



**36<sup>th</sup> EIFCA  
Statutory Meeting**

**To be held at:**

**The Boathouse Business Centre  
1 Harbour Square, Nene Parade, Wisbech, Cambs, PE13 3BH**

**Wednesday  
15<sup>th</sup> May 2019**

**1030 hours**

## Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



Meeting: 36<sup>th</sup> Eastern IFCA Meeting  
Date: 15<sup>th</sup> May 2019  
Time: 1030hrs  
Venue: The Boathouse Business Centre,  
1 Harbour Square, Nene Parade,  
Wisbech, Cambridgeshire, PE13 3BH

## Agenda

- 1 Election of Chair of the Authority – *Clerk*
- 2 To accept apologies for absence - *Chair*
- 3 Declaration of Members' interests – *Chair*
- 4 Election of Vice-Chair of the Authority - *Chair*

## Action items

- 5 To receive and approve as a true record, minutes of the 35<sup>th</sup> Eastern IFCA Meetings, held on 30<sup>th</sup> January 2019 – *Chair (pg3)*
- 6 Matters arising (including actions from previous meetings) – *Cler*
- 7 To receive a report to consider Health and Safety risks and mitigation – *Hd Operations (pg16)*
- 8 Review of the Constitution and Standing orders – *CEO (pg22)*
- 9 Meeting of the Planning and Communications sub-committee 13<sup>th</sup> March 2019 – *CEO (pg79)*
- 10 To receive and approve the Finance Officer's report on payments made and monies received during the period January 2019 to April 2019 – *Hd Finance & HR (pg85)*
- 11 Quarterly Management Accounts - *Hd Finance & HR (pg88)*
- 12 Expenses to MMO appointees – *Hd Finance & HR (pg90)*
- 13 Marine Protected Areas Byelaw 2019 (Cromer Shoal MCZ and Haisborough, Hammond and Winterton SAC management measures) – *Senior MSO (Environment) /IFCO (Project Officer) (pg91)*
- 14 Wash Restricted Area byelaw – *Senior IFCO (Regulation) (pg173)*
- 15 Shrimp Permit byelaw – *Senior IFCO (Regulation) (pg224)*
- 16 Wash Fishery Order 1992 review: Update - *CEO / Senior MSO (pg237)*

- 17 2019 Cockle Fishery – *Senior IFCO (Regulation) (pg357)*
- 18 Quarterly progress against Business Plan priorities – *CEO (pg262)*
- 19 *To resolve that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for item 19 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Schedule 12A of the Act*
- 20 Wash Fishery Order 1992 shellfish lay application - *Senior IFCO (Regulation) (pg270)*

**Information items**

- 21 CEO update – CEO
  - a. Various (verbal)
  - b. Association of IFCA minutes (pg270)
- 22 Head of Operations update
  - a. Marine Protection Quarterly reports (pg279)
  - b. Marine Science Quarterly reports (pg286)

**Any other business**

- 23 To consider any other items, which the Chairman is of the opinion are Matters of Urgency due to special circumstances, which must be specified in advance.

J. Gregory  
Chief Executive Officer  
30<sup>th</sup> April 2019

## 35<sup>th</sup> Eastern IFCA Meeting

*"Eastern IFCA will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry".*



A meeting of the Eastern IFCA took place at The Boathouse Business Centre, Wisbech on Wednesday 30<sup>th</sup> January 2019 at 1030 hours.

### Members Present:

Cllr T Goldson	(Chair)	Suffolk County Council
Cllr Paul Skinner	(Vice Chair)	Lincolnshire County Council
Shane Bagley		MMO Appointee
Roy Brewster		MMO Appointee
Cllr M Chenery of Horsbrugh		Norfolk County Council
Cllr D Collis		Norfolk County Council
Cllr P Coupland		Lincolnshire County Council
Tania Davey		MMO Appointee
John Davies		MMO Appointee
Cllr T FitzPatrick		Norfolk County Council
Paul Garnett		MMO Appointee
Rob Spray		MMO Appointee
Keith Shaul		MMO Appointee
Cllr M Vigo Di Gallodoro		Suffolk County Council
Stephen Worrall		MMO Appointee

### Eastern IFCA (EIFCA) Officers Present:

Andrew Bakewell	Head of Finance and HR
Luke Godwin	Senior IFCO - Regulation
Julian Gregory	Chief Executive Officer (CEO) & Clerk
Ron Jessop	Senior Marine Science Officer
Elise Quinn	Marine Science Officer
Judith Stoutt	Senior Marine Science Officer
Stephen Thompson	Marine Science Officer

### Minute Taker:

Jodi Hammond

### EIFCA19/01 Item 1: Welcome

The Chair welcomed members to the meeting.

### EIFCA19/02 Item 2: Apologies for Absence

Apologies for Absence were received from Ms Moffat (NE), and Messrs Hirst (EA), Bolt, Tyack, Warner and Williamson (MMO Appointees).

### **EIFCA19/03 Item 3: Declarations of Members Interest**

The CEO advised members that a document had been circulated which related to the agenda of the meeting stating which members had relevant declarations of pecuniary interests and their ability to vote. A similar document would be circulated for each meeting to provide clarity, but members should still declare any new interests. Members were advised that in general where a member had an interest they are able to contribute to discussion but not vote and where commercial fishing members did not have an interest in a specific fishery they could both participate in discussions and vote.

### **EIFCA19/04 Item 4: Minutes of the 34<sup>th</sup> EIFCA Meeting, held on 7<sup>th</sup> November 2018**

**Members Resolved to approve the minutes as a true record of the proceedings.**

**Proposed: Cllr Collis**

**Seconded: Mr Worrall**

**All agreed**

### **EIFCA19/05 Item 5: Matters Arising**

EIFCA18/65 IVMS PROJECT UPDATE: The CEO advised the project funding issue had been resolved and that the MMO would be the applicant for funding. IFCA's remained as project partners.

### **EIFCA19/06 Item 6: Health & Safety Risks**

The Senior Marine Science Officer (Research) provided members with an update of the current H&S risks and mitigation.

During the previous quarter there had been three minor incidents. One involved an IFCO slipping while cleaning a RIB which resulted in bruising. The seconded incident occurred when one of the vessels props was fouled resulting in the Lifeboat assisting the vessel to return to port. The third incident involved water ingress into part of a vessels wiring system which had to be rectified.

The Head of Operations had attended a training course and was able to take on the role of Fire Officer for the office and Unit A.

It was intended that all Officers would complete an online H&S course, but this had been delayed due to an IT issue.

Lack of a suitable server to download data had resulted in the use of Bodycams being delayed.

Members were advised staff had taken part in a Wellbeing Survey, compiled by NCC, the results of which would be circulated at a future meeting.

Cllr FitzPatrick enquired whether EIFCA were involved with Investors in People, the CEO advised it had been in the past, but a decision had been made to withdraw as it was not considered appropriate.

**Members Agreed to Note the report.**

**EIFCA19/07 Item 7: Finance & Personnel sub-committee – 16<sup>th</sup> January 2019**

The Head of Finance & HR provided members with a summary of the items discussed during the meeting.

In addition, the CEO elaborated further on the process to date regarding the procurement of a replacement Research Vessel. Officers had gone through the tender process for suitable candidates to oversee the design and build of the vessel. This process had highlighted build costs would be in excess of that anticipated. As a result of this, Officers were looking at alternative procurement options and reviewing working practices in order to be more streamlined.

The CEO remained optimistic that it would still be possible for EIFCA to replace the current vessel within the available budget, with this in mind, he had looked at vessels being used by other IFCA's and had identified it may be possible to refit a second-hand vessel, such as those used by windfarms, to meet the IFCA's needs.

Cllr Collis noticed the shift from designing a new vessel to purchasing second hand and queried the flexibility in this method as he believed a decision had not yet been made whether to go for a mono hull or catamaran design. He suggested it may be necessary to call an additional F&P sub-Committee to discuss the matter and to keep progress going forward.

The CEO advised that it had now been concluded that a catamaran was the preferred option. He felt it more prudent to get a clear proposal ready prior to taking anything further to the sub-committee. At this time the proximity to a scheduled meeting would be considered and a meeting arranged if necessary.

Mr Shaul felt the only route was to go for a Catamaran as it would give the best flexibility with regards to where the vessel could operate.

**Members Agreed to note the content of the report.**

**EIFCA19/08 Item 8: Provisional budget for 2019/20 and provisional forecast for 2019/2024**

Having been discussed and approved by the Finance & Personnel Sub-committee this matter was now put to the full authority for approval in order for Levy requests to be sent to the three County Councils.

The Head of Finance & HR advised members that the movement of suggested surplus to reserves would be subject to reality once the expenditure for 2018/2019 was known.

The provisional forecast figures had been set out to show the possible affect on reserves if New Burden funding was not forthcoming, effectively reserves would be depleted during the financial year 2021/2022, providing the new vessel was funded using the anticipated £1.5m

Cllr Collis noted the resale value of the vessel being replaced had not been taken into account. The CEO advised that this was because the value would depend on market demand at the time, and it was best not to speculate on a complete unknown.

The Chair noted there were several anomalies in the current months with regard to New Burden funding and Brexit. The CEO advised that the Association of IFCA's were well engaged with Defra on the subject of ongoing funding.

**Members Resolved to Approve the Budget for the period 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2020.**

**Proposed: Mr Bagley**

**Seconded: Cllr FitzPatrick**

**All Agreed**

**Members Agreed to note the Provisional Forecast of Estimates for the period 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2024.**

**EIFCA19/09 Item 9: Finance Officers Report on payments made and monies received during the period October 2018 to January 2019**

The paper provided the quarterly report to members detailing what had been spent and received during the previous 3 months. The slightly higher than expected expenditure under the General Expenditure heading was as a result of the IT support for 2018/2019 amounting to £25,200 having been paid during month 7.

Enforcement expenditure was slightly raised due to the purchase of Body worn Cameras for enforcement officers.

Income included the sale of the RIB Conchita and Lay Rents received, which would ultimately be forwarded to the Crown Estate Commissioners.

**Members Agreed to note the content of the report.**

**EIFCA19/10 Item 10: Finance Officers Quarterly Management Accounts**

The quarterly report indicated a slight overspend at the end of the third quarter, this was due to timing of purchases and some unanticipated expenditure.

**Members Agreed to note the content of the report.**

**EIFCA19/11 Item 11: Shrimp fishery management (Marine Protected Areas Byelaw 2018 and Shrimp Permit Byelaw 2018)**

Members were reminded that previously the process had been undertaken to establish two new byelaws, part of which had been the formal consultation process. At the last Authority meeting the decision had been made to amend the proposed byelaws by removing two closed areas, removing the requirement for veil nets and amending the provisions relating to I-VMS. Re-consultation was required on the Shrimp Permit Byelaw 2018 as one amendment relating to electronic monitoring devices was substantially different to the original consultation as it changed the use of such devices from 'only when shrimp fishing' to 'when fishing at all times'.

The MPA Byelaw 2018 had been submitted to the MMO for formal QA without two of the proposed closed areas, so as to prevent further delay of the protective effect of the other proposed restricted areas.

The requirement regarding the use of veil nets had been removed because it was not overtly clear that it was required within the Habitat Regulation Assessment for the fishery within the MPA. The two closed areas had been removed for the same reason. Advice had now been received from Natural England which effectively provided the rationale to re-introduce the two closed areas and the requirement for veil nets. On the latter, the CEO advised that this have a limited effect on the industry as only 8 vessels currently did not require veil nets, however 5 of these 8 had chosen to use them so it would only impact three vessels.

With regard to the use of iVMS it was felt the requirement to have such a system installed should be a requirement of both Cat 1 and Cat 2 permits, however, it was suggested that it should not be required for Cat 2 permits until iVMS became a national requirement. The basis for this was that the roll-out of iVMS units

may not cater for vessels that would apply for a Cat 2 permit for a year or two.

Mr Brewster explained to members the difficulties he had recently experience with the vessel monitoring system installed on his vessel and the fact that it had taken almost a month to have the issue resolved, which was both costly in terms of repair but would have been costly in terms of loss of fishing opportunity if the problem had not occurred over the Christmas period. The CEO advised that for the system being proposed there would be three different device types available with the intention that it would be a low-cost option for vessels under 12m in length, with a contract in place stating what happens if the device fails, companies would be required to have spare parts available.

It was also noted that in the event of breakdowns Officers would work towards a pragmatic solution to ensure the right balance, allowing vessels to get to sea and make a living when a device failed.

Mr Brewster remained concerned about the use of these devices on small vessels as they would encounter significant wear and tear as well as being subjected to water damage.

Mr Garnett expressed concern that not enforcing the use of iVMS for Category 2 permits may open a loophole for larger vessels to exploit. The CEO acknowledged this was a possibility but advised a policy would be written in conjunction with Category 2 permits.

Ms Davey queried whether the delay in enforcing electronic devices for Cat 2 permits would affect data collection. The CEO advised the pathfinder project would be underway within the next couple of months, Cat1 permits would apply to the whole of the WNNCSAC, whilst Cat 2 permits applied outside the Wash where very little shrimping took place.

Cllr FitzPatrick noted the second round of consultation had not received much response and queried whether relevant parties had been targeted. The Senior IFCO advised those who had responded to the first round of consultation had been spoken to directly.

Mr Davies queried what would happen in the event of losing gear and needing to get to sea to reset pots etc if the unit had failed, as it would be too costly not to be able to go back out to sea. The CEO accepted there was much to take on board with regard to the use of iVMS but the policy was still to be written and measures put in place for contacting the office out of hours, as well as advising fishers. The important thing would be to let Officers know as soon as a problem occurred.

The Senior IFCO advised that the national regulation was in development and suggested the Authority give the CEO delegated authority to amend the Shrimp Permit Byelaw wording to reflect the national approach.

The CEO had received email correspondence from Mr Williamson, who was unable to attend the meeting, this was read to members. Regarding the size of nets members discussed this and whether or not measurement was of the inside or outside of the 'shoe'. It was felt the measurement should be 'inside', this would be reflected in the change of wording.

**Having discussed the matter in depth Members Resolved to:**

- **Note the consideration of restricted areas 32 and 33 and the requirement for all shrimp fishing vessels to use separator trawls or sorting grids (veil nets) including advice from Natural England.**
- **Agree to implement restricts area 32 and 33 in the next iteration of the Marine Protected Areas Byelaw.**
- **Agree to introduce the Shrimp Permit Condition to require all shrimp fishing vessels to use separator trawls or sorting grids.**
- **Note the summary of responses to the re-consultation of the Shrimp Permit Byelaw 2018 and the amended Impact Assessment.**
- **Agree in principle to Introduce the Shrimp Permit Condition to require electronic monitoring devices.**
- **Agree to delegate authority to the CEO to make a final decision as to whether electronic monitoring devices should be implemented through a provision of the Shrimp Permit Byelaw 2018 or as permit conditions issued under the same byelaw having sought advice on the matter.**

**Proposed: Cllr Skinner**

**Seconded: Cllr Chenery or Horsbrugh**

**All Agreed**

**Agree to delegate authority to the CEO to amend the wording of the electronic monitoring device requirement in either the Byelaw or permit condition in accordance with advice received to take account of the national requirements and to determine whether they should apply to Category 2 permits.**

**Proposed: Cllr Collis**

**Seconded: Cllr Chenery of Horbrugh**

**All Agreed**

## **EIFCA19/12 Item 12: Wash Shellfish Survey Methodology**

SMSO Jessop provided a presentation regarding the research he had undertaken to ensure current sampling procedures met best value for money.

Surveys had always been carried out to a very good standard but with the advent of 50% cost recovery it was felt there was a need

to ensure they were good value and not too much data gathering was taking place which would affect the cost.

A study was carried out into whether it was possible to reduce the areas sampled, the number of samples taken, distance between sample sites, reducing the number of crew, alternative technologies etc, with confidence in the surveys considered if any of these parameters were changed.

Members considered the various options for reducing costs which had been trialled and it became apparent that the integrity of the data set would be lost in most of the proposed scenarios. It was however, felt some small tweeking could be done which would reduce the number of survey days involved.

Members also took into account whether this would affect information provided to other bodies, information used to inform lay application decisions and whether it would lead to over/underestimation of TACs and closed areas for protection of juveniles.

Use of drones was also considered but due to the regulations in place this would involve taking the vessel to sea anyway and as it would take longer to analyse the footage then to analyse sample results it was felt this would not create any financial saving.

**Members Resolved to:**

- **Note the contents of the paper**
- **Note officers had already successfully trialled surveying some mussel beds that were close to each other on the same day, resulting in a saving of 3 days of sea time**
- **Direct officers to implement the following low-risk options to the survey regime:**
  - **Remove 342 sample stations from the cockle survey regime where no cockles had been found during the previous 10 annual surveys.**
  - **Align 418 cockle sample stations that were surveyed at a higher resolution to the same resolution used through the rest of the site, allowing a saving of a 102 stations.**
  - **Reduce the survey frequency on five of the smaller mussel beds to biennial rather than annual surveys.**
- **Direct officers to further explore the option of reducing cockle survey station resolution across the whole site and report back their findings, including assessment of the associated risks.**

**Proposed: Mr Worrall**

**Seconded: Cllr Collis**

**All Agreed**

**EIFCA19/13 Item 13: Wash Fishery Order licence fees**

Members were reminded that a previous decision had been made to recoup 50% cost recovery for managing the WFO 1992. The first incremental increase to this effect was scheduled to take place in April 2019. The original cost for a handwork licence being £330, with a proposed initial increase to £678.

Further investigation had resulted in the proposal of a new licence fee model which would distribute costs associated with managing the fishery fairly.

It had been identified that if a fishery was not opened there would be no enforcement costs, however the survey costs would still have been incurred. With this in mind the fees had been divided between survey costs and delivery costs. Survey costs would include costs associated with the surveying, whilst delivery costs would include the costs associated with compliance, production of HRAs and administration of licences. Limitation of the model being that unless a full complement of licences was taken out for a fishery it would not be possible to recoup 50% of the delivery costs. The proposal for this model involved an increase in fees for 2020/2021 to represent  $\frac{3}{4}$  of the 50% cost recovery with the full amount being applied from April 2021 onwards. Therefore, a WFO licence in 2020/21 would be £568.31 + the cost of endorsements relevant to the fishery being pursued, which would rise to £757.75 + endorsement costs from April 2021 onwards.

Members queried the proposed models and the need to pay for the surveys even in years when there was no fishery, which the CEO advised was the case as currently the cost was being met from the public purse, for a fishery which had exclusive access for 62 fishing vessels. Because of the designations of the site it was necessary to carry out a survey to enable a fishery to ensure no impact on the site.

It was felt the increased cost could prove prohibitive for some fishermen and it was questioned whether an analysis of the burden on small vessels had been carried out. The Senior IFCO advised there were very few vessels which were not capable of carrying 2 tonnes, and during years of low TAC the price was usually high per tonne, he felt the increase of £700/£800 per year was a small percentage of the overall earnings, he believed there had been very few years in the past when it would not have been viable. The CEO added that to apply different costing to small vessels would require a regulatory change to ensure they only landed 1 tonne and the vessel owners may not want that restriction applied to them.

Mr Shaul queried why a dredge endorsement was so much more expensive than a handwork one, this was due to the higher cost of compliance work involved.

**Having thoroughly discussed the proposals members Agreed to:**

- **Note the amended costs associated with WFO fisheries management set out in Appendix 1.**
- **Note the implementation of the first incremental increase of WFO Licence Fees as of the 1<sup>st</sup> April 2019**

**Members further Resolved to agree in principle to implement the new licence fee model set out in Appendix 2 as of 1<sup>st</sup> April 2020 pending provision of further legal advice and consultation with Defra and Licence holders as required.**

**Proposed: Cllr Skinner**

**Seconded: Cllr FitzPatrick**

**2 members voted against the resolution but all others who were able to vote were in favour.**

#### **EIFCA19/14 Item 14: Wash Fishery – slipper limpet removal**

Members were given a brief presentation on the history of slipper limpets in the Wash and the current findings. The presentation advised that generally this species does not have a big impact on fisheries however, in large densities they can have an effect.

It had been noted that larger densities were present on the Roger/Toft sand. It was therefore proposed that a clear up project be undertaken to reduce levels and minimise the risk. The proposal would involve the use of 1 or 2 fishing vessels to handwork the slipper limpets prior to back raking the sediment to smother the cleared areas before spawning took place in May. The removed slipper limpets would be disposed of using a licence waste contractor. In order to carry out this work members were asked to approve the use of WFO Funds to cover costs of the removal as well as further monitoring and management of this species. This would include work to establish a baseline survey followed by post management surveys to establish how effective the clear up had been, followed by 5 annual surveys to establish the success of the project and the recovery rate of the species.

Mr Bagley advised that lays in this area had also been subject to increased numbers of slipper limpets but following the lay being dredged the previous year there were no further signs of them, he suggested it may be prudent to dredge the area in question. It was felt there was no scientific evidence as to whether dredging was beneficial and there was also concern that dredging could split the chains which would encourage greater growth.

The SMSO Jessop advised that once established this species is impossible to get rid of, whilst they are not currently seen in great numbers through the district the stock levels would definitely increase over time, which was why it was felt necessary to treat this small problem area in an attempt to fend off the day when they became a bigger problem.

Members considered the proposal as well as discussing the spawning and preferred habitat types of this species.

**Members Resolved to:**

- **Note from the content of the report that while slipper limpets had been present in the Wash in low densities for at least 20 years, a small high-density population was identified in 2018 near the Toft lays which had the potential to breed and spread faster than low-density populations to the detriment of the Regulated Fishery.**
- **Note that the proposed management would not eradicate slipper limpets from The Wash, but it was hoped to slow down their rate of spread and diminish the impact on the Regulated Fishery.**
- **Agree that the proposed monitoring, clear up and disposal of slipper limpets was undertaken as outlined in the paper.**
- **Approve the use of resources from the WFO 1992 fund for the proposed plan to survey the affected area, remove the slipper limpets from the high-density site identified near the Toft lays and for their disposal ashore.**
- **Agree to officers not enforcing Regulation 8 (Mussels: minimum size) for the purpose of carrying out the proposed activity.**
- **Delegate authority to the CEO to approve expenditure once accurate costings were known.**

**Proposed: Cllr Chenery of Horsbrugh**

**Seconded: Cllr Vigo Di Gallidoro**

**All Agreed**

**EIFCA19/15 Item 15 – Eastern IFCA / MMO Collaboration**

The CEO summarised the content of the associated paper and Members were asked to consider the possibility of continuing to develop collaborative working with the MMO.

**Members resolved to:**

**Note the content of the report.**

**Agree that officers should progress closer collaborative working with the MMO as identified in the report.**

**Proposed: Cllr Vigo Di Gallidoro**

**Seconded: Cllr FitzPatrick**

**All Agreed**

## **EIFCA19/16 Item 16 – CEO Update**

It was noted the Defra 4 yearly report on the progress of IFCA's had been conducted and the work of IFCA's had been complemented.

Referring to the Fisheries Bill, members discussed the impact of discard bans and what should be done with the fish as they cannot be legally landed or returned to the sea. The CEO advised they can be landed but not for direct human consumption, however they still need to be taken off the quota. The CEO believed the Fisheries Bill to be an enabling framework for fisheries management in the future.

Members were advised that an IFCA evaluation had been commissioned by Defra following the four-year review. This had been a very quick tender process and at this point the object of the evaluation was not known.

Referring to the Spending Review 2019 members were advised allocation of New Burden funding to IFCA's was from Spending Review monies. The current round of funding was due to expire in March 2020. Under the current spending review Defra were exploring further funding streams, this progress had been slowed due to work on the EU Exit, however AIFCA had taken the opportunity to apply for additional funding for IFCA's. The process was ongoing.

The CEO further advised members that it had been suggested that the current New Burden doctrine had a 10 year limit which IFCA's which would expire in 2021.

Referring to Operation Blake the CEO advised that the project remained ongoing, although no meetings had taken place since June a bid had been submitted for an ongoing sampling regime for a two-year period.

Members were advised Lord Pickles had invited the CEO to take part in a Parliamentary Review, this would consist of a series of independent publications providing a summary of the past year. The cost to be part of the review was £2,700, which members were advised would get the IFCA into the spotlight on a national level which met with the objective to be seen and heard.

**Members Agreed to note the content of the report.**

## **EIFCA19/17 Item 17 – Quarterly progress against Business Plan priorities**

Normally included as an Information Item the CEO had moved this to Action Items as he felt members may wish to comment as it was essentially their opportunity to hold the CEO to account.

Mr Shaul requested more information on the Cromer Shoal MCZ, the CEO advised current evidence suggested whilst previously potting was not thought to be a problem evidence now suggested that potting may have an impact upon protruding chalk bed. He advised stakeholders would be contacted once further work had clarified the position.

Ms Davey felt this was a useful paper but would like the opportunity for more detailed discussion. The CEO advised members can always phone and ask for more detail. He acknowledged the authority did not have working groups, but the sub-committees took part of the work load from the full authority to carry out the work on its behalf. This raised the question of whether members wished to be engaged in developmental work. Mr Spray highlighted the demise of the MPA sub-committee as decisions needed to be made at full authority, but this did not always allow full discussion and timing of statutory meetings could be too late for the item in question.

Members discussed the inherent risks and benefits of working groups rather than the structure currently employed by EIFCA. The Chair requested the CEO comeback to the full authority with options / suggestions for the future.

**Members Agreed to note the content of the report and that it should be included as an Action Item on future Agendas**

**EIFCA19/18 Item 18 – Marine Protection Quarterly Reports**

**Members Agreed to note the content of the report.**

**EIFCA19/19 Item 21 – Marine Science Quarterly Report**

**Members Agreed to note the content of the report.**

**EIFCA19/20 Item 22 - Association of IFCA Minutes**

**Members Agreed to note the content of the report.**

There being no other business the meeting closed at 1332hours.

## Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



## Action Item 7

### 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting

15<sup>th</sup> May 2019

#### Health and Safety update

**Report by:** Jon Butler, Head of Operations

#### **Purpose of report**

The purpose of this report is to update members on health and safety activity and incidents, risks and associated mitigation over the last reporting period

#### **Recommendations**

It is recommended that members:

- **Note** the contents of this report

#### **Background**

H&S law requires employers to assess and manage risks and, so far as is reasonably practicable, ensure the health, safety and welfare of all its employees and others affected by workplace activities.

The Authority has declared its intent to promote and nurture an appropriate health and safety culture throughout the organisation.

#### **Incidents**

The table in *Appendix 1* summarises the incidents that have occurred since the last authority meeting:

#### **Risks/Mitigation**

Fixed Wire testing has now been carried out as required in both premises, there was one minor fail which has been rectified. PAT testing has now been carried out of all portable appliances and any faulty items have either been repaired or replaced. PAT testing has also been carried out on vessels with just John Allen's items outstanding.

Manual Handling training has now been carried out by staff, any new staff will be required to undertake this as part of the induction programme. Generic H&S training will be completed hopefully in the next quarter.

Chemicals no-longer required have been disposed of safely through a specialist company.

### **Wellbeing**

All Authority staff had the opportunity to complete a wellbeing questionnaire. This is an anonymous survey with the results being analysed by NCC Wellbeing team. The results were shared with the management team and showed that staff felt the authority was generally a good place to work with high moral. Staff valued flexible ways of working and support from managers.

The main area of concern raised by staff was the lack of career development opportunities within the IFCA.

Staff attended a Wellbeing workshop and managers have recently undertaken a full days training to support staff with positive mental health in the workplace. Both sessions were well received by those in attendance and will hopefully support staff at times when mental health is impacted on through both personal and work pressures. Managers are now better equipped to support staff which in turn will hopefully reduce the potential for long term sickness.

Members would wish to be aware of the H & S risks at *Appendix 2*. There have been no changes since the last report.

<b>Date</b>	<b>Nature of incident</b>	<b>Injury / damage occurred</b>	<b>Action Taken</b>	<b>RIDDOR Y/N</b>	<b>Investigation complete Y/N</b>	<b>Name of investigating Officer</b>	<b>Follow-up action required Y/N. If Y then what?</b>
19/02/2019	Person/Trapped finger in pressure washer	Yes	None required, Gloves available if required	No	Yes	Simon Lee	No
06/03/2019	Person/Discarded needles on Boston Quay	No	Reported to Boston Borough Council	No	Yes	Simon Lee	Staff to be aware and ensure wearing safety boots on quayside.
18/03/2019	Vessel/Grounding	No	Investigation into circumstances	No	Yes	Jon Butler	Lessons learnt shared with all skippers
20/03/2019	Person, twisted back	Yes	Twisted back whilst lifting sample basket	No	Yes	Lee Torrice	Skippers to be more aware of crew positions and activity before moving vessels

## Eastern IFCA Health and Safety risks

Risk	Intervention	Residual Risk	Risk rating* (Current)	Risk rating* (Previous)
1. Failure to develop a full suite of risk assessments to cover the range of activity undertaken by Eastern IFCA officers	<ul style="list-style-type: none"> <li>• Introduction of revised management system (policies and process)</li> <li>• Managers tasked to review and develop the suite of risk assessments</li> <li>• Training session on risk assessments for first line managers</li> </ul>	<ul style="list-style-type: none"> <li>• New or unusual activities may be overlooked and not have a risk assessment in place</li> </ul>	Tolerate	Treat
2. Unreported incidents/unilateral decisions with little regard for safe working practices.	<ul style="list-style-type: none"> <li>• Leadership</li> <li>• NCC H&amp;S officer led review of policy and procedure</li> <li>• Training</li> <li>• Equipment</li> <li>• Management systems to capture incidents</li> <li>• Routine agenda items at all meetings at all levels of Authority</li> </ul>	<ul style="list-style-type: none"> <li>• Injury to personnel as a result of failure to acknowledge or adhere to H&amp;S direction and guidance</li> </ul>	Tolerate	Treat
3. Inappropriate conduct of vessels at sea	<ul style="list-style-type: none"> <li>• Leadership</li> <li>• Briefings</li> <li>• Formal training and assessment</li> <li>• Periodic review of performance</li> <li>• Record of personal training inc. refreshers maintained</li> </ul>	<ul style="list-style-type: none"> <li>• Death/injury of personnel/third parties through un-seamanlike operation of vessels at sea</li> </ul>	Tolerate	Treat
4. Whole Body Vibration	<ul style="list-style-type: none"> <li>• Risk awareness training to manage impacts.</li> </ul>	<ul style="list-style-type: none"> <li>• Personal injury from boat movement owing to</li> </ul>	Tolerate	Treat

	<ul style="list-style-type: none"> <li>Health monitoring process to be developed.</li> </ul>	<p>lower resilience as a result of individual physiology</p>		
5. Lone working operations	<ul style="list-style-type: none"> <li>Management scrutiny of any proposal for lone working.</li> <li>Introduction of electronic support means</li> </ul>	<ul style="list-style-type: none"> <li>Failure of devices to give requisite support.</li> <li>Personnel interventions render devices unreliable or unworkable.</li> </ul>	<b>Tolerate</b>	<b>Tolerate</b>
6. Staff injury/long term absence through inappropriate posture at office work stations	<ul style="list-style-type: none"> <li>Information.</li> <li>Training.</li> <li>Risk assessment.</li> <li>Provision of suitable bespoke equipment where reasonable.</li> <li>Access to NCC H&amp;S team.</li> <li>Occupational health assessment</li> <li>KLWNBC H&amp;S specialist advice</li> </ul>	<ul style="list-style-type: none"> <li>Individual failure to adhere to guidance</li> </ul>	<b>Tolerate</b>	<b>Tolerate</b>
7. Staff stress through exposure to unacceptable behaviour of stakeholders	<ul style="list-style-type: none"> <li>Introduction of Unacceptable Behaviour policy</li> <li>Stakeholder engagement plan and activity delivered in pursuit of corporate communications strategy.</li> <li>Dialogue with Stakeholders to ensure appropriate tone of communications</li> </ul>	<ul style="list-style-type: none"> <li>No change in behaviour of some stakeholders.</li> <li>Long term sickness caused by stakeholder hostility</li> </ul>	<b>Tolerate</b>	<b>Tolerate</b>

	<ul style="list-style-type: none"> <li>• Conflict resolution training for “front line” Officers</li> </ul>			
8. Damage to vehicles, trailers and/or equipment through inappropriate operation.	<ul style="list-style-type: none"> <li>• Formal trailer training for unqualified officers</li> <li>• Refreshers for those with previous experience</li> <li>• Periodic vehicle maintenance checks training</li> <li>• In-house assessment for drivers using unfamiliar vehicles (crew transport, 4x4)</li> </ul>	<ul style="list-style-type: none"> <li>• Failure to adhere to training</li> <li>• Mechanical failure of vehicle or trailer</li> </ul>	<b>Tolerate</b>	<b>Treat</b>
9. Physical fitness of personnel to undertake arduous duty	<ul style="list-style-type: none"> <li>• Staff briefing</li> <li>• Management overview to ensure rostered duties are appropriate and achievable</li> <li>• Reasonable work adjustments</li> <li>• Routine periodic medical assessment (ML5)</li> </ul>	<ul style="list-style-type: none"> <li>• Individual health fragilities</li> <li>• Individual lifestyle choice</li> </ul>	<b>Tolerate</b>	<b>Tolerate</b>

\*

Risk Rating
High
Medium
Low

Risk Treatment	
<b>Treat</b>	Take positive action to mitigate risk
<b>Tolerate</b>	Acknowledge and actively monitor risk
<b>Terminate</b>	Risk no longer considered to be material to Eastern IFCA business
<b>Transfer</b>	Risk is outside Eastern IFCA ability to treat and is transferred to higher/external level

### Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



## Action Item 8

### 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting

15<sup>th</sup> May 2019

### Review of Eastern Inshore Fisheries and Conservation Authority (IFCA) Constitution and Standing Orders

**Report by:** J. Gregory, CEO

#### **Purpose of report**

The purpose of this report is to report the outcome of the annual review of the Eastern IFCA constitution and to seek approval for changes to the sub-committees and working groups.

#### **Recommendations**

It is recommended that members:

- **Agree** to the proposed changes to the Constitution and Standing Orders.
- **Agree** that Dr Bolt, Mr Worrall and one other non-elected member are appointed to the Finance and HR sub-committee.
- **Agree** that the full Authority meeting dates for 2019-20 are revised to be:
  - Wednesday 11<sup>th</sup> September 2019
  - Wednesday 11<sup>th</sup> December 2019
  - Wednesday 11<sup>th</sup> March 2020

#### **Background**

Eastern IFCA adopted the current Constitution and Standing Orders on 31<sup>st</sup> October 2012 with a requirement for it to be reviewed annually. The Constitution and Standing Orders are the embodiment of the requirement for the Authority to ensure that it has sound governance.

It is understood that the structure of the Authority and sub-committees was based upon the predecessor organisation, Eastern Sea Fisheries Joint Committee, and that the intention was to see how it worked in reality and then to review if necessary. No such review has previously been undertaken.

At the 34<sup>th</sup> meeting of the Authority in November 2018 members considered the sub-committee structure and noted that some of the sub-committees only met

once a year and others had not met for some considerable time. Officers were directed to review their remit and structure.

At the 35<sup>th</sup> meeting of the Authority in January 2019 members discussed the value of being able to engage in more detailed discussions on potential fisheries and conservation management measures before they were presented to the full Authority for decision. It was agreed that the CEO would consider this alongside the review of sub-committees and include in any proposals for change.

### **Report**

The annual review of the Constitution has been carried out with the assistance of NpLaw, who have advised that there have not been any recent changes to public law governance and constitutional rules which would be applicable to EIFCA conduct and operations. It should be noted that a report by the Committee on Standards and Public Life in January 2019 has recommended voluntary changes that will apply to County Councillors and each of the three county councils are likely to be addressing this themselves. When this work is complete it will be prudent to review the Constitution to ensure consistency and this may be done at the next annual review.

A review of the sub-committee structure and associated delegations has also been undertaken. Overall, it appears that the intention was for much of the Authority's business to be undertaken by sub-committees as opposed to the full Authority. Whilst this structure has considerable merit in larger organisations with a wider range and complexity of business, it is perhaps less appropriate for an organisation such as Eastern IFCA where the contribution of the range of member's skills, experience and perspective is at the core of its purpose. Additionally, the terms of reference for each of the four sub-committees has not been coherent, which has meant that there has not been clarity on functions and that there has been some level of duplication.

The review of each of the sub-committees can be summarised as follows:

#### *Finance and Personnel sub-committee*

This group comprises all County Council appointed members and two MMO appointed members. It has consistently met three or four times a year and its functions have primarily been strategic financial matters, including approving the annual Statement of Accounts, transfers between accounts, appointment of the Auditor and amendments to the Financial Regulations, but not the setting of the levy, approval of quarterly accounts and statements and approval of bank signatories, all of which are reserved to the full Authority. It has also been responsible for HR strategy and policy (Appendix A refers).

The requirement for quarterly accounts and statements to be reported to the full Authority (Appendix B refers) has meant that there has, in effect, been duplication of effort as the same papers have been considered twice each quarter. There also appears to have been an anomaly inasmuch as approving and adopting the annual budget and setting the levy is the preserve of the full

Authority but section 9.38 of the Constitution and Standing Orders provides that only council members of the Authority can vote on setting the annual budget.

#### Marine Protected Areas sub-committee

This group comprises a mixture of County Council and MMO appointed members, with the latter being the majority, and whilst it met regularly between 2011 and 2012, it met only once in 2013 and 2014 and then didn't meet again until 2018 to consider and open the cockle fishery and again in 2019 to consider and open the seed mussel fishery.

The functions of the group are set out at Appendix C and whilst they include wider MPA related functions in addition to management of fisheries under the Wash Fishery Order 1992 (WFO 1992), in reality its activities have related almost solely to the latter. The gap in meetings between 2014 and 2018 reflects a decision to refer management decisions under the WFO 1992 to the full Authority.

It appears that the functions relating to MPA management have not been undertaken because there has not been clarity over what it does, what the full Authority does and what the Regulation and Compliance sub-committee does. For example, the MPA sub-committee should recommend management measures to the full Authority but the Regulatory and Compliance sub-committee is responsible for making byelaws.

#### Regulatory and Compliance sub-committee

This group comprises a mixture of County Council and MMO appointed members, with the latter being the majority, and it has met once or twice a year but has not met since late 2016.

The functions of the group are set out at Appendix D and its primary focus has been making byelaws. In reality, as a consequence of the significance of fisheries and conservation management measures such matters have tended to be taken to the full Authority for consideration and decision.

#### Planning and Communications sub-committee

This group comprises a mixture of County Council and MMO appointed members, with the latter being the majority, and it aside from 2013 when it met twice, it has met once a year to consider and approve the Business Plan.

The functions of the group are set out at Appendix E and it can be seen that some are not appropriate e.g. preparing the Authority's Business Plan, Annual update and Annual Report is, in reality, undertaken by officers.

It can, perhaps, be said that the sub-committee structure has sometimes enabled a greater level of discussion than might take place at a full Authority meeting. However, in reality the meeting frequency and the level of formality associated with them, which is akin to a full Authority meeting, has not helped to facilitate this.

## **Proposals**

Having considered current arrangements and their perceived shortcomings it is proposed that the structure is simplified and that functions are aligned to ensure that they are addressed by appropriate exposure to members.

The following primary changes are proposed:

1. That the Marine Protected Areas, Regulatory and Compliance and Planning and Communications sub-committees are discontinued.
2. That functions undertaken by the aforementioned sub-committees are moved to the full Authority.
3. To facilitate the proposed changes, that the full Authority quarterly meetings move to March, June, September and December and that changes are made to meeting dates this year to reflect this.
4. That all financial and strategic HR functions are delegated to a Finance and HR sub-committee with the exception of agreeing the annual budget and setting the levy, which will be recommended for approval by the full Authority.
5. That the Chair and Vice-Chair of the Authority are the Chair and Vice-Chair of the Finance and HR sub-committee and that membership comprises all council appointed members and three non-elected members.
6. That Dr Bolt, Mr Worrall and one other MMO appointed member nominated at the full Authority meeting are the three non-elected members.
7. That a permanent Fisheries and Conservation Management working group is established to enable members, particularly non-elected members who are appointed on the basis of relevant knowledge and experience, to engage with developmental work on management measures before they come to full Authority for formal consideration.
8. That membership of the working group comprises all non-elected members and that council appointed members attend at their own discretion.

## **Rationale**

The overall objectives are to provide a more coherent approach to dealing with Authority business, to make best use of the skills, experience and accountabilities of members and to make meetings more meaningful and productive.

Discontinuing three sub-committees and moving functions to the full Authority is intended to engage the full Authority membership in the core business of the Authority, such as the strategic policy and planning framework and fisheries and conservation management decisions. It is the full Authority that is accountable for such matters and it is suggested that the full membership should participate in decision making in these areas as opposed to a smaller group of members in a sub-committee. All relevant functions previously

contained within the discontinued sub-committee delegations have been absorbed into functions for the full Authority set out in section 4 of the amended Constitution and Standing orders at Appendix F.

The change in the meeting dates for the full Authority is intended to cater for the requirement under s.177 Marine and Coastal Access Act 2009 (MaCCA 09), which requires the annual refresh of the Business Plan (Annual Plan) to be approved and published in advance of a new financial year.

In order to remove duplication, the functions undertaken by the Finance and HR sub-committee have been expanded to include all financial matters with the exception of approving the annual budget and levy, which it is suggested should remain the preserve of the full Authority on recommendation from the Finance and HR sub-committee. In recognition of the expanded remit of this sub-committee it is suggested that the Chair and Vice-Chair of the Authority undertake the same functions on the sub-committee. This will also ensure that responsibility rotates around each of the County Councils alongside Chairmanship of the full Authority. Dr Bolt and Mr Worrall are already members on the Finance and Personnel sub-committee, and it would seem logical that they take their experience to the new Finance and HR sub-committee, together with an additional non-elected member to be nominated.

The Fisheries and Conservation Working Group will enable greater participation of members in the development of management measures. This will enable issues to be identified and more discussion before formal proposals are prepared for consideration by the full Authority. This forum is proposed as a working group as opposed to a sub-committee so that it won't have decision making powers or the level of formality associated with a sub-committee. It will, though, enable greater engagement by members whilst still reflecting the stated intention of the Authority (Ch 4, Constitution and Standing Orders) for '*...Authority members to concentrate upon broad strategy and policy decisions and that it is essential that the CEO and subordinate managers have clear control and authority to operate within those parameters.*'

Membership of the Finance and HR sub-committee and the Fisheries and Conservation Management working group are intended to reflect the different skills and experience of members whilst also sharing meeting attendance. The increase of an additional non-elected member to the Finance and HR sub-committee reflect the enhanced remit and adds some resilience to the group.

The functions of the Finance and HR sub-committee are set out in section 4 of the amended Constitution and Standing orders at Appendix F. The Terms of Reference for the Fisheries and Conservation Working Group are set out in section 12.

### Other Amendments

Other amendments to the Constitution and Standing Orders are also proposed:

1. That para 9.38 is revised to read:  
*All members of the Authority can vote on the setting of the annual budget. Where there is a move to veto the total amount of the authority's expenses to be defrayed by individual councils for any particular financial year, in accordance with Section 180 (4) of the*

*Marine and Coastal Access Act 2009 only council appointed members may vote on this.*

2. That the following amendments are made to the scheme of delegations to the CEO:
  4. *Delivery of the priorities identified in the Business Plan* is added
  5. Is revised to read, *Enforcement of all legislation relating to the management and policing of the inshore fisheries and the conservation of the marine environment in accordance with the Regulation and Compliance Strategy and Enforcement Policy.*
  6. Is revised to read, *Determining, in accordance with the Enforcement Policy, enforcement outcomes, including instigating and taking legal proceedings for offences under any legislation which empowers the Authority to do so*
  7. Is revised to read that following the making of an emergency byelaw the CEO will notify all members as opposed to calling an extraordinary meeting of the Authority.

Para 9.38 of the Constitution and Standing Orders (page 13), previously provided that only council members of the Authority can vote on the setting of the annual budget. This appears to have been as a consequence of s.180 of MaCCA 09, which provides:

*(4) The total amount of an IFC authority's expenses to be defrayed under subsection (1) for any particular financial year may be vetoed by a vote of those members of the IFC authority who are members of a relevant council.*

Given that the full Authority is accountable for meeting its statutory obligations and that approval of the budget has always been the preserve of the full Authority, it is suggested that all members should be able to debate and vote upon setting the annual budget. The issue of a veto is a separate matter and if, following debate and vote, the issue of a veto arises this can then be debated and voted upon by council appointed members. NpLaw have advised that this is an appropriate change.

The amendments to the CEO delegations clarify accountability for delivery of the Business Plan and reflect that enforcement is undertaken in accordance with the relevant strategies and policies agreed by the Authority. The most notable amendment is that the CEO becomes solely responsible for determining enforcement outcomes, whereas it was previously in consultation with the Chair and Vice-Chair. The rationale for this is not only that such decisions are taken in accordance with policy but also that it is a professional function and it is good practice for one person to take such decisions and to be accountable for them.

The change to the requirement to call an Authority meeting if an emergency byelaw is made reflects the fact that this may not always be necessary but in ensuring that all members are informed there will be the opportunity to call a meeting if required.

## **Financial implications**

There are no immediate financial implications to making the required amendments to the document and the activity will be accommodated within existing staff resource. There will be charges for the assistance and advice drawn from NpLaw which will be reflected in due course in the quarterly accounts. Failure to update the Constitution may introduce legal and thereby financial risk.

### **Legal implications**

It is a legal requirement for the Authority to keep abreast of revised legislation for the operation and conduct of public business. Np Law have advised on the revisions to the Constitution and Standing Orders.

### **Conclusion**

The Constitution and Standing Orders as adopted remain fit for purpose and require only the adjustments listed. The Clerk will continue to hold them under review and will bring any futures changes to the Authority meeting in March annually unless there is a pressing need to make changes more urgently.

### **Appendices**

- Appendix A – Functions of the Finance and Personnel sub-committee (2018)
- Appendix B - Functions of the full Authority (2018)
- Appendix C - Functions of the Marine Protected Areas sub-committee (2018)
- Appendix D - Functions of the Regulatory and Compliance sub-committee (2018)
- Appendix E - Functions of the Planning and Communications sub-committee (2018)
- Appendix F – Revised Constitution and Standing Orders

### **Background documents**

Eastern IFCA Constitution and Standing Orders (Amended April 2018)

## Appendix A

### Functions of the Finance and Personnel sub-committee (2018)

<b>MATTERS WHICH IT IS THE RESPONSIBILITY OF THE FINANCE &amp; PERSONNEL SUB-COMMITTEE TO DISCHARGE</b>
<b>Function</b>
1. Decision making powers concerning strategic financial matters and approving the annual Statement of Accounts, transfers between accounts, appointment of the Auditor and amendments to the Financial Regulations, but not the setting of the levy, approval of quarterly accounts and statements and approval of bank signatories, all of which are reserved to the full Authority.
1. Decision making powers in developing the Human Resources strategy for the organisation including staff structure and employment policy to include personal development, training and appraisal strategies to assure adherence to relevant UK employment law and other mandated public-sector initiatives.
2. Decision making powers regarding policy on the recruitment, remuneration and retention of personnel.
3. Decision making powers to approve standing interview procedures and the appointment of interview panels for the recruitment of the Chief Executive Officer and Executive <sup>1</sup> personnel including Consultants. Authority members of interview panels will be drawn from this Sub-Committee and panels will also include appropriate Authority senior officers; panels will normally be chaired by the Chair of this Sub-Committee; panels will carry out all processes leading to the selection of the successful candidate who will be appointed by the Sub-Committee.
4. Decision making powers to conduct Disciplinary/Grievance appeals panels.
5. The Sub-Committee may delegate any of its powers to an individual member of the Sub-Committee or to the CEO except where the power falls to be discharged by a panel.
6. The Chair of the Sub-Committee, or the CEO in consultation with the Chair, may refer any of the matters set out above to the full Authority for determination where this is in the Authority's interests.

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<sup>1</sup> Executive posts deemed to be the Head of Operations and the Head of Finance & Human Resources

## Appendix B

### Functions of the full Authority (2018)

<b>MATTERS WHICH IT IS THE RESPONSIBILITY OF THE FULL AUTHORITY TO DISCHARGE</b>
<b>Function</b>
1. Approving and adopting the Annual Budget and setting the levy to the County Councils.
2. Agreeing quarterly accounts and statements of payments made and monies received.
3. Approving bank signatories.
4. Adopting and changing the Constitution including reviewing Standing Orders; Schedule of Delegations; Non-Elected Members' Code of Conduct; Anti-Fraud and Corruption policy and other constitution documents.
5. Agreeing and reviewing annually the Members' expenses scheme.
6. Agreeing and/or amending the terms of reference for Sub-Committees, deciding on their composition and making appointments to them.
7. Appointing Member representatives of the Authority to outside bodies.
8. Agreeing the Authority's strategic policy framework including: <ul style="list-style-type: none"> <li>• Annual Report</li> <li>• Business Plan</li> <li>• Research Reports</li> <li>• Biosecurity Plan</li> <li>• Risk Management strategy</li> <li>• Derogations Policy</li> </ul>
9. Agreeing the Authority's strategic enforcement framework as follows: <ul style="list-style-type: none"> <li>• Enforcement Strategy</li> <li>• Enforcement Code of Conduct</li> <li>• Financial Administrative Penalties for Fisheries Offences</li> </ul>
10. Receiving reports on complaints against the Authority and on Freedom of Information 2000, Environment Information Regulations 2004 and Data Protection Act 1998 requests.
11. Approving Memoranda of Understanding and other partnership initiatives agreed in principle by the CEO and Chair.
12. Receiving minutes of meeting of the Association of Inshore Fisheries and Conservation Authorities.
13. Managing inshore fisheries outwith WFO 1992 as delegated and approved by DEFRA.
14. Waiving any of the procedures relating to contracts which are set out in the Financial Regulations.
15. Agreeing the sale of assets worth more than £10,000.
16. Receiving reports and agree action on bad debts.

## Appendix C

### Functions of the Marine Protected Areas sub-committee (2018)

<b>MATTERS WHICH IT IS THE RESPONSIBILITY OF THE MARINE PROTECTED AREAS SUB-COMMITTEE TO DISCHARGE</b>	
<b>Function</b>	
1.	Decision-making powers in relation to the following provisions of the WFO 1992: <ul style="list-style-type: none"><li>• Opening fisheries for the prescribed shellfish species in the area of the Wash covered by the WFO 1992</li><li>• Management measures for fisheries in the relevant area of the Wash including approving any underpinning research initiatives</li><li>• Granting and revoking licences</li><li>• Approving and reviewing the Derogation process</li></ul>
2.	Decision making powers in relation to European Marine Site (EMS) responsibilities including: <ul style="list-style-type: none"><li>• Establishing the policy framework to enable accommodation of developing EMS initiatives material to Authority outputs.</li></ul>
3.	Making recommendations to the full Authority in relation to the management and administration of all Marine Protected Areas in the district.
4.	The Sub-Committee may delegate any of its powers to an individual member of the Sub-Committee or to the CEO.
5.	The Chair of the Sub-Committee, or the CEO in consultation with the Chair, may refer any of the matters set out above to the full Authority for determination where this is in the Authority's interests.

## Appendix D

### Functions of the Regulatory and Compliance sub-committee (2018)

<b>MATTERS WHICH IT IS THE RESPONSIBILITY OF THE REGULATORY AND COMPLIANCE SUB-COMMITTEE TO DISCHARGE</b>
<b>Function</b>
1. Making, amending, revoking, re-enacting or adopting byelaws.
2. Reviewing enforcement strategy assuring adherence to UK Law, other legal precedents and mandated public service protocols.
3. Developing a risk-based enforcement strategy suitable for Authority purposes.
4. The Sub-Committee may delegate any of its powers to an individual member of the Sub-Committee or to the CEO.
5. The Chair of the Sub-Committee, or the CEO in consultation with the Chair, may refer any of the matters set out above to the full Authority for determination where this is in the Authority's interests.

## Appendix E

### Functions of the Planning and Communications sub-committee (2018)

<b>MATTERS WHICH IT IS THE RESPONSIBILITY OF THE PLANNING AND COMMUNICATIONS SUB-COMMITTEE TO DISCHARGE</b>
<b>Function</b>
1. Developing the Authority's vision and strategic planning to deliver the DEFRA success criteria.
2. Preparing the Authority's Business Plan, Annual update and Annual Report.
3. Approving the Authority's Business Plan to meet DEFRA deadlines.
4. Formulating the replacement strategy for Authority capital assets for recommendation to the full Authority.
5. The Sub-Committee may delegate any of its powers to an individual member of the Sub-Committee or to the CEO.
6. The Chair of the Sub-Committee, or the CEO in consultation with the Chair, may refer any of the matters set out above to the full Authority for determination where this is in the Authority's interests.

**Appendix F**

**Revised Constitution and Standing Orders**



**EASTERN INSHORE FISHERIES AND CONSERVATION  
AUTHORITY**

**CONSTITUTION  
and  
STANDING ORDERS**

**Adopted by the Authority 31 October 2012 (last amended May 2019)**

## INTRODUCTION

The Eastern Inshore Fisheries and Conservation Authority (the Eastern IFCA) was established under Chapter 1 of Part 6 of the Marine and Coastal Access Act 2009 and the Eastern Inshore Fisheries and Conservation Order 2010. It is a stand-alone joint committee of Lincolnshire, Norfolk and Suffolk County Councils.

The Eastern IFCA has defined its purpose and vision as follows:

*“Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry.”*

In this Constitution, the Eastern IFCA sets out how it will operate, how its decisions will be made and the procedures that it will follow to ensure efficient, transparent and accountable decision-making in line with its purpose and vision, its policies and legal requirements. The Constitution will be reviewed annually at the Eastern IFCA’s April meeting.

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<b>CHAPTER 4:</b> <b>Page 27</b>	<b>Scheme of Delegations</b>
<b>CHAPTER 5:</b> <b>Page 33</b>	<b>Financial Regulations</b>
<b>CHAPTER 6:</b> <b>Page 39</b>	<b>Anti–Fraud and Corruption Policy</b>

## **CHAPTER 1: Standing Orders**

The Standing Orders for the Eastern IFCA include provisions required under the Marine and Coastal Access Act 2009, the Eastern Inshore Fisheries and Conservation Order 2010 and the Local Government Act 1972 as well as provisions adopted by the Authority. The footnotes indicate the statutory provisions.

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## **Section 1: Membership of the Eastern Inshore Fisheries and Conservation Authority**

- 1.1 The Authority is made up of 21 members as follows<sup>2</sup>:
- Seven county councillors appointed by Lincolnshire County Council (two members), Norfolk County Council (three members) and Suffolk County council (two members);
  - 12 ‘general’ members appointed by the Marine Management Organisation (MMO) who are:
    - a) *‘persons acquainted with the needs and opinions of the fishing community of the district, and*
    - b) *persons with knowledge of, or expertise in, marine environmental matters.*<sup>3</sup>
  - Two ‘additional’ members appointed by Natural England and the Environment Agency.<sup>4</sup>
- 1.2 One ‘general’ member must be an employee of the MMO.<sup>5</sup>
- 1.3 A person is not eligible for appointment or re-appointment as a member of the Eastern IFCA if they have been convicted of a criminal offence and the conviction is not spent for the purposes of the Rehabilitation of Offenders Act 1974(1).<sup>6</sup>
- 1.4 The proceedings of the Eastern IFCA will not be invalidated if a vacancy occurs or if there is a defect in the election or qualifications of any member.<sup>7</sup>

### Terms of appointment

- 1.5 The terms of appointment of each member are determined by their appointing organisation.<sup>8</sup> The terms of appointment for members appointed by the MMO are in Chapter 3 of this Constitution.
- 1.6 The maximum period of appointment for each member is ten years from 1 October 2010 or the date from which the member is appointed, if later.

### Resignation of a member

- 1.7 A member may resign from the Eastern IFCA by giving written notice to the Authority and to their appointing body.<sup>9</sup>

### Suspension of a member

- 1.8 If criminal proceedings are started against a member, the Eastern IFCA or the appointing body may suspend the member’s appointment. If the member’s appointment is suspended, they will also be suspended from acting as an office-holder on behalf of the Authority.

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<sup>2</sup> Article 5(1) Eastern Inshore Fisheries and Conservation Authority Order 2010

<sup>3</sup> Section 151(2) Marine and Coastal Access Act 2009

<sup>4</sup> Article 5(4) Eastern Inshore Fisheries and Conservation Authority Order 2010

<sup>5</sup> Article 5(2)(b) Eastern Inshore Fisheries and Conservation Authority Order 2010

<sup>6</sup> Article 12 Eastern IFCA Order 2010

<sup>7</sup> Paragraph 43 Schedule 12 Local Government Act 1972

<sup>8</sup> Article 6(2) Eastern IFCA Order 2010

<sup>9</sup> Article 9(1) Eastern IFCA Order 2010

- 1.9 The suspension will end if the member is acquitted of the offence or the proceedings are discontinued or withdrawn.
- 1.10 If a council member's membership of their county council is suspended by that county council, their membership of the Eastern IFCA will also be suspended, as will be their ability to act as an office-holder for the Authority. This includes the offices of Chair and Vice-Chair of the Authority.<sup>10</sup>
- 1.11 If the council member's suspension ends, it will be up to the relevant county council to decide whether to re-appoint the member to the Eastern IFCA.

#### Termination of membership

- 1.12 A member's appointment to the Eastern IFCA ends if:
- the member is convicted of an offence under fisheries legislation, nature conservation legislation or marine licensing legislation;
  - the member receives a fine under fisheries legislation, nature conservation legislation or marine licensing legislation;
  - the member ceases to be a member of the county council that appointed them to the Authority.<sup>11</sup>
- 1.13 The Authority may terminate a member's appointment if the member is convicted of any other criminal offence other than those in paragraph 1.12.<sup>12</sup>
- 1.14 A member's appointment also ends when they reach the end of their term of appointment.

#### **Section 2: Members' attendance at meetings**

- 2.1 In each year, a member must attend no less than 50% of the total number of meetings of the full Authority and of sub-committees to which they have been appointed. A year is defined as the period from 1 April to 31 March.
- 2.2 If a member fails to attend the required number of meetings, the Chair of the Authority may ask the appointing organisation to reconsider the appointment of the member.
- 2.3 No substitutes are allowed for members of the Authority.

#### **Section 3: Appointment of the Chair of the Eastern IFCA**

- 3.1 At the March meeting of the Authority, members will elect a Chair who will serve for the year beginning with the meeting at which they are elected and ending with the March meeting the following year.<sup>13</sup>
- 3.2 The Chair must be a council member from one of the three county councils.
- 3.3 A member is not eligible to stand as Chair if they have previously been removed from this office<sup>14</sup> or from the office of Vice-Chair<sup>15</sup>.

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<sup>10</sup> Article 10 Eastern IFCA Order 2010

<sup>11</sup> Article 11(1) Eastern IFCA Order 2010

<sup>12</sup> Article 11(2) Eastern IFCA Order 2010

<sup>13</sup> Article 7 Eastern IFCA Order 2010

<sup>14</sup> Article 8(6) Eastern IFCA Order 2010

<sup>15</sup> Article 14(5) Eastern IFCA Order 2010

- 3.4 The Chair may stand for re-election for further years and whilst their term in office will ordinarily be for a maximum of two years, this may be extended if re-elected.
- 3.5 Nominations for the post of Chair will be made orally to the Clerk of the Eastern IFCA at the April meeting and the election will be by vote of the members present.
- 3.6 If there are an equal number of votes for the members nominated, the Clerk will decide the election by lot.

#### Role of the Chair of the Eastern IFCA

- 3.7 The role of the Chair of the Eastern IFCA is to:
- ensure that the Authority is able to carry out the business at its meetings efficiently, in line with its plans and policies, legal duties, Constitution and Standing Orders, and
  - enable members to participate fully in discussions and decisions so that the Authority can benefit from their experience and expertise, and their knowledge of the interests of the Eastern IFCA's communities and stakeholders.
- 3.8 In fulfilling this role, the Chair will work closely with, and take advice from the Authority's CEO and professional officers and its Clerk.
- 3.9 The Chair will also attend such meetings and functions as are necessary in order to represent the interests of the Eastern IFCA on the advice of the CEO and, as appropriate, the Clerk.

#### Resignation of the Chair of the Eastern IFCA

- 3.10 The Chair of the Eastern IFCA may resign the office by giving notice in writing to the Authority.<sup>16</sup>
- 3.11 Following the resignation of the Chair, the Authority must appoint another eligible member to the office until the next March meeting of the Authority.<sup>17</sup>

#### Removal from the office of the Chair of the Eastern IFCA

- 3.12 The Authority may remove a member from the office of chair if it considers that the member is failing, or has failed, to discharge the duties of chair in accordance with legal requirements and its standing orders. The member concerned is not eligible to be re-appointed as Chair<sup>18</sup> or appointed as Vice-Chair.<sup>19</sup>
- 3.13 Following the removal of the Chair, the Authority must appoint another eligible member to the office until the next March meeting of the Authority.<sup>20</sup>

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<sup>16</sup> Article 9(2) Eastern IFCA Order 2010

<sup>17</sup> Article 9(3),(4) and (5) Eastern IFCA Order 2010

<sup>18</sup> Article 8(1),(2) and (6) Eastern IFCA Order 2010

<sup>19</sup> Article 14(5) Eastern IFCA Order 2010

<sup>20</sup> Article 8(5) Eastern IFCA Order 2010

### Termination of appointment of the Chair of the Eastern IFCA

- 3.14 Where the appointment of a member who is also the Chair of the Eastern IFCA is terminated, or comes to an end, the Authority must appoint another eligible member to the office of Chair.<sup>21</sup> A member who has previously been removed from the office of Chair or Vice-chair cannot be appointed as Chair.<sup>22</sup>
- 3.15 The member appointed as Chair holds the office until the next March meeting of the Eastern IFCA.<sup>23</sup>

### **Section 4: Appointment of the Vice-Chair of the Eastern IFCA**

- 4.1 At the March meeting of the Authority, members will elect a Vice-Chair for the year beginning with the meeting at which they elected and ending with the March meeting the following year. The Vice-Chair will chair meetings of the Authority in the absence of the Chair<sup>24</sup>
- 4.2 The Vice-Chair must be a council member from one of the three county councils.
- 4.3 A council member cannot be appointed or re-appointed as Vice-Chair if they have been previously removed from this office or from the office of Chair.<sup>25</sup>
- 4.4 The Vice-Chair may stand for re-election for further years and whilst their term in office will ordinarily be for a maximum of two years, this may be extended if re-elected.

### Resignation, removal from office or termination of the appointment of the Vice-Chair of the Eastern IFCA

- 4.5 Paragraphs 3.10-3.15 of these standing orders apply to the Vice-Chair as to the Chair.<sup>26</sup>

### **Section 5: Meetings of the full Authority**

- 5.1 Meetings of the full Authority will ordinarily take place quarterly in March, June, September and December each year. Where circumstances require it, this may be varied by the Clerk in consultation with the Chair.
- 5.2 The date and time of meetings for the following year will be agreed at the December meeting.
- 5.3 Meetings will be held at locations which are convenient for members and provide access for the members of the public who might wish to attend.
- 5.4 If the Chair is absent from a meeting of the full Authority, the Vice-Chair will take the role. If both the Chair and Vice-Chair are absent, members will elect a

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<sup>21</sup> Article 11(3) Eastern IFCA Order 2010

<sup>22</sup> Articles 8(6) and 14(5) Eastern IFCA Order 2010

<sup>23</sup> Article 7(4) Eastern IFCA Order 2010

<sup>24</sup> Article 14(1) Eastern IFCA Order 2010

<sup>25</sup> Article 14(4) and (5) Eastern IFCA Order 2010

<sup>26</sup> Article 14(3) Eastern IFCA Order 2010

member to chair the meeting.<sup>27</sup> The Clerk will take the chair to conduct the election. The member so elected must be a council member. Election will be by way of seconded nomination and vote.

- 5.5 The full Authority may delegate any of the Eastern IFCA's functions to a sub-committee, member or employee of the Authority if it considers it expedient to do so.<sup>28</sup>

### **Section 6: Quorum for a meeting of the full Authority**

- 6.1 The quorum for a meeting of the full Authority is six, including at least one council member and one member appointed by the MMO (a 'general' member).<sup>29</sup>

### **Section 7: Access to agendas and papers for ordinary meetings of the full Authority and its sub-committees**

- 7.1 The Clerk will give up to 10, but not less than five, clear days' notice of any meeting by emailing details of the meeting to all relevant members. The CEO will ensure that the notice of meeting is posted on the Authority's website and at its office when it is sent to members.<sup>30</sup>
- 7.2 The Clerk will email copies of the agenda and papers for a meeting to members at least five clear days before the date of the meeting. The CEO will ensure that copies of the agenda and papers are posted to the Authority's website and are made available for inspection at the Authority's office when they are emailed to members.<sup>31</sup>
- 7.3 Five clear days has been defined in case law as excluding the day of the meeting and the date on which the member receives the agenda or paper, and weekends and public holidays.

#### Late agenda items

- 7.4 An item of business for a meeting may not be added to agenda less than five clear working days before the date of a meeting or tabled at the meeting, unless the Chair of the meeting decides that there are special circumstances which make the late item a matter of urgency and require it to be considered at the meeting. The special circumstances must be recorded in the minutes for the meeting.<sup>32</sup>
- 7.5 Special circumstances justifying the addition of a late item to an agenda will generally occur where significant information or circumstances arise within the five clear working day period which could not reasonably have been known or anticipated before the agenda for the meeting was agreed and published.

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<sup>27</sup> Article 14(2) Eastern IFCA Order 2010

<sup>28</sup> Article 17 Eastern IFCA Order 2010

<sup>29</sup> Article 13(1) Eastern IFCA Order 2010

<sup>30</sup> Section 100A(6)(a) Local Government Act 1972

<sup>31</sup> Section 100B(3) Local Government Act 1972

<sup>32</sup> Section 100B(4) Local Government Act 1972

- 7.6 If the Chair agrees to add an item to an agenda, the revised agenda and the relevant paper will be circulated to members, and then posted to the Authority's website and made available for public inspection at the Authority's office.<sup>33</sup>
- 7.7 The Clerk may withhold a paper from public inspection if the paper contains exempt or confidential information. Every copy of an exempt or confidential paper will be marked "not for publication"<sup>34</sup> and the exemption category will be indicated on the paper.<sup>35</sup> The exemption categories are set out in paragraph 15.1 of these standing orders.

#### Background documents

- 7.8 The author of a paper relating to an item on the agenda for a meeting will set out, at the end of the paper, a list of background documents which contain facts or matters on which the report, or an important part of it, was based and which the author has relied on in preparing the report. The list of background papers should exclude published works and must exclude documents which disclose exempt or confidential information.<sup>36</sup>
- 7.9 The Clerk will ensure that a copy of each document included in the list of background documents is kept and made available for public inspection for four years after the date of any meeting or decision.

#### Form in which agendas and papers will be made available

- 7.10 Agendas and papers for meetings will be circulated to members in electronic form by email. A member may request a hard copy of any document.
- 7.11 Agendas and papers that have not been withheld from public inspection will be available to the members of the public in electronic form on the Authority's website. Such documents will also be available in hard copy form at the relevant meeting.<sup>37</sup>

### **Section 8: Access to minutes and records of decisions**

- 8.1 The minutes of the proceedings of each meeting will be kept by the Clerk in a loose-leaf folder maintained for that purpose, the pages of which will be consecutively numbered.<sup>38</sup>
- 8.2 The minutes will be presented for members to confirm as an accurate record at the next suitable<sup>39</sup> meeting of the relevant body and the Chair of the meeting will sign the minutes and initial each page.<sup>40</sup>
- 8.3 The minutes will not be open to discussion, but members may propose corrections or additions where they identify inaccuracies or omissions.

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<sup>33</sup> Section 100B(3)(b) Local Government Act 1972

<sup>34</sup> Section 100B(5) Local Government Act 1972

<sup>35</sup> Schedule 12A Local Government Act 1972

<sup>36</sup> Section 100D Local Government Act 1972

<sup>37</sup> Section 100B(6) Local Government Act 1972

<sup>38</sup> Paragraph 41(2) Schedule 12, Local Government Act 1972

<sup>39</sup> Paragraph 41(4) Schedule 12, Local Government Act 1972

<sup>40</sup> Paragraph 41(2) Schedule 12, Local Government Act 1972

- 8.4 The minutes will include a list of members present at the meeting.<sup>41</sup>
- 8.5 Members can request a copy of the unconfirmed minutes of a meeting for their personal information, but unconfirmed minutes will not normally be published until after they have been agreed by the relevant meeting.
- 8.6 The Clerk will keep and make available for public inspection for six years after a meeting of the Authority or a sub-committee:
- the minutes of the meeting, except for any part of the minutes that includes exempt or confidential information, and
  - a disclosable summary of any proceedings during a part of the meeting that was not open to the public, if the published minutes do not provide a reasonably fair and coherent record of those proceedings.<sup>42</sup>

## **Section 9: Rules of procedure for ordinary meetings of the full Authority or Sub-Committees**

### Order of business

- 9.1 The business to be conducted will be dealt with in the order set out in the agenda, unless the Chair decides to vary the order.
- 9.2 The format for the agenda will normally be as follows:
- Item 1: Welcome by the Chair
  - Item 2: Apologies for absence
  - Item 3: Declarations of interest
  - Item 4: Minutes of the last meeting
  - Item 5: Matters Arising
- Items for decision
- Items for information
- Last Item: Any other urgent business
- 9.3 At the March meeting of the full Authority, the first item on the agenda will be the election of the Chair of the Authority. For this item, the Clerk will take the chair to conduct the election.
- 9.4 The fourth item on the agenda for the March full Authority meeting will be the election of the Vice-Chair. This will come before the items for decision.
- 9.5 If the Chair and Vice-Chair are absent from a full Authority meeting, the election of a Chair from the councillors present for the duration of the meeting will become the first item on the agenda. For this item, the Clerk will take the chair to conduct the election.

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<sup>41</sup> Paragraph 40 Schedule 12, Local Government Act 1972

<sup>42</sup> Section 100C Local Government Act 1972

- 9.6 If it is necessary for the full Authority to appoint a member to a sub-committee, this will be the sixth item on the agenda and will come before the items for decision.
- 9.7 Urgent business items will only be taken at any meeting if the Chair is satisfied that the item is urgent and could not reasonably have been included in the published agenda for the meeting.
- 9.8 At the end of any meeting, the Chair may invite members to remain for informal discussion of matters put forward by officers or members, but these discussions will not form part of the business of the meeting and no formal decisions will be taken.

#### Exclusion of the public and the media from a meeting

- 9.9 The media and the public will be excluded from meetings whenever it is likely that exempt or confidential information will be disclosed.<sup>43</sup>
- 9.10 The decision to exclude the media and the public must be made by a resolution of the meeting which must state the reasons for the exclusion.<sup>44</sup> The reasons must be recorded in the minutes of the meeting.

#### Motions

- 9.11 A member may put forward a motion for debate at any meeting. The motion may propose the resolution contained in a paper for an item on the agenda, or a resolution formulated at the meeting if the paper contains options or no specific proposals, or it may propose an amendment to a resolution.
- 9.12 All motions must be seconded by another member present.
- 9.13 A motion may be put forward orally unless the Chair requires it to be put in writing. In this case, the written motion must be signed by the proposer and given to the Clerk as soon as it has been seconded.
- 9.14 Where the motion is an amendment to an original resolution, it must be considered and voted on before the resolution is put to the meeting. If the amendment is carried by a majority vote, the amended resolution becomes the substantive resolution to be considered by the meeting. Further amendments to the substantive resolution may be moved.
- 9.15 If an amendment is not carried, further amendments to the original resolution may be moved.
- 9.16 Members may put forward procedural motions during the course of a debate. These are as follows:
- to refer the matter to officers or to the full Authority or to a sub-committee, as relevant, for further consideration
  - to withdraw a motion
  - to postpone consideration of the matter
  - to move to a vote

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<sup>43</sup> Section 110A(2) and (3) Local Government Act 1972

<sup>44</sup> Section 110A(4) and (5) Local Government Act 1972

- to adjourn a meeting
- to suspend Standing Orders

#### Rules of debate

- 9.17 The CEO will decide in advance of a meeting who should present an item on the agenda. This will normally be the report author but may be a relevant senior manager or Eastern IFCA member where appropriate.
- 9.18 Following the presentation of the report, the Chair will open the item to general debate. In order to encourage participation by all members and support the consensual approach of the Eastern IFCA, debates will normally follow the procedure set out in paragraphs 9.19-9.27 below. (Where the Chair determines that a more formal process of debate is required, the procedure in paragraphs 9.28-9.34 below will be followed.)
- 9.19 Members will indicate their wish to speak by raising their hand. The Chair will aim to take speakers in the order in which they indicate.
- 9.20 At the Chair's discretion, members may speak more than once on an item.
- 9.21 In the course of debate, members may ask officers for clarification or information. At the Chair's discretion, officers may enter the debate to contribute information or explanations.
- 9.22 The Chair will determine when the debate should be closed.
- 9.23 Where the item requires a decision, and a resolution has been proposed in the paper, the Chair will put the resolution to the meeting and will ask for a mover and a seconder. If no amendments to the resolution are proposed, the Chair will put the resolution to the vote.
- 9.24 If a member indicates that they wish to amend the resolution, the Chair will request a seconder. The Chair will then invite the mover of the amendment to speak, before opening a general debate on the amendment.
- 9.25 When the debate has been closed, the Chair will put the amended resolution to the vote.
- 9.26 If the amendment is carried, it becomes the substantive resolution before the meeting. If no more amendments are proposed, the Chair will normally put the substantive resolution to the vote. If the Chair considers that further information or debate is required to enable members to take an informed decision on the substantive resolution, they may invite further general debate before putting it to the vote.
- 9.27 If a resolution, whether amended or not, is put to the vote and is not carried, the Chair will either invite members to put forward a new resolution for consideration or will defer the decision to a future meeting. In deciding the most appropriate course of action, the Chair will take the advice of the CEO (or, in the absence of the CEO, the most senior officer present at the meeting), and the Clerk.

#### Rules of formal debate

- 9.28 Should the Chair decide that a more formal structure for debate is necessary, the following procedure will be used.

- 9.29 Where the meeting is debating an original or substantive resolution (not an amendment) proposed by a member, speakers will be taken in the following order:
- The proposer of the resolution
  - The seconder of the resolution
  - Members in the order in which they indicate
  - The proposer of the resolution, exercising the right to reply
- 9.30 Where the meeting is considering an amendment to a resolution, speakers will be taken in the following order:
- The proposer of the amendment
  - The seconder of the amendment
  - Members in the order in which they indicate
- 9.31 The seconder can reserve their right to speak until later in the debate.
- 9.32 The proposer of an amendment will not have the right to reply. If the amendment is carried, they will be able to speak again to propose the substantive resolution.
- 9.33 Except for the proposer of an original or substantive resolution, members will only be entitled to speak once unless they are raising a point of information or a point of order. A point of information must offer relevant factual information or clarification only, and not include argument or opinion; a point of order must identify how the Authority's standing orders have been breached. The Chair will determine whether the point of information or order is admissible.
- 9.34 When the proposer has exercised the right to reply, the Chair will put the resolution to the vote.

#### Reconsidering resolutions agreed by the full Authority or a sub-committee

- 9.35 No resolution agreed by the full Authority or a sub-committee will normally be reconsidered within 6 months of the date the decision was made.
- 9.36 Where the CEO considers it necessary to reconsider a decision within this period, the agenda item will state the reason for considering the matter again and the changes proposed to the agreed resolution.

#### Voting

- 9.37 All members of the Eastern IFCA or of a sub-committee who are present at a meeting of the Authority or of the relevant sub-committee will be entitled to vote, unless they have declared an interest under the Members' Code of Conduct which prohibits them from voting, or the vote is on the setting of the Authority's annual budget.<sup>45</sup>
- 9.38 All members of the Authority can vote on the setting of the annual budget. Where there is a move to veto the total amount of the authority's expenses to be defrayed by individual councils for any particular financial year, in

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<sup>45</sup> Note that section 180(4) of the Marine and Coastal Access Act allows council members to veto the Authority's proposed budget

accordance with Section 180 (4) of the Marine and Coastal Access Act 2009 only council appointed members may vote on this.

- 9.39 Voting at all meetings will be by a show of hands unless the Chair or a member requests a recorded vote. In this case, the Clerk will ask each member present to declare their vote and this will be recorded in the minutes of the meeting.
- 9.40 A resolution or amendment will be deemed to be carried if it receives a simple majority of the votes of those present. Where an equal number of votes are cast for and against a resolution, the Chair of the meeting will have a second or casting vote.<sup>46</sup>

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<sup>46</sup> Paragraph 39(1)and(2) Schedule 12 Local Government Act 1972

### Suspension of rules of procedure

- 9.41 The rules of procedure set out in paragraphs 9.1-9.40 may be suspended by a vote of the majority of members present at a meeting, with the exception of paragraphs 9.1-9.10 and 9.35-9.40.

### **Section 10: Audio-visual recording devices**

- 10.1 Provided agenda items being discussed are open to the public anyone present can report the proceedings by either filming, photographing or audio recording for dissemination after the meeting or providing commentary on proceedings either orally or in writing as the meeting takes place. Items not for public discussion cannot be reported on. Members of the Authority should be notified at the commencement of the meeting of anyone wishing to record the proceedings.

### **Section 11: Sub-Committees of the Eastern IFCA**

- 11.1 The Authority may establish sub-committees with responsibility for considering or determining functions of the Eastern IFCA.<sup>47</sup>
- 11.2 A sub-committee's power to make decisions on behalf of the Eastern IFCA, or to make recommendations to the full Authority for determination, will be stated in the resolution establishing the sub-committee and will be included by the Clerk in the Eastern IFCA's Schedule of Delegations (Section 4 of the Eastern IFCA's Constitution).
- 11.3 With the agreement of the Chair of a sub-committee, the CEO can refer back to the full Authority for decision, a matter which has been delegated to a sub-committee, where it is in the interests of the Eastern IFCA that the matter is determined by the full Authority.<sup>48</sup>
- 11.4 A sub-committee may refer to the full Authority a matter which has been delegated to it where this is in interests of the Eastern IFCA and a majority of sub-committee members agree.<sup>49</sup>
- 11.5 Sub-committees will follow the Rules of Procedure for ordinary meetings set out paragraphs 9.1-9.40 (excluding 9.3-9.6).
- 11.6 The lead officer for the sub-committee will make a written report to the next meeting of the full Authority following the sub-committee's meeting, summarising the discussion and decisions or recommendations of the sub-committee.
- 11.7 Meetings of sub-committees will be held at locations which are convenient for members and which also provide access for the members of the public who might wish to attend.

### Quorum

- 11.8 The quorum for a sub-committee will be one third of the total membership.

### Membership

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<sup>47</sup> Article 17(1) Eastern IFCA Order 2010

<sup>48</sup> Article 17(3) Eastern IFCA Order 2010

<sup>49</sup> Article 17(3) Eastern IFCA Order 2010

- 11.9 Only members of the Eastern IFCA are eligible to be members of a sub-committee.<sup>50</sup> Any member is eligible to be appointed to any sub-committee.
- 11.10 Each sub-committee will consist of at least nine members of the Authority, including the Chair and Vice-Chair as ex-officio members. In the case of the Finance and HR sub-committee the Chair and Vice-Chair of the Authority will be full members of the sub-committee.
- 11.11 The Finance and HR sub-committee will comprise all council appointed members together with three non-elected members appointed by the Authority.
- 11.12 There is no limit to the term that a member can serve on a sub-committee.
- 11.13 Where a vacancy occurs as a result of a member leaving a sub-committee, a replacement member will be appointed by the full Authority at the next meeting following the vacancy.

#### Chair and Vice-Chair

- 11.14 With the exception of the Finance and HR sub-committee, any member of a sub-committee is eligible to stand as Chair or Vice-Chair. In the case of the Finance and HR sub-committee the, Chair and Vice-Chair will be the Chair and Vice-Chair of the full Authority.
- 11.15 For sub-committees other than Finance and HR, where the office of Chair or Vice-Chair becomes vacant, members of the sub-committee will elect a Chair or Vice-Chair at the next meeting following the vacancy. The Clerk will take the meeting to conduct the election of a Chair.
- 11.16 Nominations for the post of Chair or Vice-Chair will be made orally to the Clerk at the meeting and the election will be by majority vote of the members present.
- 11.17 If there are an equal number of votes for the members nominated, the Clerk will decide the election by lot.
- 11.18 In the absence of both the Chair and Vice-Chair of a sub-committee, the Chair or Vice-Chair of the Authority shall act as Chair for the duration of the meeting.
- 11.19 Should the Chairs and Vice-Chairs of the sub-committee and the Authority not be present, members of the sub-committee will elect one of their number as Chair for the duration of the meeting.

#### The role of the Chair of a sub-committee

- 11.20 The role of the Chair of a sub-committee of the Eastern IFCA is to:
- ensure that the sub-committee carries out its business efficiently and lawfully within the remit it has been given by the Authority and in line with the Authority's plans and policies, legal duties, Constitution and standing orders, and
  - enable members to participate fully in discussions and decisions so that the sub-committee can benefit from their experience and expertise, and their knowledge of the interests of the Eastern IFCA's communities and stakeholders.

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<sup>50</sup> Article 17(2) Eastern IFCA Order 2010

11.21 In fulfilling this role, the Chair will work closely with, and take advice from the Authority's CEO and professional officers and its Clerk.

11.22 The Chair will also represent the Eastern IFCA at meetings and functions if requested to do so by the Chair of the Authority and the CEO.

#### Substitutes

11.23 Any member of the Authority can act as a substitute for a member of a Sub-Committee.

11.24 A member who wishes to be substituted at a meeting will, before the date of the meeting, notify the Clerk of the name of the substitute.

### **Section 12: Appointment of working groups**

12.1 The Authority or any of its sub-committees may set up informal working groups to examine matters that are within the remit of the Authority or sub-committee. The resolution setting up the working group will define its terms or reference.

12.2 Any member or officer of the authority may be a member of a working group.

12.3 The working group will report back to the meeting that set it up.

12.4 A permanent Fisheries and Conservation Management working group will provide a forum for Authority members to engage with the development of management measures before they reach the point of presentation to the full Authority for consideration.

12.5 The Fisheries and Conservation Management Group will comprise all non-elected members and Council appointed members may also attend at their own discretion. Officers will attend meetings as required by the CEO. The Terms of Reference for the group are set out below.

<b>FISHERIES AND CONSERVATION MANAGEMENT WORKING GROUP</b>
<b>Function</b>
1. To enable Members to understand the development of fisheries and conservation management measures and to enable discussion of the same before they reach the point of presentation to the full Authority for decision.
2. To enable the knowledge, expertise and views of individual Authority Members to be considered in the development of management measures.
3. To facilitate engagement with relevant stakeholders e.g. fishing industry members, conservation groups etc.
4. To provide a 'sounding board' for management proposals.

## **Section 13: Participation in meetings by members of the public and representatives of partner organisations**

### Members of the public

- 13.1 All meetings of the full Authority and its sub-committees will be open to members of the public, except where a resolution to exclude the press and public has been agreed by the full Authority or the sub-committee.<sup>51</sup>
- 13.2 Members of the public may not make comments or ask questions at the meeting, unless invited to do so by the Chair of the meeting.
- 13.3 Members of the public may submit written questions or comments for consideration at a meeting. The question or comment should concern an item on the agenda for the meeting.
- 13.4 The question or comment must reach the CEO at least two days before the date of the meeting. The CEO and the Chair of the Authority will decide whether it is appropriate to put the matter to the meeting.
- 13.5 If it is decided not to put the matter to the meeting, the CEO will ensure that a prompt written response is sent to the member of the public concerned.
- 13.6 Members of the public can also ask individual members to raise issues at a meeting as long as the issue concerns an item on the agenda for the meeting.

### Representatives of the MMO, Natural England, the Environment Agency and other partner agencies

- 13.7 The members appointed by the Environment Agency and Natural England, and the member appointed as an MMO employee may invite a colleague or colleagues to present information with the prior consent of the CEO.
- 13.8 The CEO, in consultation with the Chair of the meeting, may allow representatives of other partner agencies to present information.

## **Section 14: Extraordinary Meetings**

- 14.1 After consulting the CEO, the relevant Chair or any three members may summon an extraordinary meeting of the full Authority or a sub-committee, for a reason relating to the functions of the Eastern IFCA that they consider urgent, by giving notice to the Clerk.
- 14.2 The Clerk will call a meeting of the full Authority or sub-committee within three clear working days of receiving such a notice.
- 14.3 The agenda for an extraordinary meeting will be as follows:
- Item 1: Welcome by the Chair
  - Item 2: Apologies for absence
  - Item 3: Declarations of interest
  - Item 4: The purpose for which an extraordinary meeting has been summoned

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<sup>51</sup> Section 100A Local Government Act 1972

Item 5: Any other urgent business

14.4 No other items, including minutes of the last meeting, will be taken at an extraordinary meeting.<sup>52</sup>

14.5 The rules of procedure set out in paragraphs 9.9-9.40 will apply to extraordinary meetings.

### **Section 15: Exempt information under Schedule 12A of the Local Government Act 1972**

15.1 The exemption categories referred to in paragraph 7.7 are as follows<sup>53</sup>:

- Information relating to any individual
- Information which is likely to reveal the identity of an individual
- Information relating to the financial or business affairs of any particular person (including the authority holding the information)
- Information relating to any consultations or negotiations or contemplated negotiations in connection with any labour relations matter arising between the authority or a minister of the Crown and employees of, or office holders under, the authority
- Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
- Information which reveals that the authority proposes –
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or;
  - (ii) to make an order or direction under any enactment
- Information relating to an action taken or to be taken in connection with the prevention, investigation or prosecution of crime

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<sup>52</sup> Paragraph 41(4) Schedule 12, Local Government Act 1972

<sup>53</sup> The exemption categories must be interpreted in the light of the Freedom of Information Act 2000 and the advice of the Information Commissioner

## CHAPTER 2: Code of Conduct for Non-Elected Members<sup>54</sup> of the Eastern Inshore Fisheries and Conservation Authority

### 1. Introduction

As a member of the Eastern Inshore Fisheries and Conservation Authority (Eastern IFCA), I have a responsibility to work constructively with staff, partner organisations and the wider community to manage the marine environment and inshore fisheries of the Eastern IFCA district in a sustainable and balanced way, taking full account of all the economic, social and environmental needs of the district.

When acting as a Member of the Eastern IFCA, I am committed to behaving in a manner that is consistent with the Nolan Committee's Principles of Public Life in order to maintain public confidence in the Eastern IFCA and to ensure the best use of its resources in the public interest.

### 2. Principles of Public Life

**Selflessness:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership:** Holders of public office should promote and support these principles by leadership and example.

### 3. My conduct as a Member

As a Member of the Eastern Inshore Fisheries and Conservation Authority, I will ensure that my conduct is in line with the Principles of Public Life by:

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<sup>54</sup> Members appointed by the Marine Management Organisation ('general members' S5(2)(b) EIFCA Order 2010), the Environment Agency and Natural England ('additional members' S5(2)(c) EIFCA Order 2010)

- Supporting the Authority's vision to lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry, and helping the Authority to achieve this vision.
- Dealing with representations or enquiries from our communities fairly, appropriately and impartially, and reporting these interactions to the Chief Executive so that appropriate management action can be taken.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing the interests of the Eastern IFCA or the good governance of the Authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member of this Authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by our communities.
- Contributing to making the Authority's decision-making processes as open and transparent as possible to enable our communities both to understand the reasoning behind decisions and to be well-informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and the Authority's staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Respecting the managerial and operational responsibilities of the Authority's staff and only interacting with them in relation to the management of the Authority through the Chief Executive or senior managers.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.
- Not acting in a way that could be perceived as counter to the stated aims or decisions of the Authority.

#### 4. Registering interests

I agree to disclose the following interests to be included in the Eastern IFCA Register of Members' Interests:

- Any employment, office, trade, profession or vocation carried on for profit or gain;
- Any payment or provision of any other financial benefit (other than from the Eastern IFCA) made or provided within the relevant period in respect of any expenses incurred by myself in carrying out duties as a member (including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- Any contract which is made between myself (or a body in which I have a beneficial interest) and Eastern IFCA under which goods or services are to be provided or works are to be executed which has not been fully discharged;
- Any beneficial interest in land which is within the Eastern IFCA district;
- Any licence (alone or jointly with others) to occupy land in the area of Eastern IFCA for a month or longer;
- Any tenancy where (to my knowledge) the landlord is Eastern IFCA and the tenant is a body in which the I have a beneficial interest;
- Any beneficial interest in securities of a body where –
  - that body (to my knowledge) has a place of business or land in the Eastern IFCA district; and
  - either –
    - the total nominal value of the securities exceeds “25,000 or one hundredth of the total issued share capital of that body; or
    - if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which I have a beneficial interest exceeds one hundredth of the total issued share capital of that class;

In relation to any of the following;

- Me Personally
- My spouse or civil partner
- A person with whom I am living as husband and wife
- A person with whom I am living as if we are civil partners
- Any organisation with which I or one of the people mentioned above is involved

I do not need to disclose this interest if the associated contract has been fully discharged.

I am aware that the Register of Members' Interests will be available for public inspection at the Eastern IFCA's office and is published on the Eastern IFCA website.

## **5. Sensitive interests**

If I reasonably believe that disclosing an interest (as defined in Section 4) could put me, or a person connected with me at risk of intimidation or violence, I will ask the Clerk to decide whether this is a sensitive interest and will provide him/her with all relevant evidence.

If I disagree with the Clerk's decision, I have the right to appeal to an appeals and complaints board made up of two council members (normally the Chair and Vice-Chair of the Authority), one general and one additional member of the Eastern IFCA. I agree to abide by the appeals and complaints board's decision.

A record of sensitive interests will be kept by the Clerk but only the existence of a sensitive interest will be included in the Register of Members' Interests.

## **6. Timescale for registering interests**

I will notify the Clerk in writing of my interests as described in Section 4 within 28 days of the adoption of this Code of Conduct by the Eastern IFCA or of my appointment/re-appointment to the Authority (whichever is later).

If my registered interests change, or I become aware of a new interest within one of the categories in Section 4, I will notify the Clerk in writing within 28 days of the date on which I become aware of the change or the new interest.

## **7. Declaring interests at meetings**

I agree to declare my registered interests at any meeting I attend where a relevant matter is being considered. If it has been agreed that the interest is sensitive, I will only have to declare that a sensitive interest exists.

I may have other interests in a matter being considered at a meeting I attend, that I do not have to include in the Register. These could be other pecuniary, or non-financial, interests (for example related to local fishing and/or marine environmental interests) which arise because the matter affects me, or someone connected with me, more than it affects the general population. I agree to declare these interests as they arise.

In deciding whether I should declare an interest of this type, I will consider whether a reasonable person who knew about the interest would consider that the principles of openness, transparency and accountability require that I declare it.

## **8. Voting at meetings**

I will not take part in the vote at a meeting for which I have a disclosable pecuniary interest (as set out in paragraph 4 above) in that matter.

I agree to accept the advice of the Chair on whether I can vote at a meeting on a matter in which I have declared an interest.

**9. Participating in discussion at meetings**

I will not take part in any discussions at a meeting of a matter for which I have a disclosable pecuniary interest (as set out in paragraph 4 above) except in accordance with any dispensation which has been granted to me.

When, under the authority of a dispensation, I am participating in discussions of a matter that directly or indirectly affects something in which I have a declared interest, I will ensure that my contributions relate only to the specialist knowledge or experience for which I was appointed to the Eastern IFCA, and do not improperly seek to favour my own interests or those of anyone connected with me.

I agree to accept the advice of the Chair on whether I can participate in a discussion at a meeting on a matter in which I have declared an interest.

**10. Delegated authority to make decisions alone**

If I have delegated authority to make decisions or carry out actions on behalf of the Authority, I will ensure that I do not do anything in connection with a matter in which I have an interest, apart from notifying the Chief Executive Officer at the earliest opportunity to ensure that the matter can be dealt with effectively in another way.

**11. Gifts and hospitality**

If I receive any gift or hospitality over the value of £25 related to my role as a member of the Authority, I will notify the Clerk in writing giving details of the gift or hospitality and the date I received it, for inclusion in the Eastern IFCA's Register of Gifts and Hospitality.

**SIGNED:**

**DATE:**

## **CHAPTER 3: Marine Management Organisation appointees: Terms and Conditions of Appointment**

### **Terms and conditions for appointment as a General Member of the Eastern Inshore Fishery and Conservation Authority Section 151(6)(c) Marine and Coastal Access Act 2009 – Updated April 2016**

#### **Introduction**

You have confirmed that you are willing to serve as one of the Marine Management Organisation (MMO) appointed General Members (an Appointee) to the Eastern Inshore Fishery and Conservation Authority (IFCA). Your knowledge and experience will be important in helping to provide sustainable management of the IFCA district. This important role will require commitment and active participation from you. The MMO has a responsibility under the Marine and Coastal Access Act 2009 (the Act) to set out the terms and conditions appointees are required to adhere to.

All MMO Appointees are required to agree to be bound by the terms and conditions set out below. Please sign and date the acceptance form on the attached letter and return it to us to confirm that you understand and agree to your appointment on the basis of these conditions.

#### **Terms and conditions**

1. The term of your initial appointment has been confirmed to you separately. Appointees may serve for a maximum of 10 years. Any period of appointment beyond the initial period will be subject to the requirements to maintain a balance of interests and experience on the Authority and will be at the MMO's absolute discretion. Any re-appointment after the initial period will be in accordance with the Nolan principles<sup>55</sup>, meaning that it will be based on evidence of satisfactory performance provided under the annual appraisal scheme for General Members. An appointee must continue to be legally eligible for re-appointment.
2. Guidance on the operation of the annual performance assessment scheme is attached at Annex 1. All appointees must agree to take a constructive part in their annual assessment. All appointees are expected to achieve satisfactory performance each year.
3. Officers employed by an IFCA will not be permitted to serve on that committee.
4. Appointees to IFCA's are legally required to take into account all the local fishing and marine conservation interests in the waters of the IFCA district, in a

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<sup>55</sup> Defra has issued formal guidance to the MMO on the exercise of the function of making appointments of IFCA general members. Your appointment has been made in accordance with this guidance which can be found here: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/347493/ifca\\_appointments\\_guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/347493/ifca_appointments_guidance.pdf)

balanced way, taking full account of all the economic, social and environmental needs of that district. Appointees should recognise that they are part of a committee and should not regard themselves as representing solely one particular interest within the IFCA district

5. Details of how the IFCA will operate, the election of chair and vice chair, together with the roles and responsibilities of the committee and its members will be set out in the IFCA standing orders and/or code of conduct for members. All appointees will be required to follow the procedures as set out under these orders. Appointees will be responsible and answerable to the chairman.
6. The committee ordinarily meet each quarter and, in addition it is envisaged that appointees will serve on sub-committees according to the requirements of the IFCA. The attendance of appointees at meetings of the committee, unless prevented by illness or other serious matter, is regarded as a condition of your appointment. Appointees with a poor attendance record, as identified by the IFCA chair or appropriate officer maybe required to stand down from the authority by the MMO in accordance with the guidance at Annex 2
7. Appointees are required to declare any outside interests that may impact in any way on their duties as IFCA authority members. If an appointee is unable to decide whether or not he or she has an interest that should be declared, guidance should be sought from the chair of the committee or the IFCA Chief Officer.
8. Appointees must declare any such interests prior to participation in any discussion of a relevant matter by the committee in order to allow for open and transparent discussions to take place.
9. Where interests are such that a decision to be made by the committee would directly or indirectly affect an interest of you as an appointee (or that of a business or other body in which you have an interest or that you represent), you may only participate in that decision to the extent permitted by the relevant IFCA Code of Conduct. It is recommended that you refer to the IFCA Code of Conduct for further guidance.
10. Appointees must not undermine the credibility of the IFCA. Appointees must not, in their official capacity or in any other circumstances, behave in a manner which could reasonably be regarded as bringing their office, the MMO, the IFCA committee or IFCA's in general into disrepute. Examples might include but are not limited to; misuse of social media, abuse of position, failure to declare a conflict of interest, consistent poor behaviour as an appointee. Breach of this clause could lead to termination of the appointment by the MMO.
11. Where issues relating to the conduct of an appointee cannot be resolved by the committee itself, the matter should be referred to the MMO who will decide in liaison with the IFCA chair (or the MMO representative, if it relates to the chair), if the appointment should be terminated or other action taken. Guidance on how such allegations will be dealt with by the MMO is attached as Annex 3

12. Any appointee found to have been convicted for an offence or receiving a monetary penalty under fisheries, nature conservation or marine licensing legislation will have their appointment automatically terminated and will not be eligible for re-appointment. Appointees who are convicted of other criminal offences may have their appointment terminated at the discretion of the IFCA. Any appointee who is arrested for any criminal offence or called to be formally interviewed about a fisheries, nature conservation or marine licensing offence (whether they attend such an interview or not) must inform the Chief Officer of the IFCA within 24 hours of arrest or request for interview. The Chief Officer will notify the MMO and the MMO reserves the right to suspend the appointment at its discretion until the conclusion of any investigation and/or prosecution.
13. Where an appointee is made aware of any conduct by another appointee or other IFCA committee member whom they reasonably believe is not compatible with the duties and responsibilities of such a committee member, they are required to make a written statement to that effect to the IFCA
14. Appointments to IFCAs are on a voluntary basis and it will be for IFCAs to decide whether allowances are payable to general members for any reason. IFCAs will set procedures and guidelines in relation to expenses and other claims at the beginning of each financial year, in accordance with relevant local authority or any other rules relevant to their IFCA.
15. Notification of a resignation - When an appointee wishes to resign from an IFCA committee, a resignation should be submitted in writing to the Chief Officer or other relevant head of service, who will then notify the MMO. The MMO will then be responsible for seeking an appropriate replacement, in co-ordination with the chair of the relevant IFCA committee.
16. All appointees are required to undertake training, as notified by the IFCA or MMO, including induction.

## **CHAPTER 4: Scheme of Delegations**

### **Responsibility for functions**

7. Chapter 4 of this Constitution sets out the extent to which the Authority's functions are:

- the responsibility of the full Authority;
- the responsibility of the Chief Executive Officer;
- the responsibility of Sub-Committees of the Authority.

The allocation of responsibilities is intended to ensure that responsibility for functions makes best use of roles, skills and experience.

- Full Authority - determination of the budget, policy framework, business plans, decisions on fisheries and conservation management measures and other constitutional and quasi legislative functions..
  - Chief Executive Officer - functions which involve the delivery of the vision of Eastern IFCA across the spectrum of the Authority's business.
  - All other functions are to be the responsibility of either the CEO or any Sub-Committees established by the Authority.
2. Within this framework all members have agreed that it is the role of Authority members to concentrate upon broad strategy and policy decisions and that it is essential that the CEO and subordinate managers have clear control and authority to operate within those parameters.
3. It is part of the role of Authority members to raise concerns, particularly those of stakeholders, and bring to the attention of the CEO matters of concern on any element of Eastern IFCA business. Members agree that their involvement in day to day management beyond this is unlikely to promote the most effective service. In exercising their delegated powers, the CEO shall consider the concerns and comments of Members whilst recognising their responsibility to manage delivery of Eastern IFCA outputs in accordance with the Authority's policy framework.

<b>MATTERS WHICH IT IS THE RESPONSIBILITY OF THE FULL AUTHORITY TO DISCHARGE</b>
<b>Functions</b>
17. Approving and adopting the Annual Budget and setting the levy to the County Councils. NB Authority to sign the orders for payment of money by the County Councils (levies) is delegated to the Chair (and in their absence, Vice-Chair) jointly with the CEO.
18. Receiving and approving reports from the Finance and HR sub-committee.
19. The Authority's strategic policy framework including: <ul style="list-style-type: none"> <li>a. Approving the annual Strategic Assessment</li> <li>b. Approving the Business Plan and oversight of delivery</li> <li>c. Approving the Annual Report</li> <li>d. Approving Biosecurity Plans</li> </ul>
20. The Authority's strategic enforcement framework, including: <ul style="list-style-type: none"> <li>a. Approving the Regulation and Compliance Strategy</li> <li>b. Approving the Enforcement Policy</li> <li>c. Approving policy for Financial Administrative Penalties for Fisheries Offences</li> </ul>
21. Managing sustainable and viable inshore fisheries and the environmental impact of fishing activity, including: <ul style="list-style-type: none"> <li>a. Approving non-regulatory management measures</li> <li>b. Making, varying and revoking byelaws</li> <li>c. Making, varying and revoking permit conditions</li> </ul>
22. Managing an environmentally acceptable, sustainable and viable fishery under the Wash Fishery Order 1992, including: <ul style="list-style-type: none"> <li>a. Agreeing Management Plans and Policies for each fishery</li> <li>b. Agreeing the licence structure and associated fees</li> <li>c. Agreeing the allocation of licences</li> <li>d. Making, varying and revoking Regulations under the WFO 1992</li> <li>e. Agreeing annual management measures for each fishery</li> </ul>
23. Agreeing the Constitution and Standing Orders including annual reviews and amendments.
24. Agreeing the terms of reference for Sub-Committees, their composition and making appointments to them.
25. Appointing Member representatives of the Authority to outside bodies.
26. Receiving reports on complaints against the Authority
27. Approving Memoranda of Understanding and other partnership initiatives agreed in principle by the CEO and Chair.
28. Receiving minutes of meeting of the Association of Inshore Fisheries and Conservation Authorities.
29. The Authority may delegate any of its powers to an individual member of the Authority or to the CEO except where the power falls to be discharged by a panel.

**MATTERS WHICH IT IS THE RESPONSIBILITY OF THE  
FINANCE & HR SUB-COMMITTEE TO DISCHARGE**

**Function**

1. Decision making powers for all strategic financial matters, including:
  - a. Approving for recommendation to the full Authority, the annual budget and the levy to the County Councils
  - b. Approving quarterly accounts
  - c. Approving statements of payments and monies received
  - d. Approving the annual Statement of Accounts
  - e. Approving transfers between accounts
  - f. Appointment of the Auditors
  - g. Approval of bank signatories
2. Agreeing the capital asset replacement programme (vessels and vehicles).
3. Agreeing arrangements for the provision of property (office accommodation, workshops, storage and moorings etc.) to meet operational requirements.
4. Agreeing and reviewing annually the Members' expenses scheme.
5. Waiving any of the procedures relating to contracts which are set out in the Financial Regulations.
6. Agreeing the sale of assets worth more than £10,000.
7. Receiving reports and agreeing action on bad debts.
8. Strategic Human Resources matters, including:
  - a. Staff levels and structure
  - b. Pay scales and allowances
9. Recruitment, remuneration and retention of the Chief Executive Officer and Executive Officers, including:
  - a. Approving the Job Description/Person Specification and selection process
  - b. Appointing interview panels for the recruitment process, who will ordinarily be drawn from this Sub-Committee and in the case of Executive Officers will also include the CEO and other Executive Officers as appropriate
  - c. Appointment of the CEO and Executive Officers

NB These decision-making powers are delegated to the Chair and Vice-Chair in conjunction with the CEO to enable action between scheduled meetings.
10. Disciplinary and Grievance appeals panels will ordinarily be chaired by the Chair the sub-committee, who will designate members of the panel from the sub-committee.
11. The Sub-Committee may delegate any of its powers to an individual member of the Sub-Committee or to the CEO except where the power falls to be discharged by a panel.
12. The Chair of the Sub-Committee, or the CEO in consultation with the Chair, may refer any of the matters set out above to the full Authority for determination, where this is in the Authority's interests.

<b>MATTERS WHICH IT IS THE RESPONSIBILITY OF THE CHIEF EXECUTIVE OFFICER TO DISCHARGE</b>	
<b>Functions</b>	
<b>Human Resources</b>	
1.	Being the Head of the Eastern IFCA's paid service and ensure that the Authority deals effectively and lawfully with day to day operational control of HR issues, including management of staff structure, recruitment, retention, welfare, training, disciplinary and grievance matters.
2.	Being ultimately responsible for all other HR matters that have not been delegated to the Finance & HR Sub-Committee or reserved to the full Authority.
<b>Protection and Conservation</b>	
3.	Delivery of the priorities identified in the Business Plan.
4.	Enforcement of all legislation relating to the management and policing of the inshore fisheries and the conservation of the marine environment in accordance with the Regulation and Compliance Strategy and Enforcement Policy.
5.	Determining, in accordance with the Enforcement Policy, enforcement outcomes, including instigating and taking legal proceedings for offences under any legislation which empowers the Authority to do so.
6.	Making emergency byelaws under Section 157 of the Marine and Coastal Access Act 2009 after consulting with the Chair and Vice Chair of the Authority. On making an emergency byelaw, the CEO must notify all Authority members.
7.	Ensuring that the Authority liaises and works in co-operation with other relevant organisations, including the MMO and other IFCAs.
8.	Being ultimately responsible for all fisheries management matters that have not been reserved to the full Authority or delegated to a Sub-Committee.
9.	Acting as a consultee for planning proposals and other issues that may affect or impact on fisheries resources or the marine environment within the Authority's District.
<b>Governance and Financial management</b>	
10.	Being the Responsible Financial Officer for the Eastern IFCA as defined in the Authority's Financial Regulations.
11.	Entering into and varying contracts on behalf of the Authority where these are necessary to implement the Authority's decisions or to discharge the responsibilities of the CEO and provide the best value for the Authority.
12.	Being responsible for all financial management matters that have not been delegated to the Finance & HR Sub-Committee or reserved to the full Authority.
13.	Acting as signatory in respect of permits, licences, agendas, cheques and other such Authority documentation.
14.	Ensuring that all governance, enforcement, financial management and HR policies and procedures are maintained in an accurate and up-to-date state and are adhered to by all staff and members.

15. Ensuring that all matters within the decision-making powers of the full Authority and its Sub-Committees are brought forward to the relevant forum in a timely manner and with all information necessary for a robust and lawful decision.
16. Receiving and investigating complaints against non-elected members of the Authority (including instigating investigations into apparent breaches of the Code of Conduct and/or Terms and Conditions of Appointment for non-elected members) and making recommendations to the appointing body. Referring complaints against elected members to the relevant County Council Monitoring Officer.
17. Ensuring the Authority's complaints procedure is implemented and monitored.
18. Ensuring the preparation and circulation of agendas, papers and minutes for all Authority and Sub-Committee meetings in line with legal requirements and the Eastern IFCA Constitution.
19. Attending, or being represented, at all meetings of the Authority, Sub-Committees, working groups, and other meetings and ensuring that advice is available on legal and procedural issues.
20. Ensuring the Authority meets its obligations under the Freedom of Information 2000, the Environment Information Regulations 2004 and the Data Protection Act 2018
<b>External representation and communications</b>
21. Ensuring that the Eastern IFCA is appropriately represented at meetings with other bodies such as DEFRA, MMO, Environment Agency, Natural England, Association of Inshore Fisheries and Conservation Authorities, county councils etc.
22. Ensuring effective communications between Eastern IFCA staff and members, and between the Authority and other bodies.
23. Maintaining effective community consultation, engagement and participation arrangements for the Authority that meet external and internal objectives.
24. Agreeing in principle Memoranda of Understanding and other partnership initiatives, including work streams under the Association of IFCAs, in consultation with the Chair.
<b>Powers of Delegation</b>
25. Delegating functions to another officer of the Eastern IFCA but remaining accountable for the outcome of such delegations.
<b>Provision for emergencies</b>
26. Where, in the opinion of the CEO (or their nominated deputy in their absence) a decision which is within the powers of the Authority or a Sub-Committee, but is not within the CEO's delegated powers, is urgently required by the Eastern IFCA, and cannot be delayed until an Authority or relevant Sub-Committee meeting is convened, the CEO may take the decision, having first consulted the Chairman and the Vice-Chairman of the Authority and, where relevant, the Sub-Committee Chair and Vice-Chair. All such decisions must be reported to the next meeting of the Authority and the relevant Sub-Committee.

## **CHAPTER 5: Financial Regulations 2017**

### **1 General**

- 1.1 These financial regulations shall govern the conduct of the financial transactions of the Authority and may only be amended or varied by resolution of the Authority.
- 1.2 The Responsible Financial Officer (RFO) shall be the Chief Executive Officer who shall be responsible for the proper administration of the Authority's financial affairs.
- 1.3 The RFO shall be responsible for the production of financial management information.

### **2 Annual Estimates**

- 2.1 Detailed estimates of income and expenditure on revenue services, and receipts and payments on capital account, shall be prepared each year by the RFO. Proposals in respect of revenue services and capital projects in a rolling five year forecast shall also be prepared each year by the RFO.
- 2.2 The Finance and Personnel Sub-Committee shall review the estimates and make a recommendation to the Authority not later than the end of January in each year on the precept to be levied for the ensuing financial year.
- 2.3 All expenses incurred by the Authority within the agreed budgets are to be met by the relevant County Councils.
- 2.4 Orders for the payment of money by the County Councils (Levies) must be signed by the Chair, or in the Chair's absence, the Vice-Chair, and the Chief Executive Officer.
- 2.5 The annual capital and revenue budgets shall form the basis of financial control for the ensuing year.

### **3 Budgetary Control**

- 3.1 Expenditure on the revenue account may be incurred up to the amounts included in the budget.
- 3.2 The RFO shall when requested provide the Authority with a statement of income and expenditure to date under each head of the approved annual revenue and capital budgets.
- 3.3 The RFO may incur expenditure on behalf of the Authority which is necessary to carry out any repair, replacement or other work which is of such extreme urgency that it must be done at once, whether or not there is any budgetary provision for the expenditure. The RFO shall report the action to the Authority as soon as practicable thereafter.
- 3.4 Unspent provisions in the revenue budget shall not be carried forward to a subsequent year other than as balances to reduce subsequent levy calls unless authorised by the Authority.
- 3.5 Notwithstanding 3.4 above, the RFO shall be responsible for identifying and establishing specific earmarked reserves where appropriate.

- 3.6 No expenditure shall be incurred in relation to any capital project and no contract entered into or tender accepted involving expenditure on capital account unless the Authority or Sub-Committee concerned are satisfied that it is contained in the rolling capital programme and that the necessary capital funds are available.,.
- 3.7 All capital works shall be administered in accordance with Authority's procedures and financial regulations relating to contracts.

#### **4 Accounts and Audit Commission**

- 4.1 All accounting procedures and financial records of the Authority shall be determined by the RFO as required by Regulation 4 of the Accounts and Audit Regulations 2015.
- 4.2 The RFO shall be responsible for completing the annual accounts of the Authority as soon as practicable after the end of the financial year and shall submit them to and report thereon to the Finance and Personnel Sub-Committee by no later than 30th June in any one year. The Finance and Personnel Sub-Committee is responsible for the approval of the annual Statement of Accounts prior to submission to the Authority at the July Authority Meeting.
- 4.3 The RFO shall be responsible for maintaining an adequate and effective system of internal audit of the Authority's accounting, financial and other operations in accordance with Regulation No.6 of the Accounts and Audit Regulations 2015.
- 4.3.1 As part of the effective system of internal audit the Authority shall appoint a suitable person who is removed from the decision making process of the Authority who shall be responsible for undertaking an internal audit from time to time but at least annually.
- 4.3.2 Any officer or member of the Authority shall, if the RFO requires, make available such documents of the Authority which relate to their accounting and other records as appear to the RFO to be necessary for the purpose of the audit and shall supply the RFO with such information and explanation as the RFO considers necessary for that purpose.

#### **5 Banking Arrangements and Cheques**

- 5.1 The Authority's banking arrangements shall be made by the RFO and approved by the Authority. A Current Account shall be maintained at the bank, to cover general expenses and a Salary & Wages Account to cover payroll. In addition to these the RFO is authorised to operate such bank accounts he/she may consider necessary in order to optimise income from interest bearing accounts.
- 5.2 A schedule of payments made and monies received shall be prepared by the RFO and presented to the Authority at their Meetings. If the schedule is in order it shall be authorised by a resolution of the Authority minuted, with such minutes signed/initialled by the Chair or Vice Chair.
- 5.3 Cheques, Direct Debits and Standing Orders drawn on the Current bank Account in accordance with the schedule referred to in the previous paragraph

shall be signed by two duly authorised signatories in accordance with current bank mandates resolved by the Authority.

Payments by BACs or by bank transfer are executed on line via a password protected system. Password is restricted to Head of Finance and the Finance Assistant.

## **6 Payment of Accounts**

- 6.1 All payments other than petty cash transactions shall be effected by means of electronic transfer or other order drawn on the Authority's bankers.
- 6.2 All invoices for payment shall be examined, verified and certified by the officer issuing the order. Before certifying an invoice, the officer shall satisfy him/herself that the work, goods or services to which the invoice relates have been received, carried out, examined and approved.
- 6.3 Duly certified invoices shall be passed to the Head of Finance who on behalf of the RFO shall examine them in relation to arithmetical accuracy and authorisation and shall code them to the appropriate expenditure head. The RFO shall take all possible steps to settle all invoices submitted, and which are in order, within 30 days of their receipt.
- 6.4 All duly certified invoices will be summarised in the schedule referred to in 5.2 above.

## **7 Payment of Salaries and Wages**

- 7.1 The payment of salaries and wages shall be made by or on behalf of the RFO from the payroll account in accordance with the payroll records.
- 7.2 All time sheets shall be certified as to accuracy by or on behalf of the RFO.

## **8 Investments**

- 8.1 All investments under the control of the Authority shall be negotiated by the RFO in the name of the Authority.
- 8.2 All investment certificates and other documents relating thereto shall be retained in the custody of the RFO.

## **9 Income**

- 9.1 The collection of all sums due to the Authority for work done, services rendered or goods supplied shall be the responsibility of, and under the supervision, of the RFO.
- 9.2 The RFO will review all fees and charges as necessary.
- 9.3 Any bad debts shall be reported to the Authority.
- 9.4 All sums received on behalf of the Authority shall either be paid to the RFO for banking or be banked by the officer collecting the money as directed by the RFO. In all cases all receipts shall be deposited with the Authority's bankers as soon as possible.
- 9.5 A reference to the related debt, or otherwise, indicating the origin of each cheque, shall be entered on the paying in slip.

9.6 Personal cheques shall not be cashed out of money held on behalf of the Authority.

## **10 Orders for Work, Goods and Services**

10.1 An official order or letter shall be issued for all work, goods and services unless a formal contract is to be prepared or an official order would be inappropriate e.g. petty cash purposes. Copies of orders issued shall be maintained.

10.2 Order books shall be controlled by the RFO.

10.3 All officers are responsible for obtaining value for money at all times. An officer issuing an official order is to ensure as far as reasonable and practicable that the best available terms are obtained in respect of each transaction.

10.4 All officers are required to comply with the requisite authorisation to undertake a transaction as specified in internal memoranda issued by the RFO.

## **11 Contracts**

11.1 Procedures as to contracts are as follows:

(a) Every contract whether made by the Authority or by a Sub-Committee to which the power of making contracts has been delegated shall comply with these procedures, and no exception from any of the following provisions of these procedures shall be made otherwise than by direction of the Authority or in an emergency by such a Sub-Committee as aforesaid provided that these procedures shall not apply to contracts which relate to items (i) to (v) below:

(i) for the supply, of gas, electricity, water, sewerage and telephone services

(ii) for specialist services such as are provided by solicitors, accountants, surveyors and planning consultants.

(iii) for work to be executed or goods or materials to be supplied which consist of repairs to or parts for existing machinery or equipment or plant.

(iv) for work to be executed or goods or materials to be supplied which constitute an extension of an existing contract by the Authority.

(v) for goods or materials proposed to be purchased which are proprietary articles and/or which are sold only at fixed price, or for which there is only one source of supply.

(b) Where it is intended to enter into a contract, other than specified in (c) below:

(i) exceeding £5,000 in value for the supply of goods or materials or for the execution of works or specialist services other than such goods, materials, works or specialist services as are excepted as set out on paragraph (a) the RFO shall invite quotations from at least three appropriate firms.

(ii) if less than three quotations are received or if all three quotations are identical the RFO may make such arrangements as he thinks fit for procuring the goods or materials or executing the works.

(c) Where it is intended to enter into a contract for major capital expenditure relating to e.g. new vessels and or their replacement, buildings etc. the RFO shall invite tenders from at least three appropriate firms.

(d) When applications are made to waive procedures relating to contracts to enable a tender to be negotiated without competition the reason shall be embodied in a recommendation to the Authority.

(e) Every exception made by a Sub-Committee to which the power of making contracts has been delegated shall be reported to the Authority and the report shall specify the emergency by which the exception shall have been justified.

(f) Such invitation to tender shall state the general nature of the intended contract and the RFO shall obtain the necessary technical assistance to prepare a specification in appropriate cases. The invitation shall in addition state that tenders must be addressed to the RFO and the last date by which such tenders should reach the RFO in the ordinary course of post. Each tendering firm shall be supplied with a specially marked envelope in which the tender is to be sealed and remain sealed until the prescribed date for opening tenders for that contract.

(g) All sealed tenders shall be opened at the same time on the prescribed date by the RFO or the properly authorised deputy in the presence of at least one member of the Authority.

(h) If less than three tenders are received or if all three tenders are identical the Authority may make such arrangements as it thinks fit for procuring the goods or materials or executing the works.

(i) The Authority shall not be obliged to accept the lowest of any tender. Justification of the chosen tender must be given in writing to the Authority.

(j) Any invitation to tender issued under these procedures shall contain a statement to the effect that procedures 11.1(c) to 11.1(i) will be adhered to.

## **12 Payments Under Contracts for Building or Other Construction Works**

12.1 Payments on account of the contract sum shall be made within the time specified in the contract by the RFO upon authorised certificates of the architect or other consultants engaged to supervise the contract.

12.2 Where contracts provide for payment by instalments the RFO shall maintain a record of all such payments. In any case when it is estimated that the total cost of work carried out under a contract, excluding fluctuation clauses, will exceed the contract sum by 1% or more a report shall be submitted to the appropriate Committee.

12.3 Any variation to a contract or addition to or omission from a contract must be approved by the RFO in writing, the appropriate Committee being informed where the final cost is likely to exceed the financial provision.

## **13 Assets**

13.1 The RFO shall make appropriate arrangement for the custody of all title deeds or assets owned by the Authority. The RFO shall ensure a record is maintained

of all assets owned by the Authority, recording the location, extent, plan, reference, purchase details, nature of the interest, tenancies granted, rents payable and purpose for which held in accordance with Regulation No.4(3)(b) of the Account and Audit Regulations 1996.

- 13.2 No asset exceeding the £10,000 de-minimis level recommended by District Audit shall be sold, leased or otherwise disposed of without the authority of the Authority.

#### **14 Insurance**

- 14.1 The RFO shall effect all insurances and negotiate all claims on the Authority's insurers.
- 14.2 The RFO shall be responsible for insuring all new risks, properties, vessels or vehicles and any alterations affecting existing insurances.
- 14.3 The RFO shall keep a record of all insurances effected by the Authority and the property and risks covered thereby and annually review it.
- 14.4 The RFO shall be notified of any loss liability or damage or of any event likely to lead to a claim.
- 14.5 All members and employees of the Authority shall be included in suitable fidelity guarantee, professional indemnity, and Directors and Officers insurances.

#### **15 Revisions of Financial Regulations**

- 15.1 It shall be the duty of the RFO to review the financial regulations at a maximum interval of two years and to report to the Authority accordingly.



## **Anti – Fraud and Corruption Policy**

April 2013

## **Contents**

1. Introduction
2. What is fraud and corruption
3. The Bribery Act
4. Culture
5. Responsibility for the Authority's internal control systems
6. Reporting concerns
7. Assessing allegations of fraud or corruption
8. Investigating allegations of fraud or corruption
9. Publicity and training

## **Appendices**

Appendix 1 Table of adequate procedures

## **1. Introduction**

In order to achieve the Authority's objectives, protect its integrity, enhance its reputation and maximise its resources, the Eastern IFCA will not tolerate any level of fraud or corruption in the organisation. This policy demonstrates that the Authority has effective governance arrangements in place to prevent fraud and corruption as far as it is possible to do so, and to detect, investigate and deal effectively with any incidents that might occur.

The policy applies to all Members of the Authority, and to all Authority staff whether permanent, temporary, fixed term, full- or part-time, casual employees or volunteers, as well as to any consultants, contractors, agents or intermediaries engaged to work for the Authority or on its behalf.

It is the responsibility of the Chief Executive Officer (CEO) and all managers within the Eastern IFCA to make sure that all staff are aware of the Anti-Fraud and Corruption policy and comply with it.

The CEO and the Chair of the Authority are responsible for ensuring that all Members are aware of the policy and comply with it and that the public are aware of the policy.

The Authority will follow its disciplinary procedure up to and including dismissal and where appropriate, will seek to prosecute anyone who engages in corrupt practices against, steals from, or defrauds the Authority and will seek to recover the proceeds of any such actions from identified offenders.

## **2. What is fraud and corruption?**

The following definitions, as well as those contained in relevant legislation, illustrate the Authority's approach to fraud and corruption:

- Fraud includes any dishonest act or intention which involves the misuse of any assets or information held by, or on behalf of, the Authority with the aim of achieving gain or advantage for any person, or causing loss or disadvantage to any person.
- Theft includes intentional, dishonest and unlawful borrowing, misappropriation or misuse of the Authority's assets or facilities.
- Corruption includes:
  - the offering, giving, soliciting or acceptance of an inducement or reward intended to influence the action of any Member;
  - situations where any Member, employee, volunteer, contractor, agent or intermediary of the Authority intentionally makes or promotes a decision which is contrary to the Authority's decision-making policy and/or procedures, and is based on no sound reasoning, with the intention of giving any person an unfair advantage or disadvantage.

## **3. The Bribery Act 2010**

Bribery can be defined as offering, promising or providing an inducement or reward in order to obtain personal, commercial, regulatory or contractual advantage. As a public organisation, the Eastern IFCA is subject to the Bribery Act 2010 which creates the following offences:

- to offer, promise or give a bribe (Section 1);
- to request, agree to receive, or accept a bribe (Section 2);

- to bribe a foreign public official (Section 6).

Failure by a commercial organisation to prevent bribery that is intended to obtain advantage for the organisation in the conduct of business is an offence under Section 7 of the Act. An unincorporated public body can be a commercial organisation for the purposes of Section 7 if it engages in commercial activity, regardless of the use of any profits made.

On 27 July 2011, the Authority agreed a table of 'adequate procedures' intended to demonstrate the measures it had taken to prevent bribery as required under the Act. This is attached as Appendix 1

### **Culture**

The Authority is determined that the culture and tone of the organisation is one of honesty and opposition to fraud and corruption.

There is both an expectation and requirement that Authority members and staff, at all levels, will lead by example in these matters and that all individuals and organisations associated in whatever way with the Authority, will act with integrity.

To support this culture, the Authority has in place the following corporate governance arrangements relevant to the prevention and detection of fraud:

- Sound and effective internal systems of financial, management and ethical control.
- A Constitution including Standing Orders (Chapter 1), a Code of Conduct for Non-elected Members (Chapter 2), Marine Management Organisation terms of appointment (Chapter 3), a Scheme of Delegations (Chapter 4), Financial Regulations (Chapter 5), and this Anti-Fraud and Corruption Policy (Chapter 6).
- Codes of conduct for elected and non-elected Authority Members and a procedure for dealing with complaints against Members together with registers of interests and of gifts/hospitality.
- Up-to-date staff and management procedures and policies including expense claims, disciplinary and grievance, Whistleblowing and staff code of conduct.
- A risk register which includes the risk of fraud, corruption and bribery.
- An Enforcement and Compliance procedure

All Eastern IFCA Members and employees must comply with the code of conduct relevant to them:

- for Members: the Non-elected Members' Code of Conduct or the Codes of Members' Conduct of Lincolnshire, Norfolk and Suffolk County Councils, as appropriate;
- for employees: the Staff Code of Conduct and Behaviour

## **5. Responsibility for the Authority's internal control systems**

### Chief Executive Officer

The CEO has overall responsibility for establishing and maintaining Authority's systems of financial, management and ethical control and ensuring compliance with those systems, The CEO is also the Eastern IFCA's Responsible Financial Officer for the purposes of the Authority's Financial Regulations.

The CEO is responsible for:

- the Authority's anti-fraud and corruption culture;
- ensuring appropriate and effective risk management, including the risks related to fraud, corruption and bribery;
- ensuring effective fraud prevention, detection and investigation systems and procedures.

### Executive Officers

The CEO, Head of Operations and Head of Finance & HR are responsible for:

- identifying the fraud, corruption and bribery risks involved in their respective operational area;
- ensuring an adequate assessment of each risk;
- devising appropriate anti-fraud, corruption and bribery controls and incorporating them in all systems and processes for each operational area;
- regularly reviewing and testing the control systems in each area;
- should incidents of fraud, corruption or bribery take place, devising and implementing new controls to improve prevention and detection in order reduce the risk of further incidents occurring.

### Line managers

Line managers are responsible for:

- ensuring that their staff comply with the Anti-Fraud and Corruption Policy, and the Authority's other policies, procedures and codes of conduct;
- Reviewing responsibilities with their employees and ensuring refresher training is arranged as appropriate
- promptly reporting suspicions, concerns or allegations about fraud, corruption or bribery to the appropriate of Service or the CEO.

## **6. Reporting concerns**

Staff should report any suspicions of, or concerns about, fraud, corruption or bribery to their line manager, a member of the Executive team or directly to the CEO. A line manager or Executive officer who receives a report from a member of staff will refer it to the CEO without delay. (Where the report concerns the CEO, the referral will be to the Chair of the Authority, or the Vice-Chair in the Chair's absence.)

The Authority has a Whistleblowing procedure for staff who wish particular confidentiality in reporting genuine concerns about wrongdoing at work, and feel they need to go outside the usual management structure.

Authority Members should report suspicions or concerns about fraud, corruption or bribery to the CEO.

Members of the public can report concerns to the CEO, or to any Authority member, employee, volunteer, consultant, contractor or agent/intermediary. Anyone who receives such a report must refer it to the CEO without delay.

## **7. Assessing allegations of fraud or corruption**

All allegations will be dealt with in confidence and promptly assessed by the CEO to establish whether further investigation is required. The CEO will report the outcome

of the assessment to the Chair and Vice-Chair of the Authority and the Chair of the Finance & Personnel Sub-Committee, and will state whether further action is required, such as further investigation, referral to the police and/or implementation of the Authority's disciplinary procedures.

Where the matter concerns the CEO, it will be for the Chair of the Authority or, in their absence, the Vice-Chair, to arrange an assessment in line with the advice of the Authority's contracted legal adviser. The legal adviser will report the outcome of the assessment to the Chair and Vice-Chair and the Chair of the Finance & Personnel Sub-Committee and will recommend further action as required by the Chair of the Authority (or in their absence, the Vice-Chair).

Where the matter concerns any of the office-holders indicated above, they will be excluded from this process.

## **8. Investigating allegations of fraud or corruption**

The Chief Executive Officer will ensure that:

- either an internal or external investigator, as appropriate, is promptly appointed to investigate, taking advice from the Authority's contracted legal adviser as necessary;
- the method of investigation will comply with the standards necessary to support criminal or disciplinary action, should this be outcome, and will avoid prejudicing any such outcome;

Decisions on suspending an officer or member concerned in an allegation of fraud or corruption will be taken according to the Authority's staff disciplinary procedures and codes of employee and Member conduct.

The CEO will report to the Chair and Vice-Chair of the Authority and the Chair of the Finance & Personnel Sub-Committee the outcome of investigations and the remedial actions that have been, or will be, taken. A report will also be made to the next appropriate Finance & Personnel Sub-Committee and quarterly Authority meeting.

Where the allegation concerns the CEO, the Chair of the Authority will take all necessary actions in line with the advice of the Authority's contracted legal adviser and in consultation with the Vice-Chair of the Authority and the Chair of the Finance & Personnel Sub-Committee. Where the allegation concerns any of the office-holders named above, they will be excluded from the process.

## **9. Publicity and Training**

The Authority recognises that the continuing success of its Anti-Fraud and Corruption Policy and its general credibility will depend largely on the effectiveness of publicity, programmed training and responsiveness of staff throughout the Authority.

To facilitate this, the Authority supports the concept of induction and re-training, particularly for staff involved with internal control systems, to ensure that their responsibilities and duties are regularly highlighted and reinforced.

The CEO will ensure that this policy is available to members of the public as part of the Authority's Constitution.

## Appendix 1

### Agreed by the Authority on 27/7/11 as Agenda Item 11 'Adequate procedures' under the Bribery Act

#### Bribery Act 2010 - - - - - Risk & Mitigation

Type of Activity	Agents	Mitigation
Purchasing and Procurement	Administrative staff, Executive staff	<ul style="list-style-type: none"> <li>Financial regulations for operating</li> <li>Whistle blowing policy</li> <li>Annual Internal Audit by Norfolk County Council</li> <li>Annual External Audit</li> </ul>
Personnel and Management	Administrative staff, Executive staff and Authority Members	<ul style="list-style-type: none"> <li>Use of a 'Recruitment Protocol' to confirm need and appropriateness</li> <li>Competitive advertising and recruitment process including use of interview panel</li> <li>Restricted and recorded access to personnel information</li> </ul>
Allocation and management of Wash Fishery Order 1992 Entitlements/Licenses	Administrative staff, Executive staff and Authority Members	<ul style="list-style-type: none"> <li>Decisions made by the Marine Protected Areas Sub-Committee</li> <li>Authority meetings open to public scrutiny, including minutes of decisions</li> <li>Authority Members subject to Code of Conduct and Standing Orders</li> </ul>
Allocation and management of Wash Fishery Order 1992 Lays	Administrative staff, Executive staff and Authority Members	<ul style="list-style-type: none"> <li>Decisions made by the Marine Protected Areas Sub-Committee</li> <li>Authority meetings open to public scrutiny, including minutes of decisions</li> <li>Authority Members subject to Code of Conduct and Standing Orders</li> </ul>
Quota management	Research staff, Executive staff and Authority Members	<ul style="list-style-type: none"> <li>Agreed sampling regime and peer review of results</li> <li>Appropriate Assessment submitted to Natural England</li> <li>Checking of landings both at quayside, through the Marine Management Organisation and processors</li> </ul>
Compliance (Including inspection of catch, method monitoring and infringement notices)	Warranted Officers, Executive staff,	<ul style="list-style-type: none"> <li>Warranted Officers undergo pre employment drugs testing and Police vetting</li> <li>Lone worker arrangements, including follow up and vehicle support</li> <li>Reporting requirements for Warranted Officers</li> <li>Fixed Administrative Penalties submitted to the Marine Management Organisation for consideration</li> </ul>
Fisheries Prosecutions	Warranted Officers, Executive staff, Authority Chair and Vice-Chair	<ul style="list-style-type: none"> <li>Warranted Officers undergo pre employment drugs testing and Police vetting</li> <li>Large enforcement operations completed with multiple officers with peer review</li> <li>Review of case notes by 'Investigating Officer' and 'Disclosure Officer'</li> <li>Inclusion of legal advice in the process and at review</li> <li>Decision to prosecute taken by Chair and Vice-Chair of the Authority</li> <li>Fixed Administrative Penalties submitted to the Marine Management Organisation for consideration</li> </ul>

Policy setting and review	Executive and Authority Members	<ul style="list-style-type: none"> <li>• Authority meetings open to public scrutiny, including minutes of decisions</li> <li>• Authority Members subject to Code of Conduct and Standing Orders Policy</li> <li>• Policy papers are prepared and peer reviewed</li> </ul>
Development of marine conservation management measures (e.g. Codes of practice, voluntary agreements, byelaws etc)	Research/Environment staff, Executive and Authority Members	<ul style="list-style-type: none"> <li>• Objectives of Marine Conservation Zones set out by Defra and the Marine Management Organisation</li> <li>• Implementation agreed in meetings representative of the community, and subject to public scrutiny</li> </ul>

### Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



## Action Item 9

### 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting

15<sup>th</sup> May 2019

**Report by:** Julian Gregory, CEO

### Meeting of the Planning and Communications Sub-Committee

#### **Purpose of report**

The purpose of this paper is to update members on the Planning and Communication sub-committee (P&C S-C) meeting held on 13<sup>th</sup> March 2019.

#### **Recommendations**

Members are asked to:

- **Note** the content of the report

#### **Report**

The P&C sub-committee met on 13<sup>th</sup> March to transact the following business:

- Consider the 2019 Strategic Assessment
- Approve the Business Plan 2019-2024

#### **Outcomes**

##### 2019 Strategic Assessment

An annual assessment of Eastern IFCA fisheries is undertaken each year. The Strategic Assessment is used to identify the highest risk elements of all the fisheries in the district, including fisheries sustainability and viability and environmental impacts.

This assessment was introduced in 2014 and each iteration of the assessment has been subject to update and development to ensure outputs are relevant and take into account all the available evidence.

The Strategic Assessment draws on a data driven analysis (the initial assessment) and contextual knowledge of officers (the contextual assessment) to objectively identify potential work-streams and assign a priority based on the risk. This is used to inform the annual priorities set out in the rolling five-year Business Plan.

The Strategic Assessment 2019 and associated priorities for the year were approved.

## Business Plan 2019-24

The rolling five-year Business Plan provides the strategic framework within which Eastern IFCA operates and describes our ability to deliver against our vision and priorities. This is demonstrated by setting out factors such as effective leadership arrangements; the strength of the team in terms of experience, qualifications and skills; being appropriately equipped; operating effectively and; effective financial management.

The plan provides the strategic framework within which Eastern IFCA operates and describes our ability to deliver against our vision and priorities. This is demonstrated by setting out factors such as effective leadership arrangements; the strength of the team in terms of experience, qualifications and skills; being appropriately equipped; operating effectively and; effective financial management.

An important element of this approach is to demonstrate that the work of Eastern IFCA is an investment in the local marine environment and to develop a narrative that would lead contributing authorities to view funding in that context rather than simply being another demand on hard pressed finances.

The plan shows a clear linkage to Defra's vision and strategy and to the 25-year Environment Plan because, although IFCAs are not Defra bodies, they do deliver into the Defra remit and understanding the link demonstrates the wider awareness of Eastern IFCA. The Business Plan also incorporates the Success Criterion and High-Level Objectives, which will guide the work of Eastern IFCA during the next four to five years.

The Business Plan 2019-24, including the priorities and plans for 2019-20, was agreed by the sub-committee.

The overall priorities, and critical work streams for 2019-20 together with supplementary priorities can be found at Appendix A.

## **Appendices**

Appendix A – Business Plan 2019-24 priorities, critical work streams and secondary priorities

## **Background Papers**

- Strategic Assessment 2019
- Eastern IFCA Business Plan 2019-2024
- Unconfirmed minutes of the Planning and Communications sub-committee held on 13<sup>th</sup> March 2019

## Appendix A

### Eastern IFCA Priorities 2019-20

*The table below sets out the work-streams which were identified as of high priority by the Strategic Assessment 2019. Whilst some will be completed within year the complexities involved, particularly where regulation is required, mean that some are intended to roll into 2020-21 and possibly beyond. Furthermore, some priorities for 2018-19 reflect priorities which have rolled over from previous years.*

*In addition, each work-stream has been assigned a supplementary priority. Where resource limitations call for work-streams to be re-prioritised, these are used to inform which work should be the focus of available resources.*

Priorities for 2019-20	Priority
1. To ensure that the conservation objectives of Marine Protected Areas in the district are furthered by: <ul style="list-style-type: none"> <li>a) Development of management measures for 'red-risk' gear/feature interactions in the Inner Dowsing, Race Bank and North Ridge SCI, and the Haisborough, Hammond &amp; Winterton SCI.</li> <li>b) Assessing the impact of fishing activities on the Cromer Shoal Chalk Beds (MCZ) and delivering management measures (if required).</li> <li>c) Development of priority Monitoring and Control plans as identified by the strategic assessment.</li> <li>d) Completion of amber/green gear/feature interactions. Development of management measures where required.</li> </ul>	High High Medium High
2. To ensure that sea fisheries resources are exploited sustainably and in accordance with MSFD requirements: <ul style="list-style-type: none"> <li>a) Development of management measures in relation to shrimp fisheries sustainability.</li> <li>b) Development of management measures in relation to crab and lobster fisheries sustainability.</li> </ul>	Medium High
3. To ensure that the marine environment is protected from the effect of exploitation by reviewing district wide bio-security measures including management of invasive, non-native species by: <ul style="list-style-type: none"> <li>a) Development of district wide biosecurity measures</li> <li>b) Implementation of WFO Shellfish Lay lease conditions</li> </ul>	High Medium
4. To develop management of the fisheries regulated under the WFO (regulated and several fishery) <ul style="list-style-type: none"> <li>a) Continued development of WFO policies.</li> <li>b) Replacement of WFO 1992</li> <li>c) Implementation of proposed licence fees, fisheries management plan and Regulations.</li> </ul>	High Medium High
5. Obtaining better fisheries data <ul style="list-style-type: none"> <li>a) Implementation of I-VMS for all fisheries</li> </ul>	High

## **'Business as Usual' – Critical Work-streams 2019-20**

The Strategic Assessment indicates where risks in relation to a fishery or species are mitigated because of established work streams. The cessation of such work streams has the potential to increase risk associated with a fishery. Such identified work streams are set out below to provide context for the identified 'new' priorities identified through the Strategic Assessment.

### **SWEEP**

The SWEEP project has been reviewed and it has been determined that evaluating the food carrying capacity is beyond our resources/capability. We will continue monitoring the chlorophyll and cockle and mussel meat yields required by the model used as mitigation within the associated HRA. New sondes have been purchased to conduct this monitoring regime.

### **WFO surveys**

Annual surveys of cockle and mussel stocks within The Wash are a significant undertaking. These surveys do however, provide a level of fisheries evidence which is not reflected in any other fishery within the district. There is currently a review ongoing regarding the type and extent of sampling regime required. The associated fisheries are considered a low risk primarily because of our understanding of stock dynamics but also reflect the mechanism in place for managing the fisheries (The Wash Fishery order) and its associated tools (Fisheries Management Plan).

### **Whelk management / research**

The risk associated with the Whelk fisheries was high during the 2015 Strategic Assessment. Subsequent development of management measures has significantly reduced the risk associated with the fishery.

Data collection and research projects associated with stock assessments are ongoing and are established work streams intended to continue over time. Work relating to the size at maturity (to inform an appropriate minimum landing size) and analysis of effort and landings data (to inform the appropriate number of pots per vessel) is required to mitigate residual risk associated with the fishery. Review of the whelk permit byelaw is required.

### **Crab and lobster research**

Analysis of Monthly Shellfish Activity Reports (MSAR) data in relation to crustacean management is undertaken routinely. This data is augmented by 'bio-sampling' data which is also routinely collected by officers in the field. Whilst the current dataset relating to this requires development (as highlighted in the assessment) the continuation of the established processes is needed to prevent risk from increasing.

### **Risk of conflicts with other marine users**

The present assessment focusses on sustainability issues which are within Eastern IFCA's envelope of influence. Other marine users also compete for space and resource within the marine environment and such activity is increasing over time.

Eastern IFCA is a statutory consultee within the Marine Licencing System. Where new plans or projects are proposed within the district, Eastern IFCA highlights potential conflicts with fisheries sustainability.

### **Enforcement**

Enforcement activity is primarily driven through the Compliance Risk Register and Tactical Coordinating Group meetings (which considers intelligence, emerging issues, fishing trends and the monthly risk profile).

Enforcement activity is influenced by the outputs of the Strategic Assessment as this identifies the fisheries most at risk of sustainability issues (and by extension, those potentially most vulnerable to negative impacts through non-compliance).

### **Complete HRAs in relation to 'unplanned' fisheries**

Mussel fisheries (sub-tidal seed mussel fisheries in particular) have the potential to occur throughout the year. Where such a fishery is detected by fishers, officers have a limited amount of time to develop management measures and a HRA for the fishery (particularly in sub-tidal fisheries which are ephemeral). In the event one does occur, the economic benefit of the fishery is relatively high (as mussel is usually used in local aquaculture).

### **Landings Obligation**

Work around education and engagement with regards to the landing obligation. (supporting role). This is because the landing obligation is resulting in changes to how fisheries in the district operate.

### **Identification of future priorities 2019-20**

Given the finite resources available to the organisation it is necessary to prioritise work-streams. As such items that might be worthy of action but are of a lower priority will not be identified for action during a financial year. They may, though, receive attention if resources permit and may receive a higher priority in subsequent years, subject to the annual Strategic Assessment. These are referred to as secondary priorities and those identified by the Strategic Assessment 2019 are listed below.

1. Obtaining better fisheries data
  - a) Continue dialogue with MMO in relation to development of under 10m vessel reporting.
  - b) Development of relationships with RSA to obtain more fisheries data.
  - c) Further develop the mechanism to obtain voluntary data from commercial fishers in light of possible changes to important commercial species (reduced ability to depend on Bass and Cod).

- d) Continue dialogue with MMO and other partner organisations to develop 'joined-up' approach to gathering fisheries data from fishers.
- 2. Delivering fisheries management in relation to fisheries in MPAs
  - a) Re-assess need to deliver 'unregulated netting' in the context of BNA.
  - b) Review the Humber estuary cockle byelaw (inherited from North Eastern Sea Fisheries Committee)

### Vision

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### Action Item 10

## 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting

15<sup>th</sup> May 2019

**Report by:** Andrew Bakewell – Head of Finance & HR

### **Payments made and monies received during the period 1<sup>st</sup> January 2019 to 31<sup>st</sup> March 2019**

#### **Recommendations**

Members are asked to:

- **Note** the content of the paper

#### **Background**

It is an audit requirement that the Authority's receipts and payments are presented to Members on a quarterly basis.

The report on Payments made and monies received during the period 1st January to 31<sup>st</sup> March are shown in the table below.

The payments have been made in accordance with EIFCA's Financial Regulations and the necessary processes and approvals have been carried out.

#### **Background documents**

There are no background documents to this paper

**Finance Officer's Report on Payments Made and Monies Received during the period**  
**1<sup>st</sup> January 2019 to 31<sup>st</sup> March 2019**

**Payments made during the period 1<sup>st</sup> January 2019 to 31<sup>st</sup> March 2019**

	<b>Month 10</b>	<b>Month 11</b>	<b>Month 12</b>	<b>TOTAL</b>
	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
Transfers to EIFCA Salaries Acct.	85,000.00	165,000.00	985.47	250,985.47
Rent, Rates & Service Charges	2,474.87	750.39	10,164.29	13,389.55
General Establishment	6,975.08	2,708.45	41,515.46	51,198.99
Legal Fees		2,760.10	176.80	2,936.80
Staff Travelling & Subsistence	2,386.46	3,409.68	1,577.34	7,373.48
Members' Allowances	465.91			465.91
Training	525.00	8,053.80		8,578.80
Moorings/Harbour Dues	89.67	459.14	2,705.22	3,254.03
Three Counties Operating Costs	4,077.85	41,648.45	1,691.67	47,417.97
FPV JA & ST –Operating Costs	1,377.38	499.90	766.74	2,644.02
Vehicle Operating Costs	1,144.48	684.91	11,257.49	13,086.88
Communication and Development	2,700.00		50.00	2,750.00
Marine Science	190.16	163.33	801.03	1,154.52
Enforcement		3,176.20	3,111.91	6,288.11
Wash & Nth Norf. EMS Project	4,295.53	256.39	1,809.99	6,361.91
Wash Fishery Order			3,241.17	3,247.17
Assets				
Petty Cash				
VAT recoverable (Quarter)	4,636.26	4,376.88	12,112.76	21,125.90
<b>TOTAL PAYMENTS MADE</b>	<b>116,338.65</b>	<b>233,947.62</b>	<b>91,967.34</b>	<b>442,253.61</b>

**Monies received during the period January 2019 to March 2019**

	<b>Month 10</b>	<b>Month 11</b>	<b>Month 12</b>	<b>TOTAL</b>
	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
Levies			514,754.00	514,754.00
WFO – Licences			150.00	150.00
WFO – Tolls			180.00	180.00
Whelk licences	33.90	23.70	1,480.00	1,537.60
Wash & North Norfolk Coast EMS		3,000.00	3,700.00	6,700.00
VAT	12,772.68		22,761.84	35,534.52
Fixed Penalty Fine				
EHO sampling				
Lay rents	389.89			389.89
Court costs			1,550.00	1,550.00
Interest				
Asset Sales			200.00	200.00
Miscellaneous	443.45	180.15	838.81	1,462.41
<b>TOTAL MONIES RECEIVED</b>	<b>13,639.92</b>	<b>3,203.85</b>	<b>545,614.65</b>	<b>562,458.42</b>

**Notes**

## **Expenses**

Premises costs – Month 12 includes quarterly rent for the offices (£6,406) and Unit A (£2,260).

General Establishment – (Month 12) Includes £39,500 of subscriptions for 2019/20 for AIFCA (£12,000), IT Support (£25,200), Science Direct (£1,648) and others (£650). (Month 10) includes £991 for 19/20 Software licences and £1,036 quarterly mobile phone bill.

Legal Fees – The £2,760 spend in month 11 related to charges from Andrew Jackson for advice and representation in a successful prosecution.

Training – Conflict resolution training for all Marine Protection staff, delivered by Niton (£5,487) and share of the cost of the AIFCA National Trainer (£1,500) were paid in month 11.

Three Counties – Cost of refit (£37,000) was paid in month 11.

Vehicles – Month 12 includes £9,712 insurance premium for Fleet Cover for 2019/20.

Communication - £2,700 in month 10 was paid for the Parliamentary Review.

Enforcement – Month 11 included £2,045 insurance excess for damage to pigeon protection on the underside of the swing bridge. In month 12 the annual subscription for personal safety devices and monitoring for 19/20 was paid, cost £1,938.

Wash Fishery Order – Annual rent for Mussel Lays paid to the Crown Estates (paid in arrears).

## **Income**

Levies – LCC levy received March £514,754.

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Action Item 11

## 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting

15<sup>th</sup> May 2019

**Report by:** Andrew Bakewell – Head of Finance and HR

### Report on the Management Accounts for the fourth quarter of the 2018/19 financial year

#### **Purpose of report**

To set out the Fourth Quarter Management Accounts for members to note.

#### **Recommendations:**

Members are asked to:

- **Note** the Management Accounts

#### **Explanatory Notes**

Salaries and on costs	32,454	Vacancies and part time working
General expenditure	(17,059)	Legal costs (inc. prosecution), Bylaw
		Adverts, PPE (new lifejackets)
Media & Comms	( 1,633)	Parliamentary review £2,700
Enforcement	( 1,422)	Body cameras
Marine Science	( 3,674)	Sonde repair
Vessels	3,183	Savings on TC offset by Moorings (one-off
		Costs and JA repairs to engine
Vehicles	( 1,943)	One extra vehicle part year
Income	( 5,575)	WFO licences (delayed increase),
		Commercial sampling (moved to 19/20)
		EHO (reduced samples)

## **Management Accounts Financial Year 2018/2019**

	ACTUAL Year to Date Qtr 4 £	BUDGET Year to Date Qtr 4 £	VARIANCE	MEMO Budget For Year £
<b><u>SALARIES &amp; WAGES</u></b>				
Staff Remuneration	769,035	787,039	18,004	787,039
Pension	159,191	169,163	9,972	169,163
National Insurance	77,266	81,744	4,478	81,744
<b>TOTAL</b>	<b>1,005,492</b>	<b>1,037,946</b>	<b>32,454</b>	<b>1,037,946</b>
<b><u>GENERAL EXPEND</u></b>				
Accommodation	62,027	70,800	8,773	70,800
Insurance	8,079	8,250	171	8,250
General Establishment	110,899	94,600	(16,299)	94,600
Officers' Expenses	19,685	14,750	(4,935)	14,750
Members' Travel	859	3,500	2,641	3,500
Training	27,410	20,000	(7,410)	20,000
<b>TOTAL</b>	<b>228,959</b>	<b>211,900</b>	<b>(17,059)</b>	<b>211,900</b>
<b>Media &amp; Comms</b>	3,233	1,600	(1,633)	1,600
<b>Enforcement</b>	23,422	22,000	(1,422)	22,000
<b>Marine Science</b>	9,924	6,250	(3,674)	6,250
<b><u>VESSELS</u></b>				
Moorings/Harbour Dues	5,121	3,700	(1,421)	3,700
<u>Vessel Operating Costs</u>				
Three Counties	83,241	89,000	5,759	89,000
FPVs JA & ST	46,596	41,500	(5,096)	41,500
Seaspray	259	4,200	3,941	4,200
<b>TOTAL</b>	<b>135,217</b>	<b>138,400</b>	<b>3,183</b>	<b>138,400</b>
<b><u>VEHICLES</u></b>				
Operating Costs	26,943	25,000	(1,943)	25,000
<b>TOTAL</b>	<b>26,943</b>	<b>25,000</b>	<b>(1,943)</b>	<b>25,000</b>
<b>TOTAL EXPENDITURE</b>	<b>1,433,190</b>	<b>1,443,096</b>	<b>9,906</b>	<b>1,443,096</b>
<b><u>INCOME</u></b>				
Bank Interest	10,657	5,000	5,657	5,000
Levies	1,411,008	1,411,008	-	1,411,008
WFO Licence Tolls	20,784	25,000	(4,216)	25,000
Whelk licences	4,443	6,250	(1,807)	6,250
Sale of assets	3,852	2,250	1,602	2,250
Fixed Penalties & costs	6,845	5,000	1,845	5,000
EMFF Grant (Seaspray)	8,750			
Surveys		4,000	(4,000)	4,000
EHO sampling	13,816	20,000	(6,184)	20,000
Lay rents	4,028	2,500	1,528	2,500
<b>TOTAL INCOME</b>	<b>1,482,183</b>	<b>1,481,008</b>	<b>(5,575)</b>	<b>1,481,008</b>
<b>Reserve movement</b>	<b>48,993</b>	<b>37,912</b>	<b>4,331</b>	<b>37,912</b>

## Vision

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## Action Item 12

### 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting

15<sup>th</sup> May 2019

**Report by:** Andrew Bakewell, Head of Finance and HR

#### **Payment of expenses to MMO appointees**

##### **Purpose of report**

Standing Orders require the Full Authority to review the payment of expenses to MMO appointees annually. This report sets out the rationale for and affordability of the payment of expenses to members.

##### **Recommendations**

Members are recommended to:

**Approve** the payment of expenses to MMO appointees for a further year.

##### **Background**

The Authority is fortunate in that the number and diversity of its' membership has remained stable. It is important that this situation continues. It is felt that the modest cost of reimbursing out of pocket expenses, at least, recognises and addresses a potential barrier. The budget for the coming year is £1,532 based on actual expenditure for the year 2018/19 of £1,532.

##### **Comment and recommendations**

The authority being mindful of its' financial duties will, whilst recognising the cost to the individual, continue to assess the affordability of the payment of expenses as standing orders require.

Expenditure at current levels is comfortably sustainable from existing funds without compromising achievement of the authority's targets.

##### **Financial implications**

The recommendation accords with the amounts contained in the 2019/20 budget.

**Proposal:** That the authority resolves to continue payment of expenses until the next review at the equivalent meeting in 2020.

## Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



## Action Item 13

### 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting

15<sup>th</sup> May 2019

**Report by:** G. Brown IFCO Project Officer  
S. Cowper, Marine Science Officer  
L. Godwin Senior IFCO (Regulation)  
J. Stoutt Senior Marine Science Officer (Environment)

### Marine Protected Areas Byelaw 2019

#### Purpose of report

To recommend to the Authority the Marine Protected Areas Byelaw 2019 with new areas closed to bottom towed fishing gear in Cromer Shoal MCZ, Haisborough, Hammond and Winterton SAC and the Wash & North Norfolk Coast SAC

#### Recommendations

It is recommended that Members:

- **Note** the rationale and justification for the Marine Protected Areas Byelaw 2019;
- **Note** the Impact Assessment associated with the Marine Protected Areas Byelaw 2019;
- **Agree** to the closed area in the Cromer Shoal Chalk Beds MCZ;
- **Agree** to the closed areas in the Haisborough, Hammond & Winterton SAC;
- **Agree** to the closed areas in the Wash & North Norfolk Coast SAC;
- **Agree** to make the Marine Protected Areas Byelaw 2019;
- **Direct** officers to undertake a formal consultation in relation to the Marine Protected Areas Byelaw 2019;
- **Direct** the CEO to submit a final version of the Marine Protected Areas Byelaw 2019 to the Marine Management Organisation for formal QA after completing a formal consultation;
- **Agree** to delegate authority to the CEO to make changes to the byelaw which do not substantially alter the intended effects of the byelaw, taking into account responses from the formal consultation and the formal QA process.

#### Structure of report

Whilst efforts have been made to keep this report as concise as possible, it is a technical paper composed of several sections. These are listed below, to ease navigation through the report:

1. Background:

- a. General overview of Marine Protected Areas
  - b. Evolution of Eastern IFCA Marine Protected Areas Byelaw
  - c. Requirement for additional closures
2. Main Report
- a. Marine Protected Areas Byelaw update
  - b. Rationale for new closures
    - i. Haisborough, Hammond & Winterton SAC
    - ii. Cromer Shoal Chalk Beds MCZ
    - iii. The Wash & North Norfolk Coast SAC
  - c. Results of informal engagement
  - d. Summary of Impact Assessment
  - e. Exemption for Activities Pursuant of Rights in Common
  - f. Exemption from having to secure and stow bottom towed gear within Restricted Areas
  - g. Next steps
  - h. Legal implications
  - i. Financial implications
  - j. Conclusions

Appendix 1: Marine Protected Areas Byelaw 2019

Appendix 2: Impact Assessment

## 1. Background

### a. *Marine protected areas*

“Marine protected area” (MPA) is a general term for an area of sea that is designated for the protection of particular plants and animals and the habitats that support them. Designations include sites recognised under national and European laws – examples are shown in Table 1.

**Table 1. Examples of marine protected areas in Eastern IFCA district**

Type of marine protected area	Origin	Mechanism
Site of special scientific interest (SSSI)	National	Countryside & Rights of Way Act 2000
Marine Conservation Zone (MCZ)	National	Marine & Coastal Access Act 2009
Special Area of Conservation (SAC) <sup>56</sup> / Site of Community Importance (SCI)	European Union	EU Habitats Directive 1992 UK Habitats Regulations 2017 UK Offshore Habitats Regulations 2007
Special Protection Area (SPA)	European Union	EU Birds Directive 1979 UK Habitats Regulations 2017
Ramsar Site	International	Ramsar Convention on Wetlands 1971

<sup>56</sup> Special Areas of Conservation are referred to as Sites of Community Importance (SCI) before designation by member states

MPA's are instrumental in helping to meet UK commitments under the OSPAR Convention for the Protection of the Marine Environment of the North-east Atlantic (1992), and under the Conventions for Biological Diversity (1992).

The majority (>95%) of sea area in the Eastern IFCA district has some form of marine protected area designation. As a regulator, Eastern IFCA is responsible for furthering the conservation objectives of marine protected areas by ensuring appropriate fisheries management is in place.

*b. Evolution of the Eastern IFCA Marine Protected Areas Byelaw*

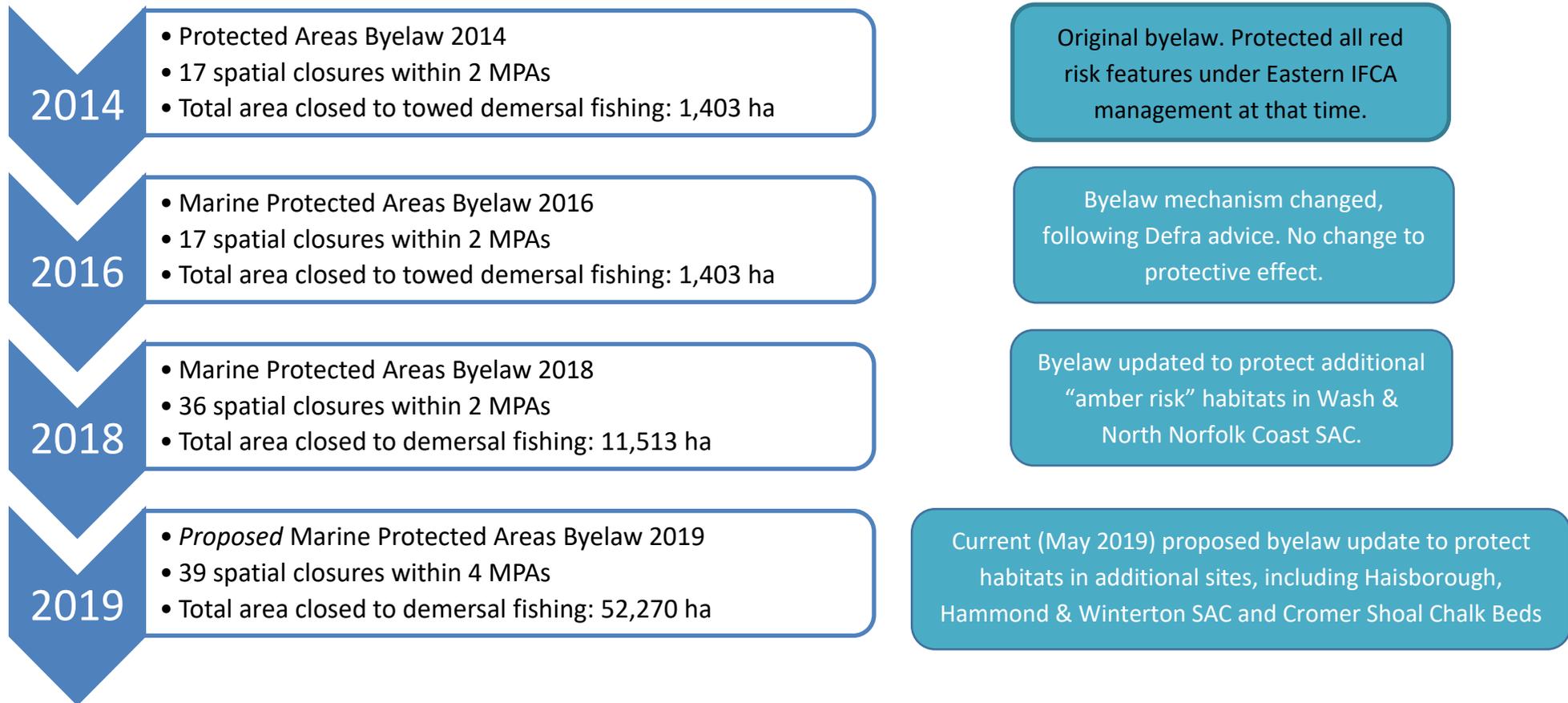
Eastern IFCA made its original Protected Areas Byelaw in 2014. This included four regulatory notices to close parts of marine protected areas in the Eastern IFCA district, to protect MPA features at high risk of damage from fishing activities ("red risk" interactions).

In response to subsequent advice from Defra, Eastern IFCA replaced the Protected Areas Byelaw 2014 with the Marine Protected Areas Byelaw 2016. This did not change the effect of the Byelaw but changed its mechanism from the regulatory notice model to a standard Byelaw model. This meant that future changes (e.g. the addition or removal of closed areas) would need to be made by fully replacing the byelaw rather than adding or removing regulatory notices. It was noted that several replacement byelaws would be expected over the next few years, as Eastern IFCA concluded fisheries assessments in the suite of MPAs within its district and identified new management requirements.

In 2018, Eastern IFCA replaced the Marine Protected Areas Byelaw 2016 in order to introduce an additional suite of protected areas within the Wash and North Norfolk Coast Special Area of Conservation. This followed the assessment of shrimp beam trawling in that site, which concluded that this activity should be excluded from sensitive habitat areas (subtidal mixed sediment, subtidal mud, intertidal mussel beds) to ensure no adverse effects on site integrity. Eastern IFCA approved the Marine Protected Areas Byelaw 2018 in November 2018 (Minute EIFCA 18/89) and it is currently undergoing quality assurance with Defra.

The evolution of the Marine Protected Areas Byelaw is summarised in Box 1.

### Box 1: Development of Eastern IFCA's Marine Protected Area Byelaw 2014-2019



Eastern IFCA's Marine Protected Areas byelaw is one mechanism for the management of fisheries in Marine Protected Areas. Other mechanisms include permit schemes, effort controls, vessel size and fishing gear restrictions, seasonal fishing restrictions and quota. These are implemented through a suite of Eastern IFCA Byelaws and through the Wash Fishery Order Regulations. Not all MPAs require exclusion of demersal fishing; management is targeted according to risk to features from fishing.

### *c. Requirement for additional closures*

Eastern IFCA's ongoing assessment of fisheries in MPAs has identified a need for additional spatial closures for towed demersal fishing to protect sensitive features within certain sites. The recommendations set out in this paper are made having taken into account Natural England advice and an assessment of the impacts of the restrictions on fisheries businesses.

This paper presents the recommendations for additional closures to towed demersal fishing within three MPAs in the Eastern IFCA district. The MPAs are:

- (i) Haisborough, Hammond & Winterton Special Area of Conservation (HHW SAC);
- (ii) Cromer Shoal Chalk Beds Marine Conservation Zone (CSCB MCZ); and
- (iii) The Wash & North Norfolk Coast Special Area of Conservation (WNNC SAC).

As set out above, in order to introduce these additional spatial closures, the Marine Protected Areas Byelaw 2018 must be replaced.

The 2019 byelaw will replace the Eastern IFCA Marine Protected Areas 2018 Byelaw. The spatial closures set out in the 2018 byelaw will remain a part of the 2019 Byelaw, except for three areas in Blakeney Harbour (WNNC SAC) that will be subsumed into one of the new proposed closed areas.

## **2. Report**

### *a. Marine Protected Areas Byelaw 2019*

This paper sets out the new closures to be introduced under the Marine Protected Areas Byelaw 2019. These will be closures to bottom-towed gear (i.e. all towed, demersal gear including bottom trawls and dredges) in three areas of HHW SAC, one area of CSCB MCZ and three areas of WNNC SAC.

The proposed closed areas are listed in Tables 2a and 2b below. The areas have been numbered to aid clarity; their location and co-ordinates are set out within the draft Byelaw at Appendix 1.

**Table 2a. New areas proposed for closure to towed demersal gear under Marine Protected Areas Byelaw 2019.**

Marine Protected Area name	Closure number and name	Closure extent (ha)	Features protected by closure
Haisborough, Hammond and Winterton SAC	36 – Winterton Shoal	190	Biogenic reef: <i>Sabellaria spinulosa</i>
	37 – Barley Picle	1,401	Biogenic reef: <i>Sabellaria spinulosa</i>
	38 – East of Cross Sands	2,237	Biogenic reef: <i>Sabellaria spinulosa</i>
Cromer Shoal Chalk Beds MCZ	35 – Cromer Shoal chalk bed	29,930	Subtidal chalk; infralittoral rock; circalittoral rock; peat and clay exposures; subtidal coarse sediment; subtidal sand; subtidal mixed sediment.
The Wash & North Norfolk Coast SAC	34 – Blakeney to Weybourne	3,836	Subtidal mixed sediment; subtidal mud

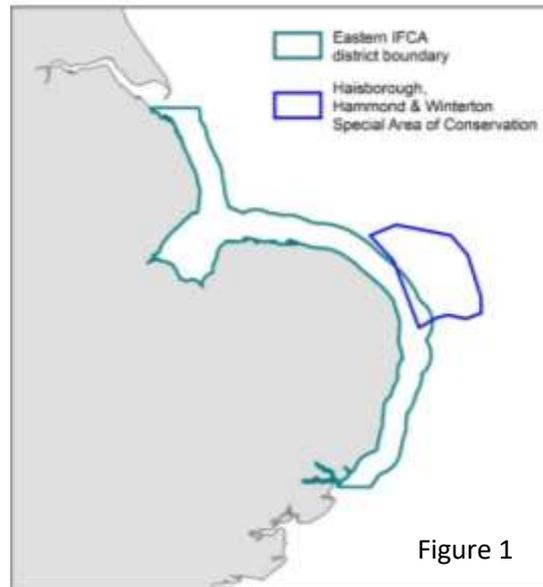
**Table 2b. Areas agreed for closure at 35<sup>th</sup> Authority meeting to be included in Marine Protected Areas Byelaw 2019**

Marine Protected Area name	Closure number and name	Closure extent (ha)	Features protected by closure
The Wash & North Norfolk Coast SAC	32 – Blakeney harbour	2,189	Intertidal sand and muddy sand
	33 – Blakeney seasonal corridor	1,217	Subtidal sand, subtidal mixed sediment; subtidal mud; juvenile fish, harbour seals

*b. Rationale for proposed new closures*

(i) Haisborough, Hammond & Winterton SAC

HHW SAC straddles Eastern IFCA's 6nm boundary between Sea Palling and Great Yarmouth. The site is approximately 1,463 sq km, but only 137.3 sq km (9.4%) falls within Eastern IFCA's district (see Figure 1). HHW was designated in September 2017 as a SAC for its extensive sandbanks and *Sabellaria spinulosa* reef habitats.



Fishing with bottom-towed gear over reef is a 'red risk' interaction<sup>57</sup>, and therefore requires spatial closures to protect the feature from damage.

Natural England (NE) provided advice to the MMO on "areas to be managed as *Sabellaria spinulosa* Annex 1 reef" in the HHW site in 2015. At that time MMO had responsibility for the full site, but it was subsequently agreed that Eastern IFCA would undertake the management for the area of the site within 6 nautical miles.

The larger, offshore section of this site (beyond 6nm) is managed by Defra and the Marine Management Organisation. Proposals for management require negotiations with other Member States whose fleets target these areas. Management measures have been drafted for a large part of the offshore section of this site, but due to uncertainty regarding EU exit Defra have currently put this work on hold. Foreign vessels are not permitted to fish within the Eastern IFCA part (0-6nm) of this site.

After considering the Natural England's advice and the feature extent data, in December 2016 a recommendation was put to Eastern IFCA's Regulation and Compliance Sub Committee to pursue three proposed closures for this site (R&C 16/15). The Sub-Committee agreed to make the closures under an updated version of the Marine Protected Areas byelaw. However, at that stage full agreement had not been reached with Natural England, who requested that further consideration of the

<sup>57</sup> "Red risk" is defined in Defra's Revised Approach to the management of commercial fisheries in European Marine Sites as follows: "Where it is clear that the conservation objectives for a feature (or sub-feature) will not be achieved because of its sensitivity to a type of fishing, - irrespective of feature condition, level of pressure, or background environmental conditions in all EMSs where that feature occurs - suitable management measures will be identified and introduced as a priority to protect those features from that fishing activity or activities".

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/345970/REVISED\\_APPROACH\\_Policy\\_and\\_Delivery.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/345970/REVISED_APPROACH_Policy_and_Delivery.pdf)

feature extent evidence should be undertaken. With limited resources, Eastern IFCA chose to prioritise the development of management within The WNNC SAC (as fishing activity in WNNC SAC posed a greater risk to site features than fishing in the HHW SAC due to higher levels of activity). In July 2018 (and confirmed in November 2018) Eastern IFCA agreed a suite of management for the WNNC SAC, meaning that officers were able to resume consideration of, and progress management for the HHW SAC.

Officers have scrutinised the evidence for the areas to be managed as *Sabellaria* reef and identified areas where there is sufficient confidence in the data to support proposals for management. Natural England and Eastern IFCA officers have held extensive discussions regarding concerns over confidence in the feature extent data for HHW SAC. Due to relatively lower confidence in the evidence behind some of the polygons within the 6nm then NE advised that a differential approach to management would be appropriate, with the higher confidence areas targeted for management. Both organisations have independently reviewed each feature location polygon within the original Natural England advice (within the 6nm section of the site). This resulted in Natural England proposing four priority areas to be considered by officers for management (see Figure 2).

Eastern IFCA officer's review included scoring the following quantitative elements for each individual polygon: total area, data type (modelled or acoustic), distance to ground truthing; confidence value and Cefas/Eastern IFCA additional data). The review largely agreed with Natural England's priority proposals, with the exception of 'Area 1' (highlighted in Figure 2). NE has since advised that 'Area 1' should not be considered for management because of new evidence which has demonstrated over a number of surveys that this area is not suitable for supporting reef.

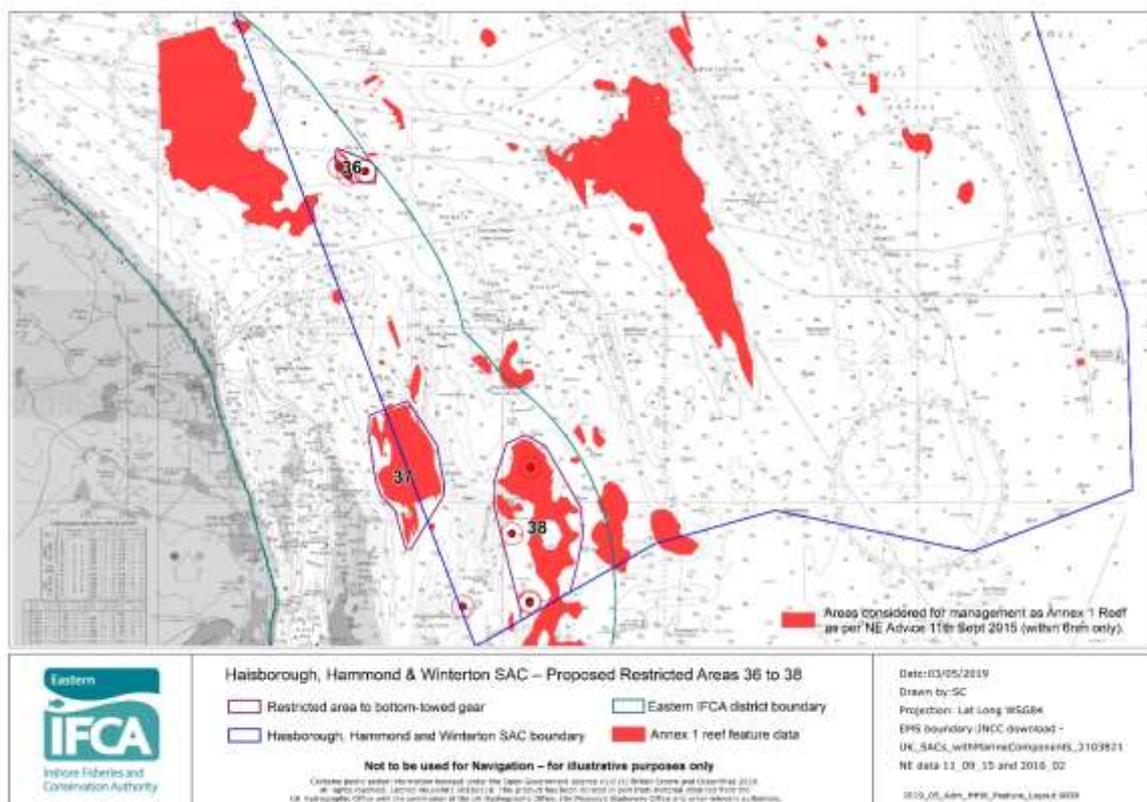
This has resulted in the current recommendation that three areas should be closed to bottom-towed gear within the inshore part of HHW SAC. These areas are shown in Chart 5 of the proposed byelaw at Appendix 1. In total, these closures will affect just under 28% of the inshore part of this site, and cover an area of seabed totalling over 3,800ha. The HHW SAC closures are much larger than the individual *Sabellaria* reef closures in WNNC SAC. This is because the *Sabellaria* areas in HHW SAC are much larger than the core reef areas upon which management is based in WNNC SAC.

Modelled and acoustic data (e.g. sidescan sonar) with limited ground truthing (e.g. video), provided by Natural England indicated *Sabellaria* reef (biogenic reef) presence within the HHW SAC. Eastern IFCA undertook habitat survey work within some parts of the area in October 2016. The results, analysed in conjunction with an assessment of raw video data supplied by CEFAS, confirmed the presence of *Sabellaria* reef within some of the modelled areas. Based on subjective assessment of the video evidence, the quality of reef found at many of the survey stations was good, with appreciably more elevation and coverage of reef than would be typical for *Sabellaria* reefs in The

Wash. This provides confidence that closures are appropriate for these areas, to protect the feature from damage by towed demersal fishing gear.

The current proposals include the three areas where NE and Eastern IFCA officer’s reviews of the evidence agree that the feature is present and requires protection. Apart from “Area 1” (see above), there were several smaller areas that were originally advised by NE as areas “to be managed as reef”, but that the detailed review identified were not priority areas because the supporting evidence was weaker. Natural England and Eastern IFCA officers agreed in March 2019<sup>58</sup> that the three areas being proposed for management (Winterton Shoal, Barley Picle and East of Cross Sands) are all the areas that needed to be considered for management at this stage.

Figure 3. Annex 1 reef feature data with proposed restricted areas in the HHW SAC



*Sabellaria* reef has been found to exist within and outside the boundaries of the HHW SAC. Due to the ecological and fisheries management benefits of high quality *Sabellaria* reef, and in line with Natural England advice (April 2013) for dealing with protected features which extend beyond site boundaries, where appropriate the proposed closure has been extended beyond the site boundary of the MPA. This is the case for proposed Restricted Area 37 Barley Picle (Figure 3). This area has been considered within the informal engagement and impact assessment.

<sup>58</sup> Natural England/Eastern IFCA meeting, 26<sup>th</sup> March 2019

**It is therefore recommended that the restricted areas 36, 37 and 38 are included in the Marine Protected Areas Byelaw 2019.**

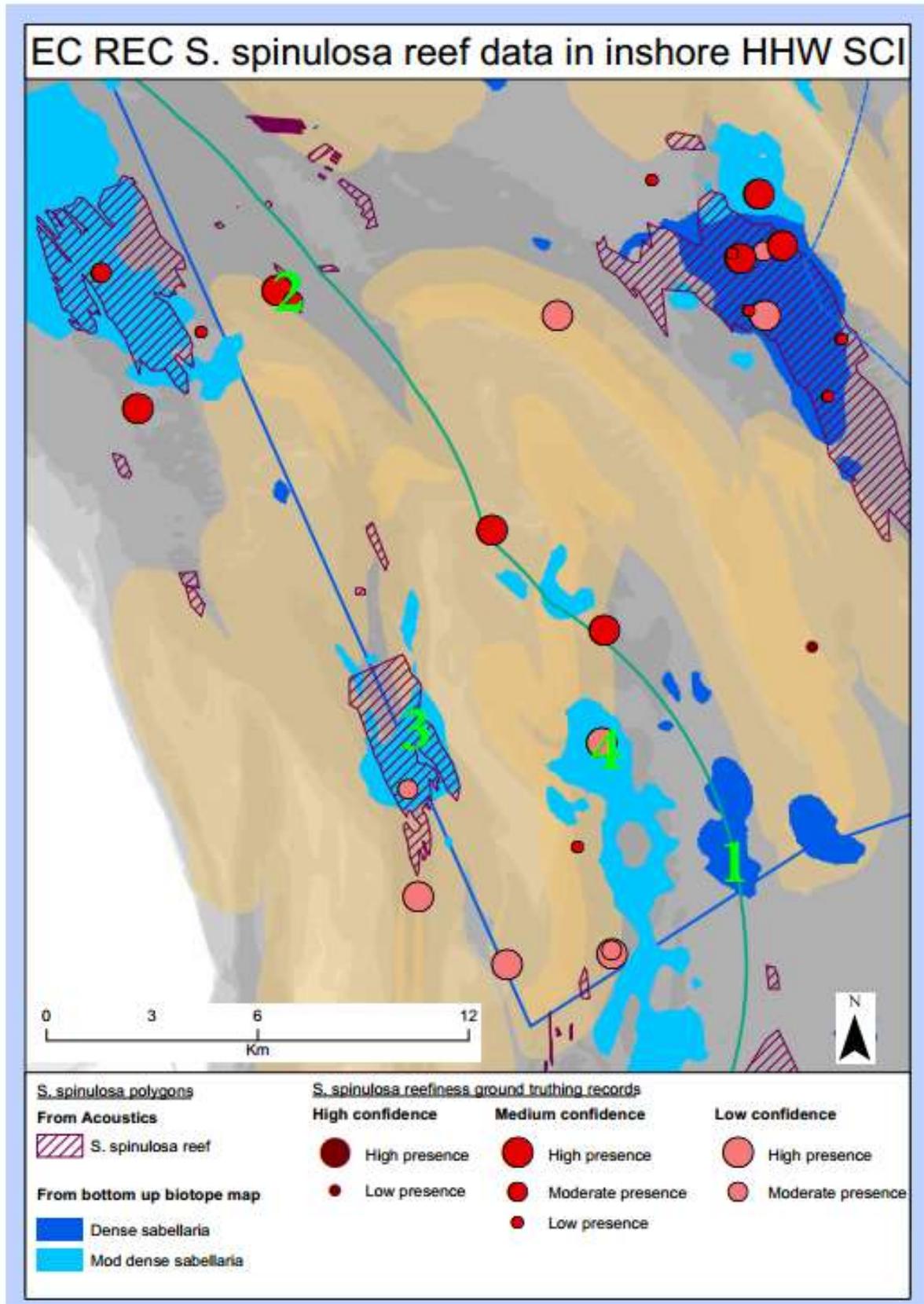


Figure 2. Natural England's four priority areas for management as *Sabellaria*

*spinulosa* reef within inshore section of HHW SAC. Source; Natural England, July 2016ii.

### *Cromer Shoal Chalk Beds MCZ*

Cromer Shoal Chalk Beds MCZ (CSCB MCZ) extends between Weybourne and Happisburgh on the north Norfolk coast. It covers 319 sq. km, all of which is within the Eastern IFCA district. This site is the only MCZ in the Eastern IFCA district. It was designated in 2016 for a range of habitats, including subtidal chalk, infralittoral and circalittoral rock<sup>59</sup>, peat and clay, subtidal coarse sediment, subtidal sand and subtidal mixed sediment. The western boundary of the MCZ is adjacent to the eastern boundary of the Wash & North Norfolk Coast SAC.

Although a marine conservation zone rather than a European marine site, the Revised Approach for assessment and management of commercial fisheries does apply – meaning that fisheries managers are required to ensure fishing activity does not hinder the site’s conservation objectives being met.

Eastern IFCA officers have assessed the impacts of commercial fishing activities on the CSCB MCZ (assessment submitted to Natural England in September 2018). This identified that towed demersal fishing (e.g. demersal trawling, dredging) would be likely to cause irreversible physical damage to chalk or peat and clay features, even at low levels of activity. Chalk and peat and clay are soft rocks that are easily damaged by contact with heavy items such as steel dredges or trawl shoes. Unlike biogenic features (e.g. mussel beds) that can regenerate in conducive conditions, if chalk or peat and clay features are damaged, they cannot recover because they take thousands of years to form. Eastern IFCA are therefore required to prevent interaction between towed demersal fishing and the soft rock features so that the conservation objectives of the MCZ can be furthered. Spatial closures to towed demersal fishing are proposed as the most suitable measure to achieve this.

The same assessment identified that towed demersal fishing within the site did not prevent the conservation objectives for the subtidal sediment features (subtidal coarse and subtidal mixed sediment) in the MCZ being furthered. This was on the basis of the very low level of towed demersal fishing occurring within the site, and these sediment features being less sensitive to physical damage than chalk or peat and clay. Although it was not identified that spatial closures were required for subtidal sediment features, the proposed closures for subtidal chalk do coincide with large areas of sediment features, since in much of the site the subtidal chalk is overlain by sediment. This is considered in more detail below.

### *Extent of chalk feature*

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<sup>59</sup> Natural England have advised that the circalittoral rock and infralittoral rock features should be considered the same as subtidal chalk, for the purposes of the assessment and management.

When carrying out the assessment, officers understood the extent of the subtidal chalk feature to be limited to a relatively narrow band extending across the southern (inshore) edge of the MCZ, as identified in the Broadscale Habitat (BSH) data layer. Subsequently (October 2018) Natural England advised that additional information on the extent of the feature (the Habitat of Conservation Interest, or HOCI, subtidal chalk data layer) should be used with the BSH data to ascertain the distribution of subtidal chalk in the site.

The HOCI data showed subtidal chalk to extend across the majority of the MCZ, with some gaps not recorded as chalk. BSH data showed much of the offshore part of the site (beyond the narrow chalk band in the south) to be subtidal coarse sediment, subtidal mixed sediment or subtidal sand. This did not correspond with the HOCI data in many areas. Officers queried this with Natural England. Natural England explained that much of the subtidal chalk feature in the offshore part of the site is covered by a veneer of sediment, so the BSH data (informed by grab samples) identified it as sediment feature whereas the HOCI data (informed by modelling and extrapolation of terrestrial geological data) identified it as subtidal chalk.

#### *Management of activities over subtidal chalk covered by sediment*

Eastern IFCA officers' assessment found that towed demersal fishing (at current levels) is compatible with the conservation objectives for the sediment features (subtidal mixed sediment, subtidal coarse sediment) in the MCZ. It follows that the sediment veneer provides protection to the underlying chalk from physical damage or disturbance.

Officers requested Natural England's advice on how to manage subtidal chalk where it is covered by a veneer of sediment. Natural England advised that such areas should be managed as if the chalk were exposed (uncovered), on the basis that the chalk *could* become exposed as sediments move – and it is when exposed that subtidal chalk is vulnerable to physical damage from towed fishing gear. Natural England do not have information on the thickness of the sediment veneer (other than in a small area of the site), or sediment movement, and therefore are unable to advise on the likelihood of chalk becoming exposed.

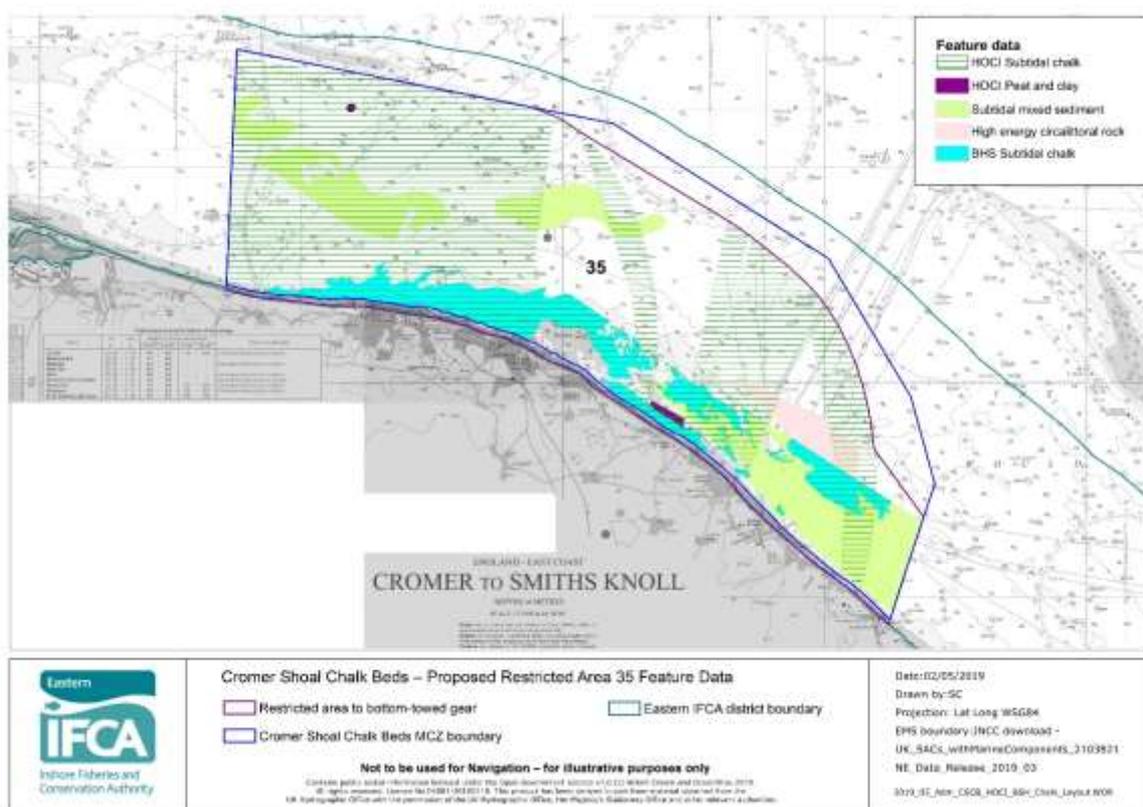
Officers sought information on the depth of the sediment veneer: no precise information was found, but a British Geological Survey resource (BGS MAREMAP) identified that most of the sediment layer within the MCZ was less than 5m thick. NE reported that data from a wind farm cable survey (Hornsea Three) found the sediment in the westernmost part of the MCZ to be between 20cm and 3m thick.

In consideration of the sensitivity of subtidal chalk to physical damage, and with no evidence on the thickness of the sediment veneer over the subtidal chalk feature, and therefore no certainty that the chalk will remain covered by sediment and protected from impacts, it is recommended that the full extent of the chalk feature within the MCZ is closed to towed demersal fishing. Based on the feature extent data, this would result

in the majority of the site being closed to this type of fishing – but as reported in the Impact Assessment (Appendix 2), very little towed demersal fishing occurs within the site and so although a very significant area (over 290 sq km or 29,000 ha) would be managed in this way, the closure is not predicted to result in a significant decline in fishing income.

The Authority could opt to close only the exposed chalk (mapped in the BSH data) to towed demersal fishing. However, this option is not recommended as it would not provide protection to subtidal chalk in the remainder of the site if and when it becomes exposed (through sediment movement).

Figure 4. Cromer Shoal Chalk Beds MCZ sensitive feature data



### Existing management of towed demersal gear within MCZ

Eastern IFCA's *Byelaw 12: Inshore Trawling Restriction* includes a prohibition on using trawling nets in a specified area (between Blakeney and Mundesley) on the North Norfolk Coast. This closure already covers 45% of the MCZ. This protects a proportion of the exposed subtidal chalk feature but not all of it, and a proportion of subtidal chalk overlain with sediments. It also protects a proportion of the peat and clay feature but not all of it.

*Eastern IFCA's Byelaw 15: Towed gear restriction for bivalve molluscs* includes a prohibition on the use of towed gear to fish for molluscs over the same area as byelaw

12 (above) and similarly protects a significant portion of the exposed chalk and a part of the peat and clay feature.

Eastern IFCA's *Byelaw 3: Molluscan shellfish methods of fishing* prohibits dredging for molluscan shellfish (a type of towed demersal gear) in the majority of the Eastern IFCA district, including the entire MCZ, without written authorisation from Eastern IFCA. Before granting any authorisation for dredging, officers would assess potential impacts on the MCZ and only authorise the activity if it did not prevent the conservation objectives being furthered.

#### *Proposed management within the MCZ*

The assessment has concluded that fishing activity using bottom towed gear is not compatible with the conservation objectives related to chalk or peat and clay features of the site. ***It is therefore recommended that fishing activity using bottom towed gear is prohibited from areas containing the chalk features and areas containing peat and clay features, by including Restricted Area 35 in the Marine Protected Areas Byelaw 2019.***

Proposed Restricted Area 35 encompasses the extent of the chalk and peat and clay features according to best available evidence. This includes the chalk thought to be covered by a veneer of sediment but for which there is no information on how much or how frequently it is exposed. This is considered appropriate given the Natural England advice that the chalk feature should be protected as if it is exposed.

Restricted Area 35 also encompasses some sediment habitats for which the assessment did not identify a need for management (because of the lower sensitivity to impacts from towed demersal gear and because of the low levels of this kind of fishing over these features). This is primarily areas of subtidal coarse sediments and mixed sediments which are located between areas of the chalk feature. Although very low levels of towed demersal fishing occurs within the site currently, management would need to be considered for the subtidal mixed sediment feature if effort increased – so incorporating this feature in the current proposed measure provides assurance that the feature is protected from future increases in activity. In addition, the MCZ itself does not include the first 200m from the shore. Despite this, the proposed restricted area encompasses the area up to the mean high-water springs. Both elements are considered necessary to ensure that the closed area is effective and enforceable.

#### *Impacts from potting fisheries within the MCZ*

Eastern IFCA's initial assessment of the impacts of fishing activity in the MCZ identified that potting activity (crab, lobster and whelk fisheries) as currently practised is compatible with the conservation objectives for the site. Natural England agreed with this finding, which was based on available literature on the sensitivity of the site's features and fishing gear/effort data. Further evidence has subsequently suggested that some damage has occurred to exposed chalk within the site, most likely from

abrasion of chalk from ropes or damage to chalk features struck by fishing pots. The definitive cause, and extent of damage has not been ascertained but is understood to be minimal. This requires further investigation. Eastern IFCA and Natural England have agreed it is appropriate to progress with management of towed demersal gear fisheries within the MCZ and subsequently seek to understand the frequency, extent and cause of damage to chalk in order to identify whether management of potting is required to further the site's conservation objectives.

### iii. *Wash and North Norfolk Coast SAC*

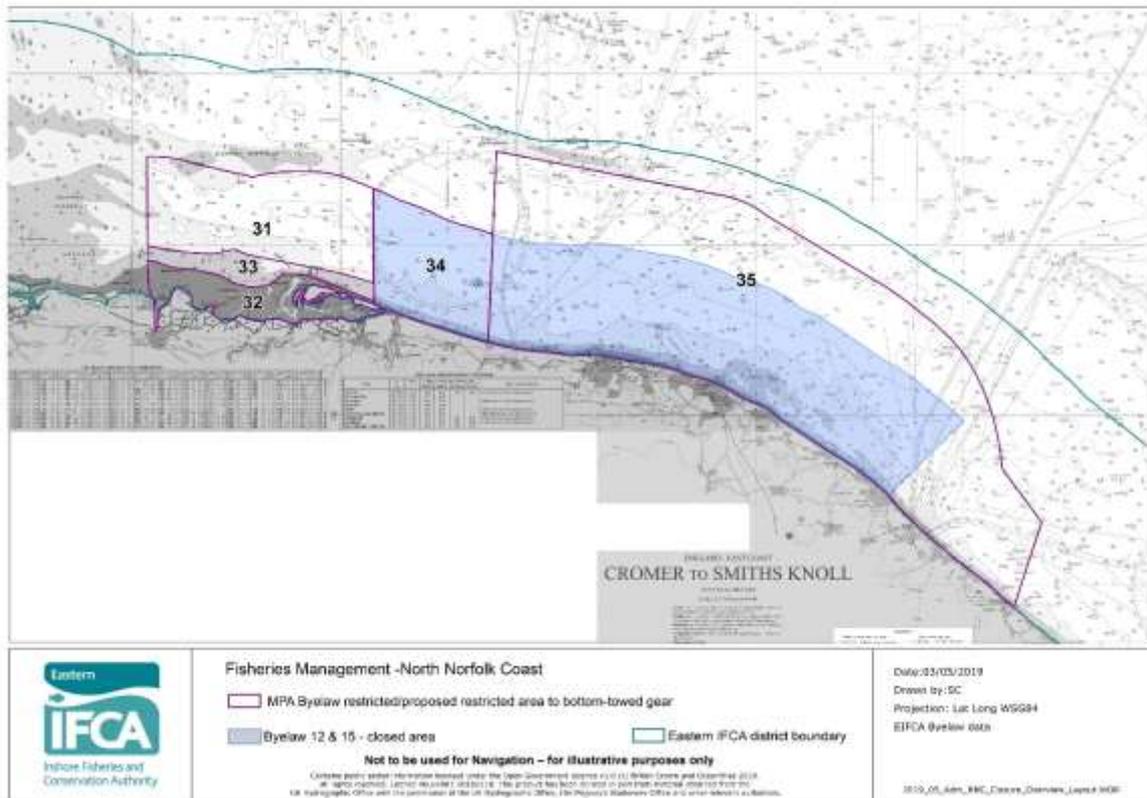
The Authority agreed at the 35<sup>th</sup> Eastern IFCA meeting to include the two closures in the Blakeney area of the north Norfolk Coast in the next iteration of the Marine Protected Areas byelaw (Agenda item 11, unconfirmed minutes of 35<sup>th</sup> Eastern IFCA meeting). The rationale for these closures is therefore not presented here. The papers of that meeting are available at <http://www.eastern-ifca.gov.uk/wp-content/uploads/2016/02/35th-EIFCA.pdf>.

The Blakeney area closures are numbered 32 and 33 and are shown in Chart 3 of the Byelaw at Appendix 1.

A further closure (number 34) is proposed within this SAC between Blakeney and Weybourne, from the coast to three nautical miles offshore. This area is currently closed to inshore trawling under the *Eastern IFCA Byelaw 12: Inshore Trawling Restriction* and *Byelaw 15: Towed Gear Restrictions for Bivalve Molluscs*. The HRA for shrimp fishing within the SAC concluded that the closures in place represented required mitigation to ensure no adverse effects on site integrity. Closures were agreed to the west of the existing closures under the last iteration of the Marine Protected Areas Byelaw.

Proposed closures within the CSCB MCZ in addition to those within the WNNC SAC effectively surround the areas closed under byelaw 12 and 15. Relying on the closures under byelaws 12 and 15 in addition to closures adjacent to this under the MPA byelaw provides potential confusion to stakeholders, given that adjacent areas will be closed under three separate byelaws. In addition, closures under byelaw 12 and 15 do not include a requirement to secure and stow gear. The result of this is a confusing patchwork of differing restrictions between adjacent areas.

Figure 5. Chart showing closed areas under byelaw 12 & 15 and proposed Marine Protected area closures



Developing clear and easily understood management measures is considered an important tool to improve compliance and is an important element of the Regulation and Compliance Strategy<sup>60</sup>. To achieve this, ***it is recommended that all the adjacent areas on the North Norfolk Coast are closed under the MPA Byelaw 2019. This includes introducing Restricted Area 34 between the closures agreed in the Wash and North Norfolk Coast SAC and the proposed closure in the CSCB MCZ.***

Restricted Area 34 is shown in Chart 3 of the Byelaw at Appendix 1.

### *c. Results of informal engagement*

#### Summary of information from the informal engagement

Officers wrote to all fishers for whom we held an address or email address to ask for feedback regarding impacts of closures and requesting information about fishing activity so Eastern IFCA could adapt closures to minimise impact where we have discretion to do so. For transparency and completeness, the questionnaire was also sent to those stakeholders with a conservation interest. In total 13 responses were

<sup>60</sup> <http://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/RC-Strategy.pdf>

received, eleven of which were from the fishing industry. Of these there was only one which was a formal written response which is not considered an optimal response rate. All other responses were either logged from face to face discussions or from phone calls. Two responses were received from organisations with a conservation interest, one of which was a summary of responses from community meetings on the north Norfolk coast.

A summary of responses is set out below:

*HHW SAC* - One member of the fishing industry gave a detailed response regarding activity within the site indicating areas that are important for their fishing activity. These were recognised during the development of measures. One of the respondents with a conservation interest set out that areas that aren't well understood should be closed to fishing and that the current protection will not allow seabed communities to be richer.

*CSCB MCZ* - Six respondents in the fishing industry were in favour of the closures in the CSCB MCZ as they felt that it would provide additional protection for their static gear. Two respondents highlighted concerns that although the closures do not currently limit fishing activity currently, they would limit future opportunities to diversify. The respondent with a conservation interest highlighted that the whole site (CSCB MCZ) should be closed to bottom towed gear due to there being a greater benefit to the marine ecosystem and fisheries stocks. They also set out that there should be regulation on the number of pots, although this was outside the scope of the consultation. The other highlighted several management options (as it was a community response) in relation to bottom towed gear there was support for a 0.25nm trawling closure and for no trawling within the MCZ.

*In relation to both sites* - Two fishing industry respondents indicated that the closures will impact on their activity however they would not provide information about how.

Proposed closures 32 and 33 for the Wash & North Norfolk Coast SAC were not consulted on as they were included in a previous consultation (in 2018), the results of which were considered by the Authority in November 2018 and in January 2019. Closure 34 was not consulted upon as it is an administrative change rather than a new closure.

#### *d. Summary of impacts as per impact assessment*

##### *Shrimp Fishing*

Shrimp fishing activity within Restricted areas 32 and 33 is estimated as 1.2% of the total caught from within the WNNC SAC. With regards to shrimp fishing effort within HHW SAC and CSCB MCZ, much less is known about the level of fishing activity. Officers undertook informal consultation with industry to determine the level of fishing effort. Limited responses were received but it indicates that fishing effort is very low. This matches officers' understanding of activity in the area based on local knowledge and engagement with fishery stakeholders.

HHW SAC sits within ICES statistical rectangle 34F1. The average annual landed value of shrimp caught from this area is £21,960. However, the restricted areas represent a very small proportion of the total area of the ICES rectangle. Informal dialogue has indicated that the proposed closures will have a limited impact on the traditional fishing grounds. One fisher has indicated that they fish using bottom towed gear within the CSCB MCZ but has not provided information to enable the monetised estimation of this impact. The high estimate cost is £42,013. This takes into account the cost associated with restricted areas 32 and 33 as above but also includes the value of all shrimp landed within ICES rectangle 34F1 and 35F1 to take into account impacts of restricted areas associated with HHW SAC and CSCB MCZ. This is likely to be an overestimate. The best estimate is £19,125 per year. This is considered the most likely scenario from a monetised cost perspective with regard to shrimp landings.

#### *Other species*

The high estimate annual cost is £39,922 which corresponds with the highest recorded annual landed value of 'other species' within associated ICES rectangles for the period 2010 to 2017 inclusive. The low cost is zero which reflects that it is unlikely that the MPA's represent important fishing grounds for these species and that the majority are thought to be caught on the Lincolnshire coast.

It is most likely that landings of 'other' species from within the MPA's is £19,116. This reflects the average value of catch within the ICES rectangles. It is likely to be an overestimate given that the closed areas are significantly smaller than the combined areas of these ICES rectangle.

#### *Closures 32, 33 and 34*

Closures within the WNNC SAC were not the subject of informal engagement because areas 32 and 33 had been formally consulted on during the Marine Protected Areas Byelaw 2018/. Area 34 was not consulted on as the area is already closed to bottom towed gear under byelaw 12: inshore trawling restriction, and the addition of the area is purely administrative and to provide clarity for stakeholders.

#### *Costs to Eastern IFCA*

Additional compliance activities will be required in addition to education and engagement. The cost of these are estimated to be £7,176 based on six additional sea patrols and four additional shore patrols.

#### *e. Exemption for activities pursuant of Rights in Common*

The Marine Protected Areas Byelaw 2019 includes a generic exemption from the closed areas in relation to activities undertaken in exercising a 'Right of Common'. These are specific, registered Rights which relate to registered common land. This

exemption was implemented in the original Protected Areas Byelaw (May 2014) as a result of concluding that such activities did not pose a risk to site integrity.

Investigation regarding the appropriateness of the exemption in relation to the proposed closures has been undertaken. None of the additional proposed closed areas overlap with common land according to available records. This primarily reflects that most common land is landward of the mean high-water mark. As such, it is proposed that the exemption is maintained in the MPA Byelaw 2019.

*f. Exemption from having to secure and stow bottom towed gear within Restricted Areas*

Previous iterations of the MPA Byelaw, including the original Protected Areas Byelaw, have exempted vessels from having to 'secure and stow' bottom towed gear in certain circumstances. This only applies to 'beam trawls' and where a vessel has been fishing immediately prior to entering or intends to commence fishing immediately on leaving the Restricted Area.

This is to enable fishing between and around closed areas effectively and safely. During consultation on the first iteration of the byelaw, fishers raised concerns about having to secure and stow fishing gear when they are transiting smaller Restricted Areas or small parts of Restricted Areas.

It is recommended that this exemption is maintained in all the proposed addition areas for the same reasons.

*g. Next steps*

After the Authority makes a byelaw, it must be put to formal consultation in accordance with Defra guidance. Once this is completed, the results of the formal consultation are taken into account and amendments to the byelaw are considered.

Once the formal consultation is complete, the byelaw can be formally submitted to the MMO for QA. Further changes may be required as a result of this process.

It is recommended that the CEO is delegated authority to make amendments to the byelaw pursuant of taking into account the consultation and the MMO formal QA to the extent that such are not considered to alter the intended effect of the byelaw.

*h. Financial implications*

The cost of advertising a byelaw in the Fishing News is circa £1800. It should be noted that the same advert will be used to advertise a second byelaw (the Wash Restricted Area Byelaw 2019) to minimise costs. There will also be a cost associated with the provision of legal advice from Andrew Jackson Solicitors LLP.

In addition, there is an inherent resource cost to implementing any new byelaw. This is set out in the Impact Assessment (Appendix 2).

*i. Legal implications*

There is an inherent risk associated with developing and introducing byelaws. This is mitigated through the application of due diligence and process set out in Defra guidance to the IFCA's regards byelaw making. This includes, for example, the provision of independent legal advice for the byelaw and undertaking an effective formal consultation with those who are potentially impacted.

*j. Conclusions*

There is a clear environmental case for introducing additional restricted areas to towed demersal fishing within certain marine protected areas in the Eastern IFCA district, via the Marine Protected Areas Byelaw 2019. This has been drafted in keeping with previous Marine Protected Areas byelaws.

Impacts on the industry are considered low given the low levels of towed demersal fishing in the affected areas.

**Appendices**

Appendix 1 - Marine Protected Areas Byelaw 2019

Appendix 2 - Impact Assessment

**Background documents**

Minutes and papers associated with agenda item 14 of the 33<sup>rd</sup> meeting of Eastern IFCA held on 18<sup>th</sup> July 2018.

Minutes and papers associated with agenda item 12 of the 34<sup>th</sup> meeting of Eastern IFCA held on 7<sup>th</sup> November 2018.

Minutes and papers associated with agenda item 11 of the 35<sup>th</sup> meeting of Eastern IFCA held on 30<sup>th</sup> January 2019.

Marine Protected Areas Byelaw 2018.

## Appendix 1 – Marine Protected Areas Byelaw 2019



### **EASTERN INSHORE FISHERIES AND CONSERVATION AUTHORITY**

#### **MARINE AND COASTAL ACCESS ACT 2009 (c. 23)**

#### **Marine Protected Areas Byelaw 2019**

The Authority for the Eastern Inshore Fisheries and Conservation District in exercise of the powers conferred by sections 155, 156 and 158 of the Marine and Coastal Access Act 2009 makes the following byelaw for that District.

#### **Interpretation**

1. In this byelaw:

- a) 'the 1983 baseline' means the baselines for the measurement of the breadth of the territorial sea as they existed at 25th January 1983 in accordance with the Territorial Waters Order in Council 1964.
- b) 'angling' means fishing using a rod and line or a hook and line;
- c) 'the Authority' means the Eastern Inshore Fisheries and Conservation Authority as defined in Articles 2 and 4 of the Eastern Inshore Fisheries and Conservation Order 2010 (SI 2010/2189);
- d) 'beam trawl' means a trawl net where the mouth or opening of the net is kept open by a beam, which is mounted at each end on guides, shoes or skids which travel along the seabed;
- e) 'bottom towed gear' means any fishing gear designed to be towed, dragged or pushed through the water whilst in contact with the seabed;
- f) 'crab tiling' means laying artificial items or structures in intertidal areas to gather crabs for the purpose of fishing;
- g) co-ordinates are based on WGS 84 datum, where 'WGS 84' means the World Geodetic System, revised in 1984;
- h) 'the District' means the Eastern Inshore Fisheries and Conservation District as defined in Articles 2 and 3 of SI 2010/2189;

- i) 'fishing' includes:
  - (i) digging for bait;
  - (ii) shooting, setting, towing and hauling of fishing gear;
  - (iii) gathering sea fisheries resources by hand or by using a hand operated implement;
  - (iv) catching, taking or removing sea fisheries resources;
- j) 'fishing gear' includes any nets, pots, ropes, anchors, surface markers, lines, dredges, grabs, rakes or other implements used during fishing;
- k) 'handwork' means the collection of sea fisheries resources, including bait, using the hands or handheld 'fishing gear';
- l) 'Restricted Area' means the areas numbered 1 to 39 as set out in the schedule of this byelaw;
- m) 'Right of Common' means registered rights held by "commoners" in respect of registered "common land";
- n) 'secured and stowed' means that fishing gear is stored in such a way that use cannot readily be made of it for any fishing activity;

## **Prohibitions**

- 2. A person must not fish with bottom towed gear in Restricted Areas.
- 3. Within Restricted Area 39 a person must not:
  - a) fish with bottom towed gear;
  - b) fish by handwork;
  - c) fish by crab tiling.
- 4. When transiting through a Restricted Area bottom towed gear on vessels must be secured and stowed.

## **Exemptions**

- 5. Paragraph 2 does not apply to fishing under the authority of a licence issued under Article 8 of the Wash Fishery Order 1992 in Restricted areas 1 to 13.
- 6. Paragraph 2 does not apply to fishing within Restricted Area 33 (Seasonal Restricted Area) between 1<sup>st</sup> April and 15<sup>th</sup> October in any year.
- 7. The prohibitions in paragraph 3 do not apply to angling.

8. Paragraph 4 does not apply in relation to Restricted Areas 1 to 38 if the following apply:
  - a) a vessel had been fishing using a beam trawl up to the boundary of the Restricted Area or it will be fishing using a beam trawl immediately upon leaving the Restricted Area; and
  - b) any beam is hoisted so that it is clearly visible above the sea and that no part of the fishing gear is in contact with any part of the seabed whilst the vessel is within the Restricted Area.
  
9. This byelaw does not apply to any person performing an act which would otherwise constitute an offence against this byelaw, if that act was carried out in exercise of any right of common held by that person.

**Revocations**

10. The byelaw titled “Marine Protected Areas Byelaw 2018” which was made by the Eastern Inshore Fisheries and Conservation Authority on 18<sup>th</sup> July 2018 and in force immediately before the making of this byelaw, is revoked.

I hereby certify that the above byelaw was made by Eastern Inshore Fisheries and Conservation Authority at their meeting on 15<sup>th</sup> May 2019.



**Julian Gregory**  
 Chief Executive Officer  
 Eastern Inshore Fisheries and Conservation Authority  
 6 North Lynn Business Village, Bergen Way, Kings Lynn, Norfolk PE30 2JG

*The Secretary of State for Environment, Food and Rural Affairs in exercise of the powers conferred by section 155(3) and (4) of the Marine and Coastal Access Act 2009, confirms the Marine Protected Areas Byelaw 2018 made by the Eastern IFCA on 18<sup>th</sup> July 2018.*

*The said byelaw comes into force on: .....*

## SCHEDULE 1

### Restricted Areas

The following tables set out the co-ordinates of the Restricted Areas referred to in subparagraph 1(l) of this byelaw:

<b>Restricted Area 1</b>			
Restricted Area 1 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 1 for illustrative purposes.			
<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A	52° 57.60' N	00° 10.62' E	3.5
B	52° 57.60' N	00° 10.84' E	
C	52° 57.58' N	00° 10.86' E	
D	52° 57.50' N	00° 10.71' E	
E	52° 57.50' N	00° 10.66' E	

<b>Restricted Area 2</b>			
Restricted Area 2 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 1 for illustrative purposes.			
<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A	52° 57.13' N	00° 09.61' E	79.8
B	52° 57.03' N	00° 09.84' E	
C	52° 56.24' N	00° 09.08' E	
D	52° 56.32' N	00° 08.81' E	
E	52° 56.99' N	00° 09.19' E	

<b>Restricted Area 4</b>			
Restricted Area 4 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 1 for illustrative purposes.			
<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A	52° 54.56' N	00° 06.06' E	6.5
B	52° 54.49' N	00° 06.13' E	
C	52° 54.41' N	00° 05.81' E	
D	52° 54.48' N	00° 05.70' E	

<b>Restricted Area 5</b>			
Restricted Area 5 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 1 for illustrative purposes.			
<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A	52° 55.20' N	00° 08.97' E	379.7
B	52° 54.74' N	00° 09.35' E	
C	52° 54.61' N	00° 09.36' E	
D	52° 53.85' N	00° 08.46' E	
E	52° 53.89' N	00° 07.98' E	
F	52° 54.58' N	00° 06.74' E	
G	52° 55.04' N	00° 07.26' E	
H	52° 54.60' N	00° 08.10' E	

<b>Restricted Area 3</b>			
Restricted Area 3 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 1 for illustrative purposes.			
<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A	52° 54.95' N	00° 05.47' E	60.7
B	52° 55.14' N	00° 06.30' E	
C	52° 54.85' N	00° 06.51' E	
D	52° 54.65' N	00° 05.54' E	

**Restricted Area 6**

Restricted Area 6 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 1 for illustrative purposes.

<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A	52° 55.27' N	00° 09.74' E	123.4
B	52° 55.64' N	00° 10.60' E	
C	52° 55.63' N	00° 10.71' E	
D	52° 55.46' N	00° 10.72' E	
E	52° 55.46' N	00° 10.96' E	
F	52° 55.64' N	00° 11.42' E	
G	52° 55.64' N	00° 11.64' E	
H	52° 55.38' N	00° 11.87' E	
I	52° 55.19' N	00° 11.58' E	
J	52° 55.29' N	00° 11.38' E	
K	52° 55.19' N	00° 10.09' E	
L	52° 55.08' N	00° 09.82' E	

**Restricted Area 7**

Restricted Area 7 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 1 for illustrative purposes.

<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A	52° 54.09' N	00° 11.00' E	15.7
B	52° 54.12' N	00° 11.39' E	
C	52° 54.13' N	00° 11.83' E	
D	52° 54.07' N	00° 11.78' E	
E	52° 53.98' N	00° 11.40' E	
F	52° 54.00' N	00° 11.22' E	

**Restricted Area 8**

Restricted Area 8 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 1 for illustrative purposes.

<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A	52° 52.16' N	00° 11.52' E	24.6
B	52° 52.35' N	00° 12.06' E	
C	52° 52.36' N	00° 12.30' E	
D	52° 52.31' N	00° 12.33' E	
E	52° 52.28' N	00° 12.27' E	
F	52° 52.19' N	00° 12.26' E	
G	52° 52.14' N	00° 12.14' E	
H	52° 52.12' N	00° 11.85' E	
I	52° 52.09' N	00° 11.62' E	

**Restricted Area 9**

Restricted Area 9 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 1 for illustrative purposes.

<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A	52° 50.74' N	00° 14.83' E	64.5
B	52° 50.43' N	00° 15.12' E	
C	52° 50.08' N	00° 14.57' E	
D	52° 50.08' N	00° 14.43' E	
E	52° 50.51' N	00° 14.29' E	

### Restricted Area 10

Restricted Area 10 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence as and finally returning to Point A, set out in chart 1 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A	52° 50.39' N	00° 15.14' E	89.2
B	52° 50.35' N	00° 15.40' E	
C	52° 50.18' N	00° 15.35' E	
D	52° 50.08' N	00° 15.41' E	
E	52° 50.20' N	00° 15.59' E	
F	52° 50.20' N	00° 15.84' E	
G	52° 50.04' N	00° 15.96' E	
H	52° 49.86' N	00° 15.99' E	
I	52° 49.77' N	00° 15.88' E	
J	52° 49.72' N	00° 15.75' E	
K	52° 49.79' N	00° 15.13' E	
L	52° 50.12' N	00° 14.97' E	

### Restricted Area 11

Restricted Area 11 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 1 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A	52° 50.32' N	00° 17.58' E	103.5
B	52° 50.32' N	00° 17.77' E	
C	52° 50.19' N	00° 18.57' E	
D	52° 49.49' N	00° 18.80' E	
E	52° 49.57' N	00° 18.33' E	

### Restricted Area 12

Restricted Area 12 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 1 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A	52° 50.08' N	00° 20.09' E	68.6
B	52° 50.36' N	00° 20.68' E	
C	52° 50.23' N	00° 20.99' E	
D	52° 49.69' N	00° 21.09' E	

### Restricted Area 13

Restricted Area 13 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 1 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A	52° 51.69' N	00° 21.50' E	16.2
B	52° 51.95' N	00° 21.71' E	
C	52° 51.82' N	00° 22.01' E	
D	52° 51.63' N	00° 21.66' E	

### Restricted Area 14

Restricted Area 14 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A	53° 06.35' N	00° 23.92' E	136.7
B	53° 06.09' N	00° 24.70' E	
C	53° 05.35' N	00° 24.37' E	
D	53° 05.61' N	00° 23.60' E	

### Restricted Area 15

Restricted Area 15 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A	53° 05.53' N	00° 24.58' E	8.0
B	53° 05.52' N	00° 24.82' E	
C	53° 05.37' N	00° 24.80' E	
D	53° 05.40' N	00° 24.50' E	

### Restricted Area 16

Restricted Area 16 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	53° 05.23' N	00° 25.06' E	1.5
B.	53° 05.20' N	00° 25.17' E	
C.	53° 05.13' N	00° 25.07' E	
D.	53° 05.15' N	00° 25.03' E	

<b>Restricted Area 17</b>			
Restricted Area 17 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.			
<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A.	53° 05.18' N	00° 24.47' E	26.8
B.	53° 05.10' N	00° 24.98' E	
C.	53° 04.89' N	00° 24.89' E	
D.	53° 04.85' N	00° 24.45' E	

<b>Restricted Area 18</b>			
Restricted Area 18 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.			
<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A.	53° 05.34' N	00° 24.20' E	43.2
B.	53° 05.19' N	00° 24.40' E	
C.	53° 04.81' N	00° 23.68' E	
D.	53° 05.02' N	00° 23.44' E	

<b>Restricted Area 19</b>			
Restricted Area 19 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.			
<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A.	53° 05.00' N	00° 25.49' E	264.7
B.	53° 04.71' N	00° 26.09' E	
C.	53° 03.28' N	00° 25.55' E	
D.	53° 03.37' N	00° 24.86' E	
E.	53° 04.80' N	00° 25.19' E	

<b>Restricted Area 20</b>			
Restricted Area 20 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.			
<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A.	53° 02.66' N	00° 29.46' E	2.7
B.	53° 02.66' N	00° 29.63' E	
C.	53° 02.59' N	00° 29.63' E	
D.	53° 02.59' N	00° 29.46' E	

### Restricted Area 21

Restricted Area 21 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	53° 03.86' N	00° 30.22' E	59.3
B.	53° 03.86' N	00° 30.48' E	
C.	53° 03.67' N	00° 30.48' E	
D.	53° 03.22' N	00° 30.15' E	
E.	53° 03.22' N	00° 29.78' E	
F.	53° 03.48' N	00° 29.78' E	

### Restricted Area 22

Restricted Area 22 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	53° 02.18' N	00° 22.57' E	52.7
B.	53° 02.19' N	00° 23.16' E	
C.	53° 02.09' N	00° 23.30' E	
D.	53° 01.87' N	00° 23.15' E	
E.	53° 01.76' N	00° 22.80' E	
F.	53° 01.85' N	00° 22.60' E	
G.	53° 02.00' N	00° 22.49' E	

### Restricted Area 23

Restricted Area 23 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	52° 59.11' N	00° 27.46' E	2.4
B.	52° 59.06' N	00° 27.52' E	
C.	52° 59.00' N	00° 27.38' E	
D.	52° 59.06' N	00° 27.32' E	

### Restricted Area 24

Restricted Area 24 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	52° 57.17' N	00° 15.98' E	2.4
B.	52° 57.17' N	00° 16.08' E	
C.	52° 57.06' N	00° 16.06' E	
D.	52° 57.06' N	00° 15.94' E	

### Restricted Area 25

Restricted Area 25 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	52° 57.49' N	00° 17.20' E	1.6
B.	52° 57.51' N	00° 17.31' E	
C.	52° 57.44' N	00° 17.34' E	
D.	52° 57.43' N	00° 17.23' E	

### Restricted Area 26

Restricted Area 26 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	52° 57.85' N	00° 19.73' E	2.1
B.	52° 57.85' N	00° 19.96' E	
C.	52° 57.81' N	00° 19.96' E	
D.	52° 57.80' N	00° 19.74' E	

### Restricted Area 27

Restricted Area 27 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	52° 57.18' N	00° 22.07' E	47.3
B.	52° 57.14' N	00° 22.40' E	
C.	52° 57.02' N	00° 22.44' E	
D.	52° 56.81' N	00° 22.35' E	
E.	52° 56.68' N	00° 22.13' E	
F.	52° 56.69' N	00° 21.90' E	
G.	52° 56.75' N	00° 21.88' E	
H.	52° 57.03' N	00° 21.83' E	

### Restricted Area 28

Restricted Area 28 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	52° 57.87' N	00° 08.71' E	3.8
B.	52° 57.85' N	00° 08.81' E	
C.	52° 57.82' N	00° 08.83' E	
D.	52° 57.71' N	00° 08.65' E	
E.	52° 57.73' N	00° 08.58' E	

**Restricted Area 29**

Restricted Area 29 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 2 for illustrative purposes.

<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A.	53° 04.10' N	00° 27.65' E	3446.0
B.	53° 03.65' N	00° 29.98' E	
C.	53° 01.43' N	00° 27.35' E	
D.	52° 59.83' N	00° 24.77' E	
E.	52° 58.75' N	00° 24.60' E	
F.	52° 58.32' N	00° 24.20' E	
G.	52° 57.57' N	00° 22.13' E	
H.	52° 58.23' N	00° 21.45' E	
I.	52° 58.60' N	00° 21.47' E	
J.	53° 00.22' N	00° 22.83' E	

**Restricted Area 30**

Restricted Area 30 is defined by a straight line between points A and B in this table and the land boundary is to be taken as the mean high water springs mark, as set out in chart 3 for illustrative purposes.

<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A.	52° 59.00' N	00° 40.03' E	51.69
B.	52° 58.63' N	00° 40.85' E	

### Restricted Area 31

Restricted Area 31 is defined by a boundary drawn by a line connecting points A and B which follows the three nautical mile boundary (three nautical miles from the 1983 baseline) and a series of straight lines drawn in sequence between points B to I and finally returning to Point A as listed in this table, as set out in chart 3 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	53° 02.58' N	00° 50.67' E	5922
B.	53° 01.65' N	01° 01.57' E	
C.	52° 58.88' N	01° 01.60' E	
D.	52° 59.16' N	01° 00.06' E	
E.	52° 59.71' N	00° 55.55' E	
F.	52° 59.86' N	00° 54.90' E	
G.	52° 59.73' N	00° 53.81' E	
H.	52° 59.79' N	00° 52.44' E	
I.	52° 59.96' N	00° 50.70' E	

### Restricted Area 32

Restricted Area 32 is defined by a boundary drawn by a line connecting points A and B which follows the land boundary which is to be taken as mean high water springs and a series of straight lines drawn in sequence between points B to O and finally returning to Point A, as set out in chart 3 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	52° 57.47' N	00° 51.06' E	2189
B.	52° 58.26' N	01° 01.60' E	
C.	52° 58.36' N	01° 01.60' E	
D.	52° 59.11' N	00° 58.39' E	
E.	52° 59.15' N	00° 57.26' E	
F.	52° 58.80' N	00° 56.52' E	
G.	52° 58.77' N	00° 55.57' E	
H.	52° 58.88' N	00° 54.81' E	
I.	52° 59.10' N	00° 54.22' E	
J.	52° 59.28' N	00° 52.96' E	
K.	52° 59.33' N	00° 51.90' E	
L.	52° 59.54' N	00° 50.90' E	
M.	52° 59.54' N	00° 50.71' E	
N.	52° 58.62' N	00° 50.76' E	
O.	52° 58.40' N	00° 51.03' E	

**Restricted Area 33 (Seasonal Restricted Area)**

Restricted Area 33 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 3 for illustrative purposes.

<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A.	52° 59.96' N	00° 50.70' E	1217
B.	52° 59.79' N	00° 52.44' E	
C.	52° 59.73' N	00° 53.81' E	
D.	52° 59.86' N	00° 54.90' E	
E.	52° 59.71' N	00° 55.55' E	
F.	52° 59.16' N	01° 00.06' E	
G.	52° 58.88' N	01° 01.60' E	
H.	52° 58.36' N	01° 01.60' E	
I.	52° 59.11' N	00° 58.39' E	
J.	52° 59.15' N	00° 57.26' E	
K.	52° 58.80' N	00° 56.52' E	
L.	52° 58.77' N	00° 55.57' E	
M.	52° 58.88' N	00° 54.81' E	
N.	52° 59.10' N	00° 54.22' E	
O.	52° 59.28' N	00° 52.96' E	
P.	52° 59.33' N	00° 51.90' E	
Q.	52° 59.54' N	00° 50.90' E	
R.	52° 59.54' N	00° 50.71' E	
S.	52° 59.96' N	00° 50.70' E	

**Restricted Area 34**

Restricted Area 34 is defined by a boundary drawn connecting points A and B with a straight line followed by connecting points B to C with a line which follows the three nautical mile boundary (three nautical miles from the 1983 baseline), followed by a straight line drawn between points C and D and finally by a line returning to Point A following the mean high-water springs mark, as set out in chart 3 for illustrative purposes.

<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Area (hectares)</b>
A.	52° 58.25' N	01° 01.61' E	3826
B.	53° 01.65' N	01° 01.60' E	
C.	53° 00.31' N	01° 07.35' E	
D.	52° 57.14' N	01° 07.13' E	

### Restricted Area 35

Restricted Area 35 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A following the mean high-water springs mark, as set out in chart 4 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	52° 57.15' N	01° 07.10' E	29930
B.	53° 02.74' N	01° 07.52' E	
C.	53° 01.41' N	01° 18.73' E	
D.	53° 01.30' N	01° 19.23' E	
E.	53° 01.20' N	01° 19.65' E	
F.	53° 01.12' N	01° 19.89' E	
G.	53° 01.05' N	01° 20.11' E	
H.	53° 00.96' N	01° 20.32' E	
I.	53° 00.86' N	01° 20.54' E	
J.	52° 58.74' N	01° 26.36' E	
K.	52° 58.36' N	01° 27.24' E	
L.	52° 57.71' N	01° 28.60' E	
M.	52° 57.25' N	01° 29.41' E	
N.	52° 56.98' N	01° 29.80' E	
O.	52° 56.71' N	01° 30.13' E	
P.	52° 56.27' N	01° 30.57' E	
Q.	52° 55.83' N	01° 30.93' E	
R.	52° 55.42' N	01° 31.20' E	
S.	52° 55.00' N	01° 31.42' E	
T.	52° 54.65' N	01° 31.58' E	
U.	52° 54.37' N	01° 31.68' E	
V.	52° 54.00' N	01° 31.79' E	
W.	52° 53.44' N	01° 31.90' E	
X.	52° 51.86' N	01° 33.80' E	
Y.	52° 49.40' N	01° 32.46' E	

### Restricted Area 36

Restricted Area 36 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 5 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	52° 48.53' N	01° 47.07' E	189.8
B.	52° 48.22' N	01° 48.40' E	
C.	52° 48.05' N	01° 48.64' E	
D.	52° 47.69' N	01° 48.56' E	
E.	52° 47.70' N	01° 47.70' E	
F.	52° 47.82' N	01° 47.40' E	
G.	52° 48.06' N	01° 47.06' E	
H.	52° 48.32' N	01° 46.96' E	

### Restricted Area 37

Restricted Area 37 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 5 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	52° 42.11' N	01° 48.33' E	1401
B.	52° 42.45' N	01° 49.86' E	
C.	52° 41.38' N	01° 51.00' E	
D.	52° 40.57' N	01° 51.23' E	
E.	52° 40.16' N	01° 51.27' E	
F.	52° 39.22' N	01° 50.30' E	
G.	52° 38.87' N	01° 49.97' E	
H.	52° 38.87' N	01° 49.78' E	
I.	52° 39.83' N	01° 49.33' E	
J.	52° 40.17' N	01° 48.78' E	
K.	52° 40.62' N	01° 48.57' E	
L.	52° 41.68' N	01° 48.31' E	

### Restricted Area 38

Restricted Area 38 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence and finally returning to Point A, as set out in chart 5 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	52° 37.16' N	01° 54.34' E	2237
B.	52° 39.92' N	01° 53.25' E	
C.	52° 40.54' N	01° 53.28' E	
D.	52° 41.43' N	01° 53.75' E	
E.	52° 41.62' N	01° 54.49' E	
F.	52° 41.37' N	01° 55.29' E	
G.	52° 39.86' N	01° 56.70' E	
H.	52° 39.22' N	01° 56.76' E	
I.	52° 38.52' N	01° 56.55' E	
J.	52° 37.83' N	01° 56.26' E	

### Area 39

Restricted Area 39 is defined by a boundary drawn by the series of straight lines connecting each point listed in this table to the next point in sequence, as set out in Chart 6 for illustrative purposes.

Point	Latitude	Longitude	Area (hectares)
A.	53° 29.67' N	00° 04.90' E	170.8
B.	53° 30.44' N	00° 06.29' E	
C.	53° 29.10' N	00° 06.04' E	
D.	53° 29.67' N	00° 04.90' E	

## **Explanatory Note**

(This note does not form part of the byelaw)

This byelaw sets restrictions for fishing activities to protect marine habitats and species within or adjacent to marine protected areas from fishing activities. Restrictions include areas restricted to specified fishing gear and types of fishing activity and restrictions related to the use of fishing gear.

The marine protected areas to which these restrictions apply are in relation to Special Areas of Conservation (SAC) as provided in Article 3 Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive) or in relation to Marine Conservation Zones (MCZ) as provided in the Cromer Shoal Chalk Beds Marine MCZ Order 2016.

Restrictions set out in this byelaw are in relation to the Wash and North Norfolk Coast SAC, the Humber Estuary SAC, Haisborough, Hammond and Winterton SAC and the Cromer Shoal Chalk Beds MCZ.

Restrictions include a requirement to have bottom towed gear secured and stowed when a fishing vessel is inside the Restricted Areas. Fishers are exempt from the requirement to secure and stow bottom towed gear if the vessel is fishing using a beam trawl up to the boundary of a Restricted Area or it will be fishing immediately upon leaving the Restricted Area. However, the gear must be suspended clear of the water. The exemption does not apply in the Humber Estuary Restricted Area (Restricted Area 39).

### **Holders of Rights of Common**

Paragraph 6 of this Byelaw specifically preserves personal "rights of common". These are particular, specialised and defined rights held by "commoners" in respect of registered "common land". "Rights of Common" relate only to registered common land and this Byelaw retains full force and effect against all other persons, including those exercising their common law right of fishery and any person exercising a private or several right of fishery. If you have any doubts about the applicability of this Byelaw to you, you should seek guidance from the Authority before fishing for or taking any sea fisheries resources.

### **Wash and North Norfolk Coast SAC**

Certain sub-features of the MPA have been assessed as requiring protection from fishing activities using bottom towed gear as follows:

- Subtidal biogenic reef: *Sabellaria* spp. (Ross worm)
- Subtidal stony reef
- Intertidal biogenic reef: mussel beds
- Intertidal seagrass beds
- Subtidal mixed sediments
- Subtidal mud
- Intertidal sand
- Harbour seals

Some or part of the above features as they occur within the Wash and North Norfolk Coast SAC are closed to fishing by use of bottom towed gear with the effect of ensuring site integrity. Closures may include habitats and sub-features other than those set out above to ensure that the size, shape and orientation of the restricted area is clear and effective at providing a protective effect.

### Humber Estuary SAC

The sub-feature 'intertidal seagrass beds' has been assessed as requiring protection from fishing activity using bottom towed gear and 'handwork' fishing activity.

Restrictions in the Humber Estuary SAC include a Restricted Area in relation to fishing with bottom towed gear, fishing by hand and crab-tilling. The Restricted Area does not apply to fishing by hand when a rod and line or hook and line is used.

### Cromer Shoal Chalk Beds MCZ

The features below have been assessed as requiring protection from fishing activity using bottom towed gear.

- Moderate energy infralittoral rock
- High energy infralittoral rock
- Moderate energy circalittoral rock
- High energy circalittoral rock
- Subtidal chalk
- Peat and clay exposures

These features have been closed to fishing activity by bottom towed gear to ensure that the conservation objectives of the site are met. Closures may include habitats and sub-features other than those set out above to ensure that the size, shape and orientation of the restricted area is clear and effective at providing a protective effect.

### Haisborough, Hammond and Winterton SAC

The sub-feature 'Subtidal biogenic reef: *Sabellaria* spp. (Ross worm)' has been assessed as requiring protection from fishing activity using bottom towed gear.

Some or part of the above features as they occur within the Haisborough, Hammond and Winterton SAC are closed to fishing by use of bottom towed gear with the effect of ensuring site integrity. Closures may include habitats and sub-features other than those set out above to ensure that the size, shape and orientation of the restricted area is clear and effective at providing a protective effect.

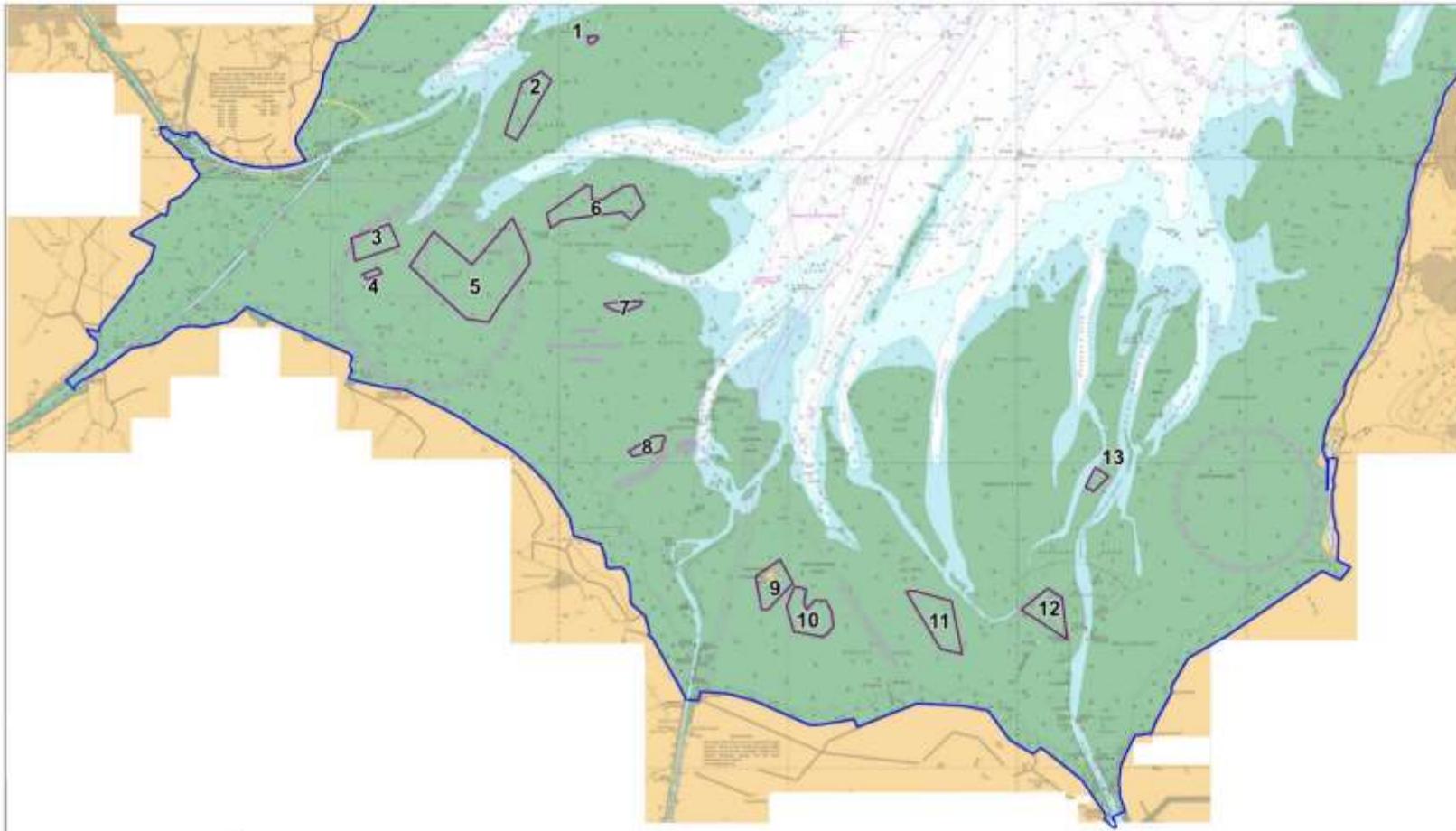


Chart 1: The Wash and North Norfolk Coast SAC – Restricted Areas 1 to 13

- Restricted area to bottom towed gear
- The Wash and North Norfolk Coast SAC boundary

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Date: 28/02/2019  
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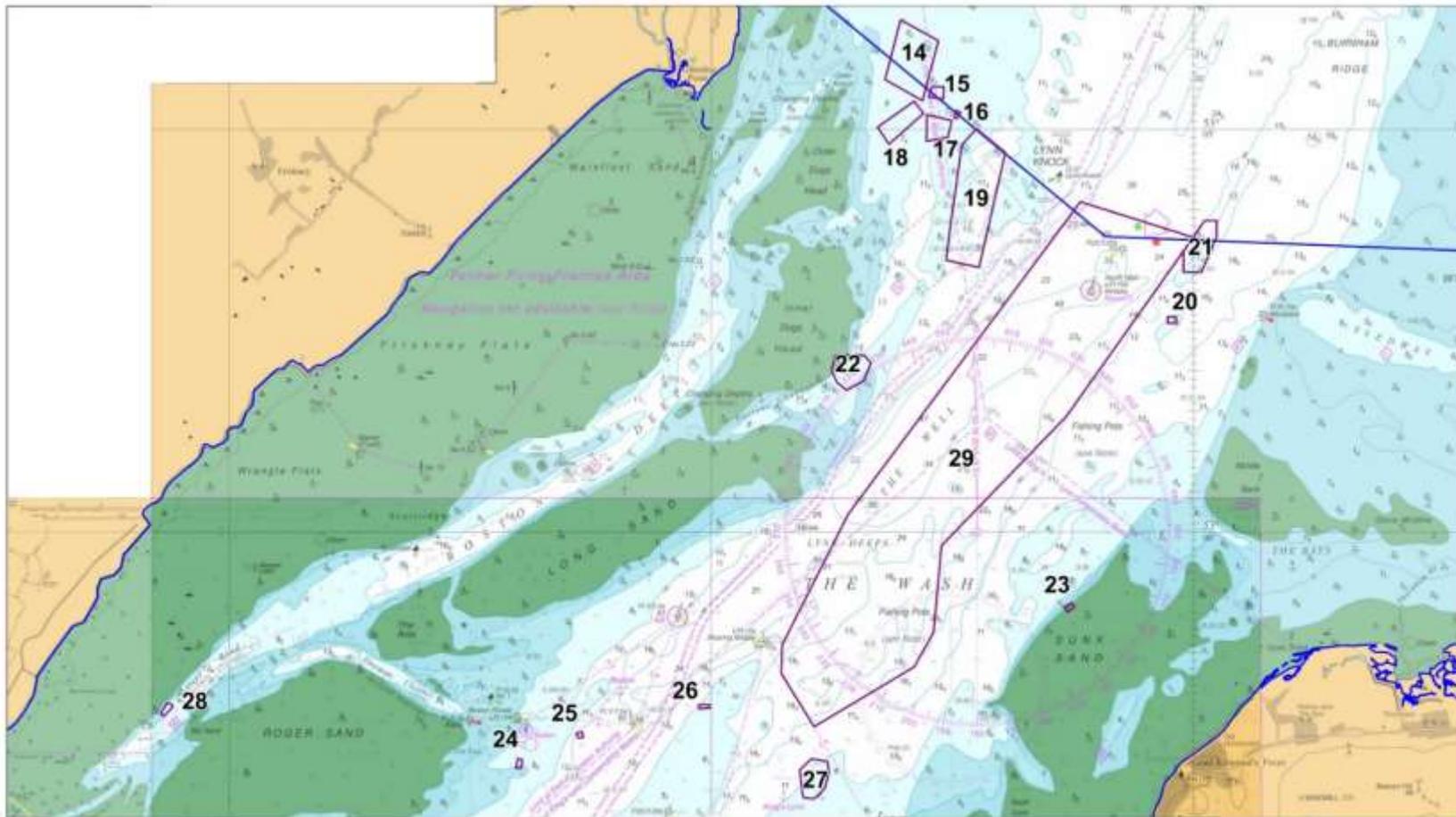


Chart 2: The Wash and North Norfolk Coast SAC – Restricted Areas 14 to 29

- Restricted area to bottom towed gear
- The Wash and North Norfolk Coast SAC boundary

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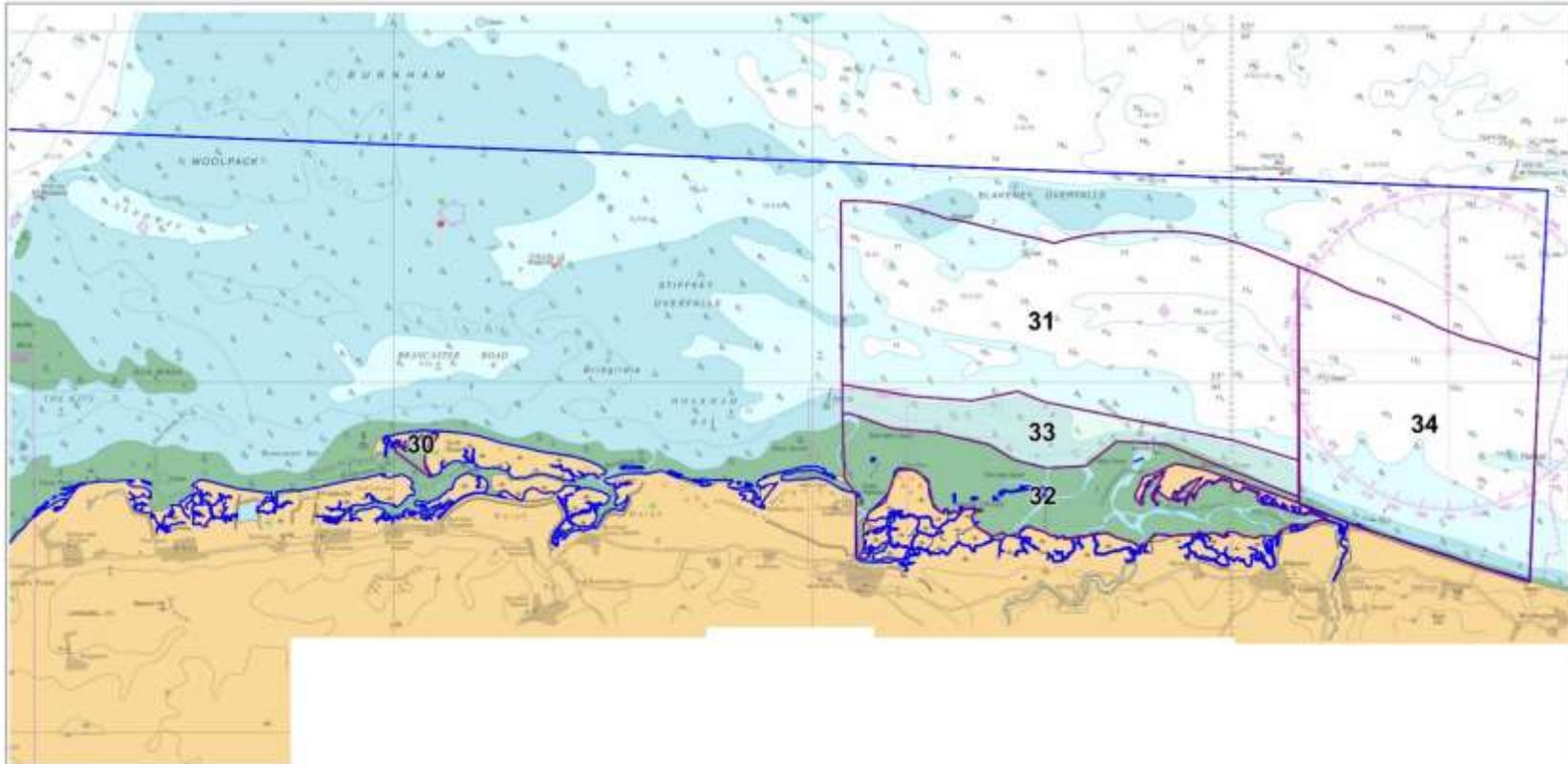


Chart 3: The Wash and North Norfolk Coast SAC – Proposed Restricted Areas 30 to 34

- Restricted area to bottom-towed gear
- The Wash and North Norfolk Coast SAC boundary
- Seasonal corridor (open to the fishery October - April)

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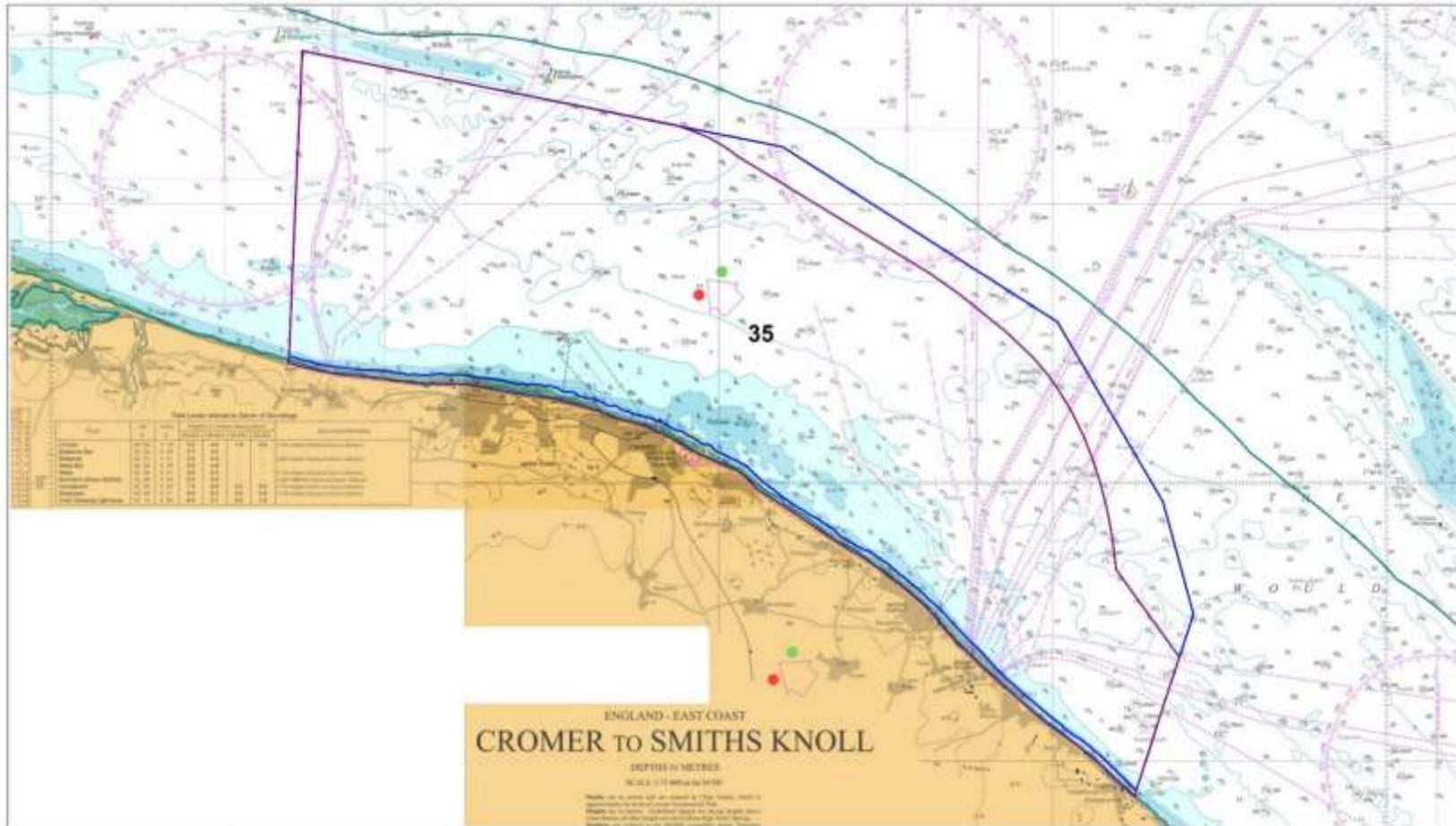


Chart 4: Cromer Shoal Chalk Beds – Proposed Restricted Area 35

- Restricted area to bottom-towed gear
- Eastern IFCA district boundary
- Cromer Shoal Chalk Beds MCZ boundary

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Chart 5: Haisborough, Hammond & Winterton SAC – Proposed Restricted Areas 36 to 38

- Restricted area to bottom-towed gear
- Eastern IFCA district boundary
- Haisborough, Hammond and Winterton SAC boundary

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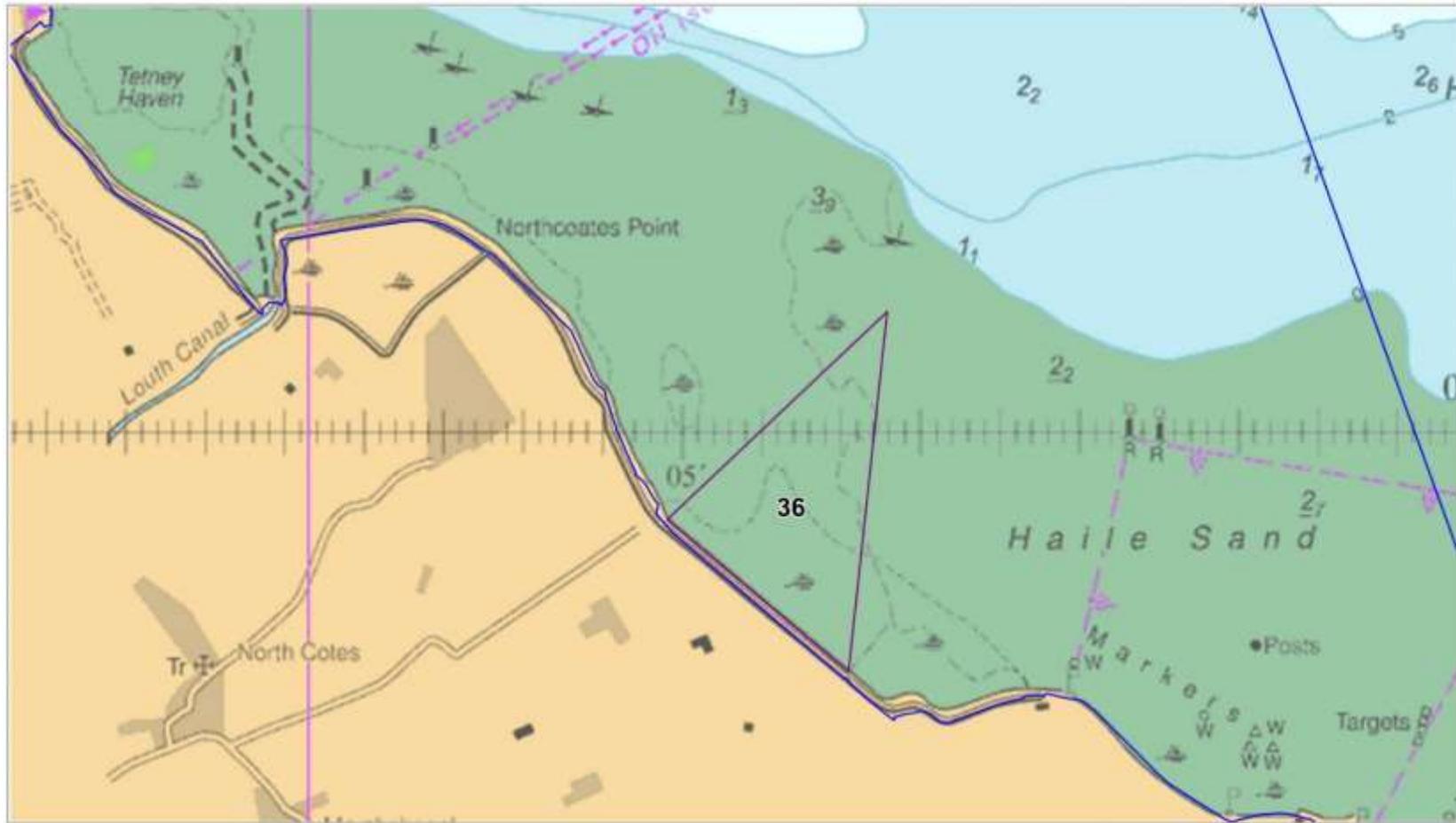


Chart 4: The Humber Estuary SAC – Restricted Area 36

 Restricted area to bottom towed gear

Chart 6 – The Humber Estuary SAC Restricted Area 39

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## Appendix 2 – Marine Protected Areas Byelaw 2019 – Impact Assessment

<b>Title:</b> Marine Protected Areas Byelaw 2019  <b>IA No:</b> EIFCA007  <b>Lead department or agency:</b> Eastern Inshore Fisheries and Conservation Authority  <b>Other departments or agencies:</b>			<b>Impact Assessment (IA)</b>		
			<b>Date:</b> 24/04/2019		
			<b>Stage:</b> Draft version 1		
			<b>Source of intervention:</b> Domestic		
			<b>Type of measure:</b> Other		
			<b>Contact for enquiries:</b> Julian Gregory (CEO) Eastern IFCA, 6 North Lynn Business Village, Bergen Way, King's Lynn, Norfolk, PE30 2JG; tel:01553 775321, email: mail@eastern-ifca.gov.uk		
<b>Summary: Intervention and Options</b>			<b>RPC Opinion:</b> Not Applicable		
<b>Cost of Preferred (or more likely) Option</b>					
<b>Total Net Present Value</b>	<b>Business Net Present Value</b>	<b>Net cost to business per year</b> (EANDCB in 2016 prices)	<b>One-In, Three-Out</b>	<b>Business Impact Target Status</b>	
£-390,933.06	£-329,166.54	£34,282.20	Not applicable	To be determined	
<b>What is the problem under consideration?</b>					
<p>Bottom towed gear and its potential impacts on designated features in the Cromer Shoal Marine Conservation Zone (MCZ) and Haisborough, Hammond and Winterton Special Area of Conservation (SAC) has been assessed and it has been concluded that impacts on site integrity are likely. In addition, shrimp fishing within the Wash and North Norfolk Coast SAC has been assessed and adverse impacts on site integrity cannot be ruled out. Spatial closures are proposed through the Marine Protected Areas Byelaw 2019 which mitigate the risk to the sensitive sub-features (Subtidal Chalk Bed, <i>Sabellaria spinulosa</i> (Ross Worm), sub-tidal mixed sediment and subtidal mud) with the effect mitigating the identified impacts.</p>					
<b>Why is government intervention necessary?</b>					
<p>The risk to Marine Protected Areas (MPAs) dictates that a regulatory approach is required in relation to the protection of designated habitats.</p>					
<b>What are the policy objectives and the intended effects?</b>					
<p>To manage long-term, sustainable fisheries within the Eastern IFC District which do not adversely impact the conservation objectives of marine protected areas by prohibiting the use of any bottom towed gear over habitats which have been assessed as being vulnerable to this fishery. Intended effects: Prevent degradation and /or improve the condition of habitats vulnerable to bottom towed gear within Cromer Shoal MCZ, Haisborough, Hammond and Winterton SAC and the Wash and North Norfolk Coast SAC.</p>					
<b>What policy options have been considered, including any alternatives to regulation?</b>					
<p>Option 0. Do nothing.          Option 1. Discrete spatial closures of sensitive features and sub features through the Marine Protected Areas Byelaw 2019          Option 2. Total closure of Marine Protected Areas where site integrity is at risk</p> <p>The preferred option is option 1 – The proposed byelaw will ensure that fishing activity will not impact negatively on the conservation objectives of the Cromer Shoal MCZ, Haisborough, Hammond and Winterton SAC or the Wash and North Norfolk Coast SAC.</p>					
<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 04/2025					
Does implementation go beyond minimum EU requirements?				Yes	

Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> N/A		<b>Non-traded:</b> N/A	

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Chief Executive:  
xx/xx/xxxx

Date:

# Summary: Analysis & Evidence Policy Option 1

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year 2018	PV Base Year 2016	Time Period Years: 10	Net Benefit (Present Value (PV)) (£)		
			Low: £-767,037	High: £-226,388	Best Estimate: £-390,933

COSTS (£)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant)	Total Cost (Present Value)
Low	0.0	£263,00.7	<b>£226,388.5</b>
High	0.0	£891,10.7	<b>£767,037.3</b>
Best Estimate	0.0	£45,416.7	<b>£390,933.1</b>

#### Description and scale of key monetised costs by 'main affected groups'

Key monetised costs relate to the loss of fishing grounds to fishers that use bottom towed gear as a result of spatial closures. The scale of the impact based on the best estimate is likely to be low and will primarily be in relation to the brown shrimp fishery particularly in relation to the closure within the Wash and North Norfolk Coast SAC.

The actual scale of impact is likely to vary annually given the spatial variability of the shrimp fishery, and any other fisheries that uses bottom towed gear within the sites and the potential for important fishing grounds to co-occur with proposed spatial closures. The best estimate is likely to be an over-estimate given that fishers will likely be able to mitigate losses by fishing in different areas.

#### Other key non-monetised costs by 'main affected groups'

Low costs associated with increased vessel overhead costs (depreciation and fuel costs) as a result of increasing range to accommodate displacement from fishing grounds closed to fishing by bottom-towed-gear. Loss of potential future fishing opportunities in closed areas.

BENEFITS (£)	Total Transition (Constant Price) Years	Average Annual (cl. Transition) (Constant)	Total Benefit (Present Value)
Low	Unknown	Unknown	<b>Unknown</b>
High	Unknown	Unknown	<b>Unknown</b>
Best Estimate	n/a	n/a	<b>n/a</b>

#### Description and scale of key monetised benefits by 'main affected groups'

none identified

#### Other key non-monetised benefits by 'main affected groups'

Protection of the habitats identified as being at risk from bottom towed gear fishing activity will have a positive effect on the overall ecological functioning of the MPAs and potentially improve fishery productivity, including in relation to species other than those targeted using bottom towed gear.

Key assumptions/sensitivities/risks

Discount rate

3.5%

Assumptions: Fishing grounds identified through Eastern IFCA catch returns data are accurate, location of habitats assessed as sensitive to bottom-towed-gear is accurate. Sensitivities / risks: Spatial closures cause displacement into other less sensitive areas with the effect of impacting site integrity (unlikely), future fisheries occurring within closed areas.

## BUSINESS ASSESSMENT (Option 1)

<b>Direct impact on business (Equivalent Annual)</b>	<b>Score for Business Impact Target (qualifying provisions only) £m: n/a</b>
<b>Costs: £34,282.2 Benefits: 0.0 Net: -£34,282.2</b>	

## Evidence Base

### Problem under consideration

Defra's revised approach to managing fishing activity in European Marine Sites requires Eastern IFCA to ensure that fishing activity does not have an adverse effect on site integrity in marine protected areas (MPA's) which occur within the IFC District. This requirement derives from Article 6 of the Habitats directive and the Conservation of Habitats and Species Regulations (as amended) 2017 (SI 2017/1012). Furthermore, Eastern Inshore Fisheries and Conservation Authority (IFCA) is required under the Marine and Coastal Access Act 2009 to further the conservation objectives of any marine conservation zones within the Eastern IFC District.

Eastern IFCA also has a duty to act to ensure the sustainable exploitation of fisheries within its district as per section 153 of the Marine and Coastal Access Act 2009. In carrying out its duties Eastern IFCA is obliged to ensure good environmental status of fish and shellfish stocks as per the Marine Strategy Framework Directive (2008/56/EC) namely; sustainable fisheries with high long-term yields, stocks functioning at full reproductive capacity, and to maintain or increase the proportion of older and larger individuals.

The prolific shrimp fishery within the Eastern IFC District co-occurs primarily with the Wash and North Norfolk Coast Special Area of Conservation (SAC) – see figure 1. The fishery was assessed in accordance with s.63 of the Habitats and Species Regulations (as amended) 2017 and it was concluded that management measures are required to prevent an adverse effect on site integrity. Some closures to bottom-towed-gears have already been implemented in relation to this assessment (within The Wash) under the Marine Protected Areas Byelaw 2018. Further assessment has concluded that additional closures within the north Norfolk coast section of this site are also required.

Modelled data provided by Natural England indicated Sabellaria reef (biogenic reef) presence within the Haisborough, Hammond and Winterton Special Area of Conservation (SAC). Eastern IFCA undertook habitat survey work within the area in October 2016. The results, analysed in conjunction with an assessment of raw video data supplied by CEFAS, confirmed the presence of Sabellaria reef within some of the modelled areas.

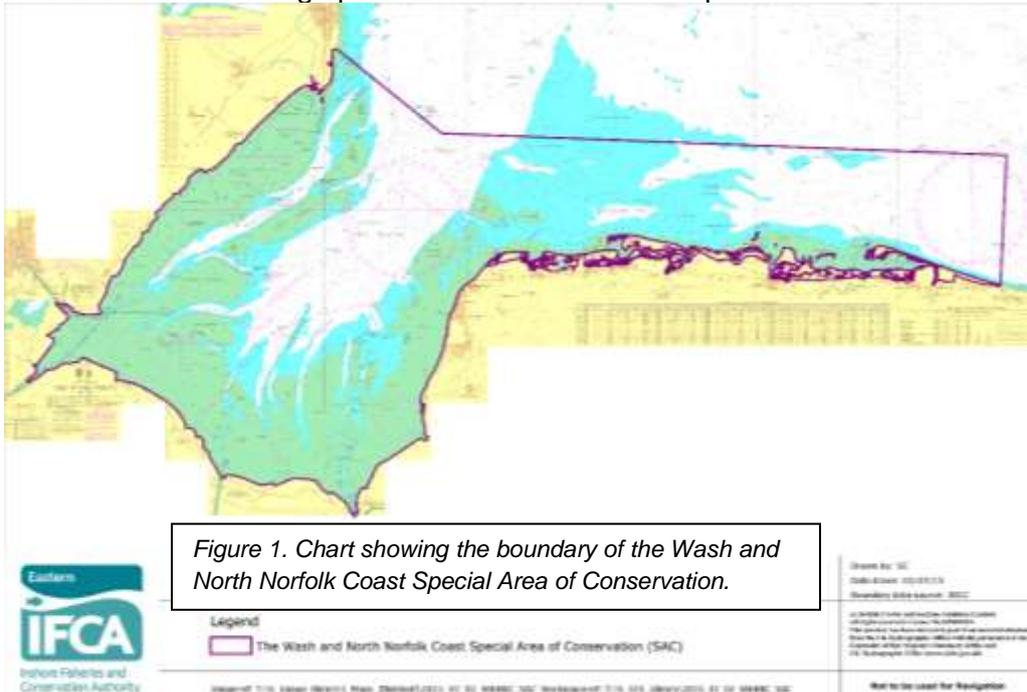
Given that this feature is considered of 'red-risk' in relation to fishing with bottom towed gear, Defra's revised approach to managing fishing activity in MPA necessitates closures of the area to the fishing activity.

Eastern IFCA has also assessed fishing activity with bottom-towed-gears within the Cromer Shoal Chalk Beds Marine Conservation Zone (MCZ). The assessment has identified that

fishing with bottom-towed-gear is likely to impact on designated features of the site.

### Wash and North Norfolk Coast SAC

The Wash and North Norfolk brown shrimp fishery is the most important in the UK, accounting for approximately 90% of UK landings (ICES, 2010). The annual first sale value of this fishery has ranged from £538,234 to £2,668,685 with an average value of £1,662,408 (Marine Management Organisation landings data release 23/08/2018). Between 29 and 54 different vessels have operated in the fishery annually from 2010 to 2017 with a total of 82 different vessels having operated over the same time period.



This is a year-round fishery, but effort and landings typically peak from September to November (Innes et al., 2007; ICES, 2015). In the past, the fishery has been a significant employer in the ports of Boston and King's Lynn (Innes et al., 2007). Beam trawling for shrimp is one of the main fishing activities occurring within The Wash and North Norfolk Coast SAC. Aviat et al. (2011) reported that approximately 500 vessels and 1,000 fishers are involved in the North Sea brown shrimp fishery (i.e. across the whole of the North Sea brown shrimp fishing area, of which The Wash is a small part). Currently, approximately 37,000 tonnes of shrimp are fished per annum by Dutch (53%), German (33%), Danish (8%), UK (2%), Belgian (2%) and French (1%) vessels, including the Eastern English Channel vessels (Seafish, 2017). Reflecting on these percentages, The Wash and North Norfolk Coast brown shrimp fishery is of huge importance on a local level, however, it is not nearly as extensive or intensive as the continental fishery.

Traditionally, two species were targeted in The Wash and North Norfolk Coast area by this activity; brown shrimp (*Crangon* spp.) and pink shrimp (*Pandalus montagui*), with the pink shrimp fishery being the more important fishery for more than 150 years (MES, 2012). Currently there is no fishing for pink shrimp due to market conditions, competing potting activity and restrictions on towed demersal gear in the available grounds. The pink shrimp fishery used to operate in deeper waters of The Wash and its approaches and is often associated with biogenic reef created by *Sabellaria spinulosa* colonies.

Other species are also thought to be caught from this area using bottom-towed gear although activity is thought to be small compared to the brown shrimp fishery. Notable

species include sole, cod and whiting. The vast majority of fishing for shrimp by bottom-towed-gear is thought to be within The Wash with the North Norfolk Coast section of the MPA of lesser importance.

Towed demersal fishing activities on features within the Wash and North Norfolk SAC were assessed in the shrimp fishery Habitats Regulations Assessment for the Wash and North Norfolk Coast SAC<sup>61</sup>. The potential impacts on habitats within the north Norfolk Coast section of the MPA were considered further including in relation to additional advice received from the Statutory Nature Conservation Body, Natural England. This further assessment is set out in Action Item 11 of the 35<sup>th</sup> Eastern IFCA meeting<sup>62</sup>. In summary, it was concluded that the impacts on intertidal sand and muddy sand sub-features on the inshore section of the site could not be ruled out. In addition, the combination of sub-features represented by areas represented by a portion of the north Norfolk Coast further offshore within the site represents an ecologically important area the protection of which is required to effectively rule out adverse effects on site integrity. This includes the potential for impacts on seal food availability as a result on bycatch from shrimp fishing off the North Norfolk Coast SAC.

#### Haisborough, Hammond and Winterton SAC

Fishing activity within this site is considered to be very low which is in part informed by informal engagement with fishers. However, the sensitivity of the sub-feature *Sabellaria* reef is considered high in relation to bottom-towed-gear. Defra policy dictates the removal of the potential for the interaction in such cases as a 'red-risk' interaction is identified. Location of the 'red-risk' sub feature has been the subject of significant consideration by Eastern IFCA.

#### Cromer Shoal Chalk Bed Marine Conservation Zone (the MCZ)

Eastern IFCA have assessed the impacts of fishing activity within the MCZ in relation to bottom towed gear. The assessment has concluded that several 'red risk' features are present within in relation to bottom towed gear (table 1 and 2). That is that all fishing pressure must be removed from the features.

<b>Table 1. extract from Cromer Shoal Chalk Beds Marine Conservation Zone: Commercial Fishing Assessment (version 3.4, 11<sup>th</sup> April 2019) showing the designated features of the MCZ. Those highlighted in grey are considered to be impacted by bottom towed fishing gear.</b>	
<b>Protected features</b>	<b>General management approach</b>
Moderate energy infralittoral rock	Maintain in favourable condition
High energy infralittoral rock	Maintain in favourable condition
Moderate energy circalittoral rock	Maintain in favourable condition
High energy circalittoral rock	Maintain in favourable condition
Subtidal chalk	Maintain in favourable condition
Subtidal coarse sediment	Maintain in favourable condition
Subtidal mixed sediments	Maintain in favourable condition
Subtidal sand	Maintain in favourable condition
Peat and clay exposures	Maintain in favourable condition
North Norfolk Coast (subtidal) (geological feature)	Maintain in favourable condition

The location of the features above are represented in figures 3 to 5 below. Formal advice has been received from the Statutory Nature Conservation Body, Natural England to the effect that

<sup>61</sup> Full HRA can be found here: <http://www.eastern-ifca.gov.uk/habitats-regulations-assessment-impacts-shrimp-fishery-wash-north-norfolk-coast-special-area-conservation/>

<sup>62</sup> <http://www.eastern-ifca.gov.uk/wp-content/uploads/2016/02/35th-EIFCA.pdf>

these features are likely to be impacted. Natural England have also provided advice regarding the extent of chalk features within the site.

**Table 2. extract from Cromer Shoal Chalk Beds Marine Conservation Zone: Commercial Fishing Assessment (version 3.4, 11<sup>th</sup> April 2019) showing consideration of MCZ features in relation to attributable 'generic sub-features' from the European Marine Site fishing interactions matrix.**

Fishing Gear	Generic sub-features	Screening result	Rationale
All towed demersal gears Dredges (towed) – Scallops, and Mussels, Clams, oysters	Intertidal and subtidal chalk reef Subtidal bedrock reef Subtidal boulder and cobble reef	Red Risk – management to be implemented to remove the potential for the interaction.	There is no realistic prospect of potential measures of equivalent environmental benefit to the damage which may be caused to the MCZ, leaving the prevention of the interaction as the only management option.

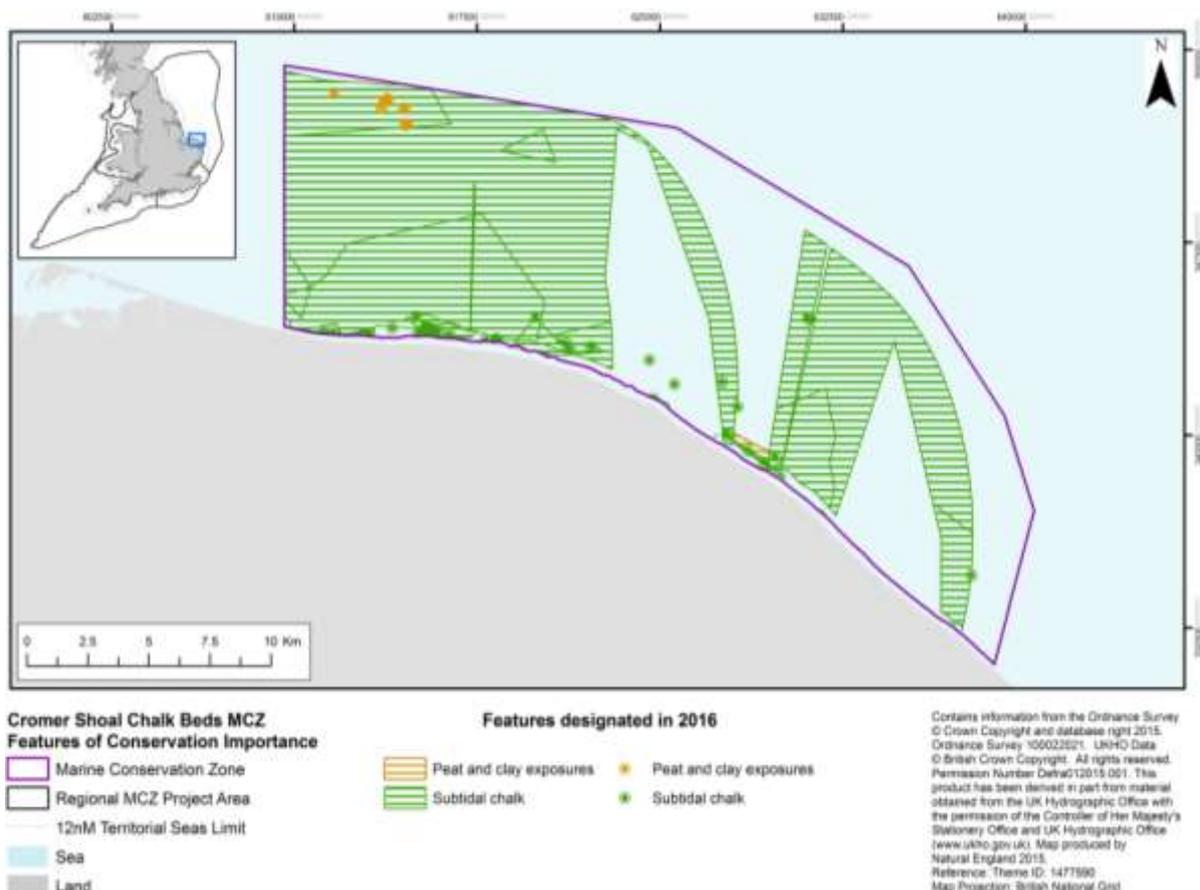


Figure 3- Location of features of conservation importance within Cromer Shoal Chalk Beds MCZ. Locations of features derived from Natural England's Advice to Defra on proposed Marine Conservation Zones (pMCZs)

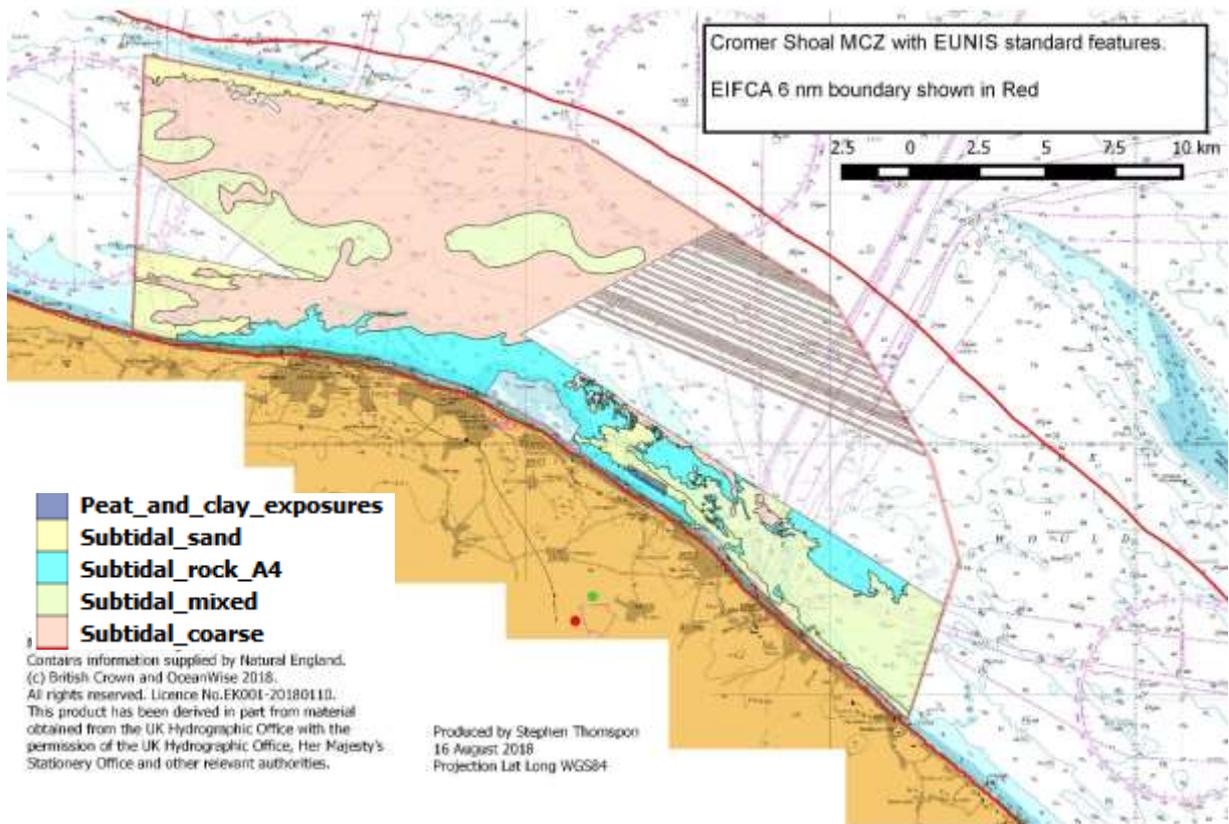


Figure 4 Location of Broad Scale Habitats (EUNIS Level 3) within Cromer Shoal Chalk Beds MCZ. Locations of features derived from Natural England data release April 2017.

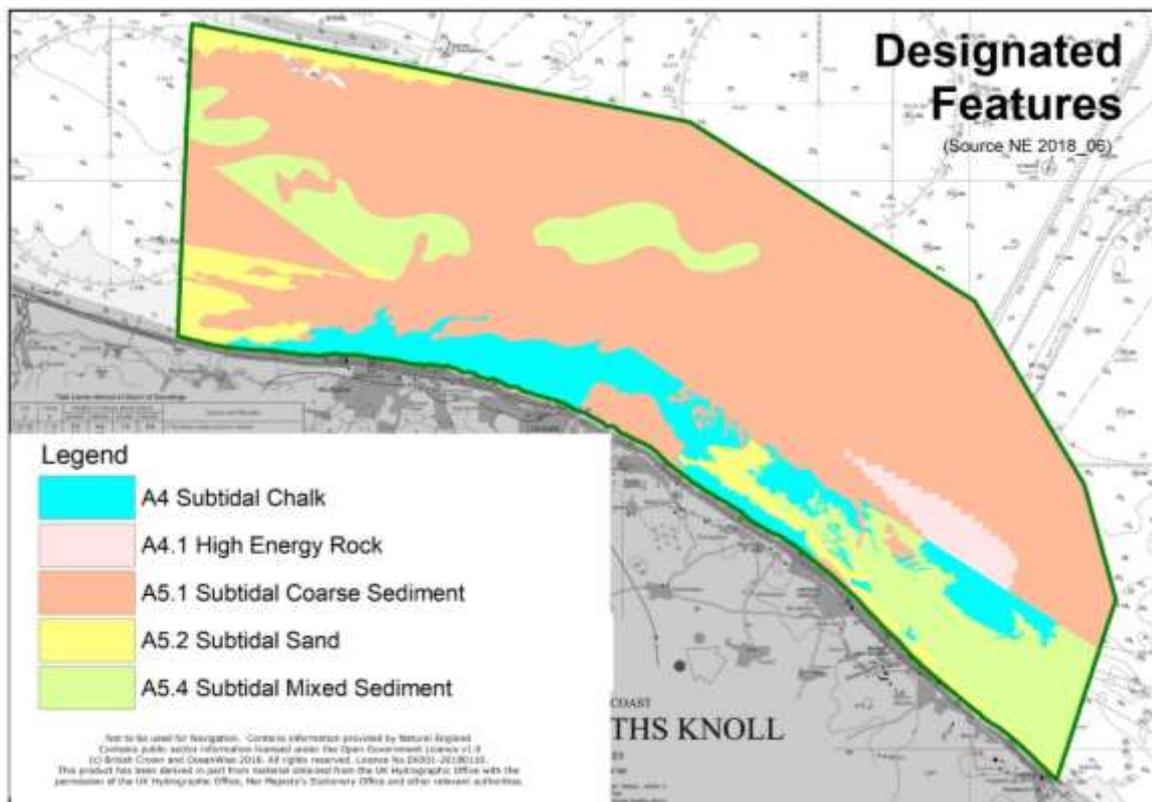


Figure 5 Location of Broad Scale Habitats (EUNIS Level 3) within Cromer Shoal Chalk Beds MCZ. Locations of features derived from Natural England data release June 2018

## Rationale for intervention

IFCAs have a duty to ensure that fish stocks are exploited in a sustainable manner, and that any impacts from that exploitation on designated features in the marine environment are reduced or suitably mitigated, by implementing appropriate management measures. Implementing this byelaw will enable Eastern IFCA to ensure that fishing activities are conducted in a sustainable manner and that the marine environment is suitably protected.

Fishing activities can potentially cause negative outcomes as a result of market failures. These failures can be described as:

1. Public goods and services – a number of goods and services provided by the marine environment such as biological diversity are ‘public goods’ (no-one can be excluded from benefiting from them, but use of the goods does not diminish the goods being available to others). The characteristics of public goods, being available to all but belonging to no-one, mean that individuals do not necessarily have an incentive to voluntarily ensure the continued existence of these goods which can lead to under-protection/provision.
2. Negative externalities – negative externalities occur when the cost of damage to the marine environment is not fully borne by the users causing the damage. In many cases no monetary value is attached to the goods and services provided by the marine environment and this can lead to more damage occurring than would occur if the users had to pay the price of damage. Even for those marine harvestable goods that are traded (such as wild fish), market prices often do not reflect the full economic cost of the exploitation or of any damage caused to the environment by that exploitation.
3. Common goods - a number of goods and services provided by the marine environment such as populations of wild fish are ‘common goods’ (no-one can be excluded from benefiting from those goods however consumption of the goods does diminish that available to others). The characteristics of common goods (being available but belonging to no-one, and of a diminishing quantity), mean that individuals do not necessarily have an individual economic incentive to ensure the long-term existence of these goods which can lead, in fisheries terms, to potential overfishing. Furthermore, it is in the interest of each individual to catch as much as possible as quickly as possible so that competitors do not take all the benefits. This can lead to an inefficient amount of effort and unsustainable exploitation.

IFCA byelaws aim to redress these sources of market failure in the marine environment through the following ways:

- Management measures to conserve designated features of MPAs will ensure negative externalities are reduced or suitably mitigated.
- Management measures will support continued existence of public goods in the marine environment by conserving the range of biodiversity in the sea of the Eastern IFCA District.
- Management measures will also support continued existence of common goods in the marine environment by ensuring the long-term sustainability of shrimp stocks in the Eastern IFCA District.

### Policy objective

The policy objective is to ensure that the bottom towed gear fisheries within three of the MPAs within Eastern IFCA's district do not have an adverse effect on site integrity of these sites whilst minimising the economic impact on the fishing industry. The size and shape of the closures are intended to be representative of minimum requirements to ensure conservation objectives are met but also effective, enforceable and clear to impacted stakeholders.

The intended effect of the measures is to prohibit the use of bottom towed gear in areas which contain habitats which are likely to be damaged by their use and with the effect of adversely affecting site integrity.

It is also intended to provide additional clarity to fishers operating in the area regarding closures to bottom towed gear by implementing a requirement to secure and stow bottom towed gear (including the related exemption) in an area closed to different fishing methods under byelaws inherited from Eastern Sea Fisheries Joint Committee.

### Description of options considered (including status quo);

#### *Option 0 (do nothing) – status quo*

Eastern IFCA has assessed the impacts of fishing with bottom towed gear within three MPAs. The assessment has concluded that adverse impacts on site integrity cannot be ruled out in relation to some sub-features where any level of fishing activity using bottom towed gear is considered likely to have a significant adverse effect. This includes in relation to identified 'red-risk' features where Defra policy dictates the removal of the fishing pressure for 'red-risk' interactions.

Towed demersal fishing activities on features: subtidal biogenic reef: *Sabellaria* spp., and subtidal chalk beds within an MPA are classified as red-risk interactions and require management measures to prevent fishing activities from having harmful effects on the environment.

The 'do nothing' option would have the least economic impact on stakeholders however, is not considered to adequate to reduce the risk of impacts from shrimp fishing and bottom towed gear within Wash and North Norfolk Coast SAC, the Cromer Shoal MCZ or Haisborough, Hammond and Winterton SAC and is therefore not considered a viable option.

#### *Option 1 (preferred option) – Marine Protected Areas Byelaw 2019*

The Marine Protected Areas Byelaw 2019 will introduce additional spatial closures in addition to those in effect from the Marine Protected Areas Byelaw 2018 to prohibit the use of bottom towed gear primarily in relation to the following:

- sub-tidal mixed sediment (Wash and North Norfolk Coast SAC);
- sub-tidal mud (Wash and North Norfolk Coast SAC);
- Intertidal sand (Wash and North Norfolk Coast SAC);

- Harbour seals (the prey source thereof - Wash and North Norfolk Coast SAC);
- Biogenic reef *Sabellaria spinulosa*, (Haisborough, Hammond and Winterton SAC);
- Subtidal Chalk Beds and associated sub-features as at Table 1 (Cromer Shoal Chalk Beds MCZ);
- Peat and Clay exposures (Cromer Shoal Chalk Beds MCZ).

These have been assessed as being sensitive to bottom-towed-gear fishing. Additional closures relate to Restricted Areas 31 to 38 as set out in Charts 3, 4 and 5 of the proposed byelaw. Proposed Restricted Area 31 subsumes four smaller Restricted Areas as in the Marine Protected Areas Byelaw 2018 (Restricted Areas 31 to 35). So as to be effective, closures are proposed which are as simple shape as possible and do not necessarily follow the convoluted extent of sub-features identified. As such, closures will also encompass some habitats and features which are not considered at risk of damage.

The byelaw will also require fishers to 'secure and stow' bottom towed gear such that it cannot readily be used when transiting closed areas. There is an exemption to this requirement to the effect that shrimp beams need only be lifted clear of the water if a vessel has been fishing up to the closed area or will be fishing immediately after leaving a closed area.

The closures will be subject to the exemption regarding fishing activity via a Right of Common. These are specified Rights which relate to registered common land. This exemption is applied generally through the byelaw. None of the additional proposed Restricted Areas coincide with areas of common land and therefore there is no potential impact on sensitive habitats.

Restricted Area 34 includes an area west of the western boundary of the Cromer Shoal MCZ and within the Wash and North Norfolk Coast SAC. The HRA for the Wash and North Norfolk Coast SAC concluded that this area required closure to bottom towed gear to ensure site integrity. This area is closed to use of trawl nets under Byelaw 12: Inshore Trawling restrictions<sup>63</sup> and to towed gear fishing for bivalve mollusc under byelaw 15<sup>64</sup> of Eastern IFCA's byelaws and this was considered sufficient mitigation within the HRA. These byelaws were inherited from Eastern Sea Fisheries Joint Committee under the Marine and Coastal Access Act 2009 (Transitional and Savings Provisions) Order 2011(2011/603). Neither byelaw refers to bottom towed gear being secure and stowed. So as to provide clarity to fishers and implement the 'secured and stowed' restriction consistently within the MPAs where such is required, Restricted Area 34 includes closure of this area and the area closed byelaws 12 and 15 within the Cromer Shoal MCZ.

#### *Option 2 – Closure of MPAs to bottom towed gear*

Closure of the sites would meet the conservation objectives of the site but have disproportionate impacts on the industry. It also goes beyond the minimum requirement to achieve the conservation objectives of the associated MPA. Therefore, this option was not considered viable.

<sup>63</sup> <http://www.eastern-ifca.gov.uk/byelaw-12-inshore-trawling-restriction/>

<sup>64</sup> <http://www.eastern-ifca.gov.uk/byelaw-15-towed-gear-restriction/>

## Monetised and non-monetised costs and benefits

### **Option 0 – Do nothing option**

There are no monetised costs associated with the 'do nothing' option.

The key non-monetised costs relate to the impacts on ecosystem functioning resultant of continued fishing activity in the areas proposed to be closed. Impacts on ecosystem function is likely to lead to impacts on the sustainability of the fishery and its productivity.

In addition, the 'do nothing' option is not in keeping with the requirements of the Habitats Directive or the Marine and Coastal Access Act 2009 and as such may lead to infraction proceedings being taken against the UK.

### **Option 1 – Spatial closures through the Marine Protected Areas Byelaw 2019**

The key monetised costs associated with the proposed closures are the loss of fishing grounds.

#### Impacts on Shrimp Fishery

Eastern IFCA requires fishers to submit returns forms for each shrimp fishing trip within the Wash and North Norfolk Coast SAC under Byelaw 11 (Development of shellfish fisheries) of Eastern IFCA's Byelaws. This data has been used to estimate the level of fishing activity within each of the proposed closed areas (within the North Norfolk coast SAC). Marine Management Organisation (MMO) landings data has been used to determine the monetary impact of the closures.

Fishers provide information regarding the location of each tow during shrimp fishing activity undertaken within the Wash and North Norfolk Coast SAC. These are compared against the location of proposed closures. This provides a 'proportion' of total catch likely to be affected by each closure. MMO landings data for brown shrimp is then used to determine a monetised value associated with each closure (i.e. as a proportion of the total value). MMO landings data is not available at the same resolution as Eastern IFCA data. Eastern IFCA do not collect returns data for shrimp fishing outside of the Wash and North Norfolk Coast SAC. Therefore, estimates of fishing effort are based on the informal consultations and officer knowledge. Landings data for International Council for the Exploration of the Sea (ICES) statistical rectangles 34F0, 35F0, 34F1 and 35F1 were used to estimate monetary values which will have the effect of overestimating impacts as these areas account for a much larger areas including the Lincolnshire coast.

The resolution of the Eastern IFCA data does not allow for an exact estimate as the grids do not correspond with the shape or size of closed areas (with some closed areas being smaller than a single grid box). Eastern IFCA data for 1<sup>st</sup> January to 31<sup>st</sup> December of 2016, 2017 and 2018 is used. MMO landings data from 2010 to 2017 is used to estimate economic impacts.

Shrimp fishing activity within Restricted area 32 and 33 is estimated as 1.2% of the total caught from within the Wash and North Norfolk Coast SAC. However, restricted area 32 includes a seasonal corridor which is intended to mitigate losses resultant of the restriction

by allowing fishing activity during periods where the area is not sensitive to impacts of removal of juvenile fish. Informal consultation has indicated however that the majority of this 1.2% is within restricted area 33 which will not be accessible and this is corroborated by Eastern IFCA landings

With regards to shrimp fishing effort within Haisborough Hammond and Winterton SAC and Cromer Shoal Chalk Beds MCZ, much less is known about the level of fishing activity. Eastern IFCA undertook informal consultation with industry to determine the level of fishing effort. Limited responses were received but it indicates that fishing effort is very low.

Haisborough Hammond and Winterton SAC sits within ICES statistical rectangle 34F1. The average annual landed value of shrimp caught from this area is £21,960 with seven different vessels having landed shrimp from this area. However, the restricted areas represent a very small proportion of the total area of the ICES rectangle. In addition, informal dialogue has indicated that the proposed closures will have a limited impact on the traditional fishing grounds.

One fisher has indicated that they fish using bottom towed gear within the Cromer Shoal Chalk Beds MCZ but has not provided information to enable the monetised estimation of this impact. The restricted area sits primarily within ICES statistical rectangles 34F1 and 35F1. Landings from the former are set out above. The value of shrimp landed into 35F1 is £928 per annum. This may be an underestimate of the value of shrimp catch from the area given that MMO landings data does not include sales of fish by fishers direct to the public. Some smaller scale shrimp fishers are known to operate on the North Norfolk Coast in this way who may be impacted. These are considered further in the non-monetised impacts.

The low estimate impact is £19,125 per year. This reflects the potential losses relating to the restricted area 36, 37, 38. Impacts in relation to Cromer Shoal MCZ cannot be monetised and are therefore not included. In addition, restricted areas related to Haisborough Hammond and Winterton SAC are potentially discrete enough to allow for losses to be mitigated through displacement to other areas.

The high estimate cost is £42,013. This takes into account the cost associated with restricted areas 31, 32 and 33 as above but also includes the value of all shrimp landed within ICES rectangle 34F1 and 35F1 to take into account impacts of restricted areas associated with Haisborough Hammond and Winterton SAC and Cromer Shoal Chalk Beds MCZ. This is likely to be an overestimate given that the associated restricted areas (areas 35, 36, 37 and 38) are not thought to support significant levels of shrimp fishing. No impact is identified in relation to proposed closed area 34 as this coincides with the closure in place under Byelaw 12 and 15.

The best estimate is £19,125 per year. This is considered the most likely scenario from a monetised cost perspective. Further potential costs are set out in the non-monetised section however.

#### Impacts on 'other' fisheries

Use of bottom towed gear within the MPA's considered is thought to be very limited except in relation to shrimp fishing.

MMO landings data shows that between 2010 and 2017, 48 different species were caught within ICES rectangles 34F0, 34F1, 35F0 and 35F1. Excluding scallops and mussel (which are regulated through the Wash Fishery Order 1992 and Byelaw 3: molluscan shellfish methods of fishing), shrimps (which are considered separately) and whelks (which are not caught with bottom towed gear and their inclusion in the MMO data is assumed to be a mistake), the average annual landed value is £19,116. Between 2010 and 2017 (inclusive), the annual first sale value of these fisheries ranged from £3538 (in 2017) and £39,922 (in 2011). The restricted areas within these ICES rectangles although makes up only a small proportion of them. The vast majority of this activity is associated with ICES Rectangle 35F0 which is likely to reflect activity along the Lincolnshire coast and outside of the site. This is consistent with anecdotal reports of fishing activity.

As such, the high estimate annual cost is £39,922 which corresponds with the highest recorded annual landed value of 'other species' within associated ICES rectangles for the period 2010 to 2017 inclusive.

The low cost is zero which reflects that it is unlikely that the MPA's represent important fishing grounds for these species and that the majority are thought to be caught on the Lincolnshire coast.

It is most likely that landings of 'other' species from within the MPA's is £19,116. This reflects the average value of catch within the ICES rectangle. It is likely to be an overestimate given that the closed areas are significantly smaller than the combined areas of these ICES rectangle.

#### Costs to Eastern IFCA

Additional compliance activities will be required in addition to education and engagement. The cost of these are estimated to be £7,176 based on six additional sea patrols and 4 additional shore patrols. This is likely to be an underestimate with regards to the initial implementation of the measures during which time the risk of non-compliance is higher. In addition, the number of patrols will increase if risk associated with the fishery increases as directed through the Tactical Coordinating Group.

Table 2. showing the breakdown of costs associated with additional compliance needs resultant of introducing a new byelaw.

**Costs associated with 1 sea patrol**

	employment			
Crew: -	cost	working days		cost per 7.4-hour day
Skipper	1 33,760.00	225		150.04
Crew: -	3 29,410.00	227		388.68
Total cost				<hr/> 538.72
<b>"on costs"</b>				
Pension		21.50%		115.83
Employers NI	12,156.97	226		53.79
				<hr/> 708.34
	annual cost	days at sea		
<u>Operation cost of vessel</u>		70		
Maintenance/refit	15,000.00			214.29
Insurance	3,000.00			42.86
				257.14
Total operation cost per day/trip				965.48
<b>6 additional sea patrols</b>				<b>5792.898</b>

**Costs associated with 1 shore patrol**

	employment			
Crew: -	cost	working days		cost per 7.4-hour day

## **Non-monetised costs**

### Changes in fishing behaviours

Displacement from the proposed closed areas may have the effect of intensifying effort on other shrimp grounds with an impact on the ecological functioning and sustainability of the shrimp fishery and associated habitats. Given that the level of fishing activity over the proposed closures is considered to be relatively low displacement is likely to be limited.

### Impacts on smaller business models

There is limited evidence available to determine the impacts on smaller business models which fall outside of reporting requirements (including Eastern IFCA returns forms and national catch recoding). The impacts on these smaller business models are also likely to be of a greater scale than those of larger business models who are likely to be more adaptable. In particular, some small-scale shrimp fishers have small vessels with a limited range which may not allow for mitigation of the closures by fishing elsewhere.

It is thought that there is limited fishing activity within the North Norfolk coast particularly given that the area hosts a significant potting fishery which limits the ability of trawlers to operate without entangling with static gears.

Whilst these impacts are considered of low scale in a broader sense (i.e. that they will relate to low economic impacts in the context of the whole industry), the impacts on individuals may be of a greater scale, particularly in the context of the inshore fisher's model of diversifying into different fisheries over time.

### Costs to Eastern IFCA

Eastern IFCA intends to undertake monitoring to support the conclusions of the Habitat Regulation Assessment and ensure that adverse effects are not occurring within the site open to fishing. The associated cost cannot be monetised as ultimately the level of monitoring is likely to change annually.

## **Option 2 – Total closure of relevant MPA's to bottom towed gear**

The pink and brown shrimp fisheries in the Eastern IFC District are worth between £584,525 and £2,668,788 per annum. The vast majority of these fisheries are thought to occur within the Wash and North Norfolk Coast SAC although other notable areas are off the Lincolnshire coast and north of this MPA.

Eastern IFCA has undertaken an assessment of the impacts of shrimp fishing within The Wash and North Norfolk Coast SAC and found that some habitats are very sensitive to shrimp fishing activity and require closure (to all bottom towed gear). Other habitats are found to be less sensitive although it is thought that fishing activity could impact these habitats if activity increased.

The potential impact of this option is likely to be underestimated by the landed value of catch. The factories which process the shrimp caught (both of which are based in King's Lynn) rely to a large degree on the shrimp market. The market price for the processed

shrimp is likely to be much higher than the landed value and which includes a significant amount of export to foreign markets (primarily Netherlands). There are a significant number of tertiary jobs associated with this fishery and these processing factories (i.e. engineers, factory workers, delivery drivers).

Only a minor increase in fishing effort is anticipated as a result of displacement from the closed areas and fishing at the current levels is assessed to be in keeping with the conservation objectives of The Wash and North Norfolk Coast site. Closure of the whole site would meet the conservation objectives however, it is likely to cause a large impact on stakeholders with little or no additional benefit to site integrity. As such, it is considered disproportionate to close the entire site to shrimp fishing activity as the associated risks to site integrity can be adequately mitigated through effort limitations as required.

With regards to total closure of Haisborough Hammond and Winterton SAC and Cromer Shoal Chalk Beds MCZ, the impacts of total closure would be in the region of £19,116. This reflects the average value of catch other than shrimp within the ICES rectangle coincident with the MPAs. Both of these sites will contribute to the total value of shrimp fisheries although this is not quantifiable. Whilst the MPA's still only make up a proportion of the ICES rectangles, the proportion of coverage is far greater than in the case of the discrete closures proposed.

The closure of the entirety of these sites would also be more likely to result in significant displacement into other areas or alternative fisheries. A significant displacement would be needed to mitigate the impact on the shrimp fishery and the potential for impacts on the wider environment and stocks of other species would be of a high risk.

#### Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)

This assessment has used the following information:

- MMO landings data (2010 to 2017 inclusive)
- Eastern IFCA shrimp fishing database (based on returns data)
- Anecdotal information provided by fishers (during informal engagement)

The analysis has considered the best available evidence to estimate monetised costs where the data will allow such. This has included extensive consultation with stakeholders who are likely to be impacted.

Concerns have been raised by the shrimp fishing industry in relation to the closures and in particular, the closures associated with the north Norfolk coast and central part of the Wash as these include some important shrimp fishing grounds. The shape and size of closures have taken the informal consultation into account where possible whilst ensuring that the mandated protective effect of the measures are not diminished. A summary of how these concerns have been considered is set out in the 'how we listened document' which is found on the Eastern IFCA website<sup>65</sup>.

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<sup>65</sup> [http://www.eastern-ifca.gov.uk/wp-content/uploads/2018/07/2018\\_07\\_23\\_how\\_we\\_listened.pdf](http://www.eastern-ifca.gov.uk/wp-content/uploads/2018/07/2018_07_23_how_we_listened.pdf)

### Risks and assumptions

There are limitations in relation to the data used in the above analysis. Eastern IFCA requires shrimp fishers to provide certain fisheries data for each fishing trip however there is known to be a level of non-compliance with this requirement. This is mitigated to a degree given that the assessment only uses this information to estimate relative importance of certain areas as shrimp fishing ground (i.e. number of tows as a proportion of the total) rather than relying on the data to estimate the actual fishing effort in an area.

A combination of Eastern IFCA shrimp fishing data and MMO landings data is used to estimate cost. The resolution of both of these is less than that of the closures. As a result, the costs potentially over-estimate the impacts of the measures.

In addition, as set out above, shrimp fishing grounds are known to move within and between years. As such, the importance of the areas closed to fishing are likely to change over time. The data available to determine the importance of fishing grounds only relates to two years (2016 and 2017) and has its own limitations (as set out above) and as such the actual cost to the industry may change.

### Summary and preferred option with description of implementation plan

The preferred option is Option 1 – Marine Protected Areas Byelaw 2019. This would close certain areas to use of bottom towed gear and require this gear to be secured and stowed when transiting restricted areas with an exception in certain circumstances.

These closures are in addition to the closures already implemented in the Marine Protected areas Byelaw 2018.

The proposed measures will have the effect of protecting the Wash and North Norfolk Coast SAC from the effects of shrimp fishing activity and other fishing using bottom towed gear but minimise the impact on industry by closing only those areas which will be impacted. Fishing within the rest of the site will be managed through the use of a separate proposed byelaw (Shrimp permit Byelaw 2018) which will ensure there are no impacts on site integrity in relation to habitats and species outside of the restricted areas.

The proposed measures will also have the effect of protecting the Haisborough Hammond and Winterton SAC and Cromer Shoal Chalk beds MCZ from the effects of shrimp fishing activity and other fishing using bottom towed gear but minimise the impact on industry by closing only those areas which will be impacted.

To implement these measures, fishers will be made aware of the additional closures through updates to the Eastern IFCA website and targeted dialogue with fishers. Officers will engage with the industry to educate and engage as per Eastern IFCA's Enforcement Policy and Regulation Strategy<sup>66</sup>.

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<sup>66</sup> <http://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/RC-Strategy.pdf>

## Annex A: Policy and Planning

Which marine plan area is the MPA and management measure in?

East Inshore Marine Plan

Have you assessed whether the decision on this MPA management measure is in accordance with the Marine Policy Statement and any relevant marine plan?

- Yes

If so, please give details of the assessments completed:

Marine Plan Policy	Policy Text	Policy screened in or out from assessment	Assessment of plan policy
<b>Policy AGG1</b>	Proposals in areas where a licence for extraction of aggregates has been granted or formally applied for should not be authorised unless there are exceptional circumstances.	×	Does not apply.
<b>Policy AGG2</b>	Proposals within an area subject to an Exploration and Option Agreement with The Crown Estate should not be supported unless it is demonstrated that the other development or activity is compatible with aggregate extraction or there are exceptional circumstances.	×	Does not apply.

<p><b>Policy AGG3</b></p>	<p>Within defined areas of high potential aggregate resource, proposals should demonstrate in order of preference:</p> <ul style="list-style-type: none"> <li>a) that they will not, prevent aggregate extraction</li> <li>b) how, if there are adverse impacts on aggregate extraction, they will minimise these</li> <li>c) how, if the adverse impacts cannot be minimised, they will be mitigated</li> <li>d) the case for proceeding with the application if it is not possible to minimise or mitigate the adverse impacts</li> </ul>	<p>×</p>	<p>Does not apply.</p>
<p><b>Policy AQ1</b></p>	<p>Within sustainable aquaculture development sites (identified through research), proposals should demonstrate in order of preference:</p> <ul style="list-style-type: none"> <li>a) that they will avoid adverse impacts on future aquaculture development by altering the sea bed or water column in ways which would cause adverse impacts to aquaculture productivity or potential</li> <li>b) how, if there are adverse impacts on aquaculture development, they can be minimised</li> <li>c) how, if the adverse impacts cannot be minimised they will be mitigated</li> <li>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</li> </ul>	<p>×</p>	

<p><b>Policy BIO1</b></p>	<p>Appropriate weight should be attached to biodiversity, reflecting the need to protect biodiversity as a whole, taking account of the best available evidence including on habitats and species that are protected or of conservation concern in the East marine plans and adjacent areas (marine, terrestrial).</p>	<p>✓</p>	<p>Eastern IFCA undertook a Habitats Regulations Assessment with regards to the potential impacts of shrimp fishing on site integrity within the Wash and North Norfolk Coast SAC. The assessment concluded that shrimp fishing is likely to have an adverse effect on the site in relation to sub-tidal mud and sub-tidal mixed sediment sub-features. In addition, intertidal mussel beds, Biogenic reef <i>Sabellaria spinulosa</i> within Haisborough, Hammond and Winterton SAC, Subtidal Chalk Beds and Peat and Clay exposures within Cromer Shoal Chalk Beds MCZ have been identified as a 'red-risk' interaction which requires closure under Defra's revised approach to fisheries management in MPA. The proposed byelaw restricts fishing activity in the MPA's.</p>
<p><b>Policy BIO2</b></p>	<p>Where appropriate, proposals for development should incorporate features that enhance biodiversity and geological interests.</p>	<p>×</p>	<p>Closures within the Cromer Shoal Chalk Beds MCZ overlap with areas that are designated for geological features.</p>
<p><b>Policy CAB1</b></p>	<p>Preference should be given to proposals for cable installation where the method of installation is burial. Where burial is not achievable, decisions should take account of protection measures for the cable that may be proposed by the applicant.</p>	<p>×</p>	<p>Does not apply.</p>

<p><b>Policy CC1</b></p>	<p>Proposals should take account of:</p> <ul style="list-style-type: none"> <li>• how they may be impacted upon by, and respond to, climate change over their lifetime and</li> <li>• how they may impact upon any climate change adaptation measures elsewhere during their lifetime</li> </ul> <p>Where detrimental impacts on climate change adaptation measures are identified, evidence should be provided as to how the proposal will reduce such impacts.</p>	<p>✓</p>	<p>Protecting site integrity of MPA's will increase the resilience of the site and its features such that it can better withstand natural phenomenon and events related to climate change.</p>
<p><b>Policy CC2</b></p>	<p>Proposals for development should minimise emissions of greenhouse gases as far as is appropriate. Mitigation measures will also be encouraged where emissions remain following minimising steps. Consideration should also be given to emissions from other activities or users affected by the proposal.</p>	<p>✓</p>	<p>The byelaw will potentially increase emissions as fishers have to travel further (including potentially outside of the relevant MPA's) to fish for shrimp. However, the degree to which this will occur is likely to be limited (displacement estimated as 4%) as parts of the MPA's remain open to fishing (although subject to effort management through the Shrimp Permit Byelaw 2018).</p>
<p><b>Policy CCS1</b></p>	<p>Within defined areas of potential carbon dioxide storage,(mapped in figure 17)proposals should demonstrate in order of preference:</p> <ol style="list-style-type: none"> <li>a) that they will not prevent carbon dioxide storage</li> <li>b) how, if there are adverse impacts on carbon dioxide storage, they will minimise them</li> <li>c) how, if the adverse impacts cannot be minimised, they will be mitigated</li> <li>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</li> </ol>	<p>×</p>	<p>Does not apply.</p>

<b>Policy CCS2</b>	Carbon Capture and Storage proposals should demonstrate that consideration has been given to the re-use of existing oil and gas infrastructure rather than the installation of new infrastructure (either in depleted fields or in active fields via enhanced hydrocarbon recovery).	×	Does not apply.
<b>Policy DD1</b>	Proposals within or adjacent to licensed dredging and disposal areas should demonstrate, in order of preference a) that they will not adversely impact dredging and disposal activities b) how, if there are adverse impacts on dredging and disposal, they will minimise these c) how, if the adverse impacts cannot be minimised they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts	×	Does not apply
<b>Policy DEF1</b>	Proposals in or affecting Ministry of Defence Danger and Exercise Areas should not be authorised without agreement from the Ministry of Defence.	×	Does not apply
<b>Policy EC1</b>	Proposals that provide economic productivity benefits which are additional to Gross Value Added currently generated by existing activities should be supported.	✓	The shrimp fishery within the East Inshore Marine Plan Area are of national importance representing circa 90% of UK shrimp landings. The introduction of discrete spatial closures in relation to the fishery will allow for a longer-term, sustainable fishery to be continued without adverse impacts on the MPA's.

<b>Policy EC2</b>	Proposals that provide additional employment benefits should be supported, particularly where these benefits have the potential to meet employment needs in localities close to the marine plan areas.	✓	At least two processor plants (which process shellfish) are known to process shrimp catches from across the district and further – enabling a productive shrimp fishery will support jobs in addition to fishing activity (e.g. factory cleaners, admin etc.).
<b>Policy EC3</b>	Proposals that will help the East marine plan areas to contribute to offshore wind energy generation should be supported.	×	Does not apply.
<b>Policy ECO1</b>	Cumulative impacts affecting the ecosystem of the East marine plans and adjacent areas (marine, terrestrial) should be addressed in decision-making and plan implementation.	✓	The proposed closures will support a healthy marine habitat which in turn, should have a benefit on the biodiversity of the wider ecosystem.
<b>Policy ECO2</b>	The risk of release of hazardous substances as a secondary effect due to any increased collision risk should be taken account of in proposals that require an authorisation.	✓	No additional collision risk identified as a result of the proposed byelaw.
<b>Policy FISH1</b>	<p>Within areas of fishing activity, proposals should demonstrate in order of preference:</p> <p>a) that they will not prevent fishing activities on, or access to, fishing grounds</p> <p>b) how, if there are adverse impacts on the ability to undertake fishing activities or access to fishing grounds, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised, they will be mitigated</p> <p>d) the case for proceeding with their proposal if it is not possible to minimise or mitigate the adverse impacts</p>	✓	The purpose of the byelaw is to bottom towed gear fishing from discrete spatial areas within the Wash and North Norfolk Coast SAC, Haisborough, Hammond and Winterton SAC and Cromer Shoal Chalk Beds MCZ for the purpose of meeting requirements of the Habitats Directive. Closures are limited to the most sensitive sub-features where adverse effect from the fishing activity could not be ruled out. For the purpose of creating effective closures, proposed shapes of these areas are as simple as possible and as such do encompass some sub-features which are not considered at risk of damage to the effect of having an impact on site integrity.

<b>Policy FISH2</b>	Proposals should demonstrate, in order of preference: a) that they will not have an adverse impact upon spawning and nursery areas and any associated habitat b) how, if there are adverse impacts upon the spawning and nursery areas and any associated habitat, they will minimise them c) how, if the adverse impacts cannot be minimised they will be mitigated d) the case for proceeding with their proposals if it is not possible to minimise or mitigate the adverse impacts	✓	Spatial closures will have the effect of protecting habitats determined as potentially being impacted by bottom-towed-gear fishing activity. Some displacement may occur (estimated as 4% of total effort) however it is unknown as to whether this will be displaced onto spawning or nursery areas.
<b>Policy GOV1</b>	Appropriate provision should be made for infrastructure on land which supports activities in the marine area and vice versa.	✗	Does not apply.
<b>Policy GOV2</b>	Opportunities for co-existence should be maximised wherever possible.	✗	Does not apply.
<b>Policy GOV3</b>	Proposals should demonstrate in order of preference: a) that they will avoid displacement of other existing or authorised (but yet to be implemented) activities b) how, if there are adverse impacts resulting in displacement by the proposal, they will minimise them c) how, if the adverse impacts resulting in displacement by the proposal, cannot be minimised, they will be mitigated against or d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts of displacement	✓	Proposed spatial closures are estimated to displace 4% of shrimp fishing activity which currently takes place within The Wash and North Norfolk Coast SAC.
<b>Policy MPA1</b>	Any impacts on the overall Marine Protected Area network must be taken account of in strategic level measures and assessments, with due regard given to any current agreed advice on an ecologically coherent network.	✓	The byelaw will implement spatial closures with the effect of mitigating impacts on site integrity on the Wash and North Norfolk Coast SAC.

<b>Policy OG1</b>	Proposals within areas with existing oil and gas production should not be authorised except where compatibility with oil and gas production and infrastructure can be satisfactorily demonstrated.	X	Does not apply.
<b>Policy OG2</b>	Proposals for new oil and gas activity should be supported over proposals for other development.	X	Does not apply.
<b>Policy PS1</b>	Proposals that require static sea surface infrastructure or that significantly reduce under-keel clearance should not be authorised in International Maritime Organization designated routes.	X	Does not apply.
<b>Policy PS2</b>	Proposals that require static sea surface infrastructure that encroaches upon important navigation routes (see figure 18) should not be authorised unless there are exceptional circumstances. Proposals should: a) be compatible with the need to maintain space for safe navigation, avoiding adverse economic impact b) anticipate and provide for future safe navigational requirements where evidence and/or stakeholder input allows and c) account for impacts upon navigation in-combination with other existing and proposed activities	X	Does not apply.

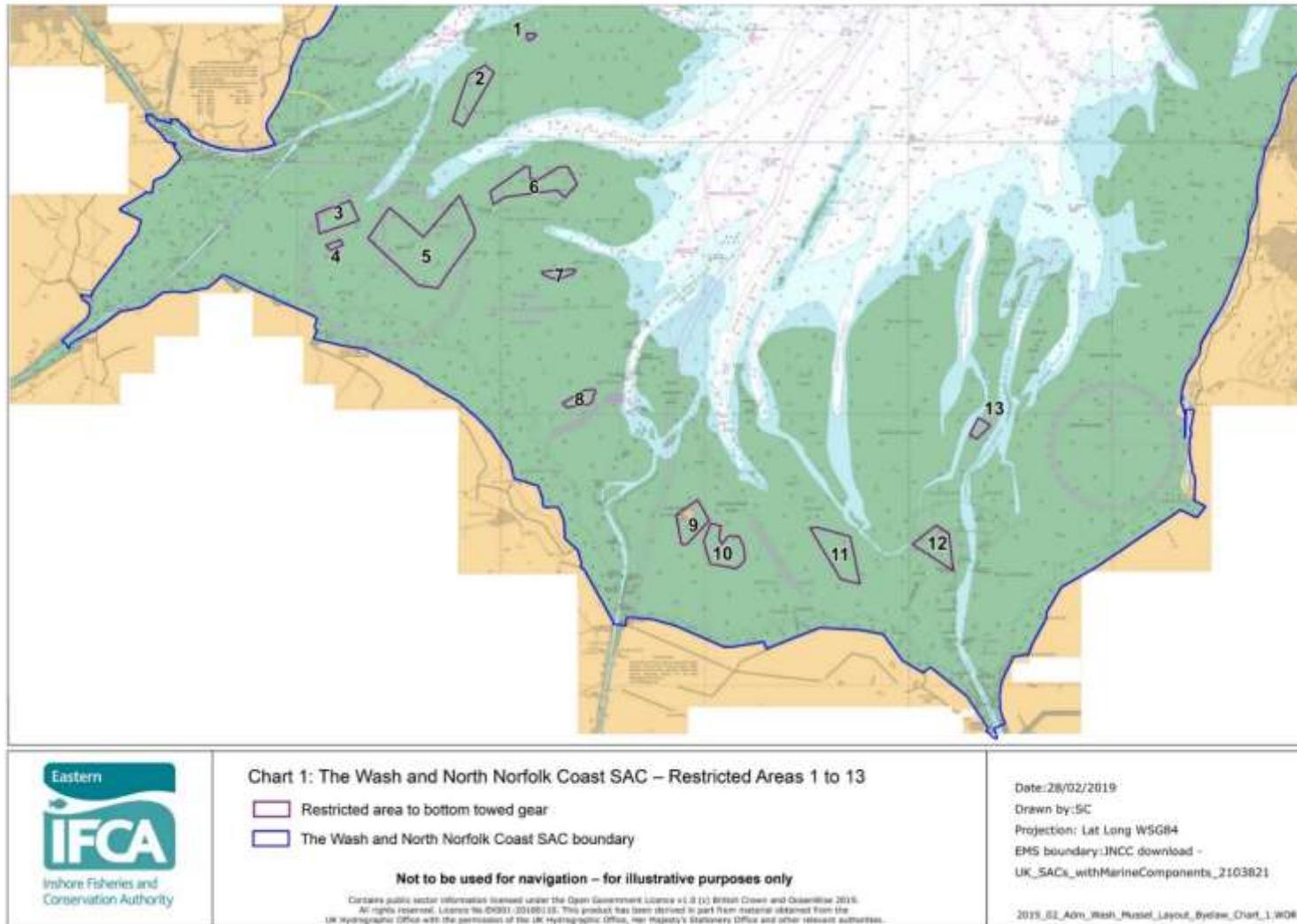
<b>Policy PS3</b>	Proposals should demonstrate, in order of preference: a) that they will not interfere with current activity and future opportunity for expansion of ports and harbours b) how, if the proposal may interfere with current activity and future opportunities for expansion, they will minimise this c) how, if the interference cannot be minimised, it will be mitigated d) the case for proceeding if it is not possible to minimise or mitigate the interference	X	Does not apply.
<b>Policy SOC1</b>	Proposals that provide health and social well-being benefits including through maintaining, or enhancing, access to the coast and marine area should be supported.	X	Does not apply.
<b>Policy SOC2</b>	Proposals that may affect heritage assets should demonstrate, in order of preference: a) that they will not compromise or harm elements which contribute to the significance of the heritage asset b) how, if there is compromise or harm to a heritage asset, this will be minimised c) how, where compromise or harm to a heritage asset cannot be minimised it will be mitigated against or d) the public benefits for proceeding with the proposal if it is not possible to minimise or mitigate compromise or harm to the heritage asset	×	Does not apply.

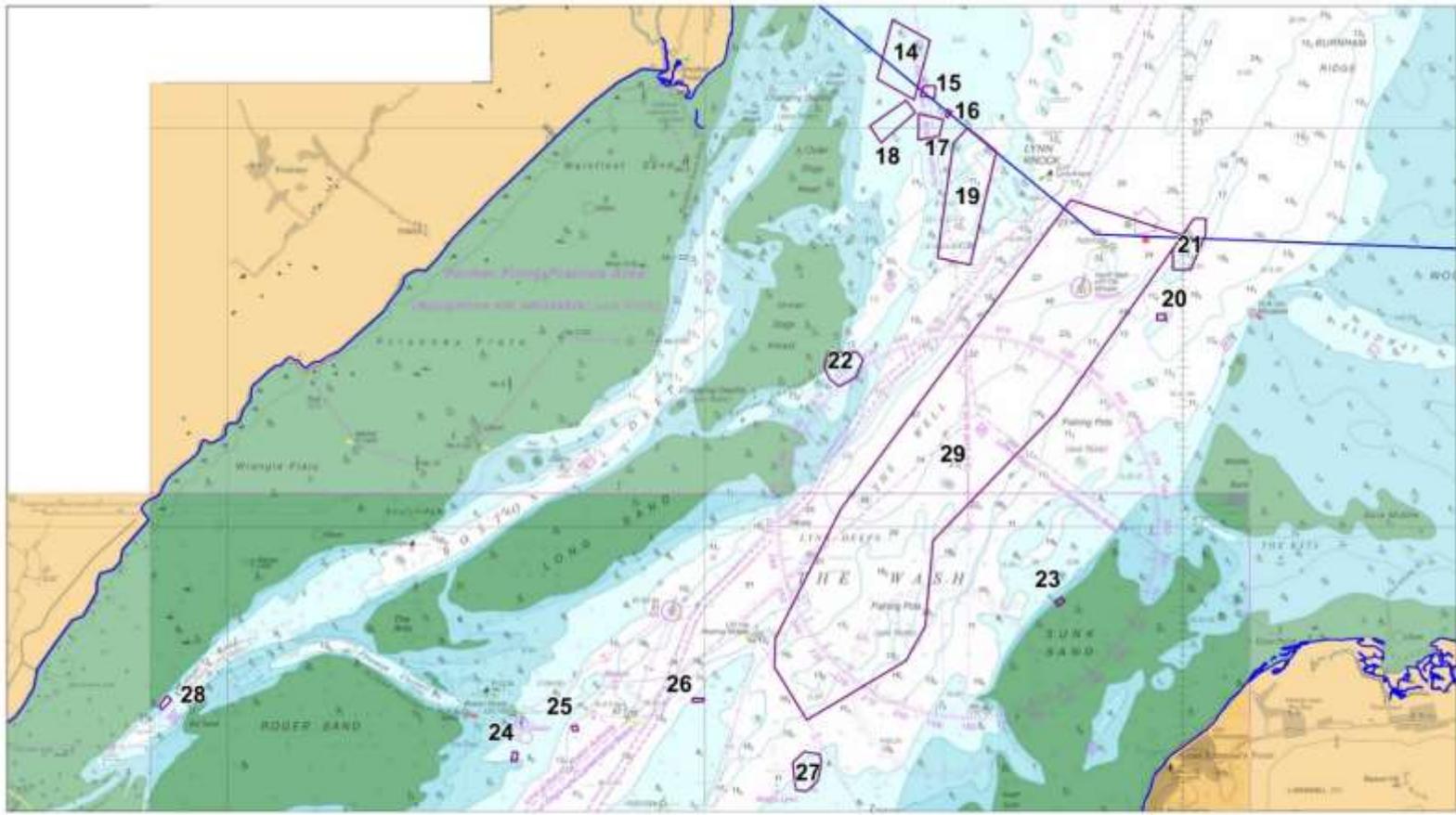
<p><b>Policy SOC3</b></p>	<p>Proposals that may affect the terrestrial and marine character of an area should demonstrate, in order of preference:</p> <p>a) that they will not adversely impact the terrestrial and marine character of an area</p> <p>b) how, if there are adverse impacts on the terrestrial and marine character of an area, they will minimise them</p> <p>c) how, where these adverse impacts on the terrestrial and marine character of an area cannot be minimised they will be mitigated against</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>×</p>	<p>Does not apply.</p>
<p><b>Policy TIDE1</b></p>	<p>In defined areas of identified tidal stream resource (see figure 16), proposals should demonstrate, in order of preference:</p> <p>a) that they will not compromise potential future development of a tidal stream project</p> <p>b) how, if there are any adverse impacts on potential tidal stream deployment, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised, they will be mitigated</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>×</p>	<p>Does not apply.</p>

<b>Policy TR1</b>	Proposals for development should demonstrate that during construction and operation, in order of preference: a) they will not adversely impact tourism and recreation activities b) how, if there are adverse impacts on tourism and recreation activities, they will minimise them c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts	X	
<b>Policy TR2</b>	Proposals that require static objects in the East marine plan areas, should demonstrate, in order of preference: a) that they will not adversely impact on recreational boating routes b) how, if there are adverse impacts on recreational boating routes, they will minimise them c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts	X	
<b>Policy TR3</b>	Proposals that deliver tourism and/or recreation related benefits in communities adjacent to the East marine plan areas should be supported.	X	Does not apply.

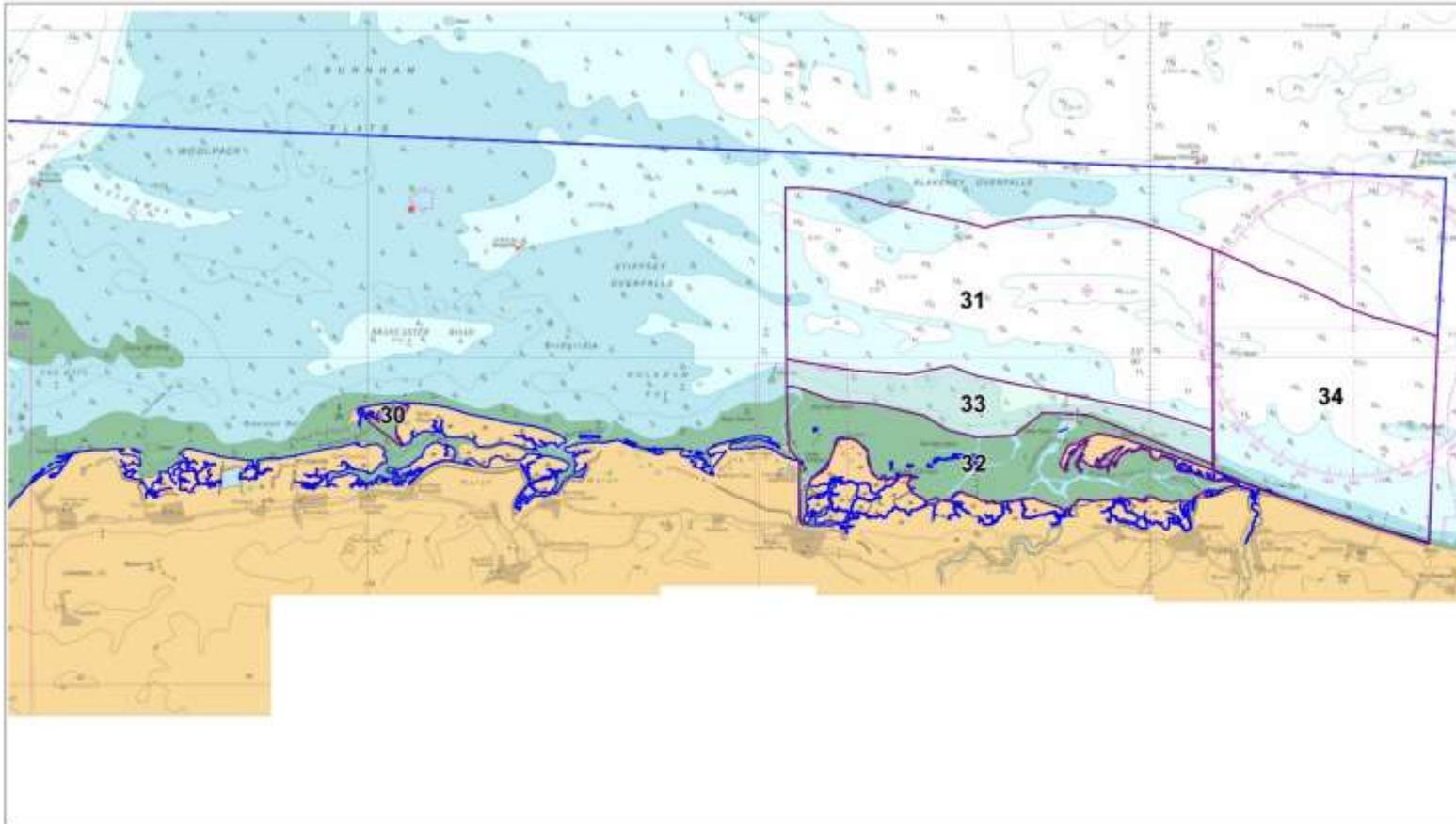
<b>Policy WIND 1</b>	<p>Developments requiring authorisation, that are in or could affect sites held under a lease or an agreement for lease that has been granted by The Crown Estate for development of an Offshore Wind Farm, should not be authorised unless</p> <p>a) they can clearly demonstrate that they will not compromise the construction, operation, maintenance, or decommissioning of the Offshore Wind Farm</p> <p>b) the lease/agreement for lease has been surrendered back to The Crown Estate and not been re-tendered</p> <p>c) the lease/agreement for lease has been terminated by the Secretary of State</p> <p>d) in other exceptional circumstances</p>	<p>×</p>	<p>Does not apply.</p>
<b>Policy WIND 2</b>	<p>Proposals for Offshore Wind Farms inside Round 3 zones, including relevant supporting projects and infrastructure, should be supported.</p>	<p>×</p>	<p>Does not apply.</p>

Charts of additional restricted areas: Marine Protected Areas Byelaw 2019

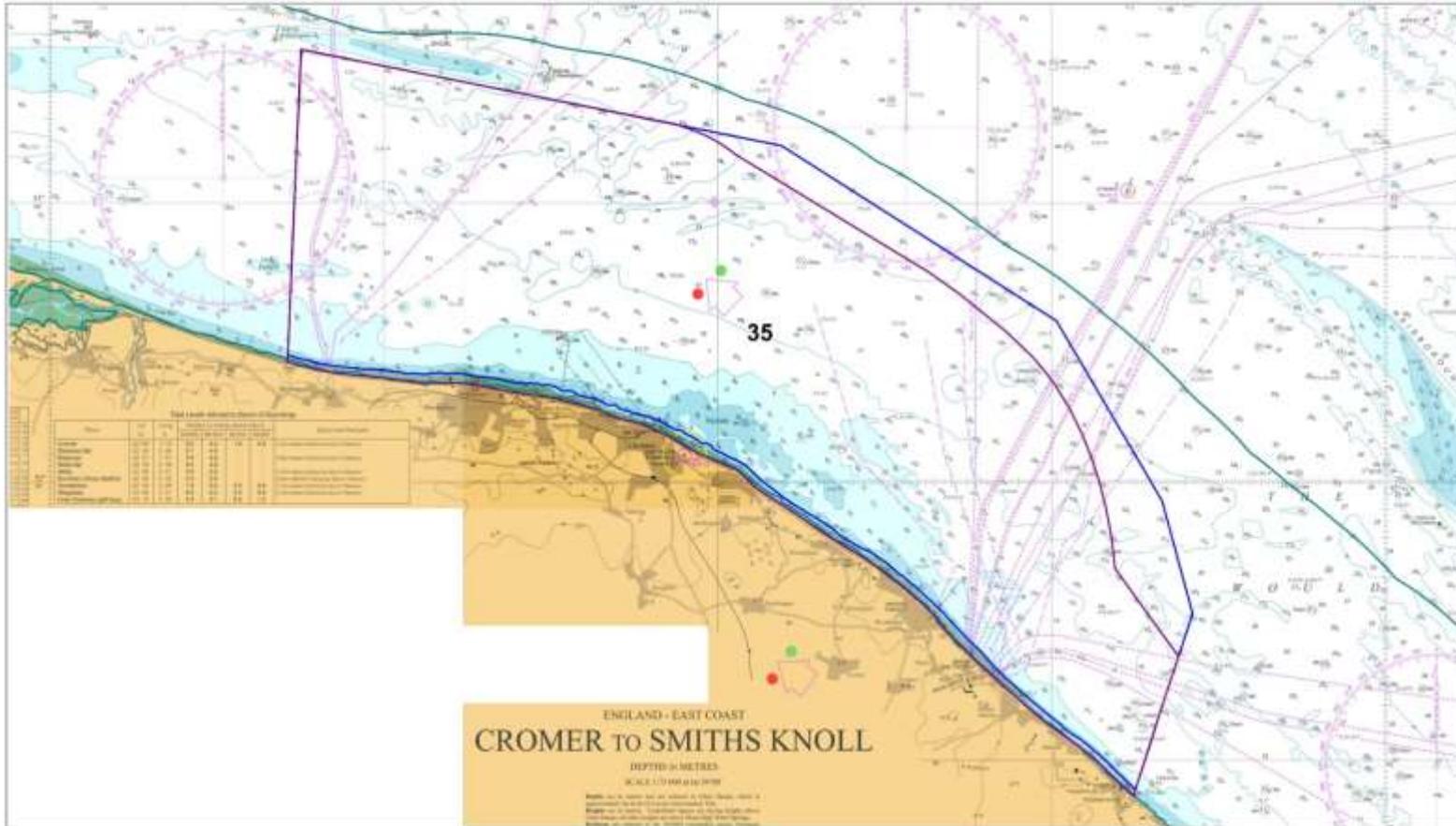




 <p>Eastern <b>IFCA</b> Inshore Fisheries and Conservation Authority</p>	<p><b>Chart 2: The Wash and North Norfolk Coast SAC – Restricted Areas 14 to 29</b></p> <p>  Restricted area to bottom towed gear   The Wash and North Norfolk Coast SAC boundary         </p> <p><b>Not to be used for navigation – for illustrative purposes only</b></p> <p><small>Contains public sector information licensed under the Open Government Licence v1.0 (c) British Crown and Oceanline 2019. All rights reserved. License No.0K001-20180110. This product has been derived in part from material obtained from the UK Hydrographic Office with the permission of the UK Hydrographic Office, Her Majesty's Stationery Office and other relevant authorities.</small></p>	<p>Date:28/02/2019          Drawn by:SC          Projection: Lat Long WSG84          EMS boundary:JNCC download -          UK_SACs_withMarineComponents_2103821</p> <p>2019_02_Adm_Wash_Central_Layout_Byelaw_Chart_2.WOR</p>
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 <p>Eastern <b>IFCA</b> Inshore Fisheries and Conservation Authority</p>	<p><b>Chart 3: The Wash and North Norfolk Coast SAC – Proposed Restricted Areas 30 to 34</b></p> <p>  Restricted area to bottom-towed gear          Seasonal corridor (open to the fishery October - April)       </p> <p>  The Wash and North Norfolk Coast SAC boundary       </p> <p><b>Not to be used for navigation – for illustrative purposes only</b></p> <p><small>Contains public sector information licensed under the Open Government Licence v1.0 (c) British Crown and OceanWise 2018. All rights reserved. Licence No. 04201-20180119. This product has been derived in part from material obtained from the UK Hydrographic Office with the permission of the UK Hydrographic Office, Her Majesty's Stationary Office and other relevant authorities.</small></p>	<p>Date: 01/05/2019          Drawn by: SC          Projection: Lat Long WSG84          EMS boundary: JNCC download -          UK_SACs_withMarineComponents_2103821</p> <p>2019_05_Adm_NNC_Layout_Byetaw_Chart_3.WOR</p>
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**Chart 4: Cromer Shoal Chalk Beds – Proposed Restricted Area 35**

Restricted area to bottom-towed gear
  Eastern IFCA district boundary

Cromer Shoal Chalk Beds MCZ boundary

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Date: 01/05/2019  
 Drawn by: SC  
 Projection: Lat Long WSG84  
 EMS boundary; JNCC download - UK\_SACs\_withMarineComponents\_2103821

2019\_05\_Adm\_CSOB\_Layou1\_Byelaw\_Chart\_4.WOR



Chart 5: Haisborough, Hammond & Winterton SAC – Proposed Restricted Areas 36 to 38

- Restricted area to bottom-towed gear
- Eastern IFCA district boundary
- Haisborough, Hammond and Winterton SAC boundary

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Date:30/04/2019  
 Drawn by:SC  
 Projection: Lat Long WSG84  
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 UK\_SACs\_withMarineComponents\_2103821

2019\_04\_Adm\_HHW\_Layout\_Byelaw\_Chart\_5\_W08

### Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



### Action Item 14

## 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting

15<sup>th</sup> May 2019

### Wash Restricted Area Byelaw 2019 - CEO / Senior IFCO (Regulation)

**Report by:** L. Godwin, Senior IFCO (Regulation)

#### Purpose of report

The purpose of this report is to seek approval to make a byelaw which replaces the Emergency Byelaw introduced in The Wash in July of 2018 (The Wash Emergency Byelaw).

#### Recommendations

It is recommended that members:

- **Note** the results of the informal consultation;
- **Agree** to make the Wash Restricted Area Byelaw 2019 as at Appendix 1;
- **Agree** to introduce the eligibility criteria and permit conditions as at Appendices 2 and 3 respectively;
- **Agree** to adopt the Wash Restricted Area Byelaw: Formal Operating Procedure as at Appendix 4;
- **Note** the results of the informal engagement and draft impact assessment for the Wash Restricted Areas Byelaw 2019 as at Appendix 5;
- **Direct** officers to undertake formal consultation on the Wash Restricted Areas Byelaw 2019;
- **Direct** the CEO to submit a final version of the Wash Restricted Areas Byelaw to the Marine Management Organisation for formal QA after completing a formal consultation;
- **Agree** to delegate authority to the CEO to make changes to the byelaw which do not substantially alter the intended effects of the byelaw, taking into account responses from the formal consultation and the formal QA process;
- **Agree** to delegate authority to the CEO to extend the Emergency Wash Byelaw 2018 by six months if the Wash Restricted Area Byelaw 2019 is unlikely to be implemented by the 27<sup>th</sup> July 2019.

#### Background

Eastern IFCA manages bivalve mollusc shellfish fisheries within the entire Wash embayment, with the exception of the private fishery of the Le Strange Estate, under

the Wash Fishery Order 1992 (WFO). On the 27th July 2018, the High Court handed down a judgement with the effect of changing the boundary of the Le Strange Estate. This has had the effect of opening an 'unmanaged' portion of the Wash.

The Wash hosts very important conservation features and valuable bivalve mollusc fisheries (primarily cockles). To ensure that neither the environment or the stocks are damaged by fishing activity, Eastern IFCA implemented an emergency byelaw on the 27<sup>th</sup> July 2018 which prohibited fishing for oysters, mussels, cockles, clams, scallops and queens without a permit.

The Emergency byelaw had provisions to enable Eastern IFCA to open a fishery in a manner consistent with the WFO. This was consistent with the intention of Eastern Sea Fisheries Joint Committee for the WFO to cover the entirety of the Wash with the exception of the private fishery. Eastern IFCA opened a fishery in this area after undertaking an assessment (including a stock survey and Habitats Regulation Assessment).

Emergency byelaws have effect for 12 months after having been implemented and then expire. Emergency byelaws can be extended for a further six months where an IFCA has made best endeavours to remove the need for the emergency byelaw and there would be a significant and adverse impact on the marine environment should the byelaw expire.

## **Report**

### *Is there a continued need for management after the emergency byelaw expires?*

As a result of surveys undertaken in 2018, which led to the opening of a fishery, there are known to be cockle beds within the 'unmanaged area'. This area exists within the Wash and North Norfolk Coast Special Area of Conservation and Special Protection Area (the MPA).

Cockle fisheries are valuable; the fishable bed (i.e. one third of the total adult stock) identified within the unmanaged area has a first sale value of circa £367,200 based on estimates of 2018 cockle prices. As such the area is likely to be fished. Whilst fishing with dredges would be prohibited under Byelaw 3: Molluscan Methods of fishing, hand-work activity would not be managed in any way, potentially leading to the area being over-fished or fished in a manner not consistent with the protection of the MPA.

As such, the risk to the fishery and the MPA is considered sufficient to require management of the site. This is further evidenced by the Habitat Regulations Assessment which was undertaken in relation to the fishery opened in 2018 which concluded that fishing activity would have an adverse effect on the MPA without the application of mitigating in the form of management measures.

Therefore, it is proposed that a replacement byelaw is required.

### *Development of a replacement Byelaw*

Subsequent to the implementation of the emergency byelaw, Officers have explored several possible methods of managing the 'unmanaged' area. This has included amending the boundary of the WFO, implementing the WFO in the area through a byelaw and replicating the provisions of the WFO through a byelaw.

Officers had made the case that, as the intention of the Order was for Eastern IFCA to manage the entire Wash embayment save for the Le Strange Estate, amending the boundary would be in keeping with the intention of the Order. Defra have advised that amending the boundary of the WFO is not achievable without amending the WFO itself which will not be achievable within the timescales of replacing an emergency byelaw.

Officers also sought advice as to whether a byelaw could be implemented which simply applied the Order to the unmanaged area. Andrew Jackson Solicitors LLP advised that this would be likely constitute unlawful sub-delegation of powers on the grounds that the 'powers' granted to an Authority under the WFO are greater than those under a byelaw which reflects the additional process an Order must go through (as a Statutory Instrument). This would likely result in the byelaw being considered ultra vires and at high risk of successful legal challenge.

Officers have therefore focussed on developing a byelaw which replicates the powers of the WFO as far as possible so that the area can be managed alongside the other shellfish fisheries of The Wash.

Andrew Jackson Solicitors LLP have assisted in drafted a byelaw, drawing on the emergency byelaw, to this effect. The draft Wash Restricted Area Byelaw 2019 is at Appendix 1.

#### Key elements of the byelaw and related measures

As with the emergency byelaw, the proposed replacement byelaw includes the provisions of a 'standard' IFCA permitting byelaw which prohibits fishing for specified species within the unmanaged area without a permit. A fee is payable for a permit which will be valid for a period of 12 months after issue.

The byelaw also sets out several restrictions which reflect the amended WFO Regulations which are awaiting Defra approval. These include the WFO regulations which had been in place since the implementation of the WFO and the 'new' regulations which reflect the implementation of several licence conditions which have become an established tool for managing the fishery. For example, the 'dual fishing prohibition'.

The byelaw also enables Eastern IFCA to manage the fishery through flexible management measures including: opening and closing fisheries, setting operating times, issuing, varying and revoking flexible permit conditions and eligibility criteria in relation to issuing permits and suspending the issuing of permits as may be required. These flexible management measures can be implemented through the 'standard' process written into IFCA permits byelaws i.e. in a manner consistent with introducing a byelaw including formal consultation etc.

The proposed byelaw also provides for Eastern IFCA to implement this flexible approach over a much shorter time period (with a minimum of 12 hours' notice) and without consultation and development of impact assessments. Any such measures would however be time limited and require a review within a specified period and in a manner consistent with the 'standard' process. Officers recommend that this approach

allows for appropriate, reactive management to be implemented whilst maintaining sufficient due process to ensure such is transparent and not beyond the powers sub-delegated to IFCA's via the Marine Conservation and Coastal Access Act 2009. This also mirrors the model for management in place under the WFO, which has proven to be a successful approach to managing these fisheries.

#### *Achieving Flexible management measures*

The wording of the process to issue, vary or revoke management measures in Schedule 1 has been adapted from a standard permit byelaw to ensure that Eastern IFCA has the flexibility to implement permit conditions through the same process recognised through the WFO.

This includes reference to appropriate, reasonable and proportionate levels of consultation with permit holders. WFO licence holders and skippers are accustomed to quick turnaround of amendments to management measures which reflect the dynamic nature of the fishery. In the past, such 'changes' have primarily served to benefit the industry in relation to the opening of 'contingency fisheries'. Such fisheries have been opened as a result of significant die-offs of cockle (due to atypical mortality or 'ridging out') and as a consequence of having undertaken the necessary HRA so as to ensure no adverse effect on the MPA. In these circumstances, the opening of a fishery and the implementation of additional and specific permit conditions would need to be concluded within a matter of weeks or risk losing the fishing opportunity. The 'standard' consultation period with industry of 28 days would not be in the interest of industry viability. Instead, it is proposed that Eastern IFCA undertakes such over a time-period reasonable in the circumstances, which may be different for different situations.

So as to provide clarity to fishers, Officers have drafted a formal operating procedure for flexible management of fisheries with the Wash Restricted Area which is at Appendix 4. This sets out what Eastern would consider to be appropriate in terms of consultation and consideration of impacts in different scenarios.

Through the use of the provisions to implement flexible management measures, Officers consider it possible to manage this fishery in a manner consistent with the WFO but also within the constraints of the powers of a byelaw. Risk associated with 'unlawful sub-delegation of powers' is considered to be mitigated by specifying, to a degree, the circumstances in which flexible management can be implemented and through documenting 'reasonable' timeframes for consultation and implementation of flexible measures. Transparency and expectations of the industry is also augmented through the production of the formal operating procedure which reflects the established practices within the WFO.

#### *Suspension of permits in relation to non-compliance*

The WFO includes a provision relating to the removal of 'Entitlements' where a fisher has been non-compliant with 'relevant offences'. This was reflected as far as possible in the eligibility criteria of the emergency byelaw. This provision only had the effect of making an applicant ineligible for further permits, rather than suspending the active permit however.

Andrew Jackson Solicitors LLP have subsequently drafted a provision into the face of the Wash Restricted Area Byelaw 2019 which has the effect of making an applicant ineligible and suspending the active permit in the event of non-compliance. This provision reflects one was introduced within the 'Live Wrasse Fishing (Limited Permit) Byelaw 2018 by Cornwall IFCA and is therefore considered lawful.

The provision relates not only to a conviction (by a court) but also where a permit holder or applicant has accepted a Financial Administrative Penalty for an offence. Given the value of the fishery and the sensitivity of the MPA in which it operates, this is considered an appropriate level of deterrent.

#### Initial permit conditions and eligibility criteria

Initial eligibility criteria and permit conditions are proposed.

*Eligibility criteria* - Draft Eligibility criteria are at Appendix 2 and includes only one provision. It sets out that only the holder of a WFO Licence can hold a permit and that the vessel and persons named on a permit must match that of the WFO licence that person holds. This reflects that the original intention of the WFO was for the whole Wash embayment (save for the Le Strange Estate) was to be managed in the same way under the auspices of the WFO. By limiting permits to those with WFO licences, the fishery can effectively be managed in the same way as the WFO fisheries.

The provision relating to non-compliance with relevant offences has not been included in the proposed eligibility criteria. This reflects the inclusion of the provision on the face of the byelaw to the same effect.

*Permit conditions* - Draft permit conditions are set out in Appendix 3. As a result of including mechanisms within the byelaw which enable flexible management of a fishery, and the inclusion of the 'new' WFO regulations within the byelaw (which include the established licence conditions), only one permit condition is proposed.

This relates to restricting the fishing for cockles within the Restricted Area to hand-working only. All other management measures can be introduced in an annual basis in accordance with Schedule 1 and the associated Formal Operating Procedure.

#### Informal engagement with the industry

Eastern IFCA wrote to all fishers for whom we held an address or email address to ask for feedback regarding two key aspects of the replacement of the emergency byelaw; the 'flexibility' of management measures and the limiting eligibility of permits to those with a WFO licence.

Only two written responses were received to the consultation. It should be noted that, at the same time, fishers were invited to comment on development of further closures to bottom towed gear which generated a much greater level of discussion. As such, it is suggested that the replacement of the Wash Emergency Byelaw 2018 is of a lesser concern to fishers. That said, the level of engagement is not considered optimal.

During formal consultation, officers intend to hold a meeting to discuss the byelaw to coincide with the usual industry meeting to discuss the WFO cockle fishery. This

should provide a fuller consideration by the Wash based fishers. The invite would be extended to all fishing associations within the district.

A summary of the responses is set out below:

*Flexibility of measures* – only one response had responded to this section. The response set out that the manner in which Eastern IFCA operate the WFO to take into account ‘urgent’ situations has been to the benefit of the fishery. The response indicated a preference for shorter turn-around times for implementing measures with limited or no consultation.

*Eligibility criteria* – both fishers provided a view regarding the limiting of permits to WFO Licence holders but of a contrasting nature. One raised concern about enabling additional fishers to enter the fishery and the high-risk this poses to sustainability and the viability of local fishers. Particular reference is made to the Human Rights Act enabling Eastern IFCA to limit licences to those who live in the vicinity of The Wash. The willingness of individuals from outside of the district to fish the area of also highlighted.

The other response simply referred to the eligibility criteria perpetuating the ‘closed shop’ of the WFO. No detail was given regarding the negative impacts of this or the effect on the individual concerned.

*Consideration of responses* – The response which sets out the willingness of the industry to empower Eastern IFCA to manage the Wash-based shellfish fisheries dynamically lends itself to the approach proposed. Enabling flexibility whilst maintaining appropriate checks and balances is considered the most pragmatic approach to manage this fishery. This is in keeping with the management of the WFO fisheries which have benefited from this approach.

With regards to limiting the issuing of permits to those with a WFO Licence, little insight is gained from the responses received. In reality, those without a WFO licence are likely to oppose this measure. The intention of including this measure was to enable consistent management of this fishery with rest of The Wash, including the limitation on the number of licences which can be issued. Given that the area was not open to the public previously, no fisher will have ‘track record’ for fishing the area as a public fishery and maintaining the right of the Le Strange Estate would be in contravention of the judgement handed down by the High Court.

The Wash are potentially dangerous fishing grounds. Hand-working fish from an intertidal area far from the shore proper risks being cut off by tide etc. In addition, the site is very sensitive to damage by poor fishing practices. This reflects the well-established policy that fishers must have at least three years’ experience working in The Wash prior to being named on a licence (as a holder or a skipper). Maintaining this approach across the Wash is considered proportionate to ensure the protection of the site and the safety of fishers involved.

It should be noted that officers do not necessarily recognise the 'rights' of local persons to fish an associated area. It should be noted that published Defra policy<sup>67</sup> establishes the principle of equal access of fishing opportunities within UK waters to all UK vessels. As such, limiting access to this fishery to 'local fishers' may not be considered appropriate.

#### Impacts on the industry

An impact assessment has been drafted which considers impacts as a result of the proposals in detail. This is at Appendix 5. In summary, with the exception of the permit fee (£44), no impacts are identified on the industry. This reflects that prior to the site being part of the public fishery, fishers did not have access to the area and that, without mitigation in the form of management, no fishery can take place within the area because such would result in adverse effects on site integrity within the MPA.

Limiting access to the fishery to those with a WFO Licence is not considered to constitute an 'impact' on fishers given that the area could not be fished whilst it was part of the le Strange Estate.

There is a cost to Eastern IFCA which is highlighted in the impact assessment in relation to stock surveys (estimated as £4630 per annum) and addition compliance activities (estimated as £7175 per annum). The cost associated with administering permits is recovered by the permit fee.

Overall, the proposals have a net economic benefit by enabling potentially valuable fisheries.

#### Extension of the Emergency Byelaw

The emergency byelaw expires on the 26<sup>th</sup> July 2019. After making a byelaw, it must then be consulted on formally. This has an established timeframe which is no less than 28 days after the second publication of an advert in a newspaper.

The earliest that the formal consultation process can end is the 28<sup>th</sup> June 2019 which leaves only one month for the consultation responses to be considered and resolved (where possible), amendments to the byelaw and impact assessment to be made and for the MMO to formally QA the byelaw to get Ministerial Consent. This is unlikely to happen with this timeframe.

The Marine and Coastal Access Act 2009 (MaCAA) allows for emergency byelaws to be extended by a further six months under the following circumstances:

- during the period for which the emergency byelaw has been in force, the IFC authority has used its best endeavours to make a byelaw that will make the emergency byelaw unnecessary, and
- there would be a significant and adverse effect on the marine environment if the approval was not given.

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<sup>67</sup> <https://researchbriefings.files.parliament.uk/documents/CBP-8442/CBP-8442.pdf>

With regards to the later, the potential for adverse impacts on the marine environment are considered well established, not least through the Habitats Regulations Assessment which was undertaken to enable a fishery under the Permit Byelaw. It should be noted also that, the byelaw will expire during the usual open period of the fishery and as such, is at a greater risk of being fished.

In relation to Eastern IFCA having undertaken 'best endeavours' to make the emergency byelaw unnecessary, this has primarily been in the form of developing a replacement byelaw. Crucial to this development was the legal consideration of creating a byelaw which was able to simply apply the WFO to the unmanaged area. This advice unfortunately took longer to obtain than was expected. That said, given the large volume of other high priority work-loads (not least including the continuation of implementing Defra's revised approach to fisheries management in MPAs), a draft byelaw will be ready for MMO QA prior to the expiration of the emergency byelaw. It is suggested that this meets the requirements of 'best endeavours'.

Therefore, it is recommended that the CEO is delegated authority to apply for an extension to the emergency byelaw as required. Officers will in the mean time start to engage with MMO to determine if the QA process can be accelerated (potentially by early submission of the byelaw for formal QA) to determine if the 12-month timescale can still be achieved.

#### Next steps

After the Authority makes a byelaw, it must be put to formal consultation as per Defra guidance. Once this is completed, the results of the formal consultation are taken into account and amendments to the byelaw are considered.

Once the formal consultation is complete, the byelaw can be formally submitted to the MMO for QA. Further changes may be required as a result of this process.

It is recommended that the CEO is delegated authority to make amendments to the byelaw pursuant of taking into account the consultation and the MMO formal QA to the extent that such are not considered to alter the intended effect of the byelaw.

In addition, there is the potential for a fishery to open within the Wash Restricted Area in line with the WFO fishery. In order to open such a fishery and introduce flexible management measures, it is proposed that the CEO is delegated Authority to implement such in accordance with the proposed formal operating procedure. This includes potentially in relation to the Wash Emergency Byelaw 2018 which may still be in effect. This recommendation is proposed in more detail in Action Item 17 Wash Fishery Order 1992 cockle fishery 2019.

#### **Financial implications**

The cost of advertising a byelaw in the Fishing News is circa £1800. It should be noted that the same advert will be used to advertise a second byelaw (the Marine Protected Area Byelaw 2019) so as to minimise costs. There will also be a cost associated with the provision of legal advice from Andrew Jackson Solicitors LLP.

In addition, there is an inherent resource cost to implementing any new byelaw. This is set out in the Impact Assessment (Appendix 5). It should be noted that the fee associated with the Permit recovers costs associated with administering the permit. There is an additional cost associated with additional stock survey effort and enforcement which is not recovered.

### **Legal implications**

There is an inherent risk associated with developing and introducing byelaws. This is mitigated through the application of due diligence and process set out in Defra guidance to the IFCA's regards byelaw making. This includes, for example, the provision of independent legal advice for the byelaw and undertaking an effective formal consultation with those who are potentially impacted.

### **Conclusion**

There is a clear environmental and socio-economic case for replacing the Emergency Wash Byelaw 2018 with a permanent byelaw. Such has been drafted to enable a fishery in-keeping with the adjacent WFO shellfish fisheries. This reflects the success of the WFO mechanisms in managing dynamic fisheries to the benefit of the MPA and the industry.

Impacts on the industry are considered nil given that the area was part of a private fishery previously. i.e. no common resource was used prior to Eastern IFCA implementing the emergency byelaw.

The emergency byelaw is likely to expire before a replacement is implemented and as such, an extension will likely be needed.

### **Appendices**

1. Draft Wash Restricted Areas Byelaw 2019
2. Draft Wash Restricted Areas Byelaw 2019: Eligibility Criteria
3. Draft Wash Restricted Areas Byelaw 2019: Permit Conditions
4. Draft Wash Restricted Areas Byelaw 2019: Formal Operating Procedure
5. Draft Wash Restricted Areas Byelaw 2019: Impact Assessment

### **Background documents**

n/a

## Appendix 1 - Draft Wash Restricted Areas Byelaw 2019



### **Eastern Inshore Fisheries and Conservation Authority**

### **MARINE AND COASTAL ACCESS ACT 2009 (c. 23)**

### **The Wash Restricted Area Byelaw 2019**

The Authority for the Eastern Inshore Fisheries and Conservation District in exercise of its powers under sections 155, and 156 of the Marine and Coastal Access Act 2009 makes the following byelaw for the District.

#### **Interpretation**

1. In this byelaw:
  - a) 'the Authority' means the Eastern Inshore Fisheries and Conservation Authority as defined in Articles 2 and 4 of the Eastern Inshore Fisheries and Conservation Order 2010 (SI 2010/2189);
  - b) 'fishery' shall mean any fishing for prescribed species within the Wash Restricted Area
  - c) 'fishing' includes prop-washing which is the practice of turning a vessel in tight circles to aid the fishing of cockles; digging for bait; the shooting, setting, towing and hauling of fishing gear; gathering sea fisheries resources by hand or using a hand operated implement; and catching, taking or removing sea fisheries resources and 'fish' is to be construed accordingly;
  - d) 'named representative' means a person who has been granted permission to fish from a vessel by the owner of that vessel, and has

been nominated by the owner of that vessel for the purposes of paragraph 10;

- e) 'owner' means the majority shareholder of a vessel as recorded on the certificate of registry for that vessel granted under the Merchant Shipping Act 1995 (c.21) and the Merchant Shipping (Registration of Ships) Regulations 1993 (SI 1993/3138), or the certificate of registry for that vessel in the Channel Islands or Isle of Man;
  
- f) 'prescribed species' means any of the species specified in the Wash Fishery Order 1992 (SI 1992/3038);
  
- g) 'registered vessel' means a vessel:
  - i. registered under Part II of The Registry of Shipping and Seaman as governed by the provisions of the Merchant Shipping Act 1995 and the Merchant Shipping (Registration of Ships) Regulations 1993, or in the Channel Islands or Isle of Man; and
  - ii. in respect of which there is a valid fishing licence issued under the Sea Fish (Conservation) Act 1967 (c.84);
  
- h) 'regulated fishery' means the fishery managed by the Authority under the provisions of the Wash Fishery Order 1992 (SI 1992/3038);
  
- i) 'The Wash Marine Protected Areas' means any of the following conservation designations as they apply within the Wash restricted area':
  - i. A site of special scientific interest, within the meaning of Part 2 of the Wildlife and Countryside Act 1981 (c.69);
  - ii. A national nature reserve declared in accordance with section 35 of that Act;
  - iii. A Ramsar site, within the meaning of section 37A of that Act;

- iv. A European marine site, within the meaning of the Conservation (Natural Habitats, &c) Regulations 1994 (S.I.1994/2716);
- j) 'the Wash Restricted Area' means the area or areas between eastern and southern boundaries of the Wash Fishery Order 1992 (SI 1992/3038) and the western and southern boundaries of the several fishery of the le Strange Estate as defined in the judgement of Mr David Halpern QC sitting as a deputy High Court judge and handed down by the High Court on the 27<sup>th</sup> July 2018 and bounded at the North East by a line drawn between a point with the latitude 52°58.80'N and a longitude 0°32.02E and another point with the latitude 52°58.48'N and a longitude 0°32.50'E.
- k) 'total allowable catch' means the quantity of cockles that can be fished determined by surveys and the management policies for the regulated fishery.
- l) 'vessel' means a ship, boat, raft or watercraft of any description and includes non-displacement craft, personal watercraft, seaplanes and any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily) and a hover craft or any other amphibious vehicle, used or capable or being used as a means of transportation on water;
- m) 'Wash restricted Area fishery' means a fishery opened under paragraph 19 of this byelaw;
- n) 'Wash Restricted Area Permit' means a permit issued under paragraph 6 granted for the fishing of the prescribed species within the Wash Restricted Area.

## **Prohibitions**

- 2. A person must not fish for any of the prescribed species from within the Wash Restricted Area unless:

- a) that person is the holder or a named representative of a Wash Restricted Area Permit; and
  - b) from a vessel which is named on that Wash Restricted Area Permit.
3. A person must not use a vessel under the authority of a Wash Restricted Area Permit unless all fishing equipment in use and carried on board complies with the restrictions set out in Schedule 1.
  4. A person must fish for prescribed species within the Wash Restricted Area accept in accordance with the restrictions set out in Schedule 1.
  5. A person must not fish for prescribed species in any area within the Wash Restricted Area which has been closed under paragraphs 20 and 22 of this byelaw or outside of the operating periods issued under paragraph 27 and 28 of this byelaw.
  6. A person must comply with any conditions attaching to a Wash Restricted Area Permit.
  7. Failure to comply with paragraphs 2, 3, 4, 5, and 6 of this byelaw is an offence against this byelaw.

## **Permits**

8. The Authority may issue a Wash Restricted Area Permit to the owner of a registered fishing vessel provided its registered overall length does not exceed 14 metres.
9. The Authority may issue a Wash Restricted Area Permit to a vessel with a registered overall length exceeding 14 metres provided the same is eligible for an authorisation granted under Regulation 7 (ii) of the Regulations made under the Wash Fishery Order 1992.
10. A vessel may be named on a maximum of one Wash Restricted Area Permit.

11. Any change in legal or beneficial ownership of a registered fishing vessel after the issue of the Wash Restricted Area Permit will result in the cancellation of the permit issued on which that vessel is named.
12. Wash Restricted Area Permits will be valid for 12 months from the date of issue.
13. Wash Restricted Area Permits are not transferrable between persons or vessels.
14. An application for a Wash Restricted Area Permit must be made using printed forms available from the Authority. These forms will require applicant and vessel details. The applicant may nominate up to 2 persons as their named representatives whose details must also be entered on the application form.
15. The Authority may restrict the number of Wash Restricted Area Permits issued and may set criteria to restrict eligibility for a Wash Restricted Area Permit in accordance with the procedure set out in Schedule 2.
16. The Authority may suspend the issuing of Wash Restricted Area Permits for a period or for periods of time not exceeding 12 months or until the following 1<sup>st</sup> June if there is an enhanced risk to stocks or if there is a risk to site integrity in relation to any of The Wash Marine Protected Areas.
17. A fee will be charged for each Wash Restricted Area Permit which must be paid prior to the issuing of the permit. The fee for a Wash Restricted Area Permit is £44.
18. Where the holder of a Wash Restricted Area Permit or a person named on it after the date of the making of this byelaw fails to comply with this byelaw, or with any provisions of the Wash Fishery Order 1992 or with section 292 of the Marine and Coastal Access Act 2009 and any enforcement action leads to a prosecution resulting in a guilty plea or finding of guilt by the court, or that person accepts and pays a financial administrative penalty, the permit shall be withdrawn for the remainder of the period for which it was issued and no application for a Wash Restricted Area Permit by the permit holder or any person named on it shall be considered for the following period for which such permits may be issued.

## **Opening and Closing the fishery**

19. The Authority may open a fishery in conjunction with or separately to the regulated fishery in accordance with Schedule 2.
20. The Authority may upon not less than 12 hours' notice close the fishery or parts thereof within the Wash Restricted Area for a period of time or for periods of time if there is an enhanced risk to stocks or if there is an enhanced risk to site integrity in relation to any of The Wash Marine Protected Areas.
21. Any closure under paragraph 20 above shall be reviewed in accordance with Schedule 2 within two months after the date of such closure.
22. The Authority may close a fishery or parts thereof if the total allowable catch has been expended or as a result of a review undertaken under paragraph 21 or to enable a stock survey in relation to the associated fishery.

## **Flexible permit conditions**

23. The Authority may attach to permits flexible conditions which fall within one or more of the following categories;
  - a) vessel design restrictions;
  - b) catch restrictions;
  - c) fishing gear restrictions;
  - d) fishing effort restrictions;
  - e) spatial restrictions;
  - f) time restrictions;
  - g) vessel monitoring device requirements.
24. The Authority may issue, vary or revoke flexible permit conditions following a review conducted in accordance with the procedure set out in Schedule 2.

25. The Authority may upon not less than 12 hours' notice issue, vary or revoke flexible permit conditions for a period of time or for periods of time if there is an enhanced risk to stocks or if there is an enhanced risk to site integrity in relation to any of The Wash Marine Protected Areas.
26. Any action by the Authority under paragraph 25 above shall be reviewed in accordance with schedule 2, two months after the date of such action being taken and such review may only extend the period the action has effect by no more than a further four months.

### **Operating times**

27. The Authority may issue, vary or revoke operating times following a review conducted in accordance with the procedure set out in Schedule 2;
28. The Authority may upon not less than 12 hours' notice issue, vary or revoke operating times for a period of time or for periods of time if there is an enhanced risk to stocks or if there is an enhanced risk to site integrity in relation to any of The Wash Marine Protected Areas
29. Any action by the Authority under paragraph 28 above shall be reviewed in accordance with schedule 2, two months after the date of such action being taken and such review may only extend the period the action has effect by no more than a further four months.

## Schedule 1: Restrictions

### 1. Bottom-towed-gear

- a) A person must not fish for, take or remove from the fishery any of the prescribed species using bottom-towed-gear unless a written certificate of approval for that bottom-towed-gear has been provided by the Authority in accordance with restriction 2 below.
  
- b) A person must not fish for, take or remove from the fishery, cockles using;
  - i. more than one instrument of bottom-towed-gear; or
  - ii. a hydraulic suction dredge with an aggregate dredge head width of more than 76cm.
  
- c) Without written authorisation from the Authority, a person must not fish for, take or remove from the fishery, mussels using a mussel dredge with an inside opening of more than one metre in width.
  
- d) A person must not fish for, take or remove from the fishery any of the prescribed species other than cockles using more than two instruments of bottom-towed-gear.

### 2. Bottom-towed-gear – Approval

- a) A provisional certificate of approval may be issued which will be valid for one month.
  
- b) A full certificate of approval may be issued, which will be valid until 31 December following the date the certification is issued, where bottom-towed-gear meets the following conditions:
  - i. The bottom-towed-gear does not result in more than 10% by weight of the target species being visibly damaged;

- ii. The Authority has been advised by scientists who appear to them to be suitably qualified that the bottom-towed-gear does not cause unacceptable damage to habitats or species;
- iii. Bottom-towed-gear and associated catch sorting equipment is of a specification required by the Authority for reasons relating to fisheries management or are pursuant of meeting 2(b)(i) and 2(b)(i) above.

For the purpose of this regulation, an organism is considered visibly damaged when on examination it is seen that there are visible cracks, chips or there is other damage to the shell. The damage rate will be determined using representative samples of shellfish retained and rejected by the operation of the bottom-towed-gear.

### **3. Use of tenders**

A person must not use a tender to a vessel unless:

- a) fishing for, taking or removing from the fishery mussels or cockles;
- b) all catch placed on the tender is placed on the licenced vessel to which it is associated at the earliest opportunity; and
- c) the tender is six metres in overall length or less.

### **4. Sorting of catch**

Any material rejected through the sorting of catch of any of the prescribed species must be returned immediately to the sea or seabed, as nearly as possible to the place from which it was taken and spread thinly and evenly over that area.

### **5. Daily catch restrictions (cockles)**

- a) A person must not, in any one calendar day, fish for, take (save for doing so with the intention of riddling or otherwise sorting catch in accordance with restriction 4) or remove from the fishery more than the maximum weight of cockles specified in the licence conditions by hand.
- b) A person must not, in any one calendar day, fish for or take (save for doing so with the intention of riddling or otherwise sorting catch in accordance with restriction 4) or remove from the fishery more than 4000 kilograms of cockles by dredge.

- c) For the purpose of determining the weight of catch no allowance will be given for the weight of any containers or sand or other material.
- d) A person must not fish for, take or remove from the fishery any cockles by hand if, during the same calendar day, that person has fished for, taken or removed any cockles by dredge.
- e) A person must not fish for, take or remove from the fishery any cockles by dredge if, during the same calendar day, that person has fished for, taken or removed any cockles by hand.

#### **6. Daily catch restrictions (mussels)**

- a) A person must not, in any one calendar day, fish for or take (save for doing so with the intention of riddling or otherwise sorting catch in accordance with restriction 4) or remove from the fishery:
  - i. More than 4000 kilograms of mussels during a harvestable mussel fishery; or
  - ii. More than 8000 kilograms of mussels during a relaying mussel fishery.
- b) For the purpose of determining the weight of catch no allowance will be given for the weight of any containers or sand or other material.
- c) A person must not fish for, take or remove from the fishery any mussels from a harvestable mussel fishery if, during the same calendar day, that person has fished for, taken or removed from the fishery mussels from a relaying mussel fishery.
- d) A person must not fish for, take or remove from the fishery any mussels from a relaying mussel fishery if, during the same calendar day, that person has fished for, taken or removed from the fishery mussels from a harvestable mussel fishery.

#### **7. Seed movement**

A person must not transport any shellfish by road unless an application for such is completed which will require the following information:

- a) Destination of the shellfish; and
- b) The date of the proposed transport.

#### **8. Weekly catch returns**

An accurately completed weekly catch return form, supplied by Eastern IFCA, must be returned for each week of fishing, to Eastern IFCA offices by no later than Friday of the calendar week following any fishing activity.

## **9. Transhipping prohibition**

A person must not tranship or otherwise relocate any of the prescribed species, or containers of any description containing any of the prescribed species, fished from the Wash Restricted Area fishery from one vessel to another.

## **10. Requirement to land**

- a) A person fishing for prescribed species must:
  - i. take any catch fished for in relation to a Wash Restricted Area fishery straight to port;
  - ii. land such catch immediately; and
  - iii. not leave catch on the sand or deposited in the water in bags or any other container for later collection.
- b) A person must not land catch fished from the Wash Restricted Area fishery on more than one occasion during one calendar day.

## **11. Dual fishing prohibition**

- a) A person must not fish for, take or remove from the fishery any of the prescribed species from a Wash Restricted Area fishery on the same calendar day as fishing for, taking or removing from the fishery the same prescribed species from outside of a Wash Restricted Area fishery.
- b) A person must not have on board any bottom-towed-gear which could be used to fish for, take or remove from the fishery any of the prescribed species when fishing for, taking or removing any of the prescribed species from a Wash Restricted Area fishery, the permit conditions for which enable a hand-work fishery only.

## **12. Standard bags**

A person must not land mussels or cockles fished from the Wash Restricted Area fishery unless such are contained in a bag which must:

- a) be of the following dimensions:
  - i. 120 centimetres or 60 centimetres in height;
  - ii. 97 centimetres in depth;
  - iii. 97 centimetres in width; and

- b) have the words 'Wash Fishery Order' written on at least two sides with lettering which is at least 10 centimetres tall

### **13. Prop-washing**

- a) A person fishing for cockles must not:
  - i. use an anchor which affixes the vessel to the bottom of the seabed during the practice of prop-washing;
  - ii. conduct prop-washing in such a manner as to cause more than one ring to be formed in the seabed;
- b) A person must spread any cockles dislodged from prop-washing thinly and evenly over the ground, as nearly as possible to the area from which they were dislodged before leaving the bed.

## Schedule 2

1. The procedure referred to in paragraphs 15, 16, 19, 21, 22, 24, 26, 27 and 29 must include the following steps:
  - a) acquisition of relevant available evidence including:
    - i. scientific and survey data, and scientific advice provided by the Authority, the Centre for Environment, Fisheries and Aquaculture Sciences or such other persons as the Authority thinks fit;
    - ii. advice given by Natural England or other external authorities, organisations, persons or bodies as the Authority thinks fit; and
    - iii. information from any other relevant source including that which is relevant to effective enforcement;
  - b) consultation in such a manner and by such methods as the Authority considers appropriate with such stakeholders, organisations and persons as appear to the Authority to be representative of the interests likely to be substantially affected by the proposals;
  - c) undertaking an appropriate assessment of the impacts relating to the proposals;
  - d) consideration of all information arising from subparagraphs (a) to (c) above.
  
2. The Authority must review flexible permit conditions no less frequently than every four years after the date that permit conditions have taken effect. The procedure for issuing, varying or revoking flexible permit conditions as referred to in paragraph 24, will be in accordance with the formal operational procedures agreed by the Authority and will include the steps set out in paragraph 1 of this Schedule.

3. The Authority must review restrictions of the issuing of Wash Restricted Area Permits no less frequently than every four years after the date that a restriction on the issuing of Wash Restricted Area Permits has taken effect.
4. The review of restrictions on the issuing of permits will be in accordance with the formal operational procedures agreed by the Authority and will include the steps set out in paragraph 1 of this Schedule.
5. Where restrictions on the issuing of permits or flexible permit conditions are issued, maintained, varied or revoked Wash Restricted Area Permit holders will be notified in writing.

## **Explanatory Note**

(This note does not form part of the byelaw)

This byelaw is intended to enable Eastern IFCA to manage shellfish fisheries within a discrete area of The Wash in a manner consistent with the well-established processes of the Wash Fishery order 1992.

The byelaw prohibits the fishing for cockles, mussels, oysters, clams, scallops and queens without a permit. Fishing under the authority of a permit must be in accordance with any permit conditions and the restrictions set out schedule one of the byelaw. These include:

Fishing gear requirements for use of bottom towed gear;

- Use of tenders;
- Sorting of catch;
- Daily catch restrictions for cockles and mussels;
- Seed movement;
- Weekly Catch returns;
- Transshipping of catch;
- Requirement to land catch;
- Dual fishing prohibitions;
- Use of standard bags; and
- Prop-washing.

These reflect measures which have been in place in relation to fishing under the Wash Fishery Order 1992.

The byelaw enables Eastern IFCA to do the following things:

- Restrict the number of permits issued;
- Suspend the issuing of permits;
- Open and close fisheries;
- Issue, vary or revoke flexible permit conditions;
- Issue, vary or revoke criteria on the eligibility of a person to a permit; and
- Issue, vary or revoke operating times of a fishery.

Eastern IFCA will undertake actions in relation with the above in accordance with the process set out in Schedule Two of the byelaw and in accordance with the formal operating procedure agreed by the Authority.

This byelaw is intended to replace the Emergency Wash Byelaw 2018.

## Appendix 2 - Draft Wash Restricted Areas Byelaw 2019: Eligibility Criteria



### Eastern Inshore Fisheries and Conservation Authority

#### Wash Restricted Area Byelaw 2019

#### Eligibility Criteria

These eligibility criteria relate to the issuing of permits under Wash Restricted Area Byelaw 2019 and should be read in conjunction with that byelaw.

#### Criteria

##### Holder of a Wash Fishery Order (WFO) 1992 Licence

1. A person is not eligible to hold a Wash restricted area permit unless they are named as the Licence Holder of a WFO Licence.
2. A person is not eligible to be named on a Wash restricted area permit as a named representative unless:
  - a. they are named on a WFO Licence (hand-work) as a Nominated Representative or a Nominated Deputy; and
  - b. In relation to a permit, the holder of which is the holder of the same WFO Licence to which they are also named.

#### **Commencement date: xx/xx/xxxx**

I hereby certify that the above permit conditions were made by Eastern Inshore Fisheries and Conservation Authority at their meeting on the 15<sup>th</sup> May 2019.

The above eligibility criteria come into effect on xx xx xxxx

#### **Julian Gregory**

Chief Executive Officer

Eastern Inshore Fisheries and Conservation Authority

6 North Lynn Business Village, Bergen Way, King's Lynn, Norfolk PE30 2JG

## Appendix 3 - Draft Wash Restricted Areas Byelaw 2019: Permit conditions



### Eastern Inshore Fisheries and Conservation Authority

#### Wash Restricted Area Byelaw 2019

#### Flexible Permit Conditions

These flexible permit conditions relate to Wash restricted area permit issued under the Wash Restricted Area Byelaw 2019 and should be read in conjunction with that byelaw.

#### **Permit conditions: Cockle fishery**

##### Permit Condition 1: Fishing Method

It is prohibited to fish for, take or remove from the fishery cockles using any method other than hand-working which can be augmented by prop-washing so far as it is permitted by Restriction 13 of Schedule two of the Wash Restricted Area Byelaw 2019.

**Commencement date: xx/xx/xxxx**

I hereby certify that the above permit conditions were made by Eastern Inshore Fisheries and Conservation Authority at their meeting on the 15<sup>th</sup> May 2019.

The above permit conditions come into effect on xx xx xxxx

#### **Julian Gregory**

Chief Executive Officer

Eastern Inshore Fisheries and Conservation Authority

6 North Lynn Business Village, Bergen Way, King's Lynn, Norfolk PE30 2JG

## Appendix 4 - Draft Wash Restricted Areas Byelaw 2019: Eligibility Criteria

### Formal Operating Procedure: Wash Restricted Area Byelaw 2019



Date agreed by Authority: 15<sup>th</sup> May 2019

*This formal operating procedure relates to the opening and closing of fisheries and the implementation of flexible management measures including permit conditions and eligibility criteria under the Wash Restricted Area Byelaw 2019 (hereafter ‘the byelaw’).*

*This document sets out what Eastern IFCA considers appropriate in relation to carrying out the review procedures set out in schedule 2 of the byelaw in relation to the different powers of the Authority by the byelaw.*

**Restricting the number of Wash Restricted Area Permits issued and setting criteria to restrict the eligibility for a Wash Restricted Area Permit as referred to in paragraph 11, for issuing, varying or revoking flexible permit conditions as referred to in paragraph 24 and operating periods under paragraph 27**

Eastern IFCA will adopt the ‘Formal Operating Procedure: Changes to flexible management measures’ agreed by the Authority at the 34<sup>th</sup> Eastern IFCA meeting of the 7<sup>th</sup> November 2018<sup>68</sup>.

#### **Opening a fishery or parts thereof under paragraph 19**

1. Acquisition of relevant available evidence will primarily be in the form of the Eastern IFCA stock surveys and Eastern IFCA assessments which determine whether a fishery will have negative impacts on the site integrity of the Wash and North Norfolk Coast Special Area of Conservation or the Wash Special Area of Conservation (hereafter ‘the MPAs’) or on shellfish stocks;
2. Eastern IFCA may undertake limited site inspection, which will also be considered a relevant source of information under Schedule 2 of the byelaw;
3. Eastern IFCA will generally consider it appropriate to consult with permit holders in writing over a period of no less than two weeks and / or in relation to a meeting to which all permit holders are invited;
4. Eastern IFCA will consider it appropriate to undertake no consultation with permit holders where the opening of a fishery is in relation to time critical circumstances including the predicted die-off of shellfish;
5. Eastern IFCA will consider the potential impacts on permits holders in the context of the overriding requirement to prevent adverse effects on site integrity of the MPAs and its obligation to ensure long-term, sustainable fisheries;

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<sup>68</sup> [http://www.eastern-ifca.gov.uk/wp-content/uploads/2015/05/2018\\_10\\_Formal\\_Operating\\_Procedure.pdf](http://www.eastern-ifca.gov.uk/wp-content/uploads/2015/05/2018_10_Formal_Operating_Procedure.pdf)

6. Eastern IFCA will inform Permit holders of the opening of a fishery with a minimum of seven days' notice except in relation to the opening of a fishery is in relation to time critical circumstances including the predicted die-off of shellfish

#### **Review of the closure of a fishery or parts thereof under paragraph 20**

1. Acquisition of relevant available evidence will be in accordance with any of those set out in Schedule 2 of the byelaw;
2. Eastern IFCA will generally consider it appropriate to consult with permit holders in writing over a period of no less than two weeks and / or in relation to a meeting to which all permit holders are invited;
3. Eastern IFCA will consider the potential impacts on permits holders in the context of the overriding requirement to prevent adverse effects on site integrity of the MPAs and its obligation to ensure long-term, sustainable fisheries;
4. Eastern IFCA will inform Permit holders of the closure of a fishery or parts thereof with a minimum of seven days' notice.

#### **Review of the issuing, varying or revoking of permit conditions under paragraph 26**

1. Acquisition of relevant available evidence will be in accordance with any of those set out in Schedule 2 of the byelaw;
2. Eastern IFCA will generally consider it appropriate to consult with permit holders in writing over a period of no less than two weeks and / or in relation to a meeting to which all permit holders are invited;
3. Eastern IFCA will consider the potential impacts on permits holders in the context of the overriding requirement to prevent adverse effects on site integrity of the MPAs and its obligation to ensure long-term, sustainable fisheries;
4. Eastern IFCA will inform Permit holders of the outcome of the review in writing in accordance with the timeframes in paragraph 26.

#### **Review of the issuing, varying or revoking of operating periods under paragraph 28**

1. Acquisition of relevant available evidence will generally be in relation to risk associated with compliance and effective enforcement but may include any of those set out in schedule 2 of the byelaw;
2. Eastern IFCA will generally consider it appropriate to consult with permit holders in writing over a period of no less than two weeks and / or in relation to a meeting to which all permit holders are invited;
3. Eastern IFCA will consider the potential impacts on permits holders in the context of the overriding requirement to prevent adverse effects on site

integrity of the MPAs and its obligation to ensure long-term, sustainable fisheries;

4. Eastern IFCA will inform Permit holders of the outcome of the review in writing in accordance with the timeframes in paragraph 28.

## Appendix 5 - Draft Wash Restricted Areas Byelaw 2019: Impact Assessment

<b>Title:</b> Wash Restricted Area Byelaw 2019  <b>IA No:</b> EIFCA008  <b>Lead department or agency:</b> Eastern Inshore Fisheries and Conservation Authority  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 30/04/2019			
	<b>Stage:</b> Draft version 1			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Other			
<b>Contact for enquiries:</b> Julian Gregory (CEO) Eastern IFCA, 6 North Lynn Business Village, Bergen Way, King's Lynn, Norfolk, PE30 2JG; tel:01553 775321, email: mail@eastern-ifca.gov.uk				

### Summary: Intervention and Options

**RPC Opinion:** Not Applicable

#### Cost of Preferred (or more likely) Option

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2018)	One-In, Three-Out	Business Impact Target Status
£3,050,026.63	£3,151,652.77	£-328,240.2	Not applicable	n/a

#### What is the problem under consideration?

Eastern IFCA manages certain shellfish fisheries within The Wash through the Wash Fishery Order (WFO) 1992. The intended spatial boundary of the WFO was to include the entire Wash embayment excluding that part which was the 'le Strange Estate'. A judgement was handed down by the High Court on the 27<sup>th</sup> July 2018 with the effect of changing the boundary of the le Strange Estate, creating a 'gap' between the eastern boundary of the WFO and the western boundary of the le Strange Estate.

#### Why is government intervention necessary?

The Wash is part of a heavily designated marine protected area which holds several national and international designations. Fishing activity needs to be managed to ensure conservation objectives are met. In addition, the area represents a valuable fishery - shellfish populations are vulnerable to overfishing and require monitoring and management to ensure sustainable fishers.

#### What are the policy objectives and the intended effects?

**Objectives:** To enable a sustainable fishery and prevent adverse effects on site integrity of the Wash and North Norfolk Coast SAC (and related designations) or to shellfish stocks within the 'unmanaged area'.  
**Intended effects:** To prohibit fishing in the 'unmanaged' area without a permit. To enable Eastern IFCA to enable fishing activity which will be consistent with the objective above through implementing flexible management measures. To manage the area in a manner consistent with the management of the bivalve mollusc shellfish fisheries under the WFO.

#### What policy options have been considered, including any alternatives to regulation?

Option 0. Do nothing.  
 Option 1. Wash Restricted Area Byelaw 2019 (permit byelaw)  
 Option 2. Closure of the area to fishing  
 The preferred option is option 1 – The proposed byelaw will enable Eastern IFCA enable a long-term, sustainable fishery.

#### Will the policy be reviewed? It will be reviewed. If applicable, set review date: 04/2025

Does implementation go beyond minimum EU requirements?	Yes			
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes

What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> N/A	<b>Non-traded:</b> N/A
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***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Chief Executive:

Date: xx/xx/xxxx

## Summary: Analysis & Evidence Policy Option 1

Price Base Year 2018	PV Base Year 2016	Time Period Years: 10	Net Benefit (Present Value (PV)) (£)		
			Low: £-125,107.9	High: £3,059,116.35	Best Estimate: £3,050,026.63

COSTS (£)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.0	£11,806.4	£101,626.1
High	0.0	£14,534.4	£125,107.9
Best Estimate	0.0	£12,862.4	£110,715.9

### Description and scale of key monetised costs by 'main affected groups'

The vast majority of the monetised impacts fall to Eastern IFCA in relation to shellfish stock surveys and compliance activity. Cost to Eastern IFCA for administering permits is mitigated by the permit fee. Monetised costs on fishers relate to the annual permit fee which is £44. This impact is considered very small in scale and negated by the fishing opportunity made available by the permit (noting that the area was not previously part of the public fishery).

### Other key non-monetised costs by 'main affected groups'

Management of the fishery will also require Eastern IFCA to undertake Habitat Regulations Assessments. The Byelaw also enables Eastern IFCA to dynamically manage the fishery, doing so will incur costs relating to development of measures (including consultation with permit holders).

BENEFITS (£)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Unknown	£0	£0
High	Unknown	£367,200	£3,160,742.5
Best Estimate	n/a	£367,200	£3,160,742.5

### Description and scale of key monetised benefits by 'main affected groups'

None identified.

### Other key non-monetised benefits by 'main affected groups'

Provides fishing opportunity in an area which was not previously part of the public fishery. The potential worth of the cockle fishery in the area in 2018 was £367,200 based on the stock assessment and estimates of 2018 cockle prices. The actual worth of the fishery depends on the stocks available, market value and the level of fishing activity. Protection of the habitats identified as being at risk from fishing activity will have a positive effect on the overall ecological functioning of the MPAs and potentially improve fishery productivity, including in relation to species other than those targeted by these fisheries.

Key assumptions/sensitivities/risks: **Discount rate** 3.5%

Costs are primarily based on estimates which will likely vary depending on the circumstances. Compliance costs will vary in accordance with risk. Benefits also relate to variable values which depend on several factors including stock size, market demand and levels of fishing activity.

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual)	Score for Business Impact Target (qualifying provisions only) £m: n/a
Costs: £946.7    Benefits: 0.0    Net: -£946.7	

## Evidence Base

### Problem under consideration

Eastern IFCA manages certain shellfish fisheries within The Wash (Norfolk & Lincolnshire) through the Wash Fishery Order (WFO) 1992. The intended spatial boundary of the WFO was to include the entire Wash embayment excluding that part which was the 'le Strange Estate'. The High Court handed down a judgement on the 27<sup>th</sup> July 2018 with the effect that the boundary of the le Strange Estate has changed, creating a 'gap' between the eastern boundary of the WFO and the western boundary of the le Strange Estate.

Within this area, Eastern IFCA byelaws apply and which would prevent the use of towed demersal gear to fish for molluscan shellfish (e.g. cockle suction dredging) but which would not prevent fishing by hand or hand rake.

The Wash is part of a heavily designated marine protected area (MPA) and holds the following designations: Special Area of Conservation (SAC) Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), RAMSAR site and National Nature reserves (NNR's). It also hosts important shellfish stocks. The area under consideration is likely to be targeted by fishers.

To ensure that neither the environment or the stocks are damaged by fishing activity, Eastern IFCA implemented an emergency byelaw on the 27<sup>th</sup> July 2018 which prohibited fishing for oysters, mussels, cockles, clams, scallops and queens without a permit. The byelaw reflected the management in place under the WFO which has proven to be a successful model for managing these shellfish fisheries. Managing the area in a manner consistent with the WFO also provides clarity to fishers.

As a result of surveys undertaken in 2018, which led to the opening of a fishery, there are known to be cockle beds within the 'unmanaged area'. This area exists within the Wash and North Norfolk Coast Special Area of Conservation and Special Protection Area (the MPA).

Cockle fisheries are valuable; the fishable stock (i.e. one third of the total adult stock) identified within the unmanaged area has a first sale value of between circa £367,200 based on estimates of 2018 cockle prices. As such the area is likely to be fished. Whilst fishing with dredges would be prohibited under Byelaw 3: Molluscan Methods of fishing, hand-work activity would not be managed in any way, potentially leading to the area being over-fished or fished in a manner not consistent with the protection of the MPA.

As such, the risk to the fishery and the MPA is considered sufficient to require management of the site. This is further evidenced by the Habitat Regulations Assessment which was undertaken in relation to the fishery opened in 2018 which concluded that fishing activity would have an adverse effect on the MPA without the application of mitigating in the form of management measures.

### Rationale for intervention

IFCAs have a duty to ensure that fish stocks are exploited in a sustainable manner, and that any impacts from that exploitation on designated features in

the marine environment are reduced or suitably mitigated, by implementing appropriate management measures. Implementing this byelaw will enable Eastern IFCA to ensure that fishing activities are conducted in a sustainable manner and that the marine environment is suitably protected.

Fishing activities can potentially cause negative outcomes as a result of 'market failures'. These failures can be described as:

4. Public goods and services – a number of goods and services provided by the marine environment such as biological diversity are 'public goods' (no-one can be excluded from benefiting from them, but use of the goods does not diminish the goods being available to others). The characteristics of public goods, being available to all but belonging to no-one, mean that individuals do not necessarily have an incentive to voluntarily ensure the continued existence of these goods which can lead to under-protection/provision.
5. Negative externalities – negative externalities occur when the cost of damage to the marine environment is not fully borne by the users causing the damage. In many cases no monetary value is attached to the goods and services provided by the marine environment and this can lead to more damage occurring than would occur if the users had to pay the price of damage. Even for those marine harvestable goods that are traded (such as wild fish), market prices often do not reflect the full economic cost of the exploitation or of any damage caused to the environment by that exploitation.
6. Common goods - a number of goods and services provided by the marine environment such as populations of wild fish are 'common goods' (no-one can be excluded from benefiting from those goods however consumption of the goods does diminish that available to others). The characteristics of common goods (being available but belonging to no-one, and of a diminishing quantity), mean that individuals do not necessarily have an individual economic incentive to ensure the long-term existence of these goods which can lead, in fisheries terms, to potential overfishing. Furthermore, it is in the interest of each individual to catch as much as possible as quickly as possible so that competitors do not take all the benefits. This can lead to an inefficient amount of effort and unsustainable exploitation.

IFCA byelaws aim to redress these sources of market failure in the marine environment through the following ways:

- Management measures to conserve designated features of MPAs will

ensure negative externalities are reduced or suitably mitigated.

- Management measures will support continued existence of public goods in the marine environment by conserving the range of biodiversity in the sea of the Eastern IFC District.
- Management measures will also support continued existence of common goods in the marine environment by ensuring the long-term sustainability of shrimp stocks in the Eastern IFC District.

### Policy objective

The overriding policy objectives of this Byelaw are:

- To prevent a significant effect on site integrity of the Wash and North Norfolk Coast SAC (and other designations); and
- To prevent impacts on stock sustainability of molluscan shellfish within the 'unmanaged area' of the Wash as a result of fishing activity to enable a long-term, sustainable fishery.

### The intended effects of the measures are as follows

- To prohibit fishing for cockles, mussels, oysters, clams, scallops and queens without a permit.
- To ensure that fishing activity is consistent with any permit conditions and the restrictions set out schedule one of the byelaw. These include:
  - Fishing gear requirements for use of bottom towed gear;
  - Use of tenders;
  - Sorting of catch;
  - Daily catch restrictions for cockles and mussels;
  - Seed movement;
  - Weekly Catch returns;
  - Transshipping of catch;
  - Requirement to land catch;
  - Dual fishing prohibitions;
  - Use of standard bags; and
  - Prop-washing.

These reflect measures which have been in place in relation to fishing under the Wash Fishery Order 1992.

To enable Eastern IFCA to do the following things:

- Restrict the number of permits issued;
- Suspend the issuing of permits;
- Open and close fisheries;
- Issue, vary or revoke flexible permit conditions;
- Issue, vary or revoke criteria on the eligibility of a person to a permit; and

- Issue, vary or revoke operating times of a fishery.

Eastern IFCA will undertake actions in relation with the above in accordance with the process set out in Schedule Two of the byelaw and in accordance with the formal operating procedure agreed by the Authority.

#### Description of options considered (including status quo);

##### *Option 0 (do nothing) – status quo*

The 'do nothing' option would have the least economic impact on stakeholders however, is not considered to adequate to reduce the risk of impacts from bivalve mollusc fisheries within Wash and North Norfolk Coast SAC and is not in keeping with Defra's revised approach to fisheries management in MPA. In addition, given the value of the shellfish fisheries in The Wash, it is likely that market failures will lead to over-exploitation of the fisheries. It is therefore not considered a viable option.

##### *Option 1 (preferred option) – Wash Restricted Area Byelaw 2019*

Implementation of the Wash Restricted Area Byelaw 2019 will enable Eastern IFCA to manage bivalve mollusc fisheries within the area in a manner consistent with that in the rest of The Wash via the WFO. This will enable Eastern IFCA to manage a valuable fishery within a heavily designated MPA.

##### *Option 2 – Closure of area to fishing*

Closure of the area would meet the conservation objectives of the site but have disproportionate impacts on the industry. It also goes beyond the minimum requirement to achieve the conservation objectives of the associated MPA. Therefore, this option was not considered viable.

Closure of the area would significantly reduce costs to Eastern IFCA which include stock surveys and compliance costs.

#### Monetised and non-monetised costs and benefits

##### **Option 0 – Do nothing option**

There are no monetised costs associated with the 'do nothing' option.

The key non-monetised costs relate to the impacts on ecosystem functioning resultant of continued fishing activity in the areas proposed to be closed. Impacts on ecosystem function is likely to lead to impacts on the sustainability of the fishery and its productivity.

In addition, the 'do nothing' option is not in keeping with the requirements of the

Habitats Directive or the Marine and Coastal Access Act 2009 and as such may lead to infraction proceedings being taken against the UK.

## **Option 1 – Wash Restricted Area Byelaw 2019**

### Costs to stakeholders

The costs to fishers are in the form of the annual permit fee of £44. The proposed byelaw includes eligibility criteria with the effect of restricting the issuing of permits to those holding a WFO Licence. During the period of the Emergency byelaw, 24 permits were obtained by eligible fishers. This is the basis for the 'best estimate' of £1056 per annum. Up to 62 fishers may be eligible for a permit and this is the basis of the 'high' estimate of £2,728 per annum. Alternatively, no fishers could obtain a permit for the area which reflects a 'low' estimate of zero.

Given that the area was not part of the public fishery prior to the handing down of the High Court judgement, there are no impacts identified as a result of restricting access to the fishery by the eligibility criteria.

Costs associate with the specified restrictions and permit conditions are also considered as zero. This reflects that they form part of the mitigation which enables a fishery within the area which is consistent with the conservation objectives of the site (i.e. no fishery could occur without the measures) and because they reflect restrictions that are in place within the WFO and as such, there will be additional burdens on fishers operating in the fishery.

### Costs to Eastern IFCA

Additional compliance activities will be required in addition to education and engagement. The cost of these are estimated to be £7,176 based on six additional sea patrols and 4 additional shore patrols. This is likely to be an underestimate with regards to the initial implementation of the measures during which time the risk of non-compliance is higher. In addition, the number of patrols will increase if risk associated with the fishery increases as directed through the Tactical Coordinating Group. Costs are set out in table 1 (below).

Eastern IFCA will undertake stock surveys of the area in relation to cockle stocks. The survey methodology consists of 100 stations (Pers coms Senior Science Officer (Research), 2019). This represents circa 10% of the costs of the current cockle surveys which are described in Action Item 12<sup>69</sup> of the 35<sup>th</sup> Eastern IFCA meeting (30<sup>th</sup> Jan 2019). This is the basis for all estimates ('best', 'high' and 'low') of £4,630.7 per year to Eastern IFCA.

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<sup>69</sup> <http://www.eastern-ifca.gov.uk/wp-content/uploads/2016/02/35th-EIFCA.pdf>

Table 1. showing the breakdown of costs associated with additional compliance needs resultant of introducing a new byelaw.

**Costs associated with 1 sea patrol**

		employment		
Crew:-		cost	working days	cost per 7.4 hour day
Skipper	1	33,760.00	225	150.04
Crew:-	3	29,410.00	227	388.68
Total cost				538.72
<b>"on costs"</b>				
Pension			21.50%	115.83
Employers NI		12,156.97	226	53.79
				708.34
		annual cost	days at sea	
<u>Operation cost of vessel</u>			70	
Maintenance/refit		15,000.00		214.29
Insurance		3,000.00		42.86
				257.14
Total operation cost per day/trip				965.48
<b>6 additional sea patrols</b>				<b>5792.898</b>

**Costs associated with 1 shore patrol**

		employment		
Crew:-		cost	working days	cost per 7.4 hour day
Skipper	0	33,760.00	0	0.00
Crew:-	2	29,410.00	227	259.12
Total cost				259.12
<b>"on costs"</b>				
Pension			21.50%	55.71
Employers NI		6,978.94	226	30.88
Total operational cost of shore patrol				345.71
<b>4 additional shore patrols</b>				<b>1382.839</b>

**total additional compliance costs 7175.74**

There is also a cost associated with the administration of permits. This is set out in Table 2 (below). The cost to Eastern IFCA is mitigated by the permit fee (£44).

*Table 2. Estimate costs associated with the administration of a Wash Restricted Area permit per permit issued per year.*

<b>Unit</b>	<b>Unit cost</b>	<b>Number of units</b>	<b>Total cost</b>
Return book	£6.50	1	£6.50
pre-paid envelope	£0.60	14	£8.40
Admin Officer time (including on-costs)	£11.54	2.5	£28.85
		<b>Total</b>	<b>£43.75</b>

## **Non-monetised costs**

### Costs to fishers

No non-monetised costs are identified

### Costs to Eastern IFCA

Management of the fishery will also require Habitat Regulations Assessments. The Byelaw also enables Eastern IFCA to dynamically manage the fishery which will incur costs relating to development of measures (including consultation with permit holders). Option 2 – Total closure of relevant MPA’s to bottom towed gear

## **Option 2 – Closure of the area to fishing for bivalve molluscs**

The cost associated with this option relates to the loss of fishing opportunity potentially in the region of £367,200 per year.

### Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)

This assessment has used the following information:

- Eastern IFCA catch returns data and permit issuing data
- Anecdotal information provided by fishers (during informal engagement)

The analysis has considered the best available evidence to estimate monetised costs where the data will allow such. This has included extensive consultation with stakeholders who are likely to be impacted.

### Risks and assumptions

Costs are primarily based on estimates which will likely vary depending on the circumstances. For example, compliance costs will vary in accordance with risk.

Benefits also relate to variable values which depend on several factors including stock size, market demand and levels of fishing activity.

#### Summary and preferred option with description of implementation plan

The preferred option is Option 1 – Wash Restricted Area Byelaw

This will enable Eastern IFCA to manage bivalve mollusc fisheries in the ‘unmanaged area’ in a manner consistent with the well established approach under the WFO.

To implement these measures, fishers will be made aware of the additional closures through updates to the Eastern IFCA website and targeted dialogue fishers. Officers will engage with the industry to educate and engage as per Eastern IFCA’s Enforcement Policy and Regulation Strategy<sup>70</sup>.

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<sup>70</sup> <http://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/RC-Strategy.pdf>

## Annex A: Policy and Planning

Which marine plan area is the MPA and management measure in?

East Inshore Marine Plan

Have you assessed whether the decision on this MPA management measure is in accordance with the Marine Policy Statement and any relevant marine plan?

- Yes

If so, please give details of the assessments completed:

<b>Marine Plan Policy</b>	<b>Policy Text</b>	<b>Policy screened in or out from assessment</b>	<b>Assessment of plan policy</b>
<b>Policy AGG1</b>	Proposals in areas where a licence for extraction of aggregates has been granted or formally applied for should not be authorised unless there are exceptional circumstances.	×	Does not apply.
<b>Policy AGG2</b>	Proposals within an area subject to an Exploration and Option Agreement with The Crown Estate should not be supported unless it is demonstrated that the other development or activity is compatible with aggregate extraction or there are exceptional circumstances.	×	Does not apply.

<p><b>Policy AGG3</b></p>	<p>Within defined areas of high potential aggregate resource, proposals should demonstrate in order of preference:</p> <ul style="list-style-type: none"> <li>a) that they will not, prevent aggregate extraction</li> <li>b) how, if there are adverse impacts on aggregate extraction, they will minimise these</li> <li>c) how, if the adverse impacts cannot be minimised, they will be mitigated</li> <li>d) the case for proceeding with the application if it is not possible to minimise or mitigate the adverse impacts</li> </ul>	<p>×</p>	<p>Does not apply.</p>
<p><b>Policy AQ1</b></p>	<p>Within sustainable aquaculture development sites (identified through research), proposals should demonstrate in order of preference:</p> <ul style="list-style-type: none"> <li>a) that they will avoid adverse impacts on future aquaculture development by altering the sea bed or water column in ways which would cause adverse impacts to aquaculture productivity or potential</li> <li>b) how, if there are adverse impacts on aquaculture development, they can be minimised</li> <li>c) how, if the adverse impacts cannot be minimised they will be mitigated</li> <li>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</li> </ul>	<p>×</p>	
<p><b>Policy BIO1</b></p>	<p>Appropriate weight should be attached to biodiversity, reflecting the need to protect biodiversity as a whole, taking account of the best available evidence including on habitats and species that are protected or of conservation concern in the East marine plans and adjacent areas (marine, terrestrial).</p>	<p>✓</p>	<p>The proposed byelaw enables Eastern IFCA to implement management measures for the protection of stocks and the Marine protected Areas coincidental with the fishery.</p>

<b>Policy BIO2</b>	Where appropriate, proposals for development should incorporate features that enhance biodiversity and geological interests.	×	
<b>Policy CAB1</b>	Preference should be given to proposals for cable installation where the method of installation is burial. Where burial is not achievable, decisions should take account of protection measures for the cable that may be proposed by the applicant.	×	Does not apply.
<b>Policy CC1</b>	Proposals should take account of: <ul style="list-style-type: none"> <li>• how they may be impacted upon by, and respond to, climate change over their lifetime and</li> <li>• how they may impact upon any climate change adaptation measures elsewhere during their lifetime</li> </ul> Where detrimental impacts on climate change adaptation measures are identified, evidence should be provided as to how the proposal will reduce such impacts.	✓	Protecting site integrity of the Wash and north Norfolk Coast SAC will increase the resilience of the site and its features such that it can better withstand natural phenomenon and events related to climate change.
<b>Policy CC2</b>	Proposals for development should minimise emissions of greenhouse gases as far as is appropriate. Mitigation measures will also be encouraged where emissions remain following minimising steps. Consideration should also be given to emissions from other activities or users affected by the proposal.	×	Does not apply.

<b>Policy CCS1</b>	<p>Within defined areas of potential carbon dioxide storage,(mapped in figure 17)proposals should demonstrate in order of preference:</p> <p>a) that they will not prevent carbon dioxide storage</p> <p>b) how, if there are adverse impacts on carbon dioxide storage, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised, they will be mitigated</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	×	Does not apply.
<b>Policy CCS2</b>	<p>Carbon Capture and Storage proposals should demonstrate that consideration has been given to the re-use of existing oil and gas infrastructure rather than the installation of new infrastructure (either in depleted fields or in active fields via enhanced hydrocarbon recovery).</p>	×	Does not apply.
<b>Policy DD1</b>	<p>Proposals within or adjacent to licensed dredging and disposal areas should demonstrate, in order of preference</p> <p>a) that they will not adversely impact dredging and disposal activities</p> <p>b) how, if there are adverse impacts on dredging and disposal, they will minimise these</p> <p>c) how, if the adverse impacts cannot be minimised they will be mitigated</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	×	Does not apply
<b>Policy DEF1</b>	<p>Proposals in or affecting Ministry of Defence Danger and Exercise Areas should not be authorised without agreement from the Ministry of Defence.</p>	×	Does not apply

<b>Policy EC1</b>	Proposals that provide economic productivity benefits which are additional to Gross Value Added currently generated by existing activities should be supported.	✓	The proposed byelaw will enable bivalve mollusc fisheries in a heavily designated conservation area. Without mitigation proposed via this byelaw, a fishery would not be consistent with the conservation objectives of the MPA and would not be permissible. The impact assessment indicates a net economic benefit as a result of the proposed measures.
<b>Policy EC2</b>	Proposals that provide additional employment benefits should be supported, particularly where these benefits have the potential to meet employment needs in localities close to the marine plan areas.	✓	At least three processor plants (which process shellfish) are known to process cockle catches from Wash based fisheries – enabling a productive cockle (and other bivalves) fishery will support jobs in addition to fishing activity (e.g. factory cleaners, admin etc.).
<b>Policy EC3</b>	Proposals that will help the East marine plan areas to contribute to offshore wind energy generation should be supported.	×	Does not apply.
<b>Policy ECO1</b>	Cumulative impacts affecting the ecosystem of the East marine plans and adjacent areas (marine, terrestrial) should be addressed in decision-making and plan implementation.	✓	The proposed closures will support a healthy marine habitat which in turn, should have a benefit on the biodiversity of the wider ecosystem.
<b>Policy ECO2</b>	The risk of release of hazardous substances as a secondary effect due to any increased collision risk should be taken account of in proposals that require an authorisation.	✓	No additional collision risk identified as a result of the proposed byelaw.

<b>Policy FISH1</b>	<p>Within areas of fishing activity, proposals should demonstrate in order of preference:</p> <p>a) that they will not prevent fishing activities on, or access to, fishing grounds</p> <p>b) how, if there are adverse impacts on the ability to undertake fishing activities or access to fishing grounds, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised, they will be mitigated</p> <p>d) the case for proceeding with their proposal if it is not possible to minimise or mitigate the adverse impacts</p>	✓	The purpose of the byelaw is enable bivalve mollusc fisheries within the Wash and North Norfolk Coast SAC whilst meeting requirements of the Habitats Directive.
<b>Policy FISH2</b>	<p>Proposals should demonstrate, in order of preference:</p> <p>a) that they will not have an adverse impact upon spawning and nursery areas and any associated habitat</p> <p>b) how, if there are adverse impacts upon the spawning and nursery areas and any associated habitat, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised they will be mitigated</p> <p>d) the case for proceeding with their proposals if it is not possible to minimise or mitigate the adverse impacts</p>	✓	Implementing management measures through the proposed byelaw will have the effect of protecting habitats determined as potentially being impacted by bivalve fishing activity.
<b>Policy GOV1</b>	Appropriate provision should be made for infrastructure on land which supports activities in the marine area and vice versa.	✗	Does not apply.
<b>Policy GOV2</b>	Opportunities for co-existence should be maximised wherever possible.	✗	Does not apply.

<b>Policy GOV3</b>	Proposals should demonstrate in order of preference: a) that they will avoid displacement of other existing or authorised (but yet to be implemented) activities b) how, if there are adverse impacts resulting in displacement by the proposal, they will minimise them c) how, if the adverse impacts resulting in displacement by the proposal, cannot be minimised, they will be mitigated against or d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts of displacement	✓	No adverse impacts identified.
<b>Policy MPA1</b>	Any impacts on the overall Marine Protected Area network must be taken account of in strategic level measures and assessments, with due regard given to any current agreed advice on an ecologically coherent network.	✓	The byelaw will enable Eastern IFCA to manage bivalve mollusc fisheries which do not result in adverse effects on site integrity on the Wash and North Norfolk Coast SAC.
<b>Policy OG1</b>	Proposals within areas with existing oil and gas production should not be authorised except where compatibility with oil and gas production and infrastructure can be satisfactorily demonstrated.	X	Does not apply.
<b>Policy OG2</b>	Proposals for new oil and gas activity should be supported over proposals for other development.	X	Does not apply.
<b>Policy PS1</b>	Proposals that require static sea surface infrastructure or that significantly reduce under-keel clearance should not be authorised in International Maritime Organization designated routes.	X	Does not apply.

<b>Policy PS2</b>	Proposals that require static sea surface infrastructure that encroaches upon important navigation routes (see figure 18) should not be authorised unless there are exceptional circumstances. Proposals should: a) be compatible with the need to maintain space for safe navigation, avoiding adverse economic impact b) anticipate and provide for future safe navigational requirements where evidence and/or stakeholder input allows and c) account for impacts upon navigation in-combination with other existing and proposed activities	X	Does not apply.
<b>Policy PS3</b>	Proposals should demonstrate, in order of preference: a) that they will not interfere with current activity and future opportunity for expansion of ports and harbours b) how, if the proposal may interfere with current activity and future opportunities for expansion, they will minimise this c) how, if the interference cannot be minimised, it will be mitigated d) the case for proceeding if it is not possible to minimise or mitigate the interference	X	Does not apply.
<b>Policy SOC1</b>	Proposals that provide health and social well-being benefits including through maintaining, or enhancing, access to the coast and marine area should be supported.	X	Does not apply.

<p><b>Policy SOC2</b></p>	<p>Proposals that may affect heritage assets should demonstrate, in order of preference:</p> <p>a) that they will not compromise or harm elements which contribute to the significance of the heritage asset</p> <p>b) how, if there is compromise or harm to a heritage asset, this will be minimised</p> <p>c) how, where compromise or harm to a heritage asset cannot be minimised it will be mitigated against or</p> <p>d) the public benefits for proceeding with the proposal if it is not possible to minimise or mitigate compromise or harm to the heritage asset</p>	<p>×</p>	<p>Does not apply.</p>
<p><b>Policy SOC3</b></p>	<p>Proposals that may affect the terrestrial and marine character of an area should demonstrate, in order of preference:</p> <p>a) that they will not adversely impact the terrestrial and marine character of an area</p> <p>b) how, if there are adverse impacts on the terrestrial and marine character of an area, they will minimise them</p> <p>c) how, where these adverse impacts on the terrestrial and marine character of an area cannot be minimised they will be mitigated against</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>×</p>	<p>Does not apply.</p>

<p><b>Policy TIDE1</b></p>	<p>In defined areas of identified tidal stream resource (see figure 16), proposals should demonstrate, in order of preference:</p> <p>a) that they will not compromise potential future development of a tidal stream project</p> <p>b) how, if there are any adverse impacts on potential tidal stream deployment, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised, they will be mitigated</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>×</p>	<p>Does not apply.</p>
<p><b>Policy TR1</b></p>	<p>Proposals for development should demonstrate that during construction and operation, in order of preference:</p> <p>a) they will not adversely impact tourism and recreation activities</p> <p>b) how, if there are adverse impacts on tourism and recreation activities, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised, they will be mitigated</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>×</p>	
<p><b>Policy TR2</b></p>	<p>Proposals that require static objects in the East marine plan areas, should demonstrate, in order of preference:</p> <p>a) that they will not adversely impact on recreational boating routes</p> <p>b) how, if there are adverse impacts on recreational boating routes, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised, they will be mitigated</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>X</p>	

<b>Policy TR3</b>	Proposals that deliver tourism and/or recreation related benefits in communities adjacent to the East marine plan areas should be supported.	X	Does not apply.
<b>Policy WIND1</b>	<p>Developments requiring authorisation, that are in or could affect sites held under a lease or an agreement for lease that has been granted by The Crown Estate for development of an Offshore Wind Farm, should not be authorised unless</p> <p>a) they can clearly demonstrate that they will not compromise the construction, operation, maintenance, or decommissioning of the Offshore Wind Farm</p> <p>b) the lease/agreement for lease has been surrendered back to The Crown Estate and not been re-tendered</p> <p>c) the lease/agreement for lease has been terminated by the Secretary of State</p> <p>d) in other exceptional circumstances</p>	X	Does not apply.
<b>Policy WIND2</b>	Proposals for Offshore Wind Farms inside Round 3 zones, including relevant supporting projects and infrastructure, should be supported.	X	Does not apply.

### Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



### Action Item 15

## 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting

15<sup>th</sup> May 2019

### Shrimp Permit Byelaw 2018 (Update) - CEO / Senior IFCO (Regulation)

**Report by:** L. Godwin – Senior IFCO (Regulation)

#### Purpose of report

To report on amendments made to the Shrimp Permit Byelaw 2018 regarding Inshore Vessel Monitoring Systems (I-VMS) and recommend a further amendment to the byelaw regarding fishing for shrimps without bottom-towed-gear.

#### Recommendations

It is recommended that members:

- **Note** the decision made by the CEO to remove I-VMS from the face of the byelaw and include as permit conditions for a Category One Permit only;
- **Agree** to the amended wording of the Shrimp Permit Byelaw 2018, including the removal of a fee for a Category Two permit, as set out in Appendix 1;
- **Direct** the CEO to submit the Shrimp Permit Byelaw 2018 to the Marine Management Organisation for formal QA;
- **Agree** to delegate authority to the CEO to make amendments to the Shrimp Permit Byelaw 2018 as a result of the formal QA which do not affect its intention;
- **Note** the consideration of further correspondence with one respondent regarding shrimp management measures and the response of Officers;
- **Agree** to continue to seek Ministerial approval for the byelaw without having resolved the objections raised.

#### Background

At the 35<sup>th</sup> Eastern IFCA meeting members reviewed the results of further consultation and discussed whether to include I-VMS requirements within the face of the byelaw or the permit conditions. Members agreed to delegate authority to the CEO to make the final decision on this matter taking account of legal advice. In addition, authority was delegated to the CEO to decide whether to include the I-VMS requirement in Category Two Permits (those that apply outside of the Wash and North Norfolk Coast Special Area (SAC) of Conservation).

## Report

### I-VMS provisions

At national level there are two developments that are of relevance. Firstly, delays in the national roll-out of I-VMS units utilising EMFF funding will ultimately lead to a delay in the implementation of the Eastern IFCA pathfinder, which aims to introduce I-VMS ahead of the national roll-out within the Wash and North Norfolk Coast SAC shrimp and cockle fisheries. Secondly, Defra have now responded to the public consultation on the introduction of a Statutory Instrument to mandate I-VMS on all <12m licensed fishing vessels, stating that they intend to proceed with the proposal and to introduce I-VMS by 2021.

The delays in the EMFF funded project has led to a delay to the development of a final draft of the Statutory Instrument. The intention was for Eastern IFCA to replicate wording from the SI to ensure consistency.

As a consequence of the national developments, the CEO has taken the decision to implement the requirement through permit conditions to ensure that I-VMS can be required prior to the introduction of national legislation. Opting for a permit condition reflects the fact that the wording may need to change to reflect impending national legislation and ultimately the requirement for I-VMS under the byelaw will not be required, at which point the permit condition can be removed.

It should be noted that this may have the effect of making the requirement apply only in relation to fishing for shrimp. The I-VMS provision, as written into the face of the byelaw, requires a vessel which is named on a permit to have an I-VMS unit on and functioning at all times. When written as a permit condition, initial legal advice indicates that the provision applies only in relation to use of the permit (i.e. when fishing for shrimp). The implication being that there is an obvious defence for not using I-VMS as intended (i.e. that the vessel was not fishing for shrimp) making the provision less effective. The associated risk is considered low given that I-VMS is to be mandated at national level.

In addition, the CEO has taken the decision not to implement the I-VMS requirement for Category Two Permits. This reflects that a national measure is coming into effect over the coming months in any case and that the Eastern IFCA pathfinder will focus on fishing within the Wash and North Norfolk Coast SAC (i.e. a Category One Permit).

### Fishing for shrimp without bottom towed gear

Further consultation with fishers has given cause for officers to consider the requirement for fishers to have a permit for fishing with gears other than bottom-towed gears. One response during the formal consultation indicated that there was a fisher who conducted fishing for shrimp without the use of bottom-towed-gear. The same fisher had indicated that he did not intend to continue fishing in this way but has subsequently made representation to the contrary.

Having considered the matter, it is considered reasonable to include within the Shrimp Permit Byelaw a mechanism to fish without bottom-towed-gear specifically.

The simplest way to achieve this is to amend the wording of the requirement to have a permit to the effect that it applies only in relation to use of bottom towed gear. The inherent risk in this approach is that it has the potential to introduce a loophole in that fishers taking shrimp illegally could claim they were not fishing with bottom-towed-gear. The risk associated with this is however considered low. The only way to fish for an appreciable amount of shrimp is by using towed gear and effective enforcement could still be achieved by undertaking effective inspections (e.g. of any bottom towed gear onboard).

The potential for non-bottom towed gear methods to pose a risk to the fishery is minimal given that it is not an effective method of catching shrimp. Should risk to the fishery increase, additional measures could be introduced (such as an additional permit) at a later date. However, overall, the risk associated with allowing this activity to be unmanaged is considered negligible.

#### Fee for a Category Two Permit

Further dialogue with fishers has also highlighted risk associated with the smaller shrimp fishing operations outside of The Wash and North Norfolk Coast SAC. These fishers tend to take very small amounts of shrimp using very small-scale gear including hand hauled shrimp beam trawls.

Given the small scale of the fishery and the low economic value to fishers, it is considered appropriate to remove the associated permit fee for this permit. The proposed fee only related to the estimated cost of administering a permit and did not include increased compliance costs or research costs. In reality, these costs are likely to be low given the low risk of the fishery.

It is noted that there is the potential for smaller scale shrimp fisheries within the Wash and North Norfolk Coast SAC however enabling a fishery within this site will require significant resource on the part of Eastern IFCA and it is considered appropriate to maintain the fee for the associated permit at £100.

In addition, the proposed permit conditions will still apply including the requirement to have a separator trawl which will still incur a cost. That said, dialogue with a small-scale fisher from the North Norfolk Coast has indicated that separator trawls (veil nets) are '*used by all the small fishers already*' to prevent small fish and crabs from being caught in the nets.

#### Continued objections by one respondent

Defra guidance to IFCA's regarding making byelaws<sup>71</sup> sets out the following in relation to consultation with stakeholders:

*The IFCA should examine all timely objections before the byelaw is submitted for confirmation, respond in writing to objectors and, where appropriate, liaise with*

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/182343/ifca-byelaw-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/182343/ifca-byelaw-guidance.pdf)

*objectors with a view to resolving the objection. The IFCA may wish to consider amending the byelaw in light of those objections. Objections that cannot be resolved do not preclude confirmation but the IFCA must provide sufficient explanation as to why they have decided to disregard the objections.*

As a result of the formal consultation, several amendments were made to the Shrimp Permit Byelaw 2018 (as well as the Marine Protected Areas Byelaw 2018) and the associated impact assessment. These were reported to the Authority at the 34<sup>th</sup> Eastern IFCA meeting (Table 1 of Action Item 12). Respondents were provided with responses specific to their objections and an overview of the changes made to the byelaw as a result of the consultation.

One respondent has subsequently sent three further letters, detailing the same or similar objections on each occasion. In addition, the same respondent has made the same objections verbally to several officers.

A summary of the reoccurring objections made by the respondent and Eastern IFCA's consideration of these is set out below.

<b>Summary of Objection</b>	<b>Summary of Eastern IFCA response</b>
Public notice in Fishing News not clear enough, specifically that the Eastern IFCA logo was not large enough.	Officers were notified of this by the respondent after the first week's advert was published and as a consequence ensured that the size of the logo was increased for the subsequent week's publication. It is noteworthy that the respondent did see the advert in the first week's publication and that this was one element of a suite of communication methods with industry members, including e-mails, telephone calls and engagement around the coast by officers.
Officers misled the respondent about the effects of the proposed byelaws	During the formal consultation, the respondent called to discuss the proposed byelaws. An officer discussed the matter with the respondent. The respondent spoke subsequently with another officer and it became clear that the respondent had not fully understood the implication of the Shrimp Permit Byelaw, namely that it applied to fishing for shrimp by any means and not just to bottom towed gear. This matter was clarified with the respondent during the first formal consultation. As a consequence of further consideration by officers it is now recommended that the byelaw does apply only to bottom towed gear.
Lack of consultation with fishers other than those who operate in The Wash	It has been acknowledged that the informal consultation focussed on the Wash-based fishers and those with landings records according to MMO data. This was thought at the time to represent the shrimp fishing effort in Eastern IFCA's district. Other smaller-scale fishers were identified during the formal consultation primarily as a result of the advert in the Fishing News and the feedback received has led to

	<p>several amendments to the byelaw and the impact assessment. Whilst the informal consultation particularly could have been more effective at identifying the range of business models operating wider across the Eastern IFCA district, the vast majority of shrimp fishing effort was captured within the overall consultation and dialogue with smaller scale fishers has influenced the development of the byelaw.</p>
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Given that repeated attempts have been made to resolve these recurring concerns it is recommended that the objection cannot be resolved. Instead, officers will provide the responses made by officers to the MMO as part of the formal QA as evidence of best endeavours to resolve the issue.

#### Next steps

Prior to consideration by the Minister, the MMO formally QA byelaws. Through this process, minor amendments are often proposed by the MMO which have the effect of standardising the byelaw and ensuring legal correctness. It is recommended that the CEO is delegated authority to make such changes to the byelaw as required by this process.

#### **Financial implications**

No financial implications are identified.

#### **Legal implications**

There are legal implications inherent in the making of byelaws however these are mitigated through application of Defra guidance (including undertaking consultation and producing impact assessments) and scrutiny of the proposed measures by MMO and Defra before consent.

The amendments to the byelaw are not considered a substantive change given that the consultation has indicated that few if any fishers actively fish for shrimp without bottom towed gear. In addition, the amendments effectively reduce burden on impacted stakeholders (i.e. reduce the need for a permit and reduce the cost of permits outside of the Wash and North Norfolk Coast SAC).

#### **Conclusion**

The proposed amendments and decision made by the CEO reflect concerns raised by stakeholders and represent a more proportionate approach.

#### **Appendices**

1. Shrimp Permit Byelaw 2018 (as amended)

#### **Background documents**

35<sup>th</sup> Eastern IFCA meeting, Action Item 11, 30<sup>th</sup> January 2019



**Eastern  
Inshore Fisheries and Conservation Authority**

**MARINE AND COASTAL ACCESS ACT 2009 (c. 23)**

**Shrimp Permit Byelaw 2018**

The Authority for the Eastern Inshore Fisheries and Conservation District in exercise of its powers under sections 155 and 156 of the Marine and Coastal Access Act 2009 makes the following byelaw for the District.

**Interpretation**

1. In this byelaw:
  - a) 'the Authority' means the Eastern Inshore Fisheries and Conservation Authority as defined in Articles 2 and 4 of the Eastern Inshore Fisheries and Conservation Order 2010 (SI 2010/2189);
  - b) 'bottom towed gear' means any fishing gear designed to be towed, dragged or pushed through the water whilst in contact with the seabed;
  - c) 'Category One Permit' means a shrimp permit for fishing for shrimps for commercial purposes within the Wash and North Norfolk Coast Special Area of Conservation;
  - d) 'Category Two Permit' means a shrimp permit granted for fishing for shrimps for commercial purposes within the district except within the Wash and North Norfolk Coast Special Area of Conservation;
  - e) 'the district' means the Eastern Inshore Fisheries and Conservation District as defined in Articles 2 and 3 of the Eastern Inshore Fisheries and Conservation Order 2010;
  - f) 'fishing' includes digging for bait; the shooting, setting, towing and hauling of fishing gear; gathering sea fisheries resources by hand or

using a hand operated implement; and catching, taking or removing sea fisheries resources;

- g) 'fishing for commercial purposes' means fishing for sea fisheries resources for sale or reward;
- h) 'fishing gear' includes any nets, pots, ropes, anchors, surface markers, lines, dredges, grabs, rakes or other implements used for the purposes of fishing;
- i) 'named representative' means a person who has been granted permission to fish from a vessel by the owner of that vessel, and has been nominated by the owner of that vessel;
- j) 'owner' means the majority shareholder of a vessel as recorded on the certificate of registry for that vessel granted under the Merchant Shipping Act 1995 (c.21) and the Merchant Shipping (Registration of Ships) Regulations 1993 (SI 1993/3138), or the certificate of registry for that vessel in the Channel Islands or Isle of Man;
- k) 'registered fishing vessel' means a vessel registered under Part II of The Registry of Shipping and Seaman as governed by the provisions of the Merchant Shipping Act 1995 and the Merchant Shipping (Registration of Ships) Regulations 1993, or in the Channel Islands or Isle of Man; and in respect of which there is a valid fishing licence issued under the Sea Fish (Conservation) Act 1967 (c.84);
- l) 'shrimp' means an organism of the species *Pandalus montagui* (commonly known as pink shrimp) or of the genera *Crangon* (including *Crangon crangon*, commonly known as brown shrimp) or *Palaemon*;
- m) 'shrimp permit' means a Category One Permit or a Category Two Permit;
- n) 'shrimp return forms' means forms issued by the Authority pursuant of paragraph 21;
- o) 'try-nets' mean trawls deployed by hand from a vessel used to determine the presence or absence of shrimps;
- p) 'vessel' means a ship, boat, raft or watercraft of any description and includes non-displacement craft, personal watercraft, seaplanes and

any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily) and a hover craft or any other amphibious vehicle, used or capable of being used as a means of transportation on water;

- q) 'Wash and North Norfolk Coast Special Area of Conservation' means the area as set out in Schedule 2.

### **Prohibitions**

2. A person must not fish for, land or retain shrimp caught using bottom towed gear within the Wash and North Norfolk Coast Special Area of Conservation for commercial purposes or from a registered fishing vessel unless that person is:
  - a) the holder of a valid Category One Permit; or
  - b) a named representative of the holder of a valid Category One Permit.
3. A person must not fish for, land or retain shrimp caught using bottom towed gear within the district outside of the Wash and North Norfolk Coast Special Area of Conservation for commercial purposes or from a registered fishing vessel unless that person is:
  - a) the holder of a valid Category Two Permit; or
  - b) a named representative, of the holder of a valid Category Two Permit.
4. A person must not fish for shrimp under the authority of a shrimp permit from a vessel other than the vessel named on that shrimp permit without firstly obtaining the agreement of the Authority. Such agreement may be given in circumstances where the permit holder, named representative or the named vessel are unable to put to sea.

### **Permits**

5. The Authority may issue a shrimp permit to the owner of a registered fishing vessel or to a person fishing for commercial purposes other than from a vessel.
6. A vessel may be named on a maximum of one Category One permit and one Category Two permit.

7. A person without a vessel may hold a maximum of one Category One permit and one Category Two permit.
8. Any change in legal or beneficial ownership of a registered fishing vessel after the issue of the permit will result in the cancellation of any shrimp permit issued to that vessel.
9. Shrimp permits are not transferable between persons or vessels.
10. An application for a shrimp permit must be made using printed forms available from the Authority. These forms will require applicant and vessel details. The applicant may nominate up to two persons as their named representatives whose details must be entered on the application form.
11. Permits will be valid from the date of issue until the following 1<sup>st</sup> of August.
12. The Authority may restrict the number of shrimp permits issued and may set criteria to restrict eligibility for a shrimp permit in accordance with the procedure set out in Schedule 1.
13. The Authority may suspend the issuing of Category One Permits for a period of time or for periods of time not exceeding until the following 1<sup>st</sup> August if there is an enhanced risk to stocks or if there is an enhanced risk to site integrity of the Wash and North Norfolk Coast Special Area of Conservation.

#### **Temporary closures of shrimp fishing activity**

14. The Authority may close the shrimp fishery within the Wash and North Norfolk Coast Special Area of Conservation for a period of time or for periods of time not exceeding until the following 1<sup>st</sup> August if there is an enhanced risk to stocks or if there is an enhanced risk to site integrity of the Wash and North Norfolk Coast Special Area of Conservation and shrimp permit holders will be notified of such in writing.

#### **Shrimp permit fees**

15. A fee will be charged for each Category One permit which must be paid prior to the issuing of the permit.
16. The fee for a Category One Permit is £100 and there is no fee for a Category Two Permit.

#### **Flexible permit conditions**

17. The Authority may attach to permits flexible conditions which fall within one or more of the categories listed in paragraph 181.
18. The flexible permit condition categories are:

- h) vessel design restrictions;
  - i) catch restrictions;
  - j) fishing gear restrictions;
  - k) fishing effort restrictions;
  - l) spatial restrictions;
  - m) time restrictions;
  - n) vessel monitoring device requirements.
19. The Authority may issue, vary or revoke flexible permit conditions following a review conducted in accordance with the procedure set out in Schedule 1.
20. Failure to comply with a flexible permit condition is an offence against this byelaw.

**Catch returns**

21. The holder of a shrimp permit must have on board shrimp return forms which will be provided by the Authority which are completed with such information as is required by the Authority up to the day they are fishing and must submit such to the Authority, no later than the 10<sup>th</sup> day of each month, returns forms relating to the previous month.
22. The information referred to in paragraph 21 may include:
- a) spatial information;
  - b) information on fishing effort;
  - c) catch data;
  - d) by-catch information;
  - e) gear information;
  - f) date and time information;
  - g) vessel information.

**Revocations**

23. The Byelaw with the title 'BYELAW XII. Shrimp and prawn trawling' made by North Eastern Sea Fisheries Committee in exercise of its powers under the Sea Fisheries Regulation Act 1966 and which were in force immediately before the making of this byelaw is revoked such as it applied within the District.

## **Schedule 1**

### **Procedure**

1. The procedure for restricting the number of shrimp permits issued and setting criteria to restrict the eligibility for a shrimp permit as referred to in paragraph 12, or issuing, varying or revoking flexible permit conditions as referred to in paragraph 19, (in this Schedule, 'the proposed changes') must include the following steps:
  - e) acquisition of relevant available evidence including:
    - i. scientific and survey data, and scientific advice provided by the Authority, the Centre for Environment, Fisheries and Aquaculture Sciences or such other persons as the Authority thinks fit;
    - ii. advice given by Natural England or other external authorities, organisations, persons or bodies as the Authority thinks fit; and
    - iii. information from any other relevant source including that which is relevant to effective enforcement;
  - f) consultation by such methods as the Authority considers appropriate with such stakeholders, organisations and persons as appear to the Authority to be representative of the interests likely to be substantially affected by the proposed changes;
  - g) undertaking an impact assessment relating to the proposed changes;
  - h) consideration by the Authority of all information arising from subparagraphs (a) to (c) above.
2. The Authority must review flexible permit conditions and restrictions of the issuing of shrimp permits no less frequently than every four years after the date that a flexible permit condition or restriction on the issuing of shrimp permits has taken effect.
3. The review of flexible permit conditions or restrictions on the issuing of shrimp permits will be in accordance with a formal operational procedure agreed by the Authority and will include the steps set out in paragraph 1.

4. Where restrictions on the issuing of permits or flexible permit conditions are issued, maintained, varied or revoked shrimp permit holders will be notified in writing.

**Schedule 2**

**Wash and North Norfolk Coast Special Area of Conservation**

The following table sets out the co-ordinates of the Wash and North Norfolk Coast Special Area of Conservation as referred to in 1 (r) of the Byelaw above.

The Wash and North Norfolk Coast Special Area of Conservation is defined by a boundary drawn by the series of straight lines connecting points A to D and a line connecting point D to E which follows the land boundary which is to be taken as mean high water springs.

<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>
A	53° 07.69' N	00° 20.55' E
B	53° 03.66' N	00° 28.16' E
C	53° 02.73' N	01° 07.55' E
D	52° 57.16' N	01° 07.10' E
E	53° 07.69' N	00° 20.55' E

## **Explanatory Note**

(This note does not form part of the byelaw)

This byelaw requires people who fish for commercial purposes or from a registered fishing vessel for shrimps using bottom towed gear within the District to obtain a shrimp permit. They are also required to fish in accordance with any flexible permit conditions issued by the Authority.

Shrimp permits expire on the 1<sup>st</sup> August each year and a fee is payable to the Authority for the issuing of a shrimp permit which is £100 for a Category One Permit. No fee is payable for a Category Two Permit.

The number of shrimp permits which will be issued by the Authority can be restricted. The Authority can also set criteria to determine which applicants are eligible for a shrimp permit.

To limit the number of shrimp permits or to introduce, vary or revoke eligibility criteria the Authority will carry out a consultation with potentially affected stakeholders and produce an Impact Assessment which will be considered by the Authority.

The issuing of shrimp permits may be suspended until the following 1<sup>st</sup> August if there is an enhanced risk to stocks or if there is an enhanced risk to site integrity of the Wash and North Norfolk Coast Special Area of Conservation.

The shrimp fishery within the Wash and North Norfolk Coast may be closed for a period or for periods of time not exceeding until the following 1<sup>st</sup> August if there is an enhanced risk to stocks or if there is an enhanced risk to site integrity of the Wash and North Norfolk Coast Special Area of Conservation.

This byelaw also allows the Authority to impose flexible permit conditions which will reflect best available evidence. These permit conditions will be used to protect fisheries and the environment and to ensure long-term, sustainable fisheries.

The Authority must also review any restrictions on the issue of shrimp permits or flexible permit conditions once every four years as a minimum.

### Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



## 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting

15<sup>th</sup> May 2019

### Wash Fishery Order 1992 review: Update

**Report by:** L. Godwin, Senior IFCO (Regulation)  
R. Jessop, Senior MSO (Research)  
S. Hormbrey, MSO

### Purpose of report

The purpose of this report is to report on the progress made with regards to the review of the Wash Fishery order 1992 (WFO) in relation to 'management policies', the assessment on potential for dredged cockle fisheries and the implementation of revised WFO Regulations.

### Recommendations

It is recommended that members:

- **Note** the progress made towards reviewing the WFO management policies and the assessment on the potential for future dredged cockle fisheries in the WFO;
- **Direct** officers to undertake consultation with relevant stakeholders to inform a final proposal to the Authority regarding potential for future dredged cockle fisheries in the WFO;
- **Note** the advice received from Defra regarding the use of tenders and transshipping requirements within the WFO and the potential impact on WFO fishers;
- **Agree** to the WFO Regulations as amended set out in Appendix 3;
- **Agree** to delegate authority to the CEO to make changes to the Regulations which do not substantially alter the intended effects of the Regulations, taking into account advice received from the formal QA process;
- **Direct** officers to investigate the current use of tenders in the WFO to inform a proportionate approach enforcement of the related legislation.

### Background

Eastern IFCA started a substantial review of its management of Wash Fishery Order 1992 (WFO) fisheries in 2017. This included the development of a 'long-term' habitats regulation assessment (HRA) and a review of the '2008 ESFJC Shellfish Management Policies', regulations and licence fees.

At the 27<sup>th</sup> Eastern IFCA meeting, members were presented with a first-draft of the Cockle Fishery Management Plan. At this meeting, they agreed in principle to replace the cockle section of the '2008 Shellfish Management Policies' with this plan pending consultation with Licence Holders. A similar Mussel Fishery Management Plan was envisaged to replace the mussel section of the management policies. While the management plan for the cockle fishery is in an advanced state of completion, the one for the mussel fishery is still in its infancy. Each of these management plans were intended to be developed alongside bespoke long-term 25-year HRAs for their respective fisheries and Monitoring and Control Plans designed to keep fisheries and stocks within target levels.

These long-term HRAs, Fishery Management Plans and Monitoring and Control Plans were intended to inform the development of revised WFO Regulations which implement certain fisheries management measures. Due to resources being drawn away from this project to focus on the completion of the Wash and North Norfolk Coast SAC brown shrimp fishery HRA, however, progress on these plans were delayed. During this period, work continued with the WFO regulations, allowing members to agree to some administrative changes and the introduction on Inshore Vessel Monitoring Systems (I-VMS).

These Regulations were consulted on and submitted to Defra for consideration.

During this process, Eastern IFCA has also implemented interim policies for both the Regulated and several fisheries within the WFO as a result of the ongoing review. These policies have been introduced as a solution to issues identified with the original WFO 1992 policies. These primarily deal with the allocation (and reallocation) of WFO Licences and Lays. Officers intend to replace the interim policies with permanent policies which will be informed by a consultation with industry. The consultation is intended to deal with matters such as, the appropriate number of hand-work licences which can be issued, new entrants into the fishery and 'renting out' of licences. The planned consultations have been reprioritised on several occasions as a result of more immediate issues that have arisen and so as to avoid 'consultation fatigue' (noting that WFO licence holders have not only been consulted on Regulations but also shrimp measures on several occasions over the last three years).

Consideration of potential future cockle dredged fisheries is a fundamental part of an overarching fisheries management plan. Whilst members have previously agreed that the cockle fishery should be a hand-worked fishery by default, it was suggested that the option of a dredge fishery should be retained as a contingency measure. At the 32<sup>nd</sup> meeting, members directed officers to undertake a review of this fishing method to inform the wider review.

## **Report**

### *Development of a long-term 25-year HRA and Fisheries Management Plan*

Drafts of both a long-term 25-year HRA and Fisheries Management Plan for the hand-worked cockle fishery were submitted to Natural England in January 2017 for initial comments. In the absence of the Monitoring and Control Plan, which was intended to

sit alongside them, it seemed the HRA in particular would require significant annual updates. These documents were not progressed further at that time due to resources being diverted to completing the HRA for the brown shrimp fishery. The HRA and Cockle Fishery Management Plan will now both be informed by the review on dredging, which is still currently in progress. As such these workstreams will not progress further until this assessment of dredging has been completed.

#### Review of cockle hydraulic suction dredging within the WFO

Officers have conducted a review of the potential impacts of consenting a hydraulic suction dredge cockle fishery in The Wash and have produced a draft report detailing both environmental and socio-economic impacts, as well as management implications. This draft report can be found in Appendix 1.

The report concludes uncertainties around the potential impacts of dredging on mud sediments, the long-term effects of repeated dredging and the level of effort that can be sustained in The Wash without having adverse effects on the environment and site features. Because of these uncertainties, it is concluded that to meet the requirements of a HRA, effort would need to be limited to ensure no long-term changes to sediment composition were to occur; vulnerable, muddy beds should be closed to dredging activity; and sediment monitoring in dredged and non-dredged areas would be required to monitor effects (Natural England advice at Appendix 2).

In terms of stock sustainability, there are concerns that the 10% smash rate limit does not account for all discard mortality and that the TAC does not represent all the fishing mortality incurred. This would need to be addressed in any future dredge fishery.

Assessment of Eastern IFCA WFO cockle survey data between 2004 and 2013 showed no clear effect of dredging on adult stocks or spatfalls. However, as there have been no dredge fisheries since 2008, the study was only able to draw potential impacts from five years of data. Should dredge fisheries be permitted to occur on certain beds, it is unclear at what level dredging could become unsustainable if multiple gear passes were regularly repeated on the same beds, particularly over multiple years. If a hydraulic suction dredge fishery were to take place in The Wash, management would follow the same annual TAC approach, but would likely require further effort limitation and strict monitoring of effort in line with the assessment of stocks and would benefit from having both open and closed areas of dredged beds for monitoring and comparison.

The socio-economic impacts, management implications and enforcement challenges associated with the above also require careful consideration. Opening a dredge fishery is likely to favour those with larger commercial fishing operations over those with small business models and could have large financial implications on some fishers. A significant factor in this is the cost of dredge equipment, which is estimated at circa £60k.

In terms of effective management of a dredge fishery alongside a hand-work fishery a significant increase in workload would be required to monitor and enforce two TAC's, ensure poaching does not occur and ensure compliance with the 10% smash rate.

After consideration of the above, it is clear that the risk associated with a hydraulic suction dredge fishery is much higher than that associated with a hand-work fishery. To mitigate this risk, it is evident that a significant increase in resources would be required by the Authority. When combined with the levels of uncertainty around the environmental and socio-economic impacts of a dredge fishery, which would require a heavy commitment of resources for the authority to answer, pursuing this fishery would be a costly (and possibly unfeasible) option for the Authority.

To better understand the impacts of consenting a dredge fishery in The Wash, or of removing this fishing method as an option under the WFO, on the industry, it is proposed that officers undertake consultation with relevant stakeholders to inform a final proposal to the Authority.

#### Implementation of revised WFO Regulations

Officers have been in dialogue with Defra informally regarding proposed WFO Regulations since February of 2017. The revised Regulations were submitted to Defra for formal consideration after Officers completed a formal consultation in April of 2018. Officers have been liaising with Defra formally since then towards finalising the Regulations to be consented by the Minister.

#### Use of tenders and transshipping within the WFO fisheries

In February of 2019, Defra provided advice with significant implications on the established use of tenders within the fishery. Eastern IFCA has had a long-standing understanding that hand-working activity does not constitute 'fishing from a vessel'. The origins of this understanding are not known but it is based on informal, verbal advice from the MMO and is embedded in several of their practices also (e.g. MMO do not require vessels fishing for cockle in a hand-work cockle fishery to use VMS as they do not consider the activity to be 'from a vessel').

Defra have provided a view contrary to the established view which would preclude the use of tenders which are powered. This is on the basis that, under the Sea Fish Licencing (England) Order 2015, all powered vessel used to fish must have a Fishing Licence (i.e. an MMO / Defra Licence). Verbal advice from Andrew Jackson Solicitors LLP has also indicated that a tender used in the fishery would indeed be caught by the Licencing Order 2015.

Tenders are primarily used to move cockle or mussel caught from the sand fished to the vessel. Whilst their use is considered to be limited and minimal, tenders are often used in situations where the 'normal' approach of lifting cockles into a vessel is too dangerous because of poor weather conditions. Defra have also however provided a view on the use of tenders in this regard specifically as it is regarded as 'transshipping'. Under European Control Regulations, transshipping is prohibited except in certain circumstances (none of which are relatable to fishing within the WFO).

The implication of the advice is that WFO will be precluded from undertaking an activity which forms a well-established part of the fishery. Including provisions which allow the use of powered tenders and transshipping would make the Regulations ultra-vires and as such, it is recommended that the associated provisions are amended to take the advice into account.

It is further proposed that Eastern IFCA take a pragmatic approach to this matter. It should be noted that the purpose of transshipment provisions within the control Regulations are to enable member states to effectively monitor uptake of quota species and effectively control illegal catch:

Point 20 of Control Regulation (EC)1224/2009“*Transshipments at sea escape any proper control by flag or coastal states and therefore constitute a possible way for operators to carry illegal catch*”.

Similarly, the fishing licence requirements of the 2015 Licencing Order seek to enable effective enforcement by a member state of the same control regulations.

WFO fisheries are not subject to European quota regulations and are managed almost entirely through the application of the WFO. As such, the risk posed by the established practice of using tenders for transshipping in low in relation to obligations under the Control Regulations. Furthermore, other WFO regulations mitigate the potential for vessel to ‘carry illegal catch’.

Eastern IFCA cannot enforce 1224/2009 or the Sea Fishing Licensing (England) Order 2015. Therefore, it is recommended that the Regulations regarding both tenders and transshipping are not removed from the Regulations but are amended to reflect the national and European measures such that they do not also enable some unlawful activity. It is further recommended that Eastern IFCA introduce an enforcement policy which ensures that the measures are enforced in a manner proportionate to the fishery and in keeping with present practices. The revised wording of the are at Regulations 6 and 13 of the revised Regulations in Appendix 3.

#### *Inshore Vessel Monitoring System (I-VMS) requirement*

Eastern IFCA included a regulation which requires fishers to use I-VMS when operating in WFO fisheries. It was intended that the wording of the requirement would reflect a draft of the national requirement, however, this work is still ongoing. In addition, the roll-out of the Eastern IFCA pathfinder project to install I-VMS on Wash-based vessel prior to national roll-out has been delayed (as has the national roll-out).

So as to avoid further delay in the implementation of WFO Regulations, it is proposed that I-VMS requirements are removed. The same can be implemented as licence conditions if required in any case.

#### *Development of permanent WFO policies*

Officers have not progressed the development of permanent replacement policies. This will be informed by a consultation with industry which has been delayed allowing for other higher priority consultations including that of the Regulations, subsequent WFO fisheries and Shrimp management measures.

Officers are undertaking a review of other similar Orders and Byelaws to inform the review however.

### Next steps

Eastern IFCA requires the consent of the Minister to implement Regulations under the WFO. Officers have been in dialogue with Defra with a view achieving this. The proposed amendments to the are considered sufficient to allay the concerns Defra had raised with the Regulations and officers anticipate that these should now be ready to receive such consent. That said, the amended regulations will still be subject to further legal review by Defra and as such, it is recommended that the CEO is delegated authority to make such changes as may be required by the Minister to secure confirmation so long as such do not constitute substantive changes to the effects of the Regulations.

Officers will notify WFO Licence holders in writing of the introduction of new regulations should the minister provide such consent.

In order to provide members with a full assessment of dredge fishing in cockle fisheries, Officers intend to undertake engagement with the industry. Subsequent to obtaining the view of the industry, officers will report to members with a recommendation taking this into account.

Conclusion of the assessment cockle dredging will lend itself to the continued development of the long-term HRA, fisheries management plan and WFO Policies in the context of informing a replacement WFO system as needed in 2023.

### **Financial implications**

None identified

### **Legal implications**

There is an inherent legal risk involved with introducing amended regulations. Strictly speaking, there is no Defra guidance on how to develop and introduce regulations under SIs such as the WFO. Officers have therefore applied the approach detailed in Defra guidance regarding the development of byelaws which has included formal consultation with industry and the development of an Impact Assessment. This is considered sufficient to mitigate legal risk associated with judicial review.

The regulations have also been scrutinised in detail by Defra and MMO legal teams who have provided advice which further reduce the risk of any successful legal challenge. Overall, the risk associated with implementing the regulations is considered mitigated.

The assessment regarding cockle dredging within the WFO will ultimately inform a policy decision of the Authority. Such are open to legal challenge whoever, officers consider that the risk of successful legal challenge is mitigated by the level of consideration applied to the assessment so far. This will be further mitigated by engaging industry to inform officers' recommendation to members.

### **Conclusion**

The ongoing reviews relating the various aspects of the WFO constitute a significant workload. Progress with the long-term HRA and associated fisheries management

plan and in relation to the development of permanent policies have been curtailed by resource being allocated to other priority workstreams.

The process towards implementing the amended WFO Regulations is coming to a conclusion and officers consider the proposed amendments sufficient to secure the consent of the Minister given the level of scrutiny they have received from various legal teams.

### **Appendices**

1. Draft Assessment on the impacts of cockle suction Dredging

**N.B.** Electronic copy provided, hard copy available on request.

2. Natural England advice
3. Draft Wash Fishery Order 1992 Regulations as amended

### **Background documents**

N/A

## Appendix 2 – Natural England advice

Date: 30<sup>th</sup> April 2019  
Our ref:  
Your ref:



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### BY EMAIL ONLY

Dear Sammy,

### RE: Hydraulic Suction Dredging Impact Assessment - WFO regulated cockle fishery - v1.7 draft

Thank you for the submission of the Hydraulic Suction Dredge Assessment dated 14<sup>th</sup> March 2019. Natural England welcome the opportunity to provide informal comments at this early stage in the process. The following constitutes Natural England's informal response to the assessment and whether it would pass a Habitats Regulation Assessment (HRA).

Natural England acknowledge that the report is thorough and considers the socioeconomic and environmental impacts of this type of fishery as well as outlining potential IFCA management requirements within the following designated sites;

- The Wash Ramsar Site
- The Wash Site of Special Scientific Interest (SSSI)
- The Wash North Norfolk Coast Special Area of Conservation (SAC)
- The Wash Special Protection Area (SPA)

We agree with the socioeconomic impacts that the report highlights, including but not limited to;

- Potential for the dredge fishery to lower the value of cockle
- Creates a short term fishery – weeks -v- months
- Outcompetes handwork fishers
- Potential cost recovery from fishers due to increase in management required

We note the environmental impacts addressed in the report that could affect the designated features of the European Marine Site, including but not limited to;

- Potential change in benthic community and sediment structure
- Potential reduction of cockle spat settlement
- Abrasion and penetration to vulnerable sediment features
- Direct and indirect mortality of cockles
- Potential to affect overwintering SPA species food stock

Based on the report presented, depending on the specifics of the fishery proposed including activity level and associated mitigation, it is Natural England's view that it may be possible that the fishery could pass a HRA. We note the strong body of evidence demonstrating that when inappropriately

managed a suction dredge fishery can lead to adverse effect on site integrity (e.g. Piersma *et al.*, 2001, Zwarts *et al.*, 2004). This is something that has been observed for this fishery in The Wash previously. Following previous high fishing activity levels with insufficient management in The Wash in the 1980's and 1990's, a significant impact on SPA features was detected (Atkinson *et al* 2003, Dare *et al* 2004).

In addition to the past evidence of impacts in The Wash, and the Wadden Sea, significant evidence gaps remain with regard to site specific impacts. Given this evidence and uncertainty, Natural England consider the activity levels would need to be considerably lower than the previous suction dredge fishery in The Wash, and the mitigation would need to be precautionary. Further mitigation measures may be required for the fishery to pass a HRA. Should Eastern IFCA choose to pursue the opening of this fishery then Natural England would be willing to work with EIFCA to identify appropriate activity levels and appropriate mitigation measures.

Further research could be identified and undertaken to improve the site-specific evidence base, and therefore potentially lead to the possibility of a larger fishery with less precautionary management measures in the future, depending on the findings of the research. Please see ANNEX 1 document attached.

Please note, this informal advice provides high level comments to a hypothetical HRA. Further comments are likely to be provided if a full HRA were to be submitted, and the outcome would depend on the details of the fishery proposed.

For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely



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**ANNEX 1 - Pressure and Feature Interaction**

This table gives an overview of some of the key evidence gaps and likely necessary mitigation, please note this table is indicative only as this is based on a hypothetical HRA situation.

Features: Intertidal mud / Intertidal sand and muddy sand / Water column / Oyster catcher / Knot

Pressure: Abrasion / Penetration / changes in suspended solids / removal of target species / removal of non-target species / smothering and siltation rates / physical change (to sediment type)

Attributes supporting conservation objectives of the site	More information required?	Information already available?	Detail	Mitigation proposed	Recommendations
<p>Distribution: presence and spatial distribution of biological communities</p> <p>Species composition of component communities</p>	Yes	Yes	<p>Various Wash specific studies regarding change and recovery of benthic species through suction dredging provide inconclusive results (e.g. Yates et al. 2002, Bell &amp; Walker, 2005, Bell &amp; Walker, 2007). Changes in distributions reported but cannot be specifically attributed to suction dredging in The Wash, however there are limitations in these studies. A study by Sciberras et al. (2013), conducted in Wales at a scallop dredge site, suggests recovery rates for benthic communities could be higher in areas that exhibit high dynamism. Whereas recovery rates of up to 3 years for species abundance in study conducted by Sciberras et al. (2018).</p> <p>Study by Piersma et al., (2001) in The Wadden Sea found recovery took 8 years to return to pre-dredge state. This loss of fines coincided with a decrease in abundance of cockles and other bivalves. Alternatively, Wijnhoven et al. (2010) observed no effect on the non-target species benthos and sediment after two</p>	<p>Yes - through closure of beds with sensitive features - high mud/muddy sand/silt content (high fines) – identified in report as Breast sand, Herring hill, Butterwick and Mare Tail.</p> <p>Use of approved gears (including compliance with &lt;10% smash rate)</p>	<p>This is a dynamic environment and the Bell &amp; Walker (2007) study was conducted 12 years ago, so the most up to date trends and data should be used to determine most vulnerable beds.</p> <p>Provide further evidence regarding EIFCA observations (over how many years was this monitored, what sediment type, how long after dredging were tracks measured?) of up to 5cm penetration in The Wash to determine impact on benthic community and estimate recovery using the tool provided by Szostek et al., 2017</p> <p>Restrictions on penetration depth of gear</p>

			<p>months in fine sands of the Oosterschelde (The Netherlands).</p> <p>Biomass of non-target organisms is immediately reduced post-dredging (De Vlas, 1987; Perkins, 1988; Cook, 1991; Moore 1991; Hall and Harding 1997; Hiddink, 2003; Ens <i>et al.</i>, 2004).</p> <p>Suction dredge is an additional pressure to benthic communities on top of natural disturbance pressures.</p>		Highlights evidence gap in The Wash regarding recovery rates of species post suction dredging
Extent and distribution	No	No	<p>The EIFCA have conducted past analysis of sediment by eye rather than PSA due to cost. Any assessment must allow for the lower confidence associated with this data due to human error in assessing and differences in interpretation between surveyors over the years collected.</p> <p>Bell &amp; Walker (2007) identified Breast sand and Herring hill as the most vulnerable beds with high fines. However, this is a dynamic environment and the study was conducted 12 years ago, the most up to date trends and data should be used to determine most vulnerable beds.</p>	Yes - through effort restriction, closure of beds with sensitive features - high mud/muddy sand/silt content (high fines) – identified as breast sand, herring hill, Butterwick and Mare Tail	<p>This is a dynamic environment and the study was conducted 12 years ago, so the most up to date trends and data should be used to determine most vulnerable beds.</p> <p>PSA as identified in report</p>
Sediment composition	Yes	Yes	<p>The EIFCA have conducted past analysis of sediment by eye rather than PSA due to cost. Any assessment must allow for the lower confidence associated with this data due to human error in assessing and differences in interpretation between surveyors over the years collected.</p> <p>There is currently minimal data available to assess changes in the sedimentary environment resulting from suction dredging in</p>	Yes - closure of beds with sensitive features - high mud/muddy sand/silt content (high fines) – identified as breast sand, herring hill, Butterwick and Mare Tail	<p>Suction dredging intensity threshold for The Wash is currently unknown. Previous levels of activities are not sustainable</p> <p>Dare et al (2004) stated 32 vessels by 1988 dredged in The Wash – precautionary approach would be a reduction on previous levels – It would be useful to provide further information on how many vessels were engaged in</p>

			<p>The Wash. Sebastian et al (2012) was a 3 month study on a low cockle area. It did find differences in sediment after 2 weeks which may be related to the experimental dredging of the study but area recovered after 1-3 month.</p> <p>Study by Piersma et al., (2001) in The Wadden Sea found recovery took 8 years to return to pre-dredge state. This loss of fines coincided with a decrease in abundance of cockles and other bivalves. They drew conclusions that suction dredging had long-lasting effects on bivalve recruitment resulting from changes to sediment characteristics. We do not know the dredging intensity that took place in the Dutch Wadden Sea that led to this adverse impact.</p> <p>Zwarts et al., (2004) showed long term effect of sandier sediment post dredging.</p> <p>Bell &amp; Walker (2007) identified Breast sand and Herring hill as most vulnerable beds with high fines</p>	<p>Level of fishery proposed has not yet been considered</p>	<p>the 2006 and 2008 suction dredge fishery in order to further consider proposed level for any future fishery.</p> <p>PSA as identified in report</p> <p>The limit at which dredging can occur on intertidal sediments without having significant effects on the environment is unknown.</p> <p>Sediment data available is not sufficient to determine silt coverage across beds and likely recoverability.</p>
Removal of target species	No	Yes	<p>Jessop (2008) study found cockle mortality through suction dredging affects both smashed and un-smashed discarded cockles.</p> <p>Piersma <i>et al.</i>, (2012) studies concluded dredging to have had long-term negative impacts on cockle spatfall and other bivalves due to changes in sediment characteristics in the Dutch Wadden Sea.</p> <p>Dare <i>et al.</i>, (2004) found the highest mortalities of spat in The Wash generally occur during the winter outside of the main fishery period indicating they are likely to be linked to</p>	<p>Yes</p> <p>Effort limitations</p> <p>Allocation of TAC</p> <p>Daily vessel quota</p> <p>Transhipping prohibition</p> <p>Protection of mussel beds (non-target species)</p>	<p>Sustainable suction dredging intensity threshold for The Wash is currently unknown.</p> <p>Effort limitations will need to be determined and will need to be considered in the HRA process.</p> <p>Reduction in TAC to account for smash rates, discard mortality and ability to resettle once discarded as precautionary approach</p> <p>There is limited understanding of long term impacts of multiple dredge</p>

		<p>other environmental factors, rather than fishing pressure.</p> <p>Age / size class / biomass – annual cockle surveys conducted by EIFCA</p> <p>Past declines in both oystercatcher and knot on The Wash have been attributed to previous cockle dredge fishery and mussel fishery combined with atypical mortality events (Atkinson et al, 2003)</p>	<p>Proposed sediment monitoring in dredged and non-dredged areas should be required to monitor effects. Furthermore, there should also be a minimum density threshold for dredged beds to prevent higher risk, low density beds from being targeted.</p> <p>Areas supporting high densities (&gt;1,000m<sup>2</sup>) of year-0 cockles should remain closed to a dredge fishery and only those beds with &gt;70% adult cockles opened – protection of juvenile stock</p>	<p>passes over the same areas (multiple vessel/multiple passes in same season / annually etc.). Therefore, as a precautionary measure restrictions on multiple dredge passes on same beds to avoid deeper abrasion / penetration of sensitive sediment features and to allow re-settlement of discarded cockle from dredge head and riddle would be recommended.</p> <p>Potential to implement limited number of days per week for effort restriction – see Kent and Essex IFCA management measures for the Thames cockle fishery</p> <p>HRA would need to consider current declines in oystercatcher and knot over-wintering in The Wash – Natural England can supply the most recent population abundance figures until the Conservation Advice package is updated</p>
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## Appendix 3 - Draft Wash Fishery Order 1992 Regulations as amended



### **Eastern Inshore Fisheries and Conservation Authority**

#### **Wash Fishery Order 1992**

##### **Wash Fishery Order 1992 Regulations**

The Authority for the Eastern Inshore Fisheries and Conservation District in exercise of its powers under Article 7 of the Wash Fishery Order 1992 under the Sea Fisheries (Shellfish) Act 1967, as amended, has made the following regulations;

#### **2. Interpretation**

In these Regulations:

- 1) “the Order” means the Wash Fishery Order 1992 (SI 1992/3038);
- 2) “Regulated Fishery” means a fishery as described by Eastern IFCA in accordance with Article 8(5) of the Order and undertaken under the authority of a licence issued under Article 8(1) of the Order;
- 3) “Several Fishery” means fishing under the authority of a lease granted under Article 6(1) of the Order;
- 4) “prescribed species” means any of the species specified in the Wash Fishery Order 1992 as prescribed species.
- 5) “cockle” means any bivalve mollusc belonging to the genus *Cerastoderma*;

- 6) “mussel” means any of the species belonging to the genus *Mytilus*;
- 7) “harvestable mussel fishery” means a mussel fishery, the licence conditions for which, allow for mussels fished for, taken or removed from the fishery to be sold directly to a market;
- 8) “relaying mussel fishery” means a mussel fishery, the licence conditions for which do not allow mussels to be sold directly to market but instead, must be relayed for the purpose of aquaculture;
- 9) “licence” means a licence granted under Article 8(1) of Order;
- 10) “bottom-towed-gear” means any fishing gear designed to be towed, dragged or pushed through the water whilst in contact with the seabed;
- 11) “prop-washing” means the practice of turning a vessel in tight circles to aid the fishing of cockles;

### **3. Application**

The following Regulations apply to persons fishing under the authority of a licence.

### **4. Bottom-towed-gear restrictions**

- 1) A person must not fish for, take or remove from the fishery any of the prescribed species using bottom-towed-gear unless a written certificate of approval for that bottom-towed-gear has been provided by the Authority in accordance with Regulation 4.
- 2) A person must not fish for, take or remove from the fishery, cockles using;
  - a) more than one instrument of bottom-towed-gear; or
  - b) a hydraulic suction dredge with an aggregate dredge head width of more than 76cm.
- 3) Without written authorisation from the Authority, a person must not fish for, take or remove from the fishery, mussels using a mussel dredge with an inside opening of more than one meter in width.
- 4) A person must not fish for, take or remove from the fishery any of the prescribed species other than cockles using more than two instruments of bottom-towed-gear.

## **5. Bottom-towed-gear - Approval**

- 1) A provisional certificate of approval may be issued which will be valid for one month.
- 2) A full certificate of approval may be issued, which will be valid until 31 December following the date the certification is issued, where bottom-towed-gear meets the following conditions:
  - a) The bottom-towed-gear does not result in more than 10% by weight of the target species being visibly damaged;
  - b) The Authority has been advised by scientists who appear to them to be suitably qualified that the bottom-towed-gear does not cause unacceptable damage to habitats or species;
  - c) Bottom-towed-gear and associated catch sorting equipment is of a specification required by the Authority for reasons relating to fisheries management or are pursuant of meeting 4(2)(a) and 4(2)(b) above.
- 3) For the purpose of this regulation, an organism is considered visibly damaged when on examination it is seen that there are visible cracks, chips or there is other damage to the shell. The damage rate will be determined using representative samples of shellfish retained and rejected by the operation of the bottom-towed-gear.

## **6. Vessel restrictions**

- 1) A person must not use a vessel exceeding 14 meters in overall length to fish for, take or remove from the fishery any of the prescribed species unless authorised by the Authority in accordance with sub-paragraph 2.
- 2) The Authority may exempt vessels from sub-paragraph 1 where evidence is provided that the owner or skipper of the vessel has used the vessel to fish for, take or remove from the fishery any of the prescribed species from within the Regulated Fishery prior to the date of the advertisement of the Order.
- 3) Exemption in accordance with sub-paragraph 2 shall cease if the vessel changes ownership.

## **7. Use of tenders**

- 1) A person must not use a tender to a vessel unless:

- a) fishing for, taking or removing from the fishery mussels or cockles;
- b) all catch placed on the tender is placed on the licenced vessel to which it is associated at the earliest opportunity; and
- c) the tender is six metres in overall length or less.

## **8. Sorting of catch**

Any material rejected through the sorting of catch of any of the prescribed species must be returned immediately to the sea or seabed, as nearly as possible to the place from which it was taken and spread thinly and evenly over that area.

## **9. Daily catch restrictions (cockles)**

- 1) A person must not, in any one calendar day, fish for, take (save for doing so with the intention of riddling or otherwise sorting catch in accordance with regulation 8) or remove from the fishery more than the maximum weight of cockles specified in the licence conditions by hand.
- 2) A person must not, in any one calendar day, fish for or take (save for doing so with the intention of riddling or otherwise sorting catch in accordance with regulation 8) or remove from the fishery more than 4000 kilograms of cockles by dredge.
- 3) For the purpose of determining the weight of catch no allowance will be given for the weight of any containers or sand or other material.
- 4) A person must not fish for, take or remove from the fishery any cockles by hand if, during the same calendar day, that person has fished for, taken or removed any cockles by dredge.
- 5) A person must not fish for, take or remove from the fishery any cockles by dredge if, during the same calendar day, that person has fished for, taken or removed any cockles by hand.

## **10. Daily catch restrictions (mussels)**

- 1) A person must not, in any one calendar day, fish for or take (save for doing so with the intention of riddling or otherwise sorting catch in accordance with regulation 8) or remove from the fishery:

- a) More than 4000 kilograms of mussels during a harvestable mussel fishery; or
  - b) More than 8000 kilograms of mussels during a relaying mussel fishery.
- 2) For the purpose of determining the weight of catch no allowance will be given for the weight of any containers or sand or other material.
  - 3) A person must not fish for, take or remove from the fishery any mussels from a harvestable mussel fishery if, during the same calendar day, that person has fished for, taken or removed from the fishery mussels from a relaying mussel fishery.
  - 4) A person must not fish for, take or remove from the fishery any mussels from a relaying mussel fishery if, during the same calendar day, that person has fished for, taken or removed from the fishery mussels from a harvestable mussel fishery.

### **11. Mussels (*Mytilus edulis*) minimum size**

- 1) A person must not remove from the boundary of the Wash Fishery Order 1992 any mussels (*Mytilus edulis*) from within the Regulated Fishery which are less than 45mm in length but must return such immediately to the sea in accordance with sub-paragraph 2 (below) unless they are being fished for, taken or removed as part of a relaying mussel fishery.
- 2) Mussels and any material arising from the sorting of mussels must be returned immediately to the sea or seabed, as nearly as possible to the place from which it was taken and spread thinly and evenly over that area.

### **12. Seed movement**

Without prejudice to the Article 12 of the Wash Fishery Order 1992, a person must not transport any shellfish under an authorisation granted by said article by road unless an application for such is completed which will require the following information:

- a) Destination of the shellfish; and
- b) The date of the proposed transport.

### **13. Weekly catch returns**

An accurately completed weekly catch return form, supplied by Eastern IFCA, must be returned for each week of fishing, to Eastern IFCA offices by no later than Friday of the calendar week following any fishing activity.

#### **14. Transshipping prohibition**

A person must not tranship or otherwise relocate any of the prescribed species, or containers of any description containing any of the prescribed species, fished from the Regulated Fishery from one vessel to another.

#### **15. Requirement to land (cockles)**

- 1) A person fishing for cockles must:
  - a) take any cockles fished for from the Regulated fishery straight to port;
  - b) land such cockles immediately; and
  - c) not leave cockles on the sand or deposited in the water in bags or any other container for later collection.
- 2) A person must not land cockles fished for from the Regulated fishery on more than one occasion during one calendar day.

#### **16. Dual fishing prohibition**

- 1) A person must not fish for, take or remove from the fishery any of the prescribed species from the Regulated Fishery on the same calendar day as fishing for, taking or removing from the fishery the same prescribed species from outside of the Regulated Fishery or from a Several Fishery.
- 2) A person must not have on board any bottom-towed-gear which could be used to fish for, take or remove from the fishery any of the prescribed species when fishing for, taking or removing from the fishery any of the prescribed species from a hand-work fishery.

#### **17. Standard bags**

A person must not land mussels or cockles fished from the Regulated Fishery unless such are contained in a bag which must:

- 2) be of the following dimensions:
  - a) 120 centimetres or 60 centimetres in height;
  - b) 97 centimetres in depth;

- c) 97 centimetres in width: and
- 3) have the words 'Wash Fishery Order' written on at least two sides with lettering which is at least 10 centimetres tall.

### **18. Prop-washing**

- 1) A person fishing for cockles must not:
  - b) use an anchor which affixes the vessel to the bottom of the seabed during the practice of prop-washing;
  - c) conduct prop-washing in such a manner as to cause more than one ring to be formed in the seabed;
- 2) A person must spread any cockles dislodged from prop-washing thinly and evenly over the ground, as nearly as possible to the area from which they were dislodged before leaving the bed.

### **19. Revocations**

The Wash Fishery Order 1992 Regulations in force immediately before the date on which these Regulations come into force, are hereby revoked.

### Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



### Action Item 17

## 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting

15<sup>th</sup> May 2019

### Wash Fishery Order 1992 and Wash Restricted Area cockle fishery 2019

**Report by:** L. Godwin, Senior IFCO (Regulation)

#### Purpose of report

The purpose of this report is to seek delegated authority for the CEO to open the 2019 Wash Fishery Order 1992 (WFO) and Wash Emergency Byelaw 2018 cockle fishery and to introduce, vary or revoke management measures, including closing the fishery, as required.

#### Recommendations

It is recommended that members:

- **Agree** to delegate authority to the CEO to open the 2019 cockle fishery within the Wash Fishery Order in accordance with the established policies and processes, which are set out in in this report;
- **Agree** to delegate authority to the CEO to introduce, vary and revoke management measures (including the licence conditions, operating times and Total Allowable Catch) and to open and close part or all of the fishery as may be required for the protection of the Wash and North Norfolk Coast Special Area of Conservation and Special Protection Area or for fisheries management purposes including the sustainability of the mussel stocks;
- **Agree** to delegate authority to the CEO to introduce, vary or revoke management measures or to open or close the fishery or parts of the fishery, without 7 days' notice (as per the cockle charter) where it is judged necessary to do so to meet the conservation objectives of the Wash and North Norfolk Coast European Marine Site or for the sustainability or the viability of the fishery;
- **Agree** to delegate authority to the CEO to open or close a cockle fishery under paragraphs 14, 15 and 16 under the Wash Emergency Byelaw 2018 in accordance with the established policies and processes, which are set out in in this report;

- **Agree** to delegate authority to the CEO to issue, vary or revoke flexible permit conditions under the Wash Emergency byelaw which are consistent with WFO licence conditions;
- **Agree** to delegate authority to the CEO to implement flexible management measures under paragraphs 15, 16, 19, 21, 22, 24, 26, 27 and 29 of the proposed Wash Restricted Areas Byelaw 2019 in a manner consistent with the associated Formal Operating Procedure, should such be implemented prior to the end of the cockle fishery;
- **Direct** Officers to report on the management of the 2019 WFO cockle fishery at the 37<sup>th</sup> Eastern IFCA meeting.

## **Background**

Eastern IFCA has the right of a Regulated fishery within The Wash under the Wash Fishery Order 1992 (WFO). Through the Order, Eastern IFCA can issue licences, make restrictions and regulations and set licence conditions.

Eastern IFCA develops appropriate management measures for each cockle fishery on an annual basis, primarily in the form of licence conditions. This includes determining the appropriate beds to open and what the Total Allowable Catch should be.

Members have variously considered management proposals for a cockle fishery at the full Authority and sub-committee levels. Consideration of the cockle fishery had previously been moved to full Authority to reflect the contentious debate regarding a potential dredge fishery. This debate has more recently been limited and Members have established that the fishery shall be hand-work by default. This has led to less contentious debate and the decision was moved back to the Marine Protected Areas sub-committee as a result.

In recent years, contingency measures have had to be introduced at short notice to take account of atypical mortality and other die-offs resultant of ridging out. These decisions have led to additional fishing opportunities for the fishers whilst still achieving conservation objectives. It has also become well established that the CEO is delegated authority to introduce, vary or revoke management measures as well as open and close the fishery or parts thereof. This delegation of authority lends itself to the dynamic nature of the fishery.

At the 23<sup>rd</sup> Authority meeting members decided that although hydraulic suction dredges should not be totally banned, future cockle fisheries should default to being hand-worked, with dredges retained only as a contingency option if exceptional circumstances required their use. At the 27<sup>th</sup> Authority meeting on 15<sup>th</sup> February 2017 it was agreed in principle to adopt a new approach to managing the fishery with a clear intention to move to a routine fisheries management function undertaken within the parameters of a revised set of fisheries management policies.

In addition, Eastern IFCA implemented the Wash Emergency Byelaw 2018 on the 27<sup>th</sup> July 2018. This was in response to the High Court handing down a judgement with the effect of changing the boundary of the Le Strange Estate

which opened an 'unmanaged' portion of the Wash. The byelaw had the effect of replicating the provisions of the WFO 1992 on the unmanaged area. A permanent replacement byelaw is presented in Action Item 14 of this meeting (36<sup>th</sup> Eastern IFCA meeting).

## **Report**

Eastern IFCA has a well-established process for managing WFO fisheries. This is summarised below.

1. Cockle stock assessment and application of Fisheries management Policies  
The management of each fishery is informed primarily by a stock survey, the results of which are considered in the context of the 2008 Fisheries Management Policies<sup>72</sup> (which are currently under review). Application of the management policies determines the main elements of the fishery such as what beds should be open and what the TAC should be.

It is at this stage that the policy of a default hand-work fishery is applied.

2. Application of established licence conditions and enforcement policies  
Over recent years, members have agreed to adopt several licence conditions which enable an effective and enforceable fishery. These include the requirement to land cockles at the earliest opportunity for example, to prevent fishers from circumventing the daily catch restriction by hiding bags of cockles in the rivers or at sea.

In addition to licence conditions, Eastern IFCA routinely adopts enforcement policies regarding the certain regulations. For example, in 2016 when the TAC was exceptionally high, an enforcement policy was adopted to not enforce the 2-tonne daily quota until more than 3 tonnes had been landed. This effectively increased the daily quota which is set in WFO Regulation and therefore cannot be formally changed.

3. Consideration of impacts on the Wash and North Norfolk Coast Special Area of Conservation (hereafter the MPA)  
Officers undertake a Habitats Regulation Assessment (HRA) including the provision of formal advice from Natural England. This ensures that the potential impacts of the fishery on the MPA are mitigated appropriately through the application of the management measures. From this, it is determined whether the 'usual' management measures are sufficient or whether further measures may be required.

The HRA can influence the TAC of the fishery in circumstances where available bird food resources are low. In addition, seal haul-out sites are routinely closed during the sensitive 'pupping' period as determined by the HRA. Both of these are well established processes.

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<sup>72</sup> [http://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO\\_Shellfish\\_management\\_policies\\_2008.pdf](http://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO_Shellfish_management_policies_2008.pdf)

#### 4. Consultation with the industry

Where there is discretion to do so, the development of measures is informed by consultation with the industry. For example, Eastern IFCA has developed a set of principles for 'open periods' (i.e. the daily operating times of the fishery) through consultation with the industry. These include a four-day-week and open periods only over certain tides.

Eastern IFCA holds an annual meeting to discuss the proposals with the industry and invites comment through discussions over the phone, during patrols and in writing.

#### 5. Finalise proposals

Proposals are scrutinised from the perspective of Eastern IFCA's vision and general obligations under the Marine and Coastal Act 2009. This includes maximising the viability of the industry whilst ensuring conservation objectives of the MPA are met.

As a consequence of the recommendation for the MPA sub-committee to be discontinued (agenda item 8 refers), the timing of full Authority meetings not being conducive to opening the cockle fishery and the annual cockle surveys not yet being completed, it is proposed that the CEO is delegated authority to determine management of the fishery in accordance with the principles set out above. This will have the effect of reducing the burden on the Authority to meet for this issue specifically and reflects the general shift toward the fishery being considered more a routine function undertaken with the parameters of agreed policies.

The fishery within the 'Wash Restricted Area' under the Wash Emergency Byelaw 2018 is technically distinct from that of the WFO with separate mechanisms to implement management measures. Paragraphs 14 allows for the opening of a fishery 'in conjunction with' the WFO fisheries. Paragraph 15 and 16 enable closure of the fishery to protect the MPA or stocks. It is recommended that the CEO is delegated authority to implement such in accordance with the procedure set out above and in line with the WFO fishery.

In addition, the Wash Emergency Byelaw 2018 enables the implementation of flexible permit conditions. These have been introduced in relation to last years fishery and are likely to remain the same for the 2019 fishery. However, should the stock assessment and consultation with Licence Holders indicate the need for further licence or permit conditions, it is recommended that the CEO is also delegated authority to issue, vary or revoke flexible permit conditions under the Emergency Wash Byelaw 2018.

The Wash Emergency Byelaw 2018 expires on the 26<sup>th</sup> July 2019 although officers have recommended that this is extended by six months (to 26<sup>th</sup> January). Action Item 14 of this meeting sets out recommendations for a replacement for the emergency byelaw, the Wash restricted Areas Byelaw 2019.

In the event that the replacement byelaw comes into effect prior to the end of the 2019 cockle fishery, it is recommended that the CEO is delegated Authority to implement the flexible management measures from within the proposed byelaw. These include, the opening and closing of fisheries, issuing varying or revoking operating times, permit condition and eligibility criteria for the issuing of permits, suspension of the issuing of permits and restricting the number of permits issued. Such would be in accordance with Schedule 1 of the proposed replacement byelaw and the associated Formal Operating Procedure.

It is proposed that Officers report on the develop of the measures and progression of the subsequent fishery at the following Eastern IFCA meeting.

### **Financial implications**

None identified

### **Legal implications**

Legal challenge would be in the form of judicial review to the effect that Eastern IFCA did not show due diligence in determining appropriate management measures which then impacts on the industry.

Whilst it could be argued that the removal of consideration by Members reduces the level of scrutiny of the measures, such delegation is provided for in the Constitution and Standing Orders and the development of management measures includes a significant amount of consideration in line with the process set out above. This is a recognition of the importance of the fishery in term of industry viability and in the context of it occurring within an MPA. It is recommended that the level of consideration applied to this fishery is sufficient to mitigate any such legal risk.

### **Conclusion**

Management measures for the annual cockle fisheries are developed in accordance with a well-established process which includes consultation with the fishing industry and statutory nature conservation body, Natural England.

The process is considered sufficiently robust to enable the development of measures through authority delegated to the CEO so as to reduce burden on the Authority.

### **Background documents**

Wash Fishery Management policies - [http://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO\\_Shellfish\\_management\\_policies\\_2008.pdf](http://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO_Shellfish_management_policies_2008.pdf)

### Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



## Action Item 18

### 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

15th May 2019

**Report by:** J. Gregory, Chief Executive Officer

#### **Quarterly Progress Against Annual Priorities 2018-19**

#### **Purpose of report**

The purpose of this report is to update members on progress against the objectives established in the Business plan as priorities for 2018-19.

#### **Recommendations**

Members are recommended to:

- **Note** the contents of this report

#### **Background**

Eastern Inshore Fisheries and Conservation Authority is mandated to produce an annual plan each year to lay out the expected business outputs for the year ahead.

With effect from 2016-17 the Authority adopted a model for business planning which uses a rolling five-year Business Plan incorporating annual priorities informed by the annual Strategic Assessment. The plan incorporates the high-level objectives agreed with Defra.

The move to a five-year business plan reflects the need to engage in longer term planning in the context of high levels of demand and the requirement to be flexible with priorities to reflect the dynamic nature of inshore fisheries, the marine environment and the policy landscape.

At the Planning and Communications Sub-Committee held on 14<sup>th</sup> March 2018 priorities for 2018/19 as set out in the 5-year Business Plan were agreed.

#### **Report**

The tables at the Appendix detail the progress against the key priorities for 2018-19, as set in the Business plan for 2018-23.

## **Risk**

Significant complexities regarding the development of Shrimp management measures within the Wash and North Norfolk Coast MPAs have resulted in ongoing delays to delivering this workstream. This workstream has now progressed with proposed management measures having been to formal consultation and further resource was required to consider the outputs of such. Further complexities in this workstream have led to further revisions of the management measures and further engagement. Papers considered at this meeting however represent the completion of the vast majority of the related work. Resource allocated to other projects has, to an extent been subverted to work on the associated Habitats Regulation Assessment and development of measures with 'knock-on' effects on other work. In particular, progress of the Wash Fishery Order review has been impacted with officer time diverted from developing the long-term Habitat Regulation Assessment and fisheries management plan.

## **Conclusion**

As per Appendix 1, priority workstreams are all underway but many have been delayed and rolled over to new financial years part due to unforeseen complexities. The complexity and detail involved in dealing with the red and amber risk MPAs has impacted upon other MPA work (including completing the Cromer Shoal MCZ assessment) during the last quarter. However, this work is nearing completion and management measures for the Wash shrimp fishery are now being proposed.

Unforeseen mechanical issues with vessels have had 'knock-on' effects on other workstreams. The annual mussel survey extended well into 2019 as a result of vessel issues and cockle surveys have been impacted also.

In addition, a significant effort was allocated to the removal of invasive slipper limpets within The Wash. This urgent project diverted some effort away from other planned activities but is likely to have wider beneficial impacts on industry sustainability and on the environment.

Having introduced an Emergency Byelaw for the protection of an 'unmanaged' portion of The Wash, resource was allocated to investigate the need for and develop further, permanent measures by the 26<sup>th</sup> July 2019.

## **Background documents**

Eastern Inshore Fisheries and Conservation Authority Business Plan 2018-23.

## **Appendices**

1. Report on priorities set for 2018-19

## APPENDIX 1

## Eastern Inshore Fisheries and Conservation Authority

15th May 2019

Quarterly Progress against Annual Priorities – Quarter 4

4 key priorities are established for 2018-19.

Financial Year 2018-19		
Priorities 2018-19	Progress	Comment
<p>1. To ensure that the conservation objectives of Marine Protected Areas in the district are furthered by:</p> <p>a. Delivering fisheries management measures for the 'Red Risk' designated features in the Inner Dowsing, Race Bank and North Ridge SCI, and the Haisborough, Hammond &amp; Winterton SCI;</p> <p>b. Delivering fisheries management measures for 'Amber and Green' designated features within European Marine Sites (EMS) including shrimp management in the Wash and North Norfolk Coast SAC and completion of 'Amber and Green' HRA suite;</p>		<p>1a. <b>Ongoing.</b> <u>Haisborough, Hammond &amp; Winterton</u>: Management for red risk feature being recommended to Authority at this meeting (36<sup>th</sup> Eastern IFCA meeting – agenda item 13). Informal engagement complete. If agreed, management to be published for public consultation.</p> <p><u>Inner Dowsing, Race Bank &amp; North Ridge</u>: <b>Delayed</b> to enable focus on shrimp assessment/management. Work to recommence following agreement of Haisborough, Hammond &amp; Winterton measures. Management measures to apply updated conservation advice from Natural England.</p> <p>1b. <b>Ongoing.</b> Closed areas: After formal consultation, two proposed closed areas were removed from the Marine Protected Areas Byelaw 2018 (The MPA Byelaw) pending further consideration. The MPA Byelaw has been submitted to MMO for formal QA and Officers are awaiting comments. After further consideration, including of Natural England advice, the Authority agreed at the 35<sup>th</sup> Authority meeting to include the two closed areas which had been removed in the next iteration of the same byelaw. This byelaw is recommended to the Authority at this meeting (36<sup>th</sup> Eastern IFCA meeting).</p>

<ul style="list-style-type: none"> <li>c. Assessing the impact of fishing activities on the Cromer Shoal Chalk Beds tranche 2 Marine Conservation Zone and delivering management measures (if required);</li> <li>d. Developing monitoring and control plans for highest risk MPAs as identified in the Strategic Assessment 2018;</li> <li>e. Delivering mitigation to the risk of 'food availability' in the Wash and North Norfolk Coast SAC in relation to private aquaculture;</li> <li>f. Introduction of measures to mitigate the risk of damage to the Wash and North Norfolk Coast SAC from 'unmanaged' bivalve fishing activity <u>if required</u>;</li> <li>g. Undertake gap analysis and initial assessment of fishing impacts within newly designated MPAs including the Harbour Porpoise candidate SAC (southern North Sea), the Greater Wash potential SPA and the extension to the Outer Thames estuary SPA.</li> </ul>		<p>Shrimp permit Byelaw: Submission of the Shrimp Permit Byelaw was pending consideration of the application of I-VMS requirements as informed by the national project. In particular, the wording of the I-VMS requirement was intended to reflect that of the proposed Statutory Instrument. Delays to the national roll-out have led to the CEO taking the decision (as per delegated authority) to remove the requirements from the face of the Byelaw and implement as permit conditions such that wording changes which may be necessary to reflect the national approach can be made more easily and without further delays to the byelaw. Further amendments to the byelaw are proposed at this meeting and it is anticipated that the byelaw will subsequently be submitted for formal QA by the MMO.</p> <p>1c. <b>Ongoing.</b> Progress made in addressing comments from Natural England on first draft of assessment. New advice from Natural England on management of chalk feature received December 2018. New evidence on chalk / potting interactions received November 2018; to be considered in updated assessment. Liaison with Natural England ongoing. Assessment identified need to manage towed demersal fishing over chalk feature within the Cromer Shoal MCZ. Informal engagement complete. Recommendation for spatial closures presented to Authority at this meeting (36<sup>th</sup> Eastern IFCA meeting). Further examination required of chalk/potting interactions. Site survey planned to inform assessment. Liaison with Natural England ongoing.</p> <p>1d. <b>Delayed.</b> Monitoring and control plans drafted for dredge fisheries. Plans in development in relation to lining fisheries and shrimp trawling. Workstream had been reprioritised to reflect higher</p>
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		<p>priority HRA work relating to Shrimp fisheries. New workplan established.</p> <p>1e. <b>Complete.</b> The workstream related to investigating the effectiveness of the established monitoring programme which has been completed. Monitoring is ongoing and considered business as usual.</p> <p>1.f <b>Ongoing</b> – The Emergency Wash Byelaw 2018 was made on 27<sup>th</sup> July 2018 to address a gap between the area covered by the Wash Fishery Order and the le Strange private fishery. Officers have consulted informally on a replacement byelaw and this byelaw is recommended to the Authority at this meeting (36<sup>th</sup> Eastern IFCA meeting).</p> <p>1.g. <b>Ongoing.</b> EIFCA to lead on assessment for Greater Wash SPA and extension of Outer Thames Estuary SPA in EIFCA district. Fishing activity information gathered. Assessment for Outer Thames Estuary SPA extension to proceed; Natural England have advised to delay Greater Wash SPA assessment pending feature survey planned for winter 2019/20. Defra guidance has been sought on approach for assessment and management of fishing in the very extensive Southern North Sea SAC.</p>
<p>2. To ensure that sea fisheries resources are exploited sustainably and in accordance with MSFD requirements by:</p> <p>a. Developing fishery sustainability management measures for the</p>		<p>2a. <b>Ongoing</b> – The industry are seeking Marine Stewardship Council (MSC) accreditation for the brown shrimp fishery. As this assessment will include both the sustainability of the fishery and impacts on other non-target species and conservation features, EIFCA have been liaising closely with the process to determine whether there will be synergy between the industry’s proposed management measures and those required to manage our own conservation and</p>

<p>brown shrimp fishery in conjunction with priority 1(b) above;</p> <ul style="list-style-type: none"> <li>b. Developing fisheries management measures for crab and lobster;</li> <li>c. Monitor fisheries management of bass in the context of European and national fisheries management measures and contribute to the development of Bass Nursery Areas;</li> <li>d. Investigate the cause of mussel mortality within The Wash.</li> </ul>		<p>sustainability drivers. The fishery has been assessed by an MSC accredited private consultancy, Acoura. We have commented internally on their first draft report but are awaiting an opportunity to formally comment on their public document which is due for release in June.</p> <p>2b. <b>Ongoing</b> – Although it was originally planned to deliver sustainability measures for crab and lobsters at the same time as measures for the protection of the Marine Conservation Zone, complexities with assessing the stocks have put the consultation for the sustainability measures out of synch. Further work is being conducted to model the stock data although it is not the intention that this will inform the coming development of management measures. Informal consultation on potential measures is planned to commence during Q2 of 2019/20.</p> <p>2c. <b>Ongoing</b> – New proposals were considered and agreed by the December Council meeting. These largely replicated those for 2018 and were a consideration in the 2019 Strategic Assessment. This concluded that additional action was not required by Eastern IFCA.</p> <p>2d. <b>Ongoing</b> – A joint research project was commenced in 2017 between the Authority and Hull University to investigate a possible cause of the high levels of mussel mortality witnessed in The Wash since 2009. This is study focused on the presence of the parasitic copepod, <i>Mytilicola intestinalis</i>, and the pea crab, <i>Pinnotheres pisum</i>, both of which are known to be present in The Wash mussels. The university MSc project was unable to draw any firm conclusions indicating either of these two parasites are responsible for the die-offs. However, their study was only able to look at 270 mussels taken</p>
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		from 5 beds, which is a relatively small sample size. Since then, EIFCA staff have dissected a further 2,155 mussels to create a more robust dataset for statistical analysis. It is hoped that all remaining samples will be dissected in the coming quarter, allowing analysis.
3. To ensure that the marine environment is protected from the effect of exploitation by; a. Reviewing district wide bio-security measures including risk assessment of invasive, non-native species;		<b>Ongoing</b> – Implementation of a Wash Fishery order Shellfish Lays biosecurity plan is pending completion of the redrafting of lease agreements (as advised by the Fish Health Inspectorate) which itself has been reprioritised in the context of delivering other priorities. The wider biosecurity assessment is still underway.  High densities of invasive Slipper Limpets were found in a discrete area close to the Toft lays in 2018. Following a survey of their distribution and numbers, an operation was undertaken in April 2019 to remove them from the site for disposal ashore. The Authority was assisted in this removal by local fishermen, funded from the WFO1992 licence fund.
4. To develop management of the fisheries regulated under the WFO 1992 by: a. Reviewing the Wash Fishery Order (1992) policy notes; b. Delivering updated Fisheries Management Plan, updated Regulations and partial cost recovery		4a. <b>Delayed</b> – Formal consultation on new policies has been postponed on several occasions in favour of other, higher priority consultations. It is intended that a consultation is held to also inform replacement of the WFO which expires in Jan of 2023.  4.b <b>Ongoing</b> – Officers have been in dialogue with Defra for a significant amount of time. The inclusion of I-VMS has added a complexity to the workstream as the national roll-out has been delayed with ‘knock-on’ effects on the Eastern IFCA pathfinder and the development of our own management measures. In addition, Defra and MMO legal teams have raised some concerns with some of the well-established Regulations. Both these issues are the subject of a paper at this meeting.

		<p>Consultation regarding the Fisheries Management Plan has previously been delayed but is now pending following consideration by members this meeting (36<sup>th</sup> Eastern IFCA meeting).</p> <p>Licence fees have been increased in line with the first incremental increase agreed at the 31<sup>st</sup> EIFCA meeting as of April 2019. Officers intend to continue dialogue with Defra regarding the implementation of the 'new' model as agreed at the 35<sup>th</sup> Eastern IFCA meeting towards 50% cost recovery of the cost to Eastern IFCA for managing the WFO.</p>
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**Key:**

	<b>Complete</b>
	<b>In progress</b>
	<b>No progress</b>

### **Vision**

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



## **Action Item 21b**

### **36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting**

15<sup>th</sup> May 2019

**Report by:** Julian Gregory, CEO / Dr Bolt

#### **Association of IFCA Minutes**

#### **Purpose of report**

The purpose of this paper update members on the Association of IFCA quarterly meeting held on 5<sup>th</sup> March 2019.

#### **Recommendations**

Members are asked to:

- **Note** the content of the report and the minutes of the AIFCA meeting held on 5<sup>th</sup> March 2019.

#### **Background**

The aim of the Association of IFCA is to assist and promote the regional IFCAs to ensure that the Authorities develop a leading and effective national role in fisheries and conservation management in line with the IFCA vision.

The Association is not a statutory body but was borne out of the previous Association of Sea Fisheries Committees and currently has nine Members (nine of the ten IFCAs) plus two associate members, Guernsey and the Isle of Man. The Association has been set up as a private limited company and is governed by Articles of Association, which are periodically reviewed. The Association is governed by twelve Directors, nine Chief Officers from the IFCAs, plus the Chairman, the Vice Chairman and the Chief Executive Officer of the Association, which meet quarterly. The Association holds quarterly member's forum meetings at which the 9 IFCA Chairs and Chief Officers as well as representatives from associate members attend and are predominantly held in London. The Association is funded primarily by its membership with each IFCA making a £13,000 annual contribution and the associate members making a £750 contribution per year.

Devon and Seven IFCA chose to leave the Association during 2017 and engagement is planned to encourage them to re-join.

**Report**

A quarterly meeting of the member's forum was held on 5<sup>th</sup> March 2019 and a copy of the draft minutes can be found at Appendix A.

**Appendices**

Appendix A – Unconfirmed minutes of the meeting of the Association of IFCA held on 5<sup>th</sup> March 2019

## Appendix A

**The Association of IFCA's  
Members Forum Meeting  
5<sup>th</sup> March 2018 – 10:30  
Followed by Directors Meeting**

**Fishmongers Hall, London Bridge, EC4R 9EL**

### Minutes

Attendance for the Meeting:

Chair: Les Weller  
CEO: Stephen Bolt

Attendance: Andy Guy, Tom Hooper, John Lamb, Will Wright, Tim Dapling, Mike Hardy, Paul Williams, Robert Clark, Samantha Davis, David McCandless, Stephen Axford, Stewart Harper, Paul Skinner, Julian Gregory, Stephen Atkins

Apologies for absence: Tony Tomlinson, John Humphreys, Tony Goldson, Councillor Matthews

Minutes: Sally Standing

#### 2. Updates from external organisations:

##### a: Defra Updates – Anne Freeman and Martina Di Fonzo

Anne gave a full and comprehensive update of where Defra is at present. Touching briefly on EU Exit and the resignation of George Eustice, it's still business as usual, although we are moving into challenging and uncertain times. The system for catch certificates for all export of fish has gone live today (5<sup>th</sup> March). She will send details of this to SB. As well as catch certificates, fisheries will have to hold export health certificates for all fish landed in EU waters.

Day one licensing for foreign fishing vessels has not yet been agreed – these are ongoing discussions. Discussions are also starting on how additional quotas will continue. Economic link conditions are being reviewed on whether they should change.

The EU-Exit project is continuing and looking at future in marine within Defra; in particular in the longer term of how this will affect management of marines. UK fishing vessels will have to give notice if they want to land in EU waters; this also means that they will need an IMO number. Anne confirmed that there will be an announcement in Fishing News, regarding catch certificates and IMO numbers and will follow up with coastal briefings.

**Action 1: AF to send SB details of the catch certificate system that went live today.**

Martina Di Fonzo – Update

SB asked Martina for an update on the following:

EU Exit update

Spending review of 2019

MPA designation

Progress of byelaws and SI's

Future Funding of IFCA's

Review of IFCA's

Any Defra update in personnel

SB mentioned that progress of byelaws was of increasing concern to the IFCA's as some important byelaws have become 'stuck in the system'. MDF enquired about this and it was explained that in some cases there are delays due to inappropriate or sometimes illegal provisions being included in proposed byelaws. As a result, Defra have to spend time to correct these issues before a byelaw can be signed off. We would therefore ask that the IFCA's follow legal advice closely when formulating byelaws in the first instance. There are currently delays to the NWIFCA Crustacea byelaw and the KEIFCA byelaw as a result of extra checks Defra is having to make. However, both byelaws are being progressed as quickly as possible under the circumstances and are not being ignored due to other priorities. The other four NEIFCA byelaws are being progressed. Defra have agreed a 1-month period with which to sign off byelaws when submitted for final approval and these four byelaws are still within the period.

You may be aware that there was a recent independent review of the byelaw process and Defra's sign off process was considered to be sufficient. The report also recommended that IFCA's take more responsibility in the process of formulating the byelaws.

With the recent resignation of the Fisheries Minister we are currently unable to give a full update on how this may affect the timing of the iVMS SI. Work on drafting the SI is continuing and we are still working towards the end of March completion.

IFCO Powers – Defra is amending the IFCO Powers SI under the Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2019 which will replace the reference in the schedule to bass measures in Council Regulation (EU) 2018/20, which fixes the TAC and quota for certain fish stocks for 2018, with a reference to the replacement bass measures in the EU TAC and Quota Regulations for 2019 which came into force on 31 January 2019. The Miscellaneous Provisions SI will be laid on 8<sup>th</sup> March 2019 and come into force on 29<sup>th</sup> March 2019. A stakeholder advisory note will be published on 8<sup>th</sup> March.

Defra commissioned evaluation of the IFCA's – MDF stated this is not a review – it is a research project which will be looking at the structures and capacities with which IFCA's have to deliver their vision. The consultants will be considering the opportunities IFCA's provide for participation in marine and fisheries management, understanding how IFCA byelaws support environment, economic and social sustainability. They will also be looking at how IFCA's deliver fisheries research, management and enforcement, and understanding the

collaborative and knowledge sharing partnerships IFCAS have entered into. The contractors are currently drafting the interview questions and deciding on the four IFCA case studies. They expect to start their interviews next week. All IFCA Chief Officers will be interviewed.

Spending review and future funding of the IFCA's – there is no news regarding when SR19 will take place and we will only know about the future funding of the IFCA's following this review. However, it is unlikely to start before we leave the EU.

MPA designations update – Tranche 3 MCZs – In the third tranche it was proposed to designate 41 Marine Conservation Zones and add additional features to 12 existing sites. The site designations will be announced and in place by 7<sup>th</sup> June 2019. At this time, Defra will publish a full Government response to the consultation, outlining the evidence received and explaining the decisions taken on each site.

Any Defra update in personnel – MDF shared the Directorate organogram with TT a few weeks ago to enable the IFCA's to better identify who leads on what area of work. The Arm's Length Body team will be moving under Simon Brockington's management (from Anne Freeman). Simon is Deputy Director for Marine Science and Analysis. Martina will be moving to Stephanie Ockenden's team in this part of the Directorate. Rachel Hanbury (Control and Enforcement Business As Usual) split her job with Jess Keedy – Control and Enforcement Day One Readiness. Emma Boyd works within Rachel Hanbury's team on byelaws. Rob Matthews team leads on the replacement EMFF fund. Nigel Gooding is Deputy Director for EU Fisheries Policy and Negotiations, Jane Barton is G6. Chris Pirie leads the technical conservation team.

**Action 2: All IFCA's to follow legal advice closely when formulating byelaws in the first instance**

b: Antony Firth, Robert Yorke and Stuart Churchley – Sussex IFCA Marine Archaeological Project.

An interesting presentation was given by Antony regarding the project to find wrecks off the Sussex Coast, which is being funded by Historic England. Anthony will distribute his slides.

c: Alison Freeman – Fishmongers Hall

Alison is the Fisheries Programmer Manager of Fishmongers Hall and introduced herself to the members. She briefly ran through her role which is specifically the involvement in inshore fishing projects. She will send a list of all ongoing projects to SB/SS once these have been approved. She is welcome to suggestions from the IFCA's as she is very encouraged for business collaboration and events like this one. **Alison will send to SB/SS a list of ongoing projects once approved.**

1: Minutes of the last meeting (4<sup>th</sup> December 2018).

Accepted as read

#### Actions from last meeting

1. RC – Done
2. Done
3. Pippa Eames has now moved on. Martin Adams has taken over
4. Done
5. TT & SB have a meeting in June. SB confirmed there never has been a national contact in EA.
6. Surplus of £6k which will be sent to K & E tomorrow
7. On agenda
8. On agenda

As a footnote to this SB confirmed that the Association does send out the minutes in the required time but going forward, a timescale for responses will be requested by the Association. If no one responds the minutes will be taken as read and accepted.

#### 3. Finances and Resources

SB wanted to draw attention to the overspend on reserves. In particular, there have been various contributors to this overspend. Quite rightly, the Chair and Vice Chair have been claiming expenses for their role in the Association and to the ever-increasing cost of venue hire, contribution to the cost of the MPA launch, and to the review of the Association which has all had an impact on reserves, resulting in a £10k overspend. SB will implement an interim plan, but it will result in being down by approximately £5k. **Action 4: SB to implement an interim plan**

#### 4. Items for Decision

#### Future Funding

SB confirmed that a detailed narrative was sent to all members via email for continued and increased central funding beyond 2020. This bid also recognises the importance of maintaining the IFCA fleet of vessels. However, it does not include this in the central funding bid. As a separate workstream, COG and the Association are seeking to include a detailed bid regarding vessels to the EMFF replacement fund. If this is unsuccessful, the narrative flags the future funding of the IFCA fleet of vessels as a significant issue. The members were asked to support the narrative paper which has had strong input from Chairs and Chiefs. **Option 1a: Send the paper out to Defra in advance of SR19, copied to Thérèse Coffey.** As far as this option is concerned, there were various degrees of concern. JL stated that our duties are now being called upon to carry out additional duties and if government want us to continue to carry out additional duties they should pay for the upkeep. The Association should have it noted that we will send a copy of this to the Secretary of State and Minister. Option 1 carried – majority agreed.

The members were also asked to note difference of opinion as to the value of completing the Defra request for metrics. Following discussions **option 2b: Members agree that all IFCAs will complete the metrics by the end of March deadline.** Option 2b carried – majority agreed.

## Ian Jones – Update on National Training

Ian Jones presented to the members the training project through K&EIFCA for the 1-3-year training package. He ran through his first slide for his vision for the next 2 or 3 years if the position continues.

- 3-year 3T approach
- Award for level 1
- Next level up is the advanced course (level 2 award)
- Level 3 award is expected to be completed in year 2 or 3 if the position continues
- Overview of LMS or Learning Management System
- Directed lessons and presentations
- Knowledge assessments
- Breakout and problem-solving exercise
- Practical exercise
- Continually refine through feedback
- All linked to trainers – this year was Ian Jones and Dom Bailey together with Mike Hardy for the first couple of days and then Sam Dell from Southern IFCA
- Guest speakers – Solicitor Andrew Oliver, Barrister David Richards and Nigel Blazeby. Average pass mark was 88.5%
- Final report
- Opportunities for officers to go through the course.

Ian also ran through the focus and priorities for 2019 and 2020 where everyone was asked to think about short courses that he could introduce. MH suggested that there are some other agencies that could benefit from the training courses and Ian should have a discussion with Al Brown next week. Ian also asked the members if they would have an idea of how many delegates they would send on an advance course. He suggested 1 or 2 from each IFCA costing £950 each. All IFCAs agreed.

### 5. Matters for noting

#### a. Update on the Association Review by 3KQ – Les Weller

Following the meeting held by 3KQ on Monday 4<sup>th</sup> March, Les asked everyone to reflect on the points raised and the views expressed. He said that he had had a very lengthy discussion with the Chair of the Association, and we are all agreed change needs to happen. He explained that if we wish 3KQ to attend a final task group meeting the potential spend would be a further £2k. He asked if we had seen value in the review that 3KQ had carried out? Discussions followed with concerns raised. WW has resigned from his position on the task group as he doesn't have the same vision as others. JG has replaced WW. LW asked SD to sit on the group; she kindly agreed. The tasking group, going forward is JG, SD, Mat Mander, TT and LW. A recommendation has to be made by the next meeting in June.

#### b. Update on MPA project including extension of project Launch

LW gave thanks to the MPA project team – Simon Pengelly, Jamie Small and SB for the spectacular event held at the House of Commons in February. SB confirmed that Defra will continue to fund the role, however, has not heard from Jamie as to whether she will accept. RC is working through the salary and job spec. It is looking likely that Jamie will be London based, namely working at Nobel House, which will come at a cost to the Association of approximately £5k, for hot desking.

c. Annual Report – For noting / comment

SB asked the members for more guidance on an annual plan. He said that he could present an interim plan to include budgets and priorities and would like the assistance of the tasking group. RC offered his help and guidance but voiced his concern that a plan hasn't been produced.

SB also confirmed that following this meeting he will be sending out 9 invoices for the membership fees along with 7 invoices for Science Direct. He is waiting for Science Direct to respond to his request for a reduction in costs.

d. IVMS Update – Julian Gregory

The Defra response to the SI Consultation was due to be published last Friday (1<sup>st</sup> March), however this did not happen due to the resignation of the Minister. It is hoped that it will be published shortly (update since the meeting is that it may be published on Friday 15<sup>th</sup> March 2019). The SI is now in its second draft form and JG will forward this when it's received. There are issues surrounding potential revenue costs for IFCA's moving forward in connection with Mobile Working, VMS hub, data reporting tool and iVMS support contracts. It has been proposed that there is zero cost for IFCA's, but this may not be accepted. **Action 5: JG will forward an email received regarding revenue funding that he read to members.**

e. CEO Log

f. Directors Minutes – Noted

6. AOB

MMO appointees – TT wanted to inform the members that it is no longer Mr. Tuckett who heads up the appointee process. TT had written to him by mistake – this was due to go yesterday (4<sup>th</sup> March). It is now Richard Boyer.

As an early heads up SB informed members that Defra have asked Seafish to head up a project to look at IFCA in the UK. He confirmed that it is likely that we will be invited. The MMO (Nick Greenwood) are doing an inshore management review. SB will try to get information of this to see if we are heavily involved. SD confirmed that she had been contacted. SB asked everyone to let him know if any other directors have been approached. MPA advisory group meeting – In previous meetings Defra had asked SB to chair but they are now taking back control as this is being seen as a conflict of interest. Dale Rodmell has asked if there will be protocol on iVMS and SB quoted D&S.

COG meeting – Was planned for two days in April but has been reduced to one day. The meeting room at Jersey office has been booked for Wednesday 10<sup>th</sup> April.

Close of meeting – 15:50

Date of next meeting – Tuesday 4<sup>th</sup> June – Fishmongers Hall, London Bridge EC4R 9EL

### **Actions from this meeting**

<b>Action Number</b>	<b>Action</b>	<b>By Whom</b>
Action 1	AF to send SB details of the catch certificate system that went live today.	AF from Defra
Action 2	All IFCA's to follow legal advice closely when formulating byelaws in the first instance	ALL
Action 3	Alison Freeman will send to SB/SS a list of ongoing projects once approved.	AF
Action 4	SB to implement an interim plan	SB

### **Matters for Noting**

<b>Action Number</b>	<b>Action</b>	<b>By Whom</b>
Action 5	Action 5: JG will forward an email received regarding revenue funding that he read to members.	JG - Done

## Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



## Information Item 22a

### **36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting**

15<sup>th</sup> May 2019

**Report by:** Greg Brown – IFCO / Project Officer

#### **Marine Protection Quarter 4 report**

#### **Purpose of report**

To provide members with an overview of the work carried out by the Marine Protection team during the period January, February and March 2019.

#### **Recommendations**

Members are asked to:

- **Note** the content of the report

#### **Report**

#### **Enforcement and engagement priorities throughout district – overview**

##### January

The focus of enforcement for the month was landing inspections of vessels fishing for whelk due to the high value of the fishery, whilst doing this officers took advantage of any opportunity to work with partner agencies (primarily the MMO). The focus also was on completing various sea patrols out of Lowestoft and Sutton Bridge.

Regarding engagement officers aimed to speak to fishers about EU exit, IVMS, the landing obligation and bass regulations, in order to inform fishers with the appropriate information and report back fishers' opinions.

##### February

As with last month there was a focus on landing inspections of vessels fishing for whelks (due to high value of the fishery). Officers also implemented specific patrols in the Grimsby area. In the south of the district patrols were planned to focus on recreational activity and retaining species under Minimum Conservation Reference Size (MCRS). Engagement priorities were the same as January.

##### March

Enforcement priorities remained primarily the same as previous months as informed by the tactical coordination group, risk profile and intelligence reporting. There was a focus on completing landing inspections of vessels fishing crab and lobster as activity was expected to rise. There was also a new action to engage with owners/skippers of new vessels that had entered the district during the previous month.

Engagement priorities remained the same as in previous months with the addition of updating records of fisher associations, liaising with the industry around a NFFO seal-fisher interaction project and speaking to fishers around the informal engagement of bottom towed gear closures in the Cromer Shoal Chalk Beds Marine Conservation Zone (MCZ) and Happisburgh, Hammond and Winterton Special Area of Conservation (SAC).

### EMS monitoring

Monitoring of 'restricted areas' under the Marine Protected Areas Byelaw 2016 was carried out throughout the reporting period. The following monitoring occurred:

Protected feature	Restricted areas	Number of separate patrols where one or more restricted areas was visited
<i>Sabellaria spinulosa</i> (Ross Worm) Reef	A, B, C, D, E, F, G, H, I	6
Sub-tidal stony Reef	J	1
Eelgrass beds (North Norfolk Coast)	SH, EH, SF, BP, BC	4
Eelgrass beds (Humber)	K	2

### Area 1: West-North (Hail Sand Fort to Gibraltar Point)

#### Fishing Trends

##### January

There were low levels of activity in the crab and lobster fishery reported, due to the usual seasonal decline. There were no reports of whelk fishing within the district in this area. Recreational anglers reported fishing was poor with whiting and flatfish catches reduced, there were no reports of cod, skates or rays being caught.

##### February

The low level of activity in the crab and lobster fishery continued, there were several vessels fishing but outside the district. No activity fishing for whelk or any other species was reported. Recreational anglers reported that fishing was exceptionally poor throughout the month, with very low catches reported, the main species caught was whiting but these were generally below MCRS and returned to sea.

##### March

Activity in the crab and lobster fishery started to increase this month. There was still no fishery for whelk or any other species. Recreational angling activity was reported as low.

## Metrics

<b>Enforcement metric</b>	<b>Number completed</b>
Shore Patrols	6
Port visits	19
Catch inspections (landings observed)	3
Catch Inspections (landing not observed)	0
Vehicle Inspections	0
Premises inspections	1
Enforcement actions/Offences	0
Intelligence reports submitted	6
Fishers engaged	12
Vessel Patrols	0
Boardings	0
Gear Inspections	0

## Engagement/ key messages received

It has been reported that it has been a poor year so far for fishing off the Lincolnshire coast both for commercial and recreational fishers. Fishers have raised concerns that the windfarm vessels have been damaging the sea bed during survey and installation work.

One fisher wished to bring to our attention a habitat creation project which has been trailed in Norway. Two circular artificial reefs were created, an outer ring can be fished with the inner ring being protected. It is believed that the inner ring then provides habitat for a breeding stock. The fisher reported that the project appears to have been successful.

## Area 2: West-South (The Wash and North Norfolk Coast to Brancaster)

### Fishing Trends

#### January

Crab and lobster fishing activity was reported as very low as were the catches. Potting activity focused on whelk fishing, with several vessels regularly fishing and others applying for permits. Shrimp fishing activity was low for the time of year due to low demand. There was no activity reported in the cockle fishery.

#### February

During the month some vessels fished in the Wash for crab and lobster, expectations are that effort will increase in the fishery. The whelk fishery was one of the highest

value fisheries in the area, with new vessels choosing to participate in this fishery, both the catches and the price was reported as favourable.

Effort in the shrimp fishery was reported as reduced due to lack of demand rather than due to low catches. There were no reports of activity fishing for cockles in the Wash restricted area which closed at the end of the month. Recreational fishing activity was generally quite low, and catches were reported as poor.

### March

Landings of whelk decreased in March compared to previous months, with the general trend expected to decrease further. More gear was placed in the water targeting crab and lobster as the season for this fishery started. The low market price of shrimp remained throughout the month which impacted the viability of the fishery resulting in few vessels regularly engaging in this activity.

<b>Enforcement metric</b>	<b>Number completed</b>
Shore Patrols	11
Port visits	16
Catch Inspected (landings observed)	8
Catch Inspections (landing not observed)	2
Vehicle Inspections	0
Premises inspections	0
Enforcement actions/Offences	0
Intelligence reports submitted	14
Fishers engaged	34
Vessel Patrols	12
Boardings	2
Gear Inspections	2

### **Engagement**

Several fishers wished to discuss the current Wash Fishery Order licencing system, as the cockle surveys started during the period. The following concerns were raised:

- The process is outdated, and potentially unfair
- It prohibits entry into the fishery

Many fishers raised issues with how the shrimp fishery is running this year, shrimp were reported as abundant, but the price was low due to the market being flooded. Fishers asked that Eastern IFCA looked at global examples of how the fishery is managed, in particular the Alaskan fishery.

Fishers have also been asking about how IVMS will be used and the impacts of this system, with officers frequently answering questions and attempting to allay concerns. Fishers and processors have also been asking about the impacts of EU exit, and Eastern IFCA have been attempting to ensure fishers are properly informed by publishing updates on their website.

### Area 3: East-North (Brancaster to Great Yarmouth)

#### Fishing Trends

##### January

Most active fishers were primarily targeting whelks during this period, and many reported that the fishery was performing well. Recreational anglers reported that there were few catches, and the fishing had been poor.

##### February

Whelks fishing was reported as good and was the main targeted species. Some fishers reported there were a few lobsters and crabs about and that the demand for crab was high.

##### March

It was reported that the spring herring came in during the month, which increased activity of vessels operating out of Caister and Winterton. It was reported that the market in Lowestoft was rapidly flooded with herring. Activity in the crab and lobster fishery started to increase during the month, with good quantities of crab being caught, and a high proportion of Jacks (male crabs) in the water. Catches of lobster were reported as poor, but not unusually so for the time of year. Recreational anglers reported lots of small whiting being caught off beaches, with very few other species being landed.

<b>Enforcement metric</b>	<b>Number completed</b>
Shore Patrols	22
Port visits	60
Catch inspected (landings observed)	22
Catch Inspections (landing not observed)	4
Vehicle Inspections	0
Premises inspections	1
Enforcement actions/Offences	0
Intelligence reports submitted	6
Fishers engaged	82
Vessel Patrols	3
Boardings	1
Gear Inspections	0

#### Engagement

The amount of fishing effort in this area was reported as low. One fisher reported that whelks have always been a boom and bust industry and that the Eastern IFCA management measures have just made everyone fish further offshore. One fisher reported that the crab fishery cannot sustain demand due to the stock levels and that further management is required.

As with other areas there were discussions around EU exit and Eastern IFCA officers passed on information and tried to support industry in their preparations.

The main engagement with recreational fishers was around the bass regulations, ensuring that people were aware of the 2019 regulations. Most anglers were pleased to have the opportunity to take home 1 fish a day.

#### **Area 4: East-South (Great Yarmouth to Harwich)**

##### **Fishing Trends**

###### January

Commercial fishers reported January was a hard month, with very few fish close in. Therefore, as per the usual annual trend many vessels were lifted out of the water for annual maintenance. Those that were fishing were generally targeting whelk, with high quantities being landed.

The following reports were received for the main species:

- No cod being caught
- Thornback ray have moved out
- Herring have gone
- Sole has been poor although fish caught have been of good size
- Fishers picking up and returning spurdog on lines
- Price increase on squid causes reduced effort

Recreational anglers reported that very few fish were being landed in this area with just the occasional whiting, dab and dog fish.

###### February

Fishers reported that the majority of crab gear is still ashore. Crab that is being caught has been of poor quality. Some lobsters are still being caught around the wrecks. Some fishers reported that there were more cod around than a few weeks ago, but numbers were still low. Fishing activity for all species was low as it was last month.

###### March

Throughout the month fishers put more gear to sea targeting crab and lobster. High catches of herring were reported but the price was reported as poor. A lot of smoothound and spurdogs were caught on longlines and in nets. There was a good quantity of sole caught during the month, which is typical for the time of the year. Towards the end of the month many fishers started to prepare for the end of the bass ban to commence targeting this species.

<b>Enforcement metric</b>	<b>Number completed</b>
Shore Patrols	28
Port visits	69
Catch inspected (landings observed)	11
Catch Inspections (landing not observed)	24
Vehicle Inspections	0
Premises inspections	23
Enforcement actions/Offences	0
Intelligence reports submitted	13
Fishers engaged	89

Vessel Patrols	5
Boardings	3
Gear Inspections	0

## Engagement

During routine engagement with the industry the following concerns were raised:

- Impacts of forthcoming IVMS
- Impacts of the landing obligation
- No future in the fishing industry

During routine engagement with recreational anglers two anglers reported that being inspected by IFCO's is ruining their fishing.

## Joint Patrols

During the period joint patrols were carried out with the Marine Management Organisation (9 in total). Officers focused on dealing with areas of overlap in priorities and remit to add value to patrols.

Eastern IFCA have been in close liaison with the MMO during the period in terms of Brexit and Day One readiness. IFCA vessels were made available for joint patrols during March and managers attended joint planning sessions with MMO colleagues and the navy. Weekly dial ins were scheduled to discuss operational requirements and asset availability.

### Vision

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Information Item 22b

## 36<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority meeting

15<sup>th</sup> May 2019

### Reports by:

- a) Ron Jessop, Senior Marine Science Officer (Research)
- b) Judith Stoutt, Senior Marine Science Officer (Environment)

### Marine Science Quarterly Reports

#### Purpose of report

The Authority runs a year-round programme of research projects, fishery assessment and development advice. This paper informs Members of key activities undertaken by the Authority's Marine Science team during the previous quarter, January to March 2019, any issues that have arisen (through internal or external drivers), and an indication of up-coming developments that could require future actions.

#### Recommendations

Members are asked to: **Note** the report.

#### Background

The Marine Science team has further progressed workstreams for the assessment and management of fisheries in marine protected areas (the "revised approach"), and towards the sustainable exploitation of stocks. The programme of field surveys, quayside catch monitoring and measurement and laboratory analysis (set out in the Marine Science Plan) has been followed, to enable the gathering of evidence to inform management.

#### Research

##### *Mussel stock assessment*

The annual autumn Wash Fishery Order mussel surveys are usually completed by November, but a combination of poor weather conditions and vessel breakdowns resulted in 6 of the 20 beds still being un-surveyed at the end of December. Further attempts were made to survey these beds during January and February, but further periods of poor weather meant most of these had to be cancelled and only 2 of the 6

remaining surveys were completed. With no time left to attempt further surveys, an estimation of the stock on the 4 un-surveyed beds was conducted using data from the 2017 surveys and overall trends seen on the other beds that were surveyed.

The surveys found that all but one of the beds had declined in mussel biomass compared to 2017, resulting in stocks falling from 15,953 tonnes in 2017 to an estimated 12,482 tonnes. Although there had been a relaying fishery in 2018, it had only removed 109 tonnes so most of the losses appeared to be natural, mainly as a result of high mortalities among young mussels of the 2016 year-class cohort. In recent years young mussels (2-3 years old) have suffered high mortality rates, so following a good settlement in 2016, high mortalities were predicted for 2018. As this cohort still forms a high proportion of the stock on the beds, further losses are anticipated this year.

The cause of the high mortality rates experienced since 2010 is still unclear but could be linked to the presence of the intestinal copepod parasite, *Mytilicola intestinalis* in Wash mussels. Over the past year officers have dissected over 1,500 mussels to study the presence of both *Mytilicola* and the pea crab, *Pinnotheres pisum*, both of which can cause a decline in the condition of their hosts.

#### *Cockle Stock Assessment*

The annual Wash inter-tidal spring cockle surveys commenced in March. This year a slightly revised sampling regime was used that had previously been agreed by members to reduce the cost of the surveys by removing sites that had not supported cockles during the previous ten years. By the end of the month surveys had been completed on the Daseley's, Styleman's, Blackguard, Pandora, Peter Black and Ferrier sands. The cockle stocks on all of these beds was found to have declined from last year, but due to growth of the predominant 2016 year-class, there had been a shift from an abundance of small cockles last year to higher proportions of large cockles this year. The remaining surveys are planned for April.

#### *Whelk sustainability*

Over the past three years over 4,000 whelks have dissected from samples taken from Lowestoft, Sea Palling and The Wash to determine their Size of Maturity (SOM). This project has been extended for another year in a bid to expand the local data for areas around the EIFCA district. Since January, two additional sample sites have been secured for the coming year. The plan is to retain enough samples from two fishermen along the Norfolk coast (Great Yarmouth) and Suffolk coast (Southwold) to give a more in-depth insight into whether current minimum landing sizes are appropriate.

A decision was made by the IFCA Technical Advisory Group (TAG) to create a Whelk Working Group (WWG) and the first meeting for the group took place this February. The group was set up to facilitate the exchange of information relating to the common

whelk, *Buccinum undatum*, between IFCA's, other government agencies, fisheries authorities, academics, researchers and others interested in whelk fisheries. This will help improve and develop the understanding of whelk and look at the advantages of joint working to develop appropriate management. The Group is comprised of representatives from organisations engaged in the provision of evidence, advice and management of the whelk fishery on a national level. Working together will improve communication, collaboration and consistency with the main aim being to support a sustainable whelk fishery.

#### *Shellfish sampling for environmental health monitoring*

Environmental Health samples have continued to be collected monthly on behalf of the local borough councils this quarter. Despite a few ongoing problems with the research vessel, all required samples were collected during this quarter. Chlorophyll readings from five sites in The Wash and meat yields of mussels from three other locations have also been collected during these trips for the SWEEP project.

#### *Brown shrimp fishery*

For several years the local fishing industry has been seeking to gain MSC accreditation for the Greater Wash brown shrimp fishery. The Authority has been supporting this initiative by sitting as advisors on the industry-led Shrimp Fishery Advisory Working Group (SFAWG). Last year their Shrimp Fishery Management Plan, Fishery Sustainability model and Harvest Control Rules were reviewed by MSC accredited consultants, ACOURA, to determine if the fishery could gain accreditation. During the last quarter we have been reviewing the report produced by ACOURA on behalf of the SFAWG and plan to contribute to the consultation process by commenting on the Public Comment Draft Report that is planned to be published in June.

The Authority has two main drivers for introducing management for the shrimp fishery. These include ensuring the fishery does not have an adverse impact on designated MPA features (for which an Habitats Regulations Assessment (HRA) was conducted), and Marine Strategy Framework Directive requirements to ensure the fishery is conducted in a sustainable manner. It is hoped that the industry's voluntary measures and Harvest Control Rules described in their Management Plan will go a long way towards supporting these over-arching requirements, but additional management measures may be required if they fall short.

#### *Conferences and Workshops*

Two members of staff attended the annual IFCA Technical Advisory Group conference in February, where they gave a presentation detailing the large number of consultations we now review. This was well-received and has prompted some of the other IFCA's to seek advice from us for when conducting their own consultation responses.

Two other staff participated in a “Big Picture” benthic imagery and analysis workshop, that brought together a wide group of stakeholders from the wider marine monitoring community in the UK in order to share their knowledge and experience, and to develop a common picture of the issues and opportunities frequently encountered when conducting benthic imagery and analysis.

A JNCC workshop, “Developing a participatory approach to the management of fishing activity in UK Marine Protected Areas” was also attended. This workshop was intended to bring together stakeholders, advisors and regulators to examine ways forwards in the management of MPAs. A follow-on workshop will be held in May.

## **Environment**

### *Assessment and management of commercial fishing in Marine Protected Areas (“Revised Approach” work)*

This work remains the key priority for the Marine Science team. It directly supports the fulfilment of obligations relating to marine protected areas and has been subject to strict timelines set out by Defra. The Authority’s Business Plan sets out six priority marine protected area projects (see Table 1). During this quarter officers have focused on Cromer Shoal Chalk Beds Marine Conservation Zone (MCZ) and Haisborough, Hammond & Winterton Special Area of Conservation (SAC).

#### *Cromer Shoal Chalk Beds MCZ*

Work included further consideration of evidence relating to the extent of exposed chalk and potential impacts from potting within the MCZ. Having identified that interactions between chalk and potting within Cromer Shoal Chalk Beds Marine Conservation Zone required further examination, officers developed a survey plan to improve understanding of the extent of the rugged, exposed chalk feature. The survey was planned for March 2019, but unfavourable conditions meant the survey was postponed. Trials were undertaken to assess whether the survey could be carried out using the cabin RHIB *Sebastian Terelink*. This proved successful and the survey was undertaken at the end of April 2019.

Agreement was reached with Natural England that management of towed demersal fishing (bottom-trawling and dredging) would be developed (see Agenda Item 13) and then attention would be directed to investigating impacts of potting on the subtidal chalk feature in the MCZ. Management measures have been proposed and materials produced to support the informal engagement with stakeholders regarding the proposals – please see Agenda Item 13.

Eastern IFCA officers have continued to support the Agents of Change project, run by the Marine Conservation Society, which aims to improve local support for well-managed MCZs. Marine science officer Stephen Thompson represented Eastern IFCA at an Agents of Change event in March 2019 which aimed to inform local school teachers about the MCZ and opportunities to include education about the MCZ in the curriculum. The Agents of Change team has been keen to support the Authority with community engagement relating to the MCZ. Opportunities for collaboration on engagement materials are being explored.

#### *Haisborough, Hammond & Winterton SAC*

Management proposals for the protection of biogenic reef (*Sabellaria spinulosa*) in Haisborough, Hammond & Winterton Special Area of Conservation have been developed, following agreement with Natural England on areas to be managed as *Sabellaria* reef. These are set out at Agenda Item 13.

Officers have maintained involvement at the Planning examination for the Norfolk Vanguard offshore wind farm, which is proposing to install electricity cables through the Haisborough, Hammond and Winterton SAC. The cable route coincides with one of the areas identified by Natural England and Eastern IFCA as requiring management of bottom-towed fishing to protect *Sabellaria* reef. The Planning Inspectorate requested information from Eastern IFCA about the proposed closures. During the Issue Specific Hearing (a part of the examination of the application) it emerged that there is a possibility that the electricity cables could be routed to avoid the sensitive reef area. The examination closes in June 2019 and the planning decision is anticipated six months after that.

#### *“Business as usual” Habitats Regulations assessments*

In addition to the “Revised approach” work, during the quarter officers have undertaken a Habitats Regulations assessment (HRA) of the proposed Wash Fishery Order mussel fishery. Eastern IFCA surveys indicated that there were sufficient stocks to support a small, relaying fishery from limited mussel beds within the site. Natural England advised that the fishery (operated within the conditions set out in the assessment) would not have an adverse effect on site integrity.

**Table 1.** Commercial fishing interactions in marine protected areas requiring (or potentially requiring) Eastern IFCA intervention

Site name	Interaction and matrix risk level	Assessment conclusion	Next steps
The Wash & North Norfolk Coast Special Area of Conservation	Beam trawling (shrimp)/subtidal sandbanks (subtidal mixed sediment and subtidal mud)  Amber risk	Adverse effect cannot be confidently ruled out: mitigation required to reduce impact  Research required to improve evidence around light beam trawl impacts	Mitigation in progress (Marine Protected Areas Byelaw 2018 and 2019).  Additional red risk features (circalittoral rock, intertidal <i>Sabellaria spinulosa</i> reef, intertidal rock) to be considered in future iterations of Marine Protected Areas Byelaw.  Appropriate shrimp fishing effort threshold to be identified, for implementation under Shrimp Permit scheme. Continue to support implementation of Inshore Vessel Monitoring System (iVMS).  Monitoring and Control Plan: initial plan drafted. Benthic monitoring plan to be developed (reliant on iVMS being in place).
The Wash & North Norfolk Coast Special Area of Conservation	Potting/ <i>Sabellaria spinulosa</i> reef; Potting/subtidal stony reef  Amber risk	No adverse effect at current levels of activity (based on improved activity data and Defra potting impacts report)	Finalise conclusion and sign off with NE – in progress. Has been on hold to enable team to focus on and finish shrimp assessment and development of management measures.
Haisborough, Hammond & Winterton Special Area of Conservation	Towed demersal fisheries/ <i>Sabellaria spinulosa</i> reef  Red risk	High-risk interaction (red risk on matrix) so no assessment required	See Agenda Item 13 – closed areas proposed under Marine Protected Areas Byelaw 2019.  Informal engagement complete.  Formal consultation to follow making of Byelaw if agreed at Eastern IFCA meeting 36.

Site name	Interaction and matrix risk level	Assessment conclusion	Next steps
Cromer Shoal Chalk Beds Marine Conservation Zone	All commercial fishing within site on all designated features  All risk levels	Towed demersal gear to be excluded from subtidal chalk areas of site.  Potting fishery requires further consideration.	See Agenda Item 13 – closed areas proposed under Marine Protected Areas Byelaw 2019, for management of towed demersal fishing within MCZ.  Informal engagement complete.  Formal consultation to follow making of Byelaw if agreed at Eastern IFCA meeting 36.  Assessment to be updated to include consideration of new evidence relating to potting and chalk feature. Mitigation for impacts of potting to be developed if found to be required.  EIFCA officers to continue to work with Agents of Change project to promote local benefits of Marine Conservation Zone designation.
Inner Dowsing, Race Bank & North Ridge Special Area of Conservation	Potting/ <i>Sabellaria</i> <i>spinulosa</i> reef  Amber risk	Not yet assessed (straddling site latterly transferred to EIFCA)	Review updated NE feature advice; undertake assessment – delayed to enable focus on Wash shrimp assessment, Cromer Shoal assessment and Haisborough, Hammond & Winterton SAC measures
Inner Dowsing, Race Bank & North Ridge Special Area of Conservation	Towed demersal fisheries/ <i>Sabellaria</i> <i>spinulosa</i> reef  Red risk	High-risk interaction (red risk on matrix) so no assessment required	Agree updated core reef approach with NE - ongoing;  Intention is to apply closed areas in future iteration of Marine Protected Areas byelaw. Work on this site to resume after management is progressed for Haisborough, Hammond & Winterton SAC (see above).

### *Partnership work and stakeholder engagement*

Eastern IFCA officers continue to participate in a range of partnership and stakeholder groups. These enable sharing of information and identification of best practice, effective communication and information-gathering to inform assessments and support the development of appropriate management. Whilst all partnership working is important, significant input is focussed on the relationships with the fishing industry, Natural England and NGO's

### *Eastern IFCA input to consultations on marine developments*

The Eastern IFCA district is subject to multiple marine and coastal activities that are regulated through consents by authorities such as the Marine Management Organisation (MMO), the Planning Inspectorate, Environment Agency, Defra and the Authority itself. The Marine Policy Statement and East Marine Plans provide overarching context. The impact of activities on fishing and marine conservation interests is considered by Authority officers through the consultation process. IFCA's are regarded as primary advisors to the MMO on marine licensing issues.

As well as providing consultation input, officers record feedback on whether and how our comments are reflected in planning or licensing decisions. MMO notifications on licensing decisions show that EIFCA's input regularly forms part of MMO licence conditions.

In the period Jan to March 2019, the Eastern IFCA Marine Science team received 20 consultation requests. Figure 1 shows the categories of development or policy that these consultations fit within. Once again, consultations relating to offshore renewable energy featured heavily, reflecting the large number of offshore wind farms currently in the planning, construction or operational stages around the Eastern IFCA district.

### Eastern IFCA Consultations by Category 1 Jan - 31 March 2019

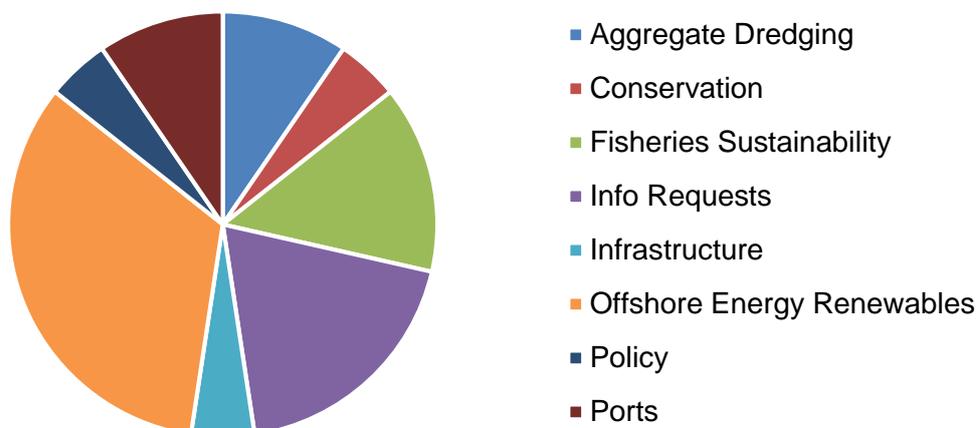


Figure 1 Consultations by category, Jan to March 2019.

#### *Derogations from Eastern IFCA byelaws*

The marine science team processes requests for derogations from Eastern IFCA byelaws. These typically relate to retention of undersized fish or shellfish, and/or operation of vessels within restricted areas for shellfish relaying or for scientific survey purposes. As the majority of EIFCA's district (over 96%) has marine protected area designations, the process involves liaison with Natural England, with the requirement to consider the likelihood of impacts occurring on protected habitats and species within these areas.

Between 1<sup>st</sup> Jan and the 31<sup>st</sup> March 2019, 4 derogations were granted,

**Table 3.** Derogations processed 1st Jan to 31<sup>st</sup> March 2019

Applicant	Activity	Derogation Status
Eastern IFCA DERO_2019_02_13_149 DERO_2019_02_28_150	Marine scientific research – To land undersize whelk for the purpose of establishing the size of sexual maturity of commercially exploited "stocklets" of the common whelk ( <i>Buccinum undatum</i> ) within the EIFCA district. Findings will provide evidence for the establishment of appropriate minimum landing sizes for this species which will be set as permit conditions under a permitting byelaw.	Granted x 2

Environment Agency DERO_2019_03_08_155	Fish monitoring surveys relating to the Boston barrier project.	Granted
CEFAS DERO_2019_02_05_141	Scientific beam trawl survey as part of an ICES co-ordinated research programme.	Granted

A further 7 exemption applications were received from the following marine research institutes – Flanders Marine Institute (1), CEFAS (1), NIOZ Royal Netherlands Institute for Sea Research (1), National Institute of Aquatic Resources (DTU-AQUA) (1) Tara Foundation (1), Royal Belgian Institute for Natural Sciences (1), Ifremer Thalassa Marine Scientific Research (1). Following review/further investigation the activities were found not to require any exemptions.

### **Publicity**

Work of the Marine Science Team continues to be shared via the Authority’s website and increasingly through Social Media. Followers of EIFCA continue to grow and officers endeavour to keep material fresh to encourage people regularly check for updates.

*Ron Jessop, Senior Marine Science Officer (Research)*

*Judith Stoutt, Senior Marine Science Officer (Environment)*