging impacts.

- Formal advice from Natural England

Recommendation for consultation

As a result of the HRA process and formal advice offered by Natural England, D&S IFCA proposes to prohibit scallop dredging on the subtidal coarse sediment sub-feature of the Lundy SAC as shown in the map below.

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A consultation will be undertaken to review the conditions of Mobile Fishing Permit to introduce further management of the demersal towed gear in Lundy SAC, as described above. The consultation would aim to gather information on the impact of the management proposals to the fishing industry, as part of an impact assessment.

10. Management of the removal of spiny lobster from Tranche 1 and Tranche 2 MCZ by demersal towed gear

Devon & Severn IFCA officers have undertaken assessments in order to document and determine whether management measures are required to achieve the conservation objectives of all the Marine Conservation Zones (MCZs) in its district. The IFCA's responsibilities in relation to management of MCZs are laid out in Sections 124 to 126, & 154 to 157 Marine and Coastal Access Act 2009.

This section of the report focusses on the protection of spiny lobster, also known as crawfish and *Palinurus elephas*. The spiny lobster is a feature of two Tranche 1 and one Tranche 2 MCZs designated in the D&S IFCA district and at each of these sites, this species has a recover to favourable condition conservation objective. Favourable condition with respect to spiny lobster means that the quality and quantity of its habitat and the composition of its population in terms of number, age and sex ratio are such as to ensure that the population is maintained in numbers, which enable it to thrive.

It is the IFCA's statutory responsibility to seek to further the conservation objectives of the sites. Copies of the assessments are attached below along with the formal advice received by NE in response to the MCZ assessments. There is no evidence or reports of spiny

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lobsters being caught by demersal gear fishing vessels that have access to the Tranche 1 sites of Lundy MCZ and Skerries Bank MCZ. Demersal fishing gear is restricted under the D&S IFCA Mobile Fishing Permit Byelaw. In order to ensure that the spiny lobster feature is protected from this gear type, the conditions of the Mobile Fishing Permit will need to be adapted to prohibit the removal of spiny lobster from Lundy MCZ and Skerries Bank and Surrounds MCZ.

For the Tranche 2 MCZ site, Bideford to Foreland Point MCZ, spiny lobster is a feature of conservation importance with a 'recover to favourable conservation' objective and therefore will need protecting from the gear types operating in the site. The three year review of permit conditions for the Mobile Fishing Permit Byelaw provides the opportunity to bring in a prohibition on the removal of spiny lobsters in these sites by demersal towed gear. MCZ assessments for these sites are currently being prepared and changes to the permit conditions to afford protection to the spiny lobster in the designated MCZ can be highlighted within the assessments, to show that the IFCA has introduced management to protect the feature, prevent deterioration of spiny lobster populations and ensure the conservation objective is furthered.

Response from Natural England

Skerries Bank & Surrounds MCZ

It is Natural England's view that through their assessments, D&S IFCA officers appear to have appropriately identified those activities that are likely to hinder the conservation objectives of the feature. Natural England agree that the implementation of the proposed management measures will further the conservation objectives of the feature.

Lundy MCZ

It is Natural England's view that through their assessment, D&S IFCA officers appear to have appropriately identified those activities that are not likely to hinder the conservation objectives of the feature.

- Marine Conservation Zone Assessment (Skerries Bank & Surrounds MCZ)
- Marine Conservation Zone Assessment (Lundy MCZ)
- Formal advice from Natural England (Skerries Bank & Surrounds MCZ)
- Formal advice from Natural England (Lundy MCZ)

Recommendation for consultation

That a consultation is undertaken to review the conditions of the Mobile Fishing Permit, to introduce further management of the demersal towed gear in Lundy MCZ, Skerries Bank & Surrounds MCZ and Bideford to Foreland Point MCZ by prohibiting the removal of spiny lobsters. The consultation would aim to gather information on the impact of the management proposals to the fishing industry, as part of an impact assessment

11. Salcombe scallop fishery – extension of fishing area

The Salcombe-Kingsbridge Estuary sits within the South Devon Area of Outstanding Natural Beauty (AONB). It is a sheltered marine inlet, characterised as a ria. The estuary has an area of 634.5 ha, is 8.3 km long with a maximum channel depth of 12.5 m below chart

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datum. The southern part of the estuary is bordered by sandy beaches and rocky shores, with a steep-sided coastline at the mouth that is exposed to the prevailing south-westerly winds and waves. In contrast north of Scoble Point, the estuary is characterised by large areas of intertidal mudflats, with some exposed rocky outcrops such as the Salt Stone (Environment Agency, 2014). The entire estuary is designated a Site of Special Scientific Interest (SSSI) for its rich and diverse intertidal and subtidal flora and invertebrate fauna, with certain communities being outstanding examples of their type in the North-east Atlantic (English Nature, 1987).

History of the Scallop Fishery

D&S IFCA permits a highly restricted king scallop (*Pecten maximus*) dredge fishery in Salcombe Estuary under the Mobile Fishing Permit Byelaw. The fishery is open from 15th December to 15th March each year, and is limited to working between 0900hrs and 1600hrs on weekdays only. The fishery operates in a restricted area between lines drawn from Woodville Rocks to Ager Point at the southern end, and Snapes Point to Scoble Point at the northern end (Figure 2). The fishery is further restricted through technical measures that include no use of toothed dredges; maximum width of dredge is 1m; hand hauling of the dredge; maximum of two dredges and the boat size limited to 7m or under (Figure 1).

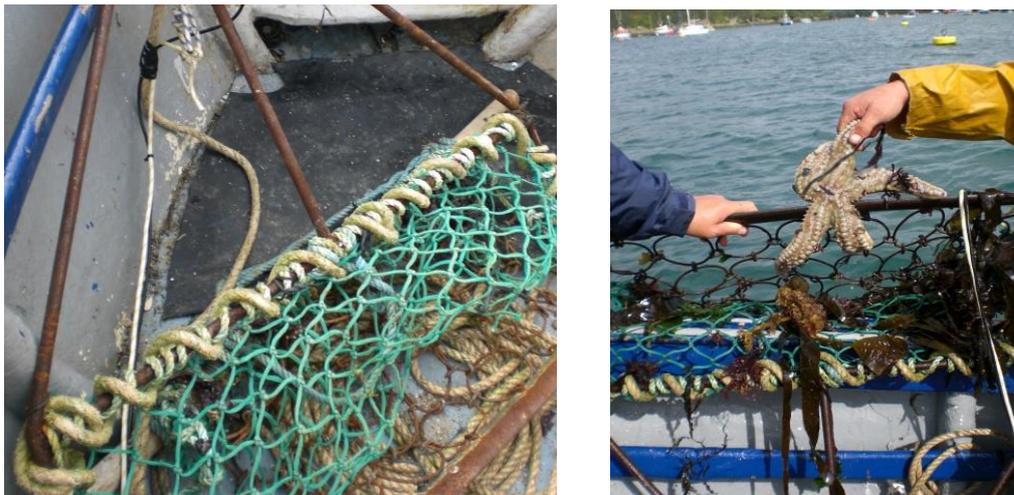
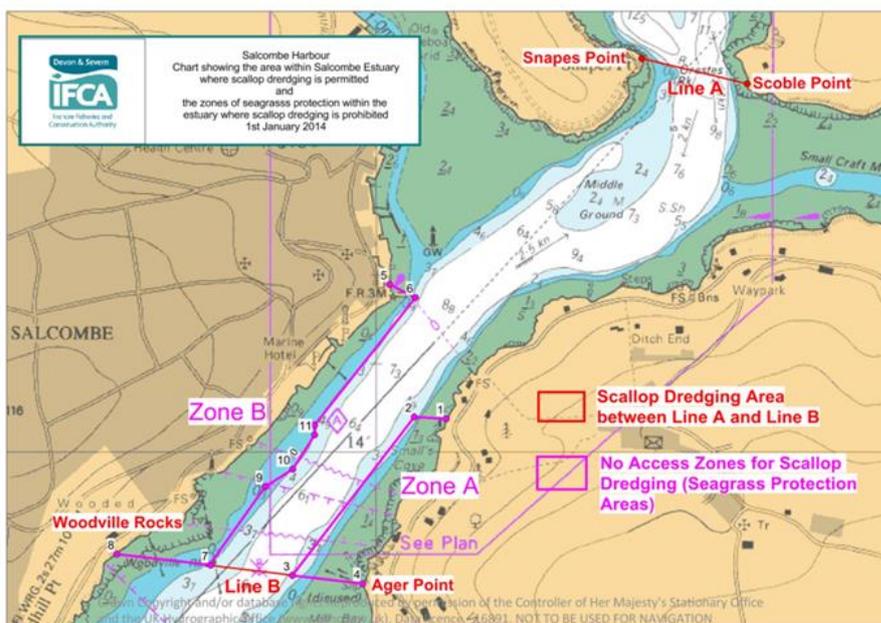


Figure 1 scallop dredge used in the Salcombe Scallop Fishery



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The original Dredging in Salcombe Estuary Byelaw was brought in in 1998. Historically and traditionally, a small boat scallop fishery has always existed in Salcombe estuary. In the past it was undertaken on an ad-hoc basis by a few of the local fishermen using small dredges during periods of bad weather when it made venturing out of the estuary (and over the Bar) impossible. The fishery became less and less during the 1960s when stocks became depleted; it is claimed because of starfish scavenging the shellfish. The fishery picked up again in the 1990s when one or two fishermen found that the stocks had recovered. Unfortunately, this discovery led to a sudden increase in effort, which included some of the larger vessels in Salcombe. This raised concern about the impact of this effort on the stock. This fishery was then closed for several years. In 1995, the fishermen produced a signed petition requesting that the fishery reopen. After much discussion and the development of severe restrictions on the gear, spatial and temporal restrictions, many of which were suggested by the fishermen, a fishery was open under byelaw.

D&SIFCA Proposal for Extension of the Fishing Area

Over the last few years the IFCA has received requests from the scallop fishermen, both verbally and in writing, to open an area known as 'The Bag' to the fishery. Requests have again been received during December 2016. Under the Mobile Fishing Permit Byelaw, the flexible conditions of the permit, which include spatial restrictions, are to be reviewed at least every three years. The three year review provided the IFCA with the opportunity to take on feedback from the industry and review the area within which the scallop fishery operates. The recent consultation for the review of the Mobile fishing Permit Byelaw resulted in five responses from the Salcombe Scallop Fishermen requesting that the fishery be extended into the Bag area.

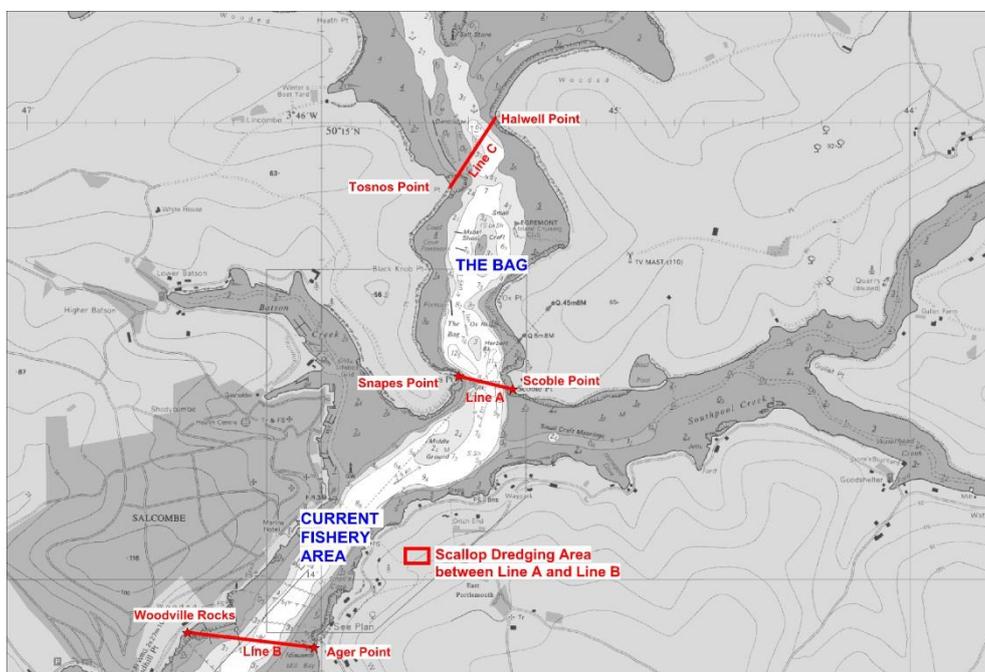


Figure 3 Salcombe Estuary showing current and proposed area.

Figure 4 shows the current habitat data available for the Salcombe-Kingsbridge Estuary (Defra, 2016). There appears to be little difference between the habitats of the area currently

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fished, and those in The Bag; both are largely composed of subtidal sediments, with The Bag having slightly more mud substrates, while the main estuary is sandier towards the southern end.

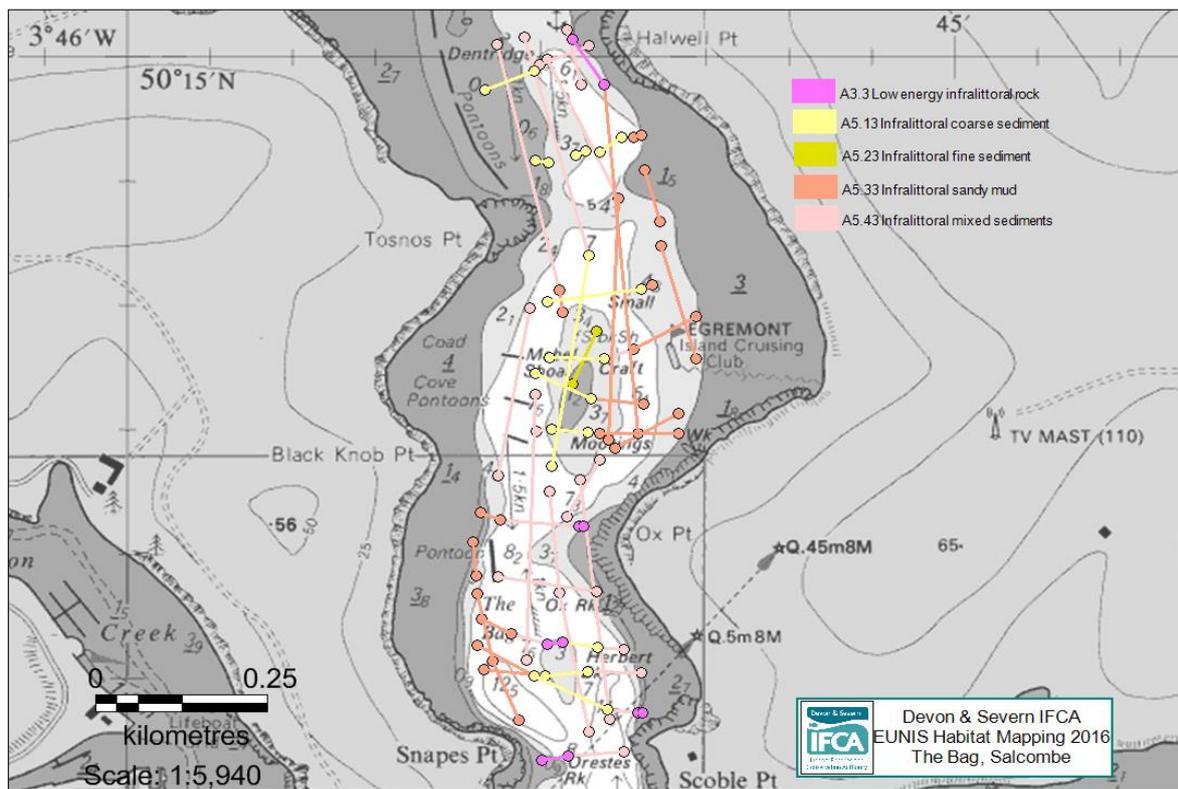
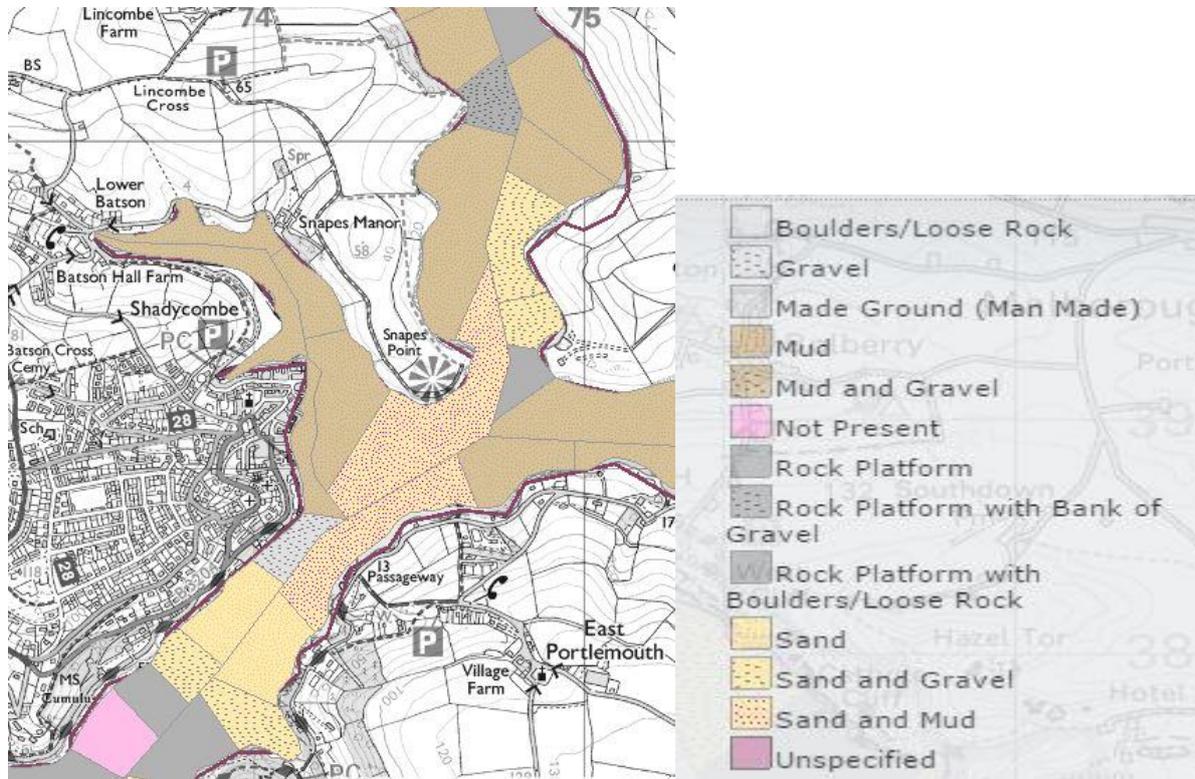


Figure 5: EUNIS classification of data gathered form camera tows in The Bag

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In order for the IFCA to have as much information about the subtidal habitats in the Bag, Environment Officers carried out underwater video filming in the Bag area in 2016. The footage from the tows was analysed to produce habitats maps to EUNIS classification.

An assessment of the likely significant effect of extending the scallop fishery into The Bag area was carried out. This assessment looked at the vulnerability of the SSSI features, their sensitivity, the impact of the dredges, and the recoverability of the features to the fishing activity. IFCA officers concluded that there is no likelihood of a significant adverse effect on the SSSI features within The Bag if it were opened up to the scallop fishery. This assessment was sent to Natural England in November 2016 and film footage was sent to them, on their request, in December 2016. It is the view of the D&SIFCA Environmental officers that in order to trial whether an extension to the fishery could be well managed and monitored, it is proposed that the area could be opened up for a one month period between January and 15th March 2017 (final dates to be determined). The number of days would be limited during that period to weekdays only and that equates to a maximum of 23 days. D&S IFCA will monitor the fishery over this period by carrying out on board surveys and checking compliance with the management measures. In order to limit the extent of fishery in the Bag, the area to be open would extend up to a line drawn from Tosnos Point to Halwell Point as shown in Figure 6 below. The yellow areas show 20m buffer zones round the infralittoral rock identified during underwater filming of the area. Scallop dredging in these areas would not be permitted.

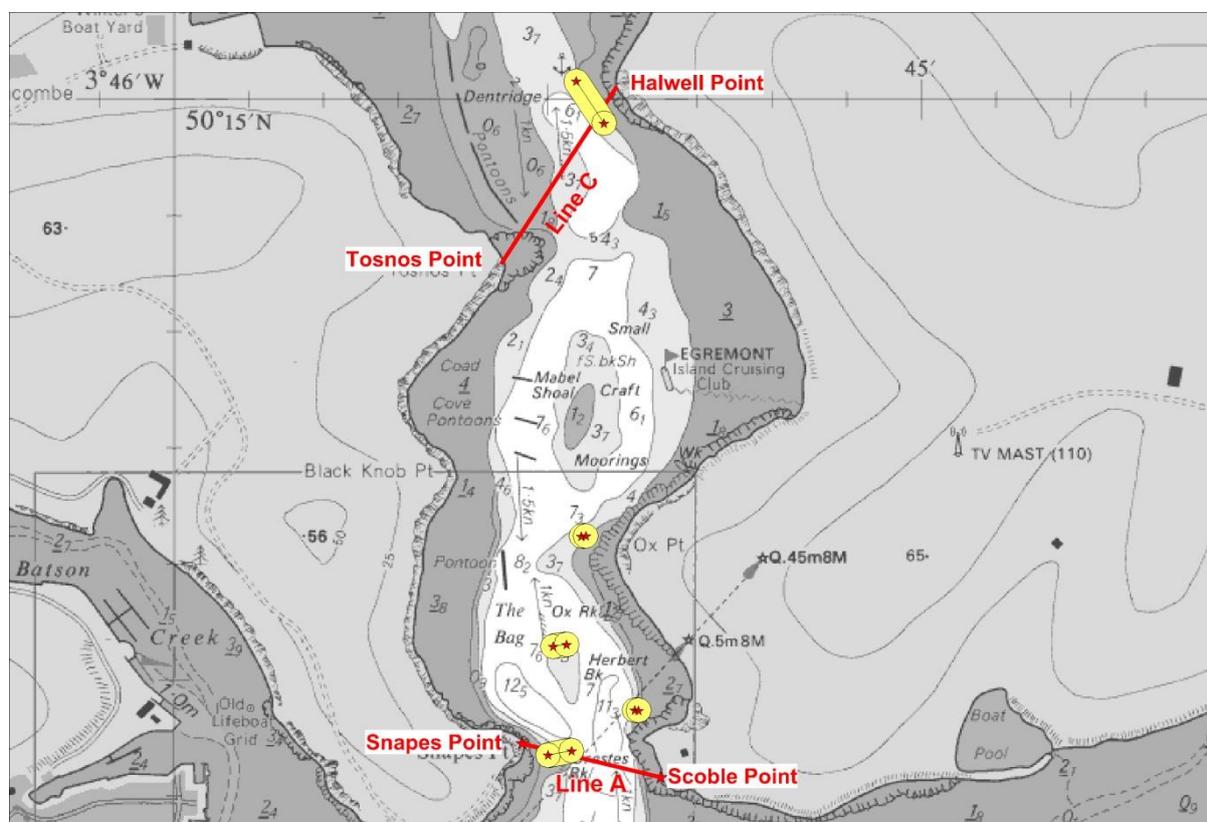


Figure 6: Proposed extension area showing location of rock with associated buffer

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The underwater video survey would be repeated after the fishery is closed to compare the results with the pre- fishery survey. D&S IFCA will monitor the fishery over this period by carrying out on board catch per unit surveys (in both the main fishery area and in the Bag area) and checking compliance to the management measures. Part of this monitoring could include the fishermen carrying GPS on board so that their tracks can be recorded to help identify areas for post fishery surveying.

There is concern that allowing dredging within The Bag might promote the spread of slipper limpets to other parts of the estuary. Therefore, if the fishery area is extended then a protocol could be set up to ensure the slipper limpets brought up in dredges are not spread any further and a possible mechanism for their disposal is considered.

Original Recommendation by D&SIFCA officers (Jan 25th 2017)

An original recommendation was documented by D&SIFCA officers in January 2017. The recommendation was dependent on formal advice provided by Natural England. Officers recommended that if advice suggested that the fishery area could be extended, Officers would request approval for the D&SIFCA to begin consultation with interested and relevant stakeholders such as the Salcombe Harbour Master, The Duchy of Cornwall, South Hams AONB Officers and Salcombe estuary permit holders.

Formal advice was received from Natural England in time for members to discuss the officers' recommendation. The formal advice offered from Natural England at this time did not recommend changes to the current restrictions. Members of the Sub-Committee requested that more detail should be provided in regards to rationale and the impact of any increased access. Officers confirmed that additional discussions with Natural England would shape any further development of the work.

Response from Natural England (Salcombe scallop fishery)

Natural England do not agree with the D&SIFCA conclusion that opening up an additional area within Salcombe to Kingsbridge Estuary SSSI (known as 'The Bag') to the scallop fishery is unlikely to damage the features for which the SSSI has been notified.

The main reasons for this are as follows:

1. NE does not feel that the D&SIFCA assessment takes full consideration of the range of subtidal fauna and flora that is present within the area impacted.
2. It is not clear what level of exposure to dredging the subtidal sediments will be subjected to, making assessment of the level of impact uncertain.
3. It is not clear how recovery from the impacts of dredging has been considered as part of the assessment.
 - Salcombe to Kingsbridge Estuary SSSI – Formal Notice (from Natural England)

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Outcome from further discussions with NE

D&S IFCA officers attended a teleconference with Natural England to discuss the items listed in the appendix of NE's formal notice in response to the D&S IFCA assessment of the impact of extending the fishery into The Bag area. The meeting reaffirmed the points made in NE's formal advice especially relating to the communities associated with the habitats identified from D&S IFCA survey work. NE felt that identification of species and communities to a higher classification level is required to provide greater understanding on the impacts of the gear type and recoverability of these communities. Whilst much of the area is infested with the invasive non-native species *Crepidula fornicata*, NE felt that the areas covered by this species provides a habitat for some communities and was concerned that the scallop fishing would further degrade the habitat already degraded by the non-native species. Algal species' presence, extent, and survivability were also discussed and further research into these areas was highlighted. NE will provide further data from previous studies including video stills, which may provide more information on the communities and species present. NE would like to understand the level of exposure in much more detail. NE suggested that additional exclusion areas are mapped, where intertidal rock is present and where rich algal communities are found at Mabel Shoal. In conclusion, much more information is needed to ascertain whether the fishery could be extended but this will not be availability for the fishery in 2016-2017. The IFCA will have to decide whether it is feasible to undertake the work necessary to respond to NE concerns about the extension of the fishery for the 2017-2018 season.

Recommendation

It was decided that permit holders should not be consulted with at this time in regard to potential extended access of the Salcombe scallop fishery. Salcombe Estuary is a Marine SSSI, and therefore Natural England must be consulted in relation to activities occurring in the SSSI and such activities may require Natural England's consent. Following the request by fishermen to open up The Bag area of the estuary, D&S IFCA officers undertook an assessment of the potential impact of this activity and submitted it along with the proposal to Natural England. The formal advice from Natural England indicated that much more information about the activity and the impact to and the recovery of the interest features from the activity was required before an extension could be considered. Additional meetings will now be arranged between D&SIFCA and Natural England to address the multiple concerns they had raised in relation to the initial proposal.

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Part 4 Responses, observations and impact

12. Introduction to the collected evidence

As approved by the Byelaw and Permitting Sub-Committee, officers conducted a six week consultation ending on 8th May 2017. During the consultation period details of proposals (a-d) were circulated to all Mobile Fishing Permit Holders along with other interested parties and relevant statutory bodies.

The basic proposals centred around the following:

- a. Management of demersal towed gear in Torbay MCZ
- b. Management of demersal trawl gear in Lundy SAC
- c. Management of scallop dredge gear in Lundy SAC
- d. Management of the removal of spiny lobster from tranche 1 and tranche 2 MCZ by demersal towed gear

After a request for from one permit holder for additional information, additional charts of the Torbay MCZ areas were also widely circulated.

The six week consultation period produced seven written responses. The lack of response would indicate that it may be appropriate for the Byelaw and Permitting Sub-Committee to discuss the continuing consultation strategy adopted by D&SIFCA and consider additional initiatives for officers to implement in future consultation periods. Suggestions from fishermen included text alerting.

13. The written responses

There were 10 written responses to mobile fishing consultation items (a-d) with several of these received during the last couple of days before the final deadline. Due to the pending deadline, one of these “written” responses was created by D&SIFCA staff following a telephone call. Although all mobile fishing permit holders were notified directly (as detailed in the communication section of this report), several fishers have complained that they were not well informed or knew little about the proposals. As with other consultation initiatives, the total number and detail of written responses received was poor. It is apparent that fishers are generally un-comfortable responding in written format and additional communication initiatives (to supplement written requests) such as regular open forums is something the Sub-Committee may wish to consider.

Although 10 separate responses were received, three of these were identical and represented the views of owners operating three different Brixham based vessels. For summary purposes the responses have been separated into three different categories as follows:

- Basic general responses
- Mixed method focussed
- Scallop focussed
- Trawling

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Due to the low response significant summarising¹ of all the information has not been required. As an alternative the content of some responses have been documented in full or have been edited very slightly for purposes of anonymity. Although the proposals included protection of spiny lobster in MCZ areas and scallop dredging and demersal trawling in access areas of Lundy SAC, these proposals were not specifically referred to in the written responses. The proposals focused on the Torbay MCZ areas provided most objections.

Basic general responses

- *“Killing the industry even more”*
- *“I would like the restrictions to remain as they are, I am a at sea boat”.*

Torbay MCZ

In reference to protecting static gear (Torbay area)

- *“As it gives them an excuse, why not just make the line straight in below (south) of the scallop farm then there’s no excuse for being north side of it”*

Mixed method responses

Two responses containing some detail were received that focussed on the Torbay proposals. Both vessels historically conduct a mixture of mobile fishing methods. Both responses indicate that Torbay offers a sheltered area for fishing during periods of poor weather and closure will impact on incomes of fishermen using mobile gear and other related shore based industry.

These two responses question the concept of protecting the subtidal mud feature of the Torbay MCZ from mobile fishing methods, whilst weather and other factors also have, in their view, a potential negative impact. Both responses highlighted that high quantities of static gear such as cuttle traps, crab pots and gear used by mussel and scallop farms is placed in Torbay. Both responses also made reference to large scale commercial anchoring in Torbay (in a general sense, rather than specifying anchoring activity in the small areas of the MCZ) and questioned what is being done to reduce this potential impact on the sea bed.

Scallop focussed

Four responses were received that focussed predominately on scallop dredging (Torbay area). Three identical responses (representative of three different vessels owned by the same company) were received. Both of these responses have been reproduced below with only minor changes to add clarity and protect anonymity.

- *“.....In response to your proposed ideas of closing more areas in the Torbay area i am dead against it why can’t you put a dredge limit on it or boat size like they do in Wales it just seems to me it’s another nail in the fisher’s coffin on the blow hard days when a small boat needs to get out to put food on his family table than he has the option to do so by reducing the dredges. As far as I am aware there have been no surveyors on this ground to warrant this idea*

¹ All responses in the Mobile Fishing consultation have also been scanned for use by the D&SIFCA Byelaw and Permitting Sub-Committee

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and where it is coming from god only knows most probably people who don't have a clue how the fishing industry works never done a commercial day at sea in their lives. Personal i have a few ideas but whether people take the option to look at them is a different story but i will put the down just in case a seed is planted for the future of our industry".

- 1. 6 dredges in total 3 mile limit to the land on a pole length and possible under 12 metre vessel so on blow hard days they get a day's work*
- 2. 8 dredges in total 3 mile limit to the 6 mile limit on a pole length 12 metre to under 15 metre*
- 3. Every vessel has to 221 kw and under to fish inside the 6 mile limit*
- 4. I know it's not your district but outside the 6 mile limit there should be no more than 12 dredges in total with a 221 kw limit as well with a pole length to suit the dredges aloud as at the moment there are too many big boats coming inside the 12 mile with as many dredges as they can get on especially in bad weather when they know one can get on*

Combined response for 3 vessels:

- ".....I would like the proposal to be dropped and for it to stay status quo. I own three trawlers that engage in all three methods, but primarily (this responses) concerns the proposed closure to scallop fishing in the blue hatched areas. To fish these areas we have had to purchase IVMS (succorfish) systems as required by the IFCA. These systems cost over £850 each, are not robust, and to date we have spent over £5000 for replacements so we can operate and legally fish in these areas.*

We fish these areas for very short periods of time, mostly because of bad weather in winter months. Vessels will naturally travel to better grounds when weather permits. One of our vessels has fished these Torquay and Brixham areas for short periods, with better results in scallop numbers than last year. This shows to me that the area is being sustainably fished. Vessels need tracking systems to fish these areas and only a few vessels work these grounds for short periods. It is mainly old local knowledge that fishermen use to work these grounds.

In the IFCA assessment of the area 2015 to 2016, only 3 vessels were observed using these areas. These areas are small and only suited for a few vessels, and because of their size (area suited to small vessels) you would not have an influx of vessels trying to work these grounds. Give the IVMS tracker systems time to prove its worth in fisheries management and tracking, both for the environmentalists to protect grounds and the fishing industry to fish areas around them".

In addition to the information re-produced above, this response also questioned the IFCA vision documented in the 2016 to 2017 annual plan with reference to economic benefits, sustainable fisheries and a viable industry. Also, this response referenced (without statistics) the economic benefits that the areas provide to crew on the vessels, and associated local

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industry such as local processors (via scallop landings) and engineers repairing the fishing vessels.

Trawling focussed

Three responses focused on trawling activity within the proposed closed areas of the Torbay MCZ. These three stakeholders questioned the impact that small vessels operating lightweight trawling gear would have on the mud feature. Again alternative forms of impact such as weather were highlighted, and one of these stakeholders provided photographs to try and demonstrate this point. One of these responses indicated that he understands why scalloping activity should cease on the sites, but objected to a removal of demersal and pelagic trawling methods. Two of these responses provided an indication that they fish these areas during a two to three month period (April, May & June) targeting cuttle fish. The income derived from fishing these areas is claimed to account for a good percentage of total earnings. One of the responses indicated that during the three month period average fishing time within Torbay would be between 30 and 40 days, with potential earnings of between £200 and £600 per day (maximum earnings of £24,000 for the season).

Extracts with focus on trawling in the Torbay MCZ:

- *“I understand that the scallopers have abused the privilege of the bay during bad weather but in the shallow water of the bay a good breeze of easterly wind will cause more damage than any trawler or pelagic boat will do to the ground in the bay”.*
- *“This proposal will affect fisherman and may even put some out of business and for every fisherman that goes out it will affect 5 other people in the industry.*
- *I feel that you should police existing rules better so that the reefs are protected and leave things as they are for responsible fishermen who have made the bay a sustainable fishery.*

More detailed response

“I have worked in Torbay fishing for the past 37 years, using different methods of fishing mostly trawling. I own a small under 10M boat with a 92KW engine and I use a small light trawl, which skips along the sea bed. The cod ends of the trawl are 100mm, so any juvenile fish can escape, making the impact on the environment minimal.

My lively hood depends on working Torbay for approximately two months a year, which makes up a good percentage of my yearly income.

There are areas in the bay already where I cannot fish. There are areas where there are pot boxes, covering hundreds of square miles also affecting trawling. Perhaps if scalloping was banded from Torbay and maybe a 100KW limit to mobile fishing would be a better solution to protect the bay. Obviously scallop dredging is destructive to the sea bed.

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The issue of the mud erosion which was the result of a survey, was in my opinion a complete waste of time and money. When we get an Easterly, Southerly gale or a strong wind, this is enough to stir the mud up massively. It will turn the bay brown, shift boulders the size of a mini, uncover and cover wrecks and destroys sea defences. So this is where the destruction is coming from and can do more damage in a couple of seconds during one gale, than I have done trawling during two months of the year. .

Photographs were also submitted as part of this response to demonstrate the effect of natural disturbance.



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To protect the environment the wild life and conserve fish stocks, it would be more effective and sensible to ban cuttle traps and mono filament nets. The cuttle fish used to come into the bay and spawn their eggs onto the reefs, rocks and sea grass beds, which are all protected from trawling gear.

What's happening now is the cuttle fish are spawning on the never ending cuttle traps. Hundreds of eggs are evident on most of these traps. These traps are lifted and hauled every other day, killing the eggs as they will not survive from the manner of disturbance. There are probably 2,000 cuttle traps in Torbay, mostly worked by part time fishermen and other tradesmen like builders, painters and retired men. By banning cuttle traps and mono filament nets stocks would increase. Mono filament nets are murderous to the wild life. Sea birds, cormorants, shags, guillemots etc, get caught up in the nets. Not to mention Dolphins and seals which will all die. Small crabs get tangled in the nets; consequently they get smashed up and killed, mostly by fisherman at the hand of a mallet, as they tangle the nets. Having witnessed the impact on the wildlife from these methods of fishing surely the solution would be to ban them”.

Torbay MCZ - Considerations for management

Within the Torbay MCZ assessment, the literature review provided evidence for the impact of trawling and scalloping on the mud habitat. It is clear from this evidence that scalloping has the greatest impact on mud habitat with predicted recover times for muddy sand sediment found to be 589 days. For otter trawls, this was found to be much less at 213 days (Foden et al. 2010; Kaiser et al. 2006; Ragnarsson & Lindegarth, 2009). Scallop dredging had a more negative impact on benthic biota than otter trawling, as dredges tend to penetrate deeper into the sediments than trawls (Collie et al. 2000). Additionally, Kaiser et al. (2006) found scallop dredges had the most severe ecological effects. Ball et al. (2000) found long-term impacts of otter trawling depended on the intensity of the activity, rather than direct impact from passage of the gear. Therefore, the impact may be less severe where fishing pressure is low. Whilst otter trawling was shown to have an impact especially when the effort is long term Sanchez et al (2000) suggested that sporadic episodes of otter trawling in muddy habitat may cause relatively few changes in community composition (Sanchez et al. 2000). Tuck et al. (1998) showed that the effects of continuous disturbance by otter trawling became significant after approximately five months of fishing. In silty areas, direct mortality due to otter trawling was lower than beam trawling for burrowing species such as bivalves and crustaceans. Whilst some studies have conclude that trawling may cause an impact due to resuspension of sediment, dependant on grain size, (Kaiser et al. 2002) the easterly winds that impact Torbay, predominantly over winter and spring, create a huge amount of resuspension, movement of sediment and loss of seagrass form the beds.

Further to the MCZ assessment, discussions have been had with Natural England. Due to the evidence that otter trawling has a less significant impact on the mud feature, it would be possible to resubmit the assessment for this activity, and propose and develop a Monitoring and Control Plan for this activity in the Bay. This would involve understanding the level of effort, the period of the fishery, the footprint of the gear and the direct impact of the otter trawls on the mud habitat. Potentially this could be through undertaking a BACI (Before,

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After, Control and Impact) study, which would involve sidescan sonar work and grab sampling and analysis. At the last Defra Marine Biodiversity Impacts Evidence Group meeting, it was highlighted that there was funds available for some further research and Mark Duffy, at Natural England's Nation Team, suggested a study on the impact of trawling on mud. Officers have tried to contact Mark to discuss this further potentially with a view to using Torbay as a test case. Therefore if a seasonal trawl fishery (for cuttlefish) was considered appropriate, a Monitoring and Control plan could be put in place to reduce the uncertainty of the impacts of otter trawls on the mud feature in Torbay MCZ.

Lundy Island – Demersal trawling in Access Area of Lundy SAC

No information was provided in written responses to add to the existing evidence base.

Lundy Island – Scallop dredging in Access Area of Lundy SAC

No information was provided in written responses to add to the existing evidence base.

Protection of spiny lobsters in MCZ areas from demersal fishing

No information was provided in written responses to add to the existing evidence base.

Part 5 Conclusions and final recommendations

14. Summary

This report (in its entirety) represents a fully documented account of the mandatory three year review of the permit conditions for the Mobile Fishing Permit Byelaw.

This report documents the process that has been followed in formulating original management proposals, building the evidence base, communicating with stakeholders, and finally the consideration and development of the revised management proposals.

The Mobile Fishing Permit Byelaw provides the mechanism for the introduction of the recommended management measures via changes to the existing mobile fishing permits (conditions of use) that are issued to all fishers using mobile fishing gear² within the District. The flexibility offered by the permitting byelaw model also provides scope for the recommended management measures to be reviewed and amended if and when deemed necessary via the documented review procedure.

² As defined in the Mobile Fishing Permit Byelaw

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Amendments to the mobile fishing permit conditions will not result in any additional costs to permit holders.

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Delegated powers for Sub-Committee members to make decisions in regard to potential changes to mobile fishing permits were not sought in regard to this review of permit conditions. Decisions taken by members of the Byelaw and Permitting Sub-Committee have produced a series of recommendations requiring further consideration and possible approval by the Full Authority at their meeting on June 15th 2017.

The agenda for the Sub-Committee meeting was linked directly to the content of this report and in particular **Part 4** (Responses and observations following the six week consultation).

Minutes of the meeting were taken and will be publically available following their approval at the next meeting of the Sub-Committee scheduled for August 17th 2017. Minutes of all relevant Byelaw and Permitting Sub-Committee meetings will be added to this report (as annexes) in due course.

During the six week consultation only one of the original four proposals (**Management of demersal towed gear in the Torbay MCZ**) produced additional information to add to the existing evidence base.

Using the available evidence documented in this report, members evaluated the findings of the six week consultation, the on-going D&SIFCA survey work and observations of the fishery made by D&SIFCA officers. The social and economic impact (as submitted by stakeholders in the consultation period) was balanced by members against the original management proposals, and also the application of a pre-cautionary principle that the Authority is entitled to take in the absence of evidence.

Members agreed to recommend a management package that included all four proposal themes; however in recognition of the original MCZ assessment work undertaken by D&SIFCA Environmental Officers and the additional evidence gathered in regard to the Torbay MCZ, an amendment has been made to this particular proposal.

Members have concluded that trawling³ and scalloping fishing methods should be separated at this time as these different gear types have been documented as producing differing levels of disturbance and damage to the mud feature. Members have also recognised the responses which highlighted disturbance to the feature resulting from natural causes such as poor weather periods.

³ Trawling with lightweight gear on the subtidal mud feature of the Torbay MCZ

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D&SIFCA have a statutory responsibility to seek to further the conservation objectives of the site; however members have concluded that removal of all mobile fishing access for a twelve month period is overly pre-cautionary and not proportionate at this time.

It has been recognised that trawling activity on the site is known to be limited to a few relatively small vessels. The resulting recommendation for the Torbay MCZ offers access for a seasonal “light weight” otter trawl fishery to target cuttle fish. As part of this particular amended proposal, members have requested that D&SIFCA will continue to assess the impact on the feature via continuing survey work (control and monitoring plan) and also produce a further (amended) MCZ assessment with submission to Natural England in due course. Members have also recommended that D&SIFCA explore funding opportunities to reduce financial burden on the Authority associated with any increased survey working.

Additional initiatives to meet the objectives of the site may also include liaison with Sea fish to consider advancements in gear technology and potentially reduce potential gear interaction damage to the feature ever further over the longer term.

15. Final recommendations for the Full Authority

The Byelaw and Permitting Sub-Committee recommended that Full Authority members consider and agree to the revised proposals as follows:

Revised proposals

1. Torbay MCZ – Management of demersal towed gear in the access areas of the Torbay MCZ:

- a) To separate scallop dredging and trawling activities
- b) To prohibit scallop dredging within the Torbay MCZ
- c) To allow seasonal trawling for cuttlefish from the end of March to the end of June in Torbay MCZ subject to an impact study and gear trial detailed within a Monitoring and Control Plan

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2. Lundy Island – Demersal trawling in access area of Lundy SAC:

To develop a Monitoring and Control Plan for this activity, which will gather information on the fishing industry involved in the squid fishery, monitor activity levels and assess gear impact on the subtidal coarse sediment sub-feature of the Lundy SAC.

3. Lundy Island – Scallop dredging in access area of Lundy SAC:

To prohibit scallop dredging on the subtidal coarse sediment sub-feature of the Lundy SAC.

4. Protection of spiny lobsters in MCZ areas from demersal fishing:

To prohibit the removal of spiny lobster from demersal towed gear in Lundy MCZ, Skerries Bank & Surrounds MCZ and Bideford to Foreland Point MCZ

16. Decision taken by the Full Authority

The Full Authority considered the above recommendations on June 15th 2017. Minutes of the meeting were taken and will be available for public circulation following their approval in September 2017. All of the above recommendations were considered and the Mobile Fishing Permits have now been amended (and new annexes created) to add to those already included in the original permits as follows:

Catch restrictions

- 1.2 A permit holder or named representative is not authorised to remove spiny lobsters (*Palinurus elephas*) from the area of the Lundy Marine Conservation Zone set out in Annex A.
- 1.3 A permit holder or named representative is not authorised to remove spiny lobsters (*Palinurus elephas*) from the area of the Skerries and Surrounds Marine Conservation Zone set out in Annex B.
- 1.4 A permit holder or named representative is not authorised to remove spiny lobsters (*Palinurus elephas*) from the area of Bideford to Foreland Point Marine Conservation Zone set out in Annex C.

Spatial restrictions

- 3.1 *A permit holder or named representative is not authorised to use demersal mobile gear within the area of Start Bay as set out in Annex 1.*

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- 3.2 *A permit holder or named representative is not authorised to use demersal trawl gear within the Lundy Special Area of Conservation as set out in Annex 2.*
- 3.3 *A permit holder or named representative is not authorised to use scallop dredge gear within the Lundy Special Area of Conservation as set out in Annex 2a.*
- 3.4 *A permit holder or named representative is not authorised to use demersal mobile gear within the Lyme Bay section of the Lyme Bay and Torbay Site of Community Importance as set out in Annex 3.*
- 3.5 *A permit holder or named representative is not authorised to use demersal mobile gear within the Torbay section of the Lyme Bay and Torbay Site of Community Importance and Torbay Marine Conservation Zone as set out in Annex 3a. except where;*
- a) *the demersal trawl gear is used in accordance with 4.2 below.*
- 3.6 *No demersal mobile gear can be used within the Plymouth Sound and Estuaries Special Area of Conservation (SAC) as set out in Annex 4.*
- 3.7 *No demersal mobile gear can be used within the Start Point to Plymouth Sound and Eddystone Candidate Special Area of Conservation (cSAC) (Areas B and C) as set out in Annex 5.*
- 3.8 *No demersal mobile gear can be used within the Severn Estuary Special Area of Conservation (SAC) as set out in Annex 6.*

Time restrictions

- 4.2 A permit holder or named representative is only authorised to use demersal trawl gear within the Torbay section of the Lyme Bay and Torbay Site of Community Importance and Torbay Marine Conservation Zone as set out in Annex 3b between 1st April and 30th June (inclusive).

Amended permits will be circulated in July 2017 with a permit start date of 28th July 2017.

Annexes

- [Mobile Fishing Permit Byelaw](#)
- [The amended category one “at sea” permits](#)
- Annexes (charts) for the amended category one permits annexes [a,b and c](#) & annexes [1-6](#).

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Minutes of meetings

- [Byelaw & Permitting Sub-Committee \(January 2017\)](#)
- [Byelaw & Permitting Sub-Committee \(February 2017\)](#)
- [Byelaw & Permitting Sub-Committee \(May 2017\)](#)
- Full Authority meeting (June 2017)