

118 AT A MEETING OF THE TECHNICAL, SCIENCE AND BYELAW SUB-COMMITTEE held at NWIFCA Offices, Carnforth on 16th August 2013

PRESENT – MEMBERS

J. Butler	MMO (Shellfish)
J. A. Clark	MMO (Marine Science)
B. Crawford	MMO (Anglers and Recreation)
W. Darbyshire	Environment Agency (Officer)
R. Graham	MMO (Fishing Industry – Cumbria)
T. Jones	MMO (Aquaculture)
L. Browning	Natural England (Officer (NE)
C. J. Woods	MMO (Shellfish)
M. R. Owen	MMO (Fishing – various)
T. Markley	Cumbria County Council

OFFICERS

S. Atkins	A. Deary
A. Lindop	M. Knott
A. Leadbeater	J. Moulton

IN ATTENDANCE

R. Whiteley	Natural England (NE)
G. Pidduck	Barrow Fisherman's Association

APOLOGIES

C. Frid	MMO (Marine Science)
C. Lumb	Natural England (NE)

119 ELECTION OF CHAIRMAN (Agenda Item 1)

The Chief Executive invited nominations for Chairman for the year. Ron Graham was nominated by Margaret Owen and seconded by Tony Markley.

RESOLVED

Mr Ron Graham be reappointed Chairman of the Technical, Science and Byelaw Sub-Committee for the forthcoming year.

120 CHAIRMAN'S ANNOUNCEMENTS

1. The Chairman announced apologies from Chris Frid and Chris Lumb.
2. The Chairman welcomed Lawrence Browning who was attending as a substitute for Chris Lumb.
3. The Chairman also welcomed Rob Whiteley from NE, and Gary Pidduck of the Barrow Fisherman's Association.
4. The Chairman reported that new advice from NE had been submitted after the meeting's papers had been published. A Supplementary Report was added to Agenda Item 7 (Proposed Byelaw 6) to bring members up-to-date.

121 ELECTION OF VICE-CHAIRMAN (Agenda Item 3)

The Chairman asked for nominations for Vice-Chairman for the year. Trevor Jones was nominated by Margaret Owen and seconded by Brian Crawford.

RESOLVED

Mr Trevor Jones be appointed Vice-Chairman of the Technical, Science and Byelaw sub-Committee for the forthcoming year.

122 DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTEREST IN AGENDA ITEMS (Agenda Item 4)

Agenda Item 7. Proposed Byelaw 6 – Fisheries Management in EMS. L. Browning, T. Jones, R. Whiteley.

Agenda Item 8. Razor Clam Update. L. Browning, T. Jones. M. Owen.

Agenda Item 9. EU Bass Management. J. Butler, M. Owen.

Agenda Item 10. Leasowe hand-gathering of non-regulated bivalves. C. Woods

Agenda Item 11. Mussel Relaying Trial at Foulney East. L. Browning, J. Butler, T. Jones, M. Owen.

Agenda Item 12. Science and Research Plan. M. Owen.

Agenda Item 13. Review of Foulnaze Cockle fishery. R. Whiteley, C. Woods

Agenda Item 14. Morecambe Bay Hybrid Fishery Order Update. L. Browning, J. Butler, T. Jones, R. Whiteley, C. Woods

123 TO RECEIVE MINUTES OF THE TECHNICAL, SCIENCE AND BYELAWS SUB-COMMITTEE MEETING HELD ON 17TH MAY 2012 (Agenda Item 5)

Margaret Owen made a request that in future more reference was made to the individual TSB members making representations and asking questions so that other parties reading the minutes could see who had raised issues. Judith Clark in agreeing with the point said that it had to be remembered that members are MMO appointees, and not industry representatives.

RESOLVED: The minutes of the Technical, Science and Byelaw Sub-Committee meeting held on 17th May 2013 be approved and signed as a correct record.

124 MATTERS ARISING (Agenda Item 6)

There was discussion regarding the National Grid developments in the District, and confirmation that the plans to tunnel underneath Morecambe Bay are the preferred option. Science Officers assured the TSB that this is a good option. There will be a public consultation process likely to begin in September/October. The Chairman made the point that it was imperative to include fisheries stakeholders as a separate consultation and it was confirmed that a list of fishing stakeholder names has been forwarded to the National Grid.

125 PROPOSED BYELAW 6 – FISHERIES MANAGEMENT IN EMS (Agenda Item 7)

Science Officers presented the report outlining the latest developments on the proposed Byelaw 6 and new developments in a supplementary report. There was a particular focus on the Solway firth where, after receiving reports from NWIFCA stakeholder meetings with shrimp fishermen and local NWIFCA member Tony Markley, Natural England changed the advice for the cobble and boulder reef sub-feature in the Solway, downgrading it from a 'red' to an 'amber'.

Ron Graham raised the issue of a general lack of evidence in the process and described proposals to use local fishing boats to collect data in a project funded by Cumbria FLAG. However, in order to work, the project would need to be put forward by NE and would need

match funding. Rob Whiteley confirmed that there was a possibility it could work and agreed to go back to NE to chase it up.

NWIFCA Officer Mandy Knott raised the question that the NWIFCA needs to keep in mind what is being protected in the assessments – the sub-feature reefs themselves, or the habitats that they create. In dynamic areas, such as the Solway Firth, reef features appearing so briefly will not be stable enough to support full communities.

Trevor Jones asked how long closures are for, and whether the management is able to be adaptive. It was confirmed that as they stand in the byelaw, the closures are indefinite. But review is a part of the byelaw process and the byelaw can be changed in the future.

Solway Firth

The change to Amber status for the cobble and boulder reef means immediate protection is not required and appropriate assessment will be required in the future. The advice also stated that there is no evidence of *Sabellaria* to the north of the intertidal area and immediate protection in that area is not required. The change in advice had come after local stakeholder meetings had highlighted the variable nature of the sediment in the Solway Firth and the lack of evidence showing stable boulder and cobble reefs.

Two options for closure are available: an area encompassing just the extent of the known areas where *Sabellaria* reef has been recorded historically as delineated in the new advice from NE, and a larger area which was agreed with fishermen as being an acceptable area which they don't fish following the stakeholder meeting in June. With very limited evidence available, members were only willing to designate the minimum necessary area for closure. Members were against closure of any areas for which feature data is inconclusive recognising the risk of legal challenge which could result from the fishing industry. Members agreed to extend the closure outside the SAC to an area where *Sabellaria* reef was found in 2013.

RESOLVED

To close the minimum area required by advice from Natural England.

Lune Deep

A detailed supplementary report on this site was presented by Officers. The pattern of fishing is such that protection for the boulder and cobble reef will also prevent fishing on adjacent sandy areas which are important to a few local vessels. Tidal flows require fishermen to accurately place their gear on the sandy areas while the vessel is over the reef at the sea surface. The highly experienced fishermen carefully avoid their gear touching the reef which would damage nets and risk loss of the vessel. The only way to get evidence of gear location would be by using GPS tags which are prohibitively expensive and not justified by the scale of the risk to features.

TSB members were unwilling to include the Lune Deep closed area in the EMS byelaw if it prohibits legitimate, non-damaging fishing activity which poses no risk to the reef feature. Fishing effort in the area is very low (4-5 days a year) and no evidence of any damage has been received. No advice has been received from Natural England on how this management problem should be addressed. Officers suggested that the site be deferred for further consideration and removed from the byelaw pending a review.

NE stated that the precautionary principle under the Habitats Regulations should apply and that the closure should be put in place until evidence appears to support the claim that the fishing activity is non-damaging. Removing the closure area will open the NWIFCA to challenge from Defra. Members considered that this approach was over-precautionary in this case.

The CEO advised that there is a risk of challenge from both directions; the fishing industry and the conservation sector. However, the threat from the industry may be greater because loss of earnings could be demonstrated while damage to the reef will be difficult to establish.

RESOLVED

To remove the Lune Deep closure area from the byelaw at this stage until more advice or evidence is received and a solution to the management difficulty is identified.

Morecambe Bay Seagrass

NE confirmed that seagrass had originally been surveyed in the 1990s. Some areas had been resurveyed since giving a time series. Areas around Roa and Foulney Islands had not been revisited. NE agreed to map the extent of the Roa and Foulney patches in the week beginning 19th August in time to be incorporated in the byelaw. TSB were uncomfortable with basing a restrictive prohibition on such raw and unconfirmed data with little historical context but agreed that if the new data showed good evidence of an important seagrass area this could be included. Members agreed that the core area of seagrass for which there is good data should be protected and the areas of low confidence (to the East of Roa and Foulney Islands) should be deferred until NE produce stronger evidence.

The NWIFCA held a community meeting for local stakeholders at the end of July, which raised issues of landownership with Roa Island Boat Club in the area adjacent to Roa Island and whether the NWIFCA are able to enforce byelaws on their land, as well as the potential of boat moorings in the SSSI having a negative impact on seagrass. It was confirmed that the NWIFCA are able to enforce byelaws throughout the District, regardless of land ownership within protected areas under Article 158 of MACAA.

CEO advised that because of a lack of consultation with stakeholders and questions over IFCA powers, the restriction of vehicular access to the seagrass beds should be removed from the byelaw. Members were most concerned that the main sources of damage to the seagrass are trampling and vehicle damage by users of moorings, and wildfowling. NWIFCA has no data or records of any bait digging or fishing activities taking place on the seagrass beds. Members considered that NE should be much more active in using SSSI legislation to control these activities. An IFCA regulation to control little if any bait digging actually taking place, is disproportionate and inappropriate in the context of much greater damage to the features from other activities. Nevertheless in the context of Defra's requirement that EMS seagrass beds are protected, the NWIFCA should include this site but only if NE also produces a comprehensive management plan for the seagrass beds which includes management of activities which are outside IFCA regulatory powers.

RESOLVED

1. To temporarily remove seagrass areas of low confidence (areas E-G and G-J) until NE has surveyed them.
2. To ask NE to regularly survey the seagrass to ensure the feature is protected from non-fishing activity.
3. To ask NE to develop an integrated plan for managing all activities damaging to seagrass.

Walney Channel Boulder and Cobble Reef

There was concern from many members of the TSB over why a closure for trawling is necessary when the port operator ABP had confirmed that dredging routinely occurs over the area designated as cobble and boulder reef.

NE clarified that although regular dredging happens every few months, with additional dredging if a submarine is using the channel, some areas of the channel are left alone. This is as a result of the hydrology, which means some parts of the channel have very little sediment deposition, and accordingly don't get dredged, which is where faunal communities persist.

In the absence of evidence to support this assertion, members were unconvinced that an IFCA byelaw prohibiting fishing which does not actually take place on the site was justified or proportionate but in the context of the Defra EMS project agreed to include the site in the byelaw with a reduced buffer zone as below.

Information received from the Walney stakeholder meeting suggested that some recreational bottom trawling occurs adjacent to the sub-feature area. The width of the buffer zone should be reduced to allow this fishing to continue.

RESOLVED

To reduce the sub-feature's buffer zone as required to allow fishing close to the reef to continue.

Heysham Flat *Sabellaria*

Members agreed with Officers that the nature of the current closure position, which encompasses the whole skear, is highly precautionary, and that including areas of the skear without *Sabellaria* is unnecessary. The point was made that larger areas also increase enforcement burden.

RESOLVED

To reduce the closure area to only include the *Sabellaria* reef at the bottom end of the skear.

126 RAZOR CLAM UPDATE (Agenda Item 8)

Cefas have continued to develop the FSP project focusing on electrofishing gear development. There is now full engagement with all parties.

Science Officers gave a verbal report of the last meeting on 8th August, which occurred too late to be included in the TSB paper. A note of the meeting is available on request. The meeting discussed the gear to be used and more project specifics. The project vessel is likely to be based out of Birkenhead and the surveys will take place in Liverpool Bay. There will be 10 days sea time, with the primary focus on developing the gear to check commercial viability, but it is also hoped to look at the impact of catch, with cameras on the gear and to take grab samples where possible.

A start is being delayed by the requirements for HRAs and derogations, so field work is likely to be September or October. There is currently no hygiene classification, so if sold, the catch will go for non-human consumption. Defra and IFCA derogations are currently being prepared and Cefas are writing to the HRA for Liverpool Bay SPA. Cefas officer Dave Palmer will prepare a report within 28 days of the project's completion, which will be made publicly available on the Cefas website.

RESOLVED

Members receive the report.

127 LEASOWE HAND GATHERING OF NON-REGULATED BIVALVES (Agenda Item 10)

A report was presented on the large volumes of razor clams and other clam species that are being hand gathered at Leasowe on large spring tides. Officers added that sampling to identify the species' being caught is due to take place on Thursday, 22nd August.

Tony Markley raised the question of whether there was enough activity and evidence to create a byelaw.

Several concerns were raised over the unregulated fishery, including the potential impact on the established commercial shellfisheries in the Dee, as well as the conservation implications for any features of the SPA that prey on clam species that are being gathered. A regulated fishery would have a number of implications, including hygiene classification and the need for an HRA as it is within Liverpool Bay SPA. Given the potential conservation and sustainability implications, the NWIFCA should be proactive at looking at regulation. However, the Head of Enforcement pointed out that enforcing such a byelaw in the area would present a significant challenge and be a large burden on resources.

RESOLVED

1. The report was received.
2. The Science team will continue to gather evidence to contribute to a future review.

129 MUSSEL RELAYING TRIAL AT FOULNEY EAST (Agenda Item 11)

A report was presented for consideration of the TSB by Science Officers on the application from Morecambe Bay Shellfish Farms for an authorisation to carry out seed mussel relaying trials at 'Foulney East'.

The Officer's preference would be to postpone the authorisation until the Fishery Order is in place. Currently, there are 2 authorisations for relaying in place and adding another has the potential to cause problems for the Fishing Order's 'signing-off' process through consultation.

There was concern over the proposal from Janet Butler, as the proposed relaying areas are near to shrimping grounds and picking up seed whilst fishing would be a nuisance. In addition, the oyster farm operator Seasalter might have objections due to the proximity of the oyster frames to the relaying areas.

RESOLVED

It was agreed to defer the proposal until the Fishery Order has come into force.

130 REVIEW OF FOULNAZE COCKLE FISHERY (Agenda Item 13)

The Head of Enforcement gave a verbal update on the Foulnaze cockle fishery. The original stock estimate from Science Officers estimated 550 tones and so far about half the stock has been removed, with 225 tons taken in total across the two weeks of opening. An initial high of 120 gatherers has stabilised to around 100 each day, with 3 transport vessels and 4 major buyers operating. The bed will remain viable as long as buyers are still interested and the NWIFCA conducts regular review meetings with the multi-agency management group to discuss the fishery. There is a small amount of 2013 spat, which officers will continue to monitor.

Enforcement has gone smoothly, with 7 cautions – 5 of which were for accessing the bed without the boat endorsement, and the other 2 for having no Byelaw 3 permit at all. 3 investigations are ongoing.

On 1st September, the Foulnaze bed comes out of seasonal closure, so the NWIFCA will close all cockle beds in the District under Byelaw 13a until April (under fisheries management justification), and then immediately issue a derogation for re-opening Foulnaze under the special regulations that have been in force so far.

RESOLVED

The report was received.

131 SCIENCE AND RESEARCH PLAN

Science Officers presented a verbal report on the discussions from previous meetings emphasising the importance of a science and research plan, pointing out that it was becoming more important in light of the work that will be needed for the amber assessments of EMS sites. It was proposed to form a sub-group, but the two members most likely to contribute to one, Chris Frid and Chris Lumb, were not present and there was also concerns over the extra time organising and attending another group would take. In particular, it was pointed out that a sub-group would require Officer input, but the Science team are at full capacity in terms of work load. Whilst the appointment of Helen Ake's replacement is in process, a new officer will need training, and there are also no reserves in the staffing budget.

It was proposed instead to wait until Chris Lumb returns from leave and have one meeting to specifically talk about the issue, with all TSB members invited.

Judith Clark asked if the NWIFCA had lobbied Defra for more resources, however the CEO replied that the priority is securing funding beyond 2015. Defra is about to engage in a review of IFCA's and it is unlikely we will know anything until after that. Dr Clark added that she had attended the last AIFCA meeting and the only other ideas they had generated to raise funds was to ask the energy companies investing in offshore renewables to include the NWIFCA in their budgets.

RESOLVED

Science Officers to convene a special meeting to discuss the science and research plan, with all TSB members invited.

132 MORECAMBE BAY HYBRID FISHERY ORDER UPDATE (Agenda Item 14)

Mandy Knott presented a summary of the Fishery Order's progress to date. Further to a meeting with an agent for Boughton Estates and Natural England to agree a way forward in relation to the dispute over fishery rights on Estate land, a note of the meeting has now been received from the agent to ensure full agreement from the Chief Executive and the Authority. The note will be emailed round members.

Ron Graham asked if there was still tension with Boughton Estates over the dispute of land ownership. The Chief Executive replied that it was quiet, but not resolved as Boughton have still not shown any evidence of land ownership. The NWIFCA will continue to enforce its byelaws, and the MACAA gives it authority to do so.

RESOLVED

1. The report was received.
2. The note of the meeting will be sent to TSB members.

133 COMMUNICATIONS UPDATE (Agenda Item 15)

A summary of communications developments was presented, including stakeholder meetings held in relation to Byelaw 6 and the implementation of the text alert system, which has proved very valuable during the Foulhaze fishery.

The TSB was also informed of Alasdair Lindop's upcoming departure from the NWIFCA, and that IFCO Joe Moulton would take on the communications aspects of his role.

134 A.O.B. (Agenda Item 16)

1. Trevor Jones raised concerns over the current seed mussel dredge fishery in Morecambe Bay. As usual, authorisations have gone to anyone who has asked, but over the last couple of years the fishery has included boats from Ireland, changing the profile of the fishery dramatically with several more large boats operating. The Irish boats are here because the mussel beds in Ireland have been fished out. Mr Jones is concerned that if case is not taken overfishing could damage beds in Morecambe Bay. In his opinion, the NWIFCA needs to be stricter, come up with sanctions and put more conditions in place to take care of the substrate.

Members agreed and Janet Butler added that there were concerns amongst the local community that it could go the same way as Ireland. The first sanction should be to remove authorisations if operators break conditions. Science Officers pointed out that the authorisations were discretionary and can be rescinded.

Mr Jones also queried if the transshipment of mussels for aquaculture is legal with reference to EU Directive 1224/09 which appears to include aquaculture products in a prohibition of transshipment at sea without consent at a relevant port. Officers responded that they have no experience of this legislation as it applies to mussel seed and agreed to consult MMO. If MMO confirm that transshipment is illegal and that vessels operating in Morecambe Bay do not have the required consent. NWIFCA will inform the operators and take enforcement action.

RESOLVED

Any Deary will contact the MMO to gain clarity.

2. Tony Markley wanted members to be aware of the issue of fracking in the Silloth area. He has been involved in discussions in his capacity both as mayor of Silloth and an NWIFCA member and will act as an advocate to ensure nothing is allowed that would be detrimental to the fishing industry.
3. Chris Woods, having heard complaints and threats of taking legal advice from local fishermen, asked a question about legality of the making of Byelaw 3. Specifically, the complaints mentioned the inclusion of special safety requirements such as a fire fighting course, which was not included on the draft byelaw made by the Authority in June 2012 and was added at a later date.

The Chief Executive confirmed that after the June 2012 NWIFCA meeting where Byelaw 3 was made, he met with the MCA who petitioned to have their specific safety measures included in the wording of the byelaw. Dr Atkins then wrote to the NWIFCA Committee asking to include the measures, before it had been finally sent to the MMO for signing off. From the point of view of the Committee, the process was within the terms of Defra best practice.