

Future Catching Policy: Scottish Government response to consultation analysis report

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Future Catching Policy

Scottish Government response to consultation analysis report

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1. Introduction

Scotland’s rich and diverse seas have given rise to a significant number of domestic and international fishing vessels operating around the coast of Scotland, focussed on harvesting a healthy, nutritious source of food for both domestic and international markets, and playing a key economic and social role in rural and island communities.

A diverse fishing industry exists, harvesting a wide variety of species and using a variety of fishing methods – this means that fisheries management can be complex and challenging and it is often the case that management solutions need to be tailored to take account of the varied situation in which fishers operate.

As fisheries managers, we must ensure that fishing activity within Scottish waters is operating sustainably and responsibly, in a way that minimises negative environmental impacts and which secures our natural resources for generations to come.

There are a number of rules and regulations that are already in place to support responsible and sustainable fisheries management but we need to continue to progress our work in this area to further minimise environmental and ecological damage.

The introduction of the landing obligation, as part of the European Union’s (EU) Common Fisheries Policy and now forming part of UK retained EU law, intended to deliver a step change in tackling discarding of unwanted fish from fishing vessels

with a focus on reducing waste, protecting fish stocks and increasing accountability. Although the landing obligation has resulted in a reduction of such discards taking place, the very nature of the diverse fishing industry means implementation has been complex, particularly for those operating in mixed fisheries (areas of water where it is likely more than one species of fish will be caught at a time). Enforcing the landing obligation in mixed fisheries is operationally difficult and it remains an issue that requires focussed and sustained activity to address accountability, increase transparency and improve confidence that everything that is being caught is being accounted for. This is needed to ensure sustainable fisheries management and improved ecological outcomes.

Additionally, across the industry bycatch and entanglements of non-fish species, including cetaceans, seals and seabirds, can also occur and this also needs to be appropriately addressed. The rules and regulations we have in place to manage fishing activity need to ensure that such catch is minimised and, where possible, eliminated.

In order to address such issues, the Scottish Government in collaboration with the Fisheries Management and Conservation (FMAC) group, developed a consultation on Scotland's Future Catching Policy (FCP). This is a key component of the Scottish Government's Fisheries Management Strategy^[1] and is a key policy underpinning our wider approach to sustainable fishing in Scotland. It will also play an important role in wider marine spatial management and planning as part of a package of measures including fisheries management measures in Marine Protected Areas (MPAs).

Through this consultation the Scottish Government sought views on a variety of proposals on the development and implementation of additional technical (e.g. fishing net mesh sizes) and spatial (e.g. seasonal closures) fisheries management measures which seek to:

- Ensure a co-management approach providing a clear structure to engage stakeholders in improving the rules associated with reducing unwanted catch of fish and other species and, in improving the selectivity of the different fleet segments, for example, by introducing more selective gear or closures designed to protect spawning fish stocks.
- Support the aims of the landing obligation by placing accountability, the health of fish stocks and the reduction of unnecessary waste at its heart.
- Respond to the challenges associated with discarding by introducing a suite of measures tailored to consider the varied fleet segments rather than a one size fits all approach.
- Better regulate activity at sea in order to support sustainable fishing practices, increased accountability and transparency for fishers, Government and members of the public.

The FCP has co-management at its centre, placing a significant emphasis on working with fishers and others to develop pragmatic management measures designed to reduce discarding and bycatch.

^[1] [Future fisheries: management strategy - 2020 to 2030 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/future-fisheries-management-strategy-2020-to-2030/pages/1-introduction-to-the-strategy.aspx)

The consultation also sought views on specific management measures for pots and creels and the gill net and long line fleet segments respectively.

1.1 Scope of consultation

The FCP consultation ran from 15 March to 7 June 2022. The consultation sought input on a number of key areas such as:

- Putting in place additional technical (e.g. gear selectivity) and spatial (e.g. area closures to protect spawning fish) measures, designed to reduce unwanted catch of fish and bycatch of sensitive marine species where these are required.
- Taking a segment-by-segment approach to discard rules / exemptions, which are currently set out under the landing obligation (which requires that all fish subject to quota limits are landed unless subject to an exemption). Rather than applying a one-size-fits-all approach, this would allow us to adjust and simplify existing exemptions and discard rules to account for variations between fleet segments, whilst ensuring the principles of reducing waste and increasing accountability continue to be met.
- Consideration of additional management measures for the static fishing fleet in order to address issues with displacement that can limit the ability of other vessels to avoid unwanted catch and, reduce gear conflict. The consultation also included questions on some inshore proposals, including creel limits.
- A co-management approach to policy making whereby stakeholders are intrinsic to the development of policies and the decision-making process. This process centres around direct engagement with stakeholders through the FMAC group to ensure decisions are, where possible, made in a collaborative manner.

The Marine Strategy Regulations 2010^[2](SI 2010/1627) require the Scottish Ministers when exercising certain functions to take the necessary measures to achieve or maintain good environmental status (GES) in UK waters. The UK Marine Strategy Parts 1-3^[3](UKMS) is a series of strategy documents published in compliance with Marine Strategy Regulations 2010 to set out the UK's framework for assessing, monitoring and taking action to achieve GES. It is a key pillar of marine policy in the UK.

A key factor in furthering our progress towards achieving GES will be the application of the fisheries objectives within the Fisheries Act 2020^[4]. This is the fundamental piece of legislation which will facilitate achieving GES for Descriptors 1 and 4 for fish in UK seas and other relevant descriptors for seals, birds and cetaceans in the UK MS Part Three (Programme of Measures). The Joint Fisheries Statement sets out

^[2] [The Marine Strategy Regulations 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

^[3] [Marine strategy part one: UK updated assessment and Good Environmental Status - GOV.UK \(www.gov.uk\)](https://www.gov.uk), [Marine strategy part two: UK marine monitoring programmes - GOV.UK \(www.gov.uk\)](https://www.gov.uk), [Marine strategy part three: UK programme of measures - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

^[4] [Fisheries Act 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

how we will achieve the fisheries objectives set out in the Fisheries Act 2020 and contribute to the delivery of GES.

The FCP, in line with supporting commitments made in Section 4.2.8 of the Joint Fisheries Statement^[5], will assist the Scottish Government in delivering the sustainability objective; the bycatch objective; the ecosystem objective, specifically in relation to minimising incidental catches of sensitive species; and, the scientific evidence objective.

The FCP will deliver on the above objectives by focusing on the reduction of discarding of unwanted catch via a suite of technical and spatial selectivity measures. Further, the FCP will not only reduce instances of unwanted catch below Minimum Conservation Reference Size (MCRS)^[6], but seek to reduce accidental bycatch of sensitive marine species.

The issue of ‘unwanted catch’ was one of the more technical areas of the consultation due to the varying definitions applied. As such, there were some responses that called for further clarification in regard to the definition of “unwanted catch” as it applies within the FCP.

The terms unwanted catch and bycatch can be used synonymously - species that are caught unintentionally whilst engaged in fishing activities. For clarity however, and specifically in the context of the consultation, unwanted catch is used to refer to other quota species of fish that are caught when fishing a specific target species of fish (e.g. catching cod when fishing for haddock), and accidental bycatch refers to sensitive marine species (e.g. marine mammals and seabirds). The technical approaches taken to avoid each of these categories of unwanted catch and bycatch are very different in nature and therefore it is worth differentiating between the two.

The reduction of bycatch will help drive sustainable, economically viable and environmentally responsible fisheries across Scottish waters by helping fishers to ensure valuable fishing quotas are only used to land marketable fish, reducing the overall impact of fishing on the marine eco-system. Additionally, the accurate recording of what is caught at sea will help improve scientific data on stocks. This will be done in a collaborative manner with fishers and scientists in order to ensure that measures are properly evidenced and effective.

An external consultancy firm, Diffley Partnership, was appointed by the Scottish Government to undertake a detailed analysis of the consultation responses. A total of 244 valid responses were received to the consultation, with a mixture of respondents between individuals and organisations, and between environmental/conservation groups and fisheries organisations. A report detailing this analysis has been published and can be found here: [Future Catching Policy Consultation Analysis](#).

^[5] [Joint Fisheries Statement JFS 2022 Final.pdf \(publishing.service.gov.uk\)](#)

^[6] Minimum Conservation Reference Size or “MCRS” is the minimum size that a fish must be in order to be sold for human consumption. The MCRS measure is intended to protect small, undersized fish from being targeted by helping prevent markets for small, undersized fish

There were a number of responses that raised concerns about the issue of discarding and a perceived departure from EU alignment - specifically in relation to the efficacy of landing obligation exemption proposals. On reflection, it may have been possible to set out the policy intent in a clearer manner which may have gone some way to reassure respondents that the key aim of proposals is to tackle and reduce discarding to increase accountability in fishing activity. This will build on the principles the EU associates with sustainable and responsible fisheries to make improvements to the operability of the landing obligation and current legislation. We are clear that the principles underpinning the current landing obligation, particularly of reducing waste and maintaining healthy stocks, should be upheld.

The EU commission itself has recently published a package of measures, part of which focusses on the Common Fisheries Policy (CFP) and a non-binding Action Plan for Member States to make fishing practices more sustainable by working harder and better to implement the CFP rather than necessarily reforming it. In particular, there is a push for Member States to increase gear selectivity to reduce impact on sensitive marine species and to reduce bycatch of fish; to properly monitor and enforce the landing obligation to avoid unwanted catches and eliminate discards; and, to review the landing obligation by Autumn 2024. This direction of travel signalled by the EU Commission appears to mirror our own approach in the FCP. This supports our view that the FCP is the right approach to take to ensure we achieve sustainable fisheries management.

Furthermore, under the EU CFP discarding of quota species is generally illegal, however, there are a range of exemptions in place which allow some discarding to take place. In particular, there are a large number of exemptions currently in operation in EU waters (and similarly in UK waters allowing for the discarding of undersized juvenile fish). To emphasise this fact, across all regional plans within the EU there are a total of 480 stock exemptions under the landing obligation, 385 of which are species that fall under *de minimis* exemptions (nearly all for undersized fish) and 95 of which are species which are considered to have high survivability rates. There are rules governing when and how this can happen.

The exemptions can be complex and lack transparency, meaning that it can be difficult to account for their usage, hard to interpret in terms of the impact on fish stocks, and challenging to enforce - making this one of the key issues with the operability of the landing obligation as it stands. Although such exemptions are necessary to support continued fishing operations, this has led to a significant number of exemptions being put in place which are complex to understand and operate. This limits accountability and confidence in fishing operations, a key aspect the FCP is looking to address.

In addition, the FCP will introduce a range of baseline technical and spatial measures, designed in partnership with stakeholders, which will reduce levels of unwanted catch in the first place. This might mean, for example, some types of fishing vessel requiring to use additional selectivity measures as part of their nets, or to avoid certain fishing grounds when fish are spawning. The purpose of this is to reduce levels of unwanted catch as far as possible, with discarding rules and exemptions following any measures that are put in place. We believe this is a positive and more effective way to deliver improvements in the way we fish, and to

ensure that we are fishing at sustainable and responsible levels; to take us a step closer to a healthy marine environment that benefits us all. Below is a summary of some of the other broad themes identified from respondent answers:

- The majority of respondents agreed consideration needs to be given to geographical variation within Scottish waters when agreeing best practices for the fleet segments due to the complexity of the ecology of the marine environment.
- Some responses highlighted that there is a need to be more prescriptive in the definition of wanted and unwanted catch.
- There was broad consensus in regard to the proposed fleet segments with the caveat that these must not remain static but instead remain flexible to allow for the development of novel fishing practices.
- The majority of responses agreed there should be specific spatial and technical measures for gill net and long line vessels to reduce gear conflict and reduce bycatch of sensitive species.
- There was a similar strength of feeling for vessels who use mobile gears, with some respondents calling for the banning of mobile bottom trawling.
- Responses indicated a concern with the process set out under the FMAC model. This may be reflective of the model that was in place at the time of consultation.
- Some respondents also noted the technical complexity of the consultation.

One topic which did not form part of the consultation, but which some provided comment on, was the allocation of fishing opportunities (quotas). As part of the Scottish Government's FFM Strategy we have committed to continuing to utilise the Fixed Quota Allocation (FQA) system as the main method of allocating quota. Where we have said we will allocate differently is in the allocation of Additional Quota^[7]. A separate consultation on the allocation of Additional Quota will be undertaken.

The FCP is a key policy to deliver sustainable fishing. However, its success relies on appropriate monitoring and enforcement tools being in place, to ensure that the rules and regulations are complied with. We have been clear that, in order for the FCP to be implemented successfully, we will need to look at enhanced monitoring tools to deliver both science and compliance benefits. This sentiment also came through in respondents' feedback with a strength of feeling that there needs to be forward movement in terms of data gathering, monitoring and enforcement at sea, and this needs to be appropriately resourced, to successfully deliver the FCP.

As part of our sustainable fishing approach, the Scottish Government's position is that technology such as the use of Remote Electronic Monitoring (REM) ^[8] has a central role to play. During the consultation period for the FCP the Scottish Government also ran a separate but related consultation on proposals relating to

^[7] For the purposes of apportionment, Additional Quota is all quota which the UK secures as an independent Coastal State above the Existing Quota baseline figures. For stocks where the UK holds a share of the Total Allowable Catch, the Existing Quota share is defined as the UK's Relative Stability [RS] share, plus the average Hague Preference [HP] gains between 2014-20 for the applicable stocks

^[8] [Ensuring Long Term Sustainability From Scotland's Marine Resources - Remote Electronic Monitoring \(REM\) Consultation](#)

REM for certain types of fishing vessels (or ‘fleet segments’) operating in Scottish waters. REM supports compliance, but will also enhance our scientific capabilities, with the potential to use REM data in fisheries management decisions and, eventually, to feed into stock analysis.

A report detailing the REM consultation analysis has been published and can be found here: [REM - Analysis of Consultation](#).

The Scottish Government response to the REM consultation can be found here: [REM - Scottish Government Response to Consultation](#).

As we develop the FCP we intend to consider monitoring alongside this. As part of our consultation response we have signalled that we will consider further mandatory rollout of REM to other parts of the fishing fleet on a proportionate and risk-basis, but that we need to do further work on scoping, costs and benefits. It is important to note that we intend to take a ‘fleet segment’ approach to the FCP (as per the consultation and supported by respondents). This means that the management actions, as well as monitoring requirements, will vary between segments as well as areas of geographic activity.

1.2 Next Steps

The components of the FCP are complex, that is why as a first priority we intend to focus on increasing selectivity by developing technical and spatial measures to reduce unwanted catch and catch of sensitive marine species, as proposed in the consultation. In order to collaboratively find a way forward for these technical and spatial measures we intend to hold intensive dedicated stakeholder workshops, comprising technical expertise from across industry, academia, eNGOs and the Marine Directorate of the Scottish Government, taking a tailored fleet segment approach to these discussions.

The level of detail and discussion in each workshop will be informed by a number of factors including FCP proposals, consultation responses, and reviewing current spatial and technical measures within Scottish waters. The workshops are intended as a vehicle to allow us to engage in constructive conversation with stakeholders on how we can improve upon current legislative measures in order to make for a more sustainable, efficient and effective suite of measures moving forward; all within a collaborative format.

We intend to consult again on the outcomes of these workshops to ensure that we secure effective and reasonable technical and spatial measures for each fleet segment. Following the conclusion of the workshops, we will have collaborative discussions with our FMAC group regarding the proposals in the FCP around discard exemptions to the landing obligation and the implications of adjusting these. Once we have decided on a way forward we will deliver a suite of legislative measures into law through an FCP Scottish Statutory Instrument (SSI).

2. Questions and themes

2.1 Principals of the Landing Obligation (Q1 – Q5)

Q1. Do you agree that the current rules around the landing obligation need to be adjusted, taking into account regional and sectoral variances with a focus on the landing of marketable fish and avoidance of unwanted catch (in particular, juvenile fish) through various spatial and technical measures? Please set out the adjustments that you think need to be made.

The purpose of this consultation question was to focus on the technical and spatial measures that underpin the landing obligation; firstly asking whether respondents agreed that implementation of the landing obligation needs to be adjusted through various technical and spatial and measures; and secondly asking for respondents to consider and propose technical and spatial measures which could address the issues around discarding. In their answers respondents tended to focus specifically on the efficacy of the landing obligation, rather than providing specific feedback on the adjustments being proposed e.g. around the introduction of additional technical measures

To clarify, the FCP seeks to address issues that currently make the landing obligation fall short in its objectives to support fishers to avoid catching fish and other sensitive marine species which they don't want to land, or catch in the first place, by improving upon the current rules around discarding whilst staying true to the principles of the landing obligation and maintaining alignment to EU outcomes. The core aim is to enable fishers to more easily comply with landing obligation.

We must acknowledge that a “discard-ban” in its purest form does not exist, even under the landing obligation. As noted, under the landing obligation there are a number of stock exemptions (480) which themselves can be complex, difficult to enforce and lack transparency in their use. We are proposing changes not because we disagree with the landing obligation, but because the current implementation is not working as effectively as it should and if we maintain the status quo, it is our view that outcomes will not improve. Improving how the landing obligation is applied will aid us in reducing unwanted catch and in properly accounting for any fish that are discarded, meaning we can firmly operate within sustainable fishing limits.

Respondents were divided in their answers to this question, with just under half (43%) agreeing that the landing obligation rules needed to be adjusted and just over half (57%) disagreeing. The majority of those who did not agree that the existing rules around the landing obligation need to be adjusted thought that those currently in place are suitable and fit for purpose. There were a number of concerns raised in regard to a perceived ‘dampening down’ of EU rules around discarding. As already stated, the Scottish Government remains firmly committed to the principles behind the landing obligation (reducing waste, improving accountability, and safeguarding the sustainability of fish stocks). Our commitment to tackling discarding will not

change, but we know that there are improvements we can make to the implementation of the landing obligation that will make the rules around discarding more effective to deliver more sustainable fisheries. As mentioned above the current system of exemptions under the EU landing obligation is very complex (480 stock exemptions in EU/UK waters combined) and can be difficult for everyday fishers to navigate. What we propose through the FCP is a simplification of the exemptions in order to simultaneously improve accountability whilst making them easier to understand and hence easier to comply with.

Those that did agree that the rules around the landing obligation need to be adjusted highlighted the view that the current rules around the landing obligation are ineffective. Some of the issues raised by those who agreed that adjustments are needed were acknowledged in the consultation paper and are a driving factor behind the introduction of fleet segments and a desire to simplify the rules.

Most respondents did not answer the technical and spatial element of this question, but for those that did answer it, there was recognition that more could be done in regards to both technical and spatial measures to help tackle issues around unwanted catch. Suggestions included greater deployment and enforcement of existing measures and consideration of environmental factors in spatial management. There was a clear message that we need to consider the wider ecosystem and be mindful of unintended consequences.

Some respondents also referenced quotas, and how the availability, adjustment or removal of quotas can have a direct impact on fishers' behaviour. There are obvious challenges when it comes to balancing quotas in a mixed fishery, principally due to the potential to 'choke' on unwanted or low quota species when trying to fish for other stocks ('choking' in this context means running out of quota for a specific species and can happen at vessel, fleet segment, or national level). In the consultation we acknowledged that a lack of quota can be a driver for discarding however, in Scotland, we have a commitment to the FQA system and within that system there is already an opportunity for fishers to adjust quota shares to account for their catch. The consultation explicitly states that we will link the FCP to the international negotiation process, aligning stock management with responsive and proportionate technical and spatial measures.

The Scottish Government has reviewed the responses to the consultation and, on balance, believes that as a first priority we should take firm measures to increase selectivity by developing and establishing a baseline level of technical and spatial measures to reduce unwanted catch and instances of bycatch of other sensitive marine species. This will help to tackle the root causes of discarding and is fundamental to delivering sustainable fisheries management.

Doing nothing is not an option and it would be irresponsible of us as fisheries managers not to try to improve our overall level of sustainability. If we fail to support fishers to make adjustments to their practices and, instead default to a wider, more blanket approach then we are doing ourselves, the stock and fishers a disservice.

Though we are proposing to deviate on certain technical aspects from EU rules in order to improve on them, we will uphold and maintain the principles the EU

associates with sustainable and responsible fisheries management. In that way, we can improve accountability and confidence, and create a set of flexible and pragmatic rules which fishers can more readily comply with.

The components of the FCP are complex, as noted by respondents. Using our core stakeholder engagement group, FMAC, we will leverage the knowledge and expertise of stakeholders in this area to collaborate and deliver the necessary changes.

In the first instance we intend to hold intensive workshops with stakeholders, taking a tailored fleet segment approach, to develop a suite of technical and spatial proposals to reduce unwanted catch, in step with Scotland's unique and diverse geographical and fishing challenges. Stemming from the findings of these workshops, we will consult as appropriate on specific technical and spatial proposals with a view to delivering a FCP Scottish Statutory Instrument (SSI). Some respondents expressed a desire to see licences used as tools to make these changes on an expedited basis, however we intend to follow the legislative route, given that it secures a level playing field in Scottish waters for all fishers regardless of origin and, it ensures that there is parliamentary scrutiny of the proposed measures.

Q2. Do you agree that the FCP should address issues with unwanted catches of fish and accidental bycatch other species, e.g., cetaceans, seals and seabirds where appropriate?

This question focused both on i) unwanted catches of fish and ii) accidental bycatches of sensitive marine species. There was significant support (94%) that the FCP should address these issues. As set out in the response to Q1 above, we agree that we should take appropriate technical and spatial measures to reduce instances of unwanted catch and bycatch and aim to do so collaboratively with our key stakeholder group FMAC, and subject to further public consultation as appropriate.

Some respondents suggested there should be zero unwanted catch of fish and although in an ideal world this would be the goal, the reality is that this is almost impossible to deliver in real terms whilst also allowing Scotland's fishing industry to continue – the question then becomes about how to minimise unwanted catch and also having the right rules in place for managing any unwanted catch that does still occur. Given the nature of Scottish waters and the mixed fisheries therein (many different species swimming together), it is very difficult to ensure separation of species when catching in some parts of the fishing fleet. However, we will work with the fishing industry to reduce instances of unwanted catch in so far as technical measures will allow whilst ensuring a level of accountability for that which cannot be avoided.

There was a clear strength of feeling from respondents to the consultation that we must tackle bycatch of sensitive marine species. We recognise that bycatch and entanglement in any type of fishing gear can pose a risk to our iconic marine life and we remain committed to continuing to tackle this issue in our waters through our

various domestic ^{[9][10]}and international obligations^{[11][12]}. Management measures to reduce bycatch are underpinned by the Fisheries Act 2020, in which the ecosystem objective sets out requirements to minimise bycatch of sensitive species. As set out in the Joint Fisheries Statement we are committed to taking action to reduce, and where possible, eliminate, such instances. Building on observer monitoring programmes and mandatory reporting already underway to record bycatch and entanglement events across the fishing fleet, we will build on the proactive steps that industry has taken in this area to explore effective measures that can be taken to minimise such instances. The FCP will review technical measures which are already in use^[13] through both regulation and voluntary good practice as well as any promising, innovative solutions.

There were some strong views from a subset of respondents on specific fishing measures, with a particular focus on gillnets and longlines and the impact these fleet segments can have on sensitive marine species. It's important to recognise that many vessels in the gillnet and longline fleet segment are already taking positive steps to reduce instances of sensitive species bycatch but we recognise there is room to do more. The Scottish Government has commissioned research on seabird bycatch in Scottish longline fisheries and through the FCP we will continue to explore mitigation measures in this fleet, building on the results of this research.

Being able to identify separate problem areas and address them with tailored measures is why we are proposing a fleet segment approach. We want to avoid a rigid 'one size fits all' approach which doesn't work in a mixed fishery and amongst such a diverse fishing fleet. There is no single answer, and we must work collaboratively moving forward to ensure best practice for each individual fleet segment. Banning a specific fishing method is a blunt tool which belies a more complex problem, and this isn't something we are currently considering in relation to the gillnet and longline fleet.

As laid out above under Q1, using our core stakeholder engagement group, FMAC, we intend to host technical and spatial workshops to develop a suite of measures in step with Scotland's unique and diverse geographical and fishing challenges and on a fleet segment basis, to avoid blanket approaches to technical measures and

^[9] The [UK Marine Strategy](#) provides a framework for assessing and monitoring the status of our seas and to put in place the measures needed to achieving Good Environmental Status (GES). For cetaceans, seals and seabirds, evaluation of GES includes an assessment of the conservation impacts of bycatch mortality, with an objective that the long-term viability of these populations is not threatened by bycatch.

^[10] The [UK Bycatch Mitigation Initiative](#) sets out actions that administrations will take to minimise and, where possible, eliminate bycatch and entanglement of sensitive marine species in UK waters thereby meeting our domestic and international obligations

^[11] The [Conservation of Habitats and Species Regulations](#) (as amended following EU Exit) makes it an offence to deliberately capture, kill or disturb certain animals, and includes provisions related to bycatch, for example, the requirement to establish a system to monitor the incidental capture and killing of certain species.

^[12] The [OSPAR Convention](#) includes a requirement to take necessary measures to protect and conserve biological diversity and to collect and review information on human activities and their effects on biological diversity. Marine mammal bycatch and marine bird abundance are included as indicators.

¹³ Retained EU Regulation ([EU\) 2019/1241](#) (as amended following EU Exit) lays out the technical measures aimed at conserving fisheries resources and protecting marine ecosystems including an objective to "ensure that incidental catches of sensitive marine species that result from fishing are minimised and where possible eliminated such that they do not represent a threat to the conservation status of these species."

ensure a more tailored and effective suite of measures which match the unique issues faced by each fleet segment. Once we have developed a suite of measures collaboratively with stakeholders we will then consult again before taking forward legislation to implement these measures.

Q3. Do the broad fleet segment categories identified within this section appear correct?

In the consultation, we proposed that the FCP should take a fleet segment approach, splitting fisheries into seven distinct segments and taking a tailored approach to addressing the individual issues with unwanted or accidental catch and discards associated with each of these segments. Summarised below:

- Pelagic fleet segment (pelagic trawls and purse seiners)
 - Continue to land all fish
 - Enhanced monitoring via mandatory Remote Electronic Monitoring (REM)
- Offshore whitefish fleet segment (large mesh demersal trawls and seine nets)
 - Reduce unwanted catch through additional technical and spatial measures
 - Land all fish marketable fish (fish above MCRS)
 - Ability to discard small undersized fish through a blanket de minimis exemption on the proviso that this is fully accounted for, in line with current EU landing obligation rules
- Offshore mixed fleet segment (small mesh offshore demersal trawls)
 - Reduce unwanted catch through additional technical and spatial measures
 - Land all marketable fish (fish above MCRS)
 - Ability to discard small undersized fish through a blanket de minimis exemption on the proviso that this is fully accounted for
- Small inshore mobile fleet segment (small mesh inshore demersal trawls and small mesh seine nets)
 - Further reduce unwanted catch through selectivity improvements and spatial measures where required
 - Ability to discard small undersized fish (below MCRS) through a blanket de minimis exemption on the proviso that this is fully accounted for
 - Ability to discard larger whitefish through a tailored de minimis exemption, in line with current EU landing obligation rules, on the proviso that this is fully accounted for and with the justification of avoiding disproportionate costs
- Scallop fleet segment
 - Non quota species so not subject to landing obligation although some quota species may be caught which would be subject to discarding rules
 - Support scallop fishing in Scottish waters at sustainable levels

- Enhanced monitoring via mandatory REM
- Pots and creels fleet segment
 - Low levels of unwanted fish catch in the fishery with discards currently allowed under high survivability grounds.
 - Support shell-fishing in Scottish waters at sustainable levels
 - Non quota species so not subject to landing obligation
 - Other measures may be required to reduce instances of entanglements and accidental bycatch of cetaceans and other marine species.
- Gill net and long line fleet segment
 - Consider additional rules to maximise use of shared marine space and minimise gear conflict
 - Other measures may be required to reduce instances of entanglements and accidental bycatch of other marine species including seabirds.

A majority of respondents (82%) agreed broadly with the proposed seven fleet segment categories with a small number who thought some of the smaller sectors of the fishing industry might have been omitted (e.g. hand gathering). We acknowledge that there are some sub-sections of the overall fishing industry that are perhaps underrepresented in the consultation, however, it is worth noting at this stage that this is a living policy and the consultation makes clear that we will work flexibly and collaboratively going forward to ensure we get this right. Part of that forward thinking will need to focus on future proofing the FCP, and in real terms that may look like additional or evolving fleet segments moving forward.

Some respondents expressed concerns that there was no differentiation between inshore and offshore fleet segments that target similar stocks and how these stocks are managed. At the heart of the FCP is management of every fleet segment in a sustainable way, ensuring fleets as selective as possible, regardless of shared quota pools, to ensure their impact on the stock is sustainable.

The Scottish Government has reviewed the responses to the consultation and will proceed with the fleet segment approach as outlined whilst remaining open to adjusting the fleet segments as needed, e.g. to include sub-sections of the fleet not accounted for, or to adjust as new fishing methods are developed. Taking account of all fishing methods is an important step moving forward and we aim to resolve any underrepresented or omitted measures during the workshops and wider stakeholder engagement process.

Q4. Are there any specific geographical differences of the sea which you think we should take account of within the FCP?

The majority of respondents (82%) did think there were specific geographical differences within Scottish waters that need to be taken account of when implementing best practice for the fleet segments. We agree, and as referenced in the consultation, we think the use of a 'one size fits all' approach is inappropriate for Scotland's diverse fishing fleet.

Many respondents expressed concern regarding the specific sensitivities of inshore waters. We acknowledge this variance within our fleet segment approach. Some respondents called for the introduction of a three-mile limit for fishing activity in order to protect inshore waters. As expressed in the FCP consultation, we think blanket measures are not suited to the diverse ecological environments within Scottish waters. A separate consultation focussing on management measures under the Bute House Agreement, asking for stakeholder views on proposals including capping fishing activity to current levels within three miles of the coast and extending monitoring systems to all fishing vessels under 12 metres in length, will be undertaken. Use of vessel tracking in particular will greatly enhance understanding of inshore fishing activity.

Additionally, fisheries management measures delivered through MPAs, Priority Marine Features (PMFs) and other enhanced marine protection policies, will support vulnerable marine areas, many of which are within inshore waters.

Some respondents recognised that areas where fish stocks have been identified as requiring increased protection for stock recovery, more targeted measures may be required.

Within the fleet segments and when applying technical and spatial measures we will continue to be mindful of specific geographical differences and pressures; tailoring measures and approaches where needed for specific geographical issues.

Q5. Do you think that the proposed actions for each fleet segment sound appropriate?

The majority of respondents (64%) did not think that the proposed actions for each fleet segment were appropriate. There were a significant number of responses that raised strong concerns with the proposals set out in the consultation, many of these had a central worry that we were backtracking on EU standards and legitimising discards – specifically in relation to our landing obligation exemption proposals.

As set out under our response to Q1, we remain committed to tackling discarding and to the principles underpinning the landing obligation. However, the FCP is intended to implement a number of pragmatic adjustments to ensure that the landing obligation can function in an effective manner. The proposals contained within the FCP consultation, and indeed the legislation underpinning the current landing obligation, are complex and extremely technical in nature.

Whilst the FCP is intended to continue to uphold the principles underpinning the landing obligation, it is also seeking to ensure that rules around discarding are simplified, so that they are more efficient and effective. The proposals within the FCP consultation are intended to do just that, to improve on the current legislation and support better implementation. They are not intended to roll back on existing EU requirements, but rather build upon them. On top of this, any proposed technical and spatial measures are intended to reduce unwanted catch and therefore minimise the level of quota needed to cover these exemptions.

A number of respondents requested the use of an incentivised approach to minimise discards. As we agree with the principles of the landing obligation but want to make meaningful change on how it is implemented to increase sustainability of fishing practices, we believe that to make this a reality measures must be introduced through legislation rather than through incentivising good behaviour. We have, however, indicated that we will explore ways we can further incentivise good practice as part of the wider FFM Strategy, and this will be something we are looking to develop over the strategy's lifetime alongside measures introduced through the FCP.

As laid out above under Q1, through our core stakeholder engagement group, FMAC, we intend to host technical and spatial workshops to develop a suite of measures in step with Scotland's unique and diverse geographical and fishing challenges. These will be developed on a fleet segment by fleet segment basis, to avoid blanket approaches to technical measures and ensure a tailored suite of measures which match the unique issues faced by each fleet segment.

2.2 Pots and Creels (Q7 – Q11)

Q7. Do you think there should be restrictions on the number of creels that can be deployed by a fishing vessel?

Q8. Do you think creel limits should be set according to geographical area, for example according to regional Inshore Fisheries Group (rIFG) area?

Q9. Do you think creel limits should be dictated by vessel length, engine power, crew size, or another metric?

Q10. Do you think a restriction on string length should be set for the Pots and Creels Segment?

Q11. Are there any other additional management measures, such as escape panels, soak time restrictions or measures to reduce entanglement of marine species, that we should be considering as part of a package of measures to improve management of the creel sector?

These questions asked respondents to consider a variety of approaches to limiting fishing with pots and creels ('static gear'). These ranged from general concepts such as whether static gear limits should be introduced, to technical questions on where they should be introduced, and using what criteria. This section also asked what wider measures could be taken in better managing the sector.

The vast majority of respondents (85%) expressed support for restricting the amount of static gear deployed by fishing vessels in Scotland. Many expressed concerns about the unrestricted proliferation of static gear around the coast, the impact this may have on stock health, and the need to act quickly.

The majority of respondents were in favour of setting static gear limits according to geographical area. This was coupled with a strong belief that regional characteristics need to be taken into account. Greater use of scientific evidence, to guide decision making was also noted. Several respondents believed that Regional Inshore

Fisheries Group (RIFG) boundaries would be too large. These respondents thought that other, more localised boundaries - taking consideration of historic fishing patterns, scientific evidence and stocks - would be more appropriate.

There was, however, no clear consensus on how static gear limits should be set. Just under half of respondents supported limits based on the number of fishers crewing a vessel, with less support for vessel engine power and length-based metrics. Other suggestions included a combination of the above metrics, allowing flexibility based on area fished and limits dictated by stock health or fishing method.

Introducing restrictions on the length of a single string of pots or creels deployed onto the seabed received majority support. Some respondents saw string length as irrelevant if creel numbers were restricted, but others considered it beneficial when used alongside other measures to reduce the risk of marine mammal entanglement and gear conflict.

At the current time, fishing in Scottish waters using static gear requires a valid licence with a shellfish entitlement to be issued in respect of a vessel. This is consistent with the UK licensing framework. However, we acknowledge stakeholder concerns that additional controls are required to ensure shellfish stocks are being fished at sustainable levels. Ensuring we develop policy that is fit for purpose will provide a fundamental building block of our Future Catching Policy.

Management measures for shellfish fisheries targeted by static gear can be broadly divided into 'input controls', such as restrictions on the amount and type of fishing gear that can be used, and 'output controls', such as limits on the number of shellfish that can be landed. A variety of technical measures also usually complement such controls. We have already trialled input controls via initiatives like the Outer Hebrides Pilot and the harvesting of wild wrasse as a cleaner fish for the aquaculture industry.^[14] These projects have been developed taking a co-management approach with the RIFGs and we will continue to utilise this network to help improve static gear management. While this consultation focussed primarily on input controls, our 2020-2030 Future Fisheries Management Strategy Delivery Plan^[15] noted that in the longer term, we will consider the use of quota as an output control for shellfish species.

In assessing options for additional controls on static gear fisheries, it is important to consider links to connected projects already underway. The Scottish Government intend on consulting shortly on proposals including capping fishing activity to current levels within three miles of the coast and extending tracking systems to all fishing vessels under 12 metres in length. Use of vessel tracking in particular will greatly enhance understanding of inshore fishing activity, including distribution of static gear and vessel patterns.

Care needs to be taken in considering any changes to static gear fishing policy. Not only is this fleet sector of vital economic importance to some of Scotland's most vulnerable rural and island communities, but it is often the only realistic route for

^[14] [Outer Hebrides Inshore Fisheries Pilot: year one report - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/04/Outer-Hebrides-Inshore-Fisheries-Pilot-year-one-report-2022-04-20.pdf)

^[15] [Fisheries management strategy 2020 to 2030: delivery plan - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/04/Fisheries-management-strategy-2020-to-2030-delivery-plan-2022-04-20.pdf)

young fishers to enter the industry. Inshore fishing is going through an unprecedented period of change where competing uses of our shared marine space, such as aquaculture, renewable energy and environmental protections mean greater competition for seabed space. Fisheries management measures must therefore be agile, fit for purpose and suitable for the areas they apply to.

The responses to this consultation strengthen our view that additional management of static gear fishing activity in Scotland is required now and that any such policy should have localised co-management and scientific evidence at its heart. Our FMAC Inshore Subgroup, with input from the RIFGs, will now prioritise outlining proposals for improving static gear management, ahead of a formal national consultation. Under the scope of the FCP we will look at further defining specific technical measures (for fish traps) and how we may undertake improvements within this fleet segment to mitigate sensitive species bycatch.

2.3 Gillnets and Longlines (Q6, Q12 – Q16)

Q6. Given the restrictions relating to available marine space and the need to manage displacement issues, do you think a restriction on gear soak time (the length of time static gear can be left in the water to fish) should be set?

Q12. Do you agree that we need to develop measures with regards to gillnets and longlines in order to ease the pressure on shared marine space and avoid conflict?

Q13. Do you think we should set minimum separation distances between sets of nets or longlines in order to create corridors for mobile vessels to move through?

Q14. Should we adjust the depth at which gillnets can be set (minimum and maximum) in order to further utilise the marine space and avoid gear conflict?

Q15a. Do you see any need to restrict the numbers of gillnet and longline vessels operating in Scottish waters at any one time?

Q15b. On the same basis should similar restrictions apply to vessels using mobile gear?

Q15c. In consideration of questions Q15a and Q15b should these measures apply generically or in a specific geographical area?

Q16. Are there additional measures that we should be considering, for example to help prevent entanglements in the gillnet and longline fishery?

These questions asked respondents to consider a variety of approaches to manage the gill net and long line fisheries in order to ease pressure on shared marine space and avoid conflict. These ranged from general concepts such as technical operating restrictions, vessel numbers and interaction with the mobile sector. This section also asked what wider measures could be taken in better managing the sector.

Competition over shared marine space has historically led to tension between the static gillnet and longline fishery and the mobile whitefish fishery. Over the last few

years a number of these static vessels have moved from their traditional grounds in the west of Ireland and Scotland, and along the continental shelf edge, further north to the waters around Shetland to target their main species of hake. This movement has continued as distribution of hake has shifted from its traditional grounds to further north and east, with some vessels now working to the east of the Shetland Islands as the hake continues its movement along the 100-fathom edge.

Furthermore, gill nets could historically be set at depths as low as 800-1200 metres, however this was revised due to potential impacts on deep water species (such as sharks) and delivered via changes in Deep Sea Regulations^[16]. This has resulted in deep sea fishers i.e. gill netters, moving into more shallow waters. This has created pressure in these shallower areas and has led to further tension between the static gear fishers and the mobile fishers off the coast of Shetland. This tension is often punctuated by moments of gear conflict and is seen especially in the areas of the North Sea around Shetland.

In the responses to the consultation the majority of respondents (90%) agreed that some restrictions should be set for these fisheries to ease pressure on marine space and reduce conflict.

In regard to setting restrictions on gear soak time, the most common view expressed was that there should be strict rules on the time set for gillnets and longlines with some suggesting a maximum of 48 hours, some 24 hours and some stating that this practice should be banned. One caveat noted by respondents was the importance of taking weather conditions and seasonal temperatures into account. Some respondents called for the electronic tagging of all gear to monitor fishing activity and accountability. Other respondents focused on the usefulness of these restrictions for limiting bycatch and as a conservation tool.

Those respondents who did not support the setting of restrictions on gear soak time noted that as different gears required different soak times, limits should not be set and that setting limits would be difficult/not be practical to enforce. Respondents also noted that management of space was an important consideration.

The majority of respondents agreed that there should be minimum separation distance between gear. However, there was no general consensus of what that minimum separation distance could be. Suggestions were made for varying distances, ranging from 50 metres to 50 miles. Practical concerns were raised in regards to the application of spatial separation due to seabed topography dictating where some nets can be set.

Introducing adjustments to the depth at which gillnets can be set received majority support. Several respondents recommended various depths at which gillnets could be set with a few suggesting depths of under 150 fathoms (equivalent to 274 metres/0.17 miles/900 feet), while others believed that these should be 150 fathoms or more. Some respondents felt that gillnet depth adjustments should only be

^[16] Regulation (EU) 2016/2336 of the European Parliament and of the Council of 14 December 2016 establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east, as amended following EU Exit

implemented alongside measures which also restrict the use of mobile gears. A few respondents queried the potential impact of depth adjustments for gillnets on smaller inshore vessels and felt they may be acceptable if they do not stop small local inshore vessels from gillnetting.

The vast majority of those who responded to the consultation agreed there was a need to restrict the numbers of gillnet and longline vessels operating in Scottish waters at any one time and a small minority of respondents called for a ban on non-UK vessels in general fishing in Scottish waters. A group of responses had raised their opposition to gillnets and longlines being in operation at all throughout their responses to the consultation and reiterated this point.

Other responses offered further rationale around the perceived advantages of such restrictions, particularly around sustainability by reducing bycatch of sensitive species and the conservation of fish stocks. Some expressed belief that whilst restrictions on the numbers of gillnet and longline vessels operating in Scottish waters at any one time may not be necessary, limits on the number, location and timing of gillnets and longlines that are deployed could prevent large areas being 'boxed off'.

The majority of respondents also suggested greater spatial management of the mobile fleet to reduce gear conflict, clearly indicating a strength of feeling amongst respondents that fishing effort in general should be restricted. This ranged from restricting activity across all fleet segments, time-based restrictions and restricting operations in identified areas. However, some respondents noted that any form of restriction must be fairly and proportionately implemented to create a level playing field across mobile gears. The general concerns expressed from respondents focussed on sustainability of fish stocks and the avoidance of overfishing.

There was a fairly even split in responders on whether measures should be applied generically rather than take account of specific geographical area. Similar to the responses to Q4, most respondents who believed that the measures should apply in a specific geographical area felt that this would better respond to, and take into account, the specific geographical conditions and fishing patterns of individual areas, enabling the development of adaptive management solutions. The tailored application of measures was also considered necessary for areas which are essential for conservation. Moreover, further monitoring of local, regional and national evidence and data, alongside greater communication between sectors, was deemed to be important in determining the most suitable application of measures.

Respondents feedback has highlighted a strong requirement for further discussion on this fleet segment. The Marine Directorate of the Scottish Government recognise gill nets and long lines as a permitted form of fishing activity in Scottish waters, together with mobile gears. However, we recognise respondents concerns that additional and specific management measures for the gill net and long line fleet segment to reduce pressure on the shared marine space and conflict, both with mobile gears and bycatch of sensitive marine species.

We recognise that we need to further develop the evidence and monitoring base for these fisheries to ensure the right management measures are in place and recognise

responders calls for more data collection on gill net and long line fishing activity to inform decision making. Respondents provided some helpful examples of international best practice to reduce bycatch that might help us in a Scottish context of understanding bycatch and mitigating this going forward.

With regards to reducing gear conflict, there are options to explore for how we can mitigate this. The consultation responses have generated a number of options for us to explore further in collaboration with our key stakeholder group FMAC and our FCP sub-group in order to find a pragmatic way forward. This work also links to the marine litter strategy^[17] and associated action plan to tackle the issue of fishing litter and lost gear.

As per our approach with the rest of the fleet segments, we will hold dedicated discussions to explore and tackle the issues identified within this specific fleet segment, focussing discussion on the issues of gear conflict, spatial footprint and impact on sensitive marine species to support a final decision on additional management measures and legislating current good practice to reduce bycatch of sensitive marine species.

2.4 Additional selectivity for directed fisheries (Q17 - Q19)

Q17. Of the options provided in this section, which option (or combination of options) do you think should be introduced, and why?

- Option 1: under the existing technical conservation rules the minimum standard mesh size in Scotland is 120mm unless a vessel is targeting a specific designated species e.g. *Nephrops*, or if they are using a selectivity device which is proven to be as selective as a 120mm net. Under this option, it would be specified that any vessel seeking to use any gear of less than 120mm to target a designated species e.g. *Nephrops*, would need to ensure that the target species constituted at least 50% of their total catch.
- Option 2: whilst some parts of the fleet, e.g., whitefish vessels, must now use a 120mm net as standard, for other parts of the fleet working under a specific directed fishery (e.g. *Nephrops*), vessels are often using a less selective net e.g. 80mm. We are proposing to increase selectivity for these vessels. One way to do this would be to introduce a minimum mesh size of 100mm for defined directed fisheries such as *Nephrops*, with all other trawl fisheries (with the exception of squid and pelagic) required to use a minimum mesh size of 120mm.
- Option 3: Building on Option 2, rather than increasing the baseline mesh size for defined directed fisheries to 100mm, another option would be to increase the effectiveness of Square Mesh Panels via an increase in mesh size and changes to positioning so that they offered an equivalent selectivity to 120mm nets. Evidence suggests that a 200mm Square Mesh Panel rigged at 9- 12m from the cod-line would have similar selectivity as a 120mm cod-end.

^[17] [Marine litter strategy - gov.scot \(www.gov.scot\)](http://www.gov.scot)

This question focused on proposals to address the definition for 'directed fisheries' in retained EU law, to introduce clarity around rules that apply to these fisheries and to further increase selectivity. A 'directed fishery' can be defined as a vessel targeting a specific designated species, for example, *Nephrops* or squid, but the law does not stipulate how this is defined in terms of catch percentage. Something we aim to address through the FCP.

Responses to this question were mixed. There was mixed support for all options to varying degrees but option 3 came out as the most selected measure by respondents (49%). Some respondents expressed that they did not have enough knowledge to answer this technically complex question in regards to net configuration. We are aware that this is a complex technical area that is difficult to navigate without the requisite technical knowledge. However, it was important that we gave respondents the opportunity to express their views on the three options set out, which we believe are the best options available to us, in order to reach a consensus and potentially develop improvements on selectivity. This was also a chance for respondents to provide feedback on improvements to these three options for further consideration.

This has highlighted that we need to take a more considered view of these measures. We will include this line of measures in the technical level workshops to test options.

Q18. Do you foresee any unintended consequences of any of the options described within this section, particularly those intended to increase minimum mesh sizes and adjust the Square Mesh Panel requirements?

This question was directly linked to Q17. These questions were noted as too complex for a simple consensus to find its way through. There was a fairly even split amongst responders in regards to options causing unintended consequences. This has highlighted that we need to take a more considered view of these measures and this will form part of the technical level workshop discussions.

Q19. Do you consider there should be an exception for low powered vessels working in inshore waters?

In the past, variances have been made in legislation to allow for lower powered vessels using similar gear as higher-powered vessels. This has generally been to ensure the gear functions correctly and provides the selectivity intended.

The majority of respondents (67%) did not think there should be an exception for low powered vessels working in inshore waters. Those that were not in favour of granting an exception noted that rules should be applied across a level playing field. Those respondents who did favour an exception noted economic viability and incentivising low impact fishing methods. Others felt the current exemptions should be maintained.

When taking forward the workshops we will need to consider aspects like vessel power in the round, to ensure that the measures we chose are functional regardless of vessel size and power.

2.5 Discard Exemptions (Q20)

Q20. Do you foresee any significant issues or unintended consequences of accounting for discards in this way?

Vessels are obliged to record both fish that have been discarded under a permitted exemption and fish below MCRS that are landed. The accuracy of figures that the Scottish Government receives is reliant on the diligence of the fishers at sea to do this.

In the FCP consultation we proposed implementing an exemption margin for below MCRS discards which would be based upon scientific models to estimate discard levels from each fleet segment. A deduction would be made from the TAC at the start of the year, creating a more accurate level of accountability around discarding and ensuring the TAC reflects this. Coupled with this would be an adjustment to the way in which the exemptions are implemented, in order to simplify their implementation and offset some of the difficulties with landing this unwanted catch. Again, all the while ensuring the TAC is adjusted to account for them.

As in relation to similar concerns raised in Q1 and Q5, respondents again expressed concerns regarding this proposed new method of applying discard exemptions. We recognise the subject matter of discard exemptions is a technically complex issue.

Despite this, it is essential we take steps to account for discards that will still occur due to the mixed fishery nature of Scottish waters but will enable us to account for these in a more robust manner increasing accountability and transparency.

However, our intention is to proceed, as a first priority, with developing a range of technical and spatial measures to reduce the level of 'unwanted' fish that are caught (this will help to tackle the root causes of discarding), alongside identifying measures to reduce bycatches of sensitive marine species – this had broad support from consultation responders.

These measures will be developed using a co-management approach through FMAC, and will be subject to further consultation. In relation to adjustments to discarding rules and enhancing the application of the landing obligation, we are considering the responses to the consultation and a range of options remain open. We are clear that the principles underpinning the current landing obligation, particularly of reducing waste, should be upheld.

Regardless of the shape of exemptions, if we are to achieve responsible fisheries management we must account for catches. This is why the proposals in the consultation are a step change to a system that accounts for all discards. Accounting for all discards in this way allows this to be considered and deducted from quota allowances, removing it from the quota system altogether increasing greater transparency and confidence in fishing activity.

The suggestion has been made that we stick to the current system and double down on enforcement. To ensure buy-in for the success of the fleet and sustainability moving forward, as responsible fisheries managers, we should be constructing a system whereby the rules are pragmatic and provide accountability without huge impositions from the top down. In our experience, when measures are imposed without a collaborative effort to develop them, the lack of buy-in from those effected makes enforcement a difficult task. However, we are not talking about an honour system alone for the FCP. As signalled, we will consider how we can effectively develop and roll out our REM policy across the fishing fleet in step with the development of the FCP to ensure the right monitoring and enforcement tools are in place to support increasing sustainability in fishing activity.

The FCP proposals should be read, hand-in-hand with the REM proposals for a wider view of how we envisage more robust monitoring to look in the future and aid in the successful implementation of the FCP. REM will help deliver both science and compliance benefits to underpin the operation of the FCP and we are committed to pairing a working system for sustainability (FCP) with a robust data gathering and monitoring framework (REM). A robust system of monitoring and enforcement will be used to ensure we are delivering on our objectives.

In order for the FCP to be implemented successfully, we will need to look at enhanced monitoring tools to deliver both science and compliance benefits. It is therefore our intention to consider further REM rollout alongside the FCP development. It is important to note that we intend to take a 'fleet segment' approach to the FCP (as per the consultation, and supported by respondents). This means that the management actions, as well as monitoring requirements, will vary between segments as well as areas of geographic activity.

2.6 Process (Q21 – Q22)

Q21. Do you agree that this process is the best way to make management decisions in a cooperative manner?

There were a significant number (68%) of respondents who expressed concerns with the co-management process set out. The responses suggest to us that some of the concerns expressed may relate to the structure of FMAC at the time of consultation rather than a fundamental issue with the principle of co-management itself. This included concerns around breadth of membership specifically in relation to representation of local communities and the general public.

The Scottish Government has a well-established formal public consultation process which enables us to engage with stakeholders and the public in the development of policies. We would always encourage stakeholders and the general public to engage with and give their views through the public consultation process.

Our approach to sea fisheries management in Scotland has for a number of years focussed on the principle of 'co-management', working alongside stakeholders to develop policies and solutions to management challenges in a cooperative way which takes account of a range of user views and input. Our FFM Strategy affirmed our co-management approach, and also made commitments to improving the way in

which we engage with stakeholders and increase transparency in our decision making. In particular, the FFM Strategy committed us to building on the foundations we already have in place through our established stakeholder forums such as FMAC.

It's worth reflecting that there was strong support for the principle of co-management as a way of tackling difficult challenges in a collaborative way and this is something we hope to deliver. The concerns raised in the consultation in regards to unintended consequences (Q22) are valid. We acknowledge that there are improvements that can be made to our engagement process.

This is why we have undertaken a review of FMAC to place it on a more inclusive and strategic footing. We recognise that it is important for us to have an open dialogue and we value the coming together of different viewpoints and expertise, and we know that a co-management approach will play a vital role in developing solutions to fisheries management challenges. We often use stakeholders to help inform our decision making, for example through formal consultations or using specific stakeholder groups to help flesh out ideas and solutions. With the changes that we are putting in place, we believe that FMAC and the process outlined in the consultation is the best way forward to ensure collaborative decision making to deliver the FCP.

Ultimately, the decision-making responsibility for fisheries management in Scotland lies with the Scottish Ministers. However, FMAC members work together to develop recommendations for Ministers, using their collective knowledge and expertise, seeking input from their members, tasking sub-groups, and delivering consensus wherever possible. We will strive to have consensus on agreed approaches wherever possible and this will likely require understanding and compromise to deliver.

Q22. Do you foresee any unintended consequences to making decisions this way?

Respondents' concerns seemed to centre around a number of key themes:

- More groups should be involved in the process
- We need to include local communities
- The process could be seen as undemocratic
- Certain groups may hold more power in the process than others
- Stalemates could be used as an excuse for inaction
- Might marginalise inshore interests
- Centralised decision making may hinder application to local situations

These concerns have been acknowledged (see our response to Q21) and have been central to improving the operation and structure of FMAC. We will continue to seek improvement where it is required.

2.7 Additional Comments (Q23)

Q23. Do you have any additional comments to make regarding the Future Catching Policy?

In response to this question a total of 183 responses were received.

Within the additional comments the following themes were raised:

- That the fishing industry is feeling increasingly squeezed with rapid changes in Marine Protected Areas and that fisheries must be taken into account in marine planning.
- A group of responses called for the inclusion of spatial measures to limit or ban bottom-trawling and dredging in Scotland's inshore waters.
- A call for more research and regulation for non-UK vessels in Scottish waters.
- That the science around issues referred to in the consultation document needs to be improved.
- The perceived need for more localised quota management.
- Scientists and fishers need to work together in order to address issues in a workable way.
- Some felt that the plans did not go far enough on sustainability and environmental damage and that they did not represent a plan to recover the health of seas and fish populations.
- A few respondents stated that they felt the proposals set out in the consultation document represented a backwards step in fishery management.
- That Crown Dependencies should be considered where appropriate particularly in relation to scallop fisheries.
- Some concepts in the proposal lacked precise definitions.
- Better future stock assessment was required.

These comments are helpful and will be used at various points in the policy development process (not just for FCP) to indicate stakeholder views.

2.8 Business Regulatory Impact Assessment – BRIA (Q24)

Q24. Taking in to account the Business Regulatory Impact Assessment (BRIA) supplementing this consultation, do you have any comments or views which you would like to put forward? - Please note this is a draft partial BRIA at this stage. Given the measures aren't set in stone yet, this partial BRIA is setting the foundation for a full assessment which will take form as the measures do.

Our intention moving forward is to update the draft BRIA using the comments in this consultation to help shape and inform the BRIA. Some of the key themes that arose from this question were:

- That the policy statements and commitments contained within the BRIA were only achievable where a level playing field between all nations and fleet sectors within Scottish waters is established and consistently applied from the outset.
- Any action taken must be considered with its own socio-economic and environmental impact assessment.
- That there should be more use of the knowledge of fishermen.
- That any business impact should be considered secondary to sustainable management of fish stocks.

- That the language used throughout the consultation was not conducive to a public consultation which made it difficult for some to fill out.



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