



# **Solent Dredge Permit Byelaw Access Policy**

**2019**

**November 2021 update**

### Document Control

|                 |   |
|-----------------|---|
| <b>Title</b>    | <b>Solent Dredge Permit Byelaw Access Policy 2019</b> |
| <b>Approver</b> | Secretary of State                                    |
| <b>Owner</b>    | Southern IFCA   |

### Document History:

| <b>Base Document</b> | <b>Author</b> | <b>Reason</b>   |
|----------------------|---------------|---|
| As above             | Pia Bateman   | Developed as a legally binding supporting Document to accompany the Solent Dredge Permit Byelaw (SDPB). Following the making of the SDPB at the Meeting of the Southern IFCA Authority in March 2019, the SDPB (which includes the legally binding Access Policy) was sent to the MMO. The SDPB was passed from the MMO to DEFRA on the 19th December 2019 and subsequently approved the Secretary of State on the 14 <sup>th</sup> October 2020 for implementation on the 1 <sup>st</sup> November 2021. |

### Review Log:

At any time, the Authority may decide to review the suitability of the Solent Dredge Permit Access Policy in line with the Review Procedure outlined in paragraph (28) of the Solent Dredge Permit Byelaw, or following any legal advice received.

| <b>Review</b> | <b>Author(s)</b>               | <b>Details</b>   | <b>Approver</b>   | <b>Published</b>                    |
|---------------|--------------------------------|--|---|-------------------------------------|
| 2021          | Pia Bateman,<br>Patrick Cooper | To update eligibility requirements in recognition of fishers who have been active in the Solent scallop fishery which has emerged since the original drafting of the Access Policy in 2018/19. This will ensure that fishers who have harvested king scallops ( <i>Pecten maximus</i> ) may be eligible to apply for a Category A Permit. For note, the SDPB Access Policy is a legally binding document, as such, any amendments must be made post SDPB implementation and in consultation with fishers as per the requirements listed in paragraph (28) of the SDPB. | Southern IFCA<br>Technical<br>Advisory<br>Committee 4 <sup>th</sup><br>November<br>2021 | 5 <sup>th</sup><br>November<br>2021 |

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## **1.0 Solent Dredge Permit Byelaw Access Policy**

1.1 The following policy seeks to clarify the access to permit entitlements which exist under the Solent Dredge Permit Byelaw (“The Permit Byelaw”) being:

- i. a Category A Permit: All bivalves (except *Ostrea edulis*) (“Category A”);
- ii. a Category B Permit: *Ostrea edulis only* (“Category B”)

1.2 This policy was adopted by the Southern Inshore Fisheries and Conservation Authority (IFCA) “The Authority” Joint Committee on the 21<sup>st</sup> March 2019.

1.3 The purpose of this policy is to enable The Authority to fulfil its obligations under Section 153(2) of the Marine and Coastal Access Act 2009 to:

- i. Seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way;
- ii. 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;
- iii. Seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.

1.4 The Authority believes that it will fulfil these obligations by:

- i. Stating with clarity the Introductory Access Criteria relevant at the time the Solent Dredge Permit Byelaw is introduced;
- ii. Stating with clarity an Annual Access Criteria which will consider applications from:
  - Existing permit holders;
  - New entrants into the relevant fisheries;
- iii. Providing clarification on the following matters:
  - Application and issuing of permit entitlements;
  - Changes in permit holder circumstances;
  - Appeals process.
- iv. Providing full transparency and clarification to stakeholders, with regard to the decision-making processes which will underpin any future management relevant to the bivalve fisheries, in line with the procedures documented in paragraph (28) of the Solent Dredge Permit Byelaw and the Solent Dredge Permit Byelaw Management Intentions Document.

## **2.0 PATHWAY ONE: Introductory Access Criteria**

### **2.1 Category A Permit**

To be eligible for consideration for a Category A permit entitlement of the fishery, the applicant must demonstrate to the satisfaction of the Authority that they meet the provisions under paragraph (11) of the Solent Dredge Permit Byelaw, in addition to **either of** the following provisions:

|                         |   |
|-------------------------|---|
| <b>Reference Period</b> | January 2016-December 2018 (all days inclusive) |
| <b>Target species</b>   | All bivalves (except <i>Ostrea</i> )            |

|  |  |
|--|--|
| <b>Fishing requirement within reference period</b> | ≥20 days fished in any one year in the Solent <sup>1</sup> |
| <b>Applicable years for entry</b>                  | Years one to three following byelaw implementation         |

Or

|  |  |
|--|--|
| <b>Reference Period</b>                            | January 2019-March 2021 (all days inclusive)                   |
| <b>Target species</b>                              | King scallops ( <i>Pecten maximus</i> )                        |
| <b>Fishing requirement within reference period</b> | ≥20 days fished during any one year in the Solent <sup>2</sup> |
| <b>Applicable years for entry</b>                  | Years one to three following byelaw implementation             |

2.1.1 The onus is on the applicant with regard to providing suitable evidence to demonstrate a track record within the fishery in question. It is suggested that the evidence provided to the Authority could include sales notes. In the event that the evidence does not provide adequate information additional information may be required. Acceptance of evidence is at the discretion of the Authority.

## 2.2 Category B Permit

To be eligible for consideration for a Category B permit entitlement of the fishery, the applicant must demonstrate to the satisfaction of the Authority that they meet the provisions under paragraph (12) of the Solent Dredge Permit Byelaw, in addition to the following provisions:

|  |  |
|--|--|
| <b>Reference Period</b>                            | November 2005-February 2010 (all days inclusive)                         |
| <b>Target species</b>                              | <i>Ostrea edulis</i> only  |
| <b>Fishing requirement within reference period</b> | Ownership of licence issued under 'The Solent Oyster Fishery Order 1980' |
| <b>Applicable years for entry</b>                  | Not time limited   |

or

|  |   |
|--|---|
| <b>Reference Period</b>                            | November 2013-February 2018 (all days inclusive)            |
| <b>Target species</b>                              | <i>Ostrea edulis</i> only                                   |
| <b>Fishing requirement within reference period</b> | Active fishing within the Solent (as defined in footnote 1) |
| <b>Applicable years for entry</b>                  | Not time limited  |

2.2.1 The onus is on the applicant with regard to providing suitable evidence to demonstrate a track record within the fishery in question. It is suggested that the evidence provided to the Authority could include sales notes and/or evidence that the

<sup>1</sup> Solent as defined in Solent Dredge Permit Byelaw as: "Solent" means that part of the district as lies below mean high water springs from the East of an imaginary straight line drawn from Hurst Point at (50° 42.430'N 001° 32.935'W); to Fort Victoria at (50° 41.973'N 001° 32.045'W); to the West of an imaginary straight line drawn due south from point (50° 46.631'N 0° 56.255'W); to its point of intersection with an imaginary straight line drawn due east from Culver Cliff (50° 40.034'N 1° 5.747'W);

<sup>2</sup> Solent as defined in Solent Dredge Permit Byelaw as: "Solent" means that part of the district as lies below mean high water springs from the East of an imaginary straight line drawn from Hurst Point at (50° 42.430'N 001° 32.935'W); to Fort Victoria at (50° 41.973'N 001° 32.045'W); to the West of an imaginary straight line drawn due south from point (50° 46.631'N 0° 56.255'W); to its point of intersection with an imaginary straight line drawn due east from Culver Cliff (50° 40.034'N 1° 5.747'W);

applicant held a licence, as granted under The Solent Fishery Order 1980. In the event that the evidence does not provide adequate information additional information may be required. Acceptance of evidence is at the discretion of the Authority.

### 3.0 **PATHWAY TWO: Annual Access Criteria**

#### 3.1 **Category A Permit**

To be eligible for consideration for a Category A permit entitlement on an annual basis in year two of the fishery and beyond, the applicant must demonstrate to the satisfaction of the Authority that they meet the provisions under paragraph (11) of the Solent Dredge Permit Byelaw, in addition to the following provisions:

##### 3.1.1 **Solent Dredge Category A permit holders from the previous season**

|  |   |
|--|---|
| <b>Reference Period</b>                            | Previous season                             |
| <b>Target species</b>                              | All bivalves (except <i>Ostrea edulis</i> ) |
| <b>Fishing requirement within reference period</b> | Fished on ≥30 days                          |

#### 3.2 **Category B Permit**

To be eligible for consideration for a Category B permit entitlement on an annual basis in year two of the fishery and beyond, the applicant must demonstrate to the satisfaction of the Authority that they meet the provisions under paragraph (12) of the Solent Dredge Permit Byelaw, in addition to the following provisions:

##### 3.2.1 **Solent Dredge Category B permit holders from the previous season**

|  |                           |
|--|---------------------------|
| <b>Reference Period</b>                            | Previous season           |
| <b>Target species</b>                              | <i>Ostrea edulis</i> only |
| <b>Fishing requirement within reference period</b> | Active in fishery         |

#### 3.3 **Fishing requirement within reference period**

For the purposes of Section 3.1.1 and 3.2.1 'fishing requirement within reference period' shall be proved only by the submission of the relevant 'Solent Category A or B Permit Catch Return Form(s)' in line with the requirements set out in the Solent Dredge Category A or B Permit Conditions during the preceding season for which the application is made. Submitted catch returns indicating 'nil' will not contribute to this definition of use.

### 4.0 **PATHWAY THREE: New Entrant Policy**

To be eligible for consideration for a Category A or Category B permit entitlement in year two of the fishery and beyond, the applicant must establish to the satisfaction of The Authority that they meet the provisions under either paragraph (11) or (12) of the Solent Dredge Permit Byelaw, in addition to fulfilling at least one or more of the following criteria:

1. They are able to demonstrate that they make a living from fishing; *and*

2. They have a history of fishing within the Southern IFCA district, (as defined under paragraph (1, b) of the Permit Byelaw) or within the former Sea Fisheries district (as defined in The Sea Fisheries Regulation Act 1966); *and*
3. They hold all relevant certifications in line with the requirements under the Maritime and Coastguard Agency Marine Guidance Note 411.

## **5.0 Issuing of a Permit**

Prior to the issue of a permit entitlement under Sections 2.0, 3.0 or 4.0 of this document, the applicant must establish to the satisfaction of the Authority that they fulfil the requirements under paragraphs (11) and (12) of the Solent Dredge Permit Byelaw.

## **6.0 Procedure for application**

- 6.1 Applications for a permit entitlement should be made using the Solent Dredge Permit Application Form, available online or at the office of The Southern IFCA.
- 6.2 Completed application forms, together with accompanying evidence should be returned to the office of the Southern IFCA.
- 6.3 It shall be at the discretion of the Authority whether an applicant requires an interview based on an assessment of the application submitted irrespective of whether it is via pathway one, two or three.
  - i. In the event that an interview is required, the interview will be carried out by the Permit Interview Sub-Committee who will meet as necessary to interview applicants prior to the award of permit entitlements, in order to decide whether the applicant has proved to its satisfaction that he or she meets the criteria for the grant of a permit entitlement;
  - ii. The Permit Interview Sub-Committee will make recommendations to the Authorities Technical Advisory Committee (TAC), by proxy as to whether it is satisfied that an applicant it has interviewed meets the criteria for the grant of a permit entitlement.

## **7.0 Period a Permit is valid**

### **7.1 Category A Permit**

A Category A Permit will be valid from the 1<sup>st</sup> November to the 31<sup>st</sup> October (all dates inclusive) in any given year.

2021 Completed application forms for reference period January 2016 – December 2018 (inclusive) must be received between 1<sup>st</sup> May and the 30<sup>th</sup> September 2021. Applications received after this date will not be considered.

Completed application forms for reference period January 2019 – March 2021 must be received between 5<sup>th</sup> November 2021 and the 3<sup>rd</sup> December 2021. Applications received after this date will not be considered.

For subsequent years (2022 onwards) application forms for a Category A Permit for all pathways must be received between 1<sup>st</sup> May and the 30<sup>th</sup> September (inclusive). Applications received after this date will not be considered.

## 7.2 **Category B Permit**

A Category B Permit will be valid from the 1<sup>st</sup> November to the last calendar day of February (all dates inclusive) in any given year.

Completed application forms must be received between 1<sup>st</sup> September and the 1<sup>st</sup> October each year. Application forms received after this date will not be considered.

## **8.0 The number of permits issued**

- 8.1 It is not the intention of the Authority to restrict the number of permits available in years one to three. Any considerations for restricting the numbers of permits available in years three and beyond will be in accordance with paragraph (28) of the Solent Dredge Permit Byelaw.
- 8.2 In accordance with Figure 1 any applications received under Pathway Two (Annual Access) which are not allocated a permit entitlement will be entered onto a 'Pathway Two Waiting List'. When a permit becomes available allocation will be granted to applicants on the Pathway Two Waiting List in the order in which they were received.
- 8.3 Applications held on a 'Pathway Two Waiting List' will not roll over to the following season, as such new applications under Pathway Two must be submitted for the new season. In this event the Authority recognise that applicants will not be able to demonstrate a track record during the previous season and as such will consider applications from those applicants who have been held on a 'Pathway Two Waiting List' during the previous season.
- 8.4 Any applications received under Pathway Three (New Entrants) which are not allocated a permit entitlement will be entered onto a 'Pathway Three Waiting List'. When a permit becomes available (when Pathway Two Waiting list is exhausted) allocation will be granted to applicants on the Pathway Three Waiting List in chronological order.
- 8.5 Applications held on a 'Pathway Three Waiting List' are not be time limited.
- 8.6 Applications will be considered on a first come first served basis. As such, it is recommended that applications are received either via email, Royal Mail Special Delivery (signed for) or delivered in person to the Authority during office hours so they can be time and date stamped at the point of receipt.



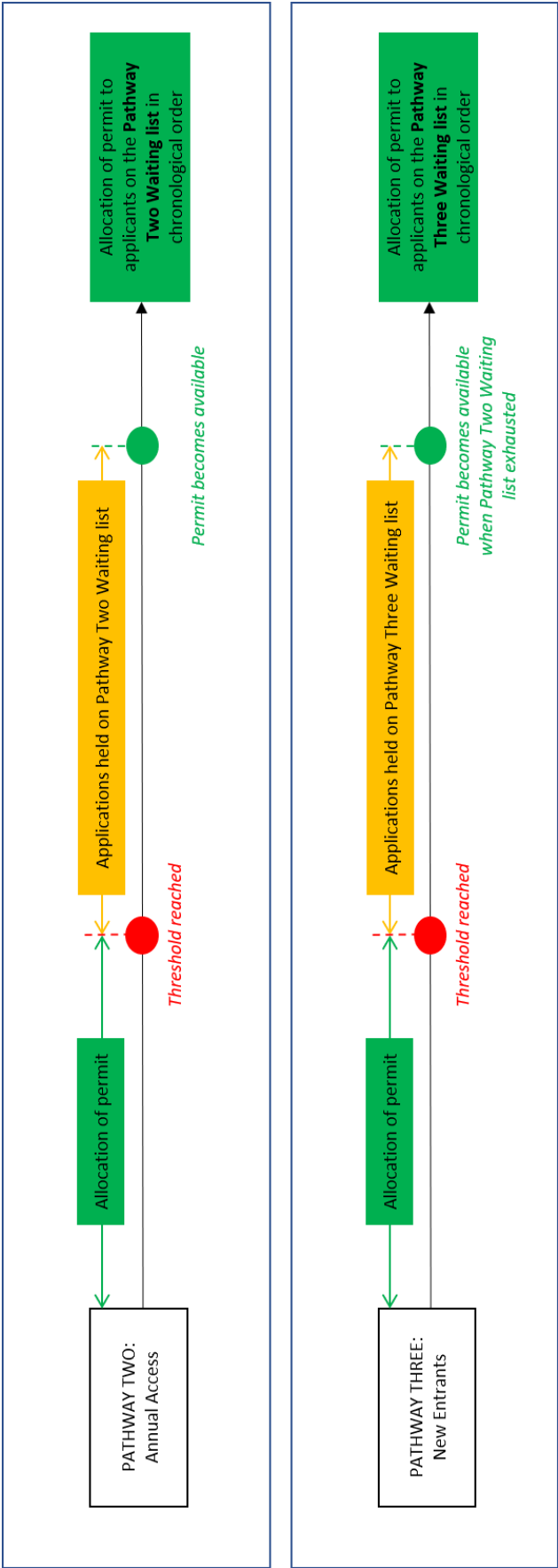


Figure 1: Permit allocation in event access is capped

## **9.0 Changes of circumstance**

### **9.1 Change of relevant vessel**

A permit holder may apply to the Authority in writing to transfer a permit mid-season to a different vessel to that named on their permit.

### **9.2 Miscellaneous changes of permit holder**

A permit entitlement holder may apply to the Authority in writing following a change of circumstance (for example, but not limited to: a change in name or address, or a change in nominated representative).

### **9.3 Exceptional circumstances**

A permit holder may apply to the Authority in writing, with any evidence that the Authority may deem appropriate at the time of appeal, if the use of a permit entitlement has been compromised during any given season, which may affect future access under Pathway Two of the annual access criteria for the relevant category permit.

Exceptional circumstances might include but are not limited to:

- i. A medical condition of permit holder;
- ii. Compassionate grounds;
- iii. Total loss of vessel;
- iv. Force majeure;

For the purpose of this document 'force majeure' shall be defined as a closure of a fishery for reasons outside of the Southern IFCA's control.

## **10.0 The Permit Interview Sub Committee**

10.1 The Permit Interview Sub-Committee, as created under the Southern IFCA Standing Orders, may consider any applications made in respect of pathway's one to three for either a Category A or a Category B Permit, as well as for any applications made under Section 9.0 of this document;

10.2 The Authority reserves the right not to award a permit notwithstanding that it is satisfied that the applicant meets the relevant criteria, having regards to the wider duties of the Authority;

10.3 Should the Authority approve a change of circumstance following written application from the permit entitlement holder during the season under Section 9.1 or 9.2 of this document, the existing permit will be cancelled and a new permit will be awarded upon payment of £50.00.

## **11.0 Appeals Procedure**

11.1 Any person who is dissatisfied with any decision made by the Authority with respect to the issuing of a permit entitlement is to have the following right of appeal, in writing or in person, either alone or accompanied by a legal adviser or friend to an Appeals and Scrutiny Sub-Committee. The Appeals and Scrutiny Sub-Committee will consist of 3 Members of the Authority who:

- i. Are not Members of the Permit Interview Sub-Committee;

- ii. Do not have any direct interest in the relevant fishery; and
  - iii. Did not take part in any discussion or vote on any relevant recommendations of the Permit Interview Sub-Committee.
- 11.2 An appeal will only be heard if a request is received, in writing, within 28 days of written confirmation of an Authority decision.
- 11.3 For any appeal, the Authority and the appellant will each be responsible for their own costs.

## **12.0 Review of the Access Policy**

At any time, the Authority may decide to review the suitability of the Solent Dredge Permit Access Policy in line with the Review Procedure outlined in paragraph (28) of the Solent Dredge Permit Byelaw, or following any legal advice received.