

Formal Consultation on Changes to the Category One Permit Conditions to align with the Inshore Potting Agreement Licence Condition

Officers' Recommendation

That officers proceed with a formal consultation with a view to align the Category One Permit Conditions with the Inshore Potting Agreement (IPA) Licence Condition

1. Background

The Inshore Potting Agreement (IPA)

The IPA Committee meets once a year in the autumn, normally in September/October. The Committee normally consists of five members of the commercial potting fleet and five members of the mobile fishing (trawling and scalloping) fleet that actively fish within the IPA or are representatives of those that do. The MMO and D&S IFCA facilitate and chair the meeting. The South Devon Trawling and Potting Chart, also known as the IPA Chart, Licence Condition has been in place since 2002 and prior to that (since the 1970s) the IPA was managed under voluntary measures. It is a nationally and international recognised gear conflict resolution system, which, through the agreed management approach, has become a de-facto Marine Protected Area (MPA). Two more recently designated MPAs, the Skerries Bank and Surrounds MCZ and Start Point to Plymouth Sound and Eddystone SAC (designated in 2013 and 2011 respectively) now co-locate with the IPA.

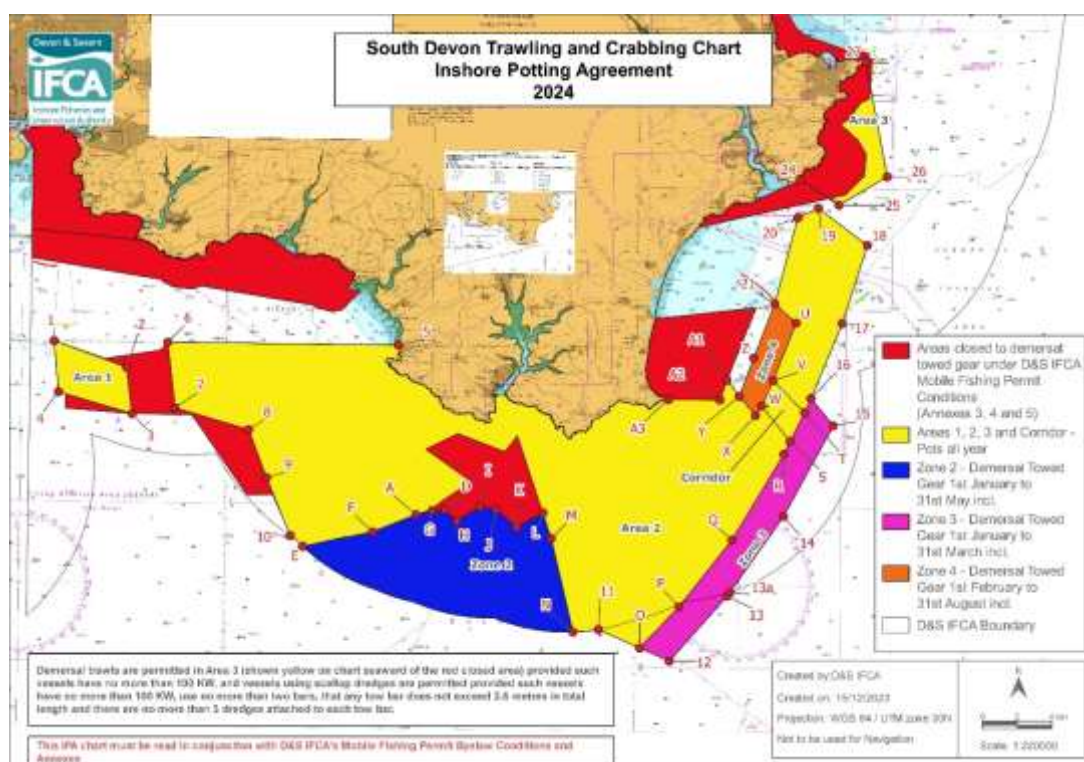


Figure 1- IPA Chart 2024

The IPA Chart is discussed each year at the IPA Committee meeting and any changes to the chart, in terms of opening and closing areas where trawling and scalloping vessels can

operate, are decided by the Committee Members. At the meeting in 2023, the IPA Committee Members made the decision to close an area known as the Corridor for 2024, due to an infringement by a mobile fishing vessel. The minutes of the IPA Committee meeting in 2022, record the Members’ warning that the Corridor would be closed if further infringements by the mobile gear fleet were recorded. The Corridor is a zone within the IPA that is normally opened to demersal mobile fishing gear vessels from 1st March to 31st March annually

D&S IFCA’ S Category One Mobile Fishing Permit Conditions

The Category One Mobile Fishing Permit Conditions include spatial and time restrictions. Paragraph 3.5 interlinks with Annex 5 and Annex 5a. The Annexes define where demersal gear can be used in accordance with time restrictions set out in paragraph 4.5 of the Category One Permit Conditions. In November 2023 Officers presented a paper outlining that due to the changes to the IPA Licence Condition for 2024, closure of the Corridor, D&S IFCA Mobile Fishing Permit Conditions relating to Annex 5a above would not be aligned. The Permit Conditions and the Licence Condition had to be harmonised, or an ultra vires situation would have existed if the Permit Conditions continued to allow access. Byelaws and permit conditions cannot be less restrictive than national legislation. Officers informed B&PSC Members that a consultation on the changes to the Mobile Fishing Category One Permit Conditions was required. The consultation took place between 12th December 2023 and 19th January 2023. and there were no responses. Officer took a decision paper to the B&PSC on 22nd February 2024 and the Members agreed that the Category One Permit Conditions were amended in relation to Access Area C of Annex 5a (to reflect the IPA Licence condition changes) to become effective on 1st March 2024. Figure 2 shows the Annex 5a of the Permit Conditions and the closure of Area C.

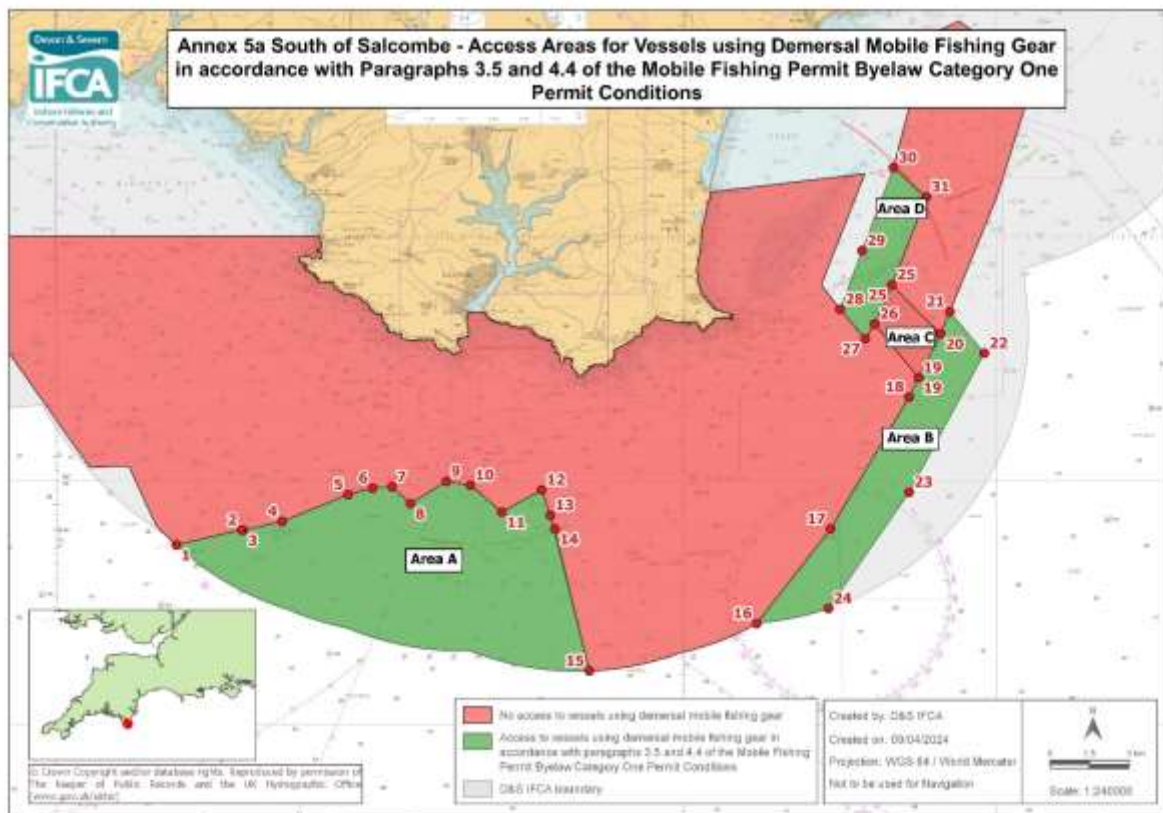


Figure 2 - Annex 5a of the Mobile Fishing Permit Conditions

2. IPA Meeting September 2024.

At the IPA Committee in September 2024, the re-opening of the Corridor (Area C of Annex 5a of the Mobile Fishing Permit Annexes) was discussed. In the meeting the previous year it was made clear that the opening of the Corridor would be considered if there were no infringement recorded in 2024. Members of the IPA voted on opening the Corridor for 2025 and unanimously agreed to its opening. This decision will be reflected in the IPA Licence Condition, which is a Commercial fishing Licence Condition, to be issued on 1st January 2025.

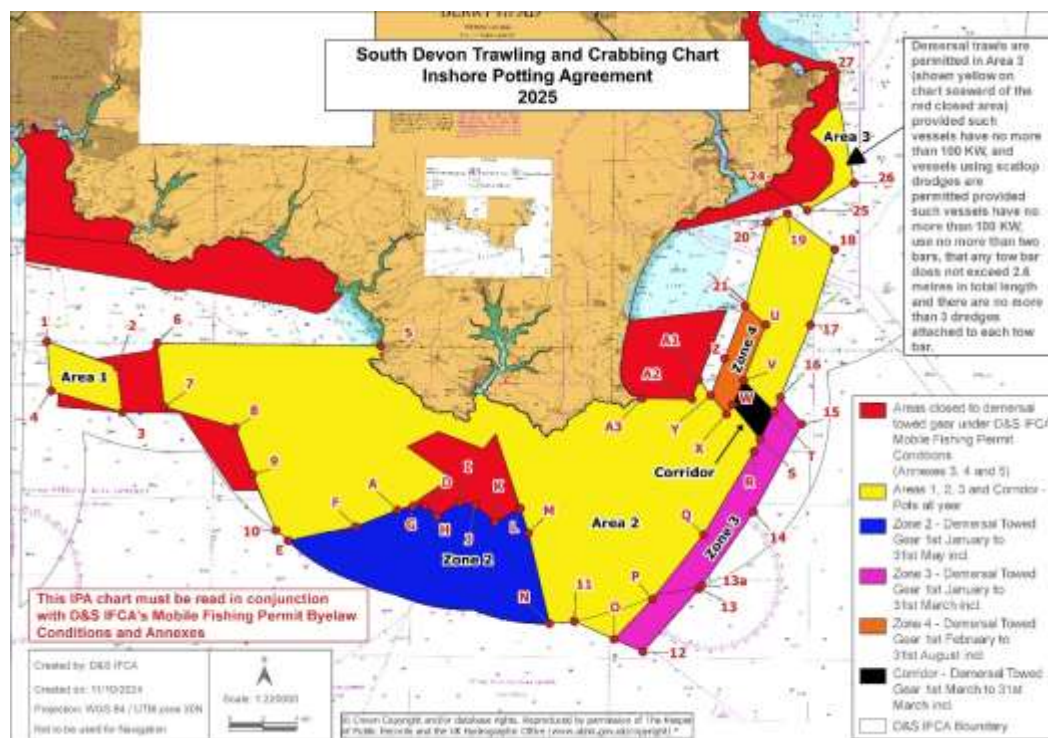


Figure 3 – IPA Chart 2025

3. D&S IFCA's Process

Due to this decision, the current D&S IFCA's Mobile Fishing Permit Conditions and Annexes will not align with the IPA Licence Condition 2025. However, the Permit Conditions are now more restrictive than the Licence Condition so the permit conditions would be *intra vires* if Members chose to keep the area closed.

As set out above the IPA Committee is a long standing and unusual example of co-management between two commercial sector, and any changes are agreed by both sectors under the Terms of Reference of the IPA Committee. D&S IFCA supports and encourages the continuation of this model of co-management, but the decisions taken by the IPA Committee are not bound by the legal duties placed on D&S IFCA.

This arrangement is best demonstrated by the red 'triangle' south of Salcombe on the chart above. Prior to 2014, seasonal access to the mobile fishing fleet above the line drawn between points G to L was agreed by the IPA Committee. Essentially the blue area of Zone 2 used to extend further north to cover the current red area.

The reason for this change in management of prohibiting access by demersal fishing vessels was due to the area above the line G to L being located within the Start Point to Plymouth Sound SAC. In 2014, following Defra's Revised Approach to the management of commercial

fishing activities in MPAs, D&S IFCA agreed to close the area to mobile fishing gear based on the best available evidence of the reef feature in the SAC.

The area of the Corridor lies within the Skerries and Surrounds MCZ. In order to support the IPA Committee's decision to reopen the area, D&S IFCA has to be satisfied that the proposed change does not conflict with its S153 and S154 duties in the Marine and Coastal Access Act.

The paper sets out, that the default position for the Corridor, is to open this area to mobile fishing gear for one month. Officers have undertaken the necessary assessment of the proposed mobile fishing activity within the Corridor based on this limited access window and concluded that the activity would not have an adverse effect. The Corridor makes up 1.69% of the Skerries Banks and Surrounds MCZ and contains 0.27% of the subtidal sand habitat and 3.54% of the coarse sediment feature estimated from Cefas' modelled data. Natural England did not agree with conclusions of the assessment and D&S IFCA officers have challenged the advice from Natural England. Since the assessment was completed Natural England has undertaken a revised condition assessment of the Skerries Bank and Surrounds MCZ and has changed the condition of the features from maintain to recover due to the fishing activity taking place, even though the activity was taking place at the point of designation of the MCZ. D&S IFCA has again challenged the results of the condition assessment .

Officers are currently engaged with Natural England and Defra regarding this condition assessment and advice, and it has been agreed that alternative management measures can be considered that may lead to the advice regarding the Corridor being adjusted. Defra has indicated that whilst that process is underway D&S IFCA can apply the management measures it considers appropriate.

Officers recommend that whilst the discussions are ongoing with Defra and the proposed opening is consistent with the long-standing access arrangements, D&S IFCA should formally consult with the recommendation that the Corridor is reopened from 1st March to 31st March 2025.

The Mobile Fishing Permit Byelaw sets out a process (Review Procedure) that must be followed to make changes to the Permit Conditions. If B&PSC Members agree with the officers' recommendation a consultation on the changes to the Category One Permit Conditions will take place, Following the consultation, the Authority (B&PSC) must decide on the changes to be made. The responses from the consultation will be collated and reported to the B&PSC in February 2025.

4. Background Papers

IPA Minutes – [Section B of the D&S IFCA 's Website Resource Library](#)

Skerries Bank and Surrounds MCZ Assessment, [advice from Natural England](#) and [D&S IFCA response to the advice](#) – Section H of the D&S IFCA's Website Resource Library

B&PSC – Officers papers and minutes of meetings – [Section B of the D&S IFCA's Website Resource Library](#)

End.