

DEVON & SEVERN
INSHORE FISHERIES AND CONSERVATION AUTHORITY

Minutes of the Byelaw and Permitting Sub Committee Meeting
Held on 15th May 2017 at Larkbeare House, Topsham Road, Exeter

Present: David Rowe (Chair) James Marsden
 Mike Williams David Morgan
 John May John Butterwith
 David Cuthbert Jim Portus
 Rachel Irish

Also Present: Mat Mander, Sarah Clark and Laura Bullock

Apologies: Simon Toms, Richard White, Stephen Gledhill

Introduction

The Chair began by clarifying that no Councillors were available for the meeting. Councillor Clarence had not stood for re-election and other Councillors were not available. With the run up to the general election, James Marsden indicated he might not be able to comment on certain matters. The Chair informed a member that as a Councillor was absent, the meeting was not quorate under the Authority's current Standing Orders and as such only recommendations to the full Authority could be made. The Chair told members that a full Authority meeting was four weeks away where recommendations would be considered and decisions would be made.

Mike Williams asked if the Sub-committee was required by Statutory Instrument to have a Councillor present to which DCO Mander explained it is a statutory duty to have a Councillor present for meetings of the full Authority but believed the same applied to the sub-committee through the adoption of the Authority's Standing Orders. Mike Williams suggested that the Authority should review the Standing Orders as the sub-committee is undermined by a lack of Councillors which is delaying the decision making process. James Marsden expressed concern that the sub-committee would remain thwarted if they carry on as they are, and that he had requested at least two Councillors join the sub-committee at the last meeting. John Butterwith asked for a Councillor from North Devon to join the sub-committee and full Authority; he had not seen one since the inception of the sub-committee and wanted to see one. James Marsden suggested submitting an attendance record of Councillors to the full Authority, with Mike Williams concurring that such a list would help reflect on a better method of governance to the sub-committee. A proposal was formulated as follows:

That the consideration of amending the Authority's Standing Orders be put on the agenda for the next Full Authority.

Proposed: Mike Williams Seconded: James Marsden

All agreed (7)

At this point in the meeting John May arrived.

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1. Minutes of the last meeting held on 16th February 2017

The Chair welcomed John May to the meeting and invited members to share their comments. Although generally satisfied with the previous minutes, spelling and formatting errors were highlighted. The draft minutes would be amended to reflect the comments raised. A proposal was formulated as follows:

That the minutes (amended) provide a true and accurate record

Proposed: Mike Williams Seconded: John Butterwith

All agreed (8)

2. Business Arising

The Chair asked DCO Mander to provide a verbal update on the Netting Permit Byelaw. DCO Mander explained that the Impact Assessment has been updated from the last Quarterly meeting prior to this meeting. The Impact Assessment along with all of the other relevant documentation, set out in the IFCA Byelaw Making Guidance, had been sent to the Marine Management Organisation (MMO) byelaw team for quality assurance of the process undertaken and assess the evidence gathered. DCO Mander explained that all the documentation would then be forwarded with the MMO's recommendation to the Secretary of State once they were appointed. David Rowe asked about a timescale and James Marsden said the election purdah did not affect the MMO operationally and that the sub-committee and full Authority should have an agreed service level from the MMO to ensure there was no delay and that the timescale was reasonable. DCO Mander agreed to contact the MMO to identify a completion date for the QA process and once an outcome is known DCO Mander agreed to email the group and provide an update so the Chair could update the full Authority.

The Chair then steered the focus of deliberations onto the emergency wrasse byelaw, which was discussed during the last meeting. Since the meeting, the CO Robbins had considered the recommendation for the emergency byelaw and had discussed this further with members of the sub-committee. On reflection, it was felt that after consultation and the implementation of changes to the permit conditions of the Potting permit byelaw, flexible management could be introduced for the live wrasse fishery, without needing to resort to an emergency byelaw. The Chair wished to express his thanks to members for understanding the decision despite lengthy discussions at the last meeting.

James Marsden and John May raised their concerns that the consultation on the wrasse proposals had not been as wide as it could have been, potentially raising the question whether the process, outlined in the Potting Permit Byelaw, had been fully met. John May stated that as a result of the change in direction from the byelaw process to the permitting procedure, the response was unbalanced and predictable from a commercial point of view with requests made for more additional gear (pots) and less closure to the fishery. John May also remarked that the organisations (contacted in the consultation) seemed generally in favour of

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allowing the fishery to proceed with caution under the strict management criteria's that D&S IFCA proposed and at the levels set out in the consultation. John May continued and reminded all members that wrasse were probably the most popular species (catch and release to the recreational angling sector) around the D&S IFCA coastline and there would be protests against the fishery and the lack of direct contact with this sector during the process. Members were advised that the proposed slot sizes (lower level) were below the minimum take sizes established for the species by the recreational angling sector.

Mike Williams believed that having reviewed the range of responses to the consultation, the process had captured a reasonable balance of information from those supportive of the fishery and those raising concerns. Mike Williams also recognised that it was better to consult more widely to avoid any opportunity to criticise or challenge the permit review process. A long discussion followed on reviewing the consultation communications policy and whether a consultee list was required to be submitted to the sub-committee. DCO Mander agreed it was safest to consult as widest as possible and James Marsden concurred consultations should be open to all rather than targeting a specific sector or sub-sector. DCO Clark pointed out the wrasse and towed gear reports were available to all via the website. DCOs Mander and Clark agreed to take a consultee list to the next sub-committee meeting for members' consideration. The list could then be reviewed to make the process more robust.

The Chair confirmed that there was an opportunity to continue to discuss this matter under Agenda item 5.

ACTIONS:

2i.	DCO Mander	to contact the MMO to identify a completion date for the Netting Permit Byelaw QA process and e-mail the sub-committee to provide an update so the Chair could update the full Authority.
2ii.	DCOs Mander and Clark	to produce a consultee list for the next sub-committee meeting for members consideration.

- 3 To consider the outcome of the consultation and the observations of the D&SIFCA survey program for the "live" wrasse pot fishery as set out in part 4 and part 5 of the Potting Permit Byelaw report (circulated by email) and consider changes to the proposed management measures:**

DCO Mander provided a brief overview of the wrasse fishery consultation. James Marsden commended the Environment Team, expressing his thanks as he was deeply impressed with the "Report for D&SIFCA Byelaw and Permitting Sub-Committee – May 2017" DCO Clark explained that Senior Officer Townsend collated most of the report and the credit must go to him.

The Chair then invited DCO Clark to update members on the wrasse consultation. Referring to part 4 of the document "Responses and Observations" DCO Clark confirmed 30 responses had been received and DSIFCA, CIFCA and SIFCA have held meetings together to discuss

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management of the wrasse fishery. DCO Clark explained that the neighbouring IFCA's were only going to introduce guidance in the first instance. James Marsden questioned whether the other IFCA's had adopted this position as they were not able to introduce management in the same way that DSIFCA could through permit conditions. Only SIFCA have written draft guidance, CIFCA's guidance is due later this week. James Marsden mentioned SIFCA had brought in spatial management measures consisting of No Take Zones to support scientific studies into the effects of the fishery on the wrasse populations. Discussions then centred on the feasibility of D&SIFCA bringing in a similar measure. DCO Clark agreed it had been considered and there was scope for No Take Zones around piers/ angling marks to reduce conflict with anglers and to create 'control' sites. Mike Williams believed that No Take Zones would need to be mandatory not voluntary then discussion continued about No Take Zones applying to all fishing sectors targeting wrasse. James Marsden described the ecological principles that underpinned the use of No Take Zones in this situation. DCO Mander said a solution for spatial management could be a trial of a tracking system, known to have been used by Exeter University, which could be fitted to all vessels operating wrasse pots.

ACTION:

3i.	DCO Clark & Environment Team	To look into the possibility of introducing spatial management measures in areas close to the live wrasse pot fishery and to trial the 'I've got you' tracking system on the boats currently involved in the fishery
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3(a) To consider the Implementation of a Fully Documented Fishery

DCO Clark continued her verbal presentation on the wrasse fishery consultation and described the proposal as largely supported by organisations and individuals. DCO Clark described how there had been no objections to catch surveys being undertaken by DSIFCA Officers but they had been limited by boat size meaning surveys have only been conducted on one vessel so far. One concern had been received, through the consultation, from South Devon & Channel Shellfishermens Association regarding the burden on data collection by skippers. Rachel Irish confirmed live fish has now been added as a logbook entry and transport documents are available.

James Marsden questioned the cost paid per fish by the different salmon farms. DCO Clark confirmed that in the D&SIFCA district only one salmon farm is involved with four fishing vessels; A discussion on the value of the wrasse and prices paid on landing wrasse to the different salmon farms operating in the D&S IFCA, SIFCA and CIFCA districts ensued. Functional size limits, the costs, transport of live fish and the benefits of having a fully documented fishery were also discussed. DCO Clark mentioned that she had discussed with the salmon farm agent, options to improve survivability of wrasse returned to sea and he informed her that survival tubes are planned to be used by each fisherman, which will return the fish to deeper water to ensure higher level of survivability for the undersize/ oversize fish. DCO Clark said that so far 15% of wrasse are reared but by 2018, the salmon farms wanted this figure to be 100% so they would not be reliant upon live wrasse from the southwest. A proposal was formulated as follows:

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To implement a fully documented fishery.

Proposed: *Mike Williams* **Seconded:** *James Marsden*

All agreed (8)

3(b) To consider the Implementation of pot limitations for the targeting of live wrasse

DCO Clark described how pot limitations were strongly supported as part of a management package and responses stated that 60 pots was not sufficient for a viable industry; to remain viable the salmon farms informed the IFCA that each fisherman needs at least 150. The numbers of fish caught and supplied to the salmon farms were displayed on the projector screen along with the projection for the live and reared wrasse fishery. James Marsden queried the data gaps in particular relating to the differences paid by different salmon farms for the five species of live wrasse. DCO Mander stated it was incumbent on the salmon farms to provide financial information. James Marsden stressed the ecological factors must be considered when setting a pot limit and Rachel Irish pointed out that the intention was not to create a private fishery but to keep it open in order to expand. Jim Portus stated a contract must exist between the vessels and the company, if it was obtained then a better idea of the target numbers of wrasse could be ascertained. All members looked at and considered the wrasse fishery returns document and commented on the number of pots used and potential profit to be made by fishermen. David Cuthbert pointed out that costs of fuel and downtime due to weather and boat repairs, significantly reduces profits.

Members looked at the chart provided by DCO Clark showing areas worked by vessels in April and May 2017, then moved onto a lengthy discussion on whether the fishery was able to expand out of Plymouth Sound along the coast into Wembury Bay, the fishing methodology and intensity of fishing effort. Mike Williams aired caution by stating that a byelaw should not be made to match a business plan and that the measures would be flexible permit conditions that can be reviewed at any time. Discussion moved onto expansion of the fishery and the implications for Plymouth and Brixham based fishermen using a limited number of pots. DCO Clark stated that 60 pots would close the fishery. John May remarked that this statement was based on the requirements of the salmon farms and DCO Clark's estimate that only five boats were intending to take up the fishery and catch rates would be similar to those recorded by officers in April and May in the Plymouth Sound. John Butterwith said that 150 pots would provide a viable fishery, which was contracted, so fishermen would not prosecute any other fishery during the wrasse fishery season. Dave Morgan mentioned there was no evidence the fishery is over-prosecuted and that Officers should continue to monitor it closely. Members discussed the potential catch rates and John May stated that in his view the likely catch rate would be higher in the summer months. Mike Williams then raised a point about a precautionary stance being adopted. DCO Mander assured members that a proposal on the introduction of management measures could be subject to review if circumstances changed. John May stated that he would be able to consider a proposal on the basis that if the catch rates or uptake increased above the initial levels D&S IFCA could react on the implemented

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management measures and review the pot numbers to compensate. A proposal was formulated by members as follows:

To introduce a 120 pot limit per permit holder.

Proposed: James Marsden Seconded: Mike Williams

David Morgan expressed the view that the consultation responses from the fishermen and the Salmon farm agent indicated that the minimum number of pots that were needed to make the fishery viable was 150.

Amendment proposed

Introduce a 150 pot limit per permit holder.

Proposed: David Morgan Seconded: David Cuthbert

In Favour: 4

Against: 4

The Chair used his casting vote: Against

With the amendment falling, the members then considered the original proposal

To introduce a 120 pot limit per permit holder.

Proposed: James Marsden Seconded: Mike Williams

In Favour: 4

Against: 4

The Chair used his casting vote: In favour of the proposal

DCO Mander added that this matter will be kept under close review in light of fresh information gathered and any increase in effort would result in a review of management.

3(c) To consider permit provisions for the marking of gear used to target live wrasse

DCO Clark explained that responses were mostly supportive. South Devon & Channel Shellfishermen's Association was concerned about the tag material. Discussion ensued about the feasibility of returning the tag at the end of the season. DCO Mander explained the value of how differentiating between wrasse pots and other static gear would assist enforcement and how the marking of gear would also help the members of the public that observed the wrasse fishery possibly appreciate the scale of the fishery better. James Marsden asked about the MMO code for wrasse and if that could be marked on buffs. David Morgan asked why

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mark as wrasse and DCO Clark stated it was to aid enforcement and confirm positions of gear. A proposal was formulated as follows:

To require the marking wrasse gear using WRA and vessels PLN.

Proposed: John Butterwith Seconded: Mike Williams

All agreed (8)

(d) To consider the introduction and period of a closed season for the live wrasse pot fishery

DCO Clark explained that the live wrasse fishery exists due to the lice on the salmon in the summer and that a closure until 31st July will have a big impact, as stated in one of the responses. A detailed discussion about targeting wrasse out of season from November to March was conducted. James Marsden suggested the storage of live wrasse during a closed season was not the remit of D&SIFCA but an issue for the salmon farms. DCO Clark raised the point that over the winter period the fishery is unlikely to take place due to the lightness of the pots and the exposure of the gear to the likely adverse weather conditions. DCO Clark stated that a longer closed spawning season (from April to August) would result in less time available for Officers to gather data. John May stated that CEFAS were supportive of the closure until 31st July and it was mentioned that DEFRA support this date too. A proposal was formulated as follows:

To introduce a closed season, from 1st April to 31st July, for the live wrasse pot fishery.

Proposed: James Marsden Seconded: John May

David Morgan expressed the view that a four-month closure was excessive and felt that the closed season should be reduced by one month to allow a viable fishery.

Amendment proposed:

To introduce a closed season, from 1st April to 30th June, for the live wrasse pot fishery.

Proposed: David Morgan Seconded: John Butterwith

In Favour: 5

Against: 3

The amendment was carried.

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3(e) To consider the introduction of minimum and maximum conservation reference sizes

DCO Clark mentioned that many of the responses were supportive and displayed a response on the projector screen to aid discussion on Natural England’s concern over the proposed 160mm size limit. Members were satisfied that the slot sizes stated were suitable as part of spawning stock for each species would be afforded some protection by these sizes as shown in the literature review table given in the “Report for D&SIFCA Byelaw and Permitting Sub-Committee – May 2017”. For Ballan and cuckoo wrasse the larger sizes are not required by the salmon farm and would be returned allow them to continue breeding and spawning. A proposal was formulated as follows:

To consider the introduction of minimum and maximum conservation reference sizes

Proposed: Mike Williams Seconded: John Butterwith

In Favour: 7

Abstention: 1

Jim Portus commented that salmon farms have accreditation through the Aquaculture Stewardship Council, but there is no mention of live wrasse on the website, only the use of antibiotics. A suggestion was made that D&SIFCA write to Marine Harvest asking them to include the conservation impacts of live fish and the habitats, not just the salmon food source. All members were in agreement.

DCO Clark updated members on the husbandry and biosecurity checks put in place by the salmon farms to which James Marsden asked if the IFCA could ask the salmon farms to set out their standards and protocols. Mike Williams suggested that a salmon farm representative be invited to talk to the full Authority. All members agreed.

Mike Williams requested that a clear explanation of the precautionary principle be put on the D&SIFCA website to show the sub-committee can make decisions without evidence.

DCO Clark started a discussion on fish folding traps/ tubes for unwanted fish and offered to discuss the equipment with the salmon farms and update the committee with the findings.

Actions

3(e) i	DCO Clark	To contact the salmon farms and ask for information on the husbandry of the wrasse including standards, protocols and conservation impacts of keeping live wrasse
3 (e) ii	DCO Clark / DCO Mander	To put a clear explanation of the precautionary principle on the D&S IFCA website
3 (e) iii	DCO Clark	To update the committee on the equipment used to aid survival of the returned fish

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4 To consider the outcome of the additional consultation conducted as part of a three year review of the permit conditions for the Mobile Fishing Byelaw as set out in part 4 of the Officers report and consider changes to the mobile fishing permits relating to the following issues:

4(a) Management of demersal towed gear in the access areas of the Torbay MCZ

James Marsden began by stating that the Mobile Fishing Permit Byelaw "Report for D&SIFCA Byelaw and Permitting Sub-Committee – May 2017" was a really good paper and reiterated the rightness of the approach the D&SIFCA has taken. He wanted to use this opportunity to remind the full Authority that this report is the new format as and when needed.

DCO Clark explained that seven written responses had been received, one of which questioned the need for the protection of mud when Torbay was exposed to easterly winds and natural variation. For scalloping four responses were received, three of which had identical content but were submitted from three separate individuals. No financial information was provided. For trawling three responses were received. DCO Mander echoed the frustration with the lack of financial data as there is reluctance amongst the fishermen to provide it.

The Chair then enquired about the cost of iVMS units and a discussion focussed on closed areas (under MMO licence condition) within the Torbay MCZ and the impact of anchoring, which falls out of the remit of D&SIFCA. DCO Clark mentioned DEFRA funding could be applied for to undertake survey work as part of a Monitoring and Control Plan if the activity of trawling was separated from scallop dredging. DCO Clark explained that she had spoken to Natural England and if trawling were to be allowed in the MCZ that a monitoring and control plan would require information on effort, impact and have set trigger points to reevaluate management measures. DCO Clark told members that after scallop dredging 589 days is required for the recovery of the sea bed and whilst some evidence suggest that the recovery time from trawling is much less Officers would like to see comparative work focus on trawling. Mike Williams agreed further evidence is needed and went on to say that Natural England is both a consultee and an advisor on MCZs but it is D&S IFCA who will make the decision. DCO Mander said there is scope for lighter gear interactions instead of toothed gear. James Marsden suggested a three months trial, using EMFF (or similar) funding for research with an academic institution and the three fishermen to investigate technical measures and impacts of trawling gear on the seabed. Once the study is complete, Natural England should be content and any additional changes in management measures could be discussed. The Chair made a proposal as follows:

To split the two activities of scalloping and trawling within the Torbay MCZ, so that they can be considered separately in terms of management

Proposed: James Marsden Seconded: John Butterwith

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All agreed (8)

To prohibit scallop dredging with in Torbay MCZ

Proposed: James Marsden Seconded: Mike Williams

In Favour: 6

Against: 2

To allow seasonal otter trawling for cuttlefish, from the end of March to the end of June, in Torbay MCZ, subject to an impact study and gear trial detailed within a Monitoring and Control Plan

Proposed: Jim Portus Seconded: Mike Williams

All agreed (8)

The following consultation matters received no responses and the Chair took the decision to deal with all three matters as one. John Butterwith asked if any responses were received from North Devon to which DCO Clark confirmed none had been received.

4(b) Lundy Island – Demersal trawling in access area of Lundy SAC

As a result of the HRA process and formal advice offered by Natural England, the following proposal was made;

D&SIFCA to develop a monitoring and control plan for this activity, which will gather information on the fishing industry involved in the squid fishery, monitor activity levels and assess gear impact on the subtidal coarse sediment sub-feature of the Lundy SAC.

Proposed: Mike Williams Seconded: David Morgan

All agreed (8)

4(c) Lundy Island – Scallop dredging in access area of Lundy SAC

As a result of the HRA process and formal advice offered by Natural England, members considered the following proposal;

To prohibit scallop dredging on the subtidal coarse sediment sub-feature of the Lundy SAC.

Proposed: Mike Williams Seconded: David Morgan

All agreed (8)

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4(d) Protection of spiny lobsters in MCZ areas from demersal fishing

Members considered the following proposal;

To prohibit the removal of spiny lobster from demersal towed gear in Lundy MCZ, Skerries Bank & Surrounds MCZ and Bideford to Foreland Point MCZ

Proposed: Mike Williams Seconded: David Morgan

All agreed (8)

5 To consider alternative communication initiatives used during consultation periods for potential permit changes

DCO Mander explained to members that Officers wanted to establish branding and a consistent process used for publications; one way to do this is via the new website. DCO Mander suggested ways to convey permit changes to stakeholders by removing quarterly reports and producing a newsletter that would be readily accessible to interested parties outside the full Authority. DCO Mander believed this would allow a more flexible consultation on fisheries management rather than via the formal byelaw process. DCO Mander mentioned the ad hoc events structure and Officers had suggested a 'surgery' consisting of six events a year whereby Officers can listen to stakeholders' issues and discuss live consultations. At these 'surgeries' Officers could record and verify the comments for submission in a consultation. James Marsden mentioned that the need to provide feedback to consultees was important too and this was supported by Mike Williams who highlighted the importance of written responses. A lengthy discussion followed on styles of consultation and what would work best. James Marsden said a communications strategy should be created by an external company with expertise and put to the full Authority.

6. Any other business

The Chair mentioned that DCO Mander will prepare a report for the full Authority regarding the election of a new Chair and Vice Chair after the June quarterly meeting. Mike Williams raised the D&SICA and CIFCA boundary through Plymouth Sound and the need for one IFCA to manage the River Tamar estuary and Plymouth Sound. DCO Mander said that CO Robbins has been formally notified of it by the Chair. CO Robbins will deal with the matter and discuss it with CIFCA. Mike Williams asked for a report of the progress made at the next quarterly meeting to be presented. Mike Williams thanked Councillor Chris Clarence for his work on the sub-committee. The Chair agreed to write to Councillor Clarence and pass on the thanks. The Chair thanked Officer Bullock for all her hard work especially during the Netting Byelaw roadshows.

John May raised the issue of the Bristol Channel boundary to which James Marsden stated that he has put CO Robbins in contact with Andy Frasier of Welsh Government Fisheries

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regarding intelligence sharing and cross warranting. DCO Mander confirmed that joint enforcement work is proposed.

6 i	DCO Mander	To prepare a report for the full authority regarding the election of a new chair and Vice chair, after the June quarterly meeting
6 ii	CO Robbins	To prepare a report for the full authority on discussions between D&S IFCA and CIFCA on possible future boundary changes in Plymouth Sound
6 iii	Chair David Rowe	To write to Councillor Clarence to thank him for his work on the sub-committee

7. Date of next meeting

17th August 2017

END.