

## Devon and Severn IFCA Mobile Fishing Permit Byelaw

## Impact Assessment (IA)

IA No: D&SIFCA 002

Lead department or agency:

Devon and Severn Inshore Fisheries and Conservation Authority (D&SIFCA)

Other departments or agencies:

MMO, Natural England, Defra

Date: 11<sup>th</sup> October 2013

Stage: Byelaw Confirmation Submission

Source of intervention: Domestic

Type of measure: Secondary legislation (Byelaw)

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## Summary: Intervention and Options

### What is the problem under consideration? Why is government intervention necessary?

The Inshore Fisheries and Conservation Authorities have a nationally agreed High Level Objective (HLO) to complete a review of all legacy byelaws by April 2015. As a result of the review, some byelaws will be remade, some will be amended, others will be amalgamated and those that are irrelevant or no longer needed will be revoked.

The D&SIFCA believe that the review provides the opportunity to introduce a new approach to inshore fisheries and conservation management. Through permitting byelaws the D&SIFCA will introduce greater flexibility in the way it manages the coastal and estuarine waters in the District. The marine environment is a dynamic system, there is high natural variation in some fish and shellfish stocks and fishing gear technology and practices continue to evolve. Inherited byelaws have been identified as being too rigid to fit this ever changing situation. A flexible management system will limit the requirement for possible emergency byelaws for un-foreseen circumstances.

European Marine Sites (EMSs) are designated to protect habitats and species in line with the EU Habitats Directive and Birds Directive. To bring fisheries into line with other activities, the Department for Environment, Food and Rural Affairs (Defra) announced on the 14<sup>th</sup> August 2012 a new approach to manage fishing activities within EMSs. This change in approach will promote sustainable fisheries while conserving the marine environment and resources, securing a sustainable future for both.

Defra produced a high risk activity matrix and as a result the D&SIFCA, as the competent authority, must manage identified high risk fishing activities within European Marine Sites (EMSs) by the end of 2013. The majority of mobile fishing gear has been designated high risk within these areas.

The first tranche of Marine Conservation Zone (MCZs) designations is likely to be announced in the Autumn of 2013. In the proposed MCZs for the D&S IFCA district mobile gear is likely to be among the fishing activity that requires management in order to meet the conservation objectives of the sites.

The permitting byelaw will introduce the flexibility needed by setting out part of the management in the permit conditions rather than in the byelaw. Those affected by the new legislation will be safeguarded by setting up an open and inclusive management review system within the byelaw that will describe the process by which changes to permit conditions will be made.

Where requirements are unlikely to change these will be set out in the byelaw. The new permitting byelaw will replace six inherited byelaws that relate to mobile fishing gear. All vessels operating towed gear will require a permit to fish within the Authority's district, except vessels less than 7 metres in overall length engaged in sandeel trawling. The byelaw will also introduce new restrictions on vessels that tow fishing gear. These additional restrictions are important for the D&SIFCA to meet its duties under section 153 (2) and section 154 (1) of the Marine and Coastal Access Act 2009.

**What are the policy objectives and the intended effects?**

1. To introduce a flexible management approach for mobile fishing gear activities undertaken by vessels within the D&SIFCA District. Flexible management will include catch, gear type and design restrictions and spatial and time control measures.
2. To introduce two types of permits dependent on the areas required to be fished. The two types of permits are 'At sea' and 'Estuaries'. Site specific management is not easily achieved through use of a single permit.
3. To provide a mechanism by which stakeholders can actively influence the management of fisheries within the D&SIFCA District.
4. To simplify the legislation and help make all fishers more aware of their responsibilities.
5. To support the sustainable exploitation of important shellfish stocks in the D&SIFCA District.
6. To enhance the environmental, socio-economic and fisheries sustainability of the D&SIFCA District.
7. To introduce a byelaw that incorporates protection measures for sites designated as high risk within Marine Protected Areas (MPAs) in the D&SIFCA District.
8. To encourage development of suitable fisheries within estuaries.
9. To minimise displacement of mobile gear fishing activity by maintaining access where possible in to MPAs.
10. To remove national legislation in the form of the Lyme Bay Designated Area (Fishing Restrictions) Order 2008 and the general fishing licence condition " South Devon inshore fishing grounds".
11. To limit the need to use emergency byelaws.
12. To allow the Authority to better assess the amount of mobile gear effort on the fishery from the introduction of an inshore vessel monitoring system.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

1. 'Do Nothing' option was considered inappropriate and would not meet one of D&SIFCA's HLOs. D&SIFCA has a duty to protect EMS features from high risk fishing activities.
2. Review and remake byelaws using current model, leading to the creation of a rigid closure byelaw permanently closing areas of sensitive features to damaging fishing activities.
3. Create a mobile fishing permitting byelaw introducing a flexible, adaptive approach to management.
4. Voluntary measures: due to the number of fishers affected by the management proposals and the importance of protecting the MPAs, voluntary measures would pose unacceptable risk to the protected features.
5. Management of activity through Statutory Instruments or Defra fishing licence, similar to traditional byelaws this approach to management is too rigid. It would also mean that D&SIFCA is not meeting its vision and Annual Plan commitments.

**The preferred option is 3.**

**Will the policy be reviewed?** Yes. **If applicable, set review date:** Permit conditions no later than three years after the byelaw comes into force and the main byelaw no later than five years after the byelaw comes into force.

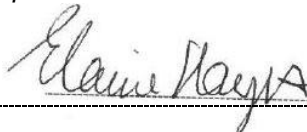
**What is the basis for this review?** Duty to review. **If applicable, set sunset clause date:** Month/Year

**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

Yes

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Chairman:



Date: Oct 2013

# Summary: Analysis & Evidence

# Policy Option 3

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year NA	PV Base Year NA	Time Period Years NA	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: NA

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.16	0.05	0.215

### Description and scale of key monetised costs by 'main affected groups'

The lack of reliable, detailed economic data makes it extremely difficult to undertake a meaningful Full Economic Assessment. The Authority has taken the view that it is better to recognise this fact rather than use the limited data that is available on fishing activity and its value. The permitting byelaw allows for amendments to the management measures to be undertaken when better data is available. It is believed by the D&SIFCA that the introduction of an inshore vessel monitoring system through the byelaw will provide much needed information in the future, thereby enabling more informed decision making.

The proposed permitting byelaw would require all vessels that operate mobile fishing gear to operate under a permit issued by the D&SIFCA. The cost of the permit is set at £20 and will remain valid for a maximum of two years. The cost of the permit is to cover administration costs incurred by the D&SIFCA.

The byelaw (Section 7.1) will require all vessels, except for vessel less than 7m in length operating sandeel trawls, operating mobile fishing gear to fit an inshore vessel monitoring device. This will be required for vessels operating at sea and may be required in the future for vessels operating within the confinement of an estuary. Effective, spatial management is required to meet the conservation objectives of the MPAs. Purchasing of the units and installation is likely to cost £1,000 with additional average airtime cost of £150 per annum. The type approved units required under byelaw will be compatible with units already required for mobile gear vessels over 12m and under 15m in length. Many of the vessels that would require the monitoring system to be fitted will have already had the equipment fitted due to their participation in the MMO led trials of the technology. Vessels over 12m in length already require to have fitted a vessel monitoring system. The systems on board these vessels will be able to meet the specification set out under the byelaw reducing further the burden on the mobile fishing sector.

The D&SIFCA operates a target led approach to enforcement and enforcement of the new byelaw will be met within the current budget. Operating on a fixed budget the Authority will continue its risk based approach to enforcement and consequently cover on other fishing activities may be reduced to cover the required enforcement of the Byelaw. Over time the management of vessels through the use of inshore vessel monitoring system should reduce the need to be at sea enforcing the spatial closures. It is envisaged that there could be a loss of charter work for the IFCA from the MMO for enforcing the Lyme Bay SI and licence conditions when this legislation is revoked.

The introduction of the deeming clause in the Byelaw will lead to a number of vessels having to change their fishing pattern to remain compliant with local management measures. This change in operation has not been fully evaluated but it is not envisaged to be significant. Currently most minimum sizes apply inside and outside of the district. Landing inspections would suggest that demersal mobile gear vessels do not land many crab, lobster or scallop that do not comply with Byelaw restrictions.

The D&SIFCA will be expected to undertake additional research work to improve knowledge of the qualifying features set out in the EMSs and Marine Conservation Zones (MCZ) designations, including mapping and condition monitoring. The D&SIFCA have agreed to purchase and operate a dedicated research vessel to support the delivery of this work. The purchase price and modifications is likely to reach £140K and the expected annual running cost has been estimated at £45K. In addition Defra

funding was used to purchase additional survey equipment.

It is estimated that the administrative cost of introducing the recommended byelaw, including costs associated with officer time, consultation and legal advice will amount to £20,000. On –going administrative costs associated with reviewing permit conditions cannot be easily estimated but is likely to be in excess of £5,000 per year.

Demersal mobile gear vessels will be displaced from areas where they are currently able to fish. The most significant area is likely to be off Start Point where controlled access by mobile, demersal gear is currently permitted. In order to protect the EMS and MCZ features these areas will be further restricted. Uncertainty over the exact areas from which vessels will be displaced means that accurate loss of revenue is not possible to calculate. Use of inshore vessel monitoring devices will minimise the areas from which such vessels are displaced. Spatial monitoring can be achieved at a very high resolution allowing for the consideration of permitting access to areas between protected features.

The inherited closed season scallop byelaw has been incorporated in to the new byelaw. However the management measures now apply to the whole district. The bycatch derogation applied to trawling vessels during the seasonal scallop closure would also be removed.

### Other key non-monetised costs by ‘main affected groups’

Operating a permit scheme that encourages a permit holder to participate in the management of mobile fishing activity in the District will increase the costs to the D&SIFCA. It is envisaged that over time the greater level of understanding of both the issues and the need for management will increase the level of compliance offsetting the costs associated with enforcement.

The required fitting of inshore vessel monitoring systems may be seen by some fishermen as removing their ability to maintain a degree of confidentiality with regard to their fishing activities. There is a fear amongst fishermen that the vessel monitoring system will only be used as an enforcement tool to further restrict areas where fishing is permitted.

The removal of mobile gear activity has led to increases in static gear that applies greater pressure on certain fish and shellfish species. These increases in effort will be addressed through the use of other permitting byelaws.

<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)	<b>Total Benefit</b> (Present Value)
<b>Low</b>	Optional		Optional	<b>Optional</b>
<b>High</b>	Optional		Optional	<b>Optional</b>
<b>Best Estimate</b>				

### Description and scale of key monetised benefits by ‘main affected groups’

The Authority believes that the preferred management approach outlined in this impact assessment will provide an overall benefit to the mobile gear sector.

Displacement of mobile, demersal fishing activity will be kept to a minimum. The flexible approach to management means that where new evidence is available that indicates a change in management is necessary; this can be achieved far quicker than with conventional byelaws. Through this approach it is possible that new evidence on feature location and the impact of fishing gear will lead to greater future access to the designated sites, increasing earning potential. The new evidence will be available in part through the D&SIFCA’s investment in a new research vessel.

The new byelaw introduces a mechanism to collect fees that cover the administration of the permit schemes and supports the principle of ‘user pays’ whereby the main beneficiaries of the management approach contribute more than the levied taxpayer.

The D&SIFCA can demonstrate value for money by introducing a new, innovative approach to management that supports the Government’s objectives and meets the expectations of the funding Local Authorities and its other stakeholders.

With the introduction of inshore vessel monitoring units, managers and fishermen can demonstrate where vessels have been fishing and show where deterioration of site features has occurred through natural change or from other non-mobile gear fishing activities.

The overarching permitting byelaw means that separate byelaws are not needed for each individual MPA or estuary. This significantly reduces the cost to the public purse. The permitting byelaw is designed to meet most future management requirements therefore reducing the need to create or remake new byelaws also reducing the cost to the Authority.

## **Other key non-monetised benefits by 'main affected groups'**

There is the potential need for additional features, within and outside of Marine Protected Areas (MPAs), to be protected should they be found to be vulnerable to certain gear types. Where confidence levels in existing data are low there is the potential for feature or site boundaries to be re-defined. A flexible management scheme will allow management measures to be adapted according to relevant evidence without the need to amend, replace or create new byelaws.

The recommended Byelaw has significant environmental benefits through the protection of sensitive features that may be otherwise vulnerable to potentially damaging fishing activities. Recreational users, including divers and anglers, are anticipated to benefit from the closure of sensitive areas, potentially benefitting the local economy.

The Byelaw is designed to balance the needs of all users and to maintain a viable local commercial industry. There is a high level of support for the introduction of a vessel monitoring system by mobile, demersal gear operators as it is recognised that the illegal activity undertaken by a small minority of vessels creates an unfair advantage and undermines the commercial value of the legal catches. The highlighted illegal activity of the minority of mobile gear operators reflects poorly on the fleet as a whole and potentially distorts public opinion.

Many local commercial vessels rely on the use of mobile, demersal fishing gear for their income. Commercial mobile fishing gear operators generally welcome the introduction of remote monitoring devices to help with the spatial management of fishing activities and believe that the benefits that would occur from more effective management would outweigh the initial investment in the technology. Many operators of commercial vessels also recognise the safety benefits such a system would provide them.

Many small boat operators would like to see the introduction of detailed spatial management of the scallop fishery, similar to that introduced for Wales. The advances in vessel and gear technology mean that small boat operators find it increasingly difficult to compete with modern, more efficient vessels. The new permitting Byelaw would provide the basis for this style of management.

Through the operation of the vessel monitoring system, the D&SIFCA will gain a greater understanding of the areas exploited by vessel operating mobile fishing gear. The D&SIFCA will also have the ability to develop controlled mobile gear fishing vessel activities within estuaries while still protecting the sites. Existing, reliable, activity data for vessels under 15m are very limited.

The permit schemes will also allow the D&SIFCA to communicate directly with users to increase understanding and awareness of the management but also allow permit holders to actively participate in shaping future management.

Permits will help D&SIFCA to focus on individual operators and use their feedback to develop site management plans rather than rely solely on the views of fishermen's representatives. There is a risk that consultation with representatives does not reflect the full range of opinions. The flexible management approach is better placed to recognise the range of needs.

The use of vessel monitoring systems will enhance the D&SIFCA's reputation as an enforcement organisation by demonstrating that it has the ability to effectively enforce the management measures it introduces. This will also provide greater confidence to conservation bodies that the risk associated with fishing activities is mitigated to an acceptable level.

Permitting of fishing vessels operating mobile gear activities is consistent with the approach adopted by Northumberland and Eastern IFCAs. Harmonisation of management is one of the guiding principles adopted by the D&SIFCA byelaw working group.

Key assumptions/sensitivities/risks	Discount rate
<ul style="list-style-type: none"> <li>• That the first tranche of MCZ designations will be announced in the autumn of 2013.</li> <li>• A key assumption is that the introduction of vessel monitoring system technology will be successful and provide the benefits outlined in the IA. Reports from the introduction of similar devices on vessel fishing in Wales would suggest that the new approach has been very successful.</li> <li>• Vessel monitoring specification for type approval will be delivered by the end of 2013.</li> <li>• That no further management is required to meet MPA responsibilities with respect to fishing vessels operating mobile gears, for example change of approach to protect site rather than features.</li> <li>• Funding of inshore vessel monitoring systems to vessels less than 12m is available.</li> </ul>	

**BUSINESS ASSESSMENT (Option 3)**

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/a	Benefits: N/A	Net: N/A	No	IN/OUT/Zero net cost

**Evidence Base**

**1. Introduction**

- 1.1 The nationally agreed vision of the IFCA is that they will *“lead, champion and manage a sustainable marine environment and inshore fisheries within their Districts by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry”*.
- 1.2 Section 154 Marine and Coastal Access Act, 2009 (MaCAA) states the requirement for the protection of marine conservation zones. This clearly states that the IFCA must seek to ensure that the conservation objectives of any MCZ in the district are furthered.
- 1.3 Section 153 Marine and Coastal Access Act, 2009 (MaCAA) details the management of inshore fisheries.
- (1) The authority for an IFC district must manage the exploitation of sea fisheries resources in that district.
  - (2) In performing its duty under subsection (1), the authority for an IFC district must:
    - (a) Seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way,
    - (b) Seek to balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from, or promote its recovery from, the effects of such exploitation,
    - (c) Take any other steps which in the authority's opinion are necessary or expedient for the purpose of making a contribution to the achievement of sustainable development, and
    - (d) Seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.

1.4 As a direct consequence of the above, the ten Inshore Fisheries and Conservation Authorities (IFCAs) in England are obliged under a nationally agreed HLO to demonstrate that by April 2015, all legacy byelaws have been reviewed and evaluated against the current evidence base; redundant and duplicate byelaws have been removed and any regulatory omissions removed.

1.5 Devon and Severn IFCA inherited byelaws from the Devon Sea Fisheries Committee and the Environment Agency.

## **2. Rationale for intervention**

2.1 European Marine Sites (EMSs) are designated to protect features and species in line with the EU Habitats Directive and Birds Directive. To bring fisheries in line with other activities, Defra announced on the 14<sup>th</sup> August 2012 a new approach to manage fishing activities within EMSs. This change in approach will promote sustainable fisheries while conserving the marine environment and resources, securing a sustainable future for both.

2.2 In order to implement this new approach a Fisheries in European Marine Sites Implementation Group was set up to include key stakeholders and delivery bodies to ensure that the new approach is implemented effectively and practically, in line with legal commitments, considering the impacts of management measures available and suitable timetable of delivery.

2.3 The new approach will be introduced to current fishing activities on a risk-prioritised basis. Where it is clear that a feature (or sub-feature) will be too vulnerable to a type of fishing then protection through management measures is required by the end of December 2013. The D&SIFCA plan to make this Byelaw by the end of October 2013 with an expectation that the new management measures through the byelaw will come into force on 1<sup>st</sup> January 2014.

2.4 MPAs have been designated to protect a variety of different features. Within the D&SIFCA's district reefs (including bedrock, stony, *Sabellaria* and biogenic reef), seagrass and subtidal mud have been highlighted as the most sensitive features to demersal mobile fishing gears and have been highlighted as a priority for protection through management. Within European Marine Sites, reefs have been highlighted as the most sensitive features to demersal towed fishing gears within the D&SIFCA District and subsequently D&SIFCA considers them as a priority for protection through management. Under the precautionary principle, D&SIFCA cannot conclude that there would be no adverse effect to the integrity of the District's European Marine Sites if demersal towed gear fishing activities were to take place within reef areas.

2.5 A proposal to manage fishing vessels operating mobile fishing gears through a flexible permitting scheme was considered and approved by the D&SIFCA working group on 17<sup>th</sup> April 2013. Members of the working group and members of the full Authority have had their support for the principle of permitting byelaws and specifically the use of inshore vessel monitoring devices recorded in minutes from previous meetings.

2.6 The benefits of a mobile fishing permitting byelaw to enable flexible management has increased in importance following Defra's change of approach to EMSs and the announcement on the first tranche of MCZ designations. The required management of mobile gear fishing activities, particularly those with benthic contact, will require spatial regulation at a higher level of resolution in the near future. The proposed Byelaw will enable D&SIFCA to differentiate between gear types depending on their potential impacts.

2.7 Further MPAs, including MCZs may also require protection and where confidence levels in existing data are low there is the potential for feature or site boundaries to be re-defined. A flexible management scheme will allow management measures to be adapted according to relevant evidence without the need to amend, replace or



create new byelaws, therefore keeping the legislative burden and associated costs to a minimum.

- 2.8 Under the HLOs, D&SIFCA is required to make the best use of evidence to promote the sustainable management of the marine environment. This includes the sustainable management of habitats laying both within and outside of MPAs; therefore there may be the future need to protect sensitive seabed features and habitats anywhere within the District.
- 2.9 The proposed byelaw will prohibit all demersal mobile gear fishing techniques from taking place over reef and seagrass (with the exception of towed dredging on biogenic reef). The adaptive, permitting approach may also lead to further restrictions being placed on mobile gear activities over other designated habitats within MPAs in the district.

### **3. Policy objective**

- 3.1 The policy objective pertinent to this impact assessment is to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way, whilst balancing the environmental, social and economic benefits of exploiting the sea fisheries. D&SIFCA is made a competent authority under Regulation 7 of the Conservation of Habitats and Species Regulations 2010 and therefore must make an appropriate assessment of any fishing activity occurring within EMSs, permitted or consented to by D&SIFCA to ensure the conservation objectives of the sites are met. The D&SIFCA must also seek to ensure that the conservation objectives of any MCZs in the district are furthered.
- 3.2 The introduction of a 'Mobile Fishing Permit' byelaw will enable D&SIFCA to flexibly manage fishing activity in the following ways through permit conditions;
- catch restrictions and reporting,
  - gear construction and restriction,
  - spatial and time restrictions,
  - fitting of specified equipment to vessels
- Any changes in permit conditions would have to follow the procedure outlined in the body of the byelaw. (Review of Flexible Permit Requirements) and in the process map (Annex I)
- 3.3 The closure of sensitive reef areas as a permit condition for demersal mobile gear activities will ensure that D&SIFCA meets its obligations to protect 'red risk features' under Defra's change of approach. The closure of these areas, in line with the conservation objectives of the EMSs in the district, will restrict potentially damaging activities in accordance with Article 6(2) of the Habitats Directive and s154 of the MaCAA.
- 3.4 Areas of seagrass, amongst other habitats designated under MCZs may be closed under a permit condition for demersal mobile gear activities.
- 3.5 Seagrass beds outside of MPAs may also be closed as a permit condition for demersal mobile gear activities due to the significant risk of damage posed by this gear type. Seagrass beds are a UK Biodiversity Action Plan (BAP) habitat. Under the Natural Environment and Rural Communities Act 2006 all public bodies must have regard to biodiversity conservation when carrying out their functions.
- 3.6 The Byelaw will reduce the number of byelaws enforced by the Authority.

#### **4. The options**

4.1 As part of the D&SIFCA byelaw review a range of options were considered:

##### **4.2 Option 1 'Do Nothing'**

This option was deemed not to be appropriate. This option would involve allowing potentially damaging fishing activities to take place within sensitive reef and seagrass areas, within and outside of MPAs. This would mean that risks to the District from damaging activities would not be addressed and there is the potential that D&SIFCA's obligations in accordance with Article 6(2) of the Habitats Directive and s154 of the MaCAA would not be met.

##### **4.3 Option 2 D&SIFCA byelaws to permanently close sensitive reef**

This option would involve remaking byelaws using the traditional, inherited model, leading to the creation of rigid closure byelaws, permanently closing areas of sensitive features to damaging fishing activities.

Under this option only the sensitive 'red risk' areas defined through DEFRA's change of approach to management of EMSs will be closed. Should further measures be required in the future for mobile gear activities or the boundaries of the closed areas require changing then a new byelaw would be required or the existing byelaw would have to be amended. The byelaw making process is expensive and time consuming. More importantly the need to formally consult on the new byelaw will lead to extended periods of time where the management approach is not fit for purpose.

##### **4.4 Option 3 A D&SIFCA 'Mobile fishing permit byelaw'. (Recommended option)**

Except for vessels less than 7 metres in overall length using sandeel trawls, under this option only persons using vessels permitted under the byelaw can operate mobile fishing gear in the D&SIFCA district. Under the proposed byelaw vessel operators may apply for permits to fish 'at sea' and or 'within estuaries'

Most mobile gear operations currently occur at sea with access to specific dredge fisheries only allowed in two estuaries. The new permitting byelaws will provide the opportunity to consider the development of new opportunities in other estuaries following the consultation process set out in the body of the byelaw.

Permits will last for a maximum of two years. The vessel owner will be charged a maximum administration fee of £20, for each permit.

This option is recommended because the D&SIFCA is viewed as the appropriate statutory organisation to lead on the sustainable management of inshore fisheries and protection of the marine environment. A permitting byelaw is the preferred approach due to the flexibility associated with permit conditions. There is the potential for the boundaries of the designated features to be adjusted. The D&SIFCA has invested in a new research vessel to gather further evidence to better inform future management decisions.

There is also the potential for further measures to be introduced to regulate catch restrictions and reporting, gear construction, spatial and time restrictions and the fitting of specified equipment to vessels.

The introduction of a vessel monitoring system is viewed as an important measure to support the management approach taken. In order to spatially manage the areas at the required higher resolution, accurate information on the position and activity of vessels is vital. Through the consultation on the Byelaw to date there is general support for the introduction of this measure. Many of the vessels that will be affected

are already participating in MMO lead trials. The Authority intends to make the final device specifications compatible with devices already fitted to vessels under EU requirements

#### 4.4 **Option 4** Voluntary agreement

Due to the historic nature of the fisheries and the recorded non-compliance with existing legislation, the significant area of sea and the distance of coastline within the D&SIFCA District, it is believed that a voluntary agreement would be impractical and would pose an unacceptable risk to the features of the MPAs. Non-compliance with regulation already occurs due to the financial rewards of fishing in closed areas. Without formal sanctions being applied to such activity there would be little to deter such minded fishermen and may encourage others to fish in the protected areas.

D&SIFCA supports the widely held opinion including that of the Implementation Group that voluntary measures cannot be used to manage potentially damaging fishing activities within EMSs.

#### 4.5 **Option 5** MMO management measure – permanent byelaw or fishing licence condition

IFCAs have been established as the responsible lead statutory organisation for the sustainable management of inshore fisheries and conservation. The D&SIFCA intends to work closely with the MMO on establishing the management measures where the sites extend beyond the Authority's boundary. However where the majority of the MPA is within the district the D&SIFCA expects to take the lead role.

### 5. **Evidence base**

5.1 Site specific assessments for red high risk categories are set out in Annex II. Evidence that demersal mobile gear activities are damaging to features within EMSs are summarised in site specific assessments. Access maps including features and buffer zones are set out in Annex II.

5.2 Advice from SNCBs of the impact of towed gear activities on MCZ features was taken from the JNCC and Natural England report on fisheries impacts on Marine Conservation Zone habitat features (28th April 2011)

### 6. **Sectors affected**

Fishing: All mobile gear fishing vessels, except vessels less than 7 metres in overall length operating sandeel trawls, which fish within the D&SIFCA district will be affected as they must apply for a mobile fishing permit(s) from D&SIFCA. Fishing vessels operating mobile gear would then be required to comply with the conditions of the permit(s) issued. The Byelaw would prohibit the use of demersal mobile fishing gear within sensitive reef and seagrass areas, removing access to possible fishing grounds. From the Authority's database the number of vessels operating mobile gear from ports within the District is approximately 65. The number of vessels affected will be higher than this due to visiting boats.

Under existing legislation, mobile gear vessels are already excluded from large areas of MPAs in the District so displacement of activity has already occurred in locations where mobile gear would have otherwise been used. Further displacement of activity will increase effort in other areas of the district or in other fisheries. Increased scallop activity has been recorded on the north coast of Devon where previously it did not occur and inherited byelaws did not apply. The proposed Byelaw will apply scallop management measures to the whole of the District.

There is the potential for the intensity of certain methods of static fishing gear to increase within and adjacent to areas closed to demersal mobile gears. Management of static gear is possible under other D&SIFCA permitting byelaws. The wider financial costs and benefits to the District's fishing industry are outlined in section 7.

Local economies and society: There is the potential for industries associated with the mobile gear fishing sector to be affected by the proposed byelaw. Permit restrictions on mobile gear could limit the purchase of this type of equipment and ancillary products. Conversely the same restrictions on gear design could promote the advancement of gear technology and the development of potentially less damaging mobile fishing equipment.

The introduction of the new management measures will give confidence to the public that vessels operating mobile gears that they see in the District are effectively controlled and are not damaging to the marine environment.

The wider environmental benefit of protecting designated features within MPAs and seagrass habitats elsewhere in the District are outlined in section 7.

Enforcement bodies: The lead responsibility of enforcing the proposed closed area would fall to the D&SIFCA. There is the potential for an increase in enforcement costs as a consequence of the proposed byelaw. The costs associated with enforcement are outlined in section 7.

## **7. Analysis of costs and benefits**

### **Costs for the recommended option**

7.1 The introduction of a D&SIFCA 'Mobile Fishing Permit' byelaw with the closure of reef, seagrass and other sensitive features and habitats areas to vessels operating demersal mobile gears as permit conditions will result in the following costs:

- A maximum cost of £20 per vessel to purchase or renew a two year permit to operate mobile fishing gears
- Potential loss of access to fishing grounds and consequential loss of catch and income for vessels operating demersal mobile gears
- Potential for non-licensed, mobile gear fishing vessels to lose access to fisheries for their own consumption.
- An increase in enforcement costs associated with policing the sensitive reef and seagrass closed areas will lead to less resources being available to cover other lower risk enforcement requirements.
- Administrative costs associated with issuing permits to mobile gear vessels every two years.
- Purchase and installation of vessel monitoring systems may cost up to £1000. Annual airtime costs are estimated to be between £120-£160.

Potential loss of access to fishing grounds and consequential loss of catch and income for vessels operating demersal mobile gears are difficult to value due to the lack of accurate data available on fishing activity.

The D&SIFCA made the draft the Mobile Gear Permit Byelaw at its Quarterly Meeting, held on 27th June 2013. The draft Byelaws were advertised for two consecutive weeks (26th July and 2nd August 2013) in the Fishing News which is aimed towards the commercial fishing sector, and the following local newspapers covering the D&SIFCA district; Western Morning News, The Herald, Gloucestershire Echo, The Citizen, and Western Daily Press.

The D&SIFCA had developed detailed information pages on its website during the pre-consultation on the Byelaws. These pages were updated for use during the formal consultation period. During the consultation period a total of 1099 visits (740 unique visitors) were made to the website, in the six week period prior to the consultation 788 visits (589) were made. The information available on the website included a Frequently Asked Questions document. Notices advertising the byelaw consultation were issued by Officers at different locations in the district. Similar notices were attached to the rear windows of the Authority's vehicles. Officers attended a number of commercial sector meetings during the pre-consultation and formal consultation periods.

Three responses were received during the six week consultation period. A further response was received after the deadline and was not considered.

Members of the Byelaw and Permitting Sub-committee met on 17th September 2013 to consider the objections and made a number of recommendations. These recommendations were considered and agreed by the Members at the Authority's Quarterly Meeting held on 19th September 2013. The report to the Quarterly Meeting can be found in Annex III.

The main amendment to the draft byelaw was to remove the requirement for vessels using mobile gear fishing at sea to have an inshore vessel monitoring system fitted and operational as soon as the Byelaw was in force.

The MMO led type approval project has slipped from its original timetable. Type Approved Inshore Vessel Monitoring Units may be available from 1<sup>st</sup> December 2013 at the earliest leaving little time for fishermen to procure and install the units before the Byelaw comes into force on the 1<sup>st</sup> January 2014. Discussion regarding funding opportunities for under 12m vessels have begun. Indications are that the under 12m fleet may argue that the cost to purchase and install the units is too great a burden on small businesses. The introduction of VMS on the over 15m and the over 12m fleet have been funded by available grant monies. Airtime and additional costs have been paid by the fishermen. It would seem a reasonable expectation that the under 12m fleet is able to source potential funding.

## 7.2 Analysis of fisheries costs

The quantification of the potential loss of access to fishing grounds and consequential loss of catch and income for vessels operating demersal mobile gears as a result of the recommended option is difficult.

Within the Site Specific Assessments for Red High Risk Categories (Annex II) fishing activity is recorded. The fishing activity maps have been compiled by Cefas using D&SIFCA's vessel sighting data and MMO data. These data are used to consider the impact on the fishing sector from removing towed gear activities across sensitive features.

The scallop restrictions set out in the byelaw now cover the whole district so vessels that have historically solely fished in the waters, west of Bolt Tail in South Devon and on the north coast of Devon, Somerset and Gloucestershire, will be subject to the seasonal and daily closures. Towed gear vessel would not be able to land scallops (up to 120 individual scallops per day) during the seasonal closure of beds.

Less than 100 commercial fishing vessels are currently expected to require a permit to continue fishing with mobile gear in the D&SIFCA district, including visiting boats.

### 7.3 Analysis of administrative costs

Only an estimate of the administration costs can be made prior to operating the permit scheme. The process of issuing permits to approximately 100 vessels is not thought to be overly burdensome. The £20 fee for each permit, issued every two years is the D&SIFCA best estimate of the costs incurred.

However if the administrative costs proves to be higher these will be met by the D&SIFCA as the charge is set out in the body of the byelaw and cannot easily be changed.

It is estimated that the administrative cost of introducing the recommended byelaw, including costs associated with officer time, consultation and legal advice will amount to £20,000. On –going administrative costs associated with reviewing permit conditions cannot be easily estimated but is likely to be in excess of £5,000 per year.

### 7.4 Benefits for the recommended option

The introduction of a D&SIFCA ‘Mobile Fishing Permit’ byelaw with the closure of reef, seagrass and other sensitive features and habitats areas to vessels operating demersal towed gears as permit conditions will result in the following benefits within the district:

- Potential increase in the sustainability of the stocks of marine fisheries resources;
- Potential increase in the environmental sustainability and a reduction in the damage to habitats;
- Potential socio-economic benefits by limiting the displacement of vessels operating mobile gear.
- Better control over the mobile gear fleet will benefit the static gear sector. Annually, the reported losses of pots from alleged, illegal mobile gear activities in the Inshore Potting Agreement Area alone runs into 10’s of thousands of Pounds each year. These costs are significant for the static gear sector as a whole and can be potentially crippling losses for the individuals directly affected.

### 7.5 Analysis of fisheries and environmental benefits

The quantification of the potential benefits to the sustainability of marine fisheries resources within the D&SIFCA district as a result of the recommended option is difficult.

Benefits of healthy seagrass beds include a source of nutrients to support a rich range of animal communities on the seabed and sediment trapping by the root structure, consequentially reducing estuary erosion. Seagrass beds provide an important nursery area for young fish and shellfish, including some commercially important species. Seagrass beds provide an ideal habitat for many species including the endangered seahorse *Hippocampus hippocampus*, itself a Biodiversity Action Plan species.

Reef habitats are similar to seagrass beds in that they provide a habitat that encourages high biodiversity. Reefs also provide a degree of coastal protection and are important areas for nutrient cycling, carbon and nitrogen fixing and sediment stabilisation. By protecting areas of sensitive reef habitat a natural refuge is created for populations of targeted and bycatch.

The desirability of achieving a sustainable marine environment has been set out in UK Marine Policy Statement and draws from the UK’s High Level Marine Objectives. The high level objectives are to;

- achieve a sustainable marine economy;
- ensure a strong, healthy and just society;
- live within environmental limits;
- use sound science responsibly;
- promote good governance;

The byelaw helps promote the delivery of these objectives.

#### 7.6 Analysis of socio-economic benefits

It is anticipated that the maintained condition, and in some cases recovery, of reef and seagrass features will provide greater attraction for recreational users, including divers and anglers. This sector is an important income generator to the local economy. The duties of the D&SIFCA are to seek to balance the needs of all users and the establishment and protection of these features supports this important sector's interest.

The introduction of the new management measures will give confidence to the public that fishing vessels operating mobile gears that they see in the District are effectively controlled and are not damaging to the marine environment.

It may also promote the buying and consuming of the catch taken by mobile gear vessels operating under the D&SIFCA's management measures as the public have greater confidence in the sustainability of the product.

#### 8. Summary

The D&SIFCA has statutory responsibilities that it believes it meets by introducing the mobile fishing permit byelaw.

The D&SIFCA does not believe that the protection of the sensitive habitats and features or the effective management of mobile fishing gear can be achieved through a non-legislative approach.

The byelaw is designed to meet the Authority's conservation responsibilities but at the same time minimising the socio-economic impact from these restrictions. The byelaw also provides the flexibility to manage fishing activities in a timely, effective way and provides the framework to consider developing new fisheries.

A post implementation review will be undertaken no later than five years after the byelaw is confirmed. It is the Authority's intention to review the management measures contained in the flexible permit conditions annually. It is possible that flexible permit conditions can be reviewed more frequently if needed and sufficient data is available. Social and economic data will be considered along with other evidence when considering if changes should be made. An impact assessment will be undertaken if management changes are proposed.