



Marine Protected Areas Sub-Committee Meeting

To be held at:

**EIFCA Offices
6 North Lynn Business Village
Bergen Way, King's Lynn
PE30 2JG**

**Wednesday
6th June 2018
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: **Marine Protected Areas Sub-Committee**

Date: 6th June 2018

Time: 10.30 hours

Venue: Eastern IFCA Office, 6 North Lynn Business Village, Bergen Way,
King's Lynn, Norfolk, PE30 2JG

Agenda

- 1 Welcome - *Clerk*
- 2 Election of Vice-Chair - *Clerk*
- 3 Apologies for absence – *Vice-Chair*
- 4 Declaration of Members' interests - *Vice-Chair*

Action Items

- 5 Minutes of the Marine Protected Areas Sub-Committee meeting on 15th October 2014 - *Vice-Chair*
- 6 Matters Arising – *Clerk*
- 7 WFO Cockle Fishery 2018 – *CEO / Senior MSO (Research) / Senior IFCO (Regulation)*
- 8 Any other urgent business

To consider any other items which the Chair is of the opinion are matters of urgency by reason of special circumstances which must be specified

Julian Gregory
Chief Executive Officer
Date: 17th May 2018

Marine Protected Areas Sub-Committee

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



A meeting of the Marine Protected Areas Sub-Committee took place at the EIFCA Offices, 6 North Lynn Business Village, Bergen Way, King's Lynn on Wednesday 15th October 2014 at 1330 hours

Members Present:

Mr Rob Spray	Chair	MMO Appointee
Mr Ceri Morgan	Vice Chair	MMO Appointee
Mr Shane Bagley		MMO Appointee
Mr Roy Brewster		MMO Appointee
Councillor Hilary Cox		Norfolk County Council
Mr Conor Donnelly		Natural England Representative
Cllr Richard Fairman		Lincolnshire County Council
Mr Paul Garnett		MMO Appointee
Mr Roger Handford		Environment Agency Representative
Mr Neil Lake		MMO Appointee
Cllr Tony Turner		Lincolnshire County Council
Mr Koen Vanstaen		MMO Appointee
Cllr Margaret Wilkinson		Norfolk County Council
Mr Stephen Worrall		

Eastern IFCA Officers Present:

Phil Haslam	Chief Executive Officer
Luke Godwin	IFCO/Project Officer
Julian Gregory	Deputy CEO
Judith Stoutt	Senior Marine Environment Officer

Also Present:

Emma Thorpe	Natural England
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Apologies for Absence:

Apologies for absence were received from Messrs Pinborough (MMO Appointee) and Stipetic (MMO Representative).

MPA14/01 Declarations of members interests

Shane Bagley, Roy Brewster and Neil Lake declared an interest as they are lay holders. Paul Garnett declared an interest as his father and brother are both lay holders.

At this point the CEO asked whether MMO Appointees had responded to the letter sent out by Defra requesting they sign up for an extension to their term as an IFCA member. Any that had not responded would not be able to vote on any matters discussed. Mr Vanstaen had not responded, although it was his intention to accept the extension.

MPA14/02 Election of Chair

Only one proposition for the position of Chair was put forward. **It was Resolved that Mr Spray would be elected to the position of Chair of the MPA Sub-Committee.**

Proposed: Cllr Turner

Seonded: Mr Morgan

All Agreed

Following the election of Chair nominations were requested for the position of Vice-Chair, it was Resolved the Mr Morgan be elected as Vice Chair of the MPA sub-committee.

Proposed: Cllr Fairman

Seonded: Cllr Cox

All Agreed

MPA14/03 Minutes of the meeting of the MPA sub-committee held 5 June 2013

Mr Garnett advised that he was not a lay and entitlement holder but his brother and father were. With this amendment the minutes were accepted as a true record of the proceedings.

MPA14/04 Matter Arising

There were no matters arising.

MPA14/05 Wash Fishery Order shellfish lay allocations

The paper was essentially to put forward recommendations for the WFO lay applications which had been applied for prior to the hold being put on issuing lays whilst a Food Availability Study was carried out.

Members were advised of the steps which had been undertaken to ensure compliance with the Wash Fishery Order, including rewording the lay lease which was in draft form and being considered by the solicitors. It was anticipated this would be ready to be issued in April 2015.

In order to ensure compliance biotope surveys were completed, consultation had been carried out involving both current lay holders and local fishermen's organisations and Habitats Regulation Assessments were being completed.

Amongst the items required for consideration by members were the principles being applied to the updated lease agreement. As the lease was still in draft from the wording was not exact but members were asked to consider the changes in principle. These changes included:

- Movement of seed – when moving seed either into or out of the Wash there needed to be a formal arrangement where lay holders inform the Authority each time such a movement is made
- Limitation of stock density – as it was unknown what effect issuing new lays would have on food stock it was felt as a mitigation measure to protect the integrity of the EMS there should be a mechanism in place to limit the stock density if it became apparent there was an issue.

This particular matter gave cause for concern, it was questioned whether it could be determined that the lays were the issue or if it was other activity such as dredging outside the lays which could be reducing the levels of food and brood. Members were advised that the IFCA can only regulate the fishing industry not outside activity, however it is necessary to keep a balance and there is a need to have a contingency in place in case issuing more lays should change the balance. Mr Donnelly advised that any measure in place would be specific to food availability on phytoplankton, the challenge will be finding the trigger point at which the measure will become active.

There was some belief that the razor clam stock could be causing any reduction in food supply as they are an invasive species which feed constantly. However this did not alter the belief that there needed to be a contingency measure in place to prevent over stocking if there was a food shortage, unless the authority would prefer to employ the principle of 'Last In First Out' and simply remove lays from those who were last to be issued with them.

It was agreed it would be fairest to have a stock limit however the fine detail of what that level would be and how much notice would be given required further investigation as it is difficult to assess the carrying capacity of the Wash, members were therefore asked not for agreement of the fine detail but in principle to there being a contingency plan in place.

- Marking of Lays – the revised lease would state that the lay should be marked out by the layholder with an IFCO present. Marking of a lay would only be permitted if there was no brood present on the day of marking out.
- Death of a lay holder – the current lease contained no direction of what should be done with the lay and its contents in the event of death. It was proposed the revised lease would protect the lay in the event it was part of a corporate entity but in the event that it was owned by an individual a break clause would terminate the lease and the Authority would then determine what should be done with any stock held of the lay

This brought about concern amongst members who felt the lay should be able to be passed down from father to son as losing the stock could affect the livelihood of the business. Some lays had been in the family's possession for many generations and they felt this should continue. The CEO advised Officers had been directed to put in the break clause as there is no process to cover death of a lay holder in the current lease. He added that having such a clause gave the Authority the lever to remove a lay from the fishery if it was felt there was an overload of lays. He added that in order to pass a lay to family members there would need to be an admin process in place.

There remained concern that at the time of a family loss this was causing further burden in terms of potential loss of revenue. However it was noted that those lays registered as corporate concerns would not be affected.

Lay Applications

There were 9 lay applications which needed immediate consideration, however there were certain aspects which needed to be taken into account before a lay could be granted.

This included ensuring there had been no previous settlement of brood/spat on the area being considered for a lay, the total area being leased to a

person did not exceed 10 ha – the definition of a person in the WFO is: individual and spouse/people in business/parent & child. It had become apparent that in the past whilst lays had been issued to individuals which did not exceed 10ha as time passed and family members had established joint businesses this had meant a conglomeration of lays which did exceed 10 ha. Under the WFO there needed to be consent from the Minister for any lay holding in excess of 10ha by any person. The definition of person being either an individual or a company. Therefore a review would need to be made of all current lays and for those which now exceeded 10ha consent would need to be sort from the minister.

Taking these factors into account it was recommended that:

- The lay on Scotsmans Sled be provisionally approved subject to ensuring there is no brood/spat present when the lay is marked out.
- The two lays on Wrangle be deferred until consent for lays in excess of 10ha is sort from the Minister
- The lay on Thief Sand where spat has been reported is deferred until such time as is has been ascertained that spat has been removed by natural causes.
- Two other lays on Thief Sand be deferred until consent for lays in excess of 10ha is sort from the Minister.
- Three lays on Roger Sand be approved in principle subject to the ground being free from wild shellfish at the time of marking out.

There was further debate on the historic shellfish beds in the Wash and whether or not the Thief in particular should be made available for lay ground as in the past this area has been documented as part of the public cockle fishery. Whilst the Officers noted the historical cockle fishery current records did not show recent cockle settlements in this area and therefore considered it was a small risk. It was questioned whether there should be a timescale set for the length of time a bed which has previously formed part of the public fishery should be barren before it can be used for lay ground.

Officers also reminded the members that the piece in the WFO which refers to granting lays states “may” grant and applicants should not expect the request to go through without question.

At this point Cllr Turner left the meeting

The proposed wording of the Lay Lease was further scrutinised with Mr Lake expressing concern at the need to request permission to stock lays with shellfish from outside the Wash. He was particularly concerned with the timescale as often the availability of seed is limited and a quick decision would need to be made. The CEO advised that his response would be as agile as was required. Mr Donnelly advised that the risk of non-native species or disease being introduced to the area needed to be given due consideration.

**Members Resolved to:
Agree in principle to the updated WFO shellfish lay lease agreement.**

Proposed: Dr Bolt

Seconded: Cllr Fairman

All Agreed

Agree to approve or defer the applications for WFO shellfish lays as set out in the papers provided and stated above.

Proposed: Mr Donnelly

Seconded: Dr Bolt

All Agreed

Agree that the new lease would replace all existing leases in April 2015.

Proposed: Cllr Cox

Seconded: Cllr Fairman

All Agreed

Direct the CEO to develop a detailed mitigation measure (including trigger levels) and produce a robust, transparent process to assess when stocking levels may need to be limited.

Proposed: Dr Bolt

Seconded: Cllr Cox

All Agreed

Direct the CEO to develop a detailed process to accommodate the death of a lay holder.

Proposed: Dr Bolt

Seconded: Cllr Cox

All Agreed

MPA14/06 Management of fishery activity in European Marine Sites

The Senior Marine Enforcement Officer provided members with an update to keep them informed on progress of EMS and the management of fisheries within them.

Members were reminded that there were 15 EMS within the District, which meant a considerable number of potentially damaging interactions. Those with the highest risk had been taken care of through the introduction of a byelaw which would protect the sabellaria spinulosa, sea grass and boulder & cobble communities. The remaining features needed further consideration, the initial priority would be to look at fishing activity and the sensitivity of the feature involved. In addition to this Habitats Regulation Assessments were being undertaken along with an evidence review.

The first HRA was compiled with regard to bait digging in the Stour and Orwell, this would form a test assessment. NE had reviewed the HRA and provided useful feedback on how to adjust the format.

A large number of interactions had been found to be either not possible within our district or identified as not taking place, which left 700 interactions which would require some form of assessment/consideration to determine whether or not they could have a significant effect on the feature of the site.

The CEO advised that this project was one of the key work streams which Defra was expecting IFCA's to deliver by 2016 and EIFCA will be judged on how this was managed.

Members Agreed to note the report.

MPA14/07 Greater Wash Special Protection Area

The NE speaker had been unable to attend the meeting, however, Mr Donnelly advised members that NE were looking to designate a new SPA for birds as additional species of birds were now being protected. With this in mind work was being undertaken to review data and new surveys would be undertaken.

The next step would be discussion with stakeholders, then formal consultation prior to designation by the end of 2015.

There being no further business the meeting closed at 1530 hours.

Vision

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Action Item 7

Marine Protected Areas Sub-Committee

6th June 2018

Report by: R W Jessop - Senior MSO (Research), J Gregory - CEO

The Wash Cockle Fishery 2018

Purpose of report

The purpose of this report is to inform members of the outcome of the 2018 Wash cockle survey and to seek approval for the recommended management measures and to open the fishery. It should be noted that the proposed management measures are currently the subject of consultation with the industry and amendments may be proposed at the MPA Sub-Committee meeting.

Recommendations

Members are recommended to:

Note the content of the report including the 2018 Wash cockle survey report at Appendix 1.

Note the responses to Entitlement holder consultation reported at the meeting.

Agree to a Total Allowable Catch (TAC) of 4,462 tonnes.

Agree to open a hand work fishery on a date to be determined by the CEO.

Agree to the proposed licence conditions set out in Appendix 2.

Agree that the CEO will amend the licence conditions to incorporate closed areas for the protection of seals once confirmed with Natural England.

Agree to endorse the enforcement policy and associated supporting rationale at Appendix 3 relating to Regulation 1 (fishing equipment) to allow the use of sea-anchors for the purpose of 'prop-washing'.

Approve the delegation of powers to the Chief Executive Officer, in consultation with the Chair and Vice-Chair, to introduce, vary or revoke management measures/licence conditions for the cockle fishery or to open and close the fishery or parts of the fishery as required for the purposes of fisheries management, including meeting the conservation objectives of the Wash and North Norfolk Coast European Marine Site (EMS) and supporting a sustainable and viable fishery.

Approve the delegation of powers 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.

Context

In recent years, there has been some degree of contention in the Wash fishing industry associated with the opening and management of the cockle fishery. This has been because of significant division of opinion within the fishing community, primarily over the fishing method to be employed (hand-worked or suction dredge) and the antagonistic behaviours that this subject routinely provoked.

Developments over the last two years have combined to alleviate this. At the 23rd Authority meeting on 27th April 2016 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 27th Authority meeting on 15th 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 the Management Plan. The plan incorporates the decision for a default hand-worked fishery. At the full Authority meeting on 25th April 2018 revised regulations under the WFO 1992 were approved.

The revised Management Plan has not yet been to consultation with the fishing industry due to higher priority work streams and the revised regulations have not yet been sent for Ministerial approval and as such opening and managing the fishery is being undertaken in accordance with existing policies, plans and regulations.

Background

The Authority is the Grantee of the Wash Fishery Order 1992, which confers upon the Authority the right of a regulating fishery for the prescribed species with respect to the regulated fishery. The prescribed species include cockles, mussels and clams.

In exercising its right of a regulating cockle fishery, the Authority must remain fully aware of its obligatory duties and responsibilities as set out in the Marine and Coastal Access Act 2009. The statutory duties of the Authority are as follows:

- 1) Manage the exploitation of sea fisheries resources in its district; in doing so it must:
 - a) Seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way
 - b) Seek to balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from, or promote its recovery from, the effects of such exploitation
 - c) Take any other steps which in the Authority's opinion are necessary or

expedient for the purpose of making a contribution to the achievement of sustainable development

- d) Seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district
- 2) Seek to ensure that the Wash Fishery Order 1992 is managed by the Authority in a manner that supports the local fishing industry whilst not having a detrimental impact upon the conservation features within a protected site.

As the fishery is within a Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Special Area of Conservation (SAC), the Authority must exercise care to ensure that damage and disturbance to the site are minimised so there is no adverse effect on the integrity of the site.

To manage its responsibilities set out under the Habitats Regulations 2010 as the 'Relevant Authority' the Authority has set out management policies as well as an agreed process to open a fishery ('The Cockle Charter'), including a Habitats Regulations Assessment (including an "appropriate assessment"). It is against these criteria that the options presented below have been weighed and from which the recommendations of officers are derived.

Industry Perspective

Entitlement holders are being consulted on the proposed management measures for the fishery and this will be complemented by a meeting with Entitlement holders and skippers on Thursday 31st May 2018. The results of this will be reported at the sub-committee meeting.

Cockle Survey

For Authority members to make decisions based on best available evidence, annual cockle surveys are conducted each spring. These surveys highlight the size of the cockle stock and their distribution over the beds. When filtered through the Authority's Shellfish Management Policies, the results from the surveys determine the size of the TAC and help to identify which beds can be opened to which types of fishery. A full report of the 2018 survey is attached at Appendix 1.

The proposed TAC is 4,462 tonnes.

Management Measures for the 2018 Cockle Fishery

The fishery is managed each year through a combination of Eastern IFCA Byelaws, Wash fishery Order 1992 (WFO) Regulations, and licence conditions (under Article 8(5) of the WFO). The licence conditions are decided on a yearly basis by the Authority to reflect the dynamic nature and changing needs of the fishery. Regulations are 'fixed' and are consistent year to year.

The proposed licence conditions for this year's fishery primarily reflect those that have been in place for the last two years. The most notable change is that the fishery will revert to the standard 2 tonne daily quota as set out in Regulation 2 having been 3 tonnes for the last two years to cater for higher than normal TAC.

An amendment has also been proposed to Licence Condition 8: Dual fishing prohibition. The amendment prohibits fishers from fishing within any other WFO Regulated fishery on the same calendar day as the cockle fishery. This is in addition to the prohibition on fishing for cockles outside of the WFO fishery. The intention of Licence condition 8 was to prevent fishers from claiming that any landed cockles in excess of those permitted by Regulation 2 (daily catch restrictions) were taken from outside the regulated fishery. The amendment will similarly prevent claims that cockles in excess of the catch restrictions came from by-catch of other fisheries (i.e. the WFO Mussel Relaying Fishery which is currently open).

In addition to the proposed licence conditions, it is proposed that Regulation 1 (fishing equipment) is varied through the use of an enforcement policy.

The proposed licence conditions for the 2018 WFO cockle fishery are set out in Appendix 2 and are discussed in detail below along with the proposed variation to Regulations 1 of the WFO. It is also recommended that the Authority agrees to delegate to the CEO, in consultation with the Chair and Vice-Chair, the power to introduce, vary or revoke management measures/licence conditions or to close the fishery or parts of the fishery for the purposes of fisheries management, including meeting the conservation objectives of the Wash and North Norfolk Coast EMS and supporting a sustainable and viable fishery. This will enable dynamic management of the fishery should it be required.

It should be noted that the management of the 2018 cockle fishery as set out in this report is proposed pending formal advice from Natural England in their capacity as statutory advisors. Any required amendments to the management measures resultant of such advice can be reflected using powers delegated from the Authority to the CEO as set out in the recommendation above.

Licence condition 1: Fishing Method

The Authority has previously agreed that the fishery will be hand-worked unless exceptional circumstances apply. No such circumstances are judged to exist for 2018 and as such the fishery will be hand-worked only.

Licence Condition 2: Opening Date

It is proposed that the CEO determines the opening date, which is likely to be on 17th or 25th June 2018. This will be dependent on the necessary steps being taken, including agreement from Natural England and the provision of seven days' notice to fishermen in accordance with the Cockle Charter.

Licence condition 3: Open/closed areas

In accordance with the survey results (Appendix 1) it is proposed to open all beds with no areas closed to protect high-density patches of Yr-0 juvenile cockles. It is likely that a limited number of closures may be required to protect seal haul-out sites between July and September, but these have yet to be agreed with Natural England. Proposed closures are set out at Appendix 3. It is proposed that the CEO adds these to the licence conditions when they have been agreed.

Licence condition 4: Days of Operation

In accordance with what has become standard practice for a number of years' the days of operation are based on the following criteria:

- Minimum 6.0m tide height
- Open four days per week
- Open weekdays (Monday to Friday)
- Open Monday to Thursday where possible

Days of operation are, as much as possible, determined in keeping with all the principles but because of often conflicting criteria (for example where smaller tides fall on 'weekdays'), some open periods will not meet all four of the above criteria. It is intended that a proportionate approach is taken to ensure the fishery is not overly restricted, particularly in relation to the number of open days.

The rationale that underpins this is that such a regime will:

- Allow the sands to recover
- Extend the duration of the fishery
- Allow Shrimp growth to occur by reducing fishing effort on juvenile shrimps and subsequently increasing Shrimp landings later in the season
- Allow for periods of enforced rest for both fishing operators and EIFCA staff to mitigate against health and safety risk introduced through over-tiredness.
- Provide a schedule for processors and other industries
- Suit processing plants as four days fishing equates to five days working for staff

Licence Condition 5: Catch Returns Data

In order to manage the TAC and monitor where cockles have been lost or harvested it is important that fishermen provide the details of their fishing activities to Eastern IFCA. Catch return books and pre-paid envelopes will be distributed to fishermen on payment of their licence fee. Catch returns are required weekly and entitlement holders who fail to return catch forms by the allotted day could have enforcement action taken against them.

It is particularly important that the catch data from both the licenced fishers and the processors is received by officers in good time so as to avoid any undue early closures. Where catch returns and processor data have not been submitted, Officers assume the 'maximum' amount of cockles have been taken (i.e. two tonnes for each licenced vessel) which can lead to over-estimating the amount of cockle taken.

Licence condition 6: Transshipping Prohibition

Transshipping is already prohibited in the dredge fishery (and in many other fisheries). Bringing the hand-worked fishery in line with other fisheries reduces the risk of fishers

attempting to unlawfully take more cockles than is permitted under Regulation 2 (daily catch restriction) or any associated policy.

Several fishers were reported to have fished for or taken more than that which is permitted through Regulation 2 and transhipped the excess to other vessels during previous fisheries and such featured as part of the defence in a court case relating to fishing in closed areas.

It can be argued that, in effect, allowing transhipping undermines Regulation 2 of the WFO 1992, which prohibits 'fishing for, taking or removing from the fishery' catch in excess of the daily quota. The important point here is that case law indicates that removing from the fishery is complete at the point that cockles are placed in bags (NB there is an erroneous belief amongst many fishers that removing from the fishery means removing from the regulated fishery i.e. crossing the boundary of the WFO 1992 as they enter the river).

IFCOs would endeavour to enforce such a licence condition with a degree of proportionality e.g. if a vessel were to suffer a break down during a trip, IFCOs would exercise appropriate discretion when considering enforcement action.

It is unlikely that any impacts on fishing activity will occur because of this prohibition.

Licence condition 7: Requirement to Land

The intention of this condition is to require fishers to land cockles fished and to prohibit cockles being left in bags on the sands or in the rivers.

There have previously been incidents where a minority of fishers have collected more than the allowed two tonnes of cockles in a calendar day and hiding these additional cockles in the river. Fishers were then reported to be collecting these hidden cockles after IFCOs had left the quay, landing cockles in addition to the daily catch restriction out of sight.

This licence condition is not considered to have any impacts on fishing activity. The requirement to land reflects the normal practice of fishers.

Licence condition 8: Dual Fishing Prohibition

The intention of this licence condition is to prevent fishers claiming that any landed cockles in excess of those permitted by Regulation 2 (daily catch restrictions) were taken from outside the regulated fishery or as a result of bycatch from other WFO fisheries. This would apply to those that have cockle settlements on their lays or who claim to have fished in the area between the regulated fishery and the Le Strange estate private fishery, noting the boundary agreement set out in the judgment of the Supreme Court in relation to *Lynn Shellfish Ltd (and others) vs Loose and another (2016)* has yet to be resolved. The amended Licence condition for the 2018 cockle fishery also precludes any fishers operating in the WFO Mussel Relaying fishery from fishing within the cockle fishery on the same calendar day.

No impacts on fishing activity are anticipated because of this licence condition. Given the low uptake of the mussel fishery and the long hours involved because of the tidal nature of the Wash, fishers are unlikely to have a desire to fish in two cockle fisheries per day or in the mussel relaying fishery and the cockle fishery in any one day.

Licence condition 9: Standard Bags

At the 14th Eastern IFCA meeting (4 June 2014) the Authority approved the introduction of a standard bag which must be used in the WFO cockle fishery. This requirement has remained in place for subsequent fisheries and it is proposed to retain such for 2018.

Licence Condition 10: use of anchors for prop-washing

Regulation 1 of the Wash Fishery Order precludes the practice of prop-washing. Prop-washing is a cockle fishing practice used to dislodge cockles from within the sediment and aid fishing.

During the 2016/17 cockle fishery, Officers undertook a review of the relevant research and liaised with Natural England regarding this fishing practice. It was concluded that prop-washing was unlikely to cause damage to the seabed if conducted using a sea-anchor (i.e. a bag suspended in the water used to slow the vessel down and aid the turning of the vessel in tighter circles). In contrast, there is a higher risk of damage when a traditional anchor is used (i.e. one which is affixed to the seabed). As such, Officers implemented a policy which allowed prop-washing and a licence condition which prohibited the use of anchors which would affix the vessel to the sea-bed.

The use of an enforcement policy (Appendix 4) and licence condition 10 will allow for fishers to undertake prop-washing whilst mitigating the risk of damage to the environment.

Appendices

1. Summary of the 2018 Annual Spring Cockle Survey.
2. Proposed licence conditions for the 2018 cockle fishery
3. Proposed closures for the protection of seals
4. Proposed policy relating to the enforcement of Regulation 1 (fishing equipment)

APPENDIX 1

SUMMARY OF THE 2018 ANNUAL SPRING COCKLE SURVEYS

The Authority conducted the 2018 spring cockle surveys between March 21st and May 1st 2018. The timing of these surveys, which took advantage of the spring tides in late March and through April, is consistent with the majority of Eastern-IFCA's and ESFJC's previous spring cockle surveys. During the course of these surveys, 1,204 stations from a total of 21 sands were sampled. This is slightly fewer than the 1,250-1,300 stations that are usually sampled, due mainly to losing some of the larger tides required to access some of the higher regions. Missing these higher stations will have minimal impact on the size of the Total Allowable Catch, however, as these sites generally support only low densities of cockles, few of which attain the size from which the TAC is calculated.

Analysis of the survey data has found the stocks to be at the following levels:

Total Adult Stock (≥14mm width)	13,386 tonnes
Total Juvenile Stock (<14mm width)	16,490 tonnes
Total Stock (all sizes)	29,876 tonnes

These figures show an overall reduction in total stock of 5,782 tonnes from the 35,658 tonnes present last year. This was a result of the adult biomass declining by 7,662 tonnes, while the juvenile stock increased by 1,880 tonnes. These changes are due mainly to the decline in dominance from the 2014 year-class cohort, that had supported two large fisheries, and contributed towards a large biomass of adult cockles in 2017, to a stock now dominated by cockles from the 2016 year-class cohort. The remaining 2014 year-class cohort now accounts for just 22% of the total stock biomass compared to 67% last year, while the proportion of the 2016 cohort has increased during the same period from 10% to 63%.

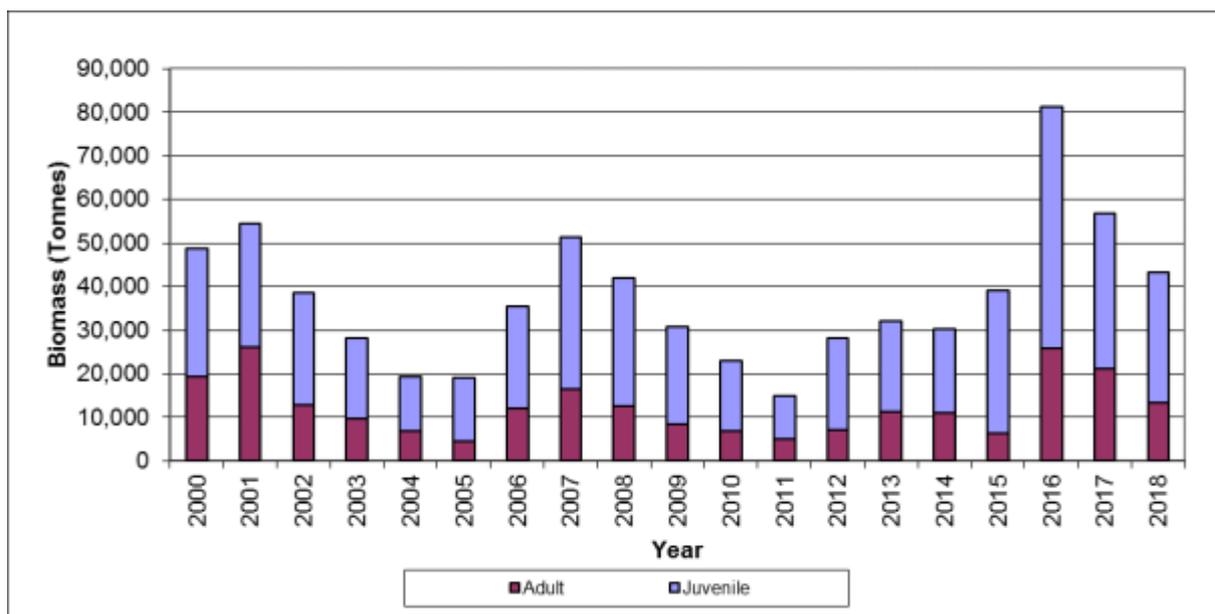


Figure 1 – Adult and juvenile cockle stock levels between 2000 and 2018

Although the overall stock biomass has declined by 5,782 tonnes during the past year, figure 1 shows the current stock biomass is still above average but is beginning to normalise following two exceptional years.

Based on the level of adult stocks present, the Total Allowable Catch for the 2018 fishery will be **4,462 tonnes**. This is also above average for the size of fisheries since 2000.

The results of the surveys have been summarised in table 1, which shows details of the cockle stocks found on each sand, and in figures 2 and 3 which display the distribution of adult (cockles $\geq 14\text{mm}$ width) and juvenile (cockles $< 14\text{mm}$ width) stocks. Although these charts show the juvenile densities to be higher than adult densities, many of the juvenile stocks are 2016 year-class cockles that at the time of the survey were 12-13mm in width. As most of these will grow to adult size during the course of the fishery, it is likely they will be targeted in preference to the remaining 2014 year-class stocks, which though larger, are present in lower densities. These charts and figures suggest that while the best fishing opportunities will be on Wrangle, other areas such as Black Buoy, Roger/Toft, Mare Tail, Gat, Inner Westmark Knock and the Breast all support pockets of fishable cockles. In addition to these areas, where the cockles are predominantly from the 2016 year-class cohort, the Thief sand still supports approximately 1,000 tonnes of large 2014 year-class cockles. A premium price would probably be required, however, for fishers to target these lower density stocks.

There was only a poor settlement during 2017, amounting to a total stock of 439 tonnes. This is reflected in figure 4, which shows the distribution of these Year-0 cockles. Barring a few small pockets elsewhere, most of these have settled in the Breast sand. Based on recent trends, which have seen good spatfalls occurring on a two-year cycle, a better settlement was not expected during 2017. In order to protect juvenile stocks, the Authority places closures around areas in which densities of Year-0 cockles exceed $1,000/\text{m}^2$. As there are no areas this year where the Year-0 cockles are present in these densities, no closures are required. With an abundance of Year-1 cockles from the 2016 cohort present on the beds at the moment, this will not affect the sustainability of the fishery.

Although there is no requirement to impose any closures to protect Year-0 cockles this year, officers initially considered implementing some closures to protect some of the areas containing high densities of Year-1 cockles. As these closures would have been purely to maintain some high-density stocks for next year's fishery, these would only have been implemented with the industry's support following consultation. However, upon further consideration, officers feel there is greater risk associated with closing areas for this reason than the potential benefits that would be gained. Past trends suggest there could be another successful settlement this year. If significant settlement occurs in beds that are kept closed, there is a high risk that the larger cockles would ridge out and be lost. Further, should such potential settlements exceed densities of $1,000$ cockles/ m^2 , the policies would require them to be closed next year and the opportunity to fish those stocks lost. Therefore, officers do not recommend any closures being implemented this year.

Table 1 - Summary of cockle stocks on the Wash intertidal beds - April 2018

SAND	Adult ($\geq 14\text{mm}$)				Juvenile ($< 14\text{mm}$)				Total Biomass (t)	% Adult
	Area (ha)	Mean Density (no/m ²)	Mean Weight (t/ha)	Biomass (t)	Area (ha)	Mean Density (no/m ²)	Mean Weight (t/ha)	Biomass (t)		
Butterwick	160	22.67	1.22	195	200	131.88	2.41	483	678	29
Wrangle	764	35.38	1.74	1,329	845	278.38	4.77	4,028	5,357	25
Friskney	571	38.00	2.31	1,316	99	57.50	1.35	134	1,450	91
Butterwick Ext	121	64.29	2.57	312	111	101.25	1.52	169	481	65
Wrangle Ext	121	10.00	0.37	78	119	12.50	0.09	11	89	88
Friskney Ext	307	14.74	0.94	289	27	15.00	0.38	10	299	97
Roger/Toft	442	61.11	3.50	1,549	418	260.29	4.72	1,974	3,523	44
Gat	178	67.37	3.07	546	112	643.80	6.26	699	1,245	44
Herring Hill	167	37.78	1.35	226	224	139.17	1.78	400	626	36
Black Buoy	140	87.33	3.92	548	149	252.50	4.39	653	1,201	46
Mare Tail	351	104.57	4.13	1,447	397	355.61	5.28	2,092	3,539	41
Holbeach	624	35.65	1.52	951	701	91.81	1.61	1,124	2,075	46
IWMK	197	74.00	2.92	576	250	153.89	2.72	681	1,257	46
Breast	691	67.59	2.43	1,677	871	170.40	2.62	2,279	3,956	42
Thief	205	75.30	5.47	1,008	140	30.80	0.72	102	1,110	91
Whiting Shoal	43	140.00	5.93	258	31	33.33	0.83	26	284	91
Daseley's	393	25.63	1.26	494	538	75.45	1.47	789	1,283	39
Styleman's	62	88.30	4.22	262	29	160.00	3.93	114	376	70
Pandora	53	14.00	0.96	50	43	70.00	1.39	60	110	45
Blackguard	0	0.00	0.00	0	24	35.00	0.76	18	18	0
Peter Black	207	36.11	1.33	275	314	105.00	2.05	644	919	30
TOTAL	5,797			13,386	5642			16,490	29,876	45

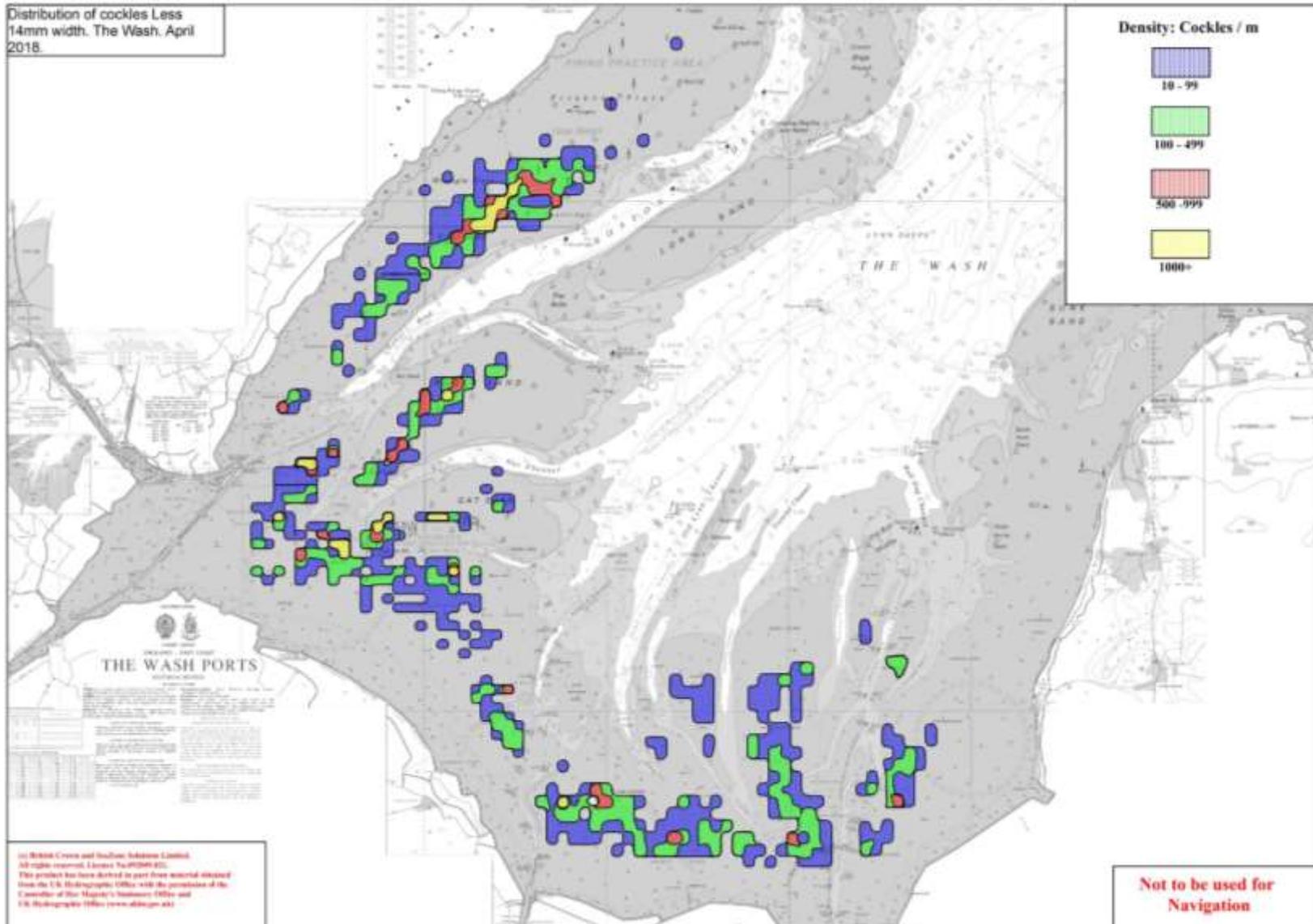


Figure 3 – Chart showing the distribution of juvenile cockles (<14mm width) at the time of the April 2018 surveys

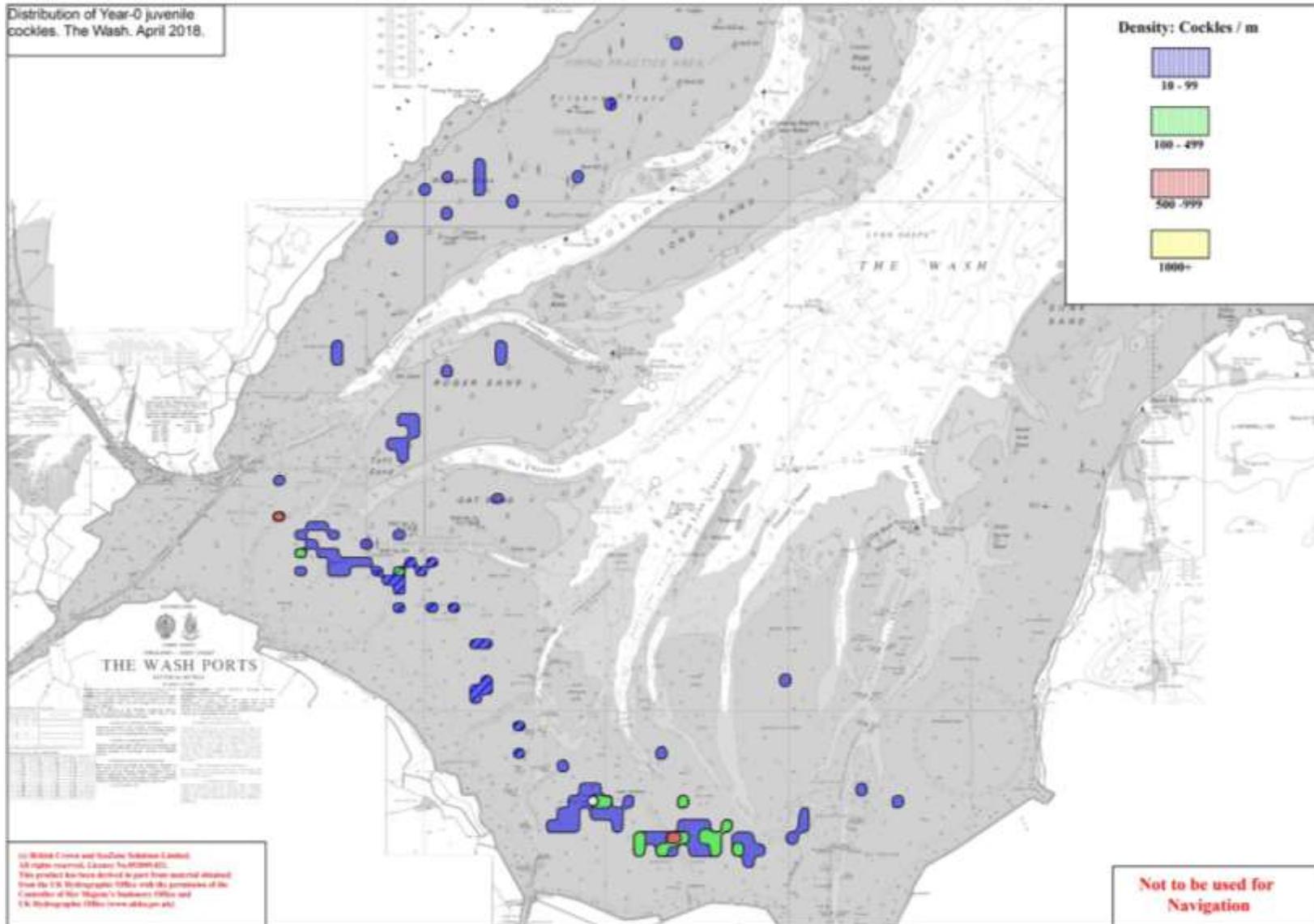


Figure 4 – Chart showing the distribution of 2017 year-class juvenile cockles at the time of the April 2018 surveys

DETERMINING MANAGEMENT MEASURES FOR THE 2018 COCKLE FISHERY

When determining management measures for the cockle fisheries in The Wash, the Authority must comply with local byelaws and the Wash Fishery Order regulations. Further, as the Wash is designated a Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI), management measures applied to the shellfisheries must not have a detrimental impact to the Conservation Objectives for the site. To this end, when determining management measures for these fisheries, the Authority follows a number of management policies that were agreed in 2007 with Natural England and industry representatives (and are currently under review and being updated into a Wash Cockle Fishery Management Plan). These policies have helped guide the following proposals for the 2018 cockle fishery.

The officers will also consult with all Wash Fishery Order 1992 Entitlement Holders regarding the proposed management measures for this fishery. All Entitlement Holders will be provided with a consultation form with which to provide their opinions on various management measures.

Total Allowable Catch (TAC)

The TAC for the cockle fishery has traditionally been 33.3% of the adult ($\geq 14\text{mm}$ width) cockle biomass. The adult biomass identified during the surveys was 13,386 tonnes. **Based on this figure, the TAC for the 2018 fishery should be 4,462 tonnes.**

Method of fishing

The question of whether the cockle fishery should be targeted using dredges has always been an emotive subject in The Wash, with very little middle ground between those who would like to use them and those who prefer to hand-work. At a Full Authority meeting on 27th April 2016, the members discussed this issue and 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. The size and age of the predominant year-class of cockles in The Wash this year does not suggest losses due to “atypical” mortality to be unusually high. As such, it is not felt there are exceptional circumstances necessitating the requirement to use dredges for the 2018 fishery, so there is no recommendation for an exceptional dredge fishery.

The 2018 cockle fishery will be hand-worked only.

Beds proposed to be opened

To protect juvenile cockles, the Authority has a policy whereby high-density patches of Yr-0 juvenile cockles are kept closed from the fishery. As there are no such patches this year, no areas are proposed to be closed. However, should fishermen request some areas are closed in order to retain some high-density stocks for next year, such requests will be considered.

It is recommended that all beds are opened.

Daily Vessel Quota

Regulation 2 of the WFO sets the daily catch restriction at 2 tonnes, per vessel, per calendar day during a hand-worked fishery. During the past two fisheries, the high TAC's have necessitated an increase in the daily catch restriction to 3 tonnes. Although this worked well in 2016, when there were widespread stocks of high density large cockles, it worked less well in 2017, when the densities of large cockles were lower. Instead of targeting these large cockles, a high proportion of the fishers chose instead to target high densities of very small cockles in order to achieve their 3 tonne quota.

Because this year's TAC of 4,462 tonnes is achievable with a 2 tonne daily quota, officers recommend the daily quota should be 2 tonnes.

It is recommended that the daily quota should be 2 tonnes.

Appendix 2

WFO Cockle Fishery 2018 – Licence conditions

Fishers operating under a licence issued under Article 8(1) of the Wash Fishery Order 1992 are required to undertake their fishing activities in accordance with the conditions set by the Authority as per Article 8(5) of the same Order.

The following Licence Conditions are applicable to fishers operating in the Wash Fishery Order 1992 cockle fishery 2018/19 from the date specified in Licence Condition 2 (Open date of fishery).

Licence 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 Licence Condition 10: use of anchors for prop-washing (below).

Licence Condition 2: Opening Date

The fishery will open on a date to be determined by the CEO.

Licence Condition 3: Open/Closed areas

It is prohibited to fish for, take or remove from the fishery cockles from any area marked out as closed in the charts publicised by Eastern IFCA.

Licence Condition 4: Days of Operation

It is prohibited to fish for, take or remove from the fishery cockles other than during publicised opening times.

Licence Condition 5: Catch Returns Data

An accurately completed weekly catch return form, as supplied by Eastern IFCA, must be returned for each week of fishing, to Eastern IFCA's offices by no later than the Wednesday of the week following any such fishing activity.

Licence condition 6: Transhipping Prohibition

It is prohibited for any person fishing for, taking or removing cockles from the regulated fishery to tranship or otherwise relocate any cockles or containers of any description containing cockles, from one vessel to another.

Licence condition 7: Requirement to Land

All cockles fished for, taken or removed from the regulated fishery must be taken straight to port and landed and must not be left on the sand or deposited in the water in bags or other containers for later collection. Only one landing per calendar day is permitted.

Licence condition 8: Dual Fishing Prohibition

It is prohibited for any person/vessel to fish for, take or remove from the regulated fishery any cockles:

- a. on the same calendar day as fishing for, taking or removing cockles from outside the regulated fishery or from a lay granted under the Wash Fishery Order 1992; or
- b. on the same calendar day as fishing for, taking or removing any other of the prescribed species from any Wash Fishery Order 1992 fishery.

Licence condition 9: Standard Bags

No person shall land cockles or mussels fished for, taken or removed from the regulated fishery in any container other than a bag which must;

(1) be of the following dimensions:

- a. 120 centimetre meters or 60 centimetre meters in height
- b. 97 centimetre meters in depth
- c. 97 centimetre meters in width

(2) have the words 'Wash Fishery Order' written on at least two sides with lettering which is at least 4 inches tall.

Licence condition 10: use of anchors for prop-washing

It is prohibited for any person to use any anchor which affixes a vessel to the bottom of the seabed during the practice of 'prop-washing' in order to fish for, take or remove from the regulated fishery any cockles. A sea anchor may be used for 'prop-washing' if it consists solely of an empty bag suspended in the water column in order to provide greater control of the vessel whilst turning.

For the purposes of this licence condition, 'prop-washing' refers to the practice of turning a vessel in tight circles to aid the fishing of cockles. This must be conducted in such a way as to avoid causing excessive damage to the seabed.

Failure to comply with a licence condition is an offence under section 3(3) of the Sea Fisheries (Shellfish) Act 1967. The master, owner and charterer (if any) of a vessel

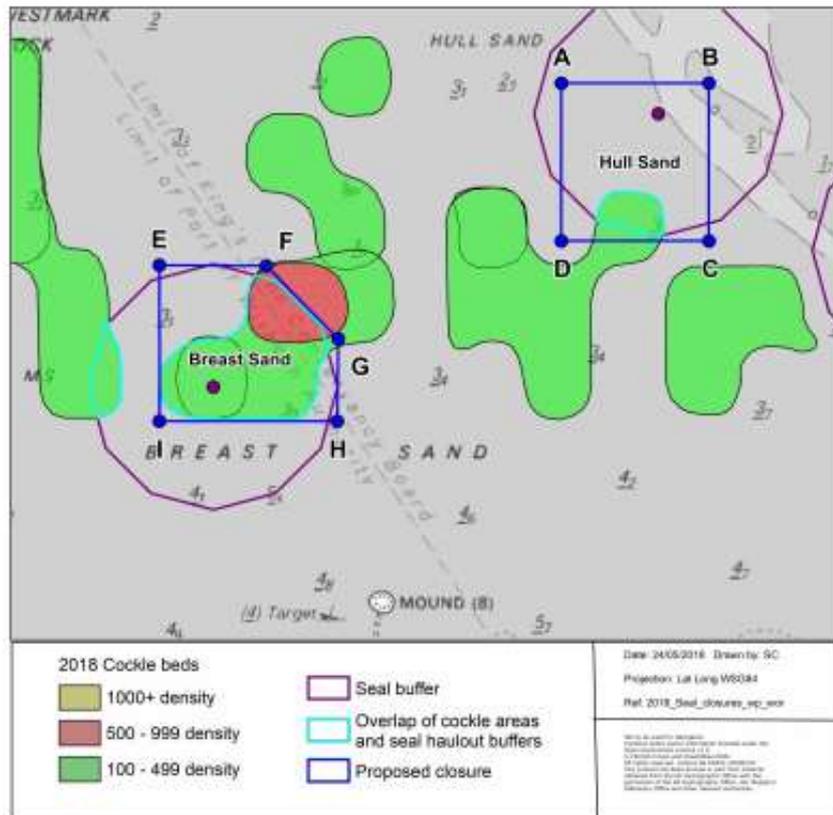
used in the commission of an offence shall each be guilty of any such offence and liable to an unlimited fine on summary conviction.

Licence conditions are subject to change and fishers will be notified of any amendments to the licence conditions.

Appendix 3

2018/19 Cockle fishery

Proposed closure (June—1st September 2018) for the protection of seals



ID	Decimal Degrees		Degrees Minutes.m		Area (Hectares)
	Lat	Long	Lat	Long	
A	52.84134	0.30003	52° 50.48 'N	00° 18.00 'E	55
B	52.841338	0.31065	52° 50.48 'N	00° 18.64 'E	
C	52.834402	0.31065	52° 50.06 'N	00° 18.64 'E	
D	52.834402	0.30003	52° 50.06 'N	00° 18.00 'E	
E	52.83334	0.27113	52° 50.00 'N	00° 16.27 'E	59.35
F	52.83332	0.27881	52° 50.00 'N	00° 16.73 'E	
G	52.83012	0.28399	52° 49.81 'N	00° 17.04 'E	
H	52.82649	0.28392	52° 49.59 'N	00° 17.04 'E	
I	52.82649	0.27113	52° 49.59 'N	00° 16.27 'E	

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Appendix 4

Eastern IFCA Enforcement Policy – Regulation 1 (fishing equipment)

Regulation 1 of the Wash Fishery Order 1992 (WFO 1992) provides that no vessel may be used for dredging, fishing for or taking prescribed species under the authority of a licence issued under Article 8(1) the WFO unless fishing equipment are of the type specified in the Schedule to this regulation.

This regulation precludes the use of an anchor to affix a vessel to the seabed whilst prop-washing, thereby enabling the vessel to steam in tighter circles and cause excessive damage to the seabed. Since 2006 the same regulation has been applied to the use of a 'bulk bag' as a sea anchor to achieve the same effect.

Policy

Having undertaken a review of relevant research, Eastern IFCA have decided to adopt a policy of not taking enforcement action against vessels using 'bulk bags' whilst prop-washing during the 2018 cockle fishery. It is however prohibited to use an anchor to affix a vessel to the seabed whilst prop-washing. In addition to the introduction of this policy, licence condition 10 (use of anchors for prop-washing) is also introduced. The intention of the licence condition is to clarify the permitted practice in relation to prop-washing.

Licence condition 10: use of anchors for prop-washing

It is prohibited for any person to use any anchor which affixes a vessel to the bottom of the seabed during the practice of 'prop-washing' in order to fish for, take or remove from the regulated fishery any cockles. A sea anchor may be used for 'prop-washing' if it consists solely of an empty bag suspended in the water column in order to provide greater control of the vessel whilst turning.

For the purposes of this licence condition, 'prop-washing' refers to the practice of turning a vessel in tight circles to aid the fishing of cockles.

This must be conducted in such a way as to avoid causing excessive damage to the seabed.

Rationale

At the time that the prohibition on the use of 'bulk bags' was introduced no studies had been undertaken to assess the impact of the practice of prop-washing on the environment and the prohibition was, in effect, a precautionary measure. Since then studies have been undertaken that show that 'natural spatial and temporal variations in the site exceeded any impact that "prop washing" may have had'. This study concluded, therefore, that "prop washing" did not have an adverse impact on either the sediment characteristics or biota components of the site' (Pears et al 2011 and Jessop et al 2010).

Fishermen highlighted that the use of bags was to aid their vessels in turning rather than delivering more power to "prop washing". They felt that by using bags to turn in

tighter circles, this was not only safer when several vessels were working close to each other, but also created less seabed disturbance.

In 2013 the Authority studied the physical impact that using bulk bags during “prop washing” had on the seabed. This study was reported in Jessop et al 2013. During this study the physical dimensions of the rings created by two boats were measured on successive days; one day without bags, the other day with bags. This study found that in the case of both boats, the rings created while using bags were 27.5% smaller in radius than those created without bags. Importantly, the use of bags had no appreciable effect on the depth of disturbance created and as such would not have an any additional impact. In addition to creating rings with a smaller radius, those created when using bags also had a narrower band of disturbance (e.g. the rings were thinner). Overall, the use of bags during this study reduced the total surface area of disturbance for each vessel between 46.9% and 52.8%.

In 2006, the absence of any evidence into what impact the use of bulk bags would have caused ESFJC to prohibit their use during “prop washing” activities. Subsequent studies, however, have shown that “prop washing” does not have an adverse impact on the sediment or biota components of the site, and that the use of bulk bags reduces the footprint of the “prop washing” without increasing the depth of disturbance. As such, the prohibition on the use of bulk bags during “prop washing” is lifted, allowing their use in fishing for cockles.

References

Jessop R, Hinni S, Skinner J & Woo JR (2010) Eastern Sea Fisheries Joint Committee Research Report 2010.

Jessop R, Strigner R, Thompson S & Welby P.R. (2013) Eastern IFCA Research Report 2013

Pears S, Finbow LA & Worsfold TM (2011) Assessment of potential impacts of experimental cockle fishing on the benthos at a sandbank in the Wash, July – November 2012. Unicomarine Report ESFWASH10 to Natural England and Eastern Sea Fisheries Joint Committee, February 2011.