

<b>Title:</b> <b>Northumberland IFCA ‘Prohibition of use of Mobile Fishing Gear in Berwickshire North Northumberland Coast Special Area of Conservation’ byelaw</b>  <b>IA No: NIFCA 001</b> <b>Lead department or agency:</b> <b>Northumberland Inshore Fisheries and Conservation Authority NIFCA)</b>  <b>Other departments or agencies:</b> <b>MMO, Natural England, Defra</b>	<b>Impact Assessment (IA)</b>
	<b>Date:</b> August 28 <sup>th</sup> , 2013
	<b>Stage:</b> Development/Options/Consultation
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary legislation (Byelaw)
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## Summary: Intervention and Options

### What is the problem under consideration? Why is government intervention necessary?

Special Conservation Areas (SACs) and Special Protection Areas (SPAs) are designated to protect habitats and species in line with the EU Habitats Directive and Birds Directive. SACs and SPAs that include a marine component are known as European Marine Sites (EMS). Following the Defra Revised Approach to management of Commercial Fisheries in European Marine Sites (See Appendix 1) and the EU Habitats and Birds Directive Article 6 (2), the Northumberland IFCA is the competent authority for inshore fisheries within 6 nm for the Berwickshire and North Northumberland Coast Special Area of Conservation (SAC) and will implement management measures for red risk interactions. This Revised Approach will ensure fisheries compliance with the Habitats Directive.

The B&NNC SAC includes cobble reefs and bedrock reefs which are considered features at risk to towed fishing gear. Northumberland IFCA therefore proposes a byelaw prohibiting in the B&NNC SAC within Northumberland IFCA district the use of towed fishing gear to protect the red risk features, with the byelaw to be implemented by the end of December 2013.

Northumberland IFCA are currently gathering data about reefs in the area, and as a result of this ground truthing it is intended that a review of the above byelaw will take place with a view to introducing zones on soft ground which are suitable for mobile towed gear activity as soon as possible after the end of December 2013. In the meantime in the Matrix referred to in Annex I, reefs have been highlighted as the most sensitive features to demersal towed fishing gears and seagrass to intertidal hand working, including bait digging and crab tiling activities in the Northumberland IFCA district and those features are therefore a priority for protection through management and regulation.

The subject of this Impact Assessment is the proposed Northumberland IFCA byelaw prohibiting mobile fishing gear in the B&NNC SAC in the NIFCA district. This byelaw aims to prohibit detrimental fishing activity on designated bedrock and cobble reefs.

**What are the policy objectives and the intended effects?**

1. To introduce appropriate and effective measures in respect of mobile fishing gear activities to ensure 'red risk' features are maintained at favourable conservation status in the SAC.
2. To explain and engage the importance of the red risk features within the SAC and to encourage fishermen to be aware of and comply with the byelaw provision.
3. To enhance the environmental, socio-economic and fisheries sustainability of the wider Northumberland IFCA District.
4. To introduce a byelaw that incorporates management measures for "high risk features" (Defra Revised Approach at Annex I to this document) within the B&NNC SAC in the Northumberland IFCA District.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

1. 'Do Nothing'.
2. Create a NIFCA 'Prohibition of use of Mobile Fishing Gear in Berwickshire and North Northumberland Coast Special Area of Conservation' byelaw.
3. Voluntary measures: Allow fishermen to manage the fishery to ensure no further damage to the reef habitats.
4. Statutory Measures: Management of activity through Statutory Instruments or Defra fishing licence, similar to traditional byelaws.

**The preferred option is 2.**

The preferred policy option uses the precautionary principle towards management under the Habitats Directive which explains that it is necessary to prohibit fishing activity in the interest of the protected features.

**Will the policy be reviewed?** Yes.

**If applicable, set review date:** As soon as possible and no later than 3 years after the byelaw is made.

**What is the basis for this review?** Duty to review. **If applicable, set sunset clause date:** N/A

**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

Yes

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Chairman: \_\_\_\_\_ Date: \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 2

Description:

## FULL ECONOMIC ASSESSMENT

Price Base Year Not Known	PV Base Year Not Known	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Not Known	High: Not Known	Best Estimate: Not known

COSTS (£m)	Total Transition (Constant Price) Year	Average Annual (excl. Transition) (Constant)	Total Cost (Present Value)
Low	Not Known	Not Known	Not Known
High	Not Known	Not Known	Not Known
Best Estimate	Not Known	Not Known	Not Known

### Description and scale of key monetised costs by 'main affected groups'

At present, the economic impact to the main affected group i.e. commercial fishermen is not known with regard to this byelaw. It is likely that displacement will occur amongst the trawlers and scallop dredgers from the Northumberland District as well as some who come from outside of the district, mainly Scotland. This is thought to be minimal as sightings data indicates minimal activity in the SAC. There is likely to be an increase in monetised cost to Northumberland IFCA due to the requirement for increased presence to enforce the SAC prohibition and to ensure mobile gear fishermen do not use the area.

In summary, based on currently available data the overall cost cannot be monetised.

### Other key non-monetised costs by 'main affected groups'

Traditional fishing communities or coastal communities located next to the no fishing area may be negatively impacted, socially and economically. A potential reduction in demand for services such as fish processing, packaging and storage, as well as vessel and gear maintenance. Some ports such as Amble and Seahouses may also be affected by a decrease in landings and income from fisheries. Again, this is thought to be minimal however due to historic low level of mobile gear activity in the SAC.

BENEFITS (£m)	Total Transition (Constant Price) Year	Average Annual (excl. Transition) (Constant)	Total Benefit (Present Value)
Low	Not Known	Not Known	Not Known
High	Not Known	Not Known	Not Known
Best Estimate	Not Known	Not Known	Not Known

### Description and scale of key monetised benefits by 'main affected groups'

Displacement of the mobile towed gear is likely to be minimal. The flexible approach to management means that when the ground truthing data has been gathered and analysed to support the data received from the fishing industry which suggests there are areas within the SAC which do not contain any red risk features, it may be possible to allow zones for the use of mobile gear using iVMS (inshore Vessel Monitoring System). The collection of new evidence will be made available and supported through Northumberland IFCA's purchase of a drop down camera and side scan sonar for 2013 and enhanced by the intended purchase of a new patrol vessel for 2014.

**Other key non-monetised benefits by ‘main affected groups’**

The recommended byelaw has environmental benefits through the protection of sensitive features (rocky reefs) that may otherwise be vulnerable to potentially damaging fishing activities. Recreational users including divers and anglers are anticipated to benefit from the prohibition of sensitive areas, potentially benefitting the local economy. Benefits to commercial fisheries are also anticipated in the long term due to the increase in aggregate catch levels in the fishery and positive biological spillovers outside the protected area.

The byelaw is designed to completely prohibit the area to any mobile towed gear activity so that the Northumberland IFCA is able to comply with Defra’s revised approach and meet its deadline to introduce management measures to protect ‘red risk’ features by the end of December 2013. Although this prohibition may have implications for the fishing industry, consultation has been and will continue taking place to ensure that marine users understand what is being done and why.

**Key assumptions/sensitivities/risks**

- That no further management is required other than this byelaw to meet SAC responsibilities with respect to mobile gears (assumption).
- Greater level of non-compliance than envisaged leading to increased enforcement costs (sensitivities/risks).
- It is being assumed that the prohibition of the SAC site to mobile gear activity will not greatly affect fishermen who use mobile towed gear as the NIFCA sightings data from 2003-2012 has them fishing virtually entirely outside the area.
- The Gross Value Added (GVA) is not known.
- Maps from an Acoustic survey from the Centre for Environment, Fisheries and Aquaculture Science (CEFAS) for the SAC are available from 2013 (Annex II). This will help determine where reefs are and provide up to date evidence from the Regulation 35 package.
- From the Natural England/JNCC guidance regarding reef margins, it is assumed that a buffer zone is required for the SAC.
- Anecdotal information has been gathered from stakeholders through consultation meetings in the district to inform the assumption that once sufficient data has been gathered then zones for mobile gear use on soft ground may be opened up by amended byelaw provision.

**BUSINESS ASSESSMENT (Option 3)**

Direct impact on business (Equivalent Annual) £m:			In scope of 0100	Measure qualifies	
Costs: Known	Not	Benefits: Not Known	Net: Not Known	No	IN/OUT/Zero net cost

## Evidence Base

### 1. Introduction

- 1.1 The nationally agreed vision of the IFCAs is that they will *“lead, champion and manage a sustainable marine environment and inshore fisheries within their Districts by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry”*.
- 1.2 Section 153 of the Marine and Coastal Access Act, 2009 (MaCAA) details the management of inshore fisheries as follows (extract).
- (1) The authority for an IFC district must manage the exploitation of sea fisheries resources in that district.
  - (2) In performing its duty under subsection (1), the authority for an IFC district must:
    - (a) Seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way,
    - (b) Seek to balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from, or promote its recovery from, the effects of such exploitation, \*
    - (c) Take any other steps which in the authority's opinion are necessary or expedient for the purpose of making a contribution to the achievement of sustainable development, and
    - (d) Seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.
- 1.3 As a direct consequence of the above, the ten Inshore Fisheries and Conservation Authorities (IFCAs) in England are obliged under a nationally agreed high level objective (HLO) to demonstrate that by April 2015, all legacy byelaws have been reviewed and evaluated against current evidence base; redundant and duplicate byelaws have been removed and gaps covered.
- 1.4 Northumberland Sea Fisheries Committee (NSFC) became Northumberland IFCA on April 1<sup>st</sup> 2011 and subsequently inherited byelaws from the NSFC.

\* It should be noted that the balancing of socio and economical benefits relates to Marine Conservation Zones and this is not the case in relation to Natura sites unless there is no net difference in detriment between two socio-economically differing management options.

### Rationale for intervention

- 2.1 European marine sites (EMS) are designated to protect habitats and species in line with the EU Habitats Directive and Birds Directive. To bring fisheries in line with other activities, the Department for Environment, Food and Rural Affairs (Defra) announced on the 14<sup>th</sup> August 2012 a revised approach to manage fishing activities within EMSs. This change in approach will promote sustainable fisheries while conserving the marine environment and resources, securing a sustainable future for both.
- 2.2 In order to implement this new approach a Fisheries in European Marine Sites Implementation Group was set up to include key stakeholders and delivery bodies to ensure that the new approach is implemented effectively and practically, in line with

legal commitments, considering the impacts of management measures available and suitable timetable of delivery.

- 2.3 The approach will be introduced to current fishing activities on a risk-prioritised basis. Where it is clear that a feature (or sub-feature) will be too vulnerable to a type of fishing then protection through management measures is required by the end of December 2013. The Northumberland IFCA plan to make this byelaw by the end of August 2013 with an expectation that the new management measures through the byelaw will come into force on 1<sup>st</sup> January 2014.
- 2.4 EMS have been designated to protect a variety of different features. Within the NIFCA district, reefs (bedrock and cobble) have been highlighted as the most sensitive features to demersal mobile fishing gears and have been highlighted as a priority for protection through management.
- 2.5 The benefits of a mobile gear byelaw has become apparent as a result of Defra's Revised Approach to EMS. The required management of mobile gear fishing activities, particularly those with benthic contact, will require spatial regulation at a higher level of resolution in the near future.
- 2.6 Under the high level objectives set out in its annual plan, Northumberland IFCA is required to make the best use of evidence to promote the sustainable management of the marine environment. This includes the sustainable management of habitats in the SAC. In addition there may be the future need to protect sensitive seabed features and habitats anywhere within the District.
- 2.7 The proposed byelaw will prohibit all demersal mobile gear fishing techniques from taking place over reef in the SAC.

### **3. Policy objective**

- 3.1 The policy objective pertinent to this Impact Assessment is to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way, and balance the environmental, social and economic benefits of exploiting sea fisheries resources. Northumberland IFCA is made a competent authority under Regulation 7 of The Conservation of Habitats and Species Regulations 2010 and therefore must make an Appropriate Assessment of any fishing activity occurring within EMS, permitted or consented by Northumberland IFCA to ensure the conservation objective of the sites are met. The Northumberland IFCA must also seek to ensure that the conservation objectives of any EMS in the district are furthered.
- 3.2 The conservation objectives for reefs in the SAC are subject to natural change and the aim is to maintain in favourable condition the reefs, in particular, the extent, distribution, diversity and species richness of reef communities. "Favourable condition" is defined in the Regulation 33 Advice Package as "a range of conditions for a natural habitat or species which the sum of the influences action upon the habitat or species is not adversely affecting its distribution, abundance, structure or function within an individual Natura 2000 site in the long term. The condition in which the habitat or species is capable of sustaining itself on a long term basis."
- 3.3 The prohibition of sensitive reef areas for demersal mobile gear activities will ensure that Northumberland IFCA meets its obligations to protect 'red risk features' under Defra's Revised Approach. The closure of these areas, in line with the conservation objectives of the EMS in the district, will restrict potentially damaging activities under Article 6(2) of the Habitats Directive.
- 3.4 Demersal mobile gear activities will be prohibited in the SAC due to the significant risk of damage posed by this gear type.

#### **4. The Options**

4.1 As part of the NIFCA byelaw review a range of options were considered:

##### **4.2 Option 1 'Do Nothing'**

This option was deemed not to be appropriate. This option would involve allowing potentially damaging fishing activities to take place within sensitive reef, within and outside of the SAC. This would mean that risks to the District from damaging activities would not be addressed and there is the potential that NIFCA's obligations under Article 6(2) of the Habitats Directive would not be met.

##### **4.3 Option 2 NIFCA byelaws to prohibit use of mobile fishing gear in SAC to protect sensitive reef habitats (Recommended option)**

Under this option it is only in the sensitive 'red risk' area defined through Defra's revised approach to management of EMS that mobile gear activity will be prohibited. Should further measures be required in the future for mobile gear activities or the boundaries of the prohibited areas require changing, then a new byelaw would be required or the existing byelaw would have to be amended. The exact location of cobble and rocky reefs is unknown at this time and therefore it is thought to be proportionate and following the precautionary approach in the best interests of the site that a prohibition on mobile gear in the SAC is implemented for the end of December 2013 deadline.

##### **4.4 Option 3 Voluntary agreements**

Due to the area of sea, it is believed that a voluntary agreement would be impractical and would pose too great a risk to the overall sustainability of the District and the site integrity of the EMS.

Northumberland IFCA understands that voluntary measures cannot be used to manage potentially damaging fishing activities within the SAC particularly in this instance. The Defra revised approach to fishing in EMS also specifies that a regulatory approach is required in order to ensure that damaging activities cannot impact upon the site feature. This option would carry the risk that damaging activities to sites may occur and that obligations under Article 6(2) of the Habitats Directive would not be met.

##### **4.5 Option 4 Statutory measures**

IFCAs have been established as the responsible lead statutory organisation for the sustainable management of inshore fisheries and conservation and with the B&NNC SAC within the district of NIFCA the Authority should take the lead role.

#### **5. Evidence base**

5.1 Evidence of reef location in the SAC can be found in the Cefas maps at Annex II (although these maps do not cover the whole SAC and further data is required particularly from NIFCA ground truthing). Mobile gear sightings by NIFCA and NSFC from 2003 to 2012 inclusive are set out in the maps at Annex III.

## 6. Sectors affected

- 6.1 Fishing: All mobile gear fishing vessels will be affected as they will not be able to fish within the SAC. The byelaw would prohibit the use of demersal mobile fishing gear within sensitive reef, removing access to possible fishing grounds. From the Authority's database and permit scheme (restricting the size of the vessel within 3 miles of the shore to 11.59 metres), the number of vessels operating mobile gear (trawling and scallop dredging) from ports within the District is approximately 44 local vessels with the possibility of some nomadic vessels.

Historically, mobile gear vessels do not fish within the SAC. Sightings data from the Northumberland IFCA from the last 10 years confirms this to be the case. It is not thought that a prohibition of the area will displace fishermen as they will still be able to operate to their full extent in their fishing grounds outside the SAC.

Non-licensed fishing vessels operating mobile gear will not be able to fish under the byelaw. The Authority is not aware of any vessels that would currently fall into this category and has not received any information to the contrary from the consultation process to date.

There is the potential for the intensity of certain methods of static fishing gear to increase within and adjacent to areas prohibited to demersal mobile gears. Management of static gear takes place under other Northumberland IFCA byelaws. However as most fishermen fish outside the SAC it is thought that the movement of mobile gear fishermen to other types of static gear is unlikely. There is the potential for displaced effort of fishermen to existing static gear grounds from the fishermen operating mobile gear. However, due to the very low activity of mobile fishing gear in the SAC, this is seen as unlikely to occur.

It is thought that effects on the Fishing Sector are a **Minor Adverse Impact**.

- 6.2 Local economies and society: There is the potential for businesses associated with the mobile gear fishing sector to be affected by the proposed byelaw but once again it is unlikely that a complete prohibition of mobile gear activity in the English Section of the B&NNC SAC area will affect the mobile gear sector as most activity occurs outside the protected area.

The introduction of the new management measures will give confidence to the public that fishing using mobile towed gears in the District is effectively controlled and not damaging the marine environment.

The wider environmental benefit of protecting designated features within the SAC and elsewhere in the District are outlined in section 7. There will be benefits to the environment and to commercial fisheries due both to an increase in aggregate catch levels and positive biological spillovers outside the protected area.

It is thought that the businesses affected may experience **Minor Adverse Impact** but that the social and environmental impacts will be **Beneficial**.

Enforcement bodies: The lead responsibility of enforcing the proposed prohibited area would fall to the Northumberland IFCA. There is the potential for an increase in enforcement costs as a consequence of the proposed byelaw. The costs associated with enforcement are outlined in section 7. This increase in costs and resources could result in a **Moderate Adverse Impact** on the IFCA and its funding Councils.



## **7. Analysis of costs and benefits**

### **Costs for the recommended option**

7.1 The introduction of a Northumberland IFCA 'Prohibition of use of Mobile Fishing Gear in Berwickshire and North Northumberland Coast Special Area of Conservation' byelaw with the closure of the SAC to mobile towed gear will result in the following costs:

- Potential loss of access to fishing grounds and consequential loss of catch and income for vessels operating demersal mobile gears;
- Potential for non-licensed, mobile gear fishing vessels to lose access to fisheries for their own consumption;
- An increase in enforcement costs associated with policing the sensitive reef prohibited areas will lead to less resources being available to cover other lower risk enforcement requirements; and.
- Potential loss of access to fishing grounds and consequential loss of catch and income for vessels operating demersal mobile gears are difficult to value due to the lack of accurate data available on fishing activity.

### 7.2 Analysis of fisheries costs

The quantification of the potential loss of access to fishing grounds and consequential loss of catch and income for vessels operating towed mobile gears as a result of the recommended option is difficult.

NIFCA estimates there are currently thirteen trawling and dredging vessels based in the district that may operate in the SAC. The number of vessels thus affected has been derived from the Northumberland IFCA's vessel sighting data and officers' knowledge.

The Northumberland IFCA undertook two events in July with the industry on the proposed byelaw. The industry at both events were responsive and more than willing to aid in providing information with regard to the fishing grounds in the SAC.

### 7.3 Benefits for the recommended option

The introduction of a Northumberland IFCA "Prohibition of use of Mobile Fishing Gear" byelaw with the closure of sensitive reef to demersal towed gears will result in the following benefits within the district:

- Potential increase in the sustainability of the stocks of marine fisheries resources;
- Potential benefits to commercial fisheries due to the positive biological spillover of fish outside of the protected area.
- Potential increase in environmental sustainability and a reduction in the damage to habitats.

### 7.4 Analysis of fisheries and environmental benefits

The quantification of the potential benefits to the sustainability of marine fisheries resources within the Northumberland IFCA district as a result of the recommended option is difficult.

Reef habitats provide a habitat that encourages high biodiversity. Reefs also provide a degree of coastal protection and are important areas for nutrient cycling, carbon and nitrogen fixing and sediment stabilisation. By protecting areas of sensitive reef habitat a natural refuge is created for populations of targeted and by catch species.

#### 7.5 Analysis of socio-economic benefits

It is anticipated that the maintained condition, and in some cases recovery, of reef features will provide greater attraction for recreational users, including divers and anglers. The duties of the Northumberland IFCA are to seek to balance the needs of all users and to establish and protect of these features supporting different sectors interests.

The introduction of the new management measures will give confidence to the public that mobile fishing using towed gears in the District is effectively controlled and is not damaging to the marine environment.

It may promote the buying and consuming of the catch taken by mobile gear vessels operating under the Northumberland IFCA's management measures as the public have greater confidence in the sustainability of the product.

### 8. Summary

The Northumberland IFCA has statutory responsibilities that it believes it meets by introducing the Prohibition of Mobile Fishing Gear byelaw.

This byelaw and the Authority's approach is designed to meet the Authority's conservation responsibilities but at the same time minimising the socio-economic impact from these restrictions. In addition, the byelaw also provides the means to manage fishing activities in a timely and, effective way.

A post implementation review will be undertaken as soon as possible and no later than three years after the byelaw is confirmed and in particular the Authority will look to introduce zones on soft ground in the SAC where mobile gear may operate as soon as possible after the end of 2013. Social and economic data will be considered along with scientific and any other evidence when considering if changes should be made. An Impact Assessment will be undertaken if management changes are made.

## ANNEX I

### REVISED APPROACH TO THE MANAGEMENT OF COMMERCIAL FISHERIES IN EUROPEAN MARINE SITES - OVERARCHING POLICY AND DELIVERY DOCUMENT

#### Purpose

1. This paper outlines the Department's overarching policy approach and key implementation steps to ensure that all existing and potential commercial *fishing* operations are managed in accordance with Article 6 of the Habitats Directive.
2. The revised approach applies to all European Marine Sites (EMS) and potential Special Protection Areas (pSPAs) and possible Special Areas of Conservation (pSACs)<sup>1</sup> in England. It aims to ensure that, in order to comply with Article 6 of the Habitats Directive, management measures are identified for high risk features by December 2013, and any additional fishery management measures for the conservation of the abovementioned sites are in place by 2016. The approach for the conservation of EMSs in the offshore marine area is outlined in paragraph 13.

#### Context

3. Government and Fishery Regulators in England (primarily the Marine Management Organisation (MMO) and Inshore Fisheries and Conservation Authorities (IFCAs))<sup>2</sup> have legal obligations to ensure that fishing activities (including existing fishing activities), which could adversely affect EMSs are managed in a manner that secures compliance with the requirements of Article 6 of the EU Habitats Directive. Conservation of these sites contributes to the delivery of Defra's aim to conserve and enhance the marine environment and promote sustainable fisheries.
4. In order to ensure that EMSs receive the requisite level of protection, and ensure compliance with the EU Birds and Habitats Directives, Government has decided to revise the approach to the management of commercial fisheries affecting EMS. Building on existing management measures, this will ensure that all existing and potential commercial fishing activities are subject to an assessment of their impact on EMSs.
5. It is the expectation of the Department that appropriate management measures will need to be regulatory in nature to ensure adequate protection is achieved. Management decisions should be based on the best available evidence, but using a precautionary approach. Reflecting European

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<sup>1</sup> pSPAs and pSACs are sites on which Government has initiated public consultation on the scientific case for designation as a Special Protection Area or candidate Special Area of Conservation. For ease of reference EMS, pSPAs and pSACs are referred to collectively as "EMSs".

<sup>2</sup> There could also be other relevant regulators or competent authorities with responsibility for a particular site.

Commission guidance<sup>3</sup> on the management of fisheries in European Marine Sites, “*the proposed measures should be consistent with the conservation objectives for the sites concerned*” and we expect Regulators to take a precautionary approach, “*according to which the absence of adequate scientific information should not be used as a reason for postponing or failing to take management measures*”.

## Delivery

6. The revised approach will be applied on a risk-prioritised, phased basis which will be applied to both UK and non-UK fishing vessels in accordance with the EU requirements. Following the matrix approach described below, management action will focus first on sites that contain features where evidence suggests there is significant risk<sup>4</sup> that certain types of fishing activities could prevent a qualifying feature or sub-feature from achieving its conservation objectives.
7. We intend to proceed on the basis of assessments through a matrix type approach. This shows, at a high generic level, the effect gear types have on the conservation objectives for the relevant features for which EMSs have been selected or designated. This generic matrix (“The Matrix”) should provide regulators with an indicator as to whether:-
  - a. the activity requires priority management measures to be introduced to protect that feature without further site level assessment on the impacts of that activity on that feature or;
  - b. a further assessment may be necessary.
8. Under The Matrix fishing activities will be classed as Red, Amber, Green or Blue according to the potential or actual impact of the gear type on the feature(s) for which a site has been designated. The definition for the classifications is annexed to this paper.
9. For activities identified as Red, the Department would wish management measures to be in place by end 2013, but where this is not practicable, they must have been identified by this date, and implemented by end May 2014. Regulators must inform the Department if they are unable to put measures in place by end 2013. Consideration must be given to the use of emergency byelaw powers where it is clear there is an existing or imminent threat to any Red feature, including cases where a delay in implementation of the revised approach beyond the end of 2013 is expected.
10. For activities identified as Amber a site level assessment will be required to assess whether management of an activity is required to conserve site features. For activities identified as Green, a similar assessment will be needed if there are “in combination effects” with other plans or projects. To carry out such site level assessments the Department’s strong preference is

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<sup>3</sup> FISHERIES MEASURES FOR MARINE NATURA 2000 SITES

[http://ec.europa.eu/environment/nature/natura2000/marine/docs/fish\\_measures.pdf](http://ec.europa.eu/environment/nature/natura2000/marine/docs/fish_measures.pdf)

<sup>4</sup> Risk relates to the sensitivity of the feature to the type of fishing, and is not related to the level of that fishing activity that may affect that feature.

for the assessment to be carried out in a manner that is consistent with the provisions of Article 6(3) of the Habitats Directive. Appropriate management measures should be put in place to ensure that fishing activity or activities either have (a) no likely significant effect on a site, having regard to its conservation objectives or (b) that following assessment, have no adverse effect on the integrity of a site. The Department expects such measures to have been identified and put in place by 2016.

11. For sites located between 0-6nm, the Department expects the relevant IFCA to be the lead regulatory authority<sup>5</sup>. For sites between 6-12nm, the MMO should be the lead regulatory authority and measures introduced on a non-discriminatory basis in accordance with the relevant Common Fishery Policy (CFP). Where a site feature straddles the 0-6 and 6-12nm boundary, the expectation is that the MMO will lead. Where a site feature straddles the boundaries between two IFCA's we expect that any management measure proposed for that feature to be consistent across the IFCA boundaries.

#### Future Fisheries Management

12. By the end of 2016 all fishery operations potentially damaging EMSs should have been identified and be subject to appropriate management. Fishing activity which is prohibited or restricted within EMSs under the revised approach could be allowed through a permitting mechanism at the site level. Any such permitting would be subject to the Article 6(3)-(4) processes described in Part 6 of the Conservation of Habitats and Species Regulations 2010. The regulatory authorities should also ensure ongoing management of commercial fishery activities remains compatible with the conservation objectives of the site in line with their obligations to secure compliance with Article 6(2) of the Habitats Directive. The relevant Statutory Nature Conservation Body has a responsibility to advise the Regulators on this matter.

#### Management of Sites Requiring Measures in Accordance with the Common Fisheries Policy

13. EMS outside 12nm will require legislative measures to be proposed by the European Commission in accordance with the CFP to ensure adequate protection. For these sites, the Department, taking account of any relevant guidance, intends to submit proposals to the European Commission for any fishery measures needed to ensure site protection is consistent with Article 6 of the Habitats Directive, so that appropriate Regulations are in place in 2016.

DEFRA  
24 January 2013

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<sup>5</sup> Except in cases where the Environment Agency is primarily responsible for regulating the fishery