

Wildlife and
Countryside



**CONSULTATION ON MEASURES TO PROTECT
BIODIVERSITY INTERESTS IN LYME BAY FROM
THE IMPACT OF FISHING WITH DREDGES AND
OTHER TOWED GEAR**

Wildlife and Countryside Link Response

December 2007



*Wildlife and Countryside Link Response to the consultation on measures to protect
biodiversity interests in Lyme Bay*

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Wildlife and Countryside Link (Link) is a coalition of the UK's major voluntary organisations concerned with the conservation and protection of wildlife, the countryside and the marine environment. Taken together, our members have the support of over 8 million people in the UK.

This response is supported by the following Link members:

- Marine Conservation Society
- Royal Society for the Protection of Birds
- The Shark Trust
- The Wildlife Trusts
- Whale and Dolphin Conservation Society
- WWF-UK
- Zoological Society of London

A summary of Wildlife and Countryside Link's response

1 Wildlife and Countryside Link (Link) welcomes the publication of the 'Consultation on measures to protect biodiversity in Lyme Bay'. The reef systems of Lyme Bay are of international importance for biodiversity and the focus of a wide range of human activities. This public consultation will allow the social, economic and environmental value of the reefs to be examined in more detail than in previous discussions and the needs of a wider range of stakeholders taken into account.

2 Our response is based on the Partial Regulatory Impact Assessment (RIA), which appears to form the basis for the consultation and will set out our views on the different options presented for the future management of Lyme Bay Reefs. It will also comment on some of the statements made in the Partial RIA Document itself.

3 A critical point arising from the RIA document, which needs to be addressed early in the proceedings, is whether the consultation is aimed at protecting marine biodiversity in Lyme Bay, or on the Lyme Bay Reefs. Despite the all-encompassing nature of the title, the options presented, and the discussions around them focus on the Lyme Bay Reefs. This may seem an unimportant distinction, but the reference to Lyme Bay as a whole then allows reference to 'the value of scallops caught from Lyme Bay', which is a much greater value than the value of scallops caught from the much smaller area of the Lyme Bay Reefs, leading to some confusion over the costs of various options.

4 The work of Devon Wildlife Trust over the past 16 years has focussed on securing the protection of the Lyme Bay Reefs. Link's comments in this response

are limited to this area, which makes up less than 10% of Lyme Bay. Link believes that the Objective set out in the consultation ‘...how best to protect the marine biodiversity interests in Lyme Bay’ is overstated, since the consultation does not aspire to protect all of the marine biodiversity interests in the whole of Lyme Bay. The Objective should have been stated as ‘...to protect the marine biodiversity interests of the reef systems in the north east of Lyme Bay’.

Summary

5 It is the view of Link that the only credible choice for the protection of Lyme Bay Reefs is Option C. Only this option will prevent further damage to seabed habitats and protect the rich biodiversity they support, the environmental services they provide and the future of the valuable and sustainable economic activities that depend upon them.

6 Link base this conclusion on the work carried out by Devon Wildlife Trust on the Lyme Bay Reefs over the past 16 years. This has shown that:

- Lyme Bay Reefs support rich and varied biological communities of national importance
- Scallop dredging destroys both seabed species and the habitats on which they depend
- Species can recover, provided that disturbance to habitat is not too extreme
- Diving, potting and sea angling are all activities that take place on Lyme Bay Reefs; each relies on healthy reefs for their future
- Diving, potting and sea angling can be carried out without damaging reef habitats
- The economic value of the sustainable use of Lyme Bay Reefs to local communities is more than double that of scallop dredging

7 Work carried out since 2006 has shown that the current voluntary agreements are based on misconceptions about the distribution of biodiversity across the Lyme Bay Reefs and the relative economic values of the different activities that take place.

8 The extent of protection needs to be based on presence or absence of habitat and biodiversity, not just of an individual species. The UK is committed to the EU target of Halting Biodiversity Loss by 2010 and the 2003 OSPAR objective “to protect and conserve the ecosystems and the biological diversity of the maritime area which are, or could be, affected as a result of human activities, and to restore, where practicable, marine areas which have been adversely affected”. It was analysis of habitat information that resulted in the 60 square miles set out in English Nature’s¹ original recommendation, not the presence or absence of pink sea fans, or any other individual species. Drop-down video work carried out over the winter and spring of 2006-7 has confirmed this approach, noting the presence of biodiversity-rich communities – and, incidentally, significant numbers of pink sea fans – on areas of

¹ Now part of and hereafter referred to as Natural England.

suitable habitat outside the areas covered by current agreement. Hence, the protection of a larger area of the reefs is necessary to deliver the UK's international commitments. The confusion between the need to protect the habitats provided by the Lyme Bay Reefs and the protection of specific species causes difficulties throughout this consultation document.

9 During discussion in the summer of 2006 there was confusion around figures quoted for the value of the Lyme Bay Reefs to scallop fishing interests. A study carried out on behalf of The Wildlife Trusts suggests that the value of the Lyme Bay Reefs to the scalloping industry is less than half of the value to other, more sustainable activities including potting, sports diving and sea angling.

10 Link believes that the current agreement, reached between Defra and the scalloping interests in August 2006 – and by extension Option A, based upon this agreement – does not provide adequate protection for the Lyme Bay Reef habitats, the biological communities they support, or the economic activities that rely on healthy reefs for a sustainable future.

11 Link believes that Option B, in failing to cover the whole of the reef area as identified in biotope and habitat maps that Devon Wildlife Trust produced and made public in 2005, similarly fails to provide the full protection that the Lyme Bay Reefs require. Furthermore we believe that views of Natural England regarding this option have been misunderstood. The organisation never backed away from their belief that closure of 60 sq miles was needed. When it was clear that DEFRA were not even considering this as an option, they wrote to the Fisheries Minister:

‘Without prejudice to our original statutory advice to close 60 square miles, if you are still minded not to heed our recommendations, I attach a revised submission that would protect 25 sq. miles of reef habitat in three blocks.’

To suggest that on the basis of these words Option B was ‘...proposed by English Nature in August 2006’ seems disingenuous.

12 Our detailed response to the consultation document follows, addressing:

- Options A, B and C for the protection of biodiversity on the Lyme Bay Reefs
- Information presented in the Partial RIA document

Our response to this second bullet point, the Partial RIA, is important as some details suggest misconceptions that need to be addressed before decisions are made on the options.

Options for action

13 Link disagrees with the assertion that ‘...there would appear to be a matrix of options for protecting the biodiversity interests of Lyme Bay.’ Putting aside the confusion between Lyme Bay and the Lyme Bay Reefs, we would argue that while there may be a matrix of options causing varying degrees of damage to biodiversity interests, the different options do not provide an equivalent level of biodiversity

protection. There is only a single option that answers the question of ‘...how best to protect the marine biodiversity of Lyme Bay...’ [Reefs] and that is Option C, protecting the full extent of Lyme Bay Reefs from further damage.

14 We would also argue with the assertion that the current voluntary agreement has proved successful. It has only been in operation for just over a year, far too short a time to assess its effectiveness. Indeed, it is difficult to suggest a suitable time period that could prove success. The voluntary agreement between Devon Wildlife Trust, local fishermen and the SW Fish Producers Organisation was considered successful for nearly five years; right up to the day that vessels started to dredge in the closed areas.

Possible Options

15 For each option presented, there is an assessment of likely compliance. Link believes that the likelihood of compliance should not become a determining factor in arriving at the ‘best protection’ for biodiversity interests. Issues of enforcement should be addressed once the best option has been established.

Option C

It is the view of Link that the only credible choice for the protection of Lyme Bay Reefs is Option C. Only this option will prevent further damage to seabed habitats and protect the rich biodiversity they support, the environmental services they provide and the future of the valuable and sustainable economic activities that depend upon them.

Benefits

16 There is again confusion here between ‘the Bay’ and Lyme Bay Reefs. 60 sq miles does not protect all the biodiversity interests of the 600 sq miles of the Bay, but it does secure the biodiversity of the Reefs, which are a valuable public good. This is an enormous benefit over the other two options, as is the fact that enforcement would be simple, given that there seems to be an expectation that enforcement will be needed.

17 The obsession with measuring this option against past and existing agreements is unhelpful and potentially misleading since it seems to imply that the previous agreements were adequate. As has been discussed previously, the pre-2006 voluntary agreements were a first step towards adequate conservation of the Lyme Bay Reefs, and were not considered as a final and satisfactory solution. The present voluntary agreement provides only 20% of the protection which the Government’s own advisors Natural England asserted were necessary to protect the Reefs.

Costs

18 It is not adequate to accept at face value the assertions of one group of fishermen regarding the likely impact of Option C. Many of the vessels that will be affected generate their income from a range of catches from a number of different locations. As the Homarus report shows, income from scalloping in the 60 sq mile area proposed under Option C is in the region of £180,000. In the context of a fishery in Lyme Bay, which it is claimed is worth around £3 million, losing 6% of

current income in order to secure the future of what is most likely to be 'one of the five most significant area of biodiversity round the English coast' seems a modest price to pay.

19 However, once it is recognised that failing to protect the area will threaten the livelihoods of others and cost them more than twice the £180,000 generated by the scallopers, there can be no other choice than Option C. It is the right choice economically and environmentally.

Impact on small businesses

20 Broadly, the assessment is a fair one. It is to be regretted that no mechanisms exist for mediating between users of fixed and mobile gears and that it is therefore 'likely' that such conflicts will increase. It is true that 'local prices for dive caught scallops could fall if the number of commercial and recreational divers increases'; it is only **likely** to happen if a judgment is made that the market for hand caught scallops cannot be readily expanded. It would seem that the opposite is true. Outlets offering dive caught scallops make a feature of their provenance. Celebrity chefs like Gordon Ramsay publicly endorse them. Major companies like Marks & Spencer will only deal with demonstrably sustainable fisheries. Therefore, a fall in price while theoretically possible, seems unlikely.

Enforcement

21 The document implies throughout that Option A is the only one likely to achieve high levels of voluntary compliance from the scallopers. Option A is clearly inadequate. It meets only 20% of the need for protection identified by Natural England. The areas closed are based on old data about the distribution of pink sea fan sites, and now offer nowhere near the 92% protection of this species as claimed.

22 Since any option other than A will certainly require enforcement, and it is not certain that even Option A will avoid the necessity for some enforcement in the future, the fact that 'a large, simply defined closed area would be much easier to enforce than a number of smaller areas' makes Option C the preferred option in terms of enforcement.

Option B

General

23 Link believes that Option B, in failing to cover the whole of the reef area as identified in biotope and habitat maps that Devon Wildlife Trust produced and made public in 2005, similarly fails to provide the protection that the Lyme Bay Reefs require.

24 It is disingenuous to describe Option B as covering '...the closed areas proposed by NE in August 2006'. Natural England never backed away from their belief that closure of 60 sq miles was needed. When it was clear that DEFRA were not even considering this as an option, they wrote to the Fisheries Minister:

'Without prejudice to our original statutory advice to close 60 square miles, if you are still minded not to heed our recommendations, I attach a revised submission that would protect 25 sq. miles of reef habitat in three blocks.'

This casts the proposal in a completely different light from that suggested by the wording of the introduction to Option B.

Benefits

25 Link believes that using current known pink sea fan sites as a measure of conservation protection sacrifices logic to chance. Logic would conclude, from the fact that diving at random within the reef area regularly reveals the presence of pink sea fans, that the whole reef system is likely to be rich in them. This conclusion has been borne out by Devon Wildlife Trust's survey work carried out since the summer of 2006, which has found more pink sea fans on reef habitats.

26 In basic terms, it is the case that Option B is preferable to Option A simply because it does indeed 'offer protection to a greater surface area ... of the reefs'. However, we believe that it is nevertheless an inadequate option for achieving the objective of the consultation, which is to decide '...how best to protect the marine biodiversity interests...' of the Reefs. This can only be achieved by protecting the whole reef system.

Costs

27 We are alarmed at the implications of the assessment of costs. It seems to imply that it would expect the fishermen to respond in a lawless fashion when it concludes that 'the likelihood of contravention would possibly increase' and that this option would 'put at risk the areas presently protected by the agreement with SWISA'. The right decision for society must be arrived at; society must then consider enforcement. Marine conservation will never be effective if it cannot address this.

28 We are aware of concerns around the displacement of scalloping effort that might arise from increasing areas of protection on the Lyme Bay Reefs. However, the scallop fishery in Lyme Bay shows patterns of 'boom and bust' with stocks being fished hard until catches reduce to uneconomic levels. At this point the vessels move on and fish elsewhere until the scallop stocks recover. We believe that against the background of a mobile scallop fishery, where effort regularly moves to other locations, a small reduction in available fishing area is unlikely to have significant new or additional consequences – unless the fishermen respond in the lawless fashion that the consultation seems to expect, and deliberately increase gear conflict and environmental damage elsewhere. Furthermore, should there be new or significant impacts from scalloping elsewhere, we would expect Defra and fisheries managers to react in the appropriate fashion to ensure that all scallop fisheries are managed in a sustainable manner and any impacts are mitigated or eliminated, through the appropriate management measures. The potential impacts on other areas from displaced fishing effort cannot be held up as a reason to block biodiversity protection for the Lyme Bay Reefs.

Option A

29 Link believes that the current agreement, reached in between Defra and the scalloping interests in August 2006 – and by extension Option A, based upon this agreement – does not provide adequate protection of the Lyme Bay Reef habitats, the biological communities they support, or the economic activities that rely on healthy reefs for a sustainable future.

Benefits

30 We believe that it is incorrect to say that ‘there would be no additional costs to industry’ from this option. Since it offers the least protection and therefore sanctions the most long term damage, all the other economic activities capable of sustainable use of the reefs would see impacts on their livelihoods as the unprotected areas were incrementally degraded.

31 We take issue with the implication behind the statement that ‘The areas to be closed give protection to more than seven times the area in Lyme Bay covered by voluntary agreements up to the early part of 2006...’ Our goal is the protection of the rich, varied and, in parts, rare assemblage of marine organisms found on the Reefs, both for their conservation as species and for the conservation of the ecosystem functions which they provide for the whole Bay and beyond. The two small areas that Devon Wildlife Trust managed to negotiate with their then partners, the fishermen, were not sufficient to achieve this goal, representing the level of protection that was possible at the time, not what was needed. To use this as a benchmark against which to measure the extent of further agreements is not appropriate.

32 The paragraph concerning scallop conservation benefits reflects confusion over the policy objectives of the proposed closures, confusion that was also evident during discussions in 2006. The policy objective of the current consultation is to consider ‘...how best to protect the marine biodiversity interests in Lyme Bay...’[Reefs] and the success of any option should only be measured against this objective [or at least – our interpretation of this objective].

33 Option A fails to measure up on grounds of biodiversity protection so discussion of other potential benefits is irrelevant. Similarly, discussion of excluding other scallop extraction activities from closed areas for scallop conservation purposes is equally irrelevant.

Costs

34 Link disagrees with the assertion that anyone has identified ‘the most important pink sea fan colonies’ in Lyme Bay. Devon Wildlife Trust’s work up to 2006, and since then, has simply indicated where pink sea fan colonies can be found. We are not aware of any organisation that has made an attempt to analyse the relative importance of the different colonies.

35 What Devon Wildlife Trust has done is to assess the relative importance of the different habitats in Lyme Bay, an assessment that underpins the selection of the

original 60 sq miles. Once again the confusion between protection of habitat and protection of species leads to misconceptions.

Your views

36 Link has presented its views on the different options presented in the previous sections. The consultation document goes on to ask a series of questions, many of which repeat some of the major misconceptions that occur throughout the consultation:

- Is it necessary to protect all known pink sea fan colonies within Lyme Bay or is it acceptable to continue to protect only the majority of the known locations?
- How important is other biodiversity within the Bay in relation to the total UK situation and should we be looking to protect it?

37 Two points already discussed are highlighted here. First is the continuing confusion between the protection of the Lyme Bay Reef habitats and the protection of the pink sea fans and other species that the Reefs support. It is the protection of the Lyme Bay Reef habitats that has been the focus of Devon Wildlife Trust's work over the past 16 years, and which should be the focus of this consultation. Protect the habitats from damage and all else follows. Second is the confusion between Lyme Bay and the Lyme Bay Reefs.

38 We are surprised that the consultation feels the need to ask the second of these questions. All of the information gathered by Devon Wildlife Trust over 16 years points to the fact that the biodiversity of Lyme Bay Reefs is at least of National importance. Indeed we believe that the current review of the status of Lyme Bay Reefs will result in them being identified as of international importance. Failure to protect this biodiversity would ensure that the areas biodiversity continued to decline up to and beyond 2010 and would not enable the protection and restoration of the biodiversity as set out under the OSPAR convention.

- What is the value of dredging and towing derived from Lyme Bay, how would the various options effect [sic] them?
- What is the value of potting and other static gear fisheries in Lyme Bay, how would the various options effect [sic] this?

39 The Wildlife Trusts' Homarus report takes three different approaches to apportioning regional economic information to the 60 sq miles of option C. Only one of these methods can be applied to all activities and this shows that scalloping in the 60 sq miles brings in about £180,000 as opposed to £509,000 for other economic activities that depend on the continued well-being of the Lyme Bay Reefs.

- How many scallop divers operate in Lyme Bay and what is the value of their output?

40 The Homarus report was unable to provide any information on this activity in the time available. However we understand that the number of scallop divers operating

on the Lyme Bay Reef is reducing as a result of continued habitat damage. Option C would therefore increase the economic value of this activity on Lyme Bay Reefs.

- How many recreational divers operate in Lyme Bay, what is the value of their output and how does scallop dredging impact that value?

41 The Homarus report gives a value of £85,000 for the estimate of the value of divers on the Lyme Bay Reefs. We are hearing that divers are beginning to find some areas of the Reefs less attractive for diving as a result of habitat damage. Option C would secure and perhaps increase the economic value of this activity on the Lyme Bay Reefs by assuring the future of the Reefs and their associated, biologically diverse communities.

- How many recreational divers operate in Lyme Bay, what numbers of scallops do they take and what do they do with them – sell or use for own consumption?

This question highlights some confusion in policy objectives of the consultation. The taking of scallops by recreational divers may be a fisheries conservation issue, but it is not one that needs to be considered in a consultation that has marine biodiversity objectives at its heart.

Information Presented in the Consultation Document

42 Link has significant concerns regarding some of the assumptions made and information presented in the Partial RIA document. We wish to address these so that decisions can be made with a full understanding of the issues that the protection of Lyme Bay Reefs presents.

43 The structure of this section reflects the structure of the RIA document. Paragraph numbers in brackets refer to the paragraphs in the original document – where available.

Purpose and intended effect of the proposal

44 (1) The Objective set out in the consultation is the right one. The issue is ‘...how best to protect the marine biodiversity interests’. In other words, the consultation clearly accepts that best protection is the goal, not best compromise, or easiest solution. It is unfortunate that the document does not keep this objective clearly in mind; by paragraph 33, the objective has morphed into ‘...to protect marine biodiversity interests...’ The notion of best protection has been lost.

45 However, the Objective is overstated, since the consultation does not aspire to protect all of the marine biodiversity interests in the whole of Lyme Bay. There certainly are marine biodiversity interests beyond those under consideration; the Skerries in the south west corner would be one obvious example. However, Devon Wildlife Trust does not possess comprehensive survey data for the whole Bay at this stage. The Objective should have been stated as ‘...to protect the marine biodiversity interests of the reef systems in the north east of Lyme Bay’. This may seem an unimportant distinction, but the reference to Lyme Bay as a whole then allows reference later in the document (paragraph 14) to ‘the value of scallops caught from Lyme Bay’.

Background

46 (3) It is suggested that, if Lyme Bay were nominated for SAC status under Annex 1 of the Habitats Directive ‘...there would be a further review of the necessary degree of protection afforded to the key habitats and species’. The impending designation as a SAC should not be the excuse for taking less rigorous measures now. We would consider the UK Government to be grossly negligent should it knowingly allow an important habitat to be destroyed while it was being considered for protection under the EU Habitats Directive.

47 Indeed, there is a strong argument for treating the area as if such a designation was in place in the meantime. In this situation scallop dredging should only be allowed to continue if it is considered a benign activity – which seems unlikely – or if the need for it to continue is sufficient to amount to an ‘Imperative Reason of Overriding Public Interest’ **and** a means of compensating for any loss in habitat was practicable.

48 (6) This paragraph illustrates the fact that Natural England’s focus was not initially on a single species (the pink sea fan), or across the whole of Lyme Bay, but was aimed at protecting ‘...nationally important marine biodiversity interests on the Lyme Bay reefs’.

49 (8) This confirms that the key conservation bodies calling for the closure (EN and DWT) – the bodies in possession of most of the data and with years of first hand experience of the biodiversity interests – were not involved in arriving at the final agreement. This is not open and transparent government, nor is it decision-making that includes all relevant stakeholders.

50 The assertion that ‘The four areas now cover over 92% of the pink sea fan sites that had been identified in Lyme Bay by mid 2006.’ is presumably advanced by the parties to the agreement – the scallopers, Defra, Cefas and Professor Michel Kaiser. While the statement is factually correct, it is made as if it demonstrates a virtue, which it does not. As has been discussed previously, it demonstrates a perverse refusal to understand the ecology of the Reefs.

51 ‘...the pink sea fan sites that had been identified in Lyme Bay by mid 2006.’ were arrived at randomly. A completely different set of dives within the reefs would probably have thrown up similar results. The evidence could equally well be used to arrive at the conclusion that a huge number of pink sea fan sites not identified until 2006 were being left at risk. A terrestrial equivalent would be to keep finding trees in close proximity to one another but to perversely refuse to accept that they were part of a wood!

52 (9) Professor Michel Kaiser’s article ‘How green is diving for scallops?’ does not seek to assess the potential impact of scallop diving on marine conservation objectives. Its focus is an optimised crop of scallops, which is quite a different matter. Its choice of title is almost mischievous; if current levels of dredging do not threaten the scallop as a species, then hand collecting is hardly likely to! So it is not a ‘green’ issue in the sense that conserving the biodiversity of the reefs is. If there is a fear that hand collecting might impact on the optimisation of production of scallops,

then that is a fishery management issue and not relevant to 'best protection of the biodiversity of the Reefs'.

53 (10) It is to be regretted that the consultation only summarises the important data supplied in 2006 since Devon Wildlife Trust has done more survey work since, which demonstrates that the biodiversity value of the Reefs (and the pink sea fans) extend way beyond the areas encompassed by the current voluntary closure.

54 It is also to be regretted that the information in the Homarus report is available only on request. Since the consultation provides assessments of the economic impacts from other points of view, it would have been more balanced to offer the main findings of the Homarus report within the documentation.

Ecological importance of Lyme Bay

55 (11) It is good that there is a clear statement of its great importance in national terms. It is worth pointing out that much of the biodiversity value of Lyme Bay arises from the presence of the Lyme Bay Reefs.

56 (14) This is an example of the confusion between the proposed closed area of 60 sq miles and whole of Lyme Bay. It is not adequate to say that 'this figure is likely to have been an over-estimate'; it is demonstrably a gross exaggeration, since the best available evidence (the Homarus report) puts the value of scalloping within the 60 sq miles proposed for closure at £180,000. The decision not to make this information available within the body of the consultation to 'organisations and individuals' invited to express 'their views on the wider social importance of the Bay' is regrettable.

57 Comments on Professor Kaiser's paper are under 52 (9) above.

Possible extent of Damage

58 (21 & 22) It is easy to understand why scalloping fishermen want to believe that the long-term nature of the fishery means that much of the damage caused to the seabed features may be irreversible. It would be helpful to know who those referred to as '...some other observers...' are, since so crucial a misrepresentation has entered the debate on so little sound evidence.

59 Best available evidence suggests the following reality. It is true that the first pass of a scallop dredge over pristine reef habitat does 90% of the damage to the existing assemblage of fixed organisms of all kinds. It is also true that many of the organisms are slow growing and therefore will recover at a slower rate.

60 However, all of these organisms can regenerate so long as their physical habitat remains more or less intact. So the likelihood and degree of recovery, even from the 90% damage to organisms caused, rests with the damage to the Reefs. The Lyme Bay 'Reefs' range from solid rocky outcrops several metres high to mixed cobbles and boulders resting on sand or mud. Several passes over the most challenging rocky outcrop modern dredges can tackle will remove 90% of the wildlife but leave the habitat more or less intact. Several passes over a cobble and boulder strewn patch, or a greater number over one of the softer mudstone reefs, will degrade the

habitat over a long period of time and may finally render it beyond recovery because there are no longer sufficient 'fixing points' for many of the characteristic reef organisms to attach to. Without these, the area will never again be wildlife rich.

61 Unchecked and unregulated, dredging would eventually at some future point finally demolish the Reefs. This is what has already happened on The Exeters. Because these ledges were made of softer rock, dredging equipment and boat power have been adequate to work them for the past 30 years. These reefs have disappeared, dredged to extinction. It would be pointless to close this area in the hope that a reef community might recover; it is unlikely that it ever will.

62 It is true that scalloping has taken place over most of the 60 sq miles proposed for closure at some point in the past. However, the Lyme Bay Reefs are still capable of recovery because:

- there are still pristine areas which contain the full assemblage of reef organisms to recolonise damaged areas
- most of the reef, even where it has been broken up and degraded, is still capable of regeneration up to and including full recovery.

63 This means that there is still much to be gained by closure. Every day that passes with scalloping taking place within the proposed 60 sq miles of closed zone reduces the potential for recovery. At some point in the future this fishery will, if left unchecked, destroy the reefs.

64 Closing the reefs would have a significant and positive socio-economic impact with enormous conservation gain. It would secure a sustainable economic return (two and a half times larger than income from scalloping) which results from sea angling, recreational diving, hand collecting of scallops and potting for crabs and lobsters. It would also secure the public good inherent in a rich functioning ecosystem.

65 (Option A – Benefits) We find it difficult to determine the intent of the assertion that:

'Ministers determined that such a zonal solution, backed by independent scientific assessment and advice, was the most proportionate way to provide the necessary protection for those areas of Lyme Bay of greatest nature conservation and marine biodiversity importance'.

The following words and phrases give the greatest uncertainty:

- '...zonal ...' seems to be an attempt to put a positive spin on 'piecemeal'; the consultation itself acknowledges that 'a large simply defined closed area would be much easier to enforce than a number of smaller areas'.
- '...proportionate...' to what? Whose judgment of what was '...necessary...'? How great is '...greatest...' when Natural England had already defined 60 sq miles as containing the biodiversity in greatest need of protection?

- ‘...backed by independent scientific assessment and advice...’ masks the fact that no-one in Natural England, from the Acting Chairman and Chief Executive to the local officers, was prepared to back the solution brokered with the fishermen. As we have already noted, on the night before the decision was announced, the Acting Chair wrote to DEFRA to say ‘I stand by English Nature’s original request to stop damaging towed fishing gear activity in a 60 square mile area.’