



Mobile Fishing Permit Byelaw

Development Report for Additional Changes to Permit Conditions



**Supplementary Report – A Summary of Response from the
Focussed Consultation Items and Permit Condition Proposals**

(31st January 2018 to 14th March 2018)

26th March 2018

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1. Aim of this Supplementary Report

This supplementary report (March 2018) has been prepared for members of the Devon and Severn Inshore Fisheries and Conservation Authority (D&S IFCA) Byelaw and Permitting Sub-Committee. This supplement is intended to assist the decision making of members in regard to additional changes to the mobile fishing permit conditions. This supplement focusses on the findings from the final phase of consultation that included focussed items and proposed amendments to mobile fishing permit conditions.

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

- 1. Inshore Potting Agreement Areas**
- 2. The introduction of Inshore Vessel Monitoring Systems (I-VMS)**
- 3. To use permit conditions to replace a reliance on the deeming clause**
- 4. Introducing the size of a scallop (*Pecten maximus*) as a permit condition**
- 5. Managing access for ring netting activity within estuaries**

This supplementary report can be read in conjunction with pre-existing D&S IFCA publications, both of which are embedded (hyperlinked) in this document and are also posted on the D&S IFCA website:

[Mobile Fishing Permit Byelaw – Development Report for Additional Changes to Permit Conditions \(3rd Edition – 15th January 2018\)](#)

[Mobile Fishing Permit Byelaw – Extract from the Development Report for Additional Changes to Permit Conditions \(3rd Edition – 15th January 2018\)](#)

As well as presenting the consultation items and proposed permit conditions, the overarching report documents the complete process to date. It demonstrates the measures already taken by D&S IFCA, the developed evidence base and the decision making prior to the final phase of consultation that was conducted between 31st January 2018 and 14th March 2018. The extract document was produced only as a means to simplify the consultation for stakeholders.

The content of this supplement and the decisions taken by members will be merged with the overarching report and a final edition created that will document the complete process from start to finish. If permit conditions are amended as part of this process, new permit conditions will be circulated free of charge to existing mobile fishing permit holders and enforced by D&S IFCA.

Process and making use of this supplement report:

1. Members to examine the collated response information from the final phase of consultation
2. Members to evaluate the collated response information in conjunction with the proposed measures set out in the consultation
3. Members to decide how to proceed with a view to the issue of amended permit conditions (including Annexes)

Further Alterations to Permit Conditions

The suggested changes to the management of mobile fishing has been a complex issue to potentially put into practice. This has been particularly evident in regard to the introduction of Inshore Vessel Monitoring Systems (IVMS) and the inclusion of the South Devon Fishing Grounds which are also known as the Inshore Potting Agreement Areas (IPA). Legal advice has been taken prior to the start of final phase of consultation to formulate the proposed mobile fishing permit conditions and the format of the permits as a whole which do include multiple Annexes (1 to 8) that link to permit wording. Significant alterations have been required as compared to the original mobile fishing permit conditions. Members should be aware that along with revised permit condition wording, draft documentation such as revised application forms (and other documentation relevant to the introduction and IVMS) have been developed. This supports the potential changes and in effect produce a complete package of relevant documentation. Major changes to permit conditions at this stage could have a knock-on effect on other elements of the package and increase the risk that unintended consequences can arise.

The consultation process has demonstrated how the mobile permit conditions could potentially be amended to accommodate the additional items. Whilst the permit wording and multiple Annexes (charts) were formulated to achieve this goal, scope still exists to make minor alterations in the final permit conditions that may be issued. Further minor changes are possible without additional consultation providing that these changes do not produce material changes.

- **It is advised that members apply more consideration in their decision making to the merits of the focussed items and the concepts applied (Permit conditions and Annexes) when balanced against the consultation responses, rather than the fine detail of the permit conditions.**

2. Communication

Communication was conducted as per the strategy set out in the consultation report. The D&S IFCA consultee list was used, with all stakeholders and interested parties directly notified about the consultation. Notification was also sent to all D&S IFCA members. All permit holders were either sent email notification or letters that contained a range of information including:

[Notification letter/email message](#)

- **What the consultation items were**
- **How to find more information (Background & Evidence Base)**
- **Notice of the D&S IFCA Publication Policy (Payment required for posting hard copies)**
- **How to respond and details of the multiple options that were available to provide a response**

The website was the main platform to display the consultation information, although face book and twitter were also utilised. All stakeholders, regardless of their interest or fishing activity conducted, had the opportunity to engage in the consultations.

3. Consultation Items and the Response from Stakeholders

In general, the response was very limited. A total of four written responses were received during the consultation period (31st January to March 14th 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 14th 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.

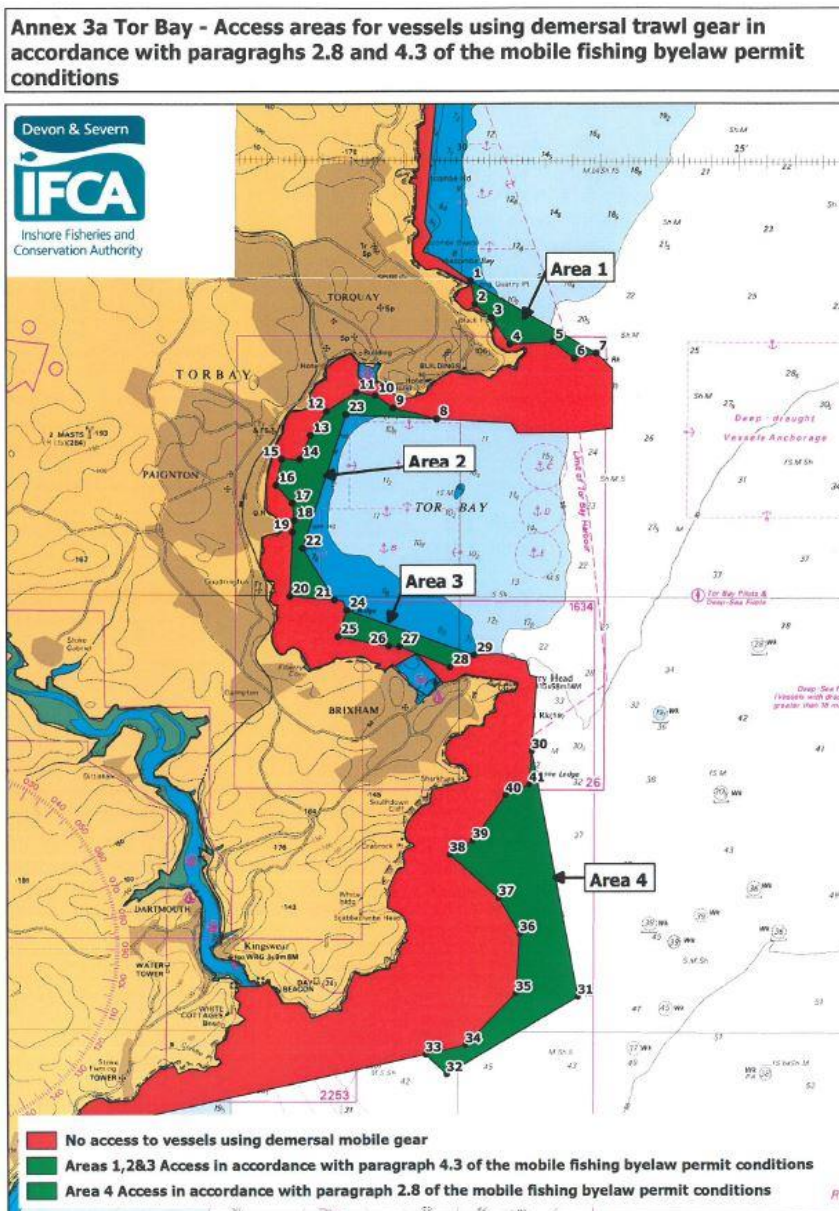
Officer Comments

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 8th 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

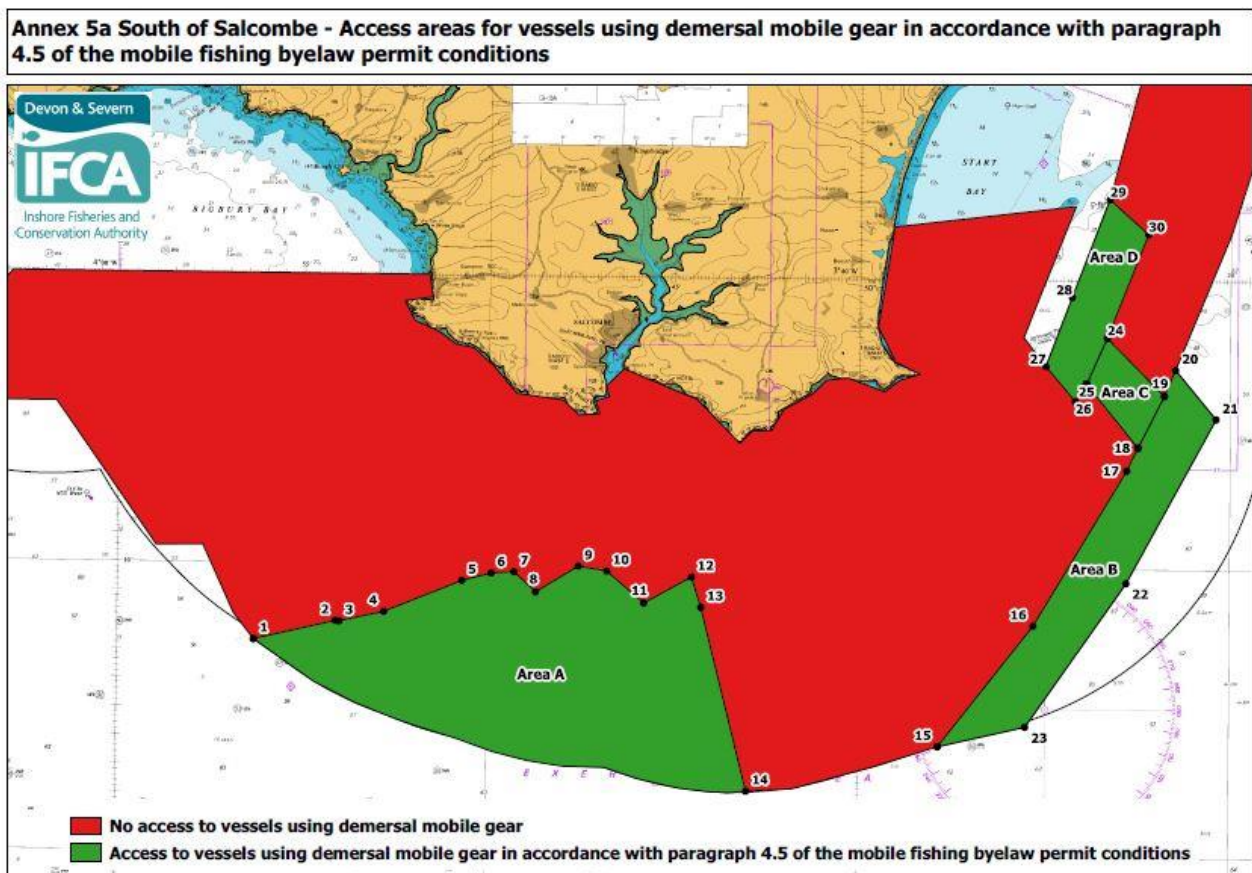
The use of I-VMS will only remove the uncertainty around the position of the vessel and, to an extent, the position of the fishing gear. All other uncertainties remain. As a result, we believe that more work is required to reduce these other uncertainties before it is appropriate to increase access to 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 permit¹ 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

¹ 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 that ring netting can continue and that the access area defined in Annex 4a is appropriate, but the rationale is more nuanced than there simply being no reef present.

The wording within any of the proposed permit conditions or Annexes do not clearly state why or why not access is provided or what any one particular Annex is potentially protecting. During the drafting process legal advice suggested that the titles of Annexes and the wording used in the spatial conditions of the permit conditions need not elaborate on the rationale for closures or limited access, rather it should clearly define areas and clarify the restrictions. There is potential for additional rationale for the creation of new restrictions or revised permit conditions can be added to the final version of this Byelaw Development Report and other D&S IFCA publications if this is deemed necessary.

Annex 4a Plymouth Sound and Estuaries - Access to vessels using encircling nets in accordance with paragraph 3.4 of the mobile fishing byelaw permit conditions

Devon & Severn
IFCA
Inshore Fisheries and Conservation Authority

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Tr & FS
FI(2)WRG.11-6M
FI(2)R
Queens Ground
FLWR.12/9M
& Iso.10M
Horn(1)
Bay
Wk.12s
FLG Knap
G Range
nlee Pt
FI(2)R
13s
24
22s Wk
15s
107
Down Thomas
Whidbey
Oc(2)WRG.8-6M
Heybrook Bay
Staddon Heights Wall
2 Radio Masts (R Lts)
Oc.WRG.8-5M
Plymouth
Plymstock

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4. Further Information & Hyperlinks

Hyperlinks

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End of supplement