

- 48 AT A MEETING OF THE TECHNICAL, SCIENCE AND BYELAW SUB-COMMITTEE held at 1, Preston Street, Carnforth on 17th February 2012

PRESENT – MEMBER

J. Butler	MMO (Shellfish)
B. Crawford	MMO (Anglers and Recreation)
C. Frid	MMO (Marine Science)
M. R. Owen	MMO (Fishing – various)

IN ATTENDANCE

T. Jones	MMO (Aquaculture)
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OFFICERS

S. M. Atkins	M. Dobson
I. V. Andrews	M. Knott
S. Brown	S. J. Waite
D. Dobson	

APOLOGIES

J. A. Clark	MMO (Marine Science)
W. Darbyshire	Environment Agency (Officer)
T. R. Glover	Sefton Council
R. Graham	MMO (Fishing)
C. Lumb	Natural England (Officer)
N. Robinson	MMO (Officer)
B. Shields	Environment Agency
C. J. Woods	MMO (Shellfish)
A. Thornton	Lancashire County Council

- 49 In the absence of the Chairman and Vice-Chairman the Chief Executive asked for nominations for appointment of Chairman for the meeting. Prof Frid was proposed and seconded and it was

RESOLVED

Prof. C. Frid be appointed Chairman of the Technical, Science and Byelaw Sub-Committee for the ensuing meeting.

50 CHAIRMAN'S ANNOUNCEMENTS

1. The Chairman announced apologies for absence and welcomed members.
2. Comments from industry on proposed Byelaw 3 (Agenda Item 6), Memorandum from Deepdock, Kingfisher and Intershell on the Clam and Razor Fishery (Agenda Item 8 and a Supplementary Report on the Dee Mussel Fishery (Agenda Item 9) had been tabled.

51 DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTEREST IN AGENDA ITEMS

Agenda Item 6. Proposed new Byelaw 3. Requirement for a permit to fish for cockles and mussels in the NWIFCA District. Mrs J. Butler, Mrs M. R. Owen.
Agenda Item 7. Heysham Bass Nursery Area: Proposed Byelaw. Mrs M. R. Owen
Agenda Item 8. District Clam and Razor Fishery. Mr T. Jones.
Agenda Item 9. Dee Mussel Fishery. Mrs J. Butler, Mrs M.R. Owen.

52 TO RECEIVE MINUTES OF THE TECHNICAL, SCIENCE AND BYELAW SUB-COMMITTEE MEETING HELD ON 18TH OCTOBER 2011

RESOLVED: The minutes of the Technical, Science and Byelaw Sub-Committee meeting held on 18th October 2011 be approved and signed as a correct record.

53 MATTERS ARISING

1. Any Other Business

Mr Crawford reported that a further National Grid workshop to discuss the proposed grid connections from Sellafield to Carlisle/Heysham was planned for 13th March. Proposals for costings of possible routes and whether it should be overground, underground or subsea would be discussed in more detail at that workshop. Mr Crawford would provide a further report at either the main Authority meeting in March or at the next TSB Sub-Committee.

54 REPORT ON SPECIAL MEETING OF THE TECHNICAL, SCIENCE AND BYELAW SUB-COMMITTEE HELD ON 9TH JANUARY 2012

Ms Knott informed Members that in Minute No. 44 (Ribble Cockle Fishery) paragraph 2, the number of licences proposed for Morecambe Bay Fishery Order should read 50 (plus possible temporary licences of 150). The minutes were amended accordingly.

Mrs Owen said she did not now feel her comments in the first sentence of paragraph 3 were appropriate. The Chief Executive suggested it related more to the following item on the proposed new Byelaw 3 and it was agreed to note the comments under that item.

RESOLVED

The report be received.

55 PROPOSED NEW BYELAW 3: COCKLE AND MUSSEL MANAGEMENT

The Chief Executive presented the report on the proposed new Byelaw 3 and reminded Members of the tabled comments received from a number of fishermen. The draft byelaw at Annex A tried to address a number of measures which the NWIFCA would require to effectively manage the cockle and mussel fisheries. MMO had given a strong steer that byelaws should be combined where possible and the proposed byelaw drew byelaws such as minimum landing size, seasonal closure and shellfish management measures for cockle and mussel together. Those byelaws would be repealed once the new Byelaw 3 was made. There were a number of elements of the proposed byelaw where significant changes had been made that required discussion by Members. The draft included most of the restrictive elements from the existing Byelaw 5 and added the concept of ancillary worker permits. The draft byelaw tried to deal with the issue of the non-commercial limit of 5kg by defining shellfish areas for a defined period and in a defined area so that within those areas all persons fishing would be deemed to be a commercial fisherman. Representation had been received from fishermen about the current seasonal closure of 1st May to 30th August and the byelaw proposed a change in the closure dates from 1st January to 30th June. Other changes proposed were to for a Minimum Landing Size for mussels throughout the District of 45mm and charging for permits. An apprenticeship scheme had been considered but was felt to be too complicated to include in the byelaw. Mr D. Dobson pointed out that the byelaw also proposed a statutory requirement to riddle.

Members discussed the proposed change to the seasonal closure. Mrs Owen felt there could be problems with opening in June or July because of conflicts with tourism and most local authorities would likely not want to see cockle and mussel activity during the summer

months. Mrs Butler made the point that cockles spawned at the end of March and beginning of April and suggested that to open beds at the beginning of July would be detrimental to spat. Cockles were poor from April and September and were stronger in the colder weather. She raised concerns that industry had not been consulted over the change and asked for the dates to be re-considered. Prof Frid said spat was an important food resource in its own right and the Authority had a statutory duty to look after the other components of the ecosystems. There was a substantial argument for ensuring spat protection and he felt that a later opening time would be more appropriate. Members agreed that the proposed closed season should revert back to 1st May to 30th August. Dr Atkins suggested that retaining the written consent element given in paragraph 5 would allow flexibility to meet changing circumstances and allow areas to be opened earlier if there were sufficient stocks.

Other issues discussed were the apprenticeship scheme and it was suggested that if Members were in favour of an apprentice scheme rather than keeping the 40 new entrant requirement that issue would need to be considered at this time. With respect to charging for permits it was felt that the proposed fee of £500 per permit was too high without the Authority being able to guarantee the present of cockles and able to enforce the scheme. Ms Knott reminded Members that the areas around Morecambe Bay and the Duddon would be removed from the permit scheme once the Morecambe Bay Fishery Order was introduced. There needed to be some flexibility around charges because of the variability in cockle stocks.

Mr Crawford sought clarification on paragraph 8 of the proposed byelaw. He raised concerns that nothing in the byelaw seemed to apply to those people who took under 5kg of cockles and mussels per day. Paragraph 8 also did not seem to impose any restrictions on boat safety. Dr Atkins said the confusion had arisen because the proposed byelaw had consolidated a number of current byelaws. Officers would need to look at the wording again and how byelaws were consolidated in order to avoid such confusion.

Ms Knott felt the Authority should not try to make progress too quickly with any new byelaw and should be absolutely clear with the wording to make sure that it did not contain any loopholes as had been the case with the current byelaw. She informed Members that some of the fishermen in the Dee were objecting to the proposed change to the MLS for mussels of 45mm and the reasoning and arguments behind their objections needed to be ascertained and discussed with them. With regard to the seasonal closure Ms Knott asked if it was intended to include mussels as well as cockles in that closure. Dr Atkins said the wording was perhaps unclear in paragraphs 3 and 4 and needed to be looked at again and resolved to avoid any confusion.

Ms Knott raised the question of training courses. It was felt that the present training course was inadequate for the types of fisheries within the District and she suggested that the Authority should consider designing and formulating a specific course so that whatever was needed whether it was an intertidal fishery or a bed accessed by boat it could be encompassed within one course. The Authority also needed to be specific about what alternative certificates it was willing to accept. Prof Frid agreed that a transparent accessible list of approved course or courses whose curriculum matched the requirements was something that should be addressed. The question of vessel qualifications was discussed and it was suggested that permits could be stamped as boat authorised for those persons with the relevant certificates. Without those certificates a person would only be eligible and permitted to work onshore.

Dr Atkins drew Members' attention to paragraph 17 of the draft byelaw and asked whether Members agreed with the proposal to allow those people who had held permits in the past but not renewed them to be eligible to apply for a permit. Mr M. Dobson said Cumbria SFC had not required their cockle and mussel permit to be renewed annually and there were a small number of fishermen in Cumbria that would be affected if that proposal was removed.

Dr Atkins said the wording of the paragraph could be amended to address that situation. The Chairman said that paragraphs 17 and 18 seemed to be interrelated and suggested that it should be ascertained whether the Authority was required to have a guaranteed number of new entrants. He suggested that Defra should be informed that the requirement for the 40 new entrants restricted the ability of the Authority to manage the number of permits it issued in order to sustain the fishery. Ms Knott reminded Members that the permit scheme would be District-wide and that all parts of the District needed to be included. Any person who had previously held a permit from any part of the District should be invited to apply but would have to provide that they are bona fide and legitimate fishermen. Ms Knott asked if the Authority could require proof of income to be requested with the permit application. .

Mrs Owen said she wished to officially thank the Authority and Officers on behalf of the industry and local fishing associations, for all their work in relation to this issue.

Mrs Butler proposed that fishing associations within the District should be consulted and should have the opportunity to comment on the proposals. Dr Atkins pointed out the proposed byelaw was a draft for IFCA members to consider. Once the wording had been agreed the byelaw would need the approval of MMO before being widely circulated for consultation and comment.

The Chairman drew the discussion to a close and said it was important to ascertain from Defra what elements of the byelaw it would allow. Officers should look at re-drafting the byelaw as a matter of urgency, taking into account Members' comments today. The revised byelaw should be submitted to a subsequent meeting of the NWIFCA to be made.

RESOLVED

1. The report be received.
2. Officers be directed to prepare a revised byelaw taking into account Members' comments.
3. The new Byelaw 3 be submitted to either the March or June meeting of the full Authority to be made.

56 HEYSHAM BASS NURSERY AREA: PROPOSED BYELAW

Mr Waite reported on problems within the Bass Nursery Area of damage caused by anglers landing undersize bass and then returning them. There was also a conflicting issue between users of set nets and anglers. Members were shown slides which highlighted the difficulty experienced by officers in policing the area.

Mrs Owen drew attention to the slide showing the outfall at the Heysham Power Station and damage caused to fish being sucked into the bubble curtain. She felt that once the byelaw was in place the Authority would be in a stronger position to argue those problems with government.

Members agreed that the byelaw should be progressed. An Impact Assessment would need to be completed before submission of the byelaw to MMO for approval.

RESOLVED

1. The report be received.

2. Officers be directed to consult widely on proposals to introduce the new byelaw for the Heysham Bass Nursery Area.
3. Officers complete the appropriate Impact Assessment before submitting the proposed byelaw to MMO for comment prior to being made formally by the Authority at either the March or June 2012 meeting.

57 DISTRICT CLAM AND RAZOR FISHERY

The Scientific Officer presented the report informing Members of proposals to allow fishing for clam and razor fish species within the District. Members' comments and advice was sought on whether to recommend the authorisation of a trial fishery for clams to the full Authority.

Mr Houghton reminded Members of the additional tabled item which was a Memorandum from three operators interested in carrying out trials within the District for developing the razor fish fishery in North West England. He provided some background to the item and showed slides to illustrate the areas of interest. The designation of Liverpool Bay SPA for two bird species, red throated divers and common scoters, had been introduced since the first expressions of interest in 2004 and issues around those species related to disturbance and removal of prey species for common scoter and disturbance with regards to red throated diver. The disturbance could be mitigated by directing any fishery to areas where birds were not present in any great density and temporal restrictions could also be included. Because of the gear involved in this fishery it tended to be a summer fishery when birds were less likely to be present. One issue remaining was that of prey removal for common scoter in the area and the impacts that might have. Applications had been made by two of the operators for Several Orders in one of the areas of interest but the applications had been opposed by IFCA on the grounds there was an element of privatisation of public fishery involved and the proposals did not indicate how the operators would enhance the fishery, which was a primary requirement of the legislation. The applications had since been withdrawn. Although sampling and surveys had taken place in the areas of interest very little was known about the stock. Some work had been done in relation to designation of the SPA but that work had not necessarily looked at stock densities and stock structures. Members were informed that the existing traffic that occurred in the mouth of the Dee and in particular the Mersey drove the birds away and it was felt that a fishery around that area would not be too much of an issue.

The Chairman suggested issues to consider were firstly to estimate the resources being taken by existing numbers of birds and to consolidate that with spatial and temporal information, secondly to make estimates of the resource of the different species required by the birds, what else was feeding on them and what were important food resources for fish and other marine organisms other than birds, also to carry out an assessment around the other elements of the food web that might be utilising the resource. There was also a need to think about the actual sustainability of the fisheries from the point of view of the stock. Prof Frid said it would be relatively easy to gain age information from these bivalve species and Mr Houghton informed Members that type of information had been obtained from the 2010 trial off the Duddon.

Mr Houghton pointed out there was a risk that any trial agreed on could be at an unsustainable level as so little was known about the stocks, also that the activity would normally be authorised under Byelaw 1 which would preclude sale of the catch. The operators were willing to carry out some of the work but would wish to sell the catch to recover some of the costs incurred in the trial. The Chairman pointed out that most fisheries data was collected from industry through trial fisheries which allowed sale of the catch. The Authority did not have the funding or resources to commission a trial and it would seem sensible to work with industry to arrange a properly designed trial which would provide the necessary data.

The Science team were asked to prepare proposals and specifications for a trial which should also take account of other issues of concern. The completed proposals should be submitted either to the TSB Sub-Committee by correspondence or to the full Authority for their comments and discussion.

Mr Houghton said three operators were interested in carrying out trials, one in the north of the District and two in the south and it might be appropriate, if agreement could be reached between the three operators concerned, to try and spread the trial spatially rather than just concentrate on one particular area. The operators would be happy to trial their own single area and it was also possible that gear trials could be carried out at the same time and some exchange of information gained from that activity.

In response to a question from Ms Knott concerning liaison with Natural England on the proposals, Mr Houghton said that discussions had already begun.

RESOLVED

1. The report be received.
2. Officers be directed to prepare proposals for the design and specification of a trial fishery for clams and report back to either the TSB Sub-Committee or full Authority.

58 ADJOURNMENT OF MEETING

The Chairman announced that the meeting would adjourn for lunch and reconvene at 1300 hours.

59 DEE MUSSEL FISHERY

Ms Knott reminded Members of the tabled Supplementary Report in respect of this item. Following a request from industry the Authority had authorised the removal of undersized mussels from West Kirby. Activity taking place on the bed had been at a very low level since January with only an estimated 70 tonnes being removed and a further request had now been received from industry to extend the authorisations to the end of March. There were two issues for consideration, firstly, whether to allow the extension and if so for how long. If an extension was agreed concerns on the potential implications of introducing Chinese Mitten Crab to a new area in the course of relaying the mussel would need to be considered. The second issue concerned non-native species, the impact on fisheries of those species and the Authority's legal responsibilities in relation to invasive species. Legislation was presently unclear on the final point. Natural England had been consulted on the proposed extension and their advice was that there would be an increased risk of presence of the Chinese Mitten Crab in March.

The Chairman suggested that the person relaying would be considered the person responsible. The Authority needed to be sure it had done everything reasonable to ensure fishermen were aware of the risk and would pass the information on to the person carrying out the relaying. The Authority should be mindful not to actively encourage the spread of non-native species within and outside the District. Members were informed that one of the conditions of the permit was that any sightings of Chinese Mitten Crab should be reported to the Authority.

Following a lengthy discussion Members agreed the expiry date of permits should be extended to 31st March following a satisfactory survey for Chinese Mitten Crab at the end of February. Officers would ensure all permit holders were informed of the risk. The Chairman suggested Officers should continue to seek clarification and advice on the legislation relating to non-native species. It was sensible to get that advice and think how it

would impact on the way requests to relay within the District were handled in future. Ms Knott informed Members that formal advice on that issue was awaited from NE. Advice would also be sought from MMO.

RESOLVED

1. The report be received.
2. Authorisations to fish for mussels at West Kirby be extended to 31st March 2012 following a satisfactory repeat survey for CMC at the end of February and subject to consultation with the local authority.
3. Officers be directed to seek clarification from MMO on its legal requirements towards non-native invasive species and to develop its view on non-natives in relation to fisheries management.

60 RIBBLE COCKLE FISHERY

The Scientific Officer reported that it had not been possible to carry out surveys of Foulnaze on 13th February due to adverse weather conditions and the surveys had been re-scheduled for the 20th. The North Penfold beds had been surveyed on 6th February and on the first visit to the South Gut bed Officers had found one small patch of dense cockle. It had been thought there may be some interest from industry to fish that area but no expressions of interest in fishing that bed had been received. The area further to the east and top of Penfold North and South had been surveyed but little stocks had been observed. Mr Houghton suggested that one option open to the authority was to consider a derogation against Byelaw 14 in order that the area could be opened in June or July.

Mr D. Dobson said the industry had looked at the Foulnaze beds and indications were there was still a considerable fishable stock there and he felt it would be sensible to consider opening the bed in June or July. Dr Atkins confirmed that it would be possible to give a derogation under Byelaw 14 for the purposes of stock management.

Ms Knott reminded Members that the fishery had been closed for safety reasons. She was concerned that the safety issues should be dealt with before any decision was made on reopening the bed. Mr Houghton said conditions could be included in the authorisations to cover the safety aspects for derogations given under a byelaw.

Mr M. Dobson asked the Chief Executive whether any feedback had been received from Defra on whether it would accept the proposed byelaw as an emergency byelaw pending it being made as a full byelaw. Dr Atkins said he had not yet checked the point with Defra but he would investigate the matter further.

In drawing the discussion to a close the Chairman suggested Officers should investigate the possibility of issuing a derogation against Byelaw 13A to include terms and conditions that would incorporate the safety aspects.

RESOLVED: Officers investigate the possibility of issuing a derogation against Byelaw 13A in order to consider reopening the Foulnaze bed in June or July.

61 CONSULTATION: PREESALL GAS STORAGE

Ms Knott updated Members on the consultation. Halite had submitted an application to the IPC, who had accepted that application for full examination. Anyone wishing to lodge concerns over the application needed to register an interest and the IFCA had registered its concerns over the proposals.

Mrs Owen said both the Morecambe and Heysham Fishermen's Association and Morecambe Bay Fishermen's Associations had been encouraged to register an interest. Reports had been received of mercury being stored in the caverns which was a real concern to the fishing industry in general. Dr Atkins asked if it could be established whether the mercury issue had been picked up in the Environmental Impact Assessment.

Members were informed that the Statutory Instrument listing all the statutory bodies for the consultee list was compiled by the Communities and Local Government (CLG), the government department that sponsored the IPC. The consultee list did not include any of the IFCA and it needed to be established why they had not been included as a statutory body. The NWIFCA had not been made formally aware of the consultation and of the need to register an interest and any decision taken on the application could be subject to judicial review.

The Chairman suggested the NWIFCA should be mindful that if the CLG was responsible for all matters of planning and if it was not on the IPC list of statutory consultees it may also not be on the list of consultees for coastal development and marine spatial planning. He felt that point should be flagged up with the MMO.

RESOLVED:

1. The report be received
2. MMO be contacted re IFCA status in future consultations.

62 SUSTAINABLE FISHERIES REVIEW

The Science Officer updated Members on progress with the Sustainable Fisheries Review. The IFCA requires resources to scope the fisheries and issues to be reviewed, prepare business plans and bid to external funders for joint support. Mr Darbyshire had indicated that the EA would consider a joint project but any funding from that Agency would need to deliver Water Framework Directive outcomes. Other sources of funding investigated were MSC and Coop Social Goals Programme. In 2010 SAGB started a funding bid for a national initiative for inshore waters "Project Inshore". SAGB worked with CWEB and MCS to put together an application for European funding from the Innovation Fund for a pre-assessment of all English inshore fisheries for MSC accreditation. The bid was rejected but re-submitted for Axis 3 funding and it was hoped the outcome of that application would be known by mid-March. Members were informed that WAG Fisheries Unit was hoping to undertake a project such as the Sustainable Fisheries Review with authorities around the Irish Sea and the Science Officer had contacted WAG but had not yet received a response. There was also the possibility of Coastal Communities Funding to be administered by the Big Lottery Fund but from the documentation provided with that scheme it was unlikely the work would be eligible but would be followed up.

Prof Frid said full IFCA should be made aware that IFCA may be debarred from at least two of the initiatives as the review was seen to be a core duty of the Authority. The IFCA did not have the resources inherited from the SFC to carry out the work and local authorities might need to be asked to find the resources to enable it to discharge its core duties.

RESOLVED: The report be received.

63 ANY OTHER BUSINESS

Mrs Owen said she had been asked to raise concerns of the Morecambe and Heysham Fishermen's Association to the proposed Wyre-Lune Estuaries MCZ and to find out the current situation with that particular zone. The association felt the zone was not

appropriate and had been designated to protect features that were not thought to be in need of protection. Members were informed the zone was still considered to be a potential site.

There being no further business the Chairman thanked Members for attending and declared the meeting closed at 1400 hours.