

**NWIFCA Quarterly Meeting:  
16<sup>th</sup> September 2016: 11.00 a.m.**

**AGENDA  
ITEM NO.  
13**

**WEST OF WALNEY MCZ MANAGEMENT**

**Purpose:** Provide update on site management options for this site

**Recommendations:**

- 1. Commence work on the MCZ Assessment, gathering fishing activity data and seeking NE advice on presence, extent and condition of conservation features within the District.**
- 2. Remit discussion to TSB pending data and conservation advice from NE and discussions with Defra and MMO on the management framework for the site.**

**Introduction**

1. West of Walney was designated in the second tranche of MCZs in January 2016. The site includes a large part of the Barrow windfarm (fig 1)
2. West of Walney has a 'recover' conservation objective. The features are muddy habitats and benthic species such as seapens and burrowing crustacea. The main issue for management is expected to be restriction of bottom towed fishing gear within the site.
3. West of Walney extends from 4.3nm offshore to just beyond the 12nm limit (Fig. 1 shows the 6 and 12 mile limits). Approximately 20% of the site lies in the NWIFCA District and approximately 20% is outside 12 nm. The bulk of the site (approximately 60%) lies in the 6-12 mile zone.
4. A further planned extension to the windfarm (not shown on fig 1) will cover the area of the site SW of the existing turbines and most of the area of the site outside 12 miles.
5. As the site covers a small part of NWIFCA District and a small section outside 12 miles, more than 1 management regime will be needed. There are options for which agency takes the lead in parts of the site.
6. In August TSB agreed MMO should be asked to make an MCZ byelaw covering the 0-12nm as the preferred option for consistent management, with Defra covering the area outside of the 12nm limit.

**Fisheries within the MCZ**

7. In this District the inshore fleet targets mainly *Nephrops*. Only Northern Irish vessels have access 6-12nm. Beyond 12nm fisheries are regulated by the EU.
8. Data suggests there is little bottom towed gear fishing on the site and virtually none in the area of the windfarm, Fishermen are generally unwilling to tow gear amongst wind turbines. This situation gives de-facto protection for much of the site but Defra wish to ensure statutory protection as soon as possible.

**Regulators' Roles**

9. Agencies agree that there is better evidence for inshore features and fisheries activities. This will allow IFCA's to design more bespoke management having greater precision and

flexibility than regulators for offshore areas.

10. NWIFCA, MMO and Defra (EU) have differing regulatory roles and measures have slightly different effects. IFCA byelaws only extend to 6 miles and can be made by UK government without seeking agreement from other member states.
11. MMO can make byelaws 0-12 miles but other member states can object to measures 6-12.
12. Outside 12 miles Defra must negotiate measures with the Commission under Art 11 of the CFP. Other member states with fisheries access rights can veto measures. To date no Art 11 agreements have been concluded with the Commission for MCZ or EMS management although some are in progress. It appears that the process for enacting Art 11 measures may be protracted.
13. The issue of how management outside 12 miles could be agreed following UK separation from the EU has not yet been considered.

### **Management options**

14. Management options for the site:
  - I. IFCA byelaw 0-6; MMO byelaw 6-12 & Art 11 outside 12
  - II. MMO byelaw 0-12 & Art 11 outside 12 miles
  - III. IFCA byelaw 0-6 miles & Defra art 11 measure outside 6 miles
15. Having different management regime in different parts of the MCZ should be minimised. Variation in regimes may be expected to lead to a lack of parity between the inshore and offshore fleets and confusion which will be exploited by some in the fishing industry.

### **Option considerations:**

16. **Option 1** is too complex with 3 different management regimes. The small area outside 4.3 miles is too small to justify an IFCA byelaw. Such a byelaw would be unenforceable with current resources. This option should be discounted.
17. **Option 2** is the most efficient, being quickest to enact and creating single management regime 0-12 miles. This would be the most enforceable solution. MMO could immediately proceed with a byelaw which could be in place relatively quickly creating strong protection for the site. NWIFCA could contribute to inspections and compliance 0-12 within current resources. Under this option the area outside 12 miles may be considered much lower priority as most of it will in due course be covered by wind turbines.
18. **Option 3** Has the same IFCA bylaw issue as option 1. The Art 11 protection could take several years to complete. There would be no justification for making an IFCA byelaw until the offshore measure was ready to put in place. Having the IFCA bylaw alone would lead to an unbalanced regime which could remain for a significant period. The problem that the IFCA section would still be unenforceable (as it is so small) would remain to be resolved. At present the IFCA does not have powers to enforce Art 11 measures and legal doubt has been raised over cross warranting of regulators.

### **Defra policy and other MCZ examples.**

19. Defra has a general policy for cross-boundary sites which is being applied on some other sites. The policy is to have IFCA byelaws 0-6nm, and Defra management using Art 11 for the rest of the site outside 6. This approach is being applied for other cross boundary sites but no comparable regimes where sites extend from inside 6 to outside 12 have yet been put in place. It is not clear why the policy does not include MMO byelaws 6-12.
20. The example most similar to West of Walney is the Haisborough, Hammond and Winterton

SAC. This site already has a complex history. At present Defra is developing measures outside 6nm under Article 11, and the Eastern IFCA is developing a byelaw for the 0-6nm. However an existing MMO Byelaw within the 6-12nm, and an IFCA byelaw within the 0-6nm, which were introduced to protect 'red risk' reef features under Article 6 of the Habitats Directive will both now be repealed. A new IFCA byelaw will be introduced 0-6 to cover the new extended site and new features. Defra will put in place Art 11 measures for the site outside 6nm. The current position is that Defra are seeking agreement from Member States over the measures to be introduced, and once obtained will seek Commission approval. It is not yet clear how long this process will take. Measures include a zoned approach to protection of *Sabellaria spinulosa* reef, with a prohibition of bottom towed gear on reef features.

### **Next stage for West of Walney**

21. NWIFCA will carry out a site based MCZ assessment of fisheries activities on habitats and features in the District with advice from Natural England. This is the equivalent to a Habitats Regulations Assessment carried out for Natura 2000 sites. This assessment will be required whatever management regime is agreed for the whole site.
22. Once the decision on the management regime for the whole site is known, the Authority should agree management or mitigation measures to protect and recover the features with NE and other regulators involved.
23. It is likely that bottom towed gear will not be permitted within the site and there is a commitment from agencies that management will not discriminate against the inshore fleet. This implies that inshore management will not be introduced ahead of offshore arrangements.

### **Timeline**

24. Defra timescale is that management measures should be determined by January 2018 (2 years after designation).
25. Defra plan a management proposal document to be taken to EU Member States (MS) for consultation in spring 2017 so are likely to reach a decision on management of the site in the relatively near future.
26. A formal agreement may be reached by September 2017 which would then be taken to the European Commission for adoption.

**CEO and SS**  
**7th September 2016**

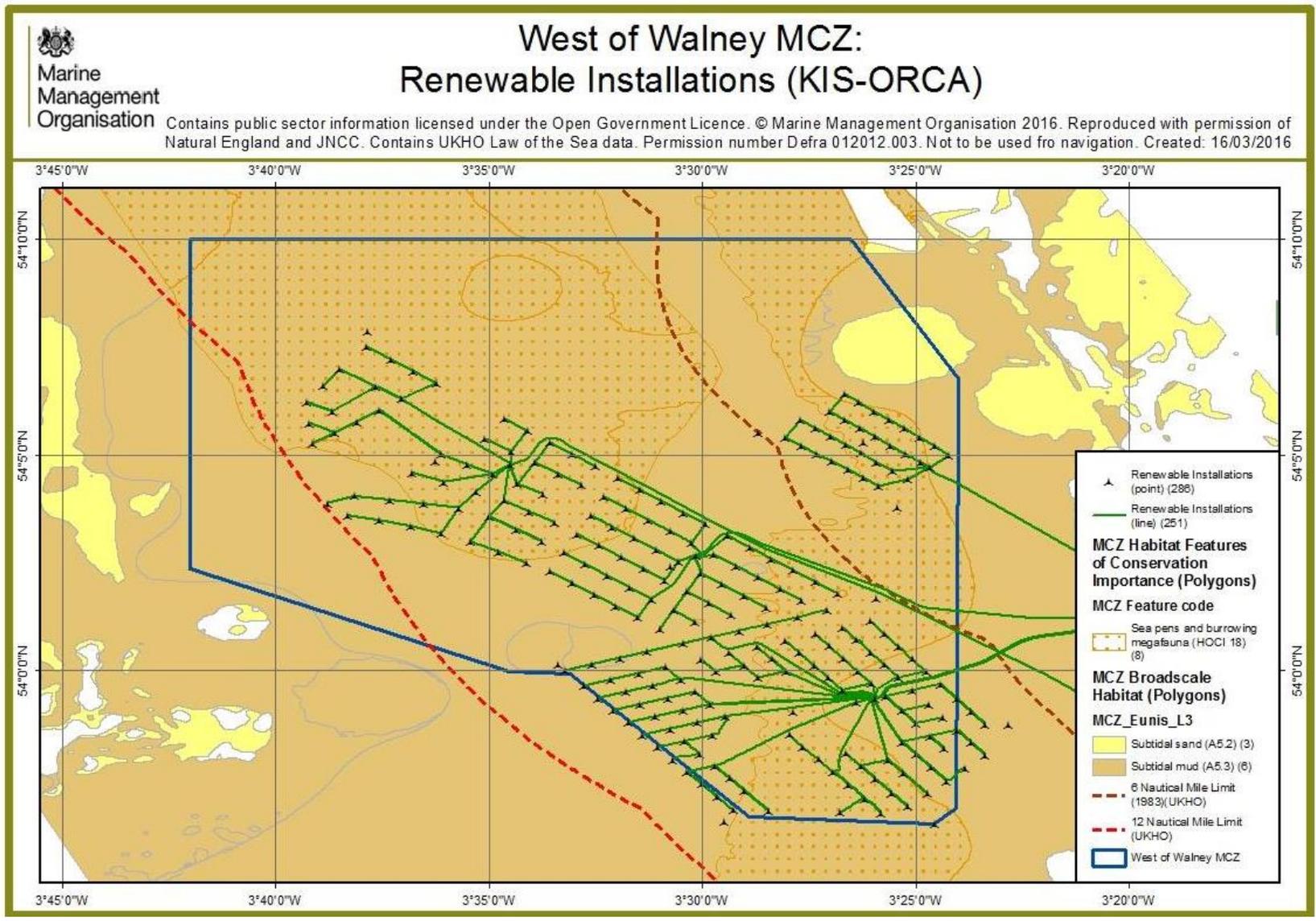


Fig. 2. West of Walney MCZ (blue polygon) with the existing windfarm arrays and areas of conservation importance,