

By Email only

Welsh Government's 'Scallop Fishery in Cardigan Bay Special Area of Conservation (SAC) – New Management Measures Consultation'

Natural Resources Wales's purpose is to ensure that the natural resources of Wales are sustainably maintained, sustainably used and sustainably enhanced, now and in the future.

The Welsh Government's consultation relates to a possible new permit regime with associated management conditions for scallop (*Pecten maximus*) fishing in the Cardigan Bay Special Area of Conservation (SAC).

Natural Resources Wales' comments are made in the context of our role as Statutory Nature Conservation Body under the Conservation of Habitats and Species Regulations 2010 (as amended) as further amended by paragraph 189 of the Natural Resources Body for Wales (Functions) Order 2013, and as advisers to the Welsh Government on matters pertaining to the natural heritage of Wales and its coastal waters. The following comments are made by Natural Resources Wales as an advisory body and are without prejudice to views or advice we might provide during any future statutory environmental assessment process.

Natural Resources Wales is not responding to the efficacy of the underpinning science mentioned within the consultation document as it is not presented as a specific consultation question. However, the Bangor School of Ocean Science 'Scallop Fishing Intensity Experiment' reports referenced within the consultation are presented as part of the rationale for implementing management change within the fishery. Natural Resources Wales would encourage Welsh Government to seek peer review of this science to provide a robust transparent evidence base to support the delivery of an area based approach to managing Welsh natural resources.

If Welsh Government decide to bring forward the proposed new management measures, by issuing permits with a suite of associated conditions, then they will need to undertake an environmental assessment in accordance with Article 6 of the Habitats Directive. It is at this stage that NRW will provide statutory nature conservation advice on the Welsh Government's environmental assessment and the robustness of all the underpinning science. The Welsh Government assessment should also consider the impacts from scallop dredging activities on the Harbour Porpoise feature of the possible West Wales Marine Special Area of Conservation in Cardigan Bay.

There is some confusion around the geographic limit of the proposed new management regime as the consultation mentions Cardigan Bay but the response form indicates Cardigan Bay SAC. Natural Resources Wales' response is based on the Welsh Government's proposed new permit with associated conditions being applicable between

the 3nm and 12nm area of the Cardigan Bay SAC only and not the whole of Cardigan Bay.

Overall, Natural Resources Wales recognises that the current suite of management measures applicable to the Cardigan Bay SAC scallop fishery are not considered to be adaptive due to the legislative process of amending Statutory Instruments under The Sea Fisheries (Conservation) Act 1967. We support the Welsh Government's intention to introduce a flexible approach to the management of the scallop fishery in Cardigan Bay SAC through the introduction of a new permit scheme, with associated conditions, within the legislative framework of the Marine and Coastal Access Act (MaCAA) 2009. This would provide Welsh Government with the mechanism to be adaptive and to vary the permit conditions appropriate to environmental constraints.

Our response to the specific consultation questions are provided as an Annex to this letter. Should you have any queries or would like to discuss any of the points we have raised, please contact our Marine Fisheries Advisor, Colin Charman at colin.charman@naturalresourceswales.gov.uk or 03000 654965 in the first instance.

Yn gywir / Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rhian Jardine', with a horizontal line underneath.

Mrs Rhian Jardine
Pennaeth Cymunedau Cynaliadwy/ Head of Sustainable Communities
Cyfoeth Naturiol Cymru / Natural Resources Wales

Annex I: Comments on the consultation questions

Q1. What is your interest in the scallop fishery?

Environmental/conservation

Q2. Do you agree with the introduction of a Scallop permit scheme which would apply to Cardigan Bay, allowing conditions to be applicable out to 12 nautical miles?

Yes.

Natural Resources Wales' response to this question is based on the Welsh Government's proposed new permit with associated conditions being applicable between the 3nm and 12nm area of the Cardigan Bay SAC only and not the whole of Cardigan Bay as stated in the question. We are of the view that including a map outlining the specific area within which the scallop permit scheme will apply is essential.

Currently, vessels intending to fish for scallops within the former North Western and North Wales Sea Fishery Committee (NWNWSFC) jurisdiction, including the 0 - 6nm area of the Cardigan Bay SAC, require a permit from Welsh Government under Byelaw 12 of the saved NWNWSFC Byelaws. This permit is associated with a number of management conditions in terms of spatial/temporal restrictions and gear design. Natural Resources Wales annually advises Welsh Government on the potential environmental impacts from the current permit under Article 6 of the Habitats Directive.

Natural Resources Wales is supportive of the proposal to extend the geographic boundary of the permit regime from the 6 nm to 12 nm limit of the Cardigan Bay SAC and to increase the range of management measures that would be conditional to the permit.

Any new permit, as a plan or project, would similarly be subject to an environmental assessment under Article 6 of the Habitats Directive and must not adversely affect the integrity of the site.

Q3. Do you agree with the establishment of conditions to the permit, to be considered on an annual basis and applied if appropriate? This will follow a scientific survey and short consultation.

Yes.

Currently, a suite of conditions under the NWNWSFC Byelaw 12 permit, The Scallop Fishing (Wales)(No 2) Order 2010 and The Scallop Dredging Operations (Tracking Devices)(Wales) Order 2012 apply within the 0 nm to 12 nm area of the Cardigan Bay SAC, including conditions on;

- Technical gear restrictions,
- Vessel size,
- Engine power,
- Type of dredge,
- Minimum size of scallop,
- Use of inshore Vessel Monitoring Systems (iVMS),

- Temporal and spatial controls

These current management measures are not considered to be adaptive due to the legislative process of amending Statutory Instruments under The Sea Fisheries (Conservation) Act 1967.

Introducing a new permit scheme with associated conditions within the legislative framework the MaCAA 2009 would provide Welsh Government with the mechanism to be adaptive and to vary the permit conditions appropriate to the environmental constraints. A new permit regime, like the existing one, will require an environmental assessment by Welsh Government under Article 6 of the Habitats Directive and should not adversely affect the integrity of the site. Any environmental assessment should be underpinned by up to date fishery information and robust science.

Natural Resources Wales supports Welsh Government's intention to introduce a flexible approach to the management of the scallop fishery in Cardigan Bay SAC providing it does not adversely affect the integrity of the site.

Natural Resources Wales would further advise Welsh Government to introduce an additional measure to limit the total number of permits available to fish in the Cardigan Bay SAC. This would act as a means to restrict the total amount of fishing effort and limit possible environmental impacts.

Q4. Do you consider 'Effort Control' to be an acceptable condition to apply to the permit?

Yes.

Natural Resources Wales supports the principle of controlling effort within the scallop fishery as a method to limit possible environmental impacts.

Effort control should be considered in terms of the total amount of gear that can be fished within a given time period. In our responses to Questions 5 and 7 below, we are supportive of limiting the amount of gear that can be used by individual vessels and limiting the amount of time that vessels can fish respectively.

We have already advised in our answer to Question 3 that Welsh Government should consider limiting the total number of vessels that can fish for scallops within the Cardigan Bay SAC, this combined with time restrictions, would have the effect of limiting the total amount of effort.

Q5. Do you consider 'Gear Control' to be an acceptable condition to apply to the permit?

Yes.

Natural Resources Wales supports the continued application of gear controls including; gear restrictions, vessel size, engine power and type of dredge utilised to reduce potential environmental impacts.

Introducing a permit scheme with associated gear control conditions within the MaCAA 09 legislative framework would provide Welsh Government with a flexible mechanism to vary the gear controls appropriate to the environmental constraints.

Natural Resources Wales would encourage Welsh Government to consider a range of scallop fishery methods and their impacts when considering the sustainable development and natural resource management of the scallop stock.

Q6. Do you consider 'Quota' (based on total allowable catch) to be an acceptable condition to apply to the permit?

Yes.

Currently, there are no EU or UK quota allocations for scallops. Natural Resources Wales supports the proposed introduction of a Welsh quota system for the Cardigan Bay SAC scallop fishery. Any quota allocation should be underpinned by an accurate annual stock assessment and contribute towards the sustainable management of the natural resource.

Q7. Do you consider 'Temporal Restrictions' (specific open period for the fishery) to be an acceptable condition to apply to the permit?

Yes.

Natural Resources Wales supports the continued application of temporal restrictions as a means to reduce fishing effort within the fishery.

Introducing a permit scheme with associated temporal conditions within the MaCAA 09 legislative framework would provide Welsh Government with a flexible mechanism to vary the opening and closing of the fishery conditions appropriate to the environmental constraints.

Q8. Do you consider 'Rotational Open Areas' to be an acceptable condition to apply to the permit?

Yes.

Since the 1970s, scalloping has occurred throughout the Cardigan Bay SAC. The fishery was temporarily closed in 2009 due to concerns over the impacts from an increased number of scallop vessels on the designated features of the site, namely reefs, subtidal sandbanks, Bottlenose dolphin and Grey Seal.

In 2010 the Countryside Council for Wales advised the Welsh Government that the proposed area to be re-opened to scallop fishing, within the Cardigan Bay SAC, as authorised under The Scallop Fishing (Wales) (No 2) Order 2010 would not adversely affect the integrity of the site provided:

1. The area did not contain Annex 1 Habitats features and
2. Remained outside of 3nm of the coast so as not to indirectly affect the Annex II mobile species features of the site.

The area that was subsequently re-opened to scallop fishing, outside of 3nm of the coast but within the Cardigan Bay SAC, was limited in size due to the amount of resource available to undertake survey in 2009.

Natural Resources Wales does not object to the principle of rotational 'open' areas within the SAC providing Welsh Government can demonstrate through the appropriate Habitats Regulation Assessment process that the proposed scallop fishery does not adversely affect the integrity of the site.

Q9. Do you consider 'Minimum Size Restrictions' to be an acceptable condition to apply to the permit?

Yes.

Natural Resources Wales supports the continued application of minimum size restrictions or minimum conservation reference size for scallops.

Introducing a permit scheme with associated size conditions within the MaCAA 09 legislative framework would provide Welsh Government with a flexible mechanism to vary minimum size restrictions of scallops appropriate to the environmental constraints.

Q10. Do you consider 'Closure on an area at short notice' to be an acceptable condition to apply to the permit?

Yes.

Natural Resources Wales supports the introduction of a condition, as part of a permit scheme, to close an area of the fishery at short notice. This would provide Welsh Government with a flexible mechanism to react to any environmental constraints that may arise in the future.

Q11. Do you consider 'Data Collection Requirements' to be an acceptable condition to apply to the permit?

Yes.

Natural Resources Wales considers up to date catch and landings information is essential to deliver informed environmental assessments and natural resource management of the fishery.

Q12. Do you consider 'Evidence Gathering Requirements' to be an acceptable condition to apply to the permit?

Yes.

Up to date information is essential to deliver informed management of the fishery, utilising fishing vessels to collect data makes sense in terms of resource and expertise. Any data gathered by fishermen should adhere to standard collection methodologies and the information should be made publically available.

Q13. Do you consider the 'Installation of appropriate Vessel Monitoring Systems (including gear in, gear out technology)' to be an acceptable condition to apply to the permit?

Yes.

Natural Resources Wales supports the continued use of an inshore Vessel Monitoring System (iVMS) to track the location of vessels. The successful application of iVMS allows for greater protection of site features within areas closed to scallop fishing in the SAC.

If iVMS can be supplemented with effective 'gear in gear out' technology as a permit condition then greater control of effort within open areas could be delivered by Welsh Government.

Q14. Do you agree with the charging of a fee for each permit, set annually and at a level to encourage participation by those with a long-term interest in the well-being of the fishery.

Yes.

Natural Resources Wales support charging a fee for each permit, and would encourage Welsh Government to invest a proportion of the permit scheme fee in annual stock assessment surveys and in further scientific study to establish the long-term sustainability of the fishery.

Q15. Do you agree with the establishment of a management advisory board, to assist Welsh Government in the oversight of the fishery?

Yes.

Natural Resources Wales supports the establishment of a Management Advisory Board by Welsh Government with a clear remit to input to the annual scientific survey design.

While Natural Resources Wales has a statutory role in advising Welsh Government on the impacts from any proposed annual fishery, we would welcome involvement with the proposed Board. We believe early engagement in developing science or survey design is beneficial in the long-term so that any data gathered is scientifically robust and fit for purpose.

Q16. Do you have any suggestions of additional conditions to the permit which you would want us to consider?

Natural Resources Wales would advise Welsh Government to limit the total number of permits issued annually. This limitation could be related to stock availability and/or effort controls.

Q17. We have asked a number of specific questions. If you have any comments relating to these questions please use this space to report them. Please keep each comment separate.

Additional context/detail has been provided to supplement our responses within the response to each question above.