# D&S IFCA's Response to

# MMO's Consultation on MPA Fisheries Management Stage 3

## September 2025

# Contents

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D&S IFCA is responding to the consultation on the MMO's MPA Fisheries Management Stage 3 Consultation.

## Summary

D&S IFCA has reviewed the documents including the MPA Site Assessment Methodology, Stage 3 Fishing gear MPA Impacts Evidence Documents, the Stage 3 Fisheries Site Assessments that are relevant to the MPAs that straddle the D&S IFCA's District, namely Hartland Point to Tintagel MCZ, Start Point to Plymouth Sound and Eddystone SAC and the Skerries Bank and Surrounds MCZ, and the Stage 3 MMO DMA. Each of these documents have been considered and the following response have been developed by D&S IFCA.

In summary, D&S IFCA does not agree with the proposed prohibition of potting on habitats in the MMO's section of the Hartland Point to Tintagel MCZ and the Start Point to Plymouth Sound and Eddystone SAC. D&S IFCA does not agree with the prohibition of demersal towed gear in the MMO's section of the Skerries Bank and Surrounds MCZ and the Hartland Point to Tintagel MCZ. D&S IFCA supports the prohibition on the removal of spiny lobster from the MMO's section of the Skerries Bank and Surrounds MCZ.

D&S IFCA believes the approach being taken by the MMO, for many of the MPAs under consideration, appears to be a move by the MMO under the Stage 3 MPA Byelaws towards a whole site approach. Such an approach has not been instigated or implemented by Defra.

Within the De Minimus Assessment (DMA) it states that "*these management measures are a result of a re-focus on policies and an iterative approach to the management of MPA networks to ensure site integrity."* It is an interesting statement when considering Government Ministers' statement in September 2025 that "*the UK will not implement an outright ban on bottom trawling, despite pledging earlier this year to extend the ban on bottom-towed fishing gear to offshore protected areas".*

The Environmental Audit Committee has published the Government's response to its report on 'Governing the marine environment'. The report, published in June, recommended that ministers push ahead with banning practices such as bottom trawling that damage the seabed within offshore Marine Protected Areas (MPAs). However, in its response to the Committee's report, the Department for Environment, Food and Rural Affairs (DEFRA) says:

"*it is not the Government's policy to introduce whole site bans on bottom towed fishing gear in MPAs. Our approach is to only restrict fishing which is assessed as damaging to the specific protected features in each MPA", it says. "DEFRA is working to ensure damaging practices do not occur within our MPAs where they could harm protected habitats and species, but blanket bans are disproportionate and not in line with legislation. England's MPAs are designed to achieve the long-term conservation of nature, but these areas are multi-use, meaning that activities like bottom trawling can take place if they do not damage the specific protected features. Bottom trawling is only completely banned in the UK's three Highly Protected Marine Areas (HPMAs).*

It is worrying that the MMO, through its Stage 3 MPA Byelaws, is moving towards the whole site approach. It appears to be supporting the Chair of the of Environmental Audit Committee's stance that "*Bottom trawling is a destructive practice. We hugely welcome the Government moving forward with banning it in more protected areas of our oceans. However, the Committee is disappointed that the Government has not committed to wider bans*

*within Marine Protected areas which risk undermining the integrity of Marine Protected Areas*."

D&S IFCA continues to be guided by the advice and evidence an believes that the removal all bottom towed gear on all habitats is not necessary to achieve the conservation objectives of the sites. D&S IFCA assessments of the impacts of static gears means that it continues to believe that the level of static gear in the sites extending outside its District is not inhibiting the achievement of the conservation objectives of the sites. D&S IFCA understands that there are greater levels of static gear in other offshore and inshore sites with the same feature designations which would be seriously impacted by the disproportionate management approach proposed by the MMO.

## A. Hartland Point to Tintagel MPA

The Hartland Point to Tintagel MCZ was designated in 2016. The General Management Approach is discussed in the MMO's Hartland Point to Tintagel MPA Fisheries Site Assessment and the following table is included in this document:

| Designated feature | General Management Approaches |
|---|---|
| High energy circalittoral rock | Be brought into favourable condition |
| Moderate energy circalittoral rock | |
| Fragile sponge and anthozoan communities on subtidal rocky habitats | |
| Pink sea-fan (*E. verrucosa*) | |
| Subtidal coarse sediment | Maintained in favourable condition |
| Subtidal sand | |
| Moderate energy infralittoral rock | Maintained in favourable condition |
| High energy infralittoral rock | |
| Coastal saltmarsh and saline reedbed (0 to 6 nm) | |
| Low energy intertidal rock (0 to 6 nm) | |
| Moderate energy intertidal rock (0 to 6 nm) | |
| High energy intertidal rock (0 to 6 nm) | |
| Intertidal coarse sediment (0 to 6 nm) | |
| Intertidal sand and muddy sand (0 to 6 nm) | Maintained in favourable condition |
| Honeycomb worm (*S. alveolata*) reef (0 to 6 nm) | Maintained in favourable condition |

The MMO states there is no feature condition assessment available for this site; and in its absence a vulnerability assessment, which includes sensitivity and exposure information for features and activities in a site, is used as a proxy for condition. D&S IFCA challenges the

use of a vulnerability assessment as a proxy for a condition assessment as any impact of fishing activity should be assessed from evidence rather than assumptions.

D&S IFCA was informed that the General Management Approach for the rock features and coarse sediment and subtidal sand was introduced as recover to favourable condition based on the vulnerability of these features to demersal mobile gear. This was discussed with Natural England when the Tranche 2 MCZs were designated. At this time there was no reference to the impact of potting on these features or the vulnerability of these features to potting activity. Whilst the supplementary advice developed subsequently suggests that these features would be sensitive to potting this is not how the General Management Approach was developed on designation. Vulnerability does not equal the condition of the features. As no condition assessment has been undertaken, no information is available on the potential impact of demersal mobile gear or potting on the features of the MCZ. As a result of this approach there is obvious confusion as to the likely pressure of an activity compared to the potential impact that activity is having. There is no evidence that potting on the rock features or sediment and sand features is having a negative impact and causing the conservation objectives not to be furthered.

## Interaction: Potting on Rock

D&S IFCA undertook an assessment of the impacts of pots on all designated features of the HPT MCZ in 2018 (HPT-MCZ-001).

Potting activity (pots/creels, Cuttlefish pots/fish traps) was assessed against the potential interaction with the following features:

- Low energy intertidal rock
- Moderate energy intertidal rock High energy intertidal rock Intertidal coarse sediment
- Intertidal sand and muddy sand
- Moderate energy infralittoral rock
- High energy infralittoral rock
- Moderate energy circalittoral rock
- High energy circalittoral rock
- Subtidal coarse sediment
- Subtidal sand
- Fragile sponge & anthozoan communities on subtidal rocky habitats
- Honeycomb worm (*Sabellaria alveolata*) reefs
- Pink sea-fan (*Eunicella verrucosa*)

D&S IFCA concluded that there was no significant risk of the current potting activities hindering the achievement of the conservation objectives. The potting activity taking place in D&S IFCA's section of the Hartland Point to Tintagel MCZ that was used to inform the assessment was gathered from surveys with D&S IFCA's commercial potting permit holders.

Natural England sent their Formal Advice dated 19th February 2019 to D&S IFCA and agreed that the potting activity is not likely to hinder the achievement of conservation objectives of the features of the MCZ.

Therefore, D&S IFCA is concerned that the MMO Stage 3 Assessment for potting on the rock feature has concluded that these fishing activities may result in a significant risk of hindering the achievement of the conservation of the MCZ and concluded that management measures are required to restrict traps from specified areas of the Hartland Point to Tintagel MPA.

D&S IFCA is also concerned that Natural England's Formal Advice to the MMO on its assessment of the impact of potting on the designated features and that potting would hinder

the achievement of the conservation objectives of the site is in contradiction to the advice given to D&S IFCA. This indicates that Natural England is giving inconsistent advice to the regulators.

D&S IFCA has reviewed the evidence provided in the Stage 3 MPA Assessment. D&S IFCA used the same references apart from the Rees et al (2018) paper as it was not published when D&S IFCA undertook the assessment although it would not have made a difference to the conclusion of D&S IFCA's assessment.

From the MMO's Assessment of pots on the features (pp. 15 &16) – the level of fishing activity is summarised as follow:

*"The most frequently operated fishing gear within Hartland Point to Tintagel MPA is pots. VMS records show that only UK vessels are operating within the site and the only gear type used by these vessels are pots. VMS records show a total of 214 VMS records between 2016 and 2021, varying between 1 and 94 records per year with an average annual of 36. The annual average of landings between 2016 and 2020 was 2.51 tonnes (t) and varies between 0.07 and 6.75 tonnes annually with the highest landings in 2016. VMS activity shows that the activity is spread across the MMO portion of the site which is 38.4 km$^2$ and there is a marginal increase in activity closer to the 6 nm limit".*

*"Under 12 metre vessels' landings are apportioned to the site from ICES rectangle level and shows that potting is the most prevalent gear type used by the under 12 m fleet, with landings equating to an annual average of 4.4 tonnes 2016 and 2020, although this is highest in 2018 and 2019 with these years making up over 60 % of the landings for the five-year period."*

*"Fishing effort days are derived from logbooks and is collected at ICES rectangle and then apportioned accordingly. Hartland Point to Tintagel MPA overlaps with the ICES rectangle 30E5. The majority of fishing effort within the site is occurring using static gear. Annual average fishing effort recorded by UK vessels under 12 m in length using traps between 2016 and 2021 was 16.38 days."*

D&S IFCA has reviewed the WebApps Stage 3 Static Gear VMS Report Density 2016 to 2021 for the sites within its District where the MMO is looking to prohibit pots/traps. The VMS report density maps for the Hartland Point to Tintagel MCZ do not show a high level of potting. For traps the density for 2016-2021 show report counts of below 10 for the MMO's portion of the site. The density maps confirm that potting takes place but not at an intensity that warrants any restrictions.

Within the MMPs; Stage 3 fishing Gear MPA Impacts evidence traps document it states that: *JNCC and Natural England (JNCC and Natural England, 2011) advised that the impacts of weights and anchors associated with static gear and hauling of gear can damage some species within fragile sponge and anthozoan communities on subtidal rocky habitats, but that other species appear to be resilient to individual fishing operations. They concluded that the sensitivity of these species to low intensity potting is low (JNCC and Natural England, 2011).*

Therefore D&S IFCA does not understand why the MMO proposes a prohibition of potting in their part of the site when the SNCB advice is that at the current low level of potting in the site the sensitivity would be low.

D&S IFCA considers, on review of the MMO's evidence, the level of potting in the site to be low.. The MMO data do not detail the number of pots per 0.25 km$^2$ as has Rees et al (2018, 2021). Rees et al (2021) describes high level of potting as >30 pots per 0.25 km$^2$, medium as 15-25 pots per 0.25 km$^2$ and low as 5-10 pots per 0.25 km$^2$. Rees et al (2021) concluded that

impacts of potting were likely to occur when densities of pots exceed those represented by the medium density of 15-25 pots per 0.25km$^2$, therefore in excess of 25 pots per 0.25km$^2$ There is no evidence provided by the MMO that suggests pots were at or exceed this level of density. D&S IFCA has undertaken potting activity surveys in 2008 and in 2014 in its District and in 2017 in North Devon. The responses from fishers provided information on the areas they worked, the number of pots set in these areas and included responses from those vessel operators that have the highest landings from potting in the District. In South Devon, in the Inshore Potting Agreement area fishers are confined to individual areas they work with limited ability to expand. These are the highest concentration of potting activity in the D&S IFCA's District –higher than the potting activity seen in the North or East of the D&S IFCA's District. From the 2008 and 2014 surveys the following level of potting in its District was determined as follows:

Table 1: 2008 Survey

| Potting density – no. of pots per 0.25km$^2$ | Number of vessels (out of 37 in total) |
|---|---|
| <5 | 26 |
| 5-10 (low level)* | 5 |
| >10 and <15 | 4 |
| 15-25 (medium)* | 2 |
| >25 (NB. High level >30 pots per km$^2$) | 0 |

Table 2: 2014 Survey

| Potting density – no. of pots per 0.25km2 | Number of vessels (out of 30 in total) |
|---|---|
| <5 | 11 |
| 5-10 (low level)* | 13 |
| >10 and <15 | 4 |
| 15-25 (medium level)* | 5 |
| >25 (NB. High level >30 pots per km2) | 0 |

These data show that within D&S IFCA's District the level of potting, when compared to the treatments used by Rees at al. (2018, 2021) in their study, are mostly at or below the low category of under 10 pots per 0.25km$^2$ with few in the medium category of 15-25 pots per 0.25km$^2$ (and no vessels using 'high' potting densities of over 25 pots per 0.25km$^2$). Pots are set at an optimal density and the response from the inshore (both over 12m and under 12m) vessels operating in D&S IFCA's District this shows that the densities of pots set by the fishers are indicative of the likely optimal densities per 0.25km$^2$ that fishers would make their potting economically viable. D&S IFCA has further analysed the responses from the 2014 survey and from an activity survey in North Devon in 2017 for those fishers who informed D&S IFCA that they potted in the Hartland Point to Tintagel MCZ. D&S IFCA has calculated that from these surveys in 2014 and in 2017 potters working in the MCZ set pots at a density of approximately 5 pots per 0.25km$^2$ which is at the low-density level describes by Rees et al., (2019, 2021).

D&S IFCA does not agree that the level of potting, in the area of the Hartland Point to Tintagel MCZ under the MMO's management, is such that it would meet or exceed the high level of potting density that Rees et al., (2021) have suggested that would hinder the conservation objectives of the site to be met. Rees at al. (2021) concluded that high densities of pot fishing can negatively affect the abundance of reef building taxa and that pot fishing intensity thresholds exist. At the current level of potting in the MCZ, D&S IFCA disagrees that a negative impact can be demonstrated, as it is very unlikely that the high threshold has been met – as demonstrated by the inshore level of potting. The data the MMO uses to determine fishing pressure in the site do not indicate high levels of fishing pressure. The figures quoted by the MMO show that over 12m vessels' VMS data suggest that between 1 and 94 records of the

potting vessels being present in the site over six years with an annual average of 36 recording or pings. This is not a high level of fishing activity and with annual landings of on average 2.51 tonnes from the site this further confirms that the potting effort is low. Many of the vessels included in the potting level Tables 1 and 2 above will land over 1 tonnes of sea fish resources (crab, lobster, whelk) per day with some landing over 2.5 tonnes per day (mostly whelk). Therefore, the average landing figure of 2.51 tonnes per year as quoted by the MMO is indicative of a very low level of potting. Nothing in the MMO's data suggests that the fishing effort in the site is high and will hinder the conservation objectives.

There are many references used by the MMO that demonstrate that potting does not have a significant effect on reef or rock features in MPAs ( Eno et al., 2001, Coleman et al., 2013, Walmsley et al., 2015). Rees at al. (2021) did not see evidence of potting impacting the abundance of the indicator species ross coral (*P. foliacea*) in the four-year study nor that it hindered its recovery. It was suggested that high level of potting pressure could prohibit temperate reef ecosystems from contributing to their ecosystem function, however high potting levels in the Hartland Point to Tintagel MCZ cannot be demonstrated nor confirmed from the MMO's data.

In Section 7.1.2 the MMO uses a comparison of the recovery rates for habitats associated with sublittoral rock from the impacts of bottom towed gear with the impact of potting. D&S ICA would oppose the use of this comparison as the impact of these two different gear types are very different and therefore should not be used as a point of reference. D&S IFCA does not agree with the suggestion on p.30 of the Fishing Gear MPA Evidence: traps document that the literature used as references is superseded by Rees et al., (2018). The literature review undertaken by Walmsley (2015) is very thorough and concludes that from empirical evidence that there was limited proof of negative impacts as a result of traps. Rees at al. (2019) demonstrated that only two indicator species, Ross Coral and Neptune's Heart Sea Squirt, showed any significant response to potting intensity with significance being at high level of potting per 0.25km$^2$ (i.e. >30 pots per 0.25km$^2$), which is not occurring at this level in the Hartland Point to Tintagel MCZ.

The MMO has referenced Gall et al., (2020) in its Fishing Gear MPA Evidence: Traps document, as has D&S IFCA in its Hartland Pont to Tintagel MCZ Assessment MCZ-HPT-001. This research looked at the impact of inkwells and parlour pots on reef features within the Start Point to Plymouth Sound and Eddystone SAC. The effects of pots landing, movement, rope scour and hauling were monitored using video cameras. Only the rims of the pot come into contact with the seabed (not the whole base) and took on average 3.5 seconds to settle (Gall, 2016). The study found that the pots are fairly stationary during the time they are on the seabed (for 25 minutes), with 86% of soaks showing no movement and 8% of soaks with some occasional movement which were very sporadic and small. Only one pot made large movements throughout the soak. When hauling, the pots do not drag for long distances on the seabed. Pots took 41 seconds to haul and the total time that the pots came into contact with the seabed was approximately half the time (20.7 seconds). Rope movement was minimal, only moving slightly by the tide and no scour or species impacts were observed for 46% of the time. In instances where movement and impact occurred abrasion was found on *A. digitatum* and *E. verrucosa*, although no individuals were removed. However, during hauling, five instances occurred where damage caused abrasion and removal of two *A. digitatum* . The assumed haul corridor (area that could be impacted during hauling) was 6.7m² and the length of the realised haul corridor (area actually impacted) was much lower at 3.2m² (Gall, 2016). Of the 22 taxa identified, 14 suffered some form of interaction with the pots, including all five indicator taxa. Only single individuals of six of all the taxa identified were removed from the reef, including one from an indicator taxa during the three-year study period.

Gall (2020) also found that damage to *E. verrucosa* was limited to abrasion as the pot went past and some individuals were bent under the pot during soak. These did not appear to be damaged as they righted themselves once the pot lifted clear. Colonies are able to re-grow over a period of about 1 week if damaged (Hiscock, 2007). Benthic communities are thought to be relatively unaffected by static gear due to the footprint of the gear and the small area of the seabed in direct contact (Eno et al., 2001).

D&S IFCA believes that the evidence provided by MMO is reliant on the Rees et al., (2018) and Gall et al., (2020) and the MMO appears to have down played other evidence gathered by researchers such as Eno, Coleman and Walmsley. Both the Rees and Gall research is limited and have caveats due to storms and weather conditions before during and after the studies; that the pots set and hauled in the case of Gall (2016) were experimental and not hauled and set in the way and at speed that the commercial fishermen would normally work due to cameras being attached to the pots. Gall et all 2020 suggests that her data is the longest data set looking at the interactions of pots on habits. This is not the case as the research by Coleman et al., was much more extensive and took place over a much longer period of time.

Gall (2016) also looked at the benthic condition and compared areas where only static gear (pots) was used to other areas which, for part of the year, were open to trawling. The static only treatment areas showed greater abundance of individuals; greatest abundance of cover individuals; greater number of taxa; greatest benthic diversity; greatest abundance of hydroids and bryozoan turf, *A. digitatum* and *A. diaphanum* ; and greater abundance of five out of six indicator species compared to trawled areas. Gall (2016) concluded from her PhD research that the finding of a significant difference in assemblage composition was important; species characterising areas fished with static gear were more representative of fully functional benthic rocky reef areas (Beck et al., 2001; Beukers-Stewart and Beukers-Stewart 2009; Dayton et al., 1995; Jennings and Kaiser 1998; Jennings et al., 2001; Monteiro et al., 2002; Ryer et al., 2004), than those present in areas fished with bottom towed fishing gear. Sheehan et al., (2015) identified recovery in the Lyme Bay MPA despite the continuation of potting activity. Differences in methodology and in metrics must be acknowledged when comparing results of these studies (Sheehan et al., 2016), but they suggest that external factors may be contributing to the results presented by Gall (2016).

Gall (2016) stated that significantly more species were not damaged within the haul corridor that were damaged or removed. In the majority of cases, few individuals were damaged, with the number not damaged outweighing that of damaged taxa. Gall (2016) also concluded that the abundance of *E. verrucosa* across the study site was patchy, but it was generally greater in the static treatment. The work of Ocean Ecology Limited (2015) who conducted a condition assessment of *E. verrucosa* in the Start Point to Plymouth and Eddystone SAC found colonies to be in good condition. This is important due to the protected nature of *E. verrucosa*, their low recoverability (Langmead et al.,2010), their listing as a UK BAP species and as vulnerable on the IUCN red list. They are important for ecosystem function, creating complex elevated surfaces available for the settlement of spat and as habitat for other organisms (Howarth et al., 2011; Jones et al., 1994). Few cases occurred where a pot landed directly on top of an individual, but where this did the results were similar to the findings of Eno et al., (2001) who found that *E. verrucosa* ‘bounced back’ once the pot had passed and to Shester and Micheli (2011) who found no incidence of removal of gorgonians as a result of lobster trap impact in the Gulf of Mexico.

Gall also stated that were there were inconsistencies in the results of her research that the most likely impact would be due to external factors such as from the severe winter storms of

2013/2014, with wave height in the study area reaching 5.25m in February compared to an average annual wave height for the period 2007 – 2013 of 3.69 m (Channel Coastal Observatory 2014). Gall suggests that in the absence of bottom towed fishing gear, where potting is still permitted, ecosystems are able to recover towards a fully functional state (Tett et al., 2013). Gall et al. (2020) overall demonstrate that there is limited pot drag on the seabed, that only the rims of the pots come into contact with the benthic habitat and that the number of species affected is minimal.

All the evidence suggests that the level of potting on rock in the Hartland Point to Tintagel MCZ would not hinder the achievement of the conservation objectives. Therefore D&S IFCA does not agree with the MMO's approach of prohibiting potting in the MMO's section of the Hartland Point to Tintagel MCZ.

D&S IFCA has been in contact with Cornwall IFCA regarding their assessments and Natural England's Formal Advice received. Cornwall IFCA has undertaken a MCZ assessment of potting on rock on their portion of the MCZ and concluded that 'the impact of potting on the designated features of the MCZ is thought to be minimal and potting is occurring at such low levels within the Hartland Point to Tintagel MCZ that Cornwall IFCA conclude that there is no significant risk of the activities hindering the conservation objectives of the Hartland Point to Tintagel MCZ'. Natural England's Formal Advice on their assessment states: 'It is Natural England's view that through their assessments, Cornwall IFCA appear to have appropriately identified activities not likely to hinder the conservation objectives of the feature(s) of the MCZ'.

It would appear that the MMO's proposal to prohibit potting on the rock feature does not concur with Natural England's advice on the same habitat in D&S IFCA and Cornwall IFCA's areas of the site. The proposed management measures to prohibit potting on rock are not built on the evidence and advice received by Natural England and are therefore disproportionate and out with the management of the inshore fisheries regulators.

D&S IFCA also does not agree with setting of a buffer for the potting prohibition and does not agree with it in any MPA under consideration. As stated in the DMA, buffers were recommended in guidance provided by JNCC in relation to demersal towed gear and follows a warp length to depth ration. MMO has decided unilaterally and as stated in the DMA, 'applied discretion' that the JNCC methodology should be applied to static gear. The MMO has not given a clear rationale for this and intends to apply it to the Hartland Point to Tintagel MCZ and the Start Point to Plymouth Sound and Eddystone SAC. D&S does not agree with this approach as well as the approach of full prohibition of potting.

## Interaction: Potting on Sediment/Sand

The MMO's assessment of traps on subtidal coarse sediment and subtidal sand features of Hartland Point to Tintagel MPA has revealed that these fishing activities will not result in a significant risk of hindering the achievement of the conservation objectives of the MPA. This is evidenced in Section 9 of the MMO's Stage 3 Fishing Gear MPA Impact Evidence: Traps document. However, in the proposed Byelaw the management measures are to close the whole of the MMO's section of the Hartland Point to Tintagel MCZ MPA to potting which does not reflect the conclusion drawn by the MMO themselves. Therefore D&S IFCA does not agree with the MMO's proposal to bring in a prohibition of potting on sediments.

A majority of the Hartland Point to Tintagel MPA that sits outside the 6nm is made up of subtidal coarse sediment and subtidal sand and shown in the Figure 1 p.4 of the MMO's Hartland Point to Tintagel MPA Fisheries Site Assessment document (and copied below).

The MMO states that the majority of the site contains rocky habitats in deeper waters (circalittoral rock) interspersed with sublittoral coarse sediments. However, it is clear from Figure 1 and Cefas survey of the site that the majority of the area outside the 6nm is coarse sediment and sand habitats. Whilst the MMO state that the presence of a mosaic of habitats might make defining boundaries between habitats difficult this is the current map of the habitats present and used to inform conservation advice and management. With this in mind, D&S IFCA does not agree that potting will hinder the meeting of the conservation objectives on any of the habitats present and therefore does not agree nor support closing the MMO's part of the site to potting gear. The proposal to close potting on sediment itself is incorrect, inappropriate and disproportionate as potting will have no impact on the designate habitats or features.

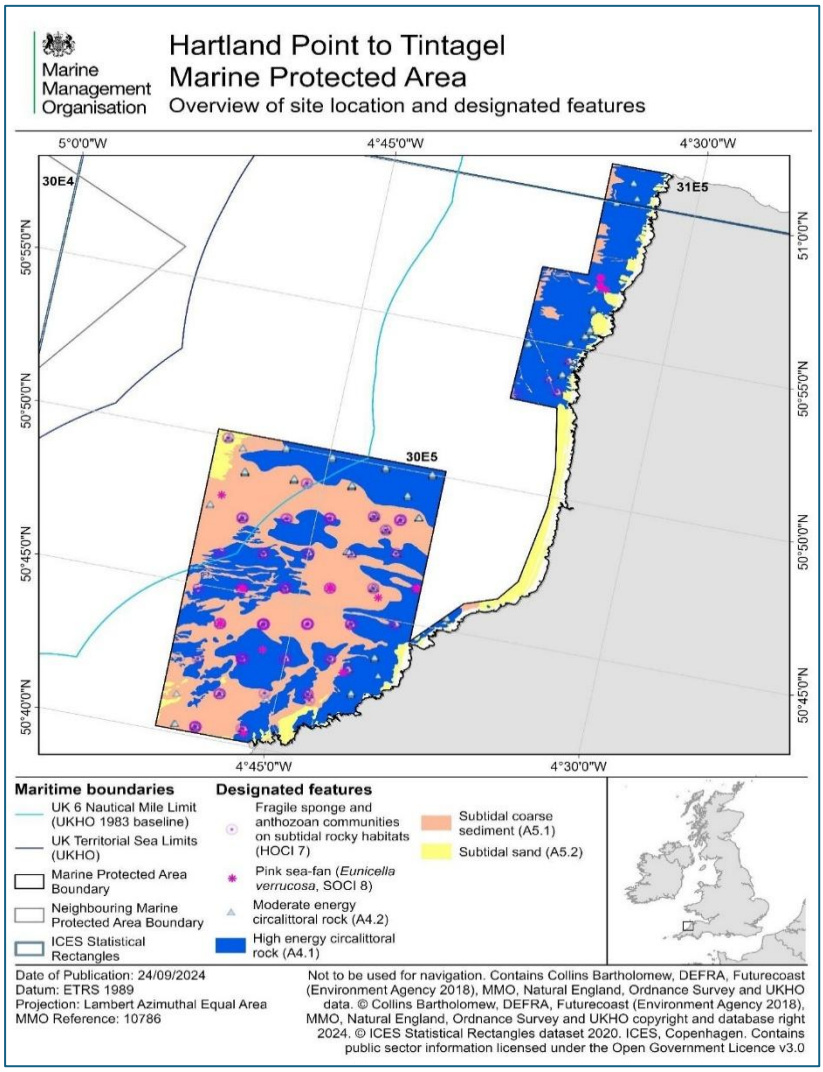



Figure 1: Hartland Point to Tintagel MCZ overview map

D&S IFCA's assessment, as discussed above, included the interaction of pots on subtidal coarse sediment and subtidal sand and concluded that the activity would not hinder the meeting of the conservation objectives of the site. Natural England supports this view in the formal advice D&S IFCA has received from them. Cornwall IFCA also concluded that 'the impact of potting on the designated features (subtidal sediment and subtidal sand) of the MCZ is thought to be minimal and potting is occurring at such low levels within the Hartland Point to Tintagel MCZ that Cornwall IFCA conclude that there is no significant risk of the activities hindering the conservation objectives of the Hartland Point to Tintagel MCZ. Natural England's

Formal Advice agreed with Cornwall IFCA's conclusion. Therefore, as raised on the interaction of pots on rock, it would appear that the MMO's proposal to prohibit potting on the sediment/sand feature does not concur with Natural England's advice on the same habitat in D&S IFCA and Cornwall IFCA's areas of the site and the management measures proposed to be introduced in prohibiting potting on sediment/sand features are not built on the evidence and advice received by Natural England and are out with the management in place by the inshore fisheries regulators. This divergence in advice from Natural England to the IFCAs and MMO is worrying and shows a lack of consistency. Natural England's Formal Advice to the MMO (which has been shared with D&S IFCA) is advice on the assessments for all 42 sites as a whole in one formal letter and not done on a site-by-site basis. The IFCAs were advised to look at each individual site and interactions in its assessments, following receipt of Defra's Revised Approach on Managing Commercial Fisheries in MPAs which was provided in 2012, and following the designation of MCZs.

Whilst D&S IFCA does not agree that formal management of potting in the Hartland Point to Tintagel MCZ is required (nor proven necessary), D&S IFCA suggests that the MMO should evaluate the potting activity by detailed analysis of individual vessel's IVMS and VMS data before any management measures are introduced. This could be done through a Monitoring and Control Plan. Natural England has supported D&S IFCA's use of Monitoring and Control Plans in MPAs in the D&S IFCA's District where the level of fishing activity is thought to be low and uncertainties exist. D&S IFCA disagrees that with the level of potting effort in the Hartland Point to Tintagel is such that it would cause the achievement of the conservation objectives to be hindered, and Natural England has agreed with this in their formal advice to both D&S IFCA and Cornwall IFCA. Due to this disparity in evidence D&S IFCA suggests that a Monitoring and Control Plan is introduced, and this would be the most appropriate and proportionate way to proceed. D&S IFCA would be happy to share how it uses the IVMS data to show the level of activity to help inform this approach.

## Interaction: Demersal Towed Gear on Rock/ Sediment/ Sand

D&S IFCA understands the approach to prohibit demersal towed gear on rock. This follows Defra's 2012 Revised Approach to Management Commercial Fishing Activities in MPAs. However, there is no evidence of demersal mobile fishing vessels operating in the MMO's portion of the MPA. The VMS Report density Stage 3 MPAs for bottomed towed gear (2016-2021) for the Hartland Point to Tintagel MCZ show zero activity in this part of the site. The Swept Area Ratio shows no surface swept area ratio in the MMO's portion of the site. There is no demersal mobile fishing activity taking place in the site. These data used are from a period before the MMO introduced its Marine Protected Areas Bottomed Towed Gear Byelaw 2023. D&S IFCA would question that this byelaw is appropriate and proportionate seeing that no activity takes place. D&S IFCA believes that the MMO should have introduced a Monitoring and Control Plan for the site rather than formal management. If bottomed towed gear were ever to take place in the site it would have been happening already and would be evident in the data used to assess activity. D&S IFCA's IVMS data for its Mobile Fishing Permit holders confirms that no inshore vessels operated in this site.

D&S IFCA has a Monitoring and Control Plan in place for demersal mobile gear in its part of the Hartland Point to Tintagel MCZ where there is sediment/sand and rock features and it monitors the activity weekly and the information informs an annual review of the plan. Natural England supports this approach. Since January 2018 to December 2024 no demersal mobile fishing gear activity has taken place in this part of the MPA.

# B. Start Point to Plymouth Sound and Eddystone (SPPSE) MPA

The SPPSE SAC was designated in 2011, and the Regs 35 Formal Advice was published in 2013. The SPPSE SAC lies along the South Coast of England off Devon and Cornwall, largely within the D&S IFCA's District. The site boundary extends across three separate geographical areas where reef is present:

- The Eddystone reefs
- Plymouth Sound to Bigbury Bay reefs
- West Rutts to Start Point reefs

The Plymouth Sound to Bigbury Bay reefs and the West Ritts to Start Point Reefs lies within the D&S IFCA's District. The part of the site that lies within the D&S IFCA's District also co-locates with the Inshore Potting Agreement (IPA) Area, which is an area managed through fishing licence variation and D&S IFCA's Mobile Fishing Permit Byelaw Permit Conditions. It is an important area nationally for potting and is held in high esteem both regionally, nationally and internationally as a conflict resolution management system. Demersal mobile fishing gear is prohibited from the reef areas within the D&S IFCA's District. The Eddystone reefs are split between Cornwall IFCA's jurisdiction inside the 6nm and the MMO outside the 6nm limit.

The MMO has produced the Stage 3 Site Assessment for the SPPSE MPA. D&S IFCA has reviewed this document. The only designated feature of the site is Annex 1 Reefs. On p. 5 the MMO has included the following table:

| Designated feature | Sub-feature | Conservation objective |
|---|---|---|
| Annex I Reefs | Circalittoral Rock | Maintain in a favourable condition. |

The MMO has stated that Natural England has conducted condition assessments in 2022 and reported that the condition of the designated features as favourable. The Natural England's Condition assessment for the SPPSE SAC concludes that the H1170 reefs in the site are 100% favourable. The Condition Assessment states that 'all of the principal attributes have passed (targets have been met) for this feature. In addition, 3/4 of our secondary attributes have passed (targets have been met), 1 failed for Supporting processes: water quality - contaminants (habitat). Favourable because majority of the targets have been met'. Therefore, the only secondary attribute that failed to meet favourable condition was due to water quality and not the interaction of any fishing activity on the features.

It is fortunate that this condition assessment has been undertaken on the Annex 1 reef feature of the site. This confirms the view that the existing management measures in place – both inshore (D&S IFCA, Cornwall IFCA) and offshore (MMO) are working and that have helped maintain the condition of the reefs as favourable. These facts alone suggest that no further management is needed in relation to any other fishing activity (other than those already introduced to prohibit bottom towed gear).

## Interaction: Potting on Reef

In the MMO's Stage 3 Site Assessment: SPPSE MPA the level of fishing activity in the MMO's part of the site is discussed.

The assessment states in Section 4.2 :

*"Between 2019 and 2020 traps were the most frequently deployed gear type for vessels over 12 m in the Start Point to Plymouth Sound and Eddystone MPA, taking up approximately 55 % of fishing activity in the site in 2019 and 69 % in 2020. For over 12 m vessels VMS records show that for potting there was a total of 174 VMS records between 2016 and 2021 and an annual average of 26 VMS records per year, most of this activity was from the years 2019 to 2021 with 69 VMS records in 2019, 53 in 2020 and 16 in 2021. For vessels over 12 m, live weight landings from traps increased from 0 t in 2018 to 2.43 t in 2019 and 9.55 t in 2020.*

*For vessels under 12 m using traps activity has been consistent with a yearly landings average of approximately 1.69 t.*

*VMS activity data showed that traps have been used over the designated Annex I reefs to the southwest and east of the MMO portion of the site.*

*Average fishing effort recorded by UK vessels under 12 m in length using traps between 2016 and 2021 for the area of Start Point to Plymouth Sound and Eddystone MPA that intersects ICES rectangle 29E5 was 14 days, and the total fishing effort recorded using traps between 2016 and 2021 was 48 days".*

Under section 4.3.2 it goes on to describe the fishing activity and states that :

*"For vessels over 12 m VMS records show that for potting there was a total of 174 VMS records between 2016 and 2021 and an annual average of 26 VMS records per year, most of this activity was from the years 2019 to 2021 with 69 VMS records in 2019, 53 in 2020 and 16 in 2021, and only 1 VMS record for the years 2016 to 2018. <u>This demonstrates a clear increase in potting activity in this site.</u> Furthermore, for vessels over 12 m in length VMS data shows that in 2019, 55% of fishing activity was attributed to pots, and in 2020 this increased to 69%. VMS records show activity to be focused over the designated rocky reefs to the southwest and east of the MMO portion of the site".*

The underlined sentence above does not appear to concur with the evidence provided. There appears to be an increase from 2018 to 2019 but thereafter the potting activity has decreased from 69 VMS in 2019 record to 16 records in 2021. The annual average of only 26 VMS records does not indicate a high level of potting activity for the over 12m vessels. In fact, it indicates a very low level of fishing. The landings data show at increase from 2019 to 2020 but no data are provided for 2021 and therefore a direct comparison cannot be made. With only 16 VMS records in 2021 this would suggest the landings will be lower than the 2019 landings. In order to get a true understanding of the density of potting in the area being considered for closure the VMS data together with AIS data should be analysed to demonstrated the pattern of activity and this together with the individual vessels reporting of the number of pots set will be able to provide an indication of the number of pots set per 0.25km$^2$ if reference to Rees (2019) and Rees et al (2021) is to be made. The data provided by the MMO do not demonstrate a high density of pots and therefore any impact cannot be inferred from the data used in the assessment. The VMS data suggest 26 record per year on average between 2016 and 2021 which is very low.. Further information on what this actually means is needed. No information is provided on the number of vessels present in this part of the site so it could be that the 26 pings relate to only one vessel. Either way this is a low level of effort.

D&S IFCA has reviewed the WebApps Stage 3 Static Gear VMS Report Density 2016 to 2021 for the sites within its District and where the MMO is looking to prohibit pots/traps. The VMS report density maps for the Start Point to Plymouth Sound and Eddystone SAC do not show

a high level of potting. For traps the density for 2016-2021 show VMS report counts of greater than 10 and up to 20 for the MMO's portion of the site. The density maps confirm that potting takes place but not at an intensity that warrants any restrictions. Higher densities occur elsewhere in the site and as describe below on p.14 of this response. Natural England has agreed with the IFCAs' conclusions that potting is not likely to have a significant effect in view of the site's conservation objectives and that the assessed potting will have no adverse effect on the integrity of the EMS.

D&S IFCA analysed the level of potting in the parts of SPPSE SAC that lie within its District. From potting activity surveys undertaken in the D&S IFCA's District the number of pots per $km^2$ in and around the SAC and on the reef feature were calculated and shown in Table 3 below. The results of these activity surveys were used to inform D&S IFCA's HRA assessment for potting in its part of the SPPSE SAC. As can be seen if compared to the research undertaken by Rees et al.,(2021) on potting intensity/thresholds per $0.25km^2$ that were reported to potentially cause a negatively effect on the features of an MPA and the abundance of reef building taxa, these figures in table 3 are shown to be low levels of intensity and therefore the threshold were impact might occur have not been met.

Table 3: Pots used in the SPPSE SAC from vessels operating out of base ports within the SAC.

| Base Ports | Number of pots inside and near SAC | Estimated number of pots inside SAC | Estimated number of pots on reef inside SAC |
|---|---|---|---|
| Dartmouth and Beesands | 2870 | 1816.4 | 962.75 |
| Plymouth and Yealm | 1360 | 1152.5 | 1106.25 |
| Salcombe and Hope Cove | 7250 | 4853.6 | 3316.931 |
| Totals: | 11480 | 7822.5 | 5385.931 |
| Pots per $km^2$: | 42 | 28 | 20 |
| Pots per $0.25km^2$ | 10.5 | 7 | 5 |

As Natural England's Condition Assessment shows the feature is in favourable condition and the effort is low in the MMO's part of the site, the proposed prohibition on potting in the site is not appropriate or proportionate and will not further the conservation objectives of the site which are already at favourable condition.

D&S IFCA has discussed the outputs from research on the impacts of potting on rock under the response to the proposed management for the Hartland Point to Tintagel MCZ above and the conclusions that D&S IFCA has highlighted can be used to support the rationale that management is not required for potting on the reef feature of the SPPSE SAC.

Gall (2016) states, in relation to the SPPSE SAC, that her research, whilst it does not provide a condition assessment of the status of the reef feature for which the site was designated, it suggests that it is being maintained in favourable conservation status, as required by the conservation objectives of the site despite the presence of potting activity. Whilst potting does have some negative impact on some individual taxa, overall, it should not negatively impact

assemblage composition, and if a system is resilient then it will still be able to provide ecosystem goods and services essential to human wellbeing.

Gall (2016) also concluded that the abundance of *E. verrucosa* across the study site was patchy, but it was generally greater in the static treatment within the SPPSE SAC. As previously mentioned the work of Ocean Ecology Limited (2015) who conducted a condition assessment of *E. verrucosa* in the SPPSE SAC found colonies to be in good condition. This is important due to the protected nature of *E. verrucosa*, their low recoverability (Langmead et al.,2010), their listing as a UK BAP species and as vulnerable on the IUCN red list. They are important for ecosystem function, creating complex elevated surfaces available for the settlement of spat and as habitat for other organisms (Howarth et al., 2011; Jones et al., 1994). Therefore, this research supports Natural England's condition assessment which stated that the Annex 1 reef is in favourable condition.

Furthermore, D&S IFCA has undertaken an HRA of the potential impact of potting on the designated feature of the SPPSE SAC and concluded that potting activities, alone or in-combination, within SPPSE SAC do not adversely affect the features and sub features assessed and that the conservation objects can be met. Natural England agreed with D&S IFCA's conclusion and stated that '*It is Natural England's view that through their 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'*.

Cornwall IFCA also undertook an HRA on the potential impact of potting of the reef feature. They concluded that the overall impact of potting on the other designated features of the SAC is thought to be minimal, and potting is occurring at such low levels within the Start Point to Plymouth Sound and Eddystone SAC that Cornwall IFCA conclude that there is no adverse effect on the rock features of the Start Point to Plymouth Sound and Eddystone SAC alone or in-combination. Cornwall IFCA received Formal Advice which stated that '*It is Natural England's view that through their HRAs, Cornwall IFCA officers appear to have appropriately identified those activities that are 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'*.

## C. Skerries Bank and Surrounds MPA

The Skerries Bank and Surrounds MCZ is an inshore site located on the South Devon coast. It runs along the coast from Leek Cove at Limebury Point to Torcross and extends from the coast line out to depths of approximately 70 metres. The MPA is approximately 249 $km^2$, straddling the 6 nm limit, with approximately 238 $km^2$ of the site falling inside the 6 nm limit, and the remaining 11 $km^2$ offshore of 6 nm, which is under MMO responsibility. The site overlaps with the South Devon Inshore Potting Agreement (Figure 2).

The site was designated in 2013 and the General Management Approach (GMA) on designation is shown in Table 4 below. Further information regarding the MCZ and its protected feature can be found in the Skerries Bank and Surrounds MCZ Factsheet[1].

[1] MCZ Factsheet http://publications.naturalengland.org.uk/category/1721481

In the MMO Stage 3 Site Assessment Skerries Bank and Surrounds MCZ document their Table 1 on p.5 show a different GMA for the coarse sediment feature of the site compared to the GMA provided in the MCZ on designation, even though the MMO refer to it as the information provided on designation. There is an error in this table. At the time of designation this was based on the vulnerability assessment undertaken prior to designation with full knowledge of the activity taking place in the site.

Table 4 – Designated Features and General Management Approach

| Features | General Management Approach |
|---|---|
| Intertidal coarse sediment | Maintain in favourable condition |
| Intertidal mixed sediments | Maintain in favourable condition |
| Intertidal sand and muddy sand | Maintain in favourable condition |
| Subtidal coarse sediment | Maintain in favourable condition |
| Subtidal mud | Maintain in favourable condition |
| Subtidal sand | Maintain in favourable condition |
| Moderate energy intertidal rock | Maintain in favourable condition |
| Moderate energy infralittoral rock | Maintain in favourable condition |
| Moderate energy circalittoral rock | Recover to favourable condition |
| High energy intertidal rock | Maintain in favourable condition |
| High energy infralittoral rock | Maintain in favourable condition |
| Pink sea-fan (*Eunicella verrucosa*) | Maintain in favourable condition |
| Spiny lobster (*Palinurus elephas*) | Recover to favourable condition |

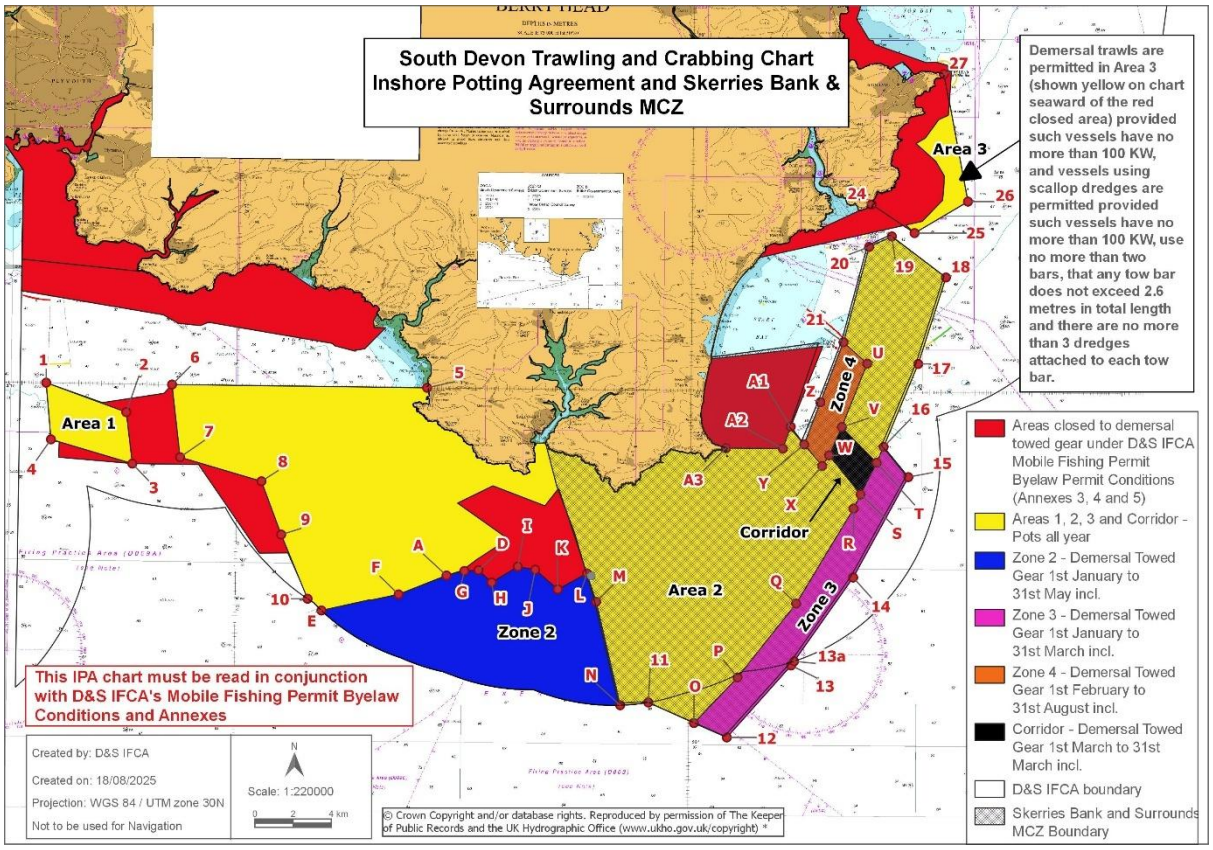


Figure 2 IPA and Skerries Bank and Surrounds MCZ

## Areas of Concern and Issues relating to the Skerries Bank and Surrounds MCZ.

The Skerries Bank and Surrounds MCZ is a complex stie and there are many areas of concern that need to be raised and should be considered by the MMO and Defra in relation to proposed changes in management of activities in the site.

### *1. Designation of the Site*

Whilst D&S IFCA is aware that social and economic factors cannot be taken into account post designation when management measures are being considered. However, there was a failure by the Appropriate Authorities to follow due process in the designation of this site.

The site was suggested by the fishing industry as it co-locates with the Inshore Potting Agreement (IPA) area which has acted as a de-facto MPA since the IPA came into being in the 1970s. The proposal by the industry, and their ongoing support, was on the proviso that the current Inshore Potting Agreement (IPA) was maintained, and no further management was required. This understanding was reflected in pre-designation papers, the Finding Sanctuary (FS) Final Report, and the Impact Assessment that accompanied Finding Sanctuary's recommendations.

The Finding Sanctuary Regional Project was a stakeholder led process. Therefore, the offering up of an area to be recommended for designation was a significant suggestion from the fishing industry, because in many of the meetings the industry was reluctant to put forward sites for designation, as they were cautious not to affect or restrict other sector members by their suggestions. The fishermen felt strongly that the IPA is a management system that has worked for many years, was already in existence and much of the site had been protected from mobile demersal fishing gear for decades**.**

This is documented within the Finding Sanctuary Final Report along with relevant information in relation to the possible management of activities within the site. The following extracts from the Finding Sanctuary Final Report give some reference to the discussion and outcomes, which led to the designation of the site and the management that was proposed:

***a. Section II.2.2 (P.107) Stakeholder narrative for rMCZs - Working assumptions and implications***

***Commercial Fishing***

- *A generic assumption was made early on in the process that mobile bottom-towed fishing gear would not be permitted in any MCZs. Offshore fisheries representatives did not agree that this assumption was realistic, and asked for an alternative wording to be used, which in essence stated that 'all fishing activities can continue unless it prevents conservation objectives from being achieved'. Whilst accurate, that wording goes no further than the fundamental working assumption that applied to all activities. In reality, the assumption that mobile bottom-towed gears would not be permitted in any MCZs ran through the entire planning process, and this is acknowledged by fishing representatives. As a consequence, the planning process avoided areas most intensively used by benthic mobile gear fishermen, in as much as it was possible to meet the ENG elsewhere. This has had a direct bearing on the final configuration of the recommended network (map FR_080). Implications that stakeholders highlighted as arising from an assumed closure of MCZs to these gear types centred around the loss of fishing grounds to mobile gear fishermen, negative displacement effects, and negative economic consequences to fishermen.*

- *An exception was noted that for the Skerries Bank and Surrounds rMCZ, one of the areas most intensively fished by static gears within the region, the recommendation for the rMCZ is explicitly made only on the condition that current management is maintained – any additional restrictions resulting from an MCZ designation would seriously compromise levels of support for the site (see site report for more details).*

Below are extracts from the Skerries Bank & Surrounds rMCZ report taken from the Final Sanctuary Final Report. This gives detailed information about the selection process and the management options discussed and the final proposals:

***b. Section II.3.24 Skerries Bank and Surrounds rMCZ – Site Report***

*Site boundary: The landward boundary of the rMCZ runs along the high-water mark from Leek Cove (on the eastern side of the Salcombe-Kingsbridge estuary mouth), around Prawle Point and Start Point to Torcross. The seaward boundary aligns with the boundaries of the eastern portion of the Start Point Inshore Potting Agreement (IPA), excluding a corridor that is trawled all year (see map FR_035d). Late in the process, there was discussion around a possible adjustment of the site boundary to include only those parts of the IPA that are closed to trawling year-round, which would cut the site into two portions separated by the areas that are trawled seasonally. In the end, the boundary adjustment was not carried out, and the current rMCZ boundary includes seasonally trawled portions (please refer to additional comments below). The recommendation for this rMCZ is conditional upon the current management being maintained in the area. The area overlaps with the Start Point Inshore Potting Agreement (IPA – map FR_35d). Figure 2 shows a chart recommending the current management should continue.*

- *The IPA started as a voluntary agreement between local inshore static and mobile gear fishermen, aiming to reduce conflict between fishing gears by creating areas that are permanently or seasonally closed to mobile fishing gear (trawling), so that those areas can be used by static gear (in particular, potting). The IPA is now legally and formally recognised and is enforced through a commercial fishing license variation, managed through the MMO. The area is seen by some as a 'de-facto' MPA, as it prevents damage from bottom-towed gears in the static gear zones. For that reason, it was proposed as a part of the network configuration*.

**Additional comments regarding the Final Sanctuary Recommendations**
The following is a set of additional comments made by stakeholder representatives over the course of the planning work for the Finding Sanctuary Project. Some of these comments were made specifically about this site, others were more generic comments that the FS project team considered to be relevant to this site.

**a*. Inshore Potting Agreement –IPA***

- *This site was included in the network recommendations to recognise the conservation benefits of the management regime that is currently in place within the IPA. Local Group feedback indicates that there is good evidence that the seabed is in good condition in the no trawling areas within this site, and that the current IPA is a well-policed agreement.*
- *The area is considered a de-facto MPA by some and making it an MCZ (on the assumption that current management would be maintained) would serve to consolidate the conservation benefits of the site for the future and allow it to be 'counted' within the context of the overall network. However, there is a strong feeling amongst stakeholders that if the MCZ designation altered the current management of the site, then that would have more negative consequences than benefits (in particular, loss of goodwill of people who have been working together over years to reduce conflict). Therefore, the*

*recommendation for this rMCZ is made on the condition that the current management under the IPA would be maintained.*

- *This site differs from other rMCZs, in that it includes zones where the working assumption is that mobile bottom-towed fishing gears would be allowed to continue seasonally. In all other rMCZs, the working assumption is that bottom-towed gears would not be allowed (because they would prevent the achievement of conservation objectives). A solution to this logical inconsistency (suggested within the Local Group) might have been to reduce the size of the Skerries Bank and Surrounds rMCZ, to only cover the area where trawling is permanently excluded. This would have meant dividing the site into two parts, including only the red areas on the IPA map (see Figure 2 below).*
- *Discussions at the vulnerability assessment meetings highlighted the possible consequences of including the seasonally trawled areas within the rMCZ: Natural England highlighted that the inclusion of the seasonally trawled areas ('corridors') would mean that for the seafloor habitat within the corridors, the conservation objectives would not be met, unless the mobile gear was excluded from the entire site. The project team identified this as a potential danger to the condition based on which the site had been recommended by the stakeholder group, i.e. that current management should be maintained.*
- *This prompted the project team to review the previous stakeholder discussions around this site and reconsider the boundary. At the final Joint Working Group meeting in June 2011, the project team stated that the site boundary would be revised to only include the areas currently closed to trawling year-round, splitting the site into two parts. They regarded this boundary adjustment as a correction rather than a change, as the intention was to maintain the integrity of the stakeholder recommendations.*

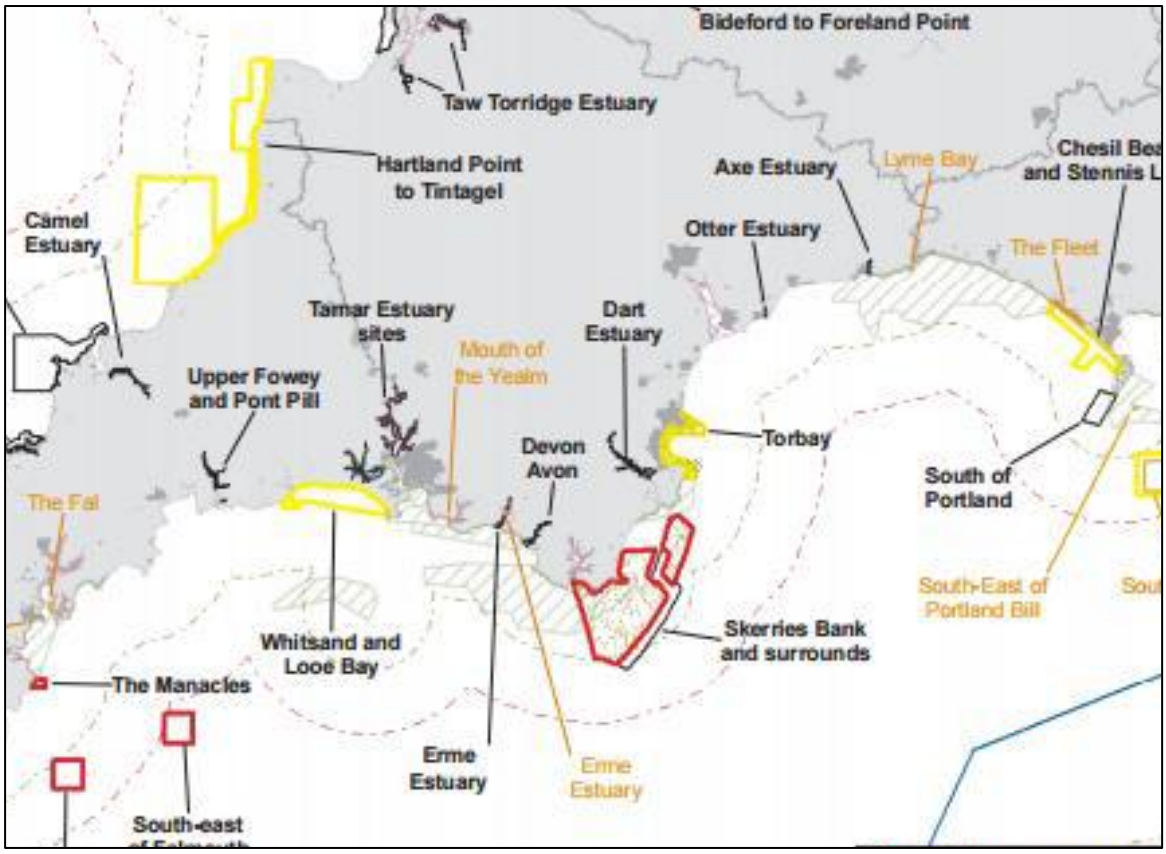



Figure 3: Chart showing the potential management in rMCZ with Skerries Bank & Surrounds site indicating the current fishing activities can continue outlined in black.

- *However, the suggested two-part boundary caused negative feedback from stakeholders within the JWG and from outside the working group. Concerns were raised that excluding the seasonally trawled areas would be perceived as an indication that the area within the trawl corridors is not ecologically important, Skerries Bank and surrounds rMCZ site report 551 which might lead to pressure to open it year-round to mobile gears. This was perceived as a potential danger to the condition based on which the site had been recommended, i.e. that current management should be maintained.*
- *The dilemma faced as a project team was that everyone was essentially expressing the same concern ('maintain current management'), but whichever way the team drew the site boundary, there was a perceived risk. Ultimately, the project team returned the site boundary to the original single site, which includes the trawl corridors. As such, the site recommendation is treated in the same way as the Bideford to Foreland Point example, where the site recommendation states that dredging of the shipping channel should be allowed to continue within the rMCZ boundary, but that the part of the seafloor affected is not counted towards ENG targets. The seafloor habitat area figures presented in the report did not include the seasonally trawled areas.*

***b. Reaction to the Vulnerability Assessment Process and Outcomes***

- *At the sixth Joint Working Group meeting in June 2011, results from the regional vulnerability assessment discussions were presented to the group . The regional VA meetings included some initial discussions on site management, but did not reach any firm conclusions, nor did they review the previous working assumptions in detail. The presentation of the outcome of the regional VA discussions discussion generated concern within the JWG. For many of the inshore sites, this concern was based on the apparent lack of management suggested for bottom-towed mobile fishing gear, and the comments made by members of the JWG are described in detail in the other inshore rMCZ site reports.*

However, as explained above, this site is an exception to the others, in that it was suggested for inclusion by stakeholders on the condition that the current management of the Inshore Potting Agreement is maintained – and in this site, that does include some small areas that are seasonally trawled (see Table 5below).

**Table 5: Section taking from Final report discussing the management assumptions and implications**

| Activities assumed to possibly need restricting (limiting or mitigating) within the site or parts of the site. | |
|---|---|
| **Assumptions** | **Implications** |
| The existing fishery management regime will be maintained without change.<br><br>*The current management regime has been established through fishermen working together to reduce gear conflict. Most of the site is currently closed permanently to bottom-towed fishing gear (to allow potting to take place), but some parts allow bottom-towed fishing gear seasonally or year-round.*<br><br>This assumption was reviewed during the VA meetings, and maintained in essence. An addititional requirement was identified to prevent the removal of the spiny lobster from any part of the rMCZ. | **Direct implications:**<br>**Given this assumption, there are still the following concerns:**<br>o The fishing industry would rather not interfere with the IPA – it has taken a long time to get working and allows access to both mobile and static gears, notably with the use of lanes for trawls.<br>o The SW Fishing Industry MCZ Planning Group is concerned that although the intention is to maintain existing fisheries management regime under the IPA, towed gear activities in the seasonal closed areas will be threatened in the future due to their inclusion within the site boundary. The industry wishes to have these areas excluded as had been indicated in earlier discussions on the site and their inclusion undermines their acceptance of the site. The counter argument that those areas would come under pressure to open up to full access seems implausible given the well established existing IPA regime to manage static and mobile gear fisheries.<br>o Comments and proposals based on assumption that current IPA is working. Local input suggests some doubt.<br>o As a precaution, and to increase local confidence, development of management measures should include independent assessment of current management.<br><br>**If the assumption turns out to be wrong:**<br>o There are existing fishery management measures in place, as this rMCZ follows the outline of the Start Point Inshore Potting Agreement / existing fishery byelaw. There is a risk of alienating stakeholders who have previously worked together to manage their activities in this area, if the restrictions within this area are changed.<br>o Specific concern has been raised about the potential further limitation of mobile bottom-towed fishing gears within the site. This would mean loss of economic activity, affecting/displacing SWFPO and SWIFA members |

***c. Levels of support***

- *The network report (section II.2) includes a project team reflection on levels of support for the network recommendations as a whole, and the site-specific reflection presented here should be read within the wider network context.*
- *This rMCZ is supported by a cross-section of stakeholders as long as the existing management regime (Inshore Potting Agreement) is not affected. The site was one of the first that was drawn onto a map by stakeholder representatives (see the first progress report) in the Devon Local Group.*
- *The Crown Estate provided feedback to state that this rMCZ is located within a wave resource area. It is also located within an area with telecommunication cables linking the UK mainland from Torbay to Guernsey, Jersey and on to France. It also overlays a small area with an aquaculture lease and Start Bay closed disposal site.*
- *The Crown Estate is supportive with the assumption that MCZ designation would not restrict ongoing activities described*
-

***d. Finding Sanctuary Impact Assessment Costs - Annex N4 of the Final report***

- *From the Impact Assessment done for sites within the Finding Sanctuary Region the Skerries Bank and Surrounds MCZ baseline estimates of value of landings, taken from Annex N4, are as follows:*
- *Dredge: £0.024 mill/yr.* (This is not a true reflection of the landing from within the areas open to towed gear/ scallop dredges, one vessel could earn this in 1 week in MCZ)
- *Bottom Trawl: £0.029mill/yr*. (one vessel would earn this in 1 week in MCZ)
- *Mid water trawl £0.003 million/yr.*
- *Pots & Traps £0.946 mill/yr.* (nowhere else for the boats to go so probably a good estimate)
- *Finding Sanctuary undertook an Impact Assessment on the impact of all MCZ in the project on commercial fisheries landings, which can be found in Annex N4 - All Regions Commercial Fishing UK 210812. Estimate of value of landings affected by the Skerries Bank and Surrounds MCZ was £0.00 because the only recommendation for management was scenario 1, which was no change to management (see Table 6)*

***e. Direct Impacts arising from Individual MCZ ( Finding Sanctuary)***

- 
- ***Part 2 -Annex I2***
- *Table 6 below shows the management scenario trail for the Skerries Bank and Surrounds MCZ.*
- *These reiterate the Impact Assessment Figures from Annex N4. The values of landings figures shown for the trawling areas are very low indeed. The trawling grounds within the IPA are very profitable and the IA Figures shown are likely to be the earnings for one vessel fishing for only part of the open season in the trawling zones. At least 12 vessels operate in the trawling zones when they are open. With the large areas of the district now closed to mobile demersal fishing vessels under the D&S IFCA Mobile Fishing Permit Byelaw the areas still open, even for only a few months of the year, become increasingly important fishing grounds to the trawlers and scallopers in the district.*

Table 6 Management Scenarios for the Skerries Bank and Surrounds MCZ

| Table 2b. Commercial fisheries | rMCZ Skerries Bank and Surrounds |
|---|---|
| ***Source of costs of the rMCZ*** | |
| ***Management scenario 1 (Finding Sanctuary Steering Group management recommendation):*** No additional management – continuation of the existing South Devon Inshore Potting Agreement (IPA) management regime. | |
| No additional management scenarios have been considered for this rMCZ as the rMCZ was put forward by the Finding Sanctuary Steering Group on the condition that the existing management arrangements remain unchanged. | |

Annex I2 from Finding Sanctuary, Irish Seas Conservation Zones, Net Gain and Balanced Seas. 2012. *Impact Assessment materials in support of the Regional Marine Conservation Zone Projects' Recommendations.*

| Table 2b. Commercial fisheries | rMCZ Skerries Bank and Surrounds |
|---|---|
| **Baseline description of activity** | **Costs of impact of rMCZ on the sector** |
| ***Overview:*** The rMCZ is largely inside the 6nm (nautical mile) limit. Because of restrictions on trawling, fishing inside the rMCZ is dominated by static gear with the site heavily fished year round. The site is particularly valuable for potters, with brown crab and lobster the key target species. The rMCZ sits wholly within the area of the South Devon Inshore Potting Agreement (IPA), which manages fishing via licence variations. The rMCZ overlaps with three of the IPA's seasonal trawl corridors which permit trawling at certain times of the year (Devon and Severn IFCA, 2011). The majority of the rMCZ overlaps with areas where dredging and trawling are currently restricted year-round under the IPA. The ports of Kingsbridge, Salcombe and Beesands are all close to the rMCZ with around 45 resident vessels (MMO, 2010a), many of which are reliant on fishing inside the rMCZ (MMO, 2011a).<br>Estimated total value of UK vessel landings from the rMCZ: £1.216m/yr.<br>The north-west corner of the rMCZ overlaps with the Start Point to Plymouth Sound & Eddystone Special Area of Conservation (SAC), which is an area that is already permanently closed to trawling and dredging under the IPA. It is not yet known whether management of the SAC will affect the static gear fishing activity in this part of the rMCZ. | |
| **Total direct impact** | |
| ***Total direct impact on UK commercial fishing*** | Estimated annual value of UK vessel landings and gross value added (GVA) affected:<br>*£m/yr* / Scenario 1<br>Value of landings affected: 0.000<br>GVA affected: 0.000<br>As the rMCZ management scenario results in no changes to the existing fisheries management, including access arrangements for trawlers and dredgers, no impacts are expected. However, concerns have been raised by fisheries stakeholders that the designation of an MCZ over part of the IPA may lead to renegotiations by fishers of the boundaries for the IPA and of the seasonal periods in which dredging and trawling are restricted, using the rMCZ as a reason. Any renegotiations could increase or decrease access to different gear types and thereby impact on the landings of fishers in the area. |
| ***Impact on non-UK commercial fishing*** | None. |

**f. Method for Assessing Impacts on Commercial fisheries - Annex H7**.
This annex helped inform the Impact Assessment in the Finding Sanctuary Final Report. Table 7 shows an extract of the different scenarios considered for some recommended MCZ. As can be seen most sites had at least two management scenarios were considered. For the Skerries Bank and Surrounds MCZ the 'no additional management' scenario was the only option considered, when assessing impacts on commercial fisheries.

### Table 7 Scenario Options for MCZ Management

Annex H7 Method for assessing impacts on commercial fisheries

| rMCZ name | Scenario 1: Lowest cost | Scenario 2 | Scenario 3 | Scenario 4 | Scenario 5 |
|---|---|---|---|---|---|
| *North of Lundy* | - No additional management | - Zoned closure of areas of moderate energy circalittoral rock in the rMCZ to bottom trawls and dredges | - Closure of entire rMCZ to bottom trawls and dredges | | |
| *North-East of Haig Fras* | - No additional management | - Closure of entire rMCZ to bottom trawls and dredges | - Closure of entire rMCZ to bottom trawls and dredges<br>- Zoned closure of area of sub-tidal mixed sediment in the rMCZ to pots & traps, nets, hooks & lines | - Closure of entire rMCZ to bottom trawls, dredges, pots & traps, nets, hooks & lines | |
| *North-West of Jones Bank* | - No additional management | - Closure of rMCZ to bottom trawls & dredges | | | |
| *Otter Estuary* | - No additional management | | | | |
| *Padstow Bay and Surrounds* | - No additional management | - No removal of crawfish *Palinurus elephas* from the rMCZ | | | |
| *Poole Rocks* | - No additional management | | | | |
| *Skerries Bank and Surrounds*<br><br>(Finding Sanctuary Steering Group Management Recommendation. Support is conditional upon this management scenario being implemented, so no other scenarios are | - No additional management: continuation of the Inshore Potting Agreement management regime | | | | |

## *Summary of Concerns relating to Designation of the Skerries Bank and Surrounds MCZ*

The Finding Sanctuary Project's recommendation for designation, economic impact assessment and scenarios for assessing the impacts on commercial fisheries of the designation of the site all clearly show that the site was only put forward for designation if the management regime of the IPA was maintained and because of this a detailed economic impact of any possible management scenarios was not undertaken. This is a failure in the designation process and should be considered. The fishing industry has not had an opportunity to comment on any changes to management in relation to the rationale for designation and the financial impact of such changes.

Under the Marine and Coastal Access Act (MaCAA) 2009 S.117(7) it states:
*In considering whether it is desirable to designate an area as an MCZ, the appropriate authority may have regard to any economic or social consequences of doing so.*

D&S IFCA does not believe that this part of the Act has been followed by the Appropriate Authority and that any management changes that are considered for the Skerries Bank and

Surrounds MCZ will be in contravention of this part of the Act as due diligence was not undertaken at the time of designation. D&S IFCA supports the continuation of the current management regime of the IPA and D&S IFCA Mobile fishing permit conditions that align with the IPA management regime.

Under Ss.121 and 122 MaCAA it states:

***121 Hearings by appropriate authority***
*(1) This section applies where the appropriate authority has the function of deciding whether to make an order under section 116 designating an area as an MCZ.*
*(2) The authority may, before making that decision, give to any person the opportunity of—*
*(a) appearing before and being heard by a person appointed for that purpose;*
*(b) providing written representations to such a person.*
*(3) The authority may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (2).*
*(4) A person appointed under subsection (2) must make a report to the authority of any oral or written representations made under that subsection.*

***122 Amendment, revocation and review of orders designating MCZs***
*(1) An order under section 116 may be amended or revoked by a further order.*
*(2) The appropriate authority for an area must review any order it has made undersection 116 if the authority receives representations from—*
*(a) the appropriate authority for another area, or*
*(b) the Department of the Environment in Northern Ireland,*
*that the order should be amended or revoked.*

With this in mind, D&S IFCA believes that the current management regime remains in place and therefore does not agree with the MMO's proposed management for the MCZ. In light of the failure of the Appropriate Authority to take due consideration of economic impacts; to go against the reasons the site was proposed for designation; that the only proposed management scenario has not been followed and further representation regarding the designation (S.121 MaCAA) has not been applied, D&S IFCA suggests that the site boundary should be revisited to allow consideration of changes to that boundary (as per S.122 MaCAA) or that the current management regime of the IPA is maintained.

## 2. General Management Approach, Natural England's Condition Assessment and Formal Advice

The MMO states that the GMA set on a vulnerability assessment conducted prior to the site's designation is as shown in the table below copied from p.5 MMO's Site Assessment Skerries Bank and Surrounds MPA:

| Designated feature | Present beyond 6 nm | General management approach |
|---|---|---|
| Subtidal coarse sediment | Yes | Recover to favourable condition |
| Moderate energy circalittoral rock | | |
| Spiny lobster (*P. elephas*) | No, but the supporting habitat is | |
| Subtidal sand | Yes | Maintain in favourable condition |
| Intertidal coarse sediment | No | |
| Intertidal mixed sediments | | |
| Intertidal sand and muddy sand | | |
| Subtidal mud | | |
| Moderate energy intertidal rock | | |
| Moderate energy infralittoral rock | | |
| High energy intertidal rock | | |
| High energy infralittoral rock | | |
| Pink sea-fan (*Eunicella verrucosa*) | | |

As mentioned above (table 4 p.16 of this response) this is not the correct GMA on designation. Sub-tidal coarse sediment did not have a recover objective on designation. Since designation in 2013 no condition assessment was undertaken until March 2023.

In 2023 Natural England fast-tracked its Condition Assessment for the site. This followed D&S IFCA having undertaken MCZ Assessments and formally disagreed with Natural England's Formal Advice on D&S IFCA's MCZ assessments for the interaction of towed demersal gear on the features on the MCZ. D&S IFCA also disagreed with Natural England's Condition Assessment for the site and wrote formally[2] to Natural England on this matter. It is concerning that this site was fast tracked to have a Condition Assessment undertaken when many other MPAs that have been designated for far longer have yet to receive a condition assessment e.g. Severy Estuary SAC, where 5 million $m^3$ of the Annex 1 subtidal sandbanks feature of the SAC has been removed under a Marine Licence Application to allow capital dredging in the SAC.

Under Natural England's 2023 Condition Assessment the sub-tidal coarse sediment was assessed, and the condition was changed to unfavourable declining due to abrasion/disturbance of the surface of the seabed caused by fishing and removal of non-target species by fishing. It could therefore be concluded that this was undertaken to alter the GMA from maintain in favourable condition for the coarse sediment to recover to favourable condition with the impact pathway being fishing to encourage the Regulatory Authorities (D&S IFCA and MMO) to manage/prohibit the fishing activity identified as causing the impact. This goes against the premise of the designation as described above which was that the fishing activity that took place on designation would be allowed to continue and the integrity of the IPA be maintained. The circalittoral rock feature was also assessed as unfavourable – declining again for the same reasons as the coarse sediment feature was unfavourable – driver being fishing.

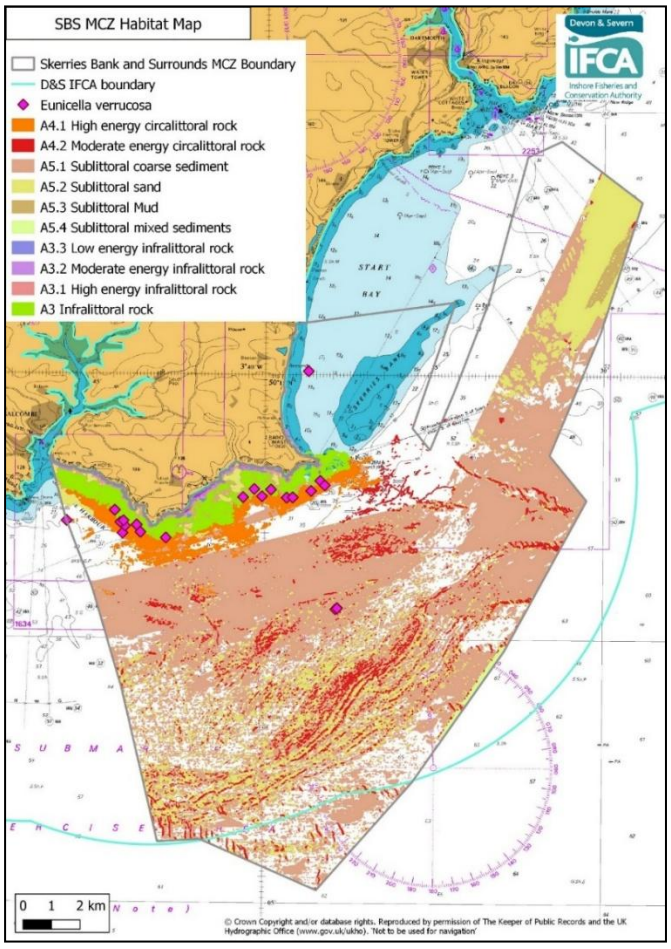
D&S IFCA is concerned that the condition assessment has assigned conditions of unfavourable / declining which were based on low confidence on the evidence above, most of

[2] D&S IFCA Response to SBS MCZ condition assessment 20th June 2023

which are inferences from Natural England's judgement, rather than actual evidence of the condition of the whole site. The Condition Assessment, at best, is a vulnerability assessment as no new evidence was provided by Natural England to show that the condition of the circalittoral rock and coarse sediment were unfavourable and / or declining. In order for Natural England and Relevant Authorities to have confidence in the condition assessment actual evidence is required to prove that the condition has declined.

The amount of modelled circalittoral rock (from Cefas survey and Natural England's habitat data 2023) in areas seasonally opened to demersal gear is 13.72% and this fishing activity apparently has caused the moderate energy circalittoral rock habitats across the whole site to be unfavourable- declining. D&S IFCA challenges this and say that 86.28% is in favourable condition, as towed demersal gear is prohibited in these areas. Whilst D&S IFCA does not agree with the area of circalittoral rock in the open zones and has evidence to prove that the modelling of this habitat by Cefas is incorrect (see section 3 below) D&S IFCA believes that even using the area modelled that the condition assessment should reflect the fact that 86.28% of the feature is in favourable condition as it is not vulnerable to towed demersal fishing gear. If the principle of keeping the management measures (of the IPA) in place at designation was followed (as recommended) it could be assumed that the trawl zones fall outside of the sites conservation objectives and as stated in the Finding Sanctuary project Final Report parts of the seabed in the trawled zones should not be counted towards Ecological Network Guidance (ENG) targets.

Figure 4 shows the habitat map of the Skerries Bank and Surrounds MCZ and Figure 2 above shows the area and habitats together with part of the co-located IPA area under MMO's responsibility outside the 6nm limit.




**Error! Reference source not found.** of the site.

Natural England has provided advice to D&S IFCA on the Habitat Regulation Assessments and MCZ assessments undertaken for MPAs in the D&S IFCA's District.. Whist for the IFCAs this has been undertaken on a site-by-site bases this has not been the case for the MMO in their assessments for the 42 sites covered by the proposed Stage 3 Byelaws. For Lundy SAC the advice from Natural England, following D&S IFCA's assessment of the interaction of towed demersal gear (trawls and dredges) on the sand and coarse sediment in the site, was to introduce a Monitoring and Control Plan to assess fishing activity and uncertainties regarding the level of activity in the site. D&S IFCA developed a Monitoring and Control Plan and has been reviewing it on an annual basis. For the Bideford to Foreland Point MCZ, D&S IFCA undertook an MCZ assessment on the interaction between towed demersal gear on the subtidal sediments (coarse sediment, mixed sediment and sand) within the site and concluded that towed demersal gear is unlikely to have a significant impact on the sediment feature of the site and therefor will not hinder the achievement of the conservation objectives. Natural England agreed with this conclusion in their formal advice.

D&S IFCA would suggest that rather than introducing formal management of towed demersal fishing in the Skerries Bank and Surrounds MCZ that potentially a Monitoring and Control Plan could be developed which would greatly improve the level of evidence on the fishing activity (which has been discussed under point 4 below), allow for further evidence to be gathered on the impact of the fishing activity and whether Measures of Equal Environmental Benefit could be introduced (as discussed under point 5 below).

### *3. Interaction: Demersal Towed Gear on Rock and Coarse Sediment.*

Currently much of the Skerries Bank and Surrounds MCZ is permanently closed to demersal towed gear. This was originally introduced under the IPA which placed restrictions both spatially and temporally on the site. The area within 6nm is now co-managed under the D&S IFCA Mobile Fishing Permit Byelaw Permit Conditions and the MMO Licence Variation. The total area of the MCZ is 249.24km$^2$ (inside and outside the 6nm) and 85.76% of this is closed all year to demersal towed gear, including trawls and dredges. The remaining 14.24% of the site has access to demersal towed gear during restricted times, which differs for each Zone/Area: Zone 3/Area B is open for three months from 1$^{st}$ January to 31$^{st}$ March (inclusive) and represents 9.03% of the total site. The Corridor/Area C is open for one month from the 1$^{st}$ March to 31$^{st}$ March (inclusive) and represents 1.69% of the site. Zone 4/Area D is open for seven months from the 1$^{st}$ February to 31$^{st}$ August (inclusive) (to trawling) and 1$^{st}$ February to 30$^{th}$ June to (scallop dredging) and represents 3.52% of the site.

The MMO states that area of the site under their responsibility, outside the 6nm boundary, is 11km$^2$. This makes up 4.42% of the site of which 4km$^2$ is already closed to demersal mobile fishing gear all year under the IPA management and commercial fishing licence condition. Therefore, the additional area that the MMO is proposing to close to demersal fishing gear is 7km$^2$ or 2.8% of the site. As mentioned under Concern 1 above, the closing of such a small part of the site will undermine 50 years of IPA management (which is a highly acclaimed management system) with minimal environmental benefit.

From the 2023 Natural England habitat data layers (created from Cefas surveys), D&S IFCA has calculated the amount of moderate energy circalittoral rock present in the whole MCZ to be 3.60km$^2$. The area of moderate energy circalittoral rock, within the area outside the 6nm under MMO's responsibility that is towed for three months of the year, is 0.132km$^2$, equating to 3.67% of the MCZ's rock feature.

D&S IFCA has already described several reasons why the area under the MMO's responsibility should not be closed to demersal towed gear. An additional reason is the lack of confidence that D&S IFCA has in the habitat maps used by Natural England. Broad scale habitat maps for the site were produced by Cefas, using modelled data, a majority of which were calculated from bathymetry records, and where available, backscatter data, with grab

and drop-down video (DDV) surveys producing video and stills being carried out for verification. For the rock features in the access areas, the habitat map has been derived from acoustic data and there was no evidence of rock on the video or stills from the verification survey (Curtis *et al*, 2015).

D&S IFCA has concerns on the accuracy of the modelled feature map for the moderate energy circalittoral rock that is used within Natural England's Conservation Advice Package as the verification surveys contradict the presence and extent of this feature. Within the access area of Zone 3 of the IPA where most of the exposure can occur for three months of the year, the map was produced with acoustic data only (without backscatter data) using modelling techniques to predict the distribution of the broad scale habitats. However, the ground truthing survey data from stills and videos showed no evidence of the presence of rock in this area which contradicts the modelled data. Of the 185 video and stills stations across the entire site, rock was only seen in four stations, all within the closed area, with coarse sediment and mixed sediments being the dominate habitat types. Therefore, the modelled data does not reflect the verification surveys carried out by video and stills, and the habitat modelling undertaken by Cefas has overestimated the rock feature (as no rock feature was identified in the verification surveys). Ocean Ecology Ltd reanalysed the data produced by Cefas and confirmed that no rock was present within Zone 3 of the IPA (including the area outside the 6nm). Another point that verifies the inaccuracies in the modelled data was highlighted when the circalittoral rock modelled by Cefas is mapped on a background of the UKHO Chart and all the wrecks marked on the chart are identified as reef by the habitat modelling. In conclusion from the points raised above, D&S IFCA does not regard the Cefas data as the best available evidence and the habitat maps do not reflect the actual extent and location of the designated features.

The total area of coarse sediment across the site is 94.46km$^2$. Currently 18.89km$^2$ is temporally open to towed demersal gear (see Figure 5) meaning that 75.57% is protected from towed demersal gear. The area of coarse sediment in the area under MMO's responsibility from the 2023 Natural England's habitat data is 2.99km$^2$. Therefore, the amount of coarse sediment in the area outside the 6nm is 3.16% of the total area of coarse sediment within the Skerries Bank and Surrounds MCZ. Of the 2.99km$^2$ of coarse sediment outside the 6nm 2.18km$^2$ is within the area open to demersal towed gear which equates to 2.30% of the total coarse sediment habitat in the site. As mentioned under Concern 1 above, the closing of such a small part of the site will undermine 50 years of IPA management (which is a highly acclaimed management system) with minimal environmental benefit.

D&S IFCA undertook at assessment of the impact of towed demersal gear in the Skerries Bank and Surrounds MCZ. D&S IFCA used all the evidence available to it and concluded '*that that the general management approach of maintain in favourable condition for sub-tidal sand and sub-tidal coarse sediment will be met and that the activity will not hinder the conservation objective targets of maintain for the features and their attributes'.* This assessment was undertaken before Natural England undertook the fast-tracked Condition Assessment where the conservation objective was changed. D&S IFCA has already discussed its concerns and disagreement with the change in the Condition Assessment.

The following evidence was used to inform D&S IFCA's MCZ assessment on the interaction of towed demersal gear on coarse sediment. The current available evidence for impacts of trawling on subtidal sediment focuses on subtidal sand, with very few studies considering the effect on subtidal coarse sediments. Additionally, much of the literature has focussed on scallop dredging and beam trawling rather than otter trawling. Therefore, the best available evidence was used throughout the assessment.

The most widespread subtidal coarse sediment biotope of the site is A5.142 *'Mediomastis fragilis, Lumbrineris spp* and venerid bivalves in circalittoral coarse sand and gravel'. This biotope appears to dominate the offshore areas of the site and the central part south of Start Point. The second most widespread was A5.145 *'Branchiostoma lanceolatum* in circalittoral coarse sand with shell gravel', found mostly in the southern part of the site alongside A5.142. A5.135 *Glycera lapidum* in impoverished infralittoral mobile gravel and sand (Natural England, 2021).

Gilkinson *et al* (1998) simulated the physical interaction of otter trawl doors on sand with infaunal bivalves present, in a laboratory test tank. They demonstrated that smaller body-sized fauna were less susceptible to physical damage, as they are pushed aside with fluidized sediments generated by the pressure wave which occurs in front of the moving trawl. However, all bivalves were seen to be displaced with many ending up in the berm created by the trawl, this could leave them susceptible to predation. The majority of the infauna in the biotope is likely to be able to rebury following the displacement (Rayment, 2001). Venerid bivalves are present within the subtidal coarse sediment of the MCZ.

Rayment (2001) undertook a sensitivity study of Venerid bivalves in circalittoral coarse sand and gravel and found the biotope has an intermediate intolerance to abrasion, physical disturbance and displacement, with a high recoverability rate. It was found that there would be no change to species richness due to abrasion and physical disturbance, and a minor decline due to displacement of tube worms.

A more recent sensitivity study has been carried out by Tillin (2016) on the habitat A5.142 *'Mediomastis fragilis, Lumbrineris spp* and venerid bivalves in circalittoral coarse sand and gravel'. When considering the pressure; Abrasion/disturbance of the surface of the substratum or seabed, the overall sensitivity was concluded to be low. This was concluded from combining the resistance which was classed as medium and the resilience which came out as high, which is full recovery within 2 years. The same conclusions were drawn when considering the pressure, penetration or disturbance of the substratum subsurface. The trawling studies reviewed by Tillin (2016) when considering the latter pressure suggested that the biological assemblage present is characterised by species that are relatively tolerant of penetration and disturbance of the sediments. Either species are robust or buried within sediments or are adapted to habitats with frequent disturbance and recover quickly. The second most dominate habitat is A5.145 *'Branchiostoma lanceolatum* in circalittoral coarse sand with shell gravel'. When looking at the pressure ‘abrasion/disturbance’ for this habitat the sensitivity was assessed as low. This is due to this ecological group generally being buried within the sediment and being provided with some protection. The resilience is thought to be high as damaged individuals can repair, and due to inward migration by adults from adjacent populations and recolonization by larvae (Tillin, 2016).

A review of experimental studies of the impact of towed fishing gears on benthic communities found that furrows and berms created by the trawl doors are the most conspicuous physical impact caused by otter trawls on soft sediments, creating an irregular bottom topography (Løkkeborg 2005). The area disturbed by the trawl doors comprises only a small proportion of the total area swept by the trawl. Because no or only faint marks are created by the other parts of an otter trawl, the physical impacts on the seabed are likely to be marginal in most otter trawl fisheries. The consequences of physical disturbance of the seabed topography for benthic community structure are poorly understood and have not been investigated greatly. Løkkeborg (2005) noted that, with the available evidence, when considering the biological impacts of otter trawls, it is difficult to attribute changes in the benthic community to fishing effort at a spatial scale that is representative of commercial fishing activities. Only subtle

effects from otter trawls were demonstrated on soft bottom habitats without tall sessile invertebrates, and impacts were less pronounced on mobile sediments due to the high levels of natural disturbance which makes them better adapted to general disturbance (Løkkeborg, 2005).

Using a commercial whitefish beam trawl, Kaiser *et al*. (1998), undertook a study to examine the immediate effect of beam trawling on stable sediments with rich fauna, and mobile sediments with fewer fauna. The study aimed to fish each of six-way lines 10 or 20 times however, due to weather conditions this was only possible for three of the way lines. Therefore, the analysis only considered the main trawling effect, and not the effect of fishing intensity. With regards to the infauna, it was found that in a shallow water area (approx. 30m), with high energy sand there was no detectable effect on benthic infauna 24 hours after fishing. This was attributed to the associated fauna being adapted to frequent natural disturbances Kaiser *et al*. (1998). Whilst this research related to beam trawls, otter trawls are seen as having a lower impact than beam trawls (Hall *et al*, 2008).

Kaiser *et al* (2006), carried out a meta-analysis of 101 different fishing impact manipulations. They found no detectable initial impact from otter trawling on communities in sand habitats, whether examined by total number of species or individuals. Examining deposit feeders and suspension feeders separately, similarly, showed no detectable impact.

The response of a benthic community to trawling will depend on the pre-fished composition of the community. This composition is largely affected by the degree of natural disturbance, due to the currents, waves or storms. Natural disturbance may erode seabed sediment, cause re-suspension of organic matter and may affect settlement of new recruits. Such effects promote species that are adapted to natural disturbance (Denderen *et al*, 2015). Denderen *et al* (2015) used a biological trait approach to assess the effects of trawling and natural disturbance on benthic community composition and function. The results confirm their hypothesis that bottom trawling and natural disturbance have comparable effects on benthic communities and that trawl disturbance has a limited additional effect on the benthic ecosystem in areas exposed to high shear stress compared to areas exposed to low shear stress.

Blyth *et al*. (2004) investigated the large-scale chronic impacts of towed fishing gear using the Inshore Potting Agreement (IPA) in South Devon as a case study area. The study found that occasional trawling disturbance may enhance species richness because of opportunities for slower developing species to become established in addition to the fastest colonizers. The results from the study showed that the benthic communities found at the seasonal sites were nearly the same as found at the trawled sites, only the biomass of the attached community was greater at the seasonal site.

Ocean Ecology Ltd (2015) were commissioned by D&S IFCA to undertake analysis of 112 minutes of video footage and 160 still images of the seabed collected by Cefas in January 2014 across the Skerries Bank and Surrounds (SBS) MCZ. The objective was to compare a subset of the footage collected from two area within the SBS MCZ exhibiting similar seabed substrate type (mostly coarse sediment), one of which is closed to demersal towed gear all year (Area 2) and the other open between 1st January and 31st March each year (Zone 3/Area B). This was to determine whether there were any high-level differences between the two areas that may be attributable to or exacerbated by demersal fishing activities. A total of three broad-scale habitats were identified across the survey area with most stations being characterised as Subtidal Coarse Sediment (A5.1). While both areas being compared were largely dominated by coarse sediments there were some subtle differences in the proportions of particle sizes that could potentially be indicative of alterations to the substrate surface attributable to the use of mobile gears in Zone 3. In general, the sediments identified across

Area 2 were constituted by greater proportions of gravel (boulders, cobbles, pebbles, shell and granules) than Zone 3. In contrast Zone 3 (Area B) had a greater proportion of sand and mud. These findings might suggest that fishing activity in Zone may be either removing or displacing coarser sediments. It should however be noted that without consideration of previous 'baseline' data the effect of natural spatial variability cannot be excluded as a possible explanation for the difference observed. Epifaunal diversity was relatively low across the two areas in comparison to the rest of the Skerries Bank and Surrounds MCZ. This is thought to reflect the dominance of homogenous coarse sediments recorded throughout the area as well as the sparse occurrence of bedrock and stony reef areas that support diverse epifaunal assemblages nearby. Whilst there were differences in the diversity of epifauna identified between the two areas, these were not statistically different. However, taxa known to demonstrate moderate to high sensitivities to the physical disturbance occurred more frequently in Area 2 than compared to Zone 3 whilst high sensitivity taxa were entirely absent from the video and stills footage collected across Zone 3. The high and moderate sensitivity taxa identified were mostly sedentary species commonly associated with coarser substrates (pebbles, cobbles and boulders). Therefore, whilst the results suggest that fishing activity may be having a detrimental impact on some particularly sensitive species, the effect of natural spatial variability in sediments (particularly pebbles and cobbles) cannot be excluded as a possible explanation for the differences observed . It must also be noted that the two highly sensitive taxa recorded (erect sponges), were not widespread across Area 2 and were only recorded at in two locations.

A key point to reiterate is that the evidence, provided in D&S IFCA's Skerries Bank and Surrounds MCZ assessment of towed demersal gear on coarse sediment, suggests there may be some recovery of the habitat and species during the closed seasons in Zone 3. Whilst this may not indicate full recovery, there is evidence that some species and communities will recover, and it is difficult to discern whether natural spatial variation in sediments and other environmental factors may be limiting recovery in these areas (Ocean Ecology, 2015). Ocean Ecology also pointed out without consideration of previous 'baseline' data the effect of natural spatial variability cannot be excluded as a possible explanation for the difference observed in Area 2 and Zone 3. Epifaunal diversity was relatively low across the two areas in comparison to the rest of the Skerries Bank and Surrounds MCZ. Whilst there was difference in the diversity of epifauna identified between the two areas, these were not statistically different.

On page 15 of Natural England's Condition Assessment summary, it states that: 'Expert judgement applied to conclude that the target has not been met, as the subtidal coarse sediment is subject to demersal gear and the anthropogenic activities associated with this area have the ability to reduce biomass and recolonisation of species'. D&S IFCA would like to understand how the objective has not been met as stated in the assessment but was met when the site was designated with the full knowledge of the activity taking place. As stated in the Marine Conservation Zones Designation Explanatory Note (2013 S.4) ) if the general management approach is 'maintain in favourable condition' this suggests 'it is currently in that state'. The towed demersal gear activities were considered when initially setting the management approach and conservation objectives. The temporally and spatially restricted demersal gear fishing activity in the three zones, where access is permitted during a few months of the year, has been managed voluntarily since the 1970s and formally since the 1990s although trawling has taken place in the inshore area off Devon for hundreds of years. It is worth noting that in recent years fewer mobile gear vessels are currently permitted to operate in D&S IFCA's District.

As mentioned above only 7km$^2$ (2.8%) of the site outside the 6nm is still open to towed demersal fishing gear for three months of the year. The areas of moderate energy circalittoral rock and coarse sediment are small compared to the extent of these features inside the already closed areas across the MCZ. D&S IFCA therefore suggests that towed demersal gear is not prohibited by the MMO in the part of the site under their responsibility as it will undermine the IPA and in D&S IFCA' opinion will not hinder the achievement of conservation objectives. Any changes in management may lead to an increase in infringements in the site due to further restrictions on the mobile gear fleet, whilst providing little ecological benefit other than to box tick that MPAs are protected from bottomed towed gear. The prohibitions suggested under the Stage 3 MMO Byelaw appear to be moving towards the whole site approach without any direction from Defra to implement it and any formal recognition of this change in approach to management.

The MMO's proposal to close the small area to demersal towed gear within the Skerries Bank and Surrounds MCZ appears to be trying to meet targets such as the UK's '30 by 30' commitment (protection of 30% of land and sea by 2030) and those under the Environmental Targets (MPAs) Regulations 2022 that require 70% of protected features in MPAs must be in favourable condition by 2042. D&S IFCA would argue that the areas within the Skerries Bank and Surrounds MCZ are currently well managed (meeting the 30 by 30 target) and that the areas currently protected from the impacts of bottom towed gear in the site will be in favourable condition (85.76% of the circalittoral rock feature and 75.57% of the coarse sediment feature) to meet the environmental targets of 70% of protected features in MPAs being in favourable condition. D&S IFCA suggest that the condition assessment should be reviewed to reflect the condition (or vulnerability) of the areas within the site that are protected from towed demersal gear.

## *4. Assessment of Towed Demersal Fishing Activity*

D&S IFCA has reviewed the evidence provided by the MMO on the level of fishing activity in the MMO's portion of the Skerries Bank and Surrounds MCZ. D&S IFCA is concerned that the evidence provided is not accurate and has largely overestimated the level of towed demersal fishing in the Zone 3 part of the MMO's area of responsibility.

D&S IFCA has IVMS and VMS data from all its Mobile Fishing Permit holders for 2019. From these data it can be seen that, for 2019, there were 34 VMS and IVMS pings made by six D&S IFCA Mobile Fishing Permit Holders (Figure 5 and Table 8) in the MMO's portion of the Skerries Bank and Surrounds MCZ that lies in the seasonally opened Zone 3 of the IPA area.. D&S IFCA discerns fishing as speed between 2-4 knots as it is unlikely that vessels will be trawling or dredging at speeds less or greater than this range. The MMO uses speeds of 0-6 knots which is very likely to overestimate the level of fishing activity by towed demersal fishing vessels. Of these six vessels only four had more than one IVMS/VMS ping in the MMO's portion of the site. Table 8 shows the number of pings by the vessels recorded. The vessel sizes are also given in this table. As can be seen five out of six of the vessels were over 12m and their activity would have been recorded in the MMO's data in Table A1.1 of the MMO Stage 3 Site Assessment for Skerries Banks and Surrounds MPA. From the data the MMO used to access fishing activity, the number of pings for 2019 were 29 for the over 12m vessels which is very similar to the those recorded by D&S IFCA, which was 28 pings for the over 12m D&S IFCA Mobile Fishing Permitted vessels. D&S IFCA does not regard this as a high level of activity and not significant enough to warrant a prohibition of demersal towed gear in the site.

In Zone 3 within the 6nm it is clear that the towed demersal gear activity is greater than in the MMO's part of Zone 3. The reason for the lower activity is likely due to the wreck of a Brixham

trawler ‘FV Tenetje’ which lies in the MMO’s portion of Zone 3 and whose debris is spread across a wide area limiting demersal towed gear activity especially for the vessels less than 12m . D&S IFCA does not agree that the level of demersal towed gear is high enough to cause a significant impact to the coarse sediment habitat. The level of activity of the under 12m fleet is very low and this is supported by the estimated annual average of landings from towed demersal gear (1.91 tonnes for otter trawlers; 0.10 tonnes for beam trawlers and 0.7 tonnes for scallop dredgers - taken from Table A1.5 MMO Stage 3 Site Assessment Skerries Bank and Surrounds MPA)). The Webbs app data showing the Swept Area Ratio supports this. The Swept Area Ratio which shows the subsurface Swept Area Ratio for all bottom towed gear is less that 1and for most of the MMO’s portion of the site to be less than 0.5. This is much lower than the surrounding area outside the site.

In Figure 5 it can be seen that there are more IVMS/VMS to the west in the yellow are which are pings from potting vessels that occasionally trawl (although not during 2019 and not necessarily in the Skerries Bank and Surrounds MCZ) and therefore have Mobile Fishing Permits from D&S IFCA.

All the evidence provided by D&S IFCA indicates that the level of demersal towed fishing vessels operating in the part of the Skerries Bank and Surrounds MCZ outside the 6nm is very low and its proposed prohibition by the MMO is disproportionate and not appropriate especially when considering all the other point D&S IFCA has made above. D&S IFCA does not agree or support this approach.

Table 8 - IVMS and VMS Pings in MMO’s Portion of IPA Zone 3 Skerries Bank and Surrounds MCZ

| Vessel | Number of days | Vessel Size | Number of pings per day |
|---|---|---|---|
| Vessel 1 | 7 | >12m | One day-6 pings; one day-2 pings; five days-1 ping per day |
| Vessel 2 | 1 | >12m | One day-5 pings |
| Vessel 3 | 6 | >12m | Four days-1 ping per day; two days-2 pings per day. |
| Vessel 4 | 3 | <12m | One day-1 ping; 1 day-2 pings; 1 day-3 pings |
| Vessel 5 | 1 | >12m | I day-1 ping |
| Vessel 6 | 1 | >12m | 1 day-1 ping |

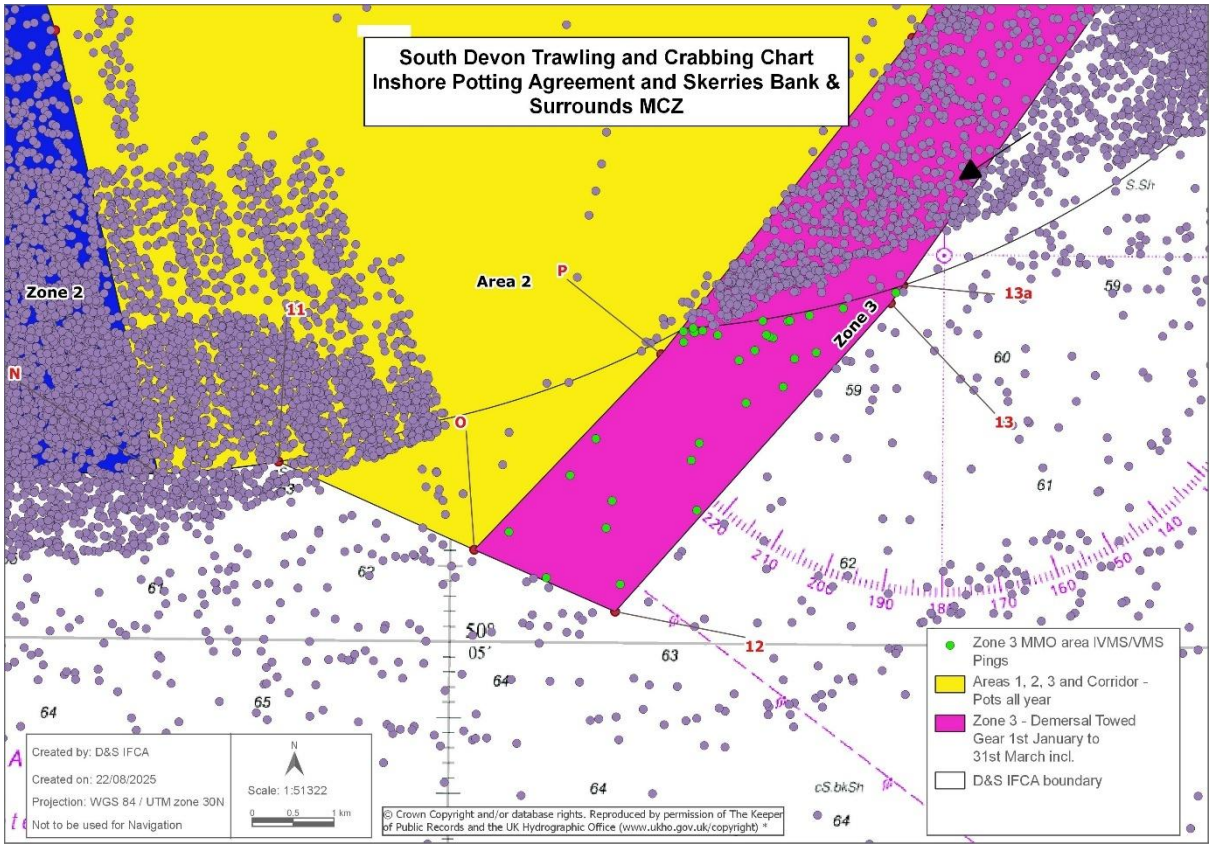



Figure 5 - IVMS and VMS Pings for 2019 for D&S IFCA Mobile Fishing Permit Holders operating in the MMO's Portion of Zone 3 of the IPA area in the Skerries Banks and Surrounds MCZ

## 5. Measures of Equal Environmental Benefit

D&S IFCA is considering applying Measures of Equal Environmental Benefit (MEEB) and is developing a Notice of a Proposed MCZ Assessment Authorisation for MEEB for the Skerries Bank and Surrounds MCZ. In March 2024, D&S IFCA wrote to Jen Ashworth of Defra outlining its considerations regarding the management of the Skerries Bank and Surrounds MCZ and how MEEB might be applied to allow the continuation of the demersal towed gear activity in the seasonally opened zones in the MCZ and outlining proposal for compensatory habitat within the SPPSE SAC. Extracts from the letter are below:

*D&S IFCA believes that maintenance of the IPA management is essential and supports the mechanism that has been in place since the Licence Condition was introduced in 2002. The Licence Condition and D&S IFCA Mobile Fishing Permit Conditions, which reflect the IPA management measures inside the 6nm, has maintained the conflict resolution system that allows for large areas of potting and supports one of the largest crab fisheries in England whilst allowing some temporal access to bottomed towed gear. The IPA is an international acclaimed conflict resolution system. Degradation of the IPA management regime by changes to previously agreed arrangements, which were supported by those involved in the designation of the site, undermines confidence and may lead to further conflict between sectors and infringements to the already protected areas of the site. D&S IFCA appreciates that policy changes have arisen out of the 25 Year Environment Plan, Environment Improvement Plan 2023, Environment Act 2021 and Environmental Targets (Marine Protected Areas) Regulation 2022 and that targets have been set for achieving conservation goals including the requirement that at least 70% of protected features in MPAs are to be in a favourable condition by 31 December 2042, with the remaining features to be in a recovering condition.. However,*

*D&S IFCA believes that there may be a solution that would allow maintenance of the IPA management regime and continue protection of the areas already closed in the Skerries Bank and Surrounds and Start Point to Plymouth Sound and Eddystone SAC, which may help to achieve these targets, whilst supporting the inshore fisheries.*

*D&S IFCA has been in discussion, at a national level with Natural England, about the potential application of the principle of Measures of Equal Environmental Benefit (MEEB), which can be applied as compensatory measure in relation to MPAs. D&S IFCA appreciates this has not yet been applied to UK fisheries in MPAs, but it has a proposal that will benefit the environment, its biodiversity, natural capital and ecosystem services, and achieve the environmental targets. D&S IFCA believes that Defra's Guidance on MEEB and compensatory measures applies to both MCZs and SACs. As previously mentioned a large proportion of the Start Point to Plymouth Sound and Eddystone SAC (SPPSE SAC) lies within D&S IFCA District and within the IPA area. In 2018 D&S IFCA introduced the requirement to have fully operational IVMS devices installed on vessels using mobile fishing gear in its District. D&S IFCA has the largest mobile fishing fleet inside the 6nm in England and has 22 MPAs. Having the ability to monitor compliance of D&S IFCA's prohibition of bottom towed gear in MPAs that have been introduced inside the 6nm since 2014, has been key to significantly improving the protection of MPAs. However, when D&S IFCA introduced its prohibition of bottom towed gear in MPAs to protect sensitive habitats such as reef within the SPPSE SAC, it closed larger areas, under precaution, as it did not have confidence, at the time, without IVMS on the bottom towed gear vessels, to protect these features. D&S IFCA has maintained that, if technology allows, some areas could be reopened to bottom towed gear fishing vessels.*

*Approximately 50% of the SPPSE SAC is designated reef habitat whilst the rest is sediment, which is not currently a designated habitat.. Therefore, large areas of coarse sediment have been protected within the SPPSE SAC as well as reef, through the existence of the IPA prior to the cSAC designation in 2011 Areas, which have the potential for reopening in the SAC, have course sediment present. A recent video survey of an area inside the SAC south of Salcombe (known as the Triangle) which has been closed to demersal fishing gear for the past 10 years, shows recovered coarse sediment. This area and potentially three others which have also been closed for 10 years and therefore are fully recovered from the impacts of bottom towed gear, may be considered for potential reopening to D&S IFCA's mobile gear fleet. A document attached to this letter shows that the areas of the Skerries Banks and Surrounds MCZ that are seasonally open to bottom towed gear are equivalent to the areas of sediment in the SPPSE SAC that could be reopened and subjected to the impact of bottom towed gear.*

*D&S IFCA believes that maintaining the closed areas in the SPPSE SAC would offset the maintenance of the three seasonally trawled zones in the Skerries Bank and Surrounds MCZ. This would provide equivalent habitats and therefore meet the MEEB principle/guidance and environmental targets. The coarse sediment in the SPPSE SAC has been afforded protection for 10 years and will therefore be in much better condition than the zones in the MCZ, which themselves will likely take years to recover. Having this ability to have equal habitat areas maintained in favourable condition and allowing the maintenance of the IPA management regime achieves success both for the fishing industry and the environment. D&S IFCA appreciates the coarse sediment/ sand in the SPPSE SAC is not a designated habitat, but it could be designated or at least recognised for its equal environmental benefit, natural capital and ecosystems services. Breaking down the IPA regime will likely lead to displacement of bottom towed gear, displacement of static gear from the SPPSE SAC if areas are reopened to bottom towed gear, increased conflict between the sectors which the IPA has been fundamental in reducing, increase in infringements by bottom towed gear vessels in the MPAs and potential damage to the sensitive reef habitats.*

*D&S IFCA considers that these MEEB achieve the environment targets and will be supported by the fishing sectors as well the NGOs, who have raised concerns about reopening areas that have been closed to bottom towed fishing gear for such a long period of time. By developing MEEB to maintain the trawling zones in the Skerries Bank and Surrounds MCZ and continue the protection afforded to the sediment in the SPPSE SAC, D&S IFCA believes that S.126(7) MaCAA would be met. D&S IFCA wanted to draw you attention to the issue, as detailed above, and progress further discussions with yourself and Natural England and develop an appropriate course of action.*

D&S IFCA would be keen to continue to discuss and complete the drafting of the Notice for Authorisation and would be happy to work with the MMO to develop this to include the areas within the MMO's responsibility. The areas under consideration are shown in Table 8 below and include those for the MMO's area outside the 6nm.

Table 8 Information for the Skerries Bank & Surrounds/ SPPSE MPAs – Coarse Sediment Habitat

| **MPA** | **IPA Zone/D&S IFCA Byelaw Annexes within MPAs** | **Potential areas to be opened under D&S IFC's Permit conditions** | **Area km$^2$** | **Area of Coarse Sediment /Sand km$^2$** | **Area of Coarse sediment Km$^2$** | **Area of Sand km$^2$** |
|---|---|---|---|---|---|---|
| Skerries Bank & Surrounds MCZ | Zone 3 (Annex 5a Area B) | | 22.517 | 12.371 | 11.899 | 0.472 |
| Skerries Bank & Surrounds MCZ | Corridor (Annex 5a Area C) | | 4.212 | 3.385 | 3.342 | 0.043 |
| Skerries Bank & Surrounds MCZ | Zone 4 (Annex 5a Areas D) | | 8.772 | 1.625 | 0.471 | 0.154 |
| **Totals IFCA** | | | | **17.381** | **16.712** | **0.669** |
| Skerries Bank & Surrounds MCZ | MMO area inside Zone 3 | | 7 | 2.306 | 2.177 | 0.129 |
| **Totals IFCA and MMO (in zones)** | | | | **19.687** | **18.889** | **0.798** |
| SPPSE SAC | | Top of Zone 2 Triangle | 5.603 | 5.603 | | |
| SPPSE SAC | | Between Area 1 and Area 2 | 8.106 | 8.106 | | |
| SPPSE SAC | | Below Area 1 | 1.352 | 1.352 | | |
| SPPSE SAC | | Pinnacles | 3.727 | 3.727 | | |
| **Total Potential Access Areas** | | | | **18.788** | | |

The application of MEEB and compensatory habits in the Skerries Banks and Surrounds MCZ and the SPPSE SAC may require the designation of coarse sediment in the SPPSE SAC. If the areas in the Skerries Bank and Surrounds MCZ that are seasonally open (under the IPA and D&S IFCA's Mobile Fishing Permit Conditions) to towed demersal gear are maintained including the MMO's area of responsibility, and the areas of coarse sediment (not currently designated) in the SPPSE SAC are kept closed to towed demersal gear (as they currently are) then the MPA network would have a similar area of coarse sediment and sand protected from the impacts of towed demersal gear. The coarse sediment areas within the SPPSE SAC highlighted in Table 5 have been closed to demersal towed gear for 11 years and therefore

would be in a fully recovered, favourable condition, and therefore meet the Environmental Targets previously mentioned.

## Summary of D&S IFCA's Reponses to the prohibition of Bottomed Towed Gear

D&S IFCA does not agree that towed demersal gear is prohibited from the MMO's portion of the Skerries Bank and Surrounds MCZ. D&SIFCA has detailed the many reasons why this prohibition within the Skerries Bank and Surrounds MCZ should not be included in the Western Channel and Southwest Marine Protected Areas Fishing Gear Byelaw 2024. D&S IFCA would be happy to meet with the MMO to discuss options for the site and the information provided in this response.

### *5. Prohibition on the Removal of Spiny Lobster, Palinurus elephas*

In 2017, D&S IFCA introduced a prohibition on the removal of spiny lobster in its part of the Skerries Banks and Surrounds MCZ. The level of catches within this part of the District and Devon, are very low compared to Cornwall and the Isles of Scilly and therefore D&S IFCA does not believe the prohibition of removal in the part of the site outside the 6nm will have a significant impact of the fishing industry nor on the feature itself. D&S IFCA mostly supports the proposal to prohibit the removal of spiny lobster by all gear types in the portion of the site under the MMO's responsibility. However, D&S IFCA does not believe that the MMO's section of the site has suitable habitats for large populations of spiny lobster as it is coarse sediment and would not be suitable as their preference is for rocky reef features. D&S IFCA has reviewed the data in the DMA relating to landings of spiny lobster in the Skerries Bank and Surrounds MCZ (table 19 p. 73). The figures for the landings are said to be in £1,000s (Annex 1 table and figures p.64). These data show annual average landings at a value of £12,170 for under 12m and £4,100 for over 12m vessels. D&S IFCA does not agree with these figures. for landings in the MMO's part of the site. These seem to be a large overestimation of landings and value from a small area within the ICES rectangle. The MMO's use of estimates of the proportion of an ICES rectangle makes the figures almost meaningless. D&S IFCA has looked at the data provided by MMO to D&S IFCA on crawfish landings and these values do not match those in Table 19. D&S IFCA would add that there should be caution used when looking at the whole sub-rectangle and then calculating landing on a proportion of that rectangle that the site area represents. The figures that MMO has used will include vivier vessels and large beamers that operate in Area 7e but do not fish in the proportion of the Skerries Bank and Surrounds MCZ. There is not a dedicated spiny lobster fishery in coastal waters of Devon, rather that some may be caught occasionally in nets. D&S IFCA does not believe that netting for spiny lobster takes place in this part of the site (due to depth, tides and lack of suitable habitat) which is backed up by the VMS report density data for static gear.

D&S IFCA would whether there is any baseline data that can be used to demonstrate when the spiny lobster feature has recovered. D&S IFCA would also point out that this area is probably close to the spiny lobster distribution limit. D&S IFCA would like to understand how the MMO will enforce the proposed restriction over such a small area of seabed.

D&S IFCA does not agree that a buffer is required as spiny lobster are a mobile species and creating a buffer will further impacts fishing activities outside the boundary of the site unnecessarily.

## D. MMO De-Minimis Assessment: Marine Protected Areas Fishing Gears Byelaw, and Compliance and Enforcement

In 2018, D&S IFCA introduced a requirement for all mobile gear vessels between 6.99m and 15.25m operating in its District to have a fully functioning IVMS device on board. D&S IFCA has over 120 mobile gear vessels operating in its District and has an extensive network of MPAs where fishing with demersal towed gear is prohibited.

Prior to 2018, D&S IFCA's monitoring of mobile fishing activity in MPAs was undertaken using a 21-metre patrol vessel and 6.4 metre Rigid Inflatable Boat. The effectiveness of the at sea monitoring was poor with approximately 5% of reported towed gear vessel incursions into MPAs resulting in sufficient evidence to dispose of the case by prosecution or financial administrative penalty. Since 2018, using spatial evidence available from VMS, AIS and IVMS devices, D&S IFCA has increased its ability to reach the evidential threshold to either prosecute or issue a financial administrative penalty in approximately 50% of investigations. D&S IFCA has only lost one case (2016) where VMS data, at ten-minute reporting, was used as key evidence.

D&S IFCA has determined the increase in its ability to successfully identify illegal incursions into MPAs by using the fishermen's reported loss of static gear within MPAs. It is however likely that further incursions into the MPA network are not being reported, so the full extent of illegal activity is not known.

Data provided by the MMO to D&S IFCA in 2023, indicates that successful investigations by the MMO are being achieved at levels similar to those reported by D&S IFCA prior to 2018.

The DMA suggest that the MMO's initial monitoring strategy will be based on the assumption that an offshore fisheries patrol vessel will visit on average one MPA a week. Given that there are 42 offshore MPAs, this will mean on average that each MPA will receive just over one visit by a patrol vessel each year. The costings set out in the DMA are not easy to understand but seem significantly below what D&S IFCA believes to be the daily chartering costs for an Offshore Patrol Vessel. If the total figure of £304,153 is correct it suggests that the patrol vessel will not spend the entire day on site, reducing further the effectiveness of using patrol vessels to monitor activity.

In D&S IFCA's opinion, the use of large patrol vessels is now rather outdated, ineffective and expensive compared to remote monitoring. These offshore patrol vessels will not be able to adequately patrol and monitor compliance in all the MPAs located in English waters.

D&S IFCA's recent experience has shown that incursions into MPAs, identified through IVMS, VMS and AIS have occurred when the MMO's chartered offshore patrol vessels are not present. The regular transmission of AIS from the Offshore Patrol Vessels mean that they are only effective as a deterrent in the immediate areas of their patrol. In one example, D&S IFCA has track data that shows a vessel illegally scallop dredging in an offshore MPA for 36 hours and only stops fishing and leaves two to three hours before the Offshore Patrol Vessel arrives.

Through D&S IFCA's experience over the last seven years of remotely monitoring towed gear vessels, it can only conclude that the MMO's proposed monitoring strategy is not going to provide effective protection and the MPAs and the sites will remain MDAs (Marine Designated Areas). Significantly increasing the level of patrols, at great cost, will still not achieve sufficient levels of monitoring. At a recent webinar on the Stage 3 MMO byelaws, the MMO stated that

there was high compliance with the Stage 1 and Stage 2 MPA byelaws. D&S IFCA would wish to understand what evidence the MMO has to substantiate their claim

In the short-term, MMO and Defra should look at increasing the VMS reporting rate of over 12 metre vessels from the current two-hour reporting requirement to at least ten minutes and three minutes when operating in the vicinity of MPAs. This would be possible by creating geofences that trigger different reporting rates. Currently mobile gear vessels over 12 metres in length transmit VMS data at these higher intervals whilst operating in D&S IFCA's District. To avoid costly transmissions over satellite networks, the positional data can be stored on the devices and forwarded when in 4G coverage. Vessels undertaking trips that exceed the tracking device storage capacity can store the data using on onboard, digital recording devices.

A recent investigation using AIS data by D&S IFCA identified that a French vessel fished for approximately 30 minutes in an MPA within its District but only transmitted one VMS position whilst in the closed area. At a fishing speed of four knots the vessel could have towed for approximately two nautical miles inside an MPA. In this case, the incursion was not so significant and the owners of the vessel whilst admitting fishing in the closed area were able to provide strong, documented mitigation and accepted a financial administrative penalty. This incursion took place whilst one of the offshore patrol vessels was sheltering from the weather approximately 30 miles away.

The above example demonstrates why the MMO should strictly enforce the legal requirements for fishing vessels over 15 metres to transmit AIS. D&S IFCA understands that the MMO regard AIS as primarily a tool for safe navigation and not for fisheries enforcement. In the absence of increased data from the VMS devices, it is essential that AIS data is used to monitor the activity of the over 15 metres fleet and used as evidence.

Defra and the MMO should prioritise the fitting of Remote Electronic Monitoring (REM) systems on all over 12 metre towed gear vessels. D&S IFCA has been trialling REM systems on up to six mobile gear vessels since 2022 and the results show that it is only through the introduction of REM that we will be able to achieve the level of effective monitoring that is required to protect the MPA network.

In the DMA it states:

*The estimated total net present social value across twenty years is expected to be £3.1 billion (2019 prices and 2020 present value).*

*The estimated monetised total cost to UK businesses over twenty years is expected to be £7.8 million (2019 Price Base and 2020 present value).*

*The equivalent annual net direct cost to business (EANDCB) is £530,000 (2019 Price Base and 2020 present value). These figures do not account for possible recouping of some value by fishers through displacement (for example fishing alternative grounds), or for potential downstream costs (for example to fish processors).*

The costs do not include the additional cost associated with fuel when vessels are displaced; the potential need to modify vessels or diversify (including new gear) to make up for loss of earnings from the fishing activity previously undertaken; the need to find new markets and transport costs to get to market and many other costs associated with being unable to fish traditional grounds and with established gear types. D&S IFCA does not believe that the costs quoted are accurate figures of what financial impact of the byelaws will have on the fishing industry.

The DMA goes on to summarise the value and costs for the Western Channel and Southwest Marine Protected Areas Fishing Gear Byelaw 2024:

*The estimated total net present social value across twenty years is expected to be £1.9 billion.*

*The estimated monetised total cost to UK businesses over twenty years is expected to be £4.8 million (2019 Price Base and 2020 Present Value). The equivalent annual net direct cost to business (EANDCB) is £330,000 (2019 Price Base and 2020 Present Value). This byelaw includes 20 MPAs, therefore covers the largest area and incurs the highest cost out of all four byelaws*

The MMO does recognise that the monetised costs do not include social costs associated with the prohibition of commercial fishing such as loss of jobs and wellbeing, which would include mental health impacts although this is not stated. Whilst the loss of jobs is mentioned there is no mention of the loss of businesses. D&S IFCA would challenge the figures for each site as they do not appear to reflect the financial cost that would be incurred by the industry with the introduction of the prohibition proposed in the Stage 3 MPA Byelaws.

D&S IFCA is concerned through the DMA that there is no consideration of subsidising the industry to cover the costs of the monetised impact of the Stage 3 MPA Byelaws. It would be interesting to do a comparison on how the Government would deal with removing all use of fossil fuels used in UK industry to meet the renewable energy policies without subsidising those companies that would have large financial impact. It would appear that as fishing is such a small part of UK GDR that there are no such considerations for the fishing industry.

D&S IFCA believes that the 'Familiarisation Costs' are totally underestimates and incorrect. The figures quoted only look at the reading of the Byelaws estimate at '108 minues per vessel'. This clearly does not include any reading of all the consultation documents and web pages for the proposed management measures for the Stage 3 MPAs consultation (which would easily be 10 times this figure) and also inputting co-ordinates into plotting systems on the fishing vessels.

D&S IFCA would question the social value and ecosystem benefits costs that have been attributed to the proposed management for each byelaw.. The figures shown in Table 10 (in the DMA) seem fairly unrealistic and all the services valued could not be applied to all the Stage 3 MPAs. It would be incorrect and disingenuous to suggest that each MPA would be able to provide all those services at the levels described.

The text on P.543 of the DMA states:

*"Using the areas calculated following the methodology outlined in **section 4.8.1** above, and the value per hectare shown in **Table 10**, a total potential economic benefit was calculated for each MPA, by multiplying the value per hectare for each ecosystem service by the total area where benefits could arise and summing across all ecosystem services. In doing this, it is assumed that economic benefits will arise when: (1) there has been disturbance from bottom towed gears in the area considered in the period 2016 to 2020, and (2) where the supply of the service is predicted to increase to full potential following implementation of the byelaw."*

D&S IFCA would like to see how each individual site has been assessed for its ecosystem services in relation to each of the services listed by Moran et al. (2008). D&S IFCA believes that care should be applied when looking at the value of the ecosystem services and how these values could be applied to the offshore MPAs. For example, Table 10 (p.54) of the DMA lists leisure and recreation at £309 per hectare per year (the highest ecosystem service being

4x higher that climate regulation). D&S IFCA has read in the text that scuba diving is used as an example of a recreational ecosystem benefit. Most of the sites (in particular in the South West) are deep sites where scuba diving is very unlikely to occur and many sites are a long distance offshore in a challenging marine environment where recreational angling is unlikely to take place. Therefore D&S IFCA would like to understand how these factors have been used to get a more accurate assessment of the monetise value of ecosystem services for each individual MPA. Tables 29 and 30 in the DMA do not provide information on the monetised benefits for each habitats in each site.

D&S IFCA has looked at the figures in Table 32. D&S IFCA finds the figures for sites that extend into its District unbelievable. £3,464,904 total benefit over 20 years is quoted for the Skerries Bank and Surrounds MCZ which is close to the total estimate cost over 20 years to the fishing industry for all sites and management measures under the proposed Western Channel and Southwest Protected Areas Fishing Gear Byelaw 2024. This seems implausible and unrealistic. It suggests that a small amount of towed gear (as discussed under the site information above) in just over half the area (7km$^2$) that is outside the 6nm (as the rest is potted only) is having such an impact that all benefit from these ecosystem services has been removed. It suggests that the habitats in this part of the MPA provide no ecosystem services currently, which of course is not the case and realistically this small area would never provide that level of ecosystem services. D&S IFCA cannot find the figures for each habitat in each MPA and the services they would provide which would give much greater transparency of the DMA. Without this information D&S IFCA would challenge the ecosystem and social benefit figures that are quoted in the DMA and used to justify the removal of commercial fishing opportunities when compared to the benefits.

Sarah Clark
Deputy Chief Officer

Mat Mander
Chief Officer

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