

North West Inshore Fisheries and Conservation Authority **Activity**

Background

The North West Inshore Fisheries and Conservation Authority (NWIFCA) is responsible for managing sea fisheries, including mussel fisheries, in the coastal waters lying between the Dee and the Solway Firth. This area includes the UK's largest seed mussel resource, which is vital to the ongoing success of the Menai Strait mussel fishery. This report provides a brief update on NWIFCA activities that could have an impact on the Menai Strait mussel fishery.

Recommendations

1. That the report is received.
2. That comments on proposed new byelaws and management measures are agreed and sent to the NW-IFCA as appropriate.

1. IFCA Meetings

- 1.1 Since the last meeting of the Association the NW-IFCA has held two Quarterly Meetings (one on the 11th March and another on the 10th June 2016). The Technical, Scientific and Byelaws Sub-Committee has met once (on the 10th May 2016). The "Bivalve Mollusc Working Group" also
- 1.2 Some of the matters that are relevant to the Menai Strait mussel fishery that have been considered by the NW-IFCA are summarised briefly below.

2. Changes to Byelaws

- 2.1 The NW-IFCA is presently working on changes to two byelaws which are relevant to the activities of the mussel industry in the Menai Strait. These are a new Byelaw 11, which will regulate fishing with dredges; and a revision to the existing Byelaw 3 which establishes a permit scheme for cockles and mussels.
- 2.2 The current drafts of each byelaw are attached as Annexes A and B of this report for Members' information and comment.

3. Morecambe Bay Mussel Management Plan

- 3.1 A "Mussel Management Plan" is presently being developed by the Bivalve Mollusc Working Group. A report on progress was submitted to the Technical, Scientific and Byelaws Sub-Committee in May 2016. A copy of the present draft of the plan is attached at Annex C of this report.
- 3.2 Members' attention is drawn in particular to the section of the plan dealing with sectoral resource allocation.
- 3.3 It is also interesting to note that the management plan proposes that there should be no mussel fishing unless the mussel stock exceeds the combined Minimum Spawning Stock Biomass of mussels and the Minimum Bird Feeding

Requirements. The MSSB is defined as the minimum adult stock (>45mm), and is considered necessary to protect future fisheries. No information is presented in the document to demonstrate either that mussels mature at a size of 45mm or that a stock-recruitment relationship has been demonstrated in Morecambe Bay or indeed for any mussel fishery in Europe.

4. Seed mussel fishery, Morecambe Bay

- 4.1 A verbal report on the distribution of seed mussels in Morecambe Bay was submitted to the NW-IFCA quarterly meeting in June 2016. It is understood that surveys of the seed mussel resource are ongoing, and that a survey involving Menai Strait fishermen and NW-IFCA staff is scheduled for the 13th July 2016.

MSFOMA Secretariat
July 2016

Annex A: Proposed new NW-IFCA Byelaw 11 (from papers presented to NW-IFCA meeting on June 10th 2016).

ANNEX A

North Western Inshore Fisheries and Conservation Authority

Marine and Coastal Access Act 2009

Byelaw 11 Permit to dredge 2016

The Authority for the North Western Inshore Fisheries and Conservation District in exercise of its powers under sections 155 and 156 of the Marine and Coastal Access Act 2009 makes the following byelaw for that District.

Interpretation

1. In this byelaw:
 - a. "Authority" means the North Western Inshore Fisheries and Conservation Authority (NWIFCA) as defined in articles 2 and 4 of the North Western Inshore Fisheries and Conservation Order 2010;
 - b. "District" means the North Western Inshore Fisheries and Conservation District as defined in articles 2 and 3 of the North Western Inshore Fisheries and Conservation Order 2010 (S.I. 2010/2200);
 - c. "dredge" means a dredge, scoop, pump or mechanical device which is not a trawl or beam trawl and any ancillary hydraulic equipment that is operated from a vessel or vehicle which is designed for or capable of taking sea fisheries resources;
 - d. "IFCO" means an Officer appointed under MACAA S 165;
 - e. "inboard, lashed and stowed" means dredges aboard a vessel used for fishing which are stored so they cannot be used or deployed from the vessel.
 - f. "MACAA" means the Marine and Coastal Access Act 2009;
 - g. "nominated person" means a person nominated by a permit holder and named on a permit to carry and use a permit for a relevant vessel or vehicle;
 - h. "obstruct" means an offence under MACAA S 292;
 - i. "permit" means a permit issued by the Authority in accordance with this byelaw.

Prohibitions

2. A person must not use a dredge for the exploitation of sea fisheries resources unless:
 - a. from a relevant fishing vessel or vehicle and
 - b. in accordance with a permit issued to them and
 - c. the permit holder or a nominated permit holder is present on the vessel or vehicle when the dredge is in use or being transported.
3. A dredge must not be carried by or attached to a fishing vessel unless it is inboard, lashed and stowed.
4. This byelaw shall not apply to any person performing an act that would otherwise constitute an offence against this byelaw if that act was carried out in accordance with a written permission issued by the Authority permitting that act for scientific, management, stocking or breeding purpose.

Permit conditions

5. A permit:
 - a. is issued by the Authority to a named person ("the permit holder") or a nominated person in respect of a named relevant fishing vessel for which the permit holder is an owner or a shareholder ("the named vessel") or a legally registered vehicle for which the person is an owner or a shareholder ("the vehicle").
 - b. is not transferable:
 - i. From the permit holder or nominated persons to any other person or,
 - ii. From the relevant fishing vessel or vehicle to another vessel or vehicle;
 - c. must be carried by the permit holder or a nominated person aboard the relevant vessel or vehicle at all times when the dredge is aboard the relevant vessel or vehicle and produced for inspection when requested by a warranted IFCO,
 - d. must be surrendered to the Authority if no longer required.
6. The Authority may in accordance with the review procedure in this byelaw:
 - a. attach conditions to a permit;
 - b. vary or remove conditions attached to a permit;
 - c. limit the number of permits issued.
7. An application for a permit must be made using the forms available from the Authority providing all the information requested on the form.
8. A permit is valid for the period specified on the permit.
9. Permit holders must file catch returns with the Authority no later than the 5th day of the month following such information on catches and fishing effort for the previous month as the Authority may require. Nil returns may be required. Permit holders not filing returns may have their permits suspended by the Authority until returns have been filed.
10. Vessels used in accordance with this byelaw must have a functional electronic ship identification system showing at all times of fishing the name, registration number, location, speed and direction of the vessel.
11. The Authority must be notified by phone, text or email at least 2 hours prior to commencement of fishing under a dredge permit. Notification must include the name of the permit holder, vessel name or tractor registration, date and time of fishing.
12. On receipt of the information in paragraph 19, the Authority may set permit conditions or revoke permits including:
 - a. specified dates,
 - b. specified times and/or tides,
 - c. specified areas,
 - d. specified species,
 - e. specified types of dredge,
 - f. specified maximum number of dredges per vessel;
 - g. specified daily or periodic catch limits.
13. Failure to notify the Authority of any change in the information provided to obtain a permit during the period when the permit is valid is an offence against the byelaw.
14. Use of a permit to fish constitutes agreement to the conditions attached to the permit.
15. Contravention of a permit condition constitutes a contravention of this byelaw.
16. A fee of no greater than £2000 is payable for each vessel or vehicle named on a permit prior to use upon application.
17. The Authority may charge a fee of £50 to issue a replacement or amended permit.

Review procedure

18. The Authority will review the permit conditions no less than once every 4 years as follows:
 - a. The Authority will consult in writing with permit holders and such other stakeholders, organisations and persons as appear to the Authority to be representative of the interests likely to be substantially affected by the proposed future management options;
 - b. The Authority will make a decision whether to attach, vary or remove any permit condition based on the consultation responses obtained in accordance with paragraph 18a and the information listed in paragraph 19;
 - c. Following a decision being made by the Authority, permit holders will be notified in writing and permits will be amended as necessary at no cost to the permit holder.
19. The information includes any one or more of the following:
 - a. Information and advice received from permit holders;
 - b. scientific and survey information gathered by the Authority or provided to the Authority by such other bodies organisation or person as the Authority shall think fit;
 - c. advice provided by Cefas or Natural England or such other body other bodies organisations or persons as the Authority shall think fit;
 - d. an impact assessment of any proposed changes;
 - e. information from any other relevant source.

Revocation of byelaws

20. North Western and North Wales Sea Fisheries Committee Byelaw 12 (Restrictions on fishing for bivalve molluscan shellfish) is revoked.

Explanatory Note

(This note does not form part of the byelaw)

This byelaw prohibits the use of dredges for fishing within the District without a permit as well as the use of a dredge of design not approved by the Authority.

The byelaw defines the requirements for obtaining a permit, the conditions which may be attached to a permit and a procedure by which additional permit conditions may be attached to a permit or varied or removed from a permit by the Authority.

Annex B: Proposed new NW-IFCA Byelaw 3 (from March 2016 NW-IFCA meeting)

ANNEX A

North Western Inshore Fisheries and Conservation Authority

Marine and Coastal Access Act 2009

Byelaw 3 Cockle and mussel fisheries 2016

The Authority for the North Western Inshore Fisheries and Conservation District in exercise of its powers under sections 155 and 156 of the Marine and Coastal Access Act 2009 makes the following byelaw for that District.

Version 01.03.16

Interpretation

1. In this byelaw:
 - a) “Authority” means the North Western Inshore Fisheries and Conservation Authority (NWIFCA) as defined in articles 2 and 4 of the North Western Inshore Fisheries and Conservation Order 2010
 - b) “business model” means a descriptive representation of the operation of the business including method of obtaining cockles or mussels, the revenue stream and business processes;
 - c) “cockle” means a shellfish of the species *Cerastoderma edule*;
 - d) “CSFC District” means the District of the Cumbria Sea Fisheries Committee abolished in 2011;
 - e) “District” means the North Western Inshore Fisheries and Conservation District as defined in articles 2 and 3 of the North Western Inshore Fisheries and Conservation Order 2010 (S.I. 2010/2200);
 - f) “first sale” means cockles or mussels that have been gathered from a fishery within the District that have been or are being sold, transported, marketed, exposed or offered for the purposes of sale for the first time;
 - g) “fishery” means an area of sea, seabed, exposed estuary, seashore or other marine environment;
 - h) “foreshore gatherers safety training certificate” means a valid document issued by a Seafish Industry Group Training Association (SIGTA), or a trainer approved by NWIFCA, certifying that the person named on the certificate has completed a safety training course approved by SIGTA or NWIFCA for inter-tidal shellfish gathering;
 - i) “gangmaster” means a person licensed under the Gangmasters (Licensing) Act 2004 (2004 c.11);
 - j) “gathering” includes all activities related to fishing by hand of cockles or mussels within or from a fishery including harvesting, taking, moving and transporting;

- k) "gathering permit" means a permit issued by the Authority in accordance with paragraph 17 of this byelaw;
- l) "IFCO" means an officer appointed under section 165 of MACAA;
- m) "Limited company" means a limited company as defined in the Companies Act 2006 (2006 c.46);
- n) "MACAA" means the Marine and Coastal Access Act 2009;
- o) "mussel" means a shellfish of any species of the genus *Mytilus*;
- p) "nominee group" means a group of Byelaw 11 permit holders who have had their business model approved by the Gangmaster Licensing Authority (GLA) (Gangmaster (Licensing) Act 2004);
- q) "NWSFC District" means the District of the North Western Sea Fisheries Committee abolished in 2011
- r) "partnership" means a trading entity registered as a partnership with HMRC;
- s) "protected area" means a Marine Conservation Zone (MCZ) designated under MACAA; or a Special Area of Conservation (SAC) designated under the Habitats Directive (Council Directive 1992/43/EEC) or a Special Protection Areas (SPA) designated under the EC Birds Directive (Council Directive 2009/147/EEC);
- t) "regulatory notice" means a notice issued by the Authority in accordance with paragraph 41 of this byelaw;
- u) "representative of a nominee group" is a person who is designated to register as representing a nominee group;
- v) "restricted area" means an area, within a protected area, defined within a regulatory notice and for which a management measure has been introduced by that regulatory notice;
- w) "sales note" means a document that contains the name, address, trading permit holder registration number of the buyer; the name and permit number of the gathering permit holder, the date of purchase and date of landing of the shellfish, the live weight, species and location of gathering;
- x) "sole trader" means an individual registered as such with Her Majesty's Revenue and Customs (HMRC);
- y) "trading permit" means a permit which authorises a person to engage in first sale of cockles or mussels and is issued in accordance with paragraph 30 of this byelaw;
- z) "waiting list" is the list administered by NWIFCA of those persons who have correctly applied for a gathering permit under Byelaw 3 (revoked under this byelaw) and continued under this byelaw, and are awaiting issue of a gathering permit;

Prohibitions

- 2. A person must not gather cockles or mussels from a fishery unless they have in their possession while gathering a valid gathering permit issued to them.
- 3. A person must not gather cockles or mussels except:
 - a) by hand or using hand-held rakes;
 - b) in the case of cockles by using craams, rakes, spades, tamps or jumbos;
 - c) by using buckets, sacks, net bags, ton bags and other such containers ordinarily used

for the storage of cockles and mussels.

4. A person must not use a net bag for gathering cockles.
5. A person must not have in their possession retain, transport or store;
 - a) any cockle or mussel gathered in breach of this byelaw;
 - b) any cockle or mussel gathered in breach of a regulatory notice;
 - c) any cockle gathered from within that part of the District managed under the Dee Estuary Cockle Order 2008 (SSI 1472 of 2008) without being in possession of a licence to fish issued under that Order.
6. A person must not have in their possession any article for use in the course of or in connection with gathering cockles or mussels within or from a fishery in breach of this byelaw.
7. A person must not gather cockle from a fishery on or between the 1st May and the 31st August in any year.
8. A person must not engage in first sale except in accordance with a trading permit.
9. A person must not take or use on a mussel bed, a sledge, vehicle or other contrivance which is likely to crush or loosen the mussels or loosen the foundations of the bed, without a written authorisation issued by the Authority.
10. A person must not disturb, dig in or erect any structure on or in a mussel bed for any purpose without a written authorisation issued by the Authority.

Exemptions

11. Paragraph 2 does not apply to a person gathering less than 5kg of cockles and 5kg of mussels during a calendar day.
12. This byelaw does not apply to any person performing an act that would otherwise constitute an offence against this byelaw if that act was carried out in accordance with a written permission issued by the Authority permitting that act for a scientific, management, stocking or breeding purpose or in the exercise of any right of common held by that person.

Minimum Landing Size

13. A person must not take from a fishery a cockle which will pass through a gauge having a square opening of 20mm measured across each side of the square.
14. A person must not take from a fishery a mussel less than 45mm in length.
15. A person must not place fished cockles into a container unless they have been retained by a rigid riddle designed to retain cockles which will not pass through a gauge having a square opening of 20mm measured across each side.
16. Compliance with the requirements of paragraphs 13 -15 will be assessed by an IFCO measuring representative random samples of at least 50 cockles or mussels per sample.

Gathering Permit Conditions

17. Gathering permit holders must:
 - a) comply with any Regulatory Notice;
 - b) only engage in first sale with a trading permit holder;
 - c) hold a gathering permit valid from the previous 1st September to the next 31st August;
 - d) not use a permit after the date of expiry;
 - e) file returns to the Authority, not later than the 5th day of each calendar month, for the

- previous calendar month, including nil returns, or more frequently if required by the Authority. Returns must be completed on a correct valid NWIFCA fishing effort form providing all the information requested on the form. Gathering permits may be suspended by the Authority until returns have been filed;
- f) notify the Authority of any changes of name or address;
 - g) hold a valid foreshore gatherers safety training certificate;
 - h) not obstruct pursuant to MACCA s292(4) an IFCO carrying out a relevant function pursuant to MACCA s287;

18. Failure to comply with any of the gathering permit conditions constitutes a breach of this byelaw.

19. Gathering permits are not transferable.

Renewal

20. A permit holder must apply to renew a gathering permit by the 1st December in the year in which the permit expires.

21. Applications for permit renewal must be made on the correct valid permit renewal form and must include a foreshore gatherers safety training certificate valid on the date of renewal and payment of the annual fee of £500.

Applications

22. The Authority may offer a maximum of 10 new gathering permits each year to the first 10 applicants on the waiting list.

23. Persons are entitled to be placed on the waiting list on the production of:

- a) A completed valid permit application form;
- b) Evidence of the applicant's identity, containing a photograph and signature;
- c) Proof of the applicant's address;
- d) Proof that the applicant is at least 13 years old.

24. New permits will be issued from the waiting list when the applicant has provided:

- a) Payment of the fee of £500;
- b) A valid foreshore gatherers safety training certificate course;
- c) Evidence to the satisfaction of the Authority that the applicant has successfully registered for payment of tax with HMRC in the current or previous tax year;
- d) A National Insurance number;
- e) 2 passport photographs taken in the last year.

25. The fee will be varied in accordance with the Consumer Price Index on the 1st December each year.

26. When applicants under the age of 16 reach the top of the waiting list they will remain immediately below the top 10 places in date order until they reach the can provide the requirements in paragraph 24.

27. If an offer of a permit from the waiting list is declined or not accepted within 4 weeks of the offer being sent by the Authority, the applicant will be deleted from the waiting list and the permit offered to the next person on the waiting list.

Transitional Arrangements

28. A holder of a 2015/16 permit issued under NWIFCA Byelaw 3 Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*) (revoked by this byelaw), is entitled to renew that permit as a gathering permit under this byelaw for the year 2016/17 if a complete

application is made within the time limit in paragraph 20.

29. A person who provides evidence to the satisfaction of the Authority that they held a permit issued under Cumbria Sea Fisheries Committee byelaws 21 (Cockles permit scheme) or 23 (Mussels permit scheme)(revoked by NWIFCA Byelaw 3) prior to confirmation of NWIFCA Byelaw 3 may apply to the Authority for written consent to fish for cockles or mussels in the CSFC District without being in possession of a gathering permit under this byelaw.
30. A person who provides evidence to the satisfaction of the Authority that they fished for cockles or mussels in the area of the Dee Estuary outside the NWSFC District may apply to the NWIFCA for written consent to fish for cockles or mussels within that area of the Dee Estuary without being in possession of a gathering permit under this byelaw.
31. All obligations of this byelaw apply to consents issued under paragraphs 28 or 29. No fee is payable for consents issued under paragraphs 29 or 30.
32. The transitional arrangements in paragraphs 29 and 30 will cease 5 years after the date of this byelaw coming into force.

Trading Permit Applications

33. A trading permit may be issued subject to paragraphs 33 to 37 to a person providing evidence that they are:
- a) a sole trader;
 - b) a Gangmaster;
 - c) representing a nominee group;
 - d) representing a limited company; or,
 - e) representing a partnership.
34. A trading permit will be issued to applicants providing:
- a) a completed valid trading permit application form;
 - b) proof of the applicant's identity containing a photograph taken in the last year;
 - c) proof of the applicant's address such as a utility bill dated within the last 3 months;
 - d) a nominated address at which the records required under the permit conditions will be kept if different from c);
 - e) proof of the nominated address, such as a utility bill dated within the last 3 months if different from c);
 - f) a description of the applicant's intended business model;
 - g) in the case of a limited company or partnership evidence of the valid company number and VAT number if applicable;
 - h) in the case of a Gangmaster a copy of their gangmaster licence;
 - i) in the case a sole trader evidence that the individual has registered as self-employed;
 - j) in the case of an individual representing a nominee group evidence from the Gangmaster Licensing Authority (GLA) that the business model is approved.
35. Applications from individuals that fulfil multiple criteria will be decided at the discretion of NWIFCA.

Trading permit conditions

36. A holder of a trading permit must:
- a) engage in first sale with individuals holding a valid gathering permit in compliance with this byelaw, gathering permit conditions and any Regulatory Notice issued pursuant to this byelaw;
 - b) file sale notes with the Authority, no later than the 5th day of the following month reporting all first sale for the previous month;
 - c) maintain records of first sale for a minimum of two years;

- d) account separately within their records first sale from shellfish gathered outside the district;
- e) make records required in c) and d) available for inspection by IFCOs at all reasonable times;
- f) not obstruct pursuant to MACCA s292(4) an IFCO carrying out a relevant function pursuant to MACCA s287;
- g) immediately notify the Authority of any changes of their name, address or any information entered on an application form pursuant to this byelaw;

37. A trading permit is not transferable and failure to comply with the trading permit conditions constitutes a contravention of this byelaw.

Renewal

38. Trading permits are valid from the 1st September to the 31st August in the following year.

39. A trading permit must be renewed at least one calendar month before it expires.

40. Applications for permit renewal must be made on a valid correct permit renewal form.

Regulatory Notices

41. The Authority may issue regulatory notices to:

- a) promote the sustainable exploitation of cockles or mussels;
- b) further the conservation objectives of protected areas;
- c) establish restricted areas defined with co-ordinates in latitude and longitude, and commencement and expiry dates where the 5kg catch allowance without a gathering permit pursuant to paragraph 10 is suspended.

Restricted Areas

44. Restricted areas may be designated for all or parts of protected areas in the district where:

- a) The Authority has reason to believe that there is excessive demand for cockles or mussels;
- b) the presence of persons who do not hold a gathering permit would prevent effective enforcement or;
- c) the Authority has reason to believe that there is a risk of illegal fishing by persons who do not hold a gathering permit.

Regulatory Notices: Procedures and Conditions

45. When issuing, varying, reviewing or revoking a regulatory notice the Authority must:

- a. define and explain the change in writing;
- b. use all available relevant data and evidence from permit holders, surveys, partner bodies, research and other sources;
- c. consult in writing with permit holders and such other stakeholders, organisations and persons as appears to the Authority to be representative of the interests likely to be substantially affected by the proposed regulatory notice;
- d. notify permit holders in writing of any decision to issue an regulatory notice and its content
- e. review any regulatory notice at least once every four years.

46. Contravention of any provision of a regulatory notice constitutes a contravention of this byelaw.

Revocation of Byelaws

47. NWIFCA Byelaw 3 (Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*) is revoked.
48. The following byelaws made by the North Western and North Wales Sea Fisheries Committee are revoked:
 - a) Byelaw 13a Cockle and Mussels – management of the fishery;
 - b) Byelaw 16 Shellfishery – temporary closure.
50. Cumbria Sea Fisheries Committee Byelaw 18 (Shellfishery temporary closure) is revoked.

Explanatory Note

(This note does not form part of the byelaw)

Annex C: Proposed Morecambe Bay and Duddon Estuary Mussel Management Plan 2016-2020. (From papers submitted to NW-IFCA TSB Sub-Committee, May 2016).

Morecambe Bay and Duddon Estuary Mussel Management Plan 2016 – 2020



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19th Jan 2016 Draft v7



Purpose of the Management Plan

This Management Plan is a five year plan of agreed measures, parameters and constraints, agreed with stakeholders over the utilisation of mussel stocks. The Plan is designed to be adaptive and is subject to annual review to ensure any changes in status of mussel beds, and environmental and conservation features have been fully taken into account.

The purpose of the Plan is to define the fisheries, assess and account for their possible socio-economic and environmental effects and give a framework for their sustainable management, by building on established management principles, embedding the best practice from the current regime and using a wider and more flexible approach. The objective is to develop a modern, professional and sustainable mussel fishery, with provision for the development of cultivation and aquaculture.

Aim: To create a 5 year rolling plan (2016-2020) with annual review.

The aim of the NWIFCA is to produce a Habitats Regulations compliant Mussel Management Plan which details management measures and parameters for opening and closing fisheries, to ensure the NWIFCA's duties under EU legislation are adhered to.

Activities and management that are consistent with the Plan should only require a simple HR check to ensure they are compliant with it and that there are no material changes in circumstances that might affect the HRA. This will be recorded for audit.

Where plans and projects not covered by the plan are proposed, or other material changes in circumstances have occurred, a more detailed HRA may be needed.

The principles within this Policy are:

1. The Management Plan is subject to HRA.
2. Sustainable exploitation of mussels.
3. Protection and development of mussel fisheries.
4. Protection and enhancement of all the conservation features and biodiversity of the EMS.
5. All members of the BMWG should respect resolutions of the group and the duties of statutory bodies to manage fishing which may be damaging to the EMS.

The plan has been produced in full consultation with other relevant bodies, including different sectors of industry, Natural England and environmental stakeholders. It will allow a suite of adaptive management measures that are flexible to stock levels, condition of mussel beds, and environmental considerations, including restricting effort and fishing methods, implementing permanent and temporary spatial and temporal closures, designating access and landing points, enforcing TACs, and restricting fishing hours.

The Management Plan should allow for potential changes and developments in the fishery.

The Management Plan is required to go through a process of Habitats Regulations Assessment (HRA), a procedure which has been undertaken by the Authority in close liaison with Natural England. As part of the HRA, the Appropriate Assessment outlines the management measures to be used to mitigate the effects of specific identified activities on SAC and SPA features. The Authority has been able to conclude, with the agreement of Natural England, that the fishing activities proposed within this Management Plan, subject to the specific avoidance and mitigation measures included, will not adversely affect the integrity of the Morecambe Bay, Duddon Estuary or any other European Sites. A copy of the full HRA accompanies this report (to be appended when completed) (Appendix ?).

This Management Plan sits within the byelaw regime of the NWIFCA. The specific byelaws relating to mussel management are:

NWIFCA Byelaw 3:	Permit to fish for Cockles and Mussels;
NWIFCA Byelaw 6	Protection for European Marine Site features
NWSFC Byelaw 12:	Restriction on fishing for bivalve molluscan shellfish;
NWSFC Byelaw 13a:	Cockles and Mussels – Management of the Fishery;
NWSFC Byelaw 16:	Shell fishery temporary closure.

The NWIFCA also encourages adoption of the voluntary 'Code of Conduct for Intertidal Shellfisheries' (Appendix ?).

Rationale for Restricting Seed Mussel Dredge Fishery:

Yet to be drafted

NWIFCA Decision-making Process and Delegated Powers:

Yet to be drafted

Non-Commercial Gathering:

Notwithstanding all other regulations including those relating to bed closures, designated commercial beds and minimum landing size, a per person daily allowance for un-permitted persons of up to 5kg of mussels is allowed for personal consumption.

Where appropriate, the Authority may approve the removal of shellfish by un-permitted persons for the purposes of hygiene monitoring, stock management and other scientific purposes.

Principles and Management Measures – Mussels		
1.	Management Measures	Comments
1.1	<p>Annual extensive surveys to evaluate the distribution, abundance and stock composition characteristics of the Morecambe Bay and Duddon Estuary mussel population prior to and following the fishing season. This enables the total fishable stock to be quantified, suitable fishing areas to be identified, fishing mortality to be quantified, spatfall and recruitment levels to be assessed, and an estimation of future fishery characteristics to be made.</p> <p>Co-ordinated by - NWIFCA Carried out by – NWIFCA with industry assistance</p>	Agreed BMWG 19.11.15
1.2	The minimum landing size for mussels from the EMS is 45mm (Byelaw 3) unless a written authorisation is in place.	Agreed BMWG 19.11.15
1.3	<p>Mussel fishing in the EMS is not permitted unless mussel stocks present in the EMS exceed the combined agreed minimum spawning stock biomass (MSSB) and the agreed minimum bird feeding requirements (MBFR).</p> <p>i) MSSB - A minimum adult stock (> 45mm in length) will be set according to scientific advice, in order to protect future fisheries.</p> <p>ii) MBFR - Data and advice will be provided by Natural England on bird feeding requirements (tonnage) set on key areas / month / bird species / prey size preference.</p>	<p>Agreed in principle but two unknowns and until we have some figures to work with cannot agree specifics (BMWG 19.11.15)</p> <p>Agreed that this is necessary for sustainable fishery not just Habs Regs (BMWG 18.01.16)</p>
1.4	Where there is a lack of data the NWIFCA needs to take the Precautionary Approach in relation to fisheries impacts on conservation features.	Agreed BMWG 19.11.15
1.5	Mussels over 45mm may be fished whenever there are mussel stocks exceeding the limits in 3 above.	Agreed BMWG 19.11.15
1.6	Mussel beds may be closed, or parts of beds may be closed, on certain days or at certain times - for example for enforcement / social / management reasons or to minimise disturbance to birds.	Discussed and understood that size fisheries will be subject to HRA and will only be closed if cannot conclude no adverse effect on the EMS (BMWG 18.01.16)
1.7	Mussel beds may be closed if there is evidence that fishing activity is damaging stock.	Agreed BMWG 19.11.15

1.8	Where evidence exists to show the presence of stable mussel beds that support high levels of biological diversity, these areas may be excluded from the mussel fishery, as appropriate, through liaison with stakeholders.	Agreed in principle – mapping and agreement of these areas carried out annually with stakeholders (BMWG 18.01.16)
1.9	Exclusion zones / closed areas will be used where conservation features may be impacted on by fishing activity or access to fishable areas– eg. <i>Sabellaria alveolata</i> reef at Heysham Flat, or to prevent disturbance to particular bird feeding areas. These will be incorporated into the conditions attached to the fishery, and if feasible, physically marked out on the fishable beds, and clearly communicated to industry. The areas will be assessed annually.	Agreed BMWG 18.01.16
1.10	Fishing methods in the EMS are defined in NWIFCA Byelaws 3 and 6, and NWSFC Byelaw 12.	Agreed BMWG 19.11.15
1.11	Catch returns on all mussels taken by all sectors must be provided to NWIFCA a minimum of monthly, or more frequent as required, by post or email. The facility to complete returns via the NWIFCA website will be investigated.	Agreed BMWG 19.11.15
1.12	An annual charging regime for seed dredge vessel permits will operate as in 2012-13 with annual inflation increases based on UK December RPI.	Agreed BMWG 19.11.15
1.13	Fishing may be halted or interrupted by NWIFCA for re-survey if advice suggests beds may be overexploited, and / or stock has been subject to natural erosion or mortality, or there has been a change of status of the bed.	Agreed BMWG 19.11.15
1.14	NWIFCA Fishery Officers conduct frequent inspections of fishing activity and landings. The fishery may be closed if any extensive breaches of conditions are detected.	Agreed BMWG 18.01.16
2.	NWIFCA ongoing work to deliver the plan	Comments
2.1	Regular survey and other evidence gathering as required to determine: stock area, abundance (%cover), composition (age structure and size range) and the combined presence of MSSB and MBFR.	Agreed BMWG 19.11.15
2.2	NWIFCA Officers will work with all sectors to improve evidence and data gathering.	Agreed BMWG 19.11.15
2.3	Additional survey following significant change in stock such as resulting from erosion or settlement, and / or change in status of the bed.	Agreed BMWG 19.11.15
2.4	Timely circulation of information to members of the BMWG and NWIFCA showing areas with size mussel which may be fished, seed mussel areas open to fishing, and areas under consideration for fishing by both sectors.	Agreed BMWG 19.11.15

2.5	Decisions over mussel management will be informed by stakeholder consultation.	Agreed BMWG 19.11.15
2.6	Six monthly meetings of the BMWG to review this plan. Other meetings may be called by any 3 members of the BMWG.	Agreed BMWG 19.11.15
2.7	Research subject to available resources. Examples: a) Research and trialling of effects of removal of stunted or pearled mussel from defined areas, specifically Foulney area; b) Research and trialling of effects of relocating stunted or pearled mussel on to under-stocked beds within the Bay; c) Trialling of relay areas of undersize mussel within specified areas, over specified time periods; d) Research into bird dependency on mussel.	Agreed BMWG 19.11.15 and examples agreed BMWG 18.01.16
3.	Seed mussel fishery regulations may include:	
3.1	Total allowable catch (TAC) – eg. in situations where imposing a TAC would assist in the sustainability or development of a fishery; if bird feeding size preference necessitates specific temporal seed availability.	Agreed BMWG 19.11.15
3.2	Daily catch limit for vessels.	Agreed BMWG 19.11.15
3.3	Mussel beds may be closed, or parts of beds may be closed, on certain days or at certain times - for example for enforcement / social / management reasons or to minimise disturbance to birds.	Agreed BMWG 18.01.16
3.4	a) maximum dredge head width; b) maximum number of dredges; c) dredge design.	Agreed BMWG 18.01.16
3.5	Limiting the number of entitlements, the spatial extent of the fishery and the times of fishing. This will be assessed and decided on annually.	Rationale for this needs to be included in the Plan and agreed
3.6	Seed mussel dredge authorisations will be allocated to applicants who fit the suitability criteria by having appropriate experience of shellfish dredging and by providing proof of possession of an appropriate fishing licence.	Query whether this was agreed or not at BMWG 18.01.16

4.	Sectoral resource allocation	
4.1	<p>There are 2 distinct fishing sectors seeking access to mussels from the EMS. These are handworkers and dredge vessels.</p> <p>Both sectors agree:</p> <ul style="list-style-type: none"> a) To acknowledge and respect the interests of the other sectors; b) To not unreasonably seek to hinder or prevent legitimate fisheries by the other sector under this plan; c) To work collaboratively through the BMWG to annually agree the distribution and status of the resource, and its utilisation and allocation across sectors; d) To respect the decisions taken by the NWIFCA over the management of the resource where agreement between sectors cannot be reached. 	<p>Agreed BMWG 19.11.15</p> <p>Agreed BMWG 19.11.15 Agreed BMWG 19.11.15 Agreed BMWG 19.11.15 Agreed BMWG 19.11.15</p> <p>Agreed BMWG 18.01.16</p>
4.2	Ephemeral mussels will normally be made available for seed fishing under regulated authorisations.	Agreed BMWG 19.11.15
4.3	Some beds may be assessed as only partially ephemeral. In such cases only the percentage assessed as ephemeral will be allocated as seed with the remainder left to grow to size. The setting of a TAC may be necessary.	Agreed BMWG 18.01.16
4.4	If industry submits a proposal that is not consistent with the Plan, it may undertake its own HRA, or Shadow HRA, which must be submitted to NWIFCA for adopting. NWIFCA may request further information or may carry out its own HRA and will consult with NE for advice. NWIFCA will provide some guidance to industry on carrying out HRAs.	Agreed BMWG 19.11.15

Definitions

1. Ephemeral mussels are mussels not expected to grow to 45mm because they are lost through storms, erosion, or predation. Some beds may be assessed as only partially ephemeral. In such cases only a percentage of the stock will be classed as ephemeral.
2. Habitats Regulations Assessment (HRA) - Legal requirement to assess impacts of fishing activities on EMS sites and features. Regulating Authority (eg NWIFCA) must carry out HRA with NE advice, and be able to conclude that the proposed fishery will not adversely affect the integrity of the site before permitting the fishery to go ahead.
3. Minimum spawning stock biomass (MSSB): The minimum biomass of mussels of breeding size (45mm length) which must be present in the EMS for fishing to be permitted.
4. Minimum bird feeding requirements The minimum biomass of mussels of varying sizes which must be present in the EMS in addition to the MSSB to provide bird food resources for the three key species - knot, oystercatcher and eiders.

(Both of these figures to be agreed following delivery of conservation advice from Natural England).

Access for Hand-gathering

Where there are environmental or management concerns, access to and from the hand-gathering fishery will be via designated access and landing points, as specified in the table below. Additional access routes may be designated if needed, such as in the case where stocks are situated in new areas.

In consultation with other relevant bodies and the BMWG, the Authority shall consider the issues and potential problems relating to the use of each access point and agree any specific restrictions. Such restrictions should be observed as part of the conditions of any fishery opening.

The use of two-wheel drive vehicles other than tractors and ATVs to access the mussel beds shall be prohibited. Mussels may be transported from the beds by tractor, ATV or boat.

In the event of a medical or practical emergency the safest and/or most expeditious point of access or recovery should be used.

Where not already implicit (e.g. a public right of way) landowners' permission must be obtained to use access points and any conditions attached observed as part of the conditions of any authorisation.

The maximum size of boat used for accessing hand-gathered fishery will be 10m without written authorisation. Each boat must be equipped with a serviceable VHF radio, global positioning equipment, marine distress flares and an adequate anchor/anchor rope. No person shall use a boat to access mussel beds without having in their possession a valid boat endorsed Byelaw 3 permit, and a serviceable personal lifejacket at all times.

Recommended Access and Landing Points for Hand-gathering Mussels in Morecambe Bay and Duddon Estuary
Issues relating to Conservation Features subject to HRA

	Location	Grid Ref	Bed Served	Interest	Constraints	Comments	Mitigation / Management
1	Sunken Car Park Fleetwood	SD 331482	Black, Perch, Kings Scar	Intertidal Sand with Shingle/Cobbles, Sand dunes	Recreational beach Built-up area Bird disturbance if heading south	Barrier on car park – council arrangements	Timing of access to avoid roosting birds if heading south
2	Battery Car Park, Morecambe	SD 421636	Heysham Flat	Intertidal sand & mud & skears		Used successfully small scale. Permit required from LCC.	Designated and marked route to skear avoiding <i>Sabellaria alveolata</i> reef
3	Bare Ayre	SD 455657		Intertidal sand & mud & skears		Permit required from LCC.	
4	Aldingham village			Sand, skears, pioneer saltmarsh & shingle	Social issues	Keep closed Privately owned foreshore by fishers??	
5	Roosebeck	SD 258678	Roosebeck / Foulney	Sand, skears, pioneer saltmarsh & shingle	Used previously. nesting birds on shingle. Saltmarsh.	Route past Foulney marked. generally good compliance by fishers	Renew markers past Foulney. Notices to show agreed routes. Monitor while terns nesting Preferred to Rampside
6	Rampside	SD 242664	Foulney	Sand, skears and saltmarsh			Not favoured by NE
7	Foulney Car Park	SD 233657	Foulney	Sand, skears and saltmarsh	Nesting birds, shingle and saltmarsh	Keep closed	'Access Closed' notice at entrance at Foulney car park

	Duddon Estuary						
8	Roanhead	SD 200756	Duddon Sands	Sand dune Natterjack toads Nature reserve	By-way on to sands to Askam. Danger of killing toads March – mid summer..	Issues in parking in car park – height barrier to be installed. Tonning up – issues. Liaison with industry and LAs and NT.	Liaise with NT over tides to avoid in relation to toads. If necessary mark out designated route to avoid pools toads are utilising.
9	Askam	??? SD 208779 ??		Sand & cobble	Some social issues	Most utilities cross estuary here – H&S issues	

Key: Highlighted RED indicates use of Access Point likely to cause Significant Effect on Conservation Feature(s) and should be kept closed.

Highlighted AMBER indicates use Access Point runs risk of causing Likely Significant Effect and would require management to prevent damage to Conservation Feature(s).

Menai Strait East: Renewal of Cultivation Leases

Background

This report provides an update on progress with the renewal of the leases for established cultivation areas within the Fishery Order area.

Recommendations

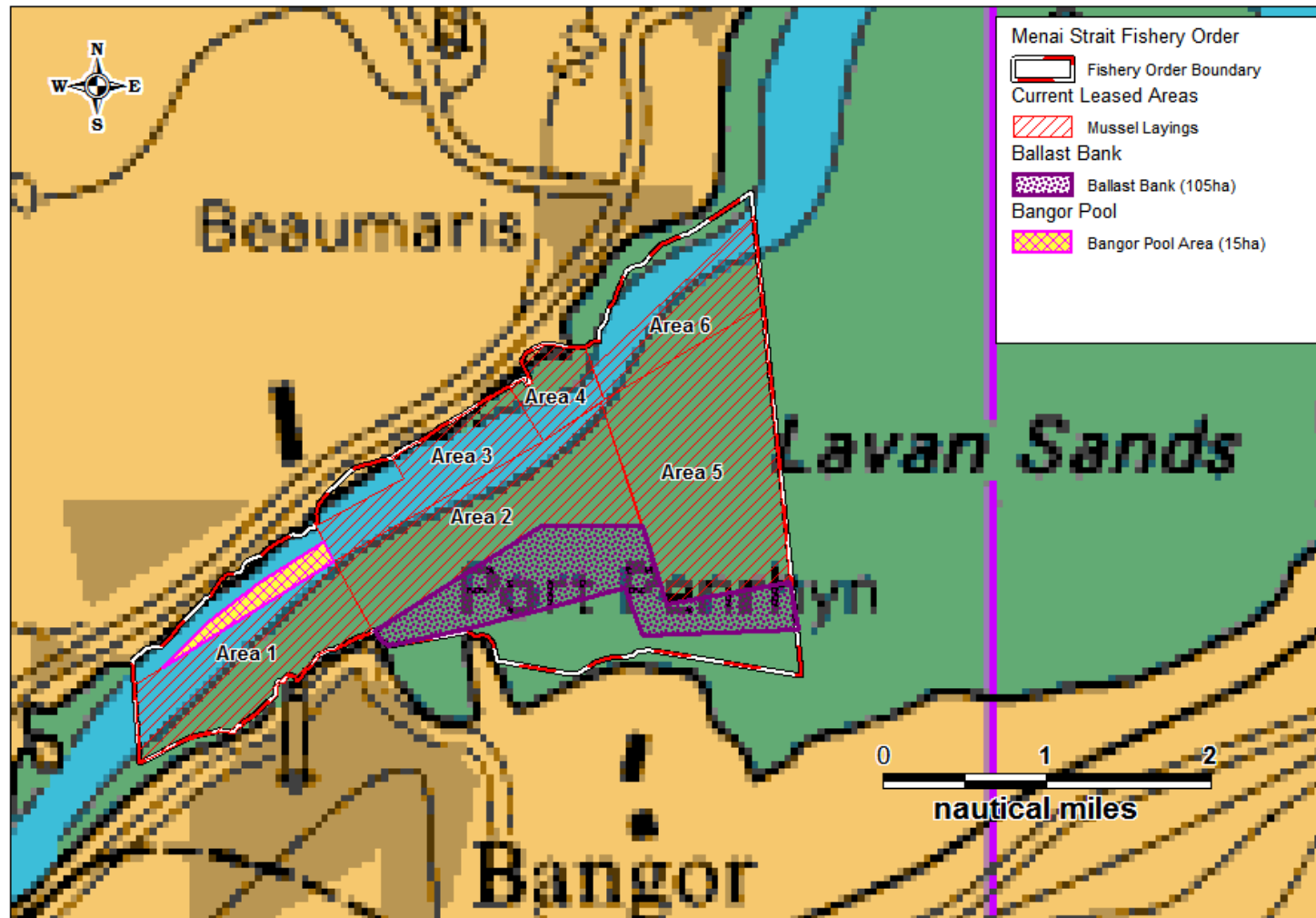
1. That the report is accepted.

1. Background

- 1.1 When the Menai Strait Fishery Order was made in 1962, it set out provision for both the cultivation of mussels and oysters and for the regulation of the fishery for wild mussels in the eastern end of the Menai Strait.
- 1.2 There are presently 8 leased areas in the Fishery Order area. Six of these areas have been leased for cultivation for 20 or more years. Two of the areas were created more recently and were first leased in April 2015. The location of the leased areas is shown in Figure 1 of this report.
- 1.3 Leases were last re-issued for areas 1-6 in 2009 for a period of 7 years, expiring at the end of March 2016.
- 1.4 At the December 2015 meeting of the Association it was agreed that these leases should be renewed for a period of 6 years, extending for the remainder of the duration of the current Fishery Order.
- 1.5 At the March 2016 meeting of the Association an assessment of the impact that the renewal of these lease might have on the Natura 2000 sites in the vicinity of the Menai Strait was presented to the Association. After consideration of this assessment it was resolved that the leases should be renewed.
- 1.6 It was further resolved at the March 2016 meeting of the Association that the leases for Areas 1-6 should be extended for a period of 6 months to allow time for new leases to be drawn up and engrossed.

2. Progress report

- 2.1 Since the last meeting of the Association, the Welsh Government has responded with approval to the proposal for the leases to be renewed (see Annex B of this report).
- 2.2 New leases have been drawn up by the Association's lawyers and are presently being engrossed.



Map is illustrative not definitive.

Figure 1: Map of the Menai Strait Oyster and Mussel Fishery Order 1962 (as amended), showing leased mussel cultivation areas (“lays” or “layings”).

Annex A: Copy of letter from the Chair to Welsh Government concerning lease renewal.

Menai Strait Fishery Order Management Association

Port Penrhyn, Bangor, LL57 4HN

David Tripp
Welsh Government
Fisheries Policy Branch
Rhodfa Padarn
Llanbadarn Fawr
Aberystwyth
SY23 3UR

2 March 2016

Dear David

LEASED AREAS IN THE MENAI STRAIT OYSTER AND MUSSEL FISHERY ORDER 1962

At a meeting of this Association in December 2015 it was agreed that the original 6 mussel cultivation areas ("layings") within the Fishery Order area should be renewed. The leases for these areas are due to expire at the end of March 2016. We are now writing to you to seek the Minister's consent for renewing the leases for these layings that are issued to local mussel farmers on 1st April 2016.

The procedure for creating shellfish layings, and for subsequently leasing them to shellfish farmers, is set out in the Menai Strait Oyster and Mussel Fishery Order 1962 (the "1962 Order", relevant sections included in attachment). Under the 1962 Order this Association is empowered to lease layings to shellfish farmers with the consent of the Minister.

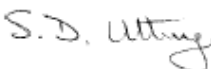
The 1962 Order lies within the Menai Strait and Conwy Special Area of Conservation. As a consequence, this Association and the Minister are required to carry out a Habitats Regulations Assessment of the proposed new areas. We have worked closely with Natural Resources Wales (NRW) to ensure that the proposals are compatible with the nature conservation features of the area. The Association has concluded that the proposals are not likely to have a significant effect on the SAC or to adversely affect the integrity of the site.

I attach for your information a copy of the HRA that has been prepared by the Association in collaboration with NRW for the renewal of these leases, along with the e-mail response we have received from NRW setting out their views.

I hope that this information is sufficient for the Minister to consent to the renewal of these layings on 1st April. If you have any queries, or require any additional information, please do not hesitate to get in touch with me.

If you anticipate any delay to the Minister issuing consent, please let us know so that we can make appropriate arrangements to ensure that such delay does not impact local businesses.

Yours sincerely



SUE UTTING
Chair, MSFOMA

Encs.

Cc: Graham Rees, Bill Somerfield

Menai Strait Fishery Order Management Association
Company registered in England and Wales No 07163689

Annex B: Confirmation letter from Welsh Government, 1st April 2016



Llywodraeth Cymru
Welsh Government

Ms S Utting
Menai Strait Fishery Order Management Association
Port Penrhyn,
Bangor,
LL57 4HN

31 March 2016

Dear Ms Utting,

RENEWAL OF LEASES IN THE MENAI STRAIT OYSTER AND MUSSEL FISHERY ORDER 1962

Thank you for your letter and the report dated 2 March 2016 regarding your wishes to gain the Minister's consent for the renewal of the leases for Areas 1-6 within the fishery area created by the 1962 Order.

After due consideration of the details of the proposals and all other relevant factors, the consent below is issued under authority of the Minister for Natural Resources, one of the Welsh Ministers and is subject to the Conditions set out below.

The cultivation areas are within and adjacent to the Menai Strait and Conwy Bay Special Area of Conservation ("SAC"). A Habitats Regulation Assessment has been undertaken in connection with this scientific sampling work, pursuant to Article 6(3) of the Habitats Directive (Council Directive 92/43/EEC) and Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (SI 2010/490). Based on the type, scale and duration of the activity proposed and the identified mitigations, the Welsh Government Fisheries Science Officers concluded that no likely adverse effects on the integrity of Menai Strait and Conwy Bay had been identified as a result of the proposals.

Conditions

1. The proposals must be followed as set out in Annex 1 "Proposal for the renewal of leases for the Menai Strait Oyster and Mussel Fishery order 1962", an Assessment of the Likely Significant Effect and In-Combination Effect of proposals to cultivate mussels within the Menai Strait East Fishery Order on the Y Fenai a Bae Conwy/Menai Strait and Conwy Bay Special Area of Conservation and the Traeth Lafan Sands Special Protection Area. "
2. To ensure that renewal of the leases will have no likely significant effect on the conservation objectives and features of the European Marine Site, the following conditions must be observed:

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Marine and Fisheries
Cathays Park
Cardiff
CF10 3NQ

Llinell Ymholiadau Cymraeg 0845 010 4400
English Enquiry Line 0845 010 3300

- (a) That mussel cultivation operations are carried out in accordance with the conditions of the lease submitted along with your request, and in particular:
 - (b) That movements of mussels are carried out in compliance with the code of good practice to avoid introductions of alien species.
 - (c) That the scale of mussel relaying and harvesting does not significantly increase beyond the levels seen in recent years (the additional two areas permitted for mussel cultivation were subject to an HRA).
 - (d) That the methods of mussel cultivation, husbandry and harvesting do not significantly change from those currently practised.
 - (e) That the leased areas are not extended beyond their present size.
 - (f) That mussels are not relayed outside of the leased areas.
 - (g) That the relaying, husbandry and harvesting of mussels does not involve vehicular access to the leased areas from the shore.
 - (h) That the scale of the pot fishery for shore crabs does not significantly increase above current levels.
3. The Welsh Ministers may in their absolute discretion withdraw this consent in any of the following instances, without notice:
- (a) in the case of emergency;
 - (b) if any of the Conditions set out in this letter are breached;
 - (c) if the activities permitted by the Authorisations result or are likely to result in a significant effect to any European Marine Site (as defined by regulation 8(4) of the Conservation of Habitats and Species Regulations 2010 (SI 2010/490).

Yours sincerely



David Tripp
Head of Fisheries Strategy,
under authority of the Minister for Natural Resources, one of the Welsh Ministers

Renewal of Menai Strait Oyster & Mussel Fishery Order 1962

Background

The Menai Strait Oyster and Mussel Fishery Order was made in 1962, and provides the legal foundations for the mussel fishery in the eastern Menai Strait. The Order was made for a period of 60 years and is due to expire in 2022. MSFOMA needs to consider options for renewal of the Fishery Order to protect the local businesses and jobs that depend upon it.

Recommendations

1. That the Association should agree a timetable for applying for the renewal of the Menai Strait Oyster & Mussel Fishery Order 1962.
2. That the financial implications of renewing the Fishery Order are considered.

1. Introduction

- 1.1 The Menai Strait Fishery Order sets out provision for both the cultivation of mussels and oysters and for the regulation of the fishery for wild mussels in the eastern end of the Menai Strait. It has been the most successful Fishery Order in the UK, allowing the Menai Strait mussel industry to develop and flourish.
- 1.2 The existing Fishery Order will expire in 2022. The experience of the mussel farmers in the Western Menai Strait indicates that it can take many years for a Fishery Order to be renewed.
- 1.3 It is imperative for the businesses and jobs that depend on the Menai Strait Oyster and Mussel Fishery Order that a new Fishery Order has been made before the existing Fishery Order expires.

2. Lessons learned from the Western Menai Strati

- 2.1 The key lessons learned from the experiences of renewing the Menai Strait West Fishery Order are:-
 - a) **Early and ongoing stakeholder engagement is vital** – most of the stakeholders that objected to the renewal of the Menai Strait West Fishery Order have told us that poor communication and a lack of engagement created a feeling of suspicion and mistrust. This contributed to their decision to object.
 - b) **The Application process is lengthy** – the application for renewal of this Fishery Order was submitted in 2013 after several years of discussion. The Fishery Order has not been made yet.
- 2.2 These lessons can be applied to the application process for Menai Strait East: it is clear that the process should start early, and that stakeholders should be consulted and involved in the process from the outset.

3. Proposed timetable for renewal

- 3.1 There is no advantage in delaying the process of renewing the Fishery Order, and it is vital for the future of shellfish cultivation in the Menai Strati that it is maintained. It would be wise to progress and submit an application at the earliest opportunity.
- 3.2 An outline timetable for progressing the renewal of the Order is set out below for discussion. This proposal considers that a period of 18 months should be adequate for consulting on and refining the Fishery Order application, so that a formal application can be submitted early in 2018 and hopefully the formal consultation on the Order could take place in late 2018.

Year	Quarter	Activities
2016	Q3	a) Formal notice to WG of intent to renew Fishery Order b) Initial contact with stakeholders.
	Q4	c) Meetings with WG officials to discuss renewal. d) Meetings with NRW to discuss renewal. e) Initial stakeholder meetings (with key sectoral groups such as RYA, NRW, Wildlife Trust, Beaumaris Yacht Club). f) Communication & meetings with landowners & tenants
2017	Q1	g) Consultation & agreement with NRW h) Wider stakeholder meetings (e.g. "drop in" sessions & evening meetings). i) Ongoing liaison with NRW
	Q2	j) Work on application for Order.
	Q3	k) Ongoing liaison with stakeholders, NRW, land owners.
	Q4	
2018	Q1	l) Submit formal application for renewal of Fishery Order.
	Q2	m) Liaison with WG.
	Q3	n) Liaison with WG
	Q4	o) (Possible) Formal consultation on Fishery Order.
2019		<ul style="list-style-type: none"> Respond to consultation feedback. Address consultation issues either informally or through Public Inquiry.
2020		<ul style="list-style-type: none"> Progress application process.
2021		<ul style="list-style-type: none"> Progress application process.
2022		<ul style="list-style-type: none"> DEADLINE FOR NEW ORDER

- 3.3 Members' views on this timetable are invited.

4. Costs

- 4.1 Costs will be incurred by the Association during the process of renewing the Fishery Order. These will arise from seeking specialist advice and support (for instance from lawyers and other professionals); hiring meeting rooms; and potentially for funding a Public Inquiry should that be necessary.
- 4.2 The Association has accrued a reserve fund to meet the costs of renewing the Order. It will nevertheless be important to carefully manage the renewal process to ensure that it is kept within an appropriate budget.
- 4.3 It is possible that if the application process is protracted or requires a Public Inquiry then extra funds may have to be secured by the Association, through an increase in the levy on operators. This will need to be kept under review during the application process.

MSFOMA Secretariat
July 2016

Menai Strait West Fishery Order Application

Background

In 2012 the Association resolved to work with shellfish farmers from the western Menai Strait to renew the Menai Strait West Fishery Order, which lapsed in 2008. The renewal of the Order is essential to secure the future development of shellfish farming in this area.

A public consultation on the proposal to renew the Menai Strait West Fishery Order was carried out by the Association in October-November 2015. A significant number of objections were submitted. Since then the Association has been working with local stakeholders to address these concerns.

This report provides an update on progress.

Recommendations

1. That the report on the consultation for the Menai Strait (West) Fishery Order is noted and discussed.
2. That the Association considers how it would prefer to proceed with the application for this Fishery Order.

1. Update on Renewal of Fishery Order

- 1.1 The Menai Strait (West) Fishery Order was established in 1978 for a period of 30 years. This Fishery Order provided the basis for the development of some oyster and mussel farming activity in the western Strait. The Order lapsed in 2008, preventing the further development of these businesses. In May 2015, the Association received confirmation from Welsh Government that the Order would be re-created. A draft Order was sent to the Association in October 2015.
- 1.2 A formal consultation was carried out on the draft Order period in line with WG directions between the 29th October - 29th November 2015. Responses were received from 75 individuals and organisations. 57 of the response were objections; 15 were letters of support; 2 were requests for minor alterations to the Order from navigation authorities; and 1 was an offer of assistance from local Gwynedd Councillor Sian Gwenllian.
- 1.3 Since November, representatives of the Association and the proponents of the Fishery Order have been working with stakeholders to try to identify ways in which their objections could be addressed. An update on liaison with different sectoral groups is provided below.

2. Liaison with sailing, recreation and local resident stakeholders

- 2.1 Two large meetings have been held at the Port Dinorwic Sailing Club with a wide range of local stakeholders. The first meeting was held on the 15th December and a follow-up meeting was held on April 14th (both during the afternoon and evening).

Site visits to oyster cultivation and mussel cultivation sites were also organised during January 2016.

- 2.2 One of the resolutions of the evening meeting on April 14th was that a small “Working Group” should be established to try to identify solutions to the concerns that had been raised at the wider “Liaison Group”.
- 2.3 The Working Group has subsequently met on two occasions (12th May and 16th June) and has drawn up Terms of Reference for itself and the Liaison Group as well as an “Operating Plan” for shellfish cultivation which addresses all of the key issues identified during the consultation process. Copies of each document are attached at Annexes A, B and C of this report respectively.
- 2.4 Meetings of both the Liaison Group and Working Group are scheduled for the evening of July 14th. The Operating Plan is due to be presented to the Liaison Group for discussion. The Working Group will meet afterwards to consider the feedback from the earlier meeting.
- 2.5 Members of the Association are advised that one objector withdrew their objection after the first meeting in December 2014, and that at least one more objector is already minded to do so.

3. Liaison with commercial stakeholder

- 3.1 One of the respondents to the consultation on the proposed Fishery Order was a firm of solicitors, acting on behalf of the company Roberts of Port Dinorwic. This company was concerned about the possible impact of oyster cultivation within Plot D of the proposed Fishery Order on the effluent outfall pipe from their premises. The owner of the company attended the meeting that took place on April 14th and raised concerns about impacts on his business at the meeting.
- 3.2 The Association has been in correspondence with the solicitors representing this company. It is hoped that they will ultimately be reassured that the cultivation of oysters in Plot D is not likely to affect the outfall pipe. A meeting has been requested with the company and their representatives in order to progress discussions.
- 3.3 The Crown Estate Commissioners (CEC), who own the foreshore in this area. Roberts of Port Dinorwic have a licence from the CEC to allow them to operate an effluent discharge from their factory. Representatives of the Association have been in touch with the CEC to discuss how the Association, CEC and the company concerned may be able to work together to avoid any problems arising. The CEC indicated that they would respond to the Association in early July 2016. At the time of writing this report they have not yet responded.

4. Next Steps

- 4.1 It is hoped that the Liaison Group meeting on July 14th will reassure stakeholders to the extent that many of them will be prepared to withdraw their objections. In order to capture the views of the original objectors at that point a further “referendum” will be carried out. Each objector will be sent an e-mail inviting them to either withdraw their objection or to maintain their objection. Their responses will be sent to both the Welsh Government and to MSFOMA. The response to this referendum will determine our next steps.

- 4.2 After discussions with the proponents of the Fishery Order, the favoured next steps are:-
- a) **Proceed with application** - if all of the objections are withdrawn, then there should be no obstacle to the new Minister making a new Fishery Order.
 - b) **Public Inquiry** - if substantial objections remain after the referendum, then the most expeditious course of action is felt to be to ask the Minister to appoint an Inspector and to hold a Public Inquiry to examine the proposal.
- 4.3 It is anticipated that the e-mail referendum would be carried out in late July 2016. The results should be known by the end of the month. It would seem appropriate for the Chair and the proponents of the Fishery Order to write to the Minister in early August to request that either of the steps outlined in 4.2 above are implemented.

5. Costs

- 5.1 At the last Association meeting it was resolved that all of the proponents of the Fishery Order should be advised of the costs accrued to date and the procedure for managing costs. The Chair has written to the four proponents. Expenditure is being kept under careful review.

MSFOMA Secretariat
July 2016

Annex A: Terms of reference, Menai West Fishery Order “Liaison Group”.

Menai Strait Fishery Order Management Association: Menai West Fishery Order Proposal Liaison Group – Terms of Reference

Purpose

1. The Liaison Group has been established to provide a mechanism for regular formal and informal communication between stakeholders and shellfish farmers in the western end of the Menai Strait.
2. Meetings of the Liaison Group will provide an opportunity for:-
 - a. Raising issues of concern and requesting management and/or mitigation action in response to them;
 - b. Exchanging information between shellfish farmers and other stakeholders;
 - c. Discussing opportunities for better integration between shellfish farming activities, other users of the Menai Strait, and local community interests; and
 - d. Discussing management and/or mitigation proposals agreed by a smaller “Working Group” comprising representatives of the Liaison Group.
3. To provide a mechanism for gathering stakeholders’ views about shellfish farming in the Western Menai Strait for subsequent dissemination to the relevant statutory and non-statutory management organisations (e.g. Welsh Government, RYA), either by Liaison Group members or the Working Group.

Membership

1. Membership is open to all individuals and organisations that have an interest in the western Menai Strait.

Meetings

1. Liaison group meetings shall take place on an *ad-hoc* basis and at least annually.
2. Meetings shall be chaired by a representative of the Felinheli community council or its successor organisation.
3. Brief notes of meetings and agreed actions will be circulated to all participants and published by MSFOMA by appropriate means.
4. At least 3 weeks’ notice of meetings shall be given. Notices of meetings will be circulated to all previous participants and published by MSFOMA by appropriate means.

Review

1. These terms of reference will be reviewed annually by the Liaison Group.

MSFOMA
June 2016

Annex B: Terms of reference, Menai West Fishery Order “Working Group”.

Menai Strait Fishery Order Management Association: Menai West Fishery Order Proposal Working Group – Terms of Reference (Revised)

Purpose

1. The working group shall meet to discuss and identify possible solutions to
 - a. the concerns raised during the consultation on the proposed Menai Strait West Fishery Order during 2015; and subsequently
 - b. ongoing management issues associated with shellfish cultivation in the Menai Strait West Fishery Order if it is subsequently “made” by the Minister
2. To prepare, agree, and keep under review, a set of mitigation and / or management options that will be implemented under the management regime for the proposed Fishery Order.
3. To produce an initial set of proposals for consideration by the wider liaison group in July 2016.
4. To provide a mechanism for communicating stakeholders’ views about shellfish farming in the Western Menai Strait to the relevant management organisations (both statutory and non-statutory).

Membership

1. The membership of the Working Group emerged from the Liaison Group meeting held on 14th April 2016. This includes:-
 - a. Chair: Cyngor Cymuned Y Felinheli Community Council
 - b. MSFOMA representatives (3)
 - c. Porth Dinorwic Sailing Club representatives (3)
 - d. Y Felinheli residents (1)
 - e. RYA Cymru (1)
 - f. RYA Legal Dept (1): tbc
 - g. Plas Menai (1)
 - h. Plas Coch (1)
 - i. Ribride / Porth Daniel (1): Phil Scott
 - j. Anglesey Sea Salt (1)
 - k. Secretariat (non voting)
2. Additional members may be invited or co-opted to participate in meetings as required, with the agreement of the Working Group Members.

Meetings

1. Meetings shall be chaired by a representative of Cyngor Cymuned Y Felinheli Community Council or its successor organisation.
2. The quorum for a meeting shall be 5 (including the Chair).
3. Where a consensus view cannot be reached, resolutions shall be made in accordance with the majority of members present (and entitled to vote). In the event of a tie, the Chair shall have a casting vote.
4. Brief minutes and agreed actions shall be recorded and circulated to participants.

Review

1. These Terms of Reference shall be reviewed by the Working Group at least annually.

MSFOMA
June 2016

Annex C: Proposed “Operating Plan” for Menai Strait West Fishery Order

Menai Strait Fishery Order Management Association: Menai West Fishery Order Proposal Draft Operating Plan

Purpose

1. This is a draft operating plan for the proposed Menai Strait West Fishery Order. It has been written to stimulate discussion. [Note: this provision will be deleted when the plan is agreed]
2. This operating plan sets out provisions for shellfish farming operations in the proposed Menai Strait (West) Fishery Order that will apply throughout the duration of the Fishery Order and are intended to:-
 - a. mitigate and address the objections that were made to the Order during the formal consultation period in October-November 2015; and
 - b. Address concerns about shellfish farming operations that may arise if the Fishery Order is subsequently “made” by the Minister

Status

3. The provisions of this operating plan shall be incorporated in the statutory and legal management framework governing operations in the Menai Strait (West) Fishery Order. It shall be incorporated in:-
 - a. The Management Plan approved by the Minister in support of the Fishery Order;
 - b. The leases issued to shellfish farmers by the Menai Strait Fishery Order Management Association (MSFOMA); and
 - c. Any other components of the statutory and legal framework deemed necessary to give a formal and binding effect to the provisions of this plan.
4. The incorporation of this operating plan in the statutory and legal framework for the Fishery Order shall make any act or omission that is not compatible with the terms of the operating plan a breach of the relevant provision (i.e. the Order and / or any leases issued under the authority of the Order).

Definitions

5. “MSFOMA” means the Menai Strait Fishery Order Management Association.
6. “Liaison Group” means the group of stakeholders with an interest in the western Menai Strait that has met on the 15th December 2015 and again on the 14th April 2016. The membership of this group is open to all. Terms of Reference for this group are set out in Annex 1 of this document.
7. “Working Group” means the group of representatives of the Liaison Group that may be established on an ad hoc basis to address specific tasks associated with the management of shellfish farming in the western Menai Strait. Terms of Reference for this group are set out in Annex 2 of this document.

Management of Shellfish farming activities

General provisions applying to entire area

8. In order to ensure that recreation and such activities can continue unhindered, neither the grantee of the Order nor any shellfish farmers operating in the areas shall take any action to prevent access to the Fishery Order areas in connection with activities (including recreational activities) that will

cause no significant or deliberate harm to either the shellfish under cultivation or any equipment being used for cultivation activities (such as oyster frames and bags). Nor will the grantees or lessees take any enforcement action against any third parties who may innocently or inadvertently cause minor disturbance to the shellfish under cultivation or equipment used or cultivation activities.

9. The existence and extent of the Fishery Order and its implications for members of the public shall be communicated using notices placed at appropriate locations on the nearby seashore, in consultation with the Working Group. Additional communication mechanisms (such as direct communication and the use of electronic media) shall also be used, as appropriate.
10. In order to address concerns raised by recreational users and navigation authorities with respect to any navigation marks that may be required in the area, any navigation marks (such as buoys or perches) that the Minister requires to be installed in the Fishery Order area shall be compatible with the requirements of the local navigation authority.
11. In order to address concerns raised by recreational users of the area that mussel dredging operations will either interfere with, or pose a hazard to, watersports activities in the area, prior to shellfish farming operations that will require the use of large vessels (either to relay or harvest shellfish), the operators shall consult with relevant recreational organisations (such as the Port Dinorwic Sailing Club, and Plas Menai) to plan operations in a way that will minimise and ideally avoid any interference with either casual or formal recreation activities in the area.
12. In order to ensure that the management plan is adaptive, MSFOMA shall consult with the Liaison Group and if necessary convene meeting(s) of the Working Group prior to making any changes to the extent of shellfish farming operations in the Fishery Order area, to address impacts that these operations might cause.
13. In order to address concern that communication between MSFOMA and interested parties in the area has been poor, MSFOMA will establish formal liaison arrangements to ensure regular meeting with stakeholders that have expressed an interest in this area. The location and frequency of such meetings will be agreed by the participants.
14. The preceding provisions are additional to, and can neither duplicate nor interfere with any statutory requirements to consult with the Minister, Welsh Government, Natural Resources Wales and/or other statutory bodies (or their successor bodies) by MSFOMA and shellfish farmers as required by the Fishery Order and any other relevant legislation.

Specific provisions for Plot A (mussel cultivation only)

15. In order to ensure that recreation on the Moel y Don sandbank is not affected by shellfish cultivation operations, any leases issued for all or part of Plot A shall prohibit shellfish cultivation in the area to the north and east of a line drawn on a bearing 150° true from the point 53° 10.915'N 004° 13.795'W (coordinates referenced to the WGS84 datum) (see Figure 1).

Specific provisions for Plot B (oyster and mussel cultivation)

16. No specific issues have been raised for this area.

Specific provisions for Plot C (mussel cultivation only)

17. No specific issues have been raised for this area.

Specific provisions for Plot D (oyster cultivation only)

18. In order to ensure that oyster frames are kept at an appropriate distance from areas where watersports activities may be taking place, oyster cultivation shall not take place further north and east of a line drawn 330° true from the point 53° 10.025'N 004° 14.885'W (coordinates referenced to the WGS84 datum) (see Figure 1).

Review of this plan

19. This plan shall be reviewed as required and at least on an annual basis by MSFOMA and stakeholders. A review of the plan can be called for by any stakeholder during a Liaison Group meeting (see Terms of Reference for the Liaison Group at Annex I of this plan).
20. Any changes proposed to this plan shall be discussed by the Liaison Group and then agreed by the Working Group before being sent to the Minister for approval, after which the amended plan shall replace the previous version for all activities carried out under the authority of the Order.

MSFOMA
June 2016



Figure 1: Map of proposed cultivation plots (red) and operating lines for Plot A and Plot D. Image available to view on Google Maps [here](#).

Annex I: Liaison Group Terms of Reference

To be added once they are agreed.

Annex II: Working Group Terms of Reference

To be added once they are agreed.

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