

# Fish Legal submission of 19 August 2022

## PE1951/K: Reinstate inshore coastal limit on the use of dredge and trawl fishing gears

This is a discussion about the *appropriateness* of the use bottom trawled gears in Scotland's inshore waters (hereinafter "freedom to trawl"). It should be viewed in the context of both the available evidence on the economic and environmental performance of that fishery and the policy obligations of the Scottish Government.

### **The policy context:**

We focus on two separate but related concepts that are intrinsic to fisheries policy:

- a) The duty to manage our fisheries sustainably; and
- b) The duty to support an "eco-system approach"

*In brevitatis* what these mean<sup>1</sup>:

"sustainability objective" is management which ensures that fishing activity is environmentally sustainable in the long term but achieves economic and social benefits.

"eco-system objective" means activities are kept within levels compatible with the achievement of Good Environmental Status (GES) as defined by the Marine Strategy Regulations 2010.

### **The Nephrops trawl fishery**

Nephrops Trawl employs a relatively fine net that is dragged across the seabed and it is generally recognised as an environmentally damaging form of fishing on account of its bycatch and benthic impacts<sup>2</sup>.

The fishery covers a significant proportion of our inshore waters with only 2.5% of Scotland's inshore area protected from bottom trawling<sup>3</sup>. With the addition of Highly Protected Marine Areas (HPMAs) that total will increase to 12.5%.

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<sup>1</sup> S.1 Fisheries Act 2020

<sup>2</sup> For example, see State of Nature Report 2019 on wider ecosystem effects of marine fisheries at p17

<sup>3</sup> Langton et al Are MPAs effective in removing fishing pressure from benthic species and habitats? Biological Conservation 247 (2020)

Whilst proponents of the Nephrops trawl fishery claim levels of bycatch of the fishery are low, the mortality level of species such as cod are significant enough to inhibit recovery of stock biomass, which is at dangerously low levels. Professor Mike Heath of Strathclyde University has estimated<sup>4</sup> that the Firth of Clyde Nephrops fishery takes around half the number of cod in the Firth of Clyde each year as bycatch, and suggests this as a significant factor in the lack or recovery of Clyde cod. It is also notable that International Council for the Exploration of the Sea (ICES) recommend a zero Total Allowable Catch (TACs) of cod for the west of Scotland yet a TAC of 1279 tonnes<sup>5</sup> was negotiated in 2021 precisely to facilitate cod bycatch in trawl fisheries such as Nephrops trawl. West of Scotland cod are being sacrificed for the trawl sector.

### **Environmental indicators of inshore health**

Scotland's 2020 Marine Assessment showed that our inshore biodiversity is still in state of ongoing decline. In our view, one of the drivers behind that ongoing decline is freedom to trawl.

Scotland has a duty to achieve Good Environmental Status (i.e. ensure the seas are environmentally healthy) but, as acknowledged by the recently published Blue Economy Vision, we failed 11 of the 15 GES indicators in 2020. Every single one of Scotland's inshore marine regions fail the seabed health indicator for GES<sup>6</sup>. Even with HPMA's it is unlikely there will be enough seabed protection from trawling to allow us to reach GES.

The only detailed study of any area of our inshore, the Clyde Ecosystem Review<sup>7</sup> shows how it has been significantly modified by 3 decades of trawling to the extent that it is hard for adult fish to survive. The Scottish Government appear complacent about this in [their response](#) to this petition.

### **Economics of Nephrops trawl vs Nephrops creel**

SCFF has published papers<sup>8</sup> showing the superior economic performance of Nephrops creel against Nephrops trawl. Freedom to

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<sup>4</sup> M Heath Cod Box Closure presentation to Clyde 2020 Steering Group 07 April 2022

<sup>5</sup> ICES advice Cod Division 6a 30 June 2020

<sup>6</sup> Marine Assessment Scotland Predicted Extent of physical disturbance to sea floor status and trend assessment

<sup>7</sup> McIntyre et al Clyde Ecosystem Review Scottish Government 2012

<sup>8</sup> See Correcting the Misallocation of Nephrops Stocks in the Scottish Inshore Waters: Untapping a Vast Economic (and Environmental) Potential SCFF 2017

trawl policy allows Nephrops trawl to control 90% of Nephrops stocks. Marine Scotland acknowledge this is economically sub-optimal<sup>9</sup>. Added to the huge ecological damage caused by the trawl fishery, the onus should be on the Scottish Government to justify why freedom to trawl should be maintained. The Scottish Government refer to ‘distributional, transitional, political and social impacts<sup>10</sup>’ but we are not aware of any attempt to try and quantify these or show that these reasonably compensate for the poor environmental and poor economic performance of the Nephrops trawl fleet.

## Conclusions

As far as we can tell, freedom to trawl is not compliant with the Scottish Government’s legal and policy obligations. Given the poor environmental performance of inshore trawling and the collateral impacts on other users, it is hard to see the freedom to trawl as anything other than an unbalanced management strategy. It will also manifestly stop the ecosystem from recovering. It is not compatible with the sustainability objective and should, in our view, be modified or withdrawn at the earliest opportunity. Neither is it ecosystem management and it is a significant cause of Scotland’s failure to meet Good Environmental Status. Marine Scotland has published no credible plans demonstrating how we will meet GES.

Should inshore fisheries management be about:

- the protection of the rights of bottom trawl fishermen to use damaging fishing gears in the inshore *or*
- ensuring all users of the inshore fish sustainably, in a way that does not damage the rights of interests of others (including future generations) and which meets our legal and policy objectives?

We support the latter and believe that the coastal limit petition debate can be an important steppingstone in ensuring that this is the case.

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<sup>9</sup> In their submission of 04 August to the SCFF petition

<sup>10</sup> Ibid