



# Review of the River Derwent Rod Fishery Byelaw 2023

## Statement in support of application

January 2023

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# Contents

1. Background and time-limited byelaw provision (2013-2023)
2. Vision for the fisheries and aim of the proposed time-limited byelaw
3. Legal vires
4. Proposed new time-limited byelaw
5. Stock management options – options appraisal
6. Engagement with stakeholders
  - 6.1 Informal consultation
  - 6.2 Formal consultation
7. Responses
8. Summary
9. Request to confirm the byelaw
10. List of Appendices

# Review of the Cumbrian River Derwent time-limited salmon and sea trout rod and line byelaw

This statement is made in support of the review of the Environment Agency time-limited rod and line byelaw which expires in July 2023, and the new time-limited rod and line byelaw that is proposed.

## 1. Background and previous byelaw provision (2013-2023)

In 2013 the Environment Agency determined that the salmon stocks in the River Derwent were "Probably Not at Risk" of failing the Management Objective<sup>1</sup>. The 10-year assessment at that stage had egg deposition levels consistently above conservation limit (CL). However, there was a general downward trend, with a prediction for the stock to be "Probably At Risk" in five years' time.

In response, the 2013 rod fishery byelaw partially limited exploitation of salmon by anglers. It did this through a daily bag limit of two salmon per angler, and a requirement that all female salmon be released in October.

During the near 10-year lifespan of the 2013 package of measures described above, salmon stocks on the Derwent have continued to decline. This period has seen the lowest salmon rod catches on record, accompanied by decreasing catch per unit effort (indicating a genuine lack of abundance of fish, rather than just lower fishing effort). There has also been a general reduction in densities of juvenile salmon within electric fishing survey data in recent years.

The decline in salmon stock on the Derwent is consistent with a similar trend throughout much of England and further afield. Changes in the marine environment are thought to be the primary driving factor in this trend, though other pressures such as water and habitat quality, migration barriers and exploitation also contribute.

### Formal stock assessment

Salmon Conservation Limit (CL) compliance assessments are carried out annually, to a consistent methodology. The Derwent salmon stock failed to exceed its CL in 2014, 2015, 2016, 2018, 2019 and 2021, and is now categorised as "At Risk". If the prevailing decline continues, then it is likely to remain "At Risk" in five years' time.

Environment Agency CL assessments are used by Natural England to dictate the condition status of the River Derwent Special Area of Conservation (SAC). Atlantic salmon are a qualifying feature of this SAC, and due to the "At Risk" status of Derwent salmon stocks, the Derwent SAC is in "unfavourable" status.

The stock assessment methodology for sea trout is based on a simplistic assessment of the performance of the rod fishery. The Derwent sea trout fishery is classified as "Probably Not At Risk" at present (2020 assessment).

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<sup>1</sup> The Management Objective is that salmon stocks should exceed conservation limit in at least 4 out of 5 years, on average

## 2. Vision for the fisheries and aim of the proposed time-limited byelaw

Our vision and aim is to ensure that future salmon and sea trout stocks in the River Derwent are adequately protected, such that they once again exceed their Conservation Limits and are capable of supporting a sustainable fishery. We strongly believe that our approach best protects the social and economic benefits that the fishery brings to the area, whilst addressing the need to protect fish stocks. The benefits of the fishery should not be reliant on the requirement to kill fish.

In formulating fishery management options, we have considered the Environment Agency's national salmon management decision structure (see Appendix E). We have reviewed a range of options to protect stocks and allow sufficient spawning escapement in order to move the salmon stocks towards a reduced probability of failing to meet the Management Objective over the next five years.

On the basis of our review of salmon and sea trout stocks in the River Derwent, we believe there is a clear need to further reduce the numbers of salmon killed (directly and indirectly) in the rod fishery through appropriate regulations. This is supported by our decision structure (see Appendix E), and by our duty under the Conservation of Habitats and Species Regulations (2017) England and Wales. This position is also consistent with guiding principles that are set out by the North Atlantic Salmon Conservation Organisation<sup>2</sup> (NASCO). We believe that stocks of sea trout are such that their direct kill within the fishery can continue to be managed voluntarily, but we do propose to reduce the indirect mortality through application of the same method/bait restrictions that are proposed for salmon.

In developing new measures we have sought to retain the socio-economic benefits that the rod fishery brings wherever possible, and therefore do not propose any closure at this time. The Environment Agency proposes the following new regulations:

1. With regards to salmon, we propose to introduce a byelaw requiring that all salmon caught by the Derwent rod and line fishery are returned immediately and with least possible injury to the river that they were caught in.
2. With regards to both salmon and sea trout, we propose to introduce a byelaw requiring that all hooks used within the rod and line fishery are barbless or de-barbed. We also propose to limit the number, size and type of hooks that can be used with permissible methods.
3. With regards to both salmon and sea trout, we propose to introduce a byelaw prohibiting the use of bait fishing within the rod and line fishery, except by shrimp or prawn.

## 3. Legal vires

The Environment Agency has made the River Derwent time-limited rod and line byelaws (2023) in exercise of its powers under Section 210 of, and paragraph 6(1)(b), 6(2)(c) and

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<sup>2</sup> North Atlantic Salmon Conservation Organisation is an international organisation, established by an inter-governmental Convention in 1984. Their objective is to conserve, restore, enhance and rationally manage Atlantic salmon through international cooperation taking account of the best available scientific information.

6(2)(d) of Schedule 25 to, the Water Resources Act 1991, and all other powers enabling it in that behalf.

## 4. Proposed new byelaws

The proposed new rod fishery Byelaw will:

- Require all salmon caught by rod and line on the River Derwent to be returned.
- Prohibit the use of bait for salmon and sea trout, except shrimp and prawn.
- Require barbless or de-barbed hooks only.
- Require specific hook sizes, types and numbers for artificial flies, artificial lures and shrimp or prawn.

The draft sealed Byelaw documents are included in Appendix C. The original sealed documents will be posted separately.

## 5. Stock management options – options appraisal

As part of the review process for the River Derwent time-limited byelaws we have considered the following options:

1. Renew the current regulations;
2. Reduce numbers of salmon that can be legitimately killed;
3. Mandatory catch and release of all salmon (Environment Agency preferred option);
4. Mandatory catch and release of all sea trout;
5. Mandatory method restrictions to protect salmon and sea trout post-release (Environment Agency preferred option)

The "do nothing" option of unregulated fishing and the extreme option of closing all fisheries were not considered in detail as realistic management options at this time. Full details of the management options and options appraisal can be found in Appendix A (River Derwent Rod Fishery Byelaw Review - Technical Case).

Based on the evidence contained within this Technical Case, comprising a review of stock assessment, rod catch and juvenile data, we believe our preferred measures are the most appropriate management options for the rod fishery at this time. Our preferred measures allow fishing to continue and will represent little to no change for the majority of Derwent anglers. The measures maximise fish stock protection and are consistent with measures recently approved on other salmon and sea trout stocks of similar states in England and Wales.

We are recommending these regulations are time-limited for a period of 10 years from the date of their confirmation and reserve the right to review these regulations at any time should the salmon and / or sea trout stocks deteriorate further or improve markedly in the interim.

## 6. Engagement with stakeholders

### 6.1 Informal consultation

Informal dialogue, developing and sharing information and more informal consultation conversations began with key stakeholders in late 2021 and into early/mid 2022. This culminated in a face-to-face meeting with approximately 15 individuals from the Derwent Owners Association on 23 June 2022.

This engagement process allowed us to:

- Raise awareness of the process and take account of stakeholder views;
- Present information and discuss options in a timely manner;
- Use the key stakeholders as a portal for dissemination of information and thoughts to the wider rod fishing customers.

Stakeholders were encouraged to provide any additional evidence to us throughout this process so that decisions could be based on the best available information. Stakeholder feedback was considered as we finalised our position on preferred fishery management options to set out within new byelaws.

### 6.2 Formal consultation

The Environment Agency's Director of Legal Services made the new rod fishery byelaw on 23 August 2022. Signed and sealed copies of the byelaws are contained within Appendix C.

The proposed new byelaws were formally advertised in the press on 23 September 2022. The same date saw opening of the formal consultation period, which ran for just over five weeks (the statutory minimum is four weeks). This allowed considered submissions to be made from all interested parties. Consultations could be made via an online citizen space portal, via email, or in writing. Instructions for how to respond were clearly contained within adverts and notifications.

Media advertising took place in the following publications:

<b>Publication</b>	<b>Date</b>
London Gazette	23 September 2022
Cumberland News	23 September 2022
West Cumberland Times & Star	23 September 2022

Notification of the consultation and all the detail on how to respond was also sent to relevant constituency MPs and Parish Councils. In addition, the 520 anglers who declared a catch return from the Derwent catchment within the last three seasons were directly notified and provided detail on how to respond to the consultation. Of these, 383 were notified via email on 23 September, and 137 by letter posted on 21 September. The Derwent Owners Association, as the representative body of Derwent fisheries, was emailed directly on the 23 September and provided with the same detail on how to respond to the consultation.

The online citizen space consultation portal provided all relevant supporting information, including a copy of proposed byelaws, the technical case supporting them and the Habitats Regulations Assessment. In addition, all advertisements and notifications contained information and contact details for obtaining both electronic and/or hard copies of proposed byelaws and relevant supporting information. Finally, copies of the byelaws were provided on reception at the Environment Agency office in Ghyll Mount, with the facility for any interested party to review these.

Included in Appendix B are:

- Presentation given during (23/6/22) informal consultation with Derwent Owners Association;
- Copies of all online, email and written representations;
- Response to representations document;
- MP briefing notes;
- Correspondence received after the consultation period and also after the circulation of the response document.

## 7. Responses

A total of 107 representations were made. During the formal consultation 104 responses were received. Three further responses were received after the closure of the formal consultation but these were also considered and replied to within our Response document. A total of 84 responses were made via the online portal, and 23 via email.

Our response to representations document (Appendix B) presents a summary of consultee responses and the level of support or objection for each aspect of the proposed byelaws. This is split into those responses received online, and those received via email. The document then sets out our response to those representations received.

The response to representations document was sent out on 04 January 2023 to all respondents who had provided contact details (102 of 107). We were unable to send the document to five respondents who made representations via the online portal, as they did not supply any contact details. One respondent had provided an email address, but this bounced back upon sending. Given this respondent had attempted to supply contact details, we obtained their postal address via our rod licence database and posted a hard copy of the response to representations document to them.

We offered 14 days for those who had objected to withdraw part, or all of their objection if they so wished, based on the content of the document. No objections were withdrawn.



Whilst some objectors to proposed byelaws clearly would prefer a voluntary approach to catch and release salmon angling, that will not provide sufficient benefit or protection for the Derwent salmon stock at this time. Maximum protection from all direct and in-direct exploitation within the rod fishery must now be guaranteed. This cannot be achieved voluntarily and would be unenforceable.

Some objectors would prefer to have no method or tackle restrictions, we remain of the position that these are necessary to improve post-release survival and thus maximise spawning escapement.

The exception to this is that we are prepared to return to a position we proposed during informal consultations, with regards to the use of shrimp and prawn bait. We have therefore recommended an amendment to the byelaw to permit the use of shrimp and prawn bait. This is in response to formal consultation responses which expressed concern regarding the impact of bait restrictions on angler participation. We recognise that the use of shrimp or prawn bait is less likely to result in deep hooking and subsequent post-release mortality, than worm fishing. This would not undermine the required high levels of post-release survival and successful catch and release practice. Permitting this method would at least partly address concern raised during the consultation that less able, elderly or young anglers may not be able to participate within the fishery if they were limited only to artificial fly or lure. It would also at least partly address concern that parts of the catchment are only fishable using bait methods.

Some objectors to a continued voluntary approach to sea trout retention would prefer a mandatory catch and release approach. We believe at this time sea trout stocks are such that catch and release can continue to be managed voluntarily, with the commendable voluntary approach taken by the likes of the Derwent Owners Association remaining proportionate at this time. This will be subject to review based on developing sea trout stock assessment methodology and levels of ongoing exploitation.

The proposed byelaws are reasonable, proportionate and necessary at this time. We believe they strike the right balance between our primary imperative to protect fish stocks, in line with our Decision Structure and NASCO guidance, and the desire to maintain the rod fishery.

These regulations alone will not be likely to recover the Derwent salmon stock and entirely protect the Derwent sea trout stock. Complimentary actions are needed in a range of other areas such as habitat including barriers to migration, water quality, predation and illegal exploitation. These are ongoing, and we are actively engaged with stakeholders in delivering these.

## 8. Summary

The proposed new Derwent Rod Fishery Byelaws meet fishery management requirements, and will form one part of delivering our vision for the recovery of the Derwent salmon stock. The measures are reasonable, proportionate and necessary and should be combined with complimentary actions to maximise natural juvenile production.

## 9. Request to confirm the Derwent Rod Fishery Byelaws

We have assessed the available options for the proposed byelaws against fishery management requirements. We have considered all relevant evidence, informal consultation, formal consultation, and responses and submissions prior to, during and following the formal

consultation of the proposed byelaws. We have found no evidence that causes us to modify our proposals, with the exception that we are prepared to amend our proposals to allow the use of shrimp and prawn bait. We include a suggested amendment to the proposed byelaws within Appendix C to this effect.

**Therefore, we formally request that the Minister confirms the proposed new Derwent Rod Fishery Byelaw as made, with the inclusion of the amendment for the use of shrimp and prawn baits.**

## 10. List of Appendices

Appendix A River Derwent Rod Fishery Byelaw Review - Technical Case

Appendix B

- Presentation given during (23/6/22) informal consultation with Derwent Owners Association;
- Copies of all online, email and written representations;
- Response to representations document;
- MP briefing notes;
- Correspondence received after the consultation period and also after the circulation of the response document.

Appendix C PDF copies of the proposed rod and line byelaw 2022 (Sealed originals to be posted by secure delivery separately) and proposed amendment regarding use of shrimp and prawn.

Appendix D Copies of all print advertisements notifying the public consultation of the proposed regulations.

Appendix E Environment Agency national salmon management decision structure and Stage 1 Habitats Regulations Assessment

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