

Date: 30/10/2018
Our ref: 260137
Your ref: Devon and Severn IFCA – HRA Exe Estuary SPA
EMS Crab-tiling vs intertidal sediments



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BY EMAIL ONLY

Tel. 02080267546

Dear Sarah,

Re: Fisheries in EMS Habitats Regulations Assessment for Amber Activities: Assessment for European Marine Site: Exe Estuary SPA UK9010081

Fishing Activities: Crab-tiling

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

In 2012, the Department for Environment, Food and Rural Affairs (Defra) announced a [revised approach to the management of commercial fisheries in European Marine Sites \(EMS\)](https://www.gov.uk/government/publications/revised-approach-to-the-management-of-commercial-fisheries-in-european-marine-sites-overarching-policy-and-delivery).¹ The objective of this revised approach is to ensure that all existing and potential commercial fishing activities are managed in accordance with Article 6 of the Habitats Directive. This document states that for 'amber/green' risk activities a site level assessment will be required to assess whether management of an activity is required to conserve site features. The Department's strong preference is that site level assessments be carried out in a manner that is consistent with the provisions of Article 6(3) of the Habitats Directive. Appropriate management measures should be put in place to ensure that the fishing activity or activities either 1) have no likely significant effect on a site in view of its conservation objectives or b) following assessment, can be concluded to have no adverse effect on the integrity of the site.

Natural England has considered the Habitat Regulations Assessment (HRA) prepared by D&S IFCA for the purposes of making an assessment consistent with the provisions of Article 6(3). Please accept this letter as Natural England's formal advice on the assessment including the conclusions reached in the assessment. Assessment has been made of the effects of crab-tiling on Exe Estuary SPA - European Marine Site (EMS) qualifying features (**Appendix 2:** gear feature interactions).

Natural England does have minor comments relating to the Exe Estuary SPA HRA, but this does not alter our views on the validity of the conclusions drawn (**Appendix 1:** Minor comments on HRA).

We are content that the best available and most up to date evidence has been used to carry out the HRAs by D&S IFCA officers, to determine whether management of an activity is required to conserve site features, and thus to ensure the protection of the features, from direct and indirect impacts from the collection of marine fisheries resources.

(1) ¹ Defra revised approach: <https://www.gov.uk/government/publications/revised-approach-to-the-management-of-commercial-fisheries-in-european-marine-sites-overarching-policy-and-delivery>

It is Natural England's view that through the HRA, D&S IFCA officers appear to have appropriately identified those activities that are not likely to have a significant effect in view of the site's conservation objectives and whether management measures are required in order to ensure that the assessed fishing activity or activities will have no adverse effect on the integrity of the EMS.

Please do not hesitate to contact me if you have any questions or require further information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ruth Porter', is positioned above the printed name.

Ruth Porter

Marine Lead Adviser
Natural England

Tel. 020802675

Appendix 1 – Minor comments on HRA in relation to the Exe Estuary SPA

1. Natural England supports the IFCA's intentions to create a permitting byelaw for hand gathering / estuarine activities to allow for future monitoring of activities and create a mechanism to bring in mitigation measures in the future if required.
2. Natural England would like to highlight the establishment of the voluntary Wildlife Refuge Zones within the Exe Estuary that have been identified as vital areas for protected birds¹. The Wildlife Refuge Zones have been established to mitigate for potential disturbance to the SPA birds from increasing housing within 10km of the estuary and the subsequent increases in recreational activities that may occur. In addition there is an updated code of conduct for crab tiling and bait digging within the Exe Estuary² which highlights the existing D&S IFCA byelaw 24 and where the voluntary code applies.
3. We disagree with the position stated within Goss-Custard 2016³. Reasons are given below:
 - 3.1. We do not think this adequately considers the high level conservation objective to maintain or restore the *distribution* of qualifying features within the site, in addition to the populations of qualifying features. Distribution will be affected by the extent and distribution of supporting habitat, food availability, and disturbance caused by human activity.
 - 3.2. An explanation of why we think this is important and what significant disturbance is considered to be is given in our Conservation Advice package for the Exe Estuary⁴.
 - 3.3. Any decisions about LSE / AEOI should consider the question of whether disturbance is 'significant' enough to be 'likely' to cause impacts to the features on the site, through changing their distribution on a non-temporary basis. The assessment is therefore not focused solely on numbers of birds using the site (though that is important too), but how distribution changes in response to the intensity, duration and frequency of disturbance events. The key thing is there is a clear distinction between 'trivial' and 'non-trivial' disturbance.

¹ Available at <http://www.southeastdevonwildlife.org.uk/exe-estuary/>

² Available at <https://www.exe-estuary.org/exe-codes-of-conduct>

³ Goss-Custard, J.D. (2016) Mud, Birds and Poppycock. In press: Bulletin of the British Ecological Society.

⁴ Available at <https://www.gov.uk/government/publications/marine-conservation-advice-for-special-protection-area-exe-estuary-uk9010081>

Appendix 1: List of gear feature interaction for which TLSE have been undertaken

D&S IFCA Interaction ID	Fishing Activity	Feature(s)	Supporting habitat
HRA_UK9010081_AR39	Crab-tiling	<ul style="list-style-type: none"> • Non-breeding avocet • Non-breeding black-tailed godwit • Non-breeding dark-bellied Brent goose • Non-breeding dunlin • Non-breeding grey plover • Non-breeding oystercatcher • Non-breeding Slavonian grebe • Waterbird assemblage 	Intertidal coarse sediment
HRA_UK9010081_P39			Intertidal mixed sediment
HRA_UK9010081_K39			Intertidal mud
HRA_UK9010081_L39			Intertidal sand and muddy sand