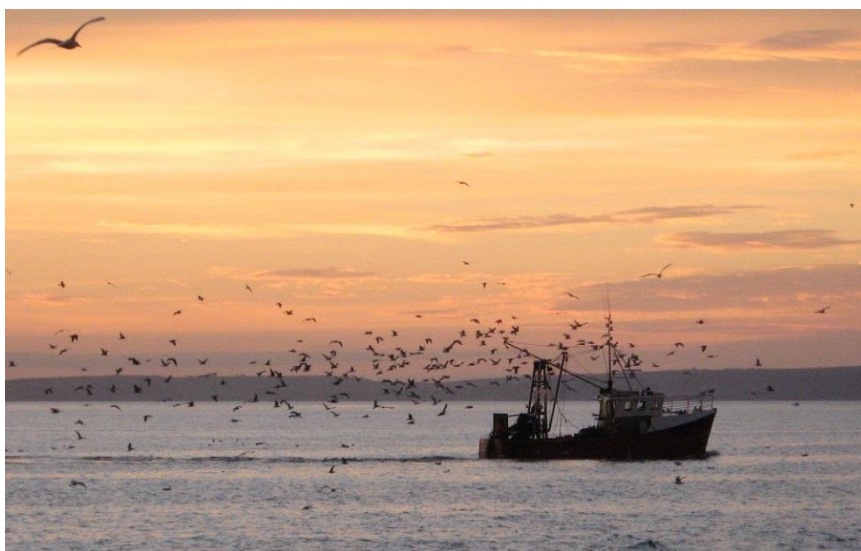




Mobile Fishing Permit Byelaw

Development report for additional changes to permit conditions



Supplementary report – A summary of response from the focussed consultation

(11th September 2017 to October 23rd 2017)

October 24th 2017

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1. Aim of this supplementary report

This supplementary report has been prepared for members of the Devon and Severn Inshore Fisheries and Conservation Authority (D&S IFCA) Byelaw and Permitting Sub-Committee. This supplementary report details the findings from the focussed consultation on the permit conditions for the D&S IFCA Mobile Fishing Permit Byelaw which was conducted between 11th September and 23rd October 2017. Following the meeting of the Byelaw and Permitting Sub Committee (13th November 2017), the detail documented in this supplementary report and the outcome of the meeting will be used to expand the progress and process report¹ that is suitable for wider circulation and will fully document the whole process at its conclusion.

At this time, it is recommended that this supplementary report should be read in conjunction with “Mobile Fishing Permit Byelaw – Development report for additional changes to permit conditions” which documents the process undertaken, the rationale for consultation and provides greater detail on each of the five separate consultation items.

2. Communication – How the consultation was conducted?

D&S IFCA is developing a new communication strategy². A wide-ranging consultation was conducted and the newly developed consultee list utilized. 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 holders³ (who had a permit on 11th September 2017) were directly notified by email or letter that two 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. The email contact addresses provided by permit holders were of significant benefit for consultation work; however 88 postal notification letters were required at a cost of around £50. During the consultation period text alerting was initiated to further notify D&S IFCA permit holders.

Permit holders directly notified:

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

Two separate consultations were conducted simultaneously, with the other being a six week consultation in regard to the mandatory three year review of potting permit conditions. A designated email (consultation@devonandsevernifca.gov.uk) was created to help collate all the responses, the volume of which was unpredictable. Both consultations were open for all stakeholders to submit a response, regardless of their own personal interest or sector.

¹ Mobile Fishing Permit Byelaw – Development report for additional changes to permit conditions

² Available upon request from D&S IFCA

³868 permit holders were directly notified by email or letter

3. A re-cap of the separate consultation items

Five topics related to mobile fishing were 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 – Replacing a license condition**
- e) **Managing access for ring netting activity within estuaries**

4. The consultation response

Summary of response

Although both of the recent D&S IFCA consultations were open to all stakeholders, very few responses were received for either. It is possible that officers will have to review how consultations are conducted to better explain who can respond and to what? Some feedback has been received which has suggested that better explanation is needed on the initial notification letter/email in relation to specific and non-specific consultation items.

The response to the “focused” mobile fishing consultations⁴ 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.

a) 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

⁴ Submitted on or before the close date of 23rd October 2017

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 23rd 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 suppliers⁵ 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 meeting on 15th 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.

b) 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.

⁵ Succorfish, Echomaster Marine and AST

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.

No responses were received by organisations or individual stakeholders.

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.

An illustration of the current IPA chart is shown below.



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 objection 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 23rd 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) network⁶ 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 MCZ⁷ 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.

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

⁶ Skerries Bank and Surrounds Marine Conservation Zone

⁷ Skerries Bank and Surrounds Marine Conservation Zone

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 3rd 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 Byelaw⁸ 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.

e) 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/ 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

⁸ Awaiting confirmation at time of writing

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.

5. Other responses for the mobile fishing consultation

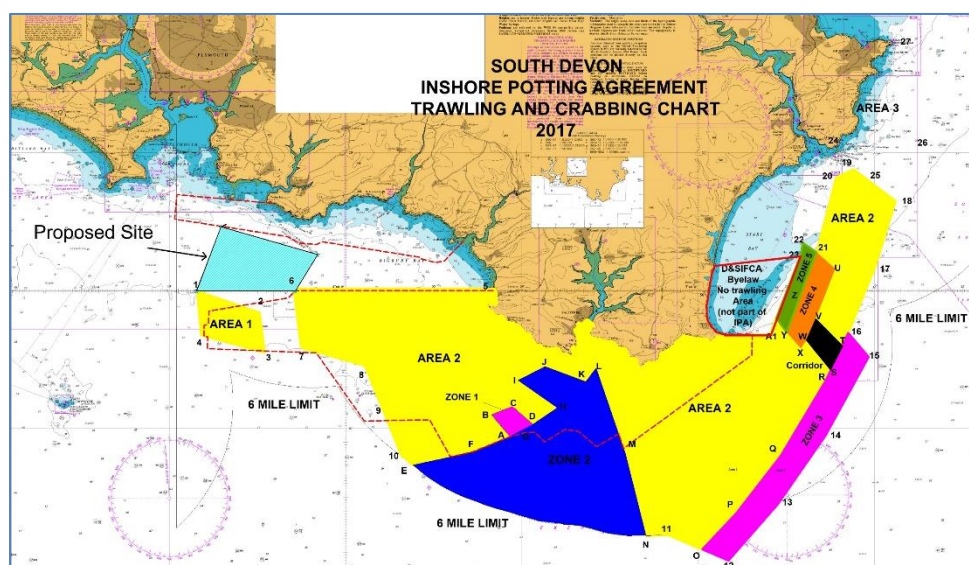
Response 1

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 suggested⁹ as an additional zone for shared access with mobile vessels having no access between 1st June and 31st December each year.

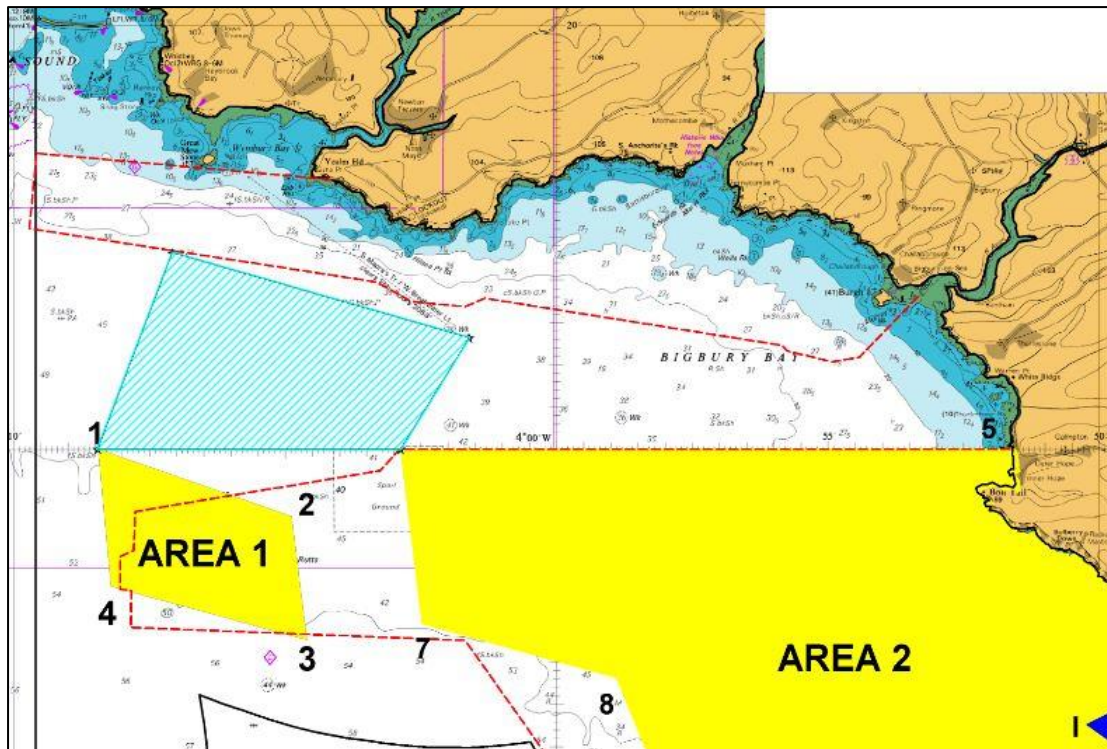
It has been concluded that as the proposed area is outside of the current IPA areas, it is not suitable for discussions by the IPA Committee. The stakeholder provided the following positions to define the proposed site:

- 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

Proposed Site



⁹ As indicated by the light blue shaded area



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 2010¹⁰. 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

¹⁰ Consultation on marine Special areas of Conservation (SACs) and Special Protection Areas (SPAs) in English, Welsh and ooshore waters around the UK.

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

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 response¹¹ 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.

¹¹ 12 responses received for the number of scallop dredge consultation

6. Further Information/recommended reading

- D&S IFCA communication strategy (available upon request)

Hyperlinks

- [Mobile Fishing Permit Byelaw – development report for additional changes to permit conditions \(2nd edition\)](#)
- [Mobile Fishing Permit Byelaw](#)
- [Annex 4 – Plymouth Sound and Estuaries \(included in “at sea” mobile fishing permit annexes 1-6\)](#)