



Marine
Management
Organisation

Decision document

The West of Walney Marine Conservation Zone (Specified Area) Bottom Towed Fishing Gear Byelaw 2018

November 2018

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Executive Summary

From May to July 2018 the Marine Management Organisation (MMO) formally consulted publically on the possible introduction of a byelaw to prohibit bottom towed fishing inshore of 12 nautical miles (nm) within the West of Walney Marine Conservation Zone (MCZ). This is in order to best further the conservation objectives stated for the MCZ.

The byelaw was proposed following an assessment of the impacts of fishing on the West of Walney MCZ, which was undertaken to ensure that commercial fishing activities are being managed in line with requirements of sections 125 and 126 of the Marine and Coastal Access Act 2009 (MaCAA)¹.

The purpose of this assessment was to determine the implications of fishing activities on the site, in light of the sites conservation objectives. The conservation objectives for the West of Walney MCZ are to recover the subtidal sand, subtidal mud and sea-pen and burrowing megafauna communities, and then maintain them in favourable condition.

It was concluded in the assessment that the introduction of measures to prohibit bottom towed fishing is required in order to best further the conservation objectives of the site.

Reponses from thirteen individuals or organisations were received during the consultation period, two objecting to the byelaw, eight supporting it with the remaining three providing information.

As a result of information received during the consultation, we have identified additional evidence which has allowed us to improve the data that underpins our assessment to ensure the most appropriate areas of the site are protected.

Taking into account the assessment and responses to the public consultation, the MMO has decided to make and seek confirmation from the Secretary of State on 'the West of Walney Marine Conservation Zone (Specified Area) Bottom Towed Fishing Gear Byelaw 2018'.

¹ The Marine and Coastal Access Act 2009: www.legislation.gov.uk/ukpga/2009/23/contents

1. Background

MMO has the power to make byelaws to further the conservation objectives of MCZs² out to 12 nautical miles (nm) from the coastline.

MMO also has a duty to exercise its functions in a way which best furthers the conservation objectives stated for an MCZ, or where this is not possible, to exercise these functions in a way which least hinders those conservation objectives.

For byelaws affecting fishing vessel from other Member States, the provisions of Article 20 of the Common Fisheries Policy³ must also be followed, which include consultation with relevant Member States, Regional Advisory Councils and the European Commission.

2. West of Walney MCZ

West of Walney MCZ is located in the Irish Sea, off the coast of Cumbria and to the west of Walney Island. The MCZ protects an area of approximately 388 km², most of which is in inshore waters, but with a small section crossing the 12 nm boundary into offshore waters. The part of the site inshore of 6 nm sits within the North Western Inshore Fisheries and Conservation District.

Designated in January 2016, this site protects two broad scale habitats of subtidal sand and subtidal mud and one habitat feature of conservation importance, sea-pen and burrowing megafauna communities. All three features have a general management approach to 'recover to favorable condition'⁴.

Both UK and Republic of Ireland vessels have access to fish within the site.

MMO have led the assessment of the part of the site inshore of 12 nm and will lead on managing fishing within this part of the site, with support from North Western Inshore Fisheries and Conservation Authority (NWIFCA).

3. Assessment of the Effects of Fishing in West of Walney MCZ

The MMO assessment uses a range of information including landings records, vessel monitoring system (VMS) data, fisheries sightings data, self-reported patterns of fishing activity to understand patterns of fishing activity at the site.

² Section 129 of the Marine and Coastal Access Act 2009 (c.23)

³ Regulation (EU) No 1380/2013 (OJ L 354 28.12.2013 p.22)

⁴ www.gov.uk/government/uploads/system/uploads/attachment_data/file/492471/mcz-west-walney-factsheet.pdf

The assessment concluded that the some fishing activities within the site were not hindering the conservation objectives of the site. However, introduction of measures to prohibit bottom towed fishing was required in order to best further the conservation objectives of the site.

To ensure the site is protected, an MMO byelaw has therefore been developed to prohibit the use of bottom towed fishing gear over the part of the site inshore of 12 nm. A regulatory impact assessment for this byelaw has also been developed.

4. Consultation

A period of informal consultation was held from 6 December 2017 to 12 January 2018. This consultation consisted of three options. No management; zoned management of bottom towed fishing inside 12 nm; and full prohibition of bottom towed fishing inside 12 nm.

Various responses were received that shaped MMO decision making for formal consultation.

Table 1. Comments received during informal consultation and MMO response.

Comment	MMO response
The conversations should start with EU stakeholders and Member States about offshore management as soon as possible.	The management of the offshore section of the site will be progressed on behalf of the UK by MMO, Defra and the Joint Nature Conservation Committee (JNCC) through article 20 of the CFP Regulation ⁵ , this site will be considered with the tranche 2 MCZs in the Southern North Sea.
The most destructive fishing methods used ie heavy beam trawling is restricted to outside the 12 mile limit so being part of the international fishery would not be included anyway.	The MMO assessment of the impacts of fishing in West of Walney MCZ, and Natural England advice, indicate that all bottom towed gear is capable of posing a significant risk to the CO of the site. MMO byelaws can apply only to areas in England and the adjacent territorial seas. The fishing activity in the offshore section of the site will be progressed through article 20 of the CFP Regulation.
The area is primarily a Nephrops fishery. The trawls used tow off the fishing line with a light foot rope suspended below. They have some of the least impact on the sea bed of all trawl types.	Nephrops trawls interact with the seabed, and therefore have impact in terms of abrasion and penetration. One of the features of the site, sea-pen and burrowing megafauna communities, includes Nephrops and other burrowing organisms as part of that feature. The current Nephrops fishery actively removes a species which is a component of the feature and therefore MMO currently believe that

⁵ Regulation (EU) No 1380/2013

	management is required to fulfil our duty to best further the site's conservation objectives (CO).
Given the strong tidal regime in the area windfarms are practically no fishing zones, according to local fishermen the entire marine environment has changed within the windfarm. There is growing evidence to support this so surely even consenting to further windfarm development is a breach of the precautionary principle.	VMS data indicate that there is fishing within the boundaries of the windfarms that are within the boundary of the site. It is noted that intensities are lower in these areas, however fishing does occur. The windfarm within the West of Walney boundary were consented through the Planning Act 2008. The regulator for this is the Planning Inspectorate, who would therefore be responsible for the application of the precautionary principle when assigning the application. Consenting under the Planning Act 2008 does not mitigate the MMO's obligations under the MaCAA to best further the CO of MCZs, which is the driver behind this consultation.
At the Irish Seas Conservation Zones consultations, the limit of the windfarm was suggested as the limit of the MCZ and would permit trawling as has occurred for Nephrops for decades. Extension of the MCZ beyond the windfarm does not serve a conservation purpose but will cause social and economic issues to the local fishing communities.	The boundary of the MCZ was defined prior to designation by ministers in January 2016. The boundary was developed by the Irish Sea Conservation Zones Regional Stakeholder Group (RSG) and submitted to NE, JNCC and the Science Advisory Panel in September 2011. The RSG identified this MPA to protect subtidal mud, subtidal sand and sea-pen and burrowing megafauna communities; with the aim to recover these features to a favourable condition.
Is a conservation target needed? Does a feature merit legislative protection and at what point such protection is detrimental to local and national interests, especially when large areas of identical features are already protected in adjacent areas.	The UK Government has committed to establishing a coherent network of well managed marine protected areas (MPAs) in English and other UK waters. MPAs help ensure that marine habitats and species are guarded from the increasing pressures of human activity. In particular, MCZs are designed to protect characteristic species and habitats as well as those which are rare and threatened. When deciding on designation of MCZs, ministers take into account estimated socio-economic impacts if the designation is formally adopted. After designation of the site, regulators such as the MMO have a legal duty to further the sites' CO. Our assessment indicates that to do this management across all of the inshore portion of the site is required.
Recent habitat mapping	Financial impacts to fishing fleets were considered by

<p>outputs from JNCC and Magic suggest that potential sites containing sub-tidal mud are more extensive than the available evidence suggested during original planning process. This could allow for sites that would pose significantly less contention to the fishing industry.</p>	<p>ministers ahead of designation of the second tranche of MCZs. The information released⁶ as part of designation outlined estimated costs falling on UK commercial fisheries, plus a limited but unquantified impact on non-UK fishing activity. After designation of the site, the MMO's primary consideration is now best furthering the sites' CO.</p>
<p>Leaving the sand area open does not present a significant mitigation to a blanket prohibition (option 1) that would have maximum impact on the mobile fishing fleet. Presenting only a limited zoned proposal offers no serious attempt to accommodate the existing fisheries at the site.</p>	<p>Management zones have been developed using data on location of feature and comparing that against feature sensitivity to pressures exerted by each gear type; whilst considering the recover general management approach for all features. All features are sensitive to pressures exerted by the current fishing fleet. As such proposals follow the feature boundaries as this is the most appropriate approach given the characteristics of the site. Data sets that identify the range of biological communities are the basis for formulating the management proposals. Ministers take account of socio-economic impacts of MCZs at the designation stage, however, now designation has occurred, CO are the primary concern.</p>
<p>Management options have been presented for formal consultation without a fuller consideration of potential measures informed by substantive risk analysis.</p>	<p>Between December 6 2017 and January 12 2018 MMO conducted an informal consultation seeking views on draft proposals for potential management of commercial fishing in the part of West of Walney MCZ. After considering all responses received, a two month formal consultation period will be launched, as required by MaCAA and Article 11 of the CFP Regulation⁷. During this time MMO would welcome further correspondence. If management is introduced the MMO will only do so after completing an impact assessment on the management measures.</p>
<p>The information provided only shows areas of interpreted conservation features and does not provide any survey records identifying sensitive features. There is data which identifies the range of biological communities</p>	<p>To underpin all MMO decisions the MMO use the best evidence available to us. The baseline for making regulatory decision here are data provided by Natural England and JNCC; this is the main dataset behind our management options.</p>

⁶ Designation of the second tranche of Marine Conservation Zones in waters for which the Secretary of State has responsibility (English inshore, English and Northern Irish offshore)

⁷ Regulation (EU) No 1380/2013

across the site, these do not appear to have been used to inform the management options.	
Central Fladen MPA had a more adaptive management plan than that proposed for West of Walney.	Management decisions are on a site by site basis. As this is a different site, with different features a direct adoption of the approach taken in Central Fladen would not be appropriate. The Central Fladen site is also subject to different processes as it is beyond the 12 nm boundary and so subject to Article 20 of the CFP which requires a joint recommendation to be agreed between relevant member states.
SNCB Advice on Operations questions the presence of <i>Funiculina quadrangularis</i> , the sensitivity of the site, and the risk from trawling.	Whilst the sea-pen <i>F. quadrangularis</i> can be part of sea-pen and burrowing megafauna communities habitat of conservation importance (HOCl), it is not stated that <i>F. quadrangularis</i> occurs within the site. The sensitivity of the sea-pen and burrowing megafauna communities to bottom towed gear is not based solely upon the presence of this species, or on sea-pens, but on the components common to all biotopes that can be part of the HOCl. The sensitivity is not just driven by <i>F. quadrangularis</i> , but also by other components of the feature.
Conservation advice packages identify what to account for when advancing management proposals for WoW.	MMO has written a draft assessment outlining the impacts which pressures from fishing gears exert on the features of the site, this includes possible management scenarios. When formal consultation is launched, on management within the site, this will be part of the consultation documents.

Formal public consultation of this byelaw ran for 10 weeks from 8 May to 13 July 2018. The MMO publically consulted on a draft of the 'the West of Walney Marine Conservation Zone (Specified Area) Bottom Towed Fishing Gear Byelaw 2018', and the associated fisheries assessment and impact assessment.

The consultation was advertised on the gov.uk website throughout the consultation, in the following publications on the following dates:

- Fishing News (on 10 May and 17 May)
- Westmoreland Gazette (on 10 May and 17 May)
- North Western Evening Mail (on 8 May and 15 May)

Information regarding the consultation was also sent directly to interested parties including:

- fishing industry bodies;
- environmental organisations;
- Government of the Republic of Ireland;

- the North Western Waters Advisory Council; and,
- the European Commission.

MMO met with representatives from the National Federation of Fishermen's Organisations to discuss their response to our informal consultation and to better understand our formal consultation proposals to inform their formal response. Topics that were discussed included:

- reflecting on approaches being developed for similar feature types elsewhere, such as in Scotland;
- using the best available evidence on the locations of the sensitive features to guide a more refined management proposal;
- taking account of the wider fisheries and ecosystem implications, not just of the proposal for West of Walney, but also other potential designations in the Irish Sea that could affect the nephrops fisheries;
- additional data sources;
- adaptive risk management;
- a zoned approach to management;
- the considerations for management of fish stocks and protection of marine habitats.

During the formal consultation period, MMO also presented the management proposals to the North Western Waters Advisory Council at their meeting on 4 July.

5. Summary of Responses

Responses from thirteen individuals or organisations were received during the consultation period, two objecting to the byelaw, eight supporting it with the remaining three providing information.

The objections fall into broad categories, with both objecting parties highlighting issues with the impact assessment. One objector reported that there were issues with the fisheries assessment and conclusions drawn.

The subjects raised during the consultation fall within the following eight overarching categories:

- financial calculations in the impact assessment;
- adherence to policy;
- use of fishing activity data;
- conclusions drawn in the assessment;
- proposed management and consistency with other sites;
- use of best available evidence;

- application of the precautionary principle; and
- legislative adherence.

5.1. Financial calculations in the impact assessment

The following points were raised:

1. Inaccuracies with the financial information;
2. There is no evidence that a cumulative impact assessment has been undertaken that considers the impacts of the proposals alongside other projects, proposals or plans, a standard feature supporting any substantive project requiring a marine licence, for example;
3. No substantive analysis of the implications of fisheries displacement is provided, in terms of either environmental impact or implications for the future sustainability of the eastern Irish Sea nephrops fishery;
4. Costs included do not accurately cover all costs to be incurred by the MMO such as the cost to the MMO in terms of payments by the MMO to the Ministry of Defence (MoD) for a surveillance vessel but the full cost of supplying and running the ship that should be included within the figures; and
5. Cost to other organisations are not fully explored.

MMO response to public representations regarding financial calculations in the impact assessment

There is no requirement to undertake a cumulative assessment of proposed management measures as part of the impact assessment. The fisheries assessment takes into account cumulative impacts of the proposed management along with other authorised activities.

The impact assessment has been amended to address inaccuracies and also to include displacement information and an acknowledgement of the high levels of uncertainty surrounding displacement. The MMO undertakes annual reports on every protected area within our remit and regularly review the assessments no more than every five years. The costs to the MoD and Inshore Fisheries and Conservation Authorities (IFCAs) associated with the patrolling and any potential enforcement are best represented by the figures provided.

5.2. Adherence to policy

The following point was raised:

1. The economic assessment of the cost of protecting the site does not satisfy the Treasury 'Green Book' requirements. There is no consideration of costs to organisations other than the MMO and these costs are not fully explored.

MMO response to public representations regarding policy adherence

The MMO incorporated costs to the MMO, the UK and Republic of Ireland fishing fleets as these organisations will be impacted. The costs to the Royal Navy and the North Western IFCA should be covered by the costs charged to the MMO and no additional costs to these organisations are anticipated. An additional paragraph has been included in the impact assessment to incorporate the potential social costs and the uncertainties associated with these costs as a result of the closure of the West of Walney MCZ.

5.3. Use of fishing activity data

Representations were received stating that:

1. The analysis of fishing footprints that forms the most substantive element of the assessment is provided with little explanation of the applied methodology or interpretation of the results that are presented. Reference is made to a research report that guides the methodology;
2. What data has been used to calculate P-values;
3. What assumptions have been applied to the processing of data;
4. The graphical presentation of P-value data across the site (Annexes 2-4) does not bear a resemblance to the underlying presentation of VMS ping data, nor our understanding of where the main Nephrops fishery is located in the north of the site; and
5. Given that the site is associated with windfarms and gas infrastructure where there has been significant levels of work during the period of the analysis, there is the potential that significant levels of guard vessel duty work has been captured in the data.

MMO response to public representations regarding the use of fishing activity data

The information in the fisheries assessment which explains the P-value methodology and use of VMS data (Annex 1), the underlying data (Annex 6) and subsequent assumptions (Annex 7) has been reviewed and updated. P-values have also been presented on an annual basis only.

We have also reviewed and updated our P-value analysis, including removal of additional guard vessels, and the P-value maps now more obviously reflect the VMS maps.

The data used to underpin the P-value assessment are VMS data. A description of the different data sources used, their strengths and limitations are provided in table 11 within the assessment. Confidence in VMS is high for describing activity relating to larger vessels (those over 12 m length). But VMS information was not developed specifically for management of MPAs, and does not describe activity in smaller vessels. Confidence in available data for non-VMS vessels is low, and may represent an underestimate of activity. VMS records the location, date, time, speed and course of the vessel and we have used the assumption that a speed of less than 6 knots represents fishing.

As the P-value assessments are based on VMS data, they do not include non-VMS (under 12 m length) vessels and is therefore likely to represent an underestimate of activity and impact.

5.4. Conclusions drawn in the assessment

Representations were received stating:

1. The assessment does not consider to what extent the area under analysis is not affected by fishing activity compared to what is, which would provide an important indication of the level of exposure of conservation features to fishing pressures;
2. What does reference to “turned over” mean in the results;
3. The methodology which appears to sum the footprints for different gear types in any given year and then add them together over a 5 year period to generate an overall P value;
4. Reference to maximum annual P values of 0.09 and 0.05 for trawling on sub tidal sand would seem relatively low to us but are referenced as being “extremely high”;
5. No explanations of definitions of different pressures is provided;
6. Various references are given relating to impacts of fishing gears but it would be more helpful in our view to understand to what extent abrasion and penetration pressures will affect the subcomponents of the habitats based on the sensitivity of species that the habitat contains (eg as provided by Marlin). In the absence of this, the references and the understanding of the sensitivity of the habitats seems rather general; and
7. In light of the availability of new information detailing the nature of the habitat within the site, the development of management proposals would seem to be premature before considering additional available information from AFBI (Agri-Food and Biosciences Institute) or that soon is to be made available by SNCBs (Statutory Nature Conservation Bodies).

MMO response to public representations regarding conclusions drawn in the assessment

VMS data have been used to estimate the impact of fishing within West of Walney MCZ. This is to provide a picture of where vessels with VMS have the potential to interact with the features of the site. Due to the variability of fishing patterns over time, and the overall levels of fishing at this site, it has not been possible to identify areas where fishing effort is not posing a significant risk to the conservation objectives of the site.

Similarly, information which could identify less sensitive areas of each feature is not currently available at this site. Should such information become available in future, this will be considered as part of a review of the fisheries assessment and/or management measure.

Some changes have been made to improve the clarity of the assessment. A single 'area impacted' figure is now provided and references to area 'turned-over' have been removed. Some descriptions of fishing effort (eg as "extremely high") have also been amended to use more objective terminology. P-values have also been presented on an annual basis only.

The assessment has been updated with further information gathered during formal consultation. Some of this information was sought as a result of specific questions asked of MMO by stakeholders. This includes adding further detail on how depth of penetration varies between gears, and additional evidence regarding the impacts of towed gear fishing on sedimentary habitats (see references to (Sciberras et al, 2018) in the accompanying fisheries assessment).

In terms of assessing the impacts of specific pressures (eg abrasion and penetration) on feature subcomponents, taking into account sensitivity estimates, we have considered this evidence. However, where direct evidence of the overall impacts of fishing on relevant habitats and species is available, this has been used as it provides a more useful insight into the likely impact of fishing on the site's conservation objectives.

It is the expectation of the Defra that appropriate management measures will need to be regulatory in nature to ensure adequate protection is achieved. Management decisions must also be based on the best available evidence, but using a precautionary approach. MMO take an adaptive approach to management of fisheries in MPAs, and any new information will be incorporated into a review of the fisheries assessment and/or management measure.

5.5. Proposed management differs from other sites

Representations were received stating that:

1. We noted the differences between the proposal and the management proposal for the Central Fladden MPA.

MMO response to public representations regarding the how the proposed management differs from other sites

Notwithstanding comparisons between the habitats found in other sites with adopted management and West of Walney MCZ, management decisions are made on a site by site basis. We considered a zoned management approach as one of the three options available for management within this site. During formal consultation, MMO did not receive any additional evidence of how a zoned management approach would achieve the conservation objectives of the site. The consulted byelaw is considered the most appropriate way of best further the conservation objectives of the site.

5.6. Application of the precautionary principle

Representations were received stating that:

1. We believe the proposal to be unnecessarily precautionary given the risks posed to the site conservation features.

MMO response to public representations regarding the application of the precautionary principle

In applying the precautionary principle, the MMO:

- identifies (and where possible quantifies) plausible risks;
- reduces scientific uncertainty (to the extent possible);
- employs management measures that are proportionate to the activity under question and the level of plausible risk.

The legislation which underpins the protection of MCZs applies the precautionary principle by placing the burden of evidence on proving that activities are compatible with the sites conservation objectives.

The precautionary principle therefore covers those specific circumstances where scientific evidence is insufficient, inconclusive or uncertain, and there are indications through preliminary objective scientific evaluation that there are reasonable grounds

for concern that the potentially dangerous effects on the environment, human, animal or plant health may be inconsistent with the requirements of protection.

Ultimately, the precautionary principle requires a balancing exercise in which the risks of an activity, in the light of imperfect scientific evidence, must be balanced against the need for sustainable development.

We have determined that we cannot exclude the risk that bottom towed gear fishing will have significant negative effects on the site concerned, and will hinder the achievement of the site's conservation objective.

5.7. Use of best available evidence

Representations were received stating that:

1. Other data sources have not been utilised; and
2. Not all relevant bodies have been contacted for information.

MMO response to public representations regarding the use of best available evidence

We have used a number of sources to assess sensitivity of features to different fishing activities in order to assess vulnerability. Natural England have provided advice on feature sensitivity through MPA conservation advice packages. This has been combined with a literature review of best available, peer reviewed, and papers.

MMO has consulted Natural England on our proposal. Natural England has fed back that they agree with the conclusions of our fisheries assessment and that our proposed management is appropriate.

Best available data has been used from Natural England to understand the exact location of the features of the site. MMO accept that there are potentially other data sources available, however this is unlikely to change the outcome of the assessment. Given that all three features are sensitive to pressures from bottom towed gear, if the subtidal sand and subtidal mud were in slightly different places it would still mean that all of the site inshore of the 12 nm would require management. This is also true of the HOCl, which occurs throughout the site, and those areas of lesser density that require protection to allow for recovery of the feature.

5.8. Legislative adherence

Representations were received stating that:

1. The proposal would not only have socio-economic repercussions, but also the unintended environmental consequences and threaten the ongoing sustainability of the Nephrops fishery through the displacement of fishing activities;
2. During informal consultation MMO stated that the MMO's primary concern is how to best further the site's conservation objectives and that socio-economic factors were taken into account in the designation process. We fundamentally disagree that socioeconomic factors exercised through proportionate management or a consideration of the risks of unintended consequences highlighted above should be downplayed or ignored in the design of site management measures due to socio-economic factors featuring in the designation process; and
3. We consider that the proposal and supporting documentation as it stands is not in accordance with section 2 of the Marine and Coastal Access Act, associated statutory guidance on contributing to the achievement of sustainable development, and the Marine Policy Statement.

We believe the MMO would be failing:

- In its general objective (Ch1, section 3(b) of the Marine and Coastal Access Act) to take account "other evidence so available or obtainable relating to the social, economic or environmental elements of sustainable development".

- To follow Secretary of State guidance pursuant to section 2(6) of MCAA Section 2.6: To reach impartial decisions based on best available evidence including to "identify and take into account the potential benefits and anticipated adverse impacts (which may be economic, environmental and/or social), including the multiple and cumulative impacts of proposals when viewed with other projects and activities."

- Having regard to the identified relevant principles: ecosystems approach relating adaptive management and cumulative impacts; good regulation in relation to proportionate and consistent management; evidence based decision-making in terms of taking account of all relevant facts which are reasonably available to require.

- To act in accordance with the UK Marine Policy Statement (2011) and section 3.8.3 (p42) provisions to have regard to the provisions of the Common Fisheries Policy and section 3.8.10 (p43) to "have regard to the impacts of displacement and whether it is possible for vessels to relocate to other fishing grounds and...consider the potential impacts of this displacement on the viability of fish stocks and on the marine landscape in the alternative fishing grounds."

MMO response to public representations regarding legislative adherence

MMO has a range of responsibilities and duties under the Marine and Coastal Access Act 2009 and other legislation, which we have balanced when coming to this decision. The production of an impact assessment in line with the principles of better regulation has highlighted those impacts from this management decision. MMO strive to introduce management for MPAs with the smallest amount of impact to stakeholders that will achieve the required level of environmental protection.

Through formal consultation stakeholders have had the opportunity to provide MMO with information that would allow us to make a more nuanced management decision that would have less impact to stakeholders. We have reviewed the information received and contacted those further contacts highlighted during the consultation process. This has not led MMO to amend our management decision. Notwithstanding this, after the byelaw is in place, if such information were made available to us, then MMO would review the MPA assessment and adapt our management to reduce stakeholder impacts, if we were confident that the correct level of environmental protection were achievable.

Public authorities cannot, other than in exceptional circumstances, limit the level of environmental protection for an MCZ due to economic reasons. However, we always strive to achieve the necessary level of environmental protection while minimising the social and economic impacts. Sections within the assessment from formal consultation outline the adherence to the Marine Policy Statement.

The MMO have had regard to displacement as a result of the proposed management. As the MCZ will be closed to bottom towed gear, some displacement is likely to occur both within and outside the MCZ. Displacement is dependent on the intensity and distribution of fishing activities within the site before the closure and on external factors (such as fish distribution, TAC/quota, fuel prices, other spatial claims). Due to the location of the closure, some displacement may occur in the offshore section of the MCZ and fishing pressure may also increase in the area surrounding the site.

As part of the MMO risk-based enforcement, regular monitoring of fishing activity is collated on a Monitoring Control and Surveillance System (MCSS). MCSS does not analyse fishing trends and activity, but stores information, which can be accessed at any time. MMO monitoring of activity in each site could assist in any future considerations relating to displacement and could be used to indicate any changes in fishing trends and activity.

To understand the impact of displacement, which is difficult to quantify, the MMO will be undertaking regular monitoring of activity within the MCZ in addition to a review of the assessment in five years' time.

Wherever possible the MMO will seek to accommodate multiple uses of the marine area and consider the possibilities for co-existence. Where uses/activities are not compatible with each other or will potentially have adverse impacts on the environment, the MMO need to decide which use has priority in given circumstances and the likely risks.

In reaching impartial decisions based on the best available evidence, we take a risk-based approach that allows for uncertainty, recognising the need to use sound science responsibly. We identify and take into account the potential benefits and anticipated adverse impacts (which may be economic, environmental and/or social), including the multiple and cumulative impacts of proposals when viewed with other projects and activities. We weigh the potential positive and negative impacts of each proposal, drawing on different, identifiable lines of evidence to consider the potential impacts. The precise nature of the impact(s) will depend on a number of factors, including the type and intensity of fishing, the impact on the marine environment, nature conservation and biodiversity or ecosystems, heritage assets, local economy, social effects and compatibility with other activities. However we must ensure that such decisions meet statutory requirements under UK and EU legislation and are consistent with our obligations under international law. In this case we will implement the management that is of least disruption to stakeholders that affords the required level of environmental protection.

6. Conclusion

The MMO has conducted a comprehensive assessment of the impacts of commercial fishing within West of Walney MCZ, and consulted widely upon a required byelaw to protect the features of the site. We have considered each of the points raised through consultation when making its decision, and are satisfied that all points have been addressed. Figure 1 shows the final management areas.

Having considered all of the above information and best available evidence, the MMO have now made the West of Walney Marine Conservation Zone (Specified Area) Bottom Towed Fishing Gear Byelaw 2018 and submitted the byelaw to the Secretary of State for confirmation.

Figure 1. West of Walney Marine Conservation Zone (Specified Area) Bottom Towed Fishing Gear Byelaw 2018

