

Menai Strait Fishery Order Management Association

Agenda & Papers- 13th March 2019, 1000

Quarterly Meeting

Marine Centre Wales

1. Chair's announcements
2. Apologies
3. Minutes of last meeting ([attached](#))
4. Matters Arising
5. Membership of the Association ([report](#))
6. Articles of Association ([report](#))
7. Register of interests ([report](#))
8. Financial update (verbal)
9. Public Profile of the Association
(verbal discussion to be led by Andy Olivier from the Centre for Applied Marine Science)
10. Welsh Government Activity ([report](#))
11. North West IFCA Activity ([report](#))
12. Menai Strait East ([report](#))
 - a. Menai Strait East Fishery Order Renewal
 - b. Code of Conduct for Invasive Non-Native Species.
 - c. Leased area update
13. Menai Strait West Fishery Order ([report](#))
14. Project funding update (verbal)
 - a. EMFF Project
 - b. Shellfish Centre Workshop (feedback from event on 4th December circulated with papers)
15. Fishery management issues
 - a. Coastal / marine developments
 - i. Bangor Pier
 - ii. Dickies development
 - iii. Sand in the dock
 - b. Environmental / health issues
 - i. *Bonamia* in the western Strait
 - ii. Non-native species
 - iii. Norovirus - update
16. Any Other Business (verbal)
 - a. Correspondence
17. Dates for next meetings:-
 - a. Q1 2019 - this meeting
 - b. Q2 2019 - 18th June 2019
 - c. Q3 2019 - 17th Sept 2019
 - d. Q4 2019 - 4th Dec 2019

Menai Strait Fishery Order Management Association

Meeting, 13th December 2018
FV *Mare Gratia*, Port Penrhyn

Minutes

Attendance

Members

Alan Winstone
James Wilson*
Keith Andrews*
Ioan Thomas
Lewis le Vay

Chair
Bangor Mussel Producers Ltd
Licensed hand pickers
Gwynedd County Council
Bangor University

Observers

Kim Mould
Rowland Sharp

BMWAG
Natural Resources Wales

Advisors

Jim Andrews

MSFOMA Secretariat

** These Members are also Directors of the Association*

1. Chair's announcements

The Chair noted that this meeting had been called as the AGM for the Association. It was not necessary to appoint a Chair, as the appointment is biennial. The key item for the AGM was to approve a budget for the coming FY.

It was noted that on this occasion the AGM agenda items were included with other business items. It was agreed that at future AGMs it would be more appropriate to have a separate agenda and minutes.

Action: Secretariat

2. Apologies

Trevor Jones
Iwan Huws
Bethan Jones
Janet Perry

Menai Strait (West)
Isle of Anglesey County Council
Welsh Government
Welsh Government

3. Minutes of last meeting

The minutes of the meeting that took place on 25th September 2018 were accepted.

4. Matters Arising

It was considered that most of the matters arising from the last meeting were addressed on the agenda for the current meeting. Some items were discussed:-

Wales National Marine Plan

It was noted that following the period of consultation on this plan, Welsh Government are likely to remove the “Strategic Resource Areas” in this plan for all sectors.

It was understood that Welsh Governments and NRW have let a contract to gather evidence to support the approach of the WNMP to aquaculture and renewables.

5. Membership of the Association

Following the last meeting, the Secretariat had written to Bangor City Council to invite them to represent landowners’ interests. The City Council had responded to indicate that this was not what they had envisaged.

Separately, Beaumaris Town Council had written to the Association in October expressing an interest in representing landowners and nominating a Councillor to fulfil this role.

It was agreed that both Bangor City Council and Beaumaris Town Council should be invited to attend the next meeting of the Association as observers.

Action: Secretariat

It was noted that any changes to the membership of the Association would need to be addressed in the Articles of Association. It was agreed that the lawyers who had drawn up the Articles should be approached to make these amendments and to review the need for any other changes for clarification.

Action: Secretariat

The potential for conflicts of interest to arise was discussed. It was agreed that a register of meeting participants’ interests should be compiled and that a declaration of interests should be made at each future meeting.

Action: Secretariat

6. Financial Update

The financial report was accepted.

It was agreed that a summary of management accounts should be presented at each quarterly meeting to enable the Association to monitor and manage the budget.

Action: James Wilson & Secretariat

7. Welsh Government Activity

a) Meetings of Fisheries Groups

Progress with the fisheries groups established by Welsh Government was reported by delegates who had attended these meetings as follows:-

- **Inshore Fisheries Groups** - are still suspended, so there have been no recent meetings.
- **Welsh Marine & Fisheries Advisory Group** - was due to meet in October 2018; no news of any progress.
- **Aquaculture Advisory Group** - a meeting was held in November and was attended by MSFOMA participants. James Wilson reported that he had taken the opportunity to discuss Fishery Orders with José Constantino at

this meeting. There was a feeling of frustration that WG were not taking a leadership role nor using the AAG as a conduit for information.

The Association considered how it could help to encourage Welsh Government to adopt a more positive approach. There were felt to be opportunities to use the media and social media to raise awareness of the opportunities for developing aquaculture.

It was reported that Andy Olivier from CAMS has recently compiled a publication about the ecosystem services of bivalve cultivation. Lewis LeVay agreed to circulate this to the Association.

Action: Lewis LeVay & Secretariat

It was agreed that James Wilson should contact Seafish to explore opportunities for raising public awareness of the value of shellfish cultivation.

Action: James Wilson

It was further agreed that opportunities for the use of social media should be discussed at the next Association meeting, and that Andy Olivier should be invited to the meeting to provide advice.

Action: Secretariat, Lewis LeVay

8. NW IFCA Activity

The report on recent activities of the NW IFCA was received and accepted by the meeting.

It was noted that the NW IFCA had been preoccupied with cockle fishery issues recently.

There was some discussion of the impact that the sighting of 2 Chinese mitten crabs (*Eriocheir sinensis*) in the Walney Channel on seed mussel exports from NW England to Ireland. James Wilson and NRW had both recently examined this issue with respect to the movement of seed mussels from the Dee Estuary to the Menai Strait and considered that there are appropriate and effective ways to avoid translocations of this species with seed mussels.

It was noted that there had been very few seed mussels in Morecambe Bay this year. The pattern of poor recruitment was similar to that reported from time to time during the 1970s in Morecambe Bay by Peter Dare from MAFF at that time.

Kim Mould noted that good progress was being made to build a constructive relationship between the Menai Strait operators and the Morecambe Bay hand gatherers.

9. Menai Strait East Fishery Order

The report on this Fishery Order was received and discussed.

a) Renewal of the Fishery Order

The meeting considered the need for engagement with stakeholders as part of the process of facilitating the renewal of this Fishery Orders. It was noted that the

previous meeting had resolved that an “engagement plan” should be drawn up, but that other events had delayed progress.

Several opportunities for engagement were discussed:-

- Caernarfon Harbour Trust Marine Advisory Committee - it was noted that this Committee has a wide membership and that it would be useful to give a presentation about renewal of the Fishery Order to it.
- Beaumaris Pier User Group - the Chair and Secretariat had been invited to attend the December meeting of this Group but had been unable to. It was felt that it would be useful to attend the next meeting.
- Publicity Opportunities that MSFOMA could be present at were discussed:-
 - Seafood Event - the owners of Dylans in Menai Bridge were holding a seafood event on 18th May.
 - Bangor Seafood Festival - this was founded this year and is expected to take in late September.
 - Beaumaris Food Festival - this was founded in 2013 and is very popular, it takes place in early September.

It was agreed that the Chair, Secretariat and representatives of the Association should make arrangements to attend these events and also to organise meetings with stakeholders.

Action: Secretariat, Chair

b) Lease fees

There was a discussion of the options presented for altering the fees charged for leases. It was noted that the Association's overheads could be affected by the outcome of the application for the Menai Strait (West) Fishery Order. The cost of renewing that Order was presently being met by the Association and would be recovered from the lessees if the Order is made.

It was agreed that no decision should be taken on the lease fees charged until there is greater clarity on what is likely to happen with the renewal of the Menai Strait (West) Fishery Order.

c) Code of Good Practice

Work on the review of the code of good practice was still ongoing. In particular, NRW and James Wilson had been discussing how to combine a recent “traffic light” list of Invasive Non-Native Species (INNS) produced by NRW with the existing Code. The main challenge for this centred on the Pacific oyster (*Crassostrea gigas*) which is both an INNS and a cultivate species in the western Menai Strait.

It was agreed that NRW and the Association should continue to work on this.

Action: James Wilson, Rowland Sharpe, Secretariat

d) Community Fund

No response had been received from the Crown Estate about the proposal to set up a Community Fund. It was felt that setting up such a fund in collaboration with the Crown Estate would help to establish a positive and mutually beneficial relationship.

It was agreed that the Association should determine who is responsible for Community Funds at the Crown Estate and make an approach directly to them rather than via the existing points of contact.

Action: Secretariat

10. Menai Strait West

The report was received. It was noted that despite the concessions made by the Association at its last meeting no tangible progress had been made. The Association expressed its dismay at this.

James Wilson reported that the WFFO had questioned the Cabinet Secretary about the lack of progress at a public meeting in November. She had expressed her frustration about this after the meeting.

Following discussions at the Aquaculture Advisory Group (reported above) there was a feeling from the industry that there is some fundamental resistance to Fishery Orders from certain WG officials. There is no clear reason for this. The lack of progress with the Menai West Fishery Order and other Fishery Orders in Wales is currently thwarting the development of shellfish aquaculture.

It was noted that because of the delay in progress it would be appropriate to review the Habitats Regulations Assessment for the Fishery Order to ensure it remains current.

Action: Rowland Sharp & Secretariat

It was agreed that liaison with WG officials should be maintained in an effort to stimulate progress with this application.

Action: Secretariat

11. Funding proposals

Lewis LeVay provided an update on the funding proposals being progressed by the University:-

- Menai Offshore Subsurface Shellfish Systems (MOSSS) - funding for this project was confirmed in October using EMFF funds. The project will run for 3 years. The project will provide funding for ongoing trials at the pilot test site near Puffin Island and will also fund modelling and surveys around Wales to identify areas suitable for full scale production.
- Developing an Assurance Scheme for Shellfish and Human Health (DASSHH) - this project has been approved with funding from EMFF. It is looking at potential for use of environmental indicators in catchments to inform adaptive classification of shellfish harvesting areas. The University is working in partnership with Seafish and the Food Standards Agency on this project. Field work is due to be carried out in Cornwall, with parallel studies in Wales (Conwy/Menai Strait) and Northern Ireland.
- Shellfish Centre workshop - this workshop was held in early December. Over 50 people attended and were asked to identify opportunities, constraints and research needs for the development of Welsh shellfisheries. A report from the workshop is due to be published in January 2019.

12. Fishery Management Issues

a) Coastal / marine developments

i. Bangor Pier

No news.

ii. Dickies Boatyard Development

There had been no further consultations about this project.

iii. Sand in the dock

A further letter had been sent to the Penrhyn Estate but had not been acknowledged. The depth of the dock was decreasing and this was limiting the time when vessels were able to work. It was felt that it would be worth contacting the company working on the dock about this (thought to be TNG Quarries / Derbyshire Aggregates).

Action: Secretariat

It was noted that if this problem is not addressed it may be appropriate to raise it as a potential Marine Licensing issue.

b) Environmental / health issues

i. Bonamia

No additional news.

ii. Invasive Alien Species (IAS) / Invasive Non-Native Species (INNS)

No additional news.

iii. Norovirus

No additional news.

13. Any Other Business

Kim Mould mentioned that there had been some seed mussels at Caernarfon Bar this year, the first settlement for several years. Some of these were still there, and there had been no signs of starfish predation yet.

Deepdock reported that they had been buying some seed mussels from hand gatherers working on the English side of the Dee Estuary.

14. Date for next meeting (and AGM)

13th March 2019, 10am.

It was agreed that meetings for the coming year should take place quarterly, and that suitable meeting dates should be agreed in advance.

Action: Secretariat

Summary of Actions

Item	Action	Responsibility
1.	Invite both Bangor City Council and Beaumaris Town Council to attend the next MSFOMA meeting.	Secretariat
2.	Ensure that AGM agenda and minutes are separate from other agenda items and minutes at future AGMs.	Secretariat
3.	Approach lawyers to make amendments to Articles to allow for wider membership.	Secretariat
4.	Present management accounts at future Association meetings.	JW, Secretariat
5.	Circulate publication about ecosystem services provided by bivalve cultivation.	LLV, Secretariat.
6.	Contact Seafish to explore opportunities for raising public awareness of the value of shellfish cultivation.	James Wilson
7.	Invite Andy Olivier to next MSFOMA meeting to provide advice on use of social media.	LLV, JW
8.	Code of Good Practice - this to be revised to include update on INNS & changes to legislation.	JW, RS, Secretariat
9.	Community Fund - write to Crown Estate for advice again, provide update to next meeting.	JW, Secretariat
10.	Menai West Habitats Regulations Assessment - revise this to ensure that it remains current	RS, Secretariat
11.	Menai West - continue to liaise with WG officials to expedite progress.	Secretariat
12.	Sand in Dock - MSFOMA to contact aggregate operator about this issue.	Secretariat
13.	Date for next meeting - 13 th March 2019	Secretariat
14.	Agree dates for quarterly meetings in 2019	Secretariat

Membership of the Association

Background

This Association was established on 1st April 2010 for the sole purpose of acting as Grantee of the Menai Strait Oyster and Mussel Fishery Order area. Over the past 9 years, the Association has accepted the invitation to act as Grantee for any future Menai Strait (West) Fishery Order and has also considered that it could play a beneficial role in the development of other shellfish cultivation activities in North Wales.

The widening scope of MSFOMA's activities warrants a review of the membership of the Association. At MSFOMA meetings during 2018 it was agreed that the membership of the Association should be widened. This report provides an update on progress and also a report on some other membership issues for the Association's consideration.

Recommendations

1. That the report is discussed.
2. That the status of each organisation participating in the Association is formally confirmed.
3. That progress with widening the membership of the Association to include landowners is noted.
4. That Members approve the proposal to amend the Articles of Association and Standing Orders to allow Beaumaris Town Council and Bangor City Council to participate as Members and / or Directors of the Association.

1. Summary of Management Framework

- 1.1 The Menai Strait Fishery Order Management Association is a company limited by guarantee. It was incorporated on 19th February 2010. The management framework for the Association comprises of "Articles of Association", which identify the individuals and organisations that can participate in meetings of the Association, and "Standing Orders" which govern how the Association is required to carry out its business. A summary of this Management Framework is provided at Annex A to this report.
- 1.2 It was noted at recent meetings that some participating organisations could usefully review the role that they play in the work of the Association to ensure that their interests are appropriately represented. Confirmation has been received from the Centre for Applied Marine Science, Gwynedd County Council and Ynys Môn County Council.

2. Options for expanding involvement

- 2.1 The list of potential Members and Directors of the Association was first set in 2010. It was revised by the Association's lawyers in 2014 to allow for representation from the Menai Strait (West) Fishery Order when that Order is renewed.

- 2.2 Over the period since 2014, and particularly as a result of discussions of the renewal of the Menai West Fishery Order, it has become very clear that stakeholders which are not presently eligible to participate as Observers, Members or Directors of the Association may have an interest in the activities of MSFOMA.
- 2.3 Following discussions at MSFOMA meetings and correspondence with landowners from the eastern Menai Strait during 2018, it was ultimately agreed that two of the landowners (Beaumaris Town Council and Bangor City Council) should be invited to participate in MSFMOMA meetings. Both authorities accepted this invitation and have nominated representatives.
- 2.4 For the time being the representatives of Beaumaris Town Council and Bangor City Council will be able to attend and participate in MFOMA meetings as observers. Members are invited to approve the revision of the Articles and Standing Orders of the Association to allow these two authorities the option of becoming either Members or Directors of the Association in the future (the revision of these documents is considered in Item 6 of the agenda).

MSFOMA Secretariat
March 2019

Annex A: Summary of the MSFOMA Management Framework

1. Management Framework

1.1 The management framework for the Association comprises of:-

- a) **The Articles of Association** – this is a legal document that sets out the constitution of the Association. The Articles were made in 2010 and limited the role of the Association to acting as Grantee for the Menai Strait Oyster and Mussel Fishery Order 1962.

The Articles were subsequently revised in 2014 to allow the Association to take on the role of Grantee of other Fishery Orders in North Wales. The revisions included an amendment to the Articles to increase the number of Directors of the Association.

- b) **Standing Orders** – these are a set of procedures that determine how the Association should conduct its business. They include, for instance, requirements to appoint a Chair biennially; a requirement to hold an AGM, and directions on the Order of Business for Association meetings.

1.2 The Articles of Association allow for organisations to become “Members” and optionally “Directors” of the Association, and determine the quorum for meetings. The list of Members and Directors of the Company set out in the Articles of Association was drawn up in 2010 to replicate the balanced composition of local authority, scientific and fishing industry members seen in the Association’s predecessor organisation the North Western and North Wales Sea Fisheries Committee. The objective at that time was to maintain continuity.

1.3 The role of Directors and Members is set out in the Standing Orders. In summary, their role is to ensure that the Association carries out its functions correctly, and to be a spokesperson and ambassador for the Association. Directors & Members also ensure that the work of the Association is transparent and subject to independent scrutiny.

1.4 The powers and duties of Members and Directors are briefly outlined below.

- a) **Members of the Association** are defined as the subscribers to the memorandum of association. They are entitled to vote on motions discussed at meetings of the Association.

The maximum number of Members is set at 8, drawn from the statutory bodies around the Menai Strait (NRW, Gwynedd County Council and Ynys Môn County Council); the School of Ocean Sciences; a representative of the lease holders in Menai East; a representative of the licensed fishermen in Menai East; and a representative from the Menai West Fishery Order (if and when it is made). The Chair of the Association is also a Member.

The Members of the Association are currently the Chair, James Wilson, Keith Andrews, Lewis le Vay and the representative appointed by Gwynedd County Council.

NRW have indicated in the past that it is inappropriate for them to be a Member of the Association, and attend meetings as an Observer. Ynys Môn County Council have adopted the same approach.

The quorum for meetings of the Members of the company is set at 3, unless the number of directors is less than 3 in which case the quorum is all of the Members.

- b) **Directors of the Association** are responsible for the management of the Company's business.

All of the Members of the Association are eligible, under the Articles of Association, to become Directors. The public bodies that are Members have declined the invitation to do so because it is considered inappropriate for them to take on this role.

There are presently two directors of the company: James Wilson and Keith Andrews.

The quorum for meetings of the directors of the company is set at 3, unless the number of directors is less than 3 in which case the quorum is all of the directors.

- 1.5 The Articles also allow for organisations that are eligible to be Directors or Members but have not taken on that role to participate in meetings as Observers. The Minister is also entitled to send a representative to meetings as an Observer. Observers can speak at meetings but cannot vote and do not contribute to the quorum.

Articles of Association

Background

As a company limited by guarantee, the Association is required by the Companies Act to have "Articles of Association" which set out how the company is run and governed. The Articles of Association were agreed in 2010 when MSFOMA was established and were revised in 2014 to allow for wider participation.

MSFOMA has recently resolved to widen participation (see item 5 on the agenda), and there have been some institutional changes in the administration of the marine environment since the Articles of Association were last revised. This report considers the need for a revision of the Articles of Association to ensure that they are up-to-date and fit for purpose.

Recommendations

1. That the proposal to update the Articles of Association is approved.
2. That a budget is allocated to the revision of the Articles of Association.
3. That the scope of the proposed changes is considered and approved.

1. The current Articles of Association

- 1.1 A copy of the current Articles of Association is appended at Annex A to this report. These Articles were revised and agreed by the Association in 2014.
- 1.2 The Articles refer to the Association's "Standing Orders", which determine how the Association should carry out its business. These Standing Orders are appended at Annex B.

2. The need for change

- 2.1 The key driver for changes to the Articles is the recent decision to widen participation in the business of the Association to include Beaumaris Town Council and Bangor City Council. It would be appropriate to make formal provision for these local authorities to become Observers, Members or Directors of the Association.
- 2.2 In addition to this changes, it is appropriate to keep the Articles under review to ensure that they take account of the legal, institutional and administrative changes that have occurred in the 5 years since the Articles were last reviewed.

3. Proposed changes

- 3.1 The key changes that are considered to be necessary to the Articles at present are:-
 - a) **Updating** - there have been some institutional changes (notably the merging of Environment Agency Wales and the Countryside Council for Wales) that need to be accommodated in the Articles. It is also appropriate to review changes in Company Law to ensure that the Articles are fully compliant with the current regulatory regime.

- b) **Widening scope** – a wider scope is required to allow for the possibility of Bangor City Council and Beaumaris Town Council wishing to become either formal observers, members or directors of the Association.
 - c) **Administrative** – in order to ensure that the Association is able to operate efficiently and effectively it may be appropriate to make some administrative changes to ensure that meetings are quorate and that potential conflicts of interest can be appropriately accommodated. To achieve this, it is proposed that two Officers of the Association (the Chair and Secretariat) are permitted to become Directors. This would ensure that the Association has some Directors available to take decisions on matters (such as the allocation of leases) that the current Directors might have a prejudicial interest in.
- 3.2 Comments on these changes and any other items that may need to be changed are invited.

4. Process for change

- 4.1 Having agreed on the scope of the revisions required to the Articles of Association it would be appropriate to ask our legal advisors to make the necessary changes to the Articles for approval at a subsequent Association meeting.
- 4.2 To expedite progress it is suggested that lawyers could be instructed immediately after this meeting and that proposals for revision of the Articles could be circulated for comment prior to the next Association meeting (scheduled for June 2019). It could then be possible for the Association to review and approve revised Articles at its next meeting.
- 4.3 The Secretariat has had preliminary discussions with lawyers to gauge the feasibility of this approach and the likely cost. The lawyers advise that this approach is viable, and the costs are likely to be in the lower part of the range of £1,000-£2,000.

MSFOMA Secretariat
March 2019

Annex A: Current Articles of Association

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PART 1
INTERPRETATION AND LIMITATION OF LIABILITY

Defined terms

1. In the articles, unless the context requires otherwise—

“**articles**” means the Company’s articles of association;

“**bankruptcy**” includes individual insolvency proceedings in a jurisdiction other than England and Wales and Northern Ireland which have an effect similar to that of bankruptcy;

“**chairperson**” has the meaning given in article 16;

“**chairperson of the meeting**” has the meaning given in article 31;

“**Companies Acts**” means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the Company;

“**director**” means a director of the Company, and includes any person occupying the position of director, by whatever name called;

“**document**” includes, unless otherwise specified, any document sent or supplied in electronic form;

“electronic form” has the meaning given in section 1168 of the Companies Act 2006;

“Eligible Director” means any Eligible Industry Director, any Eligible Local Authority Director or any Eligible Environmental Director (as the case may be);

“Eligible Environmental Director” means an Environmental Director who would be entitled to vote on the matter at a meeting of directors (but excluding any Environmental Director whose vote is not to be counted in respect of the particular matter);

“Eligible Industry Director” means an Industry Director who would be entitled to vote on the matter at a meeting of directors (but excluding any Industry Director whose vote is not to be counted in respect of the particular matter);

“Eligible Local Authority Director” means a Local Authority Director who would be entitled to vote on the matter at a meeting of directors (but excluding any Local Authority Director whose vote is not to be counted in respect of the particular matter);

“Environmental Director” means a director of the Company appointed by either the Countryside Council for Wales or the Environment Agency;

“Environmental Member” means either the Countryside Council for Wales or the Environment Agency;

“Fishery Areas” means the Menai Strait East and the Menai Strait West;

“Fishery Orders” means the Menai Strait East Order and the Menai Strait West Order;

“Industry Director” means a director of the Company appointed by a member representing either the lessees or the licence holders of the Menai Strait East Order or the Menai Strait West Order;

“Industry Member” means a member representing either the lessees or the licence holders of the Menai Strait East Order or the Menai Strait West Order;

“Local Authority Director” means a director of the Company appointed by either Ynys Mon County Council or Gwynedd County Council;

“Local Authority Member” means either Ynys Mon County Council or Gwynedd County Council;

“member” has the meaning given in section 112 of the Companies Act 2006;

“Menai Strait East” means that part of the foreshore and bed known as the Menai Strait more particularly described in section 3 of the Menai Strait Oyster and Mussel Fishery Order 1962;

“Menai Strait East Order” means the Menai Strait Oyster and Mussel Fishery Order 1962 as amended by any statutory modification or re-enactment thereof from time to time in force;

“Menai Strait West” means that part of the foreshore and bed known as the Menai Strait more particularly described in the Menai Strait West Fishery Order;

“Menai Strait West Order” means the statutory instrument, for which an application has been submitted to the Welsh Government but has not been enacted as at the date of adoption of these articles which empowers the Company to apply its objects (as contained in article 3) insofar as they relate to the Menai Strait West, as amended by any statutory modification or re-enactment thereof from time to time in force;

“Minister” means the Minister for Rural Affairs of the Welsh Government;

“Observer” means any person who can be sent to meetings pursuant to article 26(1)(c) and who has the rights set out in article 26(1)(d).

“ordinary resolution” has the meaning given in section 282 of the Companies Act 2006;

“participate”, in relation to a directors’ meeting, has the meaning given in article 10;

“proxy notice” has the meaning given in article 37;

“Shellfish Act” means the Sea Fisheries (Shellfish) Act 1967 as amended by any statutory modification or re-enactment thereof from time to time in force;

“special resolution” has the meaning given in section 283 of the Companies Act 2006;

“subsidiary” has the meaning given in section 1159 of the Companies Act 2006; and

“writing” means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Companies Act 2006 as in force on the date when these articles become binding on the Company.

2. Exclusion of Constitutional Regulations

No constitutional regulations set out in any statute, or in any statutory instrument or other subordinate legislation made under any statute concerning companies shall apply as the regulations or articles of the Company except in so far as they are repeated or contained in these articles.

3. Objects of the Company

The objects of the Company shall be limited to the following:

- (1) To protect, preserve and improve the shellfisheries of the Fishery Areas;
- (2) To apply for and implement the powers granted by the Fishery Orders and the Shellfish Act;

(3) To meet all statutory obligations of a grantee (as defined in the Fishery Orders) in exercising its duties and responsibilities arising out of the Fishery Orders and the Shellfish Act including, but not limited to:

- (a) Establishing, improving, maintaining and regulating the shellfisheries in the Fishery Areas;
- (b) Leasing areas within the Fishery Areas for use as shellfish lays as appropriate;
- (c) Issuing licences for shellfish gathering within the Fishery Areas;
- (d) Consulting with the appropriate statutory bodies as required by legislation in force from time to time in respect of the objects set out in articles 3(3)(a) and 3(3)(b) above;
- (e) Submitting an annual report of activity of shellfishery in the Fishery Areas and statement of accounts for each of the Fishery Areas to the Minister;

(4) To charge such tolls and fees for the leases and licences referred to in articles 3(3)(b) and 3(3)(c) as is reasonable and to gather such tolls and fees in order to meet the costs of meeting the Company's objects as set out in this article 3 and associated administration;

(5) To ensure that the shellfisheries in the Fishery Areas are managed in accordance with the provisions of the Fishery Orders, the Shellfish Act, the Marine and Coastal Access Act 2009, the Wildlife & Countryside Act 1981, the Habitats Directive (Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora) as applied in the United Kingdom by the conservation (Natural Habitats Etc) Regulations 1994 and any other applicable Welsh, UK or EU wildlife or conservation legislation and that due regard is had to doing so in all its actions;

(6) For the purposes aforesaid (and not otherwise) the Company shall be able:

- (a) To act in a consultative capacity to assist others in achieving objective similar to those of the Company;
- (b) To promote and organise co-operation in the achievement of the above objects by bringing together of persons, societies, institutions, local authorities, companies and other organisations and any person, firm or corporation interests in the object of the Company;
- (c) To enter into partnership or into any arrangement for joint, shared or mutual promotion, investment or development, union of interests, reciprocal concession or co-operation with any person, partnership or company, carrying on or engaged in or about to carry on or engage in any business or transaction which the Company is authorised to carry on or engage in or any business capable of being conducted so as to directly or indirectly further the objects of the Company, and to take or otherwise acquire and hold shares or stock in or securities of, and to make grants to or otherwise assist any person, partnership

or company and to sell, hold, re-issue with or without guarantee, or otherwise deal with such shares, stocks or securities;

- (d) To purchase, take on, lease or otherwise acquire and hold, sell exchange, feu, lease, mortgage, charge, hire or otherwise deal with or dispose of any lands, houses, buildings, equipment, goods and other property, heritable or moveable, real or personal and any rights or privileges necessary or convenient for the purposes of the Company, to erect, construct, lay down, enlarge, alter and maintain and from time to time renew any buildings and other works necessary or convenient for the objects of the Company;
- (e) To make personal or written appeals or hold public meetings or otherwise for the purpose of procuring contribution to the funds of the Company and to receive and accept by way of gifts, donations, legacies, bequests, grants, subscriptions or otherwise money and property, both heritable and moveable, for the purpose of furthering the objects of the Company;
- (f) To provide or arrange for the provision of information or advisory, technical, financial, estate and business management and other services and facilities to commerce and industry and other organisations and institutions;
- (g) To draw, make, accept, endorse, discount, negotiate, execute and issue promissory notes, bills of exchange, cheques, warrants, debentures and other negotiable or transferable instruments;
- (h) To carry on any other activity which may seem to the Company of being capable of being conveniently carried on in connection with any activity which the Company is authorised to carry on or may seem to the Company calculated directly or indirectly to benefit the Company or to enhance the value of or render profitable any of the Company's properties or rights, in each case for the purpose of furthering the objects of the Company;
- (i) To print, publish, buy or sell books, magazines and other publications relating to or for the objects of the Company;
- (j) To raise money for the purpose of the Company by borrowing on such terms and on such security as may be thought fit and by guarantees, gifts or donations in response to public appeals or otherwise and in relation to such guarantees, gifts or donations to accept the same either unconditionally or subject to such conditions as may be agreed so, however, that no conditions shall be inconsistent with the objects of the Company;
- (k) To lend or grant money to any company, institution, society, foundation or association having objects altogether or in part similar to those of the Company, or to individuals or unincorporated bodies for any purpose similar to

the object of the Company and that on such terms as to security or otherwise as the Company thinks fit and subject to any conditions and consents required by law and to the other provisions of these articles;

- (l) To sell or otherwise dispose of any parts of the undertaking or assets the Company to such persons and on such terms and conditions as the directors see fit, provided that in doing so it is furthering the objects of the Company;
- (m) To invest and reinvest the funds and assets of the Company not immediately required in such securities, shares, stocks, debentures, loan stock or other investments, property, whether heritable or moveable, real or personal as the Company shall think fit, subject to any limitations and conditions attaching thereto under the terms of acquisition or holding thereof;
- (n) To remunerate any person, association, firm or partnership under such terms and conditions as the Company may deem fit and employ or secure the services of any employees or staff and allocate their services to any person, partnership, firm or other organisation on such terms as the directors shall think fit;
- (o) To grant, pay or provide or procure the grant, payment or provision of donations, pensions or emoluments to and procure the establishment and maintenance or participate in or contribute to any non-contributory or contributory pensions or superannuation fund or arrangement or health plan or life assurance scheme or arrangement to the benefit of any persons who are and shall have been at any time in the employment or service of the Company, or of any charitable company which is a subsidiary of the Company or associated with or allied to the Company or the wives, widows, families or dependents of such persons; to establish, subsidise, subscribe to or support or procure the establishment or subsidy of or subscription to or support to any charitable institutions, associations, clubs, funds or trusts calculated to be for the benefit of any such persons as aforesaid; to make payments for or towards the insurance of any such persons as aforesaid, in respect of the performance of their duties to the Company and, only in furtherance of the objects of the Company, to subscribe or guarantee money for the charitable objects or for public exhibition; and to do or procure to be done any of the matters aforesaid by the Company either alone or in conjunction with any other company or person;
- (p) To amalgamate with any one or more companies, institutions, societies, foundations or associations having objects altogether or in part similar to those of the Company and which prohibit the distribution of its or their income and property amongst its or their members to an extent at least as great as is imposed on the Company under or by virtue of article 4; power to purchase or

otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, institutions, societies, foundations or associations with which the Company is authorised to amalgamate; and power to transfer all or part of the property, assets, liabilities and engagements of the Company to any one or more of the companies, institutions, societies, foundations or associations or to any charitable trust or company which it is authorised to establish, promote and otherwise assist;

- (q) To enter into any arrangements with any government or authority (supreme, municipal, local or otherwise) and to obtain from any such government or authority any grants of money, rights, concession and privileges that may seem conducive to the Company's objects or any of them;
- (r) To pay all or any expenses incurred in connection with the promotion, formation, incorporate, conduct and winding up of the Company;
- (s) To promote any charitable trust or company or trusts or companies for the purpose of its or their acquiring all or any part of the property, rights and liabilities of the Company or for any other purpose which may seem directly or indirectly calculated to benefit the Company and to pay all the expenses of or incidental to such promotions, to act as a holding company for any subsidiary company;
- (t) To make such charge for any of its services as the Company thinks fit, including without prejudice to the foregoing generality, interests, charges or loans made by the Company; and
- (u) To do all other lawful things as may be incidental or conducive to the attainment of the objects of the Company.

4. Income and Property of the Company

The income and property of the Company however derived shall be applied solely towards the promotion of its objects as set forth in these articles and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by profit, to members of the Company and no director of the Company shall be appointed to any office of the Company paid by salary or receive any remuneration or other benefit in money or money's worth from the Company. Provided that nothing herein shall prevent the payment in good faith by the Company:

- (1) of reasonable and proper remuneration to any member, officer or servant of the Company for any service rendered to the Company;
- (2) of interest at a reasonable and proper rate on money lent or reasonable and proper rent for premises let by any member of the Company or its directors;

(3) to any director of the Company of out-of-pocket expenses, incurred by him in or about the performance of his duties as a director of the Company; or

(4) of reasonable and proper remuneration to a member of the Company or its directors for any goods and services supplied.

5. Liability of members

The liability of each member is limited to £1, being the amount that each member undertakes to contribute to the assets of the Company in the event of its being wound up while he is a member or within one year after he ceases to be a member, for:

(1) Payment of the Company's debts and liabilities contracted before he ceases to be a member;

(2) Payment of the costs, charges and expenses of winding up; and

(3) Adjustment of the rights of the contributories among themselves.

6. Distribution on Winding Up

If upon winding up or dissolution of the Company there remains after the satisfaction of all of its debts and liabilities any property whatsoever the same shall not be paid to or distributed among the members of the Company but shall be given or transferred together with any rights to, in or over land which may be vested in the Company to some or other body or bodies having objects similar to the objects of the Company, and which shall prohibit the distribution if its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of article 4 hereof, and if and so far as effect cannot be given to such provision, then the property and assets of the Company shall be given or transferred to some charitable body.

PART 2

DIRECTORS

DIRECTORS' POWERS AND RESPONSIBILITIES

7. Directors' general authority

Subject to the articles, the directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

8. Members' reserve power

(1) The members may, by special resolution, direct the directors to take, or refrain from taking, specified action.

(2) No such special resolution invalidates anything which the directors have done before the passing of the resolution.

9. Directors may delegate

(1) Subject to the articles and, in particular article 9(4), the directors, may delegate any of the powers which are conferred on them under the articles—

- (a) to such person or committee;
- (b) by such means (including by power of attorney);
- (c) to such an extent;
- (d) in relation to such matters or territories; and
- (e) on such terms and conditions;

as they think fit.

(2) If the directors that authorised such delegation so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.

(3) Subject to article 9(4), the directors may revoke any delegation in whole or part, or alter its terms and conditions.

(4) Any delegation made pursuant to article 9(1) or revocation of such delegation made pursuant to article 9(3) can only be made by the directors in attendance at a valid meeting of the directors acting unanimously or by all the directors by written resolution.

10. Committees

(1) Subject to article 10(2), committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.

(2) Any decision made or resolution passed by a committee to which the directors delegate any of their powers must be approved in writing by the chairperson of the directors as appointed pursuant to article 16 prior to any action being taken by the Company to give effect to such decision or resolution.

(3) A committee of the directors must include at least one Industry Director, one Local Authority Director and one Environmental Director. For the avoidance of doubt, the provisions of article 15 shall apply equally to meetings of any committee of the directors as to meetings of the directors.

(4) The directors may make further rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

DECISION-MAKING BY DIRECTORS

11. Directors to take decisions collectively

(1) Unless otherwise provided in these articles, the general rule about decision-making by directors is that any decision of the directors must be either a unanimous decision under article 12 or a majority decision of Eligible Directors at a meeting.

(2) If—

(a) the Company only has one director, and

(b) no provision of the articles requires it to have more than one director (either generally or for the purposes of taking decisions other than majority decisions), the general rule does not apply, and the director may take decisions without regard to any of the provisions of the articles relating to directors' decision-making.

(3) Subject to the articles, decisions of the directors must be taken—

(a) at a directors' meeting, or

(b) in the form of a directors' written resolution.

12. Unanimous decisions

(1) The directors take a unanimous decision when all Eligible Directors indicate to each other by any means that they share a common view on a matter.

(2) A unanimous decision may take the form of a resolution in writing, copies of which have been signed by each director or to which each director has otherwise indicated agreement in writing.

13. Calling a directors' meeting

(1) Meetings of the directors shall take place at least two times each year with the following objectives:

(a) One such meeting should consider and approve the annual report to be issued to the Minister and agree the number of licences to be issued in the current financial year of the Company; and

(b) One such meeting to approve the accounts of the Company and agree the budgets and forecasts for the next financial year.

(2) The meetings to be held pursuant to article 13(1) shall be called by the chairperson of the directors as appointed pursuant to article 16.

(3) Other than as provided in article 13(1), any two directors acting together may call a directors' meeting by giving notice of the meeting to the directors or by authorising the Company secretary (if any) to give such notice.

(4) Notice of any directors' meeting must indicate—

- (a) its proposed date and time;
- (b) where it is to take place; and
- (c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

(5) Notice of any directors' meeting must be accompanied by an agenda specifying in reasonable detail the matters to be raised at the meeting and copies of any papers to be discussed at the meeting must be forwarded to all directors not less than 5 days before the date of the meeting.

(6) Matters not on the agenda, or business conducted in relation to those matters, may not be raised at a meeting of directors unless all the directors agree in writing.

(7) At least 15 days' notice of a directors' meeting must be given to each director, but such notice need not be in writing.

(8) Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

14. Participation in directors' meetings

(1) Subject to the articles, directors participate in a directors' meeting, or part of a directors' meeting, when—

- (a) the meeting has been called and takes place in accordance with the articles, and
- (b) they can each communicate with the other directors by telephone, television or some other audio visual medium any information or opinions they have on any particular item of the business of the meeting.

(2) In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is located at the time of the meeting provided that the provisions of article 14(1) are met.

(3) If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is located at the time of the meeting.

(4) If a director is unable to attend a directors' meeting, he will be entitled to make written submissions to such meeting by providing a copy of such meeting to the Company secretary not less than 48 hours before the time scheduled for such meeting. If any such written submissions are made, the chairperson shall read out the written submissions to those persons present at the directors' meeting.

15. Quorum for directors' meetings

(1) At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

(2) Subject to article 25(3), the quorum for directors' meetings shall be three.

16. Chairing of directors' meetings

(1) Subject to article 16(2), the directors may appoint a director to chair their meetings. Any such appointment is required to be approved by the Minister in writing. If no communication is received from the Minister within 30 days of the date of a written request for approval of such appointment made by the directors, the Minister is deemed to have given his/her approval.

(2) If it so elects by notice in writing to the directors, the Welsh Government shall be entitled to appoint the chair of directors' meetings.

(3) The person so appointed for the time being is known as the chairperson.

(4) If the chairperson is not participating in a directors' meeting within fifteen minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it.

17. No casting vote

1.The chairperson or other director chairing the meeting shall not have a casting vote.

18. Conflicts of interest

(1) For the purposes of section 175 of the Companies Act 2006, the members (and not the directors) shall have the power to authorise, by resolution and in accordance with the provisions of these articles, any matter or situation proposed to them by a director which would, if not so authorised, involve a breach of duty by a director under section 175 of the Companies Act 2006 to avoid conflicts of interest (a “**Conflict**”). Any authorisation of a matter or situation under this Article may extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised.

(2) The relevant director seeking authorisation of the Conflict (the “**Interested Director**”) must provide the members with such details as are necessary for the members

to decide whether or not to authorise the Conflict, together with such additional information as may be requested by the members.

(3) Any authorisation by the members of a Conflict may (whether at the time of giving the authorisation or subsequently):

- (a) provide that the Interested Director be excluded from the receipt of documents and information, the participation in discussions and/or the making of decisions (whether at meetings of the directors or otherwise) related to the Conflict;
- (b) impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the members think fit;
- (c) provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a director of the Company) information that is confidential to a third party, he will not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and
- (d) permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the directors and be excused from reviewing papers prepared by, or for, the directors to the extent they relate to such matters.

(4) The Interested Director will be obliged to conduct himself in accordance with any terms imposed by the members in relation to the Conflict.

(5) The members may revoke or vary such authorisation at any time but this will not affect anything done by the Interested Director prior to such revocation or variation in accordance with the terms of such authorisation.

(6) A director, notwithstanding his office, may be a director or other officer of, employed by, or otherwise interested (including by the holding of shares) in, the member who appointed him as a director of the Company, or any subsidiary, holding company or subsidiary of a holding company of such member, and no authorisation under section 175 of the 2006 Act or article 20.3 shall be necessary in respect of any such interest.

(7) Any Environmental Director, Industry Director or Local Authority Director shall be entitled from time to time to disclose to the relevant member who appointed him such information concerning the business and affairs of the Company as he shall at his discretion see fit.

(8) A director who is in any way, whether directly or indirectly, interested in a proposed transaction or arrangement with the Company shall declare the nature and extent of his interest to the other directors before the Company enters into the transaction or arrangement in accordance with the 2006 Act.

(9) A director who is in any way, whether directly or indirectly, interested in a transaction or arrangement that has been entered into by the Company shall declare the nature and extent of his interest to the other directors as soon as is reasonably practicable in accordance with the 2006 Act, unless the interest has already been declared under article 18(8).

(10) Subject, where applicable, to the disclosures required under article 18(8) and 18(9), and to any terms and conditions imposed by the members in accordance with article 18(3), a director shall be entitled to vote in respect of any proposed or existing transaction or arrangement with the Company in which he is interested and if he shall do so his vote shall be counted and he shall be taken into account in ascertaining whether a quorum is present.

(11) A director need not declare an interest article 18(8) or article 18(9), as the case may be:

- (a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
- (b) of which the director is not aware, although for this purpose a director is treated as being aware of matters of which he ought reasonably to be aware;
- (c) if, or to the extent that, the other directors are already aware of it, and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware; or
- (d) if, or to the extent that, it concerns the terms of his service contract that have been, or are to be, considered at a meeting of the directors.

(12) For the purposes of articles 18(8) and 18(9) a general notice given to the directors by a director, that he has an interest of a specified nature and extent in any transaction or arrangement in which a specified person or class of person is interested will be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified.

(13) Subject to article 18(14), if a question arises at a meeting of directors or of a committee as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairperson of the meeting whose ruling in relation to any director other than the chairperson is to be final and conclusive.

(14) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairperson of the meeting, the question shall be decided by a decision of the directors at that meeting, for which purpose the chairperson of the meeting is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

19. Records of decisions to be kept

The directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

20. Directors' discretion to make further rules

Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

APPOINTMENT OF DIRECTORS

21. Number and Appointment of Directors

(1) The number of directors shall not be less than one. The maximum number of directors shall be nine. In addition to the appointment of the chairperson pursuant to article 16, each of the following proposed members of the Company shall be entitled to appoint one director of the Company and to remove from office any such director appointed and to appoint another person in his place:

- (a) The Environment Agency;
- (b) Countryside Council for Wales;
- (c) Ynys Mon County Council;
- (d) Gwynedd County Council; A representative of the lessees granted a lease under the Menai Strait East Order;
- (e) A representative of the lessees granted a lease under the Menai Strait West Order;
- (f) A representative of the licence holders granted a licence under the Menai Strait East Order; and
- (g) School of Ocean Sciences.

(2) Any appointment or removal of a director pursuant to this article shall be in writing and signed by or on behalf of the proposed member and served on each of the other member and the Company at its registered office, marked for the attention of the Company secretary or delivered to a duly constituted meeting of the directors of the Company. Any such appointment or removal shall take effect when received by the Company or at such later time as shall be specified in such notice.

22. Termination of director's appointment

A person ceases to be a director as soon as—

- (a) that person ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law;
- (b) a bankruptcy order is made against that person;
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d) a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
- (e) by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have; or
- (f) notification is received by the Company from the director that the director is resigning or retiring from office, and such resignation or retirement has taken effect in accordance with its terms.

23. Directors' remuneration

Directors are not entitled to any remuneration for services provided to the Company.

24. Directors' expenses

The Company may pay any reasonable expenses which the directors properly incur in connection with their attendance at—

- (a) meetings of directors or committees of directors,
- (b) general meetings, or
- (c) separate meetings of the holders of any class of shares or of debentures of the Company,

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

PART 3

MEMBERS

BECOMING AND CEASING TO BE A MEMBER

25. Number of Members

(1) The subscribers to the memorandum of association of the Company and such other persons as are admitted to the membership in accordance with these articles shall be members of the Company.

(2) For so long as the membership of the Company is less than eight, the member(s) and director(s) of the Company shall be entitled to carry out the business of the Company provided that:

(a) the member(s) use all reasonable endeavours to secure as soon as possible the application of those persons listed in article 21(1)(a) to (h) who are not yet members to become members ; and

(b) the member(s) have offered to those persons listed in article 21(1)(a) to 21(1)(h) who are not yet members of the Company the right to be an Observer at all meetings of directors and members.

(3) For so long as the membership of the Company is less than three, the quorum for any meeting of the directors or the members shall be all of the directors as may be appointed from time to time and all of the members respectively and the quorum requirements as set out in articles 15 and 30 shall not apply.

(4) The maximum number of members shall be eight, made up of those persons listed in article 21(1)(a) to 21(1)(h).

OBSERVERS

26. Appointment of Observers

(1) For as long as those persons listed in article 21(1)(a) to 21(1)(h) are not yet members of the Company, provided that they have issued written confirmation to the Company that they wish to be an Observer, they shall be entitled to:

(a) receive not less than 14 days' notice of meetings of the directors (including committees of the directors) and members of the Company;

(b) receive all papers issued to directors and members pursuant to these articles and the Companies Acts in respect of such meetings;

(c) send an observer to all such meetings ("Observer"); and

(d) at such meetings any such Observer shall be entitled to speak at such meetings and the directors or the members, as the case may be, for the time being of the Company shall give due consideration to any information, views or opinions duly raised by such Observer.

(2) The Minister shall be entitled to send one representative to attend all meetings of the directors (including committees of the directors) and members of the Company. Such representative shall have the same rights as any Observers as set

out in articles 26(1)(a), (b) and (d). Such representative may at any time disclose any information relating to the business or affairs of the Company to the Minister as he may think fit.

27. Applications for membership

No person shall become a member of the Company unless—

- (a) that person has completed an application for membership in a form approved by the directors, and
- (b) the directors have approved the application.

28. Termination of membership

- (1) A member may withdraw from membership of the Company by giving 7 days' notice to the Company in writing.
- (2) Membership is not transferable.
- (3) A person's membership terminates when that person dies or ceases to exist.

ORGANISATION OF GENERAL MEETINGS

29. Attendance and speaking at general meetings

- (1) A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- (2) A person is able to exercise the right to vote at a general meeting when—
 - (a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
 - (b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- (3) The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- (4) In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.
- (5) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

30. Quorum for general meetings

(1) No business other than the appointment of the chairperson of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

(2) Subject to article 25(3), the quorum at any general meeting of the Company, or adjourned general meeting, shall be four persons present in person or by proxy.

31. Chairing general meetings

(1) If a chairperson has been appointed pursuant to article 16, such person shall chair general meetings if present and willing to do so.

(2) If a chairperson has not been appointed pursuant to article 16, or if the chairperson is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start—

(a) the directors present, or

(b) (if no directors are present), the meeting,

must appoint a director or member to chair the meeting, and the appointment of the chairperson of the meeting must be the first business of the meeting.

(3) The person chairing a meeting in accordance with this article is referred to as “the chairperson of the meeting”.

32. Attendance and speaking by directors and non-members

(1) Although he may not be a member, the chairperson may attend and speak at general meetings.

(2) The chairperson of the meeting may permit other persons who are not—

(a) members of the Company, or

(b) otherwise entitled to exercise the rights of members in relation to general meetings,

to attend and speak at a general meeting.

33. Adjournment

(1) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairperson of the meeting must adjourn it.

(2) The chairperson of the meeting may adjourn a general meeting at which a quorum is present if—

(a) the meeting consents to an adjournment, or

- (b) it appears to the chairperson of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (3) The chairperson of the meeting must adjourn a general meeting if directed to do so by the meeting.
- (4) When adjourning a general meeting, the chairperson of the meeting must—
 - (a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors, and
 - (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- (5) If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given)—
 - (a) to the same persons to whom notice of the Company's general meetings is required to be given, and
 - (b) containing the same information which such notice is required to contain.
- (6) No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

VOTING AT GENERAL MEETINGS

34. Voting: general

A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the articles.

35. Errors and disputes

(1) No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.

(2) Any such objection must be referred to the chairperson of the meeting whose decision is final.

36. Poll votes

(1) A poll on a resolution may be demanded—

- (a) in advance of the general meeting where it is to be put to the vote, or

- (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- (2) A poll may be demanded by—
 - (a) the chairperson of the meeting;
 - (b) the directors;
 - (c) two or more persons having the right to vote on the resolution; or
 - (d) a person or persons representing not less than one tenth of the total voting rights of all the members having the right to vote on the resolution.
- (3) A demand for a poll may be withdrawn if—
 - (a) the poll has not yet been taken, and
 - (b) the chairperson of the meeting consents to the withdrawal.
- (4) Polls must be taken immediately and in such manner as the chairperson of the meeting directs.

37. Content of proxy notices

- (1) Proxies may only validly be appointed by a notice in writing (a “**proxy notice**”) which—
 - (a) states the name and address of the member appointing the proxy;
 - (b) identifies the person appointed to be that member’s proxy and the general meeting in relation to which that person is appointed;
 - (c) is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the directors may determine; and
 - (d) is delivered to the Company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.
- (2) The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (4) Unless a proxy notice indicates otherwise, it must be treated as—
 - (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
 - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

38. Delivery of proxy notices

(1) A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person.

(2) An appointment under a proxy notice may be revoked by delivering to the Company a notice given by or on behalf of the person by whom or on whose behalf the proxy notice was given.

(3) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.

(4) If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

39. Amendments to resolutions

(1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if—

(a) notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairperson of the meeting may determine), and

(b) the proposed amendment does not, in the reasonable opinion of the chairperson of the meeting, materially alter the scope of the resolution.

(2) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if—

(a) the chairperson of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and

(b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

(3) If the chairperson of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairperson's error does not invalidate the vote on that resolution.

PART 4

ADMINISTRATIVE ARRANGEMENTS

40. Means of communication to be used

(1) Subject to the articles, anything sent or supplied by or to the Company under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Company.

(2) Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

(3) A director may agree with the Company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

41. Company seals

(1) Any common seal may only be used by the authority of the directors.

(2) The directors may decide by what means and in what form any common seal is to be used.

(3) Unless otherwise decided by the directors, if the Company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.

(4) For the purposes of this article, an authorised person is—

(a) any director of the Company;

(b) the Company secretary (if any); or

(c) any person authorised by the directors for the purpose of signing documents to which the common seal is applied.

42.No right to inspect accounts and other records

Except as provided by law or authorised by the directors or an ordinary resolution of the Company, no person is entitled to inspect any of the Company's accounting or other records or documents merely by virtue of being a member.

43. Provision for employees on cessation of business

The directors may decide to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or that subsidiary.

DIRECTORS' INDEMNITY AND INSURANCE

44. Indemnity

(1) Subject to paragraph (2), but without prejudice to any indemnity to which a relevant officer is otherwise entitled, a relevant officer may be indemnified out of the Company's assets against—

- (a) any liability incurred by that officer in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or an associated company,
- (b) any liability incurred by that officer in connection with the activities of the Company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006),
- (c) any other liability incurred by that officer as an officer of the Company or an associated company.

(2) This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

(3) In this article—

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and
- (b) a “**relevant officer**” means any director or other officer or former director or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).

45. Insurance

(1) The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.

(2) In this article—

- (a) a “**relevant officer**” means any director or other officer or former director or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor), and

- (b) a “**relevant loss**” means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer’s duties or powers in relation to the Company, any associated company (within the meaning of article 44(3)(a)) or any pension fund or employees’ share scheme of the Company.

PART 5

RULES OR STANDING ORDERS

46. Rules or Standing Orders

(1) The directors may from time to time make such rules or standing orders as they may deem necessary or expedient or convenient for the proper conduct and management of the Company and for the purposes of prescribing the classes of and conditions of membership, and in particular but without prejudice to the generality of the foregoing, they shall by such rules or standing orders regulate:

- (a) The conduct of members of the Company in relation to one another and to the Company’s employees, agents and contractors;
- (b) The procedure at general meetings and meetings of the directors and committees of the Company in so far as such procedure is not regulated by these articles;
- (c) The role of the chairperson and each director so far as such role is not regulated by these articles; and
- (d) Generally, all such matters as are commonly the subject matter of company rules.

(2) The Company in general meeting shall have the power to alter or repeal the rules or standing orders and to make additions thereto and the directors shall adopt such means as they deem sufficient to bring to the notice of the members of the Company all such rules or standing orders, which so long as they shall be in force, shall be binding on all members of the Company provided that no rule or standing order shall be inconsistent with, or shall affect or repeal anything contained in these articles.

Annex B: Standing Orders

The Menai Strait Fishery Order Management Association ("Company")

Proposed Standing Orders

1. Management of the Fishery Order Areas

- 1.1. In carrying out their duties and their role as the Board of Directors ("**Board**") and the members of the Company ("**Members**"), the Board and the Members shall adhere and shall procure that the Company adheres, to a management strategy that is compatible with the standard set for sustainable fishery management by the Marine Stewardship Council.
- 1.2. In particular, it is acknowledged by the Board and the Members that, in accordance with the objects of the Company set out in article 3 of the articles of association of the Company ("**Articles**"), the Company's aims are:
 - 1.2.1. to conduct the shellfisheries within the areas ("**Fishery Order Areas**") specified in the Menai Strait Oyster and Mussel Fishery Order 1962 (the "**Menai Strait East Order**") and the statutory instrument, for which an application has been submitted to the Welsh Government but has not been enacted as at the date of adoption of these standing orders which empowers the Company to act as grantee in relation to the area of the foreshore and seabed known as the Menai Strait West ("**Menai Strait West Order**") in such a manner that does not lead to over-fishing or depletion of the exploited populations and, for those populations that are depleted, the fishery must be conducted in a manner that demonstrably leads to their recovery;
 - 1.2.2. to ensure that fishing operations within the Fishery Order Areas allow for the maintenance of the structure, productivity, function and diversity of the ecosystem (including habitat and associated dependent and ecologically related species) on which the Fishery depends; and
 - 1.2.3. to ensure that the Fishery Order Areas are subject to an effective management system that respects local, national and international laws and standards and incorporates institutional and operational frameworks that require use of the resource to be responsible and sustainable.
 - 1.2.4. to adhere to the management policies for the Fishery Order Areas set out in the relevant Appendices of this document.

2. Role of Chair of the Board and Members

The Chair of the Board and Members has a dual role – both as the Chair and, simultaneously, as a member. These roles are more specifically set out below:

2.1. Organisation Objectives

- 2.1.1. Provide coherent leadership for the Company, including representing the organisation in the public domain.
- 2.1.2. Understanding the views of stakeholders, including the Welsh Government.
- 2.1.3. Providing guidance to the Board and the Members to ensure the Company acts within its objects set out in the Articles.

2.2. Board Facilitation and Meetings

- 2.2.1. Leadership of the Board, ensuring its effectiveness on all aspects of its role and setting its agenda.
- 2.2.2. Facilitate Board meetings.
- 2.2.3. Set Board meeting timetable.
- 2.2.4. Scrutinise Board papers.
- 2.2.5. In particular the Chair of the Board and Trustees:
 - 2.2.5.1. should make efficient use of Board time by ensuring Board agendas are focused on the objects of the Company set out in the Articles.
 - 2.2.5.2. is responsible for managing the business of the Board to ensure that sufficient time is allowed for discussion of complex or contentious issues and, where appropriate, arrange for informal meetings beforehand to enable thorough preparation for Board discussion.
- 2.2.6. Ensure an effective and fully informed decision making process is employed by the Board.
- 2.2.7. Encourage active engagement by all members of the Board.
- 2.2.8. Facilitate change and address conflict within the Board.
- 2.2.9. Take the lead in providing a properly constructed induction programme for new directors that is comprehensive, formal and tailored.

2.3. Organisation Governance

- 2.3.1. Liaise with committees of directors in order to assess and, if appropriate, approve their decisions.

2.4. Communication

- 2.4.1. Ensure the provision of accurate, timely and clear information to directors (to enable the Board to take sound decisions, monitor effectively and provide advice to promote the Company's objects).
- 2.4.2. Ensure effective communication with stakeholders, including the Welsh Government.
- 2.4.3. Where required, assist and initiate fundraising opportunities.

2.5. Operation of Organisation

- 2.5.1. Monitoring implementation of Board decisions.

2.6. Required Skills

- 2.6.1. In-depth knowledge of shellfisheries and their management, either in the Menai Strait or otherwise in the United Kingdom.
- 2.6.2. Independent from the Members and proposed members of the Company, as listed in article 21(1)(a) to (h) of the Articles.
- 2.6.3. Previous experience as chairperson of an organisation, preferably similar to the Company, is desirable.

3. Role of Directors and Members

3.1. Organisation Objectives

- 3.1.1. Safeguard the good name and values of the Company.
- 3.1.2. Contribute actively to the Board of directors in their role in giving firm management and strategic direction to the Company.
- 3.1.3. Be a spokesperson and ambassador for the Company, promoting the Company and its objects.

3.2. Board Facilitation and Meetings

- 3.2.1. Active participation and attendance of Board meetings and committee meetings where so appointed.

3.3. Organisation Governance

- 3.3.1. Ensure that the Company complies with its governing document, company law, the Menai Strait East Order and the Menai Strait West Order, the Sea Fishery (Shellfish) Act 1967, the Marine and Coastal Access Act 2009, the Wildlife & Countryside Act 1981, the Habitats Directive (Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora) as applied in the United Kingdom by the conservation (Natural Habitats Etc) Regulations 1994, and any other applicable Welsh, UK or EU wildlife or conservation legislation
- 3.3.2. Ensure that the Company pursues its objects as defined in its governing document.

3.4. Communication

- 3.4.1. Represent the Company at functions and meetings when required.

3.5. Operation of Organisation

- 3.5.1. Ensure the efficient management and administration of the Company.
- 3.5.2. Ensure the financial stability of the Company.
- 3.5.3. Protect and manage the property of the Company and to ensure the proper investment of the Company's funds.

4. Election of Chairperson

- 4.1. The Chairperson of the Board and Members shall be elected biennially by the procedure set out in article 16 of the Articles.
- 4.2. The Chairperson shall, unless he resigns or becomes disqualified, continue in office until his successor becomes entitled to act as chairperson.
- 4.3. The election of the Chairperson shall be the first business transacted at the annual meeting of the Company.

5. **Annual General Meeting**

- 5.1. The Company will hold one annual meeting in each year for the transaction of general business in addition to any special or adjourned meetings.

6. **Additional meetings**

- 6.1. A meeting of the Board shall be held in the sixth month after the Annual General Meeting.

- 6.2. Additional meetings of the Board or the Members may be called by the directors pursuant to article 13(3) of the Articles or pursuant to section 303 of the Companies Act 2006 respectively if:

- 6.2.1. in respect of a meeting of the Board:

6.2.1.1. the directors calling such meeting include in the notice to be issued pursuant to article 13(3) of the Articles Good Reason for calling such meeting; and

6.2.1.2. the requirements for calling such meeting set out in articles 13(4) to 13(7) of the Articles have been fulfilled; or

- 6.2.2. in respect of a meeting of the Members:

6.2.2.1. the Member(s) who have requested the directors to call such meeting include in their request for a meeting issued pursuant to section 303 of the Companies Act 2006 Good Reason for calling such meeting; and

6.2.2.2. the requirements for calling such meeting set out in section 303 of the Companies Act 2006 have been fulfilled.

- 6.3. For the purposes of Standing Order Nos. 6.1.1 and 6.1.2 “**Good Reason**” shall mean:

- 6.3.1. a matter directly related to, or furtherance of, the objects of the Company as set out in article 3 of the Articles; or

- 6.3.2. consideration of the corporate governance of the Company; or

- 6.3.3. consideration of legislation or regulations applicable to the Company; or
 - 6.3.4. a requirement imposed on the Company by the Welsh Government or any other governing statutory body; or
 - 6.3.5. any other reason that two or more of the Directors or Board Members consider to require a meeting to be held.
- 6.4. The Chairperson shall determine in his absolute discretion whether the requirements of Standing Order No. 6.1.1.1 or 6.2.1.1, as applicable, have been fulfilled. If the Chairperson determines that no Good Reason has been given as required, the meeting called pursuant to Standing Order No. 6.1 will not be held.

7. Order of Business

Except as otherwise provided by Standing Order No. 7, the order of business at every meeting of the Board and Members shall be:-

- 7.1. To choose a Member to preside if the Chairperson be absent.
- 7.2. Chairperson's Announcements.
- 7.3. To approve as a correct record and sign the minutes of the last meeting.
- 7.4. To deal with any business expressly required by statute to be done.
- 7.5. To dispose of business (if any) remaining from the last meeting.
- 7.6. To receive and consider reports of any experts attending the meeting pursuant to Standing Order No. 9.
- 7.7. To receive and consider reports, minutes and recommendations of any committees of the Board.
- 7.8. To answer questions in respect of reports, minutes or recommendations of any committees of the Board.

8. Variation of Business

Business falling under items 6.1 to 6.4 of Standing Order No. 6 shall not be displaced, but subject thereto the foregoing order of business may be varied:

- 8.1. By the Chairperson at his discretion [provided that at least 7 days' written notice has been given to each director or Member, as the case may be, of such variation]; or

9. Expert Attendance at Meetings

- 9.1. The Chairperson, [in his absolute discretion or] pursuant to a resolution passed at a meeting of the Board by a majority of the directors, may invite persons to attend meetings of the Board or the Members to provide information or opinions on any matter related to shellfisheries in the Menai Strait, the legislation specified in Standing Order No. 3.3.1 or any other matter related to the objects of the Company as set out article 3 of the articles.
- 9.2. Any persons invited by the Chairperson to attend meetings of the Board or Members pursuant to Standing Order No. 9.1 shall be entitled to speak at such meetings for the purposes of making presentations, reporting to the Board or the Members, as the case may be, and answer any questions raised by the Board or the Members, as applicable.

10. Rescission of Resolutions

- 10.1. No motion to rescind any resolution passed within the preceding 6 months, and no motion or amendment to the same effect as one which has been rejected within the preceding 6 months, shall be proposed unless the notice thereof given in pursuance of article 13(3) of the Articles or pursuant to section 303 of the Companies Act 2006 in accordance with Standing Order No. 6.1 is given by at least one-third of the directors or the Members, as the case may be and it shall not be open to any director or Member to propose a similar motion within a further period of 6 months.

11. Review of Standing Orders

- 11.1. The Standing Orders of the Company shall be reviewed by the Board on a triennial basis.
- 11.2. Any proposed resolutions to amend the Standing Orders of the Company resulting from their review pursuant to Standing Order 11.1 must be included in the notice given pursuant to section 302 or 303 of the Companies Act 2006 in accordance with Standing Order No. 6.1.2 and such resolutions can only be passed by at least one-half of the Members.

12. Suspension of Standing Orders

- 12.1. Subject to Standing Order No. 12.2, any of the preceding Standing Orders may be suspended so far as regards any business at the meeting where a resolution is passed approving such suspension.
- 12.2. A motion to suspend Standing Orders shall only be proposed if the notice thereof given in pursuance of article 13(3) of the Articles or pursuant to section 303 of the Companies Act 2006 in accordance with Standing Order No. 6.1 is given by at least one-half of the directors or the Members, as the case may be.

Appendix 1: Fishery Management Policy

1. Preface

The Association recognises the increasing importance of carrying out fishing activities sustainably. The Menai Strait mussel fishery operates within a natural environment that has national and international importance. The future of the fishery will depend on our ongoing sustainable husbandry of these natural resources.

The industry has been working closely with the Countryside Council for Wales, Natural England, the North Western & North Wales SFC, and researchers at the School of Ocean Sciences in Bangor for many years. This work has improved our understanding of the Menai Strait and the seed mussel resources at Caernarfon and in Morecambe Bay.

With the formation of this Association it is appropriate to clearly set out the policies that will ensure that this fishery continues to develop sustainably.

2. Policy context

The policies set out here operate in the context set by the relevant fisheries and environmental legislation governing the fishery. The policies are intended to complement the statutory management measures applying to the fishery, which includes but is not limited to the relevant provisions of:-

- The Sea Fisheries (Shellfish) Act 1967
- The Sea Fisheries (Conservation) Act 1967
- The Sea Fisheries (Regulation) Act 1966
- The Wildlife & Countryside Act 1981
- The Conservation (Natural Habitats &c.) Regulations 1994
- The Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
- The Countryside & Rights of Way Act 2000
- The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003
- The Natural Environment and Rural Communities Act 2006
- The Marine and Coastal Access Act 2009
- Relevant EC Directives that have been transposed into UK and Welsh legislation (notably the EC Birds Directive, Habitats Directive, and shellfish hygiene Directive).

The Association also recognises the importance of non-statutory instruments relating to fishing and shellfish farming activities, notably:-

- The UN Food and Agriculture Organisation's Code of Conduct for Responsible Fisheries;
- The Seafish Industry Authority's Responsible Fishing Scheme;
- The Marine Stewardship Council's Principles and Criteria of Sustainable Fisheries.

After considering the wide range of legislative and policy drivers that are relevant to the sustainable management of the fishery, the Association has decided to adopt a series of policies which follow the sequence of Performance Indicators set out in the Marine Stewardship

Council's Fishery Assessment Methodology. We consider that this list addresses all of the key policy areas associated with the Menai Strait Mussel Fishery.

4 Policies

The policies set out here set out how the Association will work to optimise the sustainable development of both the shellfish cultivation industry in the Menai Strait and seed mussel harvesting from wild resources.

4.1 Seed mussel stocks

The Menai Strait fishery relies on wild beds of ephemeral “seed” mussels to provide the juvenile stock that is cultivated in the Menai Strait.

The Association will work with partners to:-

- Ensure that seed mussel fishing activities are compatible with stock status at a regional and local level;
- Ensure that levels of exploitation take account of the ecological role of the stock;
- Respond to requests for information required to inform the seed mussel harvest strategy;

4.2 Retained species

The seed mussel fishery is very “clean”, made up entirely of mussels. Within the Menai Strait, a fishery for green crabs (*Carcinus maenas*) is carried out as part of the cultivation process, and these crabs are retained and sold.

The Association will work with others to:-

- Require the collection of information about levels of retention of non-target species in the fishery;
- Develop new management measures, where necessary, to ensure that the fishery does not pose a risk of serious or irreversible harm to any retained non-target species;
- Review the effectiveness of any new management measures introduced to minimise the retention of non-target species.

4.3 Discarded species

The seed mussel fishery is very “clean”, made up almost entirely of mussels. There is no significant discarding from this fishery. Within the Menai Strait, there can occasionally be catches of predatory animals such as starfish (*Asterias rubens*) and green crab (*Carcinus maenas*). These animals are returned to the sea.

The Association will work with others to:-

- Require the collection of information about levels of discarding of non-target species in the fishery;
- Develop new management measures, where necessary, to ensure that the fishery does not pose a risk of serious or irreversible harm to any discarded non-target species;
- Review the effectiveness of any new management measures introduced to minimise the discarding of non-target species.

4.4 Endangered, Threatened & Protected species

The fishery operates in areas where some Endangered, Threatened & Protected (ETP) species are known to occur. These are, in the main, bird species such as eider ducks (*Somateria mollissima*) in Morecambe Bay; and wading birds such as oystercatchers (*Heamatopus ostralegus*) in the Menai Strait. These and other bird species are protected by domestic and international legislation in all areas where the fishery operates, and a wide range of other marine habitats and species are also protected in the Menai Strait and Morecambe Bay areas.

These wildlife conservation measures have been in place for over 15 years, and the Menai Strait fishery has developed in harmony with them thanks to collaboration between the industry, fishery regulators and the nature conservation agencies. It will be important for the Association to continue working with nature conservation agencies to ensure that the fishery does not cause serious or irreversible harm to ETP species.

The Association will continue to:-

- Ensure that fishery is not likely to have a significant effect on ETP species;
- Work with fishery regulators and nature conservation agencies to implement the formal management strategy designed to deliver precautionary management of ETP species;
- Encourage and support research and monitoring work to determine the status of ETP species in our area of operations where possible;
- Collaborate with partners to investigate the relationship between the fishery and ETP species where possible.

4.5 Habitats

The fishery has the capacity to alter marine habitats. Seed mussel harvesting is carried out with light dredges, which if used inappropriately could affect seabed habitats. The relaying and cultivation of mussels in the Menai Strait alters natural habitats, replacing them with mussel-dominated communities for the duration of cultivation activity.

The industry has collaborated with fishery regulators, nature conservation agencies and scientific partners to investigate these habitat effects. This research confirms that the fishery will not have significant or irreversible harm on habitats in the area.

The Association will continue to:-

- Ensure that fishery is not likely to have a significant effect on marine habitats;
- Work with fishery regulators and nature conservation agencies to implement the formal management strategy designed to deliver precautionary management of marine habitats;
- Encourage and support research and monitoring work to determine the status of marine habitats in our area of operations where possible;
- Collaborate with partners to investigate the relationship between the fishery and marine habitats species where possible.

4.6 Ecosystems

The fishery has the capacity to affect marine ecosystems. Mussels are a prey item for a wide range of predators (including fish, birds and marine invertebrates), and play a role in linking pelagic and benthic ecosystems in coastal areas.

The movement of seed mussels from place to place creates a potential risk of introducing alien (non-native) species. Certain non-native species have been associated with shellfish production and can drastically alter coastal ecosystems (such as the slipper limpet, *Crepidula fornicata*).

The industry has played an active role in improving understanding of ecosystem effects of the fishery and tackling the risk of introducing non-native species¹.

By continuing to work with partner organisations the Association will:-

- Ensure that the fishery is not likely to have a significant effect on ecosystem structure and function;
- Encourage research to improve understanding of the interaction between the fishery and key elements of relevant ecosystems;
- Encourage the introduction of new management measures, where necessary.

4.7 Genetics

Aquaculture activities, particularly those based on hatchery-reared stock, can have adverse effects on the genetic structure of wild populations of fish and shellfish.

The Menai Strait mussel cultivation operation is based upon wild stocks from a relatively limited area. These seed mussel sources are not considered to be genetically isolated from one another or from the wild stocks found near to the Menai Strait. The risk of adverse effects on the genetics of the natural mussel stocks in either seed mussel areas or in the cultivation area in the Menai Strait therefore seem to be very limited.

The main risk of changes to the genetic structure of the mussel population in the Menai Strait could be the introduction of the congeneric species *M. galloprovincialis* and *M. trossulus*. Both species have been recorded elsewhere in the UK, and *M. galloprovincialis* is becoming more widespread. The presence of these species can only be confirmed by genetic testing, and the

¹ See Appendix 2 – the BMPA Code of Good Practice for mussel seed movements.

industry has recently agreed a procedure for testing a representative sample of seed mussels prior to their introduction in the Menai Strait.

The Association is committed to:-

- Ensure that any seed mussels introduced to the Menai Strait that are gathered from wild stocks are likely to be compatible with the genetic structure of the local wild population;
- Work with partners to confirm that current practices are compatible with the genetic status of the mussel population in the fishery area;
- Introduce new management measures, where necessary, to maintain the genetic structure of the population.

4.8 Management

The cultivation area in the Menai Strait is managed by the Menai Strait Fishery Order Management Association (MSFOMA). Seed mussel production areas are located in Cumbria (managed by the North West Inshore Fisheries and Conservation Authority); and at Caernarfon Bar (managed by the Welsh Government).

Two nature conservation agencies (the Countryside Council for Wales and Natural England) play an active role in the management of the fishery. These agencies work hand-in-hand with the fishery regulators to ensure that the effect of the fishery on marine wildlife is assessed before any activities are permitted to take place.

The Association needs to work closely with these and other statutory bodies. It will:-

- Observe all statutory requirements arising from fisheries and environmental legislation to ensure a high level of compliance with regulations;
- Share information with other management organisations to facilitate integrated management of seed mussel resources and cultivation areas;
- Support and encourage research that will inform and develop the management of the fishery.

4.9 Research Strategy

The Menai Strait mussel industry has worked with scientists and regulators to support, facilitate, and participate in research into seed mussel harvesting and mussel cultivation to address the information needs associated with managing the fishery.

This research has focused on a number of key areas: the interaction between the fishery and bird populations; the effects of mussel farming on seabed habitats; and the fishery for shore crabs in the Menai Strait area. The results of this research have been published in peer reviewed journals and as reports to help guide management of the fishery.

It will be appropriate for the Association to encourage a research strategy that identifies and prioritises research requirements for the fishery. Issues that could be addressed in this strategy could include:-

- Seed mussel harvesting – interactions between seed mussels and other species (especially birds);
- Non-native species risk analysis – investigating the relative risks arising from and faced by the mussel industry from non-native species (particularly the colonial ascidian *Didemnum vexillum*)
- Dissemination of information – making the results of research available to interested parties.

Appendix 2: Bangor Mussel Producers' Association Code of Good Practice for
Seed Mussel Movement

To be attached.

Appendix 3: Wildlife conservation: Assessment of Likely Significant Effect of
Mussel Cultivation in the Menai Strait (East) Fishery Order Area

To be attached.

Appendix 4: Wildlife conservation: Assessment of Likely Significant Effect of
Mussel Cultivation in the Menai Strait (West) Fishery Order Area.

To be attached.

Register of Interests

Background

Following revisions of codes of good governance in other sectors of public and corporate administration, the Association has recently discussed the need to take formal account of the interests of participants in its meetings.

This report considers how the Association may take immediate account of this issue and go on to develop a robust procedure for ensuring that a register of interests is maintained, and potential conflicts of interest are avoided.

Recommendations

1. That this report is accepted.
2. That the Association endorses the inclusion of a procedure for declaring interests prior to meetings starting and maintaining a register of interests to ensure that potential conflicts of interest are avoided.

1. Principles

- 1.1 One of the principles of public administration in the UK is that organisations and institutions which have been established by the Government in order to discharge a statutory function do so without acting to benefit the Members or Officers of that institution.
- 1.2 For many organisations and institutions, the Government has set out statutory rules and formal guidance which requires that potential “conflicts of interest” are declared and evaluated. Such procedures ensure that individuals do not participate in decisions in which they have some kind of undeclared prejudicial interest. An example of such guidance is provided by the Code of Conduct for Members of Local Authorities in Wales produced by the Public Services Ombudsman for Wales².

2. Procedures in place

- 2.1 When MSFOMA was established, the potential for conflicts of interest was addressed by including a procedure for registering and reviewing potential conflicts of interest in the Articles of Association (see §18 of Annex A in Item 6 on the agenda).
- 2.2 There have been some occasions when MSFOMA has applied these procedures: for instance when establishing some new layings in the Fishery Order area several years ago, the two applicants withdrew from meetings when their applications were being considered.
- 2.3 Following a review of the procedures that are presently included in the Articles of Association and comparison with the recent guidance issued to local authorities, the key difference is that there is no obligation at MSFOMA meetings for participants to declare their interests before any agenda items are discussed.

² Available here: <https://www.ombudsman.wales/wp-content/uploads/2018/03/Code-of-Conduct-CC-CBC-NPA-August-2016.pdf>

3. Proposed changes

3.1 It is proposed that:-

- a) From this meeting onwards, participants in MSFOMA meetings should declare any potentially prejudicial interest in agenda items prior to any agenda items are discussed.
- b) That the Articles of Association are amended to ensure that they are consistent with the guidance issued to local authorities (and / or any other equivalent public bodies such as joint fire authorities).
- c) That the Order of Business in the Standing Orders for the Association (§7 of Annex B to item 6 on the agenda) are amended to require the Declaration of Interests as the agenda item following Chairman's announcements.
- d) That a Register of Interests is established for all participants in MSFOMA meetings.
- e) That a form for recording declarations of interest in agenda items is completed for each MSFOMA meeting and retained following the meeting.

3.2 Views are welcomed on any additional changes that may be considered necessary.

MSFOMA Secretariat
March 2019

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 the Welsh Government officials invited to the meeting.
2. The following consideration of the reports for the renewal of the Menai East and Menai West Fishery Orders, the Association decides whether to continue to seek a further meeting with the Cabinet Minister.

1. Background

- 1.1 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.

2. Meetings of Fisheries Groups

- 2.1 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 Association has been advised that the future role of these groups will be determined by the Welsh Marine Fisheries Advisory Group.
 - 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. Information about this group is now available from <https://beta.gov.wales/wales-marine-fisheries-advisory-group>. The most recent meetings WMFAG took place on 16th May and 1st October 2018. No issues of immediate relevance to MSFOMA seem to have been discussed at these meetings. The agenda for the meeting held on 1st October is appended at Annex A to this report.
 - c) **Aquaculture Advisory Group** - this Group was established to help Welsh Government meet the targets it set in the 2013 Wales Marine and Fisheries Strategic Action Plan for aquaculture production of 2,000t of finfish and 16,000t of shellfish by 2020.
- 2.2 Until recently there has been no information available about the activities of these groups on the Welsh Government website, because it was being upgraded. In

preparing for this meeting the Secretariat found that there is now some information available about WMFAG (see above); and also that WG has published a response to a FOI request made in 2017 which provides what appears to be the most current update on the status of these different groups. The letter is attached at Annex B. (Note: all of the hyperlinks in this letter direct to pages in the old WG website and no longer work).

- 2.3 Following the September 2018 meeting of the Association the Secretariat made enquiries about the status of the Aquaculture Advisory Group. WG officials indicated that it was due to meet in mid-October. A meeting was ultimately held in November. A verbal report of this meeting was provided at the last MSFOMA meeting in December.
- 2.4 A verbal update on recent meetings of these and related groups will be provided at the meeting by Members and Observers who attend these meetings.

3. Consultations

- 3.1 There have been no WG consultations that are relevant to the objects of the Association since the last MSFOMA meeting.

4. Meetings with Welsh Government Officials

- 4.1 There have been no further meetings with WG officials since the MSFOMA meeting in September, but following staff changes earlier this year there has been regular contact through phone and e-mail in connection with the renewal of both of the Fishery Orders in the Menai Strait.

5. Meeting with Cabinet Minister

- 5.1 There have been no further meetings with Cabinet Minister Lesley Griffiths AM since June 2018. The Chair has recently requested a meeting with the Minister, and support for this request has been given by Rhun Ap Iorwerth AM. It would seem appropriate whether to pursue this request after considering the Minister's responses in respect of the Menai East and Menai West Fishery Orders (items 12 & 13 on the agenda respectively).

MSFOMA Secretariat
March 2019

Annex A: Agenda for Welsh Marine and Fisheries Advisory Group meeting of 1st October 2018.

<p style="text-align: center;">WALES MARINE FISHERIES ADVISORY GROUP</p> <p style="text-align: center;">Meeting on Monday 1 October 2018 – 10:00-16:00</p> <p style="text-align: center;">Welsh Government Offices, Rhodfa Padarn, Aberystwyth</p> <p style="text-align: center;">AGENDA</p>			
Item	Item		Lead
1.	Welcome & Apologies		Chair
2.	Approval of Notes of Meeting held on 16 May 2018 and matters arising	Paper 1	Chair
2(a)	Actions from previous meeting	Paper 2	Chair / Secretariat
3.	Fisheries Operations – Update May 2018 – end September	Paper 3	Julian Bray
4.	Brexit (to follow)	Paper 4	Owain Edwards
5.	Summary of Key Workstreams i) Catch / Export Certificates ii) U10m reporting iii) Inshore VMS iv) Whelks v) Scallops vi) Cockles vii) Assessing Welsh Fisheries	Paper 5	Various
6.	Marine and Fisheries Evidence Strategy (to follow)	Paper 6	James Watkin
7.	Common Fisheries Policy Update • General • Quota • Bass • Berried Lobster Restrictions • December Council	Paper 7	Mark Stafford
8.	Sector Readiness - Wales Seafood Strategy	Paper 8	Bethan
9.	For Information: (i) Website • Activity / hits • Structure options • Stakeholder Register / GDPR Privacy Statement (ii) Angel Shark (iv) Harbour Porpoise – Annual Report (v) Dates of meetings 2019	Paper 9	Chair
10.	Terms of reference and further deputies / members	Verbal	Chair/JB
11.	Any other business		Chair

Annex B: Welsh Government update on status of Fisheries Groups, July 2017



Llywodraeth Cymru
Welsh Government

25/07/17

Dear ,

ATISN 11375 Fisheries Groups

Thank you for your request which I received on 28 June about Marine and Fisheries stakeholder groups. The information you requested is enclosed.

The **Inshore Fishery Groups (IFGs)** North, Mid and South Wales comprise of representatives from fisheries associations, recreational fishermen, environmental interest groups, marine scientists, Seafish and Natural Resources Wales. Their purpose is to provide proposals to the Welsh Marine Fisheries Advisory Group relating to fisheries management within the groups region of Wales. They assist them engage with those with interests in fisheries and the marine environment within the their region. They also feedback to wider stakeholders within the region on local policy implications. Following a review in 2016, IFGs have been temporarily suspended. The position will be reviewed again in the autumn. Minutes of meetings are available to the public and can be found at <http://gov.wales/about/foi/responses/2017/Jan17/atisn10990/?lang=en>

The **Marine Planning Stakeholder Reference Group** informs and advises on early drafts of relevant chapters of the Welsh National Marine Plan, and the plan in its entirety. This includes associated work packages/products of the marine planning process including Sustainability Appraisal and Strategic Scoping Exercises. The terms of reference for the group are published on the Welsh Government website. Individuals of the group are not specified, however, all organisations involved are shown.

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

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

Marine and Fisheries
Cathays Park
Cardiff
CF10 3NQ

<http://gov.wales/topics/environmentcountryside/marineandfisheries/stakeholder-engagement/marine-planning-stakeholder-reference-group/?lang=en>

The **Wales Marine Advisory and Action Group** brings together a broad range of strategic interest groups to ensure effective and meaningful engagement in relation to the delivery of the Marine Transition Programme and wider marine and fisheries work, through collaborative working and co-production. Individuals of the group are not specified, however, all organisations involved are shown. The Group is currently chaired independently and the terms of reference are published on the Welsh Government website <http://gov.wales/topics/environmentcountryside/marineandfisheries/stakeholder-engagement/wales-marine-strategic-advisory-group/?lang=en>

The **Wales Marine Fisheries Advisory Group** has played a key role in helping to shape Welsh Government policy on fisheries management matters. The Group has a crucial role to play in helping to ensure that the views of industry and other stakeholders are fully reflected in Welsh Government policy development and implementation. Approved minutes of meetings are in the public domain and as such will be available when requested. Membership of the group comprises of one representative from each of the Fishing Associations in Wales, WFA, NRW, Wales Environment Link, WLGA, Aquaculture and WFSA. A deputy may also be nominated to attend should the nominated representative be unable to do so. The Chair of WMFAG is a Public Appointee. The group meets quarterly at predetermined dates. Individual members are not specified but organisations involved are listed. Minutes are available to the public, and can be found at <http://gov.wales/about/foi/responses/2017/Jan17/at1sn10990/?lang=en>

The **Welsh Sea Bass Task and Finish Group** was created to build a forum between Government and those with a direct interest in the future of the industry. It included representatives from the commercial and recreational sector, fish buyers and angling charter boat operators. There was no statutory basis for the group but a remit and terms of reference were agreed. The membership of the group was based on the main stakeholders identified from three regional areas, mid, north and south Wales. Other than a note of each meeting no official minutes were kept. However, these could be made publicly available. The group's work was halted in 2016 because of management measures on the sea bass fishery introduced by the European Commission. These European measures rendered many of the groups draft proposals impractical and impossible to take forward. Therefore the future of the recommendations of the Group is currently on hold.

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at:

Information Rights Unit,
Welsh Government,
Cathays Park,
Cardiff,
CF10 3NQ

or Email: FreedomOfInformationOfficer@wales.gsi.gov.uk

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at: Information Commissioner's Office,

Wycliffe House,
Water Lane,
Wilmslow,
Cheshire,
SK9 5AF.

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely

North West Inshore Fisheries and Conservation Authority Activity

Background

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

Recommendations

1. That the report is received.
2. That the Association should welcome the NW-IFCA surveillance programme for Chinese Mitten Crabs in Morecambe Bay.

1. IFCA Meetings

- 1.1 Since the last meeting of the Association the NW-IFCA has held one meeting of its Technical, Scientific and Byelaws Sub-Committee (on the 5th February 2019). The next quarterly meeting of the IFCA is scheduled for the 14th March 2019.
- 1.2 An issue of potential interest to MSFOMA that has been discussed at recent IFCA meetings has been the observation of two adult Chinese Mitten Crabs (*Eriocheir sinensis*, abbreviated to "CMC") by anglers in the Walney Channel during the summer of 2018. This crab is an Invasive Non-Native Species (INNS). There have been no subsequent observations of either adult or juvenile CMCs in the area.
- 1.3 In response to the reports of CMCs last summer some authorities in the UK refused to permit any mussels from Morecambe Bay to be relayed in the sea in their areas of jurisdiction. A key concern was uncertainty about the prevalence of this species in the area. In response to this, and in order to support the local fishing industry, NW-IFCA scientific staff have established a quarterly monitoring programme designed to detect CMCs. The first report from this programme for February 2019 is attached at Annex A. No CMCs were detected.

2. Changes to Byelaws

- 2.1 The NW-IFCA is continuing to work on a revision of its existing Byelaw 3 which establishes a permit scheme for cockles and mussels. The latest draft of the revised byelaw was discussed at the TSB meeting in February 2019. This byelaw applies specifically to the gathering of cockles and mussels by hand. The only element of the byelaw that is directly relevant to the Menai Strait operators is the minimum legal size established for molluscs, which would remain at 45mm.
- 2.2 It is noted that the current version of Byelaw 3 does not contain any reference to the buying and selling of cockles or mussels. The Association is advised that earlier iterations of the draft byelaw set out proposals requiring that the buyers of cockles or mussels should be subject to a permit scheme established by the IFCA. These

proposal were removed, but some IFCA officers have indicated that they feel that such provisions should be included in the byelaw.

3. Bivalve Mollusc Working Group

- 3.1 There have been no meetings of the Bivalve Mollusc Working Group since the last MSFOMA meeting.

MSFOMA Secretariat
March 2019



NWIFCA Morecambe Bay Chinese Mitten Crab

Surveillance Report February 2019

Mandy Knott - Senior Scientist

Morecambe Bay mussel beds are a valuable economic resource for NWIFCA stakeholders, particularly Byelaw 3 permit holders, and for aquaculture production businesses. There are a number of beds that regularly receive a spat settlement each year, while other areas can become covered in the shifting sands and the hard substrates are no longer available and so recruitment does not occur.

Morecambe Bay is known for its ephemeral mussel beds, described by Dare (1976), whereby dense recruitment occurs on the Bay's cobble and boulder skears. Mussel growth is rapid and deep layers of pseudofaeces or mussel mud is put down beneath the tightly packed mussel. When this occurs it can become very unstable, and the seed mussel sits unembryssed and loose on its surface. Under these conditions there is a high likelihood that storms and tides will wash the seed mussel away, and the NWIFCA may authorise removal of undersize mussel which is sent for relaying in aquaculture. Depending on location, extent and nature of the stock the fishery may be opened to mussel dredge.

Mussel in other parts of the Bay does persist but frequently does not grow through to size (>45mm). When it does it is fished by hand-raking by permit holders and may be sent to live market or for relaying as part-grown mussel.

Morecambe Bay bivalve fisheries are disease-free, and free of invasive non-native species. Prior to 2018 there have been two confirmed sightings of Chinese Mitten Crab in the Duddon Estuary (neighbouring Morecambe Bay connected water body) – one in 2006 and one in 2012. In May 2018 crab tilers in the Walney Channel (connecting Morecambe Bay to Duddon Estuary) reported to NWIFCA fishery officer that they had found three CMC within a few days of one another. Although they provided a photograph of one, it was not geo-located and was dead. The crab was disposed of and not seen by NWIFCA Officers.

There have been no further reports despite high awareness among fishers to report to NWIFCA, and a public awareness leaflet produced and distributed in the local area.

An email received from National Trust Area Ranger Neil Forbes from Sandscale Haws National Nature Reserve on the Duddon Estuary at the north of Walney Channel received 28th February 2019 states: "We have not come across any Chinese Mitten Crabs and have had no reports of them from the Duddon Estuary. We ran several children's / school events pond netting in the estuary at low tide last year and again no Chinese Mitten Crabs were found".

In order to provide confidence to regulators in relaying areas the NWIFCA instigated best practice by adopting established surveillance protocols and encouraging gatherers and buyers to follow good practice guidelines while harvesting the mussel. NWIFCA surveys carried out on the mussel beds at Heysham Flat skear and Foulney in Morecambe Bay in 2018, have been reported on.

For 2019 the NWIFCA has scheduled in quarterly surveys at both beds. The first of these was carried out in February - reports from which are provided below. In addition, other beds will be surveyed as and when mussel resource appears on them.

Reference:

Dare, P.J. (1976). *Settlement, growth and production of the Mussel, Mytilus edulis L. in Morecambe Bay, England*. Fishery Investigations. Series II. Vol. 28. No.1. Ministry of Agriculture, Fisheries and Food. London. UK.

Foulney Chinese Mitten Crab Survey 24-02-19

Officers Present: Four NWIFCA scientists
Tide: LW 08:58 1.2m (Liverpool tides)

Reason for Survey: To survey the mussel bed for the presence of Chinese mitten crab after photographic records from May 2018 suggested that the species was present in the Walney Channel (North Morecambe Bay).

Survey methodology: As described in the SOP for screening seed mussel beds for Chinese mitten crab (*Eriocheir sinensis*) by Dr A Woolmer (2011).

- A total of 37 stations were surveyed across the mussel bed.
- At each station a 10 minute timed visual inspection of 10m by 10m area was completed.
- Of the 37 stations surveyed, samples were taken from 36 of the stations, targeting clumps of byssus attached mussel – including around 5cm of sediment. No sample was taken for Station 9 due to the lack of mussel.
- Between stations boulders were turned over and checked for adult crabs.

Processing of Mussel Samples:

- Samples were refrigerated overnight and processed the following day
- All samples sieved with a (1mm) mesh
- All crabs removed and identified under a dissecting microscope.

Maps

Maps have been produced below showing where the mussel bed is in relation to the other mussel beds in Morecambe Bay and the location of the tracks and where the samples were collected.

Visual Inspection

Table 1 shows the number of crabs that were identified during the visual inspection. Stations where no crabs were found have been omitted from the table. The survey recorded four species of crab; shore crab (*Carcinus maenas*), long-clawed porcelain crab (*Pisidia longicornis*), edible crab (*Cancer pagurus*), and spider crab (*Maja squinado*).

Table 1 - showing the species and number of individuals that were recorded at each station during the timed search.

Station Number	Species and no. of individuals
2	7 juvenile shore crabs
3	1 juvenile shore crab
4	2 long-clawed porcelain crabs
5	3 juvenile shore crabs
8	2 adult shore crabs (dead)
16	5 adult shore crabs (dead)
17	1 juvenile spider crab (dead)
27	2 shore crabs (dead)
28	3 shore crabs (dead), 1 edible crab (dead)
29	2 shore crabs (dead)
30	1 shore crab (dead)
Total	11 live shore crabs, 15 dead shore crabs, 2 long-clawed porcelain crabs, 1 dead spider crab, and 1 dead edible crab

Sample Results

Table 2 shows the number of each species of crab that were present in each sample. In Sample 3 a berried female hermit crab (*Pagurus* sp.) was recorded and a single long-clawed porcelain crab (*Pisidia longicornis*) was recorded in Sample 4. All other crabs were juvenile shore crabs (*Carcinus maenas*).

Table 2 - showing the species and number of individuals that were recorded in each sample.

Station Number	Species and no. of individuals
1	2 juvenile shore crabs
2	7 juvenile shore crabs
3	2 juvenile shore crabs & 1 hermit crab (berried)
4	5 juvenile shore crabs & 1 long-clawed porcelain crab
5	1 juvenile shore crab
6	2 juvenile shore crabs
7	3 juvenile shore crabs
8	No crabs recorded
9	No sample
10	1 juvenile shore crab
11	2 juvenile shore crabs
12	2 juvenile shore crabs
13	4 juvenile shore crabs
14	2 juvenile shore crabs
15	1 juvenile shore crab
16	1 juvenile shore crab
17	1 juvenile shore crab
18	4 juvenile shore crabs
19	2 juvenile shore crabs
20	2 juvenile shore crabs
21	2 juvenile shore crabs
22	1 juvenile shore crab
23	No crabs recorded
24	4 juvenile shore crabs
25	1 juvenile shore crab
26	2 juvenile shore crabs
27	No crabs recorded
28	3 juvenile shore crabs
29	2 juvenile shore crabs
30	6 juvenile shore crabs
31	1 juvenile shore crab
32	2 juvenile shore crabs
33	2 juvenile shore crabs
34	1 juvenile shore crabs
35	4 juvenile shore crabs
36	No crabs recorded
37	No crabs recorded
Total	76 juvenile shore crabs, 1 hermit crab, and 1 long-clawed porcelain crab

There was no recorded presence of Chinese mitten crab from the visual inspection, the mussel samples processed in the laboratory, or from under the boulders on the Foulney mussel bed on 24th February 2019.

Additional information

During the time of the survey, barometric pressure was high (1035 hPa) (www.weatheronline.co.uk for Barrow in Fumess accessed 1st March 2019) resulting in a better ebb than expected, allowing surveyors to reach the lower extent of the mussel bed. Visibility during the survey was poor due to fog (<50m), which resulted in a reduced survey area over the main skear to ensure that the surveyors remained in sight of each other during the survey period. Survey effort was concentrated around the area of the active fishery.

The characteristic of the bed included loose mussel on the surface of the sediment.



Fig. 1 - Map illustrating the position of Morecambe Bay mussel beds in relation to the Walney Channel.

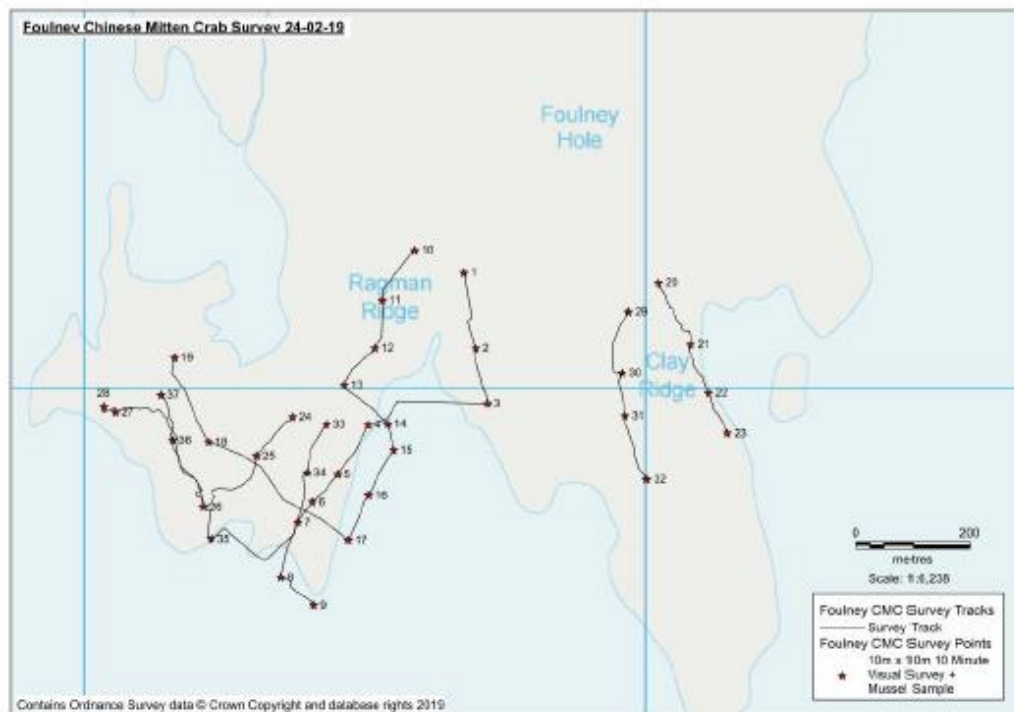


Fig. 2 - Map indicating the location of tracks and sampling points at Foulney from the 24th of February survey.



Fig. 3 - Foulney mussel bed 24th February 2019



Fig. 4 - the nature of the mussel and sediment. Foulney mussel bed 24th February 2019

Heysham Flat Chinese Mitten Crab Survey 25-02-19

Officers Present: Four NWIFCA scientists
Tide: LW 09:39 1.77m (Liverpool tides)

Reason for Survey: To survey the mussel bed for the presence of Chinese mitten crab after photographic records from May 2018 suggested that the species was present in the Walney Channel (North Morecambe Bay).

Survey methodology: As described in the SOP for screening seed mussel beds for Chinese mitten crab (*Eriocheir sinensis*) by Dr A Woolmer (2011).

- A total of 31 stations were surveyed across the mussel bed.
- At each station 10 minute timed visual inspection of 10m by 10m area were completed.
- A mussel sample was taken from each station, which targeted clumps of byssus attached mussel (rather than the loose clean mussel) – including around 5cm of sediment.
- Between stations, boulders were turned over and checked for adult crabs.

Processing of Mussel Sample:-

- All samples sieved with a (1mm) mesh.
- All crabs removed and identified under a dissecting microscope.

Maps

Maps have been produced below showing where the mussel bed is in relation to the other mussel beds in Morecambe Bay and the location of the tracks and where the samples were collected.

Visual Inspection

Before starting the timed search the officers conducted a targeted search by turning over and inspecting boulders along the skear as the tide ebbed. Over 82 boulders were overturned and inspected and a total of 26 live shore crabs (*Carcinus maenas*) were observed. During the 10 minute timed visual inspections no crabs were observed at any of the sample stations.

Sample Results

Table 1 shows the number of juvenile shore crabs that were present in each sample. No other species of crab were identified in the samples.

Table 1 - The number of individuals that were observed in each sample.

Station Number	No. of juvenile shore crabs (<i>Carcinus maenas</i>)
1	1
2	0
3	4
4	0
5	2
6	1
7	1
8	0
9	1
10	0
11	4
12	0
13	0
14	1
15	0
16	1
17	0
18	0
19	1
20	4
21	0
22	0
23	0
24	0
25	2
26	1
27	0
28	1
29	0
30	1
31	0
Total	26

There was no recorded presence of Chinese mitten crab from the visual inspection, the mussel samples processed in the laboratory, or from under the boulders on Heysham Flat on the 25th of February 2019.

Additional Information

The characteristics of the bed included mussel that were hard in to the sediment. The majority of the cobbles are embedded in the sediment leaving few crevices for anything to get underneath as shown in Figure 4.

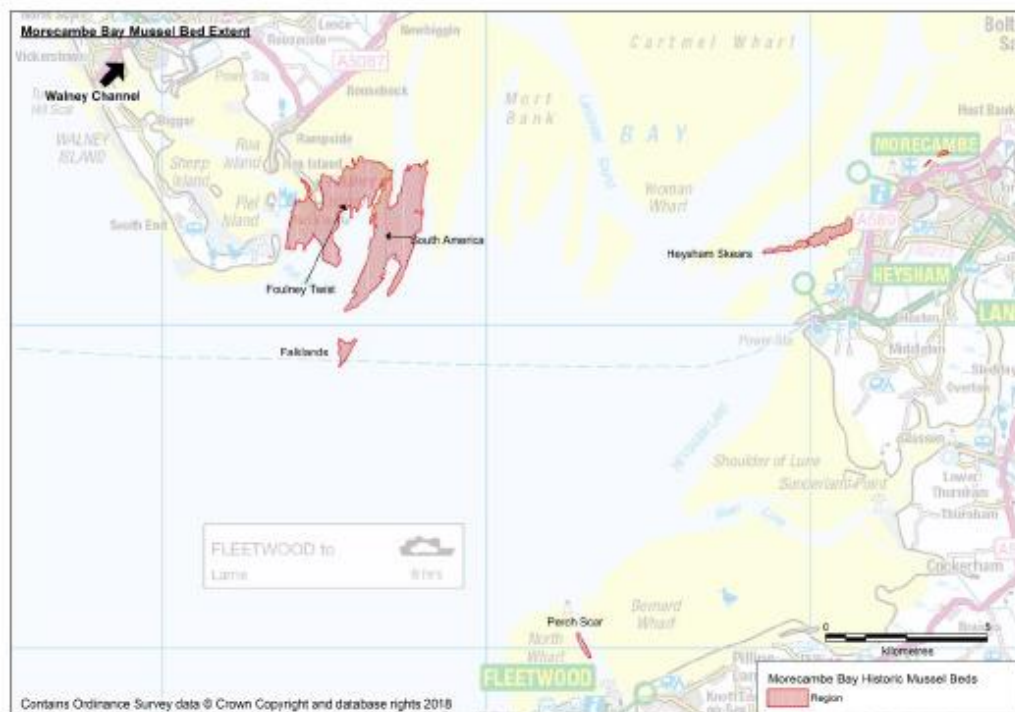


Fig. 1 – Map illustrating the position of Morecambe Bay mussel beds in relation to the Walney Channel.

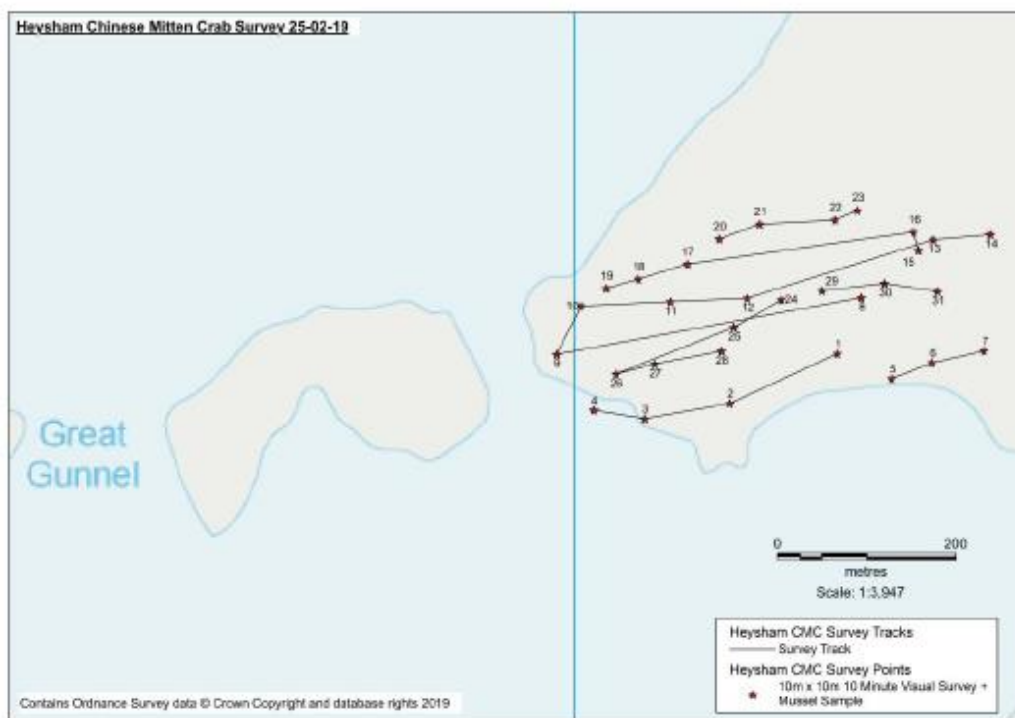


Fig. 2 - Map indicating the location of tracks and sampling points at Heysham from the 25th of February survey.



Fig. 3 - Nature of the cobble and boulder skew at Heysham Flat 25th February 2019



Fig. 4 - Indication of how the cobbles are embedded in the sediment leaving few crevices
at Heysham Flat skew 25th February 2019

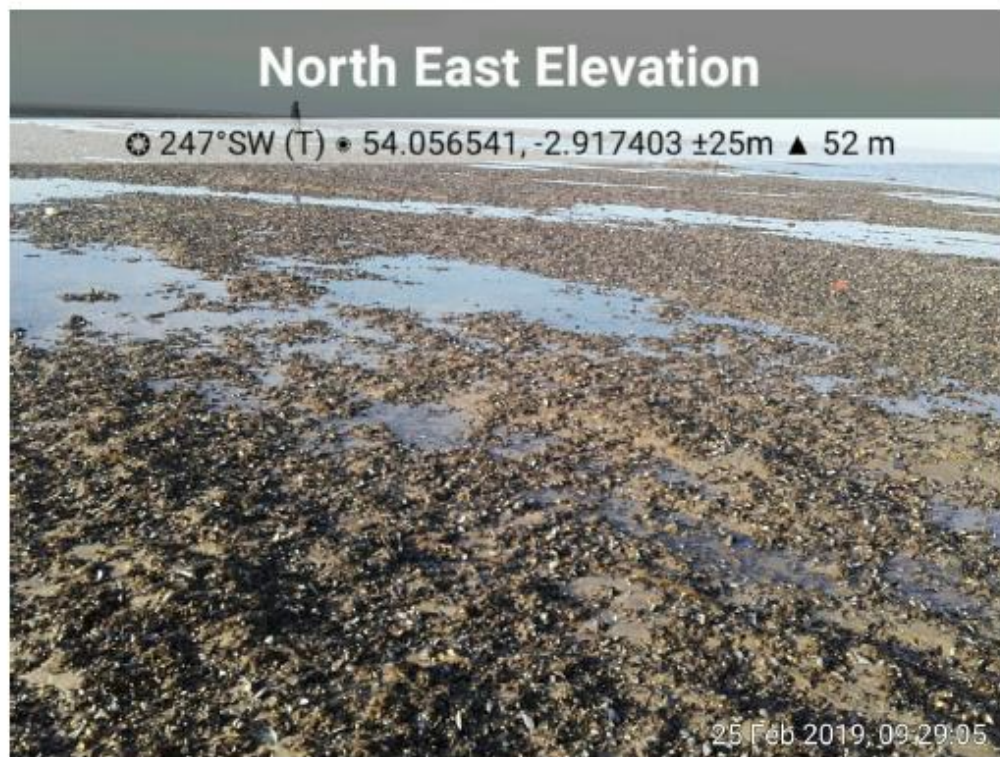


Fig. 5 - Current condition of the mussel bed (pre recruitment) at Heysham Flat skear 25th February 2019

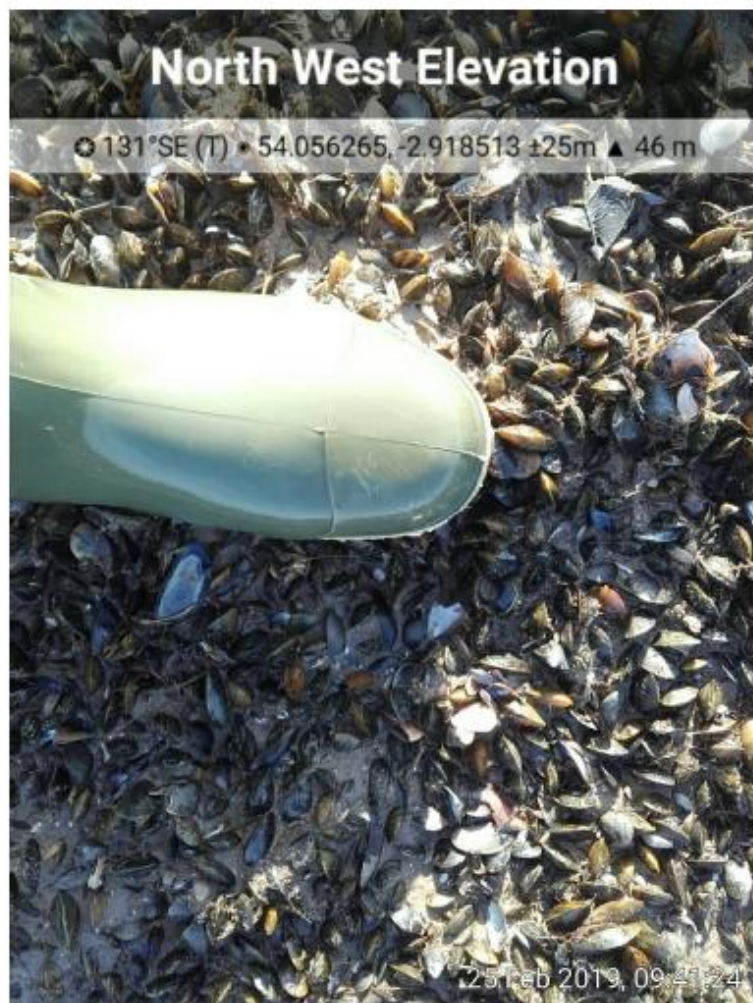


Fig. 6 - Illustration of hard in mussel at Heysham Flat skear 25th February 2019

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.

This report considers both some ongoing management issues associated with this Fishery Order and progress that has been made with its renewal.

Recommendations

1. That the report is received
2. Comments are invited on progress with the renewal of this Fishery Order to date and proposals for stakeholder / public engagement work in the next quarter.
3. Comments are invited on the Minister's letter about the renewal of the Fishery Order (Annex A).
4. Options for mitigating the risk of a delay in the renewal of the Fishery Order should be discussed.
5. An approach should be determined to the leasing arrangements for the Bangor Deep and Ballast Bank mussel layings.

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.

2. Renewal of the Fishery Order

- 2.1 The existing Fishery Order will expire on 31st March 2022. The formal application for renewal of the Fishery Order was submitted to the Cabinet Secretary for Environment and Rural Affairs on the 9th August 2018. Officers at the Welsh Government have acknowledged receipt of this application and have confirmed that it was submitted in accordance with the administrative and legal requirements currently in place.
- 2.2 A letter concerning the process for renewal of this Fishery Order has recently been received from the Cabinet Minister (see Annex A to this report). This letter indicates that the Minister considers that the current administrative procedures for Fishery Order applications are unsatisfactory. The Minister indicates that new procedures will be developed and put in place in the latter half of this year (2019). The Minister

wants the new process to give clarity to applicants and to set out meaningful timescales for each stage of the process and regular updates.

- 2.3 The Association has been invited to consider whether our application should proceed under the current processes or whether we would prefer to proceed under the new process when this is available.
- 2.4 The Association is invited to consider this letter and the appropriate response to make to the Minister.

3. Engagement with stakeholders

- 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. A copy of the timetable is attached at Annex A. This timetable has been updated to show progress to date.
- 3.2 It was agreed at previous Association meetings that it would be appropriate to start a period of stakeholder engagement ahead of the formal consultation on renewal of the Fishery Order. A brief update on progress is presented below/
 - a) **Interested parties** - representatives of the Association were invited to attend a meeting of Beaumaris Town Council in July 2019. This provided a valuable opportunity to give Town Councillors a briefing on the Fishery Order and plans for its renewal.
 - b) **Land owners** - to ensure that all landowners are aware of the proposal to renew the Fishery Order meetings have been held with the Penrhyn Estate, The Crown Estate, Ynys Môn County Council and Anglesey Boat Company. The Association has also corresponded with Gwynedd County Council.
 - c) **Stakeholders** - the MSFOMA Secretariat has spoken with representatives of the Royal Yachting Association (RYA) and is due to be meeting with them on March 12th. Meetings are being sought with RYA Cymru and the new Commodore of the Royal Anglesey Yacht Club.
 - d) **Liaison groups** - MSFOMA has representation on the Caernarfon Harbour Trust Marine User Group. The next meeting of this group is due to take place on March 12th, and the Secretariat is due to attend this meeting. It was not possible for a representative to attend the last annual meeting of the Beaumaris Pier User Group, but a representative will attend the next meeting.
- 3.3 It has been proposed to organise “drop in” sessions for casual stakeholders to attend. Given the recent response of the Minister concerning the application process, it would seem appropriate to delay these meetings until there is more clarity about the process that WG are likely to implement for progressing the application.
- 3.4 The Association is advised that information about the renewal of the Fishery Order has been available on the MSFOMA website (www.msfoma.org) since February 2018.

4. Timescale for renewal

- 4.1 The Association has submitted its application for renewing the Fishery Order in August 2018, giving a period of nearly 3½ years for Welsh Government to follow the renewal processes that are set out in legislation.
- 4.2 It is implicit from the Minister's letter (Annex A) that no meaningful progress with the application has been made in the 7 months since the application was submitted. Given this situation, that a new administrative process is considered necessary, and the number of jobs that are dependent on this Fishery Order it seems appropriate for the Association to consider contingency plans to mitigate the risk that administrative delays will prevent the Fishery Order from being renewed by the end of March 2022.
- 4.3 It would seem appropriate for the Association to discuss contingency plans and mitigation options to response to the risk of delay in the application process at this meeting and for the Chair to inform the Minister of the outcome of this discussion.

5. Lease fees

- 5.1 Eight leases for cultivation areas in the Menai Strait are presently issued. The fee charged for each area is 1/8 of the total income required by the Association's Financial plan. The charge for each area in the 2018-19FY is just under £3,900 and is due to increase to just over £4,000 p.a. in 2019-20.
- 5.2 At recent meetings of the Association there has been some discussion of the merit of revising the lease fees, with the aim of matching the fee charged for each area to its productivity. Some scenarios for this were modelled and presented for discussion at the MSFOMA meetings last year. At the December meeting it was resolved that lease fees should not be altered until there is greater clarity on what is likely to happen with the renewal of the Menai (West) Fishery Order.
- 5.3 At the April 2018 meeting of the Association it was agreed that the lease holders for the two layings that were established in 2016 should be granted a deferral of their lease fees for a period of 12 months. This decision was taken in recognition of the unprecedented shortage of seed mussels which is affecting all lease holders and the lessees for these new areas in particular.
- 5.4 In February 2018 the Chair wrote to the lessees concerned to seek an update on their plans for developing their areas. A copy of the Chair's letter is attached at Annex C. The responses from the lessees are attached Annex D and Annex E.
- 5.5 The Association is invited to consider these responses and to determine how to proceed with respect to these layings.

6. Code of Good Practice for mussel seed movements

- 6.1 The Menai Strait mussel fishery operates in accordance with a Code of Good Practice which was drawn up in collaboration with the Countryside Council for Wales in 2008. The purpose of this Code is to manage the risk of Invasive Non-Native Species (INNS) being translocated as a consequence of mussel seed movements.
- 6.2 A verbal update on progress with the review of this Code will be provided at the meeting.

MSFOMA Secretariat
March 2018

Annex A: Letter from Cabinet Minister Lesley Griffiths AM concerning changes to the application process for Fishery Orders.

Lesley Griffiths AC/AM
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs



Llywodraeth Cymru
Welsh Government

Alan Winstone, Chair
Menai Strait Fishery Order Management Association (MSFOMA)
Port Penrhyn,
Bangor,
LL57 4HN
info@msfoma.org

28th February 2019

Dear Alan,

Menai Strait (East) – Mussels and Oysters (MSFOMA)

I write regarding your Several Order application, which you submitted to Welsh Government on the 9 August 2018.

I recognise the process of dealing with applications for such Orders has been unsatisfactory. I have directed my Officials to review and where possible standardise, streamline and simplify the administrative procedures involved in such applications. Several Order applications involve the consideration of relevant environmental and other evidence and are, inevitably, complex and will always take time but, in future, I expect clear guidance for applicants. I hope to give clarity on the process which will apply to all future applications. I also anticipate applicants will be given meaningful timeframes for each stage of the process and regular updates.

As you will appreciate, Welsh Government resources are currently being significantly absorbed with the process of preparing for EU withdrawal and, consequently, I anticipate the new administrative processes will be agreed and put into practice in the latter half of this year.

Given the work streams identified above, my Officials will not be able to turn to a detailed consideration of your application until the review of the administrative procedures involved in such applications has been completed and the new procedures are in place.

I note your application is to renew an existing Several Order, which is not due to expire until 2022.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@gov.wales

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

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

I would like to invite you to consider your application and decide whether you wish to proceed under the current processes or whether you would prefer for your application to be considered under the proposed new process when this is available.

Regards,

A handwritten signature in black ink, reading 'Lesley Griffiths'. The signature is written in a cursive style with a large, sweeping 'L' and a long, trailing 's'.

Lesley Griffiths AC/AM
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs

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

Year	Quarter	Activities	Plan / Update / Progress
2018	Q1	a) Prepare application for renewal of Fishery Order	<ul style="list-style-type: none"> Draft application forms presented to MSFOMA meetings in January & February.
		b) Ongoing liaison with stakeholders, NRW, land owners.	<ul style="list-style-type: none"> Consultation carried out with public bodies (February 2018) Meetings held with Anglesey Boat Company, Ynys Môn County Council (landowners).
	Q2	c) Prepare application for renewal of Fishery Order	<ul style="list-style-type: none"> Review of application; discussions of requirements with Welsh Government.
	Q3	d) <u>Submit formal application for renewal of Fishery Order.</u>	<ul style="list-style-type: none"> <u>Application submitted in August 2018.</u>
		e) Plan liaison with wider stakeholder community (public, recreational users, NGOs etc)	<ul style="list-style-type: none"> Organisations have been identified.
	Q4	f) Liaison with wider stakeholder community. g) Respond to WG queries about application.	<ul style="list-style-type: none"> Initial approaches made to key organisations. Arrangements for stakeholder events to be agreed by MSFOMA.
2019	Q1/Q2	h) Ongoing stakeholder liaison. i) Respond to WG queries about application.	<ul style="list-style-type: none"> Discussion with RYA about renewal; meeting at Port Penrhyn scheduled. Attend Caernarfon Harbour Trust meeting. Liaison with WG officials about application
	Q3/Q4	j) (Possible) Formal consultation on Fishery Order. k) Respond to consultation feedback. l) Address consultation issues either informally or through Public Inquiry.	<ul style="list-style-type: none"> <u>NOTE</u> - this now seems unlikely; it is more likely that a new application will be required to meet administrative changes due to be implemented by WG.
2020		m) Progress application process.	
2021		n) Progress application process.	
2022	1 st April	o) DEADLINE FOR NEW ORDER	

Annex C: Letter from Chair to lessees of Bangor Deep and Ballast Bank mussel layings.

Menai Strait Fishery Order Management Association

Port Penrhyn, Bangor, LL57 4HN

James Wilson
Môn Mariculture
Gronant
Llanfachraeth
Holyhead
Anglesey
LL65 4NH

27th February 2019

By Post and e-mail

Dear James

MENAI STRAIT OYSTER AND MUSSEL FISHERY ORDER 1962: LEASE FEES

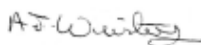
I am writing further to my letter of 9th August 2018. In that letter I advised you that MSFOMA had resolved on 26th April last year to defer your lease fees for the current (2018-19) financial year such that you would be given a period of 12 months to pay your outstanding lease fees and any fees due during the current Financial Year. In taking this decision, the Association was keen to strike a balance between meeting its formal duties set out in the lease for your laying and the desire to encourage the development of new cultivation areas.

The next meeting of the Association is due to take place on the 13th March 2019. The Association will need to consider how best to proceed with respect to your laying and the deferred lease fees.

I would like to ensure that the Association can take a balanced decision on this matter. It would therefore be very helpful if you could provide me with a review of the action that you have taken to progress shellfish cultivation in this laying over the past few months and your plans for developing the area. This information would help the Association to evaluate the future viability of this laying and how best to proceed in this matter.

If you have any further comments or queries, please get in touch with me.

Yours sincerely



ALAN WINSTONE
Chair, MSFOMA

Menai Strait Fishery Order Management Association

Port Penrhyn, Bangor, LL57 4HN

Keith Andrews
Menai Mussels Ltd
36 Stad Ty Croes
Llanfair PG
Anglesey
LL61 5JR

27th February 2019

By Post and e-mail

Dear Keith

MENAI STRAIT OYSTER AND MUSSEL FISHERY ORDER 1962: LEASE FEES

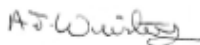
I am writing further to my letter of 9th August 2018. In that letter I advised you that MSFOMA had resolved on 26th April last year to defer your lease fees for the current (2018-19) financial year such that you would be given a period of 12 months to pay your outstanding lease fees and any fees due during the current Financial Year. In taking this decision, the Association was keen to strike a balance between meeting its formal duties set out in the lease for your laying and the desire to encourage the development of new cultivation areas.

The next meeting of the Association is due to take place on the 13th March 2019. The Association will need to consider how best to proceed with respect to your laying and the deferred lease fees.

I would like to ensure that the Association can take a balanced decision on this matter. It would therefore be very helpful if you could provide me with a review of the action that you have taken to progress shellfish cultivation in this laying over the past few months and your plans for developing the area. This information would help the Association to evaluate the future viability of this laying and how best to proceed in this matter.

If you have any further comments or queries, please get in touch with me.

Yours sincerely



ALAN WINSTONE
Chair, MSFOMA

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

Annex D: Response from lessee of Ballast Bank mussel laying.

Menai Mussels Ltd

36, Stad Ty Croes

Llanfair P.G.,

Anglesey

LL61 5JR

02-03-2019

Re MSFOMA letter (27-02-19)

Dear Alan,

Thank you for your letter dated February 27th 2019.

In response to your queries regarding cultivation in the laying leased to myself and Dewi; as you are aware, this has been a difficult period for all concerned due to the lack of seed, meaning that no cultivation has been possible over the last 12 to 18 months. The quality of the existing stock is not up to standard for current market demand and therefore no revenue has been generated during that period.

In the absence of seed, we have been continuing maintenance by having areas cleared in readiness for when it does become available.

As soon as the current situation changes and seed becomes available, we will continue with cultivation of the bank and generation of income. Clearly, no-one can guarantee that the current situation vis-à-vis the dearth of seed will improve anytime soon. Therefore we cannot say for certain what will transpire over the next 12 months.

Yours sincerely,

Cpt M.K. Andrews

Annex E: Response from lessee of Bangor Deep mussel laying.

Jim Andrews (AWJ)

From: James Wilson <jamesmussels@gmail.com>
Sent: 06 March 2019 14:49
To: JimAndrews
Cc: KeithAndrews
Subject: Lease - new areas

Jim

My apology for not having responded sooner on this. Brexit is making things a little hectic at the moment.

If I could make three points in respect of the issue of leases and the more recently designated areas.

In the first instance, in respect of cultivation - as you will be well aware, the last 4 years has seen either suboptimal or no accessible seed areas whatsoever. This has impacted on the overall level of cultivation within the order area boundaries. It is unfortunate that this period has coincided with the time frame that then new areas have been under leases conditions.

As a second point I think that it is worth bearing in mind that in respect of both Area A and B - the initiative was driven by the applicants. Both sets of applicants undertook significant effort and investment in time and resources to ensure that the requirements of msfoma and nrw were met regarding management and environmental concerns. This stands in contrast to any previously allocated area - where applicants for leases merely had to apply to the relevant management body at the time (previous most recent area so leased was area 6 in 1997).

It is also worth noting that in the past many of the leased areas were subject to considerably lower fees (£900/yr) - even after being under successful cultivation for many many years.

We will of course respect the outcomes of this review. We maintain our hopes that sufficient amounts of mussel seed are evident and available this year so that the fishery order can recover to something closer to normal production. Of course given the end of the current fishery order in 2022, we are mindful of the risks associated with the current uncertainty in respect of Welsh Government capacity to bring forward a new replacement order within the remaining time frame

Best to you and see you next week

James

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. An application for renewal of this Fishery was submitted to Welsh Government in 2013. 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 recent progress.

Recommendations

1. That the report is received
2. That the Association considers the response that should be made to the Minister's recent letter outlining the timetable for progressing this Fishery Order application.
3. The revised management strategy for Pacific Oysters (*Crassostrea gigas*) should be discussed and approved by the Association (subject to amendments agreed at this meeting).
4. That the Association considers how to recover costs accrued during the renewal process.

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. An application for renewal of the Order was submitted to Welsh Government by MSFOMA in 2013.
- 1.2 After a series of discussions with Welsh Government officials in the years following this application, a draft Fishery Order was published for consultation in 2015. This consultation generated many objections from the local community. The Association worked closely with the objectors during the period 2015-17 to allay and address their concerns. In July 2017 the Chair of the Association wrote to the Cabinet Secretary to ask her to determine the application for the Fishery Order.
- 1.3 This report provides an update on recent progress in response to that request.

2. Update

- 2.1 During June 2018 meetings were held with representatives of the Welsh Government and with Lesley Griffiths AM, Cabinet Secretary for Energy, Planning and Rural Affairs. The Minister made a commitment at the meeting in June to make a determination on the Fishery Order application within two months.
- 2.2 At the MSFOMA meeting in September 2018, WG officials in attendance at the meeting confirmed that their lawyers had advised them that there were two options for progressing the Order that could be recommended to the Cabinet Secretary:-
 - a) **Option 1** was to call a Public Inquiry in response to the objections that have been raised.
 - b) **Option 2** was to modify the boundary of the Fishery Order to remove the areas that MSFOMA has identified will not be used for shellfish production, and which are the focus of the objections that have been raised.
- 2.3 After careful deliberation at the September meeting the Association voted with some reluctance to follow Option 2.
- 2.4 Despite the assurances that this decision would expedite progress with the Fishery Order application there was no evidence of any progress in the following months. The Chair wrote to the Minister to enquire about progress in September and November 2018 (reported to our last meeting) and again in January and February 2019 (see Annexes A and B of this report).
- 2.5 Given the concern about the lack of progress or any communication from the Minister, the Chair also wrote to Rhun Ap Iorwerth AM (see letter at Annex C) to request support. Mr Ap Iorwerth subsequently approached the Minister to encourage her to meet with the Association, and also submitted an oral question to the Minister at an Assembly hearing on the 20th February 2019 asking "*Will the Minister make statement on recent discussions held on the Menai Strait Fishery Order?*" (OAQ53457). The order of business prevented this question from being put directly to the Minister, but a written response is anticipated.
- 2.6 A response to these queries was received from the Minister on 28th February 2019 (Annex D). The key points to note from this letter are that a review of the application for renewal of this Order was carried out in December 2018 and concluded that a review of the Habitats Regulations Assessment that had been submitted with the application in 2013 was now required. This review is being carried out by the Centre for Applied Marine Science at Bangor University. The review is due to be completed by the end of April 2019, after which a new Order will be drafted (a process expected to take 12-16 weeks). After this, the draft Order would be laid before the Assembly for a period of 21 days. Given this schedule the Minister expects that the Order would come into force no earlier than August 2019.
- 2.7 The Association is asked to consider the update from the Minister and how best to respond.

3. Pacific Oysters

- 3.1 At the last meeting of the Association it was noted that the management strategy for Pacific Oysters (*Crassostrea gigas*) in the western Menai Strait which had been submitted with the Fishery Order application in 2013 needed to be updated to take account of practical issues arising from the delay in the application process.
- 3.2 Following the last meeting the Secretariat convened a phone conference with the oyster farmers from the western Menai Strait to discuss and agree a revised approach. A copy of the revised management strategy that was developed from this discussion is attached at Annex E of this report.
- 3.3 The Association is invited to discuss and, pending the inclusion of any amendments, approve the revised management strategy attached at Annex E.

4. Costs

- 4.1 At previous meetings of the Association it has been noted that costs have been accrued by MSFOMA in connection with the application for the Fishery Order. These costs will be recovered from the leaseholders in the new Fishery Order area.
- 4.2 The Association is invited to consider options for recovering costs, taking account of the duration of leases for shellfish cultivation (7 years) and the proposed duration of the Fishery Order (28 years).

MSFOMA Secretariat
March 2019

Annex A: Copy of letter sent to the Cabinet Minister for Environment & Rural Affairs in connection with the renewal of the Menai Strait (West) Fishery Order, January 2019.

Menai Strait Fishery Order Management Association

Port Penrhyn, Bangor, LL57 4HN

Lesley Griffiths, AM
Minister for Environment, Energy & Rural Affairs
Welsh Government
Cardiff Bay
Cardiff
CF99 1NA

28th January 2019

By Post and E-mail

Dear Minister

SHELLFISH FARMING IN THE MENAI STRAIT

I am writing further to our very productive meeting with you in Porth Penrhyn on the 21st June 2018 and my subsequent letters of 20th September and 28th November.

We are now becoming very concerned at the lack of progress that has been made in the past 6 months with the renewal of the "Fishery Order" in the western Menai Strait. This delay is having a serious impact on the shellfish farmers who want to develop their operations in the western Menai Strait, and who have now been working for over 10 years towards this goal. Discussions with WG officials started before the old Fishery expired in 2008, and MSFOMA submitted its formal application for the Order seven years ago in October 2012. It is a sobering thought that the Americans took eight years to put a man on the moon and, closer to home, the Severn crossings each took less than 4 years to construct. Is the approval of a Fishery Order really more difficult to accomplish than these tasks?

In MSFOMA we have a lot of experience and technical expertise on Fishery Orders. Our Technical Secretary, Dr Jim Andrews, was previously CEO of the North Western and North Wales Sea Fisheries Committee, which established the Menai Strait as the UK's leading shellfish farming area. I was previously employed by Environment Agency Wales and led on the introduction of the Dee Estuary Cockle Fishery Regulating Order which was established in 2008 after a week-long Public Inquiry. This Fishery Order established a new licensing system for the fishery in the Dee Estuary which has now operated successfully for the past 10 years under the Order.

Along with the shellfish farmers in the area, we are both exasperated and worried about the pace of progress with a process which we believe is relatively simple and straightforward, and which is proven to be the best means to establish sustainable and productive coastal shellfisheries.

We regret to say that it very much appears to us that whilst some of the officers in the Welsh Government Marine & Fisheries Division are working hard with us to try to make progress with the renewal of this Fishery Order, their efforts are being thwarted by others. We understand from our colleagues elsewhere in Wales that they have had similar experiences. We are all very concerned that the WG Marine & Fisheries Division is either incapable or unwilling to progress the making or renewal of the legislation that is vital for businesses and livelihoods in parts of rural Wales.

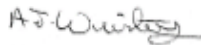
Menai Strait Fishery Order Management Association
Company registered in England and Wales No 07163689

This is becoming an urgent matter. At the end of March 2022, the Fishery Order in the eastern Menai Strait will expire. We submitted our application for renewal of this Fishery Order last year. If this Order is not renewed, then the WG Marine & Fisheries Division will be single-handedly responsible for the demise of the biggest fishery in Wales and the most successful aquaculture site in the whole UK; not to mention the loss of year-round employment for more than 20 people.

We hope that you will take action and personally take control of this issue. As we have said before, this is an opportunity for you to build resilience into the Welsh Fisheries sector, to safeguard jobs, and to show to the rest of the UK that our devolved administration here in Wales is capable of meeting the challenges facing the fishing sector in the future. We would be happy to meet with you and your senior officials to help move this forward at the earliest opportunity.

We look forward to news of progress and a decision on the renewal of this Fishery Order.

Yours sincerely



ALAN WINSTONE
Chair, MSFOMA

cc. Bethan Jones, Head of Fisheries Policy, Welsh Government

Annex B: Copy of follow-up letter sent to the Cabinet Secretary for Environment & Rural Affairs in connection with the renewal of the Menai Strait (West) Fishery Order, February 2019.

Menai Strait Fishery Order Management Association

Port Penrhyn, Bangor, LL57 4HN

Lesley Griffiths, AM
Minister for Environment, Energy & Rural Affairs
Welsh Government
Cardiff Bay
Cardiff
CF99 1NA

27th February 2019

By Post and e-mail

Dear Minister

SHELLFISH FARMING IN THE MENAI STRAIT

I am writing further to our meeting with you in Porth Penrhyn on the 21st June 2018 and my subsequent letters of 20th September, 28th November and 28th January.

When we met with you last June we were very optimistic that you would drive forward progress with shellfish farming in Wales. Your assurance that you would take a decision on the renewal of the Fishery Order in the western Menai Strait within 2 months was a refreshing change after several years of delays and excuses. We are very disappointed that our optimism seems to have been misplaced. Over 8 months have passed since then, and there has been no significant progress.


We are very concerned about the lack of progress and the absence of a response from you to our two most recent letters. The matters we have raised with you are of real and immediate importance to the shellfish industry in Wales. The lack of progress with the implementation of Welsh Government policy over many years is impacting peoples' lives and livelihoods. With an uncertain Brexit outcome looming, the failure with this entirely domestic aspect of fisheries policy is a considerable concern to the Welsh shellfish industry.

Your opportunity to take control and show the rest of the UK that the Welsh Government is capable of sustaining our status as the leading shellfish producing nation in the UK is fading fast. If the fishery orders in the Menai Strait cannot be renewed, then investment and jobs will leave this once-prosperous part of the Welsh fisheries portfolio.

This situation is becoming urgent. We feel that the best way to expedite progress would be for us to meet with you again. We would welcome an opportunity to work with you to identify why no progress has been made, and to find solutions to any difficulties that your officials have encountered.

We would be more than happy to travel to your offices in Cardiff or in your constituency for such a meeting at your convenience. We look forward to your response to this proposal.

Yours sincerely



ALAN WINSTONE
Chair, MSFOMA

cc. Rhun Ap Iorwerth, AM
Bethan Jones, Head of Fisheries Policy, Welsh Government

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

Annex C: Copy of letter sent to Rhun Ap Iorwerth AM in connection with the renewal of the Menai Strait (West) Fishery Order, January 2019.

Menai Strait Fishery Order Management Association

Port Penrhyn, Bangor, LL57 4HN

Rhun Ap Iorwerth AM
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

28th January 2019

By Post and e-mail

Dear Rhun

RENEWAL OF MENAI STRAIT (WEST) FISHERY ORDER

I am writing further to my letter of 30th November which sought your assistance with the renewal of the Fishery Order in the Western Menai Strait which our Association and some of your constituents have been trying to progress for several years.

We are very grateful that you wrote to the Cabinet Minister on our behalf in response to this request. I am writing with a further update on progress, or rather the lack of it, and to request your assistance once again.

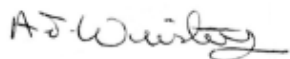
Although we have not yet received a response to our own correspondence with the Cabinet Secretary last November, we have been working closely with some of her officials. We are dismayed to report that it seems to us that despite their efforts we are still making no progress. It very much seems to us that the Welsh Government Marine & Fisheries Division is either incapable of renewing this Order or is unwilling to do so. We have written to the Cabinet Minister today to express this point of view to her (see enclosed letter).

Our concern about this situation is growing by the day because we are now in the process of trying to renew the Fishery Order in the eastern Menai Strait. The shellfish farmers working in that area are all Anglesey residents. They have developed this area into the UK's most important shellfish farming site. They are now concerned that their hard work and businesses are all at risk if the WG Marine & Fisheries Division does not renew their Fishery Order in 3 years' time.

Could we please ask you to encourage the Cabinet Minister to take control of this situation and ensure that the Marine & Fisheries Division is working with, rather than against, the future of Welsh shellfish farmers.

I hope that you can assist with this request. If you have any comments or queries about this letter, please get in touch with me.

Yours sincerely



ALAN WINSTONE
Chair, MSFOMA

Enc.

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

Annex D: Copy of letter received from Lesley Griffiths AM, Minister for Energy, Planning and Rural Affairs.

Lesley Griffiths AC/AM
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig
Cabinet Secretary for Energy, Planning and Rural Affairs



Llywodraeth Cymru
Welsh Government

Alan Winstone, Chair
Menai Strait Fishery Order Management Association (MSFOMA)
Port Penrhyn,
Bangor,
LL57 4HN
info@msfoma.org

28th February 2019

Dear Alan,

Menai Strait (West) – Mussels and Oysters (MSFOMA)

I write regarding your Several Order ("Order") application in the western Menai Strait.

A review on the status of your application was carried out in December 2018. I regret to inform you it has identified further work needs to be completed before your application can be progressed.

The first substantive item is a renewed Habitats Regulation Assessment (HRA). The HRA for your application was completed in 2013. As you will appreciate, environmental conditions may have changed since the original HRA was completed and regrettably this means the HRA (and all other relevant evidence) now needs to be revisited and updated. I have determined this initial consideration of the HRA will be carried out independently by Bangor University, whilst an evidence review will be carried out by fisheries science officials here in Welsh Government. The Welsh Government will then be in a position to reach an updated HRA conclusion. I apologise for the delay and have asked for the utmost urgency and am advised the evidence review and renewed HRA review will be completed by end of April 2019.

If, following these reviews, the application can still progress, there are several more steps which must then be followed before the Order can be made.

- The drafting of the proposed Order will need to be revisited in order to ensure all essential conditions are included. Given the significant pressures on our resources in preparing for Brexit, this process could take 12 to 16 weeks. I will of course ask for urgency, but ensuring our legislation is operable post Brexit is my highest priority.

Bae Caerdydd • Cardiff Bay
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CF99 1NA

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Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@gov.wales

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

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

- The proposed Order will, once drafted and translated, follow the negative procedure. The Order will then be made and laid before the National Assembly for Wales, followed by a period of 21 days before the Order may come into force.

The above process is very dependent on resources being available and I am unable to be definitive, given the uncertainties around Brexit. However, the best estimate at present is that the coming into force date will be no earlier than August 2019.

I recognise the process of dealing with applications for such Orders has been unsatisfactory. I have directed my Officials to review and where possible standardise, streamline and simplify the administrative procedures involved in such applications. Several Order applications involve the consideration of relevant environmental and other evidence and are, inevitably, complex and will always take time but, in future, I expect clear guidance for applicants. I hope to give clarity on the process which will apply to all future applications. I also anticipate applicants will be given meaningful timeframes for each stage of the process and regular updates.

That is for the future. Meanwhile I can only apologise again, for the delays to your application. It will be the last under the current arrangements. I expect significant improvements in dealing with such applications in future.

Regards,



Lesley Griffiths AC/AM

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig
Cabinet Secretary for Energy, Planning and Rural Affairs

Annex E: Copy of revised Pacific Oyster strategy proposed for the Menai Strait (West) Fishery Order. Modifications to original text shown as “track changes”.

Annex 4: Management strategy for Pacific oyster production in Menai Strait (West).

Background

Under the previous Menai Strait (West) Fishery Order, the Pacific oyster, *Crassostrea gigas*, was farmed on lays 6, 7 and 11. It is proposed that the same farming practices will be followed in the new Fishery Order on the same lays, with the same agreed maximum levels of production (described in the Fishery Order Management Plan). More recently concerns have been expressed that increasing sea temperatures may allow the farmed oysters to become a source population for an established population at some stage in the future; presently there are no wild populations in North Wales. When *C. gigas* was first introduced into the UK it was believed that they would never become established (*i.e.* present in the wild as a self-sustaining population) as sea temperatures were thought to be too low. This has proved not to be the case, with populations found in a number of localities further south in the UK; a proportion of these have regular spat fall and are therefore either self-sustaining or regularly supplied by a source population.

There is an ongoing debate in the scientific literature about the ecological impacts of established *C. gigas* populations; it is not yet clear whether impacts are positive or negative, or a mix of both (Troost, 2010). The most recent review of the status of this species in Wales indicates that it is currently a “Medium Risk” species (Welsh Government, 2017). ~~However English Nature consider this species to be invasive (having a negative impact) and the Countryside Council for Wales considered it to be close to this status (Syvret et al. 2008).~~ Concerns have ~~been~~ also been expressed regarding economic impacts, firstly related to possible effects on amenity value of a shore because of the sharpness of this species shells, and secondly, in the Dutch Wadden Sea, Pacific oyster reef formation has occurred over commercially exploited mussel beds, though this is due in part to warmer summers simultaneously reducing recruitment to mussel beds (Nehls et al. 2006). Even though abiotic conditions do not currently allow *C. gigas* to become established in north Wales, application of the precautionary principle is

required. This strategy sets out a management strategy that includes routine monitoring, and requires a management response should abiotic conditions become suitable or *C. gigas* adapt to local conditions, by requiring a reworking of the appropriate assessment for the Fishery Order.

The strategy will be followed closely for the first 5 years of cultivation operations under a new Fishery Order in the western Menai Strait, until 1st July 2018, ~~After which the strategy will be reviewed in consultation with Natural Resources Wales. Following the review of the strategy it will~~ may no longer be permitted to introduce diploid oysters. ~~In that case, after that date~~ only triploid *C. gigas* oysters will be permitted, in line with current WG Fisheries policy for new *C. gigas* oyster farms.

An annual report will be given to MSFOMA during the life of the Order to show the results of monitoring for spat settlement throughout the Order site and in the areas adjacent to the Order site to ensure that there is no release and settlement of spat from the Order site.

Scientific Basis

Abiotic Conditions in the present

Currently the Menai Strait West has a very low invasability (the degree to which the environment cannot resist invasion) for Pacific oysters as the abiotic environment is not suitable. This is because for this species:

- i) 600 degree days above 10.55 °C are required for gonads to develop enough for spawning to occur
- ii) spawning requires a temperature above 18°C
- iii) spawning only occurs below a salinity of 32
- iv) following spawning a further 220 degree days above 10.55 °C are required for spatfall for occur.

(Syvret *et al.* 2008 and references therein, FAO 2005)

Given these requirements for successful reproduction of *C. gigas* an unusually warm year would have to occur simultaneously with lower than normal summer salinity. Furthermore, in the present, the 600 degree days above 10.55 °C required for spawning to occur is normally reached in mid-September at the earliest, when temperatures have passed their peak and are below the 18 °C required for spawning. Spawning therefore would only occur in exceptionally warm years where salinity is simultaneously lower than the normal >32 (the Menai Strait is not an estuarine environment). Given that temperatures would already be falling when larvae were produced, larval development would be prolonged or would not occur. Increased duration of the larval stage would result in subsequent wide dispersal and greater predation resulting in few, widely-dispersed spat. The allee effect (where, for very small populations, population growth rate is proportional to population density) would reduce the likelihood that such widely-dispersed individuals would be able to form self-sustaining populations.

Thus in the present climate regime the abiotic environment is not invasable and the proposed oyster farming operations are highly unlikely to result in wild self-sustaining populations. Syvret *et al.* (2008) present temperature data from Moelfre, Anglesey, and come to a similar conclusion. Using the classification of risk from Syvret *et al.* (2008) and Syvret and Fitzgerald (2008) Menai Strait (West) is a 'low risk' area.

Future changes in abiotic conditions

In the 4 decades before 2000 annual temperatures in the Irish sea rose by about 1°C (Evans *et al.* 2003, based on data collected in Menai Bridge and the Isle of Man), if this trend continues temperature in the Menai Strait will be regularly suitable for spatfall in about 40 years (J. King, unpublished), assuming a linear increase in average temperature and a present day baseline derived from weekly temperature data from Menai Bridge in 2009 and 2010, and continuous readings taken on the Menai Strait (West) Fishery Order in the summers of 2003 and 2004). If summer salinity in the Menai Strait were to also drop below 32 in sufficiently warm years then spawning and spatfall could occur.

Sea temperatures in SE England are already warm enough for Pacific oysters to reproduce, at least in some years and, as waters warm around the UK, the geographic range in which wild populations are capable of becoming self-sustaining will spread. In turn the already-established populations in SE England (or indeed those in France (Child *et al.* 1995, Syvret *et al.* 2008)) could spread around the UK, depending on the prevailing hydrodynamics, as larvae are capable of travelling long distances. Invasable environments would not necessarily have to be close together to act as stepping stones. If conditions in the Menai Strait were to become sufficiently warm for Pacific oysters to establish wild populations then it would also become invasable to populations spreading around the coast. This protocol can only aim to avoid farming activities in the Menai Strait (West) fishery order being the founder population for self-sustaining wild Pacific oyster populations.

Adaptation to local conditions

There is no evidence that we are aware of that the Pacific oyster has adapted to breed in cooler than expected conditions or in fully marine environments in the UK.

Risk analysis

Invasion pressure, IP, can be thought of as a function of the number of individuals in the population, N, and the probability of establishment by a single individual, P (Leung *et al.* 2004, Davis 2009):

$$IP = 1 - (1 - P)^N$$

(Equation 1)

Figure 1 is a plot of invasion pressure isobars, for various combinations of P and N (note P and N have log scales). It is not possible to quantify the invasion pressure function for the environment unless values are known for P and N, but Figure 1 is useful for qualitatively considering risk.

The *probability of establishment* is dependent on the environment's invasability (warming seawater with simultaneously lowered salinities, or the population adapting to the existing conditions would increase or effectively increase the abiotic environment's invasability). In the present the probability of one individual becoming established is highly unlikely, due to the abiotic environment not being suitable. Point A on Figure 1 is an example of this situation, with a *probability of establishment* of zero. Point B is an example where increasing sea temperatures and a period of low salinity increases the probability of establishment.

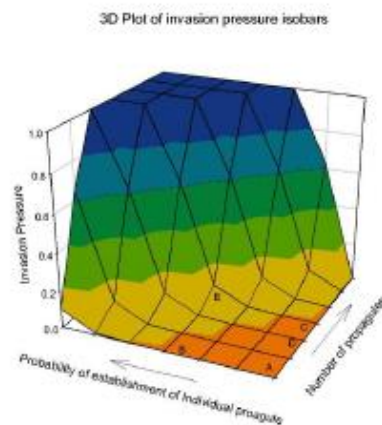


Figure 1. 3D plot of invasion pressure (IP) isobars. (Note that lower 2 axes are log scales and this is a qualitative representation). IP is a function the number of propagules (fertile individual oysters in this case) and the probability of an individual propagule establishing in the wild (how invasable the environment is - currently zero as abiotic conditions are not suitable). The figure has two plains, one on the bottom right where invasion pressure is 0 (no invasion occurs) and one on the top left where invasion pressure is 1 (invasion occurs). Between these is a steep slope where the system is shifting from one state to another. A = Low number of fertile oysters and unsuitable abiotic conditions, B = Low number of oysters but

abiotic conditions becoming more suitable, C = High number of oysters but abiotic conditions unsuitable, D = as for C, but use of chemically-induced triploid oysters reduces fertile population by an order of magnitude, E = High number of fertile oysters and abiotic conditions more suitable. At E a low level of (or intermittent) spatfall may occur, and either further increases in fertile oyster numbers or increases in suitability of the abiotic environment would rapidly result in establishment. Note that triploids (D) would

require the abiotic environment to become more suitable than it needs to be for diploids (C) for invasion to occur.

The *number of propagules* is simply the number of individuals that are potentially able to reproduce; the greater the number of individuals the more likely that wild populations will become established (*e.g.* point C has a higher population of farmed oysters than point A). The number of individuals that can reproduce can be manipulated through the use of triploids. Chemically-induced triploids are usually >90% sterile, so use of these would decrease the value for *number of propagules* by an order of magnitude (*e.g.* from point C to point D). The situation where there is both a high number of fertile individuals and more suitable environmental conditions for reproduction occur is represented by point E on Figure 1. Once the slope in Figure 1 is reached it is likely that some wild individuals will be found and the higher up the slope a point is the more likely it will be that significant spat fall is observed; once a spatfall has occurred these would have to be added to the *number of propagules*.

The aim of any management strategy would be to keep the system close to the bottom right of Figure 1, on the plain where *invasion pressure* is zero (i.e. they do not breed in the wild), even if climate change makes the environment more invasable in the future.

The risks to be addressed are as follows:

- 1) Abiotic conditions become suitable for *C. gigas* to establish in the wild during the life of the order.
- 2) Oysters adapt to the existing abiotic conditions during the life of the order (this would likely be only a small percentage of stocks resulting in a small effective population size).
- 3) If unmarketable oysters are left on site over the long term they will be present should longer term upward temperature /reduced salinity trends occur after the life of the order, for the life span of the oysters.

Management strategy

Whilst the current chances of a successful spatfall are extremely low (for reasons discussed above) the strategy adopts the precautionary principle, assuming that the warming trend in the Irish Sea over the last 40 years will continue and that at some future date warmer, wetter summers will result in sufficiently high year-long sea temperatures and sufficiently low salinity for spatfall to occur. In spite of the fact that there are no reported cases of Pacific oysters adapting to local conditions that we are aware of, the management strategy assumes that this is possible and that phenotypic plasticity or epigenetic adaptation may allow this. The strategy will deal with housekeeping of large and misshapen oysters, as well as accidentally spilled individuals, to avoid remnants of farming activity remaining in the vicinity in the long term (i.e. beyond the life of the order). The strategy is closest to Option C in the Pacific Oyster Protocol (Syvret *et al.* 2008), which is aimed at diploid culture in medium risk areas. As triploids will be farmed and Menai Strait (West) is currently a low risk area, this is an acknowledgment that if sea temperatures continue to rise, the Menai Strait would at some point in the future switch from a low risk area to a medium risk, and that chemically-induced triploidy is not 100% effective.

Husbandry and management procedures for Pacific Oysters under this strategy will be as follows:

- 1) The cultivation of diploid Pacific Oysters shall take place for the first 5 years of operation of a new Fishery Order in the western Menai Strait subject to a favourable outcome of monitoring and management activities described in items (5)-(11) below and the triggers for action in item (13).
- 2) No later than five years after the granting of a Fishery Order, the Grantee will present the Minister with a review of whether the cultivation of diploid Pacific Oysters is still appropriate or whether it is appropriate and practicable to cultivate only triploid oyster and a recommendation on whether diploid or triploid oysters should be cultivated.
- 3) The review and recommendation specified in item (2) shall be prepared by the Grantee of the Order in consultation with Natural Resources Wales.

- 4) ~~From 1st July 2018 chemically-induced~~ Triploid oysters ~~from disease-free areas only will~~ would be sourced and used within the Order.
- 5) As a precaution Pacific oysters will not be sourced from established populations elsewhere, in case adaptation to local temperatures has occurred in those populations. The sourcing of oysters will only be from hatcheries that are accepted under current regulations and are not sourced from hatcheries in areas of known disease or invasive non-natives (e.g. *Didemnum vexillum*).
- 6) Weekly temperature readings will be obtained and degree-days calculated. Salinity readings will also be obtained. If there have been sufficient degree days above 10.55 °C (=600) for spawning to occur, sea temperature is ≥18 °C and salinity is <32, checks will be made for evidence of spawning. If there are subsequently sufficient degree days for spatfall to take place (=220) a search will take place for oyster spat on a monthly basis for 6 months over the area of the order. (This will help to establish if triploids are resulting in any spatfall).
- 7) Monitoring lays 6, 7, and 11 (those where *C. gigas* are farmed) will take place four times each year, any dropped oysters will be picked up. At the same time it will be checked that no spatfall has occurred, even if abiotic conditions have not been suitable. Spatfall will be deemed to have occurred if Pacific oysters are found that are clearly attached to the substrate. These will be collected and shown to the Countryside Council for Natural Resources Wales prior to being destroyed.
- 8) Pacific oOysters that have grown too large for sale in the shell (>150g) will be removed and either culled or sold for shucking. ~~—~~ This will be done every three months, as necessary. Misshapen oysters will be removed before or once they exceed 150g.
- 9) Pacific oOysters that are still not market size after 5 years will be removed and either culled or sold for shucking.
- 10) Pacific oOysters will be contained in bags or trays on trestles and only on the ground where currents and wave action are not sufficient for them to be carried away at any time.

- 11) Mussel seed for on-growing on the Order will not be collected from areas where there are established wild Pacific oysters.
- 12) Pacific oOysters and associated growing structures will not be abandoned on site by any company that ceases to farm or at the end of the life of the order, if it is not renewed. The onus will be on the oyster production companies to perform this duty, and this will be a condition of the lease.
- 13) Triggers for reworking the appropriate assessment and management plan will be:
 - a) If abiotic conditions become suitable for spatfall to occur on a regular basis (point ~~(6)3~~).
 - b) If there is evidence of adaptation to local abiotic conditions (point ~~(7)4~~, if point ~~(6)3~~ has not acted as a trigger).
 - c) If there is a spatfall, in which case the management of the site will be reviewed immediately.

In addition any spread of already established populations from other parts of the UK and their proximity to north Wales will be monitored as far as information is available.

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