

**DEVON & SEVERN  
INSHORE FISHERIES AND CONSERVATION AUTHORITY**

Minutes of the Byelaw and Permitting Sub Committee Meeting  
held on 25<sup>th</sup> January 2017 at Exeter Racecourse

Present:	David Rowe (Chair)	Simon Toms
	Mike Williams	David Morgan
	John May	John Butterwith
	Richard White	Jim Portus
	Rachel Irish	Cllr Chris Clarence
	Stephen Gledhill	James Marsden

Also Present: Mat Mander and Neil Townsend and Sarah Clark

Apologies: David Cuthbert

### **Introduction**

The Chair began by clarifying the purpose of the meeting and reminded members that it was open to the general public. The Chair reminded members of the general public that were in attendance that they could observe proceedings but not speak or otherwise participate with proceedings. The Chair enquired if members had all relevant papers for this meeting at their disposal. Members clarified that they had received recently circulated papers; however these bundles did not include the draft minutes from November 2016, which had been sent earlier.

#### **1. Minutes of the last meeting held on 3<sup>rd</sup> November 2016**

Some members referred to electronic minutes on their personal computers and arrangements were made for members relying on hard copies to share viewing in order to read them. Cllr Clarence apologised that, due to commitments associated with being a councillor, he was not able to attend the last meeting but did explain that he remained committed to the group and has attended many of the other meetings. The Chair recognised how busy he and all Councillors were and thanked Cllr Clarence for his attendance. Minutes from 3<sup>rd</sup> November 2016 were read page by page to determine accuracy. Minor inaccuracies were noted on page 17 and 22.

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

***Proposed: Mike Williams      Seconded: John Butterwith***

***For 10***

***Against 0***

***Abstentions 1***

#### **2. Business Arising**

Stephen Gledhill thanked officers for the previous minutes, which in his view provided clarity and were of high quality. This praise was echoed by other members.

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**3a. To review the decision making process and the audit trail for the Netting Permit Byelaw.**

(Part 1 and 4 of Officers' report – "Access for netting within estuaries & decision making process")

The Chair introduced this item by providing some context to this agenda item. Members and the general public were reminded of the decision taken by the full Authority at the quarterly meeting in December 2016 in regard to the recommendations for the proposed Netting Permit Byelaw. A decision was taken by the full Authority to suspend the confirmation phase until all members have had more time to consider the content of work undertaken to date, the recommendations made by the Byelaw Sub-Committee and the economic and social impact of implementing this byelaw.

In recognition of this decision, DCO Mander explained that officers had prepared a large reference document divided into separate sections to explain the process, decisions taken and a detailed audit trail of events and documents circulated over a prolonged time period.

Members were requested by the Chair to examine each page of Part 1 and Part 4 of the "Access for netting within estuaries" report. DCO Mander explained that recommendations made were based on evidence up to and including the 22<sup>nd</sup> September 2016, which was the closing date of the formal consultation period. With this in mind, DCO Mander suggested that additional evidence (after this time) should not be used to influence decision-making.

Before examining the document in depth, John May highlighted the complexity of the subject matter relating to the Netting Permit Byelaw by commenting that multiple factors are being considered. Out of necessity, issues relating to bass conservation have been merged into this activity-based rather than species-focussed byelaw, and that this may have confused some people. John May continued to highlight that a high percentage of bass within the estuaries are now below the 42cm in length (minimum conservation reference size) and nets with a mesh size of 90mm to 100mm are efficient at catching bass below this size.

James Marsden also made some initial observations regarding the overall structure of the "Access for netting" document. He praised the detail and structure of the audit section and he agreed with John May that the multiple issues relating to the Netting Permit Byelaw from a policy perspective could be better explained. In order to better explain the rationale for this Byelaw within this particular report, he suggested that key drivers be listed with a demonstration of how they link to D&SIFCA statutory duties. DCO Mander re-assured members that the report would be modified in an attempt to satisfy this request.

When examining the report in detail Mike Williams questioned the bullet points on page three, which DCO Mander had tried to explain in his initial address to members. Mike Williams felt the wording used could be misinterpreted in its current form. Mike Williams clarified that changes to EU legislation after the recommendations would have to be considered in final decision making or risk an ultra-vires situation for the Byelaw. DCO Mander

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again clarified that changes to the document could be made to clarify this point, but as a point of process (to date), the current recommendations have been formulated on evidence before the end of the formal consultation. If there is considered to be a lack of evidence to proceed with the current recommendations, then “fresh” consultation can be actioned, new evidence added and examination and consideration of more recent changes in legislation undertaken.

Jim Portus added that the Full Authority (via standing orders) have a remit where they can review the byelaw and amend it accordingly therefore recognising changes to EU and Domestic legislation.

Other suggestions for an amended version of the electronic version of the report included the use of hyper-links to other referenced documents in the footnotes. Spacing issues were also highlighted. IFCO Townsend explained that there had been some formatting issues, which can be addressed in the next version of the report.

With no other comments relating to part one of the report, the Chair now requested members focus on the audit charts displayed in part four. James Marsden suggested that key decisions taken should be highlighted in bold text and that the meeting of today be added to the audit section. With no other suggestions a proposal was formulated.

***That the access for netting within estuaries & decision-making process report (subject to amendment) be circulated to full Authority members***

***Proposed: Jim Portus      Seconded: Stephen Gledhill***

***For 10***

***Against 0***

***Abstentions 1***

**3b. To consider whether to deliver a presentation on the proposed Netting Permit Byelaw decision making process and findings to Local Authority members and make it available to the public**

Several of the members opened the debate with David Morgan, James Marsden and Mike Williams all of the opinion that a slide show presentation would be advantageous. It was recognised that Local Authority members have other commitments and appear to be less informed about the process and subject matter. Stephen Gledhill drew on his own communication experience and explained that in his view a well-constructed slide show would aid as an effective tool to support the main report but would not be a substitute for the main report. Other members felt it was vital that Local Authority members be made aware, possibly in writing that the main document would become the “source” reference document and as such a disclaimer could be added to the slide show presentation. Mike Williams agreed and felt that all Full Authority members should receive a request to read the source document before the next quarterly.

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Members examined a selection of the draft slides to gain a better understanding of the themes and content and made some suggestions for improvements. IFCO Townsend explained that the concept of the slide show was to provide key information but, differently from the source report, was to offer opportunity for questions to be asked directly to officers in real time. Stephen Gledhill offered to assist officers finalising the presentation and was thanked by Officers.

Cllr Clarence made the members aware that elections on May 4<sup>th</sup> will potentially change the membership of the Authority. Stephen Gledhill suggested that in the future it may be appropriate for new members to have an official induction. DCO Mander explained that new members of the Authority do receive a formal induction undertaken by the Chief Officer. The Chair formulated a proposal:

***That officers develop a slide show and the Chair write to Full Authority members requesting thorough preparation for the next Full Authority Meeting including reading the Source report.***

***Proposed: Jim Portus    Seconded: Stephen Gledhill***

***For 8***

***Against 0***

***Abstentions 3***

**4. To review the proposals, received through public consultation process, for restricted netting access in estuaries.**

- Taw and Torridge
- Salcombe

(Part 1, 2 and 3 of Officers report – “Access for netting within estuaries & decision making process”)

The Chair introduced this item and invited comments from the members. Mike Williams questioned if this agenda item was appropriate for discussion. Mike Williams explained that in his view the Sub-Committee did not receive clear direction from the Full Authority to review recommendations already formulated. John Butterwith and James Marsden supported this view and between them added that no new evidence had been received to justify reviewing recommendations that had been formulated from review work conducted over the long process. All three members took the view that discussions should be limited to how the Sub-Committee re-present the original information only. Cllr Clarence suggested that minutes from the Full Authority be examined to clarify the direction given to the group.

DCO Mander made attempts to source the draft Full Authority minutes while discussion continued. Stephen Gledhill agreed that recommendations had already been formulated but

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this meeting offered an opportunity to discuss them and possibly meet expectations of others in regards to clarity. The Chair took the view that, from his recollection of events, the Sub-Committee were to create an audit trail and consider presentation of information; and the officer reports and discussions in agenda item 3a and 3b had met this expectation. DCO Mander suggested that to re-inforce the recommendations, the members could explore aspects of the rationale considered; however respected the concerns raised by some members that this would potentially undermine the process. Mike Williams explained that to review the recommendations new evidence had to be forthcoming and re-consultation would then be appropriate. Simon Toms added that the recommendations made have already been tested over time and the new EU conservation measures (bass) have now strengthened the recommendations already established.

*Coffee break (whilst minutes were sourced)*

The relevant section of the draft Full Authority minutes was read aloud by DCO Mander. With no clear recommendation recorded, members considered how to interpret the wording documented. Members decided that reviewing recommendations at this meeting was not requested or appropriate and the Chair formulated a proposal as follows:

***That agenda item 4 be removed and a decision on the existing recommendations be taken at the next Full Authority meeting***

***Proposed: Mike Williams      Seconded: David Morgan***

***For 10***

***Against 0***

***Abstentions 1***

- 5. To consider whether to use the provisions of the Mobile Fishing Permit Byelaw and consult on proposed changes to the permit conditions to allow for the extension of the Salcombe scallop fishery.**

(Officers' report – Salcombe Scallop Fishery – Summary of the Proposal to Extend the Fishery into an Area known as the Bag)

The Chair asked DCO Clark to summarise the previously circulated Salcombe scallop fishery report. DCO Clark explained to members that a proposal from D&SIFCA had been submitted to Natural England and the response was not positive for those wishing to gain additional access. DCO Clark explained that additional meetings will now be arranged with Natural England to address the multiple objection points they had raised and an update will be brought back to members when possible. Due to the limited opening period (15<sup>th</sup> December to 15<sup>th</sup> March) these meetings are unlikely to be held quickly enough to provide any opportunity for access to be considered in time for this season and permit holders will not be consulted with directly on this issue at this time.

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The Chair asked members if they had any questions or comments for DCO Clark. Mike Williams and James Marsden enquired over the status of Salcombe in relation to the Wildlife & Countryside Act (SSSI status) and if Natural England was the higher Authority in this instance. DCO Clark explained to members that Salcombe is a Marine SSSI and that Natural England is a statutory consultee and will provide advice. *(Subsequently it has been confirmed that in the event that the D&SIFCA agree to a permit change to extend access to the Salcombe scallop fishery within the SSSI, as proposed, operators would also require the consent of Natural England under Section 28 of the Wildlife & Countryside Act).* James Marsden thanked officers for their work with the initial paper, but felt more detail in regards to rationale and the impact (of increased access) should be made available to members. Key elements suggested by James Marsden included documenting considerations on the recovery of substrate, recovery of biogenic reef and a more detailed explanation on why this proposal should be considered at all. DCO Clark responded by stating that the three year review of permit conditions was one of the trigger mechanisms used to formulate the proposal and clarified that additional discussions with Natural England will shape any further development of this work. The Chair thanked DCO Clark and officers for the work completed to date.

### **6. Any other Business**

David Morgan returned to the subject of the Salcombe scallop fishery and requested addition information on the entitlement of fishers to acquire an estuary permit to exploit this fishery. DCO Clark provided an overview of the present permit conditions and re-assured David Morgan that officers will provide additional information in response to his query.

#### Wrasse Fishery

DCO Clark reminded members that some items were not concluded in the December meeting of the Full Authority and recommended members discuss developments of the wrasse fishery. With the approval of the Chair DCO Clark provide an overview on the issue.

DCO Clark began by explaining that currently there are three vessels known to be operating in the D&SIFCA District targeting wrasse to be used as “cleaner fish” within the salmon farm industry. The industry is growing and this now includes the South West region of the UK. DCO Clark informed members that there is currently a lack of evidence to help assess the impact of this expanding fishery. Information and understanding is lacking on the biology, ecology, and populations of wrasse in the district, and also the number of pots/traps being used or expected fishing effort in the near future. DCO Clark continued by highlighting the high monetary value of this developing wrasse fishery due to the enormous demand from salmon farms, which are now supplying fishing equipment free of charge or at heavily subsidised rates. It has been estimated that 120,000 wrasse could be removed from local waters over the next two years with ballan wrasse worth up to £17.50 per fish. Further information was presented to members including how the fish are transported, mortality rates and the expectation that the season will begin in March. DCO Clark requested that members consider

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using a pre-cautionary approach by applying additional conditions to the potting permits whilst the D&SIFCA formulates and implements a research plan to gather necessary information. DCO Clark explained the estimated levels of pots that may soon be used and also provided an overview of the pot numbers that have been used in the SIFCA District.

Rachel Irish raised her concerns over the expected take of fish and felt the large financial gain could pose problems with criminality. James Marsden acknowledged the D&SIFCA has a current lack of evidence and suggested that funding (via the salmon farm industry) be explored, possibly including a PhD assignment. Richard White expanded the discussions to include his observations of how the wrasse fishery had developed in Norway before moving into Sweden and felt a pre-cautionary approach was a sensible course of action.

Jim Portus inquired if there were any current handling requirements (transport) via Defra regulation, but DCO Clark explained that Marine Scotland have not been forthcoming with all relevant information that had been requested. Simon Toms raised his concerns relating to salmon and the transfer of parasites to different areas.

Mike Williams agreed that in light of the discussions a pre-cautionary approach be considered and as such recommended that a mandate be provided to the D&SIFCA Environment team to conduct pre-consultation in the form of a more open scoping exercise. As an alternative Mike Williams also suggested that an emergency Byelaw could be considered. DCO Mander informed the group that although an emergency byelaw could be considered, the permit mechanism offered a suitable alternative, although he did recognise members concerns over the time involved to potentially introduce new measures through a change in the potting permit. Jim Portus offered an amendment to the provisional proposal offered by Mike Williams and suggested that more information could be gathered, documented and brought back to this group quickly and prior to any consultation involving the fishers. Cllr Clarence added that this course of action suggested by Jim Portus would be more appropriate in terms of process and would allow the subject to be discussed more thoroughly as an agenda item rather than as “any other business”. Mike Williams withdrew his original proposal. DCO Mander informed members that Officers’ would prepare additional material to support a dedicated agenda item at the next meeting of the Byelaw and Permitting Sub-Committee and this was agreed by members without the need of a formal vote.

The Chair requested that members come forward with any additional “other business” items. Cllr Clarence informed members that he still had concerns regarding the decisions taken in regard to the restrictions in estuaries as proposed in the Netting Permit Byelaw recommendations and the impact these recommendations would have on fishers wishing to target mullet. The Chair stated that he had confidence in the recommendations made by the Sub-Committee.

Mike Williams added that due to the delay to date and the importance of a decision being taken, could the Chair raise the possibility of the Netting Permit Byelaw being the only agenda item at the next full Authority meeting.

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DCO Mander responded by explaining that the Chair (Full Authority Chair) has already indicated that the expectation is that there will be three main agenda items at the next meeting of the Full Authority.

Finally, James Marsden questioned the size of membership of the Authority, which in his view, is too high for an organisation with a relatively small budget and presents difficulties for the D&SIFCA delivering its key statutory duties. He recommended that the terms of reference be examined by the Full Authority as soon as possible.

**8. Date of next meeting**

16<sup>th</sup> February 2017.

END.