

# NWIFCA Quarterly Meeting

6 December 2013: 11.00 a.m.

AGENDA  
ITEM NO.  
11

## PROTECTION OF EUROPEAN MARINE SITES BYELAW 6

**Aim of the report:** To present and remake Byelaw 6 with addition of another area of seagrass and the Lune Deep closed area previously dropped from the byelaw

**Recommendation:** That the proposed Byelaw 6 at Annex A be re-made with amendments to the Morecambe Bay Seagrass beds closed area and inclusion of the Lune Deep closed area with sunset clause.

### Background

1. This byelaw was made on 20 September with agreement to include further data on Morecambe Bay seagrass beds from Natural England.
2. NWIFCA received representation from the EMS Project Board (Defra) that the Lune Deep reef should be protected in order to fully defend the legal challenge to the management of EMS. This site was previously dropped from the byelaw to allow more time for development of a management solution that would not prevent undamaging fishing activity adjacent to the site from continuing.
3. Various options were considered and a proposal developed that would provide the required protection whilst including a sunset clause so that the single fisherman who fishes the Lune Deep could continue. This proposal was informed by a Habitats Regulations Assessment to which Natural England contributed.
4. The Lune Deep closed area with sunset clause was discussed by TSB on 1 November and further investigations were requested on usage of the area by fishermen. A further report was circulated to TSB members on 20 November which confirmed that there is no evidence of any other fishermen using the Lune Deep nor is there any likelihood that another fisherman would obtain the skills and experience to do so in the foreseeable future.
5. Completion of this byelaw is urgently needed to meet the Defra deadline of having protection in place for all SAC reef features from bottom towed fishing gear by the end of 2013.
6. If NWIFCA does not make a byelaw to protect the Lune Deep site, Defra indicate that MMO will be instructed to introduce statutory protection. If MMO made an emergency byelaw, it is unlikely they would include a sunset clause to protect current fishing activity. An MMO byelaw would therefore lead to a worse outcome for fishing in the NWIFCA District.
7. NWIFCA has a constant and complex challenge to achieve sustainable use of the sea by balancing legitimate undamaging activity against the need to protect valuable conservation features of the marine environment for future generations. The Lune Deep issue brings this delicate balancing act into sharp focus.
8. NWIFCA can be content that it is now able to fully implement the protection required for EMS sites in the District and has been able to do so in a manner that will not have adverse socio-economic impacts on the fishing industry. Members can be content that by making this byelaw as presented in this report, the NWIFCA has fulfilled its duties in regard to the

protection of EMS features from damaging fishing activity and also allowed undamaging and legitimate fishing activity to continue around the EMS closed areas.

9. In the context of the 4 year review of IFCA now underway in Defra and the review of new burdens funding from 2015 onwards, the NWIFCA should do everything within its powers to support and bolster government marine environmental policy consistent with its duty to develop and protect fishing. Failure or perceived failure to discharge its statutory conservation duties and government policy is neither desirable nor tenable for the NWIFCA.

#### **Next steps**

10. Following remaking of Byelaw 6 as presented at Annex A, the first stage of the EMS project, to protect so-called red risk sites will be complete. The bylaw will be advertised followed by the usual 1 month consultation period before being given final scrutiny and sign off by MMO and Defra.
11. The NWIFCA may wish to record that if fishermen sought access to the Lune Deep in future and could satisfy both this Authority and Natural England that they could fish without damaging the reef features, then a consent could be given as a derogation from Byelaw 6. Any fishing under such a derogation would have to include provision for careful monitoring of the activity to ensure no damage to conservation features.

**CEO**  
**20 November 2013**