

## **Developing the Association**

### **Background**

This Association was established on 1<sup>st</sup> April 2010 for the sole purpose of acting as Grantee of the Menai Strait Oyster and Mussel Fishery Order area. Over the past 5 years the Association has been invited to adopt a similar role for other shellfish production areas in North Wales, notably the Western Menai Strait and the Conwy Estuary.

These requests were considered in some detail at Association meetings during 2012, when it was agreed to work with the proponents of the Menai Strait West Fishery Order to progress application for renewal of the Fishery Order in the Western Menai Strait.

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 agrees on a procedure for ensuring that appropriate financial and administrative arrangements are in place for progressing the Menai Strait (West) Fishery Order application.
3. That the Association notes the progress that has been made for renewal of the leases for the Menai Strait Oyster and Mussel Fishery Order 1962.

### **1. Remit of the Association**

- 1.1 When this Association was established in 2010, it was given a very specific remit to act as the Grantee for the Menai Strait Oyster and Mussel Fishery Order 1962. This remit forms part of the Articles of the Association.
- 1.2 During 2012 the Association resolved to amend its Articles of Association to allow it to act as the Grantee for other Fishery Orders.

### **2. Menai Strait (West) Fishery Order: Consultation**

- 2.1 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. The operators who had been working in this area before 2008 have been progressing an application for a new Fishery Order to set the foundations for developing sustainable shellfish cultivation in the western Menai Strait.
- 2.2 In May 2015, the Association received confirmation that the Order would be re-created. During June and July there was some e-mail correspondence with WG officials on points of detail in the application, and also to confirm the boundaries of cultivation areas in the Fishery Order. These details were resolved, and a draft Order was sent to the Association in October 2015.

- 2.3 In response to queries from the Chair, WG officials have clarified the procedure for completing the process of creating the Order (see Annex A). WG officials subsequently provided the formal text that they required to be used in all notices and advertisements during the consultation period (see Annex B).
- 2.4 A formal consultation was carried out on the draft Order period in line with WG directions between the 29<sup>th</sup> October - 29<sup>th</sup> November 2015. Information about the proposal was circulated as follows:-
- a) **Newspapers:** advertisements were placed in Fishing News, the North Wales Chronicle and the Western Mail on the 29<sup>th</sup> October 2015. The notice in Fishing News was in English only whilst those in the other papers were bilingual.
  - b) **Public Notices:** these were placed at 11 public access locations around the western Menai Strait on the 29<sup>th</sup> October 2015. These were all bilingual.
  - c) **Internet:** the text from the public notices was posted on the MSFOMA website, along with a Google Map of the areas covered by the proposed Order. The Google Map was configured to allow stakeholders to view these areas on a satellite image of the coastline. Again, both the English and Welsh versions of the notices were posted here.
  - d) **Direct correspondence:** consultation letters and / or e-mails were sent to a total of 54 individuals and organisations to seek their views on the proposals. These consultees included all of the relevant statutory undertakers in the area, county and town councils; sailing clubs and both RYA & RYA Cymru; land owners; Crown Estate Commissioners; and the harbour and navigation authorities.
- 2.5 **Consultation responses** were received from 75 individuals and organisations. These responses fell into 4 categories:-
- a) **57 Objections:** these were mostly connected with the potential impact of the proposals on sailing and recreational activity in the Western Menai Strait, and most of these concerns related to just one of the proposed cultivation areas, Plot A. One objection concerned the possible impact of shellfish cultivation on a discharge from a food factory close to the coast into Plot D.
  - b) **15 supporting responses:** these were from a range of organisations including the Shellfish Association of Great Britain, North Wales Fishermen's Cooperative, Welsh Fishermen's Association, Fishmongers' Hall, Anglesey Farmers Market, the Centre for Applied Marine Sciences, and also individual shellfish farmers.
  - c) **2 requests** for minor alterations to the wording of the Order from navigation authorities.
  - d) **1 offer of assistance** from local Gwynedd Councillor Sian Gwenllian.
- 2.6 The Chair has sent an acknowledgement to all of the organisations and individuals that responded to the consultation.

- 2.7 After a discussion with the proponents of this Order, the Chair approached the Port Dinorwic Sailing Club to seek a meeting to discuss the concerns that had been raised. A very constructive meeting was held between MSFOMA representatives and the PDSC and other local stakeholders on the evening of the 15<sup>th</sup> December. It is anticipated that more meetings with stakeholders will be required during early 2016 to discuss and resolve the issues raised during the consultation process.

### **3. Menai Strait (West) Fishery Order: Administrative arrangements**

- 3.1 The Association will recall that a draft “Memorandum of Understanding” was drawn up to set the terms of reference between the proponents of this Fishery Order (who will be liable for all costs associated with its introduction) and the Association (who might act as the Grantee if this is appropriate). This memorandum was discussed at the Association meeting in February 2012. A copy of this Memorandum is attached at Annex C as an *aide memoire* to inform discussions in this meeting.
- 3.2 The consultation process for the Fishery Order has resulted in the Association incurring costs. The cost of advertising the order alone was in excess of £3,400. It is therefore appropriate to consider the mechanisms for cost recovery from the proponents of the Order.
- 3.3 There are two possible scenarios under which the costs associated with the application could be recovered:-
- a) **Fishery Order approved:** under this scenario, the proponents of the Order would become lessees. The costs of applying for the Order could then be recovered through the lease fees paid by lessees over a period of time (to be determined).
  - b) **Fishery application refused:** if the Minister refuses to make the Order, the Association will need to consider how it might recover the application costs from the proponents.
- 3.4 It would be appropriate to discuss the response of the Association to these scenarios.

### **4. Conwy Fishery Order**

- 4.1 The Conwy Estuary mussel fishery was managed under a “Regulating Order” for nearly 100 years ending when the 1948 order lapsed in 2008 without being replaced by the Grantee at the time (the NW&NWSFC).
- 4.2 Over the past few years there have been some discussions with the Conwy fishermen about the prospects for renewing the Fishery Order. A verbal update on any recent activity will be provided to the meeting.

### **5. Offshore areas**

- 5.1 A verbal update on the prospects and need to develop offshore shellfish aquaculture will be presented to the meeting.

**6. Lease renewal, Menai Strait Oyster & Mussel Fishery Order 1962**

- 6.1 Members will recall that the leases for shellfish cultivation in the 1962 (eastern) Menai Strait Fishery Order area are due for renewal at the end of March 2016.
- 6.2 The documentation required for conducted a Habitats Risk Assessment (HRA) has been submitted to Natural Resources Wales. A verbal update on progress will be presented to the meeting.

MSFOMA Secretariat  
December 2015

## **Annex A:** WG Response to queries from MSFOMA about the Fishery Order consultation process, July 2015

Schedule 1 of the Sea Fisheries (Shellfish) Act 1967 sets out the consultation process:-

1. Where an application for an order under section 1 of this Act is made to the appropriate Minister, that Minister may either refuse the application or prepare a draft order and serve a copy of it on the applicants.

### **Queries**

☐ *Can you confirm the likely timescale for the draft order being served on us?*

**Answer** – The matter is with Welsh Government Legal Services, and other pressures on their resources make estimating a timescale very difficult for me. I hope to have a draft order ready to send to you within 6-8 weeks, and if possible well before that.

☐ *Can you confirm that both a paper and electronic copy of the Order will be provided?*

**Answer** – Yes. A paper and electronic (PDF) copy of the draft Order will be provided.

2. Where a draft order is prepared and a copy thereof served on the applicants under paragraph 1 above, the applicants shall cause printed copies of the draft order to be published and circulated in such manner as the appropriate Minister thinks sufficient and proper for giving information to all parties interested, and shall give notice of the application, in such manner as that Minister directs or approves, to the owners or reputed owners, lessees or reputed lessees, and occupiers, if any, of the portion of the sea shore to which the proposed order relates and of the lands adjoining thereto.

### **Queries**

☐ *To meet part of this requirement it has been past practice to place advertisements in news publications (typically Fishing News and then one local and one regional newspaper). Could you confirm that this is still the case, and on how many occasions we will be required to advertise the Order?*

**Answer** – I can confirm that the best practice in this regard has not changed, and is set out for your information below:

Under the terms of the Sea Fisheries (Shellfish) Act 1967 you will be required to place the Order for advertisement, and I will send you an example of a suitable form of words for you to use at that time. The advert should be placed in the following newspapers: Fishing News, Western Mail and a local newspaper for the area of proposed SO.

In addition you will need to arrange for copies of the notice to be posted up in handbill form where fishermen and other interested parties in the area of the application may see it, at least 1 month before the last date by which objections may be made (i.e. from the same date that the advert appears in the paper). You will need to provide us with evidence of the adverts and the handbills for our records.

In accordance with Schedule 1 paragraph 2 you must also consult any reputed owners, lessees or reputed lessees and occupiers of the land that will be the subject of the order and which adjoins the area of the proposed Several Order.

You will also be required to consult with the following organisations, and to provide the Welsh Government with evidence of the outcome of those consultations:

Natural Resources Wales

Royal National Lifeboat Institution

Local Harbour Authority

Local Council

Trinity House Lighthouse Service

Ministry of Defence

British Gas Wales

Welsh Water

Local Wildlife Trusts

Local Marine Users

You will need to have written confirmation that you have complied with these requirements, along with copies of the adverts, and any responses from consultees.

It is advisable for you to consult any other parties likely to be affected by the granting of the Several Order, such as local fisheries groups, local environmental groups, recreational and sporting interests. This can reduce the chances of objections being made.

The proposed Order will be available for inspection at the Aberystwyth office and you should also make it available for inspection on demand, as well as providing any copies which may be required. Any objections received by the Welsh Government will be copied to you, and it will be for you to seek written withdrawal of objections by negotiation.

*☐ Is it acceptable to circulate information to interested parties using electronic media rather than paper copies?*

**Answer** – See answer above, but Yes, if you are sure that the some recipients are content to receive the information this way, but paper copies should be issued if you are not sure of this.

*☐ Can you specify all of the consultation activities that are likely to be required?*

**Answer** – See answer above.

3. During the period of one month after the first publication of the draft order under paragraph 2 above, the appropriate Minister shall receive any objections or representations made to him in writing respecting the proposed order.

**Queries**

☐ *Will it be acceptable for objections & representations to be made via e-mail?*

**Answer** – Yes.

☐ *Is there an e-mail address that the Minister would like us to use for this?*

**Answer** – Yes. This will be provided when the draft order is sent to you, but is likely to be the

[Marineandfisheries@wales.gsi.gov.uk](mailto:Marineandfisheries@wales.gsi.gov.uk) .

4. Provisions relate to Public Inquiries.

5. Provisions relate to Public Inquiries.

6. As soon as conveniently may be after the expiration of the period of one month referred to in paragraph 3 above or after the receipt by the appropriate Minister of any report of the inspector under paragraph 4(7) above, that Minister shall, after considering the objections or representations, if any, that have been made with respect to the proposed order and any such report, either refuse the application or settle and make an order in such form and containing such provisions as he thinks expedient.

**Queries**

☐ *Do you have any indications how long this step will take?*

**Answer** – It will depend on the number of, and nature of, any objections received, but we would hope to complete this process within 4-8 weeks

7. Where the appropriate Minister makes an order under section 1 of this Act, the applicants for the order shall cause notice of the making of the order to be published in such manner as that Minister thinks sufficient for giving information to all parties interested and shall give notice of the making of the order, in such manner as that Minister directs or approves, to the owners or reputed owners, lessees or reputed lessees, and occupiers, if any, of the portion of the sea shore to which the order relates and of the lands adjoining thereto.

**Queries**

☐ *As for section 2 of the schedule – what activities are required in order to meet this requirement?*

**Answer** – I believe this is covered by my answer to section 2 above

8. All expenses incurred by the appropriate Minister in relation to any application for an order under section 1 of this Act or to any order made in consequence thereof shall be defrayed by the applicants; and the appropriate Minister shall, if he thinks fit, on or at any time after the making of

the application, require the applicants to pay to him such sum as he thinks requisite for or on account of those expenses, or to give security to his satisfaction for the payment of those expenses on demand.

***Queries***

*☐ Do you anticipate that the Minister shall require payment to be made to defray costs associated with this application?*

**Answer – No.**



**Annex B:** Copy of the advertisement (bilingual) specified by Welsh Government.

**Deddf Pysgodfeydd Môr (Pysgod Cregyn) 1967  
(fel y'i diwygydd)**

**RHODDIR HYSBYSIAD DRWY HYN FOD:**  
CYMDEITHAS RHEOLI GORCHYMYN PYSGODFA  
AFON MENAI (MSFOMA) d/o MYTI MUSSELS  
LIMITED, PORTH PENRHYN, BANGOR GWYNEDD  
LL57 4HN wedi gwneud cais i Weinidogion Cymru  
am Orchymyn Pysgodfa Unigol dan Ddeddf  
Pysgodfeydd Môr (Pysgod Cregyn) 1967 fel y'i  
diwygiwyd, i roi hawliau pysgodfa unigol iddynt  
ar gyfer wystrys a chregyn gleision yn y 4 ardal  
yn y Fenai a ddangosir ar y map isod (enghreifftiol  
yn unig yw'r map). Hefyd, mae modd gweld yr  
wybodaeth hon yn [www.msfoma.org](http://www.msfoma.org).



Map drwy garedigwydd Google Maps

Am gyfnod o 1 mis ar ôl dyddiad cyhoeddi'r  
Hysbysiad hwn, bydd copi o'r Gorchymyn Pysgodfa  
Unigol drafft (ynghyd â map o'r bysgodfa) ar gael  
yn Llywodraeth Cymru, Uned Pysgodfeydd, Rhodfa  
Padarn, Aberystwyth, SY23 3UR i'w archwilio gan y  
cyhoedd rhwng 10.00am a 4.00pm o ddydd Llun i  
ddydd Gwener. Gellir cael copi o'r gorchymyn drafft  
o'r cyfeiriad uchod hefyd.

Dylai unrhyw wrthwynebiadau neu sylwadau am y  
Gorchymyn drafft arfaethedig gael eu gwneud yn  
ysgrifenedig i'r Uned Pysgodfeydd yn y cyfeiriad a  
roddwyd, a hynny erbyn **29 Tachwedd 2015** (neu  
drwy e-bost i [marineandfisheries@wales.gsi.gov.uk](mailto:marineandfisheries@wales.gsi.gov.uk)).

Ar yr un pryd dylid anfon copi i'r isod.

CYMDEITHAS RHEOLI GORCHYMYN PYSGODFA  
AFON MENAI (MSFOMA) d/o MYTI MUSSELS  
LIMITED, PORTH PENRHYN, BANGOR, GWYNEDD  
LL57 3HN E-bost [info@msfoma.org](mailto:info@msfoma.org)

**Sea Fisheries (Shellfish) Act 1967  
(as amended)**

**NOTICE IS HERE BY GIVEN THAT:** MENAI STRAIT  
FISHERY ORDER MANAGEMENT ASSOCIATION OF  
c/o MYTI MUSSELS LIMITED, PORT PENRHYN,  
BANGOR, GWYNEDD, LL57 4HN have applied to  
the Welsh Ministers for a Several Order under the  
Sea Fisheries (Shellfish) Act 1967 as amended, to  
confer on them rights of several fishery for oysters  
and mussels in the 4 areas within Menai Strait as  
shown by the map below (map is for illustrative  
purposes only). This information can also be viewed  
at [www.msfoma.org](http://www.msfoma.org).



Mapping courtesy of Google Maps

During the period of 1 month from the date of  
publication of this Notice, a copy of the draft Several  
Order (together with a map of the fishery) will be  
deposited at the Welsh Government, Fisheries  
Unit, Rhodfa Padarn, Aberystwyth, SY23 3UR  
for public inspection between the hours of  
10.00am and 4.00pm Mondays to Fridays. A copy  
of the draft order may also be obtained from the  
above address.

Any objections or representation concerning  
the proposed draft Order should be  
made in writing to Fisheries Unit at the  
address given by **29th November 2015**  
(or by e-mail to [marineandfisheries@wales.gsi.gov.uk](mailto:marineandfisheries@wales.gsi.gov.uk)).

At the same time a copy should be sent to  
the undersigned.  
MENAI STRAIT FISHERY ORDER MANAGEMENT  
ASSOCIATION OF c/o MYTI MUSSELS LIMITED,  
PORT PENRHYN, BANGOR, GWYNEDD, LL57 4HN.  
E-mail [info@msfoma.org](mailto:info@msfoma.org)

**Annex C:** Memorandum of understanding for MSFOMA and the proposed Menai (West) Lay Holders.

**Proposed new Menai Strait (West) Fishery Order**

**Memorandum of Understanding between the Menai Strait (West) Lay**

**Holders and the Menai Strait Fishery Order Management Association**

**Preamble**

Whereas:-

The Menai Strait (West) Oyster, Mussel and Clam Fishery Order 1978 was a Several Order granted under the Sea Fisheries (Shellfish) Act 1967 to enable the cultivation of mussels, oysters and clams. The Order was granted for a period of 30 years and expired on 23 March 2008;

The Menai Strait (West) Lay Holders are proposing to reinstate a new Fishery Order through the Marine and Coastal Access Act 2009 and with the same boundaries as in the previous Several Order. This Order is for 28 years in four 7 year tranches;

Welsh Government has stated that its preferred option would be for the Menai Strait Fishery Order Management Association (MSFOMA) to be the Applicant/Grantee of the proposed new Fishery Order;

MSFOMA and the Menai Strait (West) Lay Holders (namely Trevor Jones, Jon King, Sean Krijnen and David Lea-Wilson) have agreed the following terms of reference in order to proceed with the application of the proposed new Fishery Order and then the its future management within MSFOMA if and when the Fishery Order is granted.

**Terms of reference**

**1. Application process (Phase 1)**

- i. The Menai Strait (West) Lay Holders agree to meet all their costs (including costs that may arise through needing to consult with other stakeholders in the proposed new Fishery Order area) and any reasonable additional costs incurred by MSFOMA during the application process.
- ii. The Menai Strait (West) Lay Holders will prepare all the required documentation that has to be submitted by MSFOMA to Welsh Government.

- iii. Through its quarterly meetings, MSFOMA will provide the communication channel that will keep all parties aware of progress with the application process. If and when deemed appropriate, additional meetings may be scheduled.

**2. Management of the new Fishery Order (Phase 2 dependent on the successful outcome of Phase 1)**

- i. The Menai Strait (West) Lay Holders agree that Trevor Jones should become a Director of MSFOMA and be their representative for the new Fishery Order.
- ii. The Menai Strait (West) Lay Holders agree to meet any reasonable costs to make changes (if and where deemed necessary) to the current Articles prepared by MSFOMA for the Eastern Menai Strait Order.
- iii. MSFOMA and the Menai Strait (West) Lay Holders will need to agree a robust and transparent system to ensure that the finances of each party are managed effectively, including the setting of annual fees for lays in the West Menai. The most appropriate method may be to manage the finances separately.
- iv. The Menai Strait (West) Lay Holders will establish methods of self-regulation for their Fishery Order, to help ensure that each operates to acceptable standards and established Codes of Conduct.

These terms of reference shall be revised from time to time at the request of either MSFOMA or the Menai Strait (West) Lay Holders.

13 December 2011