

Menai Strait Fishery Order Management Association

Agenda & Papers- 4th December 2019, 1030

Quarterly Meeting

Marine Centre Wales, Menai Bridge

1. Chair's announcements
2. Apologies
3. Declarations of interest
4. Minutes of last meeting ([attached](#))
5. Matters Arising
6. Register of interests (verbal)
7. Financial update (verbal)
8. Public Profile of the Association (verbal)
9. Code of Good Practice for Sea Mussel Movements ([report](#))
10. Welsh Government Activity ([report](#))
11. North West IFCA Activity ([report](#))
12. Menai Strait East ([report](#))
13. Menai Strait West Fishery Order ([report](#))
14. Project funding update (verbal)
15. Fishery management issues
 - a. Coastal / marine developments
 - i. Bangor Pier maintenance
 - ii. Bangor Pier - Tea Room restoration
 - iii. Sand in the dock
 - b. Environmental / health issues
 - i. Shellfish hygiene classifications
 - ii. *Bonamia* in the western Strait
 - iii. Non-native species
 - iv. Norovirus - update
16. Any Other Business (verbal)
 - a. Correspondence
17. Dates for next meetings (2020 dates to be confirmed):-
 - a. Q1 2020 -18th March
 - b. Q2 2020 - 17th June
 - c. Q3 2020 - 16th September
 - d. Q4 2020 - 2nd December [AGM]

Menai Strait Fishery Order Management Association

Meeting, 17th September 2019
Marine Centre Wales, Menai Bridge

Minutes

Attendance

Members

Alan Winstone
James Wilson*
Lewis le Vay

Chair
Bangor Mussel Producers Ltd
Bangor University

Observers

Gareth Roberts
Iwan Huws
Julian Bray
Kim Mould
Laura Harris
Michelle Billing
Rowland Sharp
Trevor Jones

Bangor City Council / Gwynedd C.C.
Isle of Anglesey County Council
Welsh Government
BMWAG
Welsh Government
Welsh Government
Natural Resources Wales
Menai Strait (West)

Advisors

Jim Andrews

MSFOMA Secretariat

Notes

** These Members are also Directors of the Association*

1. Chair's announcements

The Chair welcomed Julian Bray to his first MSFOMA meeting.

2. Apologies

Howard Mattocks
Ioan Thomas
Keith Andrews*

Beaumaris Town Council
Gwynedd County Council
Licensed hand pickers

3. Declarations of Interest

The Chair drew attention to the opportunity to declare an interest in agenda items on the meeting attendance register.

4. Minutes of last meeting

The minutes of the meeting that took place on the 18th June 2019 were accepted.

5. 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 raised at the June meeting were discussed:-

Community Fund

It was considered that establishing a "Community Fund" for the Menai Strait that is part-sponsored by the Association could be beneficial and that it would be useful for all to consider potential funding partners for this fund.

Action: Secretariat, All

Sand in Penrhyn Dock

It was reported that sand was still accumulating in the dock. It was agreed that it would be appropriate for the Association to write to the Estate about this issue once again.

Action: Secretariat

Caernarfon Harbour Trust

Information about CHT charges had been passed on to the operators, who would liaise with the Trust in the event of activities in this area. Trevor Jones was due to be attending the next meeting of the CHT Advisory Group in October.

6. Membership of the Association

There have been no changes in the membership of the Association since the last meeting.

7. Articles of Association

Revised Articles of Association were presented to the meeting and were discussed. The proposed changes would take account of institutional changes, the widening of the Association's membership, and also ensure that meetings of both Members and Directors will be quorate.

After discussion of the Articles some detailed changes were agreed, and all present were invited to submit further comments by the end of September 2019.

Action: All

It was proposed and agreed that a further revision to the Articles, taking account of any submissions, should be discussed and adopted at the Association's AGM in December 2019.

Action: Secretariat

8. Register of Interests

The report on this subject was accepted and discussed. It was noted that the last meeting of the Association had agreed that participants should all submit a declaration of their interests and that all should agree to abide by the "Nolan Principles" of public life.

A proforma for recording interests was circulated at the meeting for participants to complete. It was agreed that the declared interests of each participant should be published on the MSFOMA website.

Action: Secretariat

9. Financial Update

James Wilson reported that he was working to organise e-banking for the Association accounts. Work on this would be continued.

Action: JW

Annual accounts would be drawn up by the Association's accountants in advance of the AGM in December (the end of year for the Association is 30th November).

Action: JW & Secretariat

It was also agreed that it would be appropriate to set an annual budget and quarterly targets for the Association at the AGM in December.

Action: Chair & Secretariat

10. Public Profile of the Association

It was reported that Andy Olivier has continued to maintain the Association's Twitter account. The number of tweets and profile of the Association continues to grow steadily. The key challenge for Andy Olivier is to obtain relevant and current information to Tweet.

Participants in MSFOMA were asked to provide any information of interest for the MSFOMA Twitter feed. Examples of information that could be of interest included:-

- Past research papers & existing research activities (ideally with a photograph / figure from research).
- Food-related items (such as food festivals; items relating to Food & Drink Wales)
- Welsh Seafood Cluster activities
- Marine Stewardship Council (MSC) related items

Action: All

Any items can be sent to Andy Olivier (avdsolivier@bangor.ac.uk).

11. Welsh Government Activity

a) Meetings

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

- **Inshore Fisheries Groups** - the future of these groups is due to be discussed at the next WMFAG meeting.
- **Welsh Marine & Fisheries Advisory Group** - Lewis Le Vay had attended the WMFAG meeting on 25th June and felt that it had been very positive. No items of direct interest to the Association had been discussed at that meeting. It was reported that WMFAG had discussed the idea of replacing the Aquaculture Advisory Group with a group similar to WMFAG.
- **Aquaculture Advisory Group** - James Wilson reported that no meetings had been held recently. It was felt to be important to ensure that such a group covered all aquaculture sectors.

It was noted that WG has a strategy for the food sector which has targets that are dependent on targets in the seafood sector (in terms of increasing production of Welsh food products). For the food sector targets to be met it would be important to ensure that they are integrated with WG Fisheries and the sector-specific groups.

b) Consultations

The Association had responded to Welsh Government's two recent consultations on time. Key points made in the responses were:-

- **Marine Strategy Part One** - the Association's response had highlighted the value of the ecosystem goods and services provided by shellfish cultivation as well as the social and economic benefits.
- **Brexit and our Seas** - the consultation document was lengthy and a detailed response had been submitted. The key points in the MSFOMA submission were that the Welsh Government should build on the existing strengths of the Welsh seafood sector rather than replacing these with new and untested management measures. The response also highlighted that growth in the Welsh shellfish cultivation sector was not dependent on any post-Brexit fisheries negotiations with the EU, but would be dependent on ensuring that shellfish exports to the EU would not be adversely affected.

c) Staff changes

Julian Bray provided the meeting with an update on the changes that have recently been made within the Welsh Government Marine and Fisheries Division. In summary:-

- Gareth Bevington is now the Deputy Director, Marine & Fisheries
- New Branches have been established within the Fisheries Department as follows:-
 - Control & Enforcement - led by James Watkins
 - International Fisheries - led by Elin Gwynedd
 - Domestic Fisheries Policy & Management - led by Julian Bray
 - Fisheries Science & Evidence - led by Bekah Cioffi
 - Marine Science Evidence - this branch is still being set up and staffing arrangements are not yet finalised.

The Domestic Fisheries Policy & Management Branch is responsible for Fishery Orders and permitted fisheries. It was confirmed that staff resources within this Branch will be dedicated to progressing Fishery Order applications. In addition to Michelle Billing and Laura Harris, Lisa Connaire will also be working on Fishery Orders.

James Wilson & Kim Mould thanked WG for the progress that had been made with processing the application for seed mussel dredging at Caernarfon Bar this year. Julian Bray indicated that it would assist WG if applications for the seed mussel fishery were submitted in June; this would enable better scheduling.

12.NW IFCA Activity

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

The proposal to open a small area of seed mussels at Perch Scar on the Wyre Estuary to fishing was welcomed. Fishing representatives noted that it would cost them £9,000 to access this area using dredges, and that there was only a limited quantity of seed mussels here, so fishing might not be cost-effective.

It was agreed that a letter should be sent to the IFCA to thank them for the opportunity to fish this area and to query whether the permit fee was appropriate when the fishing resource was limited.

Action: Secretariat & Chair

Rowland Sharpe reported that he has discussed the method for carrying out surveys for Chinese Mitten Crabs with IFCA Officers.

13. Menai Strait East Fishery Order

- **Renewal of the Order**

The report on this Fishery Order was received and discussed. It was noted that the Association had been in correspondence with the Minister to confirm that it would like the application for renewal of the Order to be progressed under new administrative arrangements; that the application for renewal of Menai East should be prioritised; and that options for establishing a “safety net” should be explored to address the risk that the Order might not be renewed by the end of March 2022.

Michelle Billing confirmed that new administrative processes for Fishery Order applications have been put in place in the Fisheries Department and that these will be used for this application. Additional staff have also been recruited to work on Fishery Orders, and Lisa Connaire would be working on the renewal of Menai East. She was due to start work on this in October 2019.

There was some discussion of timescales for the renewal process. Michelle Billing indicated that the new process was designed to allow applications to be completed within a 2 year period.

The fishery operators invited WG staff, and Lisa Connaire in particular, to visit Porth Penrhyn for a site visit in October.

It was agreed that the Association’s lawyers should be instructed to explore options for creating a “safety net” in the eventuality that the Order is not renewed on time.

Action: Secretariat

The proposal is to renew the Fishery Order on a “like for like” basis. Iwan Huws enquired whether this would include the regulation of potting activities in the Strait. It was confirmed that potting activities lie outside the scope of the Fishery Order and the remit of MSFOMA. Welsh Government officials provided some advice on the byelaws and regulations that apply to potting activities in the area.

- **Engagement with stakeholders**

It was reported that a meeting with the Royal Anglesey Yacht Club was due to take place later on the 17th September. A report on the outcome of this meeting would be provided to the next Association meeting.

It was agreed that it would be appropriate to engage with the general public in the area once there was greater clarity about the timescale for progress. It was further agreed that “drop in” sessions for the general public should be set up in Bangor and Beaumaris, ideally in November.

Action: Secretariat

- **Code of Good Practice**

James Wilson and Rowland Sharp reported that this Code had now been revised. It focuses on management actions for 4 core species (*Crepidula fornicata*, *Eriocheir sinensis*, *Didemnum vexillum* and *Crassostrea gigas*). Other “species of concern” are also listed, with a watching brief for these. There have been no major changes

to the management processes set out in the Code, which are still founded on good liaison and consultation with statutory bodies.

The revised code has been reviewed by an international expert on non-native species, and it also includes references to global standards for good practice in the management of these species.

Some minor revisions remain to be made, which should be completed by the end of September 2019. The revised Code would then be made widely available. It was agreed that it should be published on the Association website.

Action: JW & Secretariat

14. Menai Strait West

The report was received and discussed.

Michelle Billing (WG) reported that new draft conditions arising from the Habitats Regulations Assessment for inclusion in the Order had been sent to WG legal department and discussed with them 2 weeks previously. Discussions with the lawyers were continuing.

It was noted that the WG legal department were being asked to advise on issues associated with Brexit as a priority. It was hoped that the revisions to this Draft Order would be completed by the end of 2019.

It was agreed that regular liaison between the Association and WG officials should continue to ensure that there was both good awareness of progress and to ensure that any queries could be resolved swiftly.

Action: Secretariat & WG

It was agreed that it would be appropriate to provide an update on costs and possible lease fees for Menai West for consideration at the December meeting of the Association.

Action: Secretariat

15. Funding proposals

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

- **Shellfish Centre** – a workshop had been held in August as part of the project looking for *E. coli* environmental risk indicators for shellfish. This was now looking at sites in the Conwy Estuary and Burry Inlet, and opportunities for looking at sites in the eastern Menai Strait were also being considered.

The Association discussed the factors in watercourses that could affect water quality, including the uses of agricultural land as well as the discharge of waste water effluent.

- **Menai Offshore Subsurface Shellfish Systems (MOSSS)** – ropes were set in the offshore area for spat collection and are being monitored. The results would be reported at the December meeting of the Association.

Ongrowing of mussels was due to be trialled over the winter and the Association will be updated on progress.

16. Fishery Management Issues

1. Coastal / marine developments

i. Bangor Pier

There has been correspondence with NRW and a company who were proposing to reopen the Pavilion tearoom on the pier. Concerns have been raised by the Association about the potential impact of effluent discharges from the pier into the Menai Strait. NRW have responded that in the short term any events held on the pier would use temporary chemical toilets, and that in the longer term options are being explored for either piping effluent from the pier into the sewerage system or establishing some treatment facilities on the pier itself.

It was agreed that this development should be kept under review.

ii. Dickies Boatyard Development

There had been no further consultations about this project.

iii. Beaumaris Pier

Iwan Huws reported that the pier was due to be painted in May 2020. A Marine Licence will be needed for this.

Iwan also reported that the number of recreational vessels operating in the area has increased significantly (there are now around 20 RIBs permitted to operate in the Strait) and this is thought to be linked to the Council's work to maintain and upgrade the infrastructure in the area, such as the piers.

iv. Sand in the dock

Further to the earlier discussion it was agreed that a letter about the accumulation of sand in the dock should be sent to the Penrhyn Estate.

Action: JW, Secretariat

2. Environmental / health issues

i. Bonamia

James Wilson noted that *Bonamia* is a notifiable shellfish disease, and it is not clear whether this will affect shellfish exports to the EU post-Brexit.

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

There have been no reports of any INNS in the area. Lewis LeVay reported that the University is due to be carrying out a survey of invasive species and will produce a model / risk map for the area (including the area notified for *Bonamia*). An update on progress with this work will be provided to the next meeting of the Association.

iii. Norovirus

Work is being carried out to determine appropriate Norovirus trigger limits. The EU is working on a Regulation, and a review of proposals is due to be completed later in 2019.

iv. Shellfish hygiene

It was noted that 7 of the 8 sampling points in the Menai Strait are now achieving a "Class A" shellfish hygiene classification. The other sampling point is a long term "Class B". These represent significant and important improvements in classification which result from concerted efforts to improve water quality. It was agreed that the Association should write to NRW to formally thank the organisation for its work on this issue.

Action: Secretariat

17. Any Other Business

No items of AOB had been raised.

18. Dates for next meetings

The next meeting will take place on 4th December 2019 (this is also the AGM).

It was agreed that the Association meetings in 2020 should all take place on a Wednesday, as follows:-

- e. Q1- 18th March 2020
- f. Q2- 17th June 2020
- g. Q3- 16th September 2020
- h. Q4- 2nd December 2020 [AGM]

Summary of Actions

Item	Action	Responsibility
1.	Community Fund - identify opportunities for local stakeholder engagement.	All, Secretariat
2.	Sand in Dock - write to Penrhyn Estate to raise further concerns about this issue.	JW / Secretariat
3.	Articles of Association - send comments to Secretariat / Chair by end of September 2019	All
4.	Articles of Association to be amended and presented to December MSFOMA meeting.	Secretariat
5.	Register of Interests - revise MSFOMA website to publish individual's declarations of interest.	Secretariat
6.	Finances - set up e-banking arrangements.	JW
7.	Finances - present annual accounts to December meeting of Association (AGM)	JW
8.	Finances - set an annual budget and quarterly targets for the AGM in December	Chair & Secretariat
9.	Social media - send any items suitable for the MSFOMA Twitter feed to Andy Olivier (avdsolivier@bangor.ac.uk).	All
10.	NWIFCA - write to thank for opportunity to fish for seed mussels at Perch Scar and query the scale of permit fee for this activity	Secretariat & Chair
11.	Menai East - instruct lawyers to advice on "safety net" options.	Secretariat
12.	Menai East - progress stakeholder engagement, set up "drop in" sessions.	Secretariat
13.	Code of Good Practice - publicise on MSFOMA website once completed.	JW & Secretariat
14.	Menai West - liaise with WG officials to maintain progress	Secretariat
15.	Menai West - provide update on costs and likely lease fees for December Association meeting.	Secretariat
16.	Shellfish hygiene - write to NRW to praise actions taken to improve water quality.	All, Secretariat
17.	Date for next meeting - 4 th December 2019	Secretariat

Code of Good Practice for Mussel Seed Movements

Background

A Code of Good Practice for Mussel Seed Movements was first developed by the Bangor Mussel Producers in 2007. The purpose of this Code was to identify and implement good practices that would minimise the risk of moving Invasive Non-Native Species with seed mussels. A revised version of this Code has just been agreed.

Recommendations

1. That the report is received.

1. Introduction

- 1.1 The Code of Good Practice for Mussel Seed Movements developed by the Bangor Mussel Producers in 2007 has proved very successful. No Invasive Non-Native Species have been introduced since it has been implemented.
- 1.2 During the period since the Code was first agreed, the knowledge of INNS has improved, and the perception of risks has changed. Species that were not considered as INNS in 2007 are now listed as such.
- 1.3 Over the past few years the Bangor Mussel Producers have worked closely with Natural Resources Wales to revise and update the Code to take account of new information and current best practice.
- 1.4 The new Code was finalised in November 2019 and is attached at Annex A to this report for Members' information.

MSFOMA Secretariat
November 2019

Annex A: Bangor Mussel Producers; Code of Good Practice for mussel seed movements, 2019

Bangor Mussel Producers LIMITED

Code of Good Practice for mussel seed movements

2019



Version 2: September 2019

Definition

An Invasive species is defined as a species that is : 1) Non Native (alien) to the ecosystem under consideration and. 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

<https://www.invasivespeciesinfo.gov/whatis.shtml>

1. BACKGROUND AND INTRODUCTION TO THE CODE

This document, version 2 – September 2019, builds on the original work undertaken by Dr Kate Smith of the Countryside Council for Wales (CCW) and James Wilson of Bangor Mussel Producers Association (BMPA) in 2007-2008. Time goes by and the world changes, this is a universal truth. Within this context the Countryside Council for Wales are now part of National Resources Wales (NRW) and Bangor Mussel Producers Association became Bangor Mussel Producers Ltd in 2010.

Similarly the role of Grantee of the Menai Strait East Fishery Order, which had resided with the North Western and North Wales Sea Fisheries Committee (and previous incarnations) since its inception in 1962, changed in 2010. The catalyst for this change was the decision by the Welsh Government to take 'in house' responsibilities for fisheries management in Wales. As such, given that Welsh Government was 'de facto' the Grantor of the Fishery Order, and thereby disallowed by legal principle from also being the Grantee, a new organisation was created, to take on the responsibility for holding the Fishery Order and all associated obligations.

This body, the Menai Strait Fishery Order Management Association (MSFOMA), is a company limited by guarantee and incorporated in England and Wales (registered number 07163689). Its membership has been deliberately structured to be inclusive of the most appropriate stakeholders, as such it includes local authorities (both Gwynedd and Ynys Mon, Science (Bangor University) and industry and has an independent chair (previously Dr Sue Utting, currently Mr Alan Winstone). Welsh Government and National Resources Wales also sit with MSFOMA but only occupy the roles of observers. MSFOMA meets at least 4 times a year

The understanding of INNS and of what species present the highest risk and threat to biodiversity has also improved considerably over the previous decade. NRW have commissioned or participated in a number of projects that have looked to better inform the societal response to INNS and develop more effective remedial responses to control or curtail the geographic inclusion of INNS (e.g. PATHWAY).

The work has also been informed through ongoing contact with Dr Arjen Gittenberger of GiMariS, a Dutch based ecological consultancy. Dr Gittenberger has been providing assistance to the Dutch bivalve mollusc processing sector since 2010, in terms of producing a suite of species assemblages associated with those production areas that have trade with the processing sector. The Menai Strait is one of those areas and DR Gittenberger's work has enabled operators and associated regulators to have full taxonomic breakdown of species present over a number of years

The constituent members of Bangor Mussel Producers Ltd (Myti Mussels Ltd, Deepdock Ltd, Ogwen Mussels Ltd, ExtraMussels Ltd, Mon Shellfish Ltd) have agreed with MSFOMA that adherence to the Code of Good practice is inserted within leases that all operating companies hold. Thus adherence to the code and its requirements is obligatory.

i. The threat posed by Invasive Non-Native Species

It is widely accepted that one of the greatest threats to biodiversity across the globe is that posed by Invasive Non-Native Species. Globally, the introduction of organisms through human mediated dispersal into regions where they did not previously exist has resulted in significant ecological, economic and social consequences. The GB Invasive Non-Native Species Framework Strategy, launched in May 2008, provides a strategic framework within which the actions of government departments, their related bodies and key stakeholders can be better co-ordinated. The overall aim of the strategy is to minimise the risks posed, and reduce the negative impacts caused, by Invasive Non-Native Species in Great Britain, with an emphasis placed on prevention.

Invasive non-native species are such a threat because they can disrupt native marine life by preying on or out- competing native species for food and shelter. They can spread disease and also interfere with the genetic integrity (DNA) of native species. The BMP code aims to prevent INNS from spreading or being introduced into water under cultivation via movements of mussel seed. There are a variety of legislative drivers that structure such mechanisms at the Regional and national level, such as the Marine Strategy Framework Directive (MSFD). Under MSFD, a UK monitoring and surveillance list for marine non-native species has been developed (CEFAS in 2015¹) to focus efforts on ‘priority’ marine species, representing those that do or could have a high environmental impact. Such considerations have been incorporated within the structure of the Code of Good Practice where applicable and relevant.

ii. Potential for mussel fisheries to contribute to the spread Invasive Non-Native Species

The seabed lay mussel fisheries operating in the Menai Strait are the largest in the UK and account for up to half of the entire UK output. The fisheries are entirely dependant on the import of ‘seed’ mussels from outside of the Fishery Order areas within which they operate. Seed mussels are fished and then re-laid onto leased plots within Fishery Orders in the Menai Strait, where they are cultured until they reach marketable size, at which stage they are lifted and sold. Seed mussel used in the Menai Strait is sourced most commonly from Caernarfon Bar and Morecambe Bay. In the past, supply has also been supplemented by seed mussels from south Wales (inside and outside of the Burry Inlet), the Thames estuary, the Wash, the south coast of England, Solway Firth, Dornoch Firth, Northern Ireland and the Republic of Ireland.

The import of large quantities of mussel seed into the Menai Strait from other areas around the UK has an associated risk of accidentally introducing Invasive Non-Native Species, not currently occurring in North Wales, with the mussels (either in the mussel seed, substrate or surrounding water).

Until 1992, this risk was assessed under the Molluscan Shellfish (Control of Deposit) Order 1965 (amended 1974 & 1983), which was designed to control the introduction and spread of named shellfish pests and diseases in England and Wales. Decisions on whether or not to issue licences under this Order were carried out on the basis of known or believed incidences of diseases or pest species in the source areas. Though never formally revoked, this legislation was superseded in Great Britain by the Fish Health Regulations 1992 (amended 1997), which control fish and shellfish diseases, but contain no measures to control the spread of shellfish pests. Since 2011, The Welsh Government have once again provided consents under the Molluscan Shellfish (Control of Deposit) Order 1974, such that the risk of accidentally introducing Invasive Non-Native Species amongst the mussels would be formally addressed through this licencing regime. However, given that the content of this Order has remained static since 1974, the Code provides an additional and higher level of risk management

iii. **The need for a Code of Good Practice for mussel fisheries in the Menai Strait**

Version 1 of the Code was constructed, in recognition of the absence of alternative formal procedures, it was agreed in May 2007 by an inter-agency group, comprised of the Menai Strait mussel fishing sector, the Sea Fish Industry Authority (Seafish), the Countryside Council for Wales (CCW), the North Western and North Wales Sea Fisheries Committee (NW&NWSFC), the Welsh Assembly Government (WAG), the Marine and Fisheries Agency (M&FA), the Centre for Environment, Fisheries & Aquaculture Science (CEFAS) and the GB Non-Native Species Secretariat (NNSS), that a Code of Good Practice relating to sourcing mussel seed and importing it into the Menai Strait should be drawn up.

Since the development and application of the Code, BMP members have applied it on an annual basis to all movements of mussel seed into the cultivated plots within the Menai Strait Fishery Order. The approach has been successful and no invasive species have been detected within the consignments of mussel seed over the period 2008-2018. The provision and adherence of the Code of Good Practice by Bangor Mussel Producers members was an important factor in the award of the Marine Stewardship Council (MSC) certification for sustainability being awarded in 2010, the first award to a so called 'enhanced fishery' anywhere in Europe at the time.

iv. **General approach in the Code and longer term options**

Version 2 of the Code continues to take a semi-quantitative approach to assess the risk associated with the import of mussel seed.

The protocol within version2 of the Code of Good Practice is simple in form and draws upon the HACCP (Hazard Analysis and Critical Control Point) approach, which has been used to assess levels of risk associated with aquaculture operations elsewhere in the world, to prevent the spread of Invasive Non-Native Species. The HACCP approach to risk analysis and management is science based, systematic and recognized worldwide as an effective hazard control system. It identifies specific hazards and measures for their control, thus allowing regulators to assess what happens in various (aquaculture) operations and evaluate how potential hazards are being handled. The emphasis of this approach is on understanding the whole process and as such requires regulators and industry to communicate closely with each other. As in 2007, when CCW and the Menai Strait mussel fishing sector have worked in partnership to produce this Code, so in 2018 with continued collaboration between Natural Resources Wales and the mussel cultivators.

v. **The wider context of Marine INNS in Marine Systems**

IN December 2017, Natural Resources Wales (Cyfoeth Naturiol Cymru) produced the Priority Monitoring and Surveillance list of Invasive species for Wales. This list represents an accurate and updated reflection of the species of most concern in context of the ability to become invasive. Some of the species on this updated list were incorporated within the Version #1 Code of Good Practice, for example the slipper limpet, (*Crepidula fornicata*), and the Chinese mitten crab, (*Eriocheir sinensis*). Both these species are known to be resident in different part of Wales already, often within or close to locations that have provided a source of mussel seed for the Menai Strait producers. Utilising the understanding of presence in combination with the biological characteristics of these species has enabled industry in combination with NRW to develop risk based approaches to mitigate any inadvertent introduction whilst still enabling movements of mussel seed to occur. A full list of species can be found within Appendix 1 of this document.

2. THE CODE

i. Code protocol

The Code of Good Practice will be applicable to **both ship borne and road movements** of mussel seed into the Menai Strait, and will be in addition to any other regulations currently in force. It is comprised of two elements – firstly a species list, iterative and updated, that describes the most current understanding of the status of INNS species of interest within the context of Welsh Waters. The second element of the code, is its application which breaks down the various stages and operations involved in the sourcing, fishing and relaying of mussel seed and evaluates how potential hazards will be handled at each stage of the entire process. The likelihood that an area dredged for mussel seed (including mussel seed, substrate and surrounding water) would contain any of these INNS depends on the prevalence of the species in the seed collection area (concentration) and whether the pest is evenly distributed throughout the area. In addition, the time of year of harvesting may play an important role in whether they are present in the dredged area. As such, these factors are all taken into account by incorporating certain species specific measures into the Code. Further information on these operations is provided in Appendix B.

ii. Species covered by the Code.

The code of good practice is an evidence based construction. It requires the input of high quality information in respect of invasive species of concern from the perspective of environmental protection, both in terms of where they are and what they can do; and on the other hand it also requires there to be good understanding of the biological and ecological capacity, capability and interactions that occur in order to formulate the best approach to risk managing any movement of mussel seed from potentially contaminated areas.

iii. Current source areas of mussel seed & the intersection with the code.

Whilst the Code is intended to be utilised in respect of all imported movements of mussel seed to the Menai East Fishery order, in reality the number of areas that will be able to provide a source point for mussel seed is limited.

There are four main source zones from where mussel seed has been imported into the Menai Strait in the recent (20yr) past – these are the North West (Including Fleetwood, Morecambe bay, Solway Firth), Mid Irish Sea (including the Dee, Conwy, locations N of Anglesey), Menai Strait (Caernarfon Bar) and South Wales (Port Eynon, Burry Inlet, Three Rivers).

Dialogue and advice from NRW has indicated a more tightly focussed list of species which have the greatest potential to be inadvertently translocated with movements of seed mussel from within these current source areas into the Menai Strait.

The application of the code and the evidence base which supports its identity within the framework of risk management will be more grounded with specific geographical focus. It also includes a more species focussed matrix, with less reliance on the geographic distance between any seed and the presence of a known INNS. The scientific understanding of the life cycle of many of the major target species, described in table 2 below, has improved considerably over the period 2008-2019

Taxon	Risk	Wales North	Wales South	Dee	Morecambe Bay	Irish Sea	N.Ireland	Scotland
American Slipper <i>Limpet -</i> <i>Crepidula</i> <i>forficata</i>	High	Not Reported	Present	Not Reported	Not reported	Not Well Reported	Present (Belfast Lough)	Present
Carpet Sea Squirt <i>Didemnum vexillum</i>	High	Present Holyhead harbour)	Not Reported	Not reported	Not Reported	Not reported	Present (Strangford Lough)	Not reported
Chinese mitten Crab <i>Eriocheir</i> <i>sinensis</i>	High	Present (single record Conwy estuary)	Present (disputed record Swansea Bay)	Present	Present (occasional finds Duddon Estuary)	Present (see Morecambe Bay)	Not reported	Present (Reports River Clyde)
Pacific & Portuguese Oyster <i>Crassostrea gigas</i> & <i>C. angulata</i>	Med	Present	Present	Not reported	Present	Present	Present	Present

A full list of the species currently found on the mussel beds within the Menai Strait Fishery order area has been produced as part of the Dutch protocol to risk manage the introduction of mussels into their coastal waters (including depuration systems directly connected to these waters). This can be found within Annex 3

Iv. Application of the Code

Operation of the code is visualized within Annex 2 of this document. IN terms of the central message – it is key to maintain vigilance at all times. Climate change and the effects of warming sea temperatures elevate the possibilities that the natural range of species will alter. It may increase the likelihood that for some invasive species not currently able to become resident in a new location due to environmental barriers associated with climate, may become a more prevalent risk.

Established practice during the time of Version 1 has been that the Statutory agencies – NRW, are alerted with sufficient notice to **ALL** planned movements or introduction of mussel seed prior to those occurring, by road or by sea. The intention is to maintain this working approach and to build on the level of transparency that already exists between the activities of the mussel sector (Bangor Mussel producer membership and any others), the Menai Strait Fishery Order Management Association (MSFOMA), Bangor University, NRW and Welsh Government in regard to any risks associated with the activities of the sector.

Version 2 of the code is intended to be considered more as a living document and will be adapted on the basis of any new information that comes to light during the following months and years.

Appendix 1 – NRW full list of invasive species of concern

The following tables detail the invasiveness of each species (risk assessment) and this is the basis for the separation of the species into **High, Medium and Low Risk**. Risk Assessment scores were obtained from the GB non-native species secretariat website <http://www.nonnativespecies.org/index.cfm?sectionid=51>, where available. The lists will be subject to continued review.

INNS already present and breeding in Wales (prioritised according to invasiveness, including spread and impact)

Tables 1 and 2 below take species which are on the UK monitoring list, which have been considered in a Welsh context and have been ranked based on the overall score of their risk assessment.

Table 1. High risk

Species and Group	Risk Assessment Score (NNSS rapid risk assessment / Cefas rapid risk assessment score)	Justification for Selection	Primary Introduction Pathway ²	Impact Summary ³	Management Action (for further information contact NRW Intertidal / INNS ecologist)
Compass sea squirt (<i>Asterocarpa humilis</i>) Tunicate	High (CEFAS Rapid Risk Assessment) *	MSFD monitoring list	Fouling	Impact of this species may not be consistent in different locations (marinas vs natural shore). Could be a significant fouler of mussel and oyster culture gear, potentially competing for food with target species or smothering them, and rendering underwater gear and lines cumbersome.	Requirement to collate records from current monitoring as part of MSFD at a UK level. Report sightings if outside current range (action by all parties).
American slipper limpet (<i>Crepidula fornicata</i>) Mollusc	High	MSFD monitoring list/WFD High impact/ Schedule 9 of WCA 1981	Aquaculture (accidental contamination)	Smothering, trophic competition and larval predation. Economic impact on shellfisheries. Change to sediment movement.	Requirement to collate records from current monitoring as part of MSFD at a UK level. Report sightings outside current range (action for all parties).
Carpet sea squirt (<i>Didemnum vexillum</i>)	High	MSFD monitoring list/GB Alert species/WFD	Fouling, Aquaculture (accidental contamination)	Potential reduction in species diversity. Economic, environmental and social impacts are most likely to occur in shellfisheries in the Risk Assessment area. Environmental and social impacts will occur in	Requirement to collate records from current monitoring as part of MSFD at a UK level.

² Taken from Stebbing, P., Tidbury, H. and Hill, T. 2015. Development of priority species lists for monitoring and surveillance of marine non-natives in the UK. Cefas contract report C6484. Issue date 30/10/2015.

Summary taken from NNSS risk assessment / CEFAS risk assessment

Tunicate		High impact		harbours, marinas and sheltered bays.	Alert species so should be reported to the GB NNSS by all parties. Look to control spread at current sites in Wales (dependant on land ownership/management).
Chinese mitten crab (<i>Eriocheir sinensis</i>) Crustacean	High	MSFD monitoring list/EU regulation 1143/2014/W FD High impact/ Schedule 9 of WCA 1981	Ballast water and natural dispersal	Erosion of river banks. Likely to impact native, benthic invertebrate populations in freshwater and marine systems, through predation and competition for space. Potential to outcompete the native white-clawed crayfish. May cause siltation of gravel runs used for spawning by salmon and trout. In native range, crab carries diseases; although unlikely this will spread in GB due to the absence of the primary host snail species. Economic impacts associated with repairing flood defences, land reclamation and river banks damaged by burrowing, loss of salmon and trout fisheries. Potential impacts on native species, such as the common eel.	Requirement to collate records from current monitoring as part of MSFD at a UK level. Stricter regulation for species of 'Union Concern' under EU Regulation. Report sightings outside of current range (action for all parties). Illegal to release or allow to escape into the wild under WCA 1981.
Devil's tongue weed (<i>Grateloupia turuturu</i>) (includes <i>G. doryphora</i> . All records in the NE Atlantic have been assigned to <i>G. turuturu</i> , see Gavio & Frederic, 2002) Red alga	Very High (CEFAS Rapid Risk Assessment) *	MSFD monitoring list	Aquaculture (accidental contamination)	Large, fast-growing, may have the potential to displace native species and its large, broad blades may shade neighboring species, however no ecosystem impacts documented in UK. Economic impacts relate to fouling. Fouling of boat hulls reduces the speed and efficiency of boats. Fouling of aquaculture equipment and shellfish can increase harvesting costs and reduce shellfish growth.	Requirement to collate records from current monitoring as part of MSFD at a UK level. Report any sightings outside current range (action for all parties).
Red ribbon bryozoan (<i>Watersipora subatra</i>) Bryozoan	High (CEFAS Rapid Risk Assessment) *	MSFD monitoring list	Fouling	The negative impact of this species in marinas and on boat hulls has been documented. However, the potential impact of this species on, for example, shellfish aquaculture and natural shoreline substrate is currently less certain.	Requirement to collate records from current monitoring as part of MSFD at a UK level. Report any sightings if outside current range (action by all parties).

Table 2. Medium risk

Species and Group	NNSS risk assessment score / NNS rapid risk assessment / Cefas rapid risk assessment score	Justification for selection	Primary introduction pathway ⁴	Impact summary ⁵	Action to be taken if found
Bonnemaison's hook weed (<i>Bonnemaisonia hamifera</i>) Red alga	Moderate (CEFAS Rapid Risk Assessment) *	MSFD monitoring list/ WFD	Ballast water and fouling	Very few records exist of <i>B. hamifera</i> causing specific detrimental ecosystem, social, or economic effects found within the literature. Analogous species have been classified as invasive, and been shown to cause significant impact, but despite long-term establishment in some regions <i>B. hamifera</i> has not been classified in the same way.	Requirement to monitor this species as part of MSFD at a UK level.
Japanese skeleton shrimp (<i>Caprella mutica</i>) Amphipod	Medium	MSFD monitoring list/ WFD Moderate impact	Fouling	Potential localised extinction of native caprellid species due to competition; potential impact on plankton communities during summer months; potential economic costs to the aquaculture (fin- and shellfish) industry, commercial shipping and recreational boating industry.	Requirement to monitor this species as part of MSFD at a UK level.
Pacific oyster (<i>Crassostrea gigas</i>) Portuguese oyster (<i>Crassostrea angulata</i>)	Medium	MSFD monitoring list/ WFD Moderate impact	Aquaculture (intentional) and unintentional escapes	Primary economic loss may be through loss of mussel bed fisheries and loss of habitat for other intertidal bivalve species. Economic and social impacts may also be associated with loss of visitors to sites as oysters create a hazardous substrate. Environmental impacts are largely associated with loss of intertidal habitats, including mudflats and bivalve beds. Such	Requirement to monitor this species as part of MSFD where it is found outside of licenced aquaculture sites. Consider local control, dependant on land ownership.

⁴ Taken from Stebbing, P., Tidbury, H. and Hill, T. 2015. Development of priority species lists for monitoring and surveillance of marine non-natives in the UK. Cefas contract report C6484. Issue date 30/10/2015.

⁵ Taken from NNS risk assessment / CEFAS risk assessment where available. Other sources of information referenced

Mollusc				impacts may affect habitats of high conservation value, including mudflats, estuaries, eelgrass beds and biogenic reefs.	
Orange striped anemone (<i>Diadumene lineata</i>) Cnidarian	Moderate (CEFAS Rapid Risk Assessment) *	MSFD monitoring list/ WFD (Unknown impact)	Fouling and Aquaculture (accidental contamination)	There are few documented impacts of this species. As a fouling species it will impact ships and boats and submerged infrastructure around marinas and ports etc. In addition fouling of oyster and mussel shells may reduce their growth and ability to feed.	Requirement to monitor this species as part of MSFD at a UK level.
American jack knife clam (<i>Ensis leei</i>) Mollusc	Moderate (CEFAS Rapid Risk Assessment) *	MSFD monitoring list	Aquaculture (intentional and accidental contamination) and natural dispersal (ocean currents)	This species has been identified as invasive and therefore is associated with negative impacts. However, the impact of this species is likely to strongly depend on the industry being considered. Impacts to recreation and biodiversity are possible. More information is needed to accurately determine the severity that the negative impact balanced with any positive impacts.	Requirement to monitor this species as part of MSFD at a UK level.
Polychaete tubeworm (<i>Ficopomatus enigmaticus</i>) Annelid worm (brackish)	No risk assessment available	MSFD monitoring list/ WFD High impact	Unknown	Its effects on native species are more likely to be beneficial than problematic. Favours waters which present some degree of stress to most open-shore marine organisms. Its requirement for variable-salinity water in which to spawn ensures that the major populations do not interfere with most indigenous species. It is a fouling species which affects ships, buoys and harbour structures.	Requirement to monitor this species as part of MSFD at a UK level.
Japanese wireweed (<i>Sargassum muticum</i>) Brown alga	Medium	MSFD monitoring list/ Schedule 9 of WCA 1981/WFD low impact	Fouling and natural dispersal	Unproven impact on biodiversity but will change community structure and dominance, having a visual impact where it forms dense beds. It is potentially a nuisance species.	Requirement to monitor this species as part of MSFD at a UK level. Illegal to release or allow to escape into the wild under WCA 1981. Possible local control, dependent on land ownership/management.
A bryozoan (<i>Schizoporella japonica</i>) Bryozoan	Moderate (CEFAS Rapid Risk Assessment) *	MSFD monitoring list	Aquaculture (accidental contamination)	Known to foul man-made and natural structures, altering ecosystems and resulting in economic and social impact. However, the extent to which this species will impact the risk assessment area remains uncertain and will likely depend on the specific location it is present and for example the native species inhabiting this location.	Requirement to monitor this species as part of MSFD at a UK level.

Leathery seasquirt (<i>Styela clava</i>) Tunicate	No risk assessment available	MSFD monitoring list/ WFD High impact	Fouling	Large and can become dominant in some habitats. May have negative effects on the abundance and habitat occupancy of other shallow-water suspension feeding sessile invertebrates. Not clear if would cause the local extinction of any species.	Requirement to monitor this species as part of MSFD at a UK level.
Wakame, Asian kelp (<i>Undaria pinnatifida</i>) Brown alga	Moderate (CEFAS Rapid Risk Assessment) *	MSFD monitoring list/ Schedule 9 of WCA 1981 /WFD	Aquaculture (accidental contamination), fouling	Impacts may be most likely suffered by the aquaculture industry. Growth on aquaculture cages and equipment. Fouling of boats will reduce their efficiency and results in increased cleaning and antifouling treatment. Out competes of native species.	Requirement to monitor this species as part of MSFD at a UK level. Illegal to release or allow to escape into the wild under WCA.

Surveillance lists

Invasive non-native species not known to be breeding in Wales but likely to arrive (prioritised for surveillance and implementing a contingency plan)

Table 3 contains all of the species on the MSFD surveillance list (or monitoring list if not yet in Wales) which are considered to be of higher risk to Wales. It has been ranked coarsely in order of importance for surveillance, due to the potential impact of the species. This is based on the GB NNSS Risk Assessment score (if available) and/ or score obtained in the UK Horizon scanning report (Roy et al., 2014⁶), where the top score is 125.

Table 3.

Species and Group	Likely introduction pathway /current distribution	Justification for selection for inclusion in the Welsh contingency plan	Impact Summary	Risk Management /Action (based on impact and ability to manage)
Asian rapa whelk (<i>Rapana venosa</i>) Mollusc	Shipping (ballast water) and Aquaculture (accidental contamination) Small stable reproducing population on Brittany coast. In GB, no evidence of established populations but individual records of several Rapa Whelks reported from offshore GB waters in 2005.	MSFD monitoring list (not yet in Wales)/GB NNSS Risk Assessment High/UK Horizon Scanning Top 30 highest-risk future alien invasive species (Roy et al. 2014, score 100)	Able to rapidly consume large quantities of prey and could become a serious competitor for the native common whelk. Reduced food availability may also impact other predators of bivalves including crabs, birds, fish and starfish. A decline in structure forming bivalves may affect local habitat, resulting in reduced refuge for juvenile crustaceans and other organisms. The provision of larger shells to hermit crabs may allow increased growth and increased demand by hermit crabs on food resources. The diet includes molluscs of commercial interest including oysters, mussels and clams; it has been predicted that successful establishment of this species in Great Britain may threaten the bivalve industry. A rapa whelk of 14 cm is reported to be capable of consuming an eight cm hard clam in less than an hour (NNSS)	This species is subject to the marine INNS contingency plan. Rapid response, which could be to investigate incursion, introduce biosecurity measures if possible, and raise awareness with stakeholders.

⁶ Roy, H.E. , Peyton, J. , Aldridge, D.C. , Bantock, T. , Blackburn, T.M. , Britton, R. , Clark, P. , Cook, E. , Dehnen-Schmutz, K. , Dines, T. , Dobson, M. , Edwards, F. , arrower, C. , Harvey, M.C. , Minchin,

D. , Noble, D.G. , Parrott, D. , Pocock, M.K.O. , Preston, C.D. , Roy, S. , Salisbury, A. , Schönrogge, K. , Sewell, J. , Shaw, R.H. , Stebbing, P. , Stewart, A.J.A. and Walker, K.J. (2014) Horizon scanning for invasive alien species with the potential to threaten biodiversity in Great Britain. *Global Change Biology*, volume 20 (12): 3859–3871.

American oyster drill (<i>Urosalpinx cinera</i>) Mollusc	Transported with oysters. Already established in England	MFSD monitoring list (not yet in Wales)/CEFAS Rapid Risk Assessment High/WFD High Impact	Preys heavily on native oysters and may compete with native molluscs such as the dog whelk <i>Nucella lapillus</i> . Lacking a free swimming larval phase, local populations increase rapidly as dispersal is limited. Juveniles are able to drill oyster spat and barnacles as soon as they emerge from egg capsules. As a serious pest to the commercial oyster industry, impacts to communities dependent on local fisheries may be significant (NNSS)	This species is subject to the marine INNS contingency plan. Rapid response, which could include; investigate incursion, eradication, introduce biosecurity measures if possible, and raise awareness with stakeholders.
American lobster (<i>Homarus americanus</i>) Crustacean	Imported live, escape or release from holding facilities Found sporadically in the English Channel since 1998. One individual caught in Scotland, 2 in southeast. No established populations (NNSS). A live individual was found in North Wales in 2016.	MSFD monitoring list/NNSS rapid Risk Assessment High/WFD waiting list/UK Horizon Scanning Top 30 highest-risk future alien invasive species (Roy et al. 2014, score 100)	Could outcompete native lobster for food and shelter, danger of hybridisation with native lobster, may compete with edible crab, significant disease risk for native lobster (white spot syndrome and epizootic shell disease), potentially significant economic impact due to loss of native lobster (NNSS Risk Assessment Summary)	This species is subject to the marine INNS contingency plan. Rapid response, which could be to investigate incursion, introduce biosecurity measures where possible, and raise awareness with stakeholders.
Red algae (<i>Gracilaria vermiculophylla</i>) Alga	Main Pathway of introduction is via oyster movements Present in Northern Ireland	MFSD surveillance list/UK Horizon Scanning Top 30 highest-risk future alien invasive species (Roy et al. 2014, score 100)/EU Horizon scanning 500/WFD list (unknown)	Potential negative effect on native algae and seagrass (Global Invasive Species Database)	This species is subject to the marine INNS contingency plan. Report sighting.
American comb jelly (<i>Mnemiopsis leidyi</i>) Ctenophore	Ballast water (from risk management info) No records from GB but recently recorded from	MFSD surveillance list/UK Horizon Scanning Top 30 highest-risk future alien invasive species (Roy et al. 2014, score 100)/WFD Alarm	Major predator of zooplankton, fish eggs and larvae. Following introduction into the Black Sea a dramatic decrease in abundance of almost all prey species of pelagic fish and the disappearance of some zooplankton species	This species is subject to the marine INNS contingency plan. Report sighting.

	the North Sea off Netherlands coast (NNSS)	list	was observed (NNSS)	
Asian shore crab (<i>Hemigrapsus sanguineus</i>) Crustacean	Ballast water and natural dispersal Individuals in South Wales (one record in Wales in 2014 – not confirmed as resident) and Kent. Found in Channel Islands since 2009 (NNSS)	MFSD surveillance list/NNSS rapid risk assessment High /WFD list as High impact (waiting list) /UK Horizon Scanning Top 30 highest–risk future alien invasive species (Roy et al. 2014, score 100)	Aggressive and highly opportunistic omnivore, may significantly affect native crab, fish and shellfish populations by disrupting the food web. Known to feed on commercially important shellfish species (NNSS risk assessment).	This species is subject to the marine INNS contingency plan. Report sighting.
Asian/Japanese oyster drill (<i>Ocenebra inornata</i>) Mollusc	Likely to be transported with shellfish	MFSD surveillance list/UK Horizon Scanning Top 30 highest–risk future alien invasive species (Roy et al. 2014, score 80)/WFD Alarm list	Predatory on bivalves, pest on oyster beds.	This species is subject to the marine INNS contingency plan. Rapid response, which could include; investigate incursion, eradication, introduce biosecurity measures if possible, and raise awareness with stakeholders.
<i>Celtodoryx ciocalyptoides</i> Sponge	Likely to be transported through movement of shellfish	MFSD surveillance list/UK Horizon Scanning Top 30 highest–risk future alien invasive species (Roy et al. 2014, score 60)/EU Horizon scanning 192/WFD Alarm list	Characterised by an extensive spatial brooding and it rates today among the dominant benthic megafauna in the shallow waters of the Gulf of Morbihan and Dutch inshore waters. It competes successfully with other macrobenthic organisms, overgrowing some of the other sessile invertebrates such as other sponges and octocorals (Perez <i>et al.</i> , 2006).	This species is subject to the marine INNS contingency plan. Report sighting.
Brush clawed shore crab (<i>Hemigrapsus takanoi</i>)	Ballast water, unintentionally with transportation of oysters for aquaculture,	MFSD surveillance list/UK Horizon Scanning Top 30 highest–risk future alien invasive species (Roy et al.	In Holland where densities are high, there has been a drastic reduction in the juvenile native common shore crab. In Dunkirk harbour this species has replaced the common shore crab.	This species is subject to the marine INNS contingency plan.

Crustacean	<p>or associated with hull fouling communities. Natural range expansion following initial introductions occurs when pelagic larvae are dispersed by currents (NNSS website)</p> <p>First recorded in the UK in 2014 from River Medway, Kent and River Colne, Essex. In 2016, the species was recorded as very abundant in the River Orwell, Suffolk.</p>	2014, score 100)	A similar impact could occur in GB (GB NNSS factsheet)	Report sighting.
<p>Barnacle (<i>Amphibalanus amphitrite</i>)</p> <p>Crustacean</p>	Ballast water and fouling	MSFD monitoring list / WFD	Fouls boat hulls, marina structures, equipment and aquaculture species resulting in both environmental and economic consequence. Level of impact for future introduction into the risk assessment area currently unclear.	Need to confirm species is breeding in Wales.
<p><i>Hesperibalanus fallax</i></p> <p>Crustacean</p>	Fishing equipment	MSFD monitoring list	It is apparent that species may pose a risk to a native species of sea-fan (<i>E. verrucosa</i>) listed as a vulnerable by the IUCN and Section 7 list. Potential fouling organism.	Need to confirm species is breeding in Wales.

MUSSEL SEED COLLECTION

Is seed bed an area of
Known Invasive Non-
Native Species (INNS)?

No

Yes

Yes

Is there any risk that INNS
(adults, juveniles or larvae)
may be present in mussel /

Yes

Has an independent survey been
conducted to confirm absence of

Yes

No

Are NRW in agreement with the
assessment?

Yes

No

TRANSPORT TO
RELAY SITE

DO NOT
TRANSPORT TO
RELAY SITE

ADDITIONAL PRECAUTIONARY MEASURES

- Maintain vigilance at all times
- Use of floodlights during night fishing to allow effective visual inspection
- Ensure no hull fouling
- Ensure any ballast water is exchanged in appropriate locations

Annex 3 – Species Assemblage Menai Strait (GiMARiS - 2014)

Tabel 2. De SASI lijst met soorten die levend bij de monstername tussen de mosselen zijn aangetroffen. Exoten zijn geel gearceerd.

Soort	Auteur	Hoofdgroep	Status
<i>Aglaothamnion cf hookeri</i>	(Dillwyn) Maggs & Hommersand	Algae	Inheems
<i>Aglaothamnion tenuissimum</i>	(Bonnemaison) Feldmann-Mazoyer	Algae	Inheems
<i>Antithamnionella spirographidis</i>	(Schiffner) E.M.Wollaston	Algae	Exoot
<i>Ascophyllum nodosum</i>	(Linnaeus) Le Jolis	Algae	Inheems
<i>Ceramium secundatum</i>	Lyngbye	Algae	Inheems
<i>Ceramium virgatum</i>	Roth	Algae	Inheems
<i>Chorda filum</i>	(Linnaeus) Stackhouse	Algae	Inheems
<i>Dictyota dichotoma</i>	(Hudson) J.V.Lamouroux	Algae	Inheems
<i>Dumontia contorta</i>	(S.G.Gmelin) Ruprecht	Algae	Inheems
<i>Erythrotrichia carnea</i>	(Dillwyn) J.Agardh	Algae	Inheems
<i>Fucus serratus</i>	Linnaeus	Algae	Inheems
<i>Fucus vesiculosus</i>	Linnaeus	Algae	Inheems
<i>Furcellaria lumbricalis</i>	(Hudson) J.V.Lamouroux	Algae	Uitheems
<i>Gracilaria gracilis</i>	(Stackhouse) Steentoft, Irvine & Farnham	Algae	Inheems
<i>Griffithsia corallinoides</i>	(Linnaeus) Trevisan	Algae	Inheems
<i>Halurus flosculus</i>	(J.Ellis) Maggs & Hommersand	Algae	Inheems
<i>Plocamium cartilagineum</i>	(Linnaeus) P.S.Dixon	Algae	Uitheems
<i>Polysiphonia elongata</i>	(Hudson) Sprengel	Algae	Inheems
<i>Polysiphonia fucoides</i>	(Hudson) Greville	Algae	Inheems
<i>Pylaiella littoralis</i>	(Linnaeus) Kjellman	Algae	Inheems
<i>Rhodomela confervoides</i>	(Hudson) P.C.Silva	Algae	Uitheems
<i>Rhodophyllis divaricata</i>	(Stackhouse) Papenfuss	Algae	Uitheems
<i>Saccharina latissima</i>	(Linnaeus) Lane, Mayes, Druehl & Saunders	Algae	Inheems
<i>Sargassum muticum</i>	(Yendo) Fensholt	Algae	Exoot
<i>Stylonema alsidii</i>	(Zanardini) K.M.Drew	Algae	Inheems
<i>Ulva cf pertusa</i>	Kjellman	Algae	Exoot
<i>Ulva compressa</i>	Linnaeus	Algae	Inheems
<i>Lepidonotus squamatus</i>	(Linnaeus, 1758)	Annelida	Inheems
<i>Lineus longissimus</i>	(Gunnerus, 1770)	Annelida	Inheems
<i>Spirobranchus triqueter</i>	(Linnaeus, 1758)	Annelida	Inheems
<i>Sthenelais boa</i>	(Johnston, 1833)	Annelida	Uitheems
<i>Tubulanus superbus</i>	(Kölliker, 1845)	Annelida	Uitheems
<i>Alcyonidioides mytili</i>	(Dalyell, 1848)	Bryozoa	Inheems
<i>Alcyonidium diaphanum</i>	(Hudson, 1778)	Bryozoa	Inheems
<i>Celleporella hyalina</i>	(Linnaeus, 1767)	Bryozoa	Inheems
<i>Conopeum reticulum</i>	(Linnaeus, 1767)	Bryozoa	Inheems
<i>Flustra foliacea</i>	(Linnaeus, 1758)	Bryozoa	Inheems
<i>Abietinaria abietina</i>	(Linnaeus, 1758)	Cnidaria	Inheems
<i>Alcyonium digitatum</i>	Linnaeus, 1758	Cnidaria	Inheems
<i>Dynamena pumila</i>	(Linnaeus, 1758)	Cnidaria	Inheems

Soort	Auteur	Hoofdgroep	Status
<i>Halecium halecinum</i>	(Linnaeus, 1758)	Cnidaria	Inheems
<i>Hydrallmania falcata</i>	(Linnaeus, 1758)	Cnidaria	Inheems
<i>Metridium senile</i>	(Linnaeus, 1761)	Cnidaria	Inheems
<i>Nemertesia antennina</i>	(Linnaeus, 1758)	Cnidaria	Uitheems
<i>Obelia geniculata</i>	(Linnaeus, 1758)	Cnidaria	Inheems
<i>Obelia longissima</i>	(Pallas, 1766)	Cnidaria	Inheems
<i>Sertularia cupressina</i>	Linnaeus, 1758	Cnidaria	Inheems
<i>Austrominius modestus</i>	(Darwin, 1854)	Crustacea	Exoot
<i>Balanus crenatus</i>	Bruguière, 1789	Crustacea	Inheems
<i>Cancer pagurus</i>	Linnaeus, 1758	Crustacea	Inheems
<i>Carcinus maenas</i>	(Linnaeus, 1758)	Crustacea	Inheems
<i>Macropodia rostrata</i>	(Linnaeus, 1761)	Crustacea	Inheems
<i>Melita palmata</i>	(Montagu, 1804)	Crustacea	Inheems
<i>Necora puber</i>	(Linnaeus, 1767)	Crustacea	Inheems
<i>Pagurus bernhardus</i>	(Linnaeus, 1758)	Crustacea	Inheems
<i>Pisidia longicornis</i>	(Linnaeus, 1767)	Crustacea	Inheems
<i>Amphipholis squamata</i>	(Delle Chiaje, 1828)	Echinodermata	Inheems
<i>Asterias rubens</i>	Linnaeus, 1758	Echinodermata	Inheems
<i>Ophiothrix fragilis</i>	(Abildgaard, in Müller, 1789)	Echinodermata	Inheems
<i>Psammechinus miliaris</i>	(P.L.S. Müller, 1771)	Echinodermata	Inheems
<i>Buccinum undatum</i>	Linnaeus, 1758	Mollusca	Inheems
<i>Doris pseudoargus</i>	Rapp, 1827	Mollusca	Inheems
<i>Lepidochitona cinerea</i>	(Linnaeus, 1767)	Mollusca	Inheems
<i>Littorina littorea</i>	(Linnaeus, 1758)	Mollusca	Inheems
<i>Patella vulgata</i>	Linnaeus, 1758	Mollusca	Inheems
<i>Polycera quadrilineata</i>	(O.F. Müller, 1776)	Mollusca	Inheems
<i>Pholis gunnellus</i>	(Linnaeus, 1758)	Pisces	Inheems
<i>Hymeniacidon perlevis</i>	(Montagu, 1818)	Porifera	Uitheems

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.

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 were established to provide stakeholders with a forum for communicating and engaging with Welsh Government. The Association has been advised that these Groups have been suspended and have not met recently.
 - 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 WMFAG meeting took place on 25th June. It was attended by Lewis Le Vay from the Association. No issues of interest to MSFOMA were discussed.
 - 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. No meetings of this group have taken place recently. The WMFAG meeting in June 2019 had discussed the idea of replacing the AAG with a group similar to WMFAG.
- 2.2 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 are presently no open consultations for “Marine and Fisheries” on the Welsh Government website, nor have any consultation responses been submitted since the last Association meeting.

4. Wales National Marine Plan

- 4.1 On the 12th November 2019 Lesley Griffiths AM, Minister for Environment, Energy and Rural Affairs published the first Welsh National Marine Plan, setting out a vision for the sustainable development of Welsh seas over the next 20 years.
- 4.2 The Wales Marine Plan is available for download as a document containing policies and plans¹. The geographic information that was used to inform the plan is available from the Marine Planning Portal²
- 4.3 A copy of the section of the plan relevant to aquaculture is reproduced at Annex A of this report. A more detailed map of Anglesey and north-west Wales is reproduced at Annex B.
- 4.4 Members will note that the WNMP contains an overall policy stating that “*Proposals for new aquaculture developments will be supported where they contribute to the objectives of this plan.*” The Plan also contains policies to safeguard aquaculture sites from other developments.

5. Welsh Government Officials

- 5.1 A very constructive meeting with WG Officials took place in Porth Penrhyn on the 17th October 2019. This meeting was convened to allow a focussed discussion of the renewal of the Fishery Orders in the eastern and western Menai Strait. This meeting was attended by Julian Bray, Michelle Billing and Lisa Connaire (WG Domestic Fisheries Policy & Management Branch). MSFOMA was represented by the Chair, Kim Mould, Trevor Jones, Jon King, James Wilson and Jim Andrews.

6. Communications with Cabinet Minister

- 6.1 There have been no communications with the Cabinet Minister since the MSFOMA meeting in September 2019.

MSFOMA Secretariat
November 2019

¹ Available here: https://gov.wales/sites/default/files/publications/2019-11/welsh-national-marine-plan_0_1.pdf

² Available here: <https://gov.wales/marine-planning-portal>

Annex A: Extracts of Wales National Marine Plan setting out the Sector Policy for Aquaculture.

Sector Policy – Aquaculture

280. Aquaculture sector policy applies to both the inshore and offshore regions of the Plan area.

Aquaculture

Sector Objective

To facilitate the development of sustainable aquaculture in Welsh waters, including promoting innovative finfish, shellfish and marine algal businesses and associated supply chains.



Sector Objective – Context and Rationale

281. Aquaculture is the rearing or cultivation of aquatic organisms (finfish, shellfish and algae, including support feeds). It includes producing livestock for direct commercial purposes or for restocking and enhancing wild populations ("ocean ranching").

282. This Plan reflects the Welsh Government's aim to support the development of sustainable shellfish, finfish and marine algal aquaculture production and associated supply chains. As recognised by the MPS³⁴ aquaculture can help to underpin sustainable economic development in rural and coastal communities as well as contribute to the security of food supply. Pressures on some commercial fish stocks and the potential for aquaculture to play a role in supporting restocking programmes underscore the benefits of sustainably developing aquaculture production.

283. Commercial aquaculture in Wales has traditionally focused on the managed cultivation of shellfish, principally blue mussels. The production of farmed finfish in Wales is currently limited and is confined to on-shore facilities.

284. For species already cultivated, this Plan identifies potential for the future development of additional production capacity and options for value added processing. Oysters, scallops, clams and abalone are identified as examples of potential new species for cultivation, along with consideration of potential for sustainable finfish and marine algal aquaculture production.

285. Research commissioned by Welsh Government suggests there is considerable marine space offering potential for the development of aquaculture³⁵, in particular in relation to shellfish. While potential near-shore areas are limited compared to offshore areas, further viability assessment work is needed to support the identification of specific opportunities and constraints.

286. There is also some potential to develop large-scale sea-cage installations. Similarly, the potential exists to grow algae offshore in sufficient volumes to meet the economies of scale to supply biomass to generate renewable energy. Opportunities also exist at smaller scale to grow algae closer inshore e.g. to supply pharmaceutical or food-related industries. Supply of bespoke products to the pharmaceuticals industry represents a development opportunity of currently unknown scale or potential that should be explored.

³⁴ MPS Chapter 3, Section 3.9.

³⁵ www.gov.wales/assessment-potential-aquaculture.

287. Meeting the sector objective requires developing further clarity of the types of aquaculture most likely to contribute to sustainable future development ambitions. Providing direction for future aquaculture opportunities should include consideration of species or technologies which can support sustainable sector development and ongoing support for collaboration between industry and research bodies. Co-ordinated action at local level between producers, public authorities, research institutes, associations, education and training organisations can help promote activity, with consequent benefits for associated supply chains, and meet the growing demand for locally, sustainably produced aquatic products. The United Kingdom Multiannual National Plan for the Development of Sustainable Aquaculture (MANP)³⁶ details how the UK government will encourage growth in aquaculture.

Sector Supporting Policy

AQU_01: Aquaculture (supporting)

AQU_01 a: Proposals for new aquaculture developments will be supported where they contribute to the objectives of this plan. Proposals should comply with the relevant general policies and sector safeguarding policies of this plan and any other relevant considerations.

AQU_01 b: Relevant public authorities and the sector are encouraged, in liaison with other interested parties, to collaborate to understand opportunities for the sustainable use of aquaculture resources including the identification of:

- natural resources that provide aquaculture potential
- opportunities to define and, once in place, further develop and refine Strategic Resource Areas for aquaculture

in order to support the sustainable development of the aquaculture sector through marine planning.

Sector Supporting Policy Aim

288. The narrative underpinning the **Aquaculture Sector Objective** sets out the Welsh Government's ambition to support the development of new and diverse sustainable aquaculture activities and to facilitate the sustainable development of further aquaculture production in Welsh waters. **Policy AQU_01 a** aims to support further sustainable development of current activity types, diversify the species cultured and help the sector to plan for the future.

289. Relevant public authorities should support proposals for new aquaculture developments where these are consistent with relevant General Policies and the Safeguarding Policies of this Plan. Decision makers should continue to support the industry in taking opportunities to develop the sector, guiding activity away from more sensitive locations and further offshore (wherever appropriate) whilst being mindful of practical constraints and potential impacts on marine ecosystems. Welsh Government, TCE, industry and NRW should collaborate to ensure that proposals for future activity are progressed in order to help meet the policy aim for sustainable sector development. The industry is encouraged to develop practical, realistic plans to expand activity.

290. Upon successful application, the Welsh Ministers issue Several Orders (SOs) to confer ownership of cultivated shellfish on areas of leased seabed (usually from TCE). In order to provide sector security and encourage investment, SOs will generally be granted for a period of at least 28 years, with a seven yearly review where appropriate. Authorisations and SOs in particularly sensitive areas, in areas where there is less certainty or in areas where there is a need for an adaptive approach may be for a shorter timeframe and may be subject to more rigorous monitoring requirements. Welsh Government will look to grant longer term authorisations and SOs in less sensitive areas.

³⁶ www.gov.uk/government/publications/sustainable-aquaculture-the-united-kingdom-multiannual-national-plan-manp.

291. Where an SO lies within or close to sites designated for marine conservation purposes, the applicant must provide information within the application to enable Welsh Government to undertake an environmental assessment. Welsh Government may also draw on other sources of information when undertaking this assessment. Based on the conclusions of the environmental assessment, Welsh Government may put in place conditions within the SO to guard against potential adverse impacts upon the designated features of any conservation site.

292. **Policy AQU_01 b** recognises that sector development can be supported through capacity building, innovation and collaboration between industry and academic research centres. This policy encourages the aquaculture industry to work in partnership with businesses, government and academia to support the implementation of this Plan, identifying suitable marine areas for further aquaculture activity and opportunities to increase productivity and to diversify the species cultivated, thereby addressing key evidence gaps, including enabling the identification and refinement of SRAs.

293. In preparing aquaculture related proposals, developers should apply this Plan's General Policies and the Safeguarding Policies in relation to all sectors covered by the Plan. Developers should refer to each sector chapter for further information on the Safeguarding Policy in relation to the safeguarding of the interests of that sector.

Sector Safeguarding Policy Aim

294. The following Sector Safeguarding Policy Aim narrative sets the safeguarding policies and policy principles to be applied by all new proposals from all sectors when considering their potential impact upon the Aquaculture sector. Developers and decision makers should also apply the safeguarding

policy requirements for all other sectors covered by this Plan, as set by the Sector Safeguarding Policy Aim narratives of each sector chapter within the Plan.

295. All proposals (including new Aquaculture sector proposals) with the potential to impact upon existing, planned or, from the point at which an SRA is introduced, future potential aquaculture activities in Aquaculture SRAs, should apply this Plan's Safeguarding Policies.

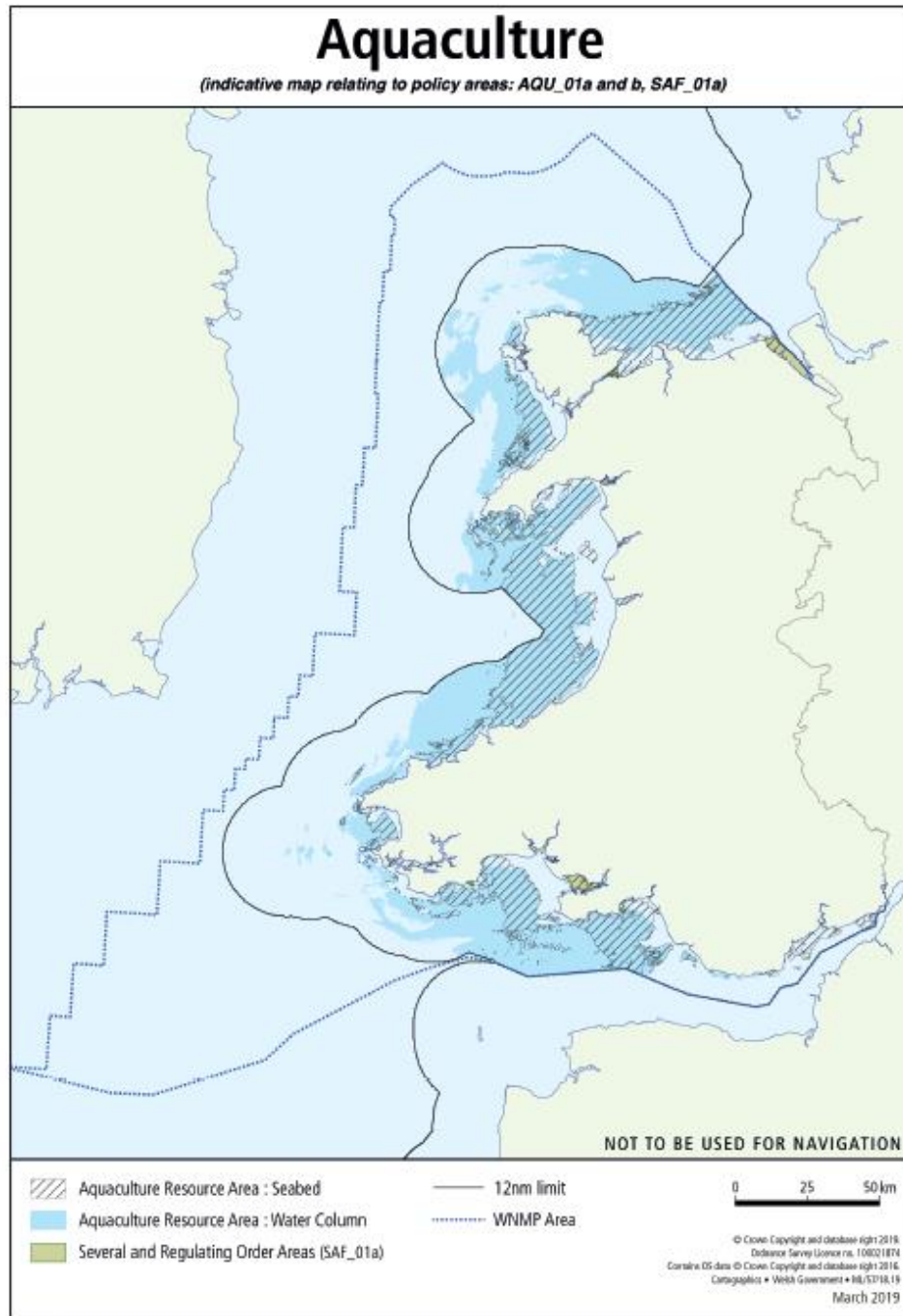
296. **Policy SAF_01 a** reflects the importance of providing security for ongoing operations and protecting investments. It applies to all proposals from all sectors (including new Aquaculture sector proposals) with the potential to impact upon areas where:

- an application for a SO or production rights for aquaculture has been granted or formally applied for;
- a documented formal agreement is in place between the sea-bed owner and an aquaculture operator;
- an Aquaculture Production Business registration is in place or has been applied for.

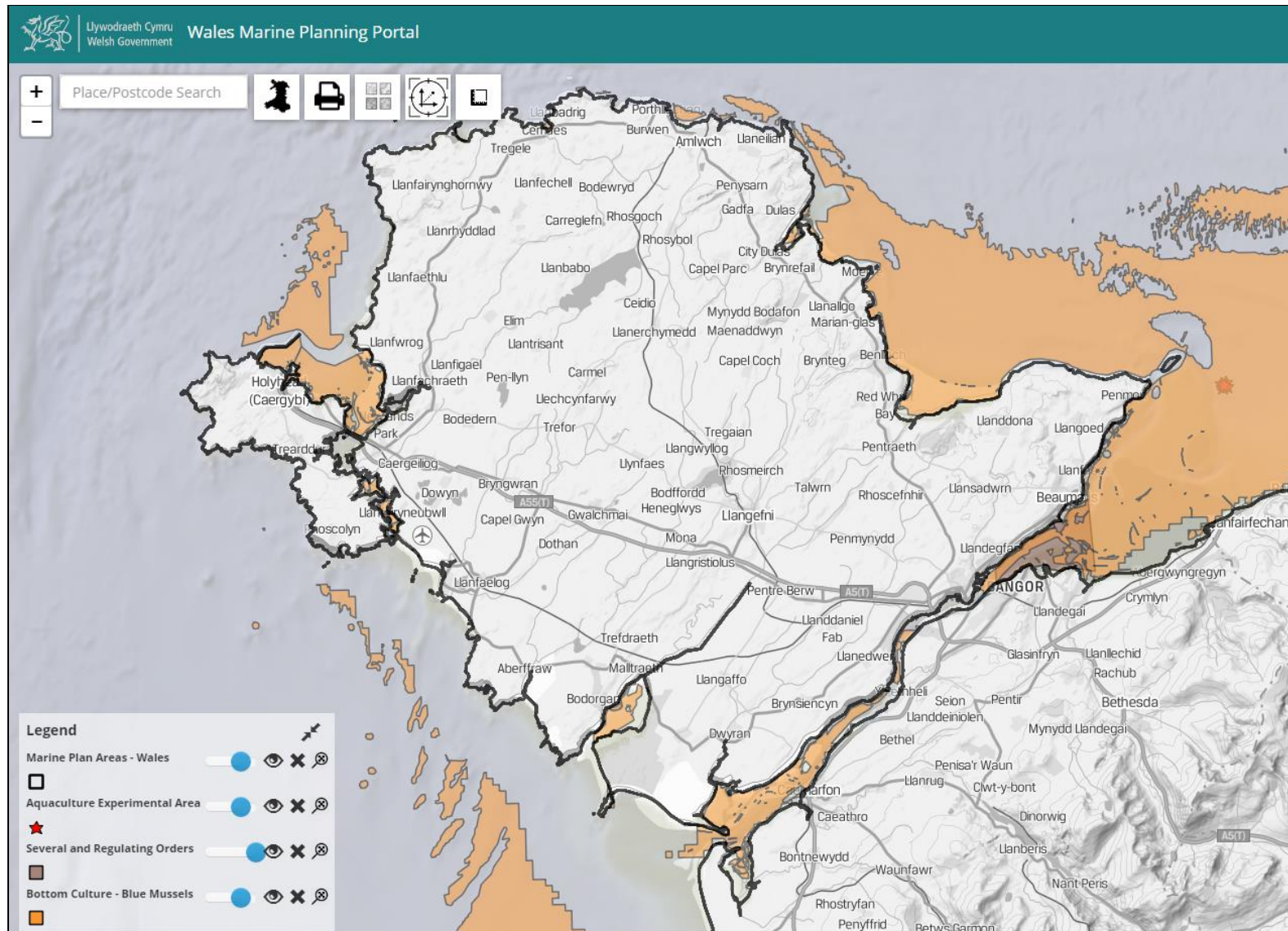
297. **Policy SAF_02** will apply to all proposals from all sectors (including new Aquaculture sector proposals) with the potential to impact upon areas identified as being SRAs for the Aquaculture sector. SRAs for the Aquaculture sector will identify areas with suitable resource for future use for aquaculture production in the water column or on the sea bed. This policy will apply to an SRA from the point at which that SRA is formally introduced through the publication of a MPN.

298. **Policies SAF_01 a** and **SAF_02** are the means by which Aquaculture sector activity is safeguarded. Therefore, **Policies SAF_01 b** and **DEF_01** are not applicable in relation to the safeguarding of Aquaculture sector activity.

Figure 12: Aquaculture: Indicative map relating to Policy areas



Place/Postcode Search



Legend

Marine Plan Areas - Wales



Aquaculture Experimental Area



Several and Regulating Orders



Bottom Culture - Blue Mussels



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.

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 November 2019).
- 1.2 No new management measures that are directly related to the activities of MSFOMA were discussed at the recent IFCA meetings.

2. Changes to Byelaws

- 2.1 The NW-IFCA is continuing to work on a revision of its byelaws regulating fishing for seafish using pots within its District. This byelaw has no implications for mussel fishing activities.

3. Bivalve Mollusc Working Group

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

4. Seed Mussels

- 4.1 It was reported at the last meeting of the Association that a small patch of seed mussels had been identified at Perch Scar in the Wyre Estuary, and that the NW-IFCA had carried out the necessary consultations with Natural England to allow dredging to take place here. It was noted at the meeting that the scale of charges for dredging permits in the NW-IFCA District would mean that a fee of £9,000 would need to be paid before any dredging took place. This essentially made the fishery economically inviable.
- 4.2 Following the last meeting of the Association the Chair wrote to the NW-IFCA to query its scale of charges. A copy of the Chair's letter is attached at Annex A, with the NW-IFCA CEO's response at Annex B.
- 4.3 Members are invited to consider an appropriate reply to the NWIFCA response.

Annex A: Letter sent by Chair of MSFOMA to the Chief Executive of the NW-IFCA.

Menai Strait Fishery Order Management Association

Port Penrhyn, Bangor, LL57 4HN

Stephen Atkins
North West Inshore Fisheries and Conservation Authority
1 Preston St
Carnforth
Lancs LA5 9BY

8th October 2019

Dear Stephen

SEED MUSSEL FISHERY, PERCH SCAR, MORECAMBE BAY

I am writing further to a recent meeting of our Association at which we discussed the opportunity for seed mussel dredging at Perch Scar in Morecambe Bay.

Both the Members of the Association and the industry representatives at the meeting were very grateful for the hard work that must have gone into surveying this seed mussel bed and carrying out the necessary consultations to allow for it to be fished. The Association resolved that we should write to thank the Authority and its Officers for creating this opportunity.

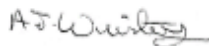
We noted that the survey of the area had identified a stock of around 500t of seed mussels at Perch Scar. Past experience suggests that this seed mussel bed is precariously situated and that it could have been swept away by the tide before any vessels had been able to mobilise to the area, and also that the seed mussels are likely to be swiftly scoured away once dredging starts. It was therefore considered likely that any fishing in this area would yield much less than 500t of seed mussels.

These observations led us to a discussion of the NW-IFCA's fees for permitting mussel dredgers to work within its District. The permit fee that would be charged for our local vessels is presently £9,000 per vessel per annum. This is an access fee, so the vessel owners have to pay it irrespective of the quantity of mussels that they may catch (or even if they find that there are no mussels left on Perch Scar). This is a fee that seemed appropriate when there were large settlements of seed mussels, but one which renders fishing uneconomic when the quantities of seed mussels are small, as at Perch Scar this year.

We resolved at our meeting that we would write to ask if your Authority could review the fee that it charges for seed mussel dredging within its District. It would, for instance, be helpful if a lower fee was charged if the quantity of mussels available was small.

We hope that you will be able to consider this request. If you require any further information from us in your deliberations on this matter, please do not hesitate to get in touch.

Yours sincerely



ALAN WINSTONE
Chair, MSFOMA

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

Annex B: Response received from the Chief Executive of the NW-IFCA.

From: Stephen Atkins <S.Atkins@nw-ifca.gov.uk>
Sent: 17 October 2019 11:09
To: Jim Andrews
Cc: alanjwinstone@gmail.com; Mandy Knott; Joseph Moulton; Paul Williams
Subject: FW: Seed Mussels, Perch Scar

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: MSFOMA

Dear Jim,

Thanks for your letter re Perch Scar.

On the question of dredge permit fees, I think the first stage would be to ask the Authority to agree to a review of byelaw permit charges.

As you will recall, the fees were based on vessel size as an indicator of potential catch. Defra were reluctant to allow a scale of charges for a scale of sizes in the byelaw. In the end we had to accept a single vessel size threshold (15m) giving just 2 alternative charges for above and below 15m. Any change of policy would necessitate a change in the bylaw which would not be a quick process. We would need to inform and explain the need to the Authority, agree and make new proposals, consult, redraft the byelaw etc etc. You will appreciate the problem.

There would also need to be a discussion about priorities and I expect we would need data and research to show how mussel stocks have changed to justify reducing charges.

I wonder if the simplest option if it is available, would be to use an under 15m vessel when the scale of available mussel seed is low.

If you wish to seek a review of charges perhaps your group could draft a more detailed justification for the resolution to be included in a report to TSB. We are now compiling papers for the 5 November

Hope this helps

Stephen

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 is the basis for the most successful and productive aquaculture area in Wales.

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. Liaison with Welsh Government officials over the renewal process is noted.
3. 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.
4. Options for mitigating the risk of a delay in the renewal of the Fishery Order should be discussed.

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 (now the Minister for Environment, Energy & Rural Affairs) on the 9th August 2018.
- 2.2 During the period since this application was submitted there has been correspondence between the Association and Welsh Government about the process for progressing the application. A new procedure has been developed by Welsh Government for this process, and confirmation was received in October 2019 that work was about to commence on this process (see Annex A).
- 2.3 A very constructive meeting was held with Welsh Government officials on October 17th in Port Penrhyn. During this meeting the timetable for renewal of the Fishery Order was discussed. Key points identified at this meeting were:-

- a) The new Fishery Order must be ready for implementation at the latest by the date of expiry of the existing Order on 31st March 2022.
 - b) To achieve this deadline, the public consultation on draft Order: this should take place in June – July 2020. This would then allow adequate time for post-consultation activities and revision of the draft Order.
 - c) Before any public consultation on the new Order it would be appropriate for MSFOMA to provide feedback on the proposed Order. This implies that a proposed Order should be sent to MSFOMA for comment in February-March 2020.
 - d) Revision of the Order and provision of advice by WG lawyers could be a rate-limiting step in the process, as it has been for the Menai West application.
- 2.4 Following this meeting the Chair wrote to WG officials to thank them for the meeting and to highlight the importance of meeting the deadline of 31st March 2022, and that the main risk to this schedule appears to be the limited availability of legal advice and support for WG officials (Annex B). A response from Welsh Government shows that the importance of this deadline is recognised, and that alternative means of providing legal support to WG officials are being considered (Annex C).
- 2.5 Since the meeting on October 17th the Secretariat has been liaising with WG officials to develop a spreadsheet for the renewal schedule that can be used to keep the process on track. WG officials have also raised some queries about the documents submitted in support of the application, which have been addressed.

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 meetings that whilst the uncertainties about the application process were being addressed it would be appropriate to temporarily suspend work on stakeholder engagement. Once these uncertainties are resolved it would be appropriate to resume this work, with key priorities being the need to liaise with the recreational users and to organise some “drop in” sessions for all stakeholders. It had initially been hoped to hold these sessions in November 2019. Plans are now being made to hold them in January 2020.
- 3.3 Following the last meeting of the Association in September 2019, the Chair along with Trevor Jones and Jim Andrews had a very constructive meeting with the Commodore of the Royal Anglesey Yacht Club, Stevie Scanlan, in Beaumaris. The meeting identified that the RAYC and mussel industry have many common interests and that no fundamental problem are foreseen with the renewal of the Fishery Order on a like-for-like basis.
- 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. Contingency Plans

- 4.1 At the Association meetings earlier in the year it was resolved that contingency plans should be developed to address the risk of delay with the renewal of the Fishery Order. Although some initial discussions have been held with the Authority's lawyers no formal advice has been obtained on such plans. It would seem appropriate for the Association to continue to consider contingency plans and mitigation options in case of any delay with the process.

MSFOMA Secretariat
November 2019

Annex A: Letter from Welsh Government to confirm recommencement of work on application for Menai Strait Oyster and Mussel Fishery Order.

**Is-adran Môr a Physgodfeydd /
Marine & Fisheries Division**



Llywodraeth Cymru
Welsh Government

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

info@msfoma.org

11 October 2019

Dear Alan

Menai Strait Oyster and Mussel Fishery Order

Further to the Minister's letter of 28 February, I am pleased to inform you that the Marine and Fisheries Division have implemented a revised administrative procedure for assessing Several and Regulating Order applications.

With the procedure now in place, we are in a position to recommence work on your application for a Several and Regulating Fishery Order. Part of this work will necessarily include a review of your application and careful consideration of all relevant current environmental factors before your application can be further progressed.

I look forward to meeting you on 17 October to discuss the procedure and the assessment of your application.

Yours sincerely

Lisa Connaire

Fisheries Policy Officer

Annex B: E-mail from MSFOMA Chair to Julian Bray, Welsh Government, concerning renewal of Menai Strait Oyster and Mussel Fishery Order.

Jim Andrews (AWJ)

From: Alan Winstone <alanjwinstone@gmail.com>
Sent: 19 October 2019 15:23
To: Julian.Bray2@gov.wales
Cc: jim@awjmarine.co.uk
Subject: MENAI STRAIT EAST FISHERY ORDER

Dear Julian

I am writing further to our very constructive discussion aboard the mussel dredger "Valente", on 17th October 2019, about the application that the Menai Strait Fishery Order Management Association (MSFOMA) has submitted for the renewal of the Fishery Order at the eastern end of the Menai Strait.

To recap very briefly, this area is the most productive and successful mussel farming area in the whole UK and is one of the leading production areas in Europe. The shellfish farmers in the Menai Strait produce vast amounts of mussels for export. The fishery provides secure year-round skilled employment for more than 20 people here in an area of rural Wales where jobs are precious. They do all of this with no subsidies and operating under a management system that funds itself.

The foundation of the Menai Strait mussel fishery is the legal protection for farmed mussels that is provided by the Menai Strait Oyster and Mussel Fishery Order 1962. This Order was made for a period of 60 years and is due to lapse on 31st March 2022. It is vital for the jobs and businesses in this area that a new Order is made by Welsh Government and in place by the 1st April 2022. If this Order is not in place by then, jobs and livelihoods will be lost.

MSFOMA has been working to put a new Fishery Order in place on time. We submitted our application for a new Order to Welsh Government in August 2018, giving over 3 years for the new Order to be made. We have been assured that WG have implemented new administrative procedures for Fishery Order applications, and that a new Order can be made in a period of 2 years. We have worked with your colleagues to develop and agree a timetable for progress within this timescale.

One of the points that we discussed with you aboard Valente was our experience from the process of applying for a Fishery Order in the western Menai Strait. This has been a very long and drawn-out process. We have learnt lessons from this process ourselves, which are applying in the eastern Menai Strait (notably the need for early engagement with stakeholders). However, one of the main reasons for delay with the Menai West application has been the limited legal resource available at Welsh Government; many months have been lost while we have all been waiting for WG lawyers to provide advice to officials.

We think that the main risk to having a new Fishery Order for the eastern Menai Strait in place by the 1st April 2022 will also be the availability of legal advice and support for WG officials during the application process. Given the importance of meeting this deadline, MSFOMA is keen to work with you at this point in the application process to identify and implement suitable mitigation measures that will address this risk. This could include, for instance, MSFOMA instructing a suitable legal professional to provide advice to WG at our expense.

We would very much welcome your views on this suggestion, and also if you have any alternative proposals for mitigation measures that would eliminate the risk of missing the deadline of 1st April 2022. We would be happy to meet with you or your colleagues to discuss this, and to ensure that the deadline of 1st April 2022 is met so that this fishery can continue to prosper and thrive.

With best wishes.

Regards

Alan

Alan Winstone, Chairman, MSFOMA

Annex B: E-mail from Julian Bray to MSFOMA Chair to concerning renewal of Menai Strait Oyster and Mussel Fishery Order.

Jim Andrews (AWJ)

From: Julian.Bray2@gov.wales
Sent: 26 November 2019 09:34
To: alanjwinstone@gmail.com
Cc: jim@awjmarine.co.uk; Michelle.Billing@gov.wales; Gareth.Bevington@gov.wales; Nerys.Arch@gov.wales; Nia.James@gov.wales
Subject: RE: MENAI STRAIT EAST FISHERY ORDER

Alan

Thanks for your email, I apologise for the delay in responding. We recognise the importance of the Menai East Several Order and understand your concerns about the 1st April 2022 deadline. We appreciate the constructive approach adopted by MSFOMA and your offer of help regarding legal advice. I have discussed your email with Legal Services colleagues and, whilst we feel it would not be appropriate for MSFOMA to directly fund lawyers to advise us, we are investigating a number of options to ensure we have sufficient resource available. Once these investigations have concluded and we have a clear way forward, I will get back in touch to clarify the position.

Regards, Julian

Julian Bray

Is-Adran Môr a Physgodfeydd / Marine and Fisheries Division
Llywodraeth Cymru / Welsh Government
Ffôn / Tel: 0300 062 5605
Ffôn symudol / Mobile: 07580 789566

<http://gov.wales/marineandfisheries>

<http://llyw.cymru/ymoraphysgodfeydd>

Dylai unrhyw ddatganiadau neu sylwadau a wneir uchod gael eu hystyried yn rhai personol ac nid yn rhai gan Lywodraeth Cymru, unrhyw ran ohoni neu unrhyw gorff sy'n gysylltiedig â hi.

Any of the statements or comments made above should be regarded as personal and not those of the Welsh Government, any constituent part or connected body.

Annex D: 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"> Attend Caernarfon Harbour Trust meeting. Liaison with WG officials about application
	Q3/Q4	j) Respond to WG queries about application	<ul style="list-style-type: none"> Meeting held with Royal Anglesey Yacht Club. Ongoing liaison with WG officials
2020	Q1/Q2	k) (Possible) Formal consultation on Fishery Order.	
	Q3/Q4	l) Progress application process. m) Respond to consultation feedback.	
2021	Q1/Q2	n) Progress application process. o) Address consultation issues either informally or through Public Inquiry.	
	Q3/Q4	p) Progress application process.	
2022	1 st April	q) DEADLINE FOR NEW ORDER	

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 WG should be asked to provide a draft of the proposed new Fishery Order at the earliest opportunity so that plans for stakeholder engagement can be implemented.
3. That the Association considers whether the financial projection set out in this report for cost recovery from this Fishery Order application is appropriate.

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 during 2019.

2. Update

- 2.1 At the March 2019 meeting of the Association it was reported that the Minister for Energy, Planning and Rural Affairs Lesley Griffiths AM had made a commitment to complete the process for making a new Menai West Fishery Order by August 2019, pending a review of the Habitats Regulations Assessment that had been submitted with the application in 2013. This review was being carried out by the Centre for Applied Marine Science at Bangor University, and was due to be completed by the end of April 2019, after which a new Order would 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.

- 2.2 The Chair of the Association wrote to the Minister in April 2019 to thank her for this commitment and to seek some clarification from officials about stakeholder engagement. Officials responded in May 2019 to indicate that there will not be a repeat of the formal consultation on the wording of the Fishery Order because this would not be compliant with the consultation process set out in the Sea Fisheries (Shellfish) Act 1967 and could hence be *ultra vires*. Officials further advised that drafting instructions for the new Order had not yet been submitted to WG Legal (as of 15th May 2019).
- 2.3 At the Association meeting in September 2019 WG officials indicated that they were working with lawyers to determine the conditions that would be associated with the Fishery Order. It was anticipated that this would meet the December 2019 deadline proposed by the Minister.
- 2.4 In November 2019 WG officials provided some informal feedback from their legal advisors concerning a condition that is likely to be included in a revised version of the Order. This is provided for information at Annex A of this report. For reference a copy of the draft order that was issued for consultation is attached at Annex B.
- 2.5 Members will note that in the period since the 2015 Order was drafted, the Environment (Wales) Act 2016 has been made and came into force. This Act requires that Fishery Orders made under the Sea Fisheries (Shellfish) Act 1967 contain provisions to protect the marine environment and grant the Minister powers to serve notices for the protection of such sites (see text at Annex C of this report).

3. Consultation

- 3.1 It has been noted at meetings since March 2019 that the Association is keen to engage with stakeholders to raise awareness of the content of a new Fishery Order at the earliest opportunity. In the absence of certainty about what may be in a new Fishery Order, it is still not considered prudent to initiate stakeholder engagement.

4. Costs

- 4.1 At the September meeting of the Association it was agreed that the costs accrued by MSFOMA in progressing the application for the Menai West Fishery Order should be calculated, and used to determine a scale for lease fees in a new Fishery Order.
- 4.2 A preliminary calculation of likely lease fees has been carried out, based on the following information and assumptions:-
 - a) In the period since November 2015 MSFOMA has incurred costs of just under £19,000 associated with the Menai West fishery order application. It can be anticipated that some additional costs will be incurred to complete the application process. An estimate of final costs of £22,500 has been assumed.
 - b) There will be annual administrative costs associated with the Order. These have been estimated at £3,000 per annum.

- c) These costs would be shared between 5 lessees, each of whom would be granted a lease for periods of 7 years during the 28 year duration of the Order.
 - d) The Order should accumulate a reserve to assist with its renewal.
 - e) It would seem appropriate to recover the application costs either during the first 7 year leasing period or over the first 2 leasing periods (14 years).
 - f) An annual inflation rate of 2.8% should be applied to the annual administrative fee to cover increases in costs.
 - g) Lease fees would be identical for each of the leased areas.
- 4.3 The annual lease fees for the first 7 years of a new order have been projected on the basis of the items listed above for both a 7-year and 14-year cost recovery scenario, along with the value of the reserve accumulated by the proposed order at 7 year intervals over its 28-year duration under each scenario. The projections are set out in Table 1 below.

Table 1: Financial projections for the proposed Menai Strait (West) Fishery Order.

Costs			
Application for Order	£		22,500.00
Annual administrative fee (Year 1)	£		3,000.00
Constants			
Number of leases			5
Duration of leases (y)			7
Annual inflation rate			2.8%
Calculations			
Annual fee per lease		7 year recovery period	14 year recovery period
1	£	1,242.86	£ 921.43
2	£	1,259.66	£ 938.23
3	£	1,276.93	£ 955.50
4	£	1,294.68	£ 973.25
5	£	1,312.93	£ 991.50
6	£	1,331.69	£ 1,010.27
7	£	1,350.98	£ 1,029.55
Value of Reserve			
Year 7	£	-	-£ 11,250.00
Year 14	£	22,500.00	£ -
Year 21	£	45,000.00	£ 11,250.00
Year 28	£	67,500.00	£ 22,500.00

Annex A: Extract from WG document outlining possible conditions for a new fishery order in the western Menai Strait.

Menai West SO

Welsh Government Fisheries Science Team – 03 October 2019

Problems facing progression of the order:

Mitigation of the HRA – Successful mitigation of the likely impacts of the cultivation of the non-native *Crassostrea gigas* (*C. gigas*) or Pacific oyster will require an adaptive management plan capable of ensuring that growers respond to environmental cues which may lead to reproductive success of the cultivated stock.

Unlawful sub-delegation – Minister must retain ultimate control over the granting of the order.

Sufficient flexibility for oyster farmers to run viable businesses.

Proposal

Several order – The order will contain only universal conditions (i.e. those which would not vary under any circumstances under the duration of the order) relating to the cultivation of *C. gigas* in the Menai strait. The several order and its conditions will be assessed as a “plan” under the Habitats and Birds directives at the Article 6.2 “Plan” level. A key condition of the SO will be:

“The terms and conditions of any lease issued by Menai Strait Fishery Order Management Association (MSFOMA) must be agreed by the Welsh Minister before the issuing of the lease.” This technically permits cultivation under the several order (and several order could be granted for a very long period of time) but the lease condition prevents any *C. gigas* actually being laid without further detailed lease conditions being approved by the minister. i.e. MSFOMA only serve as a lease issuing body but the power to authorise the issuing of the lease and control over the content of the lease remains with the minister.

Leases - Short term leases for individual lays are issued by MSFOMA with a set of detailed terms and conditions. The relevant condition in the several order ensures that any proposal for a lease to be issued by MSFOMA under the SO would trigger a further project under the Habitats directive (or UK equivalent post prexit). The necessary ministerial permission for that project will require additional HRA under the Habitats directive. The process would be as follows:

1. The terms and conditions of any proposed lease to be issued by MSFOMA under the several order will be submitted to Welsh Government as a “document to inform” a Habitats Regulations Assessment (HRA). The lease conditions will serve as a proposal for the necessary mitigation against the occurrence of damage to any European Marine Site resulting from the application
2. The lease proposal will then assessed *via* HRA by WG at Article 6.3 “project” level.

3. If necessary, amendments will be made to the conditions contained in the proposed lease by WG officials to mitigate any environmental concerns.
4. WG clear the HRA and progress to statutory nature conservation advisor sign off by NRW.
5. Final agreement of the NRW approved HRA and associated lease conditions will be subject to ministerial approval.
6. MSFOMA issue lease.

Any proposal for change to an extant MSFOMA lease would trigger the same process.

If this process is permissible then the SO would only need conditions to cover the location, the granting of leases and some universal conditions regarding *C. gigas* cultivation practices in order to prevent the spread of individuals from the cultivated *C. gigas* lays. Leases would contain the detailed information specifying the proposed conditions in this scenario.

Annex B: Copy of the proposed Menai Strait (West) Oyster and Mussel Fishery Order 2015.

WELSH STATUTORY
INSTRUMENTS

2015 No. (W.)

SEA FISHERIES, WALES

SHELLFISH

The Menai Strait (West) Oyster and
Mussel Fishery Order 2015

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers on the Menai Strait Fishery Order Management Association (Company Number: 7163689) ("the Grantee") a right of several fishery for mussels (*Mytilus edulis*) and oysters (*Crassostrea gigas*) over an area of approximately 96 hectares of the bed of the Menai Strait in the Counties of Ynys Mon and Gwynedd for a period of 28 years starting on [XX] [xxxxxx] 2015.

The fishery area is divided into four plots (Plots A to D) which are defined using the co-ordinates set out in the Schedule to this Order. The fishery area is shown, for illustrative purposes only, on a map which is available for inspection (subject to prior appointment) at the offices of the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

Article 3 confers a right of several fishery on the Grantee for mussels in relation to Plots A and C, for mussels and oysters in relation to Plot B and for oysters in Plot D.

The Grantee cannot, in its corporate capacity, operate the fishery (article 4). The Grantee can, however, grant leases to others ("the Tenants") over all or any part of the fishery area which enable the Tenants to exercise the right of fishery as if the Tenants were the Grantees of Several Orders made under section 1 of the Sea Fisheries (Shellfish) Act 1967 (c. 83) (article 5(1) and (5)) in relation to the relevant areas. The Grantee cannot lease or transfer the right of fishery to another person without the prior written consent of the Welsh Ministers (article 5(2)). The Grantee must also obtain the written agreement of the Welsh Ministers to the terms and conditions of any lease of the right of fishery before any such lease is

executed (article 5(3)) and any such lease must come to an end before the right of fishery created by this Order expires (article 5(4)).

Article 6 requires the Grantee to mark the limits of the fishery and any leased areas in such manner as the Welsh Ministers may from time to time direct and to maintain those markers in position and good repair.

Article 7 requires the Grantee to apply any rents received in respect of any leases of the right of fishery for the specified purposes.

Article 8 prohibits the Grantee from undertaking any works on tidal land below mean high water springs except where those works are undertaken in accordance with plans approved in advance by the Welsh Ministers and any conditions specified in advance by the Welsh Ministers.

Article 9 requires the Grantee to submit an annual catch return setting out specified information to the Welsh Ministers.

Article 10 requires the Grantee to provide annual accounts and to comply with all requests for information made by the Welsh Ministers. It also requires the Grantee to allow any person authorised by the Welsh Ministers to inspect the area of the fishery and all accounts and other documents in the possession of the Grantee relating to this Order and that area.

Article 11 provides that nothing in this Order will affect prejudicially the rights of the Crown and article 12 provides that nothing in this Order will affect prejudicially the exercise of any statutory functions by a statutory undertaker.

Section 5(1) of the Sea Fisheries (Shellfish) Act 1967 provides that where the Welsh Ministers are not satisfied that the Grantees are properly cultivating or carrying into effect and enforcing the restrictions and exceptions contained in the Order, the Welsh Ministers may make a certificate to that effect which will absolutely determine the fishery in relation to the area in respect of which the certificate has been made.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefit of complying with this Order.

WELSH STATUTORY
INSTRUMENTS

2015 No. (W.)

SEA FISHERIES, WALES

SHELLFISH

The Menai Strait (West) Oyster and
Mussel Fishery Order 2015

Made

*Laid before the National
Assembly for Wales*

Coming into force

[X] [xxxx] 2015

An application has been made to the Welsh Ministers in accordance with section 1(2) of the Sea Fisheries (Shellfish) Act 1967(1) ("the Act") for an order conferring a right of several fishery under section 1 of the Act.

The Welsh Ministers prepared a draft Order and served a copy of it on the applicant in accordance with paragraph 1 of Schedule 1 to the Act(2).

The applicant has caused printed copies of the draft Order to be published and circulated, and has given notice of the application, in accordance with paragraph 2 of Schedule 1 to the Act.

[Recitals regarding the process set out in Schedule 1 to the Act, as appropriate to this application, will be inserted here in due course.]

-
- (1) 1967 c. 83. Section 1 of the 1967 Act was amended by section 9(1) of, and paragraph 15 of Schedule 2 to, the Fishery Limits Act 1976 (c. 86); sections 202(1), (2) and (3), 203 and 321 of, and Part 5(A) of Schedule 22 to, the Marine and Coastal Access Act 2009 (c. 23). The Act is to be read with section 15(3) to (5) of the Sea Fisheries Act 1968 (c. 77). See section 22(1) of the 1967 Act for a definition of "the appropriate Minister".
- (2) Schedule 1 to the 1967 Act was amended by section 15(1) and (7) of the Sea Fisheries Act 1968 (c. 77); section 31(6) of the Criminal Law Act 1977 (c. 45), sections 37 and 46 of the Criminal Justice Act 1982 (c. 48) and sections 202(1), (4), 214(1) to (4) and 321 of, and Part 5(A) of Schedule 22 to, the Marine and Coastal Access Act 2009 (c. 23).

The Welsh Ministers have had regard to the powers and duties of the Crown Estate Commissioners under the Crown Estate Act 1961(1) in accordance with paragraph 6(2) of Schedule 1 to the Act.

In the opinion of the Welsh Ministers the following Order should now be made.

The Welsh Ministers make the following Order in exercise of the powers conferred by section 1 of the Act which are now vested(2) in them.

Title, commencement and application

1.—(1) The title of this Order is the Menai Strait (West) Oyster and Mussel Fishery Order 2015 and it comes into force on [XX] [xxxxxx] 2015.

(2) This Order applies in relation to Wales.

Interpretation

2. In this Order—

“the Act” (“*y Ddeddf*”) means the Sea Fisheries (Shellfish) Act 1967;

“co-ordinate” (“*cyfesuryn*”) means a co-ordinate of latitude and longitude on the World Geodetic System 1984;

“the Grantee” (“*y Granti*”) means the Menai Strait Fishery Order Management Association (Company Number: 7163689) whose registered office is at c/o Myti Mussels Limited, Port Penrhyn, Bangor, Gwynedd, LL57 4HN or such other person as is for the time being entitled to the fishery;

“mussel” (“*cragen las*”) means any shellfish of the type *Mytilus edulis*;

“oyster” (“*oystrysusen*”) means any shellfish of the type *Crassostrea gigas*;

“Plot A” (“*Plot A*”) means the area of sea bed described in paragraph 1 of the Schedule to this Order;

“Plot B” (“*Plot B*”) means the area of sea bed described in paragraph 2 of the Schedule to this Order;

(1) 1961 c. 55.

(2) By virtue of article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions of the appropriate Minister, as defined in section 22(1) of the 1967 Act, were transferred to the National Assembly for Wales (as constituted under the Government of Wales Act 1998 (c. 38)) in so far as exercisable in relation to Wales. Those functions of the National Assembly for Wales were subsequently transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of schedule 11 to the Government of Wales Act 2006 (c. 32).

“Plot C” (“*Plot C*”) means the area of sea bed described in paragraph 3 of the Schedule to this Order;

“Plot D” (“*Plot D*”) means the area of sea bed described in paragraph 4 of the Schedule to this Order;

“the Plots” (“*y Plotiau*”) means Plot A, Plot B, Plot C and Plot D;

“the right of fishery” (“*yr hawl i bysgodfa*”) means the right of several fishery created by article 3 of this Order;

“statutory undertaker” (“*ymgymerdd statudol*”) means any person who is, or is deemed to be, a statutory undertaker for the purposes of any provision of Part XI of the Town and Country Planning Act 1990(1); and

“Wales” (“*Cymru*”) has the meaning given in section 158 of the Government of Wales Act 2006(2).

Right of several fishery

3. Subject to the provisions of this Order, the Grantee has the right of several fishery—

- (a) for mussels in Plot A and Plot C;
- (b) for mussels and oysters in Plot B; and
- (c) for oysters in Plot D,

for a period of twenty eight years starting on [XXXXXX] 2015.

Restrictions on the right of several fishery

4. The right of fishery must not be exercised by the Grantee in its corporate capacity.

5.—(1) Subject to paragraphs (2) to (5), the Grantee may from time to time lease the right of fishery over all or any part or parts of the Plots.

(2) The Grantee may not without the prior written consent of the Welsh Ministers lease, assign or in any other way transfer the right of fishery to any other person.

(3) The terms and conditions of any lease of the right of fishery must be agreed in writing by the Welsh Ministers before the lease is executed.

(4) No lease of the right of fishery may be granted for any period which terminates after the date on which this Order ceases to operate in accordance with article 3.

(1) 1990 c. 8.

(2) 2006 c. 32. There are amendments to section 158 of the Government of Wales Act 2006 which are not relevant to this Order.

(5) Upon the execution of any lease of the right of fishery, the person upon whom that lease is granted ("the Tenant") will have in relation to the part or parts of the Plots to which that lease applies ("the relevant area") the right of fishery as if the Tenant were the grantee of an Order under the Act, or any statutory re-enactment modification or amendment thereof, conferring on the Tenant a right of fishery within the relevant area as if any regulations restrictions terms or conditions comprised in the lease or imposed pursuant to the Act were restrictions and exceptions contained in that Order.

6. The Grantee must mark out the limits of each of the Plots and of any part of the Plots which may be leased under article 5 of this Order in such manner as the Welsh Ministers may from time to time direct and must maintain those markers in position and good repair.

7. The rents received by the Grantee in respect of any lease granted pursuant to article 5 of this Order must be applied for the following purposes in the order of priority listed below—

- (a) the discharge of expenses of obtaining this Order;
- (b) the placing and maintenance of the marks required under article 6 of this Order;
- (c) the destruction of pests harmful to oysters and mussels;
- (d) the management, supervision and improvement of the Plots.

8. No works may be undertaken on over or under tidal lands below the level of mean high water springs except in accordance with plans approved by the Welsh Ministers and subject to such conditions and restrictions as the Welsh Ministers may prescribe before such works are begun.

9.—(1) The Grantee must submit to the Welsh Ministers a catch return—

- (a) for the period from [DATE ORDER COMES INTO FORCE] 2015 to 31 March 2016 on or before the 31 July 2016; and thereafter
- (b) for the period from 1 April to 31 March on or before the 31 July in the year during which that period ends.

(2) A catch return for the purposes of paragraph (1) must record —

- (a) the annual total live weight of seed mussels and oysters laid down on each of the Plots;
- (b) the location from which those seed mussels and oysters were sourced;

- (c) the annual total live weight of all mussels and oysters taken from each of the Plots; and
- (d) such further information as may be required by the Welsh Ministers and notified to the Grantee from time to time.

Accounts of income and expenditure, other information and inspection

10.—(1) The Grantee must give to the Welsh Ministers annual accounts of the Grantee's income and expenditure under this Order.

(2) Without prejudice to paragraph (1), the Grantee must comply with any request made by the Welsh Ministers for information relating to this Order and the Plots, in such form and at such times as the Welsh Ministers may require.

(3) The Grantee must allow any person authorised by the Welsh Ministers to inspect the Plots and all accounts and other documents in the possession of the Grantee relating to this Order and the Plots, and must give that person any information relating to those matters which that person may require.

Rights of the Crown

11. Nothing in this Order affects prejudicially any estate, right, power, privilege or exemption of the Crown, and in particular nothing in this Order authorises the Grantee to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatever description belonging to her Majesty in right of the Crown and under the management of the Crown Estate Commissioners.

Rights of statutory undertakers

12. Nothing in this Order affects prejudicially the exercise of any statutory functions by a statutory undertaker.

Carl Sergeant
Minister for Natural Resources, one of the Welsh Ministers

xxxxxxx 2015

Status: This is the original version (as it was originally enacted).



Environment (Wales) Act 2016

2016 anaw 3

PART 5

FISHERIES FOR SHELLFISH

Applications for orders relating to fisheries

71 Applications for orders relating to fisheries

- (1) In section 1 of the *Sea Fisheries (Shellfish) Act 1967* (c. 83) (power to make orders as to fisheries for shellfish), after subsection (2) insert—

“(2A) In relation to applications to the Welsh Ministers, subsection (2) has effect as if for “prescribed by regulations made by the appropriate Minister” there were substituted “specified by the Welsh Ministers”.

(2B) The Welsh Ministers may require a person who applies to them for an order under this section to provide them with such further information as they think necessary to enable them to determine the application.”

- (2) The amendment made by subsection (1) does not apply in relation to applications that have been made to the Welsh Ministers before this section comes into force.

Protection of marine environment

72 Requirement to include environmental provisions in orders relating to fisheries

- (1) The *Sea Fisheries (Shellfish) Act 1967* is amended as follows.

(2) After section 5 insert—

“5A Orders made by Welsh Ministers: protection of marine environment

- (1) An order made by the Welsh Ministers under section 1 of this Act must contain—
- (a) such provision (if any) as the Welsh Ministers consider appropriate for the purpose of preventing harm to any European marine site identified in the order, and
 - (b) such other provision (if any) as they consider appropriate for the purpose of protecting the marine environment.
- (2) For the purposes of this section, “the marine environment” includes—
- (a) the natural beauty or amenity of marine or coastal areas (including their geological or physiographical features);
 - (b) features of archaeological or historic interest in such areas;
 - (c) flora and fauna which are dependent on, or associated with, a marine or coastal environment.”
- (3) In section 3, in subsection (2), for “section 4” substitute “sections 4 and 5A”.

73 Power to serve notices for protection of European marine sites

In the Sea Fisheries (Shellfish) Act 1967, after section 5A (as inserted by section 72) insert—

“5B European marine sites: power of Welsh Ministers to serve site protection notice

- (1) If it appears to the Welsh Ministers that harm to a European marine site has occurred, or is likely to occur, as a result of any activity—
- (a) carried on in the exercise of a right conferred by an order made by them under section 1 of this Act, or
 - (b) authorised in pursuance of provision made by or under such an order which confers a right of regulating a fishery,
- the Welsh Ministers may serve a site protection notice on the grantees of the order.
- (2) A site protection notice is a notice which requires the grantees to take steps specified in the notice for the purpose of preventing harm (or further harm) to the European marine site.
- (3) The provision that may be made by a site protection notice includes provision prohibiting, restricting or interfering with the exercise of any right conferred by the order.
- (4) A site protection notice must—
- (a) be in writing,
 - (b) set out the reasons for giving the notice, and
 - (c) specify the time by which, or the period for which, the steps specified in the notice must be taken.

- (5) The Welsh Ministers must consult the grantees of the order before serving a site protection notice on them, unless it appears to the Welsh Ministers that there is an urgent need to take steps to prevent harm (or further harm) to the European marine site.
- (6) The Welsh Ministers may vary or cancel a site protection notice by serving notice of the variation or cancellation on the grantees of the order.
- (7) The Welsh Ministers must publish every notice served by them under this section in such manner as they consider appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by it.
- (8) Provision under subsection (4)(c) may specify a time after, or a period which ends after, the expiry of the order; and in such a case, references in sections 5C and 5D of this Act to the grantees of the order are, in relation to any time after its expiry, references to the persons who were the grantees immediately before the order expired.
- (9) Subsections (2) to (7) of section 5 of this Act apply for the purposes of this section as they apply for the purposes of subsection (1) of that section.

5C Appeal against site protection notice

- (1) An appeal lies to the First-tier Tribunal against—
 - (a) a site protection notice;
 - (b) any provision of a site protection notice;
 - (c) the variation of a site protection notice;
 - (d) the refusal of a request for the variation or cancellation of a site protection notice.
- (2) An appeal may be brought—
 - (a) in the case of an order made under section 1 of this Act which confers a right of several fishery, by the grantees of the order;
 - (b) in the case of such an order which confers a right of regulating a fishery—
 - (i) by the grantees of the order, or
 - (ii) by a person authorised to carry on an activity in pursuance of provision made by or under the order who is affected by the site protection notice or variation.
- (3) Where an appeal is brought by a person mentioned in subsection (2)(b)(ii), the grantees of the order are entitled to be parties to the appeal.
- (4) The First-tier Tribunal may suspend a site protection notice, or a variation of such a notice, pending the determination of an appeal.
- (5) On an appeal the Tribunal may confirm, vary or cancel a site protection notice.
- (6) If the Tribunal varies or cancels the notice, it may order the Welsh Ministers to pay compensation to any other party to the appeal for loss or damage suffered by that party as a result of the notice.

5D Failure to comply with site protection notice

- (1) If the grantees of an order made under section 1 of this Act fail to comply with a site protection notice, the Welsh Ministers may themselves do anything that could be done by the grantees for the purpose of complying with the notice.
- (2) If the Welsh Ministers incur expenses in doing anything under subsection (1), they may recover those expenses from the grantees as a debt."

74 Power to vary or revoke orders to protect European marine sites

- (1) The Sea Fisheries (Shellfish) Act 1967 is amended as follows.
- (2) After section 5D (as inserted by section 73) insert—

"5E European marine sites: power of Welsh Ministers to vary or revoke order under section 1

- (1) This section applies where—
 - (a) the Welsh Ministers have served a site protection notice on the grantees of an order made under section 1 of this Act,
 - (b) the notice has not been cancelled under section 5B(6) or 5C(5) of this Act, and
 - (c) no appeal under section 5C of this Act is pending.
- (2) The Welsh Ministers may vary or revoke the order to reflect the effect of the site protection notice.
- (3) Before making an order by virtue of this section, the Welsh Ministers must consult—
 - (a) any persons who are entitled to a right of several fishery or a right of regulating a fishery in any part of the area to which the order relates, and
 - (b) any other persons the Welsh Ministers think are likely to be interested in the order or affected by it.
- (4) For the purposes of subsection (1)(c), an appeal under section 5C is pending if—
 - (a) an appeal under that section (or a further appeal) has been brought and has not been determined or withdrawn, or
 - (b) an appeal under that section (or a further appeal) has not been brought but the period for bringing such an appeal is still running."
- (3) In section 1 (power to make orders as to fisheries for shellfish), in subsection (8), after "subsection (10) below" insert "or by virtue of section 5E of this Act".

75 Supplementary provision

In the Sea Fisheries (Shellfish) Act 1967, after section 5E (as inserted by section 74) insert—

“5F Protection of marine environment: supplementary provision

(1) In sections 5A to 5E of this Act—

“European marine site” has the same meaning as in the [Conservation of Habitats and Species Regulations 2010](#) (S.I. 2010/490) (see regulation 8);

“the grantees”, in relation to a right of several fishery, means the persons for the time being entitled to that right;

“harm”, in relation to a European marine site, means—

- (a) an adverse effect on the integrity of the site,
- (b) the deterioration of a relevant natural habitat or of the habitat of a relevant species, or
- (c) the disturbance of a relevant species, in so far as the disturbance could be significant in relation to the objectives of the Habitats Directive.

(2) For the purposes of the definition of “harm” in subsection (1)—

a “relevant” natural habitat or species is one for which the site in question has been designated or classified as a European marine site;

“the Habitats Directive” means Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora.

(3) Sections 5A to 5E of this Act do not apply in relation to an order made under section 1 of this Act before the coming into force of Part 5 of the Environment (Wales) Act 2016.”

Fishery Management Issues

Background

This agenda item consists of a verbal report about current fishery management issues.

The Annexes contain information that is relevant to the matters considered.

List of Annexes

1. Annex A: Letter from Chair to NRW concerning improvements in shellfish hygiene classifications in the Menai Strait
2. Annex B: Response from NRW to MSFOMA.

Menai Strait Fishery Order Management Association

Port Penrhyn, Bangor, LL57 4HN

Clare Pillman
Chief Executive
Natural Resources Wales
Cambria House
29 Newport Rd
Cardiff
CF24 0TP

9th October 2019

Dear Clare

SHELLFISH HYGIENE CLASSIFICATIONS IN THE MENAI STRAIT

I am writing further to a recent meeting of our Association at which we discussed the improvements to the shellfish hygiene classifications in the Menai Strait, the UK's leading mussel farming area.

These shellfish hygiene improvements are vital to the future of the mussel farmers in North Wales, particularly with the current uncertainty about the export controls that will be in place at the end of this month, depending on the Brexit outcome.

The Association recognizes that these improvements are very much the result of sustained and dedicated work by Natural Resources Wales and Dŵr Cymru.

I am writing on behalf of the Association to formally thank you and your local staff here in North Wales for the concerted effort to protect water quality in this area. This work is very much appreciated by the mussel farmers and local people whose jobs depend on a clean and healthy marine environment.

Yours sincerely



ALAN WINSTONE
Chair, MSFOMA



**Cyfoeth Natural
Naturiol Resources**
Cymru Wales

Mr Alan Winstone,
Menai Straits Fishery Order Management Assoc.,
Port Penrhyn,
Bangor,
Gwynedd,
LL57 4HN

Our ref: ONM19 170/CX19 194.

Your ref:

Date: 14th October 2019

Dear Alan,

Re: Shellfish Hygiene Classification in the Menai Straits

Thank you for kind letter of the 9th of October regarding our work over the years to protect and improve water quality in the Menai Straits.

We were very pleased with the recent upgrade in the classification of the beds and understand the economic benefit this should bring locally.

Obviously having reached class A, the challenge now will be to retain the beds at this high standard.

My officers will continue to work to protect the water quality. We are in discussion with Dwr Cymru and others regarding further improvements that are needed to reduce the bacterial levels in the Straits even further.

Yours sincerely,

Clare Pillman
Chief Executive