Financial Plan

Background
A Financial Plan for the Association was prepared and agreed in 2010. An update was considered at the last meeting of the Association in April 2013, and again in September 2013 when a medium-term financial plan was agreed. In March 2014 the Association agreed to change the lease fees for the lays in the Menai Strait in order to achieve this plan. As the Association is now commencing a major new activity in the renewal of the Fishery Order in the eastern Menai Strait, a review of the Financial Plan is appropriate.

Recommendations
1. That the proposed Financial Plan should be discussed, and subject to any amendments, agreed by the Association.
2. That proposals for altering the budget and income to the Order over the next few years are discussed and subject to any amendments, agreed by the Association.
3. That the Association should consult with the lease and licence holders, and also with WAG before implementing any changes to lease or licence fees.

1. Financial plan

1.1 The first Financial Plan for the Association was agreed in October 2010 and revised in 2013. This set out projections for income and expenditure over a 5 year period.

1.2 All of the income to the Association is derived from the fees paid by mussel operators to either lease cultivation areas (which provides most of the income to the Order) or to gather wild mussels from the Fishery Order area.

1.3 The key financial challenges that are likely to arise for the Association over the coming 5 years are to meet all of the costs associated with the day-to-day administration of the Order; and to maintain a reserve fund that will support the renewal of the Order before it expires in 2022. The costs associated with renewing the Order could be significant, and this process is likely to take several years.

1.4 With these challenges in mind, the key goals for the 5-year financial plan agreed in 2010 were:-

- To meet the ongoing management and administrative expenses associated with the Menai Strait Fishery Order; and
- To accrue a reserve of £25,000 by the end of the 2015-2016 FY.

1.5 In September 2013 the Association further agreed to make an allowance to support the application to renew the Menai Strait (West) Fishery Order out of its reserve. This allowance would be recovered from the applicants for that Fishery Order.

1.6 The goals that were set in 2010 have been achieved. The Association continues to meet all of the management and administrative expenses associated with the Fishery Order in the eastern Menai Strait, has provided funding for the renewal of the Fishery Order in the western Menai Strait, and has accrued and maintained a reserve of more than £25,000. The reserve presently stands at £37,000.

2. Financial outlook

2.1 The annual running costs for MSFOMA have remained relatively constant at around £6,000 - £7,000 per year since the Association was established. The main financial challenges for the Association are likely to be the ongoing costs associated with the renewal of the Menai Strait (West) Fishery Order, and also the costs associated with the renewal of the Menai Strait Oyster and Mussel Fishery Order, which has recently begun (progress on both items is reported in items 10 and 11 on the agenda for today's meeting).

2.2 The costs arising from the renewal of the Menai Strait Oyster and Mussel Fishery Order to date have been just under £2,600. The cost arising from the renewal of the Menai Strait (West) Fishery Order over the period 2015-present has been just under £17,200. Both the eastern and western Fishery Order renewal processes are likely to require financial support in the future. The likely outlook for each is considered below.

2.3 **Menai (West) Fishery Order** – it is likely that the bulk of the costs associated with the application for renewal of this Order have been incurred, although an allowance must be made for the possibility of a Public Inquiry in the current Financial Year. If this Fishery Order is ultimately approved by the Minister, then an additional source of revenue will be created for the Association; but if the Minister should refuse the Fishery Order application or there is any further delay, then the sole source of revenue will remain the lease fees from the eastern Menai Strait Fishery Order. For the time being it would be prudent to consider that there will be no income from this Order, but that some additional costs (estimated at £12,000) would be incurred in the current FY.

2.4 **Menai Strait Oyster and Mussel Fishery Order 1962** – it can be anticipated that significant costs will accrue during the current FY associated with submitting the application for this Fishery Order. These have been estimated at £15,000. Once the application has been submitted, the annual costs associated with renewal are likely to be relatively small (estimated at £6,000 for 2 years). It can be anticipated that costs are likely to increase in the period prior to the renewal of the Fishery Order (estimated at £15,000 for 2 years). For this Fishery Order there is a strong possibility that the Association would incur significant legal fees during the renewal process, so it would be wise to continue to accrue a reserve to meet such costs.

2.5 A projection of the likely income and expenditure associated with the two Fishery Order areas for the period from 2017-2022. On the basis of these projections, the 2017-18 budget is likely to be in deficit, but all other years show a surplus.

2.6 Two income scenarios have been considered in this projection. One assumes no change in income from the leases issued in the eastern Menai Strait. The other scenario is based on an annual increase of lease fee by 2.5%. The charge per laying under this latter scenario is shown in Table 2. This incremental increase would increase the charge per laying by around £400 per year over the 5-year period.

Table 1: Financial projections for MSFOMA for the period 2017-2022.

Item	Financial Year					
	2016-17	**2017-18**	**2018-19**	**2019-20**	**2020-21**	**2021-22**
1. Recurring Expenditure						
Administration of the Order*	£6,500	£6,702	£6,909	£7,123	£7,344	£7,572
Enforcement activity*	£1,201	£1,238	£1,277	£1,316	£1,357	£1,399
Corporate core*	£1,201	£1,238	£1,277	£1,316	£1,357	£1,399
Renewal of Fishery Orders						
Menai East	£ 2,600	£15,000	£6,000	£6,000	£15,000	£15,000
Menai West	£ 8,200	£12,000				
Research & monitoring*	£1,802	£1,857	£1,915	£1,974	£2,036	£2,099
Total Expenditure	**£ 21,504**	**£38,035**	**£17,377**	**£17,730**	**£27,094**	**£ 27,469**
2. Recurring Income - status quo						
Leases for lays	£30,347	£30,347	£30,347	£30,347	£30,347	£30,347
Licences	£235	£ 235	£235	£235	£235	£235
Total	**£30,582**	**£30,582**	**£30,582**	**£30,582**	**£30,582**	**£30,582**
Operating surplus / deficit	**£ 9,079**	**-£7,453**	**£13,205**	**£12,852**	**£3,488**	**£3,113**
Reserve	£ 37,000	£29,547	£42,752	£55,604	£59,092	£58,717
3. Recurring Income - inflated at 2.5% to increase value of reserve.						
Leases for lays	£30,347	£31,106	£31,884	£32,681	£33,498	£34,335
Licences	£235	£235	£235	£235	£235	£235
Total	**£30,582**	**£31,341**	**£32,119**	**£32,916**	**£33,733**	**£34,570**
Operating surplus / deficit	**£ 9,079**	**-£6,695**	**£14,741**	**£15,185**	**£6,639**	**£7,101**
Reserve	£37,000	£30,305	£45,047	£60,232	£66,871	£ 73,972

* Costs inflated at 3.1% annually.

Table 2: Illustration of lease fees for Menai Strait Oyster & Mussel Fishery Order 1962 for the period 2017-2022 if an annual increment of 2.5% is applied..

Year	Total income to MSFOMA	Annual fee per laying
2017-18	£30,347.20	£3,793.40
2018-19	£31,105.88	£3,888.24
2019-20	£31,883.53	£3,985.44
2020-21	£32,680.62	£4,085.08

2021-22	£33,497.63	£4,187.20

2.7 These projections and illustrations are presented for discussion and feedback from the Association.

2.8 The Association is advised that the Cabinet Secretary must be consulted over any changes to lease arrangements in the Fishery Order area, which would include the proposed changes to lease fees.

3. Financial Plan

3.1 The illustrations above could provide the basis for amending the financial objectives that were agreed for the MSFOMA Financial Plan in 2010. Revised objectives could be:-

- To meet the ongoing management and administrative expenses associated with the Menai Strait Fishery Order; and
- To maintain a reserve of at least £25,000 for the remainder of the duration of the Fishery Order.

3.2 Both of the scenarios illustrated in Table 1 are likely to be consistent with these objectives and could thus form the basis of a financial plan for the next 5 years.

4. Next steps

4.1 The Association is invited to discuss the proposals presented here and to determine the favoured Financial Plan for both the Menai Strait Oyster and Mussel Fishery Order in the eastern end of the Menai Strait.

4.2 Once a decision about the Menai Strait (West) Fishery Order has been taken by the Cabinet Secretary the Association will need to consider the level at which to set lease fees for that Fishery Order.

MSFOMA Secretariat
July 2017

Welsh Government Activity

Background
The Welsh Government is responsible for managing inshore fisheries in Wales. This report provides a brief update on some Welsh Government Activities that may be relevant to the work of MSFOMA.

Recommendations
1. That the report is received, along with any verbal updates from Welsh Government officials at the meeting.
2. That the Association should make a response to the consultation on "*Taking forwards Wales' sustainable management of natural resources*".

5. Background

5.1 The Welsh Government website provides information about consultations and meetings of various stakeholder groups that are relevant to the Welsh Fishing industry. A brief summary of recent activity is provided below.

5.2 Officers from Welsh Government are due to be attending this meeting, and may provide further verbal background on the items reported below and other areas of Welsh Government Activity.

6. Meetings of Fisheries Groups

6.1 Welsh Government has established several groups to assist with the administration and management of Welsh fisheries. The key groups are:-

a) **Inshore Fisheries Groups** – these groups provide stakeholder with a forum for communicating and engaging with Welsh Government. The WG website reports that the most recent IFG meetings took place in September 2016.

b) **Welsh Marine Fisheries Advisory Group** – this group was established to assist with the formulation of appropriate policies, plans, strategies and laws relating to marine fisheries in Wales. The WG website reports that the most recent meeting of this group took place on December 5th 2016.

c) **Aquaculture Advisory Group** – this Group was established to help Welsh Government meet its targets for aquaculture production of 2,000t of finfish and 16,000t of shellfish by 2020.

6.2 A verbal update on any recent meetings of these and related groups will be provided at the meeting by Members who attend their meetings.

7. Consultation on "Taking forwards Wales' sustainable management of natural resources"

7.1 On 21st June 2017 the Welsh Government started a consultation to seek views on new regulatory approaches to the sustainable management of natural resources in Wales. This consultation is open until the 30th September 2017. The consultation document is available for download from the Welsh Government website[1].

7.2 Some relevant extracts from the consultation document are attached at Annex A to this report.

7.3 One section of the proposals entitled "Aquaculture licensing" is particularly relevant to the work of MSFOMA and the future of the mussel farming industry in the Menai Strait. This section states that:-

> ***Aquaculture licensing***
>
> *Currently, there is no 'one stop shop' for aquaculture licensing in Wales. At present, there are two licensing powers, which are section 189 of the Marine and Coastal Access Act 2009 and the ability to make Regulating and Several Shellfishery Orders under the Sea Fisheries (Shellfish) Act 1967.*
>
> *Several Shellfisheries Orders (made under the 1967 Act) grant individuals the exclusive right to take, and cultivate specific shellfish within a specific area, for a set period of time. They also provide other protections for shellfish farmers. Regulating Shellfishery Orders enable shellfisheries specified within the Order to be managed by a third party (known as the Grantee). The procedures involved in making a Several or Regulating Order under the 1967 Act are cumbersome and outdated and, given the powers that are now available under section 189 of the Marine and Coastal Access Act 2009 (which allow permitting regimes to be introduced in relation to sea fisheries resources (which is much wider than solely shellfish)) the mechanism for creating Several and Regulating Shellfishery Orders under the 1967 Act is no longer the most appropriate management tool.*

7.4 The proposals for future aquaculture licensing refer to section 189 of the Marine Act. This section allows the Welsh Minister to "*by order make any provision in relation to Wales which the authority for an IFC district may make for that district under a byelaw made under section 155.*" A copy of the text of §189 and the related §155 of the Marine Act are attached for Members' information at Annex B.

7.5 Members are advised that both the authority for issuing new Fishery Orders under the Sea Fisheries (Shellfish) Act 1967 and for making byelaws under §189 of the Marine Act lies with the Minister.

7.6 Members will recall that the Marine & Coastal Access Act 2009 made amendments to the Sea Fisheries (Shellfish) Act 1967 to address concerns that had been raised about this legislation (these are set out in §202 *et seq* of the Marine Act).

[1] The URL for the consultation is: https://consultations.gov.wales/consultations/taking-forward-wales-sustainable-management-natural-resources

7.7 The Association's view on whether or not the powers set out in §189 of the Marine Act would provide an alternative to those set out in the Sea Fisheries (Shellfish) Act 1967 may be informed by the fact that the Southern IFCA renewed the Poole Harbour Fishery Order in 2015 (under the Sea Fisheries (Shellfish) Act 1967) to allow for shellfish cultivation in Poole harbour; and simultaneously made a new byelaw (under §155 of the Marine Act) to regulate dredging in the wild fishery[2]. Clearly in the view of at least one IFCA, byelaws are suited to managing wild fisheries and Orders made under the 1967 Shellfish Act are better suited for encouraging and managing shellfish cultivation.

7.8 Consultees were invited to respond either using an online form or a downloadable form that can be e-mailed or posted to the Welsh Government.

7.9 Following discussions among MSFOMA members in July 2017, a draft response from the Association was prepared and circulated to MSFOMA members for comment. Following some revisions of this response, a response from MSFOMA was submitted to WG in September 2017. This response is appended at Appendix C and D to this report.

7.10 In addition to the WG response, some of the shellfish farmers in North Wales submitted their own responses to the consultation. These are appended at Annexes E and F to this report.

7.11 Welsh Government officials have been invited to attend this meeting and will be able to provide Members with more information about this consultation and the proposals within the document.

MSFOMA Secretariat
October 2017

[2] See the Southern IFCA website at: http://www.southern-ifca.gov.uk/the-poole-fishery-order

Annex A: Copy of relevant extracts of the consultation document on "*Taking forward Wales' sustainable management of natural resources*".

Number: WG31811

Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Taking Forward Wales' Sustainable Management of Natural Resources

Date of issue: 21 June 2017
Action required: Responses by 13 September 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Chapter 5: Marine and Fisheries

Summary

This chapter sets out the following proposals relating marine and fisheries.

Marine:

- Amending the Marine and Coastal Access Act 2009 to provide express powers for the Welsh Ministers to produce regional marine plans.

Fisheries:

- Enabling more administrative flexibility for fisheries management;
- Introducing a fit for purpose aquaculture licensing regime; and
- Extending the buyers and sellers regime to include shellfish gathered from intertidal areas.

Marine - What issues are we considering?

Marine planning provides a framework for managing our seas. Under the Marine and Coastal Access Act (2009) (MCAA), the UK is divided into marine planning regions with an associated planning authority. Once a UK Marine Policy Statement (MPS) is in place under the MCAA, the marine planning authorities can prepare a marine plan for these areas. In Scotland, Wales and Northern Ireland the devolved Ministers are the planning authorities and in England the Marine Management Organisation (MMO) is the planning authority.

The MCAA gives the Welsh Ministers powers to produce marine plans for the Welsh inshore (within 12nm) and offshore (beyond 12nm) marine plan regions. The Act requires marine plans to cover the entire marine plan area for which the marine planning authority has responsibility for producing marine plans. There is no express provision for lower level plans that sit underneath plans produced at the national level.

Welsh seas are extensive and support a wide range of activities ranging from aquaculture, aggregates dredging and renewable energy development to ports, shipping, tourism and recreation and fisheries. Our seas are diverse with specific issues and characteristics specific to local areas. In order for this specificity to be planned for in a meaningful way, there may be the need to introduce a lower tier of marine plans, which are guided by the MPS and Welsh national marine plans but which can address local issues and priorities.

Current Position

Marine planning is being established around the UK and more widely across the EU and elsewhere in the world. The English and Welsh inshore and offshore marine plans are being produced under the MCAA and are guided by the UK MPS, which ensures common approach across the UK. The MPS was adopted in 2011.

Welsh Government is producing the first marine plans under the MCAA for the Welsh Inshore and offshore which will be produced as a single document, the Welsh National Marine Plan (WNMP). We aim to consult upon the WNMP in summer 2017 followed by adoption and implementation.

Once adopted, the plan will guide decisions taken by public authorities that have the potential to affect the marine area.

What changes are we proposing?

Other UK marine planning administrations have similar but distinct models for marine planning.

The MMO is planning for areas of waters around England subdivided into eleven regional marine planning areas[49], which are being planned for sequentially. The East Inshore and offshore area plans have been adopted and the South inshore and offshore area plans are well progressed. Other areas have yet to be planned.

In Scotland, the Marine Scotland Act (2010) includes provisions for regional plans that sit beneath the National Marine Plan for Scotland. Eleven Scottish Marine Regions have been created which cover sea areas extending out to 12nm. Regional Marine Plans will be developed in turn by Marine Planning Partnerships, allowing more local ownership and decision making about specific issues within their area[50].

During consultation[51] on marine planning for Wales, Welsh Government asked if there was a need for marine planning at the sub-national level. A wide range of views were expressed on this matter including the view that it was too early to be sure, given planning at the national level had not yet started.

Marine planning is underway and it has become evident that locally specific matters are challenging to adequately address in a national plan. In complex areas with multiple activities and options for use of natural resources such as Milford Haven, the Severn estuary and North Wales Coast a higher degree of local planning may be appropriate

There is a need for more detailed evidence and local engagement in order to produce plans containing an appropriate degree of guidance for decision making at the local level; gathering such evidence and conducting the appropriate engagement as part of a national exercise does not fit well with the strategic nature of a national planning process, particularly when different issues will arise at different times and different scales at a more local level.

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[49] https://www.gov.uk/government/publications/marine-plan-areas-in-england
[50] http://www.gov.scot/Topics/marine/seamanagement/regional
[51] https://consultations.gov.wales/consultations/sustainable-development-welsh-seas-our-approach-marine-planning-wales

A number of stakeholders have continued to advocate the need for local marine plans to address local issues at an appropriate local scale.

The proposal is to amend the Marine and Coastal Access Act 2009 to provide the Welsh Ministers with express powers to produce regional marine plans within the Welsh marine plan regions.

- What specific changes are we proposing?

To amend the MCAA so far as it applies to the Welsh Inshore region to provide express powers for the Welsh Minsters to identify inshore Welsh marine plan regions and to produce marine plans for these marine plan regions, which are in accordance with the UK MPS and supplement the national plan.

- What options are we considering?

As an alternative to sub-national planning, we are considering the merits of:

- Sub-dividing Welsh seas and producing a plan for each of these areas which, when taken together would cover the Welsh marine planning regions (the approach taken in England).
- the need to require that regional marine plans must cover the entire Welsh marine planning regions or whether they should be produced as and when required where there is clear evidence of the need for a plan at a regional scale to address particular policy issues and priorities;
- including a locally refined and specific policy as part of the national plan document, for any areas meriting such an approach. Retaining such a close coupling between the national plan and any locally specific plan policy would, however, require that national planning was undertaken as a more complex and far reaching single process including consideration and development of local policy all at one alongside national considerations. In practice, this is unlikely to be a viable option relative to a more sequential process of national and then more local planning; and
- the approach in Scotland, where regional marine plans are being produced in partnership and the Scottish Ministers have powers to delegate certain functions related to the production of regional marine plans to certain public authorities. A similar approach may be appropriate for Wales.

Proposal 28
To amend the Marine and Coastal Access Act 2009 to provide the Welsh Ministers with express powers to produce regional marine plans within the Welsh marine plan regions.

What outcomes do we anticipate?

Producing Welsh regional marine plans would provide a more flexible, locally relevant planning framework, which would better align with local needs and priorities. By enabling the Welsh Minsters to produce regional marine plans we would anticipate the following outcomes:

- A national marine plan, which provides an appropriate policy framework for decisions but which recognises that certain evidence and issues can only be tackled at the national level.
- A more iterative and adaptive planning process with the regional marine plans addressing options for multiple use of marine space and supporting sustainable development by guiding future use at an appropriate scale
- Closer interaction between marine planning and local planning on land as well as reflecting and relating to any area statements produced by NRW, thereby supporting stronger connectivity between land and sea with a clear focus on the needs of coastal communities.
- More detailed, spatially relevant plans supported by an appropriate evidence base able to consider national policy at the regional scale.

Questions

Question 18
Do you support the need for new powers to identify Welsh regional marine plan regions and to produce marine plans for these regions?

Question 19
If you do not support regional marine plans, please indicate how you suggest local issues are addressed within the current framework and what specific impact do you think the proposals would have upon your interests?

Fisheries - What issues are we considering?

We are considering potential opportunities to improve three areas of fisheries legislation. These are:

a) Enabling more administrative flexibility for fisheries management;
b) Introducing a fit for purpose aquaculture licensing regime; and
c) Improving the buyers and sellers regime to include shellfish gathered from intertidal areas

At present, there are limitations in the effectiveness of these areas.

Current Position

Administrative flexibility

The Welsh Ministers have a range of powers to make subordinate legislation for the management of fisheries in Wales. However, none of these powers expressly provide administrative flexibility, which enables rapid adaptation of the management regime to respond to the changing dynamic nature of the marine environment. As such, at present it is not possible to adjust Total Allowable Catch (TAC), fishing effort (usually expressed as 'Days at Sea'), Minimum Reference Sizes and temporal and spatial restrictions (amongst other conditions) at short notice (i.e. without the need to make subordinate legislation and the inherent delays that those procedures involve). A power to do so would allow real-time, flexible management of our marine resources in Wales.

Aquaculture licensing

Currently, there is no 'one stop shop' for aquaculture licensing in Wales. At present, there are two licensing powers, which are section 189 of the Marine and Coastal Access Act 2009 and the ability to make Regulating and Several Shellfishery Orders under the Sea Fisheries (Shellfish) Act 1967.

Several Shellfisheries Orders (made under the 1967 Act) grant individuals the exclusive right to take, and cultivate specific shellfish within a specific area, for a set period of time. They also provide other protections for shellfish farmers. Regulating Shellfishery Orders enable shellfisheries specified within the Order to be managed by a third party (known as the Grantee). The procedures involved in making a Several or Regulating Order under the 1967 Act are cumbersome and outdated and, given the powers that are now available under section 189 of the Marine and Coastal Access Act 2009 (which allow permitting regimes to be introduced in relation to sea fisheries resources (which is much wider than solely shellfish)) the mechanism for creating Several and Regulating Shellfishery Orders under the 1967 Act is no longer the most appropriate management tool.

'Buyers and sellers' regime for shellfish from intertidal areas

The current Registration of Buyers and Sellers regime is a European derived scheme under the Common Fisheries Policy (CFP). This scheme allows effective traceability of fish caught from vessels only. However, the CFP provision does not deal with the traceability of fish and shellfish caught or gathered from land (i.e. cockle fisheries) and, consequently, at present there are no legislative provisions available to apply a regime of this nature in relation to those products.

51

What changes are we proposing?

Enabling more administrative flexibility for fisheries management

This proposal seeks to enable Welsh Ministers to flexibly manage fisheries (through administrative measures). There are occasions, where it would be beneficial to be able to adjust certain factors of the management of fisheries without the need to make subordinate legislation for each and every change.

A potential alternative approach could be the use of flexible permit conditions to control the relevant fisheries management factors (for example, taking fish from a fishery will depend upon the latest data available about the health of the stock and this may need to be changed at short notice). Such a mechanism would avoid the need to include such specific details on the face of legislative instruments, which if the conditions change from year to year (or within year), would otherwise require amendments to the legislation. Such amendments cannot be undertaken at short notice and can be resource intensive.

Associated to this is a requirement to stop certain fisheries activity at short notice. Currently, in relation to certain fisheries activities, the Welsh Ministers have powers under the byelaws of the former Sea Fisheries Committees[52] (However, there is no mechanism for closing some Welsh fisheries where immediate actions is required. The Welsh Ministers do have powers under the Sea Fish (Conservation) Act 1967, by subordinate legislation to prohibit and regulate fishing activities, however, this approach does not enable real time fisheries management due to the time required for introducing subordinate legislation.

Proposal 29

To provide the Welsh Ministers with powers to flexibly manage fisheries. This could include adjusting certain factors of the management of fisheries without the need to make subordinate legislation for each and every change.

What options are we considering?

These issues could be addressed, if the Welsh Ministers were to be provided with powers to enable the day to day management of Welsh fisheries to be dealt with on an administrative basis. This power would enable the Welsh Ministers via subordinate legislation to impose variable permit conditions and to open/close fisheries at short notice, for example to adapt to environmental conditions.

Limitations could be applied to the administrative arrangements, for example, providing measures that vary between seasons/year (for example, an ability to make changes to the management of the fishery in light of latest stock data). This would enable Ministers to manage fisheries on a species by species basis, through specific conditions and tailor management to the underlying conditions. This could include the introduction and adjustment of TACs (which can be increased or decreased accordingly), the

[52] Saved and given effect as if made by the Welsh Ministers in a Statutory Instrument by virtue of The Marine and Coastal Access Act 2009 (Commencement No. 1, Consequential, Transitional and Savings Provisions) (England and Wales) Order 2010 S.I. 2010/630 (C.42)).

opening/closing of fisheries, geographical and temporal restrictions (and the adjustment of the same) and the use of appropriate effort control measures such as Days at Sea.

In relation to technical measures to manage a fishery, such as gear restrictions, these are generally included in the detail on the face of legislation. These measures do not usually vary from year to year, and are usually only amended when there has been a significant change through gear or technology creep. Therefore, it is not anticipated we would look to include technical restrictions (and other similar provisions) within the scope of these new flexible management powers.

In terms of the envisaged approach, it is intended that the Welsh Ministers will introduce species specific statutory instruments for each of the major fisheries. These would set out the definitions and, technical limitations (together with any other such restrictions that would not require short term adjustment in order to allow efficient management of the fishery). In addition, it is proposed there would be a power for the Welsh Ministers to administratively (and flexibly) manage the elements of the relevant fishery, which need to be adjusted in light of environmental and stock issues arising from time to time (i.e. through permit conditions).

We are proposing the scope of the matters, which may be managed flexibly through such an administrative system include:

- Total Allowable Catch (TAC);
- Effort Control (ie Days at Sea); and
- Open/Close decision of an area including STOP power.

Introducing a fit for purpose aquaculture licensing regime

Shellfish fisheries as currently provided for under the 1967 Act are granted by Orders (known as Regulating and/or Several Orders). The making of those Orders is subject to cumbersome and outdated procedures outlined in the 1967 Act and only allow minimal oversight by the Welsh Ministers. We recognise the value, and security Several Orders (in particular) provide to operators and we are not proposing any changes to existing Orders at an agreed date (i.e. the 1967 Act in its current form would continue to apply to all existing several and Regulating Orders).

The existing procedure, however, is administratively burdensome, and the process of applications (under the current legislation) is not proportionate to the wider benefits of granting these Orders. Applications can take many months, and some of the more complex applications can take many years to be determined. This is neither an acceptable service to the industry as it leaves operators in doubt for many years nor an effective use of public resources. The current process does not facilitate growth within the sector.

Proposal 30

To introduce an improved aquaculture licensing regime.

53

What options are we considering?

The proposal is to create a fit for purpose marine aquaculture licensing regime. It is intended these aquaculture operations will be managed using licences, which would remove the need for such aquaculture operations to be established by subordinate legislation. This would bring aquaculture into line with other activities in the marine area such as those governed through the marine licensing regime (established in the MCCA 2009), and commercial fishing, which is also a licensed activity.

These licenses would allow flexible management with license conditions, which can be varied by Welsh Ministers when necessary. This would allow operators to adapt their practices to suit the changing environment, or for example increase production within the site if changing evidence or business needs prevail.

The license should:

- Facilitate flexible management and growth of the sector;
- Be variable by Welsh Ministers;
- Include conditions set by Welsh Ministers;
- Provide security to operators from other activities as Several Orders do;
- Be location, species, and method specific;
- Provide for charges to cover administration costs;
- Provide a power to cancel a license where a breach of conditions occurs. (However other actions should also be available such as fines);
- Provide for offences for example for anyone not the licensee or an endorsee of the license to take any of the cultivated species from the licensed area;
- Provide for offences for example for anyone to interfere with the rights granted by the license; and
- Provide a power to grant the licence for a period of time considered appropriate, with regular review periods if desired.

We propose this new licensing regime will replace 'several' Orders granted under the 1967 Act. As such the 1967 Act would need to be amended in Wales to remove the ability of Welsh Ministers to grant Orders for several fisheries. Welsh Ministers have powers to create permit schemes, which effectively replicate Regulating Orders. However, Welsh Ministers would need to retain the power to make Regulating Orders (jointly with Defra Ministers) to allow cross border fisheries to continue, and where delivery bodies are responsible for management.

What outcomes do we anticipate?

We anticipate this new licensing regime would provide a quicker route to allowing aquaculture development in Wales, providing a new system for non shellfish aquaculture, but also giving shellfish operators a faster way to begin farming. The flexible nature would remove much of the uncertainty of issuing Several Orders for long periods of time. Management Plans would be enforceable as a license condition and allow flexibility.

The nature of issuing licenses would allow Welsh Ministers a control point to consider the environmental impact of the proposed operation, and wider objectives for the marine area in line with the Welsh National Marine Plan and other legislation such as the Habitats Directive as appropriate.

Improving the buyers and sellers regime to include shellfish gathered from intertidal areas

The current buyers and sellers scheme is derived from the Common Fisheries Policy. It is consequently focused on fishing from a boat. The Welsh Ministers do not currently have the power to widen the existing regime to cover all fisheries in Wales (i.e. including those not fished from a boat) and specifically the intertidal shellfish where traceability and unlicensed activity continue to be an issue.

Therefore, we are considering providing the Welsh Ministers with a power to extend the current Registration of Buyers and Sellers Scheme to all important domestic fisheries, however they are caught i.e. from a boat or from the shore. The application of this regime to other fisheries would improve the sustainability of inshore stocks and increase public health by ensuring the origins of shellfish are from legal sources.

Proposal 31
To improve the buyers and sellers regime to include shellfish in intertidal areas.

Questions

Question 20
Do you agree with our proposals to manage fisheries flexibly? Can you provide any example where flexible management would be of benefit to your business.

Question 21
Do you agree with our proposals to introduce a fit for purpose licensing regime for aquaculture? Please consider whether there are any other functions you think the license should cover.

Question 22
Do you agree with our proposals to increase the scope of the current Buyers and Sellers Regime. Please consider what impact you think the proposals will have on your business?

Annex B: Copy of sections 189 and 155 of the Marine & Coastal Access Act 2009.

CHAPTER 3

INSHORE FISHERIES IN WALES

189 Power of Welsh Ministers in relation to fisheries in Wales

(1) Subject to subsection (2), the Welsh Ministers may by order make any provision in relation to Wales which the authority for an IFC district may make for that district by a byelaw made under section 155.

(2) To the extent that the Welsh Ministers have power, apart from this section, to make provision of the kind referred to in subsection (1) (whether by order or otherwise), subsection (1) does not apply.

(3) In this section—

"authority for an IFC district" has the same meaning as in Chapter 1 of this Part;

"Wales" has the same meaning as in the Government of Wales Act 2006 (c. 32).

Byelaws

155 Power to make byelaws

(1) For the purposes of performing the duty imposed by section 153 or the duty imposed by section 154, the authority for an IFC district may make byelaws for that district.

(2) Byelaws made under this section must be observed within the district for which they are made.

(3) A byelaw made under this section does not have effect until it is confirmed by the Secretary of State.

This is subject to section 157 (emergency byelaws).

(4) The Secretary of State may confirm a byelaw without modification or with such modifications as are agreed to by the IFC authority that made the byelaw.

(5) Before confirming a byelaw, the Secretary of State may cause a local inquiry to be held.

Annex C: Copy of MSFOMA Chair's response to the consultation on "*Taking forward Wales' sustainable management of natural resources*".

Menai Strait Fishery Order Management Association
Porth Penrhyn, Bangor, LL57 4HN

Natural Resources Management Team
Welsh Government
Pillar J08
East Wing
CF10 3NQ

11th September 2017

By post and e-mail

Dear Sir / Madam

Consultation on "Taking forward Wales' sustainable management of natural resources"

We are grateful for the opportunity to respond to this consultation.

The Menai Strait Fishery Order Management Association is responsible for the administration of shellfish cultivation in the Menai Strait. The mussel farming industry in the eastern Menai Strait is the largest and most successful shellfish cultivation area in the UK, and it is based upon the legal framework established by the Sea Fisheries (Shellfish) Act 1967.

The shellfish farming industry in the Menai Strait provides dozens of skilled jobs and year-round employment for local people in this part of rural Wales. It is also a multi-million pound industry that provides valuable export trade for Wales and the UK overall. Apart from these economic benefits, mussel farming here in the Menai Strait makes a valuable contribution to achieving the objectives of Welsh, UK and EU strategies for sustainable development of marine aquaculture. We are also very proud of the fact that this rural Welsh industry became the first shellfish farming operation in the world to be awarded a Marine Stewardship Council certificate.

Our response to the consultation is attached. In summary, we support the broad objective of improving and streamlining the aquaculture licensing regime; however we do not agree with the statement that *"the mechanism for creating Several and Regulating Shellfishery Orders under the 1967 Act is no longer the most appropriate management tool."* We consider that the proposal to use the powers under §189 of the Marine Act instead of using the 1967 Shellfish Act to would not provide a basis for sustaining and developing shellfish cultivation in Wales. The proposal is likely to jeopardise delivery of the objectives of the *Welsh Marine and Fisheries Strategic Action Plan* with respect to shellfish cultivation in Wales.

We would welcome the opportunity to work with the Welsh Government to develop the existing management framework and to achieve the long-term goal of doubling shellfish aquaculture production by 2020.

We hope that our comments are helpful. If we can be on any further assistance please do not hesitate to contact us.

Yours sincerely

S. D. Utting

SUE UTTING
Chair, MSFOMA

cc. Rhun Ap Iorwerth, A.M.

Enc.

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

Annex D: Responses to questions relevant to MSFOMA for the consultation on *"Taking forward Wales' sustainable management of natural resources"* (full list of questions available from WG website).

Taking forward Wales' sustainable management of natural resources

Consultation response form

Your name: Chair

Organisation (if applicable): Menai Strait Fishery Order Management Association (MSFOMA)

e-mail/telephone number: chair@msfoma.org

Your address: MSFOMA, Porth Penrhyn, Gwynedd LL57 4HN

Responses should be returned by to:

or completed electronically and sent to:

e-mail:

About this consultation

The consultation seeks views on new regulatory approaches to the sustainable management of natural resources in Wales. Proposals include:

- promotion of the circular economy
- nature-based solutions
- new markets and innovative mechanisms
- smarter regulation

Question 1 –

Towards the Sustainable Management of Natural Resources Promote a Circular Economy

Do you consider there are further opportunities for integration of circular economic approaches? If so, please provide examples of where there are any regulatory obstacles to achieving integration.

Yes	✓	No	☐	Not sure	☐

Comments

The cultivation of mussels in the Menai Strait is a fine practical example of a successful “circular” economic activity.

Rather than an extractive approach to fishing which is seen in many wild fisheries, MSFOMA promotes and manages the sustainable cultivation of mussels.

Mussel cultivation in coastal waters has now been recognised in Scandinavian countries as a way to improve coastal water quality and sequester both carbon dioxide, whilst simultaneously producing high quality seafood with a low carbon footprint that creates secure jobs in the marine sector. In Denmark, the Government has recently streamlined the consenting process for mussel farms in recognition of these benefits. There is a great opportunity for the Welsh Government to take a leading role in the UK in promoting a circular economy by encouraging the growth of mussel cultivation.

Question 2 –

Delivery of Nature Based Solutions

Are there any regulatory barriers to introducing nature based solutions? Please provide information.

Yes	✓	No	☐	Not sure	☐

Comments

The key barrier for the development of the shellfish farming industry in Wales is the lack of clarity in the administration of the Sea Fisheries (Shellfish) Act 1967.

This lack of administrative clarity is the sole remaining obstacle to the

successful delivery of the Welsh Government's policy commitment to double shellfish production in Wales by 2020 (set out in the Wales Marine & Fisheries Strategic Action Plan published in November 2013).

The Welsh Government could make a huge step forward in the delivery of nature based solutions without altering a word of the legislation in place, by simply developing a clearer and more streamlined set of administrative procedures to support existing legislation.

Question 3 –

Support New Markets and Innovative Mechanisms

Are there potential opportunities for market mechanisms or innovative regulatory approaches? Are there any legislative barriers to their implementation?

Yes	☐	No	☐	Not sure	☐

Comments

There are two questions here:-

Are there potential opportunities for market mechanisms or innovative regulatory approaches?

Yes there are. MSFOMA itself shows how shellfish farming can easily pay all of its administrative costs. MSFOMA is funded solely by the lease fees that it charges shellfish farmers. No tax-payers' money is spent on the management of the fishery.

Are there any legislative barriers to their implementation?

No, we don't think that there are.

We know that there is a perception, stated in the consultation document (at page 51) that the Sea Fisheries (Shellfish) Act 1967 is "*cumbersome and outdated*" and that "*the mechanism for creating Several and Regulating Orders under the 1967 Act is no longer the most appropriate management tool.*"

We don't agree with these statements.

The Welsh Government carefully scrutinised this legislation in 2015 and concluded that the only changes that were needed were some revisions to ensure that it was appropriately aligned with EU nature conservation legislation. These changes were introduced through Part 5 of the Environment (Wales) Act 2016. These changes built on the review of the 1967 Shellfish Act that was conducted by the UK Government prior to the introduction of the Marine & Coastal Access Act 2009 which also resulted in relatively minor changes. The evidence, therefore, is that

this legislation is not "*outdated*".

The key problem with the implementation of the powers in the Sea Fisheries (Shellfish) Act 1967 results from dated and incomplete administrative guidance. An update of this guidance would help Welsh Government officials to achieve the policy objectives set by the Government in 2013. The Shellfish Act itself is fine.

[….]

Question 18 –

Marine and Fisheries

Marine

Do you support the need for new powers to identify Welsh Regional marine plan regions and to produce marine plans for these Regions?

Yes	☐	No	☐	Not sure	✓

Comments

If the production of marine plans will provide a strategic context for decision making that will help to streamline administration of the Welsh maritime zone, we would support this proposal.

However, if the production of marine plans would result in a delay in decision making resulting either from the planning process or the diversion of staff resources into this new area of work, then we would have concerns that the short-term impacts could outstrip the long term benefits.

MSFOMA would support the development of marine plans alongside the existing planning framework.

Question 19 –

Do you support Regional marine plans? If not, please indicate how you suggest local issues are addressed within the current framework and what specific impact do you think the proposals would have upon your interests?

Yes	☐	No	☐	Not sure	✓

Comments

As noted in our comments to Question 18 above, there is a potential risk as well as a potential benefit from the development of marine plans.

The development of Regional Marine Plans could be very much to the benefit of the shellfish sector in the Menai Strait.

Any regional marine plan would recognise the strategic importance of the Menai Strait as a location for mussel production (since the Strait is the most successful mussel farming area in the UK). A regional marine plan would also be expected to recognise that this area is vital to the delivery of the long-term national objectives to double shellfish production in Wales by 2020 (set out in the Marine & Fisheries Strategic Action Plan published by the Welsh Government in November 2013).

A Regional Marine Plan could, therefore, be expected to set out a policy framework that would sustain and protect this economic activity as a priority in this Region. We would also hope that a Regional Marine Plan would raise awareness of the value of this industry and build some recognition and appreciation of the dedication and professionalism of the local shellfish farmers who have created this sustainable seafood industry from scratch.

Question 20 –

Fisheries

Do you agree with our proposals to manage fisheries flexibly? Can you provide any example where flexible management would be of benefit to your business?

Yes	☐	No	☐	Not sure	✓

Comments

There are two questions here.

Do we agree with your proposals to manage fisheries flexibly?

We support the idea of allowing "*real-time flexible management of our marine resources in Wales.*"

The mussel fisheries of Wales could serve as the perfect vehicle for developing and proving the merits of such management. Mussels are not subject to a national or EU TAC, and fishing for mussels is only subject to regulations imposed by the Welsh Government itself.

We would very much advocate a review of the controls that the Welsh Government presently has in place for mussel fishing in Wales, and in particular an audit of whether the MLS and restrictions on fishing by mussel farming vessels are appropriate. Such a review could provide a clear and practical demonstration of the benefits of flexible management and we would be keen to work with the Cabinet Secretary and her officials on such arrangements.

In our view, because the controls that presently apply to the mussel fishery in Wales are entirely determined by the Welsh Government, a pilot project in this area could be an easy quick-start demonstration of the wider benefits of this approach.

Can we provide any examples where flexible management would be of benefit to our businesses.

Yes.

One of the major obstacles to the development of shellfish cultivation in Wales is the slow speed with which the administrative processes respond to opportunities to fish for the "seed" mussels that are used in mussel farming.

Mussel farming is one of the major fisheries in Wales, and it depends on access to seed mussel resources. These seed mussels occur sporadically, but generally in a handful of locations.

The mussel industry would benefit enormously if the Minister could

make a species-specific statutory instrument (or alternatively an Order made under §189 of the Marine Act) that would enable fishing for seed mussels to be swiftly authorised by the Minister.

Question 21 –

Do you agree with our proposals to introduce a fit for purpose licensing regime for aquaculture? Please consider whether there are any other functions you think the license should cover.

Yes	☐	No	☐	Not sure	✓

Comments

Again there are two questions here.

Do you agree with our proposals to introduce a fit for purpose licensing regime for aquaculture?

MSFOMA is firmly of the view that the Sea Fisheries (Shellfish) Act 1967 is fit for purpose for licensing aquaculture, especially following the changes that were made to the Act by the Marine & Coastal Access Act 2009 and subsequently by the Environment (Wales) Act 2016.

Our reason for having this view, which is at odds with that set out in the consultation document, is twofold:-

Firstly, the proposed alternative (which is for the Cabinet Secretary to use powers under the §189 of the Marine Act) does not allow for the creation of a private or "several" fishery, which is vital for aquaculture.

Secondly, the Sea Fisheries (Shellfish) Act 1967 has been carefully scrutinised by both the UK Government and Welsh Government as part of the process of making the Marine & Coastal Access Act 2009 and the Environment (Wales) Act 2016. In both cases, only minor changes to the Shellfish Act were considered to be necessary.

We do, however, agree that the creation of a "several" fishery can take years. This is not a consequence of the legislation (the 1967 Shellfish Act), but is a result of uncertainty about the administration and implementation of this Act.

We consider that it is appropriate that the creation of a "several" fishery

should be an onerous process, because a high degree of rigour is required when the public right of fishery is to be constrained. It would not be appropriate to take short-cuts when constraining the public right of fishery.

We recognise that the powers granted to the Minister by §189 of the Marine Act may be very useful in creating a flexible alternative to "regulating orders" under the 1967 Act.

We can see evidence to support our views in recent events in England. The Southern Inshore Fisheries & Conservation Authority (Southern IFCA) has recently renewed the Poole Harbour Fishery Order under the Sea Fisheries (Shellfish) Act 1967. This new Fishery Order succeeds the earlier 1985 Order (which was itself the successor of the Poole Fishery Orders made in 1885 and 1915).

The Poole Fishery Order 1985 was both a "several" order (allowing for shellfish cultivation) and a "regulating" order (allowing the harvesting of wild shellfish to be regulated more effectively than by fishery byelaws).

The new Poole Fishery Order is purely a "several" Order, which establishes areas for shellfish cultivation. Alongside this new Order, the Southern IFCA now regulates the wild fishery in Poole Harbour through a byelaw made under §155 of the Marine Act in preference to the earlier approach, which was to regulate this dredge fishery using powers in the Sea Fisheries (Shellfish) Act 1967. In our view, this demonstrates a prudent and practical use of the existing powers available to manage shellfish cultivation and harvesting that requires no changes to primary legislation.

In summary, we see no need to tinker with the legislative regime. We do, however, recognise that officials might not have adequate administrative and policy guidance available on how best to implement this regime, and would welcome the opportunity to work with the Welsh Government to address this issue.

Please consider whether there are any other functions you think the license should cover.

If the Welsh Government is not convinced by our reasoning, then a revision to §156 of the Marine & Coastal Access Act 2009 would be required in order to make express provision for the public right of fishery for named shellfish to be severed. It is only by such means that the powers granted to the Welsh Minister under §189 of the Act could be used as a viable alternative to a Several Order made under the Sea Fisheries (Shellfish) Act 1967.

Question 22 –

Do you agree with our proposals to increase the scope of the current Buyers and Sellers Regime. Please consider what impact you think the proposals will have on your business.

Yes	☐	No	☐	Not sure	☐

Comments

These proposals would not affect the main business of MSFOMA, since all of our activities involve fishing vessels. We therefore have no comment to make.

Annex E: Copy of Kim Mould's response to the consultation on "*Taking forward Wales' sustainable management of natural resources*".

MYTI MUSSELS LTD.
Directors: Kim Mould, Valerie Mould
PORT PENRHYN, BANGOR, GWYNEDD LL57 4HN
Telephone: 01248-354 878 Fax: 01248 351 651

NaturalResourceManagement@Wales.gsi.gov.uk

28th September 2017

Subject: Consultation on "Taking forward Wales' sustainable management of natural resources"

Dear Sir/Madam

I am writing on response to this consultation.

We are mussel farmers in the Menai Strait in North Wales. Our business is based on the 1962 Menai Strait East Fishery Order. We have held leases here for 30 years, without the order our business would never have started. We are the largest single farmer of mussels in the UK with production up to 7,500 tonnes per annum.

This order was created under the Sea Fisheries (Shellfish) Act 1967 and has served us well and protected the environment from unwelcome developments, as well as enhancing biodiversity and providing environmental services.

At present Welsh Government would appear to have problems with implementing the 1967 act as well as many other fishery licensing issues. There appears to be a general lack of understanding and to introduce a piece of new legislation to fix the problem is a seriously flawed concept.

We cannot accept the proposals outlined in the consultation and would urge Welsh Government to use the existing legislation as was intended and that has existed for the last 50 years.

Welsh Government have a published target to double shellfish aquaculture in Wales. Our experience since devolution of fishery powers is exactly the opposite. This poorly thought out proposal would add further nails to the coffin that is aquaculture in Wales.

Yours faithfully

Kim Mould

Registered in England No. 2140617
Registered Office as above
VAT No. 372 3707 52

Annex F: Copy of James Wilson's response to the consultation on "*Taking forward Wales' sustainable management of natural resources*".

I write in response to the proposals within the Sustainable management of natural resources for changes to the way in which aquaculture is licensed in Wales

IN the first instance I would suggest that the proposal document is not written as an objective statement of a reality. By describing the existing arrangement for the provision of security and the property right that lies at the core of any aquaculture operation, as being 'cumbersome' and 'outdated' not only pre supposes an outcome, but also is suggestive of an understanding as to why this perception has become prevalent. The content of the proposed alterations and new system systematically fail to provide a comparison for the assessment of what the proposed new powers will do that the existing process and legislation does not. The consultation also fails to acknowledge amendments to the 1967 Act which have bought into being some considerable additional oversight for Welsh Ministers, an issue that could be suggested as being at the centre of a drive for these proposed changes. It is curious that the consultation makes much mention of the ability available to Welsh ministers to issue restrictive permits under S 189 of the Marine and Coastal access Act 2009 as an alternative route to provide some form of 'security' to enable aquaculture to be facilitated; when the proposals relating to improvements to conventional fisheries management – which would very much need the application of just this flexible approach to powers (with proposal 29) – utilisation of the S189 powers is notable by its absence.

It is important to acknowledge that the delivery of the necessary legislative provisions for the facilitation of shellfish aquaculture in Wales, is clearly not functioning and has not been working for some time. This predates the taking in house of fisheries management responsibilities in 2010 although to some degree, the situation was exacerbated by this change of status. The root cause of this failure I would suggest though, does not lie with the legislation per se, indeed as mentioned above, the 1967 Act has been subject to amendments both through the MaCA 2009 and through the Environment (Wales) Act 2016. It lies almost entirely with Government and its inability to apply the legislation within the appropriate framework. This simple, straightforward reality though remains sadly unacknowledged

Subsequently, I have spent, we have spent much as a sector, much time and effort and resource discussing, explaining and providing evidence to Welsh Government officials and staff as to why the 1967 Act provides the appropriate mechanism, and indeed uniquely provides this for the benthic shellfish cultivation sector, that makes up the vast majority of the aquaculture sector in Wales. We have pursued this process with a consensual approach in mind, however any dialogue has been unidirectional in terms of content and it is extremely disappointing – in many ways, to see such damaging approach being further suggested as the answer to all out sectors failings.

I fear that the consultation fundamentally misunderstands, or perhaps worse, chooses to overlook the unique provision provided for through the 1967 Act, a provision which is

simply not replicated via any other legal mechanism within the framework of marine orientated legislation – the 1967 Act provides the grantee of a fishery order with an absolute property right over a substantial period of time for the named species of shellfish under cultivation. This property right allows the operator, to invest with clarity, to behave with responsibility and to modify change and improve upon operating practices with a certainty which would not be possible through any powers drawn down through S189. One suspects that Government officials have developed these proposals, though in somewhat predictable but nonetheless depressing isolation from Industry in Wales, not without considering how successful provision of such secure right of tenure have been provided for elsewhere within UK waters.

The English shellfish aquaculture sector shares many of the same legislative drivers as Wales, although the Act as applied in England does not incorporate the most recent amendments bought forward via the Environment (Wales) Act 2016. Regulating, several and hybrid orders are much in evidence within the larger areas of benthic shellfish production, such as the Thames, the Wash, the Solent and Poole Harbour. Other mechansims are also available for shellfish which are cultivated on trestles and within the water column – arrangements made up of a combinations of private ground leases (often with the Crown estates or private landlords) and other requisite licenses –such as marine licensing consent. For operators who wish to cultivate in the water column – such as the offshore mussel farms in the Fowey, Brixham Harbour and Lyme bay – crown estates seabed leases and marine licensing consents are required

The Northern Irish mussel sector, operates much as we do in Wales, almost entirely through the medium of benthic cultivation, within the sea loughs of Belfast, Larne, and the NI side of Carlingford and the Foyle. Activities are licensed by DAERANI and operators are provided in all cases, except Lough Foyle, with leases for ground by the Crown Estates. Why is this not possible in Wales – is the obvious question to ask. Simply the Crown estates claim on the some of the benthos, on some of the animals, that live seabed in both Scotland and Northern Ireland is fundamentally influenced through the provision of the legal principle of ***Regalia minora***, that is that these animals inherently belong to the crown, in this instance as represented by the Crown Estates. For reasons lost in a bit in history both oysters and mussels are captured via this provision in Northern Ireland and Scotland.

The Crown Estates have no such rights in England and Wales. The extent of their ownership is restricted to the '***fundus***' i.e the seabed not the biological organisms that exist upon it – as such the Crown Estates (or that of any other private landlord – such as harbour authorities – other than any which claim rights of private fishery) ability to provide any secure lease to an aquaculture operator are restricted to those that cultivate shellfish on a structure which in full or part enters into the ***fundus*** / sea bed.

IN Scotland, where most of the recent growth in shellfish aquaculture has occurred, almost all mussel cultivation is undertaken via longlines as there is very limited seabed suitable for benthic cultivation. These areas are facilitated through the provision of seabed leases from crown estates for the longline mooring systems and also via marine licensing consents. It is perhaps illustrative to appreciate that more than 80% of Scottish mussel production comes

from the Shetland Isles. This is a very recent industry in the Isles (<10yrs) and in part represents the outcome of a strategic approach to the development of aquaculture (both Fin fish and salmonid) by the authorities on Shetland and the provision of an enabling bureaucratic process.

Of course in Wales, we already have such powers available to operators who wish to undertake non benthic cultivation activities – as such the plans for development of the offshore as understanding of the technical challenges matures, can be actioned through existing procedures – both the Crown Estates and NRW marine licensing operate through the ethos of a business driven approach – derived, one imagines, from having to have worked through processes and procedures for the offshore renewable sector – bigger businesses that do not tolerate the seeming bureaucratic antipathy that we in aquaculture face in relation to risk management of any of our proposals. The insanity of this disparity is galling.

All in a bit like apples and oranges

The key point to be aware of is this. Its not the legislation that is the blockage in Wales, it is the application of that legislation and the innate disconnect between the strategic objectives that exist in Wales for the sector and the approach of Government toward actioning the process to enable these to be met. Without a change in culture inside of Government and a meaningful commitment to drive toward meeting the targets, it's all pissing in the wind.

The changes proposed will not facilitate any developments in the benthic aquaculture sector in Wales, quite the converse, they would sound the death knell for its activities in Wales. I am totally deflated that such proposals with their very obvious perverse outcomes should be put forward for consultation. They demonstrate, very clearly, that everything we have done, have tried to do in terms of information sharing, outreach and active open engagement with Government have been for nothing.

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.

1. IFCA Meetings

1.1 Since the last meeting of the Association the NW-IFCA has held two Quarterly Meetings (on the 16th June and 16th September 2017). The Technical, Scientific and Byelaws Sub-Committee met twice (on the 16th May and 8th August 2017). There Bivalve Mollusc Working Group met on the 10th July 2017.

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 revisions to the existing Byelaw 3 which establishes a permit scheme for cockles and mussels.

2.2 **Byelaw 11 (Restrictions on use of a dredge)**: during the past 6 months, the IFCA has concentrated on developing Byelaw 11. This byelaw was discussed at the February TSB meeting, following which a revised draft was circulated to TSB members in order that a new Byelaw could be "made" at the March IFCA meeting. This Byelaw has now been issued for public consultation. No objections were received, so it has been sent to the Secretary of State for Fisheries for confirmation. Defra have raised concerns about the wording of the proposed new byelaw and have not yet confirmed it. The temporary "emergency" byelaw that was made by the IFCA in 2016 had previously been extended for a period of 6 months, which expired in August 2017.

2.3 **Byelaw 3 (Permit to fish for Cockles & Mussels).** This byelaw sets the minimum size for cockles and mussels within the NW-IFCA District; requires people gathering cockles and mussels by hand to obtain a permit; allows the IFCA to impose spatial and temporal closures; and provides the IFCA with various other powers and duties associated with the management of these fisheries.

2.4 The current Byelaw 3 was made by the IFCA in 2012 and is currently due for review. During June 2017 the NW-IFCA carried out a consultation with stakeholders to inform this review. The deadline for this consultation was the 2nd July 2017. The Chair and industry representatives on MSFOMA worked with the Secretariat to submit a response to this consultation (attached at Annex A of this report). The NW-IFCA has acknowledged receipt of this response. The key points made in the MSFOMA response were:-

a) To be consistent with the new Byelaw 9 (dredging) byelaw, Byelaw 3 should be based on the principle of full cost recovery.

b) The regulation of buyers & sellers of shellfish should be addressed through a separate byelaw, to avoid over-complicating Byelaw 3.

c) MSFOMA feel there is no need for a closed season in the mussel fishery.

d) MSFOMA consider that it is appropriate to review the mussel minimum size because there seems to be no clear fisheries conservation rationale for having a mussel minimum size.

2.5 The points raised by MSFOMA were considered by the NW-IFCA TSB meeting in August 2017. Having considered these comments (as well as comments from other respondents on other issues), the Authority resolved to continue work on developing this new byelaw.

2.6 Although this consultation has now closed, there will be further opportunities to comment on any new byelaw as it passes through the NW-IFCA byelaw making process.

3. Bivalve Mollusc Working Group

3.1 A meeting of the Bivalve Mollusc Working Group (BuMWaG) took place on 10th July 2017. The meeting discussed the abundance and likely availability of seed mussel resources in the NW-IFCA District.

MSFOMA Secretariat
October 2017

Annex A: Copy of the MSFOMA response to the NW-IFCA consultation on the revision of Byelaw 3.

Byelaw 3: Consultation Form

This form must be returned to the Carnforth Office by 2nd July 2017

Introduction

NWIFCA are reviewing Byelaw 3 (Permit to Fish for Cockles and Mussels) and are conducting an informal consultation with all stakeholders on the management measures to be included in the new byelaw.

Subject to consultation it is the IFCA's intention that the new byelaw will regulate hand gathering of Cockles and Mussels across the district and will include a flexible permit scheme* and the regulation of those buying cockles.

Where necessary the backgrounds to the measures reference other byelaws which are relevant.

This represents all stakeholders' opportunity to have input into these management measures. The input will be reported to the Technical Science and Byelaws Sub-Committee (TSB) on the 8th August 2017.

NWIFCA will only consider written submissions and verbal/phone input cannot be considered.

NWIFCA request that you give your reasoning behind your answers.

The deadline for stakeholder input is the 2nd July 2017.

**The NWIFCA have received several requests to issue clarification on what is meant by a "Flexible Permit Scheme". A Flexible Permit Scheme means the conditions of the permit may change fishery to fishery. The flexibility is not intended to relate to the numbers of permits available. A specific question about the management and number of permits is included in the consultation.*

Please submit the completed form to the Carnforth Office at the address below:

NWIFCA
1 Preston Street
Carnforth
Lancashire
LA5 9BY

We appreciate the personal nature of some of the questions but all information collected through this consultation will be confidential and only summary data will be made publicly available.

Your Details

First Name	Sue	Surname	Utting

Permit Status

Please tick the box that best describes your current situation?

Current Cockle and Mussel Permit Holder	
Past Cockle and Mussel Permit Holder	
Looking to hold a Cockle and Mussel Permit in the future	
None of the above	x

Page 1 of 14

Permit Numbers

There are currently 121 Byelaw 3 Permit Holders.

How many permit holders should there be?
Should there be a maximum number?
Should there be a minimum number?
What is your reasoning for this answer?

Write your answer here.

No comment.

Renewals and New Permits

Current Byelaw 3 permits are renewable on an annual basis and must be renewed within that period or the entitlement to the permit is lost. Non-permit holders can apply for a permit and go on a waiting list, a maximum of 10 new permits per year are issued from the waiting list.

How do you think the permit system should be managed?
What is your reasoning for this answer?

Write your answer here.

No comment.

Annual Charge

The current annual charge for a Byelaw 3 permit is £500. The IFCA is required to achieve cost recovery when charging for permits under Treasury guidance.

How much should the charge be?
What is your reasoning for this answer?

Write your answer here.

MSFOMA note that the charging arrangements for the new Byelaw 9 have been based on the principle of full cost recovery for the mussel dredge fishery.

We feel that this principle should be applied consistently and equitably throughout the IFCA consenting regime, and that the fee charged for a Byelaw 3 permit should be based upon the cost of administering the permit scheme and managing the cockle and mussel fisheries.

Support Workers

Under Byelaw 3 commercial organisations trading in cockles can apply for 6 support worker permits per organisation, on production of required evidence. Support workers are allowed to move/transport (but not gather cockles or mussels) in support of full gathering permit holders (see paragraph 27 of Byelaw 3).

Should there be support workers?
If so how many?
What is your reasoning for this answer?

Write your answer here.

No comment.

Young People

Byelaw 3 does not contain a system to allow young people to enter the industry and new permits are issued from the waiting list in chronological order.

Do you think there should be a system to allow young people to enter the industry?
If so how would you manage the introduction of young people?
What is your reasoning for this answer?

Write your answer here.

No comment.

Safety Certification

All Byelaw 3 permit holders are required to have an approved "Foreshore gatherers safety training certificate". Those accessing a fishery by small boat are required to have their permit "endorsed" with four additional certificates – sea survival, first aid, firefighting and Health and Safety Awareness.

What if any safety certification should there be as part of the permit?
What is your reasoning for this answer?

Write your answer here.

No comment.

Buyers

Byelaw 3 does not regulate persons or companies who are buying Cockles or Mussels within the district.

Should the buying of Cockles and Mussels be regulated as part of the scheme?
If yes, how?

Write your answer here.

The regulation of the activities of buyers and sellers of cockles and mussels (or indeed other sea fisheries resources) is a complex matter. The UK and EU administrations have tackled this as a separate area of legislation and administration because of this.

MSFOMA feel that any byelaw provision for regulating the buying and selling of sea fisheries resources within the NW-IFCA District should be complementary to the existing regime established under EU and UK legislation, and should avoid duplicating existing legislative and administrative requirements.

MSFOMA consider that if there is a need for regulating the activities of buyers of cockles and mussels (or indeed any other sea fisheries resources) then it should more appropriately be addressed in a separate byelaw, to avoid over-complicating Byelaw 3.

Closed Season

Byelaw 3 has a closed season for cockles than runs from the 1st May to the 31st August each year. There is no closed season for Mussels in Byelaw 3.

Should there be a closed season for either species and if so when or how long?
What is your reasoning for this answer

Write your answer here.

MSFOMA consider that there is no need for a closed season for the mussel fishery.

MSFOMA has no comment on the existing cockle fishery closure.

Public Access

Byelaw 3 allows non-permit holders to take 5kg each of Cockles and Mussels for personal consumption unless the beds are closed. For Cockles and Mussels closures are under either NW&NW SFC Byelaw 13a or CSFC Byelaw 18 and the 5kg limit is prohibited for Cockles within the "commercial areas" or the closed season in NWIFCA Byelaw 3. There are two commercial areas in Byelaw 3 in Morecambe Bay and the Ribble Estuary.

How should public access to the fishery be managed?
What is your reasoning for this answer?

Write your answer here.

No comment.

Minimum Sizes

Minimum size for both species is set by the size of the gauge - 20mm square for Cockles and 45mm in length for Mussels. Seed mussel fisheries are managed by derogation.

Should there be a minimum landing size for either species and if so what should it be?
What is your reasoning for this answer?

Write your answer here.

MSFOMA has no comment on the cockle minimum size.

MSFOMA consider that it is appropriate to review the need for minimum size in the mussel fishery. It is our understanding that the old Lancashire & Western Sea Fisheries Committee introduced the mussel minimum size over 100 years ago at the request of fish merchants. The original minimum size of 2 inches was subsequently reduced to 1¾" at the request of Morecambe Bay fishermen. The current mussel minimum size of 45mm is the metric equivalent of the original Imperial measurement. Critically, the current minimum size was not based on any biological or scientific information; it was a pragmatic response to economic pressures.

While the mussel minimum size was initially introduced and varied in response to economic factors, it has subsequently served as a proxy for effort control in the mussel fishery. The 45mm minimum size has served to indirectly limit the spatial and seasonal extent of mussel fishing.

With the introduction of Byelaw 3, the IFCA has established mechanisms for imposing spatial and temporal controls on mussel fishing in response to changes in stock status. Because of this, there is no longer any need to impose a 45mm minimum size for mussels. The IFCA now has better tools available for managing fishing effort.

We note that the Eastern IFCA followed a different route for mussel fishery management, and does not have a minimum size for mussels. Instead, the Eastern IFCA has a long tradition of imposing spatial closures on mussel beds.

MSFOMA would therefor support a review of the mussel minimum size. There seems to be no clear fisheries conservation rationale for having a mussel minimum size at all. If, however, the IFCA consider that it should be retained on a precautionary basis, then we feel it should be set on the basis of scientific evidence rather than to sustain a response to historical market conditions.

Hand Gathering Methods

Byelaw 3 only regulates the hand gathering of Cockles and Mussels. It only allows gathering by hand or hand held rake for Mussels and by craams, rakes, spades, tamps or jumbos for Cockles.

What methods of hand-gathering do you think should be permitted or prohibited?
What is your reasoning for this answer?

Write your answer here.

No comment.

Rigid Riddle

Byelaw 3 requires all Cockles that have been fished to be passed through a rigid riddle designed to retain Cockles which will not pass through the gauge having a square opening of 20mm across either side.

What is your view on the use of a rigid riddle for gathering cockles?
What is your reasoning for this answer?

Write your answer here.

No comment.

Any Other Comments

Please submit any further comments you may have relating to Byelaw 3 in the box below.

Write your answer here.

We welcome this opportunity to participate in the review of this byelaw. If we can be of any further assistance please do not hesitate to contact us.

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 report is received
2. Comments are invited on progress to date and proposals for work in the next quarter.

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 on 31st March 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.

1.4 At the July 2016 meeting of the Authority it was resolved that work should start on the process of renewing this Fishery Order. A timetable for renewal of the Order was agreed at that meeting and has been kept under review at subsequent MSFOMA meetings. This report provides a further update on progress with the renewal of the Order.

2. Progress Update

2.1 The priority areas of work identified at previous meetings have been to meet with all of the landowners that have a significant interest in the Fishery Order area and to initiate consultations with Natural Resources Wales (NRW) before engaging in wider consultation.

2.2 The work that has been carried out with respect to landowners in the Fishery Order area is summarised below.

a) The Land Registry has been consulted in order to identify all of the landowners within the Fishery Order area boundary. The result of these enquiries is shown in a map at Annex A. There are 6 landowners within the Fishery Order area. Most of the land belongs to the Crown Estate and Penrhyn Estate. A significant area is owned by Ynys Môn County Council, who also lease some of the Crown Estate land. Smaller areas of land overlapping the Fishery Order area are owned by Bangor City

Council (the footprint of Bangor pier); Gwynedd County Council (the slipway at Ffordd Garth). The foreshore immediately adjacent to much of the northern boundary is owned by the Baron Hill Estate.

b) A meeting was held with representatives of the Penrhyn Estate in February 2017 to discuss the renewal of the Fishery Order. The Penrhyn Estate owns land in the Fishery Order as well as the harbour facilities used by mussel dredgers at Porth Penrhyn.

c) Representatives of the Association met with the Crown Estate's land agent for North Wales (Alice Lovegrove-Jones) and their Asset Manager for the Marine Estate (Gary Thompson) on the 5th July 2017 in Porth Penrhyn. The meeting was productive, and should provide the basis for building a successful relationship with the Crown Estate.

d) A meeting was held with officers from Ynys Môn County Council (Alan Price and Iwan Huws) on the 17th July 2017. A verbal update on the meeting will be provided to the Association.

2.3 An initial consultation meeting was held with Natural Resources Wales in March 2017. This meeting and subsequent correspondence has determined the statutory consultation requirements arising from the nature conservation designations in the area. A draft "Assessment of Likely Significant Effect" has been prepared by the Secretariat and James Wilson and has been submitted to NRW for comment.

2.4 Regular telephone conferences were held between the Secretariat and the mussel farmers in the eastern Menai Strait through the summer to ensure that progress is being maintained and that this area of work is being carried out efficiently.

3. Proposed timetable for renewal

3.1 At previous meetings the Association has drawn up a timetable for progressing the renewal of the Fishery Order. It is important that this is kept under review to ensure that adequate progress is being made.

3.2 A copy of the timetable is attached at Annex B, along with an update on progress.

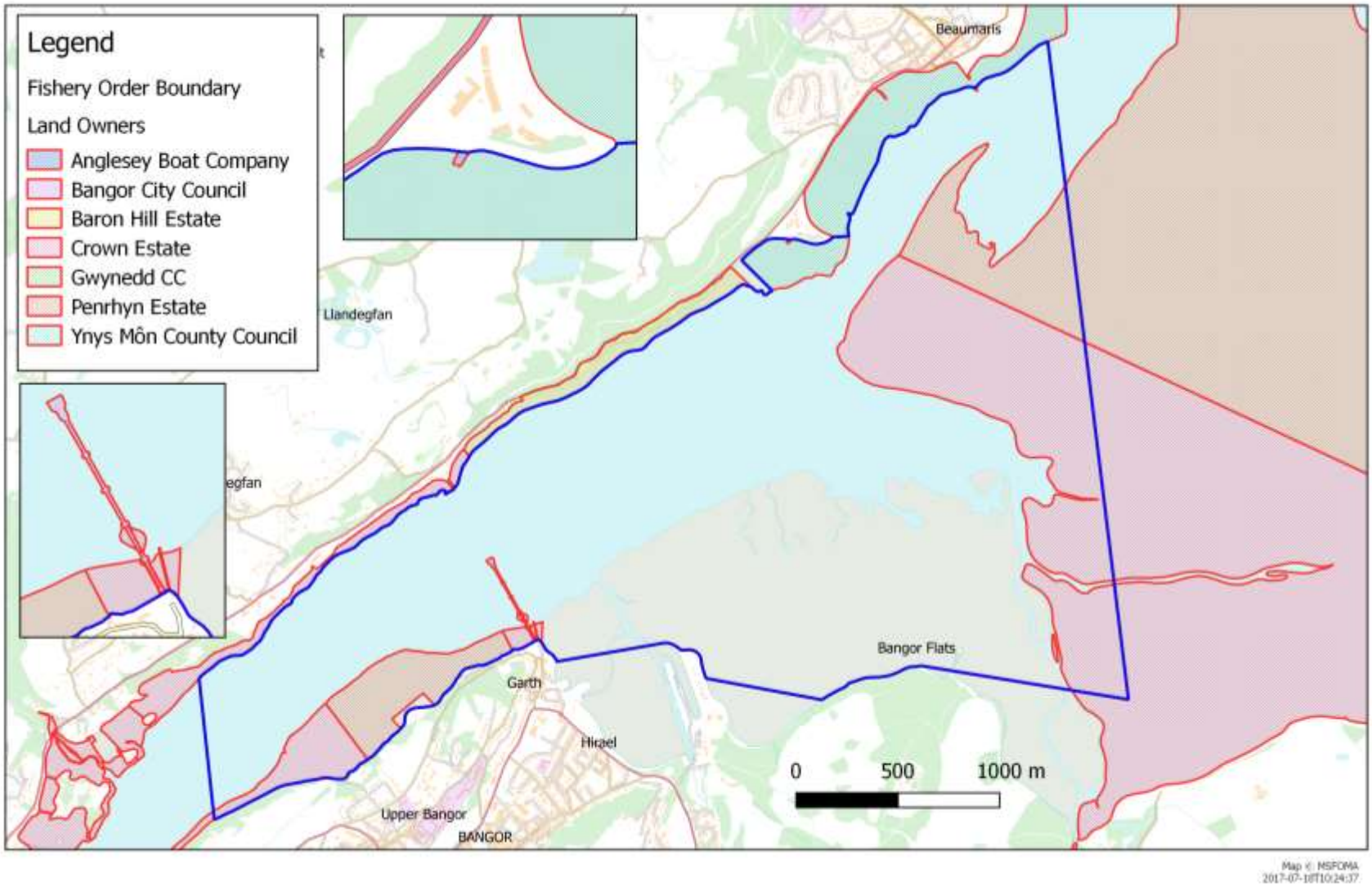
4. Public engagement

4.1 Engagement with a wider group of stakeholders is planned for the next quarter. Some draft text to assist with this engagement is attached at Annex C. Comments are invited on this text.

4.2 A list of the individuals and organisations that will be approached directly during the wider public engagement stage of this work is attached for comment at Annex D.

MSFOMA Secretariat
October 2017

Annex A: Map of the Menai Strait Oyster & Mussel Fishery Order 1962 and the extent of land titles registered with the Land Registry (correct as of 18th July 2017). Inset maps show detail for Gallows Point area and Bangor Pier. Scale bar only accurate for main map.



Annex B: Timetable for progressing the renewal of the Menai Strait Oyster and Mussel Fishery Order 1962.

Year	Quarter	Activities	Update / Progress
2016	**Q4**	a) Formal notice to WG of intent to renew Fishery Order	• Letter sent to WG in October 2016.
		b) Preparation for consultation activity (mapping of Order boundaries, communication with Crown Estate & Land Registry over land ownership and occupancy).	• Mapping completed.
2017	**Q1 &2**	c) Continue preparation for consultation (land ownership & occupancy).	• Initial consultation with Crown Estate • Title deeds obtained from Land Registry
		d) Initiate consultation with NRW	• Formal consultation with NRW in January 2017 • Initial meeting with NRW staff March 2017 • Draft Assessment of Likely Significant Effect (ALSE) sent to NRW in July 2017.
		e) Initiate liaison with landowners.	• Ongoing. • Initial round of meetings commenced in February 2017 • Meetings now held with all major landowners / tenants
	Q3	f) Initial consultation with statutory bodies & utilities	• In preparation
		g) Initial consultation with wider stakeholder community (public, recreational users, NGOs)	• In preparation
	Q4	h) Ongoing liaison with stakeholders, NRW, land owners.	
2018	**Q1**	**i) <u>Submit formal application for renewal of Fishery Order.</u>**	
	Q2	j) Liaison with WG. k) Keep stakeholders informed.	
	Q3	l) Liaison with WG m) Keep stakeholders informed	

Year	Quarter	Activities	Update / Progress
	Q4	n) (Possible) Formal consultation on Fishery Order.	
2019		o) Respond to consultation feedback. p) Address consultation issues either informally or through Public Inquiry.	
2020		q) Progress application process.	
2021		r) Progress application process.	
2022	**1st April**	s) DEADLINE FOR NEW ORDER	

Annex C: Draft text for website / public information

Renewing the Menai Strait East Fishery Order: Update, March 2017

Background

The eastern Menai Strait is the most important aquaculture site in all of Wales, and the single largest mussel farming area in the whole of the UK. The success of this area is due to the unique natural environment that is perfect for mussels; and also the legal protection (known as a "Fishery Order") that allows local mussel farmers to cultivate mussels here without the fear that they will be stolen by others.

In 2022 the "Fishery Order" that the Government made in 1962 is due to expire. If it is not replaced then Wales will lose its leading place in UK aquaculture, and the local businesses and jobs that depend on the mussel fishery will vanish. The renewal of this Fishery Order is important for Wales and for the local economy.

The mussel farmers that work in the Menai Strait are now starting the process of renewing the "Fishery Order" so that in 5 years' time new legislation will be ready to take the place of the Order that was made in 1962.

What is proposed?

We are proposing a like-for-like renewal of the existing "Fishery Order". Experience and science tells us that areas that are suitable for mussel farming are few and far between. Over the past 55 years we have identified the best places to farm mussels in the Menai Strait. No changes to the extent of mussel farming are being proposed.

The location of the mussel farming areas in the eastern Menai Strait is shown in the map below.

What is the timetable?

We are still in the early stage of the application process. Over the next few months we are consulting with key organisations in the area and raising awareness of our plans. We are hoping to submit our formal application to the Cabinet Secretary for the renewal of this Order by the end of 2017.

What will happen in these areas?

Mussel farming

Mussels have been cultivated in the Menai Strat since 1962. Mussels are farmed in areas that are leased to each mussel farmer. Each farmer harvests small "seed" mussels and puts them on the shore in the sheltered waters of the Menai Strait. The mussels grow fast here, and within a couple of years they are big enough to harvest and eat. Mussel farming is done directly on the seabed – no nets or equipment are placed on the shore.

Do mussel farmers use chemicals?

No. There is no need to treat farmed mussels with chemicals to control pests. They don't need to be fed either – they filter their food from the seawater, cleaning the water in the process. In Sweden and Denmark, mussel farming is being used to clean up polluted waters. Mussels are good for water quality.

Would there be lots of boat traffic?

No. Oyster farmers work on the shore when the tide is out. Mussel farmers use boats, but are only on site when re-laying and harvesting mussels. Vessel operations are limited to high water periods, mainly in the autumn-spring period, and generally between Monday and .

Would this stop me from.....

Sailing in the area?

No. There are no restrictions on sailing over the shellfish farming areas. There would be very few days per year when mussel boats are working, and work is planned to avoid key sailing events (such as races).

Walking on the beach or foreshore?

No. The Fishery Order does not restrict access to the beach or foreshore. You will still be able to walk on the shore.

Beaching a boat on the shore?

No. The Fishery Order does not prevent or interfere with beaching of boats whether for picnics or for maintenance.

What is the Menai Strait Fishery Order Management Association?

The Menai Strait Fishery Order Management Association (MSFOMA) was set up in 2010 to oversee the management of the shellfish farming areas in the eastern Menai Strait. It is an independent not-for-profit organisation. Its membership comprises 2 representatives of the fishing industry, and 1 representative from each of Natural Resources Wales, Gwynedd County Council, Ynys Mon County Council, and the University of Bangor. It is chaired by Dr Sue Utting, an independent fisheries expert from Colwyn Bay.

What is a "Fishery Order"?

A "Fishery Order" is an Order made by the Government that assigns the fishing rights in the sea for certain species of shellfish to an individual or organisation. The first Fishery Orders were made in the late 19th century. There are presently XX Fishery Orders in the UK, which form the backbone of our mussel and oyster exports.

Where can I find out more?

There are several ways you can find out more about the proposal. There is some information on the internet at www.msfoma.org; and you can contact us by e-mail at info@msfoma.org. If you would prefer to talk to us in person, you can call Jim Andrews on 07908-225865.

Annex D: List of proposed consultees for wider engagement.

Category	Organisation	First Name	Second Name
Anglers	Welsh Federation of Sea Anglers	Roger	Cook
Environmental	Natural Resources Wales	Rowland	Sharp
Environmental	North Wales Wildlife Trust	Chris	Wynne
Environmental	RSPB Cymru		
Environmental	RSPB Cymru (North Wales Office)	Simon	Hugheston-Roberts
Fishing Organisations	North Inshore Fishery Group	Margaret	Rees
Fishing Organisations	North Wales Fishermen's Cooperative	Richard	Dyer
Industry bodies	Deepdock	James	Wilson
Industry bodies	Menai Oysters and Mussels Ltd	Shaun	Krijnen
Industry bodies	MSFOMA	Keith	Andrews
Industry bodies	MSFOMA	Sue	Utting
Industry bodies	MSFOMA	Trevor	Jones
Industry bodies	Myti Mussels	Kim	Mould
Industry bodies	SAGB	David	Jarrad
Industry bodies	Welsh Fishermen's Association	Jim	Evans
Industry bodies		Jonathan	King
Landowner	Crown Estate Commissioners	Gary	Thompson
Landowner	Penrhyn Estate		
Landowner	Beaumaris Town Council	T.W.	Ashenden
Landowner	Ynys Môn County Council	Mike	Barton
Local Council	Bangor Town Council		
Local Council	Beaumaris Town Council	T.W.	Ashenden
Local Council	Gwynedd County Council		Council Offices
Local Council	Ynys Môn County Council	Mike	Barton
Local Harbour Authority	Caernarfon Harbour Trust		
Marine Users	Bangor University	Lewis	LeVay
Marine Users	British Association of Shooting and Conservation		
Marine Users	Felinheli / Port Dinorwic Sailing Club	Jo	Powell
Marine Users	Plas Menai		
Marine Users	Plas Newydd Country House and Gardens		
Marine Users	RNLI Beaumaris Lifeboat Station		
Marine Users	RNLI Holyhead Lifeboat Station		

Category	Organisation	First Name	Second Name
Marine Users	Royal Anglesey Yacht Club	Rhys	Davies
Marine Users	Royal National Lifeboat Institution		
Marine Users	RYA		
Marine Users	RYA Cymru Wales	Huw	Stiley
Marine Users	Trinity House Lighthouse Service		
Marine Users	UK Hydrographic Office		
MSFOMA	Gwynedd County Council	Ioan	Thomas
Statutory consultees	HM Coastguard Holyhead		
Statutory consultees	Maritime & Coastguard Agency		
Statutory consultees	Ministry of Defence	Clive	Thomas
Statutory consultees	Welsh Government	Tim	Croucher
Statutory consultees	Welsh Government	Jeremy	Frost
Statutory consultees	Welsh Government	Andrew	Fraser
Utility companies	British Gas Wales		
Utility companies	British Telecom		
Utility companies	Centrica	Jeff	Oatham
Utility companies	Dwr Cymru	Fergus	O'Brien
Utility companies	Dwr Cymru	Dusitaporn	Thomas
Utility companies	MANWEB	N	Hughes
Utility companies	National Grid	Timothy	Bull
Utility companies	National Grid		
Utility companies	National Power		
Utility companies	West & Wales Utilities		
Utility companies	Western Power Systems	David	Benyon

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 is accepted

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 2015, 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 At the previous meetings of the Association it has been reported that a sequence of productive meetings had been held with local stakeholders. As a result of these, the Association had established a "Liaison Group" and a smaller "Working Group" to facilitate engagement and develop a partnership approach to managing cultivation operations in the western Menai Strait.

2.2 At the last meeting of the Association on December 14th 2016 it was reported that an "Operating Plan" has been agreed with stakeholders, but that that the RYA and their members had concerns about its enforceability which made them reluctant to withdraw their objections. The RYA had indicated that it would prefer to enter into a "side agreement" with MSFOMA that would ensure that the RYA would be able to take action against MSFOMA if there was a breach of the Operating Plan that MSFOMA did not address.

2.3 After a considering a report on the proposal for a "side agreement" at its last meeting in March 2017 that this approach seemed to be unnecessary, and that appending the "Operating Plan" to the leases issued in the Order would make it adequately enforceable. The MSFOMA position on this matter was discussed with stakeholders at a "Liaison Group" meeting on the evening of the 22nd March in Port Dinorwic.

3. Summary of actions taken to progress the application

3.1 At the last meeting of the Association it was resolved that once the planned stakeholder consultations had taken place (the Liaison Group meeting in March and the further discussions with Roberts of Port Dinorwic), it would then be appropriate to re-consult with all of the parties that objected to the Fishery Order proposal in 2015.

3.2 An informal consultation with objectors was conducted by the MSFOMA Secretariat in May 2017. E-mails were sent to all of the objectors that MSFOMA had e-mail addresses for, inviting each objector to either withdraw or sustain their objection (see specimen e-mail at Annex A).

3.3 The responses to this consultation were very encouraging indeed. We had 19 responses from the original 59 objectors. Three of the objectors indicated that they wished to uphold their objection. A total of 15 of the original objectors informed us that they would like to withdraw their objection to the renewal of the Fishery Order, subject to our commitment to implement the "Operating Plan" that has been agreed over the past 18 months. These parties are mostly from the recreation and sailing community, and include the Port Dinorwic Sailing Club (the Conwy School of Yachting withdrew its objection in 2015).

3.4 One of the other objectors (the food producer, Roberts of Port Dinorwic) has expressed reservations about the proposed mechanism for constraining oyster cultivation activity, and have asked for the draft Order to be amended to address their concerns (see the detailed consideration of this objector's response below).

3.5 On the strength of this consultation response, and after seeking the views of the applicants in the Western Menai Strait, the Chair wrote to the Cabinet Secretary on the 4th July to ask her to determine the Fishery Order application (Annex A). A copy of the Cabinet Secretary's response is attached at Annex B.

3.6 Since the submission of the letter from the Chair, WG officials have been in touch with the MSFOMA Secretariat to clarify some points of detail and to request some additional information. It is understood that a recommendation will soon be made to the Cabinet Secretary on how to proceed with this Fishery Order application.

4. Liaison with commercial stakeholder – Roberts of Port Dinorwic

4.1 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. This company has a licence from the Crown Estate to operate this pipe. The prospective tenant for Plot D, Dr Jon King, has indicated that he would be happy to comply with a 30m buffer zone around the effluent pipe. This would be imposed and enforced by MSFOMA.

4.2 Meetings with Roberts of Port Dinorwic were held on-site in December 2016 at also ashore on the 6th June 2017. On the 13th June 2017 the company indicated that it wished to sustain its objection to the Fishery Order proposal in response to the MSFOMA consultation.

4.3 On the 26th June 2017 a letter was sent to MSFOMA by the solicitors representing Roberts of Port Dinorwic. This letter indicated that the company would be prepared to withdraw its objection to the Fishery Order if the Fishery Order was revised to ensure that no oyster cultivation took place within 30m of the company's effluent outfall. A copy of this letter is attached at Annex C.

5. Next steps

5.1 At this point no further action is required by MSFOMA, other than to liaise with Welsh Government officials.

6. Costs

6.1 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. Expenditure needs to be kept under careful review and the four proponents informed of costs accordingly.

MSFOMA Secretariat
October 2017

Annex A: Copy of the e-mail sent out for the informal consultation conducted by MSFOMA on 19th May 2017.

Subject: Menai Strait West Fishery Order Renewal: Seeking your views.
Date: 19th May 2017

Dear <Name>,

We are writing in connection with the objection you submitted in 2015 to the proposal by the Menai Strait Fishery Order Management Association (MSFOMA) to renew the Menai Strait West Fishery Order.

During the period since the public consultation on the proposal to renew this Fishery Order in 2015, and in response to the concerns raised in your objection and those submitted by others, we have participated in several very productive meetings of a "Liaison Group" and "Working Group" in Port Dinorwic. As a result of the discussions at these meetings, we have been able to formulate an "Operating Plan" which formally addresses the key concerns raised during the consultation process. You can access a copy of this Operating Plan here.

At the meeting of the Liaison Group in March this year, the Menai Strait Fishery Order Management Association (MSFOMA) indicated that it would adopt and implement the "Operating Plan" that has been agreed with stakeholders in the area.

There was further discussion at the recent meeting about the proposal from the RYA to establish a "side agreement" between MSFOMA and the RYA. After careful consideration, MSFOMA has concluded that it would not be appropriate for it to enter into such an agreement. The consequence of this was that the RYA still have concerns about the "enforceability" of the Operating Plan.

In response to a request at the meeting, MSFOMA has asked the Welsh Government to provide its view on whether the Operating Plan would be enforceable. Their response states that "*…we're of the opinion that there would be a binding statutory procedure for implementing the Operating Plan.*" You can view the full text of their response here.

The next stage in the process of renewing the Fishery Order is for the Welsh Minister (in this case Cabinet Secretary for the Environment & Rural Affairs, Lesley Griffiths AM) to determine whether she will to approve or decline the request for renewal of the Fishery Order, or alternatively hold a Public Inquiry.

We are writing at this point to ask you to indicate whether you with to sustain or withdraw your objection to the proposal to renew the Fishery Order. Your views on this matter will help the Minister to take an informed decision. You can do this very easily be clicking on either of the links below, which will generate an e-mail that you can edit and return to us indicating your views. If you would prefer, you can also write to us at the address below, or send us an e-mail (to info@msfoma.org).

- ***Withdraw objection*** - if you would like to withdraw your objection please click *withdraw* (this link will automatically create an e-mail for you to review, edit and send).

- ***Uphold objection*** - if you would like to uphold your objection please click *uphold* (this link will automatically create an e-mail for you to review, edit and send).

We very much welcome your feedback. We will keep this brief consultation open until the end of May, before we write to the Cabinet Secretary.

I would like to take this opportunity to thank you for your participation in the consultation process for this proposal. We will keep you informed of any further news on this matter.

Yours sincerely

Sue Utting
Chair, MSFOMA

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Company No 07163689

MSFOMA is a company limited by guarantee that was established in 2010 in partnership with the Welsh Government to oversee the management of shellfish cultivation in the Menai Strait.

Annex B: Letter from MSFOMA Chair to Cabinet Secretary, 4th July 2017.

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

4th July 2017

Lesley Griffiths, AM
Cabinet Secretary for the Environment & Rural Affairs
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

Dear Cabinet Secretary

MENAI STRAIT (WEST) FISHERY ORDER –RENEWAL
UPDATE ON PROGRESS & STAKEHOLDER CONSULTATION

I am writing further to my letter in of 15th May on this matter. You will recall from that letter that we have been working closely with the stakeholders who registered their objection to the Fishery Order in late 2015. During May we were planning to carry out an informal re-consultation with the 59 individuals and organisations that had objected to the renewal of this Fishery Order.

We have now carried out that re-consultation. We had 19 responses from the original 59 objectors. Three of the objectors have indicated that they wish to uphold their objection. A total of 15 of the original objectors informed us that they would like to withdraw their objection to the renewal of the Fishery Order, subject to our commitment to implement the "Operating Plan" that has been agreed over the past 18 months. These parties are mostly from the recreation and sailing community, and include the Port Dinorwic Sailing Club (please note that the Conwy School of Yachting withdrew its objection in 2015).

One of the other objectors (the food producer, Roberts of Port Dinorwic) has expressed reservations about the proposed mechanism for constraining oyster cultivation activity, and have asked for the draft Order to be amended to address their concerns (which will otherwise be upheld). We have enclosed a map with this letter that illustrates the constraints that we have proposed to this company and which are referred to in their letter.

We have had no response from the remaining 40 objectors. Within this group of objectors we know that there are some people and organisations who attended the first meeting we held in Port Dinorwic in December 2015 who have not attended subsequent meetings. We would like to believe that many of their concerns were addressed. Other objectors who have not expressed a view on their original objection include the Royal Yachting Association. In the absence of a response, we have to presume that these objections are upheld.

We now feel that we have done as much as we can to address the concerns that were raised in 2015 and to establish the current views of stakeholders in the area. On behalf of MSFOMA, I would therefore like to ask you to make your determination of this application under the Sea Fisheries (Shellfish) Act 1967.

In making your determination, we would ask you to bear in mind that shellfish cultivation in this area would only be permissible under the authority of a lease that has been approved by you and issued by MSFOMA. It is our intention that this lease will stipulate that shellfish farmers both observe the requirements of our proposed "management plan" (which has been agreed with Natural Resources Wales in order to ensure that shellfish farming is environmentally sustainable in the area) and also with the "operating plan" that we have agreed with stakeholders. We have enclosed a specimen lease and also a copy of the "management plan" and "operating plan" with this letter. We have also enclosed all of the stakeholder responses that we have received recently.

We hope that this update is helpful. If you have any queries please get in touch with me.

Yours sincerely

S.D. Utting

SUE UTTING
Chair, MSFOMA

Encs.
- Consultation responses, May-June 2016
- Specimen lease
- Copy of Management Plan
- Copy of Operating Plan
- Map of Fishery Order area showing MSFOMA Operating Plan area constraints

cc. Margaret Rees, Welsh Government

Annex C: Response to MSFOMA from Cabinet Secretary, 10th July 2017.

Lesley Griffiths AC/AM
Ysgrifennydd y Cabinet dros yr Amgylchedd a Materion Gwledig
Cabinet Secretary for Environment and Rural Affairs

Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref LG/01592/17

Dr Sue Utting

sutting003@btinternet.com

10 July 2017

Dear Dr Utting

Thank you for your letter of 4 July, regarding the Menai Strait (West) Fishery Order application.

I note your comments regarding the outcome of the most recent engagement with the outstanding objectors, and supporting documents. I will now consider all the information provided before making a decision on the next step for this application.

Yours sincerely

Lesley Griffiths

Lesley Griffiths AC/AM
Ysgrifennydd y Cabinet dros yr Amgylchedd a Materion Gwledig
Cabinet Secretary for Environment and Rural Affairs

Bae Caerdydd • Cardiff Bay
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Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@gov.wales

Annex D: Letter from Hill Dickinson to Cabinet Secretary, 26th June 2017.

HILL DICKINSON

Welsh Government Fisheries Unit
Rhodfa Padarn
Aberystwyth
SY23 3UR

cc Menai Strait Fishery Order Management Association

Our Ref: GGA.DD.102236.21
147030380.1
Date: 26 June 2017

Direct Line: +44 (0)161 817 7308
grant.anderson@hilldickinson.com

Please ask for Grant Anderson

Sent By email to:
marineandfisheries@wales.gsi.gov.uk
info@msfoma.org

Dear Sirs

Re: **Proposed Menai Strait (West) Fishery Order**
Application for a Several Order under the Sea Fisheries (Shellfish) Act 1967, as Amended
Plot D: Approximately 4 Hectares of the bed of the Menai Strait

We act on behalf of the Roberts of Port Dinorwic Group of Companies based at Griffiths Crossing Industrial Estate, Griffiths Crossing, Caernarfon, Gwynedd, LL55 1TS in respect of the above matter.

We refer to previous correspondence submitted on behalf of our clients, in particular, the letter of objection dated 27 November 2015 which set out in detail the potential impacts of the proposed Order (in relation to Plot D) on our clients' business. For the sake of completeness we attach a copy of that letter.

Since that date, our clients have had various discussions/dialogue with MSFOMA and Mr Jon King, MSFOMA's intended tenant for the oyster fishery proposed on Plot D.

Our clients have explained to MSFOMA and Mr King, the critical importance of the discharge pipe situated across Plot D for our clients' business and the significant consequences for the business should that pipe be affected in any way by the proposed Order and the activities authorised by it. Our clients have confirmed that any interference with, obstruction or interruption of the use of the discharge pipe would result in the immediate closure of our clients' factory. This is set out more fully in our letter of 27 November 2015.

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Given the critical nature of the discharge pipe, our clients have suggested in discussions with MSFOMA and Mr King that there should be a sterilisation strip along the length of the discharge pipe through Plot D extending to a distance of 30 metres either side of the pipe (ie a total width of 60metres) in which no activities pursuant to the Order would take place. This should ensure there will be no interference with the pipe from the activities authorised by the proposed Order. It will also provide our clients with sufficient space to access the discharge pipe with machinery from either side without impacting on the activities authorised by the Order.

We are informed by our clients that this suggestion has been agreed in principle by MSFOMA and Mr King. However, the means of securing that restriction have not been agreed.

Our clients' understanding is that MSFOMA consider the restriction on the operation of the fishery in Plot D set out above should be dealt with in the operating plan to be entered into by MSFOMA pursuant to the Order should it be confirmed. Our clients however do not consider that that proposal is satisfactory for several reasons.

The principal concern is that the operating plan is a document that is prepared and administered by MSFOMA. Enforcement of its provisions would therefore be at the discretion of MSFOMA. In summary, MSFOMA would be both gamekeeper and poacher and this would not therefore provide the categoric protection which our clients reasonably require given the critical importance of the discharge pipe to their business.

Our clients' view is that the proposed Order should be amended to exclude from Plot D an area extending to 30 metres either side of the discharge pipe. If the proposed Order is amended and confirmed on this basis, this will remove any rights of fishery in this area and will provide the legal certainty that our clients request.

On behalf of our clients we respectfully request that the Minister amends the Order on this basis. Should the Minister agree to amend and confirm the Order on this basis, we confirm that this would resolve our clients' objection to the Order.

Unless and until the Order is amended in this way, our clients maintain their objection to the draft Order given the critical importance of the discharge pipe to their business. We reserve the right to elaborate on the details of our clients' objection should that be necessary.

We should be grateful if you would acknowledge receipt of this letter.

Yours faithfully

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Updates to the UK MPA Network

Background
Over the past few years the nature conservation agencies in England and Wales (Natural England and Natural Resources Wales) proposed and consulted stakeholders about the extension of the UK network of Natura 2000 sites. This report provides an update on the status of these sites.

Recommendations
1. That the report is accepted

1. Changes to the UK MPA Network

1.1 Over the period December 2014 to May 2016 the nature conservation agencies in England and Wales (Natural England and Natural Resources Wales) proposed and consulted stakeholders about the extension of the UK network of "Natura 2000" sites. These sites included some sites in North and West Wales (North Anglesey Marine Special Area of Conservation (SAC); Anglesey Terns Special Protection Area (SPA); and West Wales Marine SAC).

1.2 In January 2017 the proposed sites were submitted to the European Commission. Even though they are not yet formally designated, the proposed SACs are now considered to be "candidate SACs" and are now subject to legal protection.

1.3 Information on the location and boundary of these new sites is now available on the JNCC website (http://jncc.defra.gov.uk/page-4549).

1.4 There have been no changes to the extent or character of the Natura 2000 sites overlapping with the Menai Strait Oyster and Mussel Fishery Order 1962, nor the proposed Menai Strait (West) Fishery Order. The changes to the MPA network therefore have no direct consequences for the Association at present.

MSFOMA Secretariat
October 2017