

**NWIFCA Annual Meeting
20th June 2019: 11.00 a.m.**

**AGENDA
ITEM NO.
7**

BYELAW 3 COCKLE AND MUSSEL HAND FISHING PERMIT 2019

Purpose of Report: To present this byelaw to be made by the Authority

Recommendation: The Byelaw is made

Background

1. This byelaw has been developed over 2 years and was last scrutinised by TSB in May. TSB agreed that the byelaw should be presented to the Authority to be made at the June Meeting.
2. Between the March 2019 Authority meeting and the May TSB, a further consultation with stakeholders was carried out. No new substantive comments were received.
3. MMO provided comments on the byelaw in April. Changes have been incorporated.
4. MMO provided comments on an impact assessment in January 2019 which have been incorporated.

Next stage

5. Once made, the byelaw will be advertised widely for the 1 month formal consultation required by the byelaw making guidance. At the end of that period any comments or objections must be addressed and resolved. Once resolved the byelaw is submitted to MMO / Defra for confirmation.
6. Under the new system for confirmation of byelaws reported earlier this year and now in force MMO indicated that response to confirmation request would be given within 1 month.
7. Therefore if the process goes smoothly, confirmation could be expected in September. If achieved, this timescale would be significantly shorter than for previous byelaws.

**CEO
30th May 2019**

North Western Inshore Fisheries and Conservation Authority

Marine and Coastal Access Act 2009 (c.23)

Byelaw 3 Cockle and mussel hand fishing permit 2019

The Authority for the North Western Inshore Fisheries and Conservation District in exercise of its powers under sections 155 and 156 of the Marine and Coastal Access Act 2009 makes the following byelaw for that District.

Interpretation

1. In this byelaw:
 - a) "the Authority" means the North Western Inshore Fisheries and Conservation Authority as defined in articles 2 and 4 of the North Western Inshore Fisheries and Conservation Order 2010 (S.I. 2010/2200);
 - b) "cockle" means a shellfish of the species *Cerastoderma edule*;
 - c) "co-ordinates" are derived from the World Geodetic System 1984 database;
 - d) "commercial areas" means areas of the District listed in Schedule A where all fishers must have a permit at all times;
 - e) "rake, spade, craam, tamp and jumbo" are terms used in the District for hand tools used to harvest cockles;
 - f) "the District" means the North Western Inshore Fisheries and Conservation District as defined in articles 2 and 3 of the North Western Inshore Fisheries and Conservation Order 2010;
 - g) "fish" or "fishing" includes all activities related to fishing by hand of cockles or mussels within or from a fishery in the District including harvesting, taking, moving and transporting;
 - h) "foreshore gatherers safety training certificate" means a document certifying that the person named has completed a safety training course approved by the Authority for inter-tidal shellfish gathering;
 - i) "permit" means a permit issued to a named person who is the permit holder by the Authority to fish cockles or mussels by hand;
 - j) "*protected feature*" means a species or habitats protected by legislation;
 - k) "mussel" means a shellfish of the genus *Mytilus*.

Fisheries Management

2. The Authority may close any cockle or mussel bed, or part of a bed for the purposes of fishery management including:
 - a) controlling the rate of exploitation with regard to cockles or mussels;
 - b) the recovery of any bed from exploitation;
 - c) the protection of immature shellfish;
 - d) the protection of a protected feature.

- 3 Such closure shall be for a specified period not exceeding 12 months, and be undertaken only after the Authority has consulted with such persons or bodies appearing to them to represent cockle or mussel fishing interests, and provided the Authority has been advised by fishery scientists who appear to the Authority to be suitably qualified, as to the need for such action.
- 4 Such closure shall be clearly defined in notices displayed in the vicinity of the bed and on the website.

Prohibitions

- 5 A person must not fish cockles or mussels unless they have in their possession while fishing a valid permit issued to them by the Authority.
- 6 A person must not fish cockles or mussels except by hand or using rakes, spades, craams, tamps or jumbos unless restricted by a flexible permit condition under paragraph 32.
- 7 A person must not fish cockles or mussels from a commercial area without a valid permit.
- 8 A person must not fish for cockle or mussels from a bed subject to closure under paragraph 2 above unless authorised to do so in writing by the Authority, or under a flexible permit condition.
- 9 A person must not have in their possession any article for use in connection with fishing cockles or mussels in breach of this byelaw.
- 10 A person must not retain any cockle which will pass through a gauge having a square opening of 20 millimetres measured across each side of the square or any mussel less than 45 millimetres in length unless permitted by a flexible permit condition under paragraph 32.
- 11 A person must not have in their possession, retain, transport or store any cockle or mussel fished in breach of this byelaw. A person having in their possession any cockle or mussels fished in breach of this byelaw must immediately redeposit the same, without injury, as nearly as possible in the fishery from which they were taken or on another suitable fishery and must spread them thinly and evenly through the fishery.
- 12 A person must not leave unattended a container holding cockles or mussels unless it is marked with the name of the person, or company which is the owner of the container and the contents. Any cockles or mussels found in a container which is not so marked must immediately be redeposited, without injury, as nearly as possible in the fishery from which they were taken or on another suitable fishery and must be spread thinly and evenly through the fishery.
- 13 A person must not obstruct an Inshore Fisheries and Conservation Officer in the course of carrying out their duties and must comply with a reasonable request of an Inshore Fisheries and Conservation Officer.
- 14 A person must not fish for any cockle on or between 1st May and 31st August in the same year unless permitted by a flexible permit condition under paragraph 32.

Exemptions

- 15 This byelaw does not apply to any person performing an act that would otherwise constitute an offence against this byelaw if that act was carried out in accordance with a written permission issued by the Authority for scientific, management, stocking or breeding purposes.
- 16 This byelaw does not apply to a person fishing for cockles or mussels under a permit issued pursuant to the "Restrictions on the use of a dredge byelaw 2017".
- 17 A permit is not required for a person fishing less than 5 kilograms of cockles and 5 kilograms of mussels during a calendar day from a bed which is:
 - a) not closed under paragraph 2;

- b) in respect of cockles not in a commercial area listed in Schedule A.

Permit conditions

- 18 Applications for permits must be made using the correct forms available from the Authority's offices or website. Failure to notify the Authority of any change of name or address or material change in the information required on the application form would constitute a breach of this byelaw.
- 19 A fee of £500 shall be payable for each permit prior to issue.
- 20 A permit:
- a) is not transferrable from the permit holder to another person;
 - b) is annually renewable;
 - c) is valid from 1st September to 31st August in the following year unless otherwise stated on the permit.
- 21 Permits will not be issued to applicants who do not have a National Insurance Card or are aged under 16 or do not hold a foreshore gatherers safety training certificate.
- 22 Only permit holders under this byelaw shall be entitled to renew the permit for the next year. To renew a permit, an application for renewal including payment must be received by the Carnforth Office of the Authority by 31 December in the year the byelaw comes into force and by 31 July in the year the current permit expires in subsequent years.
- 23 The Authority must keep a waiting list of new permit applications in the order received. A maximum of ten new applicants at the top of the waiting list may receive a permit each year starting 1st September.
- 24 Written offers of permits to start on 1st September will be sent to eligible new applicants after the preceding 1st August each year. Offers must be accepted by applicants by providing the information, signed declaration and payment required by the Authority within 15 working days of receiving an offer.
- 25 An offer not accepted by an applicant within 15 working days will be withdrawn and an offer will be made to applicants, in order, from the top of the waiting list, until 10 new offers have been accepted for each year. Applicants whose offers are withdrawn will be removed from the waiting list and may immediately re-join the end of the waiting list.
- 26 Applicants must be age 12 years or over to be added to the waiting list. Applicants reaching the top of the waiting list before they are old enough to be eligible for a permit will remain at the top of the waiting list until they are eligible for a National Insurance Card. On the 1st August after reaching age 16, applicants become eligible for offer of a permit if they are in the first 10 applicants on the waiting list.
- 27 The permit holder must carry their permit at all times when engaged in fishing or any related fishing activity within the District. The permit must be available for inspection by an Inshore Fisheries and Conservation Officer if required.
- 28 A permit holder must file with the Authority, no later than the fifth day of the month following, information on catches and fishing effort for the previous month by fully completing the correct forms available from the Authority's offices or website. Nil returns will be required by the Authority. Permits will be suspended by the Authority until returns have been filed.
- 29 Where a permit holder accepts a written warning, formal caution, or fixed administrative penalty or is convicted by a court for an offence under this byelaw, the permit holder will be issued with a penalty point by the Authority. All penalty points remain on the permit holder's record for 3 years from the date of issue. A permit will be suspended for a period of 12 months if a permit holder is issued with 4 penalty points within any 3 year period.

- 30 After the 12 month period the permit will be re-instated by the Authority subject to the payment of any annual permit fee outstanding. At their option the permit holder may pay the annual fee for the remainder of the year or may defer their application until the following 1 September without having to re-join the waiting list.
- 31 Where a person, whose name appears on the waiting list kept in accordance with paragraph 23 above, is the subject of any enforcement action by the Authority which leads to a penalty imposed by a court or accepts a financial administrative penalty then on the first occasion of such enforcement action their eligibility for a permit will be suspended for 12 months, and on each subsequent occasion of such enforcement action they shall be moved to the end of the waiting list.

Flexible permit conditions

- 32 On receipt of the information specified in paragraph 34 the Authority may in accordance with the review procedure in paragraph 34-35 and in order to promote sustainable exploitation of sea fisheries resources, attach or vary flexible conditions to a permit including some or all of the following:
- a) specified dates, times or tides during which fishing cockles or mussels is permitted;
 - b) specified areas where fishing cockles or mussels is permitted;
 - c) close for a specified period not exceeding one year any cockle or mussel bed or part of a bed for fishery management purposes or to control the rate of exploitation of stock;
 - d) the total catch limit permitted within a specified period or a specified area;
 - e) specified methods or equipment permitted within a specified period or a specified area;
 - f) specified permitted minimum landing size;
 - g) specified access route to a fishery.
- 33 Failure to comply with any of the permit conditions constitutes a breach of this byelaw.

Review procedure

- 34 The Authority will review the permit conditions no less than once every four years and the flexible permit conditions no less than once every two years as follows:
- a) the Authority will consult in writing with permit holders and such other stakeholders organisations and persons as appear to the Authority to be representative of the interests likely to be substantially affected by the proposed future management options;
 - b) the Authority will decide to attach, vary or remove any permit conditions based on the consultation responses obtained in accordance with sub-paragraph 34a and the information listed in paragraph 35;
 - c) following a decision being made by the Authority, permit holders will be notified in writing and permits will be amended as necessary at no cost to the permit holder;
 - d) notifications must include any new or changed co-ordinates of all designated commercial areas and be posted on the Authority website.
- 35 The information includes any one or more of the following:
- a) data collected from permit holders;
 - b) scientific and survey data gathered by the Authority or provided to the Authority by such other bodies, organisations or persons as the Authority deem fit;
 - c) advice provided by Cefas, Natural England or such other bodies organisations or persons as the Authority deem fit;

- d) an impact assessment of any proposed changes;
- e) information from any other relevant source.

Transitional Arrangements

- 36 The permit application waiting list compiled under the “North Western Inshore Fisheries and Conservation Authority Byelaw 3 Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*)” (2012)” (revoked by this byelaw) is fully transferred and applied to this byelaw on the day this byelaw is confirmed.
- 37 A gathering permit holder under the “North Western Inshore Fisheries and Conservation Authority Byelaw 3 Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*)” (2012)” is immediately a permit holder under this byelaw on the day this byelaw is confirmed and may renew their permit in accordance with paragraphs 18-31.
- 38 Support worker permits are not issued under this byelaw. Support worker permits issued under “North Western Inshore Fisheries and Conservation Authority Byelaw 3 Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*)” (2012)” are revoked on the day this byelaw is confirmed.
- 39 Paragraphs 25 and 26 of “North Western Inshore Fisheries and Conservation Authority Byelaw 3 Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*)” (2012)” are transferred and applied to this byelaw for a period of five years from the date of making this byelaw at which time they shall cease to have effect.

Revocation of Byelaws

- 40 The byelaw with the title “Byelaw 3 Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*)” made by the Authority, in exercise of its powers under sections 155 and 156 of the Marine and Coastal Access Act 2009, confirmed on 23rd August 2012 and in force immediately before the making of this byelaw is revoked.
- 41 The byelaw with the title “Byelaw 13a Cockle and Mussels; management of the fishery” made by the North Western and North Wales Sea Fisheries Committee in exercise of its powers under section 5 of the Sea Fisheries Regulation Act 1966 confirmed 29th of March 1996 and in force immediately before the making of this byelaw is revoked.
- 42 The byelaw with the title “Byelaw 16 Shellfishery temporary closure” made by the North Western and North Wales Sea Fisheries Committee in exercise of its powers under section 5 of the Sea Fisheries Regulation Act 1966 confirmed 14th of September 1973 and in force immediately before the making of this byelaw is revoked.
- 43 The byelaw with the title “Byelaw 18 Shellfishery temporary closure” made by Cumbria Sea Fisheries Committee under Section 5 of the Sea Fisheries Regulation Act 1966 confirmed on 16th of July 1973 and in force immediately before the making of this byelaw is revoked.

I hereby certify that the above byelaw was made by the Authority at its meeting on.....

..... Date.....

Dr Stephen Atkins; Chief Executive Officer; North Western Inshore Fisheries and Conservation Authority; 1 Preston Street, Carnforth, Lancashire, LA5 9BY.

The Secretary of State for Environment, Food and Rural Affairs in exercise of the powers conferred by section 155(4) of the Marine and Coastal Access Act 2009 confirms the Byelaw 3; Cockle and mussel permits 2019 made by the North Western Inshore Fisheries and Conservation Authority on

.....Date.....

Senior Civil Servant for and on behalf of Secretary of State for Environment Food and Rural Affairs

Explanatory Note

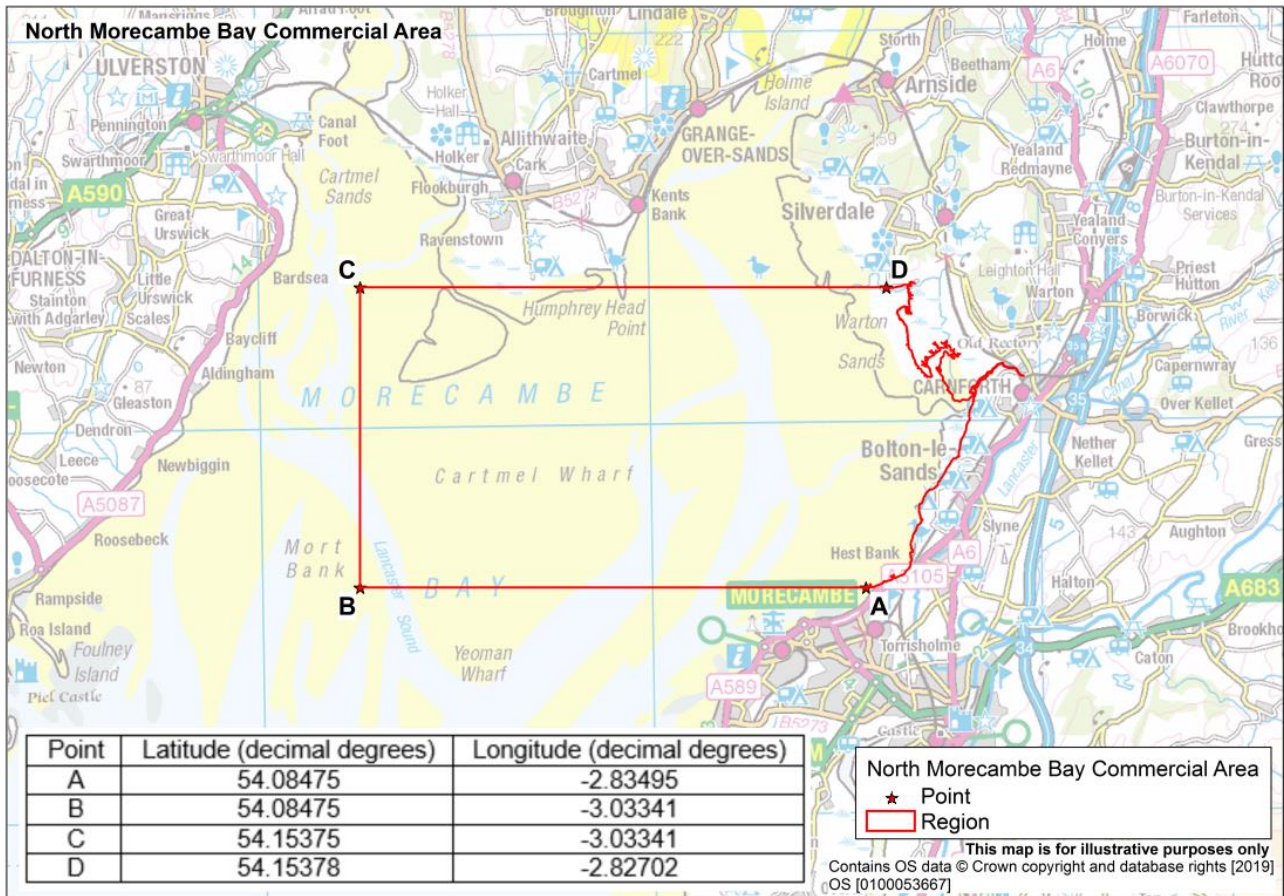
(This note does not form part of the byelaw)

1. The purpose of this byelaw is to regulate the exploitation of cockles and mussels to sustainable levels using a permit scheme. Only hand gathering of cockles and mussels is normally permitted.
2. The byelaw updates and modernises Byelaw 3 permit to fish for cockles and mussels confirmed 23rd August 2012.
3. This byelaw introduces a flexible permit scheme for the fishing of cockles and mussels in order to effectively manage the fishery. A maximum catch of 5kg of cockles and 5kg of mussels is permitted for non-permit holders outside defined commercial areas. The byelaw defines the minimum age for applicants to be added to the waiting list as twelve'.

Schedule A. Commercial cockle fishing areas of the NWIFCA District where gathering without a permit is prohibited at all times.

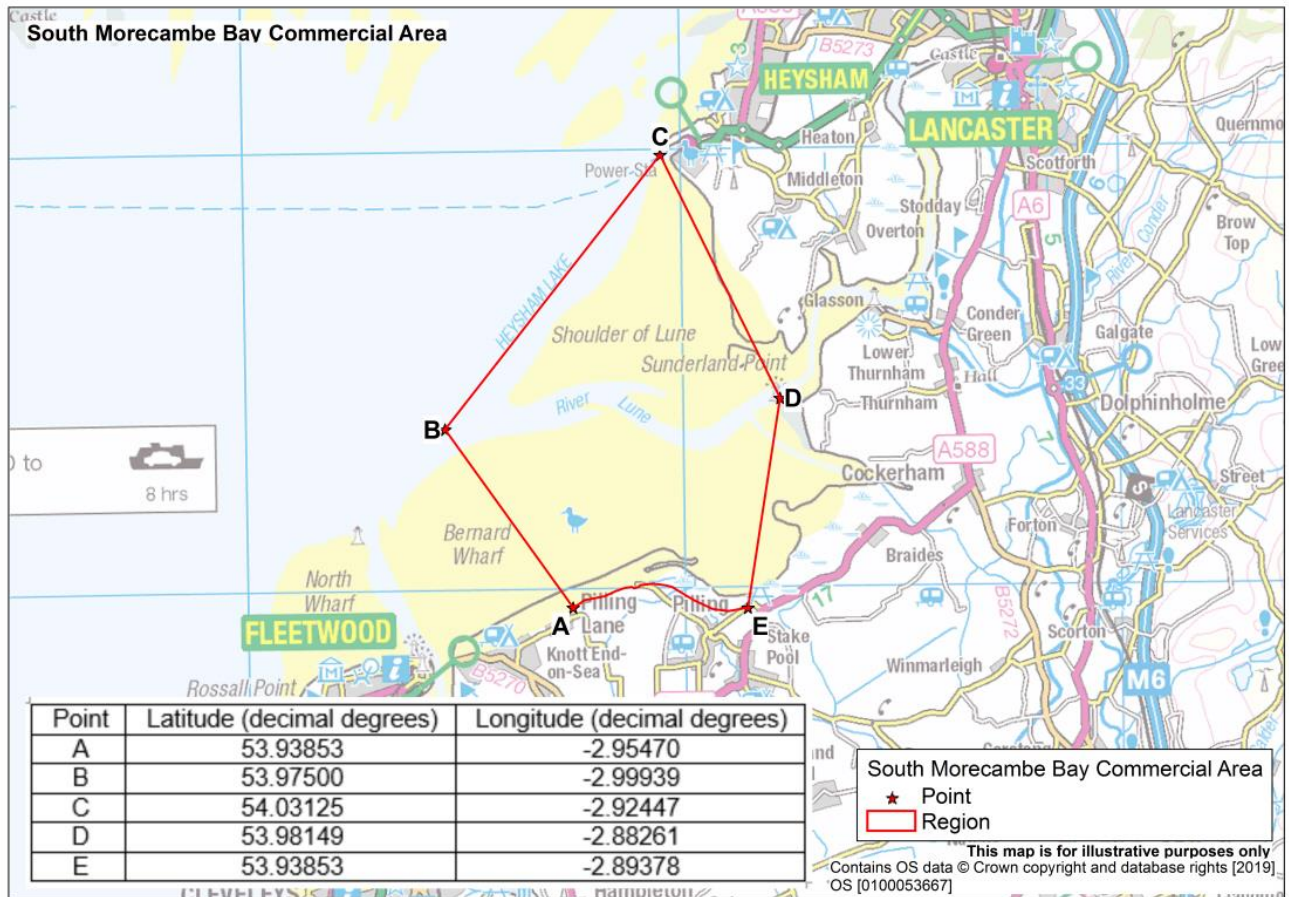
North Morecambe Bay Commercial Area

The North Morecambe Bay 'commercial area' means the area enclosed by a straight line connecting the points A, B, C, D in order, and returning to point A along the line of the Highest Astronomic Tide.



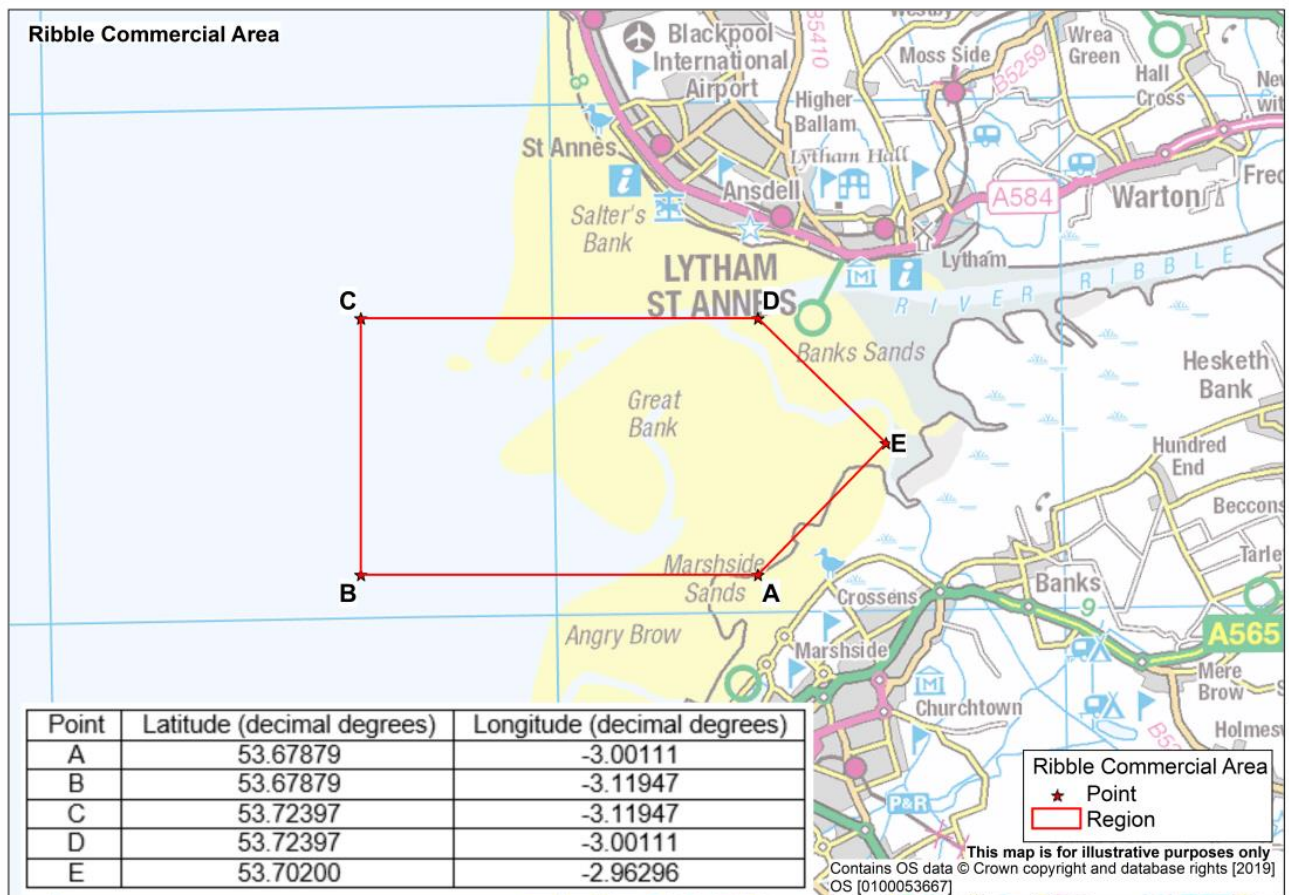
South Morecambe Bay Commercial Area

The South Morecambe Bay 'commercial area' means the area enclosed by a straight line connecting the points A, B, C, D, E in order, and returning to point A along the line of the Highest Astronomic Tide.



Ribble Commercial Area

The Ribble 'commercial area' means the area enclosed by a straight line connecting the points A, B, C, D, E in order, and returning to point A.



Wirral Commercial Area

The Wirral 'commercial area' means the area enclosed by a straight line connecting the points A, B, C, D in order, and returning to point A along the line of the Highest Astronomic Tide.

