



# Mobile Fishing Permit Byelaw

---

## Development Report for Additional Changes to Permit Conditions



**Edition 4 – Final Report**

**Process, Decision Making and Changes to the Mobile Fishing  
Permit Conditions**

**August 2018**

## Contents

<b>Executive Summary .....</b>	<b>3</b>
<b>1. Timetable of Key Events.....</b>	<b>4</b>
Table 1.....	4
<b>2. The Phase One Consultation .....</b>	<b>5</b>
<b>3. The First Phase Consultation Response.....</b>	<b>12</b>
The Phase One Consultation Response (Transcription of Supplement) .....	12
<b>4. The Second Phase “Focussed” Consultation.....</b>	<b>23</b>
<b>5. The Second Phase “Focussed” Consultation Items .....</b>	<b>24</b>
The Inshore Potting Agreement Areas (IPA).....	24
Permit Conditions for the Introduction of Inshore Vessel Monitoring Systems (I-VMS) ....	30
Permit Conditions Replacing a Reliance on the Deeming Clause .....	34
Introducing the Size of a Scallop ( <i>Pecten maximus</i> ) as a Permit Condition .....	36
Managing Access for Ring Netting Activity within Plymouth Sound.....	37
<b>6. The Second Phase “Focussed” Consultation Response.....</b>	<b>40</b>
The Phase Two Consultation Response (Transcription of Supplement) .....	40
<b>7. The Decision Making &amp; Outcome of the Process .....</b>	<b>48</b>
<b>8. Background Information about D&amp;S IFCA .....</b>	<b>49</b>
What is the D&S IFCA and what does it do?.....	49
Core work undertaken .....	49
Byelaw work .....	50
Why does D&S IFCA manage mobile fishing activity? .....	50
How does D&S IFCA manage mobile fishing activity? .....	51
Permits .....	52
How are flexible permit conditions changed?.....	52
How is the review of flexible permit condition conducted? .....	53
<b>9. Further Information.....</b>	<b>53</b>

## Version Control/Previous Editions

Author	Date	Comment	Edition
Neil Townsend, Mat Mander	July 2017	Draft developed for discussion by the D&S IFCA Byelaw & Permitting Sub-Committee.	1
Neil Townsend	8 <sup>th</sup> September 2017	Refined at the request of the D&S IFCA Byelaw and Permitting Sub-Committee for consultation	2
Neil Townsend, Mat Mander	15 <sup>th</sup> January 2018	Developed to document complete process to date and include proposed mobile fishing permit conditions for additional consultation	3
Neil Townsend, et al	6 <sup>th</sup> August 2018	Final edition compiled from information documented within previous versions. The Final edition includes the response (previously documented in supplements) from all phases of consultation. The Final edition also includes the decision making of the Byelaw & Permitting Sub-Committee (12 <sup>th</sup> April 2018)	4 (Final Edition)

## Executive Summary

Devon and Severn Inshore Fisheries and Conservation Authority (D&S IFCA) manages all mobile fishing activity in the District via the Mobile Fishing Permit Byelaw. The Permit Conditions have been reviewed in accordance with the process set out in the Mobile Fishing Permit Byelaw.

The review of Mobile Fishing Permit Conditions began in 2017 and followed on from an earlier and separate review of Mobile Fishing Permit Conditions that was conducted as part of a mandatory three-year review. This additional review process, and the decision making that was taken, reached its conclusion at the D&S IFCA Byelaw & Permitting Sub-Committee (B&PSC) meeting on the 12<sup>th</sup> April 2018. The process involved multiple phases of consultation and D&S IFCA B&PSC meetings. This process has resulted in changes to the Mobile Fishing Permit Conditions which come into force following their circulation in August 2018.

New restrictions to the Mobile Fishing Permit Conditions include the following:

- **Permit Conditions to manage the Inshore Potting Agreement Areas (IPA)**
- **Permit Conditions for the implementation and use of Inshore Vessel Monitoring Systems (I-VMS)**
- **Permit Conditions to Replace a Reliance on the Deeming Clause**
- **Permit Conditions to Introduce the Size of a Scallop (100mm) as a Permit Condition**
- **Permit Conditions to Manage Access for Ring Netting Activities in Plymouth Sound**

The re-drafting process has produced amendments to paragraphs within the Permit Conditions, the addition of a species list (introducing a series of Minimum Conservation Reference Sizes) and new charts (Annexes).

This report (**Edition 4 - Final Report: Process, Decision Making and Changes to the Mobile Fishing Permit Conditions**) is a large document and it is recommended that readers use the contents page to navigate to the sections which they find most relevant. This report documents the complete process from start to its conclusion. All relevant evidence and information<sup>1</sup> that has been used for deliberations by the D&S IFCA B&PSC is contained in this single document. This report has been created by merging previous editions that were created throughout the process. This report and previous editions achieve the following:

- **Document the findings of the consultations and the evidence base used for decision making**
- **Demonstrate how, when and why decisions have been taken**
- **Provide background information to all stakeholders about D&S IFCA and how the organisation functions**

Minutes are taken of all D&S IFCA B&PSC meetings and posted<sup>2</sup> on the D&S IFCA website.

---

<sup>1</sup> Within the scope of the D&S IFCA Data Protection Policy

<sup>2</sup> When approved at the following meeting

## 1. Timetable of Key Events

**Table 1**

<b>Date</b>	<b>Action/event</b>	<b>Comments</b>
2013	D&S IFCA makes the Mobile Permit Byelaw	Permit conditions introduced to manage mobile fishing activity
2017/18	The mandatory three-year review of Mobile Fishing Permit Conditions was conducted	The Permit Conditions were amended as part of the process and re-issued
2017 (Sept – Oct)	Start of a further review of Mobile Fishing Permit Conditions	Phase 1 consultation conducted
2017 (November)	Meeting of the B&PSC	All summarised responses from the phase 1 consultation considered and additional consultation formulated.
2017 (Nov - Dec)	Consultation preparation	Consultation documents prepared
January 2018	Focussed consultation (additional phase)	6-week consultation conducted on the “focussed” items & proposed permit condition changes
February 2018 (+)	Installation of I-VMS units	Common Seas arrange fitting of I-VMS units
March 2018	Collation of consultation responses	All summarised responses from the “focussed” consultation documented in a supplement report for B&PSC
April 2018	Meeting of the B&PSC	Decision making process. Changes to the Mobile Fishing Permit Conditions agreed.
May & June 2018	Preparation of amended Mobile Fishing Permit Conditions and associated Annexes	Legal advice taken and final drafting of Mobile Fishing Permit Conditions completed
August 2018	Communication & Circulation	New Mobile Fishing Permit Conditions issued to permit holders

## 2. The Phase One Consultation

The B&PSC made the decision that separate phases of consultation would be required to amend the Mobile Fishing Permit Conditions. Based on the response and information submitted in the first phase consultation decisions would then be taken in regard to which items would be subjected to a more focussed second phase of consultation that would also include proposed permit conditions.

On the 17<sup>th</sup> August 2017 members of the Devon and Severn Inshore Fisheries and Conservation Authority agreed to action officers to begin a six-week consultation on the items listed below.

This section of the report demonstrates:

- **The information provided for stakeholders for the phase 1 consultation conducted between 11<sup>th</sup> September & 23<sup>rd</sup> October 2017**

A wide-ranging consultation was conducted and a newly developed consultee list was utilised. Different communication methods were used including face book and twitter with the D&S IFCA website providing the main platform for the consultation presentation.

All permit holders<sup>3</sup> (who had a permit on 11<sup>th</sup> September 2017) were directly notified by email or letter that consultations were about to begin, but not the exact detail of their content. It was assumed that stakeholders would contact D&S IFCA or visit the website (as instructed) to engage in the process.

### **Permit holders directly notified:**

- |                      |     |                        |     |
|----------------------|-----|------------------------|-----|
| • Potting commercial | 192 | Potting recreational   | 313 |
| • Diving commercial  | 18  | Diving recreational    | 189 |
| • Mobile Fishing Sea | 151 | Mobile Fishing Estuary | 5   |

- **The first phase consultation provided all stakeholders with the opportunity to consider the proposed changes to the Mobile Fishing Permit Conditions and respond accordingly.**

The following Items were subjected to a six-week consultation (11<sup>th</sup> September to 23<sup>rd</sup> October 2017) with the following information made available to all stakeholders in a consultation report.

---

<sup>3</sup> 868 permit holders were directly notified by email or letter.

## **The introduction of Inshore Vessel Monitoring Systems (I-VMS)**

With all vessels, issued with a mobile fishing permit, required to have an operational I-VMS unit fitted, it will mean that all vessels operating within the district will be monitored remotely for the first time. Currently all fishing vessels with an overall length of 12 metres or more and less than 15 metres are required to have a functioning VMS+ unit fitted on board. Fishing vessels with an overall length of 15 metres or more are required to operate with a functioning VMS unit and Automatic Identification System (AIS) unit on board.

### **Development of IVMS – Brief History**

D&S IFCA has been supporting the development of (I-VMS) since 2011. Although significantly delayed, the introduction of an I-VMS has always been seen by D&S IFCA as an important development in the management of the mobile fishing sector. During the winter of 2015, D&S IFCA and Common Seas worked together with 30 vessel owners to implement I-VMS in the District. The project in 2015 was initially designed to include all vessels permitted to use mobile fishing gear. The project was stopped to enable the Marine Management Organisation (MMO) time to complete a Type Approval process. The Type Approval process created industry standards to ensure the hardware and software being fitted on vessels are fit for purpose. The development of these standards enables new suppliers to enter the market with a product that works effectively alongside existing equipment.

### **How can D&S IFCA introduce a new restriction for IVMS?**

The Mobile Fishing Permit Byelaw provides D&S IFCA with the legislative means to introduce the requirement to have a functioning I-VMS unit on board all mobile gear vessels operating in the District. The implementation of I-VMS should not present a surprise to any permit holder with the potential requirement clearly specified in section 17 and 18 of the Mobile Fishing Permit Byelaw. In addition, as part of the development of this Byelaw an impact assessment was developed and publicised in preparation for the formal objection phase. The rationale and policy objectives of introducing the Byelaw and elements of it, including the use of I-VMS, was clearly set out in the impact assessment and key financial costs were recognised.

### **What are the positives of having IVMS fitted?**

There are significant benefits with the introduction of a reliable I-VMS system to both regulators and fishers. Effective monitoring of all mobile fishing vessels will help safeguard Marine Protected Areas (MPA) that are closed to all types of demersal mobile fishing to protect designated habitats and features. Conversely, I-VMS provides greater potential for mobile fishing vessels to gain greater access to less sensitive areas adjacent to closed areas.

### **What is the current situation?**

- Three suppliers of I-VMS have now been approved – Succorfish, Eco Marine and AST.

Common Seas will continue to act as the project manager and administrator. The project (if implemented) will offer vessel owners the opportunity to select their preferred supplier. The

choice of units (comparison chart) will be publicised and contact information for Common Seas made available.

### **What will the introduction of I-VMS cost?**

There will be a qualifying period for units to be installed and activated at no cost to the vessel owner. D&SIFCA has secured sufficient money through a successful application to the European Maritime and Fisheries Fund to purchase and install up to 89 I-VMS units. The cost to the vessel owner will be the airtime cost (believed to be in the region of £120-£180 per year and the cost of any warranty package taken out with the unit supplier.

### **What is the next step?**

The Byelaw and Permitting Sub-Committee will discuss the responses to the consultation on the introduction of I-VMS units for vessels between 7 metres and 12 metres in length, which are permitted to use mobile fishing gear in the District at the meeting to be held on 13<sup>th</sup> November 2017. Permit conditions would need to be amended to formally introduce the legal requirement to operate a fully functioning I-VMS unit when using the mobile gear permit<sup>4</sup>.

### **To use permit conditions to replace a reliance on the deeming clause**

The Mobile Fishing Permit Byelaw was the first “activity” based permit byelaw to be introduced by D&S IFCA. The implementation of this permit Byelaw was a significant change from the more traditional byelaw model. As with many new initiatives, development was challenging and produced mixed legal opinions about elements of the framework, content and review of conditions process.

### **Why was a deeming clause introduced?**

A deeming clause was introduced to support the effective enforcement of some of the management measures that were introduced in the Byelaw and permit conditions. Byelaws only apply within the district, normally six nautical miles from the coast or, in places on the north coast of the D&S IFCA district, the median line with Wales. Proving where vessels have been fishing and what was caught where is an inherent and significant challenge and a potential enforcement weakness for any byelaws, especially without the implementation of I-VMS. Measures that apply within the byelaws such as minimum conservation reference sizes can be different (more restrictive) than domestic or EU legislation. The absence of a deeming clause can reduce the ability to enforce the legislation and consequently the effectiveness of the management measures.

### **What are the alternatives to deeming clauses and how can this be achieved?**

In 2016, the Department for Environment & Rural Affairs (Defra) issued advice to D&S IFCA. It was explained that deeming clauses are rarely used in the UK justice system. D&S IFCA’s prosecuting solicitor agreed with the issued advice, and as an alternative, recommended that permit conditions should be fully utilized instead.

---

<sup>4</sup> D&S IFCA are also involved in the development of national policy in regard to the use of I-VMS



The Mobile Fishing Permit Byelaw is due for a complete review in 2019. However, in the shorter term, the permit conditions can be amended to produce equivalent effectiveness as a deeming clause in a more legally acceptable manner. This has already been demonstrated in the development of the Netting Permit Byelaw<sup>5</sup> where permit conditions (catch restrictions) have been created as follows:

***“A Permit holder or named representative is not authorised to fish under this Permit if he has retained on board or has in his possession any catch that does not comply with any of the catch restrictions set out in paragraphs X to X inclusive.”***

The fisher has the option to apply for a permit and be bound by the restrictions or not apply for a permit and not fish within the D&S IFCA’s district. Although a similar result is achieved, this presents a different legal solution that is more acceptable.

## **Introducing a size for scallops (*Pecten maximus*) as a permit condition**

Although the Mobile Fishing Permit Byelaw was introduced in 2014 and removed reliance on several legacy measures, others were not revoked at this time. The reason is that the legacy measures apply to any person due to the wording used “*No person shall*”. The measures contained in several legacy byelaws are relevant for multiple fishing methods and until a complete suite of activity based permitting byelaws are in place, revocation of these legacy provisions will be delayed.

Legacy Byelaw (7) – Shellfish – Escallop, specifies that no person shall remove from a fishery any escallop measuring less than 100mm across the broadest part of the shell.

The specified size is also a duplication of domestic legislation. The advantage of maintaining a local restriction is that the measure is directly enforceable by D&S IFCA officers and establishes the principle that the Authority may increase the size if considered necessary.

In order to simplify the situation for mobile fishers, and have as much of the legislation as possible in one place, the size of a scallop can be introduced through the permits that are issued.

---

<sup>5</sup> Awaiting confirmation by the Secretary of State at the time of writing



## **Who has enforced the legislation and who is now?**

The IPA has often demanded the use of floating assets to monitor and regulate the complicated restrictions and numerous divisions of fishing grounds that exist. Due to the assets operated by D&S IFCA (and formally Devon Sea Fisheries Committee) the majority of the enforcement work has been conducted by these organisations on behalf of, or in conjunction with, the MMO. It is often a perception by many commercial fishermen that the enforcement of this legislation is the priority of D&S IFCA, even though it is not managed via a byelaw. Failure to direct significant effort into investigating reported non-compliance in these areas has potential to cause reputational damage to D&S IFCA.

## **Can the IPA be managed differently?**

The IPA can generally be managed via the permit conditions issued under the Mobile Fishing Permit Byelaw. There is a small section of the IPA (south of Start Point) that is beyond six nautical miles (outside of the Authority's district) and this section of the IPA can't be managed by D&S IFCA using permit conditions. If the Mobile Fishing Permit Byelaw was used to manage the IPA, an additional permit annex can be produced for fishers and issued to permit holders. D&S IFCA have discussed a change in management with the MMO and are awaiting a formal response. The area of the IPA beyond six nautical miles would have to be managed via a licence condition, an MMO Byelaw, a gentleman's agreement or have no management at all.

## **Managing access for ring netting activity within estuaries**

Ring netting is a fishing activity that falls under the definition of mobile fishing. There are several interpretations used within the Mobile Fishing Permit Byelaw but the following has particular significance in relation to ring netting.

***“Mobile fishing gear” means a dredge, trawl or similar device that is designed to be towed or pushed to take any sea fisheries resources.***

In the creation of the Mobile Fishing Permit Byelaw, ring netting is legally determined to be a “similar device” that is designed to be towed. The vessel plays an active part in the fishing operation. This ring netting activity can therefore be fully managed via the Mobile Fishing Permit Byelaw and the permits that are issued under it (including the annexes/charts that are issued).

The Mobile Fishing Byelaw (the overarching Byelaw) has defined the closing lines for many estuaries, but does not specify the rivers Tamar and Plym (the Plymouth estuaries).

Annexes (charts) are issued to clarify where mobile fishing (in particular demersal mobile gear vessels) can operate. The “at sea” permit (Annex 4 – Plymouth Sound and Estuaries) prevents demersal mobile fishing being conducted within Plymouth Sound but this does not prevent ring netting from being conducted within Plymouth Sound. Annex 4 does not currently specify an “inside” closing line for the rivers Plym and Tamar.

Currently, legacy byelaw 19 prohibits any netting activity within the river Tamar (and its subsidiary estuaries), the river Plym and the river Yealm. This prohibition includes “any net” with a few exceptions. This legacy Byelaw prevents ring netting activity from taking place in

these rivers. In order to prepare for future revocation of this byelaw, the restrictions imposed by this legacy Byelaw need to be incorporated into the permit conditions in other permit byelaws. The proposed Netting Permit Byelaw (when implemented) will prohibit all fixed and drift netting<sup>6</sup> in all the estuaries within the district.

In summary D&S IFCA is not proposing that ring netting is excluded from Plymouth Sound. The “at sea” permit (Annex 4 – Plymouth Sound and Estuaries) can be amended to include a new closing line for the rivers Plym and Tamar. This potential amendment will in reality not add any additional restriction to fishers operating ring nets; however, an amended Annex 4 chart will simplify the situation for all stakeholders and allow legacy Byelaw 19 to be revoked in due course.

---

<sup>6</sup> Except for a 20 metre seine net used for the capture of sand eels

### 3. The First Phase Consultation Response

This section of the report demonstrates:

- **The information supplied by stakeholders (the summarised response) from the phase 1 consultation conducted between 11<sup>th</sup> September & 23<sup>rd</sup> October 2017**
- **The extent of the information considered by members including officer comments in the B&PSC meeting in November 2017**
- **How the information was considered by members of the B&PSC and decisions taken in regard to further consultation**

The information (consultation response) was collated and documented in a supplementary report which was presented to members of the D&S IFCA B&PSC in advance of their meeting on 13<sup>th</sup> November 2017. Information that was received by stakeholders after the closing date of 23<sup>rd</sup> October 2017 was not documented in the supplementary report. The information that was presented in the first supplementary report (October 2017), including the officer comments, has been transcribed below. Following this, the decisions taken by the B&PSC in regard to the submitted responses in the first phase consultation has also been documented.

#### The Phase One Consultation Response (Transcription of Supplement)

Five topics related to mobile fishing had been subjected to the six-week consultation period as follows:

- a) The introduction of Inshore Vessel Monitoring Systems (I-VMS)**
- b) To use permit conditions to replace a reliance on the deeming clause**
- c) Introducing the size of a scallop (*Pecten maximus*) as a permit condition**
- d) Inshore Potting Agreement Areas**
- e) Managing access for ring netting activity in Plymouth Sound**

Although both of the recent D&S IFCA consultations were open to all stakeholders, very few responses were received for either. The response to the “focused” mobile fishing consultations<sup>7</sup> amounted to only seven submissions, several of which were not submitted via the designated email. There was no response at all in regard to the focussed consultation items (c and e). Two responses that relate to mobile fishing were not directly focussed on the consultation items listed above, but have still been summarized in this supplement.

Three responses were received from organisations. Four responses were received from individual stakeholders from the commercial potting sector, rather than those from the mobile fishing sector. Two of these individual responses were focussed on the current Inshore Potting Agreement (IPA), with the others recommending additional spatial and gear restrictions for mobile fishing vessels. A response was received from South Devon and Channel Shellfishermen Ltd which was again focussed on the IPA.

No responses were received from mobile fishing permit holders. Members may draw the conclusion that limited or complete lack of response, to all items other than the IPA, indicate that stakeholders have no strong views at this time to these potential changes or the required further consultation that would be required to finalise changes in the flexible permit conditions.

---

<sup>7</sup> Submitted on or before the close date of 23<sup>rd</sup> October 2017

## **The introduction of Inshore Vessel Monitoring Systems (I-VMS)**

No individual stakeholder submitted a response in regard to this consultation item. The Marine Conservation Society submitted a simple response to fully support the installation of I-VMS on mobile fishing vessels.

### **Officer comments**

As set out in the consultation, D&S IFCA has been supporting the development of I-VMS since 2011. As part of its strategy to manage Marine Protected Areas (MPA) appropriately, the published D&S IFCA Annual Plan for 2017/18 also confirms the intention of D&S IFCA to see the implementation of this technology (on all mobile fishing vessels over 7 metres) by December 2017. The D&S IFCA has the opportunity to be the first IFCA to implement I-VMS to mobile fishing vessels and would effectively become a test area for the other IFCA's who are expected to follow suit within the next two years.

On the 23<sup>rd</sup> October all mobile fishing permit holders (between 7 and 12 metres) were informed by letter that without predetermining the outcome of the consultation process, three separate suppliers<sup>8</sup> of I-VMS have now been approved via the type approval process. In addition, Tec Marine has been selected as the approved local fitter and has been commissioned to install the I-VMS units. If vessels are required to have units fitted, Common Seas should be formally notified of the unit chosen for fitting which will be ordered free of charge. Vessels already fitted with Succorfish SC2 I-VMS can have units tested and potentially benefit from a discounted airtime deal.

Although the introduction of I-VMS within the D&S IFCA district has been subject to consultation, the exact detail (requirements of the units) has not. If the implementation of I-VMS is agreed by members, permit conditions (gear restrictions) can be amended to specify the finer detail. There will potentially be several different permit conditions required to detail the specific compliance requirements, which will also include what action must be taken by permit holders in regard to unit malfunction. The fitting of units on mobile fishing vessels can be actioned and a time period established to facilitate installation by suppliers. During this fitting period, another period of consultation can be actioned by members concentrating on the actual wording used in the amended permits for the Mobile Fishing Permit Byelaw.

Nationally, Defra are looking at the possibility of rolling out I-VMS on all English vessels below 12 metres in length. D&SIFCA's project for mobile gear vessels is being used by the national project as a pathfinder. The main advantage of this approach from the Authority's perspective is that it raises the profile of its project within Defra and MMO and has been supported by the project manager assigned to oversee the national project. The main disadvantage is that there is a desire at a national level for the two projects' timetables to be closely aligned. This has had the effect of delaying the Authority's project and there is a real risk that it may continue to do so.

If the Authority formally agrees to introduce I-VMS on mobile gear vessels then the Authority will need to consult on the permit conditions that will be used to create the protocols for the use of the I-VMS. This will include for example agreeing the transmission rates and procedures to deal with non-functioning units. Officers will be attending a national policy

---

<sup>8</sup> Succorfish, Echomaster Marine and AST

meeting on 15<sup>th</sup> November 2017 to address these issues. Officers shall hopefully be able to use the outcome of the meeting to draft the permit conditions and commence the next round of consultation (six weeks). At the same time the owners of vessels required to have the I-VMS units fitted will be formally written to inviting them to choose their preferred unit signifying the start the installation programme.

#### **Consideration by the Byelaw and Permitting Sub-Committee**

On 13<sup>th</sup> November 2017, members considered the information provided. Members concluded that the introduction of this technology would provide benefits to both the industry and D&S IFCA, namely improved enforcement capability, improved protection to sensitive areas and potentially improved access for mobile fishing vessels fishing in less sensitive areas. Members actioned officers to prepare suitable mobile fishing permit conditions for the use of I-VMS and consult with all stakeholders.

### **To use permit conditions to replace a reliance on the deeming clause**

No individual stakeholders submitted a response in regard to this consultation item. The Marine Conservation Society submitted a simple supportive response to acknowledge that they understand the logic relating to this consultation item.

#### **Officer comments**

This consultation item will be repeated for both the “focussed” consultations for the Potting Permit Byelaw and also in due course the Diving Permit Byelaw. The Netting Permit Byelaw has been structured in a different way to incorporate this alternative approach (greater use of permit conditions) and other potential new permit byelaws would be based around this alternative approach. The wording used in the Netting Permit Byelaw and highlighted in the mobile fishing consultation report can be duplicated into the permits for the Mobile Fishing Permit Byelaw and be subjected to additional consultation.

#### **Consideration by the Byelaw and Permitting Sub-Committee**

On 13<sup>th</sup> November 2017, members considered the information provided. Members actioned officers to prepare suitable mobile fishing permit conditions to replace the reliance on the deeming clause and consult with all stakeholders.

### **Introducing the size of a scallop (*Pecten maximus*) as a permit condition**

No responses were received by organisations or individual stakeholders.

#### **Officer comments**

This change in permit conditions would be relatively simple to draft into the existing permits for the Mobile Fishing Permit Byelaw. No additional consultation would be required to amend the existing permits.



## **Consideration by the Byelaw and Permitting Sub-Committee**

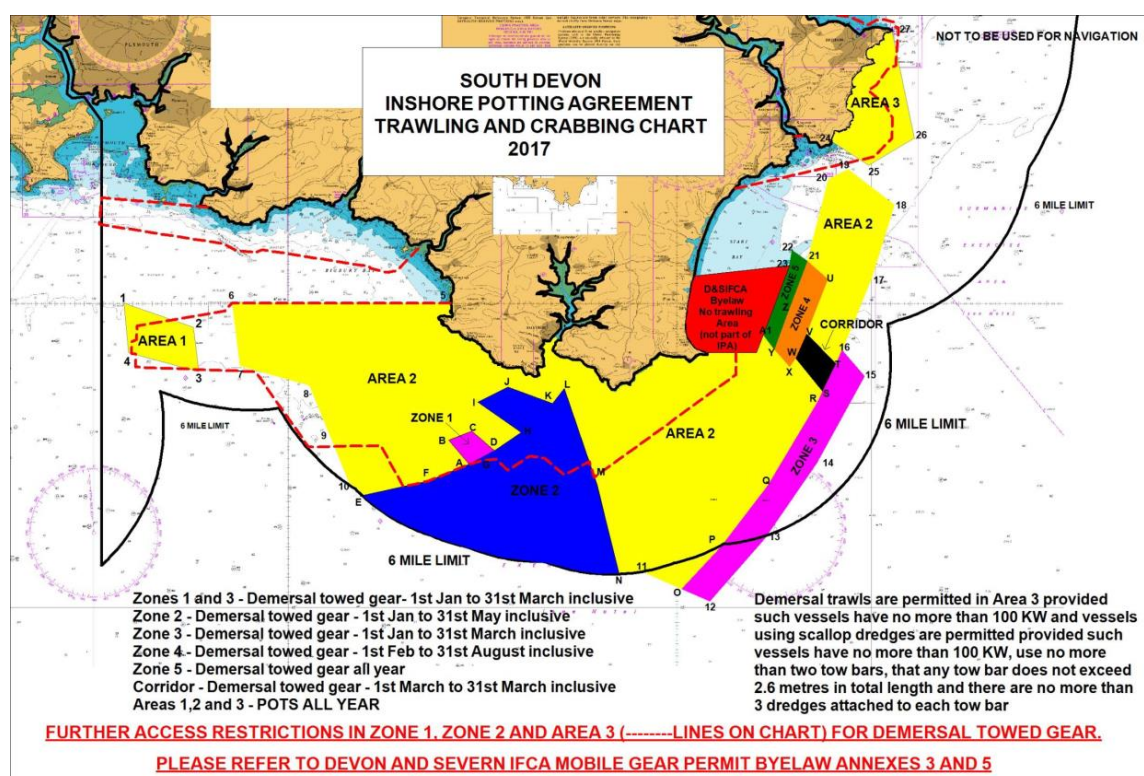
On 13<sup>th</sup> November 2017, members considered the information provided. Members actioned officers to prepare suitable mobile fishing permit conditions to include the size of a scallop and consult with all stakeholders.

### ***Further information***

*In the drafting process of the mobile fishing permit conditions, it became apparent that this alteration has other implications to mobile fishing permit holders and the sizes of species that can be taken from a fishery within the District. This was explained to members of the Full Authority in December 2017. Officers have taken measures to fully explain all implications relating to potential changes within mobile fishing permits in the 2018 consultation.*

## **Inshore Potting Agreement Areas (IPA) – Replacing a license condition**

An illustration of the current IPA chart is shown below.



## **Consultation response**

Three responses were received in regard to the IPA. Two responses were from individual stakeholders and one from South Devon and Channel Shellfishermen Ltd. The individual responses were from fishermen in the commercial potting sector.



The responses from the individual stakeholders do not object in principle to D&S IFCA managing the IPA; however, the importance of retaining protection for the area of the IPA that is beyond the six-mile limit was clearly stressed. These two stakeholders explained how this small area is populated with their pots, with one stakeholder reporting that he works 150 pots in this location. The failure of voluntary measures prior to the implementation of a licence condition in 2008 was also highlighted. The benefits that the IPA provides for conservation was highlighted with particular reference made to Marine Conservation Zones. The responses indicate that any loss of regulatory control (licence condition) for areas beyond six miles would be unacceptable to these stakeholders, significant numbers of other commercial potters and also their associations. Failure to maintain full regulatory controls would most likely raise objection to a change in this management.

#### Response from South Devon and Channel Shellfishermen Ltd

The response was critical of the consultations as this particular item has only been a focussed item documented (at this time) within the Mobile Fishing consultation. In addition, it has been suggested that any potential changes to the IPA should firstly be discussed at the annual IPA Management Committee meeting on 23<sup>rd</sup> October 2017.

In regard to the response content, South Devon Shellfishermen Ltd provided background information on how the IPA was developed and how the annual discussions between different industry sectors are used to refine the IPA chart which is used as a fishing vessel licence schedule. The response also highlighted the importance of this management structure in regard to the Marine Protected Area (MPA) network<sup>9</sup> which extends beyond the six-mile limit.

South Devon and Channel Shellfishermen Ltd have stated that a response from the Marine Management Organisation is a vital addition to provide clarity for discussions on this issue. Objection would be raised at this time if any changes are considered that compromise the geography and risks associated with protection via different regulation of the IPA. Other key points from this response have been summarised as follows:

- The Management of the IPA is suggested to be outside the scope of the IFCA mobile fishing consultation
- Local management may not be as well known to visiting vessels and risks of non-compliance may increase as a result of any potential change
- The MMO should remain involved in future management of the IPA
- Cross warranting, asset sharing can be further explored so the IPA can continue to be managed in its entirety
- Further advice would be welcomed on how the management of the IPA and MCZ<sup>10</sup> areas would interact
- The response (at this time) is compromised due to uncertainty in regard to the lack of a documented response by the MMO.

---

<sup>9</sup> Skerries Bank and Surrounds Marine Conservation Zone

<sup>10</sup> Skerries Bank and Surrounds Marine Conservation Zone

## Officer comments

The consultation process has possibly not been fully understood. The mobile fishing response is in its second phase and has “focused” items; however, the separate potting consultation is at an earlier “open” stage. Attempts have been made to explain process and provide an estimated time table for the process in both the mobile fishing and potting consultation presentations. Another focussed period of consultation will follow for potting. It is possible that officers may have to review how consultations are conducted to try and better explain who can respond and to what? All stakeholders and organisations are welcome to respond to any D&S IFCA consultation regardless of its content; however highlighting measures to be consulted on more broadly would be beneficial, making all sectors aware of potential changes in management. Any change in the IPA management would most certainly require input from the static gear sector and direct consultation with the IPA Committee.

The IPA evolved for gear conflict resolution rather than conservation initiatives; however as highlighted in the responses, the closure of spatial areas to mobile fishing does obviously provide conservation benefits. The existence of the IPA (both regulatory and voluntary) over many decades has meant that the rock and reef habitats have been protected from the impact of bottom towed gear in a majority of the area. This has led to most of the IPA being designed as Marine Protected Areas. The Skerries Bank and Surrounds MCZ co-locates with the eastern part from Salcombe to Start Bay and circalittoral rock is one of the main features of the site. The Start Point to Plymouth Sound and Eddystone SCI co-locates with western part of the IPA from Start Point to Plymouth Sound and the northern part of the IPA lies within the Torbay part of the Lyme Bay to Torbay SCI. Both these European Marine Sites are designated for reef habitats. The current management of the IPA (both inside the 6nm and outside) helps allow the conservation objectives of the Marine Protected Areas that co-locate with the IPA to be met or furthered. The IPA chart forms a regulatory layer above D&S IFCA Mobile Fishing Byelaw permit (annexes) which were introduced for conservation purposes and protect habitat and features. The complex IPA management arrangement does close areas of ground to Mobile fishing methods either all year or part of the year. Conversely, the IPA also provides access to Mobile fishing vessels for part of the year or in regard to Zone 5 (Start Bay area) – all year.

With regard to the IPA, D&S IFCA currently co-chairs the IPA committee. The committee, which is made up of mobile gear and potting sector representatives, meets annually to discuss any potential changes in management. A potential change in the management (via the introduction of permit conditions) of the IPA would retain industry participation.

### Response from the Marine Management Organisation

Basic written clarity relating to the management of the IPA was received on 3<sup>rd</sup> November 2017. This response indicates that further consultation would not be to focus on “replacing the IPA with permit conditions”, rather using both a licence condition and permit conditions in tandem. D&S IFCA are able to utilize the catch, gear, spatial and time categories within each permitting byelaw to manage the IPA. Legal Counsel (to the MMO) have suggested that providing there is a clear differential between the two regulatory approaches then the risks of duplication are lowered; however, they have suggested that it may be prudent to seek further legal Counsel if and when amended permit conditions are drafted.

## **Permit conditions for different sectors?**

The flexibility needed to manage the IPA is not confined to the Mobile Fishing Permit Byelaw. The same scope in regard to gear, catch, spatial and time restrictions forms the basis of all D&S IFCA permit based Byelaws. If the Mobile Fishing Permit Byelaw was potentially used to manage the IPA, an additional permit annex would be produced for fishers and issued to permit holders. The wording on the current permits would be amended and these alterations would be subject to additional consultation. A similar approach could be taken in regard to the potting permits, with the placement of pots prohibited within areas open to mobile fishing methods. As the IPA also manages other static gear (nets) the same approach can be taken with the permits for the Netting Permit Byelaw<sup>11</sup> in the future.

In due course, members may take the view that greater use of permit conditions for different sectors would demonstrate appropriate management of inshore fisheries in line with the main duties specified in section 153 of MaCAA; in particular seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.

### **Consideration by the Byelaw and Permitting Sub-Committee**

On 13<sup>th</sup> November 2017, members considered the information provided. Members actioned officers to prepare suitable mobile fishing permit conditions to manage access in the Inshore Potting Agreement Areas and consult with all stakeholders.

## **Managing access for ring netting activity within estuaries**

No responses were received by organisations or individual stakeholders during the consultation period.

### **Officer comments**

This consultation item focussed on access areas for this activity, rather than species taken. If agreed in principle and as specified in the consultation, permits (annexes) can be used to clarify the issue; however, the actual wording used within the Mobile Fishing Permit Byelaw (permits) would require further consultation.

A separate issue that was not addressed within the consultation period relates to the potential bycatch of shad by vessels operating with ring nets. Allis shad (*Alosa alosa*) are a protected (Annex II) species as part of the Plymouth Sound and Estuaries European Marine Site. A Habitat Regulations Assessment (HRA) conducted by D&S IFCA found no likely significant effect on the allis shad population, or site integrity, either directly through bycatch by ring netting activities or in combination with other fishing activities and plans and projects (HRA\_UK0013111\_AJ34). In their formal response Natural England (NE) indicated that whilst they broadly agreed with the findings of the HRA, they would like effort levels of several types of netting (including ring netting) within the site to be monitored into the future. They also suggested that the introduction of a shad bycatch reporting scheme in the site would allow bycatch of shad by all forms of netting, including ring netting to be better understood and should any future management be required, specifically targeted to the activities/ locations/

---

<sup>11</sup> Awaiting confirmation at time of writing

seasons where bycatch is occurring (Natural England reference 189111; 189112; 189912 & 194070). In response to this, D&S IFCA is in the process of developing a Monitoring and Control Plan to address shad bycatch in by ring netting (and other netting) activities in the Plymouth Sound and Estuaries European Marine Site. This is likely to include an element of bycatch self-reporting and also checks of landings from ring netting vessels.

Although the activity is not conducted by many vessels, risks exist without monitoring of catches taken. Section 16 of the Mobile Fishing Permit Byelaw specifies the provision for permit holders to provide any relevant fisheries information. This provision presents the D&S IFCA with the opportunity to contact permit holders directly, and notify permit holders that operate the relevant fishing gear that specific information relating to shad is required as part of a monitoring and control plan. A similar approach has already been taken in regard to permit holders (potting) submitting information in regard to live wrasse and accommodating on-board surveys by D&S IFCA Environmental Officers.

### **Consideration by the Byelaw and Permitting Sub-Committee**

On 13<sup>th</sup> November 2017, members considered the information provided. Members actioned officers to prepare suitable mobile fishing permit conditions to manage access for ring netting vessels and consult with all stakeholders.

## **Other responses for the first phase mobile fishing consultation**

### **Response 1**

A response was received in regard to reducing gear conflict in coastal areas near Plymouth. This response was submitted by a stakeholder from the commercial potting sector. An area to the North of IPA area 1 has been suggested<sup>12</sup> as an additional zone for shared access with mobile vessels having no access between 1<sup>st</sup> June and 31<sup>st</sup> December each year.

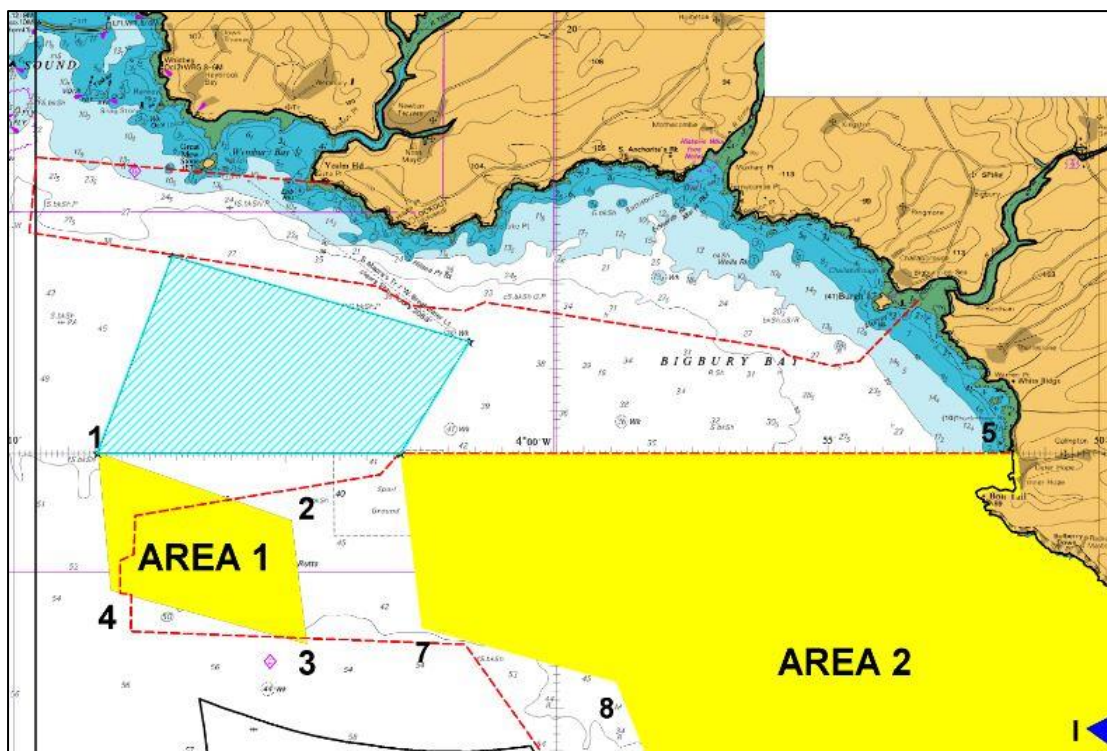
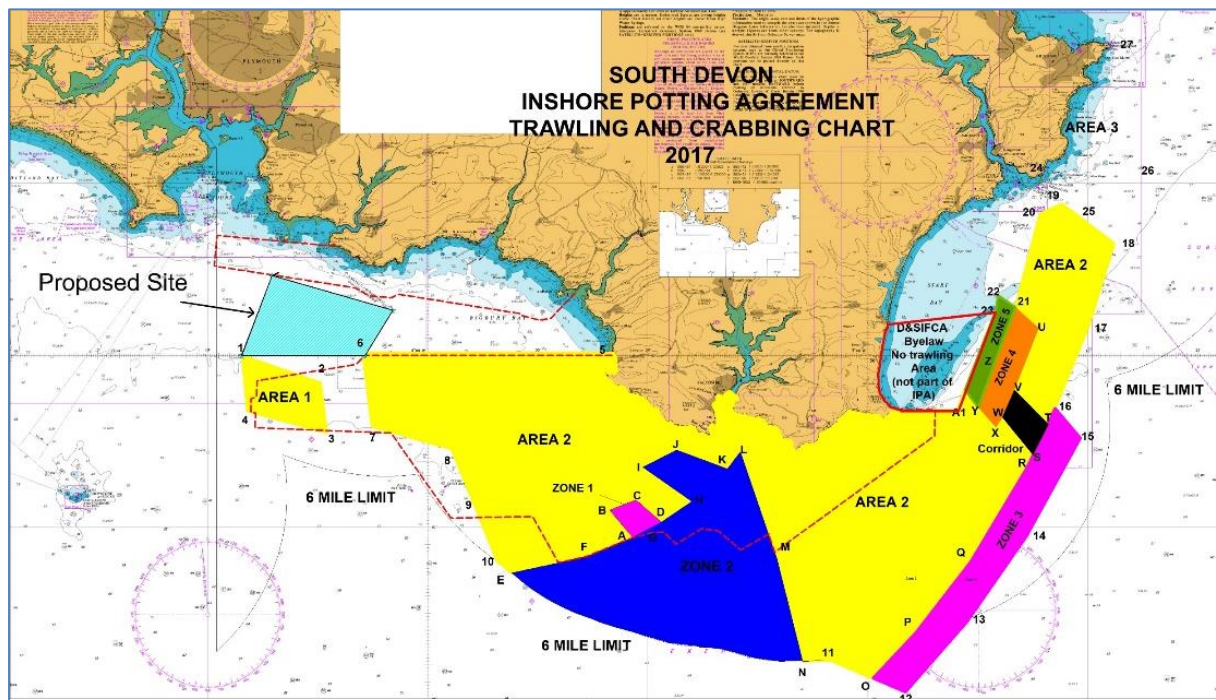
It has been concluded that as the proposed area is outside of the current IPA areas, it is not suitable for discussions by the IPA Committee. The stakeholder provided the following positions to define the proposed site:

- 50° 15.00 N    004° 08.45 W
- 50° 17.31 N    004° 07.05 W
- 50° 15.00 N    004° 02 .90 W
- 50° 16.31 N    004 01.64 W

---

<sup>12</sup> As indicated by the light blue shaded area

## Proposed Site



## Officer comments

This response does not directly relate to the focused consultation items set out in the mobile fishing consultation. It does relate to gear conflict between different fishing sectors and has been added to the summary of response in regard to the three-year review of potting permit conditions.

This proposed site is located on the western side of an area of seabed that is currently accessible to mobile fishing vessels. It is situated between IPA areas (potting all year) and the areas closed via Annex 5 (permit) of the Mobile Fishing Permit Byelaw. It should be noted that these areas of seabed were subjected to consultation in 2010<sup>13</sup>. Devon Sea Fisheries Committee (DSFC) [responded](#) to the Natural England consultation on designating new Special Areas of Conservation which included a site from Start Point to Plymouth Sound and the Eddystone rocks. From the evidence gathered by previous acoustic monitoring and underwater filming surveys DSFC was able to suggest which areas could remain open to demersal fishing gear and which areas could be closed to protect the reef habitat recorded from these surveys. The evidence submitted by Devon Sea Fisheries Committee was used to influence the extremity and boundary of the Start Point to Plymouth Sound and Eddystone SAC. Evidence was also provided in the DSFC response on the social and economic impact of closing an area between Hillsea Rock Point, Bigbury Bay, Bantham and Bolt Head to the mobile fishing sector and the jobs onshore that would be impacted. The recently proposed site sits in the area that was consulted on in 2010 and was kept open to mobile gear and not included in the Start Point to Plymouth Sound and Eddystone SCI, as there was little evidence of reef features in this area. This historic survey work and the consultation response offered by Devon Sea Fisheries are available from D&S IFCA.

The permits for both potting and mobile fishing do have scope to help manage gear conflict. Spatial, gear and time control are all elements of the flexible permit conditions that can be utilised. Although managing gear conflict has questionable links to conservation objectives, the duties for D&S IFCA do include seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district. In this case, the needs of both static gear and mobile are a discussion point.

Regulation is not the only option for management. As with the process to create a new byelaw, members have the opportunity to consider the merits of voluntary measures.

The response indicated that a petition has begun to demonstrate support for the proposed site that includes signatures from both the potting and mobile fishing sectors; however, this petition has not yet been submitted. Additional consultation would present an opportunity for those who may have signed a petition to respond individually to this stakeholder's proposal

---

<sup>13</sup> Consultation on marine Special areas of Conservation (SACs) and Special Protection Areas (SPAs) in English, Welsh and inshore waters around the UK.

## Response 2

The remaining response submitted in the mobile fishing consultation does not require summary and is as follows:

***“.....with the mobile permit I still think that a limit of no towed gear inside 3 mile should be imposed (and) would do more for conservation than any other thing, and if that doesn’t happen scallopers should be restricted to 4 aside inside 6 miles.”***

### Officer comments

This response was submitted by a commercial potter. The response does not directly relate to the focused consultation items set out in the mobile fishing consultation.

A reduction in the number of scallop dredges was a topic raised by the mobile fishing sector and discussed by members of the Byelaw and Permitting Sub-Committee in 2015 and 2016. 142 mobile permit holders were contacted directly as part of a separate consultation on reducing the number of dredges (4 per side) and also the potential prohibition of twin rig trawling within the district. The stakeholder response<sup>14</sup> at the time lacked detail and was very limited in the number of responses received. In March 2016, members concluded that based on the findings of that consultation D&S IFCA would not (at that time) consider amendment to the mobile fishing permits.

### **Consideration by the Byelaw and Permitting Sub-Committee**

On 13<sup>th</sup> November 2017, members considered the information provided. Members did not action further consultation on these two addition items at this time.

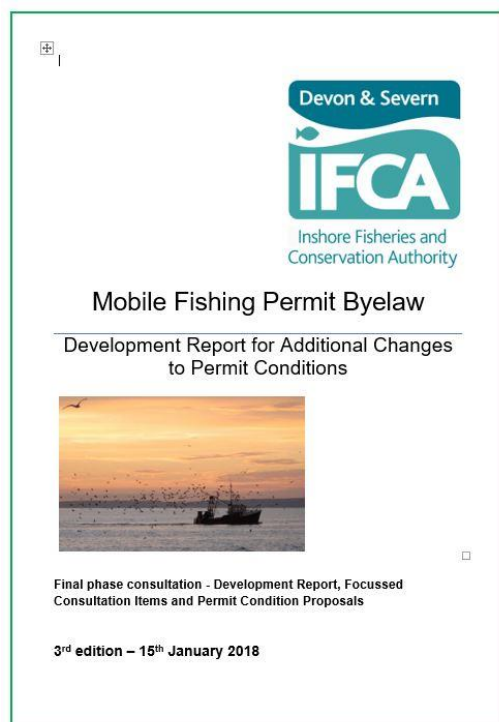
---

<sup>14</sup> 12 responses received for the number of scallop dredge consultation



## 4. The Second Phase “Focussed” Consultation

The six-week second period of consultation, which began on 31<sup>st</sup> January 2018, provided an opportunity for all stakeholders to consider the focussed items and submit a response. In addition to highlighting the separate topics, proposed permit conditions were also included in the consultation reports which were posted on the D&S IFCA website. The Mobile Fishing consultation report was relatively large due to the amount of detail, rationale, images and background information on the role and duties of the Authority that was also included.



Extract documents (with focus purely on the consultation items) were also created as an easier read for stakeholders. In addition to displaying the consultation reports on the website, other options were made available (at the time) for circulation as follows:

- Consultation reports can be sent upon request to stakeholders who supply a current and functioning email address.
- Hard copies of the consultation reports can be circulated to stakeholders but a charge will be levied for the cost of postage. Stakeholders should contact the office of D&S IFCA so the charges can be clarified and then send a stamped addressed envelope of the correct size as specified.
- Hard copies of the consultation reports are available for collection at the D&S IFCA main office in Brixham.

The second phase consultation was not a detailed questionnaire or a multi-choice exercise. Stakeholders were given the freedom to respond to all of the identified items as they wished. A designated email was available to be used and stakeholders had other options to respond. It was explained that written responses would be collated, on-line survey forms were available (social media) and direct contact with the office of D&S IFCA with a view to arranging an appointment<sup>15</sup> was also a possibility.

---

<sup>15</sup> Telephone session, or personal interview with an officer



## 5. The Second Phase “Focussed” Consultation Items

It was explained in the consultation report that in order to introduce changes in the proposed management of mobile fishing activity, the Mobile Fishing Permit Conditions had to be subjected to a re-drafting process. As a consequence of this re-drafting process and the legal advice taken during this exercise, the formatting of the permits was altered along with some of the wording and paragraph numbering. In an attempt to help stakeholders, appreciate what the changes consisted of and all the implications that they had, explanations *(in bold blue italics)* were provided for each of the items. The following information is transcribed from the consultation report<sup>16</sup>.

- ***Final Phase Consultation – Development Report, Focussed Consultation Items and Permit Condition Proposals*** (3<sup>rd</sup> Edition – 15<sup>th</sup> January 2018).

### The Inshore Potting Agreement Areas (IPA)

The Inshore Potting Agreement Areas (IPA) have been managed under licence variation by the Marine Management Organisation (MMO). Under this management the IPA areas are referred to as the South Devon Inshore Fishing Grounds.

It is proposed that the management of the IPA would be achieved by the use of mobile fishing permit conditions working in tandem with the current fishing vessel licences (schedules) that are issued by the Marine Management Organisation (MMO). The IPA is relevant to both the static gear and the mobile fishing sectors, although the potting permits will not contain any conditions of use relevant to these areas. The mobile fishing permit conditions (gear, spatial and time) would need to be combined to manage access to the IPA areas. Access areas for the IPA (charts/annexes) would be combined with Marine Protected Areas (MPA).

The established and recognised IPA chart would remain; however, the replication of the IPA restrictions set out in the mobile fishing permit Annexes (for the purposes of D&S IFCA management) would be set out differently and areas labelled in a different way. The IPA will be divided into separate charts with current Area 3 (near Berry Head), combined with the spatial restriction Annex (Chart) for the MPA in Torbay.

To manage access in the portion of the IPA (near Torbay) it is anticipated that the proposed relevant amended mobile fishing permits would take the following form:

- 3.3 *In the areas as defined by the coordinates set out in the attached Annex 3 of this permit (which includes the Torbay section of the Lyme Bay and Torbay Site of Community Importance, the Torbay Marine Conservation Zone and part of the South Devon Inshore Fishing Grounds known as the Inshore Potting Agreement Areas), a permit holder or named representative is not authorised to use demersal mobile fishing gear except where;***
- a) *access is authorised for demersal trawl gear within Areas 1, 2, 3 and 4 as defined by the coordinates set out in the attached Annex 3a of this permit and the demersal trawl gear is used in accordance with paragraph 2.8 and 4.3.***

---

<sup>16</sup> For the purpose of this report, some of the images of the Annexes have been reduced in size.

- b) **access is authorised for scallop gear within Area 4 as defined by the coordinates set out in the attached Annex 3b of this permit and the scallop gear is used in accordance with paragraph 2.8.**

***This mobile fishing permit condition is linked to the gear restriction 2.8 shown below:***

**2.8 Within the access Area 4 as defined by the coordinates set out in Annex 3a and 3b (part of the South Devon Inshore Fishing Grounds known as Inshore Potting Agreement Areas), a permit holder or named representative is not authorised under the permit to use demersal mobile fishing gear unless;**

- a) **the vessel is rated at 100KW or less and;**
- b) **when using scallop dredges, the vessel uses no more than two tow bars, each tow bar does not exceed 2.6 metres in total length and there are no more than three dredges attached to each tow bar.**

***Paragraph 3.3 (a) of the mobile fishing permit condition is linked to the time restriction 4.3 shown below:***

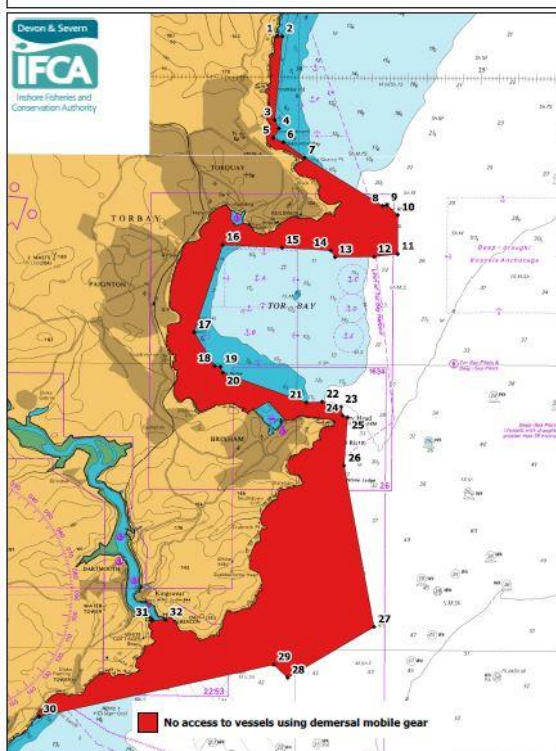
- 4.3 A permit holder or named representative is only authorised to use demersal trawl gear within the Areas 1, 2 and 3 as defined by the coordinates set out in the attached Annex 3a between 1<sup>st</sup> April and 30<sup>th</sup> June (inclusive).**

#### **Explanation**

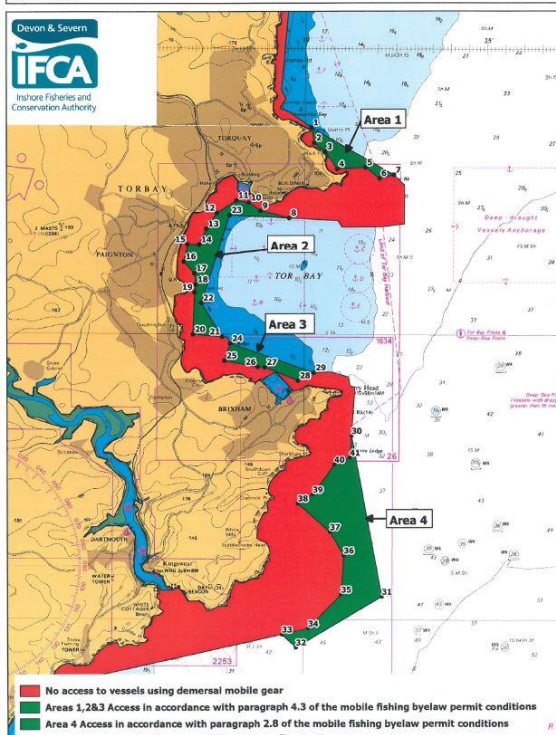
***There are no new areas that will be closed to mobile fishing activity as part of this proposed change in the permit conditions.***

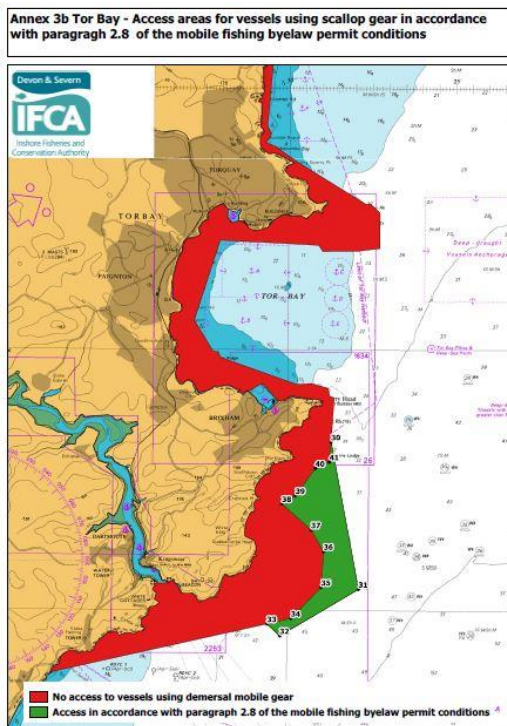
***Although closed to most demersal mobile fishing activities, limited access is provided in the permit conditions subject to certain restrictions. Annex 3a and 3b identifies which areas have limited access to mobile gear fishing vessels subject to gear, (for example 100 KW engine power) and the time restrictions (the dates for demersal trawl access in the Torbay MPA areas). Access is different for vessels engaged in demersal trawling and vessels engaged in scallop dredging as shown in Annex 3a and 3b. This change does not present any new restrictions that are not already in place at this time.***

# Annex 3 Tor Bay - No access to vessels using demersal mobile gear



# Annex 3a Tor Bay - Access areas for vessels using demersal trawl gear in accordance with paragraphs 2.8 and 4.3 of the mobile fishing byelaw permit conditions





*The use of Annexes (charts) to accompany the permit conditions that D&S IFCA issues are intended to help fishers fully understand where boundaries or closing lines are. A collection of larger scale charts will accompany any permits that are issued with coordinates defining specific sites, boundaries or closing lines. D&S IFCA is committed to an initiative to place all coordinates for the mobile fishing permit Annexes on electronic data memory sticks that will be compatible with three types of electronic chart plotters. (Olex, MaxSea & Sodena)*

*For the purposes of this consultation, stakeholders can contact D&S IFCA and request exact co-ordinates for all areas illustrated in the Annexes.*

*This proposal, if implemented, would present D&S IFCA with the opportunity to directly enforce the same restrictions (mobile fishing restrictions) in regard to the licence condition for the IPA in this area of the District.*

#### The Remainder of the IPA

To manage access in the remaining portion of the IPA (Dartmouth to Plymouth) it is anticipated that the proposed relevant amended mobile fishing permits would take the following form:

- 3.5** *In the areas as defined by the coordinates set out in the attached Annex 5 of this permit (part of Start Bay, Start Point to Plymouth Sound and Eddystone Site of Community Importance, part of the Skerries Bank and Surrounds Marine Conservation Zone and part of the South Devon Inshore Fishing Grounds known as the Inshore Potting Agreement Areas), a permit holder or named representative is not authorised to use demersal mobile fishing gear except where;*



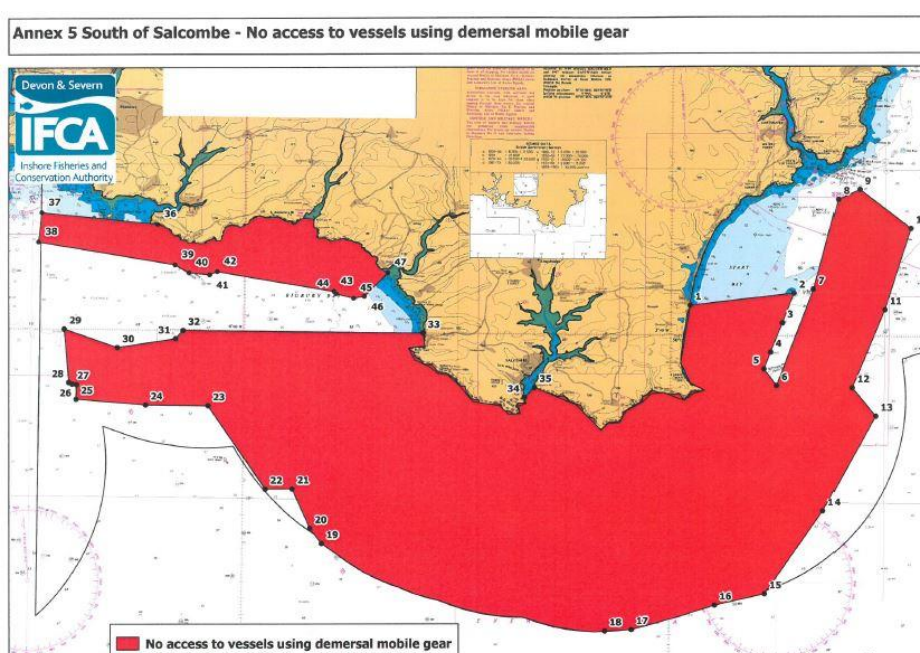
- a) *the demersal gear used within Area A as defined by the coordinates set out in the attached Annex 5a of this permit is used in accordance with paragraph 4.5, table 2.*
- b) *the demersal gear used within Area B as defined by the coordinates set out in the attached Annex 5a of this permit is used in accordance with paragraph 4.5, table 2.*
- c) *the demersal gear used within Area C as defined by the coordinates set out in the attached Annex 5a of this permit is used in accordance with paragraph 4.5, table 2.*
- d) *the demersal gear used within Area D as defined by the coordinates set out in the attached Annex 5a of this permit is used in accordance with paragraph 4.5, table 2.*

**Paragraph 3.5 of the mobile fishing permit conditions is linked to the time restriction 4.5 shown below which includes Table 2 (dates):**

- 4.5** *A permit holder or named representative is only authorised to use demersal mobile fishing gear within the Areas A, B, C and D as defined by the coordinates set out in the attached Annex 5a of this permit in accordance with the dates set out in Table 2 below:*

**Table 2**

Annex	Sub Area of Annex 5a	Access Dates
5a	Area A	1 <sup>st</sup> Jan to 31 <sup>st</sup> May inclusive
5a	Area B	1 <sup>st</sup> Jan to 31 <sup>st</sup> March inclusive
5a	Area C	1 <sup>st</sup> March to 31 <sup>st</sup> March inclusive
5a	Area D	1 <sup>st</sup> Feb to 31 <sup>st</sup> Aug inclusive



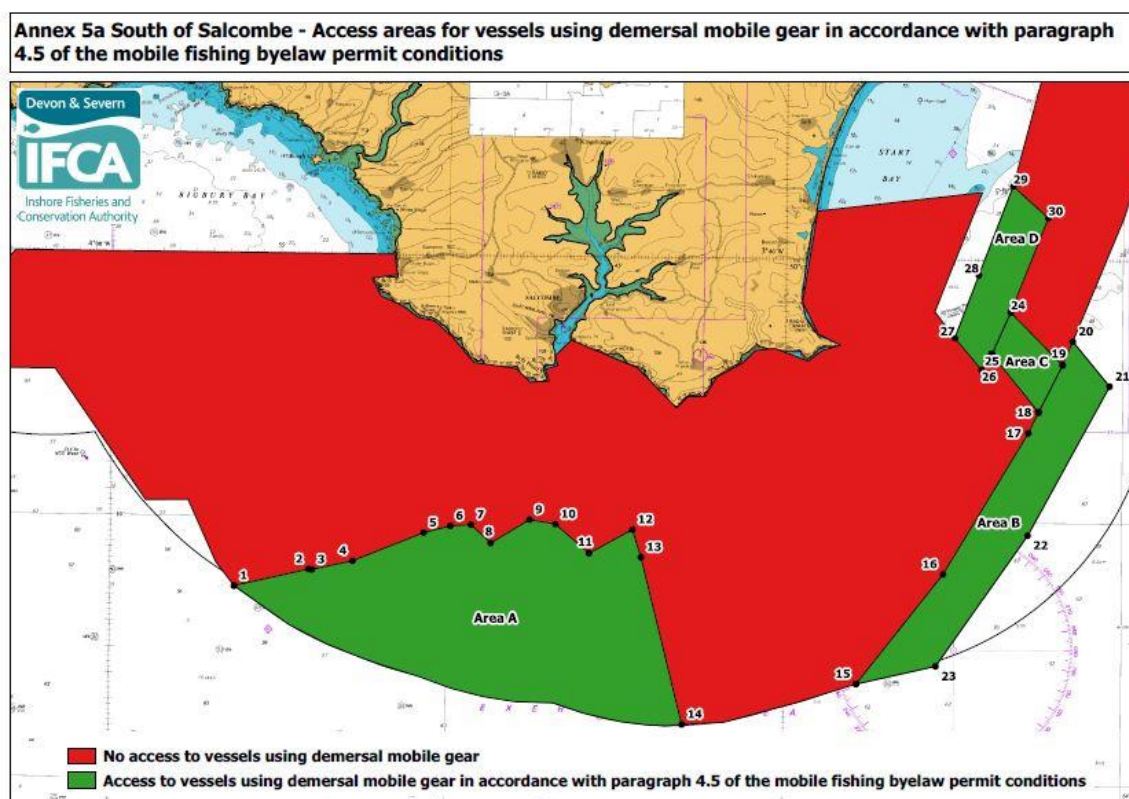
## Explanation

There are no new areas that will be closed to mobile fishing activity as part of this proposed change in the permit conditions. Once again, the mobile permit conditions set out above can appear complicated as written; however, the charts that are issued with the mobile fishing permits simplify the issue. In this case, although closed to most demersal mobile fishing activities, limited access is provided in the permit conditions. Annex 5 (above) includes current closed areas (Start Bay, Start Point to Plymouth Sound and Eddystone Site of Community Importance, part of the Skerries Bank and Surrounds Marine Conservation Zone and part of the IPA).

Annex 5a demonstrates the areas that have limited access subject to the dates that appear as part of the present IPA conditions, which have been replicated in the permit conditions set out in paragraph 4.5 (table 2).

Stakeholders should be aware that the extent of the closure in regard to the D&S IFCA mobile fishing permit conditions only includes areas within the 6-mile limit. Restricted access for areas of the IPA outside of 6 nautical miles is still regulated via licence conditions (variations) issued by the Marine Management Organisation.

This proposal, if implemented, would present D&S IFCA with the opportunity to directly enforce the same restrictions in regard to the licence condition for the IPA in this area of the District. A collection of larger scale charts would accompany any mobile fishing permits that are issued with coordinates defining specific sites, boundaries or closing lines.



## **Permit Conditions for the Introduction of Inshore Vessel Monitoring Systems (I-VMS)**

As explained in the previous consultation (11<sup>th</sup> September to 23<sup>rd</sup> October 2017), D&S IFCA has supported the development and introduction of I-VMS since 2011. Fishers have already been notified that all mobile fishing vessels are required to have I-VMS units fitted. Part 4 of this report documents more detail in regard to the rationale behind this initiative. The mobile fishing permits need to be used to set out the requirements in regard to which units are suitable to be used, how these units must function, the required reporting rates and what must happen if units fail and need repair or replacement.

### **Explanation**

*Firstly, the equipment and the required information needs to be defined. This is achieved by setting out the detail in the interpretations as follows:*

***“remotely accessed electronic reporting device” means one of the following devices that transmits the required information;***

- a) ***Blue Tracker I-VMS manufactured by AST Marine Services***
- b) ***SC2 manufactured by Succorfish***
- c) ***Watching Man Pro manufactured by Marine Instruments S.A.***
- d) ***VMS + manufactured by AST Marine Services***

***“required information is”;***

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

*Four units are suitable for fitting on mobile fishing vessels (listed as a to d), and mobile fishing vessels between 12 and 15 metres will already have a VMS+ unit fitted. Having specified which units are suitable to be fitted, the restrictions for the use of the device have to be set out in the permit conditions. It is anticipated that the relevant proposed mobile fishing permit conditions would take the following form:*

### **Vessel Monitoring System**

- 2.5** ***A permit holder or named representative is not authorised to use a vessel between 6.99 metres and 15.25 metres within the District unless a fully functioning, remotely accessed electronic reporting device is on board the vessel at all times and where the required information is;***

- a) *transmitted at least every three minutes whilst the vessel is inside a restricted access area as defined by the coordinates set out in the attached Annexes 1 to 7 (inclusive);*
- b) *transmitted at least every ten minutes when the vessel is not within the areas as defined by the coordinates set out in the attached Annexes 1 to 8 (inclusive).*

#### **Vessel Monitoring System - Failure of device**

**2.6** *If the remotely accessed electronic reporting device installed pursuant to paragraph 2.5 above, has failed to transmit the required information, for whatever reason, a permit holder or named representative must;*

- a) *if at sea, immediately cease fishing and return to one of the areas as defined by the coordinates set out in the attached Annex 8 or leave the District;*
- b) *if in an area as defined by the coordinates set out in the attached Annex 8, remain there.*

**2.7** *If as a result of a failure to transmit the required information and in compliance with paragraph 2.6, the vessel is in one of the areas as defined by the coordinates set out in the attached Annex 8 or has left the district, the vessel is not authorised to leave these areas or sail in the district unless;*

- a) *the remotely accessed electronic reporting device has been repaired or replaced by the remotely accessed electronic device manufacturer's approved engineer to meet the requirements specified in paragraph 2.5.*

**2.7.1** *Where a vessel has returned to one of the areas as defined by the coordinates set out in the attached Annex 8 a written permission may be issued by the Authority to proceed to a place in order for a repair to the remotely accessed electronic reporting device to be effected.*

**2.7.2** *Where a remotely accessed electronic reporting device has been repaired or replaced as required by the permit, the permit holder or named representative must provide a copy of the engineer's report to the Authority confirming that the equipment is fully operational before proceeding to sea or re-entering the District.*

#### **Further Explanation on I-VMS**

*The permit conditions refer to Annexes. These Annexes are effectively charts or a list of positions which show areas where reporting rates are different. Some areas within the District are more sensitive than others to demersal mobile fishing gear and will include all Marine Protected Areas. It is proposed that the more sensitive sites will require a position report to be transmitted every 3 minutes. The more sensitive areas will all be defined by co-ordinates and displayed in chart form as Annex numbers 1 to 7. Whilst at sea and within the District, the default transmission period will be every 10*



*minutes. Some areas within the District have been designated as areas (harbours) where there is no requirement for the unit to transmit, however the unit will still report at a much lower transmission rate to the manufacturer if a power supply is connected. These (harbour) areas have been labelled as Annex 8 and are the places within the D&S IFCA District where repairs or replacement of devices can take place. Charts have not been used to demonstrate Annex 8 areas, however all of these areas are defined by the coordinates listed in Annex 8. A key question would be - are there any additional areas that should be added to the list of coordinates defining Annex 8 (harbour) areas that are set out in this consultation report?*

**Brixham** – Landward of the boundary line between points

A) 50°24.21N 003° 31.20W

B) 50° 24.34N 003° 30.78W

**Torquay** - Landward of the boundary line between points

A) 50° 27.45N 003° 31.75W

B) 50° 27.42N 003° 31.72W

**Teignmouth**- Landward of the boundary line between points

A) 50° 32.27N 003° 29.73W Ness

B) 50° 32.50N 003° 29.77W Southern leading light

**Exmouth** - Landward of the boundary line between points

A) 50° 35.518N 003° 26.629W Langstone point

B) 50° 36.421N 003° 23.108W Orcombe point

**Axemouth** - Landward of the boundary line between points

A) 50° 42.135N 003° 03.354W

B) 50° 42.135N 003° 03.274W

**Dartmouth** – Landward of the boundary line between points

A) 50° 19.634N 003° 34.266W Coombe Point

B) 50° 20.141N 003° 32.583 Inner Froward point

**Salcombe** – Landward of the boundary line between points

A) 50° 13.444N 003° 46.915W Splatcove point

B) 50° 13.444N 003° 46.402W Limebury point

**Yealm** – Landward of the boundary line between points

A) 50° 18.749N 004° 04.139W Season point

B) 50° 18.560N 004° 04.268W Mouth Stone

**Sutton Harbour** – Landward of the boundary line between points

A) 50° 21.58N 004° 09.82W

B) 50° 21.85N 004° 07.49W

**Tamar** – Landward of the boundary line between points

- A) 50° 21.76N 004° 10.12W
- B) 50° 21.58N 004° 10.04W

**Taw Torridge** – Landward of the boundary line between points

- A) 51° 02.62N 004° 14.27W
- B) 51° 07.04N 004° 13.47W

**Ilfracombe** – Landward of the boundary line between points

- A) 51° 12.64N 004° 06.68W
- B) 51° 12.58N 004° 06.50W

**Watchet** – Landward of the boundary line between points

- A) 51° 11.04N 003° 19.75W
- B) 51° 11.00N 003° 19.68W

*It is expected that the units will be robust and not subject to regular failure as all units have been tested as part of the National type approval process. Owners of the device will have to arrange their own maintenance contracts with suppliers. If a unit does fail when at sea the vessel must either return to a port within the District to arrange repair or leave the District.*

*For vessels that have a home port in the District, it is envisaged that the only option is for that vessel to return to a port within the District. This is because once notified of a failed unit, the vessel is not permitted to sail in the District until the unit is fully functioning again.*

*Vessels that do choose to leave the District because of a unit failure and then re-enter the District (even to return home) would be sailing in the District without a fully functioning unit and therefore would not comply with the permit conditions.*

*Repairs to the device must be conducted by the manufacturers' approved engineers either in one of the areas (harbours) set out in Annex 8 of the permit conditions or in a place that is not within the District. It is expected that manufacturers will use a wide range of local engineers, following the initial installation of units to deal with any necessary repairs.*

*Permission may be granted by the Authority for a vessel to sail within the District without a fully functioning, remotely accessed electronic reporting device to another place for the sole purpose of allowing a repair or replacement to take place.*

*When repairs are complete a copy of the engineer's report must be received before the vessel will be able to fish again in the District. A photograph of the engineer's report taken with a digital camera or smartphone would be evidence of a suitable repair. This photograph could either be e-mailed to the Authority or sent to the Out of Office Duty Phone Number. The vessel would then be able to sail in the District.*

*Data transmitted by the units would not be routinely stored by D&S IFCA. This information would be held with the manufacturer or the National Vessel Monitoring system hub, managed by the MMO. However, D&S IFCA will require permit holders to allow the Authority and other regulators to have access to the vessel monitoring data. D&S IFCA will enter into a contract with the manufacturer to have access to this data.*

*D&S IFCA will use paragraph 16 (all permit holders shall provide any relevant fisheries information) of the Mobile Fishing Permit Byelaw, as a means to formally obtain the vessel monitoring data. Permit holders will be required to demonstrate their consent to this requirement by agreeing to the relevant conditions as set out in the Mobile Fishing application form. There will be a requirement for the modified application forms to be completed at the time of installation. Current permit holders operating vessels 12 metres and over who wish to continue to fish in the D&S IFCA District will be sent the necessary forms.*

### **Permit Conditions Replacing a Reliance on the Deeming Clause**

In order to replace the reliance on the deeming clause, the layout of the current permit conditions would need to be adjusted. As good practice, D&S IFCA have taken the view that it is appropriate wherever possible to improve and harmonise the format used in all of the permits that D&S IFCA issues. D&S IFCA has taken account of legal advice in the drafting process and the new format would be largely based on the newly developed Netting Permit Byelaw<sup>17</sup> permit conditions.

A new catch restriction would be introduced that would link to the list of species that would now appear in the mobile fishing permits. It is anticipated that the amended relevant proposed mobile fishing permit conditions would take the following form:

#### **1. Catch Restrictions**

***As provided by paragraph 22 (a) of the Devon and Severn IFCA Mobile Fishing Permit Byelaw 2013, the following permit conditions apply:***

- 1.1 A permit holder or named representative is not authorised to fish under this Permit if the permit holder or named representative has retained on board or has in their possession any catch that does not comply with any of the catch restrictions set out in paragraphs 1.2 to 1.3 inclusive.***
- 1.2 A permit holder or named representative is not authorised under this permit to remove from a fishery within the District:***
  - a) any 'V'-notched or mutilated lobster;***
  - b) any berried lobster or berried edible crab;***
  - c) any part of an edible crab, lobster or spiny lobster which is detached from the carapace of the crab or lobster;***
  - d) any edible crab, lobster or spiny lobster that has recently cast its shell;***

---

<sup>17</sup> Awaiting confirmation

**1.3 A permit holder or named representative is not authorised under this permit to remove from a fishery within the District:**

- a) A female edible crab less than 150mm measured across the broadest part of the carapace;**
- b) a male edible crab less than 160mm measured across the broadest part of the carapace;**
- c) a scallop less than 100mm measured across the broadest part of the flat shell;**
- d) a whelk less than 65mm measured along the length of the shell, except where paragraph 4.4 applies;**
- e) a lobster less than 90mm measured as the length of the carapace, parallel to the midline, from the back of either eye socket to the distal edge of the carapace;**
- f) a spider crab less than 130mm measured as the length of the carapace, along the midline, from the edge of the carapace between the rostrums to the posterior edge of the carapace;**
- g) a spiny lobster less than 110mm measured as the length of the carapace from the tip of the rostrum to the midpoint of the distal edge of the carapace;**
- h) a velvet swimming crab less than 65mm measured across the broadest part of the carapace;**
- i) a bass less than 42cm measured from the tip of the snout to the end of the tail fin.**

**1.3.1 All such species falling within the above prohibitions in paragraphs 1.2 and 1.3 must be returned immediately to the sea without further injury.**

**1.3.2 The measurement of the size of a marine organism will take place in accordance with the provisions laid down in Annex XIII Article 18(1) of Council Regulation (EC) 850/98.**

**Explanation**

**The re-drafting of mobile fishing permit conditions introduces a species list and the paragraphs that link to this species list. This does have some implications for fishers.**

**When a vessel is fishing within the District, the catch must conform to the sizes (or provisions in 1.2 and 1.3) as set out in the permit which are in some cases more restrictive than National or EU size restrictions. For example, a mobile fishing vessel cannot fish within the District with a lobster of less than 90mm on board or a collection of crab claws and remain compliant with the permit conditions.**

**A vessel issued with a mobile fishing permit does have the option to transit through the District with species caught outside of the District that do not comply with the**

*sizes/provisions as set out in the permit, providing that the catch complies with National or EU legislation.*

*Another key alteration above is the inclusion of paragraph 1.3.2. This permit condition does not place a new burden on fishers, rather it clarifies what the restrictions already are in regard to how different species should be measured to conform with minimum conservation reference sizes.*

*The revised formatting of the permit conditions will mean that the Authority does not need to rely on the deeming clause that is already inserted in the Mobile Fishing Permit Byelaw. Background information relating to the deeming clause is included in Part 4 of this report.*

### **Introducing the Size of a Scallop (*Pecten maximus*) as a Permit Condition**

In order to introduce the size of a scallop as a permit condition, the layout of the current permit conditions would need to be adjusted. As good practice, D&S IFCA have taken the view that it is appropriate wherever possible to improve and harmonise the format used in all of the permits that D&S IFCA issues. D&S IFCA has taken account of legal advice in the drafting process and the new format would be largely based on the newly developed Netting Permit Byelaw<sup>18</sup> permit conditions.

A new catch restriction would be introduced that would link to the list of species that would now appear in the mobile fishing permits. It is anticipated that the amended relevant proposed mobile fishing permit conditions would take the following form:

- 1.1** *A permit holder or named representative is not authorised to fish under this Permit if the permit holder or named representative has retained on board or has in their possession any catch that does not comply with any of the catch restrictions set out in paragraphs 1.2 to 1.3 inclusive.*
- 1.3** *A permit holder or named representative is not authorised under this permit to remove from a fishery within the District:*
  - a)** *A female edible crab less than 150mm measured across the broadest part of the carapace;*
  - b)** *a male edible crab less than 160mm measured across the broadest part of the carapace;*
  - c)** *a scallop less than 100mm measured across the broadest part of the flat shell;*
  - d)** *a whelk less than 65mm measured along the length of the shell, except where paragraph 4.4 applies;*
  - e)** *a lobster less than 90mm measured as the length of the carapace, parallel to the midline, from the back of either eye socket to the distal edge of the carapace;*
  - f)** *a spider crab less than 130mm measured as the length of the carapace, along the midline, from the edge of the carapace between the rostrums to the posterior edge of the carapace;*

---

<sup>18</sup> Awaiting confirmation

- g) *a spiny lobster less than 110mm measured as the length of the carapace from the tip of the rostrum to the midpoint of the distal edge of the carapace;*
- h) *a velvet swimming crab less than 65mm measured across the broadest part of the carapace;*
- i) *a bass less than 42cm measured from the tip of the snout to the end of the tail fin.*

**1.3.1** *All such species falling within the above prohibitions in paragraphs 1.2 and 1.3 must be returned immediately to the sea without further injury.*

**1.3.2** *The measurement of the size of a marine organism will take place in accordance with the provisions laid down in Annex XIII Article 18(1) of Council Regulation (EC) 850/98.*

### **Explanation**

*The 100mm size for a scallop is not a new restriction. This is already the minimum size of scallop that can be taken in the District. The introduction of this (and other species) in the mobile fishing permit conditions harmonises with other D&S IFCA permits issued for other fishing methods.*

*Minimum conservation reference sizes set out in a Byelaw (or permit conditions) cannot be less restrictive than National or EU sizes. They can be more restrictive to help manage or protect inshore stock.*

*This proposal to amend permit conditions to introduce the size of a scallop has the effect of including several other species at the same time.*

*A vessel issued with a mobile fishing permit does has the option to transit through the District with species caught outside of the District that do not comply with the sizes/provisions as set out in the permit, providing that the catch complies with National or EU legislation.*

*Another key alteration above is the inclusion of paragraph 1.3.2. This permit condition does not place a new burden on fishers, rather it clarifies what the restrictions already are in regard to how different species should be measured to conform with minimum conservation reference sizes.*

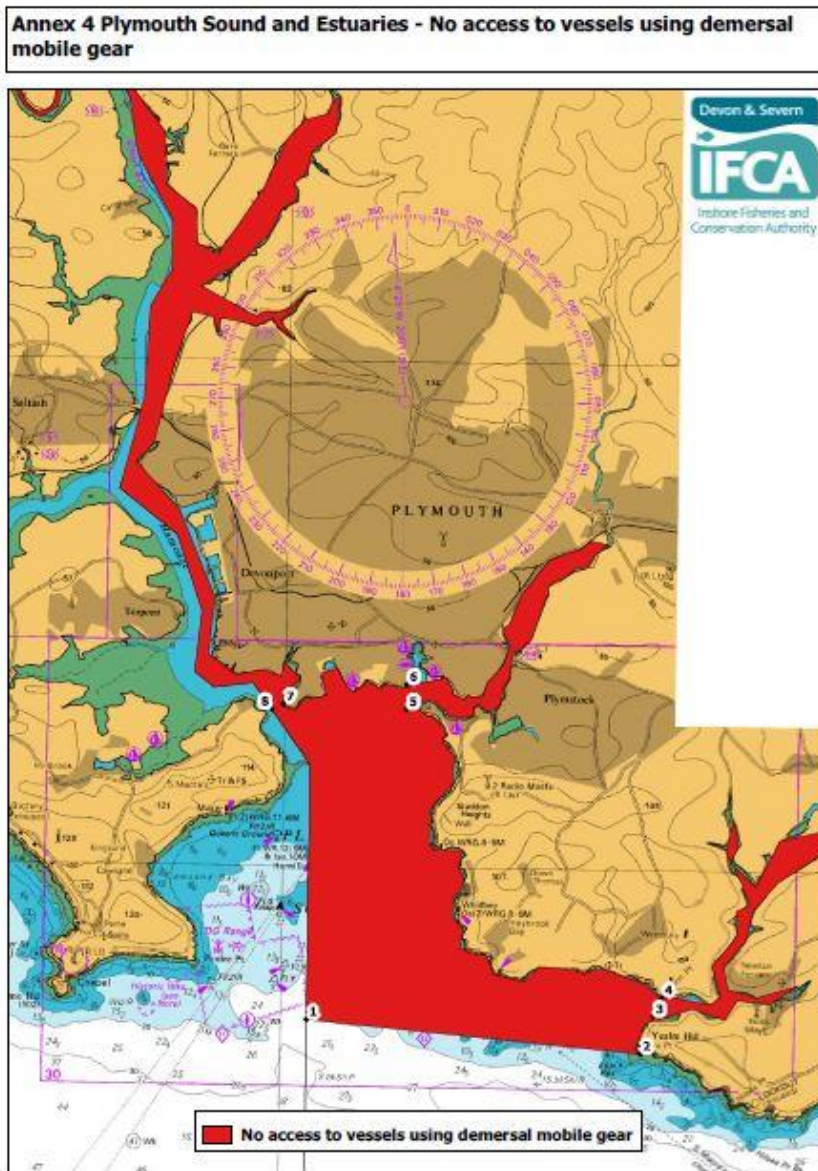
### **Managing Access for Ring Netting Activity within Plymouth Sound**

Ring netting activity is a method that falls under the definition of mobile fishing. Plymouth Sound is closed to demersal mobile fishing methods; however, access is possible for vessels conducting ring netting activity. To help clarify what the restrictions are for this method, the proposal is to alter the mobile fishing permit conditions. It is anticipated that the amended relevant proposed mobile fishing permit conditions would take the following form:



**3.4** *In the areas as defined by the coordinates set out in the attached Annex 4 of this permit (Plymouth Sound and Estuaries Special Area of Conservation), a permit holder or named representative is not authorised to use demersal mobile fishing gear except where;*

- a) *access is authorised for an encircling net where the footrope may be in contact with the seabed to be used in the area as defined by the coordinates set out in the attached Annex 4a of this permit.*



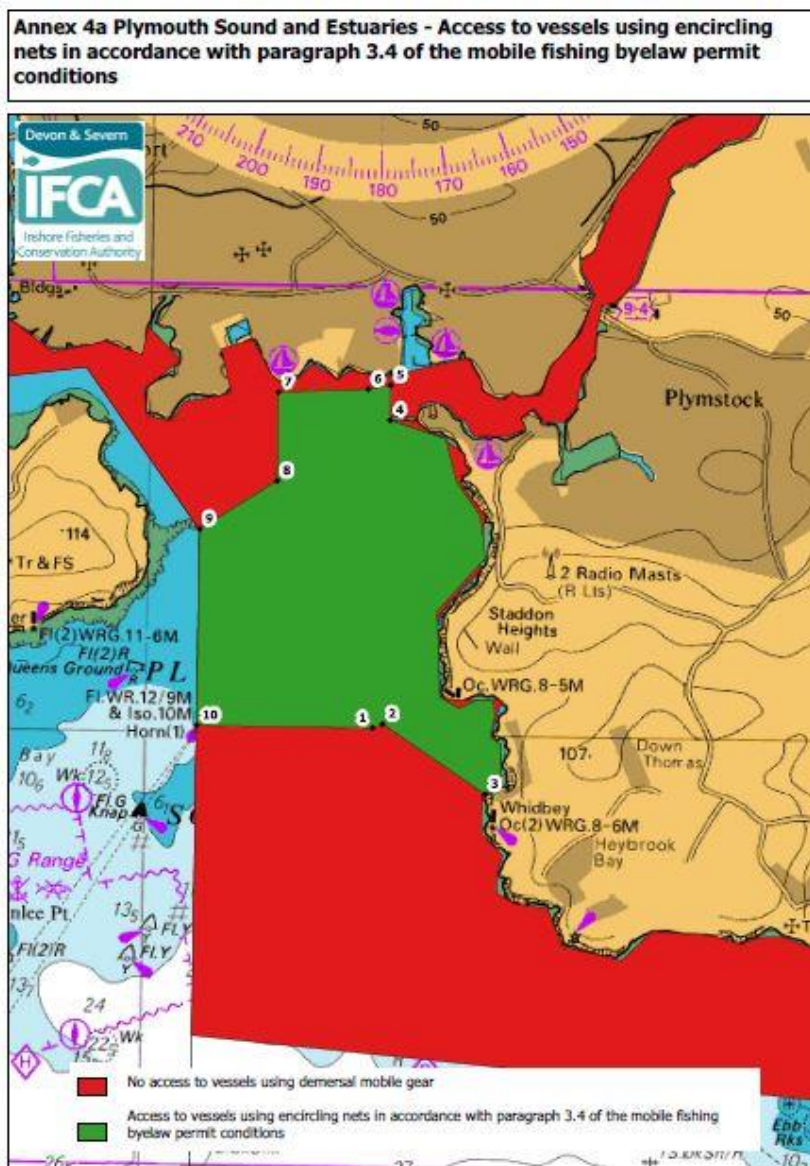
### Explanation

*Annex 4 of the mobile fishing permit conditions defines where demersal mobile fishing activity is prohibited. Ring netting can be conducted in this area as demonstrated by Annex 4a, providing that an encircling net is used.*

*The redrafting process has identified the need to protect the designated features (reef) of the Plymouth Sound and Estuaries Special Area of Conservation from all demersal*

mobile fishing gears which includes encircling nets and pelagic trawls where the footrope may be in contact with the seabed.

The initial consultation did not fully define the areas where encircling nets would be prohibited due to the reef features. Annex 4a now provides addition clarity where vessels using encircling nets where the footrope maybe in contact with the seabed can operate. Exact coordinates for all Annexes are available by contacting D&S IFCA.





## 6. The Second Phase “Focussed” Consultation Response

The information (consultation response for the second phase – 31<sup>st</sup> January to 14<sup>th</sup> March 2018) was collated and documented in a supplementary report which was presented to members of the D&S IFCA B&PSC in advance of their meeting on 12<sup>th</sup> April 2018.

The information relating to the received response that was presented in this second supplementary report (26<sup>th</sup> March 2018), including the officer comments, has been transcribed below. This section of the report demonstrates:

- **The information supplied by stakeholders (the summarised response) from the phase 2 consultation conducted between 31<sup>st</sup> January 2018 & 14<sup>th</sup> March 2018;**
- **The extent of the information considered by members including officer comments in April 2018.**

### The Phase Two Consultation Response (Transcription of Supplement)

In general, the response was very limited. A total of four written responses were received during the consultation period (31<sup>st</sup> January to March 14<sup>th</sup> 2018), one of which was submitted via the on-line survey form that was made available. One Mobile Fishing Permit Holder took advantage of an interview with an officer to provide some feedback however; the comments provided did at times extend into areas beyond the focussed consultation. Several of the responses contained a mixture of information relevant to more than one consultation.

### Inshore Potting Agreement Areas

#### Aims and Requirements:

- To incorporate the management of areas of the IPA (within the 6-mile limit) within the mobile fishing permits
- To demonstrate a clear difference between the permit approach and the conditions that form part of the licence conditions (Schedules)
- To demonstrate that no new closed areas form part of the proposed changes
- To demonstrate the potential changes to the potting sector by adding this item to the potting consultation as well as the mobile fishing consultation

#### Proposed solution:

- Existing areas of IPA divided into two sections (Torbay area & Dartmouth to Plymouth, labelled as South of Salcombe)
- Separate IPA areas and relabel areas
- To combine IPA areas with existing Marine Protected Areas
- Incorporate the existing Annex 1 chart (Prohibition of demersal mobile gear in Start Bay) into the process
- Remove the trawling all year area of the IPA (area also in Start Bay) from areas that require defining

### Proposed Permit conditions & Annexes:

- Paragraphs in permit sections 2 (gear), 3 (spatial) and 4 (time) interlinked.
- New Annex 3 chart (red zone) created highlighting no access (Torbay Area) unless permit conditions provide limited access
- New Annex 3a chart (red and green) created demonstrating limited access (Torbay Area) for demersal trawl gear
- New Annex 3b chart (red and green) created demonstrating limited access (Torbay Area) for scallop gear that is more restrictive than Annex 3a.
- New Annex 5 chart (red zone) created highlighting no access (South of Salcombe Area) unless permit conditions provided limited access
- New Annex 5a chart (red and green) created demonstrating limited access subject to specific dates

### **Response from Stakeholders**

One fisher stated that it finally makes sense to use a one format rather than 2 or 3 different areas within one area. Another felt that the use of multiple charts with red and green areas to demonstrate access areas was in their view too confusing.

A late response (22/3/18) was submitted by South Devon and Channel Shellfishermen Ltd after the closing date of 14<sup>th</sup> March. As this was a late submission, members may choose to disregard it during decision making. The response was supportive as follows:

**SD&CS support IFCA management of the IPA in line with existing conditions set out in a fishing vessel license.**

This response also raised concern over the funding difficulties for the Authority to enforce the permit conditions effectively and welcomed the opportunity to support any increased funding opportunities.

Devon Wildlife Trust (DWT) stated that the re-writing of the Byelaw to associate more clearly with relevant charts is reasonable, provided the same or greater protection to wildlife is afforded through the new version. In regard to the use of demersal gear within MPAs, DWT stated:

**While Devon Wildlife Trust is supportive of a sustainable fishing industry, we are concerned that allowing the use of demersal gear within MPAs may restrict the designations' ability to protect designated features in the long term, particularly as global pressures (such as climate change and ocean acidification) will drive changing boundaries for many species and habitats. There are many sources of uncertainty when it comes to the spatial management of fishing in MPAs, including:**

- **inaccurate mapping of features**
- **mobile features**
- **ecological links between non-designated and designated features**
- **indirect impacts of fisheries on designated features**

- uncertainty around position of fishing vessel and fishing gear

The protection of entire MPAs throughout the year from demersal gear would enable space for wildlife to adapt to chronic pressures and ensure robust marine ecosystems can thrive, offering sustainable fishing opportunities now and in the future.

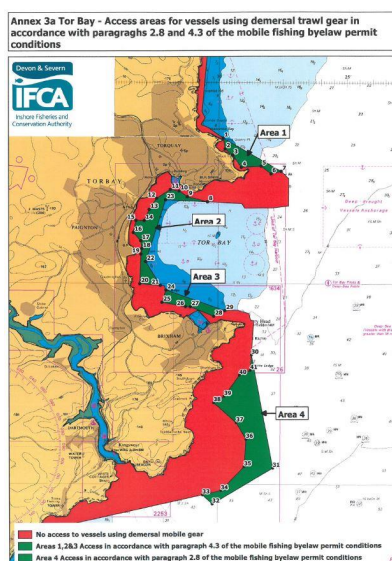
## Officer Comments

*The revised permit conditions and Annexes set out in the consultation do include MPAs in combination with the IPA. Restrictions within the MPAs as part of this proposal are no more restrictive than the current mobile fishing permit conditions but are formatted in a different way. Following the mandatory three-year review of mobile fishing permit conditions and the final consultation period for that review that ended on 8<sup>th</sup> May 2017, the Sub-Committee concluded the following:*

- *To separate scallop dredging and trawling activities*
- *To prohibit scallop dredging within the Torbay MCZ*
- *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*

*The impact study includes both grab sampling and also photographing areas within the Torbay MCZ before and after controlled trawling activity. Ocean Ecology Ltd are analysing the grab samples but no definitive results or conclusions have been reached at this time. Analysis of photographic evidence collected and collated by D&S IFCA is also yet to be completed.*

*An example of the Annex 3a which combines both an MPA and a section of the IPA is shown below. Annex 3b (not shown in this report) is tailored to scallop vessels and has no green areas within the Torbay MPA.*



## **The introduction of Inshore Vessel Monitoring Systems (I-VMS)**

### Aims and Requirements:

- To specify which units are suitable for fitting and on what size vessels
- To specify the extent of required reporting information to be transmitted
- To specify requirements for failure of devices and who is authorised to repair it
- To specify the required reporting rates in different areas of the District
- To define the different areas where reporting rates are different
- To meet the obligations of the Data Protection Act
- To use gear, spatial and the interpretations section of the mobile permit
- To define more sensitive areas for 3-minute reporting
- To define areas where no reporting is required
- To develop a revised application form (not subjected to consultation) for the processing of permit applications and the use of data, including vessel data
- To develop an engineer's report for fitting and repair of IVMS devices (not subjected to consultation)
- To enter agreement (contract) with manufacturers in regard to data storage and access to it.
- To develop policy (authorisation) in regard to vessels sailing within the District to reach another place to have a unit repaired
- To create geofence areas for units to be programmed.

### Proposed Permit Conditions & Annexes:

- To modify the format of the existing mobile fishing permits
- Four units specified in the permit interpretations as suitable for fitting
- Required information (for transmitting) set out in the interpretations
- Requirement for a fully operational device added to gear restrictions (section 2)
- Requirements for failure of device added to gear restrictions (section 2)
- Reporting rates linked to areas defined in Annexes (Charts)
- Annexes 1 to 7 areas created and defined as 3-minute reporting areas
- Annex 8 areas (Harbour type areas) established with no reporting requirements

### **Response from Stakeholders**

Apart from multiple enquiries about how and when to get IVMS units fitted, very little written feedback was received from individual stakeholders and none of these responses referred to how proposed permit conditions (and Annexes) will be used to facilitate the introduction and use of IVMS. One fisher supported the fact that vessels over 12 metres in length with VMS+ already fitted would not require a new IVMS unit to be fitted and stated that all vessels fishing within the District should have electronic trackers fitted.

The Marine Conservation Society, Natural England and Devon Wildlife Trust (DWT) submitted responses that referred to IVMS. All three organisations support the introduction, however the DWT expressed concern with longer term objectives of the Authority that this technology may be used to potentially provide increased access to mobile fishing vessels operating in areas

of MPAs that contain non-designated features. Risks and uncertainty associated with spatial management of fishing within MPAs were bullet pointed as follows:

- inaccurate mapping of features
- mobile features
- ecological links between non-designated and designated features
- indirect impacts of fisheries on designated features
- uncertainty around position of fishing vessel and fishing gear

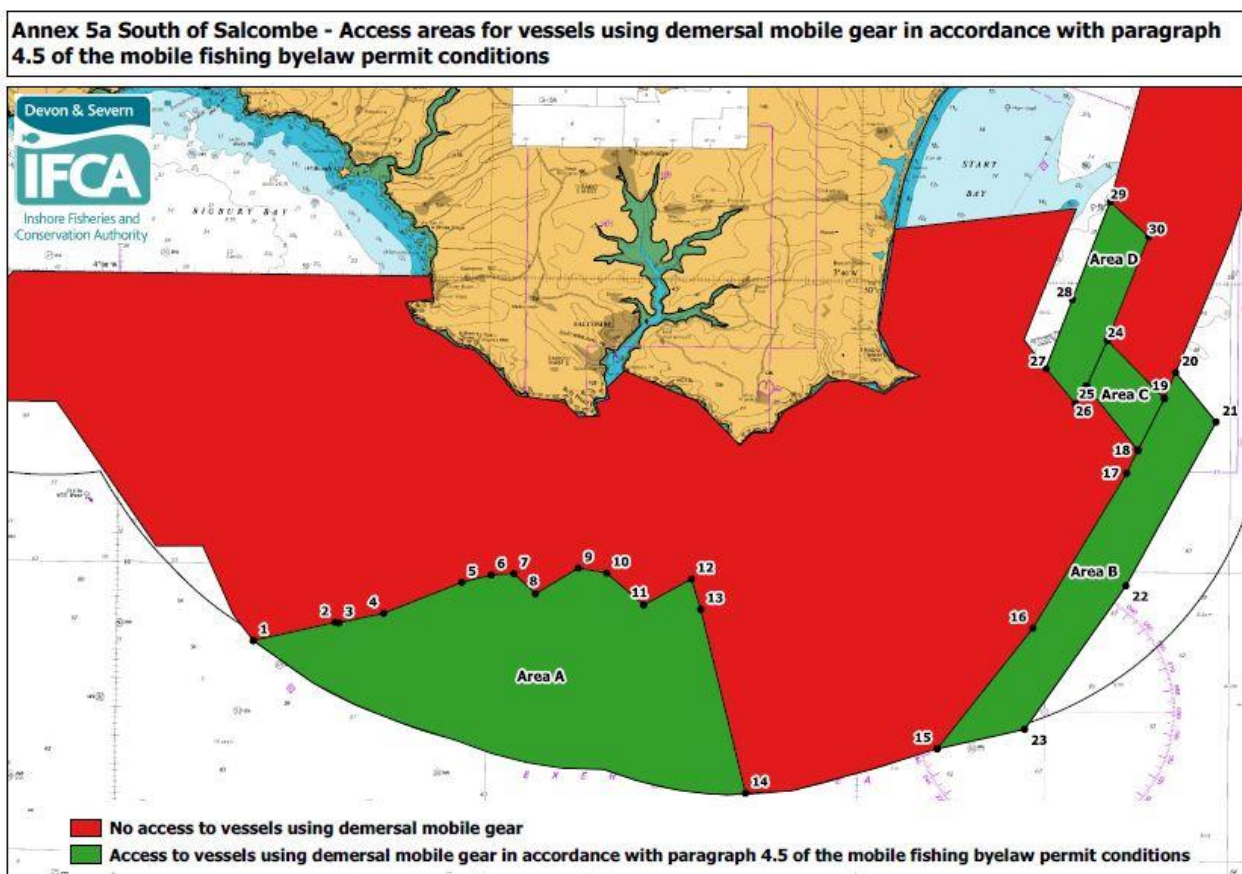
The use of I-VMS will only remove the uncertainty around the position of the vessel and, to an extent, the position of the fishing gear. All other uncertainties remain. As a result, we believe that more work is required to reduce these other uncertainties before it is appropriate to increase access to MPAs.

Natural England remarked that as well as aiding enforcement;

.....the implementation of IVMS will provide high quality data on the fishing effort within the District to allow assumptions made during HRAs to be validated and aid ongoing assessment of mobile gear fisheries into the future

#### Officer Comments

*An example of one of the Annexes is shown below. As this is within the range of Annexes (1 to 7), three-minute reporting would be a requirement. The limited access for fishing (within the green areas) is also linked to time restrictions (specific dates)*



## To Use Permit Conditions to Replace a Reliance on the Deeming Clause

### Aims and Requirements:

- To recognise the legal advice offered by Defra
- To take this approach with all permit Byelaws
- To link authorisation to fish under the permit to defined species

### Proposed Permit conditions:

- To introduce a species list, the removal of which is prohibited
- To introduce a collection of minimum conservation reference sizes within catch restrictions

### Response from Stakeholders

The single permit holder who completed an on-line response form supported this consultation item. Devon Wildlife Trust (DWT) also demonstrated support providing the same level or greater protection for wildlife is afforded through the new conditions. No other responses commented on this item.

### Officer Comments

*As highlighted in the consultation, this change does have implications to fishers. New restrictions (including minimum conservation reference sizes) have been added to the permit conditions. Vessels fishing outside the District have the option to transit through the District with species that do not meet the conditions of the permit<sup>19</sup> but cannot continue to fish within the District with those species on board the vessel that don't meet the conditions set out in the catch restrictions.*

## Introducing the Size of a Scallop (*Pecten maximus*) as a Permit Condition

### Aims and Requirements:

- To add clarity for mobile fishers that this current restriction (legacy measure) applies to their fishing activity
- To prepare for the future where this legacy measure may be revoked

### Proposed Permit Conditions:

- To define scallop (*Pecten maximus*) within permit interpretations
- To specify a size of 100mm for a scallop within section one (catch restrictions) of the mobile fishing permit conditions

### Response from Stakeholders

No written responses in regard to this item were received from individual stakeholders. Both the Marine Conservation Society and Devon Wildlife Trust demonstrated support for this proposal. One mobile permit holder who was interviewed by an officer did comment that

---

<sup>19</sup> National or EU legislation applies



additional restrictions such as increased closed areas and less effort (dredges per vessel) should also be considered to manage the scallop fishery.

### Officer Comments

*This proposed measure does not add a new restriction to fishers. Additional restrictions for managing the scallop fishery were not subjected to consultation at this time.*

## Managing Access for Ring Netting Activity within Estuaries

### Aims and Requirements:

- To clarify that ring netting is managed via the mobile fishing permit conditions
- To clarify what is an encircling net is
- To clarify that that an encircling net cannot be used within the rivers Tamar and Plym
- To specify where an encircling net can be used within Plymouth Sound
- To provide protection to designated features (reef) within the Plymouth Sound and Estuaries Special Area of Conservation from all demersal mobile gears

### Proposed Permit Conditions & Annexes:

- New conditions added to Section 3 (spatial conditions) in regard to encircling nets
- New Annex 4 chart (red zone) created highlighting no access to vessels using demersal mobile gear except where conditions apply
- New Annex 4a chart created (red and green) demonstrating limited access (Plymouth Sound Area) for vessels using encircling nets can operate where the footrope may be in contact with the seabed

## Response from Stakeholders

Natural England and Devon Wildlife Trust were the only responses that commented on this proposal.

**Devon Wildlife Trust feels the proposed revocation of legacy byelaws and replacement by permit conditions is reasonable, provided the same or greater wildlife protection is afforded through the new conditions.**

The response from Natural England raised some concern how the information has been presented and provided background information. The response highlighted that a formal response on the management of ring nets in Plymouth Sound was submitted in July 2016. The HRA (assessment), conducted by D&S IFCA in 2016, concluded that ongoing access was appropriate for various reasons including that the nets would theoretically not interact with subtidal reef features as rocky areas would likely be avoided to prevent snagging, and in addition it was documented that the activity was only occurring at a very low level. In this current consultation, it appears to be suggested that the area defined in Annex 4a does not contain reef features. While it is true that most of the area is dominated by sediment habitats, it is not true that no reef is present here. Natural England still agree with the 2016 conclusion



### Officer Comments

***The Annex 4a Chart created for consultation is as follows:***



## 7. The Decision Making & Outcome of the Process

Minutes are taken of all D&S IFCA B&PSC Meetings. When agreed for accuracy (at the following meeting), the minutes are posted on the D&S IFCA website. On 12<sup>th</sup> April 2018 members of the D&S IFCA B&PSC agreed the following in regard to amendments to the Mobile Fishing Permit Conditions:

- a. ***That D&S IFCA amend the Mobile Fishing Permit Conditions as proposed to manage the South Devon Inshore Fishing Grounds (Known as the Inshore Potting Agreement Areas)***
- b. ***That D&S IFCA amend the Mobile Fishing Permit Conditions as proposed to introduce the use of Inshore Vessel Monitoring Systems***
- c. ***That D&S IFCA amend the Mobile Fishing Permit Conditions as proposed to replace a reliance on the deeming clause***
- d. ***That D&S IFCA amend the Mobile Fishing Permit Conditions as proposed to introduce the size of a scallop as a permit condition***
- e. ***That D&S IFCA amend the Mobile Fishing Permit Conditions (subject to amendment of Annex title) to manage access for ring netting within Plymouth Sound***
- f. ***That D&S IFCA amend the Potting Permit Conditions as proposed to introduce a 65mm minimum conservation reference size for whelks combined with a phased in approach of 10mm increases over a two-year period***

Although not a focussed element of the mobile fishing consultation, the re-drafting process of the Permit Conditions has resulted in the introduction of a species list. One species included within this list is whelk. A 65mm minimum conservation reference size for whelks combined with a phased in approach of 10mm increases over a two-year period will now apply.

Following the decision making by the B&PSC on 12<sup>th</sup> April 2018, legal advice was taken to refine several elements of documentation that are all relevant to the management of mobile fishing activity. Documentation subjected to refinement includes:

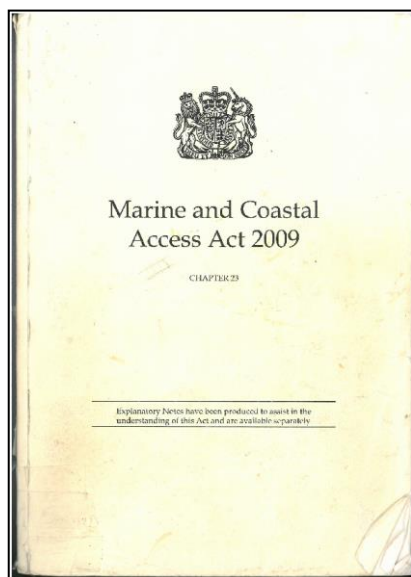
- Mobile Fishing Permit Conditions;
- Application form to apply for a Mobile Fishing Permit;
- Policy and clarification documentations for mobile fishing.

The Mobile Fishing Permit Conditions have, wherever possible, been amended to reflect as closely as possible the proposals (and suggested amended Mobile Fishing Permit Conditions) as set out in the consultation documentation. Any differences between the new Mobile Fishing Permit Conditions that have been issued and those developed and set out in the consultation, have not gone beyond the scope of the proposed restrictions as set out in the consultation.

## 8. Background Information about D&S IFCA

The information in this section of this report was inserted into the previous reports and helps all stakeholders improve their understanding of D&S IFCA.

### What is the D&S IFCA and what does it do?



The Marine and Coastal Access Act 2009 (MaCAA) introduced a new framework for managing the marine environment and providing greater access to it. This Act of Parliament replaced Sea Fisheries Committees with Inshore Fisheries and Conservation Authorities (IFCA's) and is fundamental to the work of D&S IFCA.

The D&S IFCA is the largest of the ten separate IFCA districts and has two separate coastlines. The area of the District is 4522km<sup>2</sup> and is defined in the Statutory Instrument (2010 No. 2212)<sup>20</sup>. The D&S IFCA District includes the areas of Devon, Somerset, Gloucestershire County Councils; Bristol City and Plymouth City Councils; North Somerset and South Gloucestershire Councils and all adjacent waters out to six nautical miles offshore or the median line with Wales.

***“D&S IFCA will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry”<sup>21</sup>***

The Full Authority is comprised of 30 members drawn from relevant Local Authorities (Councillors), General Members (appointed to the Authority by the Marine Management Organisation (MMO) and Statutory Appointees representing the MMO, the Environment Agency (EA) and Natural England (NE). D&S IFCA is funded via several different funding Authorities (councils) with an additional contribution from central government. Officers are employed by D&S IFCA to conduct work on behalf of the Full Authority. D&S IFCA has ten full time officers and one part-time Office manager. The main office is situated in Brixham with one officer located in the Severn area of the district.

### Core work undertaken

In meeting the main duties specified in MaCAA, the work of D&S IFCA is basically divided into different areas as follows:

#### Enforcement

These duties include enforcing the byelaws implemented by D&S IFCA and also the enforcement of EU and domestic legislation. D&S IFCA currently has one 6.4 metre rigid inflatable boat to conduct enforcement work at sea. D&S IFCA works closely with other

<sup>20</sup> The Devon and Severn Inshore Fisheries and Conservation Authority Order 2010

<sup>21</sup> Mission statement for D&S IFCA

organisations such as other IFCA's, the MMO, the EA and the Border Force (BF) with which it shares assets. D&S IFCA is committed to the use of new technologies for enforcement purposes, particularly remote technology.

## **Research**

Research and survey work conducted by D&S IFCA informs evidence bases subsequently used to manage fishing activities via the introduction of local management measures that can include legislation in the form of Byelaws. D&S IFCA currently has an 8-metre survey vessel used for independent survey work at sea. D&S IFCA works in co-operation with other organisations to conduct research work and takes environmental advice from NE. D&S IFCA research and survey work (and external research and advice) also informs longer term management that can be achieved via the permitting byelaws that contain flexible permit conditions.

## **Byelaw work**

The Byelaw work is often a lengthy and complex process. It requires specialised skills and background knowledge. This Authority has created a Sub-Committee to conduct the byelaw work. The Byelaw and Permitting Sub-Committee is formed by a number of Full Authority members, each offering a different set of skills or background knowledge that is utilised to complete the required work. Officers prepare the material used by the Sub-Committee for their deliberations (meetings) and the Sub-committee's recommendations are then presented to the Full Authority at key stages. It is the Full Authority members that make the final decisions<sup>22</sup>.

There are a number of legacy byelaws in place that were inherited from Devon Sea Fisheries. All legacy byelaws must be reviewed. In addition to reviewing legacy measures, members of the Sub-Committee are also tasked with reviewing flexible permit conditions and providing recommendations to the Full Authority for potential changes to the permits.

All of the separate elements of the byelaw work are a team effort. Although the officers prepare the majority of the material (reports) required for the process, the officers do not take decisions at any time.

## **Why does D&S IFCA manage mobile fishing activity?**

D&S IFCA must manage this fishing activity. MaCAA sets out how the management of inshore fisheries must be conducted and by whom. D&S IFCA is the responsible body to manage inshore fisheries within this district and therefore must manage the exploitation of sea fisheries resources in the district.

MaCAA details the responsibilities of the D&S IFCA which includes important mandatory duties as follows:

### **Section 153 (2)**

- a) Seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way,**

---

<sup>22</sup> Delegated powers can be granted to the Sub-Committee for decision making

- b) Seek to balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from, or promote its recovery from, the effects of such exploitation,**
- c) Take any other steps which in the authority's opinion are necessary or expedient for the purpose of making a contribution to the achievement of sustainable development, and**
- d) Seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.**

In addition, D&S IFCA has a duty for the protection of marine conservation zones (MCZ). This is specified within the Act as follows:

#### Section 154

- 1) The authority for an IFC district must seek to ensure that the conservation objectives of any MCZ in the district are furthered.**
- 2) Nothing in section 153 (2) is to affect the performance of the duty imposed by this section.**

D&S IFCA would be failing in its duties if it did not manage fishing activities conducted within the district. Potting is conducted in the district and therefore must be managed appropriately.

#### **How does D&S IFCA manage mobile fishing activity?**

The D&S IFCA inherited legacy byelaws from its predecessor organisation the Devon Sea Fisheries Committee. Byelaws are local legislation used to manage different activities which include potting. There were several legacy byelaws that related to mobile fishing and D&S IFCA has had to consider its statutory duties and examine and review these legacy measures to see if they are fit for purpose. There is a separate guide<sup>23</sup> to explain how D&S IFCA is conducting the required review of these inherited byelaws.

Byelaws are not the only control measures used to manage fishing activities and, in this case, mobile fishing and the species taken. Other EU and domestic legislation also places restrictions on fishers. Byelaws are local measures which support this other legislation. Byelaws can impose greater restrictions to suit local circumstances but they cannot remove any restrictions imposed by UK or EU regulations.

In 2014 D&S IFCA introduced the Mobile Fishing Permit Byelaw to manage mobile fishing activity. The introduction of the Mobile Fishing Permit Byelaw (or any byelaw) is not necessarily to prevent fishing activity, but rather to manage the activity sustainably. Many of the current restrictions were based on the older legacy measures set out in individual byelaws. The introduction of the Mobile Fishing Permit Byelaw enabled some of the legacy byelaws to be revoked.

---

<sup>23</sup> Displayed on the D&S IFCA website or available upon request.

## Permits

The Mobile Fishing Permit Byelaw differs from the older byelaw model. The Mobile Fishing Permit Byelaw provides the D&S IFCA with the ability to issue permits which contain conditions of use for fishers and also enable different groups of fishers to be separated based on their specific needs. This is why permits are issued for commercial fishers (Category 1 permits) and commercial fishers (Category 2 permits) that conduct small scale mobile fishing within specific estuaries. Different categories of permits can and do contain different conditions.

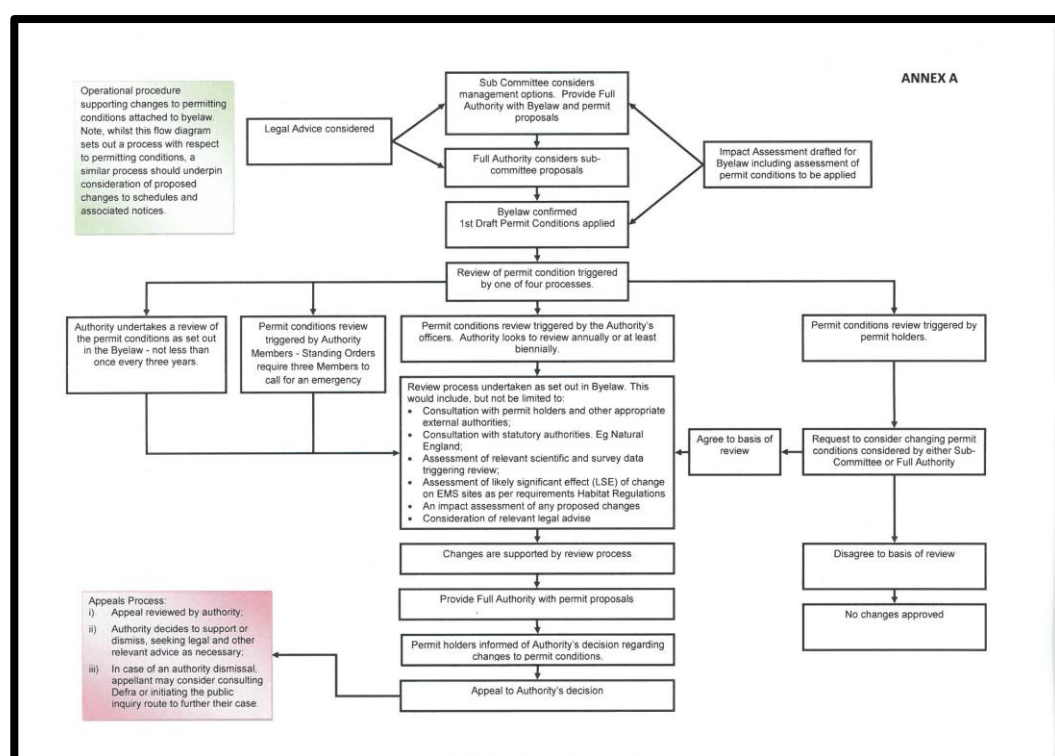
The permits that are issued include flexible conditions, which can be altered when there is a good reason for doing so. This flexibility enables D&S IFCA to react to changing circumstances far quicker than revoking a traditional style byelaw or introducing emergency measures via an emergency byelaw.

## How are flexible permit conditions changed?

Changes are not considered or made just for the sake of change. There has to be good reason to change any of the flexible permit conditions and although there are occasions where D&S IFCA must take a pre-cautionary stance, it is quality evidence (rather than quantity) that strongly influences potential changes.

Section 25 to 27 of the Mobile Fishing Permit Byelaw explains the review procedure to make any changes to the flexible permit conditions. There are several ways in which a review of permit conditions can be triggered, although a review of the flexible permit conditions must be conducted not less than once every three years.

## Annex A table – Flowchart of review process





### **How is the review of flexible permit condition conducted?**

Section 26 of the Mobile Fishing Permit Byelaw details how the review of flexible permit conditions must be conducted. This is a thorough and robust process which includes consultation with permit holders. Information (evidence) is collected during consultation as detailed in Section 27 of the Mobile Fishing Permit Byelaw. The evidence collected then informs the decision-making process.

The evidence that you provide is collated and will be presented to members of the Byelaw and Permitting Sub-Committee. There are four scheduled meetings of the Byelaw and Permitting Sub-Committee each year and additional meetings can be arranged when required.

## **9. Further Information**

The D&S IFCA (Publications Scheme) documents the extent of the information that is available for stakeholders to read and in most cases this information is posted on the D&S IFCA website.

The new D&S IFCA website has a resource library that replicates the Publications Scheme.

New Mobile Fishing Permit Conditions (August 2018) and the associated Annexes are posted on the website.

### **Data Protection - how we used your information?**

D&S IFCA has a privacy policy which can be found at [www.devonandsevernifca.gov.uk](http://www.devonandsevernifca.gov.uk)

The information provided for this further review of the Mobile Fishing Permit Conditions has assisted the B&PSC in its decision making. All personal data submitted will be held securely at all times and used only by the Authority. All personal data has been anonymised and summarised for insertion into this report. Personal data will not be held for longer than necessary. We may disclose your information if required by law.

End of report.